

## It's never too late to prepare your will

By Bob Aaron

### New estate planning book is full of tips

There's no such thing as a one-size-fits-all will.

Who gets the family home if the owners die? Who determines if and when it is sold? Do the kids get to stay in it while they are growing up, or do they have to move in with the guardians? Can a home be the subject of a bequest if it is jointly owned with another person?

These and hundreds of similar questions are explored in a new book by Toronto lawyer Ed Olkovich called *Estate to the Heart*.

In this paperback, Olkovich makes the convincing argument that planning an estate is more about love than it is about money and morality.

His theme is that estate planning is a way to show you care for those you love and the things you value.

Planning the disposition of assets after death is not a pleasant task.

Many people put off planning their estates, believing it can wait for another day. But there are no guarantees there will be another day.

Most couples who ask me to prepare "simple wills" that leave everything to the survivor are taken aback when I start asking difficult questions such as: What happens if you both die at the same time? Who looks after the kids, the house and the money, and what if that person fails to survive? What happens if the parents and kids all die at the same time — where do both estates go in that case?

To make matters more complex, today's ever-changing array of non-traditional families, blended families and other close personal relationships all call for their own unique solutions.

In my experience, writing up the will is not the most difficult part of estate planning. The challenge is the preparation to do it — exploring values, feelings and objectives, and considering the future of loved ones in mapping out who gets what after death. Planning the disposition of assets will avoid or minimize disputes among survivors.

In *Estate to the Heart*, Olkovich answers frequently asked questions that will guide the reader in choosing an estate trustee (executor), reducing taxes, setting up trusts and avoiding having to apply for probate.

Among his many tips, Olkovich suggests that you:

- ★ Make sure loved ones know where the will is stored.
- ★ Decide on backup executors and guardians for minor children.
- ★ Develop a strategy to save probate and income taxes.
- ★ Provide for loved ones with special needs.
- ★ Keep a current inventory of assets, including insurance policies, pensions and RRSPs.

★Ensure that life insurance will be sufficient to replace lost income, pay taxes and make final gifts.

Olkovich also points out the dangers of will kits and do-it-yourself wills. "No one knows you made a mistake until after your death," he notes. "Lawyers and judges cannot fix your mistakes if you get sloppy, but relatives may waste thousands of dollars trying."

*Estate to the Heart* does not contain canned examples of the type of wills used in will kits. There simply is no one-size-fits-all will. But the book does help the reader prepare strategies and plans so a competent professional can start the drafting process.

Olkovich points out that marriage revokes an existing will, and divorce cancels a bequest to the former spouse. He also notes that wills need updating after separation, moving to another province or having children.

A number of checklists assist the reader in finalizing a plan for the will. One list asks whether the will provides for:

★A spouse or former spouse, including support and property division claims.

★Any change in marital status or common law status.

★Sale of business interests.

★Benefits for charitable causes and family pets.

★Trusts for minor children.

★Alternate beneficiaries if the chosen recipients die first.

★Properly cutting out someone who is not to be a beneficiary.

The section on real estate ownership and joint survivors is particularly interesting.

Some aging homeowners have been advised to transfer real estate into joint names with their children to avoid probate fees of 1 per cent or more. The risk in doing this is that it immediately exposes the real estate to the creditors of the child, and to a matrimonial claim for property division by the spouse or partner of that child. In addition, if the transfer is of a cottage or investment property, it can trigger capital gains tax.

John F. Kennedy said, "The time to repair the roof is when the sun is shining."

The time to prepare a will is now.

*Estate to the Heart* is available by calling 416-769-9800, ext. 223.