



DIALOG

The periodic bulletin
from

The Arizona Department of Real Estate
January-February, 2008
Volume 34 — Issue 1



Sam Wercinski
Commissioner

*Let The
Conversation
Continue:*

**A Message
from the
Commissioner**

Reflecting on the past year, I am proud of the successes we achieved at Arizona's Department of Real Estate. First and foremost, we are an organization known for Promoting Mutual Respect among the "Three Entities": the public we protect, the industry we oversee and our fellow employees. Motivated by this new perspective, we shifted the focus of the Department in three significant ways:

1.Reduce unnecessary regulation on good practitioners, shift resources to focus on those who harm the public.

The implementation of the four-year renewal license, the pairing of the Designated Broker (DB) and Entity licenses, and the use of Electronic License Certificates has reduced unnecessary regulation and allowed us to use more resources for protecting the public.

These advancements, along with staff training and volunteers from the Arizona Association of REALTORS and the Southern Arizona Homebuilders Association then lead to two major achievements. By June 2007, the backlog of nearly 2,200 pending applications that existed when I arrived in January was gone, and we reduced license processing time from 63 days to same-day service. This has allowed ADRE staff to focus on other customer service and consumer protection opportunities.

Without technology funding, we expanded our Online License Renewal System to allow most broker management functions to be completed online. Also, 93% of licensees now use the system. This allows even more Department resources for protecting the Public and improving service to the Industry.

To better protect the Public, we hired three additional settlement officers and three new investigators. We can better prioritize cases now and conducted several significant enforcement and compliance actions in 2007. For example, this Fall, I issued a cease and desist order against Russell Bosworth for property management violations

resulting in losses of over \$365,000 to 90 property owners. We also helped over 50 consumers protect \$378,000 of earnest monies in a Mexican development and established a protocol of cooperation with the Sonoran government that assists our citizens owners. We also helped over 50 consumers protect \$378,000 of earnest monies in a Mexican development and established a protocol of cooperation with the Sonoran government that assists our citizens.

2. Focus more on Educating the Public and Industry to prevent harm from occurring.

Last year we estimate we spoke with over 10,000 citizens at workshops and speaking engagements. In January, I initiated "Commissioner's Community Conversations" (Triple C). This open door policy facilitates regular dialog between the Three Entities and helps us stay current of trends in the industry.

In February, I initiated our "Community Outreach and Education" (COE) program. COEs are workshops given every Spring and Fall in each of Arizona's 15 counties. In 2007, we focused on subdivision public reports and when it is necessary to have one. We also covered proper lot splitting and the impact of illegal subdivisions. Our upcoming COEs in March will focus on Arizona real estate "Hot Topics" and more on development.

3. Focus more resources to combat illegal subdividers

While traveling the state, I met with officials, their staff and the public. I heard a common concern and learned about the harm illegal subdividers cause. For example, an illegal subdivider will typically put in substandard roads that erode with the first downpour. Access then becomes limited for homeowners and improbable for a school bus or ambulance. The cost to fix the roads is then shifted to taxpayers. Current estimates indicate illegal development will cost Arizona taxpayers roughly \$100,000,000 – \$200,000,000. We added more investigators to our Development Investigations Unit and we are working closely with other agencies and reputable practitioners. In my opinion, illegal subdivisions are Department's biggest challenge in protecting real estate consumers today and 2008 will highlight our commitment to this effort.

Let the Conversation Continue:

A Message from Commissioner Wercinski

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In 2008, look for on-going programs and new initiatives that serve Arizona better to include:

- Home Buyers' and Renters' Bill of Rights
- Work with the Department of Public Safety to gather data on the sale or lease of homes used as drop houses.
- 2008 COEs focusing on Arizona real estate "Hot Topics" and proper development.
- **PARTNERS** For Success—(Protecting Arizona's Realty Through New Efficiencies and Resource Sharing)—an ADRE led working task force with the AG's office, state and county agencies to combat illegal subdividers.
- Consumer Protection Forums on real estate featuring directors from the Departments of Insurance, Financial Institutions and Registrar of Contractors joining me.
- New online services to allow educators and licensees to submit continuing education information online as courses are completed. Completed work will be shown on the licensee's Public Database page.
- New online services will allow developers to submit Subdivision Public Report applications online.
- A new Subdivision Public Report format that will be more consumer friendly and useable.

We remain committed to protecting the public and providing proper oversight of real estate professionals. I believe we proved this can be accomplished best when the Three Entities work together. I look forward to these partnerships fostering a successful and prosperous New Year.

Respectfully Yours,



Sam Wercinski
Arizona's Real Estate Commissioner

[Click here to view the ADRE 2007 Annual Report](#)

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Commissioner Wercinski and Governor Janet Napolitano at the Capitol collecting holiday gifts for children whose parents are incarcerated.



Commissioner with Paula Singleton and Glenn Conroy, Immediate Past-President and Vice-President, Lake Havasu Association of REALTORS®.

Governor Janet Napolitano announced the Home Buyers' and Renters' Bill of Rights in her State of the State address in January. The Arizona Department of Real Estate created the Bill of Rights and will maintain it for the benefit of Arizona consumers. Please utilize this valuable tool in conjunction with the [Buyers' Advisory Guide](#).

Arizona Home Buyers' and Renters'

Bill of Rights

(A resource for all real estate consumers)

THE ARIZONA DEPARTMENT OF REAL ESTATE, in cooperation with industry professionals and the public, CREATED THIS "[BILL OF RIGHTS](#)" TO HELP EDUCATE YOU, THE CONSUMER, OF YOUR RIGHTS WHEN PURCHASING PROPERTY. As a buyer of real estate in Arizona, you have the right to KNOW material information about the property BEFORE YOU BUY.

THE FOLLOWING list represents some of the IMPORTANT MATERIAL FACTS you should educate yourself on before purchasing any type of property in Arizona.

