

OFFICIAL PUBLICATION OF THE ASPEN BOARD OF REALTORS®

Aspen REALTOR®

COVID-19 SPECIAL EDITION V6 N03/04



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The Voice For Real Estate In The Roaring Fork Valley

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MISSION: As the Voice for Real Estate in the Roaring Fork Valley, the Aspen Board of REALTORS® is a trade Association that provides professional support to its members and is collectively committed to advocating for property rights and thriving communities.

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Karen
Peirson
2020 Chair



CHAIRWOMAN'S MESSAGE



ASPEN BOARD OF REALTORS®

The Voice For Real Estate In The Roaring Fork Valley

Dear Members, Was COVID-19 in the Job Description?

So far, my year as Chair of the Board of the Aspen Board of REALTORS® has been full of fast balls. Who would have thought that our lives, daily routines and business practices would have been so dramatically altered, in such a short period of time?

Virtual Open Houses and Home Tours, Virtual Company Meetings, Zoom Board of Director Meetings, Zoom CAR and NAR meetings, Zoom interviews with 30 potential scholarship kids from the 3 high schools in the valley.

As you may have noticed, ABOR's scheduled Classes, Scholarship Golf Tournament, Prep party and Spring Tour have all been cancelled or postponed to dates that we can't even announce as this health-related holding pattern continues.

My respect for the ADVOCACY arm of the REALTOR® Association(s) on the Local, State and National levels as they fight for the future of real estate has been amplified as our organization has positioned our industry to deal with multiple changes enabling REALTORS® to balance "shelter in place" needs with their own safety and the safety of their clients.

NAR predicts, given record low mortgage rates, listings and buying activity will likely resume once the economy slowly and safely reopens. NAR has also announced that they will be holding their first-ever virtual REALTORS® Legislative Meetings May 12 – 14. I encourage you to check it out w/ presentations from Lawrence Yun and many other real estate industry and business leaders. [Click HERE](#) to learn more.

As we forge ahead learning new ways to do business and maintain social distancing, let's commit to keeping our connections strong with our REALTOR® organization, each other, our clients and our community.

Please continue to utilize your member benefit of the [Colorado Legal Hotline](#) and watch the "[Legal Bites](#)" snippets from Scott Peterson on YouTube for the latest updates from CAR.

As always, give the ABOR office a call if you need anything.

All the best to you in health,

Karen

2020 Chair of the Board



CALENDAR OF EVENTS

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This edition of the Aspen REALTOR® is made possible by the following businesses:

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The Voice For Real Estate In The Roaring Fork Valley

YOU ARE MAKING A DIFFERENCE

As a member of the ASPEN BOARD OF REALTORS®, you are helping the community and supporting the following causes.



SAVE
the
DATE



Has officially been rescheduled & will be subject to social distancing guidelines in place at the time of the tournament.

BENEFITING LOCAL SCHOLARSHIPS
THURSDAY, SEPTEMBER 10TH
SNOWMASS CLUB GOLF COURSE

ABOR CALENDAR



JUNE 12TH

MLS BOARD MEETING

JUNE 25TH

8:30 TO 10 AM

BROKER FORUM

JUNE 25TH

10 LEGAL THINGS WITH
SCOTT PETERSON & DAMIAN COX

JULY 3RD

ABOR CLOSED IN OBSERVANCE OF
INDEPENDENCE DAY

JULY 22ND

BORAD OF DIRECTORS
ZOOM MEETING

EDUCATION

PLEASE STAY TUNED FOR A FALL CALENDAR OF
REQUIRED CE COURSES - BEING DEVELOPED BY DORA
FOR ONLINE DISTRIBUTION BY LOCAL BOARDS.

News in the Roaring Fork Valley of Particular Interest to the Real Estate Community

Aspen

City of Aspen Sales Tax Forecasted to Lose 34%

The city of Aspen is forecasting that taxable retail sales will decline 34% for the year compared to 2019 in the wake of the COVID-19 pandemic and its crippling impacts on Aspen's economy, which will lead to millions of dollars in shortfalls impacting critical services, the Aspen Daily News reported....[MORE](#)

Some Events Canceling, Others Still On

In the latest blow to the city's social calendar and summer economy, the Aspen Institute announced that it has cancelled its signature events — the Aspen Ideas Festival and Ideas: Health — this year due to concerns over the coronavirus, the Aspen Daily News reported....[MORE](#)

Indiana Firm Purchases Centennial Housing

An Indianapolis-based real estate investment firm specializing in affordable housing has purchased the 148-unit Centennial apartments complex in Aspen, the Aspen Daily News reported....[MORE](#)

Aspen Art Museum Names New Director

Aspen Art Museum announced the appointment of New York-based curator Nicola Lees as the nonprofit's new director, the Aspen Daily News reported....[MORE](#)

Snowmass

Snowmass Will Host Colorado Classic

Major professional cycling is returning to the Roaring Fork Valley after a five-year hiatus, the Aspen Times reported. Snowmass Village will be the first of four stops on this year's Colorado Classic road race, which takes place in late August and concludes in Denver....[MORE](#)

Basement Exemptions Being Reexamine

Town officials are proposing an amendment to the Snowmass land-use code that would change the way basement and mechanical space exemptions are measured and determined, the Aspen Times reported....[MORE](#)

Co-Working Space Opens on Snowmass Village Mall

Newly opened Engage Coworking is a second-floor space with five small private offices, several individual "hot" desks, a conference room and kitchen, operating as a shared office for small business owners or employees who work remotely, the Aspen Times reported....[MORE](#)

