

# COVID-19 Frequently Asked Questions

Revised March 28, 2020

## Stay Home, Stay Healthy Order

### **What is the Stay Home, Stay Healthy Order?**

To help prevent the spread of COVID-19 (Coronavirus), effective midnight on Wednesday, March 25th, Governor Inslee issued a statewide "Stay Home, Stay Healthy" order. The Order will initially last for two weeks and requires the closure of all "non-essential critical infrastructure businesses." Workers that are considered non-essential and who do not have in-person contact with others, can continue to work remotely from home only. The Order may be extended and may be modified.

On Saturday, March 28<sup>th</sup>, in cooperation with Washington Realtors, Governor Inslee agreed to certain modifications to the Stay Home, Stay Healthy Order for the real estate industry. Due to the fact that the vast majority of real estate brokers are abiding by the order, several of the original restrictions on in-person activities have been revised – provided that strict protocols for social distancing are implemented.

### **What are the required protocols for any permitted in-person activity?**

The protocols that must be followed for permitted in-person activities include:

- In-person activities must be by appointment only;
- No more than two people, including the broker, may be at the property at any one time; and
- Those two persons must strictly follow social distancing guidelines established by the Centers for Disease Control and Prevention ("CDC") by remaining at least six feet apart at all times.

NWMLS's Rules provide that a broker may not leave a third party unattended in a property. Accordingly, brokers must only bring one person at a time into the property.

### **What in-person real estate brokerage services are now permissible?**

Provided the above protocols are followed for any permitted in-person activity, real estate brokers may:

- Conduct listing presentations, take photos, and create virtual tours for new listings;
- Facilitate signing of contract documents;
- Preview and show listings by appointment only;
- Facilitate inspections, appraisals, buyer "walk-throughs," and key delivery; and

Real estate brokers may not:

- Conduct any business outside of their home (with the exception of the above noted activities);  
or
- Hold an open house.

Note that any broker who violates the Governor's order not only puts himself/herself and his/her family at great personal risk, but also puts the broker's real estate firm and his/her clients at risk. Any violation of the order is a gross misdemeanor and a violation of the real estate license law (RCW 18.85).

### **Can real estate firms continue "Basic Minimum Operations"?**

Yes. Real estate firms can continue to process payroll and benefits, preserve equipment, ensure security, and support brokers' ability to work from home. Social distancing guidelines must be followed. This exception is to continue only basic, minimum business functions for identified essential workers. This is not an exception to the prohibition against a broker leaving home to provide real estate brokerage services.

### **Can lenders, title, and escrow continue to operate during the Stay Home, Stay Healthy Order?**

Yes. The "Financial Services Sector" has been deemed essential. This includes workers who are needed to process and maintain systems for processing financing transactions and services and insurance companies including mortgage lenders, escrow and title insurers.

Because the Financial Services Sector is considered essential, real estate transactions that are under contract may be able to proceed to closing. Of course, there could be delays, which is why the parties should use the new Force Majeure and Closing Addendum (Form 22FM).

### **Can brokers physically preview or show properties?**

Yes. In-person previews or showings of properties are permitted if the required protocols are followed. Previews or showings must be by appointment, a total of no more than two people, including the broker, are permitted at the property at any one time, and those two people adhere to strict social distancing guidelines established by the CDC. Any previews or showings should be conducted as expeditiously as possible.

Real estate brokers may not leave a third party unattended in a property. Accordingly, brokers must only bring one person at a time into the property. Sellers should vacate the property prior to any preview or showing appointment. In addition, listing brokers should stagger any preview or showing appointments to avoid any overlap.

In lieu of physically showing the property, brokers and buyers can utilize virtual tours and videos that are included with the listing. Brokers should also consider virtual showings to further practice social distancing.

### **Can inspectors conduct home inspections during the Stay Home, Stay Healthy Order?**

Yes. If an inspection is required in a pending transaction, an inspection may be conducted, provided that it is by appointment, a total of no more than two people, including the broker, are at the property at any one time, and those two people adhere to strict social distancing guidelines established by the CDC. The inspection should be conducted as expeditiously as possible.

A pre-inspection of a property prior to mutual acceptance of a purchase and sale agreement is permitted, provided that it is by appointment, a total of no more than two people, including the broker,

are at the property at any one time, and those two people adhere to strict social distancing guidelines established by the CDC. The pre-inspection should be conducted as expeditiously as possible.

Because a broker may not leave a third party unattended in a property, the two people at the property for the inspection should be the broker and the inspector. Sellers should vacate the property prior to the inspection.

#### **Can appraisers conduct in-person appraisals during the Stay Home, Stay Healthy Order?**

Yes. If an appraisal is required in a pending transaction, an appraisal may be conducted, provided that it is by appointment, a total of no more than two people, including the broker, are at the property at any one time, and those two people adhere to strict social distancing guidelines established by the CDC. The appraisal should be conducted as expeditiously as possible. Sellers should vacate the property prior to the appraisal.

