



THE NEED FOR A WILL AND POWER OF ATTORNEY

Robert C. Pettitt

Thursday, December 1, 2011

Last Will and Testament

If you don't leave a Will, the Government of the Province of Ontario through the Succession Law Reform Act, will decide how your Estate will be distributed. Regardless of your wishes and no matter whether your family knows how you want your Estate divided, if you do not leave a Will, your Estate must be divided according to the law of the province in which your Estate will be administered.

The Court will appoint a Trustee to look after the administration of your Estate and this Trustee may not be the person who you would have selected as your executor to look after your affairs. In addition, the cost and time it takes to administer your Estate will be likely greater if you do not leave a Will.

Power of Attorney

The Power of Attorney is a legal document which enables you to appoint some person to look after your affairs for you when you are alive [ie. to do anything which you would legally do yourself such as deposit and cash cheques, pay bills, sell property, etc.] The Power of Attorney must be made while you are mentally competent. If you subsequently become mentally incompetent, your Attorney will then be able to look after your affairs for you.

If, however, you became mentally incompetent and have not signed a Power of Attorney, then the only way your affairs can be looked after is by the appointment of a Guardian by the Court. This latter procedure is far more expensive and takes longer than a Power of Attorney and may result in the appointment of someone who you, yourself, may not have selected.

e & o e