

THE AZREIA ADVANTAGE

ARIZONA REAL ESTATE INVESTORS ASSOCIATION NEWSLETTER

"AZ Real as it Gets"

APRIL 2022

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City of Phoenix offers \$2,000 Landlord Incentive to Participate in Housing Choice Voucher Program

by **Gina Montes, Deputy Phoenix City Manager**

In February 2022, the Phoenix City Council approved an increase to the Housing Department's Landlord Incentive Program payment amount from \$500 to \$2,000 per incentive for landlords who lease to tenants in the Housing Choice Voucher (HCV) Program.

Launched in 2020, the Landlord Incentive Program's initial funding allocation of \$500,000 was fully expended in one year. The program paid a total of 1,000 incentives to 405 landlords, of which 127 were first-time HCV landlords. Due to the success of the program, in 2021, City Council allocated \$1 million from the American Rescue Plan Act (ARPA) funding to replenish the funds and continue the incentive program.

The HCV Program (often referred to as Section 8) provides assistance to

low-income families to afford housing in a range of neighborhoods. Housing can include single-family homes, townhouses, and apartments and

is not limited to units located in subsidized housing developments. Approximately 7,000 vouchers are administered by the City of Phoenix Housing Department. A family that is issued an HCV is responsible for finding a suitable housing unit of the family's choice where the owner agrees to rent under the program.

It has become increasingly difficult for voucher holders to find housing opportunities in a challenging rental market. The Landlord Incentive Program was launched to help combat the shrinking number of units and fewer affordable housing opportunities for Phoenix HCV holders. Voucher holders have faced difficulties locating available units or encountering non-renewals due to various factors including the stigma of the program, owners selling their properties to private companies no longer interested in leasing to program participants, and/or being outpriced in

Phoenix ~ In-Person Monday, April 11 - 5:45pm

- *Market Update & Market News*
- *Presentations from the Deputy City Manager of Phoenix and Zona Law Group*
- *Rental Update*

Tucson ~ In-Person Tuesday, April 12 - 5:45pm

- *Market Update & Market News*
- *Expert Insights to the Tucson Market Panel Discussion*
- *Haves & Wants*

Continued on page 2



Holding Rental Property in an LLC

With the market on a relentless rise, investors have been pounding the pavement looking for the next deal. However, often in the race to find the best deal, investors lose sight of focusing on important issues. Whether you are a seasoned investor or a beginner, it is imperative that you give strong consideration into how you will hold your investment property.

Depending on the circumstances, whether it is a single-family home or an apartment complex, most investors choose to hold their rental property through the use of a limited liability company or «LLC.» These entities are ideal for holding real estate in Arizona as they are generally inexpensive and quick to form and maintain.

In Arizona, holding rental property in an LLC can be beneficial for many reasons. First and foremost, the greatest advantage to holding property in an LLC is that it shields its members from personal liability. Thus, should the investment incur a debt, the only thing at risk in an LLC is the investment itself, and not the personal assets of a member.

Another great benefit of the LLC is that profits and losses flow through to the members. LLC's are generally easier to operate than corporations because no annual reports or strict statutory procedures need to be followed. Time-consuming formalities inherent to the corporate structure such

as holding and recording corporate meetings of shareholders and directors simply do not exist in the LLC structure.

Additionally, an LLC can be very flexible in the way it is structured. This flexibility allows an entity to be structured to meet the needs of many different situations. An LLC can have more centralized and formalized management as in a manager-managed LLC, or it can be less centralized by having management duties shared among the members.

Finally, it provides a layer of professionalism that other investors won't have. That said, establishing a real estate LLC is an important step for investors to not only achieve success but ensure they're protected as well.

Are you ready to form your LLC? Our good friends at Phocus Law are aligned with AZREIA's mission to further our members ability to successfully invest in real estate. Phocus Law has created an LLC offer for us. Their current rate is \$649 for a single member or married member LLC with an operating agreement. For AZREIA members only it is now \$385. In order to take advantage of this offer head over to AZREIA.org/LLC.

Smarter investing,
Michael Del Prete, Executive Director



City of Phoenix offers \$2,000 Landlord Incentive to Participate in Housing Choice Voucher Program

Continued from page 1

the skyrocketing rental market.

The program incentivizes Phoenix landlords to make their properties available by offering landlords a one-time \$2,000 payment for executing a new Housing Assistance Payment (HAP) contract. The incentive is per unit and a property owner can be eligible for more than one incentive if the owner executes multiple HAP contracts.

The Housing Department pays the rental subsidy on behalf of the participating family directly to the landlord, or a designated payee, each month. The family then pays the difference between the actual rent charged by the landlord and the amount

subsidized by the program. The tenant share is up to 30 percent of their monthly income. No charges or fees are assessed to owners for services provided under the Housing Choice Voucher Program. Property owners rent to families in the voucher program just as they would rent to families without the benefit of a housing subsidy. The landlord signs a contract with the Housing Department and a lease with the tenant. The landlord's relationship with the tenant is virtually like the open market.

Landlords who are interested in learning more about Phoenix's Housing Choice Voucher Program can find more information on the website: [Housing Section 8 Landlords \(phoenix.gov\)](http://HousingSection8Landlords.phoenix.gov).



