

The Independent Investor

By Bill Schmick

What do Prince, you and a will have in common?

The short answer is maybe nothing unless, like so many of us, you still have not finalized such a document. If you haven't, get on the phone with a lawyer and get it done.

The passing of Prince was a sad day, but even sadder is the fact that his sister opened a probate case in Carver County, Minnesota, the home of the late rock star. "I do not know of the existence of a will and have no reason to believe that the Decedent executed testamentary documents in any form," Tyka Nelson wrote in her filing.

Prince had an estate valued at \$300 million, and there is also the supposed treasure trove of unreleased musical material, a sizable estate tax bill (if no estate planning was in place), and who knows what else. One thing is sure; there will be plenty of time, effort, controversy and expense necessary to resolve a settlement through probate court—all of which would have been unnecessary if Prince had lived long enough to read this column.

You may not have the wealth of Prince, but you *do* have an estate. Don't leave the courts to decide who and how much of your assets your family members will receive. If you do, you are leaving your loved ones needless expense, confusion and possibly bad feelings. That is not the kind of legacy you want to leave.

If you don't leave a will, the courts will name an executor who will oversee the settling of your estate—and who will charge a large fee to do so. In addition, every state has its own rules and regulations covering estates, and without a will your assets are subject to the whims of whatever state you happen to be residing in when you pass.

For the most part, many of us never drafted a will. A document like that would force us to emotionally acknowledge that someday we are going to die. What we draft in that will, after all, is final. Then there are those among us who, like Prince "thought he'd live until he was one thousand nine hundred and ninety-nine years old," according to his former attorney and close friend, Londell McMillian.

Each of your parents and/or you and your spouse should draft individual wills because your personal desires may be different. Every nitty gritty object or item does not necessarily have to be spelled out; but, rather, your will should explain who receives what among your tangible property. A letter of instruction can be attached to your will outlining and identifying specific items that will go to certain individuals.

No one likes to pay lawyer's fees, but in this case I suggest you hire an attorney to help draft your will. It is imperative that the will is considered a legal document in the state where you claim residency. I would also look for a lawyer who is familiar with estate planning rather than real estate or some other area.

Not every asset you own needs to be included in the will. Life insurance policies, annuities, IRAs and other retirement plans, for example, should have had your heirs (beneficiaries) listed at the time you purchased or opened those investments. The beneficiary statements of these investments take precedence over anything you may direct in your will. If, for example, your insurance policy of 30 years ago lists your now-deceased parents as beneficiaries and your will states your spouse, I'm sorry to say that your parents' estate receives the insurance money. If you haven't done so already, it would be a good idea to gather all your investment and insurance policies in one place and check that all the proper beneficiaries are in place.

In my next column, we will discuss additional tools you will need in order to pass from this world into the next without worrying about your heirs. In the meantime, take hold of your destiny today and call an estate planning attorney.

Bill Schmick is registered as an investment advisor representative and portfolio manager with Berkshire Money Management (BMM), managing over \$200 million for investors in the Berkshires. Bill's forecasts and opinions are purely his own and do not necessarily represent the views of BMM, and none of his commentary is or should be considered investment advice. Direct your inquiries to Bill at 1-888-232-6072 or Bill@afewdollarsmore.com. Visit www.afewdollarsmore.com for more of Bill's insights.

Real Estate News

By Marian Goetzinger

No secrets in real estate

We all have some things we don't share with everybody, but when you are selling your home, don't keep secrets. It is not necessary to disclose every little scratch or stain, but if there is something that might affect a potential buyer's decision to buy your property, he or she should know about it when looking at your home.

If you hire a realtor to assist you in the marketing and sale of your property, he or she will be able to give you some examples of things that matter. Your realtor will provide a Residential Property and Owners' Association Disclosure Statement that asks you to answer questions about the condition of your home. Your realtor is not allowed to complete the form for you, but can walk you through it and explain what each question means. If you choose to not answer a question by checking "no representation," that does not negate your obligation to disclose problems of which you are aware.

What things must you disclose? Some examples: any leakage with the roof, problems with any of the fixtures or equipment, problems with standing water or the septic tank, code violations, pending lawsuits, noise violations, hazardous materials or encroachments. If you know of any problems in any of these areas or others, share it right up front and avoid problems later. If you are aware that something is coming to your area that is unusual or might not be desirable in a residential neighborhood, disclose it. For example, prospective buyers should be told if you know that a prison, an amusement park or a cemetery is being built nearby. Some people might not want to live near those things, and they need to be told so they can make an informed decision.

You are not expected to know everything. Buyers should always have a professional home inspection after they have a contract. The inspection almost always uncovers some defects that were unknown before. Sometimes they have developed over the years and owners simply didn't notice, sometimes they are due to deferred maintenance and sometimes they are in areas of the home that the owner simply did not see. A slow leak under the house or insulation falling down in the attic would be examples of this. It could be water damage around a window that could even include wood rot in a rarely used bedroom with drapes or blinds covering the window that you may not have noticed. Sellers are required to report any known defects in their home when they are offering it for sale, but are not liable for unknown problems. If an inspection is performed and problems are discovered, at that time the seller must remedy or disclose, but they are not held liable for not knowing.

Pine Knoll Shores is a quiet residential neighborhood. If that is changing and you know it, you are obligated to share that information. A perfect current example is the controversy in town regarding a helicopter landing on a vacant lot between two houses. Some buyers may not have a problem with that, but they need to know so they can make an informed decision. Our real estate legal counsel has advised us to disclose that situation to every prospect in the immediate vicinity. Anytime we are in doubt, we seek legal counsel, and you should too. Realtors are not attorneys and are not allowed to give you legal advice.

Over the years, I have had some interesting conversations with home owners. One owner insisted that we put her home on the market during a dry spell because she didn't want anybody to know it floods. Another wanted to keep his home off the market during tourist season because of the rental property next door with the noise and parking issues that come with that. Even if you, the homeowner, choose to cover up or hide a problem that might make your home less desirable to potential buyers, real estate brokers are required by law to disclose any known material defect, even if you ask them not to.

Don't risk a contract falling apart during due diligence, or worse, a lawsuit later on. If you can, remedy the problem before putting your home on the market. If that's not possible, just be up front and honest. You'll be safer and sleep better.