

# Thinking of leaving the vacation home to your children? Think again

**By: Anne F. Cutler and Amy Richards, Estate Specialists at J.P. Morgan Private Bank**

Molly's parents had a vacation home on Lake Michigan that they purchased when they were young. This is the house where Molly, an only child, spent all her summers growing up. It's where she brought her future husband to meet her parents. And it's where she and her husband would spend many happy vacations with their four children.

Eventually, Molly inherited the house and, later, she and her husband retired there. Their adult children, all living in the Chicago area, visited often, bringing boyfriends, girlfriends and, eventually, spouses and their own children.

Molly and her husband loved this home and saw it as the family gathering place. So they were very careful in their wills to leave the house to their four children equally and outright.

In hindsight, their approach may have been a mistake.

One of their children moved to California for work—settling there permanently with his family. As he no longer wanted to make use of the vacation house, he asked his three siblings to buy him out. Two of his siblings thought that was a great idea and could afford to do so. But the third could not afford the buyout plan and objected to the others owning more shares in the house than she did.

What's more, the old house needed costly repairs on top of regular maintenance. The brother in California certainly didn't want to foot these bills. But even the three who used the house regularly didn't agree: one wanted to do the absolute minimum; the other two wanted to renovate the house lavishly, but even they disagreed about a number of issues, including the choice of décor.

Complicating matters further, one of the three still using the house was single while the other two had children. So it often happened that, while the single sister paid as much as her siblings, she wound up sleeping in the smallest room next to the noisy kitchen.

Put simply, the vacation home became a stage for family disagreements—not the togetherness that Molly and her husband had envisioned.

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What can these four siblings do? At this point, their best answer is probably: exercise a lot of love and care to reach compromises, and accept that no one is likely to get exactly what he or she wants.

But it didn't have to get to this point.

### **Sensible measures**

If you want to leave real estate to your children and possibly your grandchildren, consider taking these actions, which will set the stage for family harmony in the future:

- 1. Discuss your vision with your children and their spouses.** Describe your vision for the future of the vacation home. Gauge their enthusiasm—and commitment—to your plans.
- 2. Consider selling.** Do a full cost-benefit analysis of selling versus keeping the vacation home with the proper conditions for it to remain in your family (see 3–5 below). Factor in emotional, as well as financial, benefits and costs. You can sell during your lifetime or have the home sold at your death, or put it in trust directing it be sold at the end of a set period of years or upon a decision made by your children or descendants.
- 3. Leave the property in trust, name a capable trustee, and fund the trust with enough liquid assets to maintain the home.** If you are going to leave real estate to your children—even if you have just one child—take measures to prevent the property from becoming a financial or administrative burden. If you can, leave enough money for the property's maintenance and repair. The trustee will be charged with caring for the house. You may want to choose an independent, professional trustee for these responsibilities, particularly if the trust is designed to last for multiple generations.
- 4. Carefully craft the trust agreement.** If you want the family to have use of the property (but not the ability to transfer an interest in it) for generations to come, you can write those instructions into the trust. That way one child cannot ask to be bought out, and his siblings wouldn't be in the position of having to say "yes" or "no" to such a request. Alternatively, if you want to allow children to buy each other out, be sure to include provisions and procedures for this option in your trust agreement—there are many things to consider, such as the possibility of an interest transferred to a non-family member.
- 5. Supplement the trust agreement with a letter of wishes.** Avoid putting too many instructions in a binding trust agreement that the trustee must follow. If you have general suggestions, these are best expressed in a non-binding letter of wishes, a complement to your trust agreement that can inform trustees of your values and intentions.

#### **Next steps:**

Reach out to your estate planning lawyers to help you put in place the right legal documents and trustees. Make sure what happens to your home is what you want.

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