

Vacant Land/Lot 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. There are also some very specific seller disclosures that you are required by statute to make. Additionally, you may 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® Vacant Land/Lot 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:

- 1) **Ownership and Property:** This section asks for general information about the property, such as location and ownership, associations, assessments, title issues etc. Any seller should be able to answer most, if not all, of the questions in this section. If you have never seen the Property and you are unable to answer some of the questions, explain on Page 5 under ADDITIONAL EXPLANATIONS.

- 2) **Access:** Both legal and physical access is addressed.
- 3) **Use:** This section asks for information regarding the current and past use of the property.
- 4) **Utilities:** You are asked whether the property currently receives the listed utilities, and if so, to identify the provider.
- 5) **Water:** The water source and any known information about drinking water are addressed. Additionally, the section asks for information on any irrigation rights or other water-related issues pertaining to the property.
- 6) **Sewer/Waste Water Treatment:** There are many questions dealing with the topic of sewer or wastewater treatment as a result of claims involving alleged misrepresentations concerning the availability of a sewer connection. If the property is served by an on-site wastewater treatment facility, e.g., a septic or alternative wastewater system, a variety of additional information is required.
- 7) **Environmental Information:** In addition to questions regarding environmental hazards, you are asked to disclose any issues relating to soil settlement/expansion, drainage/grade, erosion, and noise from the surrounding area including airport and traffic noise, and any odors or other nuisances.
- 8) **Miscellaneous:** This section deals with surveys, archeological features, endangered species, mineral rights, and mine shafts/tunnels or abandoned wells associated with the property.
- 9) **Additional Explanations:** These blank lines provide space for you to disclose any other important information concerning the property that might affect the buyer's decision-making process, the value of the property or its use, and to make any other necessary explanations.

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"; you should either answer truthfully or respond that you are not legally required to answer the question.

Initials:
SELLER SELLER

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Initials: /
BUYER BUYER

COLDWELL BANKER PINNACLE PEAK 34462 N. Scottsdale Road # B-4, Scottsdale AZ 85262
Phone: 595-8181 Fax: 595-9090 Ron Weiss

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VACANT LAND/LOT 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 blank 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 Seller's 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 CC&R's, association bylaws, rules, and the title report or commitment. (6) Obtain professional inspections of the Property. (7) Investigate the surrounding area.

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

OWNERSHIP AND PROPERTY

- 1. THIS DISCLOSURE CONCERNS THE FOLLOWING REAL PROPERTY: 9888 East Western Sky Lane, Scottsdale, AZ 85262
2. COUNTY: Maricopa TAX PARCEL NUMBER: 216-36-055
3. ZONING: RESIDENTIAL LEGAL OWNER OF PROPERTY: Richard A. Walsh / Diane Layton
4. DATE PURCHASED OR ACQUIRED: 2/17/05
5. How did you acquire the Property? [X] Purchase [] Inheritance [] Foreclosure [] Gift [] Other
6. Is the Property located in an unincorporated area of the county? [] Yes [X] No
7. If yes, and five or fewer parcels of land other than subdivided land are being transferred, the Seller must furnish the Buyer with a written Affidavit of Disclosure in the form required by law.
8. To your knowledge, is the Property within a subdivision approved by the Arizona Department of Real Estate? [X] Yes [] No
9. If yes, attach a copy of the Subdivision Public Report.
10. Is the legal owner(s) of the Property a foreign person or a non-resident alien pursuant to the Foreign Investment in Real Property Tax Act (FIRPTA)? [] Yes [X] No If yes, consult a tax advisor; mandatory withholding may apply.
11. Does the Property include any leased land? [] Yes [X] No
12. If yes, is the land: [] State [] Federal [] Privately owned [] Other:
13. How many acres are leased?
14. Expiration date of current lease? (Attach a copy of the lease.)
15. Is the Property currently leased to a tenant? [] Yes [X] No
16. If yes, expiration date of current lease: (Attach a copy of the lease.)
17. If any refundable deposits or prepaid rents are being held, by whom and how much? Explain:
18. YES NO
19. [] [X] Have you entered into any agreement to transfer your interest in the Property in any way, including lease renewals or options to purchase? Explain:
20. [X] [] To your knowledge, is the Property subject to Covenants, Conditions and Restrictions or deed restrictions? Explain: LEASE TRAIL HOA

