

Instructions for Making a Motion for Authorization to Sell the Ward's Real Property (Real Estate)

IMPORTANT! READ BEFORE USING THESE FORMS AND INSTRUCTIONS

ND Legal Self Help Center staff and Court employees can't help you fill out the form(s).

If you're unsure how to proceed, or need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota.

Carefully read this information and any instructions to which you're referred.

When you represent yourself, you're expected to know and follow the law, including:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders; and
 - Any local court rules.

Links to the state laws, case law, and court rules can be found at ndcourts.gov.

When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures. If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

- For more information about finding a lawyer, go to ndcourts.gov/legal-self-help/finding-a-lawyer.

A glossary with definitions of legal terms is available at ndcourts.gov/legal-self-help.

***These instructions and forms aren't a complete statement of the law.** They cover the basic process for asking a North Dakota state district court to authorize the sale of the Ward's real property (real estate). There's no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the forms or information provided.*

Use at your own risk.

Don't include these instructions when you serve or file the completed forms.

Who May Use this Packet of Forms?

These forms may be used by the guardian to ask the Court for authorization to sell the Ward's real property.

The purpose for selling the Ward's real property must be for at least one of the following reasons:

- Paying the Ward's debts;
- Providing for the Ward's care, maintenance, rehabilitation, training, or education;
- Providing for the care, maintenance, rehabilitation, training, or education of the Ward's dependent(s); and/or
- Any other purpose that's in the best interests of the Ward.

What if I Don't Meet the Requirements to Use this Packet of Forms?

Forms for common and uncomplicated matters that may come up throughout a guardianship of an adult are found at ndcourts.gov/legal-self-help/adult-guardianship. Forms aren't available for every situation or circumstance.

If you don't find a form that suits your circumstances at ndcourts.gov/legal-self-help/adult-guardianship, a form isn't available. You may wish to consult a lawyer to help you decide what to do next.

Who Can Help Me Fill Out this Packet of Forms?

As a self-represented individual, you must make all decisions related to the forms, including:

- Whether you should use this packet of forms;
- What words to write; and
- Whether the words you've written are sufficient or correct.

ND Legal Self Help Center staff and Court employees:

- Can't assist you in any decision-making related to the forms;
- Can't fill out any forms for you or tell you what words to write; and
- Can't tell you if the words you've written, or are planning to write, are sufficient or correct.

Answers to these questions require Center staff and Court employees to take your situation, apply the law and tell you what you should do. This is legal advice and can't be provided by the ND Legal Self Help Center or any Court System employees under any circumstances.

If you'd like assistance filling out your forms, or deciding if these forms suit your situation, consult a lawyer licensed to practice in North Dakota.

Lawyer Resources

You aren't required to hire an attorney to access the state court system. When you represent yourself, you must follow all of the rules, laws and procedures a lawyer is required to follow.

If you'd like to learn more about finding an attorney to represent you, go to ndcourts.gov/legal-self-help/finding-a-lawyer. You may also find the following options of interest.

What Laws and Rules Do I Need to Know to Use this Packet?

[Section 30.1-28-03.2](#) of the North Dakota Century Code governs motions for authorization to sell the Ward's real property (real estate).

[Rule 3.2 of the North Dakota Rules of Court](#) governs motions in North Dakota state district court cases.

[Rule 5 of the North Dakota Rules of Civil Procedure](#) governs service of motion documents filed in a District Court guardianship case.

Laws constantly change through legislation, administrative rulings and court decisions. To determine how a law applies to your situation, review the applicable law or laws, administrative rulings and court decisions.

Only a lawyer licensed to practice in North Dakota who has agreed to represent you can give you legal advice. Legal advice includes interpreting how the laws and rules apply to your situation.

What Definitions Do I Need to Know to Use this Packet of Forms?

*****The following definitions are intended to be helpful, BUT they're NOT intended to constitute legal advice OR address every possible meaning of the terms in this section.*****

Guardian (or Co-Guardians) – An individual or nonprofit corporation appointed by a North Dakota state district court to make personal decisions for the Ward.

Interested Person – Includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in, or claim against, a trust estate or the estate of a Ward. Interested persons are usually listed in the findings and order appointing the Guardian(s).

Judicial Referee – A judicial officer, appointed by the presiding District Court judge, who has the authority to preside in District Court guardianship proceedings. The findings and order of the judicial referee have the effect of the findings and order of a District Court judge until superseded by a written order of a District Court judge.

Motion – A written request to a North Dakota state district court to issue an order for a specific purpose. For example, a written request for an order authorizing the Guardian to sell the Ward's real property.

