



The Learning Curve

2008

Arizona

Affidavit of Disclosure

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INTRODUCTION – This sheet provides information with regard to the requirements for and use of this Affidavit of Disclosure.

While part of the complete document, it is not necessary to record this sheet with the remaining document pages.

Sample

INTRODUCTION



Pursuant to A.R.S. §33-422, a seller of five or fewer parcels of land, other than subdivided land, in an unincorporated area of a county, and any subsequent seller of such a parcel, shall furnish a written affidavit of disclosure, in substantially the same form set forth in the statute, to the buyer at least seven days before the transfer of the property. The buyer shall acknowledge receipt of the affidavit. The buyer has the right to rescind the sales transaction for a period of five days after receipt of the affidavit of disclosure. The seller must record the executed affidavit of disclosure at the same time that the deed is recorded.

Various statutes are referred to in the Affidavit of Disclosure. The seller should review these statutes before completing the Affidavit. Arizona statutes are available at www.azleg.state.az.us/ArizonaRevisedStatutes.asp. The Affidavit of Disclosure also refers to various maps and information available on the State Real Estate Department's ("ADRE") website at www.azre.gov.

The Affidavit of Disclosure should be used in conjunction with any other appropriate seller's property disclosure statement or other seller disclosure documentation.

No representation is made as to the legal validity or adequacy of the following Affidavit of Disclosure or the consequences thereof. If you desire legal advice, tax or other professional advice, please contact your attorney, tax advisor or other professional consultant.

The Legislature frequently adds to the Affidavit of Disclosure. The following Affidavit of Disclosure form may not be updated or revised for accuracy as statutory or case law changes. Review the statutory requirements for the Affidavit at www.azleg.state.az.us/FormatDocument.asp?inDoc=/ars/33/00422.htm&Title=33&DocType=ARS

You should not act upon this information without seeking independent legal counsel.

Recording Information – This document will be electronically scanned and recorded by the County Recorder’s office. The Recorder will stamp the document and return a copy to the party that is named in this section. This is typically the buyer of the parcel, but can be any person who has an interest in this parcel.

These lines represent the legal affidavit that the person who is writing this information is providing a sworn statement to its authenticity.

A legal description of the property in question is attached as part of this statement.

Lines 1 – 4 and 5, – Provide information about the legal and physical access to the property. In many rural areas the access road may have developed from the shortest, smoothest or most convenient route. This may not be the legal access. Future development may change the access to a less desirable method.

Sample

PHYSICAL

WHEN RECORDED MAIL TO:



AFFIDAVIT OF DISCLOSURE PURSUANT TO A.R.S. §33-422

I, _____ (“Seller(s)”) being duly sworn, hereby make this Affidavit of Disclosure relating to the real property situated in the unincorporated area of: _____ County, State of Arizona, located at: _____ and



legally described as:

(Legal Description attached hereto as Exhibit “A”)

(“Property”)

1. There is is not... legal access to the Property, as defined in A.R.S. §11-809. Unknown
Explain: _____



2. There is is not... physical access to the Property. Unknown
Explain: _____

3. There is is not... a statement from a licensed surveyor or engineer available stating whether the Property has physical access that is traversable by a two-wheel drive passenger motor vehicle.

4. The legal and physical access to the Property is is not... the same. Unknown Not applicable
Explain: _____

If access to the parcel is not traversable by emergency vehicles, the county and emergency service providers may not be held liable for any damages resulting from the inability to traverse the access to provide needed services.

Lines 6 & 7 – Describe the conditions of the soil and topography of the parcel. This information could determine some important characteristics on the ability to use this property to build permanent structures.

Lines 8 - 10 – Provide information about the access to utilities such as electricity, gas, telephone, water, etc.

If water needs to be hauled to property it would be identified here. If a private water supply is identified the Buyer needs to investigate the long term costs, the availability and the maintenance of the water supply.

Lines 11 & 12 – Identify whether the soil has been tested and meets the requirements for an on-site waste treatment system (septic). If it has been tested the buyer should be able to determine the ability to utilize standard septic or if an alternative septic such as mound systems, pits or holding tanks will be required. Alternative systems could represent additional installation costs and additional long term maintenance costs.

Line 13 – Does the property meet the minimum size for its zoning?

R1-43 = 1 Residence for 43560 sq t. – 1 Acre

R1-217 = 1 Residence per 217800 sq.ft. – 5 Acres

WATER – SEWER - SOIL

5. The road(s) is/are publicly maintained privately maintained not maintained not applicable. If applicable, there is is not...a recorded road maintenance agreement.

If the roads are not publicly maintained, it is the responsibility of the Property owner(s) to maintain the roads and roads that are not improved to county standards and accepted for maintenance are not the county's responsibility.



