

## FAQS ON COVID-19 SHOWING FORMS (Updated 5/28/20)

1. QUESTION: Are we required to use the COVID-19 Showing Addendum/Amendment to Listing Agreement?

ANSWER: No. Standard listing contract forms already authorize showings. The COVID-19 listing addendum prompts sellers to consider showings in the context of the COVID-19 pandemic and obtain their informed consent. The form also advises sellers on safety protocols and provides Realtors® with a hold harmless.
2. QUESTION: Should I require all buyers to sign a Showing Certification and Release?

ANSWER: The use of this form is also not legally required. The purpose of the form is to instruct buyers on safety protocols, obtain their informed consent and provide Realtors® with a hold harmless. Individual brokerages will need to decide whether their agents are required to obtain such a form as a condition of showing a home to their buyer/client.
3. QUESTION: Should the buyer's agent sign the Showing Certificate and Release?

ANSWER: No. The reference to "Additional Persons Present" means anyone who accompanies the buyer at the showing other than the real estate agents involved in the transaction.
4. QUESTION: If I am a buyer's agent, should I require a copy of the COVID-19 listing addendum signed by the seller?

ANSWER: The listing broker is not obligated to provide a buyer's agent with a copy of any portion of the listing contract. That being said, a buyer/buyers' agent could require a copy of the COVID-19 listing addendum or some other release document as a condition of viewing a property.
5. QUESTION: Can a seller/listing agent require the buyer's agent to provide a copy of the Showing Certificate and Release?

ANSWER: A buyer's agent is not obligated to provide a copy of the Showing Certificate and Release to the seller/listing agent. That being said, some sellers are requiring buyers to provide a copy of the Showing Certificate and Release or some other release document as a condition of agreeing to an in-person showing.
6. QUESTION: Can I have my buyer sign one Showing Certification and Release that will cover all showings on a particular day?

ANSWER: The form anticipates one showing of a particular property on a particular day. First, because we wanted the representations as to COVID 19 exposure to be current. We also wanted to impress upon Realtors® and their buyer-clients that showings should still be done on a limited basis. The Executive Order makes clear that resumed business must continue to promote remote work to the fullest extent possible. Realtors® are strongly encouraged to continue to use virtual showings/videos to help buyers narrow down their search before any in-person showings. Shopping for a home via multiple back-to-back showings of previously unfamiliar homes is not a best practice. That being said, if a buyer is scheduled to view multiple properties on one day, there is no benefit in using multiple forms. Multiple properties can be listed in one form.

7. QUESTION: What if potential buyers indicate that some member of their household has been exposed to the COVID-19 virus during the last 14 days?

ANSWER: Realtors® should make every effort to make reasonable accommodations while also protecting the health and safety of themselves and others. In-person showings should be delayed until the end of the quarantine period recommended by the CDC. Realtors® should work with buyers to come up with accommodations that can help them move forward during the quarantine period. Possibilities include virtual tours, having the buyers send a proxy to view the property on their behalf and/or a contingency whereby the contract is subject to a later in-person visit.

8. QUESTION: Why doesn't the buyers' Showing Certification and Release include a hold harmless for the seller?

ANSWER: MR's COVID-19 forms were not developed because of a concern about a possible lawsuit because one person allegedly caught the COVID-19 virus from another person. This did not appear to us to be a risk for a number of reasons, including the fact a person with the virus will have no way of knowing for certain when and how they caught the virus. It is certainly not the case that people who come in contact with one another in other contexts are regularly exchanging waivers.

The purpose of the COVID-19 forms was to ask the seller and the buyer to acknowledge that the decision to allow/attend a showing is being knowingly made BY THEM and that the seller and buyer are not relying on the advice of the Realtor® in making that decision. Buyers and sellers are asked to acknowledge that they understand and assume the risk and to state that they are not aware that they have been exposed to the virus during the past 14 days. The hold harmless was included to protect the Realtors® from later claims that they unreasonably exposed their customers/clients to risk by arranging for them to allow/attend showings.

The concern about a possible lawsuit based upon the transfer of the COVID 19 virus from one person to another is a different concern. Again, we are not living in a world in which people regularly require a release from everyone they come in contact with. However, should a seller and buyer wish to condition a showing on getting a waiver from everyone in attendance at the showing, they can certainly do so. However, this should be done using a mutual release, not a hold harmless clause.

9. QUESTION: Is it appropriate for a Realtor® to ask a seller or buyer about possible exposure to COVID-19? Aren't there privacy/HIPAA concerns?

ANSWER: The HIPAA privacy rule covers health care providers. While there are privacy and possible discrimination concerns, given that COVID 19 is both highly contagious and potentially very dangerous, federal and state guidelines generally permit (and encourage) symptom related questions to be asked upon entry to a facility. The Michigan Realtor® formstrytotakeintoaccountprivacyconcernsbyaskingonlyifanyoccupantofthe home has been exposed to the virus and/or experienced symptoms. They do not ask to identify whom or disclose any specifics about a person's actual medical condition. In addition, medical information is not passed on, rather a person should simply wait until they can answer "no" before signing the form and arranging to allow/attend a showing.