

# Instructions for Making a Motion for Authorization to Sell the Protected Person'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 if these forms and instructions suit your circumstances, consult a lawyer.

**ND Legal Self Help Center forms aren't official court forms. Judges and courts aren't required to accept Center forms. There's no guarantee Center forms will be accepted. Use at your own risk.**

**If you need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota.** Go to [ndcourts.gov/legal-self-help/finding-a-lawyer](http://ndcourts.gov/legal-self-help/finding-a-lawyer) for information about finding a lawyer to represent you.

**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](http://ndcourts.gov).

A glossary with definitions of legal terms is available at [ndcourts.gov/legal-self-help/glossary](http://ndcourts.gov/legal-self-help/glossary).

**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.**

***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 Protected Person'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 **one** Conservator to ask the Court for authorization to sell the Protected Person's real property.

**Note:** These forms are designed for one Conservator to sign. If there are Co-Conservators, you may want to check with a lawyer for options

If you choose for one Co-Conservator to complete and sign the forms and the other Co-Conservator to sign the Consent to Sell Real Property, the Judge or Judicial Referee decides if this is allowed. The ND Legal Self Help Center can't advise you.

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

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

## 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 conservatorship of adults and minor children are available at [ndcourts.gov/legal-self-help/conservatorship](http://ndcourts.gov/legal-self-help/conservatorship). 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/conservatorship](http://ndcourts.gov/legal-self-help/conservatorship), 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 need help filling out your forms, or deciding if these forms suit your situation, consult a lawyer licensed to practice in North Dakota.**

## **Lawyer Resources**

You're not required to hire a lawyer 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.

**To learn more about finding a lawyer to represent you, go to [ndcourts.gov/legal-self-help/finding-a-lawyer](http://ndcourts.gov/legal-self-help/finding-a-lawyer).**

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

Section 30.1-29-22 of the North Dakota Century Code governs motions for authorization to sell the Protected Person'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 conservatorship case.

**Laws constantly change through legislation, court rules, and court decisions.** To determine how a law applies to your situation, review the applicable law or laws, court rules, 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 (person under a guardianship).

**Interested Person** – Includes the following:

- 1) The spouse, parent, adult children, or siblings of the protected person;
- 2) An adult relative (**only if** the spouse, parent, adult children, or siblings of the protected person **can't** be found);
- 3) An adult individual who has lived with a protected person for a period of more than six months;
- 4) A lawyer for the protected person;
- 5) A representative payee for the protected person; and
- 6) Any other person designated by the North Dakota State District Court.

**Judicial Referee** – A judicial officer, appointed by the presiding District Court judge, who has the authority to preside in District Court conservatorship 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 Judge or Judicial Referee to issue an order for a specific purpose. For example, a written request for an order authorizing the Conservator to sell the Protected Person's real property.

**Moving Party** – The Conservator making the motion.

**Objecting Party** – The Protected Person, the Guardian (if any), the Co-Conservator (if any), and any interested person designated in the order of the court who objects to the motion in writing within 13 days of being served the motion. Also referred to as the Opposing Party.

**Protected Person** – A minor or other adult individual for whom a conservator or limited conservator has been appointed by the court, or other protective order has been made.

**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 conservatorship cases in North Dakota State 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 conservatorship 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 conservatorship case is heard and decided by a Judicial Referee, the Judicial Referee issues 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 conservatorship 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.