Can One Bad Applicant Spoil the Whole Bunch?

by David Pickron, Rent Perfect

It might seem like an antiquated phrase since most of us no longer buy apples by the bunch, but the concerns about one bad apple spoiling the whole bunch are real. As it applies to our industry, this is becoming a critical issue. Here's why: with the rapid increase of rents over the past few years, more and more of our properties are being shared by more than one tenant in an effort to be able to just afford the rent. In most cases as we backtrack, having more than one tenant would equate to having more than one applicant for the lease. And when you have more than one tenant potentially on the lease, there are three major questions you need to answer before signing that lease.

Question #1 - Will I Get my Rent?

Logically it is easy to assume that having more tenants in the property would up the odds that you are going to get paid in full and on-time. More people and more income should add up in the landlord's favor but that isn't always true. Proper screening, including criminal, civil and credit checks, is critical if you want to protect your investment. Let's consider that you have three individuals who are friends apply to rent your property. They each complete an application and upon review, you find that one of them has a history of evictions, their credit is below the standard you normally require for this property, and they are currently unemployed. What do you do? You have a few options and things to consider. How is the credit and eviction history of the other applicants? How long ago was the eviction for the affected applicant? Was it affected by Covid or other outside circumstances? What kind of history does the applicant have with the other applicants who have good credit? In essence, you have to rely on your criteria and your calculated trust in the other applicants on the lease to pull through with payments, even when or of the poorly qualified tenant can't fulfill his portion of the lease payment. This by far is the easiest of the three questions to answer because the additional tenants can always help carry the payments if needed. The next question is much more difficult as it deals with the complexities of personality and behavior.

Question #2 - Will My Property be Taken Care Of?

This question is where a careful review and analysis

of each applicant's criminal history is critical in ensuring the value of your property. It's been said that we become the sum of the five people we spend the most time with. If one or more of your applicants has a criminal history, the likelihood of them having friends and associates with similar history grows exponentially. Let's say you have an applicant with a history of drug-related arrests. While it's not a guarantee, the odds of that applicant having friends with similar histories are high. Any seasoned landlord will testify that the criminal crowd has a history of destroying property, either through their own negligence or the negligence of the people they invite over. So while you may have two tenants who are law abiding and take great care of your property, you have to be on the lookout for the one that can bring destruction. Again, having and applying a strict criteria on each applicant can help save you and your property.

Question #3 - Is My (and the Neighbors) Safety Compromised?

This may seem like an outrageous question, but my experience says that is much less far-fetched than you might believe. The last thing a landlord wants is to compromise their safety and the safety of the surrounding neighbors. We've all heard the news stories where the neighbor can't believe that their neighbor was involved in (fill in the blank) and that they seemed like such "nice guys." It's only when the reporter unveils the laundry list of criminal offenses and past disturbances that the neighbors and the general public see what the offender was really like. Having a criteria and using the background check results to measure against it for each and every applicant is paramount in keeping all involved in a safer situation. If I have to go to the home to collect unpaid rent, I'd rather go in knowing my safety wasn't in question when I knock on the door.

Let me reiterate, you need to look at each applicant individually. Then take that individual analysis, add it all together, and make your rental decision. I always invite you to reach out with questions you have regarding applicants. While we don't offer legal advice, we can provide you with practical solutions that we have discovered over the last thirty years in managing properties and performing applicant background checks. Our goal is to help ensure you get paid and that your property is taken care of, all while keeping you safe.



It's Not Sexy So Why Are We Writing About It?

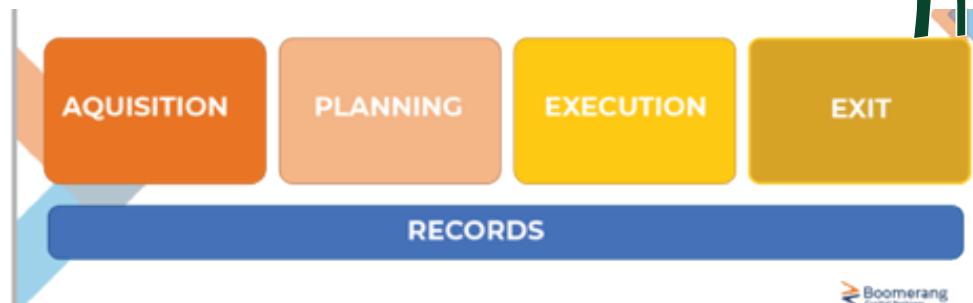


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The major steps of acquiring, planning, executing, and then selling a property are generally considered and covered, but what about record-keeping? Granted, it's not exciting or sexy, so why do we think it's worth covering? Because it makes a difference.

The main benefits of good record-keeping are:

- Knowing where you stand. As anyone who has been involved in larger construction projects will tell you: there are very extensive rules and processes to track work in process and percentage of work completed. While it's probably not helpful to go that far overboard, the basics are worth looking at in order to understand the importance and how it applies to *all* projects, regardless of size. By tracking expenses and resource expenditures not only at the end of the project but all the way through important decisions and adjustments or course corrections can be made all during the project. Including not only cash but also receivables and payables will help you manage expenses and make sure cash is available when needed. Budget vs actuals will help you determine when/if you have room for new cabinets, and when you'd better just reface or repaint. These types of calculations are made easy with good record-keeping and are impossible without; 'wing it', and you

are almost certain to make a mistake.

