

# Industry Guidance Showing Rules FAQs

HOME > RISK MANAGEMENT > LEGAL Q&AS > ADVERTISING FOLDER > INDUSTRY GUIDANCE SHOWING RULES >

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## Member Legal Services

Tel (213) 739-8282  
July 13, 2020 (revised)

On July 2, 2020, the Departments of Public Health and Cal/Osha revised their "Industry Guidance: Real Estate Transactions" ("Industry Guidance"). This guidance implements the state Stage 2 expansion for real estate transactions and contains a host of rules detailing how properties must be shown during COVID-19.

Important! If a city or county in which you do your business activity has an order with a more restrictive standard on real estate activities, those guidelines will still govern the activities of a licensee. In other words, if there is a more restrictive local order, it must still be followed.

- Q1. How can brokers and agents comply with this Industry Guidance for showings?**  
**A1. Step 1:** Adopt a "Prevention Plan." You may use C.A.R. Document BPPP, Mandatory Government Showing Requirements, Including Best Practices Guidelines and Prevention Plan (available within the COVID library in zipForm®), for this purpose.  
**Step 2:** Do not hold "traditional" open houses or showings that are open to the general public on a walk-in basis. An appointment or digital sign-in process to control the number of people at the house. If you are going to hold a non-traditional "Open House," then any "Open House" signs or ads must include a rider or express condition that appointments or digital sign-in are required before entry. Showings should be done virtually, whenever possible. Only one listing agent and one "buying party" (including the buyer's agent) may be in the dwelling at the same time.  
**Step 3:** All visitors must sign a PEAD-V form and deliver it electronically to the listing agent in advance. Doing this accomplishes several things: a) It is an agreement that the visitor will comply with the Posted "Rules for Entry Showings" (Form PRE); b) The visitor acknowledges receiving and agrees to the Prevention Plan; and c) The visitor attests they are not, to the best of their knowledge, afflicted with COVID-19, among other things.  
**Step 4:** The Posted Rules for Entry must be posted at the entrance to the property and be clearly visible. Also link to or publish these rules in MLS listings and publicly online.  
**Step 5:** The property must be equipped with hand sanitizer and disinfecting wipes. Face coverings are to be available in case any person did not bring their own.  
**Step 6:** The property must be thoroughly cleaned and disinfected. Commonly used surfaces such as counters, door and cabinet handles, key lock boxes, keypads, toilets, sinks, light switches, etc., must be cleaned and disinfected before and after each showing. The agent who shows the property shall follow cleaning and disinfecting protocols and provide sanitation products unless otherwise agreed. Keep in mind that the brokerage whose plan is being implemented (almost always the listing brokerage) must regularly evaluate the plan for compliance and correct deficiencies identified. May a seller do the cleaning? If current occupants are present and/or participate during showings, they should adhere to the same cleaning and disinfecting protocols.  
**Step 7:** Open doors and windows, weather permitting, to introduce fresh air. Also, doors and other areas of ingress and egress must be opened to minimize clients touching surfaces.  
**Step 8:** Prior to or immediately upon entry, all visitors must use hand sanitizer or wash their hands with soap and water before touring or inspecting the property.

**Q2. What is the authority of the Department of Public Health (DPH) to issue these guidelines?**  
**A2.** The **Governor's order from May 5** ordered that all residents are directed to continue to obey State public health directives as indicated on <https://covid19.ca.gov/stay-home-except-for-essential-needs/> Under this order the Department of Public Health has wide latitude to issue new guidance, revise criteria or procedures, or take any action deemed necessary to protect public health. Indeed, the guidance isn't limited to merely official orders. As the DPH website explains: "The Governor has ordered Californians to obey the directives of the State Public Health Officer. Those directives take many forms; they include specific materials linked on this page, as well as these questions and answers. These questions and answers are directives from the State Public Health Officer, and have the same force and effect as other State Public Health Officer directives." (From "Stay Home Q&A" <https://covid19.ca.gov/stay-home-except-for-essential-needs/>). Wow, did you catch that? The FAQs have the same force and effect as other state public health orders!

**Q3. Can I see a copy of the actual Industry Guidance document?**  
**A3.** Yes. **Here** is the link.

**Q4. Are brokers and agents legally permitted to show properties?**  
**A4.** Yes. However, according to the Industry Guidance, showings should be done virtually, whenever possible.

**Q5. Is the Industry Guidance incorporated into C.A.R.'s BPPP Document?**  
**A5.** Yes. For and protocols the BPPP Document 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.

**Q6. The Industry Guidance requires a brokerage to adopt a COVID-19 Prevention Plan. Does C.A.R. have a sample prevention plan available?**  
**A6.** Yes. The entire "Mandatory Government Showing Requirements, Including Best Practices Guidelines and Prevention Plan" (Form BPPP) doubles as a prevention plan.

