



## IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

Register in Chancery  
Kent County  
38 The Green  
Dover, DE 19901  
302-735-1930

Register in Chancery  
New Castle County  
500 N. King Street, St. 1551  
Wilmington, DE 19801  
302-255-0544

Register in Chancery  
Sussex County  
34 The Circle  
Georgetown, DE 19947  
302-856-5775

### **Procedures for Selling Real Estate**

Pursuant to 12 Del. C. § 3951 and Chancery Rule 113, Court approval is required any time a guardian wishes to sell real estate that is titled in a disabled person's or minor's name. There are three steps the guardian must take in order to sell real estate.

#### **Step 1: Motion to Appoint Appraiser**

- ~The guardian(s) must file the completed Motion to Appoint an Appraiser.
- ~The guardian(s) must sign the Motion to Appoint an Appraiser and have his/her/their signature(s) notarized.
- ~The guardian(s) must send a copy of the Motion to Appoint an Appraiser to interested parties (individuals that were identified in the initial guardianship petition).
- ~There is a \$2.00 per page scan fee.
- ~The Court will appoint an independent appraiser who is typically given thirty days to file the appraisal. Once the appraiser is appointed he/she will contact the guardian(s) to schedule a convenient time for the property to be appraised. Once the appraisal is completed, the Court expects the property to be sold for the appraised value (or higher).

#### **Step 2: Petition to Sell Real Estate**

- ~Once an acceptable offer is received on the property, the guardian(s) must file the completed Petition to Sell Real Estate with the sales agreement.
- ~The guardian(s) must sign the petition and have his/her/their signature(s) notarized.
- ~A copy of the appraisal and sales agreement must be attached to the petition.
- ~If the offer on the property is for less than the appraised value, the guardian(s) must file in conjunction with the petition an Affidavit to Sell Real Estate for Less

than the Appraised Value.

~The guardian(s) must send a copy of the Petition to Sell Estate (and Affidavit if applicable) to interested parties. If the disabled person has been approved for Medicaid or received Medicaid benefits at the time the initial guardianship petition was filed, a copy of the Petition to Sell Real Estate (and Affidavit if applicable) must be sent to the Attorney General's Office.

~Per Chancery Rule 3(b)(3), there is a \$50.00 filing fee in addition to the \$2.00 per page scan fee. Payment must be received at the time of filing, or the petition will not be accepted by our office. We accept cash, check or money order (made payable to the "Register in Chancery").

### **Step 3: Return of Sale**

~Within thirty days of the final settlement the guardian(s) must file a Return of Sale to show the house was sold pursuant to the approved Court Order.

~A copy of the Settlement Agreement must be attached.

~A copy of the guardianship bank account statement must be filed to show the proceeds of the sale were deposited into the guardianship account.

~The guardian(s) must send a copy of the Return of Sale to interested parties.

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN THE MATTER OF:

\_\_\_\_\_ ,

A minor/disabled person

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:  
:  
:  
:

C.M. # \_\_\_\_\_

**MOTION TO APPOINT AN APPRAISER**

The guardian(s) hereby move(s) for the appointment of an appraiser pursuant to 12 Del. C. § 3951(b) and in support of said motion states the following:

1. \_\_\_\_\_ [Name of Guardians]

was/were appointed guardian(s) of \_\_\_\_\_

[Name of disabled person or minor] by Order of this Court dated \_\_\_\_\_.

2. The disabled person owns the real property located at \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ [Complete Address of Property].

3. It is necessary to sell the property for the following reason(s): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. The guardian(s) respectfully request(s) that the Court appoint a qualified appraiser to appraise the property so that the guardian(s) may list it for sale.

WHEREFORE, guardian(s) respectfully request(s) that the Court appoint an appraiser pursuant to 12 Del. C. § 3951(b).

\_\_\_\_\_  
Signature of Guardian

\_\_\_\_\_  
Signature of Co-Guardian (If Applicable)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone number

\_\_\_\_\_  
Phone number

**SWORN TO AND SUBSCRIBED** before me, a notary/clerk of the Court on the

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public/Chancery Court Clerk





**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN THE MATTER OF:

\_\_\_\_\_, :  
: C.M. # \_\_\_\_\_  
: A minor/disabled person :  
:

**PETITION TO SELL REAL ESTATE**

The guardian(s) respectfully represent(s) to the Court as follows:

1. Petitioner(s), \_\_\_\_\_ [Name of guardian(s)], was/were appointed guardian(s) of the property of \_\_\_\_\_ [Name of disabled person/minor] by Order of this Court on \_\_\_\_\_.

2. The disabled person/minor is the owner/partial owner of real estate located at \_\_\_\_\_ [Complete Address of Property]

3. It is necessary to sell the property for the following reason(s): \_\_\_\_\_

4. Petitioner(s), in his/her/their capacity as guardian(s) has/have entered into an Agreement of Sale, subject to the approval of this Court, to sell the aforesaid property to \_\_\_\_\_ [Name of purchaser], for the sum of \$ \_\_\_\_\_ [Purchase Price] and to contribute \$ \_\_\_\_\_ toward the purchaser's closing costs. A copy of the

Agreement of Sale is attached as Exhibit "A".

5. Per Order of this Court, Petitioner(s) has/have obtained an appraisal of the real property from \_\_\_\_\_ [Name of appraiser] dated \_\_\_\_\_ [Date of Appraisal] which estimates the value of the property to be \$\_\_\_\_\_ [Appraised value].

A copy of said appraisal is attached hereto as Exhibit "B".

