

## How To Keep The Gold In The Golden Years

Is now a bad time to think about how to pay for the most expensive time of your life?

Are you against getting a little back from all the tax dollars you paid in?

Find the answers to your big questions in David's new book!

Have you given up on securing your future? Given up on providing for your spouse? Given up on a legacy for your kids?

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Upcoming Webinars:  
 Tuesday, May 3 at 10am  
 Saturday, May 21 at 10am  
 Thursday, June 9 at 3pm

### GET ANSWERS TO YOUR QUESTIONS:

How do I protect my health, home, lifesavings, family and legacy?  
 Why is an outdated will worse than no plan at all?  
 How can I be sure people I trust will make medical and financial decisions for me, if I cannot?  
 How can I control the care I get (and do not get) in a medical emergency?  
 How can I protect my kids' inheritance from divorce, bankruptcy, and their own poor decisions?  
 How do I avoid heavy taxes from the new law on my retirement plans (like my IRA or 401k)?

Join Us  
 at Our Live, In-Person,  
 Group Workshops!

### Grand Rapids

Tuesday,  
 May 3  
 10am

(616) 361-8400  
 4965 East Beltline Ave NE  
 Grand Rapids, MI

### Holland

Saturday,  
 May 7  
 10am

(616) 796-9600  
 12330 James Suites B10  
 Holland, MI

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# The Michigan Elder Law Reporter™

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THE PROPER DEFINITION OF A MAN IS AN ANIMAL THAT WRITES LETTERS –LEWIS CARROLL

## KEEP THOSE CARDS AND LETTERS COMING!

ANOTHER MISSIVE YOU ARE GLAD YOU DID NOT HAVE TO WRITE  
 (NOT EDITED FOR SPELLING OR PUNCTUATION OR ANYTHING ELSE) (WARNING: NOT LEGAL ADVICE!)

**QUESTION:**  
 Do I have any  
 legal rights as an  
 Heir to my fathers  
 house?

I have lived with my father in the house that I grew up in for more than 10yrs now. I care for my father and his needs. I take him to Dr. appts, I cook, clean the house, do his laundry, and always make sure his needs are taken care of. I have 1 sister its just her and I. My father owns his home free and clear. Back in 2002 while i was away my father had some legal issues that concerned his house which at the time he was the only person on the Deed. Because of this legal issue my father put my sisters name on his house. It is a Grant Deed with my father and my sister as Joint Tenants. My father is in the hospital at this time and not doing very well my sister says the house belongs to her and she has recently served me with Eviction 60 day notice to Quit based on a No-Fault Just Cause. I pay my father rent every month and have receipts to show. My father has no Will in place. Do I as his son have any legal rights as his Heir and if so what can I do? My sister and I dont get along for the past few years all she has done is take advantage of our father financially and otherwise. She has no concern for his health or well being she only wants his house and will stop at nothing.

**The Short Answer Is:** No, you do not "have any legal rights as an Heir to [your]fathers house." You are totally out of luck. Sister gets the house. You get evicted. "Do Not Pass GO, Do Not Collect \$200." You may get a share of father's other assets, but not the house. The house is gone. Transferred. That is what a deed *does*. That is what deeds are *for*.

Gee, that was rather harsh, wasn't it? Yeah, but also accurate. Lamentably, this is a very common "plan." And a very common situation as well. The out-of-towner child gets the gold mine. The do-gooder child gets the shaft.

The Apostle and Evangelist Matthew, however, offers some consolation for you, at 5:12:

Rejoice, and be exceeding glad: for so persecuted they the prophets which were before you.

Makes you feel better, right?

And if you desire vengeance... Sure, sister may be rejoicing now with her ill-gotten gains. But let's consult Dante's Guide to Satan's Suburb, the "Inferno." Here we learn that the Ninth Circle of Hell, the one "lowest, blackest, and farthest from Heaven" is reserved for Traitors. Including those who betray their family members. So, your sister will spend Eternity right next door to Lucifer, frozen in an icy lake, tormented by demons. Unless she repents. At the last minute. On her deathbed.

