Law Office of Eileen R. Fitzgerald
An Elder Law Newsletter

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News From Eileen

I hope this newsletter finds you in good health and spirits. Now that our never ending winter is over, I hope you enjoy all that Chicagoland weather has to offer in the spring and summer! I will be speaking at the following seminar:

"Financial Market and Legal Document Update – Are All Your Ducks in a Row?"

at The Devonshire of Lisle
Thursday, June 12, 2008
11:30 am
To reserve a seat please call Judy Hyatt at (630) 515-2758 by June 9, 2008

I will discuss the importance of having a Will and/or Trust and Powers of Attorney and how *often* and *why* these documents should be reviewed.

This newsletter is for general informational purposes only. It is not legal advice.

Community Care Program

The Community Care Program offers affordable help for the activities of daily living that seniors can no longer manage on their own. This allows seniors who would be forced to enter a nursing home the choice of remaining in their own homes. It provides affordable homemaker and adult day services to Illinois residents who are at least 60 years of age, have less than $17,500 in liquid assets (for one person) and have physical or mental impairments. Services include help with basic household tasks and personal care, supervision, socialization as well as on-going case management. The purpose of this state sponsored program is to help seniors maintain the maximum possible level of independence, and to prevent unnecessary nursing facility placement.

Upon receipt of an application for services, you will be contacted by one of the case managers who will make an appointment to complete an in-home assessment of the senior's needs. At that time financial documentation will be required, and a care plan for services will be established.

To receive an application for this program or for additional questions, contact DuPage Senior Services at 630-407-6500

Property Tax Relief

New legislation passed October 17, 2007 creates three new homestead exemptions for Illinois' disabled citizens and qualifying veterans. It also expands current homestead exemptions to provide property tax relief for qualifying Illinois homeowners and senior citizens

The **Returning Veterans' Homestead Exemption** provides a one-time $5,000 reduction in a property's equalized assessed value to qualifying veterans who return from active duty in an armed conflict involving the armed forces of the United States. To receive the exemption veterans must file an application upon their return home.

The **Disabled Persons' Homestead Exemption** provides a reduction in a property's assessed value to a qualifying property owned by a veteran with a service-connected disability certified by the U.S. Department of Veterans Affairs. A $2,500 homestead exemption is available to a veteran with a service-connected disability of at least 50%, but less than 75% or a $5,000 homestead exemption is available to a veteran with a service-connected disability of at least 75%. A disabled veteran must file an annual application to continue to receive the exemption.

The current **Disabled Veterans' Homestead Exemption** that provides up to a $70,000 reduction in assessed value for federally-approved specially adapted housing will continue to be available through the local Veterans' Affairs Office.

A disabled person or disabled veteran's property can receive only one of the following exemptions each year: Disabled Veterans' Exemption, Disabled Persons' Homestead Exemption or the disabled Veterans' Standard Homestead Exemption.

The current **Homestead Exemption** will increase from $5,000 to $5,500 in 2008 and to $6,000 in 2009.

The current **Senior Citizens Homestead Exemption** will increase from $3,500 to $4,000 in 2008.

The current **Senior Citizens Assessment Freeze Homestead Exemption** income level will increase from $50,000 to $55,000 in 2008.

You should contact your local Assessor's office to apply for the exemptions.

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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

Remarriage or Not?

Is It Better to Remarry or Just Live Together? Finding love later in life may be unexpected and exciting, but should it lead to marriage? The considerations are much different for an older couple with adult children and retirement plans than for a young couple just starting out. Before deciding whether to get married or just live together, you need to look at your estate plan, your Social Security benefits, and your potential long-term care needs, among other things. Whatever you decide to do, you may want to consult a lawyer to make sure your wishes will be carried out.

Here are some things to think about:

Estate Planning. Getting married can have a big effect on your estate plan. Even if you don't include a new spouse in your will, in most states spouses are automatically entitled to a share of your estate (usually one-third to one-half). One way to prevent a spouse from taking his or her share is to enter into a prenuptial agreement in which both spouses agree not to take anything from the other's estate. If you want to leave something to your spouse and ensure your heirs receive their inheritance, a trust may be the best option.

Long-Term Care. Trusts and prenuptial agreements, however, won't keep a spouse from being responsible for your long-term care costs or vice versa. In addition, getting married can have an effect on your or your spouse's Medicaid eligibility. If you can afford it, a long-term care insurance policy may be a good investment once you remarry.

The Family Home. Whether you are getting married or just living together, before combining households you will need to think about what will happen to the house once the owner of the house dies. If the owner wants to keep the house within his or her family, putting the house in both spouses' names is not an option. On the other hand, the owner may also not want his or her heirs to evict the surviving spouse once the owner dies. One solution is for the owner of the house to give the surviving spouse a life estate. Once the surviving spouse dies, the house will pass to the original owner's heirs.

Social Security. Many divorced or widowed seniors receive Social Security from their former spouses, and remarriage can affect benefits. If you are a widow(er) or divorced and you remarry before age 60, you will not be able to receive Social Security retirement benefits based on your deceased or divorced spouse's work record. You will still receive benefits, however, as long as you remarry after age 60. You may also be able to collect spousal benefits from a new spouse if those benefits are higher.

Survivor's Annuities. Widows and widowers of public employees, such as police officers and firefighters, often receive survi-

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vor's annuities. Many of these annuities end if the surviving spouse remarries. In addition widows and widowers of military personnel may lose their annuities if they remarry before age 57. Before getting married, check your annuity policy to see what the affect will be.

College Financial Aid. Single parents with children in college may want to reconsider before getting married. A new spouse's income could affect the amount of financial aid the college student receives. Some private colleges may even count the combined income of a couple that lives together, if they commingle their expenses.

Alimony. If you are receiving alimony from a divorced spouse, it will likely end once you remarry. Depending on the laws in your state and your divorce settlement, alimony may end even if you simply live with someone else.

Tax Break for Surviving Spouses

Widows and widowers who don't want to sell their house right away will get a tax break under a new law. The law gives surviving spouses two years to sell their house and receive the full $500,000 capital gains exclusion that married couples are entitled to.

Couples who are married and file taxes jointly can sell their main residence and exclude up to $500,000 of the gain from the sale from their gross income. Single individuals can exclude only $250,000. Under the previous law, if a spouse died, the surviving spouse could file jointly -- and therefore get the full $500,000 exclusion -- only for the year in which the spouse died. The new law allows surviving spouses to get the full $500,000 exclusion, if they sell their house within two years of the date of the spouse's death and other ownership and use requirements have been met. The result is that widows or widowers who sell within two years may not have to pay any capital gains tax on the sale of the home.