YOU HAVE THE RIGHT TO KNOW:

- If the property is located in an [incorporated city or unincorporated part of the county](#).
- If [title insurance](#) is available and if [fire insurance](#) can be acquired.
- If you have [fire](#) and [police](#) protection and, if so, who provides this service.
- If your [roads provide access](#) for fire protection and police service
- If the [roads](#) are maintained, and by whom.
- If [utilities](#) are available, and who provides them. (Water, Electric, Gas, Sewer, Trash)
- If your [water supply](#) is adequate.
- If the jurisdiction the property is located in has [conservation restrictions](#) and policies.
- If your property is located in a [school district](#), and the distance to the closest schools.
- If there are any natural or [geological hazards](#), [pests or wildlife](#).
- If there are [essential services](#) near your property such as grocery and medical services.
- If there is crime in your area and the [crime rate](#).
- If there is a [Seller's Property Disclosure Statement](#) or an [Arizona Subdivision Public Report](#). You have the right to review these documents before you purchase property.

There may be other items not listed above that you should educate yourself on before buying property.
For a full list, reference the [Buyer's Advisory Guide](#).

Visit www.AZRE.gov to begin answering your questions!
We are here to protect you and the PUBLIC.

2008 Legislative Update

The Department is tracking bills this session related to important issues in Real Estate. If you have any questions regarding the Department's view on any of this legislation, please contact Assistant Commissioner Tory Anderson at tanderson@azre.gov.

HB 2005 Technical Correction; Real Estate Licensing

This bill makes a minor, technical change to A.R.S. §32-2125.01. This is most likely a striker bus.

HB 2123 Park Model Trailer Spaces

This bill creates a new chapter under Title 33 which relates to the leasing of park model trailer spaces. The enforcement of this bill comes under the justice courts, similar to the Landlord-Tenant Act. It will not be regulated by any state agency.

HB 2131 Homeowners' Associations; Registration; Disclosure

This bill requires homeowners associations and condominium associations to register with the Department of Real Estate. It requires the Department to post information on our website regarding the association, including every document which is recorded. The bill does not provide any oversight or regulation by the Department.

HB 2141 Home Sales; Water Supply Disclosure

This bill requires licensed real estate agents and brokers to provide notice of water supply status when advertising, promoting, or selling a residential property.

HB 2142 Property; Disclosure; Water

Real Estate brokers or salespersons must disclose to buyers whether ADWR has issued a notice of adequate or assured water supply for the property.

HB 2144 Land Divisions; Water Requirements

Requires any land division of five or fewer lots to have an adequate water supply.

HB 2349 Loan Originator Licensing

Establishes a loan originator license within the Department of Financial Institutions.

HB 2512 Loan Originator Licensing Fees

Establishes fees for loan originator license.

HB 2495 Real Estate Disclosure; Training Ranges

This bill requires a city or town that contains any portion of the sensitive electronic testing range of a military base to notify the office of the base commander when an application is received to 1) rezone the property; 2) issue a building or other development permit; 3) subdivide or otherwise divide the property. The Department of Real Estate is required to post the map delineating the sensitive electronic testing range on the Department's website. The map will be filed by the base commander.

HB 2535 Subdivision Public Reports

This bill adds language to the public report statutes. It requires a developer to offer a copy of the public report to a prospective buyer UPON REQUEST. The developer is still required to give a copy to every buyer before the buyer signs the contract.

SB 1006 Professional License Extensions; Military Members

This bill requires licensing agencies to extend the license of a person who is called to active federal military duty for 180 days after the licensee is taken off of active federal military duty.

SB 1043 Real Estate Disclosure; Liens

This bill requires title insurance agents and real property escrow agents to disclose in writing to the buyer and seller that title insurance may be available.

SB 1232 Real Estate Department; Designation Removal

This bill removes the Business Broker designation from statute.

Editor's Note: There are bills that the Department is aware of that were not introduced by the time of publication. Those bills include the following subject matter:

1. Changing the name of the Public Report to Subdivision Property Disclosure Report
2. Expanding the Real Estate Advisory Board to allow members from real estate related industries and to allow greater flexibility for membership.

Governor's Executive Order—Drop Houses

Governor Napolitano signed Executive Order 2008-06 on January 14, 2008. This Executive Order directs the Department of Real Estate to work cooperatively with the Department of Public Safety to track information on the sale and lease of houses used as "Drop Houses". The Department of Real Estate is currently working with the Department of Public Safety to develop a plan to gather this data. If you have any ideas or suggestions for the Department on this matter, please contact Tory Anderson at tanderson@azre.gov.

2008 Budget Update

Governor Napolitano released her budget management plan to address the revenue shortfalls in FY 2008 and FY 2009. We've managed our way through downturns before, and we're doing it again now. There are three parts to the Governor's plan:

Agency Savings	\$214,000,000
Budget Stabilization Fund:	\$393,000,000
Capital Financing:	<u>\$263,000,000</u>
Total:	\$870,000,000

The Governor's Office has been working with state agencies since July 2007. Agency savings include:

- Deferred hiring
- Reduce spending on travel and equipment
- Implement efficiencies

The Governor's plan avoids an across-the board cut to state agencies. Her office worked collaboratively with each agency to identify savings. The Department of Real Estate has planned savings of \$230,800 in FY 2008 and \$217,500 in FY 2009 to help overcome the shortfall. That's 5% of our appropriated budget. This resulted in lower staffing levels in our Licensing and Development Services Divisions while maintaining fully staffed Investigations and Enforcement and Compliance Divisions which are essential to protecting the public and promoting a reputable real estate industry.

The Legislature (JLBC) released a budget which includes an across-the-board cut for state agencies of 10%. This cut does not take into account the needs of individual agencies. ADRE has planned savings of 5% that date back to September 1, 2007.

The JLBC budget would require our Department to cut an additional \$230,600 in FY 2008 and an additional \$243,900 in FY 2009 over our planned savings. What impact would this have on you and the Public?

