

SALES OF PROPERTY

Sale of any kind of property are allowed only when the Will specifically allows; otherwise, they are only allowed in order to raise cash to pay debts, pay legacies, Family Allowance, expenses of Administration, taxes, or "for the advantage, benefit, and best interests of the estate". If a item of property has been specifically bequeathed to someone, the property cannot be sold without the beneficiary's consent, unless there is no other property available for sale. The court may require a hearing to see if there is any way to avoid the sale.

REAL PROPERTY

Sales may be public or private: either is OK, but usually a sale is private and done through a broker. But a personal rep should consider doing a public auction if the particular piece of property is not drawing much interest or has numerous defects.

FULL IAEA METHOD:

If the personal rep has full IAEA powers, he/she can prepare a Notice of Proposed Action and attach a Proof of Mailing form. If no objection is received within 15 days, the sale goes forward. It is important to work with the realtor and escrow company, title company, and lender. The attorney will have to provide a certified copy of the Letters, Notice of Proposed Action with Proof of Service, and perhaps other documents to escrow. Often a letter from the attorney is required stating that no estate taxes are due.

Most courts prefer that sales proceed using this method, rather than the more formal procedure outlined below (where a court hearing is required). If you didn't get your client full IAEA in the initial petition for probate, you can file a petition after the fact and set it for a hearing. In authorizing full authority, the judge will require your client to post a higher bond equal to the amount you expect to realize from the sale. Make sure you ask your client whether he/she has any credit problems that would prevent them from getting bonded for a higher amount.

LIMITED IAEA OR NO IAEA:

1. Prepare an Ex Parte Petition for Exclusive Listing. These are usually good for 90 days and authorize the broker/agent to act for the estate (no IAEA only; with IAEA the personal rep can sign a contract for exclusive listing).

2. Sales Contract/Deposit Receipt: Once the agent finds a buyer, the Executor signs as personal representative of the estate, SUBJECT TO COURT APPROVAL. All sales in probate should state that the sale is made "AS IS".

3. Notice of Sale: The attorney must publish a Notice of Sale in a local newspaper (three publications over a ten day period) unless the Will authorizes or directs the sale. Once the

publication is complete, the newspaper (or the attorney) files an Affidavit of Publication with the Court. In actual practice, the publication can be done at any time once the personal rep decides a sale is necessary. However, if the sale process takes longer than a year, it may be necessary to re-publish.

4. Inventory & Appraisal: The attorney must get the property reappraised if the original appraisal is dated more than 12 months prior to the court hearing. Since the original appraisals are done as of the date of death, any hearing held more than a year after that date will require reappraisal.

5. Deposit: At one time a 10% deposit was required, but courts generally do not demand this any more.

6. Escrow: Should you open before or after the hearing? That depends on whether you think someone will overbid at the hearing. If this is unlikely, the buyer can open escrow and get a head start on the process. However, if the sale is not consummated, getting the deposit back may take some effort.

7. Financing Problems: The buyer may assume the note that the decedent owed on, but courts are wary of this unless the estate is off the hook completely.

8. Report of Sale: Once the personal rep signs the contract, the attorney has 30 days to file a petition for confirmation of the sale. The petition is entitled "Report of Sale and Petition for Confirmation of Sale of Real Property. The petition is set for hearing by the court, usually in four or five weeks time.

9. Additional Bond: The court may require a higher bond if the initial bond was only for the amount of the personal property. The court will usually take into consideration the costs of sale and escrow payouts in determining the bond amount.

10. Notice of Hearing: At the hearing, anyone can bid on the property if they can come up with the minimum overbid. (Avoid this by calling potential bidders into office.) The first Overbid is calculated as follows (and is included in the Petition):

[Initial price] + \$500.00 + 5% of initial price; OR
[Initial price] + 10% of 1st \$10,000 + 5% over \$10,000

11. The Petition must list the personal rep's efforts to expose the property to the market. See e.g. Orange County rule 606.07, which lists several things that the attorney must list in the petition to convince the court that the personal rep has used his/her "best efforts" to sell the property:

- a. Several brokers?
- b. Ad in papers?

- c. Multiple listing?
- d. Many prospective buyers?
- e. Sign on Property?
- f. Caravans?
- g. Open houses?

12. At the hearing, anyone can bid on the property, as long as they are willing to offer at least as much as the first overbid. If someone overbids, ask them if they have a check for at least 10%. Some courts provide forms to the buyers to make formal written offers if they become the successful bidders. Once the overbidder has made his offer, the court then sets the amount that each person must offer (for example, \$1,000 increments) over the previous bid if they want to stay in the bidding. Basically, then, the court merely conducts an auction.

13. Order: Once the court approves the sale, either to the original buyer or an overbidder, the attorney prepares the Order Confirming Sale of Real Property and provides a certified copy to the escrow company.

14. Commissions: Brokers/Agents commissions are usually fixed by the court, although the amount charged by realtors is generally known in any particular area. 6% is typical in California for improved real estate, but 10% is usually allowed for vacant land. But check local rules of court. Los Angeles allows only 5% for improved real estate, while Orange County will allow 6%.

Where an overbidder is successful and is represented by a broker, the commission is split between the old and new brokers, but the new broker gets slightly more: the original broker gets 1/2 of the commission on original price, while the new broker gets the balance.

