



ABoR Recommendations and Best Practices for Property Managers and Leasing Professionals During COVID-19

COVID-19 and the current suspension of evictions has raised a lot of questions about best practices for Property Managers and Leasing Professionals, but we're here to help. Below are some recommendations and best practices to keep in mind and share with your landlord clients and tenants while you navigate the current landscape.

To avoid potential Fair Housing issues, **apply all enacted company protocols to all clients.** Likewise, be sure to maintain confidentiality as required by the Americans with Disabilities Act (ADA) and the Health Insurance Portability and Accountability Act (HIPPA) should anyone be confirmed to have COVID-19.

We're not attorneys, **and agents should speak with their broker, and brokers with their legal counsel, before adopting any of these recommendations.** You should also speak with your client to ensure they are comfortable with your recommended safety measures before showing a property.

SHOWINGS | LEASE LISTINGS

- Governor Abbott's statewide [executive order](#) continues to allow REALTORS® to show property across our entire market area. You should exercise extreme caution when doing so and take advantage of virtual showing options.
- While we understand there will be circumstances that require in-person showing activity, **you should continue to take extreme caution in any in-person interaction** to protect yourself and discourage the spread of COVID-19.
- Per Subparagraph B of Paragraph 14 of the Residential Lease (TXR 2001) and Residential Lease for Multifamily Property Unit (TXR 2011), **a tenant cannot deny access to a property due to fear of contracting COVID-19.** That portion states that landlords or anyone authorized by landlords will first attempt to contact the tenant before accessing the property, but may enter the property at reasonable times without notice to make repairs or to show the property to prospective tenants or buyers, inspectors, fire marshals, lenders, appraisers, or insurance agents. Subparagraph C allows landlords to charge a fee if a tenant refuses access or fails to make the property accessible.
- However, **a tenant may be able to request an accommodation to not allow showings under the ADA and Fair Housing Act requirements if the tenant is at higher risk of developing serious illness due to COVID-19 exposure.** A previously diagnosed compromised immune system could be considered a disability for FHA purposes. A reasonable accommodation in the rules, practices, or services may be requested to

afford the person equal opportunity to use and enjoy a dwelling. You must grant a tenant's request for a reasonable accommodation unless the request is: 1) unduly burdensome, a fundamental alteration of the landlord's program, or there is another accommodation that is just as reasonable; or 2) the tenant poses a direct threat to the health or safety of other residents or when the tenancy would result in substantial physical damage to the property of others.

- To ensure health and safety and to reduce property owners' potential liability, landlords or property managers may want to screen those wishing to view or access the property for coronavirus exposure. If implementing a screening process, remember to adhere to fair housing guidelines, and apply all protocols equally to all clients and vendors.
- ABoR strongly encourages only showing unoccupied properties to the extent that you're able.
- Property managers should also encourage property owners to speak to their own risk advisors or attorneys on these matters related to COVID-19.

RENT PAYMENTS | SECURITY DEPOSITS

- If at all possible, only accept online rent payments.
- Be in regular communication with tenants and consider offering payment plans for those who have experienced a reduction in income as a result of the ongoing crisis and show a good faith effort to meet lease obligations. It is perfectly acceptable to request proof of hardship from a tenant.
- ABoR encourages you to be as flexible as possible when creating payment plans for tenants who cannot currently pay.
- When setting up a payment plan, don't forget to check the ending date of the lease agreement.
- Document any and all modifications to the lease agreement in writing.
- Consider waiving late fees.
- Texas REALTORS® has created the [COVID-19 Lease Payment Plan Agreement \(TXR 2227\)](#), intended to be used with tenants who are facing financial difficulties as a result of the COVID-19 Pandemic.
- If at all possible, only accept security deposits online or have funds wired into a special account.
- If you have tenants who are voucher holders, please consult [this page](#) for information about how COVID-19 is affecting HUD's Housing Choice Voucher Program.