Basalt

Town Coffers Expect Massive Hit

Basalt town government will move ahead with road maintenance projects once the weather warms this spring, but other spending on capital improvements will be deferred until the economic fallout of the coronavirus crisis becomes clear, the Aspen Times reported....[MORE](#)

Carbondale

Red Hill Recreation Area Getting an Upgrade

Carbondale Town and Garfield County officials are gearing up for the Red Hill Road Realignment Project that is expected to create a safer and more efficient traveling experience for all community members, the Sopris Sun reported. The project can begin as early as mid-April. The improvements include realigning the CR-107 road to be straighter and safer when turning off of Highway 82; doubling parking spaces at the trailhead; and enhancing the access area. Located directly off of the intersection of Highways 82 and 133, County Road 107 is a hot spot for Red Hill trail users and RFTA commuters; the road also plays host to multiple homes located beyond the trailhead.

Glenwood Springs

US Bank Closing GWS Location

While one Glenwood Springs bank is preparing to move into the downtown core, another is pulling up stakes at another prominent street-front location on the southeast corner of Eighth Street and Grand Avenue, the Glenwood Springs Post Independent reported. U.S. Bank recently informed customers and its landlord, Colorado Mountain College, that it will be closing the downtown branch at 802 Grand Ave. by May 5. The bank's office at 1901 Grand Ave. will remain. The decision came down to a consumer trend toward online banking and less need for extra physical locations.

Pitkin County

New Superintendent Named for Aspen School District

A former Superintendent of the Year will take over at the Aspen School District, the Aspen Daily News reported. Dave Baugh, current superintendent of the Centennial School District in Conshohocken, Pennsylvania accepted the Aspen School District superintendent role and will begin in July....[MORE](#)

Pitkin County Suspends Short-term Booking

Pitkin County's Incident Management Team is reminding the public that the latest public health order bans short-term lodging, the Aspen Daily News reported....[MORE](#)

Infrastructure Projects Postponed

A number of Pitkin County government's infrastructure construction projects will be postponed as a result of the recent public health order shutting down all nonessential construction, the Aspen Daily News reported. Projects that will be put on hold include phase two of the county courthouse renovation, replacement of the upper Castle Creek Bridge, and county road overlay, striping and crack sealing improvements on Maroon Creek Road, Glen Eagle Drive and Horseshoe Drive.....[MORE](#)



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Safer at Home allows time for wildfire season preparation for more than half of state's residents living in WUI

May 2 marks 7th annual Wildfire Community Preparedness Day and kickoff to Wildfire Awareness Month

DENVER – While COVID-19 has changed facets of Coloradans' personal and professional lives and required residents everywhere to stay at home, for more than half of the state's population who live in a wildfire prone area, the Stay at Home and Safer at Home mandates present an opportunity to prepare for the upcoming wildfire season.

With Wildfire Preparedness Day on Saturday, May 2 and Wildfire Awareness Month in May, wildfire, insurance and REALTOR® professionals are encouraging the nearly 3 million Colorado residents living in the wildland-urban interface (WUI) to prepare their homes and communities for wildfire in the weeks ahead.

"Every homeowner should be aware of their wildfire risk and the associated responsibility to reduce that risk, not only to protect their property, but also to improve the safety of first responders," said Colorado State Forest Service (CSFS) Wildfire Mitigation Specialist Daniel Beveridge. "There are numerous examples from the past few seasons showing that proactive wildfire mitigation efforts are effective and now is a perfect time for people across the state to take action."

The current outlook calls for average wildfire potential into mid-summer with an early onset to fire activity in the southern portion of the state, and the southwest corner in particular. In an average year, Colorado would have 4,472 wildfires burn more than 160,400 acres. However, the impact on people and communities across the state would be further magnified during a wildfire season with COVID-19 factors in play through air quality issues, evacuation challenges and access to wildfire resources, according to an early April update from the Colorado Division of Fire Prevention and Control.

Although COVID-19 related restrictions prevent residents from conducting group mitigation activities, wildfire officials are encouraging individual homeowners to take advantage of this extra time at home to engage in a wide range of low-cost mitigation steps proven to protect homes and land and help reduce damage to structures and communities.

"Since wildfire is not affected by viruses like the human population, it is all the more important this fire season to prepare ourselves and our homes for its impact, no matter where in the state we live," said CSFS's Beveridge.

From completing home inventories, including photographs and video, to cleaning gutters and rooftops, to trimming backyard shrubs and trees and removing flammable materials from the perimeter of the home, there are a wide range of easy steps that homeowners can complete as coronavirus restrictions keep people at home. Reviewing insurance policy details and updating coverage are also key steps in the process along with creating and reviewing evacuation plans and emergency toolkits.

"During these uncertain times when all of us are worried about protecting our personal finances, it's important we take steps to prepare our properties and insurance policies for wildfire season," said Rocky Mountain Insurance Association (RMIA) Executive Director Carole Walker. "Using this time at home to create an inventory of personal belongings and checking in with your insurance professional to review coverage are projects we usually procrastinate that will help homeowners be financially prepared for wildfire and natural disasters."

Based on recommended fire-mitigation activities from the National Fire Protection Association (NFPA), the Colorado State Forest Service (CSFS) advises homeowners complete the following activities at home while practicing social distancing.

Top 10 Wildfire Season Preparation Activities:

1. Rake and remove pine needles and dry leaves 5 feet from the home as well as under decks, porches, sheds and play structures.
2. Remove leaves and needles from roofs and gutters.
3. Sweep porches and decks clear of any burnable plant material.