In no event can a commission paid to a broker who produces a successful bidder other than the original bidder exceed one-half the difference between the original offer and the successful overbid. The reason for this is that there must be a net gain to the estate.

If the overbidder has no broker, the original broker gets all of the commission on the original price.

PUBLIC SALES

Where the value of the property may be questionable, or the property has numerous defects, you may wish to pursue a public auction. These can be done with full IAEA (no court approval required), or with limited IAEA (court approval required). With limited IAEA, a Notice of Sale must be published indicating that the sale is public (vs. the usual private), and that the auction will be held on a specific date, giving the public enough time to calendar the date. The auctioneer generally advertises the auction and contacts investors, who are typically the people most interested in distressed properties. Unlike the private sale, there is no requirement that a reappraisal for sale be filed with the court before court confirmation. Nor is there a requirement that the sale be for at least 90% of the appraised value (PC 10309).

Overbidding, however, is allowed, so buyers should be aware of this.

PERSONAL PROPERTY SALES

The reasons for the sale of personal property are the same as for real property: either the Will must authorize or direct the sale, or the personal rep must give the court reasons for the sale: to pay debts, expenses of administration, etc.

When the personal representative has full or limited IAEA, it is only necessary to mail a Notice of Proposed Action to all interested persons.

If the personal rep has NO IAEA, it will be necessary to prepare a Petition (no court form) asking for confirmation of the sale. Notice of Sale is not required to be published if the Will authorizes or directs the sale. Otherwise, publish the Notice as in the case of real property.

Other types of sales may be allowed, particularly if the personal rep has independent powers:

Garage sales

Auctions (get court order authorizing if no IAEA)

Give the balance to Goodwill or junk it: If the executor has independent powers, do Notice of Proposed Action of intent to abandon/junk the property.

No reappraisal is needed, but you should sell at or near the appraised value to avoid problems. If a hearing is required, the court can sell to the highest bidder.

SALE OF SECURITIES OR DEPRECIATING PROPERTY

Securities usually means stocks or bonds. These can be sold Ex Parte (even if no IAEA), and no Notice of Sale is required. Use the Judicial Council form and file it with the court. No hearing is held. If the executor has independent powers, just sell the stocks or bonds. It is not necessary to do a Notice, but it might be a good idea anyway (unless the securities are not "listed" on a stock exchange; then you should do a Notice).

Over-the-counter securities can be sold ex parte also, but you should tell the court their most recent bid/offer.

Types of depreciating property:

Cars, boats, Leisure World condos, mobile homes. Orange County Rule 6.04 says that you can sell without notice if a loss or expense will be incurred by keeping the property (insurance, storage charges, etc.). In some cases, an item (such as a cooperative apartment) can be sold as either a security or depreciating property. Use the Judicial Council form.

LEASES

A lease of property can be entered into by the executor with independent powers merely by mailing a Notice of Proposed Action to the appropriate people. Notice is not necessary, however, if the lease is for less than one year, or if it's for personal property.

Without independent powers, the executor must get court approval, unless the rent does not exceed \$1,500/month and the term is under 1 year, or it's only a month-to-month tenancy.

However, the lease must be to the estate's advantage. If court approval is necessary, the executor must file a petition with the court and set for it for a hearing; the petition must show a description of the property, the term of the lease, the rental conditions, and attach a copy of the lease. Publication of a Notice of Intention to Lease is required unless the Will authorizes the executor to lease the property. At the hearing, the court can consider new offers to lease at more favorable terms. But it must be acceptable to the executor. The Court generally won't approve leases over 10 years, and can't if a beneficiary objects (except for oil and gas leases).

The actual lease document must state that it is given by authority of the court, giving the date of the Order. The Order must be recorded, just like a deed.

PERSONAL REPRESENTATIVE'S LOANS

The personal representative may need money to help with probate costs, attorney fees, creditors' claims, and/or taxes. An executor with independent powers must mail a Notice of Proposed Action to the interested persons outlining the proposed borrowing and the reasons. However, if the executor intends to mortgage real property (give a note secured by a Deed of Trust), he/she must have FULL independent powers to avoid a court hearing. Otherwise, court approval will be necessary.

With NO OR LIMITED IAEA, it is required that the personal rep file a petition with the court, telling the purpose for the loan (necessary to pay legacies, debts, encumbrances, expenses, etc.) and indicating that the loan is to the advantage of the estate instead of selling. The petition must give the terms (how much is to be borrowed, terms of repayment, etc.), and indicate whether any security is to be given for the loan (collateral). The court may require an additional bond to be posted if one was originally required. Again, if a Deed of Trust is to be given on real property, a court hearing is required, unless the executor has full powers.

Following the hearing, the attorney prepares an order authorizing the loan and records a certified copy of order (or sends a certified copy to the loan company, along with a certified copy of the Letters).

PETITIONS TO COMPEL TRANSFER OF PROPERTY

PC 850, et seq. (formerly 9860 - 9868)

Two situations occur often that require what is commonly known as an 850 (formerly 9860) petition:

1. Someone claims that property in the Decedent's name actually belonged to someone else;
2. The estate claims that some other person holds property that belonged to the decedent.

This petition can be used for an uncompleted escrow contract, or contracts to be performed at death. Sometimes people will take property from the decedent immediately after death, which should rightfully belong to the estate. Or the decedent might have agreed to keep some item for another person prior to death. This latter situation occurs when the decedent has agreed to give (or sell) his car to an heir. Prior to the actual (or physical) transfer, the decedent dies.

