

# Executors: Build the Right Team



**JUDY FAULKNER**  
Broker of Record

While it is an honour to be asked to be an executor, you may be unsure about your role and responsibilities. Administering another person's assets, particularly when they include real estate, may be very challenging. Executors are advised to choose an estate lawyer and a realtor who will bring the necessary knowledge and experience to the table.

Because executors are accountable to beneficiaries and to creditors, it may be prudent to keep detailed records of the advice received in case they are called upon someday to justify their actions.

One of the trickiest parts of selling an estate home is deciding when to list the property. Bear in mind that, in most cases, executors are not able to transfer the title of the home to a new buyer. In addition, they will not have access to the estate funds needed to prepare the home for sale before probate is granted by the courts.

To complete the probate application, the value of the home at the date of death is required. Determining the value of an older Glebe home is no easy task when look-alike homes can vary in value by hundreds of thousands of dollars. It will benefit executors to hire an experienced realtor who has intimate market

knowledge of the most recent comparable sales, and who does not overlook the possibility that, depending on the zoning, lot size and location, the lot may be worth more than the house on the lot. A formal appraisal from an accredited appraiser may be a worthwhile investment.

If the home is listed before probate, the agreement of purchase and sale will commonly provide that the closing date will be a certain number of days following the date probate is granted. In Ottawa, the anticipated approval time for probate is 6-10 weeks but this could extend into years if a notice of objection is filed, requiring the matter to go to court.

Executors will want to know what effect the uncertainty of the closing date may have on buyer interest and the final sale price. The answer may depend on market conditions and the underlying motivation of each buyer. Buyers who intend on flipping the property for profit often care less about the closing date than buyers trying to secure a home to enjoy. Although the homeseeker is likely to pay substantially more than the flipper, they may not move forward with an offer because of their inability to line up the closing date with the sale of their current home or to schedule contractors to complete improvements needed before taking possession.

It is possible to fashion an agreement of purchase and sale that allows the buyer to take possession of the home prior to the transfer of title, but there are risks involved for both the buyer and the estate. What if the buyer's financial or personal situation changes, and they are no longer willing or able to



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close or maintain possession of the home or what if they affect changes that devalue the property?

It is easy to see how important it is that the listing brokerage avoids a conflict of interest and does not represent the interests of both the buyer and the estate. It is equally as important for buyer and seller to have independent legal counsel.

Executors, often trusted friends or loved ones, may accept their role out of an act of kindness, bringing peace to the appointor who is confident that their wishes will be fulfilled. If guided by the right professionals, the experience can go smoothly and be wonderfully rewarding.

For a helpful checklist or if you have any questions, please contact Judy Faulkner:  
Judy@HomesInOttawa.com 613-231-4663