



I Need a New Deed

It's one of the most common phone calls we receive. "Hi, I'd like to schedule a meeting because I need to add my child's name to my deed." Our job upon hearing comments like this one is to help evaluate the ultimate goal, point out consequences that could result from creating a joint or new owner, and propose solutions that minimize potential risks.

Generally, real estate can be passed to another generation in three ways; selling outright to a family member, gifting to a family member while you're still living, or bequeathing to a family member after your passing. Sometimes these options are considered because the owner of the real estate wishes to benefit family members with an inheritance, but they have heard myths about long-term care and are worried they will lose their real estate to those costs, eliminating the legacy they planned for their family.

With the above-mentioned concern in mind, the following are three common transfers of real estate ownership and the possible dangers with each:

Selling outright to a family member: The myths surrounding long-term care costs drive some people to take a do-it-yourself approach to getting their assets out of their name. A person who makes the decision to sell might do so because they are aware that gifting their assets could have negative consequences related to long-term care payor sources.

Let's create the example that grandmom sells her home to her grandson. In this scenario she has been successful in removing her home from her name, but she now has cash proceeds that still need to be strategically sheltered from long-term care costs.

Depending on the details of the sale, a tax professional might weigh in with concerns about a gift of equity and capital gains implications. Grandson could face additional scrutiny from his lender just to ensure the validity of the sale between related parties.

WHAT'S THE POINT? SEEK EXPERT COUNSEL.

It's also possible that the transaction could create familial strains. What if grandmom wanted to benefit more family members, but grandson was the only person with the financial means or interest in making the purchase?

If the sale was made to protect the home from long-term care costs, there's a better way.

Gifting to a family member during life: Continuing with the ideas and example above, let's pretend grandmom gave her home to her grandson by way of deeding the home in his name.

Grandmom was savvy enough to know that she needs to be under resourced to qualify for long-term care payor sources, but didn't realize that the gift, if made within five years of needing care, still creates a barrier to being eligible for programs like Medicaid. Now, the same strategic legal planning is still needed. This discussion also applies to the idea of adding grandson as a joint owner.

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Some of the same concerns in our first example apply here, too. Could this create a familial strain because grandson is the only beneficiary of this part of her legacy? And what's happening with grandmom's personal property, like furniture or sentimental items?

In both scenarios grandmom is also at the mercy of grandson. What if the intention was to complete the transaction, but that grandmom would continue living there for the rest of her life. Grandson is now in full legal control of the home and who lives there. If he were to "kick her out" there would be no legal recourse because he's the sole legal owner. While some readers roll their eyes at the absurdity that grandson would kick grandmom out, rest assured that this sad scenario happens.

Additionally, grandson has missed out on a step-up in basis. If grandson ever sells grandmom's home, he will pay capital gains taxes on the difference between the sale price and the value of the property at the time grandmom acquired it.

If the gift was made to protect the home from long-term care costs, there's a better way.

Bequeathing to a family member after death: The most traditional legal document used to direct assets after death is a Last Will and Testament. This would cure several concerns in our examples above. Grandmom would retain control of the property during her life, the document would state who she wishes to receive her assets and personal property after her death, and the recipients would receive a stepped-up basis in the value of the home.

An even better solution would be for grandmom to use a Revocable Living Trust as her end-of-life legal planning document, capturing the benefits of a Will named above, but adding the benefit that her properly funded trust would avoid the lengthy, public, and expensive process of probate.

How would these solutions help grandmom plan for the possibility of long-term care needs and costs? They wouldn't. That goal would encourage grandmom to add an Irrevocable Asset Protection Trust to her overall estate plan. This trust provides the benefits of the first two end-of-life documents mentioned here, but any assets titled in this trust, like her home, would after five years be protected from the costs of long-term care. Although she'd give up some control of the assets to receive this incredible benefit, she'd retain full rights to live in the home and would select the Trustee(s) to manage the trust assets in her best interests. She'd also state what happens to the trust assets at her death.

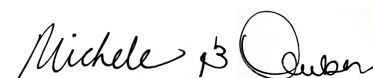
What's the point? Counsel. Without seeking experienced counsel, families miss opportunities to protect themselves, the people they love, and to achieve their ultimate goals, like taking care of their family when they die. Rather than spending energy crafting a do-it-yourself plan, use that energy to get specific in identifying your goals. Then, depend on an expert to guide you through the best solutions to get you there.

If you have a do-it-yourself estate plan, there's a better way.

We can help.

A note from the attorneys...

As business owners, one thing we constantly evaluate is our success. We define success as our ability to consistently lead and build a team of highly successful people. Success isn't something you fall into, we certainly didn't. We've worked hard to hone our professional skills, dedicate time to mindful thinking, and become invested leaders. As we begin the final quarter of another year, we celebrate the ninth anniversary of our second office, and average tenure of 6 years per team member. That's success!