#### **Can buyer's brokers conduct "buyer walk-throughs" prior to closing during the Stay Home, Stay Healthy Order?**

Yes. If a walk-through is required in a pending transaction, a walk-through may be conducted, provided that it is by appointment, a total of no more than two people, including the broker, are at the property at any one time, and those two people adhere to strict social distancing guidelines established by the CDC. The walk-through should be conducted as expeditiously as possible. Sellers should vacate the property prior to the walk-through.

#### **Can brokers retrieve house keys and provide to a buyer after a closed sale?**

Yes. If keys to the property are not otherwise available to a buyer at closing, a broker in the transaction may make arrangements to retrieve and deliver the keys to the buyer, provided that it is done so by appointment, a total of no more than two people, including the broker, are at the property or at the location of the key delivery, and those two people adhere to strict social distancing guidelines established by the CDC.

#### **Is NWMLS disabling the Key and Keybox system during the Stay Home, Stay Healthy Order?**

No. This is because certain activities are permitted, provided that strict protocols for social distancing are followed. Any in-person activity must be by appointment, a total of no more than two people, including the broker, are at the property at any one time, and those two people adhere to strict social distancing guidelines established by the CDC.

#### **Can real estate brokers input new listings in the MLS system during the Stay Home, Stay Healthy Order? What about property photos?**

Yes. Real estate brokers are permitted to input new listings into the MLS system – from their home. Real estate brokers may conduct listing presentations, take photos of the property, and create virtual tours for new listings, provided that those activities are done so by appointment, a total of no more than two people, including the broker, are at the property at any one time, and those two people adhere to strict social distancing guidelines established by the CDC. In addition, a seller may take pictures of his or

her own property and send those photos to the listing broker. Please note that professional photographers are not considered “essential,” thus all photos must be taken by the broker or seller .

**Do listing brokers need to remove Keyboxes from Active listings?**

No. Keyboxes may stay on Active listings, as previews and showings are permitted by appointment only, if a total of no more than two people, including the broker, are at the property at any one time, and those two people adhere to strict social distancing guidelines established by the CDC.

**Can Sellers take their listing temporarily off the market during the Stay Home, Stay Healthy Order?**

Yes. A seller can choose to change the status of their listing temporarily off the market. Listings in the “TOMK” status will not be displayed on member’s public websites.

**Can stagers stage homes and remove furniture from a listing during the Stay Home, Stay Healthy Order?**

No. Stagers may not stage homes or remove staged furnishings from a listing for the duration of the order.

**Can moving companies move buyers into a property and move sellers out of a property?**

No. These services are not considered essential.

**Can brokers install for-sale signs at a property during the Stay Home, Stay Healthy Order?**

Yes. Brokers are permitted to install for-sale signs, provided that the sign is installed by appointment, a total of no more than two people, including the broker, are at the property at any one time, and those two people adhere to strict social distancing guidelines established by the CDC.

As a practical matter, brokers should install a temporary sign until the order is lifted, as third party sign installers and “call before you dig” services are not considered essential.

**Can contractors make repairs associated with an inspection response during the Stay Home, Stay Healthy Order?**

Generally, no. The only repairs that are allowed are emergency repairs and repairs necessary to the structural integrity of the property. Other repairs or improvements (e.g. for cosmetic purposes) are not allowed. For anything other than emergency or structural repairs, buyers should consider negotiating a price reduction so that a buyer could complete the work after closing and after the order is lifted.

**Is NWMLS going to stop days on market and cumulative days on market from accumulating?**

No. NWMLS conducted significant research and analysis, considered the MLS system’s technical limitations and possibilities, discussed several policy concerns, and analyzed a variety of options and proposals. There are many technical and philosophical challenges with temporarily changing code, database structures, and statistical information. In the end, the Board of Directors determined that the best solution was to leave the system as it exists today.

All sellers who leave their listing Active during the stay will be in the same position as one another and days on market will continue to accrue. Buyers are obviously aware of the Stay Home, Stay Healthy Order and the government mandate to stay at home. Sellers have the option to take their listing temporarily off the market during the stay, and if they do so, days on market will not accrue, until the listing is re-activated.

**What if my buyer or seller has questions about their rights and obligations under their purchase and sale agreement or lease?**

As always, brokers have a duty to refer their clients to experts regarding matters in which the broker lacks expertise. Particularly in matters affected by COVID-19 and the Stay Home, Stay Healthy Order, it is unlikely that brokers will have expertise and should advise their clients to seek the advice of an attorney.

**How do I to stay up-to-date with matters affecting real estate brokerage and avoid being misled by false rumors?**

There are false rumors and misinformation being circulated. Many brokers have acted in reliance on bad information to their embarrassment and detriment.

Washington Realtors and NWMLS communicate daily, and often more frequently to keep members informed of any developments affecting the industry. Both Washington Relators' website and NWMLS's websites will continue to offer the latest and most accurate information possible .