Moving Party – The Guardian making the motion.

Objecting Party – The Ward's spouse or any Interested Person who objects to the motion in writing within 10 days of being served the motion. Also referred to as the Opposing Party.

Real Property – land either with or without buildings on it. For example, a home is real property. Also generally referred to as real estate.

Ward – An adult individual for whom a North Dakota state district court appointed a guardian.

A Judicial Referee May Hear and Decide Your Motion

[Rule 13 of the North Dakota Supreme Court Administrative Rules](#) allows adult guardianship cases in District Court to be heard and decided by a judicial referee, rather than a District Court judge.

If a judicial referee is assigned to the guardianship case, any party to the case may request that a District Court judge hear and decide the case instead. **The party must file a written request with the Clerk of Court within seven days after service of the notice of hearing.**

If the guardianship case is heard and decided by a judicial referee, the judicial referee will issue findings of fact and an order. The judicial referee's findings of fact and order have the same effect as the findings of fact and order of a District Court judge until superseded (replaced) by a written order of a District Court judge.

If any party to the guardianship case wants a review of the judicial referee's findings of fact and order, **the party must file a written request for a review, stating the specific reasons for the review, with the Clerk of Court within seven days after service of notice of the right to review.**

The party requesting the review must give notice of their request to all other parties. Any party who wishes to respond to the request for review must file their written response within fourteen days after service of the notice of the request for review.

Forms in the Packet

5 Forms you will need for your motion – ALL must be completed.

Form Title	Purpose
Notice of Motion for Authorization to Sell Real Property	This is a written notice that a request for an order will be made to the Court, and the 10 day deadline for written objections. Completed and signed by the Moving Party (Guardian).
Motion for Authorization to Sell Real Property	This is a short, written request to the Court for an order authorizing the sale of the Ward's real property. Completed and signed by the Moving Party (Guardian).
Brief in Support of Motion for Authorization to Sell Real Property	The brief is where you, the Moving Party (Guardian), make your written argument to the Court for an order authorizing the sale of the Ward's real property. The brief takes the specific laws that support your request and explains how they apply to the facts of your situation. Completed and signed by the Moving Party (Guardian).
Declaration in Support of Motion for Authorization to Sell Real Property	This is the factual support for all of your arguments in the Brief. Completed and signed by the Moving Party (Guardian).

Form Title	Purpose
Findings and Order on Motion for Authorization to Sell Real Property (No Hearing Held)	When no objections are made and the District Court decides not to hold a hearing, this is your proposed order for the judge or judicial referee to sign. Completed by the Moving Party (Guardian). DON'T sign.
Findings and Order on Motion for Authorization to Sell Real Property (Hearing Held)	When objections are made, OR the District Court decides to hold a hearing, this is your proposed order for the judge or judicial referee to sign. Completed by the Moving Party (Guardian). DON'T sign.

1 Form you may need for your motion.

Form Title	Purpose
Consent to Sell Real Property	This is the written consent form you may use when you ask the Ward's spouse and interested persons to give their written consent to the sale of the Ward's real property. Completed and signed in front of a notary public or clerk of court by the Ward's Spouse and Interested Persons.

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STEPS IN THE PROCESS

You MUST complete ALL steps. Don't skip steps!

Step One: The Guardian Completes 5 of the 6 Forms in the Forms Set

Step Two: The Guardian Attempts to Obtain Written Consent to the Sale of the Ward's Real Property from the Ward's Spouse, and All Interested Persons

If unable to obtain written consent from the Ward's spouse or any of the interested persons, the District Court may hold a hearing before making a decision.

Step Three: The Guardian Arranges Service of Copies of All of the Completed Forms on the Ward, Ward's Spouse, and All Interested Persons

Step Four: The Guardian Files the Originals of All Completed Forms, Including Written Consent Forms, and Proof of Service with the Clerk of Court

Step Five: The Ward's Spouse and All Interested Persons Have 10 Days from the Date of Service to Object in Writing to the Sale of the Ward's Real Property

Step Six(a): If No Written Objections are Served and Filed Within the 10 Day Deadline the District Court MAY Make a Decision Based Only on the Documents Filed

Step Six(b): If Written Objections are Served and Filed Within the 10 Day Deadline, OR the District Court Decides a Hearing is Necessary, a Hearing is Held Before the District Court Makes a Decision

Step Seven: Findings of Fact and Order is Issued by the District Court:

- The District Court may decide to authorize the sale with the terms and conditions requested by the Guardian;
- The District Court may decide to authorize the sale and add additional terms and conditions the Guardian must meet; OR
- The District Court may decide not to authorize the sale and dismiss the motion entirely.

