

Your Guide to Cooperative Estate Planning

Why Do Estate Planning?

Estate planning involves creating a plan to indicate how your Co-op unit will be managed in the event of a disability or untimely death and how your estate (co-op) will be administered at death through a trust or a will..

HOW A COOPERATIVE HANDLES THE TRANSFER OF STOCK

With a co-op, you own a share of stock in the cooperative corporation and you also have a lease to your particular townhome. In addition, the co-op board must approve all changes in ownership of the share of the cooperative corporation.

Basically this means that even though someone wills you a co-op unit, it doesn't mean that you can just move in without going through the same process that everyone else who lives there had to go through. When someone dies and you are left a cooperative in a will, Area J by-laws give you 60 days to make a decision. You are responsible for the monthly payments and the upkeep of the co-op until you are approved to move in or you sell the unit. If you do not pay the required monthly carrying charges to the co-op, Area J will have the courts rule that the ownership of the co-op will return to Area J and you will give up all rights to the cooperative.

A LAST WILL AND TESTAMENT OR LIVING TRUST IS NEEDED

When dealing with death, a last will and testament or living trust is required. A co-op will be transferred at the time of its owner's death in one of the following ways: Either to the heirs through the owner's last will and testament or living will, or to the joint owner.

Your estate goes through a legal procedure called probate after you pass away. During this legal proceeding, a court will start the process of distributing your estate to the proper heirs.

Probate is always easier if you have a Will and/or Living Trust that clearly defines your wishes. These documents help most by naming your beneficiaries and an Executor. An Executor is the person charged with overseeing your final wishes.

An attorney can prepare your will for you or you can go online to create a will. Be sure you fulfill all the requirements and sign your will in front of witnesses who are at least 18 years old and not a beneficiary. In Illinois 3 witnesses are required. Your local library can provide resources on how to prepare a will.

If you have mindfully prepared an Estate Plan, you're smart. Creating a Will or Living Trust makes a difficult life-event just a little easier on your loved ones

WHEN THERE IS A WILL

People are under misconception that if they are left a co-op in a will that somehow it obligates the co-op to allow them to inherit it and they may not have the right to. Since there are rules regarding who can own our cooperatives, those rules get transferred to the heirs.

STEPS TO OWNING OR SELLING AN INHERITED COOPERATIVE SHARE

- Bring in a copy of the will or trust and the death certificate.
- If the heir wishes to reside in the townhome, they will need to bring to the management office a completed application along with the application fee and all qualifying documents.
- Once the heir is approved, management will facilitate the transfer of the share of stock in the cooperative to the approved heir. There will be a processing fee and a Village of Park Forest tax stamp fee required of the heir to complete the transfer.
- If the heir to the cooperative wishes to sell the share in the cooperative, they would need to come into the management office and the selling process would be explained to them. Once the unit sells, the management office will distribute the funds to the heir/heirs.

WHEN THERE IS NO WILL OR LIVING TRUST

In cases where no Will or Trust is present, it is the court's job to appoint someone to your estate. This Personal Representative will handle all the things an Executor would do if a Will had been present.

If there isn't a will the co-op cannot allow access to the townhome of the deceased to anyone until a death certificate and a small estate affidavit is received. The immediate heirs of the deceased would have to fill out and submit a small estate affidavit to the management office. They may want to contact an attorney to help fill out the affidavit correctly or it can be downloaded online and printed. This will tell the co-op who is in charge of the property and who will be given the proceeds of the sale. Once this signed document is presented to the co-op, management will go through the same steps with the heir/heirs that they would if there was a will.

BE PREPARED

Estate planning helps you create a sensible, practical, and economical arrangement for your personal affairs that will satisfy your objectives during your lifetime. It incorporates your concerns for the eventual disposal of real estate and personal property to your beneficiaries. While the issue of what happens when you or someone you love dies can be uncomfortable and painful to discuss, the reality is that planning wisely for the inevitable may not cure the pain of loss when it occurs, but it does ease some of the burden and provides clear answers to what might otherwise be difficult questions.