



DIALOG

The periodic bulletin

from

The Arizona Department of Real Estate

Volume 2008 — Issue 3



*Let The Conversation
Continue:*

**A Message from the
Commissioner**

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Real Estate "Hot Topics"

As I continue to travel around Arizona and have the fortune of visiting with many of you, I am always asked about current challenges facing consumers and reputable industry practitioners. There is great opportunity in real estate today which both good and bad practitioners have identified. While we continue to reduce unnecessary regulation, we also are successfully focusing resources on those harming the Public – your clients and mine. I currently have been discussing several "Hot Topics" at speaking engagements which include:

- **Combating Fraud in**
 1. Property management schemes
 2. Rent to own schemes
 3. Inflated Mortgages and undisclosed rebates
 4. Illegal Subdivisions
- **Identifying facilitators of Drop Houses in our communities**

As I learn of opportunities and challenges, I want to share this information with you: consumers, industry professionals and community leaders. In addition to *Dialog*, I hope you receive our **Late Breaking News (LBNs)** and will join me at a future COE or speaking engagement. Your participation helps us to enhance our consumer protection and increase your Department of Real Estate's ability to be a valuable resource for the Public and Industry. We are always willing to help and your input is valued and appreciated.

Respectfully Yours,

Sam Wercinski

Arizona's Real Estate Commissioner



SEVRAR SUPPORTS OUR TROOPS



Operation Helping Hand / American

Angels was started in 2004 and is a nonprofit volunteer organization. It was formed to reassure all members of the armed Forces that they are not forgotten.

The group is dedicated to crafting for the military and their families. They have outreaches for baby items for new moms with a deployed spouse, “comfortghans” for the wounded troops, and send comfort packages to deployed service members that include slippers and hats (skull caps) and scarves for the winter months. They also craft lap afghans for those in wheel chairs and afghans for the wounded in military hospitals.

If you would like to take part or know someone who would, please contact Barney Thornton for more information at: 480-833-7510 ext.126.

<http://www.OperationHelpingHand-AmericanAngels.com>



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As gas prices go through the roof, consider walking, carpooling, riding your bike or the bus. It will help our environment as well as your wallet!

As Arizona's Real Estate Commissioner, I am very concerned by the recent increase Arizona is experiencing in mortgage fraud and the impact it has on the credit markets, real estate consumers and our industry. I encourage you to read the recent article by PAUL DAVENPORT, Associated Press Writer and posted on The Arizona Daily Sun website on May 12 about efforts to license loan originators as a measure to combat mortgage fraud.

Sam Wercinski

Signed May 15, 2008

Mortgage officer licensing bill hits snag

By PAUL DAVENPORT, Associated Press Writer

Posted on *The Arizona Daily Sun* website on May 12; obtained on May 13

PHOENIX – Legislation requiring people who help arrange mortgage loans for home buyers to get a state license has hit a roadblock near the finish line at the Legislature.

Billed as a consumer protection measure and similar to laws on the books in some 30 other states, the legislation enjoys support in the real estate financial industry, as well as by Gov. Janet Napolitano's administration. However, one senator's opposition has prompted Senate Republican leaders to sidetrack the bill (SB1028) since it was approved overwhelmingly by the House on a bipartisan vote.

"I would imagine we would have a similar type vote in the Senate," said the bill's sponsor, Sen. Jay Tibshraeny, R-Chandler. "Making people accountable and requiring education and more ethical treatment of consumers is something whose time has come."

The issue is on the Legislature's plate at a time when the mortgage industry has come under increased scrutiny because of foreclosures and other problems associated with the subprime loan crisis.

The state already regulates mortgage brokers and mortgage bankers, but the bill would require licensing of an estimated 10,000 so-called "loan originators" – front-line employees of mortgage brokers and other lenders.

Under the bill, originators would have to undergo criminal background checks, pass a test, meet continuing education requirements and stay licensed while in the business.

Originators typically interview customers in connection with a loan application and act as middlemen between lender and consumers.

"In that relationship, we have seen a lot of abuse," said Felecia Rotellini, director of the Arizona Department of Financial Institutions. She cited identity thefts, sales pitches for inappropriate loans and incompetence of some originators.

Without licensing requirements, "there's no guarantee that a consumer is talking to somebody who knows what they're talking about," Rotellini said.

Rotellini and others say the required background checks would help keep people convicted of financial crimes

Continued page 3

in other states from working as originators in Arizona.