It is necessary to file a petition with the court, which the clerk sets for hearing *at least* 30 days away. Notice and a copy of the petition must be personally served on all persons named as respondents, the executor, and/or trustee, at least 30 days prior to the hearing (which is why you should probably ask the clerk to set the hearing 45 - 60 days off). When serving the executor or trustee, you *may* have to ask the clerk to issue a Citation to get personal jurisdiction over him/her (although not all courts require the issuance of a citation; check local rules of court). Other courts do not require a Citation, but merely follow the Probate Code in requiring personal service of the Notice of Hearing form. Los Angeles County local rule 10.24 requires that the caption of the petition reference Pr.C. section 850 and that the hearings be set at least six weeks off. In addition, the Notice of Hearing form must contain a description of the property that is the subject of the petition and a statement that any person interested in the property may file an answer to the petition.

Other interested persons (e.g., other heirs, beneficiaries, or those requesting Special Notice) should be mailed a Notice of Hearing with a copy of the petition at least 15 days before the hearing.

Any interested person can respond and do discovery, etc., just in the case of a civil lawsuit. In addition, if the action affects real property, a Lis Pendens can be recorded to prevent its transfer while the case is pending. The court must grant reasonable continuances so that any interested party can respond or perform discovery.

If a civil action is pending (yes, the petitioning party can also file a civil case in addition to the probate case), the court must abate this action until the civil case is over, or it can refer the matter to the civil court for trial.

If the executor has independent powers and wishes to complete a contract entered into by the decedent, he should mail a Notice of Proposed Action to the interested persons outlining the action to be taken.

PETITION FOR INSTRUCTIONS (PC 9611)

Any Executor/Administrator can petition the court for instructions when he is confronted with a difficult situation. There are three basic requirements before the court will entertain a petition for instructions:

- a. No other procedure is provided by law;
- b. It's within the probate court's jurisdiction;
- c. It's within the Court's discretion to grant.

Be forewarned: a petition for instructions is NOT an alternative method of getting court approval merely because the attorney or the personal rep doesn't know what else to do. It is necessary to give the court all the facts, quote law if appropriate, and give the court choices (with suggestions, as well).

The following are examples (but not exclusive) as to the types of questions that the court will consider when a petition for instructions is filed:

1. Are the provisions in a Will mandatory or precatory?
2. How should the executor vote corporate stock in a closely held corporation.
3. Is property community or separate?
4. Can heirs in a foreign country inherit (treaty)?
5. Has ademption (satisfaction) occurred? Is an asset no longer in existence?
6. Does the executor have the authority to hire counsel, or defend or prosecute a difficult lawsuit (use IAEA)?
7. Should the personal rep allow (or reject) a large and somewhat questionable creditors' claim?

Check local rules: they may give you some clues as to how the court will act in any particular area.

Also, if someone wants the personal rep. to act in a specific way and he won't, any interested person can file a PC 9613 petition and allege that the estate will suffer great or irreparable harm if petition isn't granted. Suppose, for example, that the heirs want the executor to vote stock in a close corporation in a specific way and he won't. The heirs can file a 9613 petition and ask the court to order him to do so.

Additionally, anyone can petition under PC 9614 to suspend the executor's powers if it appears that the personal rep. may take some action that would unreasonably jeopardize the interests of the Petitioner. In the above example, if the executor was about to vote the stock in a manner apparently contra to the wishes of the heirs, this type of petition would be appropriate.

DETERMINATION OF HEIRSHIP

PC 11700 - 11705

A Petition to Determine Heirship, also known as a Petition to Determine Entitlement to Distribution, can be filed to determine what a Will means (interpretation of the Will), or it can be used to determine who gets what. Also, questions involving the estate or the Will can be solved.

In the petition, the attorney should give the judge an analysis of what the problem is, how the Will can be interpreted, or whatever is pertinent. In most cases it will be necessary to give the judge Points and Authorities on pertinent areas of the law. After filing the petition, the attorney gives notice, and mails copies of the petition to all heirs, beneficiaries, etc. The executor is supposed to take a neutral position (formally), but typically gives the judge a suggestion on how he/she should rule. The Notice of Hearing should inform the heirs that they have the right to file a "Statement of Interest" through counsel. This is a statement setting forth the heir's interest in the estate and the petition. No other pleadings are necessary, including answers/responses.

This type of petition can also be used to establish an equitable parent-child relationship, the validity of a marriage, the share of an heir, etc.

PETITION TO ESTABLISH FACT OF DEATH

PC 200 - 204

This type of petition, which is usually filed ex parte, can be used to obtain a court determination whenever title to property is in question as a result of someone's death. Sometimes there's a mistake on the Deed, or the person's name is spelled incorrectly. It can also be used to terminate a joint tenancy when court approval is desired (rather than using the Affidavit - Death of Joint Tenant procedure).

If there is a pending probate action, the petition can be filed under the existing case number, and no additional filing fee is required. It can also be filed **with** the Petition for Probate.

The petition can be filed by the personal rep or any interested person, but must be filed prior to final distribution. If the petitioner indicates to the court that there is "no known opposition" to the petition, it can be heard ex parte. Otherwise, it must be set on the court's regular calendar, and notice must be given. Once the judge has made his/her ruling, a certified copy of the order must be recorded in order to transfer real property.

