

# 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.

*"...you have a duty to disclose the information, regardless of whether or not you consider the information material."*

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)

Document updated: February 2008



The pre-printed portion of this form has been drafted by the Arizona Association of REALTORS®. Any change in the pre-printed language of this form must be made in a prominent manner. No representations are made as to the legal validity, adequacy and/or effects of any provision, including tax consequences thereof. If you desire legal, tax or other professional advice, please consult your attorney, tax advisor or professional consultant.



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 151 S Curtis Avenue
3. City Willcox, County Cochise, AZ, Zip 85643
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:

Table with columns YES, NO, PROVIDER. Rows include Septic System, Sewer, Electric, Domestic Water, Well, Fuel Supply, Garbage/Waste Collection, Fire Protection, Telephone, Irrigation, Cable TV, Satellite Dish, High Speed Internet Connection, Other.

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SELLER SELLER Initials

BUYER BUYER Initials



**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. | <b>Any violation of laws or regulations of the following:</b>  |  |
| 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                 |

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<input type="text"/>	<input type="text"/>
SELLER	SELLER

<Initials

Initials>

<input type="text"/>	<input type="text"/>
BUYER	BUYER





