



June 23, 2020 Update (#155)

To: Property Managers, Brokers & Board Members
From: Charles H. Greenthal Management Corp.
Re: Recommendations for “Best Practices” for Conducting Residential Real Estate Transactions During Phase II

As we enter Phase II, the Real Estate industry is once again allowed to conduct business face-to-face, with caveats. REBNY has released a set of [guidelines and “best practices”](#) to show real estate professionals how to proceed safely while conducting residential real estate sales transactions during Phase II of New York’s reopening. It goes without saying that all participants should still engage in common sense CDC/DOH/State mandated precautions such as social distancing, use of face masks, handwashing, and sanitizing. That said, we have summarized their transaction related recommendations below, for ease of reference.

Communication

To limit and mitigate potential exposure risks, hold preliminary meetings over the phone or via videoconference prior to conducting an “in-person” showing. Agents should consider pursuing in-person showings after virtual tours have been conducted.

Virtual Tours

- Clear, high resolution photos of the unit and surrounding areas (*lobby, hallways, stairwells, amenities, building façade, various unit views, directional exposures, neighborhood attractions, link to Google Maps view, etc.*)
- Extremely specific descriptions (*finishes, ceiling height, construction values, etc.*)
- Detailed floor plan
- House rules/restrictions (*non-smoking, pet policy, etc.*)

If a pre-recorded virtual tour is not sufficient or available, then with the approval of the Seller the Seller’s Agent may enter the property with an appropriate face covering to conduct a live showing of the space (*via videoconference*) with the Buyer and/or Buyer’s Agent.

To see more information on REBNY’s Virtual Tours recommendations see [“How to Create a Virtual Tour for Listings in the RLS During Covid-19 Crisis”](#).

Limitation of Liability

Agents and Brokers must still comply with existing building and management guidelines. Agents should follow best practices and make certain that they are familiar with building protocols (*e.g. designated hours for showings, elevator usage, access to amenities, etc.*) prior to initiating a showing. The purpose of a Limitation of Liability form is to advise participants (*those entering the property*) of any potential liability associated with possible COVID-19 exposure risks. By signing the form all parties acknowledge their willingness to assume such risks while conducting in-person showings. For REBNY members, they suggest the following form be used [“Limitation of Liability” Form](#).

General Precautions

All agents and potential buyers should conduct a health screening before entering the premises. The purpose of the screening is to determine whether or not any participating party has been potentially exposed to COVID-19. REBNY provides a sample questionnaire you may opt to use, for this purpose - [“Health Screening Questionnaire”](#), or you may use the one prepared by CHG. This questionnaire must be used uniformly with all parties without any considerations that may be considered discriminatory e.g. you may not consider ethnicity, age, gender etc.

In advance of any showing, Agents or Brokers must follow [CDC](#) and state mandates by doing the following:

- Clean and disinfect all frequently touched areas and surfaces BEFORE and AFTER every appointment
- In-person showings must be done by appointment only, establish start/end times, to ensure you are able to allow appropriate time to clean/disinfect between appointments
- Have a supply of hand sanitizer, and/or hand soap and paper towels for all visitors to avail themselves upon arrival.
- Do not shake hands during in-person showings
- Any party may cancel or postpone a showing without prejudice or penalty upon any indication of COVID-19 or flu-like symptoms
- Attending parties should temperature screening prior to arriving for a showing (temp should be below 100.4)
- All participants must wear appropriate face coverings during the showing. Should either party arrive without appropriate face coverings, the appointment can be cancelled or postponed without penalty or prejudice
- When possible, Agent should open the windows to promote fresh air circulation

Open Houses

Given the challenges associated with maintaining/promoting and enforcing social distancing, open houses may still be restricted or prohibited in some buildings. If permitted, they should be conducted by appointment only, with only one party being allowed inside the property at a time. Prior to a showing, the aforementioned protocols should be followed.

