

Support - Sale of property / property transactions

The guardian requires the approval of the guardianship court to dispose of a property (sale) or a right to a property (e.g. encumbrance by land charges).

Competent Department

- [Amtsgericht Bremen](#)
- [Amtsgericht Bremerhaven](#)
- [Amtsgericht Bremen-Blumenthal](#)

Basic information

- If the guardian intends to sell the real estate of the person concerned, a corresponding application must be made to the court. Before doing so, the guardian should contact the responsible judicial officer in good time and discuss the further procedure. The prerequisite for this is that the guardian is responsible for the area of responsibility for housing matters or the sale of the house. The sole area of responsibility of asset management is not sufficient. The same applies to a desired encumbrance of the real estate. A sale or encumbrance is not possible without the approval of the guardianship court.
- As a rule, the corresponding application is made under the power of attorney of the notary public, who corresponds with the court in the approval procedure. In advance, the guardian can already approach the court and also submit a draft purchase agreement for preliminary review. The guardianship court approves the concrete declarations of the guardian within the framework of the notarial certification
- a blanket granting of approval is not possible.
- The person concerned is heard either by the court or by a guardian ad litem who is to be appointed by order and who is to exercise the rights of the person concerned. As a rule, the court orders procedural guardianship. The guardian ad litem will examine the case, contact the person concerned and submit a statement to the court.
- The court decides by order, which must become final. In addition to the application for approval by the guardianship court, an application must also be made for the issuance of a copy of the decision with a certificate of finality.

Requirements

Area of responsibility: Housing affairs/house sale; application by the guardian.

A separate form does not exist. Corresponding applications can be made informally. However, the written form of the application is mandatory.

What documents do I need?

- Written application by a party to the proceedings

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- notarized sales contract with conveyance

notarized sales contract with conveyance

- Extract from the land register

Extract from the land register

- Medical certificate

medical certificate which must show that and why the person concerned can no longer live in his/her house or apartment, even with the help of outpatient care services

- Valuation report

Valuation report of a publicly appointed and sworn expert / short appraisal (possibly consultation with the responsible judicial officer necessary)

Procedure

- After receipt of the application, the case is submitted to the competent judicial officer for processing. The court will check whether the required documents are complete.
- The person concerned is heard as part of the approval procedure. This is carried out either by the court or, as a rule, by a guardian ad litem appointed separately by resolution. The guardian ad litem checks compliance with the legal provisions and has an independent right of appeal. After receipt of a written statement from the guardian ad litem, the court shall decide by resolution. Both the court and the guardian ad litem must examine whether both the sale itself and the specific form of the purchase agreement are in the interests of the person(s) concerned.
- The decision shall be served on the parties to the proceedings. The two-week appeal period shall commence upon receipt of the decision by the respective party to the proceedings. The admissible legal remedy against the order is an appeal. The admissible legal remedy as well as the form and time limit shall be indicated in the instruction on legal remedies in the court order. The order shall not become effective until it becomes final. If there is an application for issuance of a copy of the order with a certificate of legal effect, a corresponding copy will be sent after the order becomes legally effective. If the notary has been authorized by the parties to the proceedings, the copy will be sent to them. The legal force can be determined exclusively by the court.
- As a rule, after the conclusion of the approval procedure, the court requires proof that the procedure has been carried out. This can be done by a corresponding note of the certifying notary.

Legal bases

- [§§ 1814 ff Bürgerliches Gesetzbuch \(BGB\)](#)
- [§§ 1850 Bürgerliches Gesetzbuch \(BGB\)](#)

More information

The following documents must be submitted:

- notarized purchase contract with conveyance
- extract from the land register
- Medical certificate stating that and why the person concerned is no longer able to live in his/her house or apartment, even with the help of outpatient care services.
- Appraisal by a publicly appointed and sworn expert / brief appraisal (consultation with the responsible legal officer may be necessary).

In principle, statements, applications or other requests must be submitted to the court in writing.

Provided that the person concerned is independently capable of making a sale/disposition and has an overview of the consequences of his or her actions, it is not absolutely necessary for court approval to be granted. The court can only approve the declaration of the guardian. The sale or encumbrance of real estate independently carried out by the person concerned is not subject to the approval requirement.

Whether the person concerned is independently capable of overseeing his or her actions and the resulting consequences should, in case of doubt, be certified by a doctor. In addition, when the contract of sale is notarized, the notary also checks whether the parties are capable of concluding the legal transaction at the time of notarization.

If the guardian has doubts about the legality of the concluded purchase agreement, he or she can take civil action against it. Only if there is a "reservation of consent" does the concluded purchase agreement depend on the consent of the guardian.

What are the costs?

With regard to the implementation of the approval procedure in the ongoing supervision procedure, there is no separate fee element. The ongoing fees already arise when the proceedings are set up and are reviewed annually. If necessary, the costs of the guardian ad litem will be reclaimed as part of the annual review of costs.