



11 Crucial Steps: Selling Your Deceased Parents' Home

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No matter how young or old you are, losing a parent is heartbreaking. On top of your grief at their passing, you must deal with the emotionally heavy task of settling their estate. For many, selling their parents' home after death can be a daunting and exhausting challenge. "Handling your parents' estate after they pass away is a very difficult process. If the sale of the house needs to also be taken care of at that same time, it's easy for details to get overlooked," says Ryan McKee, a real estate agent and probate specialist.

"Be ready and prepared emotionally for the process to begin, first and foremost," advises another real estate agent, Beth Sauer, who also has firsthand knowledge as the seller of an inherited home. If you need to sell a house you've inherited from your parents, you have a long to-do list in front of you. However, you can reduce some of the stress by working through the process step-by-step.

Step 1: Establish the status of your parents' estate

Most adult children know they'll be inheriting their parents' home one day, but too few understand exactly how the house will pass into their hands. You need to know the steps your parents took to give you ownership of the inherited property before you can even think about selling the house. "You can't just turn around the next week and put the home on the market," says Sauer. "You have to make sure that you have the legal right to sell the home." You can inherit a house from your parents in three main ways: through the probate process, by a transfer on death deed, or via a living trust.

Probate: Many families mistakenly believe inheriting property is as simple as listening to an official reading of their parents' will. That may work in the movies, but in reality, real estate inherited via a will is usually subject to the long, complex probate process. And if your parents didn't leave a will, then probate is pretty much a given.

So, what is probate? Probate is a court-supervised process that oversees the dispensation of your parents' entire estate, including the sale of the house. This is done so that the proper people are granted the right to and responsibility for the estate and so that your parents' debts are paid as part of the process.

While probate laws vary from state to state, expect the complex process to take a while, from several months up to a year or two. Depending on the laws in the state where your home is located, the courts may play a role in when and how the home is sold during probate. So be sure to do your probate research and enlist the help of a probate attorney.

Transfer on death deed: There is one way for the ownership of your deceased parents' home to transfer to you as easily as it does in the movies: the transfer on death deed. Also known as a beneficiary deed, this type of deed lets you inherit the property directly and immediately without the time, hassle and expense of probate. With this type of deed in place, you can proceed with the sale of your parents' home as soon as you're ready.

However, this deed type is only valid in certain states. The transfer on death deed became available to Californians in 2016. Please note that the laws governing these deeds vary from state to state, too. For example, in some states, all you need is a completed transfer on death deed to avoid probate. In other states, your parents must also bequeath the property to you in their validated will, or the transfer on death deed is rendered meaningless.

Finally, while you can avoid probate with a transfer on death deed, you will still need to pay taxes on the house when you inherit it this way (more on this topic later).

Living Trust: It's much simpler to sell your parents' house if you've inherited it via a living trust. A living trust is a document designed to streamline the management and inheritance of all your parents' assets – including the home.

The document names your parents as the trustees (allowing them to manage all assets while they are still living), and you as the beneficiary.

If you inherit property where there's a living trust in place, you can bypass probate, avoid some estate taxes, and it sets you up to sell the home immediately. A trust is usually the best scenario when there are multiple heirs. "If your parents placed their home in a living trust, then the trust should dictate which heir makes the decisions regarding the sale of the house," says McKee.

Step 2: Identify the estate executor and notify all interested parties

Just because you are an heir to your parents' estate, that doesn't necessarily mean you are a decision maker when it comes to selling the house. "Many people only know that they've inherited a property, but they don't have the information on how the inheritance process works. Before you can sell the house, you need to identify all of the heirs, and find out which one is the named executor or personal representative who is then authorized to make decisions about the house sale," says McKee.

If your parents' will, or the probate court, has appointed a personal representative (or executor, or administrator), then that person typically calls the shots when selling your parents' home. The heirs are not the only parties interested in the dispensation of your parents' estate. If they owed debts when they passed away, those creditors will need to be paid as well (see Step 5).

"It's the responsibility of the personal representative to notify their deceased parents' creditors, and pay those debts, often with some of the proceeds from the sale of the house," explains McKee. Typically, the estate attorney will already have this information. However, it makes sense to ask your real estate agent to run a title search, too. A title search may find invalid judgments that you will need to clear-up and/or possibly fight to have dismissed before selling the home (see Step 5).

A single decision maker is the best-case scenario when selling a home as part of the settlement of an estate with multiple heirs. However, in some cases, no such decision maker is appointed (or named by the probate court), which means all heirs will have equal say in when and how the home is sold. When all heirs have equal say in what happens to the home, it can result in years-long legal battles and costly attorneys' fees.

Step 3: Handle inheritance disagreements before they become full-blown disputes

You'll need to address potential points of conflict early to save yourself and your siblings' time, money, and stress throughout the home sale process.

