



**ARIZONA REAL ESTATE ADVISORY BOARD**  
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PHOENIX, ARIZONA 85018

**JANICE K. BREWER**  
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July 6, 2009

The Honorable Janice Brewer  
Governor of Arizona  
1700 West Washington, Street, 9<sup>th</sup> Floor  
Phoenix, Arizona 85007

Dear Governor Brewer:

The Arizona Real Estate Advisory Board is pleased to render the 2008 Annual Report to the Governor as a part of our statutory duties and responsibilities. We have summarized herein the major activities and events that have impacted the Arizona Department of Real Estate and its stakeholders over the last year.

We are pleased to report that the Commissioner continued making progress at the Department of Real Estate and we are therefore once again pleased to report the Commissioner and his entire staff has continued to take strong steps to meet the challenges in the Real Estate Industry throughout the state.

The Department has continued an aggressive and effective outreach to and involvement of its stakeholders. The stakeholders have responded positively and with enthusiasm to extensive ongoing participation in the reworking of major areas of the Departments activities, continuing a revived spirit for both the stake holders and the Departments professional staff. This continued and enhanced cooperation and participation has produced very positive results and allowed the Department to handle their workloads as efficiently and effectively as possible while maintaining positive ties with the stakeholders and the public.

The communication between "regulator" and "regulated" remains at a high level, with a spirit of mutual respect and cooperation. With the support of the Commissioner, the Advisory Board has taken a continued proactive relationship with staff and has participated in policy, liaison, personnel and legislative matters on behalf of the Department to the benefit of both the Department and the Stake Holders.

Even with the current real estate market slowing, we expect the long term real estate industry in Arizona to continue at a very active level which will require vigilant oversight judicious regulation and enhanced industry involvement.

Respectfully submitted,

Gary P. Brasher  
Chairman-2008

## Summary of ADRE Accomplishments for Fiscal year 2008

In the following pages I have outlined a number of initiatives and Programs which the ADRE is currently working on or have accomplished during the last year.

- Concentrate on Resources-During the tough budget times, the Department of Real Estate is centered on successfully using resources. We have eliminated several administrative positions and converted them into investigator positions, placing one in Tucson and the other in Phoenix. We also shifted the focus of our auditors to be more investigative in nature. This allows us to better protect the consumer and the public.
- Education – The Commissioner traveled across Arizona twice this year, educating licensees and the public on new real estate laws, policies and hot topics. The Community Outreach and Education (COE) program was successful, with over 2,000 participants in the fall series alone.
- Outreach – The Commissioner made it a top priority to engage the Public, the Industry, and the Department in meaningful dialog. The Commissioner has been Promoting Mutual Respect across Arizona. He has made himself available through the Commissioner’s Community Conversations (Triple C), Public Speaking Engagements, Community Outreach and Education (COE), and also through television and radio programs.
- Commissioner Advisories-The Commissioner Advisory is a new product for 2008 which was developed by the Commissioner to provide guidance for consumer and licensees in difficult real-estate related times. Advisory #1 – provides guidance when a real estate firm closes. Advisory #2 – provides guidance to homebuyers when a developer ceases operations. Advisory #3 – provides guidance to homebuilders, subsequent owners, and lenders when a developer ceases operations.
- Home Buyers’ and Renters’ Bill of Rights-Arizona Department of Real Estate, in cooperation with industry professionals and the public, created a “Bill of Rights” to help educate consumers of their rights when purchasing or renting property. The list represents some important material facts consumers should educate themselves on before purchasing any type of property in Arizona. The Bill of Rights received over 35,000 views in 2008.
- Developments in Financial Trouble List-In August 2008, the ADRE developed the Developments in Financial Trouble list on our website. The list includes developers who are facing foreclosure, have mechanics liens, or have filed bankruptcy. Statute requires consumers to have full disclosure of any potential financial problems of the developer before entering into a contract. Developers on the list are required to keep earnest money in escrow. In the beginning of 2008, the Department was aware of 4 developments in financial trouble. At the end of 2008, there were over 100 developments on the list.

