



# What is a Real Estate Special Commissioner?

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When legal disputes in Arizona involve the court-mandated sale, distribution, or partitioning of co-owned or managed property, a **Real Estate Special Commissioner** may be appointed to value, market, and sell properties. Whether in family, probate, or general civil litigation matters involving the partitioning of real property, Real Estate Special Commissioners can play a critical role in streamlining the execution of complex real estate transactions. The appointment of a Special Commissioner is a common practice in state courts throughout Arizona.



The purpose of a **Real Estate Special Commissioner** is to complete a sale of real property while bringing impartiality to the litigation process, and achieving the highest value for each party resulting from the sale, distribution, or partitioning of the property in question. Contested matters may be expertly resolved by an experienced Special Commissioner, on a more efficient and cost-effective basis. Here are a few explanations of the primary services provided by Real Estate Special Commissioners:



- **Determine market valuation.** Real Estate Special Commissioners conduct research, compile and analyze data, and provide market valuation for properties.



- **Prepare property for market.** Real Estate Special Commissioners can require parties to make needed, and deferred maintenance repairs to property, as well as make the property accessible, and ensure that the property is market-ready.



- **Customize asset marketing plans.** Special Real Estate Commissioners develop custom sale and marketing campaigns to attract maximum interest and generate highest and best offers for properties. Marketing strategies are developed for each property, with the goal of securing high-probability buyers, investors, owner-occupants, or specialized buyers.



- **Manage details.** Court orders governing the appointment of a **Special Real Estate Commissioner** should include custom provisions outlining access, viewing schedules, reporting intervals, and any other specific scenarios.



- **Negotiate contracts.** In addition to providing important market research and an informed market value analysis, **Real Estate Special Commissioners** proactively negotiate contracts, seeking to maximize the value, while minimizing the risk or liability associated with the property. On occasion, Special Commissioners encounter physical or financial limitations, which should be addressed prior to developing a marketing plan, or in conjunction with contract negotiations.



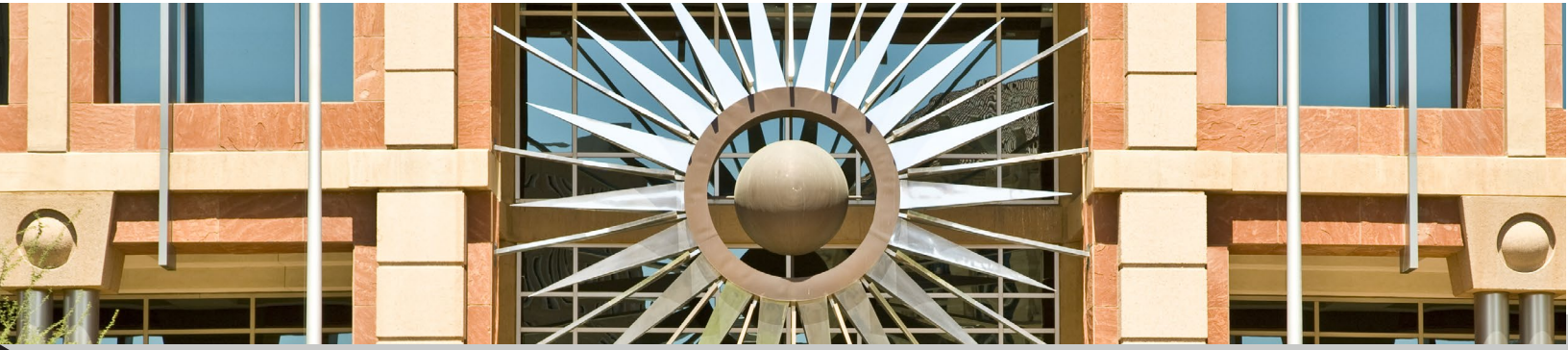
- **Manage court matters.** During a case involving a Real Estate Special Commissioner in divorce, partition, or other co-ownership disputes, the Special Commissioner manages the day-to-day requirements mandated by the court. Commissioners make court appearances required for sales and other matters, including preparing the case for judicial inquiry and reviewing all relevant information and history regarding the valuation, marketing, management, and contract negotiation processes.

During litigation, Real Estate Special Commissioners take on several roles. In a divorce setting, Special Commissioners initiate and complete sales of real property. Rule 95G of the Arizona Rules of Family Law Procedures governs appointment and use of a special real estate commissioner for divorce settlements. First put into effect in 2006, this rule provides that a court has the jurisdiction to appoint a **Real Estate Special Commissioner** “to assist the parties in the division and disposition of community real property when the parties are otherwise unable to agree on such issues.”

The standard Order for Appointment used by contesting parties to request the appointment of a Real Estate Special Commissioner requires a party in possession of a disputed property to contact the special commissioner within ten (10) days of the date of filing. At this point, the valuation, marketing, and transactional processes begin. Access to contested properties, viewing times, reporting schedules, short sales/foreclosures, and other provisions can also be pro-actively addressed in the Order.







Real Estate Special Commissioner appointments are also made in probate estates where a death results in multiple beneficiaries holding joint interest in real property. A Real Estate Special Commissioner can offer valuable assistance in the valuation, management, marketing and sale of real estate assets in these types of cases. In Arizona, Arizona Revised Statute (A.R.S.) §14-3911 governs partition actions. This statute provides that when multiple heirs are entitled to a distribution of “undivided interests in any real or personal property of the estate,” any of those heirs, or the personal representative, may petition the court to make partition in the same manner as provided by the law for civil actions of partition. If no agreement can be made and the court has given proper notice to the devisees, the court has the jurisdiction to appoint a **Real Estate Special Commissioner** to conduct the sale of the contested asset.

As with estate settlement, a partition action is commonly used for “business divorce” or the dissolution of other jointly-owned properties. A partition action is governed by A.R.S. §12-1218, which outlines the various options that are available should the voluntary and fair division of a co-owned property become impossible between contesting parties. A.R.S. §12-1218(A) (B) determines that when there is no foreseeable way to navigate an impasse between parties, the court will order the sale of the property in question. To do this, A.R.S. §12-1218(C) provides instructions to the court to “appoint a commissioner to make the sale...and return the proceeds into court to be divided” between the co-owners according to their interests in the property.



Are you looking to **appoint a  
Special Real Estate Commissioner** to resolve a  
real estate dispute in a divorce, contested estate,  
or partition matter?

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