

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
9.	<input type="checkbox"/>	<input type="checkbox"/>	Septic System.	_____
10.	<input type="checkbox"/>	<input type="checkbox"/>	Sewer	_____
11.	<input type="checkbox"/>	<input type="checkbox"/>	Electric	_____
12.	<input type="checkbox"/>	<input type="checkbox"/>	Domestic Water <input type="checkbox"/> Public <input type="checkbox"/> Private	_____
13.	<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 Domestic Water Well/Water Use Addendum.	
15.	<input type="checkbox"/>	<input type="checkbox"/>	Fuel Supply <input type="checkbox"/> Natural Gas <input type="checkbox"/> Propane <input type="checkbox"/> Other:	_____
16.	<input type="checkbox"/>	<input type="checkbox"/>	Garbage/Waste Collection <input type="checkbox"/> Public <input type="checkbox"/> Private	_____
17.	<input type="checkbox"/>	<input type="checkbox"/>	Fire Protection <input type="checkbox"/> Public <input type="checkbox"/> Private	_____
18.	<input type="checkbox"/>	<input type="checkbox"/>	Telephone	_____
19.	<input type="checkbox"/>	<input type="checkbox"/>	Irrigation	_____
20.	<input type="checkbox"/>	<input type="checkbox"/>	Cable TV	_____
21.	<input type="checkbox"/>	<input type="checkbox"/>	Satellite Dish	_____
22.	<input type="checkbox"/>	<input type="checkbox"/>	High Speed Internet Connection (Cable, T1, Fiber Optics, Etc.)	_____
23.	<input type="checkbox"/>	<input type="checkbox"/>	Other _____	_____
24.	Please describe any other items concerning utilities _____			
25.	_____			

Initials: _____ / _____ SELLER SELLER	©AARForm CSPDS 9/03 G	Initials: _____ / _____ BUYER BUYER
--	-----------------------	--

D. ACCESS/USE

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

- | YES | NO | |
|-----|--|--|
| 27. | <input type="checkbox"/> | <input type="checkbox"/> Encroachments |
| 28. | <input type="checkbox"/> | <input type="checkbox"/> Access Easements |
| 29. | <input type="checkbox"/> | <input type="checkbox"/> Utility Easements |
| 30. | <input type="checkbox"/> | <input type="checkbox"/> Unrecorded Easements |
| 31. | <input type="checkbox"/> | <input type="checkbox"/> Reciprocal Easement Agreement |
| 32. | <input type="checkbox"/> | <input type="checkbox"/> Restrictions on Legal or Physical Access |
| 33. | <input type="checkbox"/> | <input type="checkbox"/> Shared Use Agreements |
| 34. | <input type="checkbox"/> | <input type="checkbox"/> Use Permits |
| 35. | <input type="checkbox"/> | <input type="checkbox"/> Deed Restrictions |
| 36. | <input type="checkbox"/> | <input type="checkbox"/> Shared Fences/Walls |
| 37. | <input type="checkbox"/> | <input type="checkbox"/> Shared Driveways |
| 38. | <input type="checkbox"/> | <input type="checkbox"/> Shared Signage |
| 39. | <input type="checkbox"/> | <input type="checkbox"/> Leased Parking |
| 40. | <input type="checkbox"/> | <input type="checkbox"/> Grandfathered Uses |
| 41. | <input type="checkbox"/> | <input type="checkbox"/> Association Agreements |
| 42. | <input type="checkbox"/> | <input type="checkbox"/> Covenants, Conditions and Restrictions (CC&R's) |
| 43. | <input type="checkbox"/> | <input type="checkbox"/> 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. | <input type="checkbox"/> | <input type="checkbox"/> Any legal actions such as condemnation, pending or anticipated, that affect the Property? |
| 49. | <input type="checkbox"/> | <input type="checkbox"/> Any tenant bankruptcy proceedings? |
| 50. | Any violation of laws or regulations of the following: | |
| 51. | <input type="checkbox"/> | <input type="checkbox"/> Zoning |
| 52. | <input type="checkbox"/> | <input type="checkbox"/> Building Code |
| 53. | <input type="checkbox"/> | <input type="checkbox"/> Occupational Safety and Health Administration (OSHA) |
| 54. | <input type="checkbox"/> | <input type="checkbox"/> Utility Service |
| 55. | <input type="checkbox"/> | <input type="checkbox"/> Sanitary Health Regulations |
| 56. | <input type="checkbox"/> | <input type="checkbox"/> Swimming Pools |
| 57. | <input type="checkbox"/> | <input type="checkbox"/> Covenants, Conditions and Restrictions (CC&R's) |
| 58. | <input type="checkbox"/> | <input type="checkbox"/> 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 | |
| 60. | matters. (Attach additional sheets if necessary). _____ | |
| 61. | _____ | |
| 62. | _____ | |