- Partners for Success-On February 14, 2008 PARTNERS For Success brought together the counties and the Arizona Department of Real Estate for an all-day discussion and work session on the topic of illegal subdivisions. Speakers included Attorney General Terry Goddard, Arizona's Real Estate Commissioner Sam Wercinski, and County Supervisors Association President Jim Palmer. Attendees included ADRE enforcement staff and development representatives from every county in Arizona. Strategies include proactive development education, and partnership/cooperation between counties and the ADRE.
- Arizona Consumers in Mexico-In March and June, the Arizona Department of Real Estate facilitated meetings between the Sonoran Government and Arizona consumers regarding properties in Rocky Point. These meetings were successful in opening direct communication between both parties. The Arizona Department of Real Estate continues to be active on the Arizona-Mexico Commission Real Estate Committee. This partnership promotes dialog and open communication between Arizona and Sonora.
- Real Estate Recovery Fund-Historically, the Real Estate Recovery Fund received between 2 and 5 applications for payment per year. This year, the Recovery Fund received nine applications and made eight payments. The Recovery Fund continues to help consumers who have suffered an actual and direct out-of-pocket loss due to fraud or misrepresentation by a real estate broker or salesperson in real estate transaction. The real estate broker or salesperson involved in the transaction must pay the Recovery Fund back before a license may be reinstated.

This year, the Recovery Fund made eight payments due to the actions of Russell Bosworth. Mr. Bosworth abruptly closed his property management company, leaving over one hundred property owners without returned security deposits, unpaid rents, and other lost revenues. More information on the Recovery Fund application process is available on our website at [www.azre.gov](http://www.azre.gov)

- Inter-Governmental Agreements to Better Protect the Public-After open dialog with County officials, community leaders and industry, Commissioner Wercinski proposed the idea of an **Intergovernmental Agreement (IGA)** that sets a new course of cooperation and strengthens the relationship between counties and ADRE.

Ten of fifteen counties have signed the agreement. 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.

- Community Meetings-In April, the Department of Real Estate coordinated and organized four meetings for concerned residents and homeowners impacted by the sudden closure of Randall Martin Homes. The Department brought resources to the residents including the Registrar of Contractors, City Neighborhood Services, Block Watch, and the Leadership Centre. The meetings provided a forum and opportunity for homeowners to organize and talk to one

another. Over 200 residents attended these meetings. One community, Higley Park, used the meeting as a launching point for a strong community organization that has held strong throughout the year.

- Serving our Community-In 2007, and again in 2008, The Department partnered with Chicanos Por La Causa(CPLC) to provide employment opportunity and skill building to youth participating in CPLC program
- Pack the Bus-The department teamed with the industry to join in the State sponsored campaign to gather donations of school supplies for needy children. We collected over \$1,000 in school supplies for needy children.
- ADRE Staff Mentors-The Department teams with the Creighton School District to help kids in need. Six volunteers from the Department assist for one hour per week at Larry C. Kennedy elementary School. To date, mentors have given 25 hours to the school. The mentors provide individual assistance to 3<sup>rd</sup> and 4<sup>th</sup> graders and focus on the macro program devised by the Rodell foundation.
- Real Estate Licensee Count-Between 2002 and 2005, the number of active real estate licensees increased by 40%, from 46,000 to 65,000. Between 2005 and 2007, the number of active real estate licensees increased steadily, peaking at 74,000 in 2007. While the number of active licensees has decreased most agents are choosing to retain their licenses, even if remaining inactive. These licensees are monitored by the ADRE staff.
- Since the inception of the Online System in 2005, usage has grown tremendously. Now, 97% of all renewals are completed online. On average 2,700 renewal applications were completed online each month in 2008. This program has shortened the time necessary for staff to handle these renewals manually.
- Examining Trends in Real Estate License Examinations-Licensees are more likely to become brokers now than they were 7 years ago. Even though the number of Licensees declines, the number taking the broker license examination is on an upward trend. The number of people taking the sales person examination is at a 10-year low. This trend shows that there are more licensees in the market with experience and the number of inexperienced licensees is decreasing. Licensees are gravitating toward more education. This is good news for consumers and licensee.
- ADRE Continues to Address Illegal Developments-ADRE opened over 183 new development investigations this year, of which 40% were illegal subdivisions. Many respondents did not know they had violated the law and the Department worked with them fairly and reasonably to correct these violations. The lack of proper infrastructure by illegal developers would cost Arizona consumers and taxpayers over \$200 million to repair. Through the Departments outreach and partnering with counties, the number of illegal subdivision cases has decreased 15% since June 2007.

- SPS 2008.02-Subsequent Owners/Disclosure Reports- the Substantive Policy Statement 2008.02 Subsequent Owners/Disclosure Reports” was implemented on February 8, 2008 anticipating an increase in foreclosure in 2009. This policy states the Department will waive the two-year limitation for subsequent owners seeking to use an existing subdivisions disclosure report.
- New for 2009-Track illegal development cases on the ADRE website using Google Earth-The ADRE team compiles a database of all illegal development cases open in our Development Investigations division. This interactive database can be viewed using the Google Earth Viewer, which shows the location of the illegal development, the case number, and the assigned investigator. Find it under “Quick Links” on [www.azre.gov](http://www.azre.gov)
- Successfully Protecting Consumers-ADRE Licensing Investigations and Auditing Divisions merged this year to produce a top-notch team of experience professionals, ready to assist consumers who have been harmed by a real estate licensee.

