

Dear Sir/Madam:

CARSON LAW OFFICE P.C. is proud to present to you some important information regarding estate planning and administration, as well as details about our Wills and Powers of Attorney packages. Please feel free to use this information to educate yourself on these topics and reach out to our office if you have any questions.

A survey executed by legalwills.ca in 2021 indicated that approximately 57 percent of Canadians are not in possession of a Last Will and Testament. This is a surprising number when considering that the Covid-19 pandemic forced the world's population to consider its mortality, but it is doubly amazing when combining it with a figure from the same survey showing that almost 10 percent of Canadians have a Will that is outdated. This means that at the time of death, an estimated 67 percent of Canadians will not have their final wishes be taken into consideration and/or distribution of their assets will be handled solely by generic government guidelines.

In Ontario, if you die without a Will it is called an intestacy. If you are like most people who are survived by family after they pass on, then the Succession Law Reform Act determines that your estate and assets will be divided to those family members based on a standard procedure and set of rules. However, if you do not have a family, or more importantly, if you would not want the entirety of your estate going to certain family members or have certain family members control your estate, then preparing a Will and Powers of Attorney is crucial to creating certainty in outlining your last wishes. Also, even if you verbally ask someone to be your executor, without a legal Will that person will need to go through the process of applying to the relevant court in order to be appointed as the Estate Trustee.

By making sure you have a properly prepared and up-to-date Will, you can insure that your final wishes can be executed without confusion. Losing a family member can be hard enough without the added stress of trying to guess at how they wanted things to be left and to whom. Carson Law's estate planning and administrative services will allow your loved ones to focus on what is most important, dealing with an emotional loss. We can explain the ins and outs of building a Will, we can make suggestions, we can setup trust funds for loved ones to make sure assets are distributed properly, and we can even act as your executor to take all burden away from those you care about.

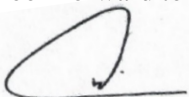
Carson Law believes very strongly in the importance of having your affairs in order at time of your passing, so we offer very competitively priced packages as follows:

	Wills and Powers of Attorney	Disbursements include, but are not limited to, software fees and storage costs	Codicil (Amendments to an existing document)
Single	\$499.00 + Disbursements & HST		
Couple	\$699.00 + Disbursements & HST		

Enclosed you will find material that discusses aspects of and explains the differences between Wills and Powers of Attorney, as well as identifying how they relate and fit into an overall estate plan. We have also provided our firm's Instruction Sheet, which will give you a thorough idea as to what sort of details should be considered for inclusion in your estate planning documents. If you wish to engage our services to draft Wills and Powers of Attorney on your behalf, please complete this Instruction Sheet and return it to our office at your convenience. Please note that this letter, information, and Instruction Sheet are not intended to replace a personal interview. Should you wish to review your situation with us, we would be happy to make an appointment. Once we have received the completed Instruction Sheet and/or completed an interview, we will draft documents for your review and mail them to you. If you require any changes, or if they are satisfactory, we will arrange a follow-up appointment to edit and/or execute these documents.

At Carson Law, we want to make sure you are protected *for home, for work, and for life*.

I look forward to working with you.



J. Ryan J. Carson LL.B.

CARSON LAW OFFICE PROFESSIONAL CORPORATION

T. 905 336.8940 | F. 905 336.8943 | C. 289 208.3865 | 3400 Fairview Street, Burlington, ON L7N 3G5
info@carsonlaw.ca | www.carsonlaw.ca

Wills

The underlying aspect of a Will is the maker's intention. In the case of a Will, this maker is referred to as the Testator.

By means of a Will, one exercises the right conferred by law to express one's post mortem objectives: to provide for the welfare of one's family, to distribute one's assets as one thinks best, and to secure the sufficient management of one's property. Implicit in these rights also is an opportunity to take advantage of available tax saving or deferral measures.

A well-drawn Will is an essential element of any estate plan. While an estate plan may call for the implementation of trust, the transfer of property into joint tenancy, estate freezes and other estate planning measures, no estate plan is complete without a Will. In developing an estate plan, consideration should be given to applicable income taxes, probate fees, estate taxes or succession duties (where applicable), potential claims of dependent's, and spousal property claims.

There are more than twenty (20) statutes, which affect the estate planning, and the administration of estates in Ontario. A partial list of these is as follows.