4. Move firewood piles at least 30 feet from the house, preferably uphill.
5. Transfer items under decks or porches to a storage area.
6. Cover any exposed eave or attic vents with 1/8-inch metal mesh screening.
7. Ensure home address signs are clearly visible from the street.
8. Contact the local Office of Emergency Management to register for emergency notifications and encourage your friends, family and neighbors to do the same.
9. Confirm at least one alternate path out of your neighborhood other than the one most commonly used and be prepared for potential evacuation requiring the alternative route.
10. Create an inventory of valuables in your home including written summaries, photography and video.

Source: CSFS and NFPA

Wildfire experts and key stakeholder organizations and professionals across the state offer a diverse range of resources and recommendations to help Colorado citizens prepare for and respond to wildfires, including:

- **The National Fire Protection Association (NFPA)**, which founded the National Wildfire Preparedness Day in 2014, offers comprehensive research and a wide range of downloadable fact sheets, brochures, checklists and visuals to help residents understand wildfire threats and the steps needed to help protect homes. For more information and access to [NFPA tools](https://www.nfpa.org/), visit: <https://www.nfpa.org/>

In addition, NFPA will host two, free one-hour webinars offering homeowners guidance on how to prepare their homes to withstand a wildfire and how to prepare their finances to recover from a loss. The webinars will be held:

May 6, 11 a.m. MDT. [Click here to register](#). May 20, 11 a.m. MDT. [Click here to register](#).

- **The Rocky Mountain Insurance Association (RMIA)** provides a range of wildfire specific downloadable tools, templates and education for homeowners, including home inventory checklists, wildfire prevention tips and evacuation planning tools via its website: <http://www.rmia.org/index.asp>.
- The Colorado State Forest Service hosts the Colorado Wildfire Risk Assessment Portal (CO-WRAP), an online mapping tool that provides access to statewide wildfire risk assessment information: www.coloradowildfirerisk.com



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- Colorado Association of REALTORS® in cooperation with wildfire and insurance industry experts produced a consumer-focused *Colorado Property and Insurance Wildfire Preparedness Guide* featuring best practices in wildfire mitigation, defensible space, safety and insurance preparation for property owners, frequently asked questions and direct links to a wide range of local community resources for residents. The guide is available at [ColoradoProjectWildfire.com](https://coloradoprojectwildfire.com).

Since launching Colorado Project Wildfire in 2015, REALTORS® across the state have joined forces with industry experts to host local wildfire education events for residents, share information and access to resources directly with homeowners.

"Although it's easy to be distracted by the drastic changes that Coronavirus has brought us in the past two months, we can't take our eyes off of the significant and potentially deadly threat that wildfires bring to our state each year," said Ulrich Salzgeber, chairman of the Colorado Project Wildfire Taskforce for the Colorado Association of REALTORS®. "With more than 26,000 members living, working and supporting communities throughout our state, we will continue to be proactive in helping educate and support homeowners and residents living in these WUI areas about the steps they can take and the resources available to them to mitigate their properties and be prepared for the growing wildfire risk."

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Details:

During these trying times NAR has brought back the Right Tools Right Now program to bring you the tools you need to better your business right now. We have a number of tools and resources in the REALTOR Store that are available for you FREE thanks to the program. Check out the RTRN products section for the free items available to you through the program.

Members who place an order for any of the RTRN product in the store from May 1 to 15, 2020 will receive a free copy of A New Reality for Realty: An Introduction to PropTech Webinar Download **automatically** with your purchase. NO coupon codes, no muss, no fuss.

The reward will automatically be added to your cart/order once you have a qualifying item added to your cart. Proceed to checkout and A New Reality for Realty: An Introduction to PropTech Webinar will then be delivered to your Digital Downloads section at the conclusion of your order.

All US members of the National Association of REALTORS® are eligible to receive this offer. Must have a valid NRDS ID number and e-mail address to register. Only orders completed between May 1 to 15, 2020 will be eligible for this offer; prior purchases do not qualify.

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Constricted Consumption

While politicians can argue about who has the authority to reopen the economy, in the end it is consumers and businesses that will make that decision based on safety and security. Early evidence from China (which is at best an untrustworthy data source), is not good. March retail sales fell 19%, suggesting the combination of behavioral changes and the material loss of wealth and income meaningfully held back consumption.

Dreadful Data

In 20Q1, GDP declined at an annualized rate of 4.8%. This means that GDP declined at a rate of 8.8% in just March after growing at 2% in January and February. This suggests that in April GDP will decline by at least 20%, in May by another 10% and by June hopefully growth rises to 0%. That sums to an annualized rate of -30% in 20Q2. No V-shaped recovery.

Forbearance Frequency

During the week of 3/2/20, before Covid-19 had much impact on the US economy, 0.25% of all mortgage loans were in forbearance. During the week of 4/19/20 the rate was 6.99%, up from 5.95% the previous week! At 6.99%, 3.5 million mortgages are in forbearance. Forbearance requests peaked the week of 3/30/20 and have declined since but will again spike the week of 4/27/30 as mortgage payments are due 5/1/20.

Falling Fuel

For the week ending 4/17/20, US petroleum demand averaged 14.1 million bbl/day, down 31% from the 2020 average through 3/13/20 before travel restrictions began. The 14.1 million bbl/day level is up slightly from 13.8 million bbl/day the previous week; the lowest weekly average level since the early 1990s. Demand for motor fuel has fallen 40%, jet fuel dropped 62%, and diesel fuel demand, dominated by trucking, has slipped just 20%.