See the following pages for instructions to complete Steps 1 through 7.

STEP ONE: Complete 5 of the 6 Forms in the Forms Set

TIPS FOR COMPLETING FORMS

- Complete every paragraph that requires you to type or write in a space, unless the instructions specifically tell you to leave a space blank.
 - If a space doesn't apply to you or your circumstances, type or write "Not Applicable," or "N/A."
- Write in your own words why you're asking the District Court to authorize the sale of the Ward's real property.
- Stick with the facts: who, what, when, where and how.
 - Avoid opinions.
- If you're unable to complete the fillable forms online, you may print the forms set and handwrite.
 - You must use blue or black ink. Don't use pencil.
 - Your handwriting MUST be readable.

Notice of Motion for Authorization to Sell Real Property

The Moving Party (Guardian) completes this form.

- **Top of Form (Caption)**

Refer to the District Court order appointing you as guardian of the Ward, or refer to your most recent annual report of the guardianship.

- County – the North Dakota county where the case is currently filed.
- Judicial District – the name of the Judicial District where the case is currently filed. (The county is within the Judicial District.) County and Judicial District information and maps are available at ndcourts.gov/court-locations.
- In the Matter of the Guardianship of – the Ward's full name.
- Case Number – the case number of the current District Court guardianship.

- **Date and Signature**

- The Moving Party (Guardian) signs and dates this form.
- Complete the lines following the signature line.

Motion for Authorization to Sell Real Property

The Moving Party (Guardian) completes this form.

- **Top of Form (Caption)**
 - Fill out exactly as you filled out the Caption of the Notice of Motion.
- **To complete the Motion**
 - Read the paragraphs carefully.
 - Complete all paragraphs that require you to type or write information.
- **Date and Signature**
 - The Moving Party (Guardian) signs and dates this form.
 - Complete the lines following the signature line.

Brief in Support of Motion for Authorization to Sell Real Property

The Moving Party (Guardian) completes this form.

- **Top of Form (Caption)**
 - Fill out exactly as you filled out the Caption of the Notice of Motion.
- **To complete the Brief in Support of Motion**
 - Read the paragraphs carefully.
 - Complete all paragraphs that require you to type or write information.
- **Date and Signature**
 - The Moving Party (Guardian) signs and dates this form.
 - Complete the lines following the signature line.

Declaration in Support of Motion for Authorization to Sell Real Property

The Moving Party (Guardian) completes this form.

- **Top of Form (Caption)**
 - Fill out exactly as you filled out the Caption of the Notice of Motion.

- **To complete the Declaration in Support of Motion**
 - Read the paragraphs carefully.
 - Complete all paragraphs that require you to type or write information.
- **Date and Signature**
 - The Moving Party (Guardian) signs and dates this form.
 - Complete the lines following the signature line.
 - When you date and sign this form, you're declaring, under penalty of perjury, that all the information on the form is accurate and true.
 - You're NOT required to sign this form in the presence of a notary public or a clerk of court.

IMPORTANT! There are two Findings of Fact and Order forms in this forms set.

One is used when no hearing is held before the decision.

The other is used when a hearing is held before the decision.

If you believe the Ward's spouse (if any) and all interested persons will give their written consent to the sale, use the No Hearing Held form.

Otherwise, use the Hearing Held form.

Findings of Fact and Order on Motion for Authorization to Sell Real Property (No Hearing Held)

The Moving Party (Guardian) completes this form.

- **Top of Form (Caption)**
 - Fill out exactly as you filled out the Caption of the Notice of Motion.
- **To complete the Findings of Fact and Order (No Hearing Held)**
 - Read the paragraphs carefully.
 - Complete all paragraphs that require you to type or write information.
- **DON'T SIGN OR DATE THIS FORM!**
 - The judge or judicial referee decides whether to authorize the sale of the Ward's real property, and the judge or judicial referee will issue an order with their decision.

- This is your proposed order for the judge or judicial referee to sign if they agree with all of the information you wrote or typed in your proposed order.
- The proposed order isn't effective until it's signed by the judge or judicial referee.

Findings of Fact and Order on Motion for Authorization to Sell Real Property (Hearing Held)

The Moving Party (Guardian) completes this form.

