

HEADLINER: Where There's a Will There's a Way**ARTICLE TITLE: What is 'fair' about 'Fair Market Value'**

No – I didn't switch over to real estate law since the last article, but the truth is that estate planning touches all aspects of law, because it is about people, their lives, their undertakings and their accumulations as a result. Real estate is a part of that formula. Very often, a person's residence, or additional real estate holdings, is a key component of their plan. How they transition that asset, and the directions they want to codify for that purpose, constitute a core focus of their wealth, and often their legacy. A person's home often is central to the life they have lived. The people that they intend to benefit with the transfer of that home and its potential transfer of wealth financially or in terms of real property retained, deserve careful thought about how to handle the transfer and the distribution of interest in the real property. So, enter the concept of 'fair market value', FMV.

In your estate plan you will leave your home and possibly other real property to one or more people to keep or to sell; or you may simply direct that the real property is to be sold, without option for retention. For the sake of your beneficiaries you want the best price possible if sold. FMV is often the standard set for that purpose. It differs from appraised value and market value though either of those may be used to help establish the FMV. The FMV, as a standard of guidance for the transfer of the wealth in that real property to your beneficiaries, is the price that the real property will fetch if placed on the open market for fair competition among multiple potential buyers and skillful negotiation on the part of the seller to bargain for the best price possible given the market at the time of sale. Or if the market is depressed, perhaps you create terms and conditions in your estate plan that support holding the property in the estate if that is the case, waiting for a market adjustment and return to better sales conditions.

The 'fair' in 'fair market value' refers to the conditions under which the price is established. I.E. the asset is (or would be) sold on the open market, both buyer and seller have reasonable knowledge of the asset — such as the condition, the features of the land and structure(s), what aspects of the property are in demand or are what the buyer is looking for, the competition for purchasing i.e. real estate in a high growth area will command a higher price; etc. — both are acting in their own best interest, each are free of undue pressure to trade, and there is ample time to negotiate the terms of sale. That, in summary is the 'fair' of FMV.

Stories of the Stars ... If Only ... Luis Carlos de Nornha Cabral de Camara

Who??

None other than Luis Carlos de Nornha Cabral de Camara, the lonely, childless, wealthy Portuguese aristocrat whose valuable estate was distributed to 70 people that he did not know, as orchestrated by his own deliberate action. As part of that estate, he owned a 12-room apartment in central Lisbon and a house near the northern town of Guimaraes. Wonder if he specified their sale at the Lisbon equivalent of FMV? At any rate, when he passed away at the age of 42, in 2001, seventy people that he had chosen from the Lisbon phone book some 13 years prior were his estate's designated beneficiaries, having authenticated his Will at a Lisbon registry office with two witnesses, one of them a friend of his who stated that "He was determined that nothing should go to the state, which he thought had been robbing him of money all his life". Many of these strangers

upon receiving a check from his estate, several thousand euros each, thought this was a scam. No wonder. Hopefully, all checked the facts and did not refuse the unexpected and unprecedented gesture of giving. Life is interesting – is it not?

=====

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.



Author: Paula Walker, Attorney-at-Law
www.confluencelawcenter.com 503.616.3113