One of the biggest cases this year involved damages of over \$17 million to hundreds of consumers. On April 2, 2008, Commissioner Sam Wercinski signed a Cease and Desist Order and a Notice of Right to Request Hearing directed to Mark Bosworth. The order was signed as a result of the January 17, 2008 civil judgment ordered against Mr. Bosworth in the amount of \$17,457,058.26. Additionally, Mr. Bosworth allegedly conducted unlicensed activity while serving as a “sole member and manager” of Gorenter.com

ADRE Assistant Commissioner Janet Blair, Licensing Investigations Manager Robin King, and Auditor Jay Montoya are active members of the Mortgage Fraud Task Force. The Task Force is a collective effort between state regulators and law enforcement. Federal local law enforcement agencies are involved. The Task Force meets regularly to share information and tips on Mortgage Fraud cases.

- Governor’s Executive Order 2008-06: Combating the Use of “Drop House” to Facilitate Human Smuggling-Recent human smuggling investigations have identified a disturbing trend involving the purchase and rental of Arizona homes for use as human drop houses. Many times, a real estate licensee may be aware of or involved in this illegal activity. In 2008, the ADRE developed a database on real estate licensees involved in the sale or lease of homes used as drop houses. This database is shared with the Department of Public Safety (DPS). The ADRE continues to share information with DPS and partnered with DPS on investigations involving ADRE licensees.
- Licensing Investigation Statistics-ADRE Licensing Investigators successfully closed over 1,168 cases this year, bringing the official pending caseload down to 473.
- Resolving and Restoring Private Property Rights-A case involving land in northern Maricopa County has been in civil litigation for over 5 years. The actions of an illegal sub divider resulted in several property owners unable to build or live on their land. ADRE worked with all three entities to reach an

agreement that allows property owners the full use of their property while also protecting the public's interest.

- Success through Efficiencies – Despite close to 1,000 new enforcement cases since January 11, 2007, Enforcement pending caseload has been reduced from 540 on January 1, 2007 to 234 on January 1, 2009. This was accomplished through the focus on resources within the division. The division is staffed with four settlement officers, two legal assistants, and a part time Assistant Attorney General, and is under the leadership and direction of an Assistant Commissioner and two managers. The emphasis has been on fair and reasonable disciplinary action, which leads to more settlements and less administrative hearings. Settling a case benefits the Three Entities – it ensures that resources are well spent in the Department and that the case is resolved in a timely manner.
- General Fund Revenue and Recovery Fund Balances – The Department of Real Estate collects money from fees, fines, and grants. Grants deposited into our Education Fund and are utilized to educate the Public and the Industry. This year, ADRE utilized the Education Fund to inform the Public and Industry of changes in Real Estate Laws and the Community Outreach and Education programs.
- Interesting Web Stats – Number of Visitors to the ADRE website in 2008; 394,628
- Most popular pages on our site – Homepage, Licensee Information, Online Services, Homebuyers' and Renters' Bill of Rights and Developments in financial Trouble.
- Since February 2007, when ADRE created the electronic license certificate policy statement, the Department saved over \$75,000 in postage, supplies, and staff time by not printing and mailing paper licenses. ADRE also saved over \$25,000 from a strict travel policy, implemented in February 2007.
- Develop first edition of ADRE Business Plan- Each branch of the Department submitted a 6-month, 12-month, 4-year, and 10-year business plan including a vision statement. This is a fluid documentation and changes will be made as they are appropriate.
- Streamlined License Application Processing- Applications that cannot be completed online are now processed immediately. Previously he/she had to wait on a first-com-first-served basis using a drop box. Our wait time was 8 weeks. Now, only applications that can be completed online are put into the first-come-first-served file and will be processed in that order. The Department has computer stations in the lobby for licensees to use if they decide to complete their application online rather than using the drop box. This improves customer service and creates fairness with applications from rural areas.
- Stakeholder's meeting- The Department has received positive feedback and input at these meetings. ADRE has organized bi-monthly meetings for each stakeholder group and quarterly meetings for all stakeholder groups together.

As Chairman of the Real Estate Advisory Board for FY 2008, it is the Boards opinion that the work environment and policy initiatives as outlined above serve the public, the industry and the State of Arizona while protecting the communities in which we live. I am proud to say that I believe the Department and Staff are working hard to accomplish these goals.

Sincerely,

Gary P. Brasher  
Chairman-FY 2008  
Governor's Real Estate Advisory Board  
Arizona Department of Real Estate