

# PLANNING PERSPECTIVE

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*J. Douglas Fitzgerald*  
Fitzgerald Law Office

Now that we have finally put winter behind us and battled through “spring showers,” it is a good time to step back, take stock, and evaluate situations that may have an effect on our lives. The articles in this issue of Planning Perspective address a couple of these areas. We encourage you to contact our office on these matters or others that we can help you with.

We look forward to assisting you with your new challenges and opportunities.

## Meet Katelyn Fleischer

We are excited to announce Katelyn Fleischer as a new member of the Fitzgerald Law Office team. Katelyn joined us in January and has quickly adapted to the life of a Legal Assistant. Katelyn is an energetic leader and skillful communicator. She is an excellent resource for clients with questions regarding their ongoing work or who need some assistance when Doug is occupied with other clients. Katelyn looks forward to working with our clients to provide them with the best level of service possible.

## Warning Label For P.O.D. Designations?

**WARNING:** Placing a Payable On Death designation on this account may destroy your existing Will or Revocable Trust. This non-probate transfer may confuse your heirs and frustrate your plans for your family. Consult your attorney or financial advisor before using this estate planning tool.

The Payable On Death (“P.O.D.”) designation that a bank can put on a certificate of deposit is a valuable and powerful tool for estate planning. The same is true for joint ownership arrangements on financial accounts and the Transfer On Death (“T.O.D.”) designations that banks, stockbrokers, and other companies often offer to their customers.

Banks offer these arrangements because it is good customer service. In any business, the customer appreciates something that is quick, cheap, and easy. Unfortunately, there is a dark side to these arrangements. Lost in the convenience and excitement of what seems to be a free gift is the fact that the vague promise of “avoiding probate” simply is not all that it seems. In the end, the P.O.D. can often be a step backward in the customer’s estate planning and may do more harm than good.

Here are several questions to ask yourself before taking the bank up on its offer to put a P.O.D. or joint ownership arrangement onto one of your accounts:

- Has the bank reviewed the terms of my existing Will, Revocable Trust, and Financial Power of Attorney? Did the bank understand what my documents say and how my current plan works before they recommended attaching one of these arrangements to an account?

- Is the bank making a recommendation that will only affect my accounts with that particular bank? Will it really help me if it does nothing for the rest of my estate?
- Has the bank taken the time to understand all of my goals for my estate, the issues that are important to my family and my estate plan? Does the bank understand why I put the existing arrangements in place (i.e. why there is no P.O.D. or joint account at this time)?
- Is the bank working as part of my team of advisors? Is the bank including my attorney and other advisors in the decision process?

Estate planning advice should include the other advisors you have involved in your life. Banks often work with customers who try to substitute the bank’s limited service for real planning. In this environment, it can be a challenge for bank customers who already have plans in place and who work closely with their advisors to protect their plans.

When the bank steps in to give advice about “avoiding probate,” the customer should be prepared to avoid the confusion and resist feeling that a P.O.D. or joint account arrangement is necessary to solve their problems. A quality bank with excellent customer service will not put you on the spot or make you feel trapped in the middle of your various advisors. The bank should have no problem slowing the process down and consulting with your advisors to ensure that the tools the bank offers will help fulfill your goals and enhance your current estate planning documents.

## Buying Real Estate

No matter what it says in the newspaper, there is a lot of activity in the real estate market. There are many issues to consider and complications to avoid when stepping into the housing market. Some tough questions can arise with the purchase of any house or property.

For buyers, the essential keys remain:

- information about the property and the transaction
- analysis of the information once you get it
- time to decide what you want or to make sense out of the information you receive

The standard Offer to Purchase form is six pages of small print that essentially tells you what information you will get,

whether you can back out of the purchase if you do not like what you learn, and how long you have to figure this out.

“Fast deals with lax standards favor the seller.” A lawyer can add value to a purchase by focusing attention on the important information, including meaningful standards to review it and giving a buyer time to think. However, none of that will work if the Offer to Purchase is signed before you pick up the phone. Buying a home is a very emotional process. One key to success is taking the time to think about things, recognize that no house will ever be perfect, and nail down what kind of “imperfections” you will accept or reject. You then can use an attorney to get those ideas properly stated in the Offer to Purchase form in a way that gives you what you want.

However, you need to keep the lawyer in the loop. If you believe that you have the purchase under control, you should not find yourself calling from out of the blue to demand some time in the next business day.

## Long-Term Care

Although you may not be facing health issues that could require nursing home or other long-term care in the next year, there are many reasons why you should look ahead to create a plan for these issues:

- The law gives advantages to people who plan more than five years before a crisis.
- You will not be forced to make choices under intense time pressure.
- You will be in control of the choices without Alzheimer's or dementia diminishing your role.
- Long-term care insurance is more expensive and may be unavailable later in life.

However, planning ahead can be difficult. There can be an enormous amount of information to gather and process. The future is impossible to accurately predict and making any decision can be difficult. Also, no one wants to put themselves in a position where they feel pressure to act or buy something.

One option is the Secure Future Conversation. This is a focused review of your particular situation that outlines what your finances would look like if you qualified for government benefits. It would identify what assets would be saved and lost paying for long-term care. It will also point the way to options you can consider to change or improve these results. Through the Secure Future Conversation, you get information specific to your situation when you have the time to consider your options without any obligation to do something immediately.

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## Planning Perspective Television Show

Doug continues to tape a cable television show that highlights legal and financial issues relevant to families who plan for their future. Recent shows addressed estate planning subjects such as the importance of basic estate planning, how wills and other documents are more valuable than the paper that they are written on, and dangers involved in using P.O.D. designations on assets. Other shows outlined the Secure Future Conversation for nursing home and long-term care planning.

Big changes are in the works for the community cable station that airs the program. Due to the much-debated cable television law recently passed in Madison, the cable station

## Economic Stimulus Checks For Estates

As the federal government sends out its 2008 economic stimulus checks, many clients note that checks are coming in for family members who passed away in 2007 or early 2008. This is not a mistake.

Eligibility for an economic stimulus check is based upon filing a 2007 income tax return. Many times an executor or family member will file a "final" tax return after death to report income or simply provide some notice to the IRS and Wisconsin Department of Revenue. Even if it does not seem obvious, filing that kind of return in 2007 will trigger an economic stimulus check under the rules and guidelines of that program.

The economic stimulus check is an asset of the deceased taxpayer's estate. It needs to be included in the probate administration where there is a probate. In some cases, the Personal Representative may have continuing authority to handle this check even if the probate was closed. If there is no probate, the deceased's family will need to handle the economic stimulus check through the same mechanisms that they used to transfer ownership of the deceased's bank accounts and other assets.

For more information regarding the economic stimulus checks, visit <http://www.irs.gov/irs/article/0,,id=180250,00.html>.

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will be relocated on the channels in August (somewhere between channels 980 and 994). The good news is that this will allow people outside of the West Bend area to tune in. Unfortunately, Charter Cable will also be shifting the broadcast to an exclusively digital format. This means that viewers will need a converter box to receive the stations.

The new world of digital television will create a lot of confusion over Hi-Definition television sets, digital-ready equipment, and the need for converter boxes. It looks like Doug's cable program will be on the leading edge of this new wave of technology. Doug will continue to do the cable show and hope that these issues get sorted out.

## Fitzgerald Law Office

2005 Stonebridge Circle  
P.O. Box 956  
West Bend, WI 53095  
262-334-8015 • 262-334-1593 fax  
email: [fitzgeraldlaw@fitzgeraldlawoff.com](mailto:fitzgeraldlaw@fitzgeraldlawoff.com)

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