

Inheriting Real Property



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To Sell or Not To Sell?

Receiving the inheritance of property (land, a home, vacation property, business property) can be bittersweet. At the cost of losing a loved one, you have been provided with a substantial asset. However, when you inherit property, you will be faced with some very difficult decisions.

Inheriting property can be a blessing, or an emotional burden, especially if you share the ownership with other family members. Others will have their own ideas about what to do with the property. You and the beneficiaries should step back and make an assessment of all the costs, goals, and future needs related to the property. You are also inheriting property taxes and insurance costs, as well as potentially mortgage payments, other debts and liens, and maintenance costs.

Letting sentiment influence the way that you handle this investment can be imprudent. Step back and ask yourself: How would you proceed if you had no previous attachment to this piece of property? Would you keep it, sell it, rent it, renovate it or something else?

Choosing to sell the property may entitle you to tax advantages such as the long-term capital tax rate. The cost basis of the real estate jumped up to the fair market value on the day that your donor died, thus the appreciation from the original purchase to the date of death escapes taxation.

Selling estate property will likely require the consent of the Surrogate judge, but this is generally not a difficult or expensive procedure.

How our office can help you when selling estate property

- Review the purchase offer for legal issues
 - Work with buyer's attorney to move transaction along smoothly to closing
 - Obtain reimbursement of prepaid property taxes for the period after the sale
 - Obtain reimbursement of prepaid oil or propane deliveries, homeowner's association fees, etc.
 - Secure title curatives for encroaching fences, shed or driveways
 - Obtain updates to the abstract of title and survey
- Prepare your proposed deed, transfer tax returns and property transfer report to put the property tax bills in the new owner's name
 - Assist in collecting paid property tax receipts, building permits and certificates of occupancy
 - Arrange the pay-off of your current mortgage and home equity loans
 - Prepare affidavits that may be necessary—name affidavits, non-bankruptcy affidavits, fence affidavits, family tree affidavits, proof of death affidavits, etc.
 - Obtain Surrogate Court approval for the sale
 - Work with your estate attorney

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