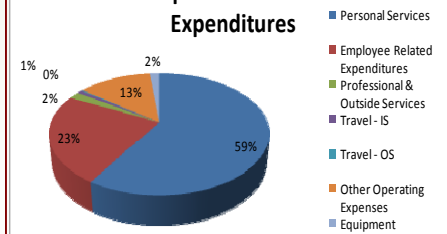
First, let's understand how the Department utilizes its appropriation. ADRE's expenditures are 82% people: the team that processes licenses and subdivision applications; the staff that assists consumers when harm has occurred; the folks that answer your questions and provide outreach and education. We spend 13% of our budget on operating expenses—fixed costs such as rent and utilities. A mere 2% is used for Attorney General assistance and legal representation at hearings to combat illegal subdividing and ensure licensees violating industry standards are dealt with appropriately. The remaining 3% is being spent on equipment, technology upgrades to expand our online services and essential travel to ensure we serve all of Arizona. Commissioner Wercinski has demonstrated that he is fiscally smart and he ensures that our appropriated funds are spent wisely to protect the Public and promote a strong real estate industry.

Now, with this frame of reference, implementation of the JLBC Budget would result in staff reductions and the following impact on the Public and Industry:

- Licensing processing time increase from same-day service to 8-10 weeks.
- Phone calls and emails would not be returned for several days.
- Education processing time increased from 30 days to 90 days.
- Development Service processing time increased from 45 to 65 days.
- Inspections of Developments would be delayed or not completed at all.
- Education course audits will not be completed.
- Courtesy brokerage audits would be eliminated.
- 1,000 investigations would remain uninvestigated, reversing the gains we have made to better protect the public.
- 200 enforcement cases would remain unresolved, reversing the gains we have made to bring more timely closure to consumers and licensees.
- The Public is more subject to harm when phone calls and complaints cannot be addressed timely.
- The Public is more subject to harm when the Department does not conduct subdivision inspections.
- The Industry is penalized when applications cannot be processed timely.
- The Industry is penalized when the Department does not complete education audits.
- The Industry is penalized when the Department cannot investigate and close complaints.
- The Department is harmed when employees are overwhelmed with unrealistic expectations and workload.

The Governor does not support a 10% across-the-board agency cut because it will result in loss of services for the Public and Industry. The economy cycles; it's down now, but will turn up again. Arizona's future is brilliant. The Governor's Budget Management Plan makes sense and still allows for the Department of Real Estate to provide needed services for the Public and the Industry.

Arizona Department of Real Estate Expenditures



Spring Community Outreach and Education (COE) Schedule

Sam Wercinski, Arizona's Real Estate Commissioner, and his staff are coming to your county this spring! The focus of the spring Community Outreach and Education (COE) program will be on "Hot Topics" in your community. We will also discuss illegal subdivisions, drop houses, Homebuyers' and Renters' Bill of Rights and other consumer and industry concerns.

Mohave County – Lake Havasu City

Date: Tuesday, March 4th, 2008
Time: 1:00 – 2:30 pm
Host: Transnation Title Insurance
Location: Realtor Center –
2293 Swanson Avenue, Lake Havasu City, AZ

Yavapai - Prescott

Date: Thursday, March 6th, 2008
Time: 9:30 am – 11:00 am
Host: Pioneer Title
Location: Yavapai Title Agency, 1235 E. Gurley St., Prescott, AZ

Coconino County - Flagstaff

Date: Thursday, March 6th, 2008
Time: 2:00 pm – 3:30 pm
Hosts: Pioneer Title Insurance
Location: TBD

Yuma County - Yuma

Date: Tuesday, March 11th, 2008
Time: 2:00 pm - 3:30 pm
Host: Yuma Title
Location: Hampton Inn, 1600 E. 16th Street

La Paz County - Parker

Date: Wednesday, March 12th, 2008
Time: 10:00 am – 12:30 pm
Host: La Paz Title & Escrow
Location: TBD

Navajo/Apache Counties (Combined COE) – Pinetop-Lakeside

Date: Monday, March 17th, 2008
Time: 10:00 am – 11:30 am
Host: Pioneer Title
Location: West USA Realty Conference Room,
1746 E White Mountain Blvd., Pinetop

Gila County - Payson

Date: Monday, March 17th, 2008
Time: 2:30 pm – 4:00 pm
Host: Pioneer Title
Location: Gila Community College – Community Room, 201 N.
Mud Springs Rd., Payson

Pinal County - Florence

Date: Tuesday, March 18th, 2008
Time: 10:00 am - Noon
Host: Title One Agency
Location: TBD

Maricopa County - Tempe

Date: Wednesday, March 19th, 2008
Time: 9:00 am – 11:00 am
Host:
Location: TBD

Greenlee County – Clifton

Date: Tuesday, March 25th, 2008
Time: 11:30 am – 1:00 pm
Host: Greenlee County
Location: Greenlee County Board of Supervisors Meeting Room,
253 Fifth Street, Clifton AZ

Graham County - Safford

Date: Tuesday, March 25th, 2008
Time: 3:30 pm – 5:00 pm
Host: City of Safford
Location: Safford City Hall Annex Conference Room -
808 8th Ave, Safford, AZ

Cochise County – Sierra Vista

Date: Wednesday, March 26th, 2008
Time: 11:00 am – 12:30 pm
Host: Pioneer Title Agency
Location: Pioneer Title Agency,
3511 Canyon de Flores, Suite C, Sierra Vista

Santa Cruz County - Nogales

Date: Thursday, March 27th, 2008
Time: 10:30 am 12:00 pm
Host: Santa Cruz County Board of Realtors & Santa Cruz County
Location: 2150 N. Congress Drive, Room 120, Nogales, AZ

Pima County - Marana

Date: Thursday, March 27th, 2008
Time: 3:30 pm – 5:00 pm
Host: Town of Marana
Location: Conference Center, Marana Municipal Complex,
11555 W. Civic Center Drive, Marana, AZ

Update on Travel Requirements

Traveling to Canada, Mexico and Bermuda by Air

U.S. citizens and citizens of Canada, Mexico and Bermuda traveling by air between the U.S. and Canada, Mexico, Central and South America, the Caribbean, and Bermuda are required to present a valid passport or other [WHTI-compliant documentation](#) to enter (or depart) the U.S.