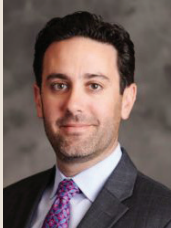
- Co-mingling assets can ruin the protective features of your LLC. As Mick McGirr (Attorney at Law, Mick@PhocusCompanies.com) points out, what the courts refer to as "piercing the veil" can occur when clear delineations are not made between what belongs to the LLC, and what belongs to an owner or other party. It is more likely to happen in a small company, but can be easily avoided by being explicitly clear about 'what' belongs to 'who'. It can happen quite innocently and unintentionally, for example, if you buy something for a project, and pay for it from your personal credit card and not record that specific expense in the LLC, but use a 'catch-all' or 'true-up' at the end, it could be argued you weren't taking the LLC seriously, and then neither will the courts. Avoiding this is easy: separate bank accounts and good records.
- Fair reporting and distributions for partners. How do you know whose money is whose? And if there's money for distributions and when? Complete, timely, and transparent records answer all of these questions as well as enable trust and good partnerships (while also reducing unproductive and unpleasant arguments). If you are not using partners now, but are considering them for the future as you take on additional projects then having clean records from past projects will make those initial 'recruiting' conversations easier and help in establishing fair arrangements.
- Accurate records mean you can avail yourself of tax benefits and be comfortable when/if you are audited. For example, you can include development costs, including interest expenses, to only be taxed on actual profits. And if you are doing this project in a self-directed IRA, you can 'charge' yourself fair labor rates for your work.
- Accurate records mean ease of refi and a shot at a lower rate. Jeremy Lovett, an experienced consumer mortgage officer (Jeremy@intentmortgage.com), points out "Borrowers who come in with well-organized records are going to end up with an easier and faster loan process. They are also more likely to benefit from a lower rate lender instead of having to focus on lenders who charge more for the extra time necessary to close unorganized borrower's loans."

Overall, record-keeping doesn't need to be overly complex or burdensome. A spreadsheet will work, or software such as Quicken (at the low end) to QuickBooks (at the high end) not only makes things easy but also include all the pre-canned financial and tracking reports. Add-ons such as Expensify or Zoho can make capturing expenses simple.





Seller is Refusing to Close



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by
**Mark
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As you know, AZREIA members don't need an attorney to tell them that the market is hot and that prices have been increasing exponentially. Buyers are regularly getting into bidding wars to get homes under contract. There is nothing better for an investor than finding a property off-market and getting it under contract before anyone else gets a chance to bid on it. However, such a rosy picture can turn negative really quickly if the seller finds another buyer who offers more money, and the seller refuses to close escrow.

The call we always get then, is that you, as the investor, have a contract giving you the right to purchase the property - so isn't what the seller is doing illegal? It's not illegal in the sense you are thinking but actually a breach of contract. Unless you have previously breached the contract, it sounds like the seller is breaching the contract and you have a right to enforce the terms of the contract. This is the critical point - you have a contract and a legal right to enforce it but that doesn't mean that the seller is automatically prevented from selling it to someone else.

If you don't act quickly, the seller may sell the property to another person

and you likely won't be able to get title. You could still sue the seller for breach of contract, but at best you would be entitled to an award of monetary damages. On the other hand, if you want to get the property then you need to act fast. The proper way to prevent the sale of the property would be to file a lawsuit and record a Notice of Lis Pendens. As we have noted in previous articles, the lis pendens will prevent the transfer of clear title to third parties: in other words, if the house is sold, the buyer takes title subject to your rights. Therefore, if you proceed through the litigation and win, you can get title, even though it has been transferred to another person.

This distinction of whether you timely sue is important - if you sue and record a lis pendens, you can get title to the home, whereas you wait until after a transfer, you may be limited to getting monetary damages. While monetary damages may sound good, the problem is you have to litigate and prove what the actual damages are and that can be an expensive undertaking. For example, you

could sue for lost profits, but then you may have to bring in experts to testify about the value of the property and what it could be sold for.

On the other hand, specific performance gets you title to the home and requires less proof or issues to litigate. Arizona courts have repeatedly held, "Specific performance is available as a remedy to enforce contracts for the sale of real property because land is thought to be unique and the remedy of damages is usually considered inadequate." *Canton v. Monaco Partnership*, 156 Ariz. 468, 470 (1987)." Instead of having to prove what damages you sustained, if you sue for specific performance, once you prove that the seller breached, you can force the seller to close and get title to the home. And let's be honest, that ultimately is what all investors want - the property and not spending as much on attorneys' fees.

Therefore, the moral of the story is that when a seller breaches the contract, make sure you act fast to protect your rights.



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As a new investor, Derek took the time to ensure I understood the process and provided me with key learnings/ considerations that I didn't have to ask. I value this since "I don't know what I don't know." I consider Derek/Gila to be my go-forward partner.

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Does It Make Sense to Buy an Investment Property with an IRA?



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by
**David J.
Hawks**

The use of self-directed IRAs for real estate investing has grown in popularity as investors seek to reduce their tax burdens and increase their rate of return on their investments. The benefits of owning property in an IRA include appreciation in value and tax-deferred growth on rental income and capital gains. Although there are benefits to holding real estate in an IRA, there are some important things to consider. Any missteps in the rules associated with owning real estate in an IRA could mean disqualification of tax-deferred status and immediate taxation.