*(This space left intentionally blank.)*

## Forms in the Packet

5 Forms you need for your motion – **All** must be completed.

Form Title	Purpose
<b>Notice of Motion for Authorization to Sell Real Property</b>	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 (Conservator).
<b>Motion for Authorization to Sell Real Property</b>	This is a short, written request to the Court for an order authorizing the sale of the Protected Person's real property. Completed and signed by the Moving Party (Conservator).
<b>Brief in Support of Motion for Authorization to Sell Real Property</b>	The brief is where you, the Moving Party (Conservator), make your written argument to the Court for an order authorizing the sale of the Protected Person'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 (Conservator).
<b>Declaration in Support of Motion for Authorization to Sell Real Property</b>	This is the factual support for all of your arguments in the Brief.  Completed and signed by the Moving Party (Conservator).
<b>Findings and Order on Motion for Authorization to Sell Real Property (No Hearing Held)</b>	When no objections are made and the Judge or Judicial Referee decides not to hold a hearing, this is your proposed order for the Judge or Judicial Referee to sign.  Completed by the Moving Party (Conservator). <b>Don't</b> sign.
<b>Findings and Order on Motion for Authorization to Sell Real Property (Hearing Held)</b>	When objections are made, <b>Or</b> the Judge or Judicial Referee decides to hold a hearing, this is your proposed order for the Judge or Judicial Referee to sign.  Completed by the Moving Party (Conservator). <b>Don't</b> sign.

## 1 Form you **may** need for your motion.

Form Title	Purpose
<b>Consent to Sell Real Property</b>	This is the written consent form you may use when you ask the Protected Person's Spouse (if any), the Guardian(s) (if any), Co-Conservator (if any), and any interested persons to give their written consent to the sale of the Protected Person's real property.  Completed and signed in front of a notary public or clerk of court by the Protected Person's Spouse (if any), the Guardian(s) (if any), Co-Conservator (if any), and any interested persons.

## Steps in The Process

**You **Must** complete **All** steps. Don't skip steps!**

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

**Step Two:** The Conservator Attempts to Get Written Consent to the Sale of the Protected Person's Real Property from the Protected Person's Spouse (if any), the Guardian(s) (if any), Co-Conservator (if any), and any interested persons. If unable to get written consent from the Protected Person's spouse (if any), the Guardian(s) (if any), Co-Conservator (if any), and any interested persons, the Judge or Judicial Referee may hold a hearing before making a decision.

**Step Three:** The Conservator Arranges Service by Mail of Copies of **All** of the Completed Forms on the Protected Person, Protected Person's Spouse (if any), the Guardian(s) (if any), Co-Conservator (if any), and any interested persons designated in the order of the court.

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

**Step Five:** The Protected Person, the Guardian(s) (if any), Co-Conservator (if any), and any interested persons designated in the order of the court have 13 Days from the Date of Service to Object in Writing to the Sale of the Protected Person's Real Property

**Step Six(a): If No Written Objections are Served and Filed Within the 13 Day Deadline the Judge or Judicial Referee **May** Make a Decision Based Only on the Documents Filed**

**Step Six(b): If Written Objections are Served and Filed Within the 13 Day Deadline, **Or** the Judge or Judicial Referee Decides a Hearing is Necessary, a Hearing is Held Before the Judge or Judicial Referee Makes a Decision**

**Step Seven: Findings of Fact and Order is Issued by the Judge or Judicial Referee:**

- The Judge or Judicial Referee may decide to authorize the sale with the terms and conditions requested by the Conservator;
- The Judge or Judicial Referee may decide to authorize the sale and add additional terms and conditions the Conservator must meet; **Or**
- The Judge or Judicial Referee 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 Protected Person'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 (Conservator) completes this form. (Remember: These forms are set up for only one conservator to complete and sign.)
- **Top of Form (Caption)**

Refer to the District Court order appointing you as Conservator of the Protected Person, or refer to your most recent annual report of the conservatorship.

  - **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](http://ndcourts.gov/court-locations).
  - **In the Matter of the Conservatorship of** – the Protected Person's full name.
  - **Case Number** – the case number of the current District Court conservatorship.
- **Date and Signature**
  - The Moving Party (Conservator) signs and dates this form.
  - Complete the lines following the signature line.

## Motion for Authorization to Sell Real Property

The Moving Party (Conservator) completes this form. (Remember: These forms are set up for only one conservator to complete and sign.)

- **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 (Conservator) 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 (Conservator) completes this form. (Remember: These forms are set up for only one conservator to complete and sign.)

- **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 (Conservator) 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 (Conservator) completes this form. (Remember: These forms are set up for only one conservator to complete and sign.)

