

## Colorado Real Estate Essential Services A Timeline from CAR

As the COVID-19 pandemic took hold in countries across the globe, including the United States, the state of Colorado began implementing a wide range of preventive measures to help reduce the spread of the virus in our state.

Here is a brief timeline of the state of Colorado's mandates and executive orders that impacted the residential real estate industry and the various efforts and outcomes resulting from the lobbying and communications efforts by the Colorado Association of REALTORS® on behalf of its 26,000 members.

- **March 19, 2020** - CAR and other industry stakeholders sent a letter to Colorado's Secretary of State requesting an Executive Order to allow for the use of remote notarization technology to waive the "personal appearance" requirement to remotely complete real estate notarizations. Government Affairs is simultaneously working to pass more permanent legislation when the legislature reconvenes.
- **March 22, 2020** – In anticipation of a statewide stay-at-home order, CAR sent a letter to Governor Polis asking that he acknowledge the importance of the real estate industry in the basic economic health of our economy and to accept a request that any "shelter in place" order include an exception that provides, in substance: "Essential services related to real estate transactions include, but are not limited to, title searches, appraisals, permitting, inspections, construction, moving, and the recordation, legal, financial and other services necessary to complete a transfer of real property." [Read the full letter here.](#)
- **March 24, 2020** – CAR was successful in working with the Colorado Bar Association in the creation of an approved addendum to the Commission-approved Contract to Buy and Sell Real Estate to address the practical implications of Covid-19. The Emergency Covid-19 Contract Addendum addresses real estate transactions that are impacted and/or delayed by shutdowns of title offices, government agencies, lenders and/or appraisers; and real estate transactions that are impacted and/or delayed by mandatory or voluntary quarantines.
- **March 25, 2020** – Colorado Governor Jared Polis issued a "Stay at Home" order. In the Governor's original order, "real estate transactions" were not included in the category of Essential Services in any manner.
- **March 26, 2020** – Within 24 hours, CAR was successful in obtaining an Amendment to the "Stay at Home" order including "real estate transactions" as a "Critical Business." From CAR's perspective, the definition of a "real estate transaction" included RESPONSIBLY performing brokerage activities from formal client engagement through closing/possession.
- **March 30, 2020** – CAR signs onto [stakeholder letter](#) to Governor Jared Polis that requests emergency mortgage assistance for households making up to 80% of the area median income (AMI). The current Executive Order defines low-income households as under 50% of the AMI. HUD's definition of low-income household is 80% AMI. The letter requests that the Executive

Order be amended to align with the HUD definition and ensure Colorado's vital workforce that are experiencing loss of income due to COVID-19 can maintain their homes.

- **March 31, 2020** – a real estate agent in the Denver area received a cease and desist letter from the Attorney General's office stating that "showings" were specifically NOT a part of a "real estate transaction." The issue sparked a variety of news stories.
- **March 31, 2020** – CAR formally reached out to the AG's office to argue that their interpretation that a "showing" is NOT part of a real estate transaction was unrealistically narrow. The AG's office disagreed. During the Real Estate Commission meeting's public comment section that morning, in response to the PUBLIC COMMENT OF OTHERS, the AG went even further to indicate that "inspections and walk-throughs" (including ANY in-person activities other than actually attending a closing, were precluded under the Order). CAR immediately and publicly went on record to disagree with the Deputy AG's expansive interpretation and requested that they (or the Governor's office) provide explicit clarity to the Order.
- **April 1 – 5, 2020** – Since the AGs limited public interpretation at the Commission meeting on March 31, CAR and its leadership, lobbyists & Government Affairs team continued to work to obtain a reasonable, practical interpretation of the Order from both the AG's office and/or the Governor's office.
- **April 6, 2020** – In an effort to protect Colorado REALTORS® from fines or other enforcement, CAR sent out an email to our entire membership to communicate the Attorney General's conclusion that only real estate transactions that actually transfer real property ownership (closings) are permissible and even they must comply with the Social Distancing Requirements set forth in the Health Order.
- **April 8, 2020** - CAR worked with partners in the real estate industry to send a [stakeholder letter](#) to the Governor's office respectfully requesting that real estate related services be clarified to include any critical aspect of the real estate transaction such as property inspection, final walkthroughs and showings if they can be done with virtual technology that would not violate the social distancing precautions under the shelter in place requirements.
- **April 9, 2020** – As a direct result of CAR's working relationship with the Governor, the Attorney General's Office, the Division of Real Estate, and the Division of Regulatory Agencies (DORA), DORA issued updated guidance to all licensees. In this update, it clarified that real estate appraisals, closings, home inspections and final walkthroughs *are* considered critical services to complete real estate transactions. However, the Attorney General again asserted that showing a property or conducting an open house in-person during the COVID-19 pandemic shall be avoided as it violates the specific mandates of recently issued executive and public health orders. CAR continues to communicate to state agencies that such an interpretation was incredibly narrow as it precluded brokers from entering properties to allow for photos or other means necessary to create virtual tours.
- **April 10 – 20, 2020**- CAR continues conversations with government entities and stakeholders about the essential nature of real estate and impact the Order is having on consumers, REALTORS® and overall industry. Discussions revolve around amending the current order to

allow reasonable restrictions on real estate transactions, as well as advising on steps that should be included in any plan designed to open up business functions as the Governor acts to lift the Shelter in Place Order.