Here are some important notes regarding real estate held in an IRA:

1. The IRA must be self-directed, meaning you have the option to invest however you please.
2. The title to the property is held by a custodian for the benefit of the IRA. No, you cannot be the custodian. The custodian is required to manage the investment, any associated paperwork, and making sure all necessary financial reporting is completed. The custodian will charge a fee for the service they provide.
3. The real estate must be held for investment purposes. You

cannot use the property for personal uses such as a vacation home, a second home, or as an office for your business. You are also not allowed to make the home available to "disqualified" people. This would include your spouse, your parents, grandparents, children, grandchildren, and the list goes on. You also cannot purchase the investment property from any of these disqualified people.

4. It may be difficult to acquire a mortgage to purchase the property. You will likely have to pay a large amount in cash making it a non-starter for some. If you do get a loan, there is also unrelated business taxable income (UBTI) to worry about. The UBTI will require the filing of Form 990-T with the IRS. Most people have a hard enough time preparing a Form 1040, so hiring a CPA would be a consideration.
5. Since the IRA technically owns the property, you will lose many of the deductions normally claimed on Schedule E of your tax return. These deductions include property taxes, mortgage interest, depreciation, and others. Any losses within the IRA are nondeductible.
6. Any expenses of the property will reduce the balance of the IRA and diminish its ability to appreciate in value. If you need to put more funds into the IRA to cover the costs, you are limited to the annual IRA contribution limits. Over

contributing to the IRA can lead to penalties.

7. Any maintenance of the property must be done with IRA funds and cannot be done by the owner of the IRA. If you perform the maintenance, this is considered a self-dealing transaction that triggers an entire distribution of the fair market value of the property as a taxable distribution.
8. The rental income or proceeds from the sale of the property are reinvested in the retirement account and can only be withdrawn when you reach retirement age. Flipping houses in an IRA creates trade or business income inside the IRA making it subject to a 35% UBIT rate on profits greater than \$1,000.

Owning real estate in a self-directed IRA certainly has its benefits but due to the many rules that must be followed, it may not be for everyone. To summarize, if the rules of the tax code are not strictly followed, the IRA is disqualified from its tax-favored treatment and all funds are immediately taxable. So, if you decide to invest in real estate using a self-directed IRA, proceed with caution.

If you need the help of a CPA who understands real estate taxation, you can call me at (480) 626-5557 or email me at dhawks@hawks-cpa.com.





Q & A with Escrow



by
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Want to take the guesswork out of your next closing? This article reflects some of the most common questions that our National Escrow Administration answers from the hundreds of emails they receive daily. We hope sharing these questions and answers will provide insight when closing your next transaction. Some of these are scenarios in other states as well.

Q. There is some talk in Tennessee, and I have an agent who wants to market closings with cryptocurrency. From what I have read, it is legal in Tennessee. What is our Company's position on handling these types of closings?

A. Yes, the Company has been closing transactions where the consideration was tendered using cryptocurrency, since 2013. The seller has to open a wallet to receive the type of cryptocurrency agreed upon in the purchase and sale agreement, on the agreed-upon closing date; the seller sends the buyer their public key or address to receive the payment in cryptocurrency. The seller has to wire transfer in U.S. Dollars to pay off any existing encumbrances, taxes, and closing costs. Additionally, the buyer has to send a wire transfer in U.S. Dollars to satisfy their closing costs, as well.

Q. We have a seller that has requested we pay a \$300,000 personal loan out of the proceeds from the sale. This "loan" is not a recorded lien on our property. We told them NO, that unless it was a lien on the property, we could NOT do so...am I thinking correctly? If so, can you remind me of the reasons why? I want to be able to give him a detailed answer.

A. Correct, we do not make courtesy payments from escrow because our duty is to consummate the real estate transaction. We only pay liens of record for the seller in order to clear title to the property and provide an owner's policy of title insurance to the new owner.

The funds held in our trust accounts are

the public's funds, they are not funds belonging to our Company; therefore, we have a higher standard of care to protect them and not use the account as a checking account to pay consumer debt.

The seller needs to pay their personal debts directly and outside of escrow from their own bank account.

Q. The borrower on a cash-out refinance is requesting the loan proceeds be made to him as an individual because he does not have an account in the name of his trust. The borrower on the note is the individual and the trust.

A. On a loan transaction where the borrower is receiving proceeds, we follow the lender's written direction and pay the proceeds in accordance with the loan instructions. In the absence of any instructions to the contrary, the settlement agent must pay the borrower on the promissory note and no one else. If both the individual and trustee of the trust direct the settlement agent to pay all the proceeds to the individual in writing, we would accept that instruction and pay the proceeds accordingly.

Q. I have an escrow that is closing today and just want to confirm that nothing will be needed from escrow from the parties involved regarding a divorce. The listing agent has advised them each that without a stipulation or court order that the proceeds will be split 50/50 and has advised me to disburse the proceeds this way. I have signed Form 1099-S from both sellers agreeing to split proceeds 50/50. Do I need anything else from them?

A. Yes, you need written mutual instructions from both sellers to split the proceeds in half. The reporting of the real property transfer on IRS Form 1099-S does not dictate how the proceeds are paid at closing. Therefore, a written instruction from all the sellers as to the split of the proceeds is required and it does not need to match the split amount on Form 1099-S. Otherwise, the proceeds will be paid to both sellers in one check.

Q. The seller in my current transaction is an LLC. He never established a bank account in the name of the LLC. He is selling off the only asset owned by the LLC and is directing us to pay him the proceeds as an individual. Is that acceptable?

