

Best Practices for Conducting New Development Residential Real Estate Leasing and Sales Transactions

During the Coronavirus (COVID-19) Crisis

Based on the guidance of public health authorities including the Centers for Disease Control and Prevention and the New York State and City Health Departments, the purpose of this document is to provide recommended practices for real estate professionals conducting residential leasing and sales transactions in New Development projects. Real estate professionals are encouraged to share with clients and colleagues these industry best practices for conducting such business in NYC.



KEY PRINCIPLES

- Understand the facts:** Continue to check [CDC](#), [NYS](#) and [NYC](#) updates and guidelines.
- Social distancing:** Public health authorities have recommended maintaining at least six feet social distance as a key strategy to reduce the spread of the Coronavirus (COVID-19). Social distancing should be maintained for all in-person interactions. Meetings and events should be conducted via phone or videoconference whenever possible.
- Sanitation:** Clean and disinfect all frequently-touched objects and surfaces, per current [CDC](#) and [New York City Health Department](#) recommendations. [Click here](#) for recommended disinfectants for use against SARS-CoV-2.
- Hygiene:** Wash your hands frequently with soap and water for at least 20 seconds. If not available, use hand sanitizer with at least 60 percent alcohol as recommended by the [CDC](#).
- Wear face coverings:** Given the consistent challenge to maintain six feet social distance throughout residential real estate transactions, all parties should wear appropriate face coverings during all in-person interactions.
- Stay home:** If you, or anyone you have had close contact with in the previous 48 hours is experiencing symptoms of the Coronavirus (COVID-19) or has tested positive for COVID-19, stay home and avoid close contact with others.
- Seek help:** Call the [NYS](#) Novel Coronavirus hotline if you have questions relating to the Coronavirus (COVID-19) or suspect you have been exposed (1-888-364-3065).

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INITIAL TOUCH POINTS

In order to limit unnecessary exposure, consider holding all preliminary meetings over the phone or via video-conference prior to viewing a property. Agents could then move on to in-person showings after virtual tours have been conducted and the client shows sincere interest in the property. All necessary paperwork must be electronically reviewed and completed prior to any in-person meetings. In the event of a co-broker-represented purchaser, the co-broker must provide all paperwork to their client and return it to the sales office prior to an in-person appointment. Such paperwork includes but is not limited to registration, health questionnaire, New York State Housing and Anti-Discrimination Disclosure Form, Agency Disclosure Form, REBNY Universal New Development Brokerage Agreement (RUNDBA), or if not applicable, developer form of outside brokerage agreement, etc.



RIDER TO THE RUNDBA

The restrictions upon in-person showings and other activities, as described herein and other publications, may frustrate the fulfillment of some RUNDBA provisions. The document, [First Rider to the RUNDBA](#), addresses these provisions by allowing for virtual attendance at showings and other meetings, and registration through electronic means. Parties should utilize the Rider during this period.



PROPERTY ACCESS: VIRTUAL

Virtual Tours

Virtual tours can be effectively conducted following REBNY's recommended guidance for creating a virtual tour for listings submitted to the RLS ([see guidance for creating virtual tours](#)). Agents should wear an appropriate face covering while creating the virtual tour on-site.

Virtual tours should be accompanied by:

- Clear, high resolution photos or renderings of the unit and surrounding areas (lobby, 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 including square footage by room
- If the project is under construction, virtual tours conducted in the sales office should include all necessary protocol as set forth for in-person sales office tours

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Live Virtual Tours

If a pre-recorded virtual tour does not suffice, or does not currently exist, and with the approval of the Seller/Landlord, Agent may enter the property with an appropriate face covering to conduct a live showing of the space with the Buyer/Tenant and/or their respective Agent attending via videoconference.

Any tours given at a construction/new development site must be coordinated with the Developer and/or Construction team representative(s) and in compliance with all [New York State guidelines](#).



PROPERTY ACCESS: IN-PERSON

Limitation of Liability

Agents must always comply with respective building and management guidelines. Prior to arriving for any showing, Agents should familiarize themselves with such protocols, including but not limited to, designated hours for showings, elevator usage and access to amenity spaces, etc.

Where a REBNY member is involved with the coordination of in-person visits to a property or sales office by either vendors or consumers, a ["Limitation of Liability" Form](#) should be utilized.

