



Impacts on Real Estate in Massachusetts

The impacts on real estate have been large and broadly reaching. Below is a table with issues that have to our attention along with responses thus far:

Issue	MAR Response
Registries closing or changing operations	MAR has been in daily contact with the Secretary of State's office which oversees the registries and gathered information from the private sector. As of now, to our best knowledge all registries in the state, aside from Nantucket, are at least permitting electronic recordings. However, many have adjusted their typical procedures because of the virus so we strongly advise anyone wishing to use a registry's services to check the registry's website and call first to understand what they require.

<p>Fire departments refusing to inspect smoke detectors</p>	<p>We understand that some fire departments are halting their smoke and carbon monoxide inspections during the state of emergency. MAR is currently in discussion about how to ensure that scheduled closings can still occur in the absence of a certificate for a smoke and CO inspection. We want to take this opportunity to assure you that the MAR Advocacy Team has been working aggressively on this issue. We have been in constant discussions with the Baker Administration and are working towards a solution that will allow transactions to continue throughout the state of emergency.</p>
<p>E-notarization</p>	<p>MAR has requested that the governor issue an emergency Executive Order that would permit a form of e-notarization through video conferencing. We are also tracking the issue at the federal level where remote online notarization (potentially the language of S.3533, “Securing and Enabling Commerce Using Remote and Electronic (SECURE) Notarization Act of 2020”) may be included in a federal virus response bill. If you are having issues with notarizations at closings, please contact the MAR Legal Team.</p>

Declaration of real estate as an essential activity

MAR has heard of other states seeking executive declarations that real estate is an essential service, thus requiring all government personnel who work on real estate related issues to continue working through emergency situations. We continue to monitor the situation and gauge the need for and government receptiveness to this level of response. However, at this time, we are trying to address individual situations as they arise.

On March 19, the Governor of Pennsylvania required all non-life-sustaining businesses in the state to close their physical locations. Real estate brokering is listed as non-life-sustaining and required closed.

On March 20, the Governor of New York issued an executive order requiring 100% work from home and prohibiting anyone engaged in nonessential business functions from commuting to a workplace.

<p>Concerns about open houses</p>	<p>MAR is following NAR’s guidance. We are encouraging members to take precautions and recommend alternatives to open houses such as virtual showings as a best practice. We advise all members to consider their own health and safety as well as that of their clients and members of the public when making these decisions.</p>
<p>Contract Addendum</p>	<p>The MAR Legal Team is reviewing several potential options for this form, including drafts from other states and the Real Estate Bar Association. Because this situation is creating so many unique and novel issues, we strongly recommend working with independent counsel to find a solution that is appropriate for your transaction.</p> <p>The standard MAR contracts do not contain termination provisions that would be triggered under these circumstances. A reasonable extension of the closing due to illness or quarantine from COVID-19 may be considered by the parties. Ultimately, it is up to the parties of the contract how they maneuver a delay in performing their contractual obligations because of COVID-19.</p>

Fair Housing Law

Fair housing law still applies to all real estate transactions. We have heard of three types of questions on this issue:

1. Whether it is permissible to restrict anyone experiencing flu-like symptoms from entering the property.
2. Whether it is permissible to ask clients or others about their recent travel, particularly to areas identified as having an increased risk of coronavirus.
3. Whether it is permissible to ask a buyer what their job is due to concerns over financing issues given recent economic changes.

Each of these questions are permissible, but to avoid potential fair housing law issues, be sure to ask all clients and prospective buyers the same screening questions based on current, factual information from public health authorities and discuss any restrictions placed on showings with your seller.

Paid Sick Time, Medical Leave, and
Unemployment

The federal “Families First Coronavirus Response Act” enacted on March 18 expands family medical leave and paid sick leave and helps provide additional funding and flexibility for Medicare, Medicaid, and other federal health programs. For more information, see NAR’s webpage, [Coronavirus Emergency Legislation: What Realtors® Need to Know](#).

Small Business Loans

On March 16, the Governor [announced](#) that the Massachusetts Growth Capital Corporation would administer a \$10 million fund that could grant up to \$75,000 in low-interest loans to an eligible small business with no payments for the first six- months. However, on March 19, the MGCC announced that it was no longer accepting applications and it, along with state officials pivoted to promoting federal disaster loans from the Small Business Administration detailed below.

