

# Peaceful Planning

## *Do I Really Need a Lawyer to Prepare My Will?*

Perhaps this topic would have been a good place to start the Peaceful Planning Series, but now that we have discussed many of the aspects of estate planning, we should consider this question before moving forward. First, let's consider the case for not using a lawyer to draw up a Will.

It is the age of the internet where just about anything can be found online, including information about Wills. Try it yourself: search for Wills and you will find a literal plethora of information and forms for doing your own Will. Some of it is free and some can be obtained at modest cost. It is also important to know that almost all lawyers use forms for language and content. You can go to any law library and find shelves and shelves of what are called Form Books. One of the warnings lawyers get in law school is that almost every line in a Form Book was tested through litigation, so let the user beware.

The same advice should be applied to forms found online. You can, however, draw up a perfectly acceptable and valid Will with several of the forms offered online at little or no cost. This is based on your computer skill level and knowing exactly what you want to achieve with your Will. It will save you from having to make an appointment with a lawyer and paying legal fees. But is it a good thing to do? Let's consider the case for using a lawyer.

One good reason to use a lawyer is the Attestation that comes at the end of the Will. The Attestation requires two witnesses who will attest to you being in relatively sound mind and body, and that it is your signature on the Will. Using people at the law office will avoid using family or friends as witnesses. There is also a "self-proving" Affidavit that should be signed by the witnesses that excuses them from appearing at Probate Court to verify their signatures. This Affidavit requires attestation by a Notary Public. Law offices have access to both witnesses and Notary Publics, so even if you draw up the Will by yourself, you may end up in a law office anyway!

Most lawyers do not charge very much for drawing up a Will. It is a good way for them to introduce themselves to you and hopefully keep you as a client for future legal needs, including probating your estate. Lawyers may also offer free storage of



the Will if you don't want to keep it in your home. Again, this may offer the law office the opportunity to probate the estate later.

Finally, discussing your estate with a lawyer may reveal some aspects of your estate that you may have not realized the importance of or just overlooked. A lawyer may be able to give you an objective overview of your estate and avoid any potential pitfalls. As indicated above, many lawyers only charge a modest fee for a simple Will in the hope of gaining a client and a later probate case. It is, of course, a good idea to check the amount of the fee when scheduling the appointment.

Whether you consult with a lawyer or draw up your own Will is really a matter of personal preference and your comfort level in using your computer skills. A third "hybrid" option would be for you to draft a Will and take to a lawyer for comments.

Next time we will return to the issues of trusts, and particularly "irrevocable trusts" for protecting your assets from creditors and potential creditors. When we get into trusts, you most definitely will need a lawyer.

*Peaceful Planning is brought to you by the Stewardship Committee. This article was written by Stewardship Committee member William O'Neill, a retired attorney. St. Stephen's does not provide legal or tax advice.*