Improving Info

While the economy is shrinking quickly as we are in a brief depression (there is no definition, but a GDP decline of 7.5%/year or more works for me), the data is no longer all dismal. Car sales may have stopped falling, consumer sentiment and consumer expectations of the future are no longer declining, and demand for oil and gasoline has bottomed. This suggests that we are beginning to hit bedrock.

Super Sandwiches

The Friday File: America's most popular sandwich is grilled cheese, with 79% of respondents liking or somewhat liking it. Next, in a fowl tie, is the turkey sandwich and the grilled chicken sandwich at 75%. Roast beef follows at 71% then comes the pork parade with both the ham sandwich and BLT at 69%, club at 68% and the bacon sandwich at 67%. My favorite, the PB&J follows at 66%.

Staggering Speed

The Friday File: On 11/10/19, three drivers in an innocent-looking 2015 Mercedes Benz E63 AMG loaded with electronics sped from NYC to Redondo Beach, CA, the Cannonball run, in a record 27 hours and 25 minutes. But on 4/4/20 three drivers in an Audi A8 L took advantage of epically reduced traffic due to Covid-19 sheltering-in-place and did it in 26 hours and 38 minutes averaging 106 mph! OMG!

Elliot Eisenberg, Ph.D. is President of GraphsandLaughs, LLC and can be reached at Elliot@graphsandlaughs.net. His daily 70-word economics and policy blog can be seen at www.econ70.com.

MARCH/APRIL 2020

New REALTOR® Members

Greg Taxler – SV Real Estate

New Offices

Buell Real Estate

Trudi Watkins Real Estate LLC

New Secondary Members

Jes Eckhart – eXp Realty LLC

Company Changes

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Tommy Kearsey – Compass

Frank McSwain – Compass

Donny Birnkrant – Compass

Michael Shook – Compass

Trudi Watkins- Johnson – Trudi Watkins Real Estate LLC

New Affiliate Members

Natural Retreats – Charles Case

Michelle James – Snowmass Club

Membership Stats

Thank you for your business!

REALTOR® Members - 676

Primary - 631

Secondary - 45

Non-Members - 2

Affiliates - 48



WELCOME



ABOR Working with Pitkin County to Develop Safe Real Estate Guidelines

The Aspen Board of REALTORS® has been working diligently to assist Pitkin County in not only understanding the essential nature of the real estate industry, but to also develop safe guidelines for practitioners as we move into the next phase of COVID-19 orders and requirements.

Real estate services provide a substantial economic impact to the community, to individual buyers and sellers, and provide critical tax revenue for the City of Aspen based on its real estate transfer taxes. This safety plan being designed by ABR and Pitkin County will be designed to comply with the Colorado Department of Health & Environment Public Health ("CDPHE") Public Health Order 20-28 Safer at Home issued pursuant to the Governor's directive in Executive Order D 2020 044 Safer at Home.

ABR will publish all the details of the guidelines in the safety plan when they are finalized, but the emphasis will be on observing social distancing directives, ensuring personal safety for all, and allowing elements of the real estate transaction to proceed in the most logical and efficient manner possible.

Safer at Home Allows Time for Wildfire Season Preparation for More than Half of State's Residents Living in WUI

While COVID-19 has changed facets of Coloradans' personal and professional lives and required residents everywhere to stay at home, for more than half of the state's population who live in a wildfire prone area, the stay at home and safer at home mandates present an opportunity to prepare for the upcoming wildfire season.

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Although COVID-19 related restrictions prevent residents from conducting group mitigation activities, wildfire officials are encouraging individual homeowners to take advantage of this extra time at home to engage in a wide range of low-cost mitigation steps proven to protect homes and land and help reduce damage to structures and communities.

Based on recommended fire-mitigation activities from the National Fire Protection Association (NFPA), the Colorado State Forest Service (CSFS) advises homeowners complete the following activities at home while practicing social distancing.

Colorado Extends Remote Notary Use Through May 30th

The Secretary of State's remote notarization emergency rules have been extended and will remain in effect until May 30. These rules enable Coloradans to have access to notary services without in-person contact.

"Remote notarization has ensured business and personal transactions can continue to take place in the midst of the coronavirus pandemic," said Secretary of State Jena Griswold. "With social distancing guidelines still in place, we are extending remote notarization to help protect Coloradans' health."

At the end of March, Governor Polis issued an Executive Order that ordered the temporary suspension of the personal appearance requirement for notarial officers to perform notarizations due to the presence of coronavirus disease in Colorado and authorized the Secretary of State to adopt remote notarization emergency rules.

Secretary Griswold then issued emergency rules that outline the procedures and requirements for remote notarization in Colorado during this state of emergency. The Secretary of State's Office received a lot of positive feedback from the many Coloradans and the business community on the program.

In April, the Governor issued additional Executive Orders extending the effectiveness of his original March order. Remote notarization emergency rules will remain in effect until May 30.

For the Notice of Temporary Adoption for the Colorado Notary Program Rules (8 CCR 1505-11), please click [here](#). The notice includes the adopted rules, a statement of basis, and statement of justification. For an unofficial copy of the notary rules as adopted and effective 3/30/2020, please click [here](#).

The Secretary of State's Office has worked with stakeholders, including the Colorado Bar Association, on legislation on remote notary service over the last several years. The emergency remote notary process builds on this work.