F. CONTRACTUAL OBLIGATIONS

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

- | YES | NO | |
|-----|--------------------------|---|
| 64. | <input type="checkbox"/> | <input type="checkbox"/> Tenant Leases or Subleases |
| 65. | <input type="checkbox"/> | <input type="checkbox"/> Alarm/Security System Agreements |
| 66. | <input type="checkbox"/> | <input type="checkbox"/> Property Management Agreements |
| 67. | <input type="checkbox"/> | <input type="checkbox"/> Leased Equipment |

Initials: _____ / _____ SELLER SELLER	©AARForm CSPDS 9/03 G	Initials: _____ / _____ BUYER BUYER
---	-----------------------	---

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
- 76. methamphetamine, LSD or Ecstasy; PCB transformers; dumps; pesticides; radon; oil or chemicals, now or in the past?
- 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,
- 79. chemicals or underground fuel storage tanks, now or in the past?
- 80. Location within an area currently of environmental concern, e.g., Superfund, Water Quality Assurance Revolving Fund (WQARF)
- 81. or Comprehensive Environmental Response Compensation and Liability Act (CERCLA) sites, etc.? _____
- 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, or erosion now or in the past?
- 87. Situated on or near a sanitary landfill?
- 88. Location in a flood plain/way?
- 89. Water-caused damage?
- 90. Mold growth or conditions conducive to mold?
- 91. Drywell (drainage)? If yes, Registration # _____
- 92. If the answer to any of the preceding is yes, please explain and provide copies of any documentation you have pertaining to such
- 93. matters. (Attach additional sheets if necessary). _____
- 94. _____
- 95. Describe any other known environmental factors that might affect the use or value of the Property _____
- 96. _____
- 97. Buyers are advised to obtain an independent environmental assessment of the Property.

H. REPORTS/STUDIES

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

YES NO

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

Initials: _____ / _____ SELLER SELLER	©AARForm CSPDS 9/03 G	Initials: _____ / _____ BUYER BUYER
---	-----------------------	---

I. MATERIAL PHYSICAL DEFECTS AND OTHER FACTORS

110. ARE YOU AWARE OF:

YES NO

- 111. Any structural, electrical, plumbing or other modifications made without necessary permits?
- 112. Any past or present roof leaks or other roof problems?
- 113. Any past or present insect infestation problems?
- 114. Security lighting in parking and/or common areas?
- 115. Any recorded and/or unrecorded liens against the Property?
- 116. An archeological site on the Property?
- 117. The Property being located in a designated historical district?
- 118. Any insurance claim submitted on the Property?
- 119. Any proposed land use changes relating to the adjacent or nearby Property, such as: new developments, zoning changes, or land trades?
- 120.
- 121. Any other material items on the Property or improvements and structures thereon that might affect the decision of a buyer to purchase/use the Property?
- 122.
- 123. Any defects/problems with the heating, ventilating, air conditioning, plumbing, electrical, fire safety, security, or lighting systems?
- 124.

125. 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).

126. _____

127. What other material (important) information are you aware of concerning the Property that might affect the Buyer's decision-making process, the value of the Property, or its use? Please explain: _____

128. _____

129. _____

130. _____

131. **SELLER CERTIFICATION:** Seller certifies that the information contained herein is true and complete to Seller's knowledge as of the date signed. Seller agrees that any material changes in the information contained herein will be disclosed by Seller to Buyer prior to Close of Escrow.

132. _____ SELLER MO/DA/YR _____ SELLER MO/DA/YR

133. _____ SELLER'S NAME PRINTED _____ SELLER'S NAME PRINTED

134. By: _____

135. Its: _____

136. **Reviewed and updated:** Initials: _____ / _____ MO/DA/YR

137. **BUYER'S ACKNOWLEDGEMENT OF RECEIPT:** Buyer acknowledges that the information contained herein is based only on the Seller's knowledge and is not a warranty of any kind. Buyer acknowledges that it is Buyer's obligation to investigate all material facts regarding the property to Buyer's satisfaction. Buyer is encouraged to obtain property inspections by an independent third party and to obtain other independent professional counsel as Buyer deems necessary. By signing below, Buyer hereby acknowledges receipt of a copy of this Seller's Property Disclosure Statement.

138. If Buyer disapproves or is concerned about any item in this disclosure, it is the Buyer's responsibility and not the responsibility of the broker(s) or agent(s) to investigate such items and to satisfy Buyer as to the condition of the Property within the Buyer's Due Diligence Period.

139. _____ BUYER MO/DA/YR _____ BUYER MO/DA/YR

140. _____ BUYER'S NAME PRINTED _____ BUYER'S NAME PRINTED

141. By: _____

142. Its: _____

Initials: _____ / _____ Initials: _____ / _____
SELLER SELLER BUYER BUYER