

MCLANE
MIDDLETON

KEEPING THE FAMILY LAKEHOUSE IN THE FAMILY

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PRESENTED BY

THIS PRESENTATION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT LEGAL ADVICE



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Summer is fast approaching and for many families that means trips to the family cottage, camp or farm, a place where your family has enjoyed countless hours of fun and recreation over the years.



KEEPING THE FAMILY LAKEHOUSE IN THE FAMILY

Whether modest or grand, these family vacation properties have special sentimental value to you and your family as a place to share common experiences and foster family traditions.



KEEPING THE FAMILY LAKEHOUSE IN THE FAMILY



As you enjoy your time with the family this summer many of you will assume that your children, grandchildren and great grandchildren will also enjoy this special place in the future.

However, without proper foresight and planning, that might not be the case.

YOU HAVE DECIDED



It is important to ensure that tools are in place for the proper management and administration of the property in order to avoid disputes and conflicts among family members.

THE SITUATION . . .

Jack and Denise had 4 children and 7 grandchildren. The entire family enjoyed the camp on Little Squam Lake for many years (Jack inherited the camp from his father in 1975).

Just as Jack's father had, Jack and Denise left the camp to their four children when they passed away, assured by the children that they would be capable of managing and maintaining the property for their children to enjoy, just as they had.



THE SITUATION . . .

However, Debra, the oldest daughter had recently gone through a highly-contested divorce, and although she was able to retain her interest in the camp, her financial position has changed substantially.

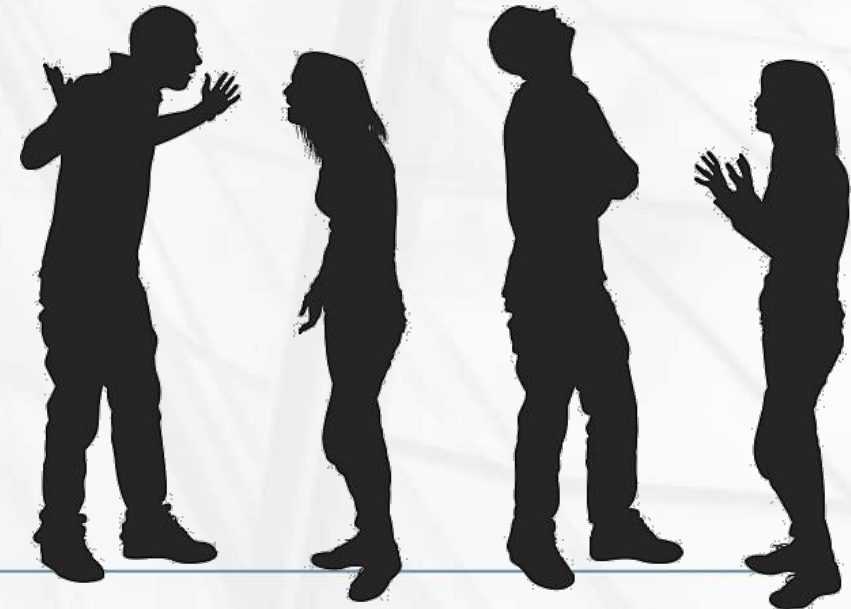
Also, Jack, Jr. has accepted a overseas position for his company, and anticipates being an ex-pat for at least the next 3-5 years.

Finally, due to some intra family discord, two of the spouses of the children do not get along and have difficulty sharing common weeks at the camp.

THE SITUATION . . .

This year, the family meeting to schedule family vacation weeks and to determine financial contributions for property taxes and needed repairs to the docks, roof and septic systems became contentious . . .

While outright gifting during lifetime or devising the property at death is certainly an option, there may be better ways.



POTENTIAL SOLUTIONS – THE GOALS

- Protect the property from creditors and unhappy marriages
- Provide a management structure for an orderly decision process for scheduling and capital contributions
- Limit transferability of interest in the property
- Provide an “opt out” mechanism

POTENTIAL SOLUTIONS – THE TOOLS

Trust(s)

- **Qualified Personal Residence Trust**
- **Family Compound Trust – During Lifetime or at Death**
- **Family Limited Liability Company**

FIRST, A BRIEF WORD ABOUT TAXES:

Estate Tax

Income Tax



WHAT IS A TRUST?

- Legal entity
- Holds title to property for the benefit of one or more other persons or entities
- Managed by trustee according to terms of trust agreement



TYPES OF TRUSTS



- Revocable
- Irrevocable
- *Inter vivos*
- Testamentary

QUALIFIED PERSONAL RESIDENCE TRUST (QPRT)

What is it?

Asset protection

Technical Requirements

Potential Estate Tax Benefits

Lifetime Use for Grantor

Grantor Pays expenses during lifetime

Some Disadvantages



FAMILY COMPOUND TRUST



What is it?

Potential estate tax benefits

Organizational structure

Opt out (force out!) provisions

Transfer restrictions

Some Disadvantages

COMBINE QPRT AND FAMILY COMPOUND TRUST!



FAMILY LIMITED LIABILITY COMPANY (FLLC)

What is it?

Potential estate tax benefits

Asset Protection

Organizational structure

Opt out (force out) provisions

Transfer restrictions

Disadvantages



A BRIEF NOTE ON CONSERVATION EASEMENTS

A conservation easement is a permanent restriction on land granted to a qualified non-profit land trust or governmental agency which limits the commercial, industrial and residential use of the property so that it will remain forever in its open space, agricultural, forestry and non-developed state.

Families should consider placing a conservation easement on their undeveloped property, in order to permanently protect the natural resource as scenic open space, wetland and wildlife habitat. Conservation easements have other advantages as an estate planning tool.

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QUESTIONS?