Traveling to Canada, Mexico and Bermuda by Land/Sea

Beginning January 31, 2008, the U.S. State Department plans to move towards WHTI implementation at land and sea ports of entry by ending the routine practice of accepting oral declarations of citizenship alone. Citizens of the United States, Canada, Bermuda and Mexico will need to present the following to enter or depart the United States by land or sea:

U.S. and Canadian Citizen

- Ages 19 and older: a government-issued photo ID, such as a driver's license, along with proof of citizenship, such as a birth certificate or naturalization certificate.
- Children ages 18 and younger: proof of citizenship, such as a birth certificate.
- Passports and trusted traveler program cards-NEXU, SENTRI and FAST-will continue to be accepted for cross-border travel.

Passport Requirements

All citizens of the United States, Canada, Mexico, and Bermuda are now required to present a valid passport when entering the United States at any airport as of January 23, 2008.

This includes: Children of any age, including children of Legal Permanent Residents who are United States citizens.

Mexican citizens who have a Border Crossing Card (BCC) when entering the United States by air. (The BCC is still valid in lieu of a passport and visa for land border crossings within the border region.) The BCC may be used as a visa.

Tax Information for the Real Estate Industry

The IRS doesn't just audit returns and collect taxes; the agency also provides important and relevant tax information to help small businesses and specific industries understand and comply with some of the complex tax laws. The *Arizona Department of Real Estate* has partnered with the Small Business/Self-Employed Division of the IRS to help keep you informed of your tax responsibilities. Check out www.irs.gov for real estate-related tax information:

Real Estate

Tax tips, trends and statistics for the real estate industry.

Income Verification Express Service (IVES)

Transcripts to verify income can now be delivered electronically through e-Services. The Income Verification Express Service (IVES) will process and deliver the return transcripts within two business days.

The new service also automates the delivery portion of the process. Customers must now log on to the IRS.gov Web site to retrieve requested transcripts from a secure mailbox located on the e-Services electronic platform.

Foreclosures/Cancellation of Debt

Special Web Section Unveiled for Homeowners Who Lose Homes

IRS.gov now includes a variety of information including a worksheet designed to help borrowers determine whether any of the foreclosure-related relief provisions apply to them. For taxpayers who owe additional tax, it also includes a form to request a payment agreement with the IRS. In some cases, eligible taxpayers may qualify to settle their tax debt for less than the full amount due using an offer-in-compromise.

Foreign Investment in Real Property Tax Act (FIRPTA)

Real estate professionals and rental agents/property managers often interact with non-U.S. citizens acquiring U.S. real property. The tax rules governing disposition of any U.S. real property interest by foreign persons vary from those that apply to U.S. citizens. Understanding the tax laws is critical for real estate professionals to avoid personal liability for improper U.S. federal income tax compliance. The disposition of a U.S. real property interest by a foreign person (transferor) is subject to the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA).

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Tax Information for the Real Estate Industry

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Section 1031 (Like-Kind) Exchange

Generally, if you exchange business or investment property solely for business or investment property of a like-kind, no gain or loss is recognized under Internal Revenue Code Section 1031. If, as part of the exchange, you also receive other (not like-kind) property or money, gain is recognized to the extent of the other property and money received, but a loss is not recognized. The real estate section of www.irs.gov has information about like-kind exchanges under Tax Tips and includes links to Publication 544 and instructions.

For additional updates, subscribe to [e-News for Small Businesses](#) at www.irs.gov.

Editor's Note: This information was provided to the Department by the IRS.

INCOME VERIFICATION EXPRESS SERVICE (IVES) PROCESSING

In October 2006, the Internal Revenue Service began the Income Verification Express Service (IVES) program, offering electronic delivery of IRS transcripts and records available upon submission of IRS [Form 4506-T, Request for Transcript of Tax Return](#).

IVES provides two-business day processing and delivery of return transcripts. The new service replaces the existing process that required manual pick-up and delivery of transcripts from the IRS Return and Income Verification Services (RAIVS) units located across the country.

The new service automates the delivery portion of the process. Customers must now log on to IRS.gov to retrieve their requested transcripts from a secure mailbox located on the e-Services electronic platform.

The "front end" of the process remains the same. Customers will still need to fax the signed Form 4506-T, Request for Transcript of Tax Return, to the one of the three designated RAIVS units.

For details on participation in the IVES program and submission of requests, including fees and payments, please refer to www.IRS.gov (keyword IVES).

Triple C (Commissioner's Community Conversations)

The following is a list of dates and times for the Triple C (Commissioner's Community Conversations) meetings for 2008.

This is the time to bring opportunities and challenges to the Commissioner. You will also hear about any upcoming legislation, policy, or rule changes.

Commissioner Wercinski is committed to an open dialog. If you would like to meet regarding a subject not listed, Please contact Assistant Commissioner Tory Anderson at: tanderson@azre.gov.

The following Triple C meetings will be held statewide and are open to the Public and to the Industry.

Sierra Vista	2/7 & 9/15	1 pm-2pm
Flagstaff	2/15 & 11/13	1 pm- 2pm
Pinetop	2/11 & 10/24	1 pm-2pm
Tucson	2/22 & 10/24	1 pm-2pm

Schedule for Maricopa County

Triple C meetings in Maricopa County will be held at:
Arizona Department of Real Estate Phoenix Office
2910 N. 44th. Street, Phoenix

Subject: Property Management
1:30 pm - 2:30 pm
Friday, February 1 & Friday, September 5, 2008

Subject: Broker Management
1:30 pm - 2:30 pm
Friday, February 15 & Thursday, November 13, 2008

Subject: Real Estate Education
1:30 pm - 2:30 pm
Friday, February 22 & Friday, October 24, 2008

Subject: Developments
3:00 pm - 4:00 pm
Friday, February 22 & Friday, October 24, 2008

Central Arizona Shelter Services: Serving the Valley's Homeless since 1984

Mission: to empower men, women and children with diverse needs to end their homelessness by providing shelter and supportive services

CASS opened in 1984 in response to the community's need for an agency to operate an emergency shelter for Central Arizona's homeless population. Since opening, CASS has provided over 3,700,000 nights of safe and secure shelter to over 145,000 homeless, men, women, and children.

