

Frequently Asked Questions regarding Industry Guidance

Are brokers and agents legally permitted to show properties?

Yes. However, according to the Industry Guidance, showings should be done virtually, whenever possible.

Is the Industry Guidance incorporated into C.A.R.'s Best Practices Guidelines?

Yes. For most rules and protocols the Best Practices has adhered fairly strictly to the language of the guidance. This was done intentionally so as to not burden agents and brokers with responsibilities beyond what is legally mandated. However, doing this has also had the effect of maintaining in some places the same ambiguities as in the industry guidance.

The Industry Guidance requires a brokerage to adopt a COVID-19 Prevention Plan. Does C.A.R. have a sample prevention plan available?

Yes. The entire "Best Practices Guidelines/Prevention Plan for Showings" doubles as a prevention plan. At the end of the best practices is a signature spot for the broker or office manager to sign to formally adopt the Best Practices Guidelines as a COVID-19 Prevention Plan.

Do the agents in the office have to agree to the prevention plan as well?

Yes. All agents in the office must follow the prevention plan.

Does the PEAD-V form have to be signed in advance of entering the property? I thought the PEAD form was optional.

Yes. The PEAD form was previously optional. But now the Industry Guidance requires all persons entering the property to 1) comply with the Posted Rules of Entry as a condition of entry, and 2) agree to the prevention plan. So, in signing the PEAD-V, visitors are at the same time agreeing to these two sets of rules – which is required.

Does any other document need to be signed in advance by a person entering the property?

No.

Who must sign the PEAD-V?

Every person entering the property including clients, appraisers, inspectors, stagers, contractors, repairmen and even buyer's agents.

Does the PEAD-V have to be signed electronically?

Yes. Another Industry Guidance rule is that all information must be delivered electronically. Further, agents must discontinue providing handouts or other types of promotional or informational materials. So, the PEAD-V must be signed electronically.

What are other purposes of the PEAD-V?

In addition to obtaining the agreement to follow the Posted Rules for Entry and the prevention plan, the visitor assumes the risk of entering the property and the visitor attests they are not, to the best of their knowledge, afflicted with COVID-19, among other things.

Does the Prevention Plan have to be agreed to by all persons who enter the property?

Yes. Both the prevention plan the Posted Rules for Entry have to be agreed to.

Does the prevention plan have to be signed by everyone entering the property?

No. Only one document -- the PEAD-V form -- needs to be signed since it includes an agreement to follow both the Posted Rules for Entry and the prevention plan (which is linked on the PEAD-V form).

Do the rules of entry have to be posted?

Yes. Use C.A.R.'s "Posted Rules for Entry." They must be posted at the entrance and be clearly visible.

Who is responsible for posting the rules for entry?

It's the listing agent's responsibility to make sure that the rules for entry are posted.

Should the Posted Rules for Entry be displayed online?

Yes. These rules or a link to the rules should be part of online public and MLS listings.

Does the checklist have to be posted?

No. The checklist only needs to be posted in your workplace.

Can I hold an open house?

Yes and no. The Industry Guidance states: "Discontinue holding open houses and showings open to the general public on a walk-in basis; use an appointment or digital sign-in process to control the number of people in the house or property." This exact language was adopted by the Best Practices. A careful reading seems to allow the holding of "open houses" by an appointment or digital sign-in process. But this begs the question: What exactly constitutes an "open house?" If you are required to make an appointment to view a property, can that accurately be described as an open house? So, while holding an "open house" in this manner is consistent with the Industry Guidance, there is a question as to whether it complies with the True Picture standard of advertising under Article 12 of the National

Association of REALTORS Code of Ethics. **IMPORTANT: C.A.R. takes no position on this issue which is a decision that each local board has authority to make.**

The C.A.R. “Best Practices Guidelines/Prevention Plan for Showings” allows for only one “buying party” at a time. Why impose this limitation?

For two reasons. First, the “one buying party” rule has been maintained due to the lack of clarity in the Industry Guidelines. The essential workforce list as promulgated by the DPH on April 28, initially created this limitation. Arguably, the Stage 2 guidance has superseded this essential workforce list as long as all other Industry Guidance is followed since no mention of the list is included. But it’s not clear. Secondly, the “one buying party” rule is a practical rule for facilitating social distancing. Having more than one buying party in a property at a time would almost certainly end up violating the social distancing rules.

Is the property required to be equipped with hand sanitizer, sanitizing wipes and face masks?

Yes. The property must be equipped with hand sanitizer and sanitizing wipes and face masks. These items must be placed at the property entrance.

Whose job is it to provide these items?

Although the Industry Guidance doesn’t specify exactly who is to provide these items, the listing agent or brokerage will have ultimate authority to make sure these items are available and that the property is so equipped. So even though the Industry Guidance and our Best Practices Guidelines are silent on this exact question, it is a very reasonable for a brokerage to simply require this of all of their listing agents and incorporate this requirement into the broker’s prevention plan as the responsibility of their listing agents.

