

## 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, 7th Floor Wilmington, DE 19801 302-255-0544	Register in Chancery Sussex County 34 The Circle Georgetown, DE 19947 302-856-5777
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### **Procedures for filing a 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 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 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 is 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. Information about the real property owned by the person with a disability/minor:
  - a. Complete address \_\_\_\_\_  
\_\_\_\_\_
  - b. Tax Parcel number \_\_\_\_\_
  - c. Record Owner(s) \_\_\_\_\_

“Record Owner” means the owner listed on the publicly available parcel search for the property.

If the person with a disability/minor is not a record owner, why are you asking this Court, in this guardianship, for permission to sell the property?

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If the person with a disability/minor is one of several record owners, provide contact information for all other record owners and disclose their positions on a sale, if known.

Name of Co-Owner	Contact Information	Position on Sale, if known

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

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5. 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.

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

a. Name of appraiser: \_\_\_\_\_

b. Date of appraisal: \_\_\_\_\_

c. Appraised value: \_\_\_\_\_

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

7. 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.

Signature section for guardian	Signature section for any co-guardian
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.
Date: _____	Date: _____
Print name: _____	Print name: _____
Signature: _____	Signature: _____
Address: _____ _____	Address: _____ _____
Phone Number: _____	Phone Number: _____

## **Instructions for Notifying Interested Parties of Petition**

It is the petitioner's responsibility to notify the interested parties when a petition is filed with the Court.

### **How to Notify the Interested Parties**

#### **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 thirteen (13) 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.

### **Unknown Address of an Interested Party**

If you do not know the address of an interested party, you must make reasonable efforts to locate it. If you are unable to locate the address, file an Affidavit of Efforts to Locate Address of Interested Party (Form CM6) with the court.

- File a separate affidavit for each interested party whose address is unknown.
- If a Form CM 6 has already been filed for an interested party, you do not need to file another one.
- If you later learn the interested party's address, promptly notify the court.

Form CM6 is available from the Register's Office or on the court's website.

### **Documents to File 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,
- b. The attached "Certificate of Mailing" (if any notices were sent), and
- c. Any affidavit(s) of efforts to locate address of interested party.

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

In the matter of: \_\_\_\_\_ :  
 :  
 : C.M. #: \_\_\_\_\_  
A person with a disability/minor :  
 :

**Consent of Interested Party to Petition to Sell Real Estate**

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.

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

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

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38 The Green, Ste. 208  
Dover, DE 19901  
302-735-1930

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New Castle County  
500 N. King St., 7th Floor  
Wilmington, DE 19801  
302-255-0544

Register in Chancery  
Sussex County  
34 The Circle  
Georgetown, DE 19947  
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], 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: \_\_\_\_\_

Co-guardian’s signature: \_\_\_\_\_

Date: \_\_\_\_\_

**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 to Petition to Sell Real Estate**

The guardian(s) mailed the “Notice of Petition to Sell Real Estate” on

\_\_\_\_\_ [date] to the following interested parties:

Name of Interested Parties	Address of Interested Parties

Signature section for guardian	Signature section for any co-guardian
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.
Date: _____	Date: _____
Print name: _____	Print name: _____
Signature: _____	Signature: _____

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

In the matter of: \_\_\_\_\_ :  
: C.M. #: \_\_\_\_\_  
A person with a disability/minor :

**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.): \_\_\_\_\_

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*Pursuant to Court of Chancery Rule 178B, the notary requirement is waived.*

Signature section for guardian	Signature section for any co-guardian
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.
Date: _____	Date: _____
Print name: _____	Print name: _____
Signature: _____	Signature: _____