

PROCESS OF PROBATE REAL ESTATE SALE

Probate Real Estate Sale is under the jurisdiction of the probate court and is governed by the California Probate Code. Regulations must be honored every step of the way; throughout marketing, receiving and negotiating offers, and close of escrow.

Parties to Probate Sale; the estate executor or administrator, the attorney, the real estate agent need to work in sync, adhering to court guidelines and meeting strict deadlines to ensure smooth and successful sale of property.

Probate Sale Procedure entails number of steps:

- a) Appointment of an executor (by the decedent's Will) or appointment of an administrator by the court; both could be referred to as estate representatives.
- b) Representative accepts the appointment and its duties; then he/she hires a real estate agent and sell the property. The sale may or may not require court approval, depending on if the representative is given limited or full powers under the Independent Administration of Estate Act (IAEA)
- c) Either the Representative or the Attorney arrange for a Probate Referee to appraise the property. Subsequently, the sales amount must be at least 90% of such appraised value.
- d) The Representative lists the estate for sale with a real estate agent. —Since probate sale is highly specialized, it is essential that the agent be knowledgeable of probate sales intricacies.
- e) Real estate agent must market property aggressively.
- f) When an offer is generated and accepted for at least 90% of appraised value, the estate attorney mails a Notice of Proposed Action to the heirs and parties of interest:
 - If no objections are raised within 15 days, the sale may proceed and escrow is closed without court hearing.
 - If the representative does not have full powers under IAEA, or if one of the heirs objects to the Notice of Proposed Action; then, a Notice of Sale is published in a local newspaper, next the attorney applies and obtains a Court date (within 30 to 45 days) for confirmation hearing. During this time the Agent continues marketing the property to entice additional buyers for potential overbidding.
- g) At the court confirmation hearing, there may be more than one over-bidder. The first overbid has to equal at least: 10% of the first 10,000 plus 5% of the balance of the initial accepted offer amount. Any additional overbid rules (other than the first overbid) are decided by judge.
- h) The successful over-bidder gives to the Representative a cashier's check for 10% of the sales price, escrow is opened immediately to close and transfer title/ownership, approximately within 30 days.

Fresno Appraisal Service

If you have any questions please give me a call.

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