A. We do not pay anyone other than the owner of record for the following reasons:

Legal reasons: We would have no idea if we had the entire operating agreement and all amendments to know whether or not a third-party payment was allowed, nor do we want to jeopardize the Company getting dragged into post-closing litigation for paying unauthorized third parties.

IRS Reporting reasons: Distributions made on behalf of the LLC to its members are separately reportable on a 1099 form. The settlement agent is only responsible for reporting the transfer of real estate on a 1099-S. We would not know which of the 17 different 1099 forms used to report distributions and would not want to take on the responsibility or liability for reporting.

New lender reasons: If there is a new lender on the transaction it is likely their loan instructions prohibit the payment of proceeds to anyone other than the owner of record since payments to third parties out of the seller proceeds have historically proven to be a tell-tale sign of mortgage fraud. We would have issued a CPL binding the Company to close in accordance with those instructions.

Alternatively, the owner of record could direct the escrow officer to pay the proceeds to the trust account of their attorney, on their behalf, to make the distribution and perform the necessary IRS reporting.

Q: I am working on a cash purchase. The buyer is sending in over \$300,000 and wants to know what assurances the Company will provide to him if the bank where our trust account is set up fails. What can I provide him?

A: The FDIC insures deposits according to the ownership category in which the funds are insured and how the accounts are titled. The standard deposit insurance coverage limit is \$250,000 per depositor, per FDIC-insured bank, per ownership category. The Company does not offer insurance on the funds invested for deposit, in addition to the insurance offered by the FDIC. To learn more about FDIC insurance limits, visit FDIC: <https://www.fdic.gov/resources/deposit-insurance/faq/index.html>.

Article provided by contributing author:
**Lisa Tyler, FNTG National
Escrow Administrator**





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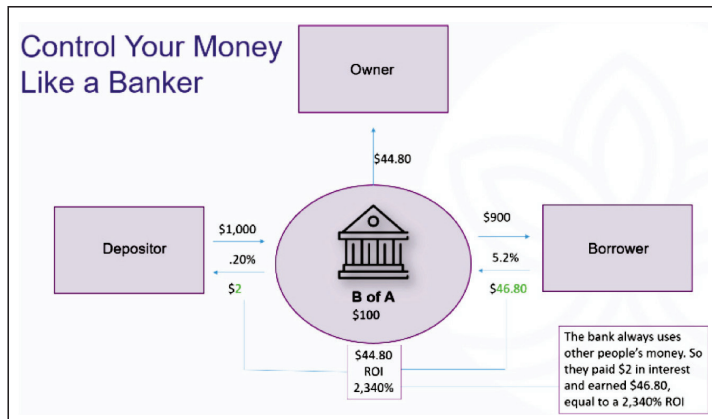
by
**Jack
Carlson**

The business of banks is money. We all use banks. But are we truly benefiting by storing money with them or are they? Have you ever considered how banks make money? How much money do they make?

Consider this example based on recent numbers from [Bank of America](#). Let's say you deposit \$1,000 and they pay you 0.2% interest for storing your money with them. And because of the fractional reserve system in our country, they only need to keep 10% of your money on hand at any time. So they loan out \$900 of your dollars at an average of 5.2% to people buying homes, cars, or using credit cards. You might be thinking, okay they make 5%, that's not bad, I can probably get that in the stock market.

But because they never use *their own money*, they pay you \$2 to make \$46.80. That's a 2,340% return on investment! That's like if you bought a share of a company when it was worth \$2 and then it grows to \$46.80. The total deposits Bank of America took in during the year 2017 were \$860 billion.

This alone should tell you that banking is a very profitable activity and that banks are masters at controlling money. [The average American pays over \\$8,000](#) a year in interest for mortgages, cars, student loans, and credit cards (Simple Dollar).



Where it gets even more interesting though, is when you look at banks' balance sheets and where they're actually storing our money when they aren't loaning it out for profit. Let's stick with Bank of America for this example. At the end of 2020, they owned \$20.38 billion of whole life insurance. What? That number is almost double their real estate holdings!

If you're like I was 2 years ago, all you've heard about whole life insurance to this point in your life is that it is a BAD place to store money.

But now you have a conundrum. Why is not only Bank of America,

but every major bank in our country putting as much money as the federal government will allow them into whole life insurance policies? Do they have access to things that you and I don't? OR are they using financial tools

and assets differently than you and I have been taught?

Here's a final quote to leave you from financial expert Ed Slott "The single biggest benefit in the US tax code and the most UNUSED is the income tax exemption on whole life insurance."

So what is whole life insurance? And why should it matter to you?

Schedule a free educational call today to learn more.

<https://calendly.com/jacarlson/meet-with-jack>

jcarlson@unbridledwealth.com



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What Role Should a Trust Play in Business and Investing?



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by
*Michel J.
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Typically, I write in this space about topics affecting transactions, contracts, or the nuts and bolts of different aspects of your deals. That is because I spend 90% or more of my time working on the business end of things. However, one of the services Phocus Law provides is much less 'business' and much more 'personal' in nature – estate planning.

