

# Approval for sale of real estate

*Guardianship & Administration Act 1993*

Private Administrators appointed by SACAT may apply to the Tribunal for approval to sell the protected person's property.

For the Tribunal to consider the sale it will require the following documents:

- **Letter from the Administrator detailing:**
  - Details of the property to be sold
  - Reasons for the sale
  - The protected person's current attitude to the sale
  - The protected person's attitude to the sale of property before suffering a loss of mental capacity
- **Medical report from the protected person's doctor advising:**
  - Is there any likelihood of the protected person being able to manage their finances?
  - Will the protected person be capable of returning home to live (if relevant)?
  - Is the protected person capable of making a valid decision regarding the rent or sale and if so, what are their views?
- **Letter from immediate family and any beneficiaries under a will and any joint proprietor relating to their views about the sale of property**
- **Summary of current assets and liabilities**
- **Copy of the protected person's last will and testament**
- **Valuation from an approved land valuer or two appraisals from two real estate agents including the following:**
  - Copy of the Certificate of Title
  - Description of the property and state of repair / improvements needed
  - Market value and recommended method of sale

In considering applications for approval SACAT needs to be satisfied that Administrators deal with a protected person's estate in an appropriate manner and for the benefit of the protected person. The foremost concern is to protect the assets of the protected person.

SACAT will have regard to the guiding principles contained in Section 5 of the *Guardianship and Administration Act 1993* which states:

**5-Principles to be observed**

*Where a guardian appointed under this Act, an administrator, The Public Advocate, the Tribunal or any court or other person, body or authority makes any decision or order in relation to a person or a person's estate pursuant to this Act or pursuant to powers conferred by or under this Act-*

- (a) Consideration (and this will be the paramount consideration) must be given to what would, in the opinion of the decision maker, be the wishes of the person in the matter if he or she were not mentally incapacitated, but only so far as there is reasonably ascertainable evidence on which to base such an opinion; and*
- (b) The present wishes of the person should, unless it is not possible or reasonably practicable to do so, be sought in respect of the matter and consideration must be given to those wishes; and*
- (c) Consideration must, in the case of the making or affirming of a guardianship or administration order, be given to the adequacy of existing or informal arrangements for the care of the person or the management of his or her financial affairs and to the desirability of not disturbing those arrangements; and*
- (d) The decision or order made must be the one that is the least restrictive of the person's rights and personal autonomy as is consistent with his or her proper care and protection*

**Disclaimer**

This information sheet is provided as a guide only. For further clarification please refer to the Guardianship and Administration Act 1993 (available through the SACAT website). SACAT disclaims all liability for all claims, losses, damages, costs or expenses as a result of any use or reliance upon this fact sheet.