1 Alan D. Davis Bar# 81783
Attorney at Law
2 1323 N. Broadway
Santa Ana, CA 92706
3
4 TEL: (714) 614-0422
FAX: (714) 285-1425
5 Attorney for I. L. GETRICH, Executor
6
7

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF ORANGE
10

11 Estate of:) CASE NO. A 123456
12 I. M. DECEASED,)
13) PETITION BY EXECUTOR TO ESTABLISH
14) ESTATE'S CLAIM OF OWNERSHIP TO
Deceased.) ITS TRANSFER TO THE ESTATE.
I. L. GETRICH,) [Probate Code § 850]
15)
16) Petitioner,)
17)
18 vs.)
19)
TAMMY DECEASED and)
18 DAVID DECEASED,)
19)
Respondents.)

20 Petitioner, I. L. GETRICH, Executor of the above-named estate,
21 alleges as follows:

22 1. The decedent died on December 1, 1994. Petitioner is the
23 surviving spouse of the decedent. Petitioner was appointed
24 executor of the estate on January 31, 1995, and has acted as such
25 executor ever since.

26 2. Prior to the time of decedent's death, decedent
27 transferred a savings account and checking account at Home Savings
28 of America to her two children, David Deceased and Tammy Deceased,

1 along with approximately 25 U.S. Series EE Savings Bonds. The
2 total value of the two accounts is approximately \$39,611.93, while
3 the bonds have a face value of approximately \$12,500.00.

4 3. Petitioner has demanded the return of this money and
5 bonds to the estate, but as of this date, neither has been
6 returned.

7 4. Decedent's Will states that Petitioner is "to have all
8 our savings accounts..."

9 5. Petitioner requests that the court, pursuant to Probate
10 Code Section 850, determine that title to the property described
11 herein is vested in Petitioner as administrator of the decedent's
12 estate. Petitioner further requests that this court exercise its
13 equitable powers to hold that David Deceased and Tammy Deceased are
14 constructive trustees and hold said property in trust for the
15 Estate of I. M. Deceased, deceased.

16 WHEREFORE, Petitioner prays as follows:

17 1. For an order determining that the property described
18 herein belongs to the Estate of I. M. Deceased;

19 2. That David Deceased and Tammy Deceased be directed to
20 convey said property to Petitioner as executor, and that David
21 Deceased and Tammy Deceased hold said property as constructive
22 trustees for the Estate of I. M. Deceased;

23 3. For issuance of a citation to David Deceased and Tammy
24 Deceased;

25 4. And for such other relief as the court deems proper.

26 Dated: _____

I. L. GETRICH

27
28 _____
Alan D. Davis
Attorney at Law

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VERIFICATION

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

Executed on _____ at Santa Ana, California.

I. L. GETRICH

ORDER

Let a citation issue.

Dated: _____

JUDGE OF THE SUPERIOR COURT

1 Alan D. Davis Bar# 81783
Attorney at Law
2 1323 N. Broadway
Santa Ana, CA 92706
3
4 TEL: (714) 614-0422
FAX: (714) 285-1425
5 Attorney for I. L. GETRICH
6
7

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF ORANGE
10

11 Estate of:) CASE NO. A 123456
12 I. M. DECEASED,)
13) PETITION TO DETERMINE ENTITLEMENT
14) TO DISTRIBUTION.
_____) Deceased.) P.C. SECTION 11700

15 I. L. Getrich, Executor of the estate of I. M. Deceased,
16 alleges as follows:

17 1. Decedent died testate on December 1, 1994, a resident of
18 Orange County, California.

19 2. Letters Testamentary were issued to petitioner on
20 January 31, 1995, and petitioner has acted as executor with full
21 independent powers ever since.

22 3. No order of final distribution has been entered.

23 4. Decedent's Will contains an ambiguity in that it attempts
24 to distribute property to Arthur Smith, decedent's grandson,
25 pursuant to Paragraph Seven as follows:

26 "To ARTHUR SMITH, my grandson, I leave the
27 property located at 5555 South Main Street,
28 in the City of Santa Ana."

1 5. An ambiguity exists in that this property does not
 2 independently exist except as part of the Main Street Church,
 3 located at 5553 South Main Street, Santa Ana, California

4 6. Attached hereto is a copy of a Plot Plan, incorporated
 5 herein as Exhibit A, showing the church building, storage building,
 6 and parking lot. Presumably, the decedent meant the storage
 7 building at 5555 South Main Street when she referred to this
 8 property in her Will.

9 7. The decedent's beneficiaries, pursuant to his Will, and
 10 their addresses, are as follows:

11 NAME ADDRESS
 12 (List names and addresses of all heirs, beneficiaries, etc.)

13 WHEREFORE, petitioner prays for an order of this court as
 14 follows:

- 15 1. For an order determining distribution of the property
- 16 located at 5555 South Main Street, Santa Ana, California;
- 17 2. For such further orders as the court deems proper.