- **April 21, 2020** – Following Gov. Polis’ announcement to transition from Stay at Home guidelines to Safer at Home guidelines, including the loosening of some business and social activity restrictions beginning April 27, CAR proactively submitted recommendations to clarify essential real estate buying, selling and leasing activities and facilitate the appropriate and much needed opening of a pipeline of new real estate transactions to serve the demand and needs of a wide range of consumers, including those in delicate situations as a result of financial impacts, employment changes, family dynamic, and more.

The request, submitted to Gov. Polis, the Attorney General’s office, DORA, and the Division of Real Estate, recommended real estate Business Services, at a minimum, include the following activities:

- Scheduled listing appointments with prospective buyers, sellers, landlords or tenants where virtual meetings are not feasible.
  - Placement of lockboxes and signage on property.
  - Furniture staging and real estate still and virtual photography by licensees or professional photographers.
  - Private, scheduled showings with no more than 3 people present in-home at any one time.
- **April 23, 2020** – CAR signs [stakeholder letter](#) submitted to Gov. Polis respectfully requesting a 90-day extension of Executive Order D 2020-019, Ordering the Temporary Suspension of the Personal Appearance Requirement for Notarization due to the Presence of COVID-19. The real estate industry was very thankful for the issuance of the original Executive Order and believes an extension is necessary to honor the recent Safer-At-Home directives from Governor Polis. Additionally, the letter asked for the same 90-day extension of the Emergency Rules promulgated by Secretary of State Griswold upon Governor Polis’s extension of Executive Order D 2020-019.
  - **April 24, 2020** – As requested by Governor Polis and the Chairs of the Colorado Emergency Council for Economic Stabilization and Growth, CAR submits a set of [Recovery Task Force Ideas](#) for consideration by its members. The mission of the Task Force is to advance smart policymaking right now that can make a meaningful impact on the ability for businesses to bounce back from a major disruption like COVID-19. CAR’s seven “big ideas” include Rent to Own Sweat Equity, Creative Use of Commercial Space, Homebuyer Payment/Savings Accounts, Rental Extensions, Federal Government Support of Mortgage Servicers, a State Fund to Distribute Rental Payments, and Tax Credit Co-Ops.
  - **April 27, 2020** – On the heels of the rollout of Gov. Polis’ [Safer at Home policy](#) guidelines and additional guidance for real estate showings ([see the full Public Health Order 20-28](#)), a large number of members continued to seek clarity on acceptable business activities given that some counties have opted to extend their stay-at-home orders that may impact the ability to provide showings. CAR proactively shared communications with members and Association Executives encouraging every REALTOR® to become familiar with the restrictions within their individual local/county executive orders and what it means for local real estate business.

CAR will continue to monitor and communicate about changes and/or additions to the executive orders in our state however, direct advocacy at the county/municipal level is best managed by local associations in their respective jurisdictions.

**April 28, 2020** – CAR and industry stakeholders were successful in getting remote notarization emergency rules extended until May 30. These rules enable Coloradans to have access to notary services without in-person contact.

**May 4, 2020** - CAR signs onto stakeholder letter to Governor Polis and members of the Joint Budget Committee requesting housing as eligible use of Coronavirus Relief Funds. The [stakeholder letter](#) requests that \$2.1M (or 33%) of the State's discretionary CDBG allocation be used to ensure that low-income Coloradans remain stably housed in order to attend to the health and economic recovery of their household. In addition, the group recommends that the State consider dedicating 10% (\$160M) of its Coronavirus Relief Fund, in collaboration with local jurisdictions, to ensure that their local & federal funds in combination with Coronavirus Relief Fund and other State sources address a housing needs assistance gap of \$291.8M.

**May 8, 2020** – The Division of Real Estate distributed [Safer-at-Home FAQs](#) to licensees statewide, which is guidance specific to real estate on navigating Safer at Home. CAR had the opportunity to participate in the development of this document by sharing the specific questions and issues Colorado REALTORS® are having while navigating orders specific to the pandemic.