

## **PUBLIC ADMINISTRATOR**

The Public Administrator of Marin County is mandated by law with certain legal responsibilities which include:

- **Secure property if a person dies in Marin County and a relative or other appropriate person is not immediately available to claim the property.**
- **Provide for interment of a deceased person when there are no known relatives, make a search for heirs, and, if none are found, administer the estate.**
- **Protect the assets and manage the affairs of deceased residents of Marin County who, at the time of death, left no known heirs, no will, and no named executor, or when there is not a qualified person willing to assume the responsibility.**

**In addition, the Public Administrator may act as the administrator of estates when named in a will as executor or when heirs ask that it act as administrator.**

**In order to carry out its legal responsibilities, the Public Administrator oversees an experienced professional staff of Deputy Public Administrators who are sworn to provide services in accordance with California state law. The Public Administrator also maintains the services of Marin County Counsel, who are attorneys experienced in the practice of Probate law.**

**Following are some of the questions most frequently asked about Public Administrator functions and answers to those questions., which will provide an understanding of the role of the Office of the Public Administrator.**

### ***How does the Public Administrator's Office get involved in a case?***

The Public Administrator may be notified of a death by mortuaries, the Coroner, residential care facilities, hospitals, landlords, or private citizens when someone dies and there are assets to be protected or if the family of the decedent cannot be immediately located. The Public Administrator also handles estates where the beneficiaries live outside the United States.

### ***How does someone report such a case?***

You may call the Public Administrator's Office at (415) 499-6151. Public Administrator Deputies will provide information and assistance.

### ***What are the primary duties of the Public Administrator?***

The Public Administrator has the same duties and functions as a private administrator, some of which are to:

- Locate persons entitled to inherit from the estate and ensure that these individuals receive their inheritance
- Make arrangements for the disposition of the decedent's remains
- Conduct a thorough investigation to discover all assets.
- Protect the decedent's property from waste, loss, fraud or theft.
- Ensure that the estate is administered according to the decedent's wishes.
- Pay decedent's bills and taxes.

- Ensure all estate benefits are applied for and received.

In performing these functions, the Public Administrator is required to maintain a fully documented audit trail to make certain that each and every asset is accounted for and distributed.

### ***Will the Public Administrator make funeral arrangements?***

Yes. According to California law, the Public Administrator is required to make funeral arrangements if there is no relative to do so. The Public Administrator Deputy will also assist the family in making necessary funeral arrangements in cases where the Public Administrator acts as administrator. The Public Administrator will make arrangements in accordance with any pre-need plans of the decedent, the ability of the estate to pay, and the Probate Court policy as to the reasonable amount to be paid for these services out of estate assets.

### ***What is a formal probate proceeding?***

It is the legal method of insuring that the creditors of an estate are paid and that the remaining property in the estate is distributed to the entitled persons. This process is carried out by the executor/administrator of the estate under the supervision of the Probate Division of the Superior Court.

If the value of an estate is in excess of \$100,000, a Court proceeding is commenced by filing a petition to admit a will to probate and/or appoint an administrator. After a hearing, the Court will issue its Order to admit the decedent's will to probate and/or appoint a personal representative.

### ***Is there a less complicated way of handling small estates?***

A less formal procedure called Summary Administration applies to estates having a value of \$100,000 or less. It is designed to permit administration with very little, and in some cases no, Court involvement.

### ***Should a beneficiary hire an attorney to represent his or her interests if the Public Administrator is acting as administrator?***

The rights of heirs and beneficiaries are fixed by law. It is usually not necessary to hire an attorney because legal work is handled by the attorney for the Public Administrator. However, if your right to inherit is not clear, is challenged, or if substantial claims are made against the estate, you would be advised to retain legal counsel to represent your interests. The fees for such legal representation are your obligation and are not payable by the estate.

### ***Is the Public Administrator bonded?***

Yes. The Public Administrator has an official bond and, by law, charges each estate a yearly bond fee for this coverage.

### ***Is estate property ever sold?***

If an estate is insolvent or has insufficient cash assets to pay creditors, taxes, and fees, property will have to be sold to pay these obligations. If an estate is solvent and has sufficient cash, heirs are given the opportunity to select estate assets that they want to receive in place of cash. If real property is vacant, it usually is sold as soon as possible. However, if an heir wishes to receive real property as part of his or her distribution, the heir should make such wishes known and reach an agreement with the Public Administrator as soon as possible.

