

The Distribution of Family Belongings: Keeping the Peace

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Bequeathing tangible personal property, such as art, furniture, books and collectibles, is accomplished through a last will and testament.

These assets are usually left first to a surviving spouse or whoever is next in line to inherit.

However, when the time comes for the assets to be dispersed among heirs, everyday objects of sentimental value can become contested belongings. Many parents admit to worrying about the sibling rivalries this process may stir up. Yet, uncertain how to confront or resolve these issues, many tend to simply *hope* the best will occur when the time comes.

Unfortunately, the time usually comes on the heels of a parent's death (or incapacity). Stressful under any circumstances, these periods are not usually conducive to raising the delicate issue of "who gets what." How can either a parent or heir prepare today to lessen the likelihood for potential disharmony in the future?

We have found the best resolution comes from proactive discussion, as a family, during a parent's lifetime.

Talking About Legacy

Talking about the disposition of non-titled assets helps to make the owners' wishes well understood by all parties. It also offers an opportunity for storytelling. Hearing how an object was found during a special trip or inherited from a beloved ancestor can infuse it with emotional value, a legacy in itself.

Holding advance conversations also provides an opportunity for the parent to confirm an individual's interest in or ability to accept an object. Life today is complicated and fluid, and one person's beloved collection or possession can quickly



become another's albatross. For example, a recently divorced heir downsizing to a smaller residence may no longer be a candidate to receive a group of collectibles or a baby grand piano. Airing these issues as a family can reset outdated assumptions, paving the way for realistic and cherished bequests.

Broaching 'The Discussion'

Many parents have a natural reluctance to discuss who gets what—no one wants to face mortality. Sometimes it falls on the children to initiate the conversation. One approach is to have a "what if" conversation, as in: "If something happens to you, are there particular things you have in mind for each of us?" This can open the door to a meaningful dialogue. Some people are uncomfortable talking about specific objects and possessions, in which case a more subtle approach might be a good starting point. Parents can be asked to explain how they envision the distribution of their belongings. Once the subject is broached, a vision often emerges.

It is also important to discuss parents' wishes should they become incapacitated and a child or advisor, pursuant to a durable power of attorney or guardianship, becomes the decision maker. What items, if any, should be sold to raise funds for care? Having everyone on the same page helps to ensure that important caregiving decisions are determined in a timely fashion while also minimizing the likelihood of family stresses over "stuff."

Implementing a Course of Action

Following a parent's death, an executor is appointed, the assets collected, appraisals completed and perhaps a contract on the sale of the residence(s) signed. At that point, the executor and family members turn to cleaning out the house(s) and dividing up remaining tangible personal property. The first consideration is whether the outstanding items have value. This is relevant in terms of treating heirs fairly, ensuring that the "piles" doled out have equal value.


continues on page 2

Outside appraisals for probate and tax purposes provide a starting point. It is important that heirs understand the valuation methodology that was used when divvying up the personal property.

Next comes the all-important question of how heirs will select from the remaining pieces—more than one

person may want an item. This is a time when emotions tend to run high, so it is best to have in place an orderly and established plan. When family members cannot reach an agreement, keepsakes and treasures must be sold—quickly and usually at uncompetitive prices. Discussing these issues while the parents are alive helps ensure

that there are few if any unpleasant surprises when the time comes.

No matter the method, the most important outcome is to preserve family relationships, honor a parent's legacy, capture memories and amicably divide tangible property. 

Dividing Assets Among Heirs

Approaches for Asset Owners

- **Sell a collection.** The person who compiled a collection is likely best positioned to dispose of it. For example, an avid book collector negotiated a sale of her collection to a university library. This act brought her enormous pride, provided liquidity during life and eliminated the burden of her children later having to dispense of a relatively obscure but valuable collection.
- **Identify in writing.** Although a letter of instruction may not be legally binding under each state's applicable law, a signed document makes clear the intended recipient. A client who didn't sell her collection during her lifetime permitted her children to do so, writing that it was appropriate to view an antique desk as college tuition.
- **Preselect items.** Some families place color-coded stickers on the underside of objects to identify who will eventually receive the item.

Approaches for Heirs

- **List preferred items.** Heirs compile a list of favored items, and an appointed outside party reconciles each person's requests. While for many families this process occurs with relative ease, there are often degrees of brokering, negotiations or bartering by the outside party.
- **Draw straws to determine the selection order.** Once an order of selection has been fixed and the first round completed, the second person begins round two, the third person begins round three and so forth until all the assets have been chosen. The selections can also be grouped in terms of relative value, with items of more sentimental value separated from more expensive pieces.
- **Hold a family auction.** Using play money, auctions can be live or silent, with heirs free to trade items once the process is completed.

Resources

- *Wealth in Families*, 2nd Edition, Charles W. Collier (2006) www.yellowpieplate.umn.edu and *Who Gets Grandma's Yellow Pie Plate?*
- *The Boomer Burden: Dealing with Parents' Lifetime Accumulation of Stuff*, Julie Hall (2008) and www.theestatelady.com
- *A Guide to Passing On Personal Possessions* (1999), University of Minnesota. www.abesbooks.com
- *Who Gets My Personal Stuff? Transferring Personal Property*, Bill Taylor, University of Wyoming
- *When Dividing Assets, the Little Things Matter* (2016), Paul Sullivan, *The New York Times*

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