- **Top of Form (Caption)**
 - Fill out exactly as you filled out the Caption of the Notice of Motion.
- **To complete the Findings of Fact and Order (Hearing Held)**
 - Read the paragraphs carefully.
 - Complete all paragraphs that require you to type or write information.
- **DON'T SIGN OR DATE THIS FORM!**
 - The judge or judicial referee decides whether to authorize the sale of the Ward's real property, and the judge or judicial referee will issue an order with their decision.
 - This is your proposed order for the judge or judicial referee to sign if they agree with all of the information you wrote or typed in your proposed order.
 - The proposed order isn't effective until it's signed by the judge or judicial referee.

IMPORTANT! Make a copy of each completed form for your records.

STEP TWO: Attempt to Obtain Written Consent to the Sale of the Ward's Real Property from the Ward's Spouse and ALL Interested Persons

If you believe you can get written consent to the sale of the Ward's real property from:

- The Ward's spouse (if any); or
- Any of the interested persons listed in the order appointing the Guardian,

provide the **Consent to Sell Real Property** form to the Ward's spouse (if any) and each interested person.

Before providing the form, the Moving Party (Guardian) completes the **Top of Form (Caption)**:

- Fill out exactly as you filled out the Caption of the Notice of Motion.

Give the form to the Ward's spouse (if any) and any interested person to complete the rest of the form.

The Ward's spouse (if any) and any interested person completes:

- **The rest of the Consent to Sell Real Property**
 - They read the paragraphs carefully.
 - They complete all paragraphs that require them to type or write information.
- **Date and Signature**
 - Ward's spouse (if any) and any interested person completes signs and dates this form **in front of a notary public or clerk of court.**
 - They complete the lines following the signature line.
 - They ARE REQUIRED to sign this form in front of a notary public or a clerk of court.
 - The form doesn't have to be signed in North Dakota or signed by a North Dakota Notary Public or a North Dakota Clerk of Court.
 - If the Ward's spouse (if any) or any interested person signs the form in a state other than North Dakota, they must sign in front of a Notary Public or Clerk of Court of that state.
- **The Ward's spouse (if any) and any interested person gives the completed, dated and signed form to you, the Guardian.**

If you're unable to obtain written consent from the Ward's spouse or an interested person, you may ask for authorization from the District Court to sell the Ward's real property.

It's likely the judge or judicial referee will require a hearing before deciding whether to authorize the sale.

IMPORTANT! Make a copy of each completed consent form for your records.

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STEP THREE: Arrange for Service of Copies of ALL Completed Forms on the Ward, the Ward's Spouse (if any), and All Interested Persons

The Ward, the Ward's spouse (if any), and ALL interested persons must receive a copy of each of the following completed forms and any supporting documents you plan to file:

- Notice of Motion for Authorization to Sell Real Property;
- Motion for Authorization to Sell Real Property;
- Brief in Support of Motion for Authorization to Sell Real Property;
- Declaration in Support of Motion for Authorization to Sell Real Property;
- One of the following:
 - Findings of Fact and Order on Motion for Authorization to Sell Real Property (No Hearing Held)
 - Findings of Fact and Order on Motion for Authorization to Sell Real Property (Hearing Held)
- Consent to Sell Real Property for every person who gave written consent;
- Your documentation showing how you arrived at the fair market value for the real property;
 - Label the first page of your fair market value documentation "Exhibit A" and write the case number directly below as follows:

Exhibit A
01-2022-PR-00001

- All additional supporting documentation, if any.
 - If you have additional supporting documentation, label the first page the next exhibit "Exhibit B" and write the case number directly below, and so on for each.

Gather the names and current addresses of the following:

- The Ward;
- The Ward's spouse (if any); and
- All interested persons.

Arrange to serve copies of the completed forms and all supporting documentation

You may arrange for service by first class mail, or by hand delivery.

The District Court will require proof that the persons listed above received a copy of the completed forms and any supporting documents. A Declaration of Service is your proof.

Declaration of Service by Mail

The person serving copies of all of the documents must be at least 18 years of age.

Postage must be first class and pre-paid. The person who takes copies of the documents to the post office and pays the postage must complete the Declaration of Service by Mail. Service is complete upon mailing.

- **Top of Form (Caption)**
 - The person who took copies of the documents to the post office and paid the postage fills in the Caption exactly as the Caption of the Notice of Motion is filled in.
- **Complete Paragraphs 1 through 6 of the Form**
 - The person who took copies of the documents to the post office and paid the postage completes paragraphs 1 through 6.
- **Date and Signature**
 - The person who took copies of the documents to the post office and paid the postage dates and signs the form and completes the lines following their signature.

Declaration of Service by Hand Delivery

The person who hand delivers copies of the documents must be at least 18 years of age, and not a party or interested in the guardianship case.

The person who hand delivers copies of the documents must complete the Declaration of Service by Hand Delivery.