National News — US Jobless Claims Decline for Third Straight Week

According to an April 30th release from the Labor Department, 4.4 million Americans filed for unemployment last week (ending April 18), a decrease of 810,000 from the previous week's revised level. In the last five weeks, more than 26 million new jobless claims were filed across the United States, confirming the concerns about the impact of the coronavirus pandemic on the economy. Comparing these claims with the total number of employees, nearly 16% of the workforce lost their job in the last five weeks. However, it is the third week in a row in which jobless claims have declined, showing that unemployment is slowing.

The National Association of REALTORS® closely monitors the weekly claims for unemployment insurance provided by the Bureau of Labor Statistics. Since this data is also released for each state, we track the jobless claims activity at the state level. This

state-level data report is a very important indicator to watch at economic turning points because it provides detail on what's happening week by week, rather than each month or quarter.

The good news is that 44 states reported a decrease in initial claims for the week ending April 18. New York, California, and Michigan were the states with the highest decline in unemployment claims compared to the previous week. The number of advance claims dropped by 189,985 in New York; 121,904 in California; 88,088 in Michigan. Parsing out by industry, fewer layoffs were reported in the manufacturing, retail trade, and accommodation and food services industries in Michigan and California, according to the local unemployment insurance program offices.

However, unadjusted advance claims continued to increase in Florida, Connecticut, and West Virginia. Specifically, the number of advance claims increased by 324,718 claims in Florida; 68,707 in Connecticut; and 31,307 in West Virginia.

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FAQ Clear Cooperation

- **What is the Clear Cooperation Policy?**
 - o Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. See AGMLS Rules and Regulations Section 1.01 Clear Cooperation.
- **What is public marketing?**
 - o Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, social media, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public. See AGMLS Rules and Regulations Section 1.01 Clear Cooperation.
- **To what property types does the Clear Cooperation Policy apply?**
 - o The Clear Cooperation Policy applies to all MLS residential and residential land property types. See AGMLS Rules and Regulations Section 1.01 Clear Cooperation, Note 2.
- **In what statuses can I publicly market a listing?**
 - o All active statuses (Active, Pending, Pending with any Contingency except "No"). See AGMLS Rules and Regulations Section 1.01 Clear Cooperation, Note 4.
- **In what statuses is public marketing not permitted?**
 - o All off-market statuses (Closed, Expired, Withdrawn, Canceled, Deleted). See AGMLS Rules and Regulations Section 1.01 Clear Cooperation, Note 4.
- **When do I have to submit a listing to AGMLS?**
 - o Listings must be submitted to AGMLS within 3 business days after the seller's signature have been obtained or on the marketing/start date in the listing agreement. See AGMLS Rules and Regulations Section 1 Listing Procedures.
 - o However, if a listing is publicly marketed then the listing must be submitted to the MLS within 1 business day of the public marketing, in accordance with the AGMLS Clear Cooperation Policy. See AGMLS Rules and Regulations Section 1.01 Clear Cooperation.
- **What if my seller does not want their listing disseminated via AGMLS?**
 - o If your seller-client refuses to permit the listing to be disseminated via AGMLS, then the participant may take the listing as an office exclusive. See AGMLS Rules and Regulations Section 1.3 Exempted Listings.
- **What documentation do I need to submit to AGMLS for an office exclusive listing?**
 - o Listing contracts for an office exclusive listing must be accompanied by a separate certification that the seller does not desire her listing to be disseminated via AGMLS; the certification must be signed by the seller, listing broker, and listing agent. See AGMLS Rules and Regulations Section 1.3 Exempted Listings.
 - o AGMLS provides a form that brokers and agents may use with their clients. However, brokers are permitted to create their own forms so long as the form contains written certification regarding not disseminating the listing via AGMLS from seller and is signed by the seller, listing broker, and listing agent.
 - o The certification (form) only needs to be submitted to AGMLS upon request. If AGMLS requests a copy of the certification (form) it must be submitted within 24 hours of the request. See AGMLS Rules and Regulations Section 1.3 Exempted Listings and Section 7.3 Compliance with MLS's Request for Information.
- **Is public marketing permitted for an office exclusive?**
 - o No. Properties taken on an office exclusive basis are not permitted to be publicly marketed. If the office exclusive listing is publicly marketed, then the listing must be submitted to the MLS within 1 business day of the public marketing, in accordance with the AGMLS Clear Cooperation Policy. See AGMLS Rules and Regulations Section 1.01 Clear Cooperation.
- **How can office exclusive listings be shared or marketed?**
 - o Per AGMLS policy, office exclusive listings cannot be publicly marketed. See AGMLS Rules and Regulations Section 1.3 Exempted Listings, Note 1.
 - o However, direct promotion of a listing between the listing broker and their affiliated licensees is not considered public marketing. Additionally, the listing broker and their affiliated licensees can share office exclusive listings with their clients.
- **Can an office exclusive listing be shared to a select group of brokers outside the listing broker's office?**
 - o No. Sharing listings with private listing networks or multi-brokerage networks that include more brokers or licensees than those affiliated with the listing brokerage constitutes public marketing. If a listing is shared in a private listing network or multi-brokerage network then the listing must be submitted to the MLS within 1 business day of the public marketing, in accordance



with the AGMLS Clear Cooperation Policy. See AGMLS Rules and Regulations Section 1.01 Clear Cooperation.

- **What happens if I violate the Clear Cooperation Policy?**

- o AGMLS will assess fines for violation of the Clear Cooperation Policy on a tiered basis. This first offense will result in a warning letter and 2 calendar days to cure the violation. Second offenses will result in a \$500 fine and 2 calendar days to cure the violation. Third offenses will result in a \$2,500 fine and a 30-day suspension from the MLS. See AGMLS Rules and Regulations Section 6.3 Fines.