CASS' years of service have proven that while shelter resolves the immediate housing need, there are numerous underlying issues that cause homelessness and which must be addressed to achieve lasting self-sufficiency. Generally, unemployment, lack of transportation, low levels of education or job skills, and lack of affordable housing may cause homelessness. Often however homeless individuals and families have deeper issues that threaten self-sufficiency and housing stability.

Today, CASS clients have access to a continuum of supportive services to address behavioral health needs; substance abuse or addiction issues; a history of domestic violence; and for children, developmental delays. It is CASS' goal to provide clients with all the tools necessary to end their homelessness.

Who Does CASS Serve?

CASS serves the homeless men, women, and children (estimated to include 10,000 individuals) within Maricopa County. About 50% of this population is dealing with some level of substance abuse, a significant portion is mentally ill, 30% have a Correctional background and 25% are U.S. Veterans. Sadly, about 20% of the homeless families and 25% of the single adult women, report a history of domestic violence.

How Does CASS Serve?

CASS' primary focus is providing emergency shelter. Currently, CASS operates two shelters in the Phoenix area. The Single Adult Shelter, located on the Human Services Campus, shelters 300 men and 100 women over the age of 18. The Vista Colina Emergency Family Shelter, located in the Sunnyslope Neighborhood, shelters up to 34 families with children each night. Vista is designed to provide a stabilizing environment in which all family members receive the services they need to end their homelessness. Both shelters require that clients go through case management to identify the causes of their homelessness and develop a realistic, long-term plan for reach self-sufficiency.

Other programs CASS offers include the Vista Colina Child Care Program; a nationally-accredited program serves homeless infants, toddlers, and pre-school aged children. The CASS Dental Clinic, a state-of-the-art facility provides a range of dental care from alleviating immediate pain and suffering to full restorative work. Finally, CASS Employment Services, an in-house program places clients in temporary or permanent employment so that they earn enough to obtain housing.

CASS Works! In FY2007-08:

CASS provided over 193,000 nights of emergency shelter to 3,791 homeless men and women

The Vista Colina Developmental Child Care Program provided 36,600 hours of security, love and encouragement for 216 homeless children

The CASS Dental Clinic completed 1,300 appointments for dental care and treatment valued at over \$1,364,000

CASS Employment found full-time employment for 762 clients at an average wage of over \$9.00 per hour. That is better than minimum wage!

For more information on CASS and how you can help, please contact CASS Development Team at (602) 417-9800 or visit the CASS website at:

www.cass-az.org

MORTGAGE FRAUD – “The worst crime no one has ever heard of,” (Carol Lloyd, San Francisco Chronicle); “One of the fastest growing white collar crimes in the United States,” (FBI); and it is a big problem in Arizona.

What is mortgage fraud? It is an illegal scheme, often involving two or more participants, to cheat a mortgage company into making a loan to a consumer who cannot pay it back, or to make a loan for substantially more than a property is really worth. The result, typically, is foreclosure on the property, a family on the street and huge financial losses for the lender.

The first type of mortgage fraud – a home purchaser obtaining a loan that he cannot pay back – has been around for a long time. Someone who wants to buy a home grossly overstates his income on the loan application in order to qualify for the loan. In recent years this has been very easy and sometimes loan officers (who earn commissions on the loans they make) have assisted in this process. It often involves creation of false documents such as pay statements and W-2 forms or just simply “self-certifying” an inflated income. This practice is being eliminated by the tighter controls and added scrutiny that the lending industry is applying as foreclosures mount.

The second type of mortgage fraud – cheating a lender into making a loan for more than the property is worth – is much more complicated and involves a variety of schemes. Most common in Arizona is the “cash-back deal.” In a typical case, a property that has been on the market for many months at \$350,000 suddenly sells for \$450,000 with an addendum to the contract that provides for the seller to give the buyer the extra \$100,000. The problem is that a mortgage company never sees the addendum. The mortgage company believes it has made a \$450,000 loan on a house worth \$450,000. The buyer pockets the \$100,000 and then lets the property go into foreclosure. In some cases, buyers have done this on multiple properties. “Left unchecked, cash-back deals cost homeowners and lenders millions of dollars and could erode confidence and values in Arizona’s real estate market” (Catherine Reagor, Arizona Republic).

Any such deal – involving cash back – is illegal and everyone who participates in such a scheme including the home buyer, the real estate agents, the loan officer, and the appraiser could be prosecuted for mortgage fraud.

Another example of the second type of mortgage fraud involves multiple “flips” of a property – often within a group of co-conspirators. The first player in the scheme might buy a property for \$200,000, then sell it for \$250,000 to another participant, who sells it to another for \$300,000, and so on until eventually a member of the group takes out a 100% loan on it for \$500,000. The lender is left with a \$500,000 note on a property worth \$200,000, which the buyer will allow to go into foreclosure.

One more example of the second type is “equity stripping,” a practice in which someone buys a property at a realistic price (say \$400,000), then obtains an appraisal stating the property is worth \$475,000. The owner then refinances the property for \$475,000 and pockets the \$75,000, “stripping” the equity out of the property. The property is then allowed to go into foreclosure or is re-sold to an unsuspecting buyer who is fooled into believing it is worth \$475,000.

All of these schemes are illegal and are damaging to lenders (and on a broad scale to the nation’s financial markets in general), to the housing and real estate industries, and to legitimate homeowners and consumers.

Editor’s Note: Dave Lewis is the Investigations Manager for ADRE. Amanda Dean is a Senior Investigator in the Investigations Division.



Department of Real Estate actively seeks feedback from Industry, the public and Department employees.

ADRE on the radio!

Commissioner Wercinski is a monthly guest on various radio shows each month.

- "On the Money" with Shannon Bair which is aired on KFNN-1100 at 9:00 am Thursdays.
- "Real Estate A-Z " with Bill Asher & Bill Zervakos on KFNN-1100 AM Fridays
- "Let's Talk Real Estate"- with Drew Grunwald and Doug Blackwell on KFNN 1510 AM every weekday.



