



A guide to Risk Management and Best Practices during
the State of Emergency in New Brunswick



DURING A PANDEMIC, WHAT REAL ESTATE SERVICES ARE CONSIDERED ESSENTIAL?



Disclaimer:

Please note that any instructions for best practices relating to Covid-19 could change based on updates from the Provincial/Federal Government and Public Health Authorities.

DURING A PANDEMIC, WHAT REAL ESTATE SERVICES ARE CONSIDERED ESSENTIAL?

The following is New Brunswick Real Estate Association's (NBREA) internal analysis, in the interest of the health and safety of all concerned, of essential residential real estate services examining residential real estate transactions in NB during a State of Emergency.

NBREA has identified 5 different areas of interaction for real estate:

1. Homes/Properties with a Pending Sale with Conditions to be Satisfied
2. Homes/Properties with Firm Sale Not Yet Closed
3. Sellers with Homes/Properties for Sale
4. Buyers Looking for Homes
5. Sellers Wanting to List Home/Property

Areas # 1 and # 2 above are deemed **essential** and require some minimal interaction. (Examples: Inspection for a condition and final walk-through for a closing).

Areas # 3 - 5 are non-essential (with exceptions), but the tasks should be done by use of virtual tools with the REALTOR®, the Seller and the Buyer working together using the technology available to list and show properties and write offers electronically.

Virtual Tools and Real Estate

It is NBREA's position that, wherever possible, virtual tools should replace face-to-face real estate interactions.

It is important to understand that many of the tasks in Areas # 1 and # 2 may be accomplished entirely virtually and that a variety of virtual and other tools currently available to members are available to facilitate Areas # 3 - # 5. CREA is currently working to provide members with a variety of additional tools. Although video calls and video recording technology are not a fully equivalent substitute for personally seeing a property, this technology is still capable of providing much-needed valuable information. It is possible for the REALTOR® to use these tools and apps to build an entirely virtual presentation of the property. REALTORS® can create pictures, flyers, online brochures, video walk-throughs, informational videos, and possibly even 3D diagrams.

All this information is accessible remotely and, if clients require further information, the REALTOR® may use a variety of tools and means to obtain those details.

A variety of e-signature applications are available for writing offers. Many of these tools are directly incorporated into WEBForms®, which allows all parties to seamlessly initial and sign documents electronically and remotely.

Disclaimer: Please note that any instructions for best practices related to Covid-19 could change based on updates from the Provincial/Federal Government and Public Health Authorities. Each real estate transaction is unique, and individuals involved in a transaction should also rely on guidance from their respective company and legal/public health advice whenever possible.

OVERVIEW

1. Homes/Properties with a Pending Sale with Conditions to be Satisfied



Once an offer has been accepted in order to meet conditions, homes inspectors and other individuals need to physically enter home to complete inspections, water tests, WETT certified inspections. Best practices recommendations have been made for our members to ensure these individuals are taking precautions when they enter the home.

- These are **essential transactions** – Buyers and Sellers are under contract, subject to conditions being satisfied.
- Most of these conditions can be satisfied virtually (up to 95%). All conditions except for inspection can be satisfied electronically without visiting the property.
- NBREA has provided all REALTORS® with an information piece and video on the best practices for home inspections and COVID-19 risk reduction strategies.
- Issues with COVID-19 safety protocols – inspection can be delayed up to 14 days so long as it does not interfere with closing date.

DETAILED INFORMATION

1. Homes/Properties with a Pending Sale with Conditions to be Satisfied



This information can be shared by our members with any person who may be doing an inspection of a property. This could include general home inspectors, specific inspectors (ie. chimney, woodstove, pool, etc.) and tradespeople (roofer, electrician, plumber, contractor). The qualifying questions suggested below for inspectors to ask of the clients can also be used by the REALTORS® when talking to the inspectors.

Most of the conditions in the Agreement of Purchase and Sale can be fulfilled without visiting the property except for the inspection condition. Buyers can opt to not do an inspection, have it inspected themselves or have it inspected by tradespeople or an inspector.

To minimize any risk for exposure to Covid-19 for the clients and the inspectors there are some best practices that can be put in to place **if** an inspection is a requirement of the transaction.