- **When does the Clear Cooperation Policy go into effect?**

- o The AGMLS Clear Cooperation Policy will go into effect on May 1, 2020.

- **Why did AGMLS implement this policy?**

- o The Clear Cooperation Policy is a mandatory policy from the National Association of REALTORS® (NAR).

- **Where can I find additional information on NAR's MLS Clear Cooperation Policy and its background?**

- o You can read more details about NAR's MLS Clear Cooperation Policy here:

<https://www.nar.realtor/about-nar/policies/mls-clear-cooperation-policy>

The new MLS Rules and Regulations are effective May 1st.

The AGSMLS B.O.D.'s has adjusted the new MLS Rules and Regulations and took out the "reason" the seller would like an office exclusive listing. This information was taken out of the R & R and the Office Exclusive Consent Form.

Click here for the [MLS Rules and Regulations](#). You can find the MLS rules and regulations and the Office Exclusive Consent Form by going to menu in Flexmls, daily functions, MLS Intranet, Aspen/Glenwood MLS.

Here is the [Office Exclusive Consent Form](#) that will require the owner, listing member and listing broker to sign and date.

Section 1.0 and note 4 of 1.0 talk about the marketing date and that it must be in writing. Having the market date in writing will help with compliance.

Note 4: The listing broker and seller may, in the listing agreement, agree to a specific date at which listing broker may begin marketing seller's property (a "marketing date" or "start date"); such date may occur after the effective date of the listing agreement. Such marketing or start date must be in writing and reflected in the listing agreement. In accordance with Section 1, the listing must be delivered to the Multiple Listing Service on the marketing or start date.

This is the clear cooperation rule.

Section 1.01 Clear Cooperation

Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, social media, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public.

Note 1: Exclusive listing information for required property types must be filed and distributed to other MLS Participants for cooperation under the Clear Cooperation Policy. This applies to listings filed under Section 1 and listings exempt from distribution under Section 1.3 of these MLS rules if it is being publicly marketed, and any other situation where the listing broker is publicly marketing an exclusive listing that is required to be filed with the service and is not currently available to other MLS Participants.

Note 2: This policy is applicable to all MLS Residential and Residential Land property types: Single Family Residence, Condo/Townhouse/Duplex/Half Duplex, Farm/Ranch, Hotel Condo, Mobile Home/Modular, Residential Income, and Seasonal & Remote.

Note 3: This policy is not applicable to Commercial, Commercial Leasehold, Commercial Land, and Residential Rentals.

Note 4 covers all other statuses and once publicly marketed must be entered into the MLS within 1 business day.

Note 4: Only listings in Active and Pending (including Pending with any Contingency, except "No") are permitted to be





publicly marketed. If listings in any other status (Closed, Expired, Withdrawn, Canceled, Deleted) are publicly marketed, MLS Participants must distribute that listing within (1) one business day of the publicly marketing in accordance with Section 1.01.

Section 1.3 covers exempted listings and the office exclusive including the seller's reason for using an office exclusive listing.

Section 1.3—Exempted Listings: If the seller refuses to permit the listing to be disseminated by the Service, the Participant may then take the listing ("office exclusive") and such listing shall be filed with the Service but not disseminated to the participants. Listing contracts for office exclusive listings must be accompanied by a certification (attached as an exhibit or similar) signed by the seller, listing broker, and agent that the seller does not desire the listing to be disseminated by the Service. Upon request by MLS broker must present the fully executed certification that the seller does not want the listing to be disseminated by the MLS within 24 hours of such request, in accordance with Section 7.3.

Section 2.5, Note 2 refers to the reporting the recorded sale price in the MLS.

Note 2: In disclosure states, if the sale price of a listed property is recorded, the reporting of the recorded sale price will be required by the MLS.

Section 6.3, (c) states the fines for Clear Cooperation Violations.

(c) Clear Cooperation Violation Fines: In order to enforce the Clear Cooperation Policy, all listings must be submitted to the MLS within one (1) business day of any public marketing (see Section 1.01). Violations of this policy will result in the following fines: 1st offense will result in a warning letter and participants will have 2 calendar days to cure the violation; 2nd offences will result in the assessment of a \$500 fine and participant will have 2 calendar days to cure the violation; 3rd offense will result in a \$2,500 fine and a 30-day suspension from the MLS.

Section 7.3 is new and spells out how the member must comply when requested.

Section 7.3—Compliance with MLS's Request for Information

MLS reserves the right to audit and review all information submitted by a Participant or on her/his behalf by a non-principal brokers, sales licensees, assistant, or others authorized to submit information to MLS to ensure compliance with these MLS rules and regulations. Participant will comply with any request for information from MLS with 24 hours of any such request, including but not limited to a copy of the listing agreement, any addendums, related forms, and other documentation.

Section 9.3 is new. This will help with copyright and the members options when data is scraped from their listings.

Section 9.3—Complaints of Unauthorized Use of Listing Content:

Any participant who believes another participant has engaged in the unauthorized use or display of listing content, including photographs, images, audio or video recordings, and virtual tours, shall send notice of such alleged unauthorized use to the MLS. Such notice shall be in writing, specifically identify the allegedly unauthorized content, and be delivered to the MLS not more than sixty (60) days after the alleged misuse was first identified. No participant may pursue action over the alleged unauthorized use and display of listing content in a court of law without first completing the notice and response procedures outlined in this Section 9.3 of the MLS rules.