What is estate planning? For the purpose of this article, and to keep this simple and not too lengthy, we'll limit our definition of estate planning to the following: The use of legal tools to plan for the handling of your assets upon your passing. Often, estate plans utilize either a will, a trust, or a combination of the two. If you pass away with only a will, your assets will need to go through the probate, the process through which a court gets involved in ensuring that your creditors are taken care of and your will is carried out properly. When a trust is used in your estate plan, probate is most often able to be avoided entirely as your trust survives after you, meaning that the person or persons you appoint as your successor trustees can carry out your wishes without any court involvement. The simplest way to conceptualize this is that, through the use of a trust, your assets and

your estate do not die with you, but rather continue as their own entity, managed by someone you have appointed and whom you have given instructions that bind that person on the disposition of your estate and assets.

For most people who manage to gather assets during their lifetime exceeding a fairly low floor, a trust is the most efficient, cost-effective, and meaningful way to make sure that the wealth you have worked so hard to attain during your life goes to those you care most about, and not to the government in the form of taxes, the courts or lawyers as a result of probate, or unintended third parties as a result of your estate plan not providing clear instructions.

With it settled that a trust is desirable for most folks reading this, let's talk for a moment about how to utilize that trust in your investing and business life. A trust is only most effective in streamlining the disposition of your assets when those assets are actually titled in the name of the trust. Simply put, if you go through the time and expense of setting up a trust, but then fail to 'fund' the trust by assigning all of your assets to the trust, then you are only slightly better off than if you had no trust at all.

I understand that assigning your assets to your trust and continuing to do so with all assets you acquire going forward may sound cumbersome or complicated. Good news – it's not that bad! Once you have your trust set up, any accounts or assets that you hold in your *personal* name (personal accounts, personal residence, etc.) should be

transferred to the trust. If you are holding investment properties in your personal name, we need to have a conversation about the proper use of LLCs as a shield for your personal assets (one of my favorite topics). As for any businesses you may own, investment properties held in LLCs (or, more rarely, corporations), investment holdings, etc., you can simply replace the member of the entity with your trust. This means that just because you may have a few properties in the same LLC, assigning those to your trust does **not** mean you need to re-title each property. Simply removing your personal name as the member and replacing it with the trust will have the effect of transferring all of the assets/properties/etc. in that entity into the trust.

Estate planning is a big topic that can be daunting to many folks. However, it need not be. Phocus Law has taken many steps to make estate planning as simple, understandable, and pain-free as possible. If you're interested in discussing your estate planning with an experienced professional who can 'pull back the curtain' and make it all make a bit more sense, please reach out. Sam Richardson is a member of the Phocus Law team who heads up our estate planning group. He would love to assist you in setting up a new plan or in reviewing and revising your existing estate plan to make sure it is legally compliant and designed in such a way as to help you achieve your goals. Please feel free to reach him by email at:

Sam@PhocusCompanies.com
or by phone at (602) 457-2191.



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by Daniel Ortega
Head of Retail Sales

Currently, stock market investors aren't too thrilled about the volatility they are experiencing in their portfolios. The Federal Reserve has signaled its continued plan to raise interest rates, which has many Americans looming with concerns of higher and higher inflation. I've spoken with some market experts who are predicting a significant market correction is on the horizon. With an unstable job market, employee wages out of control, and a booming national housing market, there seems to be a sense that there isn't a safe place to park or make money right now. However, I disagree. Savvy investors don't waste their time simply discussing the market conditions, instead, they identify ways to turn instability into opportunity. There always are and always will be political, social, and market conditions that affect our investment outlook along with opinions on what actions could be taken to achieve our desired financial objectives. Therefore, it is important to remain curious as an investor and ask ourselves "what effect can the current political, social, and financial conditions of today have on my retirement situation in the future? And what actions should I evaluate taking to ensure a successful outcome is realized?" The reality is that not everything that is happening right now has the same effect on each of our investment portfolios.

For example, let's take a negative message like "inflation is raising

costs and causing prices to go up everywhere." You may go to the gas pump or local restaurant and get a feeling this is true - that it's negatively impacting your monthly budgetary expenditures. On the flip side, however, you may also own a couple of rental properties in which you have the opportunity to take action by raising the rent on your tenant's lease agreements, leading to a higher return on your investment income. Therefore, what can seem like a bad thing on one end, can be a positive on another.

What other negative market realities can be turned into positive outcomes?

It is this type of opportunistic inquiry that separates successful investors from less successful ones.

Let's take another example, like the job market. We keep hearing how horrible the job market is right now. Millions of small, medium, and large businesses are not only understaffed but are also finding it very difficult to attract and keep talent. We've all heard about "The Great Resignation" and "Great Reshuffle." The pandemic caused many employees to reconsider their professional and personal priorities, which led many to quit, move jobs or use it as an opportunity to venture out on their own as entrepreneurs. On the bright side, however, this employee movement has positively impacted the number of accessible retirement funds available to investors. Before the pandemic, Baby Boomers leaving the workforce was already creating a forecast of over \$2 Trillion expected to be rolled over from employer-based plans, such as 401(K)s, into IRAs. Post pandemic, however, it's not just the Baby Boomer demographic driving rollover activity. The mass exodus of employees of all ages is causing more money than ever before to be moved from employer plans into IRAs.

So how can a horrible job market be turned into a positive?

Enter the Self-Directed IRA. If you or someone you know is part of the ever-increasing number of Americans changing their employment status, you have the opportunity to regain greater control of your retirement savings and redirect your nest egg into real estate-based strategies you feel can better serve your long-term financial objectives.

