

Probate Resource Guide

Sellers



TUSCANA
PROPERTIES

PROBATE TIMELINE

Step	Timeframe
Prepare and File Petition for Probate	1-2 months
Court hearing on the Petition for Probate	2-3 months
The following are issued: Letters of Administration, Orders for Probate, Duties and Liabilities, Issue Bond (if ordered), & Letters of Testamentary	2-4 months (if not contested)
Notice to Creditors	2-4 months
Notice to Department of Health Services Inventory & Appraisement	4-8 months
Pay State and Federal Taxes (if necessary)	6-12 months
Allow or Reject Creditor Claims	
Possible Preliminary Distributions	
Notice to Department of Health Services (if deceased received medical)	
Notice to Franchise Tax Board (if heir is out of state)	
Claim of Exemption (if assets transfer to a minor)	6-15 months
Receive Final Tax Letter from State and Federal (if appropriate)	6-18 months
File Petition for Final Distribution and Accounting	8-16 months
Hearing on Petition for final Distribution and Accounting	
Order Approving Final Distribution and Accounting	
Distribution of Assets to Heirs	9-17 months
Final Discharge Order (indicates close of probate case)	9-18 months
Final Distribution of Funds	9-18 months

FAQ ON PROBATE SALES

What is a trust?

A situation in which one person (or entity) holds the legal title to a property for the benefit of another.

What is a probate?

Probate is the court-supervised administration of a decedent's estate. The probate proceeding involves "proving the will" (if there is a will), appointing the personal representative, determining the decedent's assets that are subject to probate, paying outstanding debts and disbursing funds to the beneficiaries. In some cases, the decedent's estate includes real property that must be sold under the court's supervision.

Why do some probate properties not require court confirmation?

If a probate property is a Trust Sale or if the Executor/Administrator of the estate has been granted "full independent powers" under the Independent Administration of Estates Act (IAEA), the sale may not require court confirmation.

If the Administrator has full independent powers, he or she may elect to list the property for sale. Once an offer is accepted, the estate's attorney mails out a Notice of Proposed Action stating the terms of the proposed sale to all the heirs. The heirs then have 15 days to object to the sale. If there is no objection within 15 days, the sale goes through without any court hearing required. (Regardless of the details of the probate transaction, sellers are strongly encouraged to work with a professional probate attorney to protect the estate's best interests.)

What is a Property Profile?

A Property Profile is a report that provides details on a specific property. It contains information such as square footage, number of bedrooms and bathrooms, lot size, zoning information, use code, tax information and ownership information. Additionally the profile has the recorded documents, such as the grant deed, quitclaim deed and copies of deeds of trust. The report can also contain sales comparables, school information and neighborhood information. A complete, current property profile is essential for setting the price of the real property and for determining problems that may interfere with the sale.

Should I make repairs before listing a probate property for sale?

No. In California, probate properties are sold "as-is." If you make repairs you may inadvertently conceal something about the condition of the property. Even a coat of paint can unintentionally conceal a defect. Except for removing personal possessions, clearing out trash and cleaning up the entryway and yard, it is important to leave the property in its present state and let the buyers do their inspections and satisfy themselves as to the condition of the property.

What do I need to do to prepare the property for sale?

Your real estate agent should be able to recommend a number of qualified specialists to help you prepare the property for sale, including removing belongings and obtaining professional cleaning. Your agent should also assist you in conducting an inventory of the real property for sale and in preparing a comprehensive property profile.

FAQ ON PROBATE SALES

How can I choose the best list price?

Your agent should provide you with detailed market data, called a Market Value Analysis. This includes the selling prices of similar properties in the neighboring area. It will also include in-depth information on recent sales in the area, such as price per square foot and the number of days the property was on the market. Taking into consideration the information in the analysis as well as other intangibles of the market, your agent will be able to help you determine a listing price that is appropriate for the market and will attract the greatest number of qualified buyers.

Once a property is listed, how will it be marketed?

Your agent should pursue a number of strategies to expose your property to likely buyers. They include signage on the property, newspaper and internet advertising, direct mail, open houses for agents and the public and personal networking among successful agents who may represent qualified buyers. Your agent will conduct showings for interested buyers and their agents, will answer questions about the property and will continue to promote the property in order to secure the highest offer. Your agent should also communicate with neighbors in the immediate area, keeping them informed about the price and other details about the property. Ask your real estate agent for a written marketing plan and for explanations of how various types of marketing will benefit the sale.

Do I have to pay up front for all this marketing and advertising costs?

No, there should be no advertising or marketing up-front fees.

Is the paperwork different in a probate sale than a traditional real estate transaction?

Yes. In most real estate transactions, the seller is required to disclose information about the property, including defects, construction conducted without a permit, evidence of pest or water damage, etc. Because sellers of real property through probate, trust or conservatorship may never have lived in the property that's being sold, special disclosure forms take this into account. Probate and trust sales require special disclosures, listing agreements and purchase contracts. In California, the California Association of Realtors has standardized forms specifically for probate transactions.

How do you determine the minimum bid in court at the court confirmation hearing?