Showings

Showings are allowed with limitations. They should be performed by appointment only with the Seller's agent, while following all aforementioned protocols. The Seller should not be present for in-person showings.

- Clean and disinfect all frequently touched areas and surfaces BEFORE and AFTER every appointment
- All participants must wear appropriate face coverings during the showing. Should either party arrive without appropriate face coverings, the appointment can be cancelled or postponed without penalty or prejudice
- The Buyer's Agent is encouraged to attend via videoconference or other virtual means. In person attendees should be limited the Seller's Agent, the Buyer and the Buyer's Agent attending virtually.
- If it is not possible to maintain appropriate social distancing, attendees should be limited to one person inside the property at a time.
- To mitigate exposure risks, only the Seller's Agent should open doors, cabinets etc. The Buyer and Buyer's Agent should be instructed to avoid touching anything inside the property (*with the exception of handrails and other essential surfaces*)
- If Buyer's Agent is not present, the Seller's Agent should escort the Buyer to the lobby prior to the arrival of following appointments.

Due Diligence

- Managing Agents should provide minutes, financials and offering plans electronically
- Home Inspections should be arranged between parties. Inspectors and all present should follow CDC guidelines re face coverings etc. and all inspection findings provided electronically
- Videoconferencing should be used to "meet" with clients to review financials, minutes etc.
- Contracts should be signed electronically

Pre-Closing

- Board packages used to screen potential purchasers or tenants should be distributed to Board members and managing agents electronically, eliminating person-to-person contact.
- Utilize electronic document exchange services that ensure security and efficiency (*such as Board Packager*).
- Fees should be paid via wire or e-transfer to eliminate the unnecessary exchange of checks and other documents.
- The same principle of using technology should be utilized for the purchaser's review of the Board minutes, which can also be done under confidentiality agreements.

Board Interviews

- Board interviews should occur using alternative and reliable communications systems such as FaceTime, Skype, Zoom or Google Hangout, among others, without the interview being recorded. Coordinate the preferred platform with all parties involved and schedule virtual Board interviews accordingly.

Walk-throughs

- Walk-throughs should be conducted while maintaining six feet social distance, with appropriate face coverings and with limited attendees. Attendees should be limited to one person inside the property at one time if six feet social distance cannot be maintained for all parties. Any findings or additional issues resulting from the walk-through should be discussed over the phone

Closings

There remain a few challenges associated with conducting closings during the pandemic. There are two areas that make handling things in a "virtual" manner a challenge:

- (1) Many documents (*i.e. documents that need to be recorded, such as deeds or mortgages, and co-op documents, such as stocks and leases*) must contain "wet" signatures (or original signatures); and
- (2) Residential lenders require loan documents to be signed and dated by the borrower the day of closing. Accordingly, most closings still require a certain amount of in-person contact.

Should the attorneys and appropriate parties need to close a transaction in person, the following should apply:

- A hybrid model of the "Escrow Closing" should be utilized. Documents and collateral can be delivered to the attorneys involved in the transaction or a third-party escrow company prior to the closing.
- In-person closings should be limited to only essential parties. Real estate brokers or agents, mortgage bankers, mortgage brokers, principals and family members should not attend closings.
- To the extent possible, sign as many documents as possible prior to the in-person closing
- Per current [CDC](#) guidelines, the closing room should be thoroughly cleaned and disinfected prior to and after each closing appointment. All parties must arrive wearing appropriate face coverings.
- To the extent possible, multiple rooms should be utilized so the parties can be separated at a safe distance (at least six feet).
- All parties should bring their own pens for signing documents at in-person closings.
- Wire transfers should be utilized in order to eliminate the need to obtain certified and official bank checks from banks.
- Additional precautions could include taking temperatures prior to entering the closing room and completing questionnaires concerning health issues.
- If feasible, "Audio-Visual Notarization" should be utilized.

As of 6/17/2020, this is the industry guidance for Phase II Sales and Closings. CHG will continue to monitor Government, NGO, and industry sources and provide updates as new information becomes available