18 Dated: _____
 19 I. L. GETRICH

20 I declare under penalty of law under the laws of the State of
 21 California that the foregoing is true and correct.

22 Executed on _____ at La Mirada, California.

23 _____
 24 I. L. GETRICH

25 ORDER

26 LET A CITATION ISSUE.

27 Dated: _____

28 _____
 JUDGE OF THE SUPERIOR COURT

Alan D. Davis
 Attorney at Law
 P.O. Box 3476
 Fullerton, CA 92834

1 Alan D. Davis Bar# 81783
Attorney at Law
2 1323 N. Broadway
Santa Ana, CA 92706
3
4 TEL: (714) 614-0422
FAX: (714) 285-1425
5 Attorney for I. L. GETRICH
6
7

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF ORANGE
10

11 Estate of:) CASE NO. A 123456
12 I. M. DECEASED,) EX PARTE PETITION TO ESTABLISH
13) FACT OF DEATH
14)
_____ Deceased.) [P.C. SECTION 200, et seq.]

15 Petitioner, I. L. Getrich, alleges as follows:

- 16 1. Decedent died testate on December 1, 1994, a resident of
17 Orange County, California. Petitioner is her surviving spouse. A
18 copy of her death certificate is attached hereto as Exhibit A.
- 19 2. At the time of her death, decedent owned unimproved real
20 property in Anaheim, California, in her name legally described as:
21 Lot 1111, Tract 2222, as per map recorded in Book 3333,
22 Page 4444, of Maps, records of Orange County.
- 23 3. Prior to her death, the property had been owned by
24 petitioner and decedent as joint tenants. On September 18, 1994,
25 petitioner and decedent deeded said property to decedent and her
26 two children, Harvey Deceased and Goldilocks Deceased as joint
27 tenants.
- 28 4. Sometime thereafter, but prior to her death, someone

1 | changed the Grant Deed to read: I. L. Getrich and I. M. Deceased,
2 | husband and wife as joint tenants, hereby grant to I. M. Deceased,
3 | as her separate property... The deed has been obviously altered
4 | from the original. A copy of the deed is attached hereto as
5 | Exhibit B.

6 | 5. Petitioner desires that the court establish the fact of
7 | decedent's death, and that decedent died owning the above-described
8 | real property in joint tenancy with her two children named above.

9 | 6. Petitioner knows of no opposition to this petition.

10 | WHEREFORE, petitioner prays as follows:

- 11 | 1. For an order establishing decedent's death;
- 12 | 2. For an order establishing that decedent owned the above-
13 | described real property at her death in joint tenancy with her two
14 | children named herein.
- 15 | 3. For such other orders as the court deems proper.

16 | Dated: _____

17 | _____
18 | I. L. GETRICH

19 | I declare under penalty of perjury under the laws of the State
20 | of California that the foregoing is true and correct.

21 | Executed on _____ at Santa Ana, California.

22 | _____
23 | I. L. GETRICH

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Alan D. Davis, #81783 Law Office of Alan D. Davis P.O. Box 3476 Fullerton, CA 92834-3476 TELEPHONE NO.: (714) 614-0422 FAX NO. (Optional): (714) 285-1425 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): I. L. GETRICH	FOR COURT USE ONLY CASE NUMBER: A 123456 HEARING DATE AND TIME: 1-31-06 DEPT.: L73
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE STREET ADDRESS: 341 THE CITY DRIVE MAILING ADDRESS: P.O. BOX 14169 CITY AND ZIP CODE: ORANGE, CA 92613-1569 BRANCH NAME: LAMOREAUX JUSTICE CENTER	
<input checked="" type="checkbox"/> ESTATE <input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): I. M. DECEASED, <input checked="" type="checkbox"/> DECEDENT <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR	
REPORT OF SALE AND PETITION FOR ORDER CONFIRMING SALE OF REAL PROPERTY <input type="checkbox"/> and Sale of Other Property Sold as a Unit	

1. **Petitioner (name of each):** I. L. GETRICH

is the personal representative conservator guardian of the estate of the decedent, conservatee, or minor
 purchaser (30 days have passed since the sale) (Attach supporting declaration (Prob. Code, § 10308(b).))

and requests a court order for (check all that apply):

- a. confirmation of sale of the estate's interest in the real property described in Attachment 2e
 b. confirmation of sale of the estate's interest in other property sold as a unit as described in Attachment 2c.
 c. approval of commission of (specify): 5 % of the amount of: \$ 10,000
 d. additional bond is fixed at: \$ is not required.

2. **Description of property sold**

- a. Interest sold: 100% Undivided (specify): %
 b. Improved Unimproved
 c. Real property sold as a unit with other property (describe in Attachment 2c).
 d. Street address and location (specify): 123 S. Main St., Santa Ana, California

e. Legal description is affixed as Attachment 2e.

3. **Appraisal**

- a. Date of death of decedent or appointment of conservator or guardian (specify): 12-1-04
 b. Appraised value at above date: \$ 200,000
 c. Reappraised value within one year prior to the hearing: \$ 200,000 Amount includes value of other property sold as a unit. (If more than one year has elapsed from the date in item 3a to the date of the hearing, reappraisal is required.)
 d. Appraisal or reappraisal by probate referee has been filed will be filed
 has been waived by order dated:

4. **Manner and terms of sale**

- a. Name of purchaser and manner of vesting title (specify): John & Mary Smith, Husband and wife, as community property
 b. Purchaser is the the personal representative attorney for the personal representative.
 c. Sale was private public on (date): 1-5-06
 d. Amount bid: \$ 200,000 Deposit: \$ 20,000
 e. Payment Cash Credit (specify terms on Attachment 4e.)
 f. Other terms of sale (specify terms on Attachment 4f.)
 g. Mode of sale specified in will. Petitioner requests relief from complying for the reasons stated in Attachment 4g.
 h. Terms comply with Probate Code section 2542 (guardianships and conservatorships).

