



IN Real Estate

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Tip of the month

What are the details?

A lot of attention in real estate is paid to transaction prices. This surely makes sense, but the key to a good deal may be more complex. Consider two identical properties that each sell on the same day for \$275,000. The houses are the same, the sale prices are the same, but are the deals the same? Maybe not. For instance, one owner may have agreed to paint the property, replace the roof, purchase a new kitchen refrigerator, and pay the first \$3,000 of the buyer's closing costs. The second owner made no concessions. In this example, the first house was actually sold at discount—the \$275,000 purchase price less the value of the roof repairs, closing credit, and other items. If you're a buyer, this is the deal you want. If you're a seller, you would prefer to be the second owner and give up nothing.



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 (1-721) 550-1952
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Inheritance Perils



Whenever people are involved there is the potential for conflicts. Sometimes disputes can only be resolved in court, but that is not always the case. Mediation is a form of dispute resolution which offers a more practical and less costly alternative. Attorney Michele Meyer of Meyer Law & Mediation has written a series of interesting columns on the subject.

"Your father's second wife is the sole heir to his estate." Those are the words of the notary public just before all hell breaks loose between the inheritors. Every family has one issue or another: the black sheep in the family, the favourite child, a father who remarried a much younger mistress, children from different marriages, suspicion and violated trust. There are problems when a will was made up by the deceased, but not having a will makes matters just a little more complicated. Exactly at the moment when inheritors really need each other jointly, a family is threatened to fall apart because of opposing interests. Settling an inheritance is a complicated situation where money and emotions play a role. Usually old pains are addressed. Inheritors usually see this situation as the last opportunity to out-argue the other and to set matters straight.

A cautious settlement of an inheritance requires a director. The use of mediation in the case of an inheritance certainly offers added value. That is the case especially if there are multiple inheritors. After all, each decision that is made concerning the inheritance should be the result of an agreement between the inheritors. By involving a mediator, the inheritors will look together for a solution in which all parties involved can find themselves. By using that method the respective inheritors can maintain control over the settlement of the inheritance. The objective is to reach a balanced legal agreement, as well as to restore the disturbed family relationships. Whether that will succeed or not is determined by the efforts the parties will put in the discussions with the mediator. The objective and scope of the mediation discussions is to try to solve the disagreements outside a courtroom.

Which inheritance perils are the ones that occur most often?

First of all there is the controversial executor. The testator has appointed an executor in his testament with whom (one of) the inheritors (has) have great difficulty. The problem usually is that the executor does not report and communicate sufficiently with the inheritors. By means of an intervention by a mediator, a replacement executor can be looked for in

an independent manner. This is to avoid that the inheritors will get caught up in a judicial procedure. The many conflicts namely lead to considerable delay in the settlement. Therefore it could take many years before an inheritance is settled.

Another issue is the so-called "grandmother tail clock." That is the situation whereby the inheritors do not agree with the value of some possessions forming part of the inventory. The mediator can make the inheritors determine the value of the goods by means of mutual consultation, for example by involving different appraisers.

Then there is another discussion concerning the inventory itself. What does and what does not belong to the inventory? That has to be determined as soon as possible. Determining the inventory can be done by intervention of an impartial party.

A lot of inheritance problems only come to light when the inheritance is being divided, which is when the testator has already passed away. Moreover when they know that there already are family conflicts, or if it can be foreseen that there will be conflicts, it is advisable to already assign certain possessions with name and surname to inheritors when one is still alive. This is to avoid a tug-of-war over for example the one silver spoon set that the testator would have liked the second wife to inherit.

Everybody at some point will have to do with inheritance law. Family feuds are the most dreadful things. Usually these drag on for life without reaching a real solution. Long years of feud and silence between brothers and sisters concerning inheritance does not solve anything. Precisely in those situations everything has to be arranged: from dividing and settlement of the inheritance to the appointment of the liquidators and problem solving with the executors. Make sure you take care of these matter in a timely manner so that they do not further escalate. Involve a mediator who can mediate. A mediator will try to find a solution that is satisfactory and acceptable for each inheritor.

Mr. Michele N. Meyer is director of Law & Mediation BV, based in Curaçao. Besides lawyer, she is also a registered mediator at the Dutch Mediation Institute. She is specialized in personal and family law, labor law, contract law and debt collection cases. Meyer Law & Mediation B.V. advises, litigates and mediates in conflicts.

SR 17 Business Center
Santa Rosaweg 17 (Hoek Mahaiweg)
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