As general risk management advice, we also recommend that even buyers’ agents have these products at the ready since if they show a property and the products are not available, then really, they are violating the Industry Guidance in showing the property.

When are visitors entering the property required to use the hand sanitizer?

The rule is that those entering the property will either use hand sanitizer or wash their hands with soap and water “immediately upon entry before touring and inspecting the property.” Must the property be cleaned before entry?

Yes. The requirement is to thoroughly clean shown properties and disinfect commonly used surfaces including counters, door and cabinet handles, key lock boxes, keypads, toilets, sinks, light switches, etc. These surfaces must be cleaned and disinfected before and after each showing. Prior to and concluding in-person showings, real estate licensees must disinfect mobility and safety fixtures on the property such as handrails and banisters. Adjust or modify showings to provide adequate time for proper cleaning and disinfecting. If the property is currently occupied, ensure adequate time to disinfect after occupants leave for showings and before and after clients view the property.

The above statement is taken almost word for word from the Industry Guidance.

So, the property must be cleaned both before and after each showing?!

Yes.

Whose job is it to clean the property before and after each showing?

Although the Industry Guidance doesn't specify exactly whose responsibility this is, the listing agent or brokerage will have ultimate authority to make sure the property is cleaned per the above requirements. So even though the Industry Guidance and our Best Practices Guidelines are silent on this exact question, it is a very reasonable for a brokerage to simply require all of their listing agents to do this and incorporate this requirement into the broker's prevention plan as the responsibility of their listing agents.

Does the seller have any legal responsibility for cleaning?

Yes, in certain circumstances. Where the current occupants are present and/or participate during property showings then they should adhere to the same standards regarding physical distancing, proper cleaning and disinfecting protocols, and promote a safe environment for all persons present.

Having said this, we think it is not a good risk management approach to attempt to shift the burden for cleaning onto the seller since it is not clear that the seller can be relied upon to in fact do it. Since the listing agent and brokerage will have ultimate responsibility to ensure that the cleaning is being done, shifting the responsibility in this way will set up the listing agent and brokerage for a violation of the Industry Guidance.

Can the seller pay the costs of having a cleaning service perform this requirement?

Yes. The RLA-CAA has an option in which the seller will be authorized to hire a cleaning service and pay the cost.

Can the job of cleaning be shifted to the buyer's agent?

While there is nothing in the Industry Guidance prohibiting this, the listing agent and broker will retain ultimate responsibility to ensure that the cleaning is done. So, again, the effort to shift the responsibility is not a recommended risk management practice since it will likely set up the listing agent and brokerage for a violation of the Industry Guidance.

Do the doors and windows have to be opened for a showing?

Yes, doors and windows must be opened, weather permitting, to introduce fresh air. Also, doors and other areas of ingress and egress must be opened to minimize clients touching surfaces.

Can a property be shown if the occupants are still in the property?

Yes. When possible, show houses when the occupants are not present. Sellers and tenants, in accordance with their legal rights, are to be advised that they should not be present within a dwelling at the same time as other individuals.

However, sellers or other occupants cannot be forced to vacate the property during a showing. If current occupants are present and/or participate during property showings, in accordance with their legal rights, they should adhere to the same standards regarding physical distancing, proper cleaning and disinfecting protocols, and promote a safe environment for all persons present.

Does the property have to be vacant to be shown?

No.

Does every person on the property have to adhere to the social distancing protocols?
Yes. Social distancing — six feet of separation — must be maintained at all times.

What should visitors avoid touching?

Everything. They should avoid touching everything. All persons on property for in-person showings should avoid touching knobs, faucets, toilets and toilet handles, light switches, garage door opener buttons, handles and pulls, alarm system controls, fan pulls, remotes, thermostats, switchboxes, gates and gate latches, window locks and sashes, pool coverings, and other such items.

Do all persons entering the property have to wear face coverings?

Yes. The Industry Guidance has conflicting statements. In some places it says “strongly recommend” face coverings. But the checklist states that you must “require clients” to use them. Given the ambiguity, the Posted Rules for Entry have been written to require all persons entering the property to wear face coverings.

Are gloves required?

No. Gloves are mentioned in the Industry Guidance, but only in the context of the workplace or in the context of a person who is actually cleaning. In that instance gloves should be worn to protect against harsh cleansers.

After showings, are people required to discard their face masks?

Yes. All disposable covers including masks, gloves or booties are to be discarded. Agents should ensure disposable covers are properly discarded after use, for example in a trash bag that is sealed prior to disposal.

Our brokerage is going to re-open in its physical office. Can we do that now and how do we do it?

For all issues concerning the re-opening of real estate offices, please see our FAQ: Industry Guidance on Reopening the Real Estate Brokerage Office.

