



## Upcoming Seminars

Please attend our upcoming seminars –  
Better still, invite a friend!

July 15 @ 3 pm – Williamsburg

July 19 @ 2 pm – Richmond

July 19 @ 6:30 pm – Richmond

August 3 @ 3 pm – Williamsburg

August 19 6:30 pm – Williamsburg

To register, please visit:

<http://www.JGBLLP.com/workshop-registration.htm>

## Keeping the Family Cabin In the Family

*By Dan Gasink*

Many families count among their most treasured possessions some distinctive ancestral property. This may be a mountain cabin, a lake, beach, or river house, a hunting lodge or even the old family farm. These properties are dear to families as both a place of respite and as places which in some way embody the family's identity. What distinguishes ancestral property for you is your desire to keep the property in your family for generations.

Maintaining any property is difficult; a property cannot navigate the course of two or three generations unless the original generation made provisions for the property's management and support. This article will first explore the pitfalls of ancestral property and then explain in brief how your goals could be better served by creating a trust or business entity to hold the property for your descendants.

## Selling Camelot to Pay the King

Without planning, an ancestral property will likely be sold to an outsider within a few generations and may cause deep family rifts in the process. The first and biggest hurdle many families face is the Federal Estate Tax (currently set to resume at a 40-55% rate on January 1, 2011). While you may not have paid much for the house on the Outer Banks or the mountain acreage many years ago, it will be taxed based on the fair market value as of the date of your death. Make sure you talk to your attorney and accountant about the tax liabilities your special home bears and how to mitigate the bite of taxes at death.



## JOHNSON, GASINK & BAXTER, LLP

1138 Professional Drive, Suite A  
Williamsburg, Virginia 23185  
757.220.9800 office • 877.790.4555 toll free  
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Further, owning any property is expensive and difficult. As a property shifts from one owner to three in the second generation, to nine in the third generation, it becomes increasingly difficult for a family to agree how to share the work of cleaning and maintenance, divide the costs of insurance and property taxes, and determine which improvements are made. It can also be hard for a family to allocate the available weeks or weekends among the many family members. This confusion leads to family arguments and sometimes to splits within families that never heal.

As heirs become more remote, some will have no attachment to the family homestead. These grandchildren and other remote heirs can ask the court for a forced sale or 'partition order' or to liquidate their share of the family property. Worse, an heir's divorce or creditor could do the same.

### **Planning for the Future**

For your property to remain in the family for generations, you must set up a system which includes:

- 1) A system for decision making,
- 2) Funds to maintain the property or a mechanism by which the later owners will contribute funds, and
- 3) Protections to keep ownership within the family.

Typically this system is either a Trust or a business entity such as a Limited Liability Company (LLC). In a Trust, the property would be held in trust and managed by trustees who are selected according to how you, the trust's creator, determine. The Trust would hold property and funds for maintenance for the benefit of your heirs for a set time or in perpetuity. Trusts cannot be changed after your death, so they can be a bit inflexible for later generations. Also trusts don't have a natural mechanism for collecting funds from

### **PROFESSIONAL ADVISORS:**

*As a thank you to our professional friends, Johnson, Gasink & Baxter, LLP will offer a free three hour CE course in September for CE and CFP credit. For updates, see our next issue and our website, [www.JGBLLP.com](http://www.JGBLLP.com)*

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beneficiaries when needed for taxes, maintenance, or improvements.

### **Your Family Cabin, LLC**

In an LLC system, you would create a company to hold and manage your ancestral property. You would give your heirs shares in the company. The LLC would list who could be a shareholder; many LLCs set up for ancestral property prohibit outsiders from being shareholders. Other agreements allow a shareholder to give their shares to a spouse but to no other outsider. As the organizer, you get to make the rules.

The shareholders of the LLC elect managers who govern the company. Each year, the shareholders have a meeting to vote on how to allocate the vacation time, to decide which improvements to be made, and to select a manager for the coming year. Family members who cannot make the meeting can vote by proxy. Family members who do not wish to participate in the joy (and the expense) of the old family property can either forfeit their shares or sell back their shares to the company.

You can preserve the family cabin as a treasure for your grandchildren and beyond, but you must set up a system for them so that they can be successful. Without a system, the heirs may not fairly distribute the use and expense of the ancestral property and the family cabin will likely be sold to a third party within a generation or two. As with so many things in life and law, a little bit of work and organization now can prevent mess, expense, and hurt feelings later.

*To add another e-mail address,  
or to unsubscribe,  
please e-mail Lauren at [lkn@JGBLLP.com](mailto:lkn@JGBLLP.com)*

#### COMMUNITY NOTE:

The town of Lanexa, New Kent County, is trying to raise funds for a fire-rescue station. A Golf Tournament has been scheduled to help raise the funds.

## **LANEXA STATION 4 AUXILIARY**

**GOLF TOURNAMENT @  
VINITERRA, NEW  
KENT COUNTY**

**SEPT 24, 2010**

**\$75 Per Golfer/ \$300 Per  
Team - 12:30 Shotgun  
Start  
Includes: 18 Holes of  
Golf, Cart, Range, Prizes,  
BBQ Meal!**

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