

**IN THE COURT OF COMMON PLEAS, FAIRFIELD COUNTY, OHIO
PROBATE DIVISION**

JUDGE TERRE L. VANDERVOORT

LAND SALE COMPLAINT CHECKLIST

INITIAL FILING FEE: Court Costs \$169.00

REQUIREMENTS:

A probate land sale complaint may be filed by a guardian of the estate, conservator, administrator, excusatory, or trustee under certain situations outlined by statute. It is the method whereby the fiduciary obtains authority to sell the real estate from the Court. A land sale proceeding will be opened by the Court as a companion case to the general probate case. If a minor or incompetent is involved in the proceedings as a ward or beneficiary, the Court may appoint a guardian ad litem to represent the minor or incompetent person's interests.

A summons is issued and served as in other civil actions. Competent persons with an interest may waive summons, consent or voluntarily appear. Incompetents must be served and their guardians may not waive service.

Sales are free of the expectancy of dower. The person having the dower interest must be paid an allowance for the dower interest from the sale proceeds unless the answer of the person holding the dower interest waives the allowance.

The real estate interests being sold may also include coal, iron ore, limestone, fireclay, or other minerals on or under the real estate and the right to mine them.

A real estate interest may only be sold subject to an existing mortgage with the consent of the mortgage holder. If consent is given the estate of the decedent or the ward is released from any subsequent deficiency

NOTE:

- All paperwork must be typed or written neatly in blue ink.
- All filings must be single-sided. We will not accept double-sided originals.
- Please do not staple original paperwork. We cannot accept filings with staples.

INITIAL FILING:

- A Complaint must be filed in accordance with the statutes and include requests to sell the entire interest, employ brokers, surveyors, and conduct a public or private sale as may be applicable; name as necessary parties all those identified in RC 2127.12 and .13, as may be applicable;
- File written request for service and sufficient copies of the complaint for each party requiring service;
- Evidence of title must be prepared and filed in accordance with local rules; and
- The legal description of the real estate to be sold must be approved for transfer purposes by the County map department, if the real estate is located within Fairfield County.

ITEMS NECESSARY TO COMPLETE LAND SALE:

If the matter is at issue and all responsive pleadings have been filed or are in default, the plaintiff can either move for a hearing if the land sale is contested or present the Court with a Motion asking the Court to find the sale necessary.

PLEASE NOTE THE MOTION ASKING THE COURT TO FIND THE SALE NECESSARY MUST CONTAIN TWO ADDITIONAL PROVISIONS:

- 1) Asking the Court to either order a new appraisal or dispense with appraisal, and
- 2) Asking the Court to either order new bond or dispense with additional bond. The fiduciary must also provide the Court with a proposed Judgment Entry (FC FORM 50.1).

ADDITIONAL BOND: The fiduciary must also provide the court with a proposed Judgment Entry (FC FORM 50.1). A proposed Judgment Entry will not be approved until an inventory has been filed in the companion case.

If new bond or appraisal is ordered, the Court will not issue an Order of Sale (FC FORM 50.2) until the required bond and/or appraisal are filed with the Court. A new appraisal must be filed utilizing (FC FORM 50.4).

The fiduciary must provide the Court with a proposed Order of Sale (FC FORM 50.2).

Once the Court issues the Order of Sale, the fiduciary must make a return to the court immediately after execution of this order, and if the property sold, the fiduciary must provide the Court with a proposed Entry Confirming Sale, Ordering Deed and Distribution (FC FORM 50.3).

IN THE COURT OF COMMON PLEAS OF FAIRFIELD COUNTY, OHIO

PROBATE DIVISION

TERRE L. VANDERVOORT, JUDGE

IN THE MATTER OF _____

CASE NO. _____

JUDGMENT ENTRY

This matter coming on to be heard upon the pleadings and the evidence, the Court finds all the defendants herein have been duly and legally served with process, or have voluntarily entered their appearance and consent to the sale prayed for, and are properly before the Court. The Court additionally finds that the allegation in the complaint is true and that it is necessary to sell said Real Estate under Revised Code _____. Further, the Court finds that evidence of title was filed with this Court on the _____ day of _____, _____. Therefore, the prayer of the plaintiff's complaint should be granted.

It appears to the Court that a new appraisalment should be made of said real estate. It is ordered that _____, a judicious and disinterested person(s), not next of kin of the complaint, be and hereby is (are) appointed to appraise said real estate at its true value in money. It is further ordered that said appraiser(s) be sworn as required by law to truly and impartially appraise said real estate upon actual view of its fair cash value, and discharge the duties required according to law and to make return in writing to this Court.

