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...problem solvers

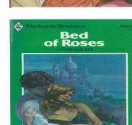
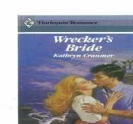
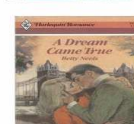
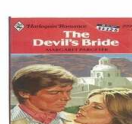
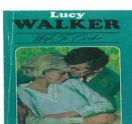
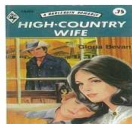
RELATIONSHIPS AND REAL ESTATE



MICHAEL COCHRANE

RICKEY, HARRIS LLP

REIN - JULY 13, 2010





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What Kinds of Relationships?

1. Married
2. Common Law (Ontario 3 years or child together)
3. Living together (less than 3 years)
4. Separated (after common law or marriage)
5. Divorced
6. Separated/Divorced/Widowed and Living Common Law
7. Children (adult and otherwise)
8. Parents (dependant/joint finances?)
9. Your business partner – and his/her relationships



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What Kind of Real Estate?

- **Homes**
- Condos
- **Apartments**
- Cottages
- **Investment properties**
- Companies that hold property



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What Kinds of Problems Can Arise?

- **You and your spouse could separate**
- You or your spouse could die
- **You or your spouse could become incapacitated**
- Your business partner could experience separation, death or incapacitation

What happens to your real estate?

Let's look at some examples...



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Your marriage ends...

- **The value of all property owned by either spouse will be in the pot for division**
- Real estate will need to be appraised
- **An order freezing assets may be made**
- If property is your home one spouse may get exclusive possession of it
- **Companies holding real estate are valued too**
- As a part of final judgment the court may order real estate sold or transferred



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Your common law relationship ends...

- **Huge misconceptions**
- Every province is different
- **Spousal support rights**
- Most provinces give common law spouses no property rights regardless of time spent together
- **Spouse must sue to prove contribution to property (constructive trust, quantum meruit)**
- Property tied up



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Your “living arrangement” ends...

- **No common law status**
- No spousal support rights
- **No property rights**
- But still may sue (constructive trust, quantum meruit)



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You or your legally married spouse could die...

- **If you made a will it will be respected**
- Unless you gave surviving spouse less than they would receive in a divorce
- **Survivor spouse can throw out your will**
- Survivor spouse can sue estate for support
- **Real estate will be tied up**




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You or your common law spouse could die...

- **If you made a will it will be respected**
- Common law spouses have no right to throw deceased's will out (Ontario)
- **Survivor spouse may have to compete with**
 - legally married previous spouse
 - children from first marriage
 - siblings of deceased
 - parents of deceased
- **Survivor spouses and children can sue estate for support**



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You or your spouse could become incapacitated...

If you cannot make decisions about your own care or finances someone else will need to do it for you.

Rent deposits?
Bill payments? Taxes?
Mortgage payments?
Refinancing?

Financial institutions will insist on legal authority to deal with accounts and real estate.




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Your business partner...

- **separates from his/her legally married spouse**
- separates from his/her common law spouse
- **dies without a will**
- has his/her will challenged by surviving legally married spouse
- **has his/her estate sued for support**
- is incapacitated and cannot make decisions



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Now What Do I Do?



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What Protections Are Available?

- 1. Marriage contracts**
2. Cohabitation agreements
- 3. Wills**
4. Powers of Attorney
- 5. Partnership agreements**