

Arizona REALTORS®
RISK MANAGEMENT COMMITTEE
2022 Business Plan

FROM: Risk Management Committee (RMC)
Chairman: Mike Porter
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REALTOR®... the best prepared real estate practitioner with the highest standards!

The following are programs, products, services and activities (PPSA's) with Risk Management Committee oversight.

CURRENT TOP PRIORITIES

- **Continue Grievance Committee and Professional Standards support**
 - Maintain and enhance Ethics hearing and Arbitration hearing process
 - Professional Standards Newsletter – 09/26/22
- **Enhance dispute resolution services**
 - Administer the Buyer/Seller Dispute Resolution Program
 - Administer the Mediation and Ombudsman Programs
 - Professional Standards Workshop – 02/9/22
 - Professional Standards Mediator and Ombudsman training - 10/20/22
- **Forms**
 - Revise Residential Resale Real Estate Purchase Contract (to effectuate BINSR changes)
 - Revise Buyer's Inspection Notice and Seller's Response (BINSR)
 - Revise Seller's Property Disclosure Statement
 - Revise Multiple Counter Offer
- **Legal Hotline Support**
 - Continue promotion efforts
- **Regulatory Issues**
 - Continue to work with ADRE
 - ADRE Advisory Board meetings - met on 07/20/22
 - ADRE Partner's meetings – met on 09/14/22
- **Risk management education and information**
 - AZ REALTOR® Voice articles and Risk Management Videos
 - Arizona REALTORS® website articles and blogs
 - Scams & Frauds, Short Sales
 - Arizona Broker/Manager Quarterly – 08/29/22
 - Update Advisories – All advisories (reviewed and links updated, if necessary) – 07/22

RECOMMENDATIONS

- **TO APPROVE FOR RELEASE ON OR ABOUT OCTOBER 1, 2022, A REVISED: (1) RESIDENTIAL RESALE REAL ESTATE PURCHASE CONTRACT; AND (2) RESIDENTIAL BUYER'S INSPECTION NOTICE AND SELLER'S RESPONSE (email vote September 2022)**

• **TO REVISE AAR POLICY STATEMENT D.3 – STANDARD FORMS TO STATE:**

The Executive Committee or Board of Directors shall approve all form content and format, new or revised, prior to distribution for member use. Prior to substantive revision of any existing form being released, the revised form shall be circulated for comment from experts in the field, all Member Boards, and any appropriate Institutes, Societies or Councils. New or revised forms shall be released on or about February 1, July 1, and November 1 unless law or regulation mandates earlier release.

GROUPS FORMED

- **Seller’s Property Disclosure Statement Workgroup**
- **Residential Buyer’s Inspection Notice and Seller’s Response Workgroup**

PROFESSIONAL STANDARDS

Professional Standards is what sets REALTORS® apart from other licensees and is a real solution to enforcing the highest standards. Professional Standards is of critical importance to those aspiring to the Arizona REALTORS® Purpose.

PROFESSIONAL STANDARDS ADMINISTRATION

This program processes ethics complaints and arbitration requests. This program involves:

- **Grievance Committee (GVC):** Process complaints/monthly meetings
- **Professional Standards Committee (PSC):** Schedule and staff hearings
- **Professional Standards Policy and Training Workgroup:** Reviews policies and implements training
- **Mediation Program**
- **Ombudsman Program**

Measurable Objectives	Status
GVC: Prompt review of complaints	2nd Quarter 2022 Filings Ethics = 53 Arbitration= 7
PSC: Complete ethics cases promptly	2nd Quarter 2022 Ethics Hearings Held = 14
PSC: Complete arbitrations promptly	2nd Quarter 2021 Arbitration Hearings Held = 1
Update PS policy adaptations as necessary	On-Going
Reinforce, on a continuing basis PS benefits and results.	On-Going
Implement procedures to expedite the hearing process and evaluate whether additional resources are needed to accomplish this.	On-Going
Educate members about the PS enforcement process and provide enhanced training on how to file a complaint via video and articles.	On-Going
Train Professional Standards Committee members to perform their roles across different platforms to promote efficiency and reduce travel time and travel related expenses.	On-Going; Training conducted for all PS members on 02/09/22

MEDIATION PROGRAM

This program involves facilitating mediations to resolve ethics complaints and arbitration requests. The mediation program is a real solution for members involved in a dispute. Early dispute resolution

is of critical importance to those aspiring to the Arizona REALTORS® Purpose.

