

The Vacation Home – Will it be a Blessing or a Curse for the Next Generation?



The rewards and challenges in passing down that cherished residence to heirs.

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Published in Massachusetts Lawyers Weekly, August, 2010.

The vacation home... It evokes a picture of family and friends enjoying time together at the cottage or cabin, lodge or ranch, villa or manor, somewhere away from it all - lakeside, seaside, in the country or on the slopes - a scene repeated year after year, a place and a memory that are truly a treasure for generations to enjoy. The home may be a Hyannisport estate or it may be Shrek's "Swamp," but when everyone from Grandpa down to the youngest grandkid thinks, "This place is special... I hope we enjoy this spot forever," it's not just a vacation home, it's an *heirloom* property.

Living memories.

Where do you make your getaway memories of fun in the sun, rainy days spent in conversation, board games and reading, cold evenings with hot chocolate by the fire, dining out and summer theater? My own past recalls many summers of good times with my mother, my siblings and cousins, at her family's home in upstate New York. It was a simple cottage we called "camp" with a small sandy beach, outdoor well water, a silly old rowboat, walls of books, and meals on the porch overlooking the field leading to the water. That heirloom property went to two cousins who have

since let the place go to ruin and have shut the door to my siblings and me.

My wife and I acquired a home on Lake Winnepesaukee in New Hampshire. There our getaway life featured leisurely four-course breakfasts, hours of conversation, boating, swimming, waterskiing and sledding, and runs into Wolfeboro for ice cream. Together we enjoyed satisfying building projects and many teachable moments with our kids. We fondly recall "vacation church," where our youngsters would sing songs or recite verses from a perch on the stairway overlooking the living room. These are the characteristics of a way of life that we enjoy, like many families, and that we wish to pass along, as among our highest family values and achievements.

Worth holding on to.

Heirloom homes are found anywhere and in any family, accounting for 5 to 10% of the U.S. housing stock. Each region has its magnets: Cape Cod, the Florida Keys, Flagstaff, Lake Tahoe, and the Upper Peninsula to name a few, where second homes and heirlooms can be 25 to 50% of the tax base. Wealthy families have always had second homes, although they can lose them just as easily as the middle class, for whom the vacation home is a badge of "making it."

Inherited, purchased, built with your own hands, co-owned with your siblings, cousins or even friends, the heirloom property is unique in the quality of life it extends to owners and their families. While at your special spot, the living is easy. Quality time together, across generations, with nature close at hand, is the essence of the heirloom property that makes it worth holding on to, no matter where exactly it is. Location is more apt to drive the heirloom quality of many primary residences, while multi-generational use is more likely to characterize the heirloom second home.

The cherished quality of the heirloom property may start with a *de facto* declaration that the home is "our" family treasure. Grandma and Grandpa, Mom and Dad, Uncle or Aunt have said, in so many words, "this will be yours someday" to their likely heirs. Children grow up with the expectation that they will be able to enjoy the home into their adulthood and one day they bring their spouses and then their children, creating their own special memories.

The children may make up their own mind that the home should be theirs, and that they would like to get at least another few decades out of it. The place that Mom and Dad acquired on a whim has grown on the children, becoming an extension of the family, a logical destiny for them to keep, and thus stay close and involved in each other's lives.

On the other hand if the kids and grandkids stop coming and enjoying themselves and start thinking they'd rather have the money than the home, the property is probably not an heirloom. Similarly if the senior generation says, "Sell it when we die," or "We have to sell this to pay for our nursing home," then the property probably lacks that *je ne sais quoi* to make it to the kids or grandkids.

Good Intentions.

Despite parents' good intentions, there are serious obstacles facing the children in inheriting that home. Management and finances are major problems for even the most organized children. Worse still are differences in opinion that formerly went unspoken. There are those in the family who favor selling vs. those who favor keeping, those who would rent vs. those who want exclusivity, those who are willing or able to put out the money or the effort to keep up the place, and those who aren't, those who care vs. those who are apathetic. In my experience disagreements among heirs over the property quickly turn what was a breezy slice of heaven - into a hot piece of hell.