The reverse is true if Arizona doesn't follow other states in requiring licenses, said Sen. Debbie McCune Davis, D-Phoenix. "The bad actors could come here."

The stalled licensing bill is opposed by Sen. Pamela Gorman, an Anthem Republican who heads the Financial Institutions, Insurance and Retirement Committee. She previously declined to hear two similar bills, essentially killing them.

Gorman said she favors having the state established a voluntary registration system that would help consumers decide which mortgage businesses to patronize.

Licensing wouldn't do much good to combat fraud, which is the problem she hears most about, she said.

"A slip of paper called a license doesn't stop somebody from committing a crime, which is what fraud is," Gorman said. "I do recognize this is a serious problem and I would like to see them (industry groups) work together to fix the problem before the industry starts coming back on line, before the same bad characters get involved again."

Gorman's committee voted 3-2 in February for a bill she sponsored to establish a voluntary certification system. But Tibshraeny, as Senate Rules Committee, did not permit Gorman's bill (SB1504) to advance to the full Senate.

"I think we're beyond a voluntary registry," Tibshraeny said. "It might sound good but it doesn't give the consumers the protection they need from unscrupulous dealers because your unscrupulous dealers are not going to register."

An expert on real estate financing said he supports the licensing for loan originators despite strong free-market leanings.

"We should really have licensing the way we do in the securities industry simply because this is the largest asset in most householders' portfolio, and we essentially require people that deal with a household's investments to be licensed," said Tony Sanders, an Arizona State University professor of finance and real estate.

Added Sanders: "It's actually quite backwards that we don't have that for the mortgages, particularly since there are so many horror stories out there in terms of households that may have made other decisions had they talked to a licensed professional."

Lee Miller, lobbyist for the Arizona Association of Mortgage Brokers, said the group supports licensing.

In getting the House to approve his latest bill, Tibshraeny did an end-run around Gorman by having an unrelated bill rewritten to mirror the original licensing bill that Gorman had refused to consider.

Senate Majority Whip John Huppenthal, R-Chandler, said Senate leaders halted Tibshraeny's bill out of

Continued page 4

deference to Gorman in her position as committee chairman.

"We're just trying to resolve a dispute between a chair and members. Hopefully they will work it out," Huppenthal said, adding that he's confident the issue can be addressed next session if not.

McCune Davis said the stakes for consumers are too high to wait.

"The Republican leadership needs to make it a priority, and if this bill does not succeed in becoming law this session it will be a black eye on the Republican leadership," she said.



Fair Housing Act-40th Anniversary!

The Fair Housing Act came about as Title VIII of the Civil Rights Act of 1968. In April 2008 the 40th anniversary of the passage of the Fair Housing Act was celebrated with a flurry of activities.

One such event was the Fair Housing Workshop and Forum held at the Glendale Community College on April 16, 2006 . Dr. Velvie C. Green, President of Glendale Community College welcomed the participants.

Attorney General Terry

Goddard provided remarks as did Russell Shaw, Realtor, John Hall and Associates.

A video "Two Victims Speak Out: Dr. Philip Edington and Eboni StearnJohn" was shown.

Topics addressed were:

- Impact of Housing Discrimination
- Identifying Housing Discrimination
- Eliminating Housing Discrimination

The workshop was interactive with the panelists as well as the audience.

Commissioner Sam Wercinski provided closing remarks.

Other workshops held throughout the state were in Yuma, Prescott and Tucson. These events were spearheaded by the Attorney General's Office. For consumer information visit:

consumerinfo@azag.gov

"It is critical that consumers, real estate professionals and regulators be knowledgeable about Fair Housing and those activities which are illegal under the Fair Housing Act. Education is our most effective tool to prevent unintentional violations and to arm the public against those who intentionally discriminate against others"

Sam Wercinski,
Arizona's Real Estate Commissioner

HUD-Assistant Secretary visits Southern Arizona

Kim Kendrick, U.S. Department of Housing and Urban Development, Assistant Secretary for Fair Housing and Equal Opportunity was the guest of honor at the Fair Housing Act Celebration held on April 21,2008 at the Tucson Association of REALTORS®

Welcoming comments were made by Congressman Raul Grijalva's staff Ruben Reyes, Melanie Pate, Chief Council for the Civil Rights

Division of the Arizona Attorney General's Office, Arizona Governor's Office-Southern Arizona Office – Kristen Almquist, Arizona Department of Housing Director Fred Karnas, and Women's Council of REALTORS® 2008 President Nancy Campbell.



Kim Kendrick encircled by well-wisher at TAR reception.