Measurable Objectives	Status
Facilitate mediation requests on a timely basis	2nd Quarter 2022 Mediations Held = 6 Successful = 2
Receive positive feedback from mediation evaluations	On-Going
Maintain list of qualified mediators	14 Mediators for 2nd Quarter 2022
Update mediation policies and procedures as necessary	On-Going

OMBUDSMAN PROGRAM

This program involves taking complaint calls/emails and facilitating Ombudsman contact to attempt resolution. The Ombudsman Program is a real solution for the public when members are involved in a dispute or miscommunication. Early dispute resolution is of critical importance to those aspiring to the Arizona REALTORS® Purpose.

Measurable Objectives	Status
Facilitate ombudsman requests on a timely basis	2nd Quarter 2022 Ombudsman requests Filed = 12 In Scope = 4 Unsuccessful = 0 Successful = 4
Receive positive feedback from ombudsman evaluations	On-Going
Maintain list of qualified ombudsmen	12 Ombudsman for 2nd Quarter 2022
Update PS policy adaptations as necessary	On-Going

PROFESSIONAL STANDARDS, MEDIATION, AND OMBUDSMAN EDUCATION AND TRAINING

This program includes training for members of Grievance and Professional Standards Committees and the Arizona REALTORS® Mediators and Ombudsmen. Professional Standards is a real solution for members and is critical to achieving the highest standards. Professional Standards, Mediation and Ombudsman training is of critical importance to those aspiring to the Arizona REALTORS® Purpose.

Measurable Objectives	Status
Offer PS Training for GVC and PS Committee	02/09/22
PS Policy & Training Workgroup meeting	As needed basis
Offer Mediator training	10/20/22
Offer Ombudsman training	10/20/22
Offer hearing panel chair training	02/18/20
Publish PS, Mediation and Ombudsman information	Quarterly Newsletter sent 09/26/22. Website stats updated quarterly.
PS outreach to members	On-Going

BUYER-SELLER DISPUTE RESOLUTION

This program provides alternative dispute resolution options (mediation or arbitration) for buyers and sellers to resolve disputes or claims arising out of the Arizona REALTORS® purchase contract. The Buyer-Seller Dispute Resolution program is a real solution that provides buyers and sellers an effective and affordable means to resolve their disputes outside of the court system. Providing buyers and sellers with a way to resolve their disputes is pivotal to our members' real estate practice.

Measurable Objectives	Status
Offer an effective Buyer-Seller Dispute Resolution program.	On-Going
Recruit effective Buyer-Seller Dispute Resolution providers.	On-Going
Ensure compliance of Buyer-Seller Dispute providers with program's directives.	On-Going
Receive positive feedback from Buyer-Seller Dispute Resolution program evaluations.	On-Going

RISK MANAGEMENT

The contracts, addenda and related forms are the core of the member's business and a real solution to the issues that arise in a real estate transaction. The contracts, addenda and related forms are critical to our members' real estate practice.

FORMS DEVELOPMENT

This program involves:

- **Creation of workgroups**
- **Drafting** - Draft new forms as needed and revise current forms
- **Education** - Forms information updates on website, emails and other communication vehicles.