- **Top of Form (Caption)**
 - The person who hand delivered copies of the documents fills in the Caption exactly as the Caption of the Notice of Motion is filled in.

- **Complete Paragraphs 1 through 5 of the Form**
 - The person who hand delivered copies of the documents completes paragraphs 1 through 5.
- **Date and Signature**
 - The person who hand delivered copies of the documents dates and signs the form and completes the lines following their signature.

STEP FOUR: File the Originals of ALL Completed Forms, Including all Written Consent Forms and Proof of Service with the Clerk of Court

IMPORTANT! BEFORE YOU FILE ORIGINAL DOCUMENTS WITH THE CLERK OF COURT:

Make a copy of each of the following for your records:

- **All of the forms you completed in Step One.**
- **All of the written consent forms you obtained in Step Two.**
- **All of the completed declarations of service (proof of service) from Step Three.**

File the following original, completed forms with the Clerk of Court:

- Notice of Motion for Authorization to Sell Real Property;
- Motion for Authorization to Sell Real Property;
- Brief in Support of Motion for Authorization to Sell Real Property;
- Declaration in Support of Motion for Authorization to Sell Real Property;
- One of the following:
 - Findings of Fact and Order on Motion for Authorization to Sell Real Property (No Hearing Held)
 - Findings of Fact and Order on Motion for Authorization to Sell Real Property (Hearing Held)
- Consent to Sell Real Property for every person who gave written consent;
- Declaration of Service by Mail (for all persons served by mail); and
- Declaration of Service by Hand Delivery (for all persons served by hand delivery).

File copies of the following the supporting documentation with the Clerk of Court:

- Your documentation showing how you arrived at the fair market value for the real property (labeled “Exhibit A”); and
- All additional supporting documentation, if any (labeled “Exhibit B” and so on).

You won’t be charged a filing fee. Contact information for Clerks of Court by North Dakota county is available at ndcourts.gov/court-locations.

STEP FIVE: The Ward’s Spouse and All Interested Persons have 10 or 13 Days from the Date of Service to Object in Writing to the Sale of the Ward’s Real Property

The Ward’s Spouse (if any) and all Interested Persons have 10 or 13 days to Object to the Motion in Writing:

If you arranged to serve the motion documents on the Ward’s spouse (if any) or any interested person by hand delivery, they have 10 calendar days from the day after they were served to serve and file their written opposition to the motion.

- The date of service is the date the motion was hand delivered.

If you arranged to serve the motion documents by mail, they have 13 calendar days from the day after they were served to serve and file their written opposition to the motion.

- The date of service is the date the motion was mailed.

Calculating the deadline:

For information and instructions on how to calculate a service or filing deadline, see Rule 6 of the North Dakota Rules of Civil Procedure at ndcourts.gov/legal-resources/rules/ndrcivp/6.

If your deadline is stated in days:

- Don’t include the day of the event that triggers the start of the deadline.
 - For example, if service of a motion starts the deadline, don’t include the date you were served the motion.
- Count every day, including Saturdays, Sundays, and North Dakota state holidays.
- Include the last day of the deadline, but if the last day falls on a Saturday, Sunday, or North Dakota state holiday, the deadline continues to run until the end of the next day that isn’t a Saturday, Sunday, or North Dakota state holiday.

- For example, if the last day of the deadline lands on a Sunday, the deadline extends until the end of the next day, which is Monday.

STEP SIX(a): If No Written Objections are Served and Filed Within the 10 or 13 Day Deadline, the District Court MAY Make a Decision Based Only on the Documents Filed

If No One Opposes the Motion in Writing within the Deadline:

The judge or judicial referee may make a decision on your motion without holding a hearing.

However, the judge or judicial referee may decide a hearing is necessary before making a decision on your motion.

If a hearing is scheduled, you'll receive notice of the date, time, and location.

STEP SIX(a): If Written Objections are Served and Filed Within the 10 or 13 Day Deadline, OR the District Court Decides a Hearing is Necessary, a Hearing is Held Before the District Court Makes a Decision

Prepare your case for the evidentiary hearing.

Be prepared to prove everything you typed or wrote in your motion documents.

Organize the information, documents, etc. that you think you'll need for the hearing. At minimum, prepare an outline of your remarks and arguments.

Subpoenas: Review [Rule 45 of the North Dakota Rules of Civil Procedure](#) carefully! If you require a witness to appear at the hearing or require production of documents, electronically stored information or other tangible things, you may need the Clerk of District Court to issue a subpoena. Only a Clerk of District Court or a lawyer for a party may issue a subpoena.