So, sit down together and come to a decision on all of these details:

- Who's responsible for preparing the home for sale?
- Who's funding the home sale expenses (and whether it will come from the estate)?
- How will you split the proceeds?
- How much is the home worth?
- Who will give the go ahead to accept an offer?

Your best bet is to list out every heir's duties during the settlement of the estate and come to an agreement on a fair division of the proceeds – even if it's not equal. If you can't come to an agreement, you may need to enlist the help of a professional mediator.

Step 4: Hire an agent experienced in selling inherited homes

Hiring a real estate agent that all of the heirs both like and trust can help smooth the process of selling your parents' home after death. You also need to make sure that agent has probate or inherited property sales experience. "When you're selling your parents' house, you need an agent who's actually completed a transaction along the same lines as your specific situation," advises McKee.

In addition to having experience selling an inherited home, Sauer stresses the importance of working with an agent who has both empathy and patience during this sensitive time. "Let's say you declutter or go through all of the family photos that are sitting around in the house. An agent should be patient with what you're going through. I think that is a huge part of it," says Sauer.

The agent you hire also needs to reside in the same area where your deceased parents' home is located. An out-of-state agent won't be licensed to sell real estate in your parents' home state, and they won't have access to the local MLS to pull accurate comps when pricing the home.

Step 5: Sort through your parents' personal finances

Along with your parents' home, you are inheriting the property's debt and ongoing bills. If you don't keep on top of those finances, you could further complicate the home sale process. "Figuring out the financials of the house needs to be dealt with early on," advises McKee. "Your agent can help you find out if there's an existing mortgage, who it's being paid to, and how it's being paid, such as a direct debit, or if your parents were paying it online or writing a check."

Get access to the financial accounts you'll need: If all of your parents' bills will be paid automatically with a direct debit, you will need to ensure there is enough money in their account to cover those charges until the house sells. To do that, you first need access to your parents' bank accounts, which may take some work if you don't already jointly own the account, or aren't named as a payable-on-death beneficiary.

You'll also need access to your parents' monthly bills – especially those related to the maintenance of the house. So, you'll need to arrange to have your parents' mail forwarded to you, and find their login information for any online accounts.

Run a title search: Sometimes, a deceased parents' home will have liens or judgments attached to the property, such as taxes that are in arrears, a home equity line of credit, or a reverse mortgage, and in that case, you may need to run a full title search to identify and address those financial issues. Your real estate agent can help you obtain this information.

Submit the death certificate: You also need to notify the creditors of your parents' death, and you may need to submit a copy of your parents' death certificate(s) to these creditors, the credit bureaus, and the social security administration.

Here is a basic list of accounts and bills to look for when sorting through your parents' financials:

- Income and retirement accounts (checking and savings accounts, 401K, CDs, stocks, bonds, etc.)
- Personal and property tax records
- Mortgage payment records
- Home Equity Line(s) of Credit (HELOC)
- Reverse mortgage statements
- Utilities (water, gas, electric, sanitation, etc.)
- Medical bills
- Credit card statements
- Insurance policies (life, home, auto, etc.)
- Communication services (landline, cell phone, Internet service, cable TV, etc.)
- Household service expense records (gardener, exterminator, housekeeper, home healthcare, etc.)
- Homeowners Association (HOA) payment records

Once the home sells, you will be able to close out those accounts and stop paying those bills. Until then, you will need to keep making payments (although some services, like cable and internet, you can cancel right away).

Step 6: Review the home's insurance policy

If your parents' home is going to be vacant until it sells, then you may have to change the home insurance policy. Since a vacant home has a higher risk of break-ins and vandalism, most insurance companies will not pay to cover this type of damage unless you have a vacant home insurance policy in place. If you come across a home insurance policy that your parents were paying for directly, contact the company immediately to find out what you need to do to obtain a vacant home policy until the home sells.

Step 7: Secure the home

Settling a parent's estate could take time, and a vacant home could become a target for burglars, squatters or vandals. Along with ensuring that you have the proper insurance, you may want to consider taking steps to secure the property before you sell it.

Set aside important documents: Locate and secure any financial and legal documents, including asset statements and life insurance policies. This paperwork may be valuable for settling your parents' estate.

Lock away valuables: Work with the other heirs to identify and secure any valuables. Be mindful about potential disputes by documenting what items you locate and where you store the valuables.

Regularly pick up mail: An overflowing mailbox could attract mail theft and notify thieves that the home isn't occupied. If it isn't convenient to make frequent pick-ups, the post office can hold mail for up to 30 days. Or, you could forward the mail to a different address.

