



Legal Notes

By Donna Neff, B.A. (Hon.), LL.B., T.E.P. and Natalie Sanna, B.A. (Hon.), LL.B

Estate planning for pets

Playing catch, napping in the sun, romping in the woods — for many of us, our fondest childhood memories involve pets whether feathered, furred, or scaled. These positive experiences are often the reason we continue to have pets throughout our lives. More than half of Canadians have a pet. If you're one of them, does your estate planning include your pet? If not, read on for some things you might want to consider.

OUTRIGHT GIFT OF PET

Legally speaking, animals are considered personal property. A pet cannot be a direct beneficiary of your estate. However, you can gift your pet to another person who becomes the legal owner. To give your pet as a gift, name the person in your Will and describe the pet that he or she is to receive. Of course, it is a good idea to check with the person first to be sure he or she is willing to care for your pet. When choosing someone, consider if he or she has:

- the ability to provide a loving, stable home for the pet's lifetime;
- the willingness to assume the responsibilities that come with caring for a pet; and,
- a family and lifestyle that would suit your particular pet.

Also, consider naming an alternate person as the pet's caregiver if the first person that you've named is unable or unwilling to take the pet. Write a letter describing your pet's personality, eating habits and general needs that might be useful for the pet's caregiver to know.

GIFT OF CASH TO CAREGIVER

You may also decide to leave some money to the pet's caregiver to show your appreciation and to provide a contribution towards the pet's food and veterinary bills. You could specify how the money is to be used but be aware that such conditions might not be legally enforceable. In the worst-case scenario, the caregiver could abandon your pet but keep the cash and there would be little that could be done about it.

PET TRUST

To ensure more control over what is done with any money you leave for your pet's care, you could include a trust in your Will. Unless the amount is considerable, a trust may be more headache than it's worth. If you are considering a trust, ask yourself these questions:

- Who will look after the money? This person is called a trustee.

- Who could take over as trustee if the first-named person can't do it?

- Who will be the caretaker of the pet (which should not be the same person as the trustee)?

- How much money will be needed in the trust?

- What can the money be used for?

- What happens to any leftover money if the pet dies before the trust money is all gone?

- If the trust money is invested to earn income, the trustee may need tax advice as to how to deal with the income. Alternatively, should the trust money be placed in a non-interest bearing account? This might be a better solution if there is a relatively small amount of money in the trust.

HUMANE SOCIETY

The Ottawa Humane Society (OHS) offers a Pet Stewardship Program for a minimum registration payment of \$10,000. At your death, the OHS would take custody of your pet and provide foster care until an appropriate adoptive home is found. The payment of \$10,000 could be done as a gift under a Will with the condition that you still own a pet at your death. The funds are used to pay for medical expenses, pet medical insurance, and appropriate pet supplies.

Under this program, the OHS advises that your pet will not be euthanized except in extreme circumstances.

These are just a few of the many estate-planning options depending on the type of pet, its life expectancy, and any unique circumstances. Consult with an estate-planning specialist to determine which option is best for you and your pet.

We encourage you to develop your child's potential as a responsible, and therefore successful, pet owner. Be a positive role model and foster a passion and love for animals in your child as they will surely carry these sentiments throughout their lives.

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