# 6-27/300.00 Notice of Sale

When a notice of sale is required to be posted in a public place, “public place” means such a place that an advertisement posted in it would be likely to attract general attention so that its contents might reasonably be expected to become a matter of notoriety in the vicinity. Where a notice is required to be posted in three public places, posting in different entrances of the same building does not satisfy the statute as a building and its surrounding areas constitute one public place. (Standley v. Knapp, 113 CA 91 – citation available through CMB Operations)

The failure of the levying officer to properly give notice of sale does not invalidate the sale, but it does make the officer liable to the judgment creditor and the judgment debtor for actual damages caused by failure to give notice. (CCP 701.560)

A sale of personal property of an individual may not take place until the expiration of the time during which the judgment debtor may make a claim of exemption. (CCP 701.530(d))

---

## • 6-27/310.00 Personal Property

Not less than 10 days before a sale of personal property, the levying officer shall serve a copy of the Notice of Sale on the judgment debtor either personally or by mail. (CCP 701.530(a)) The provisions of CCP 684.120 extending time when service is by mail do not apply to this service. Although not required by statute, a copy of the notice of sale should also be served either personally or by mail on the judgment creditor’s attorney, if the judgment creditor is represented by an attorney; if not, then on the judgment creditor.

The Notice of Sale shall be in writing and state the following:

- The date, time, and place of sale (CCP 701.530(a))
- Describe the property to be sold. (CCP 701.530(a))
- Contain a statement that prospective bidders should refer to CCP 701.510 to 701.680, inclusive, for provisions governing the terms, conditions, and effect of the sale and the liability of defaulting bidders. (CCP 701.547)

A copy of the Notice of Sale shall be posted in three public places in the city in which the property is to be sold, or, if the property is not to be sold in a city, in the judicial district in which the property is to be sold. (CCP 701.530(c)) A copy of the Notice of Sale shall also be posted on the civil website (civil.lasd.org).

---

## • 6-27/320.00 Alcoholic Beverages

BPC 23104.5 specifically proscribes the sale of alcoholic beverages to anyone other than a licensee authorized to sell such beverages. There is an exception to this rule in the case of bottled wine if a temporary license is obtained as provided in BPC 24045.8. These restrictions must be indicated in the Notice of Sale.

---

## • 6-27/330.00 Corporate Stock

The Notice of Sale regarding corporate stock must also include the number of shares. There is no excuse that the creditor cannot obtain the necessary information because the ability and right to obtain the information is available through supplemental proceedings after the levy and prior to the sale. (Baar v. Smith, 97 CA 398) The holding in this case should not be limited to corporate stock cases, but should be cited for the requirement of an adequate description of property to be sold on all sale notices. The levying officer is exempt from statutory restrictions on the sale and transfer of such property. (CORP 25104(f))

---

## • 6-27/340.00 Restricted Items

Absent statutory provisions, it would appear that the sale of any restricted item, such as prescription drugs or concealable firearms, should be limited to purchasers who are licensed to sell such items, and such fact should be stated in the notice of sale.

---

## • 6-27/350.00 Perishable Property

If the court determines that property levied upon is perishable or will greatly deteriorate or greatly depreciate in value, or for other reasons the interest of the parties will be best served, the court may make an order that the levying officer take any action necessary to preserve the value of the property. The order may be made upon application of the judgment creditor, judgment debtor, or a person who has filed a third party claim. (CCP 699.070(a))

If the levying officer determines that property levied upon is extremely perishable or will greatly deteriorate or greatly depreciate in value before a court order can be obtained, the levying, officer may take any action necessary to preserve the value of the property or may sell the property. The levying officer is not liable for a determination under these provisions made in good faith. (CCP 699.070(b)) Since the statutes only allow the levying officer to unilaterally take action to preserve the value of the property in cases where action is necessary to be taken before a court order can be obtained, and the court may hear the matter ex parte, it should be under extremely rare circumstances that the levying officer takes action without a court order.

In the event that the levying officer determines a sale is necessary, or the court orders a sale, unless the court order provides otherwise, the sale shall be conducted in the same manner as sales generally. The posting of sale notices is still required; the only difference is the notices must only be posted and served a reasonable time prior to the sale considering the character and condition of the property, and the sale may take place prior to the expiration of the time during which the judgment debtor may file a claim of exemption. (CCP 699.070(c))

If fruit or vegetables are to be sold, contact Los Angeles County Agricultural Commissioner.