- **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 (Conservator) 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 Protected Person's spouse (if any), the Guardian(s) (if any), Co-Conservator (if any), and any interested persons designated in the order of the court 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 (Conservator) 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 Protected Person's real property, and the Judge or Judicial Referee issues 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 (Conservator) 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 Protected Person's real property, and the Judge or Judicial Referee issues 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 Get Written Consent to the Sale of the Protected Person's Real Property from the Protected Person's Spouse (if any), Co-Conservator (if any), and any Interested Persons**

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

- The Protected Person's spouse (if any);
- The petitioner for appointment of the guardian (if any);
- The parent, adult children, or siblings of the protected person;
- An adult relative (**only if** the spouse, parent, adult children, or siblings of the protected person **can't** be found);
- An adult individual who has lived with a protected person for a period of more than six months;
- A lawyer for the protected person;
- A representative payee for the protected person;
- Any other person designated by the court; and
- Co-Conservator (if any).

Provide the **Consent to Sell Real Property** form to the people listed above.

Before providing the form, the Moving Party (Conservator) 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 people listed on Page 12.

The people listed on Page 12 complete:

- **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**
  - Each person listed on Page 12 who agrees to complete this form **must** sign and date 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 they sign 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.

**If you're unable to obtain written consent from the people listed on Page 12, you may still ask for authorization from the Judge or Judicial Referee to sell the Protected Person'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 **And signed consent form for your records.****

*(This space left intentionally blank).*

**Step Three: Arrange for Service of Copies of All Completed Forms on the Protected Person, the Guardian(s), (if any), Co-Conservator (if any), and any interested persons designated in the order of the court.**

The Protected Person, the Guardian(s) (if any), Co-Conservator (if any), and any interested persons designated in the order of the court 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 appraisal or other 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.
  - Label the first page of 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 Protected Person;
- The Co-Conservator (if any);
- The Guardian(s) (if any); and
- Any interested persons designated in the order of the court.

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

You may arrange for service by first class mail.

The Judge or Judicial Referee requires 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 mailed copies of the documents 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 mailed copies of the documents completes Paragraphs 1 through 6.
- **Date and Signature**
  - The person who mailed copies of the documents 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).

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

- Your appraisal or other 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](http://ndcourts.gov/court-locations).

**Step Five: The Protected Person, Co-Conservator (if any), Guardian(s) (if any), and any interested persons designated by the court's order have 13 Days from the Date of Service to Object in Writing to the Sale of the Protected Person's Real Property**

**The Protected Person, the Guardian(s) (if any), Co-Conservator (if any), and any interested persons designated in the order of the court have 13 days to Object to the Motion in Writing:**

Since 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](http://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 13 Day Deadline, the Judge or Judicial Referee 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 receive notice of the date, time, and location.

### **Step Six(b): If Written Objections are Served and Filed Within the 13 Day Deadline, or the Judge or Judicial Referee Decides a Hearing is Necessary, a Hearing is Held Before the Judge or Judicial Referee 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 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 Clerk of 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 Clerk of 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 (Conservator) 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 Protected Person's personal 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 makes a decision and issues findings of fact and an order.

If a hearing is held, the Judge or Judicial Referee makes a decision after the hearing and after reviewing the documents filed with the court. The Judge or Judicial Referee then issues findings of fact and an order.

You 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 Conservator;
- Authorize the sale and add additional terms and conditions you must meet; **or**
- Dismiss the motion entirely and not authorize the sale.

State Of North Dakota

In District Court

County Of \_\_\_\_\_

Judicial District

**In the Matter of the Conservatorship of**

\_\_\_\_\_.

Case No. \_\_\_\_\_

**Notice of Motion for Authorization to Sell Real Property**

1. The following Motion for Authorization to Sell Real Property of the Protected Person is brought in accordance with Rule 3.2, North Dakota Rules of Court, and Section 30.1-29-22 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 Conservator)*

\_\_\_\_\_  
*(Printed Name of Conservator)*

\_\_\_\_\_  
*(Address)*

\_\_\_\_\_  
*(City, State, Zip Code)*

Telephone Number \_\_\_\_\_

Email \_\_\_\_\_

**State Of North Dakota**

**In District Court**

**County Of** \_\_\_\_\_

**Judicial District** \_\_\_\_\_

**In the Matter of the Conservatorship of**

\_\_\_\_\_.  
**Case No.** \_\_\_\_\_

**Motion for Authorization To Sell Real Property**

**1.** \_\_\_\_\_ (*name of Conservator*), the

Conservator of the above-named Protected Person, makes this Motion for Authorization to Sell Real Property of the Protected Person in accordance with Section 30.1-29-22 of the North Dakota Century Code (N.D.C.C.) and Rule 3.2 of the North Dakota Rules of Court.

