

Valuing Property for Probate – Lastingpost.com

Introduction

The deceased person's property will usually be the most valuable asset in their estate. It will need to be valued for probate purposes even if the deceased's family are not proposing to sell it.

Starting point for valuation

For the purposes of probate the property's value is based on the 'open market value.' This is defined as the price that the house might reasonably fetch if it was sold on the open market to a willing buyer at the date of the transfer.

In determining the value of the property any peculiarities (for example the fact that there is a buyer desperate for a house in that particular street and willing to pay a premium) should be ignored.

The transfer date is usually the date of the deceased's death. However, if the house was transferred by the deceased by way of a gift in the seven years before their death then the transfer date is deemed to be the date the gift was made.

Valuation by the personal representatives

If the house is straightforward then the Personal Representatives (this term includes both Executors and Administrators) can provide the valuation without seeking professional assistance.

The Personal Representatives should take all reasonable steps to put a correct value on the property. HM Revenue & Customs suggests that a good starting point is to look at advertisements for the sale of similar properties in local estate agents and newspapers. In addition, the Land Registry website will also show the recent sale prices of houses in the vicinity.

Account should be taken of the state of repair of the house as this may reduce the value. At the same time, account must also be taken of features, such as a large garden or potential access to other land potentially suitable for development, that might make the property attractive to a builder or a developer.

If the Personal Representatives arrive at a range of values for the house then it is best practice to adopt a valuation somewhere in the middle of the range. Whatever the value they calculate they will need to be able to justify it if asked by the District Valuer.

Valuation by a chartered surveyor

With the problems in the housing market continuing, the Personal Representatives may want to consider instructing a Chartered Surveyor to give a professional probate valuation.

The reason for this is to ensure that in current markets the house is not overvalued as this will result in an additional and unnecessary inheritance tax liability. It may be worth the expense as HM Revenue & Customs are more likely to accept a valuation if it is provided by a Chartered Surveyor.

Valuing a share in a property

It is useful to understand that all property owned jointly will be held by the owners either as 'beneficial joint tenants' or as 'tenants in common.' This is the case for both freehold and leasehold property.

If the owners hold a property as 'beneficial joint tenants' then the whole property belongs to all the co-owners jointly. This means that each owner does not have a separate and distinct share. In any dealings regarding the property all the joint owners must act together as a single owner.

When a person dies owning a property as a 'beneficial joint tenant' then their share will automatically pass to the surviving joint owner(s). Property owned as joint tenants will not form part of the deceased's estate. However, the value of the deceased person's share will be included for the purposes of calculating inheritance tax on their estate.

If the owners hold a property as 'tenants in common,' then the property belongs to them jointly but each co-owner owns a separate and distinct share. Each owner can deal with their share independently of their fellow owners. They can therefore leave their interest in the property to a beneficiary in their Will. The deceased person's share of the property thus forms part of their estate and will be dealt with by the Executors under the terms of the Will or if there is no Will then by the Administrators under the laws of intestacy.

With jointly owned property then the starting point is to calculate the value of the deceased's share. If the other joint owners are not the deceased's spouse or civil partner then the valuation can be reduced by 10%.

Querying the valuation

Once the valuation of the deceased's estate is complete, the Inland Revenue account will be submitted to the Capital Taxes Office. The District Valuer will consider the valuations given on any property comprised in the estate.

Although it is reasonably rare for valuations to be questioned it does happen. If a valuation is thought to be too low for any reason then the person who submitted the account will be asked to defend the value.

In any event, if the property is sold soon after probate is granted then the Capital Taxes Office will take the sale price instead of the previously submitted valuation figure and recalculate the inheritance tax liability.

In addition, if within four years of the date of death the property is sold for less than the value given then a claim can be made to the Revenue for a part refund of the inheritance tax already paid.

Selling the property (if there is a will)

The beneficiaries under the Will may want to sell the property. However, the sale cannot be completed until the Grant of Probate has been issued. The reason for this is that the Executors will not have title to the property until this is issued.

The Executors may however arrange for contracts to be exchanged before the Grant of Probate has been obtained. They can do this as they are deemed to be protecting the deceased's estate. They should ensure that the contract states that completion will only take place after the Grant is issued. A prudent move is to include a long stop date clause in the contract that allows the buyer to walk away if the Grant is not forthcoming for any reason.

They should also make it clear to the buyer that they are acting as Executors on an estate and that they do not possess detailed information about the property. They are entitled to sell the property with limited title guarantee and there should be a statement in the transfer deed to this effect stating that they are only liable for information that they provide regarding the period after the date of death of the deceased.

Selling the property (if there is no will)

If there is no Will, then the Administrators cannot do anything with the property until the Letters of Administration have been issued. This includes marketing the property for sale.

Useful Websites

The Land Registry
www.landregistry.gov.uk

The Royal Institute of Chartered Surveyors
www.ricsfirms.com

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