More information about subpoenas is available at ndcourts.gov/legal-self-help/subpoenas.

Evidence: You're required to follow the North Dakota Rules of Evidence when presenting your own evidence and when objecting to the evidence presented by other parties.

An [Evidence Research Guide](#) is available at ndcourts.gov/legal-self-help.

You may also wish to review the guides for self-represented individuals for gathering and presenting evidence at rcdvcpc.org/resources/self-represented-litigants-series.html.

Review pre-trial and trial guidebooks for self-represented litigants and lawyers. Your local public or academic library may have resources available.

ODIN is a shared library database of many North Dakota academic, public, state agency, and special libraries. Search ODIN for resources that may be available in a North Dakota library near you. (polaris.odinlibrary.org)

If the book is available for interlibrary loan through ODIN, ask library staff of your local North Dakota library how to request the book.

If the Hearing will be Held in Person, Attend the Hearing in Person:

If you need to request to appear at the hearing some other way, a set of forms is available at ndcourts.gov/legal-self-help.

Arrive Early to the Courthouse on the Date of the Hearing:

If your hearing is in-person at the courthouse, arrive early so you don't miss your hearing date and time. If you have a serious, unavoidable reason you can't get to court on the date and time scheduled for trial, call the District Court as soon as you can.

If the Hearing will be Held by Zoom, Make Sure You Can Connect to the Zoom Hearing:

If your hearing is held electronically by Zoom, well before the hearing begins, make sure you can connect and understand how to function in Zoom.

Don't be late to the Zoom hearing. If you have a serious, unavoidable reason you can't attend the hearing on the date and time scheduled for trial, call the District Court as soon as you can.

Conduct of the Hearing:

The judge, or judicial referee, hears both sides and then issues the findings of fact and order. Sometimes, the findings of fact and order is issued at the end of the hearing. Often, the findings of fact and order is issued at a later date.

In general, a hearing proceeds in the following order:

- Opening Statements
 - Each party gives an opening statement. Usually, the Moving Party (Guardian) goes first.
- Moving Party Presents Witnesses and Evidence
 - The Moving Party presents their case first. The Objecting Party may cross-examine witnesses and object to the Moving Party's evidence.

- Objecting Party Presents Witnesses and Evidence
 - The Objecting Party presents their case after the Moving Party. The Moving Party may cross-examine witnesses and object to the Objecting Party's evidence.
- Closing Arguments
 - Each party gives a closing statement. Usually the Objecting Party goes first.

Before You Leave the Hearing:

Make sure you understand what happens next. Ask if you aren't sure what, if anything, you need to do next.

STEP SEVEN: Findings of Fact and Order is Issued by the District Court

Until the judge or judicial referee signs an order authorizing the sale of the Ward's real property, you can't sell the property.

If no hearing is held, after reviewing the documents filed with the court the judge or judicial referee will make a decision and issue findings of fact and an order.

If a hearing is held, the judge or judicial referee will make a decision after the hearing and after reviewing the documents filed with the court. The judge or judicial referee will then issue findings of fact and an order.

You'll receive a copy of the Findings of Fact and Order signed and dated by the judge or judicial referee by mail or email.

The judge or judicial referee may order any of the following:

- Authorize the sale with the terms and conditions requested by you, the Guardian;
- Authorize the sale and add additional terms and conditions you must meet; **OR**
- Dismiss the motion entirely and not authorize the sale.

Don't include these instructions when you serve or file the completed forms.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____.

Case No. _____

NOTICE OF MOTION FOR AUTHORIZATION TO SELL REAL PROPERTY

1. The following Motion for Authorization to Sell Real Property of the Ward is brought in accordance with Rule 3.2, North Dakota Rules of Court, and Section 30.1-28-03.2 of the North Dakota Century Code (N.D.C.C.). The motion will be decided on the documents filed with the court unless a hearing is timely requested by a party or required by the Court.
2. You have 10 days after service of this Motion upon you within which to serve and file an objection and demand for hearing to the Court. Upon expiration of the time for filing, the Motion is deemed submitted to the Court.

Dated _____.

(Signature of Guardian)

(Printed Name of Guardian)

(Address)

(City, State, Zip Code)

Telephone Number _____

Email _____

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____.

Case No. _____

MOTION FOR AUTHORIZATION TO SELL REAL PROPERTY

1. _____ (*name of Guardian(s)*), the

Guardian(s) of the above-named Ward, makes this Motion for Authorization to Sell Real Property of the Ward in accordance with Section 30.1-28-03.2 of the North Dakota Century Code (N.D.C.C.) and Rule 3.2 of the North Dakota Rules of Court.