<input checked="" type="checkbox"/> ESTATE <input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): I. M. DECEASED,	CASE NUMBER: A 123456
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5. Commission

- a. Sale without broker
- b. A written exclusive nonexclusive contract for commission was entered into with (name):
ABC Realty
- c. Purchaser was procured by (name): XYZ Realty
a licensed real estate broker who is not buying for his or her account.
- d. Commission is to be divided as follows: 50% to ABC Realty and 50% to XYZ Realty

6. Bond

- a. Amount before sale: \$ none.
- b. Additional amount needed: \$ none.
- c. Proceeds are to be deposited in a blocked account. Receipts will be filed. (Specify institution and location):

7. Notice of sale

- a. Published Posted as permitted by Probate Code section 10301 (\$5,000 or less)
- b. Will authorizes sale of the property
- c. Will directs sale of the property

8. Notice of hearing

- | | |
|--|--|
| <p>a. Special devisee:</p> <ul style="list-style-type: none"> (1) <input checked="" type="checkbox"/> None. (2) <input type="checkbox"/> Consent to be filed. (3) <input type="checkbox"/> Written notice will be given. <p>b. Special notice:</p> <ul style="list-style-type: none"> (1) <input checked="" type="checkbox"/> None requested. (2) <input type="checkbox"/> Has been or will be waived. (3) <input type="checkbox"/> Required written notice will be given. | <p>c. Personal representative, conservator of the estate, or guardian of the estate:</p> <ul style="list-style-type: none"> (1) <input checked="" type="checkbox"/> Petitioner (consent or notice not required). (2) <input type="checkbox"/> Consent to be filed. (3) <input type="checkbox"/> Written notice will be given. |
|--|--|

9. Reason for sale (need not complete if item 7b or 7c checked)

- a. Necessary to pay
 - (1) debts
 - (2) devise
 - (3) family allowance
 - (4) expenses of administration
 - (5) taxes

10. Formula for overbids	
a. Original bid:	\$ <u>200,000</u>
b. 10% of first \$10,000 of original bid:	\$ <u>1,000</u>
c. 5% of (original bid minus \$10,000):	\$ <u>9,500</u>
d. Minimum overbid (a + b + c):	\$ <u>210,500</u>

- b. The sale is to the advantage of the estate and in the best interest of the interested persons.

11. Overbid. Required amount of first overbid (see item 10): \$ 210,500

12. Petitioner's efforts to obtain the highest and best price reasonably attainable for the property were as follows (specify activities taken to expose the property to the market, e.g., multiple listings, advertising, open houses, etc.):

Sign on property; numerous open houses. Broker held caravans to the property for other realtors/agents. Multiple listing.

13. Number of pages attached: 1
Date: 1/5/06

ALAN D. DAVIS
(TYPE OR PRINT NAME OF ATTORNEY)

(SIGNATURE OF ATTORNEY*)

*(Signature of all petitioners also required (Prob. Code, § 1020).)

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

Date: 1/5/06

I. L. GETRICH
(TYPE OR PRINT NAME OF PETITIONER)

(SIGNATURE OF PETITIONER)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 After recording return to:
 Alan D. Davis, #81783
 Law Office of Alan D. Davis
 P.O. Box 3476
 Fullerton, CA 92834-3476

TELEPHONE NO.: (714) 614-0422
 FAX NO. (Optional): (714) 285-1425
 E-MAIL ADDRESS (Optional):
 ATTORNEY FOR (Name): I. L. GETRICH

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
 STREET ADDRESS: 341 THE CITY DRIVE
 MAILING ADDRESS: P.O. BOX 14169
 CITY AND ZIP CODE: ORANGE, CA 92613-1569
 BRANCH NAME: LAMOREAUX JUSTICE CENTER

ESTATE OF
 CONSERVATORSHIP OF (Name): I. M. DECEASED
 GUARDIANSHIP OF

FOR RECORDER'S USE

DECEDENT CONSERVATEE MINOR

ORDER CONFIRMING SALE OF REAL PROPERTY
 And Confirming Sale of Other Property as a Unit

CASE NUMBER:
 A 123456

1. Hearing date: 1-31-06 Time: 9:00 A.M. Dept.: L73 Rm.:

FOR COURT USE ONLY

THE COURT FINDS

2. All notices required by law were given and, if required, proof of notice of sale was made.
3. a. Sale was authorized or directed by the will
 b. Good reason existed for the sale
 of the property commonly described as (street address or location):
 123 S. Main St., Santa Ana, California
4. The sale was legally made and fairly conducted.
5. The confirmed sale price is not disproportionate to the value of the property.
6. Private sale: The amount bid is 90% or more of the appraised value of the property as appraised within one year of the date of the hearing.
7. An offer exceeding the amount bid by the statutory percentages cannot be obtained was obtained in open court. The offer complies with all applicable law.
8. The personal representative conservator guardian of the estate of the decedent, conservatee, or minor has made reasonable efforts to obtain the highest and best price reasonably attainable for the property.

