

Estate Planning and Pets

The recently released will of Leona Helmsley holds two important lessons for the rest of us. First, wills are largely public information. If you choose to disinherit grandchildren “for reasons that are known to them,” or leave your pet \$12 million (yes, that’s \$12,000,000), but don’t want such details on the front page of the local newspaper, you probably want a living trust to preserve your private family matters instead of a will. But that’s not the topic of this article. The second lesson is that you can make provisions for the care of your pets in your estate planning. Granted, most dogs don’t require a \$12 million retirement plan, but pets do require a home, food and responsible care. Regardless of her other flaws, Mrs. Helmsley did ensure that someone was there to take on the task of caring for her beloved dog.

What might happen to a pet that is not included in your estate plan? It’s no laughing matter. Estimates suggest as many as 500,000 pets are euthanized every year in shelters because their owners predeceased them. It is easy to assume that an adult child or other family friend will step in and take care of a family pet, but that often turns out to be wishful thinking.

When it comes to planning for your pet, you have two general options: informal planning and creating a pet trust. Regardless of your choice, you should also list certain information about your pet that you want the caregiver to have, and make that information readily available so that the caregiver can step into your shoes immediately.

The first option is to simply name a caregiver to take your pet and perhaps throw in some money to soften the blow of the pet’s expenses. Don’t underestimate the expenses. Beyond food and shelter, there can be medical care and even medical insurance. Particularly if the breed is prone to certain medical ailments, an insurance policy can make a lot of sense. Be aware that if the pet is valuable, for example a show horse or rare breed of bird, cat or dog, the animal’s value added to the extra funds for caring for the pet could lead to unexpected gift taxes if the gift is made prior to the owner’s death. Designating a caregiver, particularly where money is involved to cover expenses, should be in writing so that there is no ambiguity as to your wishes.

If you are concerned that the caregiver will not provide the level of care you would prefer, or that the money may go to other purposes, the expense money can be left in trust so that funds can be expended only for the benefit of the pet. This can be done by leaving the money under the control of the caregiver, or to be extra safe, a third person who is not caring for the pet. Under the latter scenario, the caregiver needs to ask for money from the trustee for specific expenses, and is therefore highly unlikely to spend the expense money on that long overdue vacation. Provisions for a “Pet Trust” can be built into a trust or will such that the funds must be spent on the pet, and upon the pet’s death, the leftover funds are applied to a charity or other favorite cause of the owner.

How much money should be left for the pet’s expenses? You should calculate your pet’s annual expenses, including unusual expenses such as medical care, and multiply that by the pet’s life expectancy. The interest earned on the account funds should provide a small cushion of extra funds in case your pet lives longer than expected or has some unforeseen medical issues. In the case of pets with long life expectancies, such as certain birds or horses, this accumulated expense may compel you to seek an institution that will agree to care for the pet properly, rather than placing the burden on a family member.

What can you do now to ensure your pet is properly cared for if you should become incapacitated or predecease your pet? In addition to making provisions for your pet in your estate planning, put together a list of the following information: the proposed caregiver's name, address and phone number; your executor or trustee's name and phone number; your pet's name and breed; and whether the pet is spayed or neutered. In addition, you may want to include certain behavioral information, such as whether your pet has any dislikes, fears or habits, a description of your pet's daily routine, where the pet is allowed to roam free, where they sleep, and whether your pet is good around children. If your pet has had any health issues, you should include a history of such issues, any recurring health problems, current medications, special diet needs, allergies, special care instructions, and your veterinarian's name and phone number. And if you want to go the extra mile, you can list your pet's favorite toys, possessions and games, so that the caregiver can give your pet as much comfort as possible during a difficult time.

It doesn't take a lot of effort to ensure your pet is properly cared for. Taking a few moments now can literally be a life or death decision for your pet if you are later unable to care for them.

Adam Bartsch, *Estate Planning and Pets*, The Shelburne News, September 6, 2007.

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