

Rule 6004 - 1

Sale of Estate Property

(a) Notice and Hearing Required

A sale pursuant to 11 USC 363(b), including a sale free and clear of any interest of an entity other than the estate, is initiated by notice and hearing and is subject to LBR 2002 - 1. An action to determine the validity, priority, or extent of any interest of an entity other than the estate shall be brought separately as an adversary proceeding.

(b) Sale Free and Clear of Interests

- (1) If the property is to be sold free and clear pursuant to 11 USC 363(f) the notice of sale shall so state. The notice shall also state the estimated fair market value of the property without deductions for interests of entities other than the estate; list the amount of each lien or encumbrance claimed against the property and shall state the paragraph of 11 USC 363(f) under which the sale is authorized. If the proceeds of the sale appear to be insufficient to pay all liens and encumbrances claimed against the property, the notice shall state with specificity the liens and encumbrances which may not be paid from the sale proceeds, and shall also state briefly the necessity for the sale. Service of the notice shall be pursuant to FRBP 6004(c).
- (2) All interests in property sold free and clear shall attach to the proceeds of the sale, unless otherwise provided in the notice.

(c) Order

The Court will not, as a matter of course, enter an order approving or confirming an unopposed sale. A party moving for an unopposed order approving or confirming a sale shall support the motion with an affidavit or unsworn declaration under penalty of perjury showing the necessity for the order.

Note: This is just to clarify that the motion may be supported with either an affidavit or an unsworn declaration under penalty of perjury as permitted by 28 USC 1746.

Related Provisions

FRBP 2002(a)(2),(c)(1)	Notices of Sale
FRBP 6004	Use, Sale, or Lease of Property
FRBP 7004	Service
FRBP 9014	Contested Matters
11 USC 363	Use, Sale, or Lease of Property
11 USC 1107	Rights and Duties of Debtor in Possession
11 USC 1206	Sales of Property
11 USC 1303	Rights and Powers of Debtor
<u>28 USC 1746</u>	<u>Unsworn Declarations under penalty of perjury</u>