Change the door locks: Over the years, trusted service providers, friends, and neighbors may have obtained copies of the keys while assisting around the house. While it's unlikely that a keyholder harbors ill will, you may prefer to limit access to the home, nonetheless. If anything turns up missing or damaged, you'll know who's had access to the home.

Check that doors and windows are locked: Trespassers may see an unlocked door or window as an open invitation. In addition to checking locks, installing a wooden dowel rod into every window and sliding door track can be an inexpensive deterrent.

Set up a security camera: If you are not able to check on the home for long stretches of time, setting up a security camera allows you to monitor the property remotely. You will need to continue Internet service to access a live feed of the property for periodic check-ins. A security camera with motion detection and recording can also notify you of any unwelcomed visitors.

Step 8: Understand the tax implications of selling your parents' home

The government expects a chunk of any income you make, and that includes the proceeds from the sale of your deceased parents' home. "Potential tax implications include capital gains and estate taxes, which can be huge. So don't try to figure this out on your own," explains McKee. "Your real estate agent can point you in the right direction on tax implications, however, an agent is not a tax professional. Always speak with your attorneys and also your tax professional to review any tax implications before selling your parents' house." The good news is, you'll also receive tax breaks that may reduce or eliminate any money owed. Let's take a look at the taxes that come into play when you're selling inherited real estate:

Inheritance and estate taxes: Inheritance and estate taxes are two similar taxes on inherited property that differ in how they get paid and to whom. In essence, an estate tax is a federal tax against the total value of your parents' estate, which must be assessed and paid before any remaining proceeds are distributed to the heirs.

An inheritance tax is a state tax that you (the beneficiary) pay to the state on the proceeds you inherit once your parents' estate is settled. The terms inheritance tax and estate tax are sometimes used interchangeably on the state level, depending on the wording of your state's laws. 12 states and the District of Columbia levy estate taxes and 6 states impose inheritance taxes. California does not have an estate or an inheritance tax at the state level. Please keep in mind that tax regulations and laws constantly change. With that said, please consult with a professional tax advisor, that is familiar with state tax laws before making financial decisions.

Capital gains tax: Simply put, the capital gains tax applies to the dollar amount difference between the purchase price of a home and its final sold price. By this definition, any money you make from the sale of your parents' home after they die is technically taxable via the capital gains tax code.

Fortunately, there is a tax break or loophole known as step-up in basis that can greatly reduce the amount that qualifies for the capital gains tax. The step-up in basis sets the valuation of the inherited property at the date of death value, rather than your parents' original purchase price. So, you are only required to pay capital gains on any proceeds above the date of death value.

Consider this simplified example: Let's say the home your parents purchased for \$80,000 decades ago is now worth \$1.28 million (\$1.28M). If your parents sold the home before they passed away, they would have been required to pay capital gains on \$1.2M. (Although, they would be eligible for a \$500,000 tax exclusion as a married couple, including the reduction of closing costs.) Therefore, they would have been required to have paid \$615,000

in capital gains (\$1.28M - \$80,000 original purchase price - \$500,000 tax exclusion - \$85,000 closing costs = \$615,000).

However, you are inheriting the property at that \$1.28M date of death value – which means you will only need to pay capital gains on any proceeds above that inherited value amount. So, if you sell the home 5 months after the date of death for \$1.4M, you will potentially only need to pay capital gains on \$120,000 before calculating any more deductions. If you sell it for \$1.28M you won't need to pay any capital gains tax, as the home's value did not increase in the time you owned it. Also, if you sell it at a loss, you will be eligible to apply a capital loss, assuming it was sold at fair market value in an arm's length transaction (meaning you didn't sell it to a relative at a discounted price).

It is important to note that, in the inherited home sale example above, it did not take into account the reduction of closing costs. Closing costs, such as title fees, escrow fees and real estate agent commissions can also be taken-off of the capital gains too! Therefore, continuing with the inherited home sale example, if your closing costs totaled \$85,000, your net capital gains on the \$1.4M sale would be adjusted down to \$35,000 (\$1.4M sale - \$1.28M date of death value - \$85,000 closing costs = \$35,000 in capital gains).

Step 9: Dispense your parents' personal property

Once you sort out the majority of the legal and financial issues, you will need to go through and dispose of the contents of your parents' home before you can list the property for sale. When you are selling your own home, this process is known as decluttering. However, when you are selling your deceased parents' home, things get a tad more complex.

Distribute what's owed to heirs: First off, you will need to find and dispense any personal property that your parents have bequeathed to other heirs. So, if you are the personal representative, you are responsible for getting the 1940s china cabinet to your sister and your grandfather's watch to your uncle, if that's what the will says to do.

