

Legally Speaking: You Can't Take it (all) with you

by Jackie Morris



When moving from a larger home to a smaller one or into a retirement or assisted living residence, you can't take all your possessions with you.

Some items can be given to friends and family, some to charity, and others may be bound for the land fill. What about items you wish to keep with you or can't bring yourself to give away right now?

If you have a specific person or a charity in mind to receive the item, here are some options:

List these items as gifts in your will. This step is especially important, if you want to give a valuable item to a charity, as your estate will want the tax receipt. However, wills can become overly long and cumbersome with a long list of gifts. Also you cannot amend the list without changing your will.

Have your will include a clause that refers to a memorandum. A memorandum is a list of possessions outside the will, but is signed by you and dated. It doesn't even need a witness.

You can add to or delete items as you wish or prepare a new list without affecting the contents of your will. Place the memorandum in your safety deposit box with your will. While not legally binding on your executor (as a gift in the will would be), most executors will honour such bequests and, in addition, are relieved to know what to do with your things. If a memorandum is found, it must be disclosed to beneficiaries and filed in court with the will.

If you don't want to revise your will just to include a new clause referring to a memorandum, prepare, sign and date a list anyway and put it with your will.

Tag or put masking tape on the item with the name of the person to receive it. This method is fairly common, but runs the risk that people will change the tags or tape, if

more than one person wants the item. It also encourages inquisitive family or friends to look for the tag or tape.

If an item is a family heirloom or has special significance to you, write this down so the person who receives it knows its history and what it means to you.

More Legal Resources

Lawyer Referral: 604-687-3221, 30-minute consultation for \$25

Dial-A-Law: 604-687-4680, free, pre-recorded legal information.

Law Students Legal Advice Clinics: 604-822- 5791

North Shore Community Resources Legal Information: 604-985-7138