Secure your investment – know your water rights

By David Roberts

Water rights in Arizona can be very complicated because the laws which govern the use of each of Arizona's four sources of water: (1) surface water from in-state rivers, (2) surface water from the Colorado River, (3) groundwater, and (4) effluent fall under distinctly different legal doctrines and are administered under distinctly different laws. As a result, many landowners, prospective water users, and real estate professionals are often confused about the rules that apply to the various sources of water. The consequence of not clearly obtaining the legal right to water is the uncertainty of not knowing whether the person's investment in the property or water is secure.

Over the course of its history, Arizona has been fortunate, however, to have taken steps to reduce this confusion because of decisions by either landowners or the state to adjudicate the rights to use the largest sources of water available in the state. For example, in 1910, the owners of the majority of the lands served by the present day Salt River Project agreed to have their uses to normal flow of the Salt and Verde Rivers adjudicated in what is known as the Kent Decree. In the 1960s Arizona agreed to resolve its differences with California and other states over the allocation of water to the Colorado River. More recently, Arizona passed laws to preserve the state's largest groundwater reserves when it enacted the 1980 Groundwater Code. Today many landowners and water providers in central and southern Arizona are the beneficiaries of the decisions by their predecessors and the state to adjudicate the water rights to these sources of water and to secure the investment made in these lands.

However, as Arizona's population grows into locations where water has never been used or has never been adjudicated, the uncertainty concerning the right of a person or a water provider to use water increases. To compound the uncertainty, it is not always clear whether water withdrawn from a well near a river or stream is groundwater or surface water or a combination of both. This is especially true for much of Yavapai County in the Verde River watershed, and particularly in the Verde Valley. As a result, it is important for landowners, prospective water users, and real estate professionals to carefully review information and records concerning the current and historical uses of water associated with lands which are offered for sale in the Verde Valley. Most people obtain water right information from the state through the Department of Water Resources. However, there are other resources available such as Yavapai County, local water providers, and even Salt River Project (SRP), which has monitored and documented water uses in the Verde River watershed since the late 1800s. At SRP, you'll find some of the most complete records of information on historical water uses in the Verde Valley. We welcome your inquiries.

Editor's Note: David Roberts is the SRP Manager of the Water Rights and Contracts Department. He has been employed with SRP for twenty-two years.

Interesting Facts: As of May 1, 2008

Total Licensees: **96,902**

Licensed individuals: 85,851

Licensed entities: 10,671

Active: 69,758

Inactive: 16,810



Release of Earth Fissure Maps: Chandler Heights and Apache Junction

The first detailed maps of earth fissures have been released for two areas in Arizona. The 1:12,000-scale maps (where one inch on the map is equal to 1000 ft on the ground) of the Chandler Heights and Apache Junction areas showing the location and status of earth fissures are now available online at the Arizona Department of Real Estate's website at <http://azmap.org/fissures>, where the public can easily build customized maps using different layers of information.

Earth fissure maps are also available as free PDF downloads through the Arizona Geological Survey's (AZGS) Earth Fissure Center at www.azgs.az.gov/efmaps.

Earth fissures are a serious geologic hazard in the arid valleys of central and south-central Arizona. As population centers expand into subsiding areas of our basins/valleys, residents and structures are placed in closer proximity to fissures.

The heavy precipitation and surface

runoff that accompanies Arizona's monsoon season can turn a barely perceptible fissure into a 20-ft deep, steep-walled gully that cuts roadways, threatens homes, and traps livestock.

According to Lee Allison, State Geologist and Director of AZGS, "Our first line of defense against the hazards of earth fissures is knowing where they are. When we know that, we can avoid them or take steps to reduce the risks they present to people's property and their safety."

Chandler Heights and Apache Junction are the first two of 23 earth fissure study areas targeted for mapping at the 1:12,000-scale. First-round mapping of all 23 study areas is expected to continue through 2011.

For ease of use, the maps include an up-to-date road network and shaded relief that accentuates local topography. Colored lines are used to denote fissure location and status: 1) solid black line for continuous fissures; 2) solid red line for discontinuous fissures; and

3) a dashed green line for unconfirmed but suspected fissures.