This unfortunate family breakdown is preventable. If the senior generation does *heirloom property planning*, the chances of successful inheritance of the cherished home are increased exponentially. Even heirs' differences of opinion about the future of the property can be accommodated if either the parents or the children inheriting adopt the right organizational and financial design. However, left to their own devices, the heirs of the vacation home rarely have the combination of wisdom, organization, finances and luck to overcome co-ownership obstacles on their own.

Passing the keys.

A lot of money is spent on acquiring and keeping the treasured home. In addition to mortgages and taxes, improvements and upkeep, some families form companies to hold title, guarding the ownership against outside claimants. Others use trusts to gift ownership or to protect the home from having to be sold to pay for the senior generation's nursing home care.

With all the effort that goes into maintaining and protecting the home, attempts to pass down the property successfully mostly stop short, *well* short, of anything qualifying as a "plan." Simply leaving the home to the heirs to let them figure out how to manage it is woefully insufficient.

While Mom and Dad or Grandma and Grandpa are in charge and paying for the heirloom home, there is a blissful complacency around ownership issues. Parents pass away, and perhaps the next generation is off to a good start: children are pitching in, schedules are created and sacrifice is made to pay the taxes, insurance and - dread to think of it - the mortgage.

It had not occurred to the family ahead of time to plan this transition. That doesn't stop the children from deciding to keep the home. What else would they do? It's the spot they were *supposed* to have. They feel entitled, they *want* to hold on to the home, and by default they do so. Maybe there's one dissenter, but he or she is cajoled into going along, and the siblings or cousins throw in together on

the venture with no plan except scheduling next summer's vacation. Someone is put nominally in charge but has no real authority.

Not long after the keys are handed over it becomes evident that co-ownership is fraught with problems. Shared use, making payments, disagreements over preservation versus upgrades, divorces and other claims against member's interests, talks of selling, and eventually more inheritance issues complicate relationships tremendously. The senior generation didn't leave a protective, organizational structure and funding, and the junior generation isn't adept at coming up with their own agreement and financial plan nor do they seek help to do so until there is a major problem.

Initially gung-ho, but later disorganized, under-funded and at odds with one another, some heirs are trying to make it work, others have lost interest, and others are ready to sell at the drop of a hat, or are forced to do so due to claims against their interest.

Organize, finance, get along, or sell.

Having witnessed many families suffer harm to their relationships over the woes of co-ownership has lead me to advise that planning to protect the home now and for the next generation of owners is just as important to consider ahead of time as replacing the roof before it leaks, and carrying insurance against fire and liability. The trick is to get couples, families and partners to take some basic, sensible steps for ownership today that will grease the skids of future co-ownership.

My first choice is to have the parents (a) transfer the home to a trust or limited liability company that "lays down the law" regarding co-ownership and (b) provide a substantial kitty, preferably funded by life insurance proceeds. If the current owners are not going to put this organization in place, my second choice is that clients direct that the property is to be sold *unless* the heirs come to their own written agreement within three years of inheriting, heirloom or not. Sometimes the prospect of losing the house is enough to shock the members into coming together and being realistic - to either

come to an ownership agreement that meets all their needs (very hard to do), or to allow the inevitable sale of the home.

There is no shame in failing to pass down an heirloom property, but if it comes after years of frustration while the property is allowed to run down, I do feel it is a waste. These devastating periods in family relationships could likely have been prevented with simple planning. If an heirloom plan produces a second, third or fourth generation of owners, terrific! Alternatively, if it provides for a smooth sale and allows heirs to move on with their lives, then that may be the best result. Emotional attachment is important to acknowledge in this process, but ultimately structure and reason must prevail for the sake of family harmony not to mention stewardship of a valuable asset.

Jump starting the inheritance.

The senior generation of owners often wish to assist in the education of the next generation of responsible new owners by transferring ownership and imparting the various stewardship requirements, observing how the younger generation handles the obligation. This is a commendable approach because it brings out the next leaders, the workers, the ones who only love to party and, in the final analysis, the parties to whom the property really matters.

Many families begin sharing the knowledge and responsibilities for the home well before they retire or die, but few discuss the difficult issues of how will the heirs all manage it, get along and be able to keep the property for many more years, as hoped. A vacation home estate planner can facilitate this discussion.

