A Trust, Estate & Probate Law Firm

The Probate Sale Timeline

What Every San Diego County Realtor Needs to Know

Listing allowed once Letters issue.

1. **Before Listing** — Months 1 to 3
2. **Listing and Marketing** — Months 3 to 5
3. **Court Confirmation** — If required: 3 to 6 months
4. **Escrow and Closing** — About 30 days
5. **After Closing** — About 3 to 6 months

First Question: Does This Estate Need Full Probate?

Some estates can avoid full probate. These thresholds apply to deaths on or after April 1, 2025, and at least 40 days must pass after death.

Refer the family to a probate attorney to confirm eligibility.

- **$208,850 or less:** Heirs or beneficiaries may collect personal property (bank and investment accounts, vehicles) by affidavit, with no court case. This affidavit cannot transfer real property, but California real property the decedent owned generally counts toward the limit.
- **Primary residence up to $750,000:** May pass to heirs or beneficiaries through a simplified court petition instead of full probate.

1 Before Listing

Months 1 to 3

The property cannot be listed yet. Here is what happens first.

- **Petition filed.** The attorney files with the San Diego County Superior Court.
- **Hearing set.** In San Diego County, the first hearing is generally 15 to 45 days after filing. Notice is published and mailed.
- **Letters issued.** The court appoints the personal representative and issues Letters, giving authority to act. Letters often take longer than the first hearing.
- **Creditor period begins.** The four-month creditor claim period starts when Letters issue.

Agent Action

- Set realistic timing expectations with the family.
- Recommend a probate attorney if one has not been retained.
- Gather property details: condition, occupancy, liens, insurance.

Do not sign a listing agreement or begin marketing until Letters issue.

2 Listing and Marketing

Months 3 to 5

Once Letters issue, the personal representative has legal authority and the property can be listed. The sale process turns on one question.

Does the personal representative have full IAEA authority?

IAEA (Independent Administration of Estates Act) authority is granted by the court, not by the will, though a will can limit it. Ask about it early.

	YES Full IAEA authority	NO Court confirmation
Sale process	Notice of Proposed Action to heirs or beneficiaries (generally at least 15 days to object), then standard escrow	Court confirmation hearing with open overbidding
Timeline impact	Faster close	Often adds 3 to 6 months in San Diego County
Buyer experience	Normal offer	May be outbid at the hearing

Agent Action

- Without full IAEA authority, the court must approve an exclusive listing first.
- Each exclusive listing term is generally limited to 90 days. Extensions are allowed.
- Court-confirmed sales: the offer generally must be at least 90% of appraised value, and notice of sale must be published.
- Disclose probate status and use the C.A.R. Probate Advisory.

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3 Court Confirmation

Often 3 to 6 months

for a hearing

Applies only when the sale needs court confirmation: no full IAEA authority, or someone objects to the Notice of Proposed Action. With full IAEA authority, skip to Phase 4.

1. Report of sale and petition for confirmation filed
2. Notice of hearing
3. Court hearing and open overbidding

Overbid Formula

The first overbid must exceed the accepted offer by at least 10% of the first $10,000 plus 5% of the remainder above $10,000. Example: an $800,000 accepted offer requires a first overbid of at least $840,500. Later overbids follow increments set by the court, which confirms the sale to the highest bidder.

Agent Action

- Prepare your buyer for a possible overbid. They can raise their bid at the hearing.
- Overbidders need 10% of their bid in certified funds and proof of financing.
- The court sets the commission and may split it with the overbidder's agent.

4 Escrow and Closing

About 30 days

Once the sale is confirmed by the court, or completed under full IAEA authority, escrow proceeds much like a standard transaction, with some key differences:

- **Title transfers through the estate.** The personal representative signs the grant deed.
- **The probate attorney coordinates.** The attorney works with the title company on legal documents and court orders.
- **Sale proceeds go to the estate.** They do not go directly to individual heirs or beneficiaries.
- **Distribution comes later.** Beneficiaries are usually paid at final distribution.

Agent Action

- Escrow timelines are similar to standard sales once confirmation is complete.
- Remind the family that they will not receive sale proceeds at close of escrow.

5 After Closing

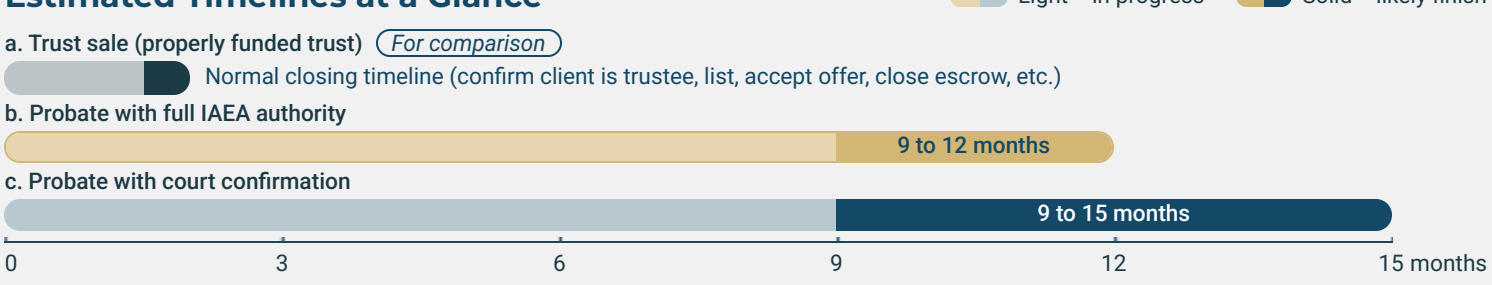
About 3 to 6 months

After close of escrow, the probate case continues. The personal representative must file a final accounting (unless waived by the beneficiaries), pay remaining debts and taxes, and petition the court for final distribution. Distribution cannot occur until the creditor claim period has run. **The family will not receive their share of the sale proceeds right after closing.**

When You Get the Call: 5 Things to Do First

1. **Confirm whether a probate attorney has been retained** and whether the petition has been filed. If not, this is step one for the family.
2. **Ask whether the personal representative has full IAEA authority.** This single question determines the sale process and timeline.
3. **Check title** to see how the property is vested and whether there are liens or encumbrances.
4. **Determine who is occupying the property** and whether they have a legal right to remain.
5. **Do not sign a listing agreement or begin marketing** until Letters Testamentary or Letters of Administration have been issued by the court.

Estimated Timelines at a Glance



Probate totals run from the petition through the creditor period and final distribution. The sale itself usually closes earlier.

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