6. A portion or all of the Property is is not...located in a FEMA designated regulatory floodplain. If the property is in a floodplain, it may be subject to floodplain regulation.

7. The Property is is not . . . subject to Fissures or Expansive Soils Unknown
Explain: _____



8. The following services are currently provided to the Property: water sewer electric natural gas single party telephone cable television services.

9. The Property is is not... served by a water supply that requires the transportation of water to the Property.

10. The Property is served by a private water company a municipal water provider a private well a shared well no well. If served by a shared well, the shared well is is not...a public water system, as defined by the Safe Drinking Water Act (42 United States Code §300f).

Notice to buyer: if the property is served by a well, private water company or a municipal water provider the Arizona Department of Water Resources may not have made a water supply determination. For more information about water supply, contact the water provider.



11. The Property does does not ...have an on-site wastewater treatment facility (i.e., standard septic or alternative system to treat and dispose of wastewater). Unknown. If applicable: a) the Property will will not...require installation of an on-site wastewater treatment facility; b) The on-site wastewater treatment facility has has not... been inspected.

12. The Property has has not ...been subject to a percolation test. Unknown



13. The Property does does not...meet the minimum applicable county zoning requirements of the applicable zoning designation.

Verifies that the parcel meet the legal requirements for a "minor land division". Parcels can be divided into five (5) or fewer lots each lot or parcel shall comply with minimum applicable county zoning requirements and have recorded legal access.

No lot proposed to be created through the minor division of a parcel shall be sold until a recorded deed and survey map showing the (split) division has been approved by the Planning and Zoning Department as complying with all applicable provisions of this ordinance.

Lines 15 thru 19 disclose whether the parcel of land is located near a military facility. Particularly because of the potential for noise from aircraft, weapons testing or training, as well as the danger from accidents or threats.

Is the property currently restricted from development because of legal challenges from governmental agencies, third parties or due to encumbrances to adjoining parcels?

MILITARY

14. The sale of the Property does does not... meet the requirements of A.R.S. §11-809 regarding land divisions. If those requirements are not met, the property owner may not be able to obtain a building permit.



The seller or property owner shall disclose each of the deficiencies to the buyer.

Explain: _____

15. The Property is is not located in the clear zone of a military airport or ancillary military facility, as defined in A.R.S. §28-8461. (Maps are available at the State Real Estate Department's website.)



16. The Property is is not located in the high noise or accident potential zone of a military airport or ancillary military facility, as defined in A.R.S. §28-8461. (Maps are available at the State Real Estate Department's website.)

17. Notice: If the Property is located within the territory in the vicinity of a military airport or ancillary military facility the Property is required to comply with sound attenuation standards as prescribed by A.R.S. §28-8482. (Maps are available at the State Real Estate Department's website.)

18. The Property is is not located under military restricted airspace. Unknown. (Maps are available at the State Real Estate Department's website.)

19. The Property is is not located in a military electronics range as defined in A.R.S. §9-500.28 and A.R.S. §11-812. Unknown. (Maps are available on at the state real estate department's website).

20. Use of the Property is is not limited in any way relating to an encumbrance of title due to a lis pendens, a court order or a state real estate department order of a pending legal action. If the use of the property is limited due to an encumbrance of title, the seller or property owner shall disclose the limitations to the buyer.



Explain: _____

Seller's Certification that the information contained in this document is true.

Notarization by Notary Public

Buyer Acknowledgement of Receipt this does not constitute agreement or acceptance of information contained within.

Sample

CERTIFICATION

This Affidavit of Disclosure supersedes any previously recorded Affidavit of Disclosure. I certify under penalty of perjury that the information contained in this affidavit is true, complete and correct according to my best belief and knowledge.



Dated this _____ day of _____ by:
(DATE) (YEAR)

Seller's name (print): _____ Signature: _____

Seller's name (print): _____ Signature: _____

STATE OF ARIZONA)

ss.

County of _____)



SUBSCRIBED AND SWORN before me this _____ day of _____,
(DATE) (YEAR)

by _____
Notary Public

My commission expires: _____
(DATE)



Buyer(s) hereby acknowledges receipt of a copy of this Affidavit of Disclosure this
_____ day of _____
(DATE) (YEAR)

Buyer's name (print): _____

Signature: _____

Buyer's name (print): _____

Signature: _____

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Disclaimer - Has been developed according to the latest information available at the time of publication. Since the Arizona Affidavit of Disclosure is a living document, some information may change over time. Please insure that you have the latest version of the Affidavit by visiting http://www.aaronline.com/documents/faq_affidavit.aspx .