Upon receiving a notice, the Board of Directors will send the notice to the participant who is accused of unauthorized use. Within ten (10) days from receipt, the participant must either: 1) remove the allegedly unauthorized content, or 2) provide proof to the Board of Directors that the use is authorized. Any proof submitted will be considered by the Board of Directors, and a decision of whether it establishes authority to use the listing content will be made within thirty (30) days.

If the Board of Directors determines that the use of the content was unauthorized, the Board of Directors may issue a sanction pursuant to Section 7 of the MLS rules, including a request to remove and/or stop the use of the unauthorized content within ten (10) days after transmittal of the decision. If the unauthorized use stems from a violation of the MLS rules, that too will be considered at the time of establishing an appropriate sanction.

If after ten (10) days following transmittal of the Committee's (Board of Director's) determination the alleged violation remains uncured (i.e. the content is not removed or the rules violation remains uncured), then the complaining party may seek action through a court of law.

Section 11 was updated concerning liability or claims to the MLS.

Section 11—By the act of submitting any property listing content to the MLS, the Participant represents that he has been authorized to grant and also thereby does grant authority for the MLS to include the property listing content in its copyrighted MLS compilation and also in any statistical report on comparables. Listing content includes, but is not limited to, photographs, images, graphics, audio and video recordings, virtual tours, drawings, descriptions, remarks, narratives, pricing information, and other details or information related to listed property.

Each participant who submits listing content to the MLS agrees to defend and hold the MLS and every other participant harmless from and against any liability or claim arising from any inaccuracy of the submitted listing content or any inadequacy of ownership, license, or title to the submitted listing content.

Please email Suzanne suzanne@agsmls.com with any questions.

Virtual Showings: buyers and their brokers' considerations

By Camille Beshara on Apr 28, 2020, Larson Skinner, Professional Limited Liability CO

Buyer's brokers' risks to consider

From the buyer's broker perspective there are several aspects of virtual showings to consider, including health, technology, and legal concerns. This post is not legal advice and assumes that virtual showings and open houses are conducted in a manner compliant with all applicable federal, state, and local orders and restrictions.

For buyers' brokers, the health concerns are similar to sellers. Brokers and agents may wish to take measures to protect themselves while virtually showing a property (see the CDC's recommendations) against transmitting or acquiring pathogens. Any buyer touring a property would likewise have similar concerns. Most of the other concerns on the buyer side are legal in nature.

Permission and privacy

As a preliminary matter, buyers' brokers and agents must determine whether they can make media for virtual showings at all and whether they can freely distribute the media. Individuals have a reasonable expectation of privacy in their own homes. Buyers' agents physically present on someone else's property must have permission to be there (or trespass, which is not recommended).

Typically, permission to enter the property is provided via scheduling a showing appointment (often through the MLS) with the listing broker. If permission is conditioned on the buyers' broker NOT making media, then the buyers' agents cannot make media. If it is conditioned on buyers' broker not allowing distribution of media beyond the buyers themselves, then the buyers' broker must not allow that distribution. The consequences of violating these strictures





depend a great deal on how the buyers' brokers learn of them—whether in a notice on MLS, a special contract for accessing the property, or some other means.

Distribution considerations

Next, buyers' brokers must consider whether they have the necessary means to distribute media to their buyers or beyond, meaning what media channels and technology platforms to use. Additionally, they may want to know whether others can make use of their media, too. Brokers should be familiar with the end-user license agreements of any platforms they plan to use to create and share media resulting from a virtual showing. If the platform can use the media in a way not permitted by the seller (e.g., public distribution or creation of derivative works), the buyer's broker could be in hot water.

Buyers' brokers must understand the technology well enough not to distribute media accidentally. For example, doing a virtual showing using Facebook's live streaming technology might work well for buyers and their brokers, but in that case, the broker should be sure they have [selected the audiences](#) to whom the stream is visible. They could otherwise end up violating the seller's requirements or publicly embarrassing their buyers. Live-streaming poses additional risks because of its live nature, meaning that it can't be edited before distribution. Buyers' brokers should understand who will be in the home during a virtual showing, and everyone should plan to be on their best behavior.

Buyer's broker should also understand the output of the platform. Will the use of a particular platform allow the broker to brand the media in a way consistent with their firm's other materials? Note that if the media will be submitted or distributed through the MLS then the MLS may have certain rules regarding media standards and branding.

Copyright and intellectual property considerations

Buyers' brokers also have legal rights in the media they create. Photo and video recordings have long been deemed "works of authorship fixed in a tangible [digital] medium of expression" and thus are subject to copyright. Live-streaming, a relatively new technology, is subject to copyright too. The creation of a live-stream results in the immediate creation of multiple copies of the recording. These copies are necessary for the distribution of the live-stream to multiple platforms across the broader internet. So, any persistent copies of live-streamed video are subject to the author's copyright (this will probably be the agent unless the broker acquires copyright ownership in their independent contractor agreements with their agents).

If the media is subject to copyright, then others may not use that media without the copyright-owner's permission. Stated another way, if brokers want others to be able to

use their media, then they need to grant a license for that use. For buyers' brokers, there is likely an implied license upon distribution to her buyer client. Also, if the video or live-stream is submitted or distributed via the MLS, then the typical MLS licenses are granted (i.e., those described in MLS's rules and participant/subscriber agreements). Of course, there are many potential exceptions and situations where others can use the media content depending on the circumstance, and this post cannot cover all the ground of copyright law. The key point is that copyright considerations will be in play for media created for or from virtual showings.