Co-owners need protective, organizational structures.

Effective co-ownership requires an organization document and responsible leadership. Commonly two tracks are possible: one with strong central leadership, one with a more democratic flavor. I place the odds on the former approach, but some families just can't bring themselves to be so business-like and prefer a committee of the whole or rotating responsibility.

As a family organization, it should be run with family goals in mind, not merely business goals. Family objectives should be thought about at each generation of owners, starting with the founder's joy in providing the sanctuary or escape from the rest of the rat race, having a place where everyone is accepted, and keeping in mind each family member's unique contributions - some financial, some handyman, some leadership, some - well - life of the party may be the most we can expect. At the same time, compassionate planning acknowledges that not everyone will have the bank account or handyman skills to be useful. Dispensation can be allowed to leave no one out, allowing years more of enjoyment for those whose only contributions may be that they are the quiet listeners, the babysitters, the life or the soul of the party. A compassionate organization within a caring family will adapt to the skills, qualities, contributions and needs of the various members.

The organization should be financed in a realistic manner, promoting strong financial commitment from the children but allowing for lean years when neither the incomes of the children nor the rental market can support the home. It is best run with funding provided by life insurance on members of the senior generation, usage fees, dues and allowing for rental when times are tough.

The children and grandchildren will be glad their forebears had the foresight to impose or to urge structure and funding, provide buyout mechanisms, dispute resolution, and if necessary, a sale of the property. When heirs or partners are not getting along and financial and legal stresses arise, in my experience it is too late to create order out of chaos. The children are unable to agree and they lack a manager with legal authority to instill order and financial sense.

Direction of the owners and the role of the planner.

As an estate planner with a passion for the vacation home, my role is to identify the

heirloom and to help get it to the next generation successfully. A good plan will position the succeeding generation to keep and share, buyout, or liquidate in a manner that preserves the values embodied in the property. But, while the planner can lead his clients to the vacation home plan, he or she cannot make them sign it. Direction from the current generation of owners is the logical key to success, yet it is in short supply for two reasons.

The first reason I believe current owners do not set up a succession plan for the home is naiveté about the issues of family co-ownership. Moms and Dads often say to me, "my kids are smart, they'll figure it out." What "it" is, exactly, that they are going to figure out is uncertain. No child knows everything involved with running the home. Maybe Johnny is expected to take care of the house and Janey to run the schedule and the budget, but nothing is actually planned, and Johnny and Janey have other ideas.

I see the original owners as not being realistic about their kids' abilities in one or more areas: organization, cooperation and financial discipline. Parents mistake their kids' relative success in life for a natural ability to get along in co-managing the family home, just like some parents think their kids will have no trouble slipping into their shoes and running a family business, which is also proven to be unrealistic. To exacerbate the problem, unlike the family business, there isn't any money coming in or not enough money to make ends meet.

The second reason I see that parents don't give guidance on inheriting the home is that there is a feeling of resignation and lack of information on the options that may be available to them. Most current owners feel, "We'll just leave the kids the home... What else would we do?"

Actually, a sensible plan is very doable. You can set up an organization, you can provide for leadership, you can plan for financing, you can protect from outside

claims. In short you *can* guide the succession.

Keeping it together.

The second home hangs together initially by the presence, finances and fiat of the founders. Second generations tend to keep the home when there are strong family ties, as long as financial and legal stresses do not tear the heirloom hearth asunder.

Families that inherit low maintenance and low cost dwellings keep the enterprise together the longest, though even these families should adopt heirloom ownership plans. Here, I utilize a customized trust or agreement of owners setting down basic rules for deciding on improvements, use, charges, and future inheritance.

Families with expensive or high maintenance homes will thrive together with a realistic plan for financial support and management of that home. These families are better served with a family limited liability company or an advanced trust instrument.

The absence of a funded and protective organizational structure is almost always a death knell to the heirloom house remaining in the family. Subsequent generations are most likely to succeed in keeping the heirloom home when the current owners have the vision to create a sensible, compassionate and business-like organization that is reasonably well funded and suitable to ward off the challenges of co-ownership major disagreements, divorces, disability, claims and the coming of old age.

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