**Q7. Do the agents in the office have to follow the prevention plan as well?**  
**A7.** Yes. All agents in the office must follow the prevention plan.

**Q8. Does the PEAD-V form have to be signed in advance of entering the property? I thought the PEAD form was optional.**  
**A8.** 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.

**Q9. Does any other document need to be signed in advance by a person entering the property?**  
**A9.** No. Only the PEAD-V needs to be signed. But, the prevention plan is pre-checked and attached to the PEAD-V. So, a buyer who electronically signs the PEAD-V will agree to and receive the prevention plan.

**Q10. Who must sign the PEAD-V?**  
**A10.** Every person entering the property including clients, appraisers, inspectors, stagers, contractors, repairmen and even buyer's agents.

**Q11. Does the PEAD-V have to be signed electronically?**  
**A11.** 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.

**Q12. What are other purposes of the PEAD-V?**  
**A12.** 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.

**Q13. Does the Prevention Plan have to be agreed to by all persons who enter the property?**  
**A13.** Yes. Both the prevention plan the Posted Rules for Entry have to be agreed to.

**Q14. Does the prevention plan have to be signed by everyone entering the property?**  
**A14.** No, only the PEAD-V needs to be signed. Since prevention plan is pre-checked and attached to the PEAD-V, a buyer who electronically signs the PEAD-V will agree to and receive the prevention plan.

**Q15. Whose prevention plan is being agreed to? Does the buyer have to agree to the prevention plan of the listing broker?**  
**A15.** Yes. The buyer must agree to the prevention plan of the listing broker. In fact, even the buyer's agent is supposed agree to the listing broker's prevention plan, as does everyone who enters the property. The only time that would not be the case is if there were no agent representing the seller. In that circumstance then it would be incumbent on the buyer's agent to have all entrants agree to their own brokerage's rules of entry and their own brokerage's prevention plan.

**Q16. Do the rules of entry have to be posted?**  
**A16.** Yes. Use C.A.R.'s "Posted Rules for Entry." They must be posted at the entrance and be clearly visible.

**Q17. Who is responsible for posting the rules for entry?**  
**A17.** Per the BPPP, it's the listing agent's responsibility to make sure that the rules for entry are posted. However, it would be possible to have the buyer's agent agree to do this. Again, the brokerage whose plan is being implemented has the duty to regularly evaluate compliance with the plan and correct deficiencies identified.

**Q18. Should the Posted Rules for Entry be displayed online?**  
**A18.** Yes. These rules or a link to the rules should be part of online public and MLS listings.

**Q19. Does the checklist have to be posted?**  
**A19.** No. The checklist only needs to be posted in your workplace.

**Q20. Can I hold an open house?**  
**A20.** Short Answer: Agents may hold "non-traditional" Open Houses. An open house sign may be posted but all signs and advertisements must include a rider or express condition indicating that appointments or digital sign-in are required. Additionally, all of the cleaning and social distancing protocols must be adhered to, including cleaning and disinfecting of commonly used surfaces before and after each showing.  
 Detailed Answer: On July 2, the Departments of Public Health and Cal/Osha released new guidance on COVID-19 relating to real estate. Based on this revised guidance, an advertisement using the term "Open House" alone is still likely deceptive as it implies a walk-in basis without the mandatory appointments/digital sign-in protocols that are not typical for an "open house." Although it is recommended that no "Open House" signs be used, if they are, they must also have a sign rider or express condition indicating that appointments or digital sign-in are required before entry. Of course, the regular protocols of advance digital completion of PEAD forms before entering, social distancing, limitations on persons going through the house at one time, cleaning and disinfecting between each showing, etc. apply. However, any type of traditional open houses – spontaneous walk-up with no digital sign in or appointment or adherence to all protocols— would threaten the policy allowing licensees to show property and, worse, threaten the health of the seller and those visiting potentially causing a super-spreader event.  
 Realtors® using "Open House" signs or advertisements without the riders about advance appointments or digital sign-in may be subject to ethics discipline for violating the "true picture" test under Article 12 as the common understanding of an "Open House" by the public and the industry does not include advance digital sign-ins or appointments, along with the other protocols that would delay a spontaneous showing. In the end, variations on this would have to be decided by panels, in the context of the COVID-19 rules in place at the time.  
 As a reminder, check your city or county for more restrictive local rules. Some local rules prohibit any type of "open house" or restrict the number of persons who can view the property to two at one time. These more restrictive local rules will supersede the statewide industry guidance and must be followed.

**Q21. The C.A.R. BPPP Document allows for only one "buying party" at a time. Why impose this limitation?**  
**A21.** Primarily, 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. The revised BPPP allows for both the listing agent and the buyer's agent to be on the property in addition to the buying party. A "buying party" is not limited to just a single individual.

