

Selling Estate Property During the Probate Process in New York

During the estate administration process in New York, an executor is responsible for finding and sometimes selling estate assets on behalf of the estate. How does that work?

In a [probate proceeding](#), quickly locating and maintaining an inventory of the assets and wealth of the estate of a deceased person can be a complicated task. The only person authorized to sell or transfer property on behalf of the estate is a duly authorized executor, or personal representative of the estate. As one of the first responsibilities of the executor, assets must be secured before the value disappears through crime or the unauthorized sale of assets by a relative or friend of the family.

In a simple estate, a home and other valuables may already belong to a surviving spouse. Debts are paid, tax reports are prepared, and the estate proceeding is closed.

In other cases, there may be considerable assets, including a home and real property, commercial interests and other valuable assets. In settling an estate during the probate process in New York, it may be in the best interests of the estate and the beneficiaries to sell certain assets.

Assets are sold by executors during estate administration for a number of reasons including:

- **Creditors:** When the debt of an estate exceeds its value, the sale of estate assets can be an important way to recover money in order to pay creditors. Selling or liquidating assets of an estate should be done with transparency and the attention of the court.

- **Location of the property:** When property is held in geographically different locations than the beneficiaries of the will, the heirs may decide it is in their best interest to have the executor sell the property for fair market value.
- **Conditions of the will:** If an estate plan is written to leave the value of a commercial building to several beneficiaries, problems may arise concerning the distribution of value and ownership in the future. Instead, some of our clients direct their executor to sell the property and split the proceeds with beneficiaries as directed under the will. In this case, controversy between beneficiaries is avoided and distributions are made according to the will.

Executors who plan to sell assets or real property of an estate which they are administering may find experienced legal advice to be a great help. Unless directly advised by the will, an executor who sells off property of the estate will be expected to provide explicit detail about the need for the sale, the actual market value of the property, and the amount of proceeds expected from the sale.

In other words, disposition of estate assets outside the terms of a will can create a ripe environment for legal challenge by beneficiaries who believe the property was sold improperly or for value below its actual worth.

Always obtain skilled legal advice when questions arise during the estate administration process. Getting the right answers protects the estate, its beneficiaries, and you.

New York estate planning attorneys answer your questions

Serving New York and New Jersey, Lissner & Lissner LLP has more than 65 years of experience helping clients with estate planning, trusts, Medicaid planning, and more. When you have questions about a will, estate plan, or ongoing estate administration, call (212) 307-1499 or contact us today and speak with a [New York estate planning attorney](#).