The purpose of the form is to advise any party who is entering a property, or who is permitting another party to enter a property, of the potential liability that may result from exposure to the Coronavirus (COVID-19). By signing the form, such party acknowledges and assumes the risks associated with conducting property visits in-person, including potential exposure to the Coronavirus (COVID-19) and the consequences that may result from such exposure.

A REBNY member who is involved with the coordination of in-person property visits should provide the Form to the parties who will be involved in such visits, including a signed copy of their own, assuming the same risk for entering the property. The form should be used for in-person visits to both residential and commercial properties.

General Precautions for Showings

A health screening should be required of all Agents and Consumers attending in-person showings using this [Health Screening Questionnaire](#) which determines whether such person has:

- a. knowingly been in close or proximate contact in the past 14 days with anyone who has tested positive for COVID-19 or who has or had symptoms of COVID-19
- b. tested positive for COVID-19 in the past 14 days, or
- c. experienced any [symptoms of COVID-19](#) in the past 14 days

Should an Agent or Broker choose to implement this precaution, they **must** practice it uniformly for **all** in-person interactions in order to remain compliant with Fair Housing rules and regulations. Each person must be presented with, and answer, the questions set forth in the questionnaire. If someone refuses to answer the questions, or answers the questions affirmatively, then such person will not be permitted to attend the showing or enter a sales office.

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Should an Agent proceed with an in-person showing, the following general protocol should be implemented, only after the Agent has discussed precautions and a safety action plan with the Buyer/Tenant and Seller/Landlord. Showings and open houses will only be allowed in unoccupied or vacant properties. As per current [State law](#), Sellers/Tenants cannot be inside the property during in-person showings.

The following protocol supports the limitation of attendees only when six feet social distance is not possible for all attendees at all times. Therefore, certain parties may need to schedule additional showings if all parties are not able to attend a showing at one time. In this case, **the listing agent must ensure in-person representation by all agents involved in the transaction and arrange staggered appointments accordingly. The Seller/Landlord's Agent should always do their best to help facilitate the presence of both the Buyer/Tenant and the Buyer/Tenant's Agent at all in-person showings.** This includes scheduling private showings or group showings with a limited number of people if the space allows for six feet of social distance among all individuals.

- Agents must default to building guidelines as they pertain to capacity limitations and social distancing parameters (within elevators, common areas, etc.).
- Per current [CDC](#) guidelines, Seller/Landlord's Agent must clean and disinfect all frequently touched areas and surfaces in the property before and after every appointment.
- Agents should establish with Buyers/Tenants and/or their respective Agent ahead of time that appointment start and end times are finite in order to allow for appropriate time to clean and disinfect the property in between appointments.
- Only Principal Buyers should attend initial showings. Small children and extraneous guests should not attend. Follow up appointments can be made if necessary.
- Seller/Landlord's Agent must provide alcohol-based hand sanitizer, and/or hand soap and paper towels to all visitors upon arrival.
- Only the Seller/Landlord's Agent opens doors, cabinets, etc. Buyer/Tenant may be asked not to touch anything inside the property at any time (with the exception of essential surfaces such as handrails, etc.).
- Any party may cancel or postpone a showing without prejudice or penalty upon any indication of [Coronavirus \(COVID-19\)](#), cold or flu-like symptoms.
- Attending parties should check their temperatures at home to ensure it is below 100.4 F prior to arriving for a showing.
- All parties must wear appropriate face coverings during a showing. Should either party arrive without an appropriate face covering, any party may cancel or postpone the appointment without prejudice or penalty.
- When possible, Seller/Landlord's Agent should open unit windows to introduce fresh, outside air. The addition of a portable air purification system(s) may also be advised, especially in settings with limited fresh air circulation.
- Do not shake hands during in-person interactions.
- All requirements above should also apply to construction sites, model units/showrooms and sales offices.

Open Houses

Restricted: Given the consistent challenge to maintain six feet social distance throughout residential real estate transactions, traditional open houses may not be permitted in most buildings. If permitted, open houses should be conducted by appointment only, with one potential Buyer/Lessee party inside the property at a time. Prior to advertising any appointment-based open house, Agents should review and confirm designated protocol as established by the building for such interactions. Appointment-based open houses should not be conducted if maintenance of appropriate social distance of six feet is not possible for all parties at all times. See guidance for Virtual Tours above.

