



In This Issue:

- Protecting your partner pg 1
- Your Own Foundation pg 2
- The Real Estate Market pg 3
- Is an LLC right for you? pg 4

Lawrence S. Jacobs

Lawrence S. Jacobs & Associates, P.C.
E-mail LSJ@lsjlaw.com
Toll Free 800-552-0417

Maryland Office

Suite 400
110 N. Washington Street
Rockville, MD 20850
(301) 738-8220
Fax (301) 424-0643

Virginia Office

Suite 800
8300 Greensboro Drive
McLean, VA 22102
(703) 536-0220
Fax (703) 536-0126



FROM REAL ESTATE TO "ESTATE PLANNING" TO PLANNING YOUR BUSINESS...

As my client, colleague or acquaintance, you know that I've always worked hard to defy the clichés of the legal profession. I take real pride in offering my business clients creative solutions to their issues, whether I'm serving on a creditors' committee or proposing a marketing idea that helps you avoid a legal issue.

My practice has evolved to include estate planning for the whole spectrum of married, unmarried and same-sex couples. And now, as a licensed real estate broker in Maryland, I'm expanding my reach to act as agent for my clients and friends in selling or buying

property in Montgomery County. For those of you who know me well, that's not surprising because I've had a lifelong fascination with buying, selling and renovating homes.

However we've interacted so far, I hope you'll keep me in mind when you need any of the legal or real estate services I now offer. I promise you'll get honest, creative, down-to-earth help. As always, if you need referrals to other legal specialists, to real estate professionals outside Maryland or to other advisors such as accountants or financial planners, I'll be glad to help.

DOES YOUR ESTATE PROTECT THAT "STRANGER" YOU LIVE WITH?

"We've been together for 14 years, so it's probably time for us to do some estate planning." Substitute any other number from two to 32, and that's the opening statement I hear constantly. Congratulations to those of you who have said it and acted on it. For the rest of you – especially those who are

unmarried or same-sex couples – here's something to consider.

In Maryland and most other states, if a domestic partner dies without a will, the law regards his or her partner as a stranger with no right to inherit anything. To make it worse, domestic

continued on page 2

partners do not even have the right to become an “interested person” who can challenge the will. For this reason, you not only need wills. You need very specific wills in order to begin to protect your partner. Such written agreements are the only way to create a legal relationship to protect each other.

If you live in Virginia, the situation is even worse. The “Affirmation of Marriage Act”, in effect for just over a year, may bar any of the limited rights that couples may now have to protect each other through the use of written agreements, possibly voiding existing estate planning documents if not carefully drafted.

If a “partnership agreement or other arrangement” (as specified in the act) includes a will or medical power of attorney between any two persons of the same sex, are all existing documents of this type “void and unenforceable?” Hopefully not, but no one really knows at the moment.

You’ve had enough dire warnings and scolding from everyone else. Creating these documents isn’t the depressing or ominous process you may have imagined. It’s relatively easy. It’s very satisfying. And I promise you, you’ll feel good that you’ve taken steps to be sure that neither you nor your partner will ever be treated like a legal stranger.

For more information on our services for unmarried and same-sex couples, see our website at PartnerPlanning.com

YOUR OWN PRIVATE FOUNDATION – THE EASY WAY

In my practice and in my personal life, I put strong emphasis on community service. It’s especially satisfying when the two intersect as they do with the Montgomery County Community Foundation (MCCF).

With as little as \$10,000, you can establish your own grant-making family foundation at MCCF or at a similar community foundation where you live.

From an estate planning perspective, a fund is a great way to manage distribution of assets to charitable organizations. MCCF will even handle all administrative tasks for you.

As Nancy G. Fax, Board Chair of MCCF, says: “You don’t have to be Bill Gates.” To set up a family fund, you simply sign a two-page agreement with

MCCF, choose a fund name for your fund, and decide what assets to donate and how you want them to be invested. You receive a full income tax deduction upon creation of your fund and additional deductions each time you add

to it. (You’ll want to talk to your tax advisor about your specific circumstances.)

Any time you want to make a donation from

your fund, you let MCCF know of your wish. Following a quick review of your request, a grant award letter and a check are sent to your selected charity, naming your fund as the donor.

