

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 |
|--|--|--|

Procedures for filing a Return of Sale (from sale of 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.

- Within thirty days of the final settlement, the guardian must file a Return of Sale to show the real estate was sold pursuant to the approved Court Order. The return of sale requires the following:
 - The completed return of sale. The court clerk cannot complete the return of sale for you.
 - A copy of the Settlement Statement (HUD-1), Closing Disclosure, or Alta Settlement Statement 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 filing fee for the return of sale is \$2.00 per page. We accept cash, check or money order (made payable to “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 return of sale 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: _____ :
: C.M. #: _____
A person with a disability/minor _____ :

Return of Sale

1. Name of guardian(s): _____
2. The guardian(s) has/have sold to _____
_____ [Name of buyer(s) of property]
the property known as _____
_____ [Complete address of property],
Tax Parcel Number _____ pursuant to an Order of the Court
dated _____.
3. At settlement, the guardian(s) received net proceeds of \$ _____,
said proceeds being the net amount remaining after payment of various settlement
costs. A copy of the Settlement Statement (HUD-1), Closing Disclosure, or Alta
Settlement Statement is attached hereto as Exhibit "A".
4. In the opinion of the guardian(s), the disbursements for the sale of the
property were reasonable and necessary to complete the transfer.
5. The proceeds of sale have now been deposited into the Court of
Chancery guardianship account number _____ [last four numbers of the

account where the proceeds were deposited], and the guardian(s) has/have otherwise complied with the provisions of the Court Order to sell the property. 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 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

It is the petitioner's responsibility to notify the interested parties when a return of sale 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". You may send the notice by regular U.S. Mail.

Any interested party who has not signed a consent must receive notice of your return of sale at least thirteen (13) days before the court will consider the return of sale. 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 return of sale.

Unknown address for an interested party

If you do not know the address for an interested party, you must make every attempt to locate the address and file an affidavit of efforts to locate address of interested party. A separate affidavit is required for each interested party. If you locate an address for the interested party at a later time you will need to notify the court.

If an affidavit of efforts to locate address of interested party has already been filed with the court, you do not need to file another affidavit.

If an affidavit of efforts to locate address of interested party has never been filed with the court, you will need to file one with the petition. The affidavit is available on the court's website or can be requested from the Register's Office (Form CM6).

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,
- 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 Return of Sale

I, _____ [Name of interested party], whose
relationship to the person with a disability/minor is that of _____
(e.g. mother, brother), hereby consent to the return of sale for the property located
at _____.

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

Date: _____

Print Name: _____

Signature: _____

Address: _____

Phone Number: _____

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 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 Return of Sale

Dear Interested Parties:

This is a notice that I am/we are filing a return of sale for the property located at _____ . The net proceeds of \$ _____ was deposited into the guardianship account. Notice is being sent to you as an interested party.

If you object to the return of sale, 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 **thirteen (13) days** of the date of this notice, any objections will be deemed waived.

Petitioner’s signature: _____

Co-Petitioner’s signature: _____

Date: _____

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In the matter of: _____ :
: C.M. #: _____
A person with a disability _____ :
:

Certificate of Mailing to Return of Sale

The guardian(s) mailed the "Notice of Return of Sale" 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: _____ |