Initials: [Signature] SELLER SELLER Initials: BUYER BUYER
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26. YES NO Are you aware of any association(s) governing this Property? *Mgmt*
 If yes, provide contact(s) information: Name: Associated Assn Phone #: 602-957-9191
 27. If yes, are there any fees? How much? \$ _____ How often? _____
 28. YES NO Are you aware of any assessments affecting this Property? (Check all that apply):
 29. Association assessment Road maintenance Sewer Water Electric Other _____
 30. If yes, the approximate balance: \$ _____
 31. YES NO Are you aware of any proposed assessment(s)?
 32. If yes, explain: _____
 33. YES NO Are you aware of any pending or anticipated disputes or litigation regarding the Property or the association(s)?
 34. Explain: _____
 35. YES NO Are you aware of any of the following recorded against the Property? (Check all that apply):
 36. Judgement liens Tax liens Other non-consensual liens
 37. Explain: _____
 38. YES NO Are you aware of any title issues affecting this Property? (Check all that apply):
 39. Recorded easements Use restrictions Lot line disputes Encroachments
 40. Unrecorded easements Use permits Conservation easement Other _____
 41. Explain: _____
 42. YES NO Are you aware of any pending or anticipated eminent domain or condemnation proceedings regarding the Property?
 43. Explain: _____
 44. YES NO Are you aware of any development, impact, or similar fees regarding the Property?
 45. Explain: _____
 46.

ACCESS

47. YES NO To your knowledge, is there legal access to the Property?
 48. YES NO To your knowledge, is there physical access to the Property?
 49. YES NO To your knowledge, is the physical and legal access the same?
 50. To your knowledge, is the road/street access to the Property maintained by: County City Homeowners' association
 51. Privately Not maintained Explain: _____
 52. YES NO Are you aware of any problems with legal or physical access to the Property?
 53. Explain: _____
 54. YES NO Are you aware of any public or private use paths or roadways on or across the Property?
 55. Explain: _____

USE

56. What is the current use of the Property? Residential
 57. What prior uses of the Property are you aware of? N/A
 58. YES NO To your knowledge, does the current use conform with current zoning?
 59. YES NO Are you aware of any improvements on the Property?
 60. Explain: UTILITIES
 61. YES NO Are you aware of any crops being grown on the Property?
 62. If yes, are the crops Owner operated Tenant operated
 63. If yes, who has the right to harvest the crops and for what period of time? Explain _____
 64. YES NO Are you aware of any livestock on the Property?
 65. If yes, are the livestock Owner operated Tenant operated Open range
 66.

Initials: AW DB Initials: _____
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UTILITIES

67. Are the following services available to the Property? PROVIDER

	YES	NO		PROVIDER
68.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Electricity	_____
69.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Fuel <input type="checkbox"/> Natural gas <input type="checkbox"/> Propane <input type="checkbox"/> Oil	_____
70.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cable	_____
71.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Telephone	_____
72.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Garbage collection	_____
73.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Fire	_____
74.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Are there any alternate power systems installed on the Property? If yes, indicate type (Check all that apply):	
75.			<input type="checkbox"/> Solar <input type="checkbox"/> Wind <input type="checkbox"/> Generator <input type="checkbox"/> Other _____	
76.			If yes, are you aware of any past or present problems with the alternate power system(s)? Explain: _____	
77.			_____	

