



USE OF CALIFORNIA PROBATE REFEREES IN THE NON-PROBATE TRANSFERS OF REAL PROPERTY

There are two different procedures available for smaller estates whereby title to real property can be changed into the names of the heirs without going through a formal court probate.

For estates where the total value of the assets is \$20,000.00 or less, an "Affidavit re Real Property of Small Value" may be used. A certified copy of the decedent's death certificate is attached to the affidavit, along with an "Inventory and Appraisal" to establish that the property is worth less than \$20,000.00. The affidavit is then filed with the Probate Clerk's office (5th Floor of the Trade Center, Room 501). The filing fee is \$30.00. The clerk files the original and provides one certified copy back, which can then be recorded with the Fresno County Recorder's Office. This will change the title to the property into the heirs' names.

For estates worth more than \$20,000.00, but less than \$100,000.00, the property can be transferred via a court petition called a "Petition to Determine Succession to Real Property". Again, an "Inventory and Appraisal" must be attached to the petition (as "Exhibit 8") to prove that the estate is under \$100,000.00. The petition is then filed with the Probate Clerk's office (filing **fee: \$395.00**), who then sets the matter for hearing. Notice of the hearing must be sent to certain individuals, and a court order prepared and submitted to the court. Please consult with an attorney for further assistance with these documents, if needed. The Probate Referee's office is not allowed to offer any legal advice in these matters.

The Inventory and Appraisal form for these two procedures should be prepared and submitted to either one of the following two Fresno County Probate Referees:

Steven D. Diebert
California Probate Referee
2037 W. Bullard, PMB #349
Fresno, CA 93711-1200
PH: (559) 448-9454

Rick P. Smith
California Probate Referee
P.,O. Box 25668
Fresno, CA 93729
PH: (559) 435-6005

Neither office makes appointments to meet with people to help them fill out forms. If you feel you need assistance with completing the forms or need further legal advice, then you must consult with an attorney.

The front page of the inventory from MUST include the decedent's name and date of death in the appropriate boxes. Attachment 1 should include a list of all cash assets, such as bank accounts, with the values typed in. Attachment 2 should list all of the non-cash assets, and the values should be left blank so that the Probate Referee can appraise them. Real property must be described in a manner similar to this example:

100% interest in real property located at 2222 W. Main Street, Fresno, California, and described as:

Lots 4 and 5 in Block 6, Main Street Subdivision, in the County of Fresno, State of California, according to the map filed on Book 3, Page 7 of Records, Fresno County Records.

APN: ("Assessor's Parcel Number")

The legal description can be found in the deed by which the decedent acquired title to the real property. If you cannot locate the deed, a local title company's customer service department will usually provide one for free.

An original and two copies of the inventory should be mailed to one of the Probate Referees. The Referee will then research the property and drive by the property to take a look at the outside of it. They do not normally go inside the property, and so no one needs to be present when they are doing the appraisal. Most inventories are returned within a week to ten days after they have been submitted to the referee.

The inventory will be returned with a statement for the referee's appraisal. The charge is 1/10th of 1% of the non-cash assets, with a statutory minimum of \$75.00. In other words, if the value of the property is \$80,000, the fee will be \$80.00. But if the value is \$60,000.00, then the statutory minimum of \$75.00 will be charged. There is also a small fee charged for mapping, travel and photos.

Once the inventory is returned to you, it should be attached to either the Affidavit re Real Property of Small Value or the Petition to Determine Succession to Real Property, and then your affidavit or petition is ready to be filed by you with the court.

If you feel that you are unable to complete these forms yourself, it is suggested that you consider retaining the services of a probate attorney or paralegal to assist you. Our office is prohibited by law from giving you any legal advice.