

COMMERCIAL SELLER ADVISORY

Document updated:
February 2008



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.



C 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 80 Canyon Cir Dr
- 3. City Sedona, County Yavapai, AZ, Zip 86351
- 4. Assessors No.(s) 405-27-279A Approximate Year Built 1995
- 5. Legal Owner(s) Cozy Cactus LLC Date Purchased 02/13/2008
- 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 checked="" type="checkbox"/>	Septic System.....
10.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sewer <u>Big Park Domestic Wastewater Improvement District</u>
11.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Electric <u>APS</u>
12.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Domestic Water <input checked="" type="checkbox"/> Public <input type="checkbox"/> Private <u>Big Park</u>
13.	<input type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	Fuel Supply <input type="checkbox"/> Natural Gas <input checked="" type="checkbox"/> Propane <input type="checkbox"/> Other: <u>AmeriGas Propane</u>
16.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Garbage/Waste Collection <input type="checkbox"/> Public <input checked="" type="checkbox"/> Private <u>Waste Management</u>
17.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Fire Protection <input checked="" type="checkbox"/> Public <input type="checkbox"/> Private <u>Sedona Fire District</u>
18.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Telephone
19.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Irrigation
20.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cable TV <u>Optimum</u>
21.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Satellite Dish
22.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	High Speed Internet Connection (Cable, T1, Fiber Optics, Etc.) <u>Optimum</u>
23.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other
24.	Please describe any other items concerning utilities _____		
25.	_____		

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D. ACCESS/USE

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

- | YES | NO | |
|-------------------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 27. Encroachments |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 28. Access Easements |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 29. Utility Easements |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 30. Unrecorded Easements |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 31. Reciprocal Easement Agreement |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 32. Restrictions on Legal or Physical Access |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 33. Shared Use Agreements |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 34. Use Permits |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 35. Deed Restrictions |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 36. Shared Fences/Walls |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 37. Shared Driveways |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 38. Shared Signage |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 39. Leased Parking |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 40. Grandfathered Uses |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 41. Association Agreements |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 42. Covenants, Conditions and Restrictions (CC&R's) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 43. Other (describe) _____ |

44. If the answer to any of the preceding is yes, please explain. (Attach additional sheets if necessary). See Text Overflow Attachment

45. _____
 46. _____

E. COMPLIANCE WITH LAW/LEGAL MATTERS

47. ARE YOU AWARE OF:

- | YES | NO | |
|--|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 48. Any legal actions such as condemnation, pending or anticipated, that affect the Property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 49. Any tenant bankruptcy proceedings? |
| 50. Any violation of laws or regulations of the following: | | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 51. Zoning |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 52. Building Code |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 53. Occupational Safety and Health Administration (OSHA) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 54. Utility Service |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 55. Sanitary Health Regulations |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 56. Swimming Pools |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 57. Covenants, Conditions and Restrictions (CC&R's) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 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 | |
|--------------------------|-------------------------------------|--------------------------------------|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 64. Tenant Leases or Subleases |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 65. Alarm/Security System Agreements |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 66. Property Management Agreements |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 67. Leased Equipment |

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- 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 WEB SITE AT 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). Line 77 - Buried 500 gallon propane tank is supplied to one kitchen range and 3 firepits. Tank is permitted.
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). Line 103 - I believe a land survey was done prior to the remodel and addition built in 2012, but do not know where to find a copy.
111. _____
112. _____ >>

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BUYER	BUYER



TEXT OVERFLOW ATTACHMENT

FORM: Commercial Seller's Property Disclosure Statement

PROPERTY: 80 Canyon Cir Dr, Sedona, AZ 86351

Line 34 - Use Permit PLA23-000140 -

Permanent and transferable Use Permit Amendment to allow for a six (6) unit, non-owner occupied, Bed & Breakfast Country Inn.

Small weddings and events for lodging guests with all food to be catered from outside sources. Guest capacity for the wedding or events is capped at 75 people.

Line 41 - Property belongs to the Village of Oak Creek Associations

Line 42 - Only general restrictions associated with VOCA and Yavapai County

Line 118 - Midfirst Mortgage lien

Line 121 - A guest fell March 2024 on back patio, our liability insurance covered part of the medical. I believe 20%

Date: _____

Date: _____

Seller Signature

Buyer Signature

Date: _____

Date: _____

Seller Signature

Buyer Signature