**Observation #1** Is it crazy to think that the Deed's actual language might make a difference? No? In fact, there is a huge difference between "Joint Tenants" and "Joint Tenants with Rights of Survivorship."

If the deed says: "Conveys to Dad and Evil Sister as Joint Tenants with Rights of Survivorship". Then there is nothing to be done. And nothing that can be done, unless both Dad and Evil Sister work together. Evil Sister gets the property if Dad dies first. And vice versa. Unless... see **Observation #3**, below.

If the deed says: "Conveys to Dad and Evil Sister as Joint Tenants". Then either Dad or Evil Sis can break the joint tenancy by conveying their joint interest. Even if they only convey that interest to a trust. POP! Goes the joint tenancy and now Dad owns one-half and Evil Sister owns one-half. And now when Dad dies, Evil Sister does NOT get his half. Dad could have sold to a stranger or given it to Brother. At death, Dad's half goes wherever Dad says it should if Dad has done a trust or will. If Dad has done nothing, then the Probate Code (also known as the Estates and Protected Individuals Code) will dictate who gets Dad's half when he dies.

If the deed says: "Conveys to Dad and Evil Sister." Or "Conveys to Dad and Evil Sister as Tenants in Common." Now Dad and Evil Sister each own a one-half interest that they can sell or give or otherwise transfer to someone else. Just the same as if there was a busted Joint Tenancy.

**Observation #2** Remember those folks who told you to "Just put the kids on the deed! It is so simple and easy!?" Remember them? Wouldn't you like to give 'em a bust in the chops right about now? [DISCLAIMER: The Elder Law Reporter does not advocate or condone violence. Except metaphorically.]

**Observation #3** When is a deed not a deed? When it is a "Ladybird" or "Transfer on Death" or "Enhanced Life Estate" deed. Then it is not a "Deed" at all... until Dad dies.

The Transfer on Death deed means that Dad retains all control over the property during his lifetime. Dad can give it away. Dad can mortgage the property. Dad can sell part and keep part. Dad is in total control. While Dad is living.

After death, if Dad has not transferred it while alive, the property then goes to Evil Sister.

**Observation #4** Blast from the Past. Back in the day, it was accepted practice to deed real estate to parents and one or two favored children, all as Joint Tenants With Rights of Survivorship. Okay, you say... "Done deal!" Mom and Dad just gave the property to those two kids or their survivor. And you told me in **Observation #1** that that was the end of the story. Which is true... pretty much.

Sometimes, after signing the Joint Tenants With Rights of Survivorship deed, the parents would require the kids on the deed to sign a Second Document.

The Second Document was a trust. A very short, one-and-a-half-page trust. The kids signed the trust as Trustees.

The kids signed to recognize that the Joint Tenants With Rights of Survivorship Deed was not really a deed to them, but a deed to the trust. And the trust said that they (or the survivor of them) had to split the property with the rest of the family.

Why? Why? WHY?

Deed plus Mini-trust is "simpler." Also, these deeds helped to disguise the actual ownership. Also, these deeds were very confusing.

The worst part of these deeds is that well-meaning family members are turned into criminals. After Mom and Dad die, the family does not really know what is going on. One result is tax fraud. Another is federal farm price support and other agricultural program fraud. Frequently, this sort of arrangement results in Medicaid fraud. These crimes are innocent. The kids named on the deed had no idea that they were trustees and had to report. And remember: Ignorance of the law is no excuse.

And it is not just tax, agricultural, and Medicaid laws that are violated. The kids named on the deed often breach their fiduciary duties to their brothers and sisters.

**Observation #5** Wouldn't it be a great idea if all the kids are made Joint Tenants With Rights of Survivorship? Let's put ALL the kids' names on the deed. Now we don't have to worry about anyone being left out! Everybody feels great.

Now your property is subject to all of the kids' liabilities.