KFNN -Drew Grunwald and Doug Blackwell interview Commissioner Wercinski.



Joining Commissioner Wercinski at ADRE's first Consumer Protection Forum on 11/28/07 were: **Christina Urias** (Director of Insurance), **Felicia Rotellini** (Superintendent of Financial Institutions), **Fidelis Garcia**, (Registrar of Contractors Director).

The Department continues with its Pilot Program to serve the **Public** and the **Industry** in Northern Arizona. Coconino County has graciously offered the Department space at their offices. We have staff available to help in licensing, education, investigations as well as enforcement and compliance.

Hours are from 10:00 am to 4:00 pm with a 30-minute lunch break. Staff are in Flagstaff the second Wednesday of the month for a six-month pilot program.

The next scheduled dates of services are: **February 13, 2008** and **March 12, 2008**. Walk-in or call in advance to set on appointment.

The ADRE Mission

The purpose of the department is to protect the public interest through licensure and regulation of the real estate profession in the State of Arizona. (A.R.S. § 32-2102)



Commissioner Wercinski with Marshall Trimble, Official Arizona State Historian.



Investigating Earth Fissures

By Mimi Diaz



With the recent legislation mandating disclosure of earth fissures in real estate transactions, and the subsequent production of earth fissure planning maps by the Arizona Geological Survey (AZGS), interest in locating fissures on specific properties has intensified. As public awareness of this phenomenon increases, the demand for accurate fissure location and identification is rising as well. Below are some recommended guidelines for those wishing to investigate fissures in a particular location.

The first step is to determine whether fissures have already been identified in or near the area of interest. You can do this by examining the Earth Fissure Planning Maps (available through AZGS: www.azgs.az.gov, Tucson office, 416 W Congress #100; Phoenix office, 1502 W Washington, co-located with the Department of Mining and Mineral Resources). These maps will show you if there are fissures already reported in your area in general (not by specific locations), and give you an idea whether further investigation is warranted.

Should you determine that fissures could pose a threat, the next step is to contact a *qualified* registered geologist or professional engineer. The Arizona Board of Technical Registration (BTR) maintains a list of the registered geologists and engineers in the state; however, they cannot tell you if they are qualified for fissure investigation. When selecting a consultant (the geologist or engineer), be sure to ask *how* they are qualified to deal with fissures. For example, an aerospace engineer or a volcanologist may be duly registered and qualified within their respective fields, but they may never have actually dealt with earth fissures before. Find out what other fissure-related projects they have worked on, and ask for references (and check them out!).

Some confusion exists about what geophysical methods exist to locate fissures that may not be visible on the surface. Be sure to ask the consultant/contractor about the technology they use to locate fissures: is their technique documented and published (and not secret, hidden, or "classified")? Have their instruments been tested on areas with known fissures, and how successful were they? Have they excavated any of their sites to verify the results of their technology?

Acceptable geophysical methods of locating fissures include seismic refraction (bouncing energy waves off different layers of the earth), and electrical resistivity (running a current through the ground), and the best results are obtained from using a combination of the two. Gravity studies help delineate depth to bedrock and subsurface topography, but do not distinguish individual fissures.

Ground penetrating radar is not an acceptable geophysical tool for fissure identification. GPR works for horizontal planes, with little to no water. Fissures are vertical and carry water at various levels.

You've no doubt heard the euphemism, "Buyer Beware" with respect to major purchases; but in these cases, the euphemism could be extended to, "Realtor Beware" or "Developer Beware." If you are in doubt as to the integrity of the contractor or consultant offering to conduct earth fissure investigations, contact BTR at (602) 364-4930 (or <http://www.azbtr.gov>). Additionally, if you think you have discovered a fissure that is not on one of our maps, please let us know by contacting Todd Shipman in Tucson (todd.shipman@azgs.az.gov, (520) 770-3500) or Mimi Diaz in Phoenix (mimi.diaz@azgs.az.gov (602) 708-8253).

Editor's Note: Mimi Diaz is the Phoenix Branch Chief, Agency Liaison for the Arizona Geological Survey



"Promoting Mutual Respect"
 News from Personnel
 Service Awards



Robin King
 Senior Investigator,
 Development Investigations



Mike Wheeler
 Manager,
 Enforcement



Marlene Delicata
 Administrative
 Assistant II
 Investigations

Sue LaBotz
 Auditor



Jim Williams
 Legal Secretary II
 Compliance

Tory Anderson
 Assistant Commissioner,
 Policy & Special Projects

Tom Adams
 Assistant Commissioner
 Investigations

Janet Blair
 Assistant Commissioner
 Licensing, Professional
 Education & Auditing



**"Promoting Mutual Respect"
News from Personnel
Service Awards**

November
Employee-of-the Month

Toni Pittman
Development Investigator

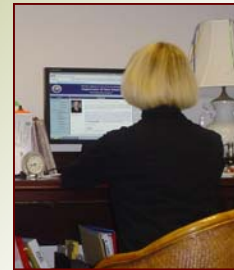


Vicky Rokkos
Executive Assistant
Commissioner's Office
is 1 of 19 individuals certified in Arizona State
Procurement. (The certification verifies an
understanding of Arizona State Procurement laws
in order to manage tax dollars wisely.)

Online Services Available:

As the Designated Broker...

- Renew your entity license
- Sever and transfer your employees
- Approve hire and renewal request



As the Licensee...

- Renew your individual license
- Change your personal information
- Request to be hired to a new broker
- Sever from your current broker

By completing available services online, you not only save time, but you also save money!

Commissioner's Advisory

Rights and Responsibilities when a Real Estate Firm Closes

This advisory is a partial list of rights and responsibilities of parties impacted by a real estate company closing. While a real estate firm continues to be licensed by the Arizona Department of Real Estate, all listings, escrows and other agreements legally entered into by clients with this firm remain valid and enforceable. Agents do not have the authority to cancel or transfer agreements or escrows between clients and the brokerage. Individuals may have additional questions after reviewing this list and are encouraged to contact the ADRE Consumer Assistance Team at CAT@azre.gov or 602-771-7730.