Editor's Note: Arizona Geological Survey sent this information as a press release 23 April 2008. Contact: Michael Conway (520.770.3500)



Earth Fissure Training

Training is also scheduled for **Southern Arizona** on **May 22, 2008** from 2 pm to 3:30 pm at **Tucson Association of REALTORS®**

The training is free; however, registration is required. Register with Mary Utley @

mutley@azre.gov

ADOPT-A-POOL-FENCE PROGRAM

With pool season quickly approaching, the United Phoenix Fire Fighters Association and Valley of the Sun United Way are taking a proactive approach to prevent child drowning through the Adopt-a-Pool-Fence Program. The program provides families throughout Maricopa County with a donated pool fence, offering a physical barrier between their children and their backyard swimming pools. Families who do not have a pool fence and are in financial need are asked to fill out an application, by visiting www.saverkids.org or calling 602.631.4843.

Applicants need to meet the following criteria:

- A child six years of age or younger must be living in the home
- The home must be owner-occupied
- Families must demonstrate financial need
- Special circumstances will be considered

"This is the most aggressive approach to prevent drowning to date, and the statistics prove that the Adopt-a-Pool-Fence Program is working," said Rich Bauer, Director of Community Programs for the United Phoenix Fire Fighters Association

The United Phoenix Fire Fighters Association and Valley of the Sun United Way hope to increase awareness of the program so families in need receive the protective barrier to keep their children safe.

Department of Real Estate partners with Pima County to ensure consumer protection

Pima County is the newest county to approve the Intergovernmental Agreement (IGA) with the Department. On **April 8, 2008**, Pima County Board of Supervisors approved unanimously the Inter-governmental Agreement between the Department and Pima County.

The IGA underscores the Department's shift in focus and resources to combat illegal subdivisions across Arizona. The goal is for cases to be dealt with more efficiently and timely and also to deter new illegal activity.

Authority to Revoke or Suspend Licenses For Failure to Pay Child Support



According to the Children's Defense Fund, "the number of children living in poverty in the United States exceeds 13 million."

The Department of Economic Security, Division of Child Support Enforcement (DCSE), has legal authority to suspend or revoke the occupational or professional licenses of persons who have deliberately not paid their child support for over six months.

Veronica M. Hart Ragland, DCSE Assistant Director, reported that approximately 95 percent of cases with child support obligations are delinquent. Many child support obligors are self-employed and may hold a state of Arizona professional or occupational license or certificate.

Participation by licensing agencies, boards and commissions in an automated reporting system will enable DCSE to contact delinquent obligors and take appropriate action to collect past due payments.

"While it is certainly not our goal to deprive people of the ability to work, we believe that our legal authority to revoke or suspend licenses will encourage compliance with the law to make child support payments," said Ragland.

Individuals who may be delinquent in paying their child support, may contact DCSE Customer Service at (602) 252-4045, or outside Maricopa County 1-800-882-4151, for further information or to make child support payment arrangements.

Editor's Note: This information was provided to the Department by the Arizona Department of Economic Security, Division of Child Support Enforcement, Marjorie Cook, DCSE Outreach & Community Initiatives Manager.

New Name for ADRE Public Report

The Department has a new name for the ADRE Public Reports! In lieu of the term Public Report, we will now use **Subdivision Disclosure Report (Public Report)** for **subdivision developments**, **Timeshare Disclosure Report (Public Report)** for **timeshare developments**, and so forth. Please ensure that you utilize the new name when submitting your draft public reports with your filings in the future. For further information contact Cindy Ferrin at cferrin@azre.gov

Women's Heart Health Fair 2008 - May 22nd

Thursday, May 22, 2008

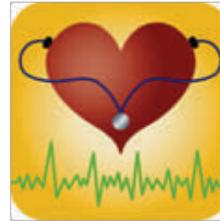
12:00PM - 8:30PM

Phoenix Mercury vs. Seattle Storm

Game time: 7:00 pm

US Airways Center

201 E. Jefferson Street



Highlights at the Phoenix Women's Health Heart Fair:

- Don't Miss Ann Mincey VP of Global Communications REDKEN 5th Avenue NYC & certified Heartmath Trainer, speak on Stress Management
- Get a Free Heart-Health screening, to include cholesterol & blood pressure, with on the spot results and counseling
- First 300 women tested will receive a FREE TICKET to the Mercury Game that Night
- Ask the Expert, talk to licensed doctors, nutritionists, fitness instructors and more
- Nutritional Cooking Demos



May 2008 Valley Diaper Drive

During the month of May, drop off unopened packs of diapers at any Sunflower Farmers Market or Discount Tire.

DIAPER FACTS:

- A healthy change of diapers costs \$100.00/month for all ages
- Incontinent seniors often become homebound if they can't afford supplies
- Many disabled children never outgrow the need for diapers
- Safety net programs do not cover diapers, not Food Stamps, not WIC, not Medicare.

