

The Fort Collins Board of REALTORS® Board of Directors feel it is very important to offer a few recommendations regarding the Public Health Order. This IS NOT legal advice nor is it an attempt to interpret the Public Health Order. All questions regarding permissible brokerage services should be vetted with your attorney.

Under the amended statewide emergency public health order (PHO) dated March 26, 2020, “real estate transactions” have been identified as professional services exempt from the stay-at-home mandate, so long as agents adhere to the social distancing requirements set forth in the order.

Given the somewhat vague and ambiguous wording contained in the PHO, while it does appear that conducting brokerage services for your clients is permitted, governing authorities will likely interpret your actions purportedly taken under this exemption in strict accordance with the **intent** of the PHO. As more fully set forth in the PHO, its intent is to “minimize contact between residents and to the greatest extent possible minimize the exposure of the public” **in order to save lives** by reducing the rate of transmission of COVID-19 and keeping hospitals and healthcare workers from being overwhelmed.

It is through this lens that Realtors® should evaluate whether their activities are truly necessary and in keeping with the letter *and spirit* of the PHO. We live in a litigious society and any actions taken that are not in keeping with the letter and spirit of the PHO may open you to legal liability.

With the foregoing in mind, *below are our recommendations* (we are limited to making recommendations given the language of the PHO and because you are independent contractors):

Rule #1: if you or anyone you have had contact with in the last month is exhibiting signs of illness (or if you suspect you or they may have been exposed to COVID-19), PLEASE STAY HOME (unless you need to go to the hospital)! Ask for help from a colleague to cover your ongoing transactions and hold off on starting new business.

If Rule #1 does not apply to you, then:

For your ***transactions currently under contract***, we recommend that you fulfill your duties to your clients and contracts in the manner that minimizes in-person contact and risk of exposure or transmission.

For all other active and prospective clients:

- We recommend advising your clients not currently under contract to put their process on hold. Given the transmissibility of COVID-19 and the intent of the PHO, we do not believe that showings can be made risk-free, regardless of the protective measures agents and clients may take.
- Agents have a duty to exercise reasonable skill and care and fully inform their clients on the dangers of proceeding, including providing access to sufficient relevant information and resources for your clients to make informed decisions.
- For those clients that insist upon continuing after agents have fully counseled them (for example, in a case of extreme financial distress for a seller), agents should exercise their best judgment and proceed with extreme caution, avoiding in-person activities to the maximum possible through leveraging technology.
- For activities that absolutely must be done in-person, agents should use the best safety practices, procedures, and equipment. Resources are readily available and updated regularly at www.nar.realtor/coronavirus and at www.coloradorealtors.com

The FCBR Board of Directors feel that the PHO exemption for real estate transactions is ***not a license to conduct business as usual***, rather, we implore you to keep the health and safety of yourselves, your families, friends, neighbors, community, and the public first and foremost in your mind as you determine your actions - these may literally be life-and-death decisions.