It appears to the Court that either a new appraisalment should not be made of said real estate or the previous appraisalment is approved, and it is ordered that a further appraisalment is hereby dispensed with.

It appears to the Court that additional bond is necessary, and it is ordered that the giving of an additional bond of \$_____ is required before the Court will order sale.

It appears to the Court that either additional bond is not necessary or the previous bond given is approved, and it is ordered that the giving of an additional bond is hereby dispensed with.

The Court shall issue an Order of Sale forthwith.

Date

Terre L. Vandervoort, Probate Judge

IN THE COURT OF COMMON PLEAS OF FAIRFIELD COUNTY, OHIO
PROBATE DIVISION
TERRE L. VANDERVOORT, JUDGE

IN THE MATTER OF _____
CASE NO. _____

ORDER OF SALE

To: _____, fiduciary of the Estate of _____.

You are commanded to proceed to sell the following described real estate, appraised at:
\$ _____ on the following terms: _____
_____, at:

- private sale for not less than the appraised value.
- private sale for not less than the fixed price of \$ _____.
- public sale for not less than two thirds of the appraised value, after giving three weeks' notice by publication in a newspaper of general circulation in the County where the real estate is situated.

LEGAL DISCRIPTION OF REAL ESTATE:

You are to make return of your proceedings immediately after execution of this Order.
This Order of Sale issued this _____ day of _____, _____.

Terre L. Vandervoort, Probate Judge

RETURN WHEN SOLD BY PRIVATE SALE

In obedience with this Court's Order, the real estate described in this Order of sale was sold on the _____ day of _____, _____ to _____ for the sum of \$_____. A copy of the real estate contract is attached

Date

Fiduciary

RETURN WHEN SOLD BY PUBLIC SALE

In obedience to the Court's Order, the real estate described in this Order of Sale was advertised in accordance with R.C. 2127.32 for three consecutive weeks before the day of the sale in a newspaper of general circulation in the County where the real estate is situated, which advertisement stated the time, place and terms of the sale. On the _____ day of _____, _____, at _____ o'clock _____.M., I offered the real estate for sale and sold it at public auction to _____ for \$_____, which was the highest and best price bit, and being at least two-thirds of the appraised value.

Date

Fiduciary

RETURN UNSOLD

In obedience to this Court's Order, I have attempted to sell the real estate described in this Order of Sale and, after due and diligent effort, have been unable to do so at the terms contained in this Order.

Date

Fiduciary

IN THE COURT OF COMMON PLEAS OF FAIRFIELD COUNTY, OHIO

PROBATE DIVISION

TERRE L. VANDERVOORT, JUDGE

IN THE MATTER OF _____

CASE NO. _____

ENTRY CONFIRMING SALE, ORDERING DEED AND DISTRIBUTUION

This cause came to be heard on the Report of Sale of Plaintiff, Fiduciary under the prior Order of Sale issued by this Court; the Court having examined said Report, and finding the proceedings of Plaintiff in all respects correct, and being satisfied that said sale was fairly and legally made, it is ordered that the report of sale be and hereby is approved and affirmed. It is further ordered that said plaintiff execute a deed of all the right, title and interest of _____ in said real estate, to the purchaser(s) _____ upon receipt of purchase price in full, being _____ Dollars.

Out of said proceeds the Fiduciary must pay:

Any balance of the proceeds to be held by said Fiduciary and accounted for as provided by law.

It is further ordered that the Fiduciary file a report of distribution subsequent to closing on the subject real estate reporting on the successful sale of the property and reporting distribution pursuant to this order.

Date

Terre L. Vandervoort, Probate Judge

IN THE COURT OF COMMON PLEAS OF FAIRFIELD COUNTY, OHIO
PROBATE DIVISION
TERRE L. VANDERVOORT, JUDGE

IN THE MATTER OF _____
CASE NO. _____

RETURN OF APPRAISER

In obedience to the foregoing order, I have caused the same to be duly executed, and as will fully appear by the proceedings hereto attached.

Dated the _____ day of _____, 20____

Appraiser

OATH OF APPRAISER

The undersigned appraiser(s) do(es) make solemn oath that I(we) will truly and impartially appraise the within described real estate at its true value in money, and perform the duties required in pursuance of the foregoing order.

Appraiser

Sworn to before me and subscribed in my presence, this ____ day of _____, 20____.

Notary Public/Deputy Clerk

APPRAISER'S RETURN

In obedience to the foregoing order, after being first duly sworn, and upon actual view of the premises therein described, I (we) the undersigned appraiser(s), estimate the value in money of said real estate at \$_____.

Appraiser