JUDGE VERONICA VASQUEZ

BEXAR COUNTY PROBATE COURT NO. 2
Bexar County Courthouse
100 Dolorosa Street, Room 123
San Antonio, Texas 78205

A Guide for Muniment of Title

CAUSE NO. _____ **-PC-**_____

GENERAL INFORMATION

Under Texas law, there is an option to probate a will called Muniment of Title, Estates Code Chapter 257. This allows for a shortened probate process that still allows the estate to transfer real estate without the longer administration process typically required by the Court. This type of probate can be appropriate when an individual dies testate (with a will) and there are no debts of the estate. The applicant must be able to swear on personal knowledge that there are no debts against the estate other than those secured by liens against real estate and that the decedent did not apply for or receive Medicaid benefits (see more on this below). Anyone falsely swearing that the estate has no creditors is subject to a perjury charge.

When probating a will as a Muniment of Title there is no administrator appointed. This type of probate cannot be used in cases where there must be an administrator appointed in order to settle the estate by gathering assets, liquidating them as necessary, paying off debts and creditors, and distributing the remainder of the estate to the beneficiaries. If there are investments, where out of state companies are involved, Muniment of Title is typically not recommended. **To determine if an Application for Muniment of Title is the appropriate form of probate for your particular situation, it is important to meet with a qualified attorney.**

COURT PROCESS

1. An application is filed with the county clerk.
2. The county clerk prepares and issues a citation, which is posted outside the courthouse for 10 days.
3. After the posting period there will be a hearing.
4. At the hearing, a witness will need to testify regarding the circumstances of the decedent and estate. The witness will then sign a document called a Proof of Death and Other Facts in the presence of the Clerk of the Court and an Oath of No Debts. The Court will then sign an Order probating the will as a Muniment of Title.
5. Your attorney will then advise you regarding any further steps you may need to take once the order is signed. For real property, the attorney will obtain certified copies of the Order Admitting the Will to Probate as a Muniment of Title and the Last Will and Testament of the Decedent and file them with the county clerk.

6. Unless waived by the court, an affidavit of fulfillment of terms must be filed within 180 days of the date that the will is admitted to probate. This explains the terms of the will that were fulfilled, and in some cases those that were not.

Your circumstances may require additional steps, which a qualified attorney can identify and explain to you.

APPLICANT'S REPORTING REQUIREMENT (Texas Estates Code 257.103)

Unless waived by the court, the applicant for probate of the will must file with the court clerk a sworn affidavit stating specifically the terms of the will that have been fulfilled and terms of the will that have been unfulfilled. **This affidavit must be filed before the 181st day after the will is admitted to probate as a muniment of title.**

MUNIMENT OF TITLE AND MEDICAID BENEFITS

In order to probate a will as a muniment of title, the decedent must not have owed any debts other than those secured by liens on real estate. If the decedent applied for and received Medicaid benefits on or after March 1, 2005, then the Medicaid Estate Recovery Program ("MERP") may have a claim against the estate, thus affecting a muniment of title application. If decedent received Medicaid you must also provide proof that the estate is not subject to a MERP claim. The Authorization and MERP Certification Form and instructions are located at https://hhs.texas.gov/sites/default/files//documents/services/aging/txmerpcertificationform.pdf

I acknowledge receipt of a copy of these instructions.

_____   _____
Printed Name   Date

_____
Signature