



ELDER LAW AND ESTATE PLANNING

Joseph Karp

Significant other can take steps to ensure girlfriend can live in home

Question: My significant other is 67 with two adult children. I am 64, no children. He wants me to move in with him, into the house he owns. I'm reluctant because I'm concerned I'll be left homeless if he predeceases me. It doesn't seem like a prenuptial would work since we're not marrying. I need legal protection. What should I do?

Answer: I understand your concerns. Tell your significant other of your concern, and that you need something in writing to ease your mind. Please do not accept his verbal statements that he will always do the right thing for you. That may be absolutely true, but even if he is 100 percent well intentioned, things can happen that may not be within his control.

Your significant other could set up a trust and title his home in the name of the trust. The trust should contain a "life estate" clause, i.e., a provision that gives you the right to live there for the rest of your life. He may also want to consider diverting some of the trust income for the maintenance, taxes and insurance on the home.

You should also think about what could happen if he becomes cognitively or otherwise disabled and can no longer live in the home. At that point his children may want to sell

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it, even if it means you are forced out. For this reason, the trust should also include a clause giving you the right to live in the home even if your significant other no longer occupies it.

A word of caution: If your significant other establishes a revocable living trust, he has full authority to amend or revoke it, and you could still be left out in the cold. You could request that he create an irrevocable trust with regard to the home. Another possibility: retain a family lawyer to prepare a binding contract between the two of you so that you are protected. Good luck!

Joseph Karp, a member of the Florida and New York Bars, is a Nationally and Florida Bar Certified Elder Law Attorney and founder of The Karp Law Firm, located in Palm Beach and St. Lucie counties. The firm assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration and estate litigation.