

Buying and selling real property as a private committee

Information for private committees

Overview

Real property is land and anything that is permanently attached to it. Real property can be residential, commercial, agricultural or industrial. An example of real property is a house, condominium, or farm.

Transactions on real property owned by the adult for whom you are committee require consideration. Depending on any court order restrictions on the property, there are different Public Guardian and Trustee (PGT) review processes to follow that are explained below.

Buying real property

The purchase of real property as an investment is not considered prudent. If you think the purchase of real property is in the adult's best interest, prepare a proposal and send it to your committee review officer. Make sure the proposal explains why you think the purchase is in the adult's best interest.

A court application for approval may be needed if you want to purchase real property with restricted assets.

Selling real property

As committee of estate, you may have to decide to sell or keep real property owned by the adult for whom you are committee. For example, the

adult may move into a care facility, so you have to consider whether to maintain the adult's home, rent or sell it.

Consider the following before deciding to sell real property owned by the adult:

- The adult's wishes
- The views of family members
- If the adult is in a hospital/care home, is their care team's opinion that they will likely move back home?
- Whether the home should be rented and the tax implications of renting the property
- If family members need the home to live in. Legitimate claimants are usually limited to the spouse and dependent children
- If the adult needs the cash from the sale to meet their expenses
- If the adult can afford the taxes and other costs of maintaining the home
- If the home is being left to someone in the adult's will (see below)

Involvement of the PGT when selling real property

The PGT reviews the sale of real property owned by the adult for whom you are trustee. If there are court order restrictions on the real property, the review is done before the sale is complete. If there are no restrictions, then we review the transaction during the review of your accounts.

The process for selling real property

Step 1: Listing real property for sale

- **Check if the property is mentioned in the adult’s will:** If the real property you want to sell is gifted in the adult’s will, you must follow the requirements in section 48 of the [Wills, Estates and Succession Act \(WESA\)](#). To follow these requirements, you must keep all documentation that shows:
 - The amount of proceeds received from the sale or
 - The fair market value of the property
- **Review your court order for restrictions:** It is common for the sale of real property to be restricted by the court order that appointed you as committee of estate. These restrictions could state that you cannot sell, borrow against (for example, a mortgage) or transfer the property title. If this is the case, you will need to:
 - Get the PGT to approve the sale or
 - Get a court order to approve the sale
 - Include a vendor clause such as “subject to the approval of the Public Guardian and Trustee,” or “subject to a court order approving the sale”
- **Seek professional help:** Selling real property can be complicated and time-consuming. We strongly advise you to use the services of:
 - A licensed realtor, and
 - A lawyer experienced in real estate transactions or notary publicReasonable costs for these services are payable from the proceeds of the sale
- **Get an independent appraisal:** It’s important to get an appraisal from a designated, independent appraiser. A realtor is not considered an independent appraiser. An appraisal will help you

make an informed decision while you consider offers and negotiate the sale of the property. Also, the PGT will use the appraisal when we review the sale

Step 2: Accepting a sale offer

The process for accepting an offer differs, depending on whether the court order appointing you committee has restrictions on the real property owned by the adult.

- **If the court order does not restrict the real property:** You can accept any reasonable offer to sell the property. A reasonable offer is an offer that is:
 - Above, at or near the appraised value of the property
 - Made to someone who is not a family member or yourself

Speak to your committee review officer if you want to sell the property for less than the appraised value or to someone known to the adult, such as a family member or yourself.

- **If the court restricts the real property, you must:**
 - Get the approval of the PGT or
 - A court order allowing the sale of the property

How to submit a request for PGT approval

Send your request by email, fax or letter to the PGT, attention of Private Committee Services. The request must include:

- A copy of the Contract of Purchase and Sale that is subject to PGT approval
- An appraisal from an independent appraiser dated less than 6 months ago
- A brief explanation about why you are selling the property, highlighting why the sale is in the adult’s best interests
- Contact information for your realtor, lawyer or notary public

The PGT's review

A committee review officer will review all of the information you send in and may ask for more information. A minimum of 5 working days is needed to review and respond, and failure to provide all of the necessary documents will delay completing the review process.

The PGT **may not approve** the sale of real property when the offer under consideration is/has:

- For less than the appraised value
- To someone who is known to the committee or adult
- Made without a licensed realtor
- Complex legal or ownership issues
- Concerns the sale may not be in the adult's best interests

If your request is not approved, you can apply 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. When we are served, we will either take no position, or we will oppose your application if there are concerns.

Security requirements

The PGT requires security to cover the net sale proceeds when restricted real property is sold. The court order appointing you committee may already contain such a restriction. For example, if the net sale proceeds are deposited into an investment account, the PGT will require restrictions on that account. PGT or court approval will be required for access to the restricted account.

If the net sale proceeds are restricted by court order:

Before the PGT approves the sale, we will require you to confirm that the financial institution receiving the proceeds has been:

- Served with a copy of the court order, and
- Advised the proceeds are restricted

If the net sale proceeds are not restricted by court order:

Before the PGT approves the sale, we will require you and the financial institution receiving the proceeds to sign an Irrevocable Letter of Direction. This letter confirms that your access to the new account will be restricted (a committee review officer will provide you with a template if you need one).

Title transfer

The PGT will send a letter addressed to the Land Title Survey Authority to the lawyer involved in the transaction, giving consent for the title to be transferred when the following are received:

- The Form A Transfer, and
- If applicable, the Irrevocable Letter of Direction, or
- Confirmation the financial institution receiving the sale proceeds has been served with your court order

Documentation about the sale, including the Vendor's Statement of Adjustments, should be kept and included when you submit your accounts for review.

Advice services

Contact your committee review officer if you have questions about your role as committee. They cannot make decisions for you, but they can provide advice, answer questions or suggest resources to help inform your decisions.

Contact the Public Guardian and Trustee

Private Committee Services

700-808 West Hastings Street
Vancouver, B.C. V6C 3L3

Phone 604-660-1500
Email PCSadmin@trustee.bc.ca
Website www.trustee.bc.ca

Toll free calling

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

Vancouver 604-660-2421
Victoria 250-387-6121
Other areas in B.C. 1-800-663-7867

PGT hours of operation

Monday to Friday 8:30am to 4:30pm