



Everyone Has a Will!

By Brian Madigan

Everyone has a Will. The problem is that most people don't know where it is. They have never seen it, they never signed it and they don't know what it says.

The Ontario Government has written out a generic Will for everyone. It's set out in the *Succession Law Reform Act*. So for those of you who have never taken the time to sign one of your own, let's have a look at what it says when it comes to dividing up your property:

- 1) the first \$ 200,000 to my spouse,
- 2) the balance, ALL to my spouse, (except if I have a child),
- 3) one child, then $\frac{1}{2}$ to my child and $\frac{1}{2}$ to my spouse, (except if I have more than one child)
- 4) $\frac{2}{3}$ to my children to be shared equally, and $\frac{1}{3}$ to my spouse,
- 5) all to my parents (if I have no spouse and no children),
- 6) all to my brothers and sisters (if no one in 5),
- 7) all to my nieces and nephews (if no one in 6),
- 8) all to my next of kin (if no one in 7), and
- 9) all my estate to the Province of Ontario (if no one in 8).

There are a couple of additional rules that you need to know. Children may represent their deceased parents as long as the parent was a child, brother or sister of the person who died intestate. Half blood is the same as whole blood. Adopted children are included, as are unknown and undetermined relatives (as long as the connection can be proved by DNA). There is no such thing as "in-laws" or "godchildren". These people are just strangers, and if there is an intention to include them, they must be mentioned in a Will.

You will also appreciate that it may be difficult to determine just precisely who is included in the term "next-of-kin".

All in all, the generic Will seems to be reasonably fair. The only real problem is that nobody really ever likes it completely. Everyone wants to change it, even just a little bit.

Also, there is nothing in there about any kind of tax planning or particular financial management opportunities. And, there is nothing about the guardianship of your children. So, if you have children, don't just leave them up for grabs, sit down and write out your intentions when it comes to guardianship.

After children, the next important issue might be your house. It's not necessarily going to your spouse! Who gets it? Is that fine with you? What about your parents' home? As we are closing in on year-end, preparing your own Will might be something to think about.

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