



LEAVE A WISE LEGACY

KEEPING A COTTAGE WITHIN THE FAMILY TAKES PROACTIVE ESTATE PLANNING

Recreational property owners who have their children's names listed on the land title may unknowingly be leaving a financial and emotional landmine for their families. The intent is to ensure an easy transfer of the property, but the result may prove quite the opposite.

"First of all, I never recommend having a child's name on your recreational property's land title," says Sheri MacMillan, president of MacMillan Estate Planning Corp. "For starters, a jointly owned title is no longer considered legally viable within the courts. Secondly, if your child dies or becomes incapacitated, you may owe their estate their share of the cottage's value. Thirdly, if your child divorces, you may owe their ex-spouse a share of the value. Moreover, having your child's name on a recreational property's land title in addition to their primary home may result in a tax liability for both parties."

There is a strategic way to ensure future generations will be lounging on the dock or roasting marshmallows by the fire at the family cottage. Putting that cottage or cabin into trust may resolve some of the risks.

A trust is a private legal entity that owns the asset on behalf of a beneficiary. All assets in trust are held privately. So if a beneficiary declared bankruptcy or was sued, the cottage would remain protected. While relatively new in Canada, trusts have been used in England for centuries, and have provided security to residents of the United States for more than 150 years.

"It's a phenomenal tool," says MacMillan, "and you have the ability to customize that tool to fit your unique goals and requirements."

Customizing a trust enables property owners to spell out its exact terms, including whether a child can ever sell the cottage and how it will be used by family members. Trusts can also be revised, much like wills.

"Trusts offer a remarkable amount of benefits," says MacMillan. "As the author of your trust, you can design disaster clauses within it for any imaginable scenario you can think of. Also, unlike a will, any assets held within trust will not go through the court process of probate. This is because trusts never die."

Taxation liabilities may also hinder the smooth succession of a family cabin. However, by using an estate freeze alongside a trust, taxable capital gains can be strategically deferred. Once a cottage is put into an estate freeze, any future growth on the asset's value is transferred automatically to the next generation. As a result, a family cottage will be succeeded to heirs in the most tax-efficient manner available.

With the right tools and knowledge, recreational property owners can prevent future family discord or excessive taxation. While some legal and tax professionals may still be advising cottage owners to add their child's name to the property's land title, MacMillan instead advises seeking more effective estate planning methods with the assistance of a trust and estate planning expert. By proactively planning their estate, recreational property owners will secure peace of mind for themselves and future harmony for their families.