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Legal Bytes

Wisconsin Summer Daze At the Lake By Attorney John L. Maier, Jr.

Many of us dream of owning a lake home or a cabin in the woods. There is a certain sense of freedom in knowing that you have a place to escape the stresses and the worries of ordinary life. A place where you can go and indulge yourself and do whatever you like to do and whether that is taking a stroll beside a woodland stream, fishing, water skiing, or just enjoying watching the sun disappear behind the horizon, no one is there to say "NO". There is also a certain sense of security knowing that you have something special to share with future generations down the road.

The "getaway" experience is synonymous with family. Whether the setting is rustic or grandiose, it is a treasured gathering place and a common thread, binding multiple family generations. Now that the summer season is here, I would encourage you to take the time to think about the future of your family's private hideaway. Do you have a plan in place for the management and operation of your property if you should become incapacitated or pass away?

Unless you want your getaway sold when you die, a proper succession plan is essential in order to pass ownership of the family cabin down to the next generation. I've seen too many situations where family members ended up suing one another, after their parents died because there was no plan established for future use and they couldn't agree among themselves. Thus the formerly idyllic lake cabin became a war zone!

There are five steps that we can work on with you in determining what kind of cabin succession plan is right for you and your own family's situation:

These five steps are:

1. Understanding your vision in cabin succession goals.
2. Communicating with family members about the cabin, and your goals.
3. Decisions and legal drafting.
4. Funding your cabin succession plan.
5. Plan implementation.

The most important thing that a well thought out succession plan can do is help you avoid a "family feud." A succession plan will help alleviate problems by putting a clear structure in place for the family members to follow. There are many alternative ways to establish a cabin succession plan. One common way is through the use of Cabin Trust. The Cabin Trust would take title to the property, which would then be operated and managed according to written rules you establish. A Trustee is named to act as a "watch dog" over the cabin property. The Trustee has significant discretion to determine the logistics of managing and operating the property, and pays bills out of a trust fund.

A second way is through the use of a Limited Liability Company ("LLC"). In a Limited Liability Company scenario title to the property is conveyed to the LLC. The owners of the LLC (called "members") can elect a board of governors or managers, who will serve a similar function as a Trustee. However, the Limited Liability Company structure is far more democratic, because it allows for voting by the Members for certain significant decisions. Titling the property in the LLC also serves to limit liability claims to the property owned by the LLC, and cut-off liability claims against the individual member/owners of the LLC. A successful cabin succession plan involves the balancing of many competing interests around a legal framework that represents the vision of the founding owners. Even if you put the time in to discuss the situation with your family, it may turn out that the best thing to do is sell at the time of your death, but you won't know unless you try. Don't let yourself live with the regret of never even trying.

For more information, call us at 262-723-5380. We'd be happy to discuss your needs.



Deep summer finds respect-



is when laziness ability. Sam Keen

They Served Our Country: Veteran Benefits

We owe them our thanks. And we owe them proper care once their time of service has ended.

Written by Terri Maier

The year was 1941 and the Japanese had just attacked Pearl Harbor when my dad enlisted in the Navy as a machinist-mate first class. One year later, he volunteered for a new program; Underwater Demolition Team (**UDT**) which was an elite special-purpose force established by the US Navy during WWII. Their primary function was to reconnoiter and destroy enemy defensive obstacles on beaches prior to amphibious landings.

The UDTs reconnoitered beaches and the waters just offshore, locating reefs, rocks, and shoals that would interfere with landing craft. They also used explosives to demolish underwater obstacles planted by the enemy. As the U.S. Navy's elite combat swimmers, they were employed to breach the cables and nets protecting enemy harbors, plant limpet mines on enemy ships, and locate and mark mines for clearing by minesweepers. They also conducted river surveys and foreign military training.

In 1983, the UDTs were re-designated "Swimmer Delivery Vehicle Teams" (SDVTs). SDVTs have since been re-designated SEAL Delivery Vehicle Teams.

After training at Navy Pier in Chicago, Dad's job was to work in engine rooms on an LST with screaming diesel engines and later on a UDT working with dynamite, both without ear protection from the Navy. When his service commitment ended, in 1947, dad had a very profound hearing loss in both ears. Dad says, with a shrug, "That's how it was. You were in the Navy and you did what they told you to do." My dad will be 90 this year and I have been looking into Assisted Living facilities for my parents. In the process of touring various facilities I was repeatedly asked if my dad was a veteran, because he and my mother may be qualified for some benefits to help them pay for assisted living. This was news to us! My next stop was the VA and this is what my dad and I found out.

Many qualified veterans are not aware of medical, compensation and/or pension benefits to which they are entitled. Surviving spouses and dependents of deceased veterans may also be eligible for benefits.



"The highest reward for a man's toil is not what he gets for it but what he becomes from it."



Of particular importance to those individuals faced with the costs of long-term care, veteran benefits may be available to provide home care, assisted living care, and nursing home care. *Health care benefits* may be available.

