

# What to Do with Your Castle?



*Jeffrey C. Goss, Esquire  
Brubaker Connaughton Goss &  
Lucarelli LLC*

One of the largest single assets of many individuals is their home. It is also the asset with the most issues and problems for many executors. What to do? The simplest option for most clients is to merely direct its sale. However, before this is implemented, you must ask, (1) does anyone live in the house (child, second wife, companion, etc.)?; (2) does anyone want to buy the house whom I

would prefer to see buy it?; and (3) should I retitle it or consider selling it?

If someone is living in the house and you do not want your executor to interfere with their ability to enjoy it uninterrupted for a period of time after you have passed away, you need to provide for this. If not, after you die, your executor may be knocking on the door and demanding access. So what do you do? Most estate planners can easily build in a short- or longer-term occupancy agreement wherein the individual may stay in the house, provided the occupant pays the utilities. This type of provision is very important when multiple families are involved (i.e., second wife and children from a first marriage). If you have minor children and the executor or trustee is not the appointed guardian of the minor children, you may want to provide the

guardian the ability to move into the house and direct that it be held in trust for the children.

If you have a child or other beneficiary who you hope may buy your home, insert an option under your will to provide him or her this option. In most cases, this option will define how the price is determined and also discount this price by the traditional costs of sale (realtor commissions, realty transfer taxes, etc.).

Many clients will also come to me and ask that their house be deeded entirely to a child or placed in joint ownership because they are worried about medical costs forcing a sale and are concerned about “probate.” Although doing this may ease the burden of your estate, the future sale of the property may have negative income tax consequences. A sale of your primary residence does not result in any capital gains tax if

the gain is less than \$250,000 for one resident or \$500,000 for joint residents. However, if you give a child a house and he or she sells it, the child will not be exempt from tax, which may be as much as 23.8 percent. Also, placing a child on the title pulls their life circumstances into your world (bankruptcy, divorce, death, etc.).

Of even more importance is making sure to provide directions on any other properties you own, be it vacation properties or investment properties. While these types of properties provide income and can provide tremendous opportunities for capital appreciation, if you do not appropriately address them in your estate plan, they have the potential to split families apart and create significant expense after you die.

So give some thought to what happens to your Castle.



**BRUBAKER CONNAUGHTON  
GOSS & LUCARELLI**  
ATTORNEYS AT LAW

TEL 717 945 5745

FAX 717 945 5764

URBAN PLACE

480 New Holland Avenue, Suite 6205  
Lancaster, PA 17602

**BCGL-LAW.COM**

CONTACT US

Theodore L. Brubaker	John A. Mateyak
Rory O. Connaughton	Stacey Morgan
Jeffrey C. Goss	Theresa Mongiovi
Brett D. Jackson	Robert W. Pontz
Mark E. Lovett	Timothy E. Shawaryn
Andrew F. Lucarelli	Angela Sanders
David C. Potts	Becky Wilhelm
Dana Panagopoulos	Christine D. Wilson
K. Suzanne Ransom	Katie Koehle