

# SELLER ADVISORY

IMPORTANT INFORMATION FOR SELLERS OF REAL PROPERTY  
REGARDING COVID-19 AND ITS IMPACT ON REAL ESTATE

*(Updated May 27, 2020)*

## **IMPORTANT NOTE TO SELLERS ABOUT THIS ADVISORY**

This Advisory is not comprehensive. There may be other COVID-19 issues of concern not listed in this Advisory. Seller is responsible for making all necessary inquiries and consulting with appropriate persons or entities prior to the sale of any property. The information in this Advisory is provided with the understanding that it is not intended as legal or other professional services or advice. Seller should seek an attorney for legal advice. These materials have been prepared for general informational purposes only. The information may not be current. Seller understands and acknowledges that the COVID-19 situation is rapidly evolving and changes to market conditions and government mandates and guidance happen almost daily. If seller has any additional questions or need for advice, seller should contact a lawyer or other professional representative.

## **COVID-19 IMPACTS**

The COVID-19 crisis and the resulting response from the federal, state and local government can impact your home sale in several ways including, but not limited to those discussed below.

## **INHERENT RISKS ASSOCIATED WITH ANY ACTIVITY DURING A PANDEMIC**

Sellers should understand that conducting any activity during a pandemic that could bring other people in contact with seller, seller's family or surfaces in seller's home comes with inherent risk. Sellers should carefully consider whether to show their home given these inherent risks.

## **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, businesses have altered operations in order to slow the spread of the virus and comply with government orders and 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. These factors could impact market supply, demand and pricing. Talk to your REALTOR® about the right time to list your property in light of market conditions.

## **ALL PARTIES MUST COMPLY WITH EXECUTIVE ORDERS AND HEALTH AUTHORITY GUIDANCE**

All parties should become familiar with Governor Brown's [Executive Order 20-25](#) governing the conduct of Oregonians and Oregon businesses during the COVID-19 emergency, as well all relevant guidance from the Oregon Health Authority which is posted on the Governor's [COVID-19 website](#). The Executive Order and associated guidance require Oregonians to minimize non-essential travel and to maintain 6ft of distance between others when out in public. They also recommend that individuals wear masks when in public. These social distancing and mask protocols apply to individuals in counties that are in some phase of "re-opening" as well as those who are not. The Oregon Health Authority guidance also asks Oregonians stay home if they are sick and recommends that individuals over 60 years of age or who have underlying medical conditions should stay home even if they feel well. Oregonians are asked to cough/sneeze into their elbow, to regularly wash their hands with soap and water for at least 20 seconds (or use hand sanitizer) and to avoid touching their face. In some instances, violations of the Executive Order and guidance could result in civil or criminal penalties.

### **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, masks, 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 buyers wear face coverings
- Request certain wipe down and sanitation procedures after viewing
- 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. Sellers should review the [Oregon Health Authority guidance on face coverings](#) including accommodations required to address anti-discrimination issues.

### **OPEN HOUSES**

Open houses must comply with the Governor's Executive Orders and the Oregon Health Authority guidance. Traditional open houses will not allow for 6ft social distancing and other requirements of the Governor and Oregon Health Authority. However, modified in-person open houses that are done by appointment only, that require visitors to line up outside 6ft apart while allowing one family at a time to tour the home, or that include other variations that comply with

the Governor's and OHA's guidance would be allowed. Also, 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 protocols and technologies for open houses.

### **SHOWING PROPERTIES WITH TENANTS**

In-person showings of a property occupied by tenants during the COVID-19 crisis is a difficult issue. Ideally it can be avoided. If it cannot be avoided, sellers/landlords should review their rental contract with tenants as well as [ORS 90.322](#) which deals with landlord access to the premises. Additionally, sellers/landlords should develop, and come to a separate written agreement with their tenants around, strict procedures for showing the property that comply with all social distancing, sanitation and health and safety guidelines of the Governor, the Oregon Health Authority and the Center for Disease Control. If sellers/landlords and tenants cannot come to a mutually acceptable agreement about showings and the health and safety procedures, sellers/landlords should drop the issue or seek advice from an attorney. Also, Sellers/landlords should be aware that tenant's refusal to allow showings could result in future retaliation claims (even if not valid) against the landlord if and when the landlord takes an action that the tenant is not pleased with. For these and other reasons, it is prudent to avoid the issue of showing tenant occupied homes during COVID-19 if possible.

### **EVICTING TENANTS BECAUSE OF SALE OF HOME**

There are several bans in place on residential evictions at the state, federal and local level. Sellers who want to understand their rights and limitations with respect to evicting tenants should consult with an attorney before taking any action or issuing any notices. Failure to do so could result in significant penalties.

### **SERVICE PROVIDERS MAY BE OPERATING UNDER SPECIAL PROCEDURES OR WITH DELAYS**

Service providers that your buyers is relying on such as home inspectors and appraisers may be operating under special procedures or with delays. This may also be true of service providers that sellers are relying on including well testers, specialty inspectors or contractors who the seller is seeking bids from as part of negotiations during the inspection period. Title companies and notary services may also be operating under special procedures. Sellers should work closely with their real estate broker to understand the policies, risks and timelines associated with these various services in light of the COVID-19 crisis. Sellers should seek to understand these issues upfront before signing the sales agreement so that the parties can 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 parties are at risk of the deal inadvertently blowing-up. 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. Sellers should 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.