

**NOTE: PURSUANT TO S 80 OF THE PROTECTION OF PERSONAL AND
PROPERTY RIGHTS ACT 1988, ANY REPORT OF THIS PROCEEDING
MUST COMPLY WITH SS 11B TO 11D OF THE FAMILY COURTS ACT
1980. FOR FURTHER INFORMATION, PLEASE SEE
[HTTP://WWW.JUSTICE.GOVT.NZ/COURTS/FAMILY-
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**IN THE FAMILY COURT
AT HUTT VALLEY**

**FAM-2015-096-000356
[2016] NZFC 2206**

IN THE MATTER OF	THE PROTECTION OF PERSONAL AND PROPERTY RIGHTS ACT 1988
BETWEEN	CS Applicant
AND	MF Other Party
AND	CF Other Party
AND	AF Other Party
AND	JF Person In Respect of Whom the Application Is Made

Hearing: 15 March 2016

Appearances: Applicant appears in Person
K Pearce - for the Other Party MF
Other Party CF - appears in Person
Other Party AF - appears in Person
B Yeoman - for the Subject Person

Judgment: 15 March 2016

ORAL JUDGMENT OF JUDGE M N E O'DWYER

[1] These proceedings concern the subject person JF. She is represented today by Mr Yeoman her counsel. Also present in Court are Mrs JFs adult children, MF represented by Ms Pearce, CF who is in person and AF who is also in person. I also acknowledge the presence of the personnel from the Hutt Valley DHB, where Mrs F is residing.

[2] Mrs JF is resident in [name of residence deleted]. Unfortunately the issue of property management has not been able to be agreed. Considerable efforts have been made by family to reach an agreement but it has reached a point now where a decision needs to be made on this point. It is pressing because there are bills that need to be paid. The resthome is not receiving the necessary funds to meet the costs of Mrs JF. She is able to remain there because of the good professionalism of the resthome and their concern for her but this aspect needs to be remedied.

[3] There is an application before the Court for the Public Trust to be appointed as property manager. It has now been agreed by the family members that the role of property manager needs to be undertaken by an independent body. The issue being raised today is whether that should be the Public Trust or whether, as MF would prefer, it would be a law firm in the Wairarapa.

[4] Having heard all family members and Mr Yeoman on this point I consider it that it is preferable for Public Trust to be appointed as property manager for Mrs JF. I come to that decision for the following reasons. Firstly, the Public Trust have been approached in a proper way. They have given their consent. They are experienced in this area. They are local. They are in a position to act swiftly to understand the financial position for Mrs JF and act swiftly and efficiently to take the steps that are necessary for the home to be sold and for bills to be paid. I have no doubt that a law firm would also act efficiently and professionally. However, they are at a distance. They have not formally been approached. It is not clear whether they would be in a position to act as swiftly or as efficiently as can be done.

[5] It is likely that the home will be placed on the market for sale at a price recognising the current Government valuation. There will need to be a registered valuation. The current Government valuation is \$260,000. There will therefore need to be a direction to the property manager that the house can be sold for a figure above the specified amount.

[6] Given how long the proceedings have been before the Court this order now needs to be made in the interests of setting this for the subject person and her family members. I therefore make the following order:

- (a) The Public Trust are appointed as property manager on behalf of JF.
- (b) The Public Trust are directed to obtain a registered valuation of Mrs JF's home and are directed to sell the property at a price above the specified sum but no less than 10 percent under the registered valuation.
- (c) The Public Trust are to have the additional powers set out in paragraph 57 of Mr Yeoman's memorandum to the Court paragraph 57 of 9 December 2015.
- (d) The order is to be dated today, 15 March 2016. The order is to be reviewed within three years, 15 March 2019.
- (e) In the event of an appeal there is to be no stay on this order.
- (f) In the event there are any directions required by Public Trust in respect to implementing any aspects of the property management order leave is given to the Public Trust to bring the matter back to Court for further directions.

M N E O'Dwyer
Family Court Judge