With a Self-Directed IRA, you can use these newly rolled over funds to lend money to third parties on your terms, making between 8-12% on your money, using a variety of lending strategies: short term bridge loans to fix and flippers, hard money loans, commercial and residential real estate loans, etc. Self-Directed IRAs can also be a great alternative funding source for buyers seeking capital, given that traditional banks are increasingly tightening their underwriting requirements. If you prefer to be on the equity side of real estate instead of the credit side, you can just as easily choose to direct your Self-Directed IRA monies into direct property investments. The choice is yours. Additionally, if you're an investor looking to buy real estate and are unable to secure traditional financing, it's time to begin thinking outside the box, by looking inside your circle. By sharing this knowledge with your friends, family, and colleagues that may be a part of the employee reshuffle, you may also be helping yourself increase the access to more capital you may need to structure your next deal.

If you're interested in learning more about how your retirement savings can be utilized to invest in real estate-based strategies, I would encourage you to click here to register for Vantage's "Set Your IRA Free" Workshop. This may be the next step you can take to turn a negative into a positive.

Happy Investing!





VA and FHA Refinance Confusion



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by
Andrew Augustyniak

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Now that it's springtime, baseball teams are starting their spring training and the heat is beginning to come back. The temperature isn't the only thing beginning to rise though; interest rates are at a 3-year high and back in the mid 4's on average. Even with rates going back up, many borrowers are starting to take advantage of their equity positions through a cash-out refinance. However, there is a lot of confusion lately about the seasoning requirements of FHA and VA refinances. Many borrowers will be doing a conventional refinance, but there are still numerous borrowers taking advantage through VA and FHA loans as well.

As announced in GNMA APM 18-04, all VA refinances have the following seasoning requirements. The note date of the refinance loan must be on or after the later of:

- a). the date that is 210 days after the date on which the first monthly payment was made on the mortgage being refinanced, and
- b). the date on which 6 full monthly payments have been made on the mortgage being refinanced.

APM 19-03 clarifies that the seasoning requirement applies to VA loans paying off FHA and Conventional loans as well. These requirements apply to VA Interest Rate Reduction Loans and VA cash-out refinances.

As announced in GNMA APM 17-06 all FHA Streamline and Cash-Out Refinances must meet the following seasoning:

Effective on or after April 1, 2018, streamlined refinance loans and cash-out refinance loans are

eligible if and only if:

- a). the borrower made at least six consecutive monthly payments on the loan being refinanced, referred to hereinafter as the Initial Loan, beginning with the payment made on the first payment due date; and
- b). the first payment due date of the refinance loan occurs no earlier than 210 days after the first payment due date of the Initial Loan.

This applies regardless of the type of loan the FHA Cash-Out loan is paying off. With equity positions increasing so drastically, borrowers have the ability to use that equity towards paying off debt, home renovations, other real estate investment options, and/or other investment ventures. Therefore, it's important to know these timetables.

For further information regarding refinancing and investor-specific loan programs, always feel free to contact me directly!



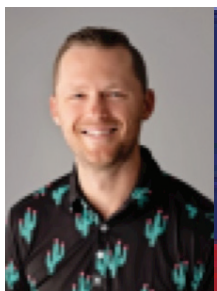
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AZREIA ADVANTAGE: MONTHLY MEETINGS

AZREIA Phoenix Meeting

Monday, April 11

In-Person 5:45 pm

Venue 8600

8600 E Anderson Dr

AZREIA Tucson Meeting

Tuesday, April 12

In-Person 5:45 pm

Tucson Association of Realtors

2445 N Tucson Blvd

Phoenix Real Estate Club

Tuesday, April 26

In-Person 6 pm

AZREIA Office

4527 N 16th St #105

One of our goals as AZREIA is to provide you with education opportunities that can make you a better investor. This month, we are bringing in professionals within a few different housing sectors to inform you on the extremely important information regarding Fair Housing, Section 8, homelessness, and housing affordability. Timely, market-driven information and education makes these meetings must see. Don't miss it!

Phoenix – Current Market Trends & Activity

Updates on Market Data Analysis and the Rental Market from Alan Langston provide the absolute latest information essential to your real estate investing business.

Phoenix Main Meeting – This month we have 2 parts to our main meeting

Part 1: On the Fence About Section 8? Get Your Questions Answered Straight from the Head of the Housing Authority

Gina Montes, Deputy City Manager of Phoenix, will be joining us for a presentation on all things Section 8 and affordable housing (hint, they're not the same!). You will get updated on the recent incentives on accepting Section 8 vouchers, what the Housing Department is going to address homelessness and affordable housing in the Phoenix Area. You may have heard the recent news that 75% of Arizona Residents cannot afford a median-priced home in the State. The Housing Department is trying to address how to create more affordable housing for all Arizonans and what that means for real estate investors. She, and the Housing Director Titus Mathew will be available to answer your questions!

Part 2: Are You Unintentionally Discriminating? What Landlords Need to Know

Mark Zinman from Zona Law Group will be joining us to discuss Fair Housing. There have been recent changes you may not know about. As an investor, especially if you're a landlord, it is vital you are up-to-date on Fair Housing Laws. Sometimes, investors end up discriminating against a buyer or tenant and violating Fair Housing rules unintentionally. It's easy to go with the motions and forget to update your lease agreements or applications. It is now a violation of Fair Housing laws to discriminate based on gender identity. Mark will make sure to cover this, and the other items you are unable to discriminate against, and how you can protect yourself as an investor. Come listen to Mark provide you with the latest news with Fair Housing so you can keep yourself out of trouble!