**2.** The Conservator respectfully requests that the Court enter an order authorizing the Conservator to sell the real property of the Protected Person, 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 Conservator*)

\_\_\_\_\_  
(*Printed Name of Conservator*)

\_\_\_\_\_  
(*Address*)

\_\_\_\_\_  
(*City, State, Zip Code*)

Telephone Number \_\_\_\_\_

Email \_\_\_\_\_

**State Of North Dakota**

**In District Court**

**County Of \_\_\_\_\_**

**Judicial District**

**In the Matter of the Conservatorship 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 30.1-29-22 of the North Dakota Century Code (N.D.C.C.), \_\_\_\_\_ (*name of Conservator*), the Conservator of the above-named Protected Person, submits this Brief in Support of Motion for Authorization to Sell Real Property of the Protected Person.

**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 30.1-29-22(2) of the North Dakota Century Code (N.D.C.C.) states as follows:

A conservator shall move the court for authorization to sell real property of the person to be protected, upon such terms as the court may order, for the purpose of paying the protected person's debts; providing for the care, maintenance, rehabilitation, training, or education of the person to be protected or the dependents of the person to be protected; or for any other purpose in the best interests of the person to be protected.

**4.** The Conservator wishes to sell the real property belonging to the Protected Person, 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*):

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

- To pay the Protected Person's debts.
- To provide for the care, maintenance, rehabilitation, training, or education of (*select all that apply*):
  - The Protected Person.
  - The Protected Person's dependents.
- To purchase a different property.
- The property is depreciating.
- Other: \_\_\_\_\_.

7. The current fair market value of the Protected Person's real property for which authorization to sell is sought is \$\_\_\_\_\_. Fair market value was determined by (*Continued on page 3*):

(Choose **only one**):

Appraisal. A copy of the appraisal is served and filed with the motion as Exhibit A.

No appraisal because, \_\_\_\_\_.

A copy of the documentation used to determine fair market value is served and filed with the motion as Exhibit A.

8. The Conservator believes the transaction is in the best interests of the Protected Person.

9. The Conservator  **has**  **has not** obtained written consent from all persons listed in N.D.C.C. § 30.1-29-22(2)(c). All written consents obtained by the Conservator are served and filed with this Motion.

10. The Conservator respectfully requests that the Court enter an order authorizing the Conservator to sell the real property of the Protected Person, which is described in the Declaration in Support of Motion for Authorization to Sell Real Property.

Dated \_\_\_\_\_.

*(Signature of Conservator)*

*(Printed Name of Conservator)*

*(Address)*

*(City, State, Zip Code)*

Telephone Number \_\_\_\_\_

Email \_\_\_\_\_

State Of North Dakota

In District Court

County Of \_\_\_\_\_

Judicial District

**In the Matter of the Conservatorship of**

\_\_\_\_\_.

**Case No. \_\_\_\_\_**

**Declaration in Support of Motion for  
Authorization to Sell Real Property**

1. My name is \_\_\_\_\_.

2. I was appointed the Conservator for the above-named Protected Person on

\_\_\_\_\_ (date).

3. The Protected Person is \_\_\_\_\_ years old and their current address is  
\_\_\_\_\_.

4. I am requesting authorization for the sale of the Protected Person'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 Protected Person's debts.

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

The Protected Person.