1) Face-to-Face Meetings are NOT Recommended

- a. The Buyer does not meet the inspector at the home for a walk-through
- b. The Seller vacates the property during inspections
- c. The Seller is asked the following questions in advance of the inspection
 - i. Has anyone residing at the home to be inspected travelled out of the province in the past 14 days?
 - ii. Has anyone residing in the home to be inspected experienced any flu or cold like symptoms?
- d. If the Seller answers Yes to either question, you should consider cancelling or rescheduling the inspection past the 14-day quarantine period.

2) Inspection Process

- a. Inspectors should inspect homes wearing disposable gloves
- b. Inspectors can bring their own hand sanitizer and hand soap dispensers
- c. Gloves to be disposed after leaving the property

3) Inspection Recap Meeting

- a. Inspection report e-mailed to the client
- b. Inspector can offer phone or video inspection recap meeting with client
- c. REALTOR® may also be included in the call.

OVERVIEW

2. Homes/Properties with Firm Sale Not Yet Closed



The pre-closing inspection is the last step for the REALTOR® and their Buyer client to complete prior to closing. We have put together a list of best practices to accomplish the pre-closing inspection. Additionally, the Law Society has shared with us their “Guidance and Support for Lawyers” FAQ recently developed to address dealing with witnessing signatures for those legal documents that require the original to be signed and witnessed in person.

- These are **essential transactions** – logistically, sellers may have already moved, buyers may have already sold their previous houses or given notice for rentals.
- REALTORS® must respect best practices for social distancing in accessing the property and/or obtaining a key for the buyer.
- Lawyers now have the ability to witness signatures for affidavit documents by video call, or they may institute best practices for social distancing for face-to-face contact.
- NBREA has prepared a member information piece and video on how to safely conduct pre-closing inspections along with recommendations from lawyers on signing documents.

DETAILED INFORMATION

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The pre-closing inspection is the last condition to be fulfilled on most contracts. It needs to be completed in-person to confirm that the property is in the same state of repair as last viewed and that the items that were requested to remain are still on the property. The REALTOR® often assists the Buyers with ensuring everything that was negotiated is there and that all appliances and other fixtures are working normally. Due to the COVID-19 pandemic, there are a few additional factors to consider prior to entering the property for the safety of the new owner:

- Who was in the home to assist with this move?
- When were movers there?
- Did the owners have cleaners in the home?
- Did a contractor come to complete items in the home prior to closing?

Members are encouraged to ask the Sellers the questions above and determine the last time the owners or other individuals were in the property. Although it is not always logistically or financially possible, a minimum 4-day gap between occupancy and pre-close inspection is recommended by NBREA’s Commercial General Liability Insurance Provider, Toole Peet. With a large number of pending closings around the province, this pre-closing inspection recommendation poses the most challenge for our REALTORS® and their clients, but it is the best practice.

Pre-Closing Inspection

The REALTOR® should exercise best practices when conducting the pre-closing inspection. The following are suggestions on how best to accomplish the final walk-through with little to no contact:

- In advance of the pre-closing inspection, e-mail your clients a copy of the contract and a to-do list of things to check on their walk through (test appliances, water, heat, confirm chattels and fixtures, etc).
- The REALTOR® should arrive before the client and remove the key from keybox and unlock the door.
- Wear gloves and use hand sanitizer or wipes to provide a clean surface for any contact areas.
- If the Seller has not done it already, go through and open any doors and turn on lights to minimize/eliminate the buyer's contact with any handles or switches.
- Meet the client at the property and respect the social distancing recommendations.
- Instruct the buyer that the property is vacant, and the door is unlocked.
- Wait outside (in car) while the buyer conducts the pre-closing inspection using the to-do list provided.
- If everything is acceptable, advise the buyers to contact their lawyer to proceed with the closing.
- If there are issues, address them with the appropriate people (lawyer, seller's agent, seller, etc) and have any adjustments handled as normal.
- When the buyers leave, turn off lights, lock the door and return the key to the keybox.
- The keybox and key can be picked up by Listing Agent at later date using the same best practice suggestions.

Closing Day at the Lawyer's Office

There are two things that take place on closing or just prior to closing that have traditionally required the clients to visit their lawyer: signing the documents and the transfer of funds.