However, veterans with service connected disabilities have the highest priority, followed by those with special care requirements and limited resources. Health care benefit programs include prescription benefits, hospital care, outpatient care, emergency care in VA and non-VA facilities, comprehensive rehabilitative services, home health services, respite care, geriatric and extended care, mental health services and dental care. My dad qualified for a 60% service related disability for his hearing loss which translated into a monthly stipend of \$1064/month tax free, plus free hearing aids, batteries, and healthcare. He and my mother will also qualify for financial assistance for the assisted living facility they are moving into. In addition he will receive *burial benefits* including a burial expense allowance up to \$300, a plot or interment allowance up to \$300, burial in a national cemetery, free headstone or grave marker or reimbursement for privately purchased headstone or marker, payment for conveying remains and burial flag.

Other available benefits include home loan guaranty benefit, education benefits; automobile, conveyances and adaptive equipment; clothing allowance; and specially adapted housing and home adaptation grants.

Compensation benefits are available to those discharged under honorable conditions, and where disease or injury was incurred in the line of duty. Compensation rates for a single veteran with no dependents currently run between \$123 per month (10% disabling) to \$2,673 per month (100% disabling).

Veterans and spouses should seek counsel from experienced attorneys to help evaluate their possible entitlements to veteran benefits when planning for their future, or addressing current crises. My husband John helped by preparing their wills, Revocable Living Trust, Durable Powers of Attorney, and other estate planning documents. In doing so, my parents made sure everything was coordinated with their veteran's benefits.

We have real, living superheroes (our military men and women) who everyday put or have put themselves in harms way to protect us from an enemy's threat to destroy our world's freedom. Some of the best leaders of our country were in the military: George Washington, Ulysses S. Grant, Ted Roosevelt, Harry Truman, Ronald Reagan, to name a few. Take some time now and honor a veteran today, your freedom depends on it!

Death and Treasure

We hear a lot of off-beat stories as a result of being sent volumes of written material in conjunction with our estate planning and probate practice—but this story is one of the best I've come across, and we thought you'd enjoy reading about the ultimate in dying without any estate plan!



Meet The Millers

Cache Of Stutz Automobiles Found In Barn, Outbuildings

Consider the strange story of the Millers of East Orange , VT. They eked out an existence on a small farm. Alex, the only son of a wealthy New York stock broker and merchant would scrounge rusty nails from burnt buildings to repair his roof. He was a Rutgers grad, who drove a ratty VW Beetle, and when it died, he found another even more ratty, and another...the rusting carcasses littered his yard. Alex died after falling from a ladder, in 1993, and Imogene died of a heart attack, in 1996. No heirs were found, so the local church took up a collection so they could be buried in the churchyard, and the state began the process of taking the farm for taxes. That would have been the end of a sad story,

except....

While preparing the estate for auction, the sheriff discovered a cache of bearer bonds taped to the back of a mirror. That triggered a comprehensive search of the house and outbuildings. The estate auction would eventually be handled by Christies, and it would bring out collectors from all over the world... One of the cars found in the outbuildings, a 1913 Stutz Bearcat went for \$105,000 US Alex had lived in Montclair, NJ, where he founded Miller's Flying Service in 1930. He operated a gyrocopter for mail and delivery service through the 30's. But the Millers had a secret, and they moved from Montclair when they needed room for it. Choosing to live low profile, (a nice way of saying the Millers were eccentric recluses), and paranoid about tax collectors, Miller moved to the farm in VT, and took his collections with him. Most of his cash had been exchanged for gold and silver bars and coins, which he buried in various locations around the farm. He carefully disassembled his gyrocopter, and stored it in an old one-room schoolhouse on his property. He then built a couple of dozen sheds and barns out of scrap lumber and recycled nails. In the sheds he put his collection.

Alex Miller had an obsession with cars. Not just any cars, but Stutz cars. Blackhawks, Bearcats, Super bearcats, DV16's and 32's. He had been buying them since the 1920's. When Stutz went out of business, he bought a huge pile of spare parts, which was also carefully stored away in his sheds.



A Springfield Rolls Piccadilly Roadster (\$115,000 US)



Sometimes, he would stray, and buy other "special cars", including a Stanley, and a Springfield Rolls Royce. He never drove them. He'd simply move them into his storage sheds in the middle of the night, each car wrapped in burlap to protect it from any prying eyes. Over the years, the farm appeared to grow more and more forlorn, even as the collection was growing. Occasionally he would sell some parts to raise cash. Rather than dipping into his cache, he would labor for hours making copies of the original parts by hand. His neighbors had no clue at all, they thought Alex and Imogene were paupers.



The auction was billed as the "Opening of King Stutz Tomb".

It attracted celebrity collectors, as well as thousands of curiosity seekers. The proceeds were in the millions. In the end, the IRS took a hefty chunk of the cash for back taxes, which proves the old adage about the only two sure things in life... Death and Taxes!