EVICCTIONS

- ABoR encourages you to be **as flexible as possible** when creating payment plans for tenants who cannot currently pay and keep conversations going between you and the tenant so as to avoid having to resort to beginning eviction proceedings, which should be the last possible resort and only considered if a tenant is non-responsive and completely non-cooperative.
- **Moratoriums on Evictions:** Stay aware of existing moratoriums on evictions, including:

- **Federal Moratorium:** As part of the CARES Act, there is now a **120-day moratorium period that began on March 27, 2020, the date the CARES Act was enacted on eviction filings, fees, or penalties** for tenants for nonpayment of rent on properties insured, guaranteed, supplemented, protected, or assisted in any way by HUD, Fannie Mae, Freddie Mac, the rural housing voucher program, or covered by the Violence Against Women Act of 1994.
- **Travis County Moratorium – September 30:**
 - The Travis County Judge issued an [order](#) prohibiting the issuance of Notices to Vacate **until September 30**, except where the actions of the tenant, or the tenant’s household members or guest, pose an imminent threat of physical harm to the property owner, the property owner’s employees, other tenants, or criminal activity.
- **City of Austin Moratorium – September 30:**
 - The Mayor of Austin issued an [order](#) prohibiting the issuance of Notices to Vacate **through September 30**, except where the actions of the tenant, or the tenant’s household members or guest, pose an imminent threat of physical harm to the property owner, the property owner’s employees, other tenants, criminal activity, or because of certain health and safety conditions.
- If you plan to begin the eviction process in the City of Austin during this time, you are required to **provide your tenant with a “60-Day Notice of Proposed Eviction” before the normal procedures outlined in the Texas Property Code may begin.**
 - This notice must include the following language: *“A NOTICE OF PROPOSED EVICTION AND OPPORTUNITY TO PAY TO AVOID EVICTION – THIS NOTICE DOES NOT EXCUSE YOUR OBLIGATION TO PAY AND YOU CAN BE EVICTED IF YOU FAIL TO PAY BY THE PAYMENT DEADLINE BELOW.”* This requirement is in effect through **September 30**.
- **ABoR encourages you to consult with your legal counsel to ensure you are complying with all regulations recently enacted regarding evictions.**

MID-LEASE and ANNUAL INSPECTIONS | MAINTENANCE

- Request that tenants let property managers know if anyone in their household has contracted the virus, has a fever, or is ill. This is so that outside vendors and staff members do not enter the property to perform maintenance work or mid-lease and annual inspections.
- Consider limiting maintenance requests to only those things that impact health and safety conditions and the welfare of the tenant/home conditions.
- Delay routine maintenance projects for future dates in single family homes.
- Increase maintenance and cleaning of common areas in multi-family properties.
- Texas REALTORS® has created a [Model COVID-19 Certification for Property Access form](#) that a brokerage can adopt for use when a potential tenant, staff member, or outside vendor will access the property to conduct maintenance or for a showing.

MOVE-OUTS

- Consider mandating move-out cleaning procedures that follow [CDC recommendations](#).
- Consider mandating a “vacancy period” before anyone enters a unit/home.
- Perform move-out inspections without tenants present after an appropriate “vacancy period.”

OWNERS

- Notify your owners of the steps (suggested above) you will be taking with their property and tenants.
- Consider alerting your owners to the potential for a disruption in cash flow and that they should plan accordingly.
- Stay in communication with your owners about the relief that may be available to them as a result of recent legislation, such as:
 - The U.S. Small Business Administration is offering [loans for disaster relief](#) in direct response to COVID-19. The loans are available for small residential landlords and landlords with multi-family units. Landlords with commercial loans should contact their banks directly.
 - Owners of multifamily properties who were current on their mortgage payments as of February 1, 2020, and have a federally insured, assisted, or supplemented loan (Fannie Mae, Freddie Mac, FHA or any loans backed or assisted by any branch of the federal government, including LIHTC) may request forbearance for 30 days due to financial hardship, with extensions of up to a total of 90 days. Borrowers receiving the forbearance may not evict or charge late fees to tenants for the duration of the forbearance period.
 - Austin’s [Neighborhood Housing and Community Development \(NHCD\) Department](#) offers information and referrals to assist impacted community members, including [resources for homeowners](#). The [Avoiding Mortgage Foreclosure website](#) provides information about refinancing or modifying mortgage loans, lowering payments, or other solutions to avoid foreclosure.

If you operate a small office or a solo operation, reach out to colleagues in the Leasing and Property Management community to establish some procedures should you become ill.

Most of all, be proactive in communicating to your owners and tenants. Let them know that you’re here and will be with them through this unsettling time.

Austin real estate is still open for business, but our business is changing. Visit [ABoR's COVID-19 Resource Page](#) for the latest industry updates regarding COVID-19.