Sunflower Farmers Market

245 E. Bell Road (Phoenix)

9:00am - Noon

Join us in our annual Valley Diaper Drive to benefit the Diapers Bank's 55 nonprofit partners. This year we aim to raise 100,000 diapers and \$10,000 to cover needy bottoms in our community. How can you get involved?

For more information visit valleydiaperbank.org or call [602.253.0050](tel:602.253.0050)

Northern Arizona Presence

The Department continues to research how to best provide services to Northern Arizona. For the next **6 months** the Department will be conducting an alternating pilot program between Flagstaff and Prescott.

Schedule:

4/30 Flagstaff (**Completed**)
 5/22 Prescott
 6/25 Flagstaff
 7/24 Prescott
 8/27 Flagstaff
 9/25 Prescott

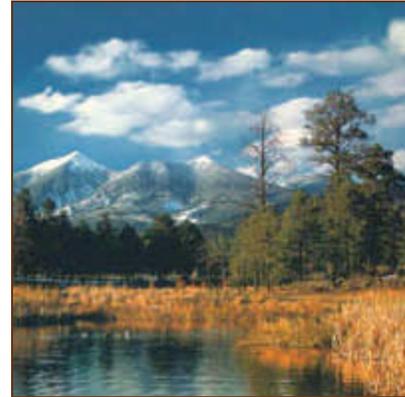
Meeting Locations:

Flagstaff-

Pioneer Title (Conference Room)
 1016 W. University Ave, Second Floor
 Flagstaff, AZ

Prescott-

Prescott Public Library (Bump Room)
 215 E. Goodwin Street
 Prescott, AZ



TRIPLE C

Meeting

Triple C (Commissioner's Community Conversations) meetings focus on a specific topic. All are welcome! This is the time to bring opportunities and challenges to the Commissioner.

Commissioner Wercinski is committed to open dialog.

A *Triple C* meeting is scheduled for **5/20/08** from **1 pm to 2 pm** at the **Coconino County Complex, 2625 N. King Street, Flagstaff.**

Interesting Facts

In April number of department web hits on:

Homeowners' and Renters' Bill of Rights page – **6,872**

Mark Bosworth Cease and Desist Order – **3,319**

Homebuyers' Advisory – **1,181**

Homebuilders' Advisory – **608**

Information for Developers – **446**

Information for Consumers page – **4,667**

Disciplinary Actions

Name Michael Bestenlehner
Location: Chandler, Arizona
License SA568466000
Summary Failure to comply with March 2006 Order directing Respondent to submit to random BFT and secure a sobriety monitor.
Order Date April 7, 2008
Action Voluntary Revocation of license

Name Scott Dunning
Location: Peoria, Arizona
License SA534599000
Summary Failure to comply with February 2007 Order directing Respondent to pay a \$2,500 civil penalty.
Order Date April 8, 2008
Action Voluntary Revocation of license

Name Jerry S. Ruger
Location: Scottsdale, Arizona
License SA503803000
Summary Multiple violations involving fraud, 2007 adverse judgment for \$36,230 for fraudulent activities as a licensee.
Order Date April 11, 2008
Action Summary Suspension of license

Name Norma Shareef
Location: Phoenix, Arizona
License SA537035000
Summary Denial of license base on multiple violations including negligence, incompetence, misrepresentation, failure to deal fairly with all parties to a transaction.

Name Super Brokers XLII
Location: Peoria, Arizona
License Unlicensed Entity
Summary Multiple respondents, through entity, conducted unlicensed real estate activity by offering real estate properties for rent.
Order Date January 26, 2008
Action Cease & Desist unlicensed real estate activities in the State of Arizona



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

Advertising	1
Commingling Money	1
Convictions	8
Failure to Disclose in a Timely Manner	15
Failure to Supervise	2
Multiple Violations	1
Negligence	1
Non-Compliance with Order	1
Other Jurisdiction Sanction	1
Subdivision Violations	2
Unlicensed Activity	2
Grand Total	35

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An official publication of the State of Arizona

JANET NAPOLITANO
Governor

DEPARTMENT OF REAL ESTATE

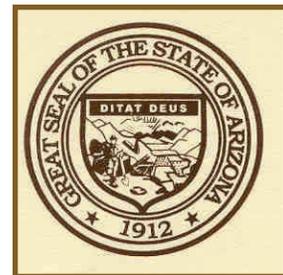
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