When a real estate firm closes:

Consumers

Property in escrow

- Buyers and Sellers close per the terms of their purchase agreement.
- Buyers and Sellers may continue to use their Agents to assist in the closing as long as their Agents are hired by a new brokerage and avoid practicing unlicensed activity.
- Listing, commission and co-broke agreements are still valid.

Property Listings for Sale

- Listing agreements are effectively cancelled once the firm closes. (NOTE: Listing Agreements are contracts between the brokerage and property owners. Agents may not transfer or cancel a listing without authorization from the designated broker as long as the real estate firm is actively licensed.)
- Sellers may choose to sign a new listing agreement using the same agent at a new brokerage.
- Sellers may choose to sign a new listing agreement using a new agent at a new brokerage.
- Sellers may choose to personally market their home or remove it for sale.

Property Management Agreements

- Management Agreements are effectively cancelled once the firm closes. (NOTE: Management Agreements are contracts between the brokerage and landlord. Agents may not cancel a listing without authorization from the designated broker as long as the real estate firm is actively licensed.)

- Landlords should receive security and other deposits being held in trust accounts and receive a final accounting in accordance with [ARS 32-2173 \(C\) & \(D\)](#).
- Landlords may choose to sign a new agreement using the same agent at a new brokerage.
- Landlords may choose to sign a new agreement using a new agent at a new brokerage.
- Landlords may choose to personally manage their properties.
- Landlords should notify tenants in writing of all changes in the property management to include new contact or mailing instructions for rent payments and communication needs.
- Landlord and tenant lease terms remain valid.

Consumers

- Buyer Broker Employment Agreements
Buyer broker employment agreements are effectively cancelled once the firm closes. (NOTE: Agreements are contracts between the brokerage and buyer. Agents may not cancel an agreement without authorization from the designated broker as long as the real estate firm is actively licensed.)
- Buyers may choose to sign a new agreement using the same agent at a new brokerage.
- Buyers may choose to sign a new agreement using a new agent at a new brokerage.
- Buyers may choose to work with the same agent or a new agent without an employment agreement.
- Buyers may choose to seek a home without a real estate agent's professional help.

Designated Brokers

Property Management and Trust Accounts

- Use the 30-day cancellation clause in property management agreements to notify property owners that the agreement will cease.
- Pay property owners what is due them from the management trust accounts including tenant security and other deposits if the broker is holding them. Only broker funds should remain in the trust accounts.
- Escrow trust accounts should be properly liquidated with funds accounted for and distributed to appropriate escrow accounts at escrow companies closing the relevant transaction. Receipts for the transfer of funds should be placed in each transaction file for future auditing.

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Commissioner's Advisory

Rights and Responsibilities when a Real Estate Firm Closes

Continued from page 15

Follow the prescribed steps for closing a branch or corporate office. Refer to the Licensing Division [Frequently Asked Questions \(FAQ's\)](#) for closing an office.

Notify agents prior to the effective date of closure so they may have time to transfer their license to a new brokerage.

Designated Brokers

Provide written commission instructions to escrow companies that are closing transactions for the brokerage so that commissions can be paid directly to seller and buyer agents less any fees or commission splits agreed to in an agent's independent contractor's agreement.

Associate Brokers/Sales Agents

Notify your clients of the brokerage closure and their rights and responsibilities as noted on Page 1 of this [Commissioner's Advisory](#).

Transfer your license to a new brokerage if you wish to remain active. Avoid conducting any unlicensed activity if your firm closes without notice. Once a firm closes, all agents at the firm automatically go inactive. Determine your license status by visiting the ADRE Public Database at www.azre.gov and view your [electronic license certificate](#).

If you wish to remain inactive but have clients in escrow, you should advise your former client to seek an active agent to advise them during the escrow.

Commissions earned while being employed by the broker may still be received whether an agent is active or inactive per commission instructions and independent contractor agreements. In the absence of commission instructions and when the closed brokerage has also closed its operational bank accounts from which commissions would be paid, agents are authorized to receive funds directly from escrow companies should the escrow company decide to disperse these commissions at closing.

Disclaimer: A Commissioner's Advisory is intended to provide guidance on current issues or concerns that may impact consumers and industry practitioners. It is not intended to circumvent or supersede current Arizona Real Estate Law, Commissioner's Rules or Commissioner's Policy Statements.

Consumer Protection Forum to be Held in Tucson

Commissioner Sam Wercinski is hosting a Consumer Protection Forum in **Tucson** on **February 7, 2008**. Directors or executive staff from the Departments of Financial Institutions, Insurance, Housing and Register of Contractors will join the Commissioner. Consumers are encouraged to bring questions and concerns to the forum to be addressed. Topics of discussion will include predatory lending, poor construction, insurance concerns, real estate recovery funds and more. The forum is **FREE** and **open to the public**.

It will be held at **4850 S. Park Ave. in Tucson** from **7:00 - 8:00pm**. For further information, contact Mary Ultey at 602-771-7766 / 520-628-6778 or mutley@azre.gov.



Enforcement and Compliance

in alpha order by type of action



Name **Arizona High Performance Realty, LLC**
Location: Phoenix, Arizona
License LC556341000
Summary Respondents conducted unlicensed activities, transferred property management files to another entity without notifying clients of the change, closed entity without appropriate notice to clients of the change, closed entity without appropriate notice to clients or Department, commingled personal funds with client trust funds, failed to provide documents to the Department as requested, converted trust funds to personal use, failed to remit \$380,552.65 to ninety (90) former clients.

Order Date October 26, 2007
Action Cease and Desist all activities Summary Suspension of license. Provisional License with Real Estate Practice Monitor, \$5,000 Civil Penalty, 12 hours of Continuing Education, appointment of Designated Broker.