Final tally:

\$2.18 million at auction

\$1 million in gold bullion found hidden in the wood pile

\$75,000 in silver coins uncovered in various safes and crawl spaces

\$900,000 in stocks

All told, approximately 30 original Stutz motorcars, a Stanley Steamer, a 1926 Rolls-Royce Silver Ghost, several Franklins, a Volkswagen Karman Ghia (which had somehow been placed in the loft of the main barn), and assorted VW Beetles were discovered about the property. The main barn and the various sheds and shacks Miller had constructed over the years hid a fortune in antique vehicles and a huge number of spare parts Miller had purchased from the Stutz company when it went out of business.

A huge, 3-day auction was held by Christie's Auction House to liquidate the Miller estate, including the cache of antique and other automobiles, and a cache of other collected items including music boxes (one of which sold for \$7,040), typewriters, sewing machines, spool cabinets, and other assorted mini-collections. The Miller collection is recognized as one of the largest and most well-known collections of Stutz motorcars.

*Information and photographs were retrieved from "http://en.wikipedia.org/wiki/Alexander_Kennedy_Miller"



Transfer on Death (“TOD”) Deeds

The latest Way To Transfer Property at Death without Probate

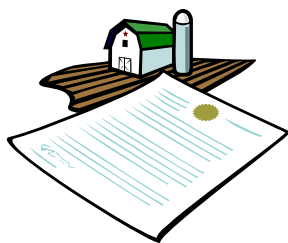


People are constantly asking us about ways to transfer property at death, but avoid the time and expense associated with probate. Recently, the Wisconsin legislature authorized the use of Transfer on Death Deeds. A TOD Deed allows the owner of real estate to execute, and then record, a deed that names the beneficiary who will succeed to ownership at the owner's death.

Because a TOD Deed does not create any rights in the beneficiary until the death of the property owner, the owner can change his or her mind, or sell the property altogether during his lifetime.

However, if the owner still owns the property at death, the effect of the TOD Deed will be to transfer the property to the person named in the deed without probate, at a minimal cost.

Not every situation is suited to use of a TOD Deed. For a more expansive discussion on the topic, as well as an example of what a TOD Deed looks like, see the article posted on our website at : www.wisclaw.com



Great Truths Adults Have Learned

1. I joined a health club last year, spent about 250 bucks. Haven't lost a pound. Apparently, you have to go there.
2. Walking can add minutes to your life. This enables you at 85 years old to spend an additional 5 months in a nursing home at \$4,000 per month.

Invasion of the “Squatters”

This is an issue that seems to come up in various forms all too often. The latest incident involved a client of mine who had come back from vacation only to find that her neighbor had built a fence between their backyards. The fence looked nice, and, over the years, the neighbor had become a casual friend, so at first blush, it did not seem to be a problem. But that is when my client noticed that the fence had been built more than 10 feet on my client's side of the actual lot line.

My client had casually expressed her concern, but the neighbor said that since their respective lots were each over 3 acres in size, and the fence was already in, he didn't think it was a problem couldn't do anything about it now, moving the fence would be too costly, and it didn't really matter anyway.

When clients come to us with this kind of a problem, we tell them that they are dealing with what lawyers call a case of “adverse possession” – and what most laymen have heard described as “squatter's rights”. If you aren't careful, after a certain period of time goes by, you could legally lose your right to that part of your property that has been fenced in by your neighbor. Usually, that takes 20 years, but under some circumstances, it can be as little as 10 years.

You could find out that title to that strip of property has legally passed to your neighbor, and you have lost rights to make him move the fence! When dealing with a residential lot, losing land area like that could mean that your home is now sitting on a lot that is less in land area that the zoning ordinance requires, or that your home is now technically too close to your “new” lot line than what the zoning laws require.

You need to stop worrying about being polite, and protect yourself. In many instances, a written agreement can be recorded that states that your neighbor realizes his fence encroaches on your property, but that you are permitting it to remain for the time being – subject to your future right to make him move it back (for example, when you sell your home). You can be a nice neighbor without losing your property rights.

Need A Speaker?

Do you have a group you would like John or Tony to speak at? A church group, a club, a work group? We would be honored to speak on various topics including estate planning, real estate purchases and sales, condominiums, corporations, limited liability companies and general business matters among many others.

Just give us a call at: **262-723-5480** or email John at: jmaier@wisclaw.com to schedule a speaker.

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Cut on the line and return with your name and address.

To: John L. Maier, Jr.

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Elkhorn, WI 53121

Your Name: _____

Address: _____

Please send me information on the following topics:

Hiring and Working with an Attorney

Wills and Estate Planning

Buying and Selling Real Estate

Living Trusts

Family Limited Partnerships

Starting a Business

Durable Powers of Attorney

Probate

Other topic(s) of interest _____