Now all of the kids can use all of your property whenever they like. With whomever they like. Including their mud-wrestling motorcycle gang. And you cannot stop them because they own the property same as you. Same as you.

**Observation #6:** Ignorance is bliss.

**Conclusion A:** Is it unimportant to plan your estate? Should you be careless about who gets what? Are you happy to leave confusion, tax liability and potential criminal responsibility on your kids? Do you want your legacy to be wreckage?

Then maybe you should take this stuff seriously. Is that a ridiculous notion?

**Conclusion B:** "Everything should be as simple as possible. But not more simple." Albert Einstein.

The most expensive thing you can do is to cheap out on your estate planning. It is very attractive to get the free steak dinner that comes with a free trust. "If it's free, I'll take three!" Words to live by... But the consequences can be... severe.

**Conclusion C:** These various deed tactics were employed for generations. Today, it is the Ladybird Deed that takes center stage. If the past is a guide, the Ladybird Deed will soon come home to roost. And it won't be pretty.

Actually, Ladybird Feuds are already happening. What we are seeing now is just the tip of the iceberg, early Ladybird Deeds. When the bulk of these deeds transfer property, it'll be "Katie bar the door!" Which will be great for the lawyers fighting these cases.

Sometimes these deeds work well enough. Maybe there are great relationships among the family members. Maybe no one has died. Maybe no in-law is obnoxious, obtuse, officious, or offensive. Maybe the stars align perfectly! Maybe you get lucky. Is luck a plan?

It's not that "deed planning" cannot possibly work. That's not the point. The key is that you have no reason to think that it will work. It might. But it might not. And any little problem can cause great, unforeseen disaster.

Is it crazy to think that a little flexibility might

preserve your intent while weathering the storms of the future?

**Conclusion D:** Stupid planning does not survive. As time goes by, faulty planning techniques are abandoned. But because lawyers and clients typically do not communicate, strategies that were dumped long ago continue to show up and cause havoc today. Properties worth hundreds of thousands of dollars. Farms held in the family for over 150 years. Cottages and hunting land. All of these, as well as your traditional family homestead, are needlessly put at risk.

**Conclusion E:** Maybe you should go to a LifePlan™ Workshop. Just saying.

TRADITIONAL DEED PLANNING IS DANGEROUS  
 TO YOU AND YOUR FAMILY

Traditional estate planning is concerned with avoiding probate, saving taxes, and dumping your leftover stuff on your beneficiaries. After you die. Nobody cares what happens to you while you are alive. How does that help anyone? Stupid.

Traditional estate planning fails because the overwhelming majority of us will need long-term skilled care. 70% of us. For an average of 3 years. And we will go broke paying for it.

Is it surprising that thousands of recreation properties: cottages, cabins, hunting land, are lost to pay for long-term care? Why is your estate planner hurting you and your family? It is evil intent? Or stupidity?

LifePlanning™ defeats Nursing Home Poverty. Keep your stuff. Get the care you have already paid for. Good for you. Good for your family. Good example for society,

When my mother suffered from the dementia which led to her death, over 10 years ago, their estate plan preserved their lifesavings. Mom's months in the nursing home did not mean Dad's impoverishment. Dad spent the last years with security and peace of mind.

IS NOW A BAD TIME FOR A REAL SOLUTION?

Perhaps you think you already have an answer to this problem. Maybe you do not see this as a problem at all. It is possible that you do not believe in the passage of time or its effects on you.

Peace of mind and financial security are waiting for everyone who practices LifePlanning™. You know that peace only begins with financial security. Are legal documents the most important? Is avoiding probate the best you can do for yourself or your loved ones? Is family about inheritance? Or are these things only significant to support the foundation of your family?

Do you think finding the best care is easy? Do you want to get lost in the overwhelming flood of claims and promises? Or would you like straight answers?

Well, here you are. Now you know. No excuses. Get the information, insight, inspiration. It is your turn. Ignore the message? Invite poverty? Or get the freely offered information. To make wise decisions. For you. For your loved ones.

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