

# Law Office of Eileen R. Fitzgerald

## An Elder Law Newsletter

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### NEWS FROM EILEEN

Thank you for the referrals. I appreciate the confidence you have in me when you refer your friends and neighbors.

The DuPage Senior Citizens Council, a not-for-profit organization, is having a raffle as its fundraiser this year. The Beat the Odds Raffle has started and will continue through August, 2009. Tickets are \$5.00 each or 6 for \$25.00.

1st prize - \$2,500.00;  
2nd prize - \$1,000;  
3-5th prizes - \$250.00;  
6-10 prizes - \$100.00.

DSCC is the Meals on Wheels provider for DuPage County. It provides home delivered meals and dining centers throughout DuPage County for seniors to meet and have lunch. DSCC also provides home repairs for senior citizens in DuPage County. You may see raffle tickets being sold at many Jewel stores and other grocery stores in the area. Please help support the DuPage Senior Citizens Council and the work that it does. If you would like to purchase tickets, please call Rebecca at 630-620-0804.

### LONG-TERM CARE INSURANCE

A 65-year-old couple today will need \$85,000 on average to cover annual premiums for long-term care insurance, according to a new study by the financial services firm [Fidelity Investments](#).

To come up with the estimate, Fidelity surveyed insurers offering long-term care policies, which cover visits by caregivers or stays in a nursing home. The study supplements a survey the company completed in March 2008 estimating a couple retiring this year would need \$225,000 in savings to cover total medical costs in retirement. The costs for long-term care insurance are in addition to the \$225,000.

About 5 million Americans have long-term care insurance, a number that has not increased much over the last decade, said Joan Bloom, senior vice president for Fidelity's life insurance group, which distributes long-term care insurance issued by an unaffiliated firm, Genworth Financial. Bloom said people should consider buying long-term care insurance in their 50s because policies generally cost less the earlier they are purchased.

## CERTIFIED COPY OF DEED SCAM

Would you pay \$60 for something you could get for as little as \$1 and probably don't need at all? A company called [National Deed Service](#) is hoping to persuade homeowners to part with the extra cash to purchase a "certified copy" of the deed to their home. Officials in many states are warning homeowners not to fall for the company's deceptive, but apparently legal, pitch. For the last three years, the Northbrook, Illinois-based National Deed Service has been sending direct-mail solicitations to homeowners in different parts of the country alleging that the U.S. Federal Citizen Information Center (FCIC) recommends that property owners have an official or certified copy of their deed and offering to deliver such a copy within 30 days for \$59.50, or higher depending on where the homeowner lives. The Service's Web site further warns that "It is not an easy process to obtain public records from a governmental agency."

In fact, obtaining their deed is usually quite simple, inexpensive, and probably unnecessary for most people. A deed is a public record and is available from the Register of Deeds at most county courthouses for as little as \$1, or even for free in some locales. Some counties also allow homeowners to view and print their deeds from their Web site. Most homeowners receive a copy of their deed at closing, but even if they don't have one, there is little necessity to pay a hefty sum for a "certified copy" when a copy

is always available when and if a homeowner needs it.

As for National Deed Service's claim that the government suggests that homeowners keep a certified copy of their deed, the [FCIC Web site](#) actually simply suggests that if you have a safe deposit box, it should contain certified or official copies of documents.

"I don't know how the deed companies thought they could stretch our statement that 'if you have your deed, you should keep it someplace safe (like a safe deposit box)' into 'you definitely need to have a copy of your deed in your possession,'" Rebecca Fulcher, a consumer information specialist with the FCIC, told the [Southwest Times Record](#) in Fort Smith, Arkansas. According to Fulcher, most homeowners don't need to have a copy of their deed. The Recorder's Office in Allen County, Indiana, was recently flooded with calls from homeowners asking about a solicitation they'd just received from National Deed Services.

"We've pursued this issue with the Indiana Attorney General on several occasions and the problem turns out to be that there are enough disclaimers in this letter to keep it within the law, but it sure is close and it sure does spook a lot of people who don't read it all the way," said Allen County's Recorder, John McGauly, on [WANE TV](#) in Fort Wayne.

For its part, National Deed Service claims it is simply providing a service for those willing to pay for the convenience of not going down to the courthouse themselves. "People can cut their own hair if they want to, but they go to a barber," company owner Barry J. Isaacson told [Real Estate News](#).

## UPDATING YOUR ESTATE PLAN WHEN YOUR FINANCES CHANGE

In the recent economic downturn, many homes have lost considerable value and stock portfolios have plummeted. If this is the case for you, do you need to change your will? What if your income and assets have *increased* significantly? If your finances have changed markedly since you wrote your will, you should check your estate plan to see if you need to make any changes.

If your will or estate plan divides your estate into percentages for beneficiaries, then changes in value won't affect how your estate is distributed. However, if you include specific bequests in your will, a fall or rise in your estate could have consequences. For example, if your estate plan gives \$50,000 to your favorite charity and the rest of your estate to your children, a reduction in the value of your estate could mean your children won't get as much as you intended.

A change in value of assets could also affect your estate plan if you intended to treat your children equally by giving them assets of equal value. For example, suppose your will gives your house worth \$500,000 to your daughter and your stock worth \$500,000 to your son. If the value of either the house or the stock portfolio increases or decreases significantly in value, your children will no longer receive equal gifts. It is also important to update your estate plan if

the overall nature of your assets has changed. For example, if you sold the stock and bought real estate instead, this will affect the distributions to your children.

In addition, if your estate has significantly increased in value, it is important to reassess whether your estate will be subject to estate taxes. In 2008, estates worth more than \$2 million are subject to federal estate taxes. In 2009, estates subject to federal taxes must be worth more than \$3.5 million. After that, it isn't clear what the estate tax will be, so it is important to be prepared for any eventuality.

## STOCK CERTIFICATES

Do you have many stock certificates for many companies and therefore many 1099s at tax time? There is a way to organize the certificates and that is with a brokerage account. The broker will hold the stock in your account. The dividends will be deposited to a money market account held in the brokerage account. You can write checks from your money market account. You will receive one 1099 at the end of the year for the dividends from all stock companies. The new year is typically time to get organized. A brokerage account is a good way to organize your stocks and all the paperwork.

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## **REVOKING A POWER OF ATTORNEY**

If for any reason, you become unhappy with the person you have appointed to make decisions for you under a durable power of attorney, you may revoke the power of attorney at any time. There are a few steps you should take to ensure the document is properly revoked.

While any new power of attorney should state that old powers of attorney are revoked; you should also put the revocation in writing. The revocation should include your name, a statement that you are of sound mind, and your wish to revoke the power of attorney. You should also specify the date the original power of attorney was executed and the person selected as your agent. Sign the document and send it to your current agent as well as any institutions or agencies that have a copy of the power of attorney. Attach your new power of attorney if you have one.

You will also need to get the old power of attorney back from your agent. If you can't get it back, send the agent a certified letter, stating that the power of attorney has been revoked.

Because a durable power of attorney is the most important estate planning instrument available, if you revoke a power of attorney, it is important to have a new one in place. An elder law attorney can assist you in revoking an old power of attorney or drafting a new one.

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## **POWER OF ATTORNEY**

It is important to know how to sign as an agent under a power of attorney. If John Doe is the agent and he is signing for Mary Doe, John signs as follows:

**Mary Doe, by John Doe, Agent**

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*I still have a full deck, I just shuffle slower now.—Author Unknown.*

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