In order to provide an opportunity to file a claim of exemption, a sale of personal property of an individual may not take place until the expiration of 10 days after the date the notice of levy on the property was served on the judgment debtor. If the notice of levy is served by mail, the 10 days is extended by the appropriate mail time pursuant to CCP 684.120. (CCP 701.530)

## • 6-27/360.00 Real Property

At least 30 days after the levy, the judgment creditor shall determine the names of all persons having liens of record in the office of the county recorder on the property on the date of levy and shall instruct the levying officer to mail notice of sale to each such person at the address used by the county recorder for the return of the instrument creating the person's lien after recording. (CCP 701.540(h))

A Notice of Sale of an interest in real property, other than a leasehold estate with an unexpired term of less than two years at the time of levy, may not be given until the expiration of 120 days after the date notice of levy was served on the judgment debtor. (CCP 701.545)

The Notice of Sale of an interest in real property shall be in writing and state the following:

- The date, time, and place of sale (CCP 701.540(a))
- Describe the interest to be sold, and shall give a legal description of the real property and its street address or other common designation, if any. [If the property has no street address or other common designation, the levying officer may either include directions to the property in the notice, or include a statement in the notice that the officer will provide directions upon written or oral request. Directions are sufficient if information as to the location of the property is given by reference to the direction and approximate distance from the nearest crossroads, frontage road, or access road. If an accurate legal description of the property is given, the validity of the notice and sale is not affected by the fact that the street address or other common designation, or directions to its location are erroneous or omitted. (CCP 701.540(a)) A description is sufficient if it describes the property so that the notices given will enable the deputy and others to identify the land. A defect or variance in such descriptions is not fatal if nobody could be misled thereby, and the precise parcel of land can be readily ascertained from the description. (Godfrey v. Monroe, 101 CA 224, 228; Bateman v. Kellogg, 59 CA 464) Where maps, plats or field notes are referred to in a description, they are to be regarded as incorporated in the description and a part of it. (Swarzwald v. Cooley, 39 CA 2d 306)]
- Contain a statement that prospective bidders should refer to CCP 701.510 to 701.680, inclusive, for provisions governing the terms, conditions, and effect of the sale and the liability of defaulting bidders. (CCP 701.547)

Not less than 20 days before the date of sale (CCP 701.540(b), the levying officer shall provide a Notice of Sale shall in the following manner (The provisions of CCP 684.120 extending time when service is by mail do not apply to this service):

- Serve the judgment debtor either personally or by mail (CCP 701.540(c)
- Although not required by statute, a copy of the Notice of Sale should also be served either personally or by mail on the judgment creditor's attorney, if the judgment creditor is represented by an attorney; if not, then on the judgment creditor
- Personally serve an occupant (CCP 701.540(e)
    - In the occupant's absence, with any person of suitable age and discretion on the property who is either an employee or agent of the occupant or a member of the occupant's household
    - If an occupant cannot be served, no further attempts are required

- Post in a conspicuous place on the property (CCP 701.540(d)(2) If a leasehold estate is to be sold, the notice must be posted on the portion of the property covered by the lease
- Post in one public place in the city in which the interest in the real property is to be sold if it is to be sold in a city or, if not to be sold in a city, one public place in the county in which the interest in the real property is to be sold (CCP 701.540(d)(1)
- Mail to each person having a recorded lien on the property on the date of levy as instructed by the judgment creditor (CCP 701.540(h)
- Publish in a newspaper of general circulation (as defined in GC 6008) in the city which the real property or a part thereof is situated (CCP 701.540(g)
    - if not within a city, in the judicial district* in which the property or a portion thereof is situated
    - If no newspaper of general circulation is published in the city or judicial district*, notice of sale shall be published in a newspaper of general circulation in the county in which the real property or a portion there of is situated
- Publication of the notice shall be once a week for three successive weeks in a newspaper regularly published at least once a week, with at least five days intervening between the respective publication dates not counting such publication dates. (GC 6063) [GC 6041, 6042 are covered regarding the Sheriff as an elected official having jurisdiction in all of the county.]
- A copy of the Notice of Sale shall also be posted on the civil website (civil.lasd.org).

If the property described in the notice of sale consists of more than one distinct lot, parcel, or governmental subdivision, and any of the lots, parcels, or governmental subdivisions lies with relation to any of the others so as to form one or more continuous, unbroken tracts, only one posting of the property and one service on an occupant is required as to each continuous, unbroken tract. (CCP 701.540(f)

In addition to the required publication, the officer may publish the notice of sale in a newspaper of general circulation published outside the officer's jurisdiction if the officer determines that a substantial number of residents within the officer's jurisdiction would benefit therefrom, and funds have specifically been made available for such purpose. (GC 6041.1)

*GC 6082 – Public Notice Districts

[Former section GC 71042.5 - Notwithstanding any other provision of law, where judicial districts in a county have been consolidated, or where the municipal and superior courts in a county have unified, the territory embraced within the respective prior component judicial districts shall be separate judicial districts for the purpose of publication within a judicial district.]

## • 6-27/370.00 Additional Notices of Sale

In addition providing Notices of Sale as required above, the levying officer shall, at the time of posting of notices of a real or personal property sale, mail a Notice of Sale to any person who.

- As noted on Item #7(b), persons requesting a Notice of Sale appearing on item #23 of the Writ of

Execution (EJ-130) (CCP 701.550(b)

- After a levy, any person who files a request with the levying officer for a Notice of Sale. The request shall contain the information specified by the levying officer as needed in order to comply with the request. (CCP 701.550(c)