



## **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

We are planning a series of informational videos to accompany these guides to address each of these areas with the knowledge and information available to us at the present time.

**Please note that these instructions for best practices could change based on updates from the Provincial/Federal Government and Public Health Authorities.**

This informational piece deals with area # 2 – Homes/Properties with Firm Sale Not Yet Closed and focuses on the pre-closing inspection.

### **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.

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.

<b>NO CONTACT</b>	<b>MINIMAL CONTACT</b>
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.