The minimum first overbid price is set by a statute in the Probate Code. Calculating the overbid assumes that there is an accepted offer on the property. The minimum overbid amount is 10% of the first \$10,000 plus 5% of the balance of the accepted offer. The overbid must be presented in person by cashier's check (no personal checks). If a property is highly desirable, there may be more than one overbidder. In that case, an overbid above the minimum would be to the advantage of the potential buyer. Here's an example of how the overbid and deposit amount are determined:

FAQ ON PROBATE SALES

EXAMPLE : A property is listed at \$200,000. The accepted offer is \$175,000.

The minimum overbid is calculated as follows:

Accepted offer	=	\$175,000
+ .10 x \$10,000	=	\$1,000
<u>+ .05 x \$165,000</u>	=	<u>\$8,250</u>
Minimum overbid	=	\$184,250
x .10	=	\$18,425 amount of cashier's check

Should I use the same agent who helped me sell my own house?

You are free to choose any real estate agent you like, but it is important to remember that probate real estate sales are complicated legal matters. Most real estate agents are not experienced or well-versed in the probate process. It makes sense to choose an agent who specializes in probate and trust real estate, and who understands the intricacies of pricing, marketing and presenting such properties. Your agent will represent your interests throughout the transaction; being able to understand and explain the process is essential.

Have more questions? We're always available to answer them. We are sensitive to the need for confidentiality, clear thinking, timely explanations, aggressive marketing, astute negotiations and, in many cases, quick sales.

For a better understanding of probate terminology, view the [probate glossary](#).

For a full marketing proposal for your probate and trust real estate, please contact Tuscana Properties today via [email](#) or call us at 408-802-4017 or 888-584-2084.

PROBATE SHORT SALES

Sell Probate

If you are faced with the sale of real property through probate proceedings, you've come to the right place. This section of Tuscana Properties website is designed to answer the questions of heirs as well as their agents and attorneys.

Here you'll find details on the probate process, tips for sellers and frequently asked questions. We also offer resources such as a probate glossary and links to California Probate Code and disclosure data.

We are always available to answer your questions and to manage your probate sale transaction. Our commitment to seamless service means the only thing you have to do is contact us. We'll do the rest.

5 COSTLY MISTAKES WHEN LISTING

1. Set your asking price too high. This is the number one mistake that sellers make. A high asking price dramatically reduces the number of qualified buyers (and their agents) who will look at or consider your house and it lengthens the time the house will remain on the market unsold. A slightly-below-market asking price significantly increases buyer activity and may even generate multiple offers that bring the selling price up to the seller's original hoped-for amount!
2. Rely on out-of-date information. In a volatile marketplace, comparable sales from last year or sometimes even last month may be too old to be valuable. Be sure to examine figures for properties near yours that have similar attributes and have sold recently; asking prices have little significance—rely on recent sales only.
3. Don't read the fine print. You've heard the expression "Buyer beware"? Well, the same goes for sellers! Read every document carefully and ask for explanations of any terms you don't understand. There are no stupid questions when it comes to contracts. Your real estate agent should be able to give you clear explanations; if not, you might question whether your agents has the skills to represent you!
4. Dismiss the importance of "online curb appeal." Today's tech-savvy buyers begin their home search online and photographs are the first thing they look at. Make sure the photos show your property clearly. Appeal to buyers by posting pictures of one or two features you consider really special about your home.
5. Represent yourself. Many homeowners think they will save money by listing their home for sale without the benefit of a real estate agent. In fact the opposite is true. Not only do such owners increase their stress and compromise their security, they end up netting less than those who enlist—and pay for—the services of a skilled agent.

The borrower essentially has only 2 basic routes to choose from when facing foreclosure: Stay or Go.

ABOUT PROBATE SPECIALISTS

We do not just occasionally sell Probate Real Estate, we *specialize* in Probate sales. Because of this we appreciate what a difficult and emotional time this can be, dealing with the loss of a loved one, and with items related to the Estate that just can't wait. We are here to help. Based on our experience we have tailored an approach that makes your role as Executor/Administrator in regards to the real property as effortless and efficient as possible.

Upon signing the Listing Agreement, Tuscana Properties your local Probate Sales Specialist will provide you *free of charge* the following valuable reports and services:

- Home warranty plan which will cover many of the homes systems and appliances until the close of Escrow. Unknown existing conditions may also be covered if they could not be reasonably observed by looking at or operating the system or appliance. This type of policy offers the Estate additional piece of mind while limiting large unforeseen expenses.*
- Information on an inheritance cash advance which can provide the money you need now without long delays. Because this is a cash advance against the inheritance there are no monthly payments, credit checks or income verification required.
- Professional Termite Report so that you will know the extent of any damage and needed repairs if necessary.
- Title Property Profile so that it can be determined early in the process if there are any liens or other legal encumbrances against the property that could ultimately delay the sale.
- Professional Market Value Estimation derived from multiple sources including Santa Clara County MLS and court data.
- Advise on potential cosmetic enhancements and property repairs that will add disproportionate value to the property and aid in marketing time.
- A list of frequently required services which you can use to research providers that meet your specific criteria.
- A chart of a typical Probate Timeline so that you can better understand and coordinate the process.
- State-of-the-Art Marketing including a proprietary lead-capture system with an existing Buyer's Pipeline for our listings.
- Best (our opinion) affiliated services in the Real Estate Industry including Escrow, Title, Home Warranty, etc.

Please [contact us today](#) and let us know how we may be of service or for a full presentation of our industry leading capabilities. We represent properties



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