

**Homebuilder's Sales Offices, Support Services and  
Governor Newsom's  
Stay at Home Executive Order**

The first consideration for CBIA, our member companies and all those we encounter in the homebuilding process, are for their health and safety. This guidance is being provided on March 23, 2020 and is subject to change. Moreover, this is not intended to be, nor should it be construed as legal advice.

On March 22, 2020, Governor Newsom revised his Stay at Home Executive Order (EO) which expressly includes a list of Essential Critical Infrastructure Workers. These workers are allowed to leave their homes to go to work. The list contains the following category among many others:

Construction Workers who support the construction, operation, inspection, and maintenance of construction sites and construction projects (including housing construction)

The functions listed in the Essential Critical Infrastructure Workers document linked to the EO should be read in conjunction with the language contained in the EO itself:

When people need to leave their homes or places of residence, whether to *obtain or perform* the functions above, *or to otherwise facilitate authorized necessary activities*, they should at all times practice social distancing. (EO, p.2).

This means that people are allowed to leave their homes for three principle reasons:

- 1) Consumers may leave their homes to obtain goods or services from the businesses or agencies identified in the Essential Critical Infrastructure Workers document;
- 2) Workers to perform those functions;
- 3) Anyone who *facilitates* those functions (the authorized necessary activities).

To “facilitate” means to help forward towards an end, to promote, to ease.

Focusing solely on the Essential Critical Infrastructure Workers document would lead to consequences opposed to statements made by the Governor in the press conferences he has held on the EO and the statements made on the Governor's website (COVID19.ca.gov). Without 1) and 3) above, healthcare workers, pharmacists, gas station attendees, grocery clerks would be allowed to go to work, but no one would be allowed to enter those facilities. Alternatively, it would not be good for consumers to be able to go to a grocery store and perhaps window-shop but could not actually consummate the purchase of groceries. Furthermore, it would do no good to allow consumers to purchase the food if the order

prohibited eating the food they purchased. A useful good is good insofar as it is used. The same rationale applies to housing construction.

Thus, anyone who helps towards the end of consummating the sale or occupancy of a house (the end of construction) has a legitimate reason to leave their home under the EO. This would include sales persons, among others.

Of course, if they do, they are required to practice Social Distancing.

Nothing in the EO requires a builder to keep their sales office open. Many in the industry are adapting by inviting potential buyers to take virtual reality tours of homes online. Interested buyers can set up private appointments on the phone for walk through showings.<sup>1</sup>

There are many other factors you should consider in determining whether you can or should keep a sales office open, including concerns for the health of your employees and related employment laws, which are beyond the scope of this memo. Nor does this memo address any local order that is more stringent than the EO that you may be subject to. This memo only addresses the narrow issue of the impact of the EO on a homebuilder's business as regards those who facilitate the construction of housing and consumers.

With respect to questions you may have regarding anything covered by this memo, we recommend that you consult an attorney before deciding to take action.

The information provided in this document does not, and is not intended to, constitute legal advice. These materials are for general informational purposes only. You should contact your attorney to obtain advice with respect to any particular legal matter or before acting upon this information.

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<sup>1</sup> As of this writing, San Louis Obispo County has prohibited model homes from remaining open. Contact with potential purposes cannot take place face-to-face.