Signing Documents

Signing documents that must be witnessed by the lawyer can be accomplished in two different ways. The method the lawyer chooses will determine the preparation needed:

- Documents can be e-mailed to the client in advance to allow the client to review.
- The lawyer and client can discuss documents to be signed over the phone or by video call.

NO CONTACT	MINIMAL CONTACT
Through video call, lawyer can witness client signing the documents	Client comes to office with instructions to enter a cleaned client room or sectioned off area.
Documents can be scanned/e-mailed with original to follow	Client signs the required documents, witnessed by lawyer through window or at a distance.
Lawyer can witness the e-mailed copy and original once received.	Client leaves, lawyer collects documents and can witness the original document
Original documents can be couriered back to lawyer	Room and contact services cleaned prior to next client appointment

Transfer of Funds for the Buyer

For the buyer, purchase funds (down payment, closing costs, etc.) from clients are typically paid by bank draft, but these funds can also be paid by certified cheque or wired from the bank. The mortgage lender funds typically come in via wire and occasionally by bank draft.

The total purchase funds going to the seller's lawyer are either direct deposited into their trust account or, if in person, by a trust cheque given to the lawyer. With social distancing protocols, the new recommended procedure is that lawyers will wire funds as much as possible to avoid face-to-face interaction with banks, couriers, and clients.

Transfer of Funds for the Seller

Disbursement of funds on sales are traditionally done via trust cheque, with the mortgage payout funds going directly to the bank involved, if it is local, or by courier to the bank or lender.

Real Estate Agent commission cheques are often mailed or if local, picked up by the REALTOR®.

Water/sewer tax payments are paid by cheque and typically mailed or hand delivered.

Property tax payments are paid by cheque and typically mailed or hand delivered.

For the remaining funds going to the seller client, the lawyer can deposit the funds into the client account or mail them a cheque.

New recommended social distancing procedures would be to wire as many of these transactions as possible to avoid face-to-face interaction with banks, REALTORS®, SNB service centres, couriers and clients.

In any situation where the REALTORS® or their clients must interact with the lawyer, all parties should follow recommended social distancing best practices.

OVERVIEW

3. Sellers with Homes/Properties for Sale



The Seller has every right to refuse showings for a variety of reasons. The Sellers may feel they are a risk to potential buyers, or they may feel that the buyers and the REALTOR® may pose a risk. Social distancing includes not inviting people into your home. We will examine creative ways the seller and their REALTOR® can continue to market the property and showcase the property virtually.

- These transactions may be deemed essential or non-essential **depending on individual circumstances.**
- Examples of situations in which seller may be urgently required to list his or her home for sale:
 - Divorce – property must be listed for sale as per a court order.
 - Death in family and estate sale in progress.
 - Job Transfer / loss of job.
 - Foreclosure / Bankruptcy pending.

DETAILED INFORMATION

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If the home was already listed, there may already exist photos of the home and possibly other multi-media products showcasing the home's features. However, these may not be enough to help the Seller market their property virtually to a buyer. The Seller and the REALTOR® can work together to obtain more photos and videos to assist buyers in their property search. The Seller may be asked to take photos or small videos of areas not already identified on the listing and send those to their listing REALTOR®.

Additionally, a floor diagram (2D or 3D) would provide a sense of the layout of the home and there are many free and paid apps that can assist the REALTOR® with providing this extra resource.

Further to that, virtual open houses or virtual showings can be scheduled and can now be hosted on REALTOR.ca through livestreaming platforms supported by REALTOR.ca, including FaceBook Live and Instagram Live. All the REALTOR® needs to do is visit [REALTOR.ca/golive](https://www.realtor.ca/golive) and enter the details for each of their live streams on each of their listings. Visitors will be able to add the event to their calendar and can then scroll through all available live streams for this listing. The Seller may be the one hosting the actual live stream of the showing so that the REALTOR® can maintain social distancing and stay away from the property.

In addition to livestreaming events, REALTOR.ca continues to support 10 virtual tour and video services, including:

- Matterport
- iStaging
- iGUIDE
- Realvision
- Imagemaker360
- YouTube
- immoviewer
- Property Panorama
- Vimeo
- ListSimple

Through technologies like live streaming, virtual tours, 3D photography and video, REALTORS® can help their Sellers showcase their listing on REALTOR.ca

OVERVIEW

4. Buyers Looking for Homes



This is for buyers currently looking for homes and have not yet written an offer. This is an easier one to put on hold to protect buyers, sellers and REALTORS®. However, showings can be done virtually with a variety of tools. We will explore these options to respect the no face-to-face recommendation and be compliant with the governments directive to stay at home unless it is essential. If the buyer proceeds to the offer stage, a recommendation would be to have longer closing date and even a potential condition to allow for a safe viewing prior to closing.

