

**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, executor, 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).