MCCF houses over 67 donor-advised funds, ranging in size from \$10,000 to several million dollars, My

partner and I established one, and I’d be glad to provide information to you as part of an estate planning conversation. Or you’re welcome to contact Sally Rudney, Executive Director of the Montgomery County Community Foundation. MCCF is a regional affiliate of the Community Foundation of the National Capital Region, headquartered in Washington, D.C. To visit MCCF on the web, go to www.cfncr.org/mccf.

WHAT'S WITH THIS REAL ESTATE MARKET?

Every conversation leads back to “the bubble” lately. Now that I’m a licensed real estate broker, associated with Coldwell Banker Residential Brokerage in Maryland, I’m hearing it even more often.

I was recently the agent for a home sale in Rockville’s New Mark Commons that set a record high price. That remains a relatively common experience in the other Montgomery County communities that I also cover, including Bethesda, Potomac and Gaithersburg. The developing consensus, though, seems to be that constant, rapid price increases will not be as automatic as they have been for the past few years. A leveling-off seems to be underway. That means that if you’re buying – and if you shop carefully and patiently – you don’t necessarily have to set a new record just to buy a home. Likewise, if you’re selling (and if you’ve been in your current home for at least 3 or 4 years), you’re still likely to realize some attractive gains, even if they’re not a mind-boggling increment over what you could have gotten last month.

Sanity is the rule of the day. If you’re listing your home, be realistic. Attractive, well-priced homes can still garner asking-price offers or stimulate bidding wars. You also need to be sure

your agent sticks with the home throughout the process. For example, lenders have been putting pressure on appraisers not to rubber-stamp contract prices; in the New Mark sale I mentioned above, I attended the appraisal, made sure the appraiser caught every valuable feature of the home, and supported the contract price. Meanwhile, other contracts in the neighborhood have fallen apart when appraisals came in significantly under the contract price.

“Be realistic” is also my advice to buyers. You’re unlikely to get a fire-sale price on any desirable home. But you don’t have to over-bid as drastically as you would have even six months ago. You should probably expect to encounter a bidding war or two. Still, more properties are spending more time on the market these days. Even after just a few weeks, a seller can be willing to entertain reasonable offers.

On either side of the transaction, you need confidence, knowledge and a little nerve. I can provide all three and if you’re looking to buy or sell, I’d be happy to talk the situation through with you any time. It’s still a great time to be in the market - Coldwell Banker’s Bethesda office just had another record month. Go figure.

On either side of a real estate transaction, you need confidence, knowledge and a little nerve.



A "Pre-Nup" for your LLC

Recently, an associate asked me about creating a limited liability company (LLC) with her husband as a vehicle for managing jointly held investment properties. "Does it make sense? How fast can we do it?"

LLC's do make good sense for many small, multi-owner businesses. They are relatively simple to form. But – what she really didn't want to hear – every LLC needs an Operating Agreement. Especially when the owners (known as "members") are relatives or friends, the document can seem overly formal and contrary to the "romance" of a new relationship.

■ Prevent disagreeable events from Day One.

The law does not require a written Operating Agreement. But common sense does. Relationships and priorities change. Businesses evolve. In four years, the members may not see eye-to-eye about the conduct or future of the LLC. That's not the time to decide how to make difficult decisions.

A good Operating Agreement sets forth the rights and obligations of the members and managers of an LLC. It is equivalent to a partnership or stockholder agreement. Typically, the document addresses how members may transfer or sell their interests, if at all –

and who can become a member. It can guarantee members the right of first refusal if one or more members choose to sell their interests. The agreement also sets rules for allocating profits and losses – especially important if members make different levels of contribution to the company at start-up.

Our approach to business – whether a two-member LLC or a major corporation – is that practical problem-solving up front can help you avoid problems down the road. If you plan to start a business, or are already own one, ask us how to structure documents that protect your interests and the viability of your company.

Lawrence S. Jacobs & Associates, P.C.
Suite 400
110 N. Washington Street
Rockville MD 20850

U.S. Postage
PAID
Suburban, MD
Permit No. 6511