

ELDER LAW REVIEW

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Estate Planning and Spring Cleaning!

It's getting beautiful outside, the tulips will soon be blooming and suddenly you will get the urge to do a little spring cleaning. While cleaning out those drawers, or straightening up that closet, maybe you stumbled across your Will. Take a good look at the date of that Will. How old is it? Five, ten, maybe even twenty years old? A few questions you should be asking: Has anything in my life changed since I signed this? Do I still want the same things? Do I have minor children?

Something to ponder is the fact that a Will is necessary if your estate is going through Probate. Probate is the legal process of transferring ownership of your assets. A Will is basically a letter to the judge letting him/her know what your wishes are for your assets. A Will designates your Personal Representative, a fiduciary who helps the Attorney or Judge gather documentation and disperse assets. Additionally, a Will designates who is to receive your property, how they are to receive the property and how often. Based on the circumstances and the drafting of the Will, a judge may not have to abide by your wishes.

There are many myths about Probate. Probate is not a horrible process. Probate is the route to take if you have minor children or wish that the distribution of your assets is overseen by a judge. However, the Probate process can be costly and lengthy.

Today, there are options that can avoid the Probate process. As long as assets are owned jointly or have a beneficiary designation, that asset will transfer outside of the Probate process. One way to avoid probate is to put POD (Payable on Death) or TOD

(Transfer on Death) on all your cash accounts. This is free at almost all financial institutions. You also want to make sure you have beneficiary designations on all other policies (life insurance, retirement accounts, stocks, bonds, etc.). Cash assets without a beneficiary designation valued at over \$50,000 or individually owned real estate property, regardless of value, is required by Minnesota Law to pass through Probate.

On August 1, 2008, a new law went into effect allowing a person to transfer real estate property outside of Probate using a Transfer on Death Deed ("TODD"). A TODD works the same way as a beneficiary designation on a cash account. The beneficiary has no rights to the property during your lifetime, but upon your death, the property transfers to the named individual(s). Unlike other deeds, a TODD is a revocable document allowing the owner to change their mind during their lifetime and amend or revoke the TODD.

While you are spring cleaning this year, just think of all the money and headaches you could save by doing Probate Avoidance. Call Pluto Legal, PLLC for a no cost consultation today!

We have many educational workshops coming up, so please give us a call at 1-866-457-3131 or check our website www.plutolegal.com to see if we will be in your area!
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