***How does the Public Administrator sell the estate property?***

The Public Administrator sells real property through licensed real estate agents at a scheduled auction, which is open to the public, after publishing legal notices and advertising the property. The sale is subject to confirmation by the Probate Court. The Public Administrator also sells personal property through various auction houses or estate liquidators. Sales of property are posted at the Civic Center, advertised in the media and published on the County of Marin website at [www.co.marin.ca.us](http://www.co.marin.ca.us) (click on “Departments”, then click on “Public Administrator”, then click on “Probate Sale”).

***Can anyone bid on real estate property?***

Yes. However, buyers of real property must post a 10% minimum deposit by cash or certified check with the Offer to Purchase before the bid is accepted.

***Can the Public Administrator or his/her staff buy estate property?***

No. California state law prohibits the Public Administrator and his/her staff from purchasing estate property.

***Who can make a claim against the estate?***

Anyone who was owed money by the decedent at the time of death must file a Creditor’s Claim with the Court against the estate in order to receive payment from the estate. The Public Administrator, as personal representative, notifies all known creditors that they must file a claim within the statutory period.

***During administration, do funds held by the Public Administrator earn interest?***

Yes, the Public Administrator maintains all funds in interest bearing accounts in compliance with California law. Interest earnings accrue to the estate and are part of the final distribution.

***Do estate beneficiaries receive a full accounting of the estate administration?***

Yes, a copy of the final account is mailed to all beneficiaries when it is submitted to the Court for approval. The accounting includes a record of all receipts, disbursements, fees, and the proposed distribution.

***How long does it take for the estate to be distributed to the heirs?***

The complexity of the estate and the determination of the individuals who are entitled to inherit the estate dictate the length of time an estate administration will take. Beneficiaries are cautioned not to plan their financial affairs upon the expectation of receiving a distribution of a certain amount at a specific time. In certain instances, a partial preliminary distribution of estate assets can be made with Court approval.

***How much does the Public Administrator charge for its services?***

California law provides a statutory fee for the personal representative/administrator of an estate. The Public Administrator is allowed the same compensation as private administrators. The allowable fees are based on the value of the estate, computed as follows:

- 4% of the first \$100,000
- 3% of the next \$100,000
- 2% of the next \$800,000
- 1% of the next \$9,000,000
- ½% on the next \$15,000,000

Amounts over \$25,000,000 are to be determined by the court.

The Probate Code allows a minimum fee of \$1,000.00 in smaller estates, paid from estate assets only. The law also provides for statutory attorney’s fees based on the same fee schedule as that of the administrator. The Court may also allow extraordinary fees to the administrator and his/her attorneys for services such as preparation of tax returns, sale of estate property, and litigation to collect assets or defend actions brought against the estate. The Probate Court must review and approve all requests for fees at the time the administrator presents a final accounting to the Court.

***Are heirs required to advance funds necessary for the administration of the estate (court costs, insurance and storage costs, etc.) in those cases where estate funds are not immediately available?***

No, in most cases, the Public Administrator either provides needed services directly through in-house staff and facilities or utilizes an estate account to advance the needed funds.

***How can a beneficiary or other interested person help to speed up the administration?***

They can give invaluable assistance by promptly completing all forms and answering all questions sent to them by the Public Administrator.

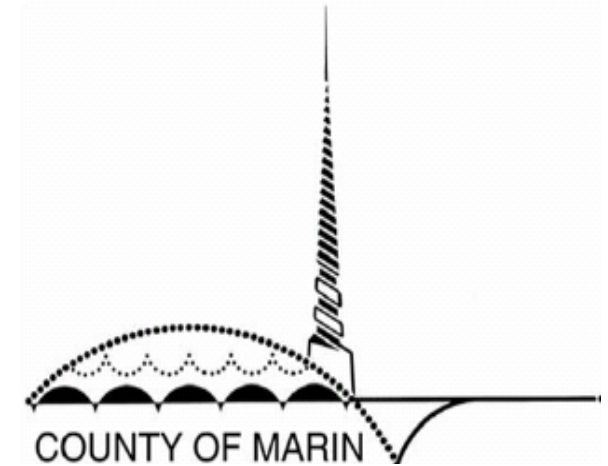
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