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## MATSUMURA LAW FIRM

Wills, Trusts, Probate  
And Estate Planning

Michele Matsumura,  
Attorney, LL.M. (tax)

5674 Stoneridge Drive  
Suite 202  
Pleasanton, CA 94588  
(next to the courthouse)

Tel | 925.218.8984  
Fax | 925.218.2372

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# estate planning today



## Estate Planning for Vacation Homes: You Need a Plan to Ensure Your Future Generations' Enjoyment

Oftentimes, families have a vacation home or other property that may be significant more for its sentimental value than its monetary value. The property may be a place where family members have gathered over the years to enjoy holidays and vacations. As a result, parents may wish to keep the home in the family as a legacy for children and grandchildren.

This newsletter discusses the planning issues involved in maintaining

achieve. Complexity arises when children inherit the property. Each child has independent goals and finances and agreements between siblings may be more difficult to reach. The built-in unity between spousal ownership is lacking when children own the property together. Among children, the unity must be replaced by a structured, written agreement regarding ownership, management and expense-sharing.

### Parents Should Set Up An Ownership Structure Via An Agreement.

Since agreement between husband and wife is easier to achieve than agreement among children, it is critical for parents to be proactive and establish a written agreement during their lifetimes. In doing so, parents have the opportunity to identify children who may have no interest in ownership, children who may not want to accept any responsibility regarding the home, or children who want to participate in ownership, but have no financial resources to do so. These issues, once identified, can be addressed and resolved more easily at the parent level.

### Planning By Parents Preserves Sibling Relationships.

Unfortunately, parents often believe or hope that children will somehow resolve issues of ownership on their own. The resolution process among children, however, can cause friction that will leave lifelong scars. Rather than to risk damaging children's relationships, parents should address and resolve issues through their own planning process.

### Agreement Can Limit Liability.

The parents' ownership agreement can be structured in a way that

## A Management Structure is Needed to Preserve a Vacation Home for Future Generations

a property for future generations. Preserving the home or vacation property for succeeding generations is not done merely by chance, but instead involves the parents' developing a strategy for management.

**Importance of Creating a Structure for the Home.** Structure is needed to ensure that the property can be preserved, maintained and enjoyed in a cooperative manner for the successive generations. This structure is especially critical to the success of a legacy property because management decisions are often driven by emotions, rather than by business judgment. With emotions in play, negotiations can sometimes be especially difficult.

**Difference Between Husband and Wife Ownership and Ownership by Children** Ownership between parents is simple. The husband and wife have unified goals, unified finances and agreement between husband and wife is fairly simple to

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### How to Keep a Vacation Home in the Family (continued)

shields the children from liability. Liability is normally thought of as personal injuries or property damage. However, liability protection can also be provided to prevent judgment liens from attaching if one child has financial difficulties. Furthermore, an agreement can specify that personal liability insurance be obtained, in addition to property insurance.

**Management Decisions for Property.** In structuring the agreement, the parents can determine whether management decisions for the property will be

the property after use. Additional issues arise if the home is to be rented for a number of days or year-round. Although these details may seem burdensome to plan, an agreement which addresses these issues at the forefront will eliminate future conflicts.

**Funding and Maintenance of the Property.** Ownership of the home will involve ongoing costs. Besides property taxes, insurance and mortgage payments, the home will require cash for maintenance, repairs, utilities and improvements. An agreement would determine how the funds for these expenses will be collected, and what to do if one child cannot pay or

### Parents should plan, and not just hope, to ensure that legacy property will be enjoyed by their children

made collectively by all of the children, or may be delegated to one or two individuals. Even if one person is chosen as the “manager”, the agreement can delineate significant issues, such as the sale of the property, which are reserved to all the owners.

**Managing Use of Property.** Organizing the use of the property is another issue that can be addressed in an ownership agreement. For example, there may be times, such as holidays and school vacations, when all the children want to use the vacation home and the home may not be large enough to accommodate everyone. How should this situation be resolved? Furthermore, some children may use the home regularly and others may not use the home at all. Should all children bear home expenses equally regardless of usage? Also, an agreement may need to outline the limitations of the property—such as pets and the condition of



will not pay for his or her share of expenses. Besides the payment of these costs, an agreement will provide for who will be in charge of selecting and hiring companies or vendors to provide services and who will physically inspect the property to ensure that any work is done properly.

**Restricting Transferability of Interests.** Since the home is intended to remain in the family, one of the most important purposes of an agreement will be to restrict ownership to family members. The agreement will address the transfer of a child’s interest during lifetime (i.e., if a child no longer wishes to participate in the home) and at death. The agreement can be drafted so that the home cannot be owned by a child’s spouse, to prevent ownership by an ex-spouse in the event of divorce.

**Conclusion.** Although the planning addresses difficult issues, the reward for forward thinking is a family legacy preserved for future generations. ☺

**About Me & My Practice.** I graduated cum laude from the University of the Pacific in Stockton, CA. I received my law degree from UC Davis and graduated from Golden Gate School of Law with a Masters in Taxation. For the last 10 years, I have practiced exclusively in the area of estate planning, probate and trust administration. In my off hours, I support Pacific and Cal athletics, the SF Giants, the Sacramento Kings, and play (and watch ) tennis! ☺