Note: the probate court may need to be involved in this process depending on your state laws. In fact, you may need to inventory all property for the courts before you can distribute anything. If there is no named executor, or personal representative, it's up to you and the other heirs to decide what happens to the contents of the home. This can get a bit tricky, especially if multiple heirs want the same item. If you can't reach a resolution, you may need to get a mediator involved to handle your parents' personal property as well as the home sale decisions.

Clear out the rest of the home with an estate sale: Once you've dispensed the big-ticket items and cherished possessions, you will likely still be left with a houseful of stuff. If yours is like most families, you'll hit a wall where you just want to toss it all just to finish the job. However, there is an alternative that might just net you a little extra cash: have an estate sale.

"Instead of throwing out items that none of the heirs want to keep, another option is an estate sale. Estate sale companies can orchestrate the sale of your parents' unclaimed personal property so you can get a little money for those items," explains McKee. "If the heirs can't afford the fees of hiring an estate sale company, sometimes we can have one done through the escrow process, so the costs are deducted from the proceeds at the end." An estate sale or an auction may also be your best option to solve personal property disputes between bickering heirs. If an agreement cannot be reached over who gets what, simply put the item up for sale and let the best bid win.

Step 10: Prepare the house for sale

Once you've emptied the home, the inherited home sale works much like any other.

Complete basic home preparations: You will need to give the home a deep clean inside-and-out, and then you need to decide whether or not to invest money into making any necessary repairs. If no one has updated the kitchen and bathrooms since the 1980s or earlier, you may want to spend a little money on sprucing those areas up – but only if your goal is to get top dollar for the home. Prepping to sell your parents' home while you are still mourning may leave you with little energy to do much more than cleaning the place and maybe repainting the walls. That may be all you need to do.

Or you can decide to sell "as is": Selling your parents' home as-is and getting a little less for the place isn't necessarily a bad thing, especially if selling at or under the fair market value helps you avoid a hefty capital gains tax. Plus, the disclosure rules are more lenient for inherited properties – this is because you were never the primary resident, so you have no first-hand knowledge of any issues it may have. On the other hand, if you do know that your parents' home has major issues that will be expensive to fix, and you don't disclose them, you may be liable

to cover those repair costs. Your liability all depends on how you inherited the property and if you sold it as the outright owner, or as the personal representative of your parents' estate.

Disclose whether a death occurred in the home: "Legally, only deaths that caused the property's value to decline [are] required to be disclosed during the sale," says attorney Collen A. Clark of Schmidt & Clark, LLP. Examples may include a highly publicized or violent death (murder) on the property, which could create a stigma that can affect a buyer's perceived value of the home.

Some states have specific requirements for disclosing a death on a property. For example, California requires that sellers disclose whether any death occurred on the property in the past 3 years. In other states, such as Arizona and Georgia, the law specifically excludes the need to disclose a death. Consult with a legal professional in your state if you are unsure about your state's disclosure requirements.

Conduct a pre-listing inspection: If you are not sure of the condition of your parents' house, you may want to get a pre-listing inspection done. However, this is a risk you may not want to take, as you'll likely have to disclose any problems uncovered during the inspection. Getting your parents' home ready to sell is that much harder if neither you, nor any of the other heirs, happen to live nearby. In that situation, it's doubly important to hire a local real estate agent that you can trust to handle the long-distance home sale.

Step 11: Set the list price and sell the home

It is not uncommon to have unrealistic expectations of the value of your parents' home with sentimentality clouding everyone's judgment, and grief putting everyone on an emotional rollercoaster. You will need to let the market dictate the list price of your parents' home, rather than personal opinion.

Get a CMA to take the emotion out of pricing: When you are ready to list the home for sale, your real estate agent will pull together a Comparative Market Analysis (CMA) which estimates the fair market value of the home based on the prices of recently sold homes (comps). However, the comps aren't the only numbers that matter when you are selling an inherited property.

Weigh your tax liability: When you are selling your own home, getting top dollar is a top priority. But when you are setting the list price for an inherited home, you need to consider the tax implications of any home sale proceeds. You may wind-up making more money in the long run if you sell at or just under the comps, if that helps you avoid paying capital gains taxes. Selling for a little less may also save you money, too – if it helps the home sell sooner rather than later.

Remember, time is money: You will be shelling out money to cover the bills for the home every month you continue to own the home. The sooner you sell it, the less you pay in operating costs. And you don't want buyers to view a dark, unlit home because you forgot to pay the power company.

The clock is working against you, so the faster you make decisions, and the more realistic you can be about price and preparations, the better off you and your family will be during this stressful time. While selling your deceased parents' home is always a difficult step emotionally, you can simplify the process by following these steps with the help of experienced professionals.

If you would like to speak with us more about your situation, please do not hesitate to contact us at any time. We thank you for your time and we look forward to hearing from you!

Sincerely,



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