As far as a seller or tenant is concerned they are to be advised, in accordance with their legal rights, that they should not present within a dwelling at the same time as other individuals.

**Q22. Is the property required to be equipped with hand sanitizer, disinfecting wipes and face masks?**  
**A22.** Yes. The property must be equipped with hand sanitizer and disinfecting wipes. It is no longer required to place these items at the property entrance. Face covering should be made available in the event a visitor does not have their own.

**Q23. Whose job is it to provide these items?**  
**A23.** The agent who shows the property shall follow cleaning and disinfecting protocols and provide sanitation products unless otherwise agreed. Keep in mind that the brokerage whose plan is being implemented (almost always the listing brokerage) must regularly evaluate the plan for compliance and correct deficiencies identified.  
 As general risk management advice, we also recommend that all agents have these sanitation 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.

**Q24. When are visitors entering the property required to use the hand sanitizer?**  
**A24.** 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."

**Q25. Must the property be cleaned before entry?**  
**A25.** Everything is to be thoroughly cleaned and disinfected 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. Where possible, do not clean floors by sweeping or other methods that can disperse pathogens into the air. Use a vacuum with a HEPA filter wherever possible.  
 Prior to and concluding in-person showings, real estate licensees must disinfect mobility and safety fixtures on the property such as handrails and banisters, door knobs and locks, and any other surfaces that may have been touched during the showing. 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.

**Q26. So, the property must be cleaned both before and after each showing?**  
**A26.** The requirement is that shown properties must have commonly used surface areas cleaned and disinfected before and after each showing.

**Q27. Whose job is it to clean and disinfect before and after each showing?**  
**A27.** The agent who shows the property shall follow cleaning and disinfecting protocols and provide sanitation products unless otherwise agreed. Keep in mind that the brokerage whose plan is being implemented (almost always the listing brokerage) must regularly evaluate the plan for compliance and correct deficiencies identified.

**Q28. Does the seller have any legal responsibility for cleaning?**  
**A28.** 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. This is a legal requirement directly from the industry guidance. However, if the broker is to rely on the efforts of the seller to clean and sanitize then a good risk management practice would be to clarify in writing that the seller agrees to this responsibility.  
 Keep in mind that the brokerage whose plan is being implemented (almost always the listing brokerage) must regularly evaluate the plan for compliance and correct deficiencies identified.

**Q29. Can the seller pay the costs of having a cleaning service perform this requirement?**  
**A29.** Yes. The CLA-CAA has an option in which the rider will be authorized to hire a cleaning service and pay the cost.

**Q30. Do the doors and windows have to be opened for a showing?**  
**A30.** 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.

**Q31. Can a property be shown if the occupants are still in the property?**  
**A31.** 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.

**Q32. Does the property have to be vacant to be shown?**  
**A32.** No.

**Q33. Does every person on the property have to adhere to the social distancing protocols?**  
**A33.** Yes. social distancing – six feet of separation – must be maintained at all times.

**Q34. What should visitors avoid touching?**  
**A34.** 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.

**Q35. Do all persons entering the property have to wear face coverings?**  
**A35.** Yes. All visitors must wear face coverings. But for individuals with disabilities who cannot wear a face covering or face shield, the showing agent will engage in an interactive process with the individual to discuss any available reasonable accommodations.

**Q36. Are gloves required?**  
**A36.** 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.

**Q37. After showings, are people required to discard their face masks?**  
**A37.** No. The July 1 revision of the Industry Guidance eliminated the specific requirement that all disposable covers including masks, gloves or booties are to be discarded.

**Q38. Our brokerage is going to re-open in its physical office. Can we do that now and how do we do it?**  
**A38.** For all issues concerning the re-opening of real estate offices, please see our FAQ **Re-opening Your Real Estate Broker Office**.

Readers who require specific advice should consult an attorney. C.A.R. members requiring legal assistance may contact C.A.R.'s Member Legal Hotline at (213) 739-8282, Monday through Friday, 9 a.m. to 6 p.m. and Saturday, 10 a.m. to 2 p.m. C.A.R. members who are broker-owners, office managers, or Designated REALTORS® may contact the Member Legal Hotline at (213) 739-8350 to receive expedited service. Members may also submit online requests to speak with an attorney on the Member Legal Hotline by going to <http://www.car.org/legal/legal-hotline-access/>. Written correspondence should be addressed to:

CALIFORNIA ASSOCIATION OF REALTORS®  
 Member Legal Services  
 525 South Virgil Avenue  
 Los Angeles, CA 90020

The information contained herein is believed accurate as of July 13, 2020. It is intended to provide general answers to general questions and is not intended as a substitute for individual legal advice. Advice in specific situations may differ depending upon a wide variety of factors. Therefore, readers with specific legal questions should seek the advice of an attorney. Written and revised by Robert Bloom, Esq.

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