



BEACON LAW CENTRE

Lawyers & Notaries Public

Specializing in

- real estate law
- business law
- wills & estates

With us you receive:

- plain language
- up-front approach
- work quoted by the job, not the hour.
- prompt service
- friendliness
- value for money

Offices in:

- Sidney
- Brentwood Bay
- Broadmead

More info on back page

"If you can do something about it, then don't worry. If you cannot do anything about it, then why worry?"

– Tibetan saying

Raising the Bar

issue 6, Winter, 2012

Welcome to *Raising the Bar*, a newsletter for clients and friends of Beacon Law Centre. We intend this newsletter to maintain a valued business relationship at any stage – even after our legal services for you are completed.

With *Raising the Bar*, we hope to keep up the best aspects of our service: meaningful information, trusted advice, and outstanding service. In turn, you can pass on our name, and maybe even this newsletter, to someone else who might need our services.

Widower Wants A Will without Woe

A peninsula resident for 25 years, Michael Flanagan never sought a lawyer's counsel until his nephew, Bob (a home-buyer in *Raising the Bar* issue 4), suggested he update his Will.

Will review overdue

With arthritic joints and hair gone white, Michael felt that his health was starting to fail. He wanted help to revise the Will not updated since before his wife, Shannon, died.

executor needed

Michael and Shannon had three great kids who would inherit. With Shannon gone, he faced a conundrum in choosing an executor. His two oldest would each do a good job. Yet, either could be headstrong. Sometimes they did not get along. Also, he and Shannon had a friend whose kids got into a terrible battle after her death over household items of mainly sentimental value. He wanted to avoid anything like that after his passing.

realistic view

Beacon Law's Lianne Macdonald discussed these things with Michael. She advised him that the role of executor requires a calm, impartial approach. "It's about the business of dealing with your assets and liabilities," she said. "It is a mistake to view your children through rose-coloured glasses, assuming that they can handle this lengthy, complex job together in memory of you – especially if they do not always get along." This is particularly true when emotions run high after the loss of a parent. Inexperience in the division of personal items often results in family discord, causing significant delay and increased legal expenses.

two homes

While he felt sure that his affairs would not be complex, the matter of his two homes would need attention.

- Michael has a winter home in Arizona. He'd heard

horror stories of snow birds trying to sell winter homes in the USA.

- He thought of offering his youngest child the chance to buy his house here on the peninsula. The other two might not be comfortable with that. He worried about a fair arrangement.

sagely guidance

Lianne's advice about the US home: Carefully consider making his children executors. Even with a simple

Canadian estate, the taxation can be complicated, and if an executor makes an error, he or she may be personally liable, although the error might occur in innocence.

Regarding the home here: Lianne confirmed that Michael's two older kids could be conflicted in the executor role about supporting the plan for his youngest to have this home. The powers of an executor to distribute assets in kind require care and caution. A careful process and considerable finesse would be needed so that the older two receive fair value from his estate. Given the family dynamics, this

could lie beyond their capabilities.

whom to choose

Michael also wanted to know about executor fees. He assumed that his kids would not charge these, but wondered what they might amount to. If he had a professional take over, would it be costly? Though a little shy, he had the nerve to ask.

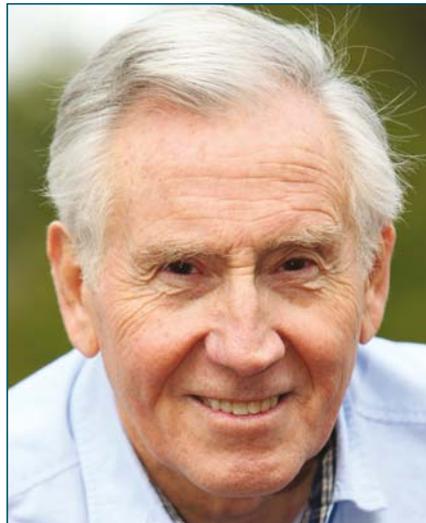
entitled to compensation

According to Lianne, most people assume that their children acting as executors cannot or would not charge a fee. However, by the time the significant duties of an executor are complete, most would like to be paid for it. They are entitled.

basic principle, practical suggestion

Whether one designates a professional (lawyer, trust company, or accountant) or a family member as executor,

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the right to a fair and reasonable fee is the same. When the Will does not say anything about an executor's fee, an executor may claim as much as 5% of the gross value of the estate assets they administer, subject to the approval of the beneficiaries. Lianne further advised that if Michael worried about executor fees, but wanted a professional, then a binding agreement could be made in advance so that he would know what the charges would be.

ready to move forward

Now prepared to make informed decisions, Mr Flanagan booked a follow-up to revise his Will. Feeling enlightened and relieved, he also thanked Bob for referring him to Beacon Law. 🏠

This story is a composite of multiple real-life stories. Names have been changed to protect privacy.