Name: **Patricia Cantu**
Location: Phoenix, Arizona
License SA574179000
Summary Respondent accepted Compensation while unlicensed And employed by Arizona High Performance Realty, LLC.
Order Date December 11, 2007
Action \$2,000 Civil Penalty, 6 hr CE in Commissioner's Standards, 30 Day license suspension (stayed), 2 year Provisional License with Practice Monitor.

Name: **Russell Bosworth**
Location: Phoenix, Arizona
License SA 536222000
Summary Respondents conducted unlicensed activities, transferred Management files to another Entity without notifying clients of Change, closed entity without Appropriate notice to clients or Department, commingled Personal funds with client trust funds, failed to provide documents to the Department as Requested, converted trust funds to personal use, failed to remit \$380,552.62 to ninety (90) former clients.
Order Date October 26, 2007
Action Cease and Desist all activities Summary Suspension of license

Name **William R. Bliss**
Location: **Scottsdale, Arizona**
License BR010414000
Summary Respondent appealed Department's December 2006 summary suspension of Respondent's license for multiple violations.
Order Date July 26, 2007
Action ALJ ruling uphold Summary Suspension, Department issued an Order: Affirm Summary Suspension; Reinstatement of license, 180 day stayed suspension, 2 year Provisional License with Real Estate Practice Monitor, \$5,000 Civil Penalty, 12 hours of Continuing Education, appointment of Designated Broker.

Continued page 18

Enforcement and Compliance

in alpha order by type of action



Name: Jake Lawrence Bortness
Location: Chandler, Arizona
License: SA567197000
Summary: Respondent convicted in April 2007 of Manslaughter, a felony, in Pinal County Superior Court. Respondent sentenced to 4 years incarceration.
Order Date: September 18, 2007
Action: Summary Suspension of License

Name: Nicolas J. Capaz
Location: Phoenix, Arizona
License: Unlicensed Applicant
Summary: Respondent appealed Department's April 2007 denial of licensure. Denial based upon Respondent's August 2000 felony conviction for theft.
Order Date: August 28, 2007
Action: ALJ ruling reversed Denial of license, 2 year Provisional License with Practice Monitor, \$25,000 Surety Bond.

Name: April Deann Curtis
Location: Carefree, Arizona
License: SA555674000
Summary: Respondent convicted in August 2005 of Conspiracy to Distribute and Possess Controlled Substances in Federal court, sentenced to 3 years incarceration.
Order Date: September 24, 2007
Action: Summary Suspension of license

Name: Richard A. Dunn
Location: Flagstaff, Arizona
License: Unlicensed Applicant
Summary: Department denied Respondent's application for license based on multiple convictions.
Order Date: August 13, 2007
Action: ALJ ruling uphold Department denial of license.

Name: Benjamin D. Goss
Location: Buckeye, Arizona
License: SA576844000
Summary: Respondent convicted in April of 2006 of Conspiracy to Commit Mail Fraud, a felony. In May of 2007, Respondent sentenced to 4 months incarceration and 3 years of supervised probation.
Order Date: September 28, 2007
Action: Summary Suspension of license

Name: Cody J. Turton
Location: Prescott, Arizona
License: Unlicensed Applicant
Summary: Department denied Respondent's application for license based on felony conviction.
Order Date: August 9, 2007
Action: ALJ ruling uphold Department denial of license.

Name: Alfred Ward III
Location: Tucson, Arizona
License: SA560510000
Summary: Respondent had multiple felony convictions, denial of license based on convictions.
Order Date: December 11, 2007
Action: License granted, 4 year Provisional License with Practice Monitor, \$10,000 Surety Bond.

Name: Chametra Chantae Watts
Location: Phoenix, Arizona
License: SA576005000
Summary: Respondent failed to cooperate with Department requests for a written statement and documents regarding a felony conviction disclosed on original license application
Order Date: August 28, 2007
Action: Summary Suspension of license



Total Disciplinary Actions Resolved through Issuance of Provisional License and the Accelerated Settlement Agreement Process (ASAP) and Consent Orders.

(Do you find this information valuable? Please [let us know.](#))

Real Estate Agents/Brokers

	February—March	April-May	July-August	September-December
Convictions	58	12	18	29
Failure to Disclose (in a timely manner)	21	21	30	33
Unlicensed Activity	12	11	8	1
False Applications	10	7	11	8
Advertising Count	5	6	5	2
Abandonment of Office	0	0	0	1
Unlawful Sales (Development)	5	0	5	0
Failure to Supervise	4	9	4	5
Other Violations	4	0	0	2
Dishonest Dealings	3	2	0	0
Incomplete Records	2	0	0	0
Breach of Fiduciary Duty	1	0	2	3
Failed to Deal Fairly	1	0	3	1
Other Jurisdiction Sanction	1	1	3	1
Property Management Irregularity	1	0	0	2
Trust Account Irregularities	1	0	0	0
Negligence	0	1	0	4
Forgery	0	0	2	1
Failure to Respond	0	0	1	1
Misrepresentation	0	0	3	0
Multiple Violations	0	0	4	2
Non-Compliance with Order	0	0	1	2
Subdivision (Illegal)	0	0	1	2
Subdivision Violations	0	0	0	12
Timeshare Violations	0	0	0	1
Total Actions	129	70	102	113

Main Office:

2910 North 44th St., 1st Floor
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Phone: 602.468.1414
Fax: 602.468.0562

Southern Arizona Office:

400 W. Congress, Suite 523
Tucson, Arizona 85701
Phone 520.628.6940
Fax 520.628.6941

**Northern Arizona:
Coconino County
219 E. Cherry St.
Flagstaff, Az.**

www.azre.gov

DIALOG
**THE PERIODIC BULLETIN FROM THE
ARIZONA DEPARTMENT OF REAL ESTATE**

An official publication of the State of Arizona

JANET NAPOLITANO
Governor

DEPARTMENT OF REAL ESTATE

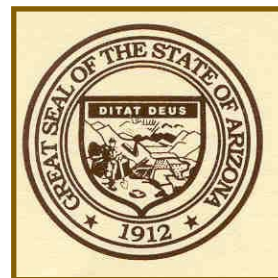
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January-February 2008



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