

2016

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## **Ladybird deeds**

Many of you have come into my office and asked about the lady bird deed. The lady bird deed is a type of deed whereby the original owners maintain complete ownership with the right to sell, convey, gift or otherwise transfer or dispose of the property during the owners lifetime. At the original owners' death, the lady bird deed passes ownership to a named beneficiary on the deed. The beneficiary can also be your Living Trust.

The ladybird deed has been used as a common Medicaid planning tool as it allows the original owner to continue to own the property, without affecting his or her rights to qualify for Medicaid. At the time of the owners death, the property passes outside of probate and prevents the property from any attachment under the Medicaid estate recovery laws. In addition to the deed being used for Medicaid planning, a ladybird deed can also be used to transfer the property to a specific child or beneficiary. However, keep in mind that the ladybird deed does not allow you the same options or flexibility as a revocable Living Trust.

For example, a ladybird deed transferring ownership at death to multiple beneficiaries does not allow you the option to pass ownership to the issue of a deceased beneficiary. Whereas, if the property passes into a Living Trust, the Trust can provide that if a beneficiary predeceases you, his or her portion passes to their issue (your beneficiary's children). Keep in mind that if you use a ladybird deed to pass property to multiple people, those people may all have to agree to transfer or sell the property and if one of the joint owners is not willing to cooperate, the owners may find themselves in court. You need to also keep in mind that if you name a beneficiary on the lady bird deed and that beneficiary predeceases you, the property reverts back to you or your estate, potentially causing the property to pass through probate. The ladybird deed does not give you the options that a Living Trust would provide. For example, with a Living Trust you can provide that the property passes to your beneficiaries and in the event a beneficiary predeceases you, the deceased beneficiary's portion would pass to his or her issue. The ladybird deed is a very useful estate planning tool, but it may not solve all of your estate planning needs.

## **Tangible Personal Property...Why I am saving it ?**

Tangible personal property has become a huge family problem over the years. Personal property can be anything from household belongings, antiques and collectibles , coins, jewelry and guns. In most of the estate plans that I draft, I provide that the tangible personal property is to be divided amongst a group of designated beneficiaries. However, many times those beneficiaries cannot agree on who is to receive specific items and in many cases arguments occur over the fairness or equality of how those assets are divided.

When it comes to disposing of tangible personal property, most of us have a handful of items that are very important to us and the balance of our personal property is just "stuff". My suggestion is that you do one of two things: 1) sit down and make a handwritten list of those things that are important to you and identify who should

receive each item (this list needs to be in your own handwriting, signed and dated), alternatively 2), if you are not enjoying or using the personal property consider giving it away NOW. So many of my clients talk about how their jewelry sits in a safe deposit box or how they haven't used their guns for many years. Now is the time to give those items to your beneficiary. It not only ensures that it gets to the right person, but it also allows that beneficiary to begin enjoying it well before your death. If you chose to set up a handwritten list now, please feel free to provide a copy to my office.

## The Dating Game

As many of you may know, or you may have surmised from the name change and the firm name change, I am no longer married. Although I have been fairly private about my personal life, it is truly no longer a secret. I was divorced almost six years ago. At the age of 43, I found myself single after being with the same man for over 17 years. At the time, it was a tough situation to find myself in and the difficulty of finding a new “mate” at that age seemed insurmountable. In the end, I was fortunate to meet a lovely man almost three years ago.

Why am I telling you this? Because so many of my clients over the last couple of years have openly shared with me their difficulty in finding a new “mate”. Statistically, many of my clients are divorced or widowed. Over the years, many of these clients have confided in me and have actually asked me to help them find this new mate. Even those of you who are happily married, are aware of the struggles that many of our family and friends have encountered in finding someone to share their life with. We are all guilty of the “set up” at one time or another.