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Showings & Sales Offices

Limited: Showings shall be performed only by Seller/Landlord's Agent while maintaining at least six feet social distance, after having discussed precautions and a safety action plan with the Seller/Landlord. Showings should be held by appointment only.

- All parties attending a showing or visiting a sales office must wear appropriate face coverings for the duration of the visit. This expectation must be established ahead of time via email agreement. Should any party arrive without a face covering, or upon any indication of fever or other illness, either party may cancel or postpone the appointment without prejudice or penalty.
- Limit in-person attendees to a capacity which allows for six feet social distance for all parties at all times.
- If six feet social distance cannot be maintained for all parties, attendees should be limited to one person inside the property at one time.
- If showing in an on-site sales office in a residential building, Seller/Landlord's Agent should escort Buyer/Tenant to lobby prior to arrival of following appointment.
- Following current [CDC](#) guidelines, Seller/Landlord's Agent must clean and disinfect all frequently touched areas and surfaces inside the property upon the conclusion of each appointment.



DUE DILIGENCE

- Offering plans should be made available via electronic means. If applicable, co-op and condo managing agents should provide minutes, financials, etc. via electronic means as well.
- Videoconferencing should be utilized to "meet" with clients in order to explain documents.
- Contracts should be signed electronically.
- If requested by a Buyer, home inspections (by engineers, home inspectors, etc.) and appraisals should be arranged between the parties, limiting attendees to the inspector and the Seller's Agent. All parties should arrive wearing appropriate face coverings, and all findings should be shared electronically. Parties requesting to attend (who are not required) may join the inspection virtually.



PRE-CLOSING

Walk-throughs

Walk-throughs should be conducted while maintaining six feet social distance, with appropriate face coverings and with limited attendees, namely (1) Sponsor's representative and the Buyer (1-2 people) or Buyer's representative under a Power of Attorney. Agents should not attend walk-throughs. 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 or from a safe distance in an open area. If necessary, consider conducting walk-throughs virtually where possible.

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LEASE SIGNING

To the extent possible, there should be universal adoption of electronic lease preparation in order to support validity of electronic signatures and limit unnecessary exposure at in-person lease signings. Supporting software includes DocuSign, SignX, Adobe EchoSign, and various other comparable platforms.

- If a lease signing must be done in-person, the Agent/Landlord preparing the lease should email or electronically post a draft lease for the Tenant to review prior to the signing appointment. Any comments or discussions regarding the content of the lease should be exchanged and resolved via phone or videoconference prior to in-person signing appointments.
- In-person signing appointments should also utilize large open areas, conference rooms, etc. to maintain at least six feet social distance at all times.
- In-person signing appointments should be limited to as few attendees as possible, maintaining at least six feet social distance at all times, with options for virtual attendance if applicable.
- If maintaining six feet social distance is not possible, Tenant should be permitted to walk through alone, documenting needs and concerns.
- All parties must wear appropriate face coverings during any in-person meetings occurring as part of the lease signing. This expectation must be established ahead of time via email agreement. Should any party arrive without an appropriate face covering, or upon any indication of [Coronavirus \(COVID-19\)](#), cold or flu-like symptoms, any party may reschedule the appointment without prejudice or penalty.
- When possible, funds should be transferred electronically upon lease signing.
- Hand-to-hand exchanges of funds should utilize envelopes or other containers of the recipients' choosing.
- Keys to the unit must be thoroughly sanitized with [EPA-approved spray disinfectant or wipes](#) prior to submitting to Agent/Tenant.



CLOSINGS

There are and will continue to be challenges when conducting closings within the current Coronavirus (COVID-19) environment. While closings are occurring, it is important to note two key issues which limit the ability to conduct closings in a more “virtual” manner. Specifically: (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.

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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, as many documents that can be signed prior to the in-person closing should be.
- 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.

At a time of unprecedented uncertainty, it is our civic responsibility to ensure that the industry take every measure possible to protect the health of our community by conducting business in line with the recommendations of public health authorities. For this reason, we urge our members to continue to leverage technology wherever possible to minimize health risks of our fellow New Yorkers.

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