THE COURT ORDERS

9. The sale of the real property legally described in item 15 on page 2 on Attachment 9 and other property sold as a unit described in item 15 on page 2 on Attachment 9 is confirmed to (name):
 John & Mary Smith

(manner of vesting title): Husband and wife, as community property

for the sale price of: \$ 200,000 on the following terms (use item 15 on page 2 or Attachment 9 if necessary):
 "AS IS"

Continued in item 15 on page 2. Continued on Attachment 9.

10. The personal representative conservator guardian of the estate of the decedent, conservatee, or minor (name): I. L. Getrich is directed to execute and deliver a conveyance of the estate's interest in the property described in item 9 and other property described in item 9 sold as a unit upon receipt of the consideration for the sale.

<input checked="" type="checkbox"/> ESTATE <input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): I. M. DECEASED	CASE NUMBER: A 123456
--	--------------------------

11. a. No additional bond is required.
 b. Additional bond is required in the amount of: \$ _____, surety, or otherwise, as provided by law.
 c. Net sale proceeds must be deposited by escrow holder in a blocked account to be withdrawn only on court order.
 Receipts must be filed. (Specify institution and location):

12. a. No commission is payable.
 b. A commission from the proceeds of the sale is approved in the amount of: \$ 10,000
 to be paid as follows (specify): 50% to ABC Realty and 50% to XYZ Realty

13. Other (specify, use Attachment 13 if necessary):

14. Number of pages attached: -0-

Date: 1/31/06

 JUDICIAL OFFICER
 HARECOM D' JUDGE
 Signature follows last attachment.

15. (Check all that apply): Legal description of the real property personal property in item 9:
 Additional terms of sale from item 9:

Lot 1 of Tract 44444, as per map recorded in Book 600, Page 6 of Maps, records of Orange County, California.

[SEAL]	<p style="text-align: center;">CLERK'S CERTIFICATE</p> <p>I certify that the foregoing <i>Order Confirming Sale of Real Property</i>, including any attached description of real or personal property, is a true and correct copy of the original on file in my office.</p> <p>Date: _____ CLERK, by _____, Deputy</p>
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**CHANGE OF OWNERSHIP STATEMENT
REAL PROPERTY OR MANUFACTURED HOMES
SUBJECT TO LOCAL PROPERTY TAXES**

RECORDING DATA	
Date	_____
Document Number	_____
Book	Page _____

County of ORANGE Office of Assessor
Address 12345 Main Street, Santa Ana, CA 92701

Correct mailing address if necessary.

Name and Address of Buyer/Transferee [last name, first name(s), initial]

Getrich, I. L.
12345 Main Street
Santa Ana, CA 92701

File This Statement By _____

Assessor's Parcel Number _____

Property Address _____

Legal Description _____

Seller/Transferor DECEASED, I. M.
[last name, first name(s), initial]

IMPORTANT NOTICE

The law requires any transferee acquiring an interest in real property or manufactured home subject to local property taxation, and that is assessed by the Assessor, to file a Change of Ownership Statement with the County Recorder or Assessor. The Change of Ownership Statement must be filed at the time of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership, except that where the change in ownership has occurred by reason of death the statement shall be filed within 150 days after the date of death or, if the estate is probated, shall be filed at the time the inventory and appraisal is filed. The failure to file a change in ownership statement within 45 days from the date of a written request by the Assessor results in a penalty of either: (1) One hundred dollars (\$100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or manufactured home, whichever is greater, but not to exceed two thousand five hundred dollars (\$2,500) if that failure to file was not willful. This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment.

This notice is a written request from the Office of the Assessor for a Change of Ownership Statement. If you do not file this statement, it will result in the assessment of a penalty. This statement will be held secret as required by section 481 of the Revenue and Taxation Code.

The property which you acquired may be subject to a supplemental assessment in an amount to be determined by the ORANGE Assessor. For further information on your supplemental roll obligation, please call the ORANGE Assessor at _____.

PART I: TRANSFER INFORMATION (Please answer all questions.)

- | YES | NO | |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | A. Is this transfer solely between husband and wife (addition of a spouse, death of a spouse, divorce settlement, etc.)? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | B. Is this transaction only a correction of the name(s) of the person(s) holding title to the property (e.g., a name change upon marriage)? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | C. Is this document recorded to create, terminate, or reconvey a lender's interest in the property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | D. Is this transaction recorded only as a requirement for financing purposes or to create, terminate, or reconvey a security interest (e.g., cosigner)? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | E. Is this document recorded to substitute a trustee under a deed of trust, mortgage, or other similar document? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | F. Did this transfer result in the creation of a joint tenancy in which the seller (transferor) remains as one of the joint tenants? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | G. Does this transfer return property to the person who created the joint tenancy (original transferor)? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | H. Is this transfer of property: |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 1. to a trust for the benefit of the grantor, or grantor's spouse? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2. to a trust revocable by the transferor? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 3. to a trust from which the property reverts to the grantor within 12 years? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | I. If this property is subject to a lease, is the remaining lease term 35 years or more including written options? |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | *J. Is this a transfer between parent(s) and child(ren)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or from grandparent(s) to grandchild(ren)? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | *K. Is this transaction to replace a principal residence by a person 55 years of age or older? Within the same county? <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | *L. Is this transaction to replace a principal residence by a person who is severely disabled as defined by Revenue and Taxation Code section 69.5? Within the same county? <input type="checkbox"/> Yes <input type="checkbox"/> No |

If you answered yes to J, K or L, you may qualify for a property tax reassessment exclusion, which may result in lower taxes on your property. If you do not file a claim, it will result in the reassessment of the property.