On March 19, Massachusetts was approved for federal disaster loan assistance by the Small Business Administration, giving small businesses in Massachusetts until December 18 to apply for an Economic Injury Disaster Loan. These loans can be used by businesses without otherwise available credit to pay fixed debts, payroll, accounts payable and other bills that can't be paid because of the disaster's impact. Recipients can qualify for a loan of up to \$2 million paid over a maximum of 30 years with interest rates of 3.75%. More information is available on the [SBA website](#).

<p>Evictions and Foreclosures</p>	<p>There is a moratorium on all foreclosures and evictions for FHA-insured Title II Single Family forward and Home Equity Conversion (reverse) mortgages for 60 days (until May 17). There is also a moratorium on foreclosures and evictions for homeowners with mortgages backed by Fannie Mae or Freddie Mac until at least that date.</p> <p>In Massachusetts, the Housing Court has suspended most eviction proceedings until at least April 21. The Legislature is considering a bill (HD.4395) that would prohibit evictions and foreclosures during the declared state of emergency. On March 25, the Boston City Council will consider a resolution that would place a moratorium on mortgages, rent, and evictions for the City of Boston during the state of emergency.</p>
<p>Water Meter Readings</p>	<p>The process for obtaining final water meter readings varies by towns. We have not yet heard of towns being unable or refusing to provide these reports, but foresee that it could potentially become a problem in the future should the number of active staffers continue to shrink. If you are experiencing challenges obtaining water meter readings from your town, we recommend reaching out to your local association.</p>

<p style="text-align: center;">Title V Reports</p>	<p>At this time we have not heard of transactions being disrupted due to problems securing Title V inspections.</p> <p>Only MassDEP-approved individuals can conduct system inspections. The New England Interstate Water Pollution Control Commission maintains lists of approved system inspectors. Click here for a list of approved system inspectors.</p>
<p style="text-align: center;">Municipal Lien Certificates</p>	<p>Certificates are issued by each individual city or town. Be sure to contact the municipality to make sure that the certificate will be ready for closing.</p>
<p style="text-align: center;">Appraisals</p>	<p>We have heard of situations both where appraisers are unwilling to perform interior inspections and where homeowners do not want to grant them entry. Agents should talk to their clients to understand their comfort level on this issue and pursue alternatives where available such as using video or photographs. While those with private loans may have more flexibility to build contingencies on appraisals into contracts, this is harder to do for government-backed loans. We anticipate additional guidance from the Federal Housing Finance Agency on this issue soon.</p>

<p>Home Inspections</p>	<p>We have heard of situations where either home inspectors do not want to complete inspections or homeowners do not want to permit entry to home inspectors as a result of concerns over coronavirus.</p>
<p>Certificates of Occupancy</p>	<p>The state building code requires a building official to inspect and issue a certificate for every new building before they can be used or occupied. We have heard of towns limiting building inspectors to emergency work only and anticipate that more towns may follow suit. If you are experiencing challenges obtaining certificate of occupancy or open permits from your town, we recommend reaching out to your local association.</p>
<p>Review of Properties' Open Permits</p>	<p>The state building code requires the issuance of permits for the erection, alteration, demolition, and moving of buildings and structures. These are handled by municipalities. We have not yet heard of towns being unable or refusing to provide this information on open permits, but foresee that it could potentially become a problem in the future should the number of active staffers continue to shrink. If you are experiencing challenges obtaining information on open permits from your town, we recommend reaching out to your local association.</p>

<p>Office Policies</p>	<p>MAR recommends having office staff work from home and advising agents to stay out of the office or other gathering points as much as possible. Online platforms should be used to host meetings, events, and classes remotely. For more, see the NAR Coronavirus Resources and Guidance for Employers and sample preparedness plan.</p>
<p>Gap Insurance</p>	<p>Because of concerns over coronavirus and potential limits on the ability to timely record documents, some insurance companies are authorizing the issuance of loan and owner title insurance policies that cover any gap between the closing and recording. MAR has no position on the need for or efficacy of Gap Insurance but encourage you to discuss the issue with your clients and attorney.</p>