

Preserving Harmony at the Family Cottage with an LLC

Article

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For many, the family cottage holds fond memories, from connecting with loved ones to enjoying some much needed time away. However, without proper planning, the family cottage can become a source of conflict and hostility for future generations.

When multiple people, such as the children of the original owners, inherit property, they generally take the property as tenants in common. This means that each owner has an undivided interest in the whole property, giving all owners the same right to occupy no matter their ownership interest. In addition, each owner can transfer their interests to anyone they choose without the consent of the other owners, leaving the remaining family owners to cope with unfamiliar, and perhaps unwanted, co-owners. This can make it incredibly difficult to keep the cottage in the family as a source of happy memories.

Fortunately, forethought and proper planning can help eliminate some of this conflict, ensuring the survival of a cherished and harmonious place of refuge for the family for years to come. In particular, a limited liability company can be created to provide structure and consistency.

This company, often referred to as the "Family Cottage LLC," will own the real estate as opposed to the individual members of the family. Family members will instead have an ownership interest in the entity rather than an interest in the real estate. Each owner becomes a member of the company and enters into an operating agreement, made up of written rules, obligations and restrictions. These rules, which are determined ahead of time, will dictate how the property is owned and operated and will survive the test of time.

The following are a few aspects of property ownership the Family Cottage LLC can provide a structure for, in turn reducing the likelihood of confusion and conflicts:

- **Use of the Property.** Rules can be established regarding how the cottage can be used. This may include scheduling, visitors, prohibited activities, clean-up, repair and maintenance obligations.
- **Financial Obligations.** Responsibility for taxes, insurance, mortgages, utilities, maintenance, repairs and improvements can be clearly assigned.

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- **Management.** A manager can be established to centralize decision making and operating control, specifying a specific person to take on certain responsibilities.
- **Voting.** Voting rights among the members can be determined, along with procedures for meetings and required notices to members. The operating agreement can set forth what level of agreement is required among members to take certain actions. For example, the agreement may require the consent of all members to sell the cottage.
- **Transfers of Ownership.** The operating agreement can restrict how a member can transfer their ownership interests to others, though it cannot completely prohibit transfers. This gives other members a say over who will share the property with them.

For those who wish to protect the legacy of the family cottage and ensure its harmonious existence, the Family Cottage is a great resource. It's creation provides for stability and certainty and, with a little forethought, a valuable family resource can be preserved.

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