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Sole surviving heir interested in selling deceased parent's home

By Ilyce Glink and Samuel J. Tamkin, Tribune Content Agency, Real Estate Matters

Q: A friend of mine has a question about selling her mom's home. She is the sole heir and wonders if she has to put the house in her name before she can sell. It was willed to her.

A: If the property is in your friend's mom's name, your friend might need to take a couple of steps before she can sell the home. While your friend might be her mom's sole heir, your friend does not own the home. She has a right to ownership, but the home isn't in her name yet. That technicality likely will require your friend to either probate her mom's will or take a few other steps in order to sell the home.

In some states, the sole surviving heir has the ability to convey title to buyers by working with the settlement agent, delivering additional documentation and delivering a deed to the buyer with the sole heir signing the document. But not all jurisdictions allow that process. Your friend will have to talk to an attorney, settlement agent or title company where she lives to find out the best way to handle the title change.

If your friend's mom died and had a will, she might have to probate the will. That means that she would have to go to court and present the will before a judge. The judge would then accept the will as the document that would govern how your friend's mom's assets would get distributed. The first thing the judge might do is appoint or approve the executor of the will. Once the executor is appointed, the executor can take actions to sell the assets of the estate.

In some circumstances, the probate court might require an appraisal of the property to sell the home, but if the will gives the home to your friend, the court would authorize the transfer of the home from the estate to your friend.

There are many other ways this could play out and we're just giving you a brief snapshot. What you face may be either easier or much harder. Without more information, it's tough to know which way this will turn out.

If your friend simply wants to sell the house,

depending on the process that she needs to go through, she might just want to sell the property directly from her mom's estate to the intended buyer. A direct sale may save some costs and expenses. In places where recording documents and the process of conveying title is more cumbersome, taking care of the sale in one transaction might be more desirable than in a two-step process: transferring title from her mom to your friend and then from your friend to the intended buyer.

Another thing to consider is the federal income tax consequences to the sale. Given that your friend's mom recently died, your friend would inherit the home at its value at or around the time of her mom's death. So, we wouldn't expect your friend to pay any federal income taxes on the sale of the home. Your friend's mom probably doesn't have to pay taxes on her estate unless her estate is in the millions of dollars. (Currently, you only pay estate tax if the value of your estate is over \$5,490,000 at the time of death.)

Have your friend talk to an attorney where she lives to get a bit of guidance on how she should proceed to minimize the time and expense of selling the home.

(Ilyce Glink is the creator of an 18-part webinar+ebook series called "The Intentional Investor: How to be wildly successful in real estate," as well as the author of many books on real estate. She also hosts the "Real Estate Minute," on her YouTube channel. Samuel J. Tamkin is a Chicago-based real estate attorney. Contact Ilyce and Sam through her website, ThinkGlink.com.)
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