The Protected Person'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 give an explanation*):

The sale of the Protected Person's real property is in the best interests of the Protected Person

because:

5. The Protected Person's real property for which authorization to sell is sought is located at  
(*property address*) \_\_\_\_\_

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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 the same option as Paragraph 7 of your Brief in Support of Motion for Authorization to Sell Real Property*):

- A copy of the appraisal is served and filed with the motion as Exhibit A.
- I used the following to determine fair market value:

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A copy of the documentation I used to determine fair market value is served and filed 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 Protected Person's real property are as follows

*(describe in detail, attach additional pages, if needed):*

(Paragraph 9, continued.)

10. I (choose the same option as Paragraph 9 of your Brief in Support of Motion for Authorization to Sell Real Property)  **have**  **have not** obtained written consent to sell the Protected Person's real property as described in this Motion from all persons listed in N.D.C.C. § 30.1-29-22(2)(c). The name and relationship to the Protected Person for each person who gave written consent are as follows (*list the names and relationship to the Protected Person of the people who gave written consent. If you don't have any written consents, write "No written consent obtained"*):

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**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 Conservator)*

\_\_\_\_\_  
*(Printed Name of Conservator)*

\_\_\_\_\_  
*(Address)*

\_\_\_\_\_  
*(City, State, Zip Code)*

Telephone Number \_\_\_\_\_

Email \_\_\_\_\_

**State Of North Dakota**

**In District Court**

**County Of \_\_\_\_\_**

**Judicial District**

**In the Matter of the Conservatorship 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 conservatorship. I declare that I am an adult.

**2.** My relationship to the above-named Protected Person is \_\_\_\_\_.

**3.** I acknowledge receipt of the Motion for Authorization to Sell Real Property of the Protected Person dated \_\_\_\_\_.

**4.** I consent to the sale of the Protected Person'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 Protected Person's real property in the Motion from the Conservator.

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 Conservatorship of**

\_\_\_\_\_.

Case No. \_\_\_\_\_

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

1. \_\_\_\_\_, the Conservator of the above-named Protected Person, filed a Section 30.1-29-22 of the North Dakota Century Code (N.D.C.C.) Motion for Authorization to Sell Real Property of the Protected Person.

2. A hearing is not required because all persons who are required to consent to selling the Protected Person's real property provided their written consent, and no objections to selling the Protected Person's real property were filed with the Court within ten days after service of the Motion.

3. Based on the record in this matter, the Court makes the following findings of fact:

**Findings of Fact**

4. Notice has been provided as required by law.

5. Written consent to the requested sale of the Protected Person's real property was provided by the following:

6. The Protected Person's real property for which authorization to sell is sought is located at

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\_\_\_\_\_ (*property address*)

and legally described as follows:

7. The appraisal for the real property:

**Was provided.**

**Was not provided**, and the Court  **finds**  **does not find** good cause as follows:

8. The evidence  **does**  **does not** provide fair market value, based on the following findings:

9. The Court finds the Conservator's request for authorization to sell the real property  
 is  is **not** in the best interests of the Protected Person based on the following findings:

**Order**

**It is Ordered, Adjudged, and Decreed that:**

10. The Conservator (*Paragraph 10 continues on next page*):

Is **denied** authorization to sell the real property in Paragraph 6, legally described as:

The motion is dismissed without prejudice.

Is authorized to sell the real property described in Paragraph 6, legally described as:

under the following terms and conditions:

**Notice:**

**If the Findings and Order Were Made by a Judicial Referee, You are Hereby Given  
Notice of Your Right to Review of a Judicial Referee's Findings and Order by a District Court  
Judge. To Request a Review, You Must File a Written Request Stating the Reasons for the  
Review Within Seven (7) Days After Service of This Findings and Order.**

**By the Court:**

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Judge of the District Court  
Judicial Referee of the District Court

State Of North Dakota

In District Court

County Of \_\_\_\_\_

Judicial District

**In the Matter of the Conservatorship 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;
- Exhibit A (Appraisal or Documentation to determine fair market value);
- Findings of Fact and Order (Proposed).

*(Checkmark  and complete the box below **only if** you obtained written Consents.)*

Consent to Sell Real Property by *(list names)*: \_\_\_\_\_

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**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 of Service by Mail:**

Date Court Documents Were Served by Mail: \_\_\_\_\_

**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

\_\_\_\_\_  
Phone Number / Email Address