



TAX MATTERS

## A cottage agreement can save the family headaches

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There's a family I know who have a story they'd like to share. Eric, Ben and Emma are siblings who inherited their father's cottage four years ago when he passed away. They all love spending time at the cottage, and love one another – most of the time. Still, they can drive one another crazy. "Tim, I love my sister," Eric said, "but when we're at the cottage together, she plays the bagpipes all day long. Supposedly it's good for her asthma. It drives me nuts."

If you own a cottage and are thinking of leaving the property to your heirs one day, there's no guarantee that they'll be able to share the place successfully. But you can stack the odds in favour of a happy co-ownership through use of one terrific tool: A Cottage Agreement.

### The agreement

A Cottage Agreement is a document signed by you, and each of your heirs who will one day inherit your cottage. The agreement should be finalized after an open discussion with your heirs so that they provide input into its creation. What's the purpose of a Cottage Agreement? To provide a clear understanding of how the finances, usage, upkeep and decisions around the cottage will work when you're gone. The agreement will also spell out how disputes will be resolved, when (not if) they arise.

As the current owner of the cottage, you might want to pass ownership to the kids during your lifetime, but retain certain rights related to the property – such as the right to continue using the cottage. A Cottage Agreement should spell out these rights.

Sure, a little moral suasion may be enough to keep harmony in the family while you're around, but even the most loving families can face stresses related to a shared property if there's no clear understanding around key issues.

### The issues

When heirs are going to share the cottage, the following issues should be discussed, with answers baked into your Cottage Agreement.

- **Use of the cottage.** Will all the kids be allowed to use the cottage all the time? This will require that they be willing to stay with one another (and may require Eric to be respectful of Emma's bagpipe asthma treatments). Or will each have exclusive use at certain times? How do you allocate these times?
- **Guests at the cottage.** Are heirs allowed to bring guests to the cottage, or will it be family only? Further, can an heir rent the cottage during his or her exclusive time, or is renting prohibited?
- **Sharing the costs.** How will your heirs split the costs of upkeep? Should the costs simply be split evenly? Should it be based on who can afford to pay? Should it be in proportion to use of the cottage? Will you leave a "cottage fund" in trust for the heirs to help cover some of the costs? Perhaps your heirs should set aside money annually to create a "reserve fund" to pay for larger repairs when they become necessary.
- **Managing the money.** Once everyone agrees on how to pay for things, who will make sure suppliers are paid? Someone has to collect the money, pay the utility bills, property taxes and insurance premiums, among other things.

- **Labour at the cottage.** There's plenty of work to do at the cottage. Who is going to open and close the cottage if required? Who will cut the grass, rake the beachfront, put the dock in the water, prune the trees and hedges, clean out the shed, and more?
- **Rules at the cottage.** I've seen many cottage heirs squabble over the mess left behind by a sibling, leaving the boat without gas, leaving rotting food in the fridge and other minor inconveniences. Preparing some "Rules of Use" to accompany a Cottage Agreement is a good idea.
- **Succession of the cottage.** Will each have the right to leave his or her share to a spouse (who may remarry later), or should the share go to the kids of a deceased owner? Heirs may need a way out of cottage ownership if necessary. Should each have a right to sell his or her share, perhaps giving the others a right of first refusal to buy?
- **Decisions about the cottage.** How will your heirs arrive at agreement on matters related to the cottage? Should a majority rule on minor issues? Will certain decisions (such as selling, or making major improvements) require unanimity? How about mediation if they can't agree?

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