Measurable Objectives	Status
Workgroups formed as necessary.	Seller's Property Disclosure Statement
Protect our forms copyright.	On-Going
Forms drafted or revised for introduction in February, June and October.	October 1, 2022 <ul style="list-style-type: none"> - Real Estate Agency and Disclosure & Election - Vacant Land/Lot Purchase Contract - Buyer Broker Exclusive Employment Agreement - Disclosure of Buyer Agency and Seller Waiver - Unrepresented Seller's Compensation Agreement - Residential Resale Real Estate Purchase Contract - Residential Buyer's Inspection Notice and Seller's Response June 1, 2022 <ul style="list-style-type: none"> - Additional Clause Addendum February 1, 2022 <ul style="list-style-type: none"> - Vacant Land/Lot Listing Contract Exclusive Agency and - Vacant Land/Lot Listing Contract Exclusive Right to Sell/Lease - Solar Addendum - Commercial Property Owner's Association (CPOA) Addendum
Deliver timely forms information/education.	Post articles on aaronline.com, AAR Blog and The Voice, maintain Short Sale

	webpage and maintain Scams and Frauds webpage
Promote and update the educational tool kit for teams and brokers on best practices and guidelines for management of teams.	On-Going
Promote and update a webpage that includes safety education, incident recordation and contemporaneous incident notification via a REALTOR® text alert system (ASAP).	On-Going
Direct agents to their brokers and aaronline.com for relevant risk management resources.	On-Going

LEGAL HOTLINE

The Hotline is a real solution to provide needed guidance to members on specific situations or transactions. Timely legal guidance is crucial to the members. This program allows designated brokers/managers to call in to the Hotline attorneys for answers to real estate-related legal questions, and includes:

- Program maintenance and monitoring
- Review of letters of opinion/articles for publication

Measurable Objectives	Status
Promote Hotline usage.	On-Going
Hotline to prepare ten Q&As on current issues/current “hot topics” six times per year for the Arizona REALTOR® Voice and the Arizona REALTORS® website.	On-Going
Hotline to maintain statistics on number and types of calls in cooperation with the Arizona REALTORS® staff.	On-Going
Hotline attorney to attend the Arizona REALTORS® Risk Management Committee or Workgroup meetings as requested.	On-Going
Hotline attorney to review new or revised Arizona REALTORS® forms and notify the Arizona REALTORS® of any legal concerns or recommendations.	On-Going
Hotline attorney to consult with the Arizona REALTORS® General Counsel on legal issues as requested.	On-Going
Evaluate Hotline program by surveying members.	Survey sent 11/29/21
Form Hotline Workgroup to evaluate program.	Risk Management Committee serves in this role

INDUSTRY ISSUES

This program involves addressing current industry issues. Addressing industry issues as they arise is a real solution to provide needed guidance to members on specific situations or transactions. Guidance on industry issues as they arise is crucial to the members.

Measurable Objectives	Status
Maintain claims statistics to identify liability trends.	On-Going
Foster alliances with defense attorneys and E&O carriers and mediators.	On-Going

Monitor marijuana legal conflicts, marketing service agreements, class-action antitrust lawsuits and comfort animals - Keep members informed as these issues evolve.	On-Going
Educate agents on potential ethical and legal liabilities associated with off-market listings, fix and flips and REALTOR® as principal transactions.	On-Going
Share the dangers posed by social media.	On-Going
Advise REALTORS® of the legal risks associated with the use of audio and video surveillance devices.	On-Going - Language added to first page of the Buyer Advisory
Increase promotion and education of federal regulatory changes and enforcement; respond to changes and monitor.	On-Going
Monitor cyber-fraud and cyber-security issues and keep members informed of risks, as well as policies and procedures members can implement to mitigate those risks.	On-Going - Cyber Security Task Force formed - Wire Fraud Advisory drafted and released - Cyber Security Broker Policies and Procedures drafted and released - Flyer on steps to take if a victim of wire transfer fraud drafted and released - Cyber Insurance Guide drafted and released - Purchase Contract Flash Page and Vacant Land/Lot Purchase Contract Flash Page revised to address wire transfer fraud - Publish article on AnyDesk remote on-line access scam
Monitor the Americans with Disabilities Act website accessibility issues and keep members informed as the issue evolves.	On-Going
Collaborate with local REALTOR® associations, Arizona REALTORS® regional vice presidents and multiple listing services to identify risk management needs.	On-Going - Feedback solicited from RVPs via monthly “Talking Points” sent to all ExCom members. - Numerous speaking engagements

