

The Executor's Guide to Selling Property in BC

Navigating Probate, Fiduciary Duty, and Real Estate Assets

Being named an Executor is a significant responsibility, especially when a home is the estate's primary asset. In British Columbia, the **Wills, Estates and Succession Act (WESA)** governs how these properties must be handled. This guide outlines the essential steps to ensure a legally compliant and financially sound sale.

Phase 1: Immediate Protection (The First 30 Days)

Before the "For Sale" sign goes up, the Executor must secure the asset to protect the beneficiaries' interests.

- **Secure the Property:** Change locks, collect all keys, and ensure the alarm system is active.
- **Verify Insurance:** Standard homeowners' insurance often lapses if a home is vacant for 30+ days. You may need a "**Vacancy Permit**" or specialized estate insurance.
- **Maintenance:** Keep utilities on, maintain the yard, and ensure the home is heated to prevent burst pipes.
- **Locate the Original Will:** You will need the original for the court. Check safe deposit boxes or with the deceased's lawyer.

Phase 2: The Legal Framework (The "P-Form" Process)

In BC, you generally cannot transfer a property title until you have the **Estate Grant**. Your timeline is dictated by these key filings:

1. **Form P1 (The 21-Day Clock):** You must deliver the *Notice of Proposed Application* to all beneficiaries and intestate heirs. You cannot apply for probate until **21 days** after this notice is sent.
2. **Form P2 & P3/P4 (The Application):** This is your formal submission to the BC Supreme Court.
3. **Form P10 (Statement of Assets & Liabilities):** This requires a professional valuation of the property as of the **date of death**. An accurate appraisal or market analysis is critical for calculating probate fees.
4. **Probate Fees:** Once the court reviews your file, you must pay the probate tax (roughly **1.4%** of the estate value over \$50,000) before the Grant is issued.

Phase 3: Strategic Sale & Marketing

While you can technically *list* a property before the Grant is issued, the contract must be handled with precision.

- **Pricing for Fiduciary Duty:** Executors have a legal obligation to seek **Fair Market Value**. Selling to a family member or friend below market value can lead to personal liability and lawsuits from other beneficiaries.
- **Disclosure:** Estate sales are typically "as-is, where-is." We specialize in drafting the **Schedule A** and other disclosures that protect the Executor from future claims regarding the property's condition.
- **The "Subject to Probate" Clause:** Every offer must include a specific clause making the sale contingent on the Executor receiving the **Grant of Probate**. Without this, the estate could be sued if the court delays the grant and you cannot close on time.

Phase 4: Distribution & Clearance

- **Wills Variation Period:** In BC, there is a **180-day waiting period** from the date the Grant is issued during which the Will can be challenged.
- **CRA Clearance Certificate:** Before making the final distribution of funds to beneficiaries, an Executor should obtain a **Clearance Certificate** from the CRA to ensure all taxes are paid. Distributing early can make the Executor *personally* liable for the deceased's unpaid taxes.

How We Help:

We act as the bridge between your legal team and the real estate market.

We provide:

- **Fair Market Value Appraisals** for Form P10 filings.
- **Specialized Contracts** with probate-specific contingencies.
- **Vendor Management** (Clean-outs, repairs, and yard maintenance).
- **Neutral Communication** to keep all beneficiaries informed and at ease.

BC Estate & Probate Specialists

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Common Pitfalls for BC Executors

Pitfall	Risk
Early Distribution	Personal liability for estate debts or taxes.
Inaccurate Valuation	Delays in court or disputes with beneficiaries.
Standard Listing Contracts	Risk of breach if the Grant is delayed past the closing date.
Lack of Communication	Eroded trust leading to legal challenges from heirs.

Find more Estate resources, checklists, and links here:

www.areagroup.ca - estate & probate