



# Commercial Seller Advisory

## When in doubt – disclose!



**Sellers are obligated by law to disclose all known material (important) facts about the property to the buyer.** Arizona law requires that you disclose material facts about the property whether or not you are asked by the buyer or a real estate agent, or when asked to complete a disclosure form. You may also be required to complete and record an affidavit of disclosure if selling property in an unincorporated area of a county.

If the buyer asks you about an aspect of the property, you have a duty to disclose the information, regardless of whether or not you consider the information material. You also have a legal duty to disclose facts when disclosure is necessary to prevent a previous statement from being misleading or a misrepresentation: for example, if something changes. However, a seller does not generally have a legal obligation to correct defects in the property, as long as the defects are disclosed. Any correction of the defects is a matter of contract negotiation between you and the buyer.

If you do not make the legally required disclosures, you may be subject to civil liability. Under certain circumstances, nondisclosure of a fact is the same as saying that the fact does not exist. Therefore, nondisclosure may be given the same legal effect as fraud.

**The Arizona Association of REALTORS® Commercial Seller's Property Disclosure Statement ('SPDS') is designed to assist you in making these legally required disclosures and to avoid inadvertent nondisclosures of material facts.**

You should complete the SPDS by answering all questions as truthfully and as fully as possible. Attach copies of any available supporting documentation to insure that you are disclosing accurate information. Also, use the blank lines to explain your answers. If you do not have the personal knowledge to answer a question, it is important not to guess — use the blank lines to explain the situation.

The SPDS is divided into nine general sections:

- (A) Ownership and Property:** This section asks for general information about the property such as location and ownership. Any seller should be able to answer most, if not all, of the questions in this section.
- (B) Property Type:** This section indicates whether this is office, industrial, retail, etc.
- (C) Utilities:** You are asked whether the property currently receives the listed utilities.

- (D) Access/Use:** This section asks for any easement or restriction information governing the property.
- (E) Compliance with Law/Legal Matters:** Zoning issues and any previous property violations are addressed here.
- (F) Contractual Obligations:** This section asks what, if any, contractual obligations are attached to the property.
- (G) Environmental Factors:** This section deals with the property and the area around it. What, if any, environmental factors such as noise, hazardous materials, etc. are addressed here.
- (H) Reports/Studies:** If there have been any studies or reports made on this property, you will be asked to address them here.
- (I) Material Physical Defects and Other Factors:** Any miscellaneous items not addressed elsewhere are addressed in this section.

**Please note:** By law, sellers are not obligated to disclose that the property is or has been: (1) the site of a natural death, suicide, homicide, or any other crime classified as a felony; (2) owned or occupied by a person exposed to HIV, or diagnosed as having AIDS or any other disease not known to be transmitted through common occupancy of real estate; or (3) located in the vicinity of a sex offender. However, the law does not protect a seller who makes an intentional misrepresentation. For example, if you are asked whether there has been a death on the property and you know that there was such a death, you should not answer "no" or "I don't know"; instead you should either answer truthfully or respond that you are not legally required to answer the question.



# COMMERCIAL SELLER'S PROPERTY DISCLOSURE STATEMENT (SPDS) (TO BE COMPLETED BY SELLER)



The printed portion of this FORM has been approved by the Arizona Association of Realtors®. This is NOT intended to be a binding contract.

### MESSAGE TO THE SELLER:

Sellers are obligated by law to disclose all known material (important) facts about the Property to the Buyer. The SPDS is designed to assist you in making these disclosures. If you know something important about the Property that is not addressed on the SPDS, add that information to the form. Prospective Buyers may rely on the information you provide.

**INSTRUCTIONS:** (1) Complete this form yourself. (2) Answer all questions truthfully and as fully as possible. (3) Attach all available supporting documentation. (4) Use explanation lines as necessary. (5) If you do not have the personal knowledge to answer a question, use the explanation lines to explain. *By signing below you acknowledge that the failure to disclose known material information about the Property may result in liability.*

### MESSAGE TO THE BUYER:

Although Sellers are obligated to disclose all known material (important) facts about the Property, there are likely facts about the Property that the Sellers do not know. Therefore, it is important that you take an active role in obtaining information about the Property.

**INSTRUCTIONS:** (1) Review this form and any attachments carefully. (2) Verify all important information. (3) Ask about any incomplete or inadequate responses. (4) Inquire about any concerns not addressed on the SPDS. (5) Review all other applicable documents, such as environmental studies, CC&R's, association bylaws, surveys, title report or commitment, etc. (6) Obtain professional inspections of the Property. (7) Investigate the surrounding area. (8) Obtain such other professional advice as you deem necessary.