Please provide any other information that will help the Assessor to understand the nature of the transfer.

IF YOU HAVE ANSWERED YES TO ANY OF THE ABOVE QUESTIONS EXCEPT J, K OR L, PLEASE SIGN AND DATE, OTHERWISE COMPLETE THE REVERSE SIDE.

PART II: OTHER TRANSFER INFORMATION

- A. Date of transfer if other than recording date _____
- B. Type of transfer. (Please check appropriate box.)
- Purchase Foreclosure Gift Trade or exchange Merger, stock, or partnership acquisition
- Contract of sale - Date of contract _____ Sale/Leaseback
- Inheritance - Date of death 12-1-97 Other: Please explain: _____
- Creation of a lease Assignment of a lease Termination of a lease. Date lease began _____
- Original term in years (including written options) _____ Remaining term in years (including written options) _____
- C. Was only a partial interest in the property transferred? Yes No If yes, indicate the percentage transferred _____ %.

PART III: PURCHASE PRICE AND TERMS OF SALE

- A. CASH DOWN PAYMENT OR VALUE OF TRADE OR EXCHANGE (excluding closing costs) Amount \$ _____
- B. FIRST DEED OF TRUST @ _____ % interest for _____ years. Pymts./Mo. = \$ _____ (Prin. & Int. only) Amount \$ _____
- FHA (____ Discount Points) Fixed rate New loan
- Conventional Variable rate Assumed existing loan balance
- VA (____ Discount Points) All inclusive D.T. (\$ _____ Wrapped) Bank or savings & loan
- Cal-Vet Loan carried by seller Finance company
- Balloon payment Yes No Due Date _____ Amount \$ _____
- C. SECOND DEED OF TRUST @ _____ % interest for _____ years. Pymts./Mo. = \$ _____ (Prin. & Int. only) Amount \$ _____
- Bank or savings & loan Fixed rate New loan
- Loan carried by seller Variable rate Assumed existing loan balance
- Balloon payment Yes No Due Date _____ Amount \$ _____
- D. OTHER FINANCING: Is other financing involved not covered in (b) or (c) above? Yes No Amount \$ _____
- Type _____ @ _____ % interest for _____ years. Pymts./Mo. = \$ _____ (Prin. & Int. only)
- Bank or savings & loan Fixed rate New loan
- Loan carried by seller Variable rate Assumed existing loan balance
- Balloon payment Yes No Due Date _____ Amount \$ _____
- E. WAS AN IMPROVEMENT BOND ASSUMED BY THE BUYER? Yes No Outstanding balance: Amount \$ _____
- F. TOTAL PURCHASE PRICE (or acquisition price, if traded or exchanged, include real estate commission if paid.)
- Total Items A through E \$
- G. PROPERTY PURCHASED: Through a broker Direct from seller From a family member Other (explain) _____
- If purchased through a broker, provide broker's name and phone number: _____
- Please explain any special terms, seller concessions, or financing and any other information that would help the Assessor understand the purchase price and terms of sale: _____


PART IV: PROPERTY INFORMATION

- A. TYPE OF PROPERTY TRANSFERRED:
- Single-family residence Agricultural Timeshare
- Multiple-family residence (no. of units: _____) Co-op/Own-your-own Manufactured home
- Commercial/Industrial Condominium Unimproved lot
- Other (Description: _____)
- B. IS THIS PROPERTY INTENDED AS YOUR PRINCIPAL RESIDENCE? Yes No
- If yes, enter date of occupancy _____ / _____ / _____ or intended occupancy _____ / _____ / _____
- (month) (day) (month) (day)
- C. IS PERSONAL PROPERTY INCLUDED IN PURCHASE PRICE (e.g., furniture, farm equipment, machinery, etc.)? Yes No
- (Other than a manufactured home subject to local property tax?) Yes No
- If yes, enter the value of the personal property included in the purchase price \$ _____ (Attach itemized list of personal property.)
- D. IS A MANUFACTURED HOME INCLUDED IN THE PURCHASE PRICE? Yes No
- If yes, how much of the purchase price is allocated to the manufactured home? \$ _____
- Is the manufactured home subject to local property tax? Yes No What is the decal number? _____
- E. DOES THE PROPERTY PRODUCE INCOME? Yes No If yes, is the income from:
- Lease/Rent Contract Mineral rights Other - Explain: _____
- F. WHAT WAS THE CONDITION OF THE PROPERTY AT THE TIME OF SALE?
- Good Average Fair Poor
- Please explain the physical condition of the property and provide any other information (such as restrictions, etc.) that would assist the Assessor in determining the value of the property: _____

CERTIFICATION

The Assessor's Office may contact you for additional information regarding this transaction. I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing and all information hereon, including any accompanying statements or documents, is true, correct and complete to the best of my knowledge and belief.

Signed in _____, California, this _____ day of _____

OWNER OR CORPORATE OFFICER'S SIGNATURE 	TITLE (if corporate officer/partner)	PHONE NUMBER (8 a.m. - 5 p.m.)
NAME OF NEW OWNER/LEGAL REPRESENTATIVE/CORPORATE OFFICER (please print) I. L. GETRICH		