



Will the Family Cottage Continue to be a Happy Retreat after I am Gone?

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I live off the main drag to the Holland lakeshore, and at this time of year there is always a steady stream of visitors to the lakeshore area who will be enjoying their family cottages. Last week, I saw an older couple I recognized from the Grand Rapids area buying the ingredients for s'mores, Cool Whip, and drinks en route to their Holland cottage. They were probably preparing for a nice weekend enjoying the cottage with their children and grandchildren. Seeing this couple preparing for the weekend made me wonder how many area families spend adequate time preparing for the ultimate disposition of their family cottages or vacation homes.

If your estate includes a beloved family cottage, lake house, or vacation home (all of which I will collectively refer to as a "family cottage"), a family limited liability company ("LLC") is a good mechanism to use to ensure that your family cottage will be enjoyed for generations to come.

The owners of the family cottage can set up a family LLC during their lives and transfer ownership of the vacation home and other property used in connection with it such as boats and jet skis, to the LLC. Ownership of the family cottage is in this way transferred to a separate legal entity.

Depending on the amount of structure the original owners wish to impose upon future generations, they can do the following in the LLC's operating agreement, which sets forth the rules by which the family cottage will be operated:

provide a gifting mechanism whereby shares of the vacation home can be given to their children at a discounted rate;

impose time-sharing rules outlining the times the vacation home will be available to the entire family, and when it may be used by each individual family alone;



impose restrictions upon use of the family cottage relating to smoking/non-smoking, and whether whether pets will be allowed;

impose a maintenance schedule and specify whether maintenance will be done by every family member or whether they will hire pre-determined third parties to do so;

provide buy-out provisions for family members who do not wish to keep their inheritance tied up in the family cottage, or for removing family members who are in default in their obligations to maintain the family cottage;

provide a fair valuation mechanism upon the buyout, death, or removal of a family member; and

specify whether shares in the family cottage may be transferred to non-blood relatives such as spouses or life partners.

Creating a family LLC provides tax benefits as well. The parents can reduce their federal estate tax liability by gifting shares of the family cottage to their children during their lives. They can also do so at a discounted rate due to the lack of marketability of a cottage owned by several family members. Real estate transfer taxes can also be avoided.

The parents have the option of setting up a structure and imposing restrictions during their lifetime either alone or with the input of their children. Alternatively, they can set up the shell of the LLC during their lives but allow the children to formulate their own agreed-upon rules and restrictions upon their parents' deaths.

Planning now for the ultimate disposition of the family cottage provides:

- tax benefits;
- gifting benefits;
- pre-imposed rules to reduce confusion, squabbling and friction upon the parents' deaths;
- peace of mind knowing the family cottage will remain in the family for years to come; and
- family harmony.