

TIME TO MAKE YOUR WILL?

Estate planning is not an exclusive tool for the wealthy. It is a process that can be used effectively even for the most modest-sized estates. Writing a Will is one of the estate planning tools that is available to you.

DO YOU NEED A WILL?

If you die without a valid Will in Ontario, a court can appoint someone to administer your estate and distribute the assets according to a formula set out in provincial estate and family laws. The formula may not distribute the assets in your estate to the beneficiaries you intended. That is why a Will prepared by your lawyer is an essential part of every estate plan.

A carefully designed trust can also ensure your property goes to the right people after your death. For example, if you remarry but have children from your first marriage, a testamentary trust (which is one created in your Will) can provide support for your spouse during his or her lifetime, while ensuring that your children inherit any remaining assets. A lawyer's knowledge and experience in the preparation of your Will can avoid family disputes or unnecessary taxes. Here is some valuable information to help you even if you already have a Will.

A LAWYER-PREPARED WILL PROTECTS YOUR INTEREST.

When you make a Will, you decide who will get everything that you leave behind. You can name someone - an executor - to follow the instructions in your Will. You can also name someone - a guardian- to look after your children, if you and your spouse die while they are under eighteen. A Will leaves your family and loved ones instructions so they will not have to worry about what to do.

Your lawyer will explain the legal requirements for making your Will. You cannot ignore the claims of your spouse or dependent children. Many people think their estates are too small or too simple to need a lawyer to prepare a Will. Very often what seems simple may not be as straightforward as you think. Second



marriages, blended families, planned charitable gifts, cottages - all make a lawyer's expertise necessary to ensure that your Will works.

INFORMATION YOUR LAWYER WILL NEED TO HELP PREPARE YOUR WILL

Your lawyer needs to know what you want to say in your Will. Think about your answers to these questions before you meet with a lawyer.

- Who do I want to get my possessions after I die? (beneficiaries)
- Who do I want to be in charge of my estate? (executor)
- Who do I want to name to care for my minor children? (guardian)
- Do I want to make a gift to a charity? (planned gift)

WHAT DOES AN EXECUTOR DO?

Upon your death, your executor will immediately be responsible for your estate. Some duties of the executor will be straightforward. Others will require special expertise and your executor may need to seek assistance from professionals. Normally your executor makes and pays for funeral arrangements, gathers, itemizes and protects your assets, if required, probates your Will, locates all your creditors and settles your outstanding debts and taxes, maintains a full and proper accounting of your estate, sets up and administers trusts as trustee, if required and distributes your assets to your beneficiaries in accordance to the terms of your Will.

WHO CAN YOU CHOOSE AS EXECUTOR?

You can choose one or more individuals to act as your executor or you can choose a corporate executor. By law, only a trust company can be named as a “corporate” executor. Naming a trust company means the entire company is responsible for acting on your behalf. You may wish to name one or more individuals to act jointly. There are advantages and disadvantages in doing so. You may wish to discuss this with your lawyer in greater detail prior to appointing more than one executor for your estate. Executors are entitled to charge a fee for their services and the fees in Ontario are based on percentage guidelines established by the courts.

DOCUMENTS TO BE REVIEWED

A lawyer needs to know what you own. Prepare a list. Include a copy of Transfer/Deed of Land of any real and personal property you own, Registered Retirement Savings Plan, Life Insurance Policy, Share Certificates. Your lawyer will want to know whether you own your property as joint tenant or as tenant-in-common. Your lawyer will also need to know who is the named beneficiary(ies) under the RRSP or RRIF or life Insurance Policy.

ISLAMIC WILL

If you have any special concerns such as the applicability of Islamic Law (Shariah) and wish to specify burial rites, please feel speak to your lawyer.

REVIEW YOUR WILL REGULARLY

Does your existing Will protect you? Your Will should be routinely reviewed to reflect your changing needs. Ask yourself these questions:

- Has my financial or tax situation changed?
- Has anyone named in my Will died or become disabled?
- Have changes in the law affected my Will?
- Has my Will dealt with Family Law requirements?
- Has a divorce, marriage, separation or birth of a child occurred?

If you are not sure your Will is up-to-date, contact our office. Your legal costs will be modest when compared to the savings and the peace of mind. Normally when our office prepares the Will for a client, we attempt to word it in a manner that will save you on having to amend your Will if there are small changes to your estate and/ or your family situation.

LEGAL FEES

Our office charges \$245 + H.S.T. to prepare a simple Will. However if you and your spouse both need Wills and related documents such as Powers of Attorney for Property and for Personal Care, the total Will Package costs \$395 + H.S.T..

If you have had doubts about the need to make a Will or amend your existing one, please feel free to call NLCI Your Real Estate Lawyer at 416 292 4667.



Not everyone needs a Will, but for some, it may be critically important to have one in place. NLCI is here to give you the information you need to decide if you should start preparing your Will today.

This document is not intended and should not be relied upon as legal advice. Please consult your lawyer for a legal opinion.