This may sound a little strange for an estate planning attorney to get involved in, but I truly do enjoy and care for my clients and I want everyone to find happiness. This project has been on my heart for some time. It has just taken the right amount of courage to initiate it. I have decided to put together a simple dating questionnaire (with the help of my friends who have been on all the dating sites) to be completed by any client that is interested. That “profile” will be maintained at my office. The completed questionnaires will be available for review by any other single clients of mine. **This will be for clients only.**

I am not going to go into detail in this newsletter as to how things will be handled as it does not apply to everyone receiving this newsletter. This year I celebrate 25 years of practicing law in Kalamazoo and Southwest Michigan and I am blessed by a great group of clients. This is my small way of giving back to some of you. There is no fee for this process, it is a courtesy of being my client. My theory is simple, kind of like the line in the movie **“It’s a Wonderful Life”** - *If just one angel gets its wings, it will be a success!*

For more information on how this process will work, please call or email my office and we will in turn email you some additional information.

## A Change In Circumstances

In each of my annual newsletters, I try to remind all of my clients to contact our office if there has been a change in circumstances. This will allow us to determine if we need to update your estate plan or your file. Over the years, we have received phone calls from the children of our clients asking for copies of medical and financial powers of attorney. This leads us to believe that many of you are not providing those individuals with copies of your documents. When we receive a call from your power of attorney or patient advocate, we will typically provide them with a PDF of the document to help assist them with whatever situation they may be facing on your behalf.

The same is not true if your Trustee or Executor contacts us. If your Trustee or Administrator contacts us and

requests a copy of your Will or your Trust, we will require proof of our client's incapacity and/or death. We do not provide copies of your Will and Trust upon request for the simple fact that they are private documents that can be amended up until your date of death (assuming you are competent) and you may choose to change the terms of the agreement in the future. It is your obligation to provide a copy of your Will or your Trust to your Trustee and/or Administrator prior to your death. We are hoping that this newsletter will serve as a reminder to: **1)** review your estate planning documents periodically; **2)** review the change in circumstance list below to determine if an update is needed; **3)** get copies of your estate planning documents to the people that you have designated; and **4)** sit down and review the documents with them, discuss your intentions and address any other questions that they may have.

**Common changes in circumstances that justify a call/email to my office:**

Birth /Death/ Change of employment/ Inheritance/ Change in medical condition/ Change in family relationships/Marriage/ Divorce/ Separation/ Change of address/ Recent disability of a beneficiary/ Updated address or contact information for your trustee, power of attorney or medical advocate

**Burial and Cremation**

Too many people assume that their family members know what they want and ultimately their wishes may not be honored. Many families are grieving at the time of death and the process of arranging a funeral service or burial is not something that they are thinking clearly about or even able to process. It is important to address this issue with your family well before a medical emergency or death occurs. For example, there is the issue of burial versus cremation, service or no service, organ donation or donate your body to science, and the list goes on.

On a more important note, it is also important to understand the laws regarding cremation. Most people think that if they prepay for cremation, their wishes will be honored. That is currently not true in the State of Michigan. In Michigan, in order to be cremated your next of kin must approve the cremation. For example, if you are married and you are the first to die, your spouse has permission to authorize cremation. If you are not married, a majority of your adult children must approve your cremation. If you are not married and do not have children, your next of kin are your parents, if living, and if not, a majority of your siblings. If you cannot get the necessary signatures for cremation, **you will be buried**. When it comes to any estate planning issue, verbally telling your family what you want may not be enough. Putting it in writing is the best way to ensure your wishes will be honored. Obviously, the best way to address this matter is to sit down with a local funeral home and review your options and then openly discuss those wishes with your family. This pre-planning process will answer many of the questions you or your family may have about choices at the time of death.

**Once again, thank you for your business and for all of the referrals you send to my office. I look forward to serving you for many years to come! And as always, don't forget to keep listening to my radio shows on Tuesday morning at 7:50 a.m. on AM 590 WKZO or on Thursday evening at 5:20 p.m. on the True Oldies Cool 101.**