6. Petitioner(s) is/are of the opinion that it is in the best interest of the disabled person/minor that the real property be sold in accordance with the Agreement of Sale attached hereto as Exhibit "A".

WHEREFORE, Petitioner(s) respectfully request(s) that the Court enter an Order approving the sale of the aforesaid real estate.

\_\_\_\_\_  
Signature of Guardian

\_\_\_\_\_  
Signature of Co-Guardian (If Applicable)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone number

\_\_\_\_\_  
Phone number

**SWORN TO AND SUBSCRIBED** before me, a notary/clerk of the Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public/Chancery Court Clerk

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

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\_\_\_\_\_ ,

A minor/disabled person

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C.M. # \_\_\_\_\_

**CONSENT**

I, \_\_\_\_\_ [Name of interested party], do

hereby consent to the Petition to Sell Real Estate which is owned by the disabled person/minor. I understand this petition is in reference to the property located at

\_\_\_\_\_

[Complete address of property to be sold] and an offer has been made on the

property in the amount of \$ \_\_\_\_\_ [offer price, minus any settlement help].

\_\_\_\_\_  
Signature

Address: \_\_\_\_\_

**SWORN TO AND SUBSCRIBED** before me, a notary/clerk of the Court on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public/Chancery Court Clerk

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN THE MATTER OF:

\_\_\_\_\_ ,

A minor/disabled person

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:

C.M. # \_\_\_\_\_

**AFFIDAVIT OF MAILING**

I/We hereby certify that on \_\_\_\_\_, 20\_\_\_\_\_, I/we did send, via U.S. Mail, a copy of the Petition to Sell Real Estate to the following individuals:

Name	Address

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Co- Petitioner (if applicable)

**SWORN TO AND SUBSCRIBED** before me, a notary/clerk of the Court on this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public/Chancery Court Clerk

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN THE MATTER OF: \_\_\_\_\_ :  
 :  
 : C.M. # \_\_\_\_\_  
 :  
 :  
 A minor/disabled person :

**AFFIDAVIT TO PETITION TO SELL REAL ESTATE FOR LESS THAN THE APPRAISED VALUE**

Petitioner(s), \_\_\_\_\_ [Name of Guardian(s)], Guardian(s) of \_\_\_\_\_ [Name of disabled person/minor], respectfully represent(s) to the Court as follows:

- 1) This is an Arms Length Transaction (i.e. the buyer and seller did not know each other prior to the sales agreement).
- 2) The property was put on the market on \_\_\_\_\_.
- 3) There have been \_\_\_\_\_ showings on the property.
- 4) There has/have been \_\_\_\_\_ offer(s) on the property.
- 5) The house was advertised and marketed using the following resources (i.e. yard sign, newspaper): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 6) The house is/is not vacant.
- 7) The monthly carrying cost of the house is \$\_\_\_\_\_ which pays for the following expenses (i.e. electric, etc.): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
Guardian's signature

\_\_\_\_\_  
Co-Guardian's signature

**SWORN TO AND SUBSCRIBED** before me, a notary/clerk of the Court on this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public/Chancery Court Clerk

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

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\_\_\_\_\_

A minor/disabled person

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:  
:

C.M. # \_\_\_\_\_

**ORDER TO SELL REAL ESTATE**

AND NOW, TO WIT, the Petition of \_\_\_\_\_ to sell real estate located at \_\_\_\_\_, having been heard and considered by the Court,

IT IS ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, as follows:

1. That the Guardian(s) is/are authorized to sell the real estate that is owned by \_\_\_\_\_ a disabled person/minor, in accordance with the terms of the Agreement of Sale attached to the Petition herein as Exhibit A.

2. That the Guardian(s) is/are authorized to pay from the proceeds of the sale the disabled person's/minor's share of Delaware transfer tax and all other reasonable and necessary costs incidental to the sale of the real estate, as well as to contribute \$\_\_\_\_\_ to the purchaser's closing costs as per said Agreement of Sale.

3. That the Guardian shall make his Return of Sale to this Court within thirty days of the final settlement of the real estate.

\_\_\_\_\_  
MASTER



guardianship account , and the Guardian(s) has/have otherwise complied with the provisions of the Order of this Court dated \_\_\_\_\_ [Date Order for Sale Was Signed]. A copy of the bank statement is attached hereto as Exhibit B.

WHEREFORE, the Guardian(s) respectfully request(s) that the Court approve the Return of Sale.

\_\_\_\_\_  
Signature of Guardian

\_\_\_\_\_  
Signature of Co-Guardian (If Applicable)

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone number

\_\_\_\_\_  
Phone number

**SWORN TO AND SUBSCRIBED** before me, a notary/clerk of the Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public/Chancery Court Clerk

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN THE MATTER OF:

\_\_\_\_\_, :  
: C.M. # \_\_\_\_\_  
: A minor/disabled person :  
:

**AFFIDAVIT OF MAILING**

I/We hereby certify that on \_\_\_\_\_, 20\_\_\_\_\_, I/we did send, via U.S. Mail, a copy of the Return of Sale to the following individuals:

Name	Address

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Co- Petitioner

SWORN TO AND SUBSCRIBED before me, a notary/clerk of the Court on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public/Chancery Court Clerk

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\_\_\_\_\_, :  
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:

**ORDER TO APPROVE RETURN OF SALE**

AND NOW, TO WIT, the Return of Sale having been heard and considered by the Court,

IT IS ORDERED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ as follows:

1. That the sale of the disabled person's property located at \_\_\_\_\_

\_\_\_\_\_ is hereby confirmed.

2. That the Return of the Guardian(s) as made is hereby approved.

\_\_\_\_\_  
MASTER