

INTESTACY: MY ESTATE WITHOUT A WILL

It is true that the process of estate planning really begins with an assessment of your present financial situation, needs and future goals, none of which may be protected should you have no will and die intestate. Having a valid will is a fundamental part of your estate planning. It is wise to have a will to correlate your financial situation and plan; a plan that ensures your loved ones, family home and all your assets are taken care of by the person you want and the way you want.

The will is your connection to everything you own after your death. Without it, your estate plan is incomplete and deficient. A will provides you with an opportunity to appoint an executor, who will look after your estate after you have died. This person(s) is usually (and highly recommended to be) someone you know very well and trust. The characteristics to look for in an executor are primarily that they are responsible and trustworthy. An executor follows your instructions in the will and distributes your estate according to your intentions. This is the person who has the authority to act on your behalf after you die.

Unfortunately, one of the most neglected parts of estate planning is drafting a will. Believe it or not, once you know what you have, who you want to give it to and how you want things distributed, it is a quick process. Moreover, you don't have to worry about it; that is what the lawyer is for! Drafting a will transcends age, gender, size of family and size of estate. A will, irrespective of these factors, determines who controls your estate after your death. It identifies your beneficiaries and ensures that they share in your estate according to your wishes. Having a will can minimize the costs, delays and expenses that can result if you die intestate...not to mention conflicts and complexities.

If you die without a valid will, your estate will be divided according to the laws of your province that governs the distribution of estate property. If you have no will and no living family members, your estate will vest in the Provincial Government. But if there is no will but living relatives, the law will apportion your assets according to the *Intestate Succession Act*. This means that your estate (assets and everything you have worked hard for during your life) is administered by the guidelines of the law and not by you! This could easily, and in so many different ways, not reflect your intentions of how you actually want your estate administered.

The key to intestate succession is to avoid it. Just remember: "*A man who dies without a Will has lawyers for his heirs.*" *Anon.* That is a quote that estate lawyers are quite familiar with. I have to be honest with you, I am a lawyer and I don't want that. While a will only comes into effect after you die, I will explain what you can do for yourself in the here and now in the next issue.

Sanaz Gerami is a lawyer with Parkland Law practising in the areas of Elder Law, Wills & Estate, Powers of Attorney, Family, Incorporations and Immigration Law. She can be reached by phone at (902) 444-3998, or via email at: sanazgerami@eastlink.ca. Sanaz is a member of Serving-Seniors Alliance, a member of the Halifax Estate Planning Counsel, and is a certified advisor for AfterWork Advisors.