

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

Register in Chancery
Kent County
38 The Green, Ste. 208
Dover, DE 19901
302-735-1930

Register in Chancery
New Castle County
500 N. King Street, Ste. 11600
Wilmington, DE 19801
302-255-0544

Register in Chancery
Sussex County
34 The Circle
Georgetown, DE 19947
302-856-5777

Petition to Sell Real Estate

Pursuant to 12 Del. C. § 3951 and Chancery Rule 113, Court approval is required for a guardian to sell real estate that is titled in the name of a person with a disability or minor. The guardian must file a motion to appoint an appraiser, then a petition to sell the real estate and finally a return of sale.

- Once an acceptable offer is received on the property, the guardian(s) must file the completed Petition to Sell Real Estate. The petition requires the following:
 - A complete petition. The court clerk cannot complete the petition for you.
 - A copy of the complete sales agreement with any addendums.
 - If the offer on the property is for less than the appraised value, the guardian(s) must file the enclosed Affidavit to Sell Real Estate for Less than the Appraised Value with the petition.
 - The filing fee for the petition is \$50.00 plus \$2.00 per page docketing 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"). If the Register in Chancery's office makes photocopies for you, we will charge a \$1.50 per page fee.
- The guardian(s) is/are responsible for obtaining consents from the interested parties or sending notice of the petition to the interested parties by regular U.S. mail. Please see the instruction sheet within this packet for additional information.

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, :
A person with a disability/minor : C.M. # _____

PETITION TO SELL REAL ESTATE

1. Name of guardian(s): _____

2. Date guardian(s) was/were appointed: _____

3. The person with a disability/minor is the owner/partial owner of real
estate located at _____
_____ [Complete address of property],

Tax Parcel number _____.

1. It is necessary to sell the property for the following reason(s): _____

2. Subject to the approval of this Court, the guardian(s) has/have entered
into the Agreement of Sale, attached as Exhibit "A", to

a. Sell the property to _____ [Name of purchaser]

b. For the sum of \$_____ [purchase price]

c. And to contribute \$_____ toward the purchaser's closing costs.

3. Per Order of this Court, guardian(s) has/have obtained an appraisal.

a. Name of appraiser: _____

b. Date of appraisal: _____

c. Appraised value: _____

A copy of said appraisal is attached hereto as Exhibit "B" or was previously filed with the Register's Office on _____.

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

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

Guardian

Co-Guardian (if applicable)

I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

Executed on the _____ day of _____ (month) _____ (year).

Executed on the _____ day of _____ (month) _____ (year).

(Guardian's Printed Name)

(Co-Guardian's Printed Name)

(Guardian's Signature)

(Co-Guardian's Signature)

(Guardian's Address)

(Co-Guardian's Address)

(Guardian's Address)

(Co-Guardian's Address)

(Guardian's Phone Number)

(Co-Guardian's Phone Number)

Instructions for Notifying Interested Party(ies)

It is the guardian's(s') responsibility to notify the interested party(ies) when a petition is filed with the Court. If the person with a disability is receiving Medicaid benefits, notice must also be sent to the Delaware Division of Medicaid and Medical Assistance (Renae Nolan, Lewis Building, 1901 N. DuPont Highway, New Castle, DE 19720).

Option 1 – Consent

Any interested party may sign a copy of the attached “Consent” form.

Option 2 – Send Notice

If any interested party does not sign the consent form, you must send them a copy of the attached “Notice of Petition”. You may send the notice by regular U.S. Mail.

Any interested party who has not signed a consent must receive notice of your petition at least twenty (20) days before the Court will consider the petition. This ensures that all interested parties have adequate time to contact the Court with any questions they may have or file any objection to the petition.

To be filed with the Court

You must file the following documents with the Court before the petition will be reviewed by a Judicial Officer:

- a. Any consent forms and
- b. The attached “Certificate of Mailing” (if any notices were sent).

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, :
: C.M. # _____
A person with a disability/Minor :

CONSENT

I, _____ [Name of interested party], do
hereby consent to the Petition to Sell Real Estate which is owned by the person with
a disability/minor. I understand this petition is in reference to the property located
at _____

_____ [Complete address of property to be sold]

Tax Parcel Number _____ and an offer has been
made on the property in the amount of \$_____ [offer price,
minus any settlement help].

I declare under penalty of perjury under the laws of Delaware that the foregoing is
true and correct.

Executed on the _____ day of _____ (month) _____ (year).

_____ (Printed Name)

_____ (Signature)

Address: _____

Phone Number: _____

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

<input type="checkbox"/> Register in Chancery	<input type="checkbox"/> Register in Chancery	<input type="checkbox"/> Register in Chancery
Kent County	New Castle County	Sussex County
38 The Green, Ste. 208	500 N. King Street, Ste. 11600	34 The Circle
Dover, DE 19901	Wilmington, DE 19801	Georgetown, DE 19947
302-735-1930	302-255-0544	302-856-5777

IN THE MATTER OF: _____ :
:
: C.M. # _____
A person with a disability/minor :

NOTICE OF PETITION TO SELL REAL ESTATE

Dear Interested Parties:

This is a notice that I am/we are petitioning to sell the real estate owned by the person with a disability/minor located at _____
_____ [Complete address of property to be sold],
Tax Parcel Number _____, for the price of
_____ [offer price, minus any settlement help] to
_____ [Name of purchaser(s)].

If you object to the petition, you must immediately file a written objection with the Register in Chancery's Office that has been marked above. If you do not file a written objection within **twenty (20) days** of the date of this notice any objections will be deemed waived.

Guardian's Signature

Dated: _____

Co-Guardian's Signature (if applicable)

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, :
A person with a disability/minor : C.M. # _____

CERTIFICATE OF MAILING

On _____, 20_____, I/we did send, via U.S. Mail, a copy
of the Notice of Petition to Sell Real Estate to the following interested parties:

Name	Address

Guardian

I declare under penalty of perjury
under the laws of Delaware that the
foregoing is true and correct.

Executed on the _____ day of
_____ (month) _____ (year).

(Guardian's Printed Name)

(Guardian's Signature)

Co-Guardian (if applicable)

I declare under penalty of perjury
under the laws of Delaware that the
foregoing is true and correct.

Executed on the _____ day of
_____ (month) _____ (year).

(Co-Guardian's Printed Name)

(Co-Guardian's Signature)

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:

_____, :
A person with a disability/minor : C.M. # _____

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

1. Name of guardian(s): _____

2. Property address: _____

3. The guardian(s) represent(s) the following to the Court:

a. This is an Arm's Length Transaction (i.e., the buyer and seller did not know each other prior to the sales agreement).

b. The property was put on the market on _____.

c. There have been _____ showings on the property.

d. There has/have been _____ offer(s) on the property.

e. The house was advertised and marketed using the following resources (i.e., yard sign, newspaper): _____

f. The house ☐ is or ☐ is not vacant.

g. 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 (if applicable)

STATE OF _____ :

COUNTY OF _____:

This instrument was acknowledged before me on this _____ day of _____, 20____ by _____ [Name of affiant].

Notary Public/Chancery Court Clerk

Pursuant to Court of Chancery Rule 178B, the use of an Unsworn Declaration (see below) is permitted rather than the notary requirement.

Guardian

Co-Guardian (if applicable)

I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

Executed on the _____ day of _____ (month) _____ (year).

Executed on the _____ day of _____ (month) _____ (year).

(Guardian's Printed Name)

(Co-Guardian's Printed Name)

(Guardian's Signature)

(Co-Guardian's Signature)