Defects in the property

One last matter that may be of interest to sellers, buyers, and brokers from both sides: Does the use of virtual showings change the legal standards for the discovery of defects? In many states, a buyer may recover against a seller if, after closing, the buyer asserts that she has suffered some harm due to a defect in the property that the seller did not disclose. In some states, there is no such liability for 'obvious defects,' ones that any reasonable buyer should have seen upon reasonable inspection before purchase. Visiting a property via live-streamed video or virtual tour, however, could make it more difficult for the buyer to detect and assess defects than being there in person. It is possible that the legal standard for obvious defects may evolve in the coming years to reflect these changing market conditions.

Meanwhile, buyers might have to repose more trust in their brokers, who might need to be more concerned about liability as a result. Buyers might be upset by a larger range of defects, because they might not see them until moving in, raising potential concerns among sellers and buyers' brokers about liability flowing their way. All parties to the transaction might wish to ensure the buyer pays for a third-party inspection before making an offer. While a virtual showing might be a viable preliminary option, there's a good likelihood that buyers will still want to see the property in person prior to purchase.

Resources

Of course, there may be other aspects of virtual showings that are of concern to buyers or their brokers that we didn't address above. If you're looking for more guidance and resources on virtual showings, check out NAR's resources [here](#), [here](#), and [here](#), and CMLS's resources [here](#).

Thanks for reading,
Camille

MARCH 2020



Dear Member,

As a benefit of membership, the Aspen Board of REALTORS® is proud to present CAR's latest local monthly housing statistics based off of sales in our FlexMLS program. As a reminder, ABOR has partnered with CAR and ShowingTime (formerly 10K, a real estate research and marketing firm) to provide these monthly real estate reports at the State, Regional and Local levels. These reports are released to the media and published for the public to view on the CAR website. The Local reports are shared by each area board.

The reports are broken down by major area for the Aspen/Glenwood MLS listings. The links are provided here for your convenience.

[Aspen Report March 2020 >>>](#)

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[Carbondale Report March 2020 >>>](#)

[Glenwood Springs Report March 2020 >>>](#)

[Marble Report March 2020 >>>](#)

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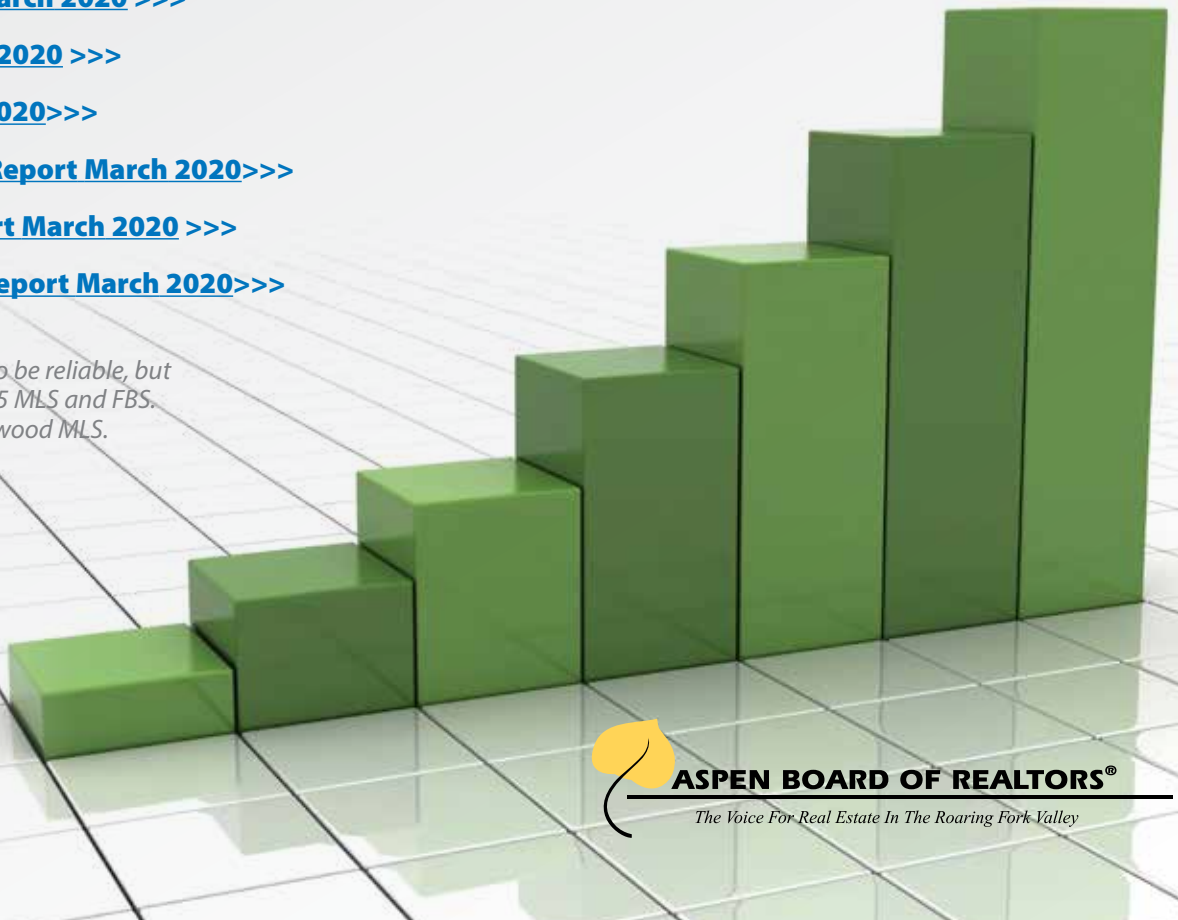
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