



The Family Cottage, LLC

(or How to Impose Order on Potential Chaos)

By: Jeffrey K. Helder
Attorney at Law



When the owners of a family cottage plan for the distribution of their estate, they often are in a quandary when it comes to how to plan for the peaceful and efficient distribution of the cottage.

Transfer of a fractional interest in the cottage to each child, so that each child owns only a portion of the cottage as a tenant in common with the other children does not create any management structure with which to control the use and maintenance of the cottage. In fact, each individual tenant has a virtual veto power over some decisions of the group, such whether to sell, or improve the property. And no child has any assurance that if they wished to withdraw, that there is any method for them to do so. Also, there is no restriction preventing a child from selling his or her interest to a non-family member. Finally, each child could be exposed to liability for injuries occurring on the premises, since they are all joint owners.

A better way to arrange for and control the distribution of such a cottage is through the use of a limited liability company (LLC). With an LLC owning the family cottage, it is possible to create rules for the management of the cottage, and for the transfer of ownership within the family, which protect the various and diverse interests of the parents and the children. These rules are contained in a document called the Operating Agreement, which acts somewhat like By-laws in a corporation.

It is possible to give each child one vote in the management decisions, and to require majority rules. In the alternative, for less democratically minded parents, it is possible to appoint a management committee of one or more children to make all the decisions.

Where there is no additional funding, the LLC would be permitted to "assess" each member for the operating costs. The assessment process would need to be defined and include a mechanism for enforcement of the assessment. For those children who are far removed from the location, and seldom use the cottage, it is possible to build into the Operating Agreement the right to withdraw and be bought out at a certain price and on certain terms. When and if the majority decides to sell the cottage, (assuming that the operating agreement allows the cottage to be sold with a mere majority vote), the members of the LLC who are not in favor of the sale can be given first rights or options to purchase the interests of the other members.

With all the competing interests at work regarding a family cottage, there is no perfect solution which will satisfy everyone completely. However, a Family LLC can be designed to protect the interests of the parents and give rights and privileges to all family members in a structured and organized manner. Chaos can be avoided.

Cunningham Dalman, P.C. is a full service law firm located in Douglas, Michigan, as well as in Holland, Michigan. Our attorneys possess skill and experience in a broad spectrum of areas of practice, and have proudly served the lakeshore community for over 100 years. Contact us at 269-857-7879.

CAN YOU BELIEVE IT HAS BEEN A YEAR?

We have now been in our Douglas location for one year! In reflecting on this milestone, we would like to take this opportunity to thank you! Thank you for welcoming us into your community and for allowing us the opportunity to serve you in your legal needs.

We look forward to many more years of continuing service and growth in the Saugatuck and Douglas communities.