PERSONNEL PROFILE: Patricia White, Estate Paralegal

Introducing Patricia White. She assists Lianne Macdonald in Beacon Law Centre's Estates Department. A born islander, Pat grew up in Campbell River. She earned her Legal Stenographer certificate from Camosun College in 1979 and has worked extensively in law since. Her broad Legal Assistant experience and compassionate approach make her well suited to liaise with executors and estate beneficiaries alike.

Pat is a dedicated mom to daughter Amanda and son Blair. In addition to family, her loves include camping, reading, renovations, and travelling with husband Ron. For Pat, good living on the peninsula includes enjoying the outdoors, walking into Sidney on the weekend for coffee, and searching the used book stores. She works out regularly at Panorama with a wonderful trainer and a great group of gals. 🏠

LEGAL NEWS:

- Canada's Income Tax Act includes many special provisions relating to deceased taxpayers. People not experienced in this area – including those revising their Wills and planning their estates – should seek special advice. Recent changes to US tax laws also warrant careful consideration.
- In most circumstances, it is not prudent to appoint a non-resident executor. Tax laws in his or her country of residence could be deemed to apply and withholding tax on the estate might apply. 🏠

COMMUNITY INVOLVEMENT

The people of Beacon Law Centre are grateful for the firm's success and recognize the importance of "giving back." Some of the causes supported in the past year include:

- Camp Imadene
- First Open Heart Society of BC
- Greater Victoria Performing Arts Festival
- Pacific Christian School dry grad
- Peninsula Soccer Association
- Saanich Peninsula Hospital Foundation
- United Way
- World Vision

As in previous years, Beacon Law Centre has also "adopted" a family for Christmas this year. We intend to ensure that their Christmas is joyful. Indeed, we encourage everyone to experience the joy of giving, be it financially or by volunteering. 🏠

REMINDER: New Victoria Location

Beacon Law Centre's Victoria office has a new address in the Royal Oak area, in the Raven Building – just past the Quadra Street overpass, near the Royal Oak Shopping Centre. The address is: 140 – 4392 West Saanich Road, Victoria, BC V8Z 3E9. The phone number remains 250 656-3280. 🏠

THREE LOCATIONS

Sidney

104-9717 Third St.
Sidney, BC, V8L 3A3

Victoria (at Royal Oak)

140-4392 West Saanich Rd.
Victoria, BC V8Z 3E9

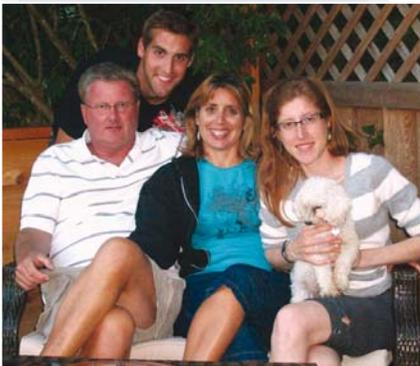
Brentwood Bay

5-7115 West Saanich Rd.
Brentwood Bay, BC, V8M 1P7

e-mail: newsletter@beaconlaw.ca • Phone: 250-656-3280 • Monday to Friday, 9 AM to 5 PM.



Beacon Law Centre (BLC) is a leading south-island boutique law firm. BLC concentrates on real estate, business law, wills, and estates. We provide service from offices in Broadmead, Sidney, and Brentwood Bay. *Raising the Bar* is one way we keep in touch with clients and friends. We also respect your confidentiality. If you want us to add or remove your name and address from the *Raising the Bar* mailing list, then send e-mail to newsletter@beaconlaw.ca. Please share the newsletter with others. When you recommend BLC, that is our best advertising.



Pat (center) with her son, daughter, husband, and dog.



Del Elgersma,
Lawyer, Partner



Lianne Macdonald,
Lawyer, Partner



Kelvin Scheuer,
Lawyer, Associate