

FACT SHEET FOR PRIVATE COMMITTEES

Sale Of Real Property

PUBLIC GUARDIAN AND TRUSTEE

As committee of estate, you may decide to sell real property owned by the incapable adult you represent (“the adult”). For factors to consider in making the decision to sell, please refer to the Private Committee Handbook. This fact sheet provides guidelines to follow once you have decided to sell an adult’s real property and to help you prepare a request to the Public Guardian and Trustee (PGT) for approval to sell restricted real property.

LISTING REAL PROPERTY FOR SALE

- **Seek professional assistance:** The sale of real property can be a complex and time consuming task requiring a realtor to facilitate the sale and a lawyer or notary public to convey the property. The reasonable costs for this are payable from the sale proceeds.
- **Obtain an independent appraisal:** To determine the fair market value of the property, obtain an appraisal from a designated, independent appraiser. (Please note your realtor is not considered independent.) This will allow you to set an appropriate list price and make an informed decision when considering offers during the negotiation process.
- **Check whether it is mentioned in the adult’s will:** If you want to sell or transfer real property that is the subject of a specific gift in the adult’s will, you should retain documentation showing the amount of proceeds received or the fair market value to comply with section 48 of the *Wills, Estates, and Succession Act*.
- **Review the court order for restrictions:** Your ability to deal with the real property may be restricted by the court order appointing you. If so, you will require the approval of the PGT or a court order approving the sale. Any accepted offer to purchase should contain a vendor subject clause “subject to the approval of the Public Guardian and Trustee” or alternately “subject to a court order approving the sale”. Note: You require an entered court order appointing you as committee.

ACCEPTING AN OFFER: REAL PROPERTY NOT RESTRICTED BY COURT ORDER

You are free to accept any reasonable offer to purchase the property. However, if you wish to sell the property for less than the appraised value, or to someone not at arm’s length (e.g., yourself or a related party), discuss this with a PGT Committee Review Officer (CRO) beforehand. Retain documentation supporting the sale and the Vendor’s Statement of Adjustments, and include it when submitting your accounts for review.



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ACCEPTING AN OFFER: REAL PROPERTY RESTRICTED BY COURT ORDER

If the property is restricted, you must obtain the approval of the PGT or a court order allowing the sale.

Please note: The PGT requires a minimum of five working days to review and respond to requests for approval regarding restricted real property. Failure to provide all required documentation will delay the completion of the PGT's review of your request.

Submitting your request

To receive PGT approval, send your request in writing by email, fax or letter to the PGT, "Attention: Private Committee Services" and include:

- A copy of the Contract of Purchase and Sale that is subject to PGT approval;
- An independent (not realtor) appraisal dated less than six months ago;
- A brief explanation of your reason for selling the property, highlighting why the sale is in the incapable adult's best interests; and
- Contact information for your realtor and lawyer/notary public, if any.

Please note that if the PGT no longer has a role in monitoring your committee, such as when the adult is deceased or is permanently residing outside of British Columbia, your request will not be considered.

Review Process

A CRO will review your request and may require further information to confirm the proposed sale is in the best interests of the adult. If your request is approved, the PGT will provide a letter advising of any security requirements, and requesting a signed copy of the Form A Transfer.

Security requirements

When restricted real property is sold, the PGT will require security to cover the net sale proceeds. The court order appointing you committee may already contain such a restriction.

- *If the net sale proceeds are restricted by court order:*
Prior to approving the sale, the PGT will require you to provide confirmation that the financial institution receiving the proceeds has been served with a copy of the court order, and has been advised the proceeds are restricted.
- *If the net sale proceeds are not restricted by court order:*
Prior to approving the sale, the PGT will require you and the financial institution receiving the proceeds to sign an Irrevocable Letter of Direction indicating the funds will not be accessed without the approval of the PGT or a further court order. A CRO can provide a template Irrevocable Letter of Direction if one is required.

Title transfer

Once the Form A Transfer and, as applicable, the Irrevocable Letter of Direction or confirmation the

financial institution receiving the sale proceeds has been served with your order are received, the PGT will provide a letter addressed to the Land Title Survey Authority giving consent for the title to be transferred.

Documentation supporting the sale, including the Vendor's Statement of Adjustments, should be retained and included when submitting your accounts for review.

Complex and unapproved requests

In most cases, where all the documentation described above has been provided and security arranged, the PGT will approve the sale of a restricted property. In some cases, additional information will be required, the review process may be delayed and the PGT may decline to approve, including proposed sales:

- for consideration that is less than the appraised value;
- to a non arm's length party;
- without a realtor;
- where there are complex legal or ownership issues; or
- where there are other concerns the sale may not be in the adult's best interests.

If your request is not approved, you have the option of making an application for a court order to approve it under section 28 of the *Patients Property Act*. The PGT must be served with notice of your application, and will either take no position, or if there are concerns, will oppose your application.


MORE INFORMATION

This Fact Sheet is intended as general advice and direction, to help you work effectively and successfully with the PGT. If you have any questions about your specific situation, please do not hesitate to contact the Private Committee Services department and ask to speak with a Committee Review Officer.

If you have further questions about committeeship, please refer to the Private Committee Services pages at www.trustee.bc.ca, or contact the Private Committee Services department.



Private Committee Services
Public Guardian and Trustee
700-808 West Hastings Street
Vancouver BC V6C 3L3
Tel: 604.660.1500
Website: www.trustee.bc.ca
Email: webmail@trustee.bc.ca

 PGT Hours of operation
Monday to Friday 8:30 am to 4:30 pm

Toll free calling

Toll free calling is available through Service BC. After dialing the appropriate number for your area (see below) and request to be transferred to the Public Guardian and Trustee.

 Vancouver	604.660.2421
 Victoria	250.387.6121
 Other Areas in BC	1.800.663.7867