TIME OUT — STAFF PROFILE

Mindi K. Cooper
Estate Planning Coordinator



ON THE CLOCK:

Mindi is a local girl, born and raised in Millsboro, Delaware and a graduate of Sussex Central High School. In April 2016, Mindi joined the Procino-Wells & Woodland team in our Lewes office. Today she supports the Seaford office as an Estate

Planning Coordinator.

OFF THE CLOCK: Mindi lives in the Denton area with her husband, Connor, their sons, Croix and Banks, and their four legged sons, Myles and Mack. In her spare time, Mindi enjoys spending time with family, going to the beach, and traveling, but in all reality her free time gets used playing with tractors and dump trucks in the dirt!

UPCOMING EVENTS

- | | |
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| 4 | CARES Member Exclusive Appreciation Event |
| Oct | 3:30 - 6:30 p.m.
Franford, DE |
| 23* | Offices Closed |
| Nov | Thanksgiving Break
*Also closed November 24th |
| 2 | CARES Member Exclusive Trustee School |
| Dec | Noon - 1:30 p.m.
via GoToWebinar |
| 25* | Offices Closed |
| Dec | Holiday Break
*Closed through January 7th |
| 17 | Elder Law Workshop |
| Jan | 5:30 - 7:00 p.m.
Lewes Senior Center |

LEGAL MUMBO JUMBO

Legal Language in Layman's Terms

INHERITED IRA

An individual retirement account opened when you inherit a retirement account upon the death of the owner. These require careful counsel from an attorney, financial planner, and accountant.

BELLA'S BRIEF

The Office from a Dog's Perspective



With the dog days of summer behind us you might think that I'd be in a cooling off period. Not so. In fact, I'm pretty fired up about the latest corruption in our White House and the FBI files revealing a conversation where one of the cast of characters is being described as dumber than a dog. I reject the notion that my identity is part of a hierarchical model of species. Homo sapiens generally like classifications because it simplifies their understanding of things. I think a little education and digging on your own would legitimize and separate facts from disinformation. I like people who want to learn. So, if you're curious, the expression 'dog days' has nothing to do with man's best friend and everything to do with the stars. During the sticky, hot days of summer, Sirius, the brightest star visible from earth, and the sun share the same region in the sky. Sirius, or colloquially known as Dog Star, was part of the constellation Canis Major, the Greater Dog. The expression itself is a translation from the Latin term caniculares dies. Allow me to summarize, I am a rising star. I am the brightest star. I have influence on other seasons. I am The Dog Star.

xoxo Bella 

PWW FRIDGE-WORTHY

To celebrate National Grandparents Day on September 10th, we issued a contest encouraging local grandchildren to nominate The Grandest Grandparent. The challenge was to submit an essay describing the wonderful qualities of the best grandparents around.

Our contest winners are **Laurence and Janice Riggs** who were nominated in *two* submission essays. Below is an excerpt from their grandson's submission:

My name is Gregory Riggs, and my grandparents are Laurence & Janice Riggs from Smyrna, DE. I nominate them as the grandest grandparents. The love I have for my grandparents is out of this world.

I'm their first grandson. I was born with Sickle Cell Beta-Thalassemia Plus disease. During my first seizure, my grandfather saved my life. Pop-Pop and I have been stuck together ever since. When we're able to visit with each other we spend a lot of time hanging out. We even sometimes match our clothes.

Most people think he's my dad, because that's how I look up to him. He shows me what a man is supposed to be in every area of my life. His military background shows when he teaches me to always put my best foot forward and show that I know how to act. He helps me with school and life lessons I should know as a young man. He is the true meaning of a man of God, grandfather, father and human being.

G-mom is my buddy and no one can break that bond. We both share the same nickname J.R.. Now that I'm driving, I take her anywhere she wants to go and when I was a little boy, we talked every morning on the phone.

I've spent almost every summer and major holiday with my grandparents. We love going to Philly, and we've even traveled out of the country. They have showed me who God is by taking me to church and teaching me how to have a relationship with Him.

My grandparents are the true meaning of unconditional love, friendship, discipline and compassion. I wouldn't trade them for the whole world. I love them and I hope I will continue to make them proud. I hope I will be able to give back to them as much as they have given to me.



Congratulations to our PWW Law School Student Scholarship recipients! We're excited to award McKenna Longo and Mira Prisco with a contribution to their law school expenses in the 2023–2024 school year. We applaud these future stars in the legal industry!



OFF THE CLOCK

We would like to thank our featured referrer of the month:



**PACE
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