

Sibling Rivalry: What to do with the family cottage

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After mom and dad are gone, it would be their hope that the kids would cherish fond memories of them around the warmth of the fireplace at the family cottage. However, those fireside moments and warm memories are easily chilled by the winds of disharmony amongst bickering siblings left to squabble about their inheritance. The family cottage has become a potential firestorm within estates for a variety of reasons.

First, cottages are no longer a mere weekend shack. They have become statements to one's success, often worth as much (or more) than the family home. In part due to Covid, people committed to building or renovating their own private getaway, outfitted with saunas, big screen TVs, Internet and streaming services. Coupled with Air B&B demands, the values of recreational properties have skyrocketed.

Second, as younger generations drifted to distant places, the annual pilgrimage back to the family cottage has become a sentimental ritual.

Third, because of the higher cost of primary housing, some families live in condos or townhouses without yards, and crave the space afforded by the cottage.

In a typical example, a mom and dad, perhaps teachers, perhaps a pharmacist, had a middle-class home in Brandon, and a modest cottage at the lake. The cottage was seasonal, and it was used as their weekend getaway with the kids.

As the parents aged up, the kids showed no particular attachment to the family house, and indeed encouraged mom and dad to sell it and move into a condo. The family home was viewed by the family as mere retirement savings, and dispensable. But, for some reason, the cottage was not. Sentiment dictates that it *has* to be kept, and passed down. Those cottage memories run deeper than any sunburn.

Alas – the parents have an impossible task to balance the wishes of the child who deserves it, vs. the one who can afford, vs. the one who mows the grass, vs. the one who refuses to. There is consideration to the one who lives afar vs. the one who has effectively already claimed it as their own since they live close.

To do nothing and leave it to them all equally is a disservice to them all – it will be a War of the Roses. To give it to one, and make the estate pay the capital gains tax is certain to fuel the fire.

In the law business “fair isn’t always equal”, and every circumstance is unique.

If there is clearly one child who will make use of it, and the others less-so, then the choice is obvious, with a corresponding off-set to the others’ inheritance. If there are not enough funds to cover the capital gains tax, then a child may have to pay the gain to achieve their dream.

However, if they all want it, then a cottage co-ownership agreement, usually prepared by a lawyer, is critical. It sets out who pays for what, the periods of use, who maintains, who pays when no one is using it, and all manner of maintaining the asset everyone claims they are so attached to, including succession planning for the next generation.

If they refuse to share, and all else fails, then “*who wants it the most (and is prepared to pay for it)*” may be the only answer. In that circumstance, money talks, and “sentiment” is replaced with “dollars” to the ousted. In this scenario, whoever is prepared to pay the most to the estate wins, and the others walk away with money to start their own legacy.

So, whatever the plan, be sure to consider the three parties most interested in that cottage: *your* hopes, the *kids’* dreams, and the demands of the *tax man*.

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