**THE FOLLOWING ARE REPRESENTATIONS OF THE SELLER(S) AND ARE NOT VERIFIED BY THE BROKER(S) OR AGENT(S).**

#### A. OWNERSHIP AND PROPERTY IDENTIFICATION

**1. THIS DISCLOSURE CONCERNS THE FOLLOWING REAL PROPERTY:**

- 2. Address \_\_\_\_\_
- 3. City \_\_\_\_\_, County \_\_\_\_\_, AZ, Zip \_\_\_\_\_
- 4. Assessors No.(s) \_\_\_\_\_ Approximate Year Built \_\_\_\_\_
- 5. Legal Owner(s) \_\_\_\_\_ Date Purchased \_\_\_\_\_
- 6. Owner  Is  Is not occupying property. Owner  Has  Has not occupied the Property in the past.

#### B. PROPERTY TYPE

- 7.  Office  Industrial  Retail  Hotel/Motel/Resort  Multi-family  Other \_\_\_\_\_

#### C. UTILITIES

**8. THE PROPERTY IS SERVED BY THE FOLLOWING UTILITIES:**

YES	NO	PROVIDER
<input type="checkbox"/>	<input type="checkbox"/>	Septic System _____
<input type="checkbox"/>	<input type="checkbox"/>	Sewer _____
<input type="checkbox"/>	<input type="checkbox"/>	Electric _____
<input type="checkbox"/>	<input type="checkbox"/>	Domestic Water <input type="checkbox"/> Public <input type="checkbox"/> Private _____
<input type="checkbox"/>	<input type="checkbox"/>	Well Registered <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, Registration number: _____
14. If yes, complete and attach the <b>Domestic Water Well/Water Use Addendum.</b>		
<input type="checkbox"/>	<input type="checkbox"/>	Fuel Supply <input type="checkbox"/> Natural Gas <input type="checkbox"/> Propane <input type="checkbox"/> Other: _____
<input type="checkbox"/>	<input type="checkbox"/>	Garbage/Waste Collection <input type="checkbox"/> Public <input type="checkbox"/> Private _____
<input type="checkbox"/>	<input type="checkbox"/>	Fire Protection <input type="checkbox"/> Public <input type="checkbox"/> Private _____
<input type="checkbox"/>	<input type="checkbox"/>	Telephone _____
<input type="checkbox"/>	<input type="checkbox"/>	Irrigation _____
<input type="checkbox"/>	<input type="checkbox"/>	Cable TV _____
<input type="checkbox"/>	<input type="checkbox"/>	Satellite Dish _____
<input type="checkbox"/>	<input type="checkbox"/>	High Speed Internet Connection (Cable, T1, Fiber Optics, Etc.) _____
<input type="checkbox"/>	<input type="checkbox"/>	Other _____
24. Please describe any other items concerning utilities _____		
25. _____		

Initials: SAMPLE / SAMPLE      ARIZONA ASSOCIATION OF REALTORS® Form CSPDS 02/08 G      Initials: SAMPLE / SAMPLE  
SELLER      SELLER      BUYER      BUYER

**D. ACCESS/USE**

26. ARE YOU AWARE OF ANY OF THE FOLLOWING AFFECTING ACCESS OR USE OF THE PROPERTY?

**YES NO**

- 27.   Encroachments
- 28.   Access Easements
- 29.   Utility Easements
- 30.   Unrecorded Easements
- 31.   Reciprocal Easement Agreement
- 32.   Restrictions on Legal or Physical Access
- 33.   Shared Use Agreements
- 34.   Use Permits
- 35.   Deed Restrictions
- 36.   Shared Fences/Walls
- 37.   Shared Driveways
- 38.   Shared Signage
- 39.   Leased Parking
- 40.   Grandfathered Uses
- 41.   Association Agreements
- 42.   Covenants, Conditions and Restrictions (CC&R's)
- 43.   Other (describe) \_\_\_\_\_

44. If the answer to any of the preceding is yes, please explain. (Attach additional sheets if necessary). \_\_\_\_\_  
 45. \_\_\_\_\_  
 46. \_\_\_\_\_

**E. COMPLIANCE WITH LAW/LEGAL MATTERS**

47. ARE YOU AWARE OF:

**YES NO**

- 48.   Any legal actions such as condemnation, pending or anticipated, that affect the Property?
- 49.   Any tenant bankruptcy proceedings?
- 50. **Any violation of laws or regulations of the following:**
- 51.   Zoning
- 52.   Building Code
- 53.   Occupational Safety and Health Administration (OSHA)
- 54.   Utility Service
- 55.   Sanitary Health Regulations
- 56.   Swimming Pools
- 57.   Covenants, Conditions and Restrictions (CC&R's)
- 58.   Americans With Disabilities Act (ADA)

