HOW TO KEEP A FAMILY VACATION HOME IN THE FAMILY

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The fast-paced society that we live in today makes it harder and harder to find quality time to spend with family. But you know this, and that is why you purchased that special place for your family to gather away from the bustle of everyday life. Whether a cabin in the mountains, a house on the beach, or just that special place tucked away from the urban sprawl, this place has become special to you and your entire family. It holds special memories, conversations and a place to be together.

Without proper planning, many families have lost these special places following the death of a loved one. Sometimes, there is simply no one willing to maintain the property, so it falls into disrepair. Other times, unanticipated family disputes, financial problems, or divorce can lead to the property being sold and lost to individuals outside the family.

With proper planning, you can preserve your vacation home for your family after you are gone.

OPTION #1: SIMPLE TRANSFER

The simplest way to deal with property is to transfer title to one or more family members. This can be done during the owner's lifetime or at their death through a provision in their will.

With simple transfers, the donor often cannot provide specific instructions regarding who is responsible for certain tasks or how expenses are to be funded, unless family members are willing to sign an agreement outlining these things. In addition, the outright ownership resulting from a simple transfer lacks creditor protection. Retention of the property for family use can be put at risk if the family member named in the deed gets into financial trouble or gets divorced, or otherwise decides that he or she does not want the property any longer.

OPTION #2: PUTTING THE PROPERTY IN TRUST

A trust is a legal arrangement under which the owner of property (the grantor) places the property under the care and control of a trustee with specific guidelines concerning the management and use of the property. The trustee can be an individual family member, multiple family members, or a corporate trustee.

Trusts can take several forms. During life, a grantor can establish a revocable trust to hold the property, which can be terminated by the grantor at any time. Alternatively, the grantor can establish an irrevocable trust during life to accomplish the same thing, but which can't be terminated. The grantor can also transfer the property into an irrevocable trust at death, through a provision in their last will and testament. In any trust scenario, the grantor can designate his family members as beneficiaries with the right to use the property under guidelines established in the trust.

The grantor can also fund the trust with income-producing investments to create cash flow for maintenance costs, thus ensuring the property upkeep does not become a burden on the family.

When it comes to keeping property in the family, trusts provide substantial protection against family disputes and divorce. If designed properly, trusts can also provide a layer of protection against creditors that may arise when family member beneficiaries face financial challenges.

OPTION #3: CREATION OF A BUSINESS ENTITY

A third option to consider is to create a corporate entity to own the property for your family. This can take the form of a family limited partnership or a limited liability corporation. Individual family members own an interest in the corporate entity that owns the home.

Such entities are essentially non-operating businesses that can be organized with specific governing rules to protect family ownership. For example, the entity can be set up so that any member who wants to sell his or her interest must first receive approval from other members or give other members a right of first refusal.

Like a trust, the corporate entity can be funded with income-producing assets to help maintain the property. Such corporate structures also provide substantial protection against creditors, family disputes, and divorce. A potential downside, however, is that corporate entities typically must pay annual registration fees to the state of incorporation, and may also have to pay state and federal taxes.

REMEMBER THE GOAL

This property may be the most precious heirloom that you and your family possess. In deciding which option is best for your situation, you should consult with an attorney to advise you on the legal ins and outs and draft whatever documents may be necessary. Taking the proper steps now as part of your estate planning process can help protect your special family retreat for generations forward.

(615) 515-1200 | info@pendletonsquaretrust.com
pendletonsquaretrust.com