Market Update & Market with Alan Langston

The latest Fix & Flip and rental data along with further analysis of our Seller's market. Plus, current events and news important to your investing.

Tucson Monthly Meeting

We will be joining in-person for all the great networking sessions including Haves & Wants and a Market Update for the Tucson area, and a panel discussion with some of AZREIA's local Tucson Business Associates to discuss recent changes in the market and how it affects your investing!

Phoenix Real Estate Club

This is some of the best real estate networking anywhere! Meet face-to-face with other investors to find what your real estate investing business needs! Haves & Wants, structured networking activities, market discussion, and Member Deals. It all still happens!



AZ.R.E.I.A., Inc. (the "Association") does not: (1) render legal, tax, economic, or investment advice, (2) investigate its members, or (3) represent or warrant the quality of goods or services provided by its members, the honesty, integrity, reliability, motives and/or resources of its members or their officers, directors, managers, employees, agents, and/or contractors. Consult your legal counsel, accountant, and other advisors as to risks and legal, tax, economic, investment and other matters concerning real estate and other investments. Members will comply with the Code of Ethics of the Association.

AZREIA ADVANTAGE: CALENDAR OF EVENTS

Check www.azreia.org for the current schedule.

APRIL MEETINGS		
AZREIA – Phoenix – In-Person <i>Monday, April 11</i>	AZREIA – Tucson – In-Person <i>Tuesday, April 12</i>	Phoenix Real Estate Club – In-Person <i>Tuesday, April 26</i>
APRIL SUBGROUPS – Join like-minded investors, share ideas, network, and learn in small group settings.		
<ul style="list-style-type: none"> Tucson New Investors – In-Person & Online <i>Monday, April 4</i> AZREIA Prescott – In-Person <i>Monday, April 4</i> 	<ul style="list-style-type: none"> Income Property Owners (Buy & Hold) – In-Person <i>Thursday, April 7</i> Raising Capital & Options – In-Person & Online <i>Tuesday, April 12</i> Shared Living – Online <i>Wednesday, April 13</i> 	<ul style="list-style-type: none"> Beginning Investors – In-Person <i>Thursday, April 14</i> Notes – In-Person <i>Thursday, April 21</i> Fix & Flip – In-Person & Online <i>Wednesday, April 27</i>
<p align="center">Membership Discovery Session <i>Friday, April 29, 2022 12:00 pm – 1:00 pm Available Online</i></p> <p>New to AZREIA? These discovery calls are for you, our members, to ask us anything about your membership. From accessing your exclusive national benefits, to finding the right Business Associate to help you, to any questions about upcoming classes or events. Need help learning how to network? Do you have questions on what to bring to the meetings? Ask us! Whatever you need to ask AZREIA, we will be here to help you because we want you to be able to get the most out of your membership with us!</p>		
UPDATED INFORMATION & REGISTRATION ONLINE AT WWW.AZREIA.ORG		

LEGALLY SPEAKING



Q: I am a realtor and an investor. I have 2 rental homes right now, though sometimes I have more and sometimes less. I don't want to allow pets in my home. Can I prohibit them?

A: Like most other things in the rental business, you can put restrictions in your lease, but an exception may apply. In this case, you can put in your lease that pets are not welcome and will not be allowed. This will be enforced as written and you can reject

anyone who applies with a pet. However, if the person is disabled and discloses that they have an assistance animal, your pet prohibition would not apply. As to apply, an assistance animal is not a pet and is needed for the person due to their disability. Since you are a realtor, you are governed by all applicable fair housing laws even if you currently may or may not have the threshold number of homes.

– Mark B. Zinman, Attorney

Information contained in this article is for informational purposes only and should not be considered legal advice. You should always contact an attorney for legal advice and not rely on information published here.



AZREIA MONTHLY MEETINGS AT A GLANCE

April 11th Phoenix Meeting

- **Current Market Trends and Activity** Updates on Market Data Analysis and the Rental Market provide the absolute latest information essential to your real estate investing business.
- **Phoenix Main Meeting Part 1: On the Fence About Section 8? Get Your Questions Answered Straight from the Head of the Housing Authority** – Gina Montes, Deputy City Manager of Phoenix, will be joining us for a presentation on all things Section 8 and affordable housing (hint, they're not the same!). You will get updated on the recent incentives on accepting Section 8 vouchers, what the Housing Department is doing to address homelessness and affordable housing in the Phoenix Area.
- **Market Update & Market News with Alan Langston** The latest Fix & Flip and rental data along with further analysis of our Seller's Market. Plus, current events and news important to your investing.

April 12th Tucson Meeting

- **Tucson Market Update:** The latest sales volume, pricing, supply and demand numbers for both the Phoenix and Tucson markets.
- **Tucson Main Meeting: A Night with the Professionals – What's Happening in the Tucson Market** Join us for a panel discussion with some of AZREIA's local business associates and experts in the Tucson area to discuss what changes they're seeing in the Tucson market within their business sectors. This is insider information you don't want to miss!
- **Haves & Wants, Power Networking and Deal Sharing:** Come prepared to listen, learn and share.

April 26th Phoenix Real Estate Club

- This is some of the best real estate networking anywhere! Meet face-to-face with other investors to find what your real estate investing business needs! Haves & Wants, structured networking activities, market discussion, and Member Deals. It all still happens!