



BEACON LAW CENTRE

Lawyers & Notaries Public

Specializing in

- Real Estate Law
- Business Law
- Wills & Estates

At Beacon Law, you receive:

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

Offices located in:

- Sidney
- Brentwood Bay
- Royal Oak

"...and into each life some rain must fall"

– Henry Wadsworth Longfellow

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RAISING THE BAR

Raising the Bar is a newsletter for clients and friends of Beacon Law Centre intended to maintain a valued business relationship with you 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.

Estate Law Considerations: Executors Proceed Cautiously

Hello to all of our clients. We last wrote to you about changes to BC Wills laws. Changes to our laws for processing Estates have also been made. The estate law overhaul doesn't particularly require any action on your parts. A brief review of our take on today's handling of estates follows.

Here's What We'd Hope For

If we must die, we'd like things to be organized and simple, so we can enjoy our final days with family or friends. When we've passed, we want our assets to transfer smoothly to our chosen family, friends, or charities. If we can save on costs, we want to.

Some Estates Easier to Handle than Others

Probate Not Always Required

If your spouse survives you and is your primary beneficiary (or with very simple estates), the transfer of your assets to your spouse should be easily achieved with proper planning. Minor legal assistance may be needed. For the executors of Beacon Law wills clients, a free consultation is available to clarify the steps to follow. The survivor's Will, Power of Attorney and Health Care Agreement should be updated at this time. New planning should be considered to efficiently pass wealth to the next generation.

When Probate Is Needed

When the last of two spouses dies (or with more intricate situations) a BC Supreme Court order, called a Grant of Probate, may be needed to handle the Estate. Here, the executors should seek legal assistance in carrying out their responsibilities.

Liability Concerns Arise

Probate involves complex law. While your executor may be bright and confident there is a high risk of personal liability if the estate incurs financial losses (even if the mistakes are made innocently). Common risky behaviours exhibited by lay executors include:

- *Starting to deal with the assets and then deciding not to act as executor.*
- *Failure to act impartially in the distribution of personal items.*
- *Failure to identify all assets involved, or to find and pay a liability before disbursing funds.*
- *Keeping risky or unauthorized investments, or failing to adequately insure property against fire and other perils.*
- *Failure to include the proper parties in the Probate process.*
- *Failure to adhere to legally required time limits, or disbursing without appropriate waivers or releases.*
- *Failure to keep proper records and account adequately to beneficiaries or creditors.*
- *Errors in the handling of the T1, T3, or other income taxes.*
- *Drawing Executor fees without the proper approvals.*

Often, lay executors don't discover that their handling of the matter was problematic until it is too late.

Family Strife Problems

When Probate is necessary, it will take several months to administer the Estate, even when the Executor is advised of all of the steps and is extremely efficient. Beneficiaries are often unsympathetic of the work required, and can be critical of the executor and the timeline and costs involved in a proper administration. For this reason, some will-makers choose friends or professional advisors as executors in an attempt to preserve the relationships between their children. Others encourage their family member executors to engage the estate lawyer to empower them to avoid errors and provide the beneficiaries with a further assurance that the matters are being well handled. We encourage our clients to think critically about their choice of executor.



Del Elgersma
Lawyer, Partner



Lianne Macdonald
Lawyer, Partner



Kelvin Scheuer
Lawyer, Associate

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 Royal Oak, 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 or would like to send us a comment or suggestion, send an e-mail to newsletter@beaconlaw.ca. Please share the newsletter with others.

When you recommend Beacon Law Centre, that is our best advertising.

Choice of Executor

The role of executor is not for the faint of heart, nor for the emotional one in the family. The most successful executors are objective, smart and prudent. They don't let the paperwork accumulate on the desk corner. They know what work to delegate and what work to do themselves. They will not be baited by petty displays of poor behavior, and will patiently and calmly rise above unhelpful criticism. Above all else, look for these characteristics in choosing your executor.

Stop Worrying About Executor Fees

Family members, friends, and professionals who act as executors will nearly always charge an executor fee because a great deal of work is required when Probate is involved. The fee (payable from your assets and regardless of who acts as executor) is often in the range of 2% to 3.5% of the value of the assets involved. The maximum allowed (for disputed or very complex estates) is 5%. Too much emphasis is placed on executor fees. Given the work involved they are appropriate and there are checks in the system to ensure the amount charged is reasonable. It is a lower percentage than the real estate commission

payable when a house is sold, even though the executor's duties typically last for at least a year. Rather than worry about an executor fee, worry about choosing the right executor.

Your Opportunities and Action Steps

The efficient passage of wealth from one generation to the next is a matter of being well informed and well organized.

- *Keep your wills, trusts, or other estate planning documents up to date. Encourage your beneficiaries to do the same.*
- *If your spouse or main beneficiary dies, update your documents and explore new ways to provide for the alternative beneficiaries.*

In 2015, our estates lawyer, Lianne Macdonald, will offer workshops for those wanting to learn or teach their chosen executors about Probate and the role of an executor. If you are a Beacon Law wills client and this is of interest to you, please feel free to contact us and we will add you and your executors to our list of those interested in attending.

— Lianne, Del and Kelvin

Estates Team Profile



Left to right: Pat White, Lianne Macdonald, Wendy Claxton

The loss of a loved one is often traumatic and Beacon Law is committed to providing thoughtful, compassionate, and efficient service for executors who may themselves be grieving. Our dedicated team includes Lianne Macdonald, one of Beacon Law's founding partners, and her legal assistants Patricia White and Wendy Claxton. All three have experience in excess of 20 years in the field and a deep working knowledge of the issues that can arise. In depth profiles can be found at www.beaconlaw.ca. Beacon Law is pleased to offer fixed quotations for the handling of estate work so that our executors are not worried about the clock, and can call us in as often they need. Our goal is to assist executors to honor the wishes of their loved ones by fulfilling the executor duties with confidence and dignity.

Community Involvement

Since our last newsletter, we were pleased to support Cops for Cancer, Victoria Hospice, Stelly's Dry Grad, Brentwood Bay Revitalization Committee, and Balfour's Friends Foundation. We were also pleased to help the Sidney Rotary Club with a Christmas Fundraiser and of course something so rewarding that we look forward to every year... adopt a local family for Christmas.

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