



## Listing Agent Checklist When A Seller Is Deceased-Know Before You Go:

\_\_\_ **Order an O&E before the listing appointment.** Confirm the actual vesting.

\_\_\_ **If a party is deceased, a power of attorney is no longer effective** and cannot be used for signing the contract/closing.

\_\_\_ **One Person Vested In Title:** If one person is in title and they are deceased, probate will be necessary unless title is held in a trust or a Beneficiary Deed has been recorded. A will is not acceptable for signing a contract or for closing at the title company. You must ask for the Letters of Testamentary/Letters of Administration appointing the Personal Representative of the Estate from the court. Title will ask for a copy of the death certificate and attorney information will need to be provided to the title company. A Personal Representative's Deed will be required at closing.

\_\_\_ **Two Or More People Vested In Title:** Verify from the O&E if vested owners are in JOINT TENANCY or TENANCY IN COMMON with the deceased party. If in Tenancy in Common, probate requirements will be necessary. If in Joint Tenancy, recording of the death certificate will be required to clear title and a supplemental affidavit (prepared by title or attorney). A General Warranty Deed or Special Warranty Deed will be used at closing.

\_\_\_ **Title Is Vested In A Trust:** Title will need to review the entire trust, not just the trust agreement to verify Successor Trustee(s) when a seller or sellers are deceased. Once the Successor Trustee (s) is/are identified, they can sign the paperwork and a Special Warranty Deed or General Warranty Deed is used at closing.

\_\_\_ **Title Is Vested By Beneficiary Deed:** Title will ask for a copy of the death certificate, unless it's already been recorded and the grantees are vested. Title will typically not insure until 4 months past the date of death, not past the date of recording. The Beneficiary Deed must be recorded prior to death. All parties appointed must sign at closing. A Special Warranty Deed/General Warranty Deed are the deeds used.

\_\_\_ **Order A TBD (To Be Determined) Title Commitment-**Let your title team know you have taken an estate listing and provide the attorney information and the documentation noted above, depending on the type of seller situation.

**If you are taking an estate listing, we are happy to assist you with any questions you may have!**



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## **Checklist of Things To Do If Probate Is Necessary-A Power Of Attorney Is No Longer Effective After Death.**

\_\_\_ **Consult an attorney.** Although you can “do it yourself” with setting up and administering the probate of an estate, it is much easier if everything is done correctly and legally with an attorney.

\_\_\_ **Find the will and ensure it is the latest copy.** If there is no will, probate can still be filed, but the proper personal representative will need to be appointed.

\_\_\_ **File the Will and Open Probate**-within 10 days of the person passing, you will need to file the will with the Colorado District court where the person lived (their permanent residence). There are 22 district courts in Colorado.

\_\_\_ **Set up a system for who will help track the estate assets and paperwork.** The estate will have assets that will need to be tracked, liquidated, creditors to be paid and correspondence that will need to occur relating to the estate.

\_\_\_ **Get a Federal Tax ID Number for the Estate.** You will need to have this number in order to open a bank account for the estate. **It cannot be your personal account for estate expenditures and deposits.**

\_\_\_ **Open an Estate Bank account.** Once you have a Federal Tax ID #, you can open a checking account for the estate. As you gather and liquidate assets, you'll put all of the proceeds into the estate account. You'll also pay all the debts/expenditures from this bank account. Once everything is settled from the estate, the distributions of assets can be made to the beneficiaries named in the will.

\_\_\_ **Identify all assets in the estate** (real and personal property). For Real Property (real estate) assets, you cannot enter into a real estate listing agreement unless you are appointed as the Personal Representative if property was owned solely by the deceased and there was no Beneficiary's Deed recorded prior to death. Once the letters from the court are received, property can be sold/closed. Other assets to an estate can include cash accounts, vehicles, or other items.

\_\_\_ **Determine which assets are a part of the estate and which are not.** Some assets like life insurance proceeds, retirement accounts do not fall under probate because beneficiaries are named. In some cases, real estate will not fall under probate either, depending on the vesting or if a Beneficiary's deed was filed before death.

\_\_\_ **Identify all the debts the estate owns.** These can include car payments, funeral expenses, credit card bills, loans, unpaid utilities, taxes, and more. All creditors must be notified by mail or by publication in a local newspaper.

\_\_\_ **Manage estate assets.** While the estate is in probate, there might be assets such as businesses, commercial real estate or real property.

\_\_\_ **Pay off all of the Estate's debts.** Before the beneficiaries of the will are paid, the estates valid debts will need to be paid off. If the debts exceed assets, legal advice should be sought as some creditors may have more claim to assets than others.

\_\_\_ **Distribute assets to the beneficiaries** of the will after all debts have been paid.

\_\_\_ **Close the estate.** An estate has to be open for at least six months, some are much longer. It expires after 3 years.