2. The Guardian(s) respectfully requests that the Court enter an order authorizing the Guardian(s) to sell the real property of the Ward, detailed in the brief and declaration in support of the Motion.

3. This motion is based on the brief and declaration in support of this motion, which are served and filed with the motion.

Dated _____.

(*Signature of Guardian*)

(*Printed Name of Guardian*)

(*Address*)

(*City, State, Zip Code*)

Telephone Number _____

Email _____

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____.

Case No. _____

**BRIEF IN SUPPORT OF MOTION FOR
AUTHORIZATION TO SELL REAL PROPERTY**

1. As required by Rule 3.2 of the North Dakota Rules of Court and Section 30.1-28-03.2 of the North Dakota Century Code (N.D.C.C.), _____
(*name of Guardian(s)*), the Guardian(s) of the above-named Ward, submits this Brief in Support of Motion for Authorization to Sell Real Property of the Ward.

FACTS

2. The facts are stated in the Declaration in Support of Motion to Sell Real Property, which is filed with the Motion and incorporated by reference.

LAW AND ARGUMENT

3. Section 30.1-28-03.2(1) of the North Dakota Century Code (N.D.C.C.) states as follows:

A guardian may move the court for authorization to sell, mortgage, lease, or otherwise encumber or transfer ownership of the real or personal property of the ward, valued at over two thousand five hundred dollars, upon such terms as the court may order, for the purpose of paying the ward's debts; providing for the care, maintenance, rehabilitation, training, or education of the ward or the ward's dependents; or for any other purpose which is in the best interests of the ward.

4. The Guardian(s) wish to sell the real property belonging to the Ward, which is located at

_____ (*property address*).

5. The legal description of the real property is (*write the legal description of the real property you wish to sell. To get the legal description, take the tax statement for the property to the County Recorder where the real property is located to get the last recorded deed or survey*):

6. Sale of the Ward's real property is necessary for the following purpose(s) (*select all that apply*):

☐ To pay the Ward's debts.

☐ To provide for the care, maintenance, rehabilitation, training, or education of (*select all that apply*):

☐ The Ward.

☐ The Ward's dependents.

☐ To purchase a different property.

☐ The property is depreciating.

☐ Other: _____.

7. The current fair market value of the Ward's real property for which authorization to sell is sought is \$_____. Fair market value was determined by (*choose one and attach documentation showing how fair market value was determined*):

☐ Appraisal.

☐ No appraisal because, _____.

8. The Guardian(s) believes the transaction is in the best interests of the ward.
9. The Guardian(s) ☐ **have** ☐ **have not** obtained written consent from the Ward's spouse, if any, and all interested persons, if any, named in the Court's guardianship order. All written consents are filed with this Motion.
10. The Guardian(s) respectfully requests that the Court enter an order authorizing the Guardian(s) to sell the real property of the Ward, which is described in the Declaration in Support of Motion for Authorization to Sell Real Property.

Dated _____.

(Signature of Guardian)

(Printed Name of Guardian)

(Address)

(City, State, Zip Code)

Telephone Number _____

Email _____

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____.

Case No. _____

**DECLARATION IN SUPPORT OF MOTION FOR
AUTHORIZATION TO SELL REAL PROPERTY**

1. My name is _____.

2. I was appointed the Guardian for the above-named Ward on _____

(date).

3. The Ward is _____ years old and their current address is _____

_____.

4. I am requesting authorization for the sale of Ward's real property (*select and complete the same options you chose for Paragraph 6 of your Brief in Support of Motion. Paragraph 4 continues on next page*):

☐ To pay the Ward's debts.

☐ To provide for the care, maintenance, rehabilitation, training, or education of:

☐ The Ward.

☐ The Ward's dependents.

☐ To purchase a different property.

☐ Because the property is depreciating.

☐ Other: _____

The amount and nature of each selection above are as follows *(for each checkbox you selected for Paragraph 4, describe the approximate amount and an explanation)*:

The sale of the Ward's real property is in the best interests of the Ward because:

5. The Ward's real property for which authorization to sell is sought is located at

_____ (property address)

and legally described as follows (*write the legal description from Paragraph 5 of your Brief in Support of Motion*):

6. The current fair market value of the real property is \$_____.

(Choose one)

☐ I have attached a copy of the appraisal as Exhibit A.

☐ I used the following to determine fair market value:

I have attached a copy of the documentation I used to determine fair market value as Exhibit A.

7. (*Choose one. Paragraph 7 continues on next page*)

☐ There are no mortgage or lienholders on the real property.

