

# Buyer be aware of video/audio recording during showings



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# Audio and Video Surveillance in Properties

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*Do you ever feel like you are being watched?*

## Legal or Illegal Surveillance

Questions arise as to a Seller's legality of using of audio and video surveillance (including hidden) in homes during property showings. Security devices are justifiably used in homes for security purposes. However, they cannot be used as a means of obtaining information on prospective buyers, real estate agents, or potential information concerning making an offer on the property. The improper use of these devices could possibly result in civil or criminal liability – **but only if they are caught**.

As you REALTOR<sup>®</sup>, I would advise all buyers to treat any house being shown, there **may be hidden audio or video recording systems**. Even if there is no sign posted. Remember baby monitors are very inexpensive and can be placed anywhere. I advise buyers not to do or say anything they would not want the listing broker or seller to see or hear. Again, sellers are basically only violating the law **if they are caught** and it can be proved they used the inside information they collected on the deal.



## Video Surveillance



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In Colorado, audio surveillance needs the consent of at least one participant to the conversation before a recording can take place, unless the eavesdropping device is used on one's own premises for security or business purposes and notice is given to the public. (See §18-9-304 and 305, C.R.S.)

Therefore, if a seller is using audio surveillance in their home, they should follow state law and give proper notice such surveillance is present. A one-party rule applies when recording a conversation without the consent of the other person, however this does not include conversations between a prospective buyer and their real estate broker. This would be not allowed since the seller is not a party to the communication. This would also apply to non-recording audio devices such as a walkie-talkie or baby monitors to listen in on private communications. Sellers are basically only violating the law **if they are caught** and it can be proved they used the inside information to gain an advantage during the real estate deal.

## Audio Surveillance

In Colorado, privacy laws prohibit anyone from visually recording another without consent in situations where the person has a reasonable expectation of privacy. (See §18-7-801, C.R.S.) Therefore, would the person being video recorded have a reasonable expectation of privacy in the location of the living room of a home for sale? A court would have to decide – but probably not. Unless, a prominent notice or signs is posted, which would suffice alerting any visitors to the home they may be video recorded. There would definitely be issues if a camera was placed in a bathroom.



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- <sup>i</sup> [https://dre.colorado.gov/division-notifications/audio-and-video-surveillance-properties?utm\\_medium=email&utm\\_source=govdelivery](https://dre.colorado.gov/division-notifications/audio-and-video-surveillance-properties?utm_medium=email&utm_source=govdelivery)
  - <sup>ii</sup> <https://images.pexels.com/photos/374103/pexels-photo-374103.jpeg?auto=compress&cs=tinysrgb&w=600>
  - <sup>iii</sup> <https://images.freeimages.com/variants/SzAJZ56wcZyjwXFL4LwhXrgz/f4a36f6589a0e50e702740b15352bc00e4bfaf6f58bd4db850e167794d05993d>
  - <sup>iv</sup> <https://images.pexels.com/photos/7463021/pexels-photo-7463021.jpeg?auto=compress&cs=tinysrgb&w=600>
  - <sup>v</sup> <https://images.pexels.com/photos/7641833/pexels-photo-7641833.jpeg?auto=compress&cs=tinysrgb&w=600>
  - <sup>vi</sup> <https://images.pexels.com/photos/7641866/pexels-photo-7641866.jpeg?auto=compress&cs=tinysrgb&w=600>
  - <sup>vii</sup> <https://images.pexels.com/photos/5399022/pexels-photo-5399022.jpeg?auto=compress&cs=tinysrgb&w=600>