WATER

	YES	NO		
78.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Is there a domestic water source to the Property?	
79.			If yes, water source is: <input type="checkbox"/> Public <input type="checkbox"/> Private water company <input type="checkbox"/> Private well <input type="checkbox"/> Shared well <input type="checkbox"/> Hauled water	
80.			If water source is a private or shared well, or water can be used from springs, streams, lakes, ponds, reservoirs canyons, or ravines, complete and attach the DOMESTIC WATER WELL/WATER USE ADDENDUM.	
81.			If water source is public, a private water company, or hauled water, Provider is: _____	
82.			If water source is public, a private water company, or hauled water, Provider is: _____	
83.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Are you aware of any past or present drinking water problems? Explain: _____	
84.			_____	
85.	<input type="checkbox"/>	<input type="checkbox"/>	To your knowledge, is the Property in one of the following districts or areas? (Check all that apply):	
86.			<input type="checkbox"/> Central Arizona Project (CAP) District <input type="checkbox"/> Irrigation Non-Expansion Area <input type="checkbox"/> Active Management Area	
87.			<input type="checkbox"/> Central Arizona Groundwater Replenishment District <input type="checkbox"/> Other: _____	
88.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Are you aware of any grandfathered water rights associated with the Property?	
89.			If yes, <input type="checkbox"/> Type I <input type="checkbox"/> Type II <input type="checkbox"/> Irrigation	
90.			Grandfathered Water Rights Certificate # _____	
91.			What is the allotment? _____ acre feet	
92.			Number of irrigated acres _____	
93.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	To your knowledge, does the Property have surface water rights? If yes, Certificate # _____	

SEWER/WASTEWATER TREATMENT

	YES	NO		
94.			NOTICE TO BUYER: CONTACT THE APPROPRIATE GOVERNMENTAL OR PRIVATE PROVIDER REGARDING THE AVAILABILITY AND COST OF SEWER CONNECTION.	
95.			Type of sewer: <input type="checkbox"/> Public <input type="checkbox"/> Private <input type="checkbox"/> Planned and approved sewer system, but not connected <input type="checkbox"/> None	
96.			Name of Provider: _____	
97.			_____	
98.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Is the Property served by an On-Site Wastewater Treatment Facility? (If no, skip to line 110.)	
99.			If yes, the Facility is: <input type="checkbox"/> Conventional septic system <input type="checkbox"/> Alternative system; type: _____	
100.			_____	
101.	<input type="checkbox"/>	<input type="checkbox"/>	If the Facility is an alternative system, is it currently being serviced under a maintenance contract?	
102.			If yes, name of contractor: _____ Phone #: _____	
103.			Approximate year Facility installed: _____ (Attach copy of permit)	
104.	<input type="checkbox"/>	<input type="checkbox"/>	Are you aware of any repairs or alterations made to this Facility since original installation?	
105.			Explain: _____	
106.			_____	
107.			Approximate date of last Facility inspection and/or pumping of septic tank: _____	
108.			_____	

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109. YES NO Are you aware of any past or present problems with the Facility? Explain: _____
110. YES NO Are you aware of any site/soil evaluation (percolation or other tests) having been performed on the Property?
111. If yes, when and by whom? _____
112. NOTICE TO SELLER AND BUYER: THE ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY REQUIRES A
113. PRE-TRANSFER INSPECTION OF ON-SITE WASTEWATER TREATMENT FACILITIES ON RE-SALE PROPERTIES.

