501B.48 WHEN PETITION MAY BE GRANTED.

Subdivision 1. **Petition under section 501B.46.** The court to which a petition to sell, mortgage, or lease has been made under section 501B.46 may grant the petition, on terms it considers appropriate, if the court determines that:

(1) if the interest in real property were owned in fee simple or absolute ownership by a single individual, a sale or mortgage of the interest would be desirable because total investment returns, including appreciation and the value of any use of the real property by trust beneficiaries, were inadequate; or

(2) an order directing a sale or mortgage would be economically advantageous to the trust beneficiaries to whom trust income is distributable or may be distributed and would not be seriously disadvantageous to any trust beneficiary.

The court to which a petition to lease has been made under section 501B.46 may grant the petition on terms it considers appropriate, even though the term of the lease may extend beyond the term of the trust, if the court determines that an order directing a lease would be economically advantageous to the trust beneficiaries to whom trust income is distributable or may be distributed and would not be seriously disadvantageous to any trust beneficiary.

Subd. 2. **Petition under section 501B.47.** The court to which a petition to sell or mortgage has been made under section 501B.47 may grant the petition on terms it considers appropriate if the court determines that:

(1) were the real property held in trust for the owners of the possessory and future interests in the property, retention of the real property by the trustee without the sale or mortgage would be inconsistent with a trustee's common law duty to administer the trust impartially as between the holders of successive interests in income and principal;

(2) if the interest in real property were owned in fee simple or absolute ownership by a single individual, a sale or mortgage of the interest would be desirable because total investment returns, including appreciation and the value of any use of the real property by possessory owners, were inadequate; or

(3) an order directing a sale or mortgage would be economically advantageous to the owners of possessory interests in the real property and would not be seriously disadvantageous to the owner of any interest in the property.

The court to which a petition to lease has been made under section 501B.47 may grant the petition on terms it considers appropriate, even though the term of the lease may extend beyond the duration of the possessory interests in the real property, if the court determines that an order directing a lease would be economically advantageous to the owners of possessory interests in the real property and would not be seriously disadvantageous to the owner of any interest in the property.

History: *1989 c 340 art 1 s 40*