- These transactions may be **non-essential except under specific individual circumstances.**
- Examples of situations in which a buyer may be urgently in search of a home to purchase can include:
 - The buyer has sold his or her own house and needs to buy another one.
 - The buyer has been transferred to different city.
 - Life circumstances - divorce, separation, death, change in income.

DETAILED INFORMATION

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Showing Process

The Buyer, with the assistance of the REALTOR®, can explore homes on REALTOR.ca and receive information from the MLS® System. Homes that are of interest can be viewed virtually through the tools available to REALTORS® to showcase the property. If, after reviewing the media available, the Buyer needs more information, the Buyer's REALTOR® can ask the Seller's REALTOR® for additional photos or videos of the parts of the home not yet viewed (e.g. utility room, unfinished space, closets, etc)

As outlined in the previous section, livestreamed viewings can also be scheduled using FaceBook Live, Instagram Live, Zoom, Skype, FaceTime, Google video messenger, etc.

Writing the Offer

Many REALTORS® are already using e-signature applications to write offers and get documents signed by the parties in a transaction. Many of these tools are directly incorporated into WEBForms®, which allows all parties to seamlessly initial and sign documents electronically and remotely.

Consideration should be given for the various timeframes required for conditions in an Agreement of Purchase and Sale. This will depend on the availability of the professionals involved (building inspectors, mortgage brokers, etc.). It is recommended that the REALTOR® contact the professionals involved before writing the offer to discuss options, availability and recommended time frames. It is advisable to allow for longer time periods for the fulfillment of conditions. If these deadlines must be extended even further, the extension can be accomplished by use of the Amendment to the Agreement of Purchase and Sale. This would include the recommendation to have a longer closing date.

If necessary, writing the offer with a condition that an in-person viewing takes place at a future date is also another way to provide the buyer with some security that they can visit the property prior to closing, provided that all precautions are taken and social distancing best practices continue to be followed.

OVERVIEW

5. Sellers Wanting to List Home/Property



There are some virtual solutions to allow a seller to put their home or property on the market. Preparing a home for a listing in this environment means that it is already taking into consideration the current Covid-19 situation and how a potential buyer could view the property virtually.

- Homes and Properties not currently on the market that sellers wish to list for sale may be considered **non-essential transactions.** These are sellers who WANT to enter the market.
- If a seller NEEDS to list their home for sale, that is different **(See #3 above)**
- Listing properties may be accomplished without entering the home using many of the virtual tools available.

DETAILED INFORMATION

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Homes and Properties not currently on the market that sellers wish to list for sale may be considered **non-essential transactions**. However, if circumstances dictate that a seller must list his or her home for sale, this may be accomplished without entering the home using many of the virtual tools available.

Completing the Comparative Market Analysis (CMA)

The REALTOR® can do a detailed interview with the Seller about the features and updates of the home as well as any considerations that may impact the market value (e.g. old roof shingles, older flooring, fixtures, kitchen, areas in disrepair, etc).

The REALTOR® can also ask for the seller to provide photos/videos of the home's rooms and features in the preparation of the CMA along with a historical search on the MLS® System if the property had been previously listed.

Measuring the Home

To avoid face-to-face interaction, the REALTOR® can ask the Seller to provide dimensions of the rooms and provide a disclaimer in the listing write-up that the measurements have not been verified by the REALTOR® at the time of the listing. A less marketable option is exclude room dimensions, since they are not mandatory fields; however, this makes it more difficult for the Buyer, who is unable to visit the property, to completely rely on virtual information provided with the MLS® property information sheet.

Marketing the Property

As outlined in detail in section 3, the property can be marketed using a combination of photos, floor diagrams, videos, livestream showings, 3D modeling to provide the buyer with the best possible virtual showing of the property.

The seller and REALTOR®, working together, can put these items together and showcase them on the local board's MLS® system and on REALTOR.ca.