

HEADLINER: Where There's a Will There's a Way**ARTICLE TITLE: How Does the State of Oregon Distribute What's Yours if You have no Will?**

My first article written for the Mt. Times in 2018 reported the results of a Gallup poll conducted in 2016 showing that only 44% of Americans reported having a Will and that the trajectory was downward, i.e. that percentage was down from 51% in 2005. Given that the results of a 2019 survey by one source, that deals with assisted living and elder care, reports the trend continues downward decreasing by nearly 25% since 2017, I thought it a good topic to discuss the rules of intestacy succession. What happens in Oregon to your assets if you die without an “asset transition instrument” of any sort, i.e. a Will or a Living Trust? What are the rules governing how the State determines who gets what from your estate.

What follows is oversimplified, because, as with all things in law, everything “depends” on the particular circumstances of a given situation, in this case an individual’s life, relationships, and circumstances, that play out in expected and unexpected legal interpretations. In other words, there are legal nuances to be determined in each of the steps evaluating who receives what and in what percentage. Still it provides an initial sense of the hierarchy the State follows in determining who stands to receive what you have and in what measure if you leave this world without making a clear, and legally supportable transition of your assets, designating who is in charge of following through with that plan. Initially, the State looks to determine your immediate family. If you have a spouse, that spouse is first in line to receive everything. If you have no spouse and you have children, your children will receive everything. If you have a spouse and children, if all the children are your children together, then your spouse still receives everything. However if any of your children, i.e. your descendants, are with someone other than your spouse your assets are divided between your spouse and your descendants. Then the circle widens from your immediate family. If you have no spouse and no children, if one or both of your parents survive you, they receive everything. Finding no living parent(s), your assets will be divided amongst your siblings, if you have any, or their descendants if your siblings predecease you. Finding no siblings, or their descendants, your assets will be distributed to your grandparents if they survive you, or their descendants. So, as you see it can get very involved finding who has the legal right to receive your assets when you have not made that clear.

Stories of the Stars ... If Only ... Howard Hughes

Who gets what and how much from an estate of a wealthy individual has been the stuff of many entertaining legal battles – for those of us not involved that is. And the estate of billionaire Howard Hughes, provides us with no less entertainment than the many in the annals of the wealthy who depart without an estate plan in place. An excerpt from an article by David Margolick of the New York Times, October 5, 1997 speculating on the results of a battle that spanned 10 years, involving more than a thousand participants, gives a wry summation of the obsessed, complex, seemingly tortured personality we’ve come to know of Howard Hughes who died without so much as a simple Will in place.

“Howard Hughes... didn't like anybody very much. He hated doctors. He fought with lawyers. He despised his relatives. And most of all, he loathed tax collectors. And yet these were the folks who laid their hands on his vast estate -- in part

because no one could ever find a bona fide Hughes will directing the money somewhere else . . . [and yet] . . . Howard Hughes's power to do something worthwhile with his billions . . . somehow survived the lawyers, the relatives, the leeches, the fakers and Hughes himself [because his most valuable asset, Hughes Aircraft was owned by a charity, Howard Hughes Medical Institute, incorporated in the state of Delaware]. 'Howard Hughes, whatever he may have been, has left something of value to all American People' the Attorney General of Delaware ... declared after the divvying up. 'But I just don't think that was ever his intention.' "

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Dear Reader ... We welcome your questions on matters related to estate planning. These will provide grist for future articles and enhance the potential for those articles to be of interest and value to you.

Please submit your questions to Garth Guibord, at garth@mountaintimesoregon.com.



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