☐ There are mortgage or lienholders on the real property. The mortgage/lienholder(s) is/are
(list all mortgages and lienholders to the real property listed in Paragraph 5): _____

_____.

The amount still owed to the mortgage/lienholder(s) is/are \$_____.

8. (Choose one)

☐ There are no joint property owners to the real property.

☐ There are joint property owners to the real property. The joint property owner(s) is/are (list
anyone who is a joint property owner to the real property listed in Paragraph 5): _____

_____.

9. The details of the proposed sale of the Ward's real property are as follows (*describe in
detail, attach additional pages, if needed*):

(Paragraph 9, continued.)

10. I ☐ **have** ☐ **have not** obtained written consent to sell the Ward's real property as described in this Motion from the Ward's spouse, if any, and all interested persons, if any, named in the Court's guardianship order. The name and relationship to the Ward for each person who gave written consent are as follows (*list the names and relationship to the Ward of the people who gave written consent. If you don't have any written consents, write "No written consent obtained"*): _____

11. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration is true and correct.

Signed on _____ (date) in _____ (city),
_____ (county), _____ (state), _____ (country).

(Signature of Guardian)

(Printed Name of Guardian)

(Address)

(City, State, Zip Code)

Telephone Number _____

Email _____

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____.

Case No. _____

CONSENT TO SELL REAL PROPERTY

1. I, the undersigned, am entitled to notice by law or order of the court in the above entitled guardianship. I declare that I am an adult.

2. My relationship to the above-named Ward is _____.

3. I acknowledge receipt of the Motion for Authorization to Sell Real Property of the Ward dated _____.

4. I consent to the sale of the Ward's real property located at
_____ (street address), or
legally described as (write legal description from motion documents)

consistent with law and the terms of the Motion.

5. I understand that I may request details of the final sale of the Ward's real property in the Motion from the guardian(s).

Dated _____.

(Signature)

(Typed or Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number)

(Email Address)

State of: _____

County of: _____

Signed and sworn to before me on _____ by

_____.

(Notary Public or Clerk of Court)

If Notary, my commission expires: _____

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____.

Case No. _____

DECLARATION OF SERVICE BY MAIL

(May serve multiple persons ONLY IF envelopes are mailed same day from same Post Office.)

The person serving court documents by mail states:

1. My name is _____ *(person who mailed documents)*. I am at least 18 years of age.

2. **List of Court Documents Served:**

- Notice of Motion for Authorization to Sell Real Property;
- Motion for Authorization to Sell Real Property;
- Brief in Support of Motion for Authorization to Sell Real Property;
- Declaration in Support of Motion for Authorization to Sell Real Property; and
- Findings of Fact and Order (Proposed).

3. **Service by Mail:**

I served a true and correct copy of each of the court documents listed in Paragraph 2 by mailing them, enclosed in an envelope, by First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to each person listed in Paragraph 5.

4. **Date and Post Office Location of Service by Mail:**

Date Court Documents Were Served by Mail: _____

United States Post Office Location:

(city)

(county)

(state)

5. **Person or Persons Served by Mail:**

1. Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

2. Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

3. Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Mail is true and correct.

Signed on _____ (date) in _____ (County),
_____ (State), _____ (Country).

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number

Email Address

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

Case No. _____

DECLARATION OF SERVICE BY HAND DELIVERY

(A separate declaration is required for each person served.)

The person serving court documents by hand delivery states:

1. My name is _____ *(person who served documents by hand delivery)*. I am at least 18 years of age. **I am not a party or interested in the above named matter.**

2. **Service by Hand Delivery:**

I served a true and correct copy of each of the court documents listed in Paragraph 4 to _____ *(name of person served)* by *(choose one)*:

☐ Giving the court documents directly to him/her.

☐ Leaving the court documents with: _____
(name), a person of suitable age and discretion who lives at the same address.

I know the person I served is the person intended to be served because: *(explain how you identified the person)* _____

3. **Date, Time, and Address of Service by Hand Delivery:**

Date: _____ Time: _____ ☐ a.m. *(or)* ☐ p.m.

Address:

(street address)

(city)

(zip code)

4. **List of Court Documents Served:**

- Notice of Motion for Authorization to Sell Real Property;
- Motion for Authorization to Sell Real Property;
- Brief in Support of Motion for Authorization to Sell Real Property;
- Declaration in Support of Motion for Authorization to Sell Real Property; and
- Findings of Fact and Order (Proposed).

5. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Hand Delivery is true and correct.

Signed on _____ (date) in _____ (County),
_____ (State), _____ (Country).

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number

Email Address