LEGAL & INDUSTRY PUBLICATIONS

Our members need current, accurate, and timely legal, legislative, and risk management updates and information to reduce liability and ensure their business success. These publications are a real solution that assists our members in achieving the Arizona REALTORS® Vision. Current, accurate, and timely legal, legislative and risk management updates and information are of critical importance to our members. This program includes:

- Risk Management articles for The Arizona REALTORS® publications, ASREB Journal and other publications
- Articles on emerging legal issues for The Arizona REALTORS® publications, ASREB Journal and other publications
- *Arizona Real Estate: A Professional's Guide to Law and Practice*
- AZ Broker/Manager Quarterly
- Buyer Advisory

- Short Sale Seller Advisory
- Lease Owner’s Advisory
- Tenant Advisory
- Wire Fraud Advisory
- Legal information and risk management information on website (Short Sales blog, Scams & Frauds webpage)
- Spanish translations
- Screen Reader forms
- Risk Management brochures

Measurable Objectives	Status
Distribution of time sensitive legal and risk management information and articles.	Articles recently published on: <ul style="list-style-type: none"> - February 1st Forms Release - Revised Solar Addendum - New Vacant Land/Lot Listing Agreements - Code of Ethics & Arbitration changes for 2022 - Solar Addendum Contract Conversations Video - Mary Lee Greason Excellence in Professional Standards Award Recipient - Nikki’s Nuggets - June 1st Forms Release - Article on SB 1168 – Short Term Rentals - Article on HB 2747 – Wholesaling - Article on HB 2172 - Teams
Deliver Arizona Broker/Manager Quarterly.	Delivered 08/29/22
Maintain advisories as necessary: Buyer Advisory, Short Sale Seller Advisory, Lease Owners Advisory, Tenant Advisory.	On-Going
Maintain and update legal, risk management, fair housing, and international real estate content on the Arizona REALTORS® website and in publications, as necessary.	On-Going
Promote and continue to develop resources that assist brokers in operating a brokerage that is of value to the public, agents, and the real estate industry (i.e. risk management, legal hotline, etc.)	On-Going
Direct agents to their brokers.	On-Going
Direct members to aaronline.com for relevant risk management resources.	On-Going

LEGAL AND LEGISLATIVE OUTREACH AND EDUCATION

This plan provides a real solution for delivering timely Arizona-specific legal, legislative, and risk management information and education to members. To succeed in real estate and attain the Arizona REALTORS® Purpose, it is essential that our members have access to timely Arizona-specific legal, legislative, and risk management information and education. This program includes:

- Speaking/teaching at local associations and member firms on legal issues and new legislation.
- Program participant in legal components of Winter Conference, Broker University, Partners Conference, Leadership Conference, educational outreach and other association programs.

Measurable Objectives	Status
Participation in legal and legislative programs.	On-Going

LEGISLATIVE SUPPORT

Representation on legislative issues that affect the Arizona REALTORS® member’s livelihood and success is a real solution for members striving to achieve the Arizona REALTORS® Purpose. Protecting members’ legislative interests is key to allowing members the ability to achieve the Arizona REALTORS® Purpose. This program includes:

- Provide input on industry issues
- Assist the Arizona REALTORS® lobbyist in drafting legislation
- Promote laws that reduce member liability
- Testify at the legislature as needed on legislative issues
- Inform members of legislative issues and changes in conjunction with the Legislative and Political Affairs Committee.

