

Everything You Need To Know About Selling Probate Real Estate

Experiencing the **death of a loved one** can be a difficult and trying time. Family squabbles and court issues serve to further create an intense span of emotions. Having a professional that you can trust and who understands your issues can make a huge difference in smoothing out this transition in your life. Be sure that you have selected a Realtor that you feel can create this type of transition for you and your family.

What You Need To Know About Selling Your Parents Home-Estate Planning Made Easier

It can be a time of great disorder, despair and overwhelming responsibility. But it can be made easier. Oft times individuals are caught off guard by a parents death and must then sort through years of belongings and sell the family home. The executor has the responsibility and liability for any financial and legal decisions associated with the sale of the home and its contents.

As an executor, seek help to clear out these lifetime accumulations and prepare the house for sale. Here are a few tips

1. Decide what's most important by utilizing the 80/20 rule. If you get hung up on the emotional whirlwind of keeping several items out of "sentimental value" then set them aside and aim your attention towards the 80% that no one cares about.
2. Be thorough. Look through everything very carefully before selling or discarding it so as not to inadvertently give away items of true value; i.e. money, insurance policies, stock certificates, cash, etc.
3. Sell or donate everything that family members decide that they do not want.

Following these tips can help make this experience a little easier. Good luck on your **estate planning**.

What is Probate?

Probate is a Superior Court procedure to determine a will's validity and any creditor's claims. Probate also establishes the identity of the beneficiaries. If the validity of a will is in question, then after a person dies, an administrator

or administratrix is appointed by the court. The **administrator** or **administratrix** is appointed by the court to take possession of the property until probate is finalized. If the will has appointed a particular custodian, then that person is known as the **executor** or **executrix**.

What is an executor?

An **executor** is the person nominated in the will who is responsible for managing of the probate estate. Such management duties include, preparing an inventory, paying bills, filing taxes, and distributing the estate after a court order is obtained.

What if there is no will?

If there is no will then state law provides that the decedent's closest relatives have the highest priority in becoming administrator of the estate.

What is the difference between testate and intestate?

Testate means that the decedent died with a will. **Intestate** means that the decedent died without a will.

Can I obtain access to the probate file?

Because probate files are public information, you can go to the Superior Court of the county the probate is filed in and request to access the file.

What Types of Property Are Not Required To Through Probate?

With the right probate beneficiary designations, there is no need to go through probate. Holding property in joint tenancy or a living trust can avoid probate. Up to \$100,000 of personal property can pass in California without probate and there are provisions without limit for vehicles, vessels and mobile homes. There is also a summary petition procedure for transferring any type of property to a surviving spouse without any value limit.

How Do I Sell A Probate Home?

Seeking out professionals with adequate knowledge of probate and real estate is the crucial. It is important to work with professionals who understands what you are going through both emotionally and what your business needs are.

Assuming that you have already filed the **petition for probate**, the Superior Court will issue the type of authority granted to the **executor**. "**Limited authority**" means the executor must have court

supervision for selling real estate of the estate and other acts. "**Full Authority**" means the executor is allowed to sell the estate property without going through **court confirmation**. The next thing is to make sure you are issued **Letters Testamentary**. Letters Testamentary are necessary because these are the documents that allow the title company to accept the signature of the executor to transfer title to the new buyer. Your real estate professional should be well versed on court procedure so that they understand the flow and that they also understand the current real estate market.

What happens if the decedent owned property in other states?

If the owned property in other states, the estate could require multiple probates in each one of those states.

What is the Independent Administration of Estates Act (I.A.E.A)?

This section of the probate code grants the executor the authority to make decisions regarding the estate without the need to ask for court permission. This means that if the executor is granted authority under I.A.E.A, they may sell the property without **court supervision**.

What Do You Do When Real Estate is Tied Up In Probate?

Once an executor or administrator is appointed, you will need to wait for the Court to determine whether the estate will be administered under the court confirmation system or under the Independent Administration of Estate Act (I.A.E.A.). If the court orders that the estate may be administered under the I.A.E.A. then the executor may sell any property without court approval.

What Happens When Court Confirmation is Required?

Certain procedures are generally followed when court confirmation is either chosen or required.

An offer is presented and conditionally "accepted" by the estate representative. This purchase agreement is not binding on the estate. After all buyer contingencies are removed from the accepted offer, a petition for the court hearing is made. A 10% deposit 10% of the purchase price prior to or on the date of the court confirmation hearing is required from the buyer. The sale along with the accepted offering price, is advertised for a statutory

period in a local newspaper. Open, competitive bidding then occurs at the court hearing. The minimum first overbid price shall be an amount equal to the accepted purchase price of the accepted offer, plus five percent of that amount, plus \$500. If there is an overbid, the court will determine any overbidding amounts. The purchase price accepted must be at least 90% of the probate referee's appraised or re-appraised value of the property. All real estate commissions become subject to approval of the court.

What is An Overbid?

An overbid could occur when court confirmation is required and an interested party comes to court and bids higher on a property than the original offer.

How is A Realtor's Commission Set in A Probate?

The real estate commission for a property that is in probate is set by a court order if the estate falls under the old court confirmation process. However, most probates fall under the Independent Administration of Estates Act (I.A.E.A), which means that the listing is taken or a sale is made under this law, commissions are determined by the agreement between the executor and the Realtor.

What Should I Know About Choosing A Probate Real Estate Agent?

First of all, you should know that probate real estate is a specialized area of real estate. Not every real estate agent or Realtor is familiar with probate, its legal procedures and its contracts. Next, you will want to work with someone who is knowledgeable in this specific area of expertise. It's just like going to your doctor for a specific problem. Do you want to see a general practitioner or would you rather see the specialist? When dealing with Probate Real Estate you are better off with a specialist. Keisha Hosea has been certified as a California Probate Specialist.

Keisha Hosea | 877-534-7421 | KHosea@KasiHomes.com
Kasi Homes | Keller Williams | 4200 Chino Hills Parkway | Chino Hills CA | 91709
DRE License #01489340