59. If the answer to any of the preceding is yes, please explain and provide copies of any documentation you have pertaining to such matters. (Attach additional sheets if necessary). \_\_\_\_\_  
 60. \_\_\_\_\_  
 61. \_\_\_\_\_  
 62. \_\_\_\_\_

**F. CONTRACTUAL OBLIGATIONS**

63. ARE YOU AWARE OF ANY OF THE FOLLOWING CONTRACTUAL OBLIGATIONS AFFECTING THE PROPERTY?

**YES NO**

- 64.   Tenant Leases or Subleases
- 65.   Alarm/Security System Agreements
- 66.   Property Management Agreements
- 67.   Leased Equipment

YES NO

- 68.   Service Agreements Such as Landscaping, Garbage/Waste Disposal
- 69.   Water Treatment Agreements
- 70.   Communications Systems or Cable System Agreements
- 71.   Other Equipment or Service Contracts or Agreements (describe) \_\_\_\_\_
- 72. If the answer to any of the preceding is yes, please explain. (Attach additional sheets if necessary). \_\_\_\_\_
- 73. \_\_\_\_\_

**G. ENVIRONMENTAL FACTORS**

74. ARE YOU AWARE OF ANY OF THE FOLLOWING ENVIRONMENTAL FACTORS AFFECTING THE PROPERTY?

YES NO

- 75.   Hazards or hazardous materials on the Property, such as asbestos; chemicals used in the manufacture of methamphetamine, LSD or Ecstasy; PCB transformers; dumps; pesticides; radon; oil or chemicals, now or in the past?
- 76. \_\_\_\_\_
- 77.   Fuel or insecticide storage tanks (above or underground) on the Property, now or in the past?
- 78.   Hazards or hazardous materials in close proximity to the Property, such as asbestos, dumps, pesticides, radon, oil, chemicals or underground fuel storage tanks, now or in the past?
- 79. \_\_\_\_\_
- 80.   Location within an area currently of environmental concern, e.g., Superfund, Water Quality Assurance Revolving Fund (WQARF) or Comprehensive Environmental Response Compensation and Liability Act (CERCLA) sites, etc.? \_\_\_\_\_
- 81. \_\_\_\_\_
- 82.   Current or proposed noises, such as airports, freeways, or rail lines?
- 83.   Location within the vicinity of an airport (military, public or private)?
- 84.   Area odors, nuisances or pollutants?
- 85.   High voltage distribution towers or lines?
- 86.   Soil settlement, expansion, fissures or erosion now or in the past?
- 87. **NOTICE TO BUYER: THE ARIZONA DEPARTMENT OF REAL ESTATE PROVIDES EARTH FISSURE MAPS TO ANY MEMBER OF THE PUBLIC IN PRINTED OR ELECTRONIC FORMAT UPON REQUEST AND ON ITS WEBSITE AT [www.azre.gov](http://www.azre.gov).**
- 88. \_\_\_\_\_
- 89. \_\_\_\_\_
- 90.   Situated on or near a sanitary landfill?
- 91.   Location in a flood plain/way?
- 92.   Water-caused damage?
- 93.   Mold growth or conditions conducive to mold?
- 94.   Drywell (drainage)? If yes, Registration # \_\_\_\_\_
- 95. If the answer to any of the preceding is yes, please explain and provide copies of any documentation you have pertaining to such matters. (Attach additional sheets if necessary). \_\_\_\_\_
- 96. \_\_\_\_\_
- 97. \_\_\_\_\_
- 98. Describe any other known environmental factors that might affect the use or value of the Property \_\_\_\_\_
- 99. \_\_\_\_\_
- 100. Buyers are advised to obtain an independent environmental assessment of the Property.

**H. REPORTS/STUDIES**

101. DO YOU HAVE ANY OF THE FOLLOWING ITEMS CONCERNING THE PROPERTY?

YES NO

- 102.   Soils Test Report
- 103.   Land Survey
- 104.   Flood Plain Report
- 105.   Septic/Waste Disposal Reports/Certifications
- 106.   Registrations of Wells
- 107.   Any Environmental Site Assessments or Studies
- 108.   Title Reports
- 109.   Other \_\_\_\_\_
- 110. If the answer to any of the preceding is yes, please explain and provide copies of any reports/studies you have pertaining to such matters. (Attach additional sheets if necessary). \_\_\_\_\_
- 111. \_\_\_\_\_
- 112. \_\_\_\_\_