Measurable Objectives	Status
Successful outcome in legislation supported and successful defeat of legislation opposed.	Advise on legislation pertaining to: <ul style="list-style-type: none"> - A licensee’s ability to pay another licensee as a W-2 employee - Discriminatory Deed Restrictions - Land division survey and lot split Requirements - Wholesale Disclosures - Short Term Rentals - Homestead Exemption - TPT rental tax
Promote laws (legislative and case law), regulations, and standards of practice that reduce member liability.	On-Going

REGULATORY ISSUES

Representation on regulatory issues that affect the Arizona REALTORS® members’ livelihood and success is a real solution for members achieving the Arizona REALTORS® Purpose. Protecting the Arizona REALTORS® and its members’ regulatory interests are fundamental to allowing members the ability to achieve the Arizona REALTORS® Purpose. This plan includes:

- Communicate with ADRE and other administrative agencies such as ADEQ, ADWR, DFI, and BTR on regulatory issues
- Review and make recommendations on proposed administrative rules or policy changes
- Serve on ADRE or other state agency committees, when available and appropriate
- Assist the Arizona REALTORS® CEO and lobbyist in drafting and testifying on proposed Rules.

Measurable Objectives	Status
Negotiation of reasonable regulatory rules and policies that are acceptable to the Arizona REALTORS® members and do not hinder their success.	<ul style="list-style-type: none"> - 11/22/21 meet with ADRE regarding A.R.S. 32-2107.01 and the Department’s obligation to record a document in each county disclaiming the validity of discriminatory deed restrictions. - 02/14/22 Correspond with Commissioner Dettorre regarding Department of Revenue’s TPT filing system - Ongoing Correspondence with Commissioner Dettorre regarding the

	<p>legality of our 2007 Vacant Land/Lot Purchase Contract Addendum Regarding Subdivided of Unsubdivided Land</p> <ul style="list-style-type: none"> - Draft FAQs for Games of Chance flyer for ADRE - 7/21/22 send ADRE suggested revisions to SPS 2020.01 on Teams due to HB 2172 passing
Maintain contact with ADRE Advisory Board.	Met on 09/14/22

GENERAL PROGRAMS

SUPPORT

Provide critical support to accomplish the goals of this Committee’s programs and services. The support services and resources allow the committee to provide the Arizona REALTORS® Members with the most up-to-date information on Professional Standards, legal, legislative, regulatory and industry issues. This program includes support programs including:

- Continuing education
- State and County Bar dues
- Resource subscriptions
- Staff attendance at legal, legislative and industry meetings
- Copying and postage

Measurable Objectives	Status
All tasks assigned by the Committee are completed, updates and information provided to members after Professional Standards, continuing legal education class or industry meetings. General printing/postage/supply funds provide the tools to accomplish the area’s PPSAs.	On-Going

RELATED ACTIVITIES WITHOUT DIRECT COMMITTEE OVERSIGHT

LEGAL COUNSEL

A real solution to leadership, CEO, committees, and local associations in developing programs with legal implications and effectively leading the association. Allows the association to provide programs to assist members to be the best prepared with the highest standards. This program includes:

- Provide guidance to leadership and CEO on association legal concerns
- Review and advise on building/tenant issues and related contracts
- Review and advise on affinity agreements
- Prepare memoranda on legal issues as they arise
- Provide limited advice and guidance to local associations
- Respond to member inquires as appropriate

Measurable Objectives	Status
CEO, state leadership, committees, and local association executives are informed on legal issues and questions satisfactorily answered.	On-Going

LITIGATION SUPPORT

Representation on legal issues that affect the Arizona REALTORS® member’s livelihood and success

is a real solution that leads to more members living the Arizona REALTORS® purpose. Protecting the Arizona REALTORS® and its members’ legal interests are key to allowing members the ability to achieve the Arizona REALTORS® Purpose. Related activities without direct committee oversight:

- Draft Amicus Briefs and monitor litigation and potential litigation or disputes in which the Arizona REALTORS® has an interest
- Legal research and evaluation of claims or issues
- Preparation of pleadings, memos and correspondence relating to claims or issues
- Coordinate with outside counsel in the representation of the Arizona REALTORS® on any claims or issues

Measurable Objectives	Status
Successful outcome in litigation and dispute resolution.	<p>On-Going</p> <ul style="list-style-type: none"> - Monitor <i>Moehl v. NAR</i>, et al. - Monitor <i>DOJ v. NAR</i> - Retain defense counsel in <i>Hillis v NAR</i> et al. and coordinate defense efforts with NAR, WMAR and Chubb Insurance (settled)