

Commissioner's Advisory No. 2

The Department of Real Estate (ADRE) is a resource for consumers and industry practitioners

Guidance for Homebuyers

This advisory provides guidance to homebuyers who have questions if a homebuilder fails to meet commitments. Much of this information is applicable for homebuyers in the resale market also. If you need additional help, please contact ADRE through the Message Center at www.azre.gov. This Commissioner's Advisory is informational only and is not intended as legal advice.

Removing Liens that appear after closing

1. Contact the homebuilder. A lien could have been filed erroneously or the builder may have withheld payment to a subcontractor for incomplete or substandard work in the subdivision.
2. If you purchased a resale home or the homebuilder is not helpful, continue below with other options.
3. Review your title insurance policy for protection against liens. Contact your title insurer for assistance.
4. Contact the Arizona Registrar of Contractors (AZROC) at www.roc.az.gov or 602-542-1525. The AZROC regulates licensed contractors and may be able to help.
5. Contact your lender. If a mortgage was used to purchase the property, an ALTA Lender's Title Insurance Policy was likely issued which may offer protection against these liens.

Fixing home and infrastructure defects and using warranties

1. You may file a complaint with the Arizona Registrar of Contractors within two years of work being completed in a dwelling. Visit www.roc.az.gov for more information or call 602-542-1525.
2. The homebuilder may have provided a construction warranty through a separate company. Check your closing documents for warranty information, coverage and who to contact.
3. Check your documents for subcontractor information and contact them for available warranty coverage.
4. If a defect is infrastructure related such as roads, sidewalks or drainage, contact your local jurisdiction's public works or development services department.
5. If vacant homes or lots are causing blight in your neighborhood, contact your Homeowners Association (HOA) or the local jurisdiction's code enforcement department. The current owner may be responsible to maintain the property to established community standards.

Earnest Deposits and Prepaid Money

1. Refer to your purchase contract regarding protection of prepaid money. The purchase contract will state if your money is protected in a neutral escrow account, or if it was placed in the builder's general account.
2. The purchase contract should describe if, and when earnest money or prepayments are refundable.
3. Visit the Arizona Registrar of Contractors' website at www.roc.az.gov or call 602-542-1525. You may be able to access the Registrar of Contractors' Recovery Fund if a project is abandoned.

Homes under construction or waiting to close escrow

1. Read your purchase contract thoroughly to determine available remedies.
2. Contact the Department of Real Estate through the Message Center at www.azre.gov to file a complaint against an Arizona real estate licensee for violation(s) of Arizona real estate statute or rule.
3. Inquire with a legal representative to resolve contractual matters.

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Requesting an Investigation / Filing a Complaint

1. **Arizona Department of Real Estate.** Individuals may request an investigation by the Department if homebuilders or real estate licensees are believed to have violated real estate statutes or commissioner's rules. Contact the Department of Real Estate through the Message Center at www.azre.gov to file a complaint.
2. **Arizona Registrar of Contractors.** A buyer of a dwelling has the right to file a written complaint against a licensed contractor with the Arizona Registrar of Contractors within two years of occupancy or close of escrow. Visit www.roc.az.gov for instructions on filing a complaint or contact 602-542-1525.

Financial Restitution

Real Estate Recovery Fund

1. The Real Estate Recovery Fund was established for the benefit of any person aggrieved by any act, representation, transaction or conduct of a licensed real estate or cemetery broker or real estate or cemetery salesperson that violates Arizona Real Estate Law. Visit www.azre.gov or [click here](#) for more information on how the fund works.
2. If an Arizona real estate agent or broker was involved in your purchase of Arizona real estate, you may be eligible for financial restitution.
3. A court judgment indicating the financial loss must accompany the application along with other items.
4. Please visit www.azre.gov for additional information and application procedures or contact the Recovery Fund Administrator through the Message Center or by [clicking here](#).

Registrar of Contractors Recovery Fund

1. Visit www.roc.az.gov for instructions on filing an application or contact the Arizona Registrar of Contractors at 602-542-1525.

Seek Legal Counsel

1. Contact the Arizona Bar Association to search for legal representation and assistance. Visit www.azbar.org or www.azlawhelp.org or call 602-252-4804 for more information.
2. ADRE is unable to provide legal advice; if you have any questions regarding contracts or other dealings, please contact your personal legal representative.