ENVIRONMENTAL INFORMATION

114. YES NO Are you aware of the presence of any of the following on the Property, past or present? (Check all that apply):
115. Asbestos Radon gas Mining operations Pesticides
116. Underground storage tanks Fuel/oil/chemical disposal or storage
117. Explain: _____
118. YES NO Are you aware of the presence of any of the following in close proximity to Property, past or present? (Check all that apply):
119. Asbestos Radon gas Pesticides Underground storage tanks
120. Fuel/oil/chemical disposal or storage Other: _____
121. Explain: _____
122. YES NO Are you aware if the Property is located within any of the following? (Check all that apply):
123. Superfund Water Quality Assurance Revolving Fund ("WQARF") Comprehensive Environmental Response
124. Compensation and Liability Act ("CERCLA")
125. YES NO Are you aware of any environmental assessments or studies having been performed on the Property?
126. If yes, was the study a (Check all that apply): Phase I Phase II Phase III Other _____
127. (Attach copies of the environmental assessment or study.)
128. YES NO Are you aware of any past or present issues or problems with any of the following on the Property? (Check all that apply):
129. Soil settlement/expansion Drainage/grade Erosion Other
130. Explain: _____
131. YES NO Are you aware of any past or present issues or problems in close proximity to the Property related to any of
132. the following? (Check all that apply):
133. Soil settlement/expansion Drainage/grade Erosion Other
134. Explain: _____
135. YES NO Are you aware if the Property is subject to any present or proposed effects of any of the following? (Check all that apply):
136. Airport noise Traffic noise Rail line noise Neighborhood noise Toxic waste disposal
137. Odors Nuisances Sand/gravel operations Other _____
138. Explain: _____
139. YES NO Are you aware of any portion of the Property being situated on or in close proximity to a closed landfill?
140. Explain: _____
141. YES NO Are you aware of any conditions that make the Property subject to any of the following ordinances or regulations?
142. (Check all that apply):
143. Hillside Erosion control Native plant/animal species preservation Natural area open space requirements
144. Wetlands area Critical habitat
145. YES NO Are you aware if the Property is located in the vicinity of an airport (military, public, or private)?
146. Explain: CARRIZO AIRPORT
147. YES NO Are you aware if any portion of the Property is in a flood way or flood plain?
148. Explain: _____
149. YES NO Are you aware of any portion of the Property ever having been flooded?
150. Explain: _____

MISCELLANEOUS

151. YES NO Are you aware of any survey of the Property by a licensed surveyor having been performed? If yes, when and
152. by whom? PINNACOLA ENGINEERING (Attach surveyor's plat map)

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SELLER SELLER BUYER BUYER

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- YES NO
153. If yes, is the survey recorded?
154. Are you aware of any archeological features or artifacts on the Property?
Explain: _____
155. Are you aware of any archeological study having been performed on the Property?
If yes, when and by whom? _____
156. Are you aware of any endangered species on the Property? Explain: _____
157. Are you aware of any endangered species studies having been performed on the Property? If yes, when and by whom? _____
158. Are you aware of any mineral rights that transfer with the title? If yes, explain: _____
159. Are you aware of any open mine shafts/tunnels or abandoned wells on the Property?
If yes, describe location: _____
(illustrate location on plat map, if attached.)

ADDITIONAL EXPLANATIONS

- YES NO
167. Is there any other information concerning the Property that might affect the decision of a buyer to buy, or affect the value of the Property, or affect the Property's use by a buyer? Explain: _____
168. _____
169. _____
170. _____
171. _____
172. _____
173. _____
174. _____
175. _____
176. _____
177. _____
178. _____
179. _____
180. _____
181. _____
182. _____
183. _____

184. **SELLER CERTIFICATION:** Seller certifies that the information contained herein is true and complete to the best of Seller's knowledge as of the date signed. Seller agrees that any changes in the information contained herein will be disclosed in writing by Seller to Buyer prior to Close of Escrow, including any information that may be revealed by subsequent inspections.

187. [Signature] 8/2/05 [Signature] 8/12/05
SELLER MO/DAY/YR SELLER MO/DAY/YR

188. Reviewed and updated: Initials: [Signature] 8/2/05
SELLER SELLER MO/DAY/YR

189. **BUYER'S ACKNOWLEDGEMENT:** Buyer acknowledges that the information contained herein is based only on the Seller's actual knowledge and is not a warranty of any kind. Buyer acknowledges Buyer's obligation to investigate any material (important) facts in regard to the Property. Buyer is encouraged to obtain Property inspections by professional independent third parties.

192. **NOTICE:** Buyer acknowledges that by law, Seller, Lessors and Brokers are not obligated to disclose that the Property is or has been:
193. (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
194. to HIV, diagnosed as having AIDS or any other disease not known to be transmitted through common occupancy of real estate; or (3)
195. located in the vicinity of a sex offender.

196. By signing below, Buyer acknowledges receipt only of this SPDS. If Buyer reasonably disapproves of any items provided herein, Buyer shall deliver to Seller written notice of the items disapproved as provided in the Contract.

198. BUYER MO/DAY/YR BUYER MO/DAY/YR
Initials: [Signature] Initials: [Signature]
SELLER SELLER BUYER BUYER