



DEBRA K. DAVENPORT, CPA
AUDITOR GENERAL

STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

WILLIAM THOMSON
DEPUTY AUDITOR GENERAL

April 19, 2004

The Honorable John Huppenthal, Chair
Joint Legislative Audit Committee

The Honorable Robert Blendu, Vice Chair
Joint Legislative Audit Committee

Dear Representative Huppenthal and Senator Blendu:

Our Office has recently completed a 30-month followup of the Department of Real Estate regarding the implementation status of the 23 audit recommendations (including sub-parts of the recommendations) presented in the performance audit report released in August 2001 (Auditor General Report No. 01-15). As the attached grid indicates:

- 20 of the 23 recommendations have been implemented;
- 1 of the 23 recommendations is in the process of being implemented;
- 1 recommendation has not been implemented; and
- 1 recommendation is no longer applicable.

Unless otherwise directed by the Joint Legislative Audit Committee, this report concludes our follow-up work on the Department's efforts to implement the recommendations resulting from the August 2001 performance audit report.

Sincerely,

Debbie Davenport
Auditor General

DD:jw
Attachment

cc: Ms. Elaine Richardson, Commissioner
Department of Real Estate

ARIZONA DEPARTMENT OF REAL ESTATE
30-Month Follow-Up Report To
Auditor General Report No. 01-15

FINDING I: Department Needs To Improve Its Complaint-Handling Practices (Cont'd)

Recommendation	Status of Implementing Recommendation	Explanation for Recommendations That Have Not Been Implemented
3. The Department should track and report on the number of complaints it receives and the disposition of those complaints.	Implemented at 6 months	
<p>4. The Department should review and investigate all of the complaints it receives from consumers by developing and implementing policies and procedures that include the following:</p> <p>a. Specific criteria and guidelines for the screening of complaints to include requirements, such as contacting the complainant to confirm the nature of the complaint and all of the allegations being made; and</p> <p>b. Specific steps or tasks that comprise a thorough investigation, such as interviewing the complainant, obtaining and reviewing all relevant documentary evidence, and investigating each allegation in a complaint to determine if a violation was committed.</p>	<p style="text-align: center;">Implemented at 6 months</p> <p style="text-align: center;">Implemented at 6 months</p>	

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FINDING I: Department Needs To Improve Its Complaint-Handling Practices (Concl'd)

Recommendation	Status of Implementing Recommendation	Explanation for Recommendations That Have Not Been Implemented
5. The Department should train the appropriate investigative staff on how to properly screen and investigate complaints.	Implemented at 6 months	
6. The Department should assess the impact that implementation of the recommendations made in this report has on its workload, determine if additional investigative resources are needed, and, if so, request them from the Legislature.	Implemented at 18 months	

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FINDING II: Department Inconsistently Disciplines Real Estate Law Violators

Recommendation	Status of Implementing Recommendation	Explanation for Recommendations That Have Not Been Implemented
<p>1. The Department should develop and implement disciplinary guidelines that include consideration of the violation’s severity, the licensee’s violation history, any other aggravating or mitigating factors, and a range of appropriate disciplinary actions. In addition, the Department should adopt these guidelines in a substantive policy statement.</p>	<p>Not Implemented</p>	<p>The Department reports that it continues to disagree with this recommendation. However, the Department indicates that it will look at possibilities for systematically reviewing disciplinary cases.</p>
<p>2. The Department should consistently record and document in its files factors, such as previous violations and other aggravating and mitigating circumstances, that influence a licensee’s penalties.</p>	<p>Implemented at 6 months</p>	

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FINDING III: Recovery Fund Is Costly and Cumbersome To Administer

Recommendation	Status of Implementing Recommendation	Explanation for Recommendations That Have Not Been Implemented
1. The Legislature should consider revising A.R.S. §§32-2186 through 32-2193.02 to transfer authority for approving Recovery Fund claims from the courts to the Real Estate Commissioner.	Implemented at 12 months	
2. If statute is amended, the Department should promulgate rules to establish timelines for applicants to submit documentation as well as timelines for the Department to make decisions on claim applications. Rules should also address what documentation the Department needs to collect.	Not Applicable ¹	
3. If statute is amended, the Department should examine its intergovernmental service agreement with the Attorney General's Office and determine if changes are necessary.	Implemented at 6 months	

¹ Statute specifies timelines for applicants to submit documentation as well as timelines for the Department to make its decisions. Statute also specifies the documentation that applicants are to submit with their claim applications. As a result, the recommendation made to the Department to promulgate rules regarding timelines and documentation is no longer applicable.

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FINDING III: Recovery Fund Is Costly and Cumbersome To Administer (Concl'd)

Recommendation	Status of Implementing Recommendation	Explanation for Recommendations That Have Not Been Implemented
4. The Department should properly allocate the Fund Administrator's and Assistant Attorney General's personnel expenses so that only the portion of these expenses that is attributable to the Fund is charged to the Fund.	Implemented at 12 months	
5. The Department should properly charge indirect costs associated with the Fund to the Fund.	Implemented at 12 months	

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FINDING IV: Department’s Public Information Practices Impede Consumers’ Access To Licensee Information

Recommendation	Status of Implementing Recommendation	Explanation for Recommendations That Have Not Been Implemented
1. The Department should strengthen its public information policies to direct staff to provide all public information to consumers over the telephone, including information on the number and nature of closed, dismissed, and pending complaints and disciplinary actions.	Substantially Implemented at 6 months	
2. The Department should discontinue its restrictive policies requiring consumers to request files in writing and provide photo identification and other personal information when visiting the office to view licensee files.	Implemented at 6 months	
3. The Department should make certain that files prepared for consumers have the licensee’s complete complaint and disciplinary history information.	Implemented at 6 months	
4. The Department should ensure that confidential information on licensees is removed from files before consumers view them.	Implemented at 6 months	

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FINDING IV: Department's Public Information Practices Impede Consumers' Access To Licensee Information (Concl'd)

Recommendation	Status of Implementing Recommendation	Explanation for Recommendations That Have Not Been Implemented
5. Department management should ensure staff are properly trained in procedures for removing confidential information and periodically monitor files that are scheduled for consumer review.	Implemented at 6 months	
6. The Department should adhere to the 5- to 7-day time frame it has already established in policy for preparing files for public review.	Implemented at 6 months	
7. The Department should provide complaint summaries in licensee files to provide consumers with a complete overview of the licensee's complaint and disciplinary history.	Implemented at 6 months	

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SUNSET FACTOR 4: The Extent To Which Rules Adopted by the Department Are Consistent with the Legislative Mandate

Recommendation	Status of Implementing Recommendation	Explanation for Recommendations That Have Not Been Implemented
1. The Department should revise Commissioner’s Rule R4-28-1303, regarding the confidentiality of records obtained in an investigation, to clarify the rule and make it consistent with public records laws.	Implementation in Process	