

SELLER ADVISORY

IMPORTANT INFORMATION FOR OREGON REALTOR® MEMBERS
REGARDING COVID-19 AND ITS IMPACT ON REAL ESTATE

The COVID-19 crisis and the resulting response from the federal, state and local government can impact the sale of your home in several ways. On March 23 Governor Brown issued [Executive Order No. 20-12](#) laying out strict social distancing guidelines and restrictions on individual and business activity. The order requires businesses and individuals to limit non-essential activities to those that can be done at a distance of 6-ft between individuals. The order is in effect until rescinded by the Governor.

Check with Your Real Estate Broker and Know Their Company's Policies

While real estate businesses have not been closed by the government due to COVID-19, some businesses have chosen to suspend or limit operations in order to stop the spread of the virus, and all businesses must comply with strict social distancing guidelines. Check with your real estate broker to understand what their firm's policy is on COVID-19.

Market Supply and Demand

Some buyers may not want to be out viewing homes due to the risk of the virus or in order to strictly comply with social distancing guidelines. Some sellers may decide to hold off on putting their home on the market. Its too early to tell how people's behavior will affect overall market, so talk to your REALTOR® about the right time to list your property.

Open Houses

In order to comply with social distancing guidelines, live open houses will be off-limits. However, many real estate licensees have access to products that allow for virtual tours, virtual open houses and other software-enabled showing technologies. Talk to your real estate broker about what technologies they have available.

Showing Properties with Tenants

In-person showings of a property occupied by tenants during the COVID-19 crisis is not advised. First, landlords that ask tenants to leave the property to allow for showings may be forcing tenants to violate the Governor's "[Stay Home and Save Lives](#)" Executive Order. Second, inviting prospective buyers into the home your tenants are occupying could put them and prospective buyers at risk.

Evicting Tenants Because of Sale of Home

While showing a tenant-occupied property creates significant risks, if a seller were to sell a tenant-occupied home and provide proper notice under all state and local laws, they would not have to comply

with the temporary statewide or local bans on residential evictions, which only apply to failure to pay rent due to COVID-19 related factors.

All Parties Must Comply with Social Distancing Guidelines and Orders During Home Viewings

In the order the Governor asked all Oregonians to stay home to the maximum extent possible and ordered Oregonians to refrain from engaging in any activity that requires them to be within 6ft of another person unless absolutely necessary. Violation of the order is a Class C Misdemeanor. Thus, a buyer's ability to legally tour a home during the period covered by the Governor's order may be dependent upon doing so without coming within 6 feet of the buyer's agent or any other party. We recommend that buyers discuss this issue with their broker and develop a plan to ensure the social distancing requirements are met. If the requirements cannot be met, we do not recommend touring homes.

Protective Measures

Sellers who open their home for buyers and buyers' agents to tour may want to consider taking sanitation precautions. Sellers can also work with their agents to include specific showing requests and instructions related to sanitation in the property. These precautions and requests could include:

- Monitored sanitation stations on premise (gloves, booties and sanitizer available, along with a trash can to put the used articles in)
- Request "Hands off" walk through (seller turns on all the lights, open some interior cabinet doors, bedroom and closet doors for a "hands off" viewing)
- Request 6ft social distancing between agent and prospective buyer
- Request that only buyers who are pre-approved for a loan tour the property
- Request that buyers tour the exterior first and only tour the inside of the home if still interested
- Limit the number of people allowed to tour the home

Sellers must be careful not to include any requests or instructions that discriminate based on a protected class (see Fair Housing section).

Service Providers May Not Be Available

Service providers may not be available to conduct services, such as home inspections, in time for your buyer to meet their deadlines under your real estate sales agreement. You should work closely with your REALTOR® to understand the policies and timelines associated with home inspection, appraisal, title searches and closing and recording in light of the COVID-19 crisis. Deal with this all upfront before signing the sales agreement so that you and the buyer set realistic deadlines in the sales agreement.

Parties Can Incorporate COVID-19 Language into the Sales Agreement

Under the standard Residential Real Estate Sales Agreement used by many residential real estate licensees in Oregon, a delay caused by a COVID-19 related condition would not necessarily result in an extension of contract deadlines, and buyers are at risk of losing earnest money for non-performance. Oregon Real Estate Forms created OREF-96 as a document that parties can use to automatically build in a 20-day extension to the deadlines in the standard Residential Real Estate Sales Agreement for COVID-19 related delays. Parties can also use a standard contract addendum to set their own terms for COVID-19 related factors, or simply include longer deadlines and a later closing date in the Sales Agreement.

We encourage sellers to consult with an attorney before structuring or signing any COVID-19 related provisions if they have any doubts about what the provisions mean or their effect.