1. The *Succession Law Reform Act RSO 1990, c.s. 26*: This statute is the corner stone of estate planning and administration in Ontario. Various parts of this act relate to the form and validity of Wills and the statutory interpretation of words and phrases. Part 5 of this act provides for the support of dependent by Testators.
2. The *Family Law Act RSO 1990, c.F.3*: Certain parts of this Act are important to administrator's and they include part 1 which provides for the division of property between legal spouses when the first spouse dies, part II which creates the rules for matrimonial homes, and part V which contains provisions for dependent's rights to sue for support from the estate.
3. The *Estate Act, RSO 1990, c.E.21* and Rules 74 and 75 of the Rules of Civil Procedure, RRO 1990, Regulation 194: This statute and these rules are the guides for probate practice and estate proceedings in Ontario.
4. *Trustee Act, RSO 1990, c.T.23*: This statute provides for the appointment and removal of trustees and creates rules for the behavior of trustees in the administration of the estates. It also sets out the rules for trustee investing and provides for compensation of the estate trustees.
5. *The Insurance Act, RSO 1990, c.I.8*: This statute governs Life Insurance Policies, the contracts of life insurance and the designation of beneficiaries. Under Section 220(1) and (4) proceeds of insurance payable to minors will be paid into court unless there is a court appointed guardian for the proceeds.
6. *Children's Law Reform Act, RSO 1990, c.C.12*: The parts of this Act of interest to the estate planner and administrator are Section I which defines "child" to include all natural and adopted children, including those born outside marriage, and Part III which provides for the appointment for guardians of children's property and for the custody of children.
7. *The Human Tissue Gift Act, RSO 1990, c.H.20*: This statute governs the disposition of body tissue and organs for transplant purposes and for medical research, and it recognizes Wills as an appropriate place to designate organs or the whole body for these purposes.
8. *Income Tax Act, RSC 1985, c.1*: A well drafted Will will take into account the income tax treatment of an estate on death and the ongoing taxation of trusts. Please note that with respect to this last statute we will not provide you with any advice or opinions with respect to the Income Tax Act and in the event there is an issue in your estate plan or your Will that relates to this statute we will refer you to a Chartered Accountant who can provide you with the answers you would need.

In the past, a Will would appoint an executor or an executrix to administer your estate. This person may also be referred to as the trustee. Under the amendments that have been made to the Succession Law Reform Act these parties are now referred to as Estate Trustees. It is possible to appoint more than one Estate Trustee, as well as an alternate in the event that the primary is unable or unwilling to act. However, it is our recommendation that if you are appointing multiple Estate Trustees, an odd number should be selected to avoid any dead lock of decisions in the administration of your estate.

Powers of Attorney (POA)

There are two types of Continuing Powers of Attorney; Powers of Attorney for Personal Care and Powers of Attorney for Property-General. Like Wills, Powers of Attorney are also useful tools in estate planning, but they are based on the ability of a person to delegate authority that has long been recognized by the common law for acts of a financial nature.

The enactment of the Substitute Decisions Act, RSO 1992, c.30, as amended, has enlarged the scope of potential delegation to include personal decision making and the ability to make Powers of Attorney what is popularly known as a "Living Will". Essentially, they provide a mechanism for an individual to maintain some element of control over the administration of his/her affairs in the event that he/she becomes incapacitated.

A Power of Attorney is an authority given by one person, (the grantor or principal), to another person, (the attorney), to act on behalf of the grantor in conducting his/her financial affairs or in making personal decisions for the grantor. The relationship between the grantor and the attorney is governed by the common law of agency, by the Substitute Decisions Act and, to a limited extent by the Powers of Attorney Act. The attorney appointed under a Power of Attorney acts as a fiduciary and, as such, must account, use reasonable care in acting, must not act in conflict with the grantors interest, and must not make secret profits. The Substitute Decisions Act specifically provides that an attorney cannot make a Will for the grantor.

The two Powers of Attorney that we recommend be completed as part of a well drafted estate plan are a Power of Attorney for Personal Care, and a Power of Attorney for Property-General. These Powers of Attorney are continuing powers and do not become effective until the grantor is incapacitated. The wording we recommend provides that to determine if a person is incapacitated requires the decision of at least two (2) physicians or assessors. The Power of Attorney document may also specify the amount, frequency, and mechanism for the calculation of fees for an Attorney for property or personal care or that the Attorney is to act without compensation. If the document is silent, the Substitute Decisions Act provides that a continuing Power of Attorney for Property-General may take annual compensation from the property in accordance with the prescribed fee scale on a monthly, quarterly, or annual payment bases. In general, the maximum compensation that would be payable would be equal to 3% of the capital and income receipts, 3% of capital and income disbursements, and three-fifths of 1% of the annual average market value of the assets as a care and management fee. There is no regulation that sets out the compensation for an attorney acting under a Personal Care Power of Attorney, but some could be payable in certain circumstances.

Wills and POA Client Instruction Sheet

Please use the following package as a tool to determine what should be included in your Will(s) and POA(s). Feel free to complete this instruction sheet as carefully and as detailed as possible and return to our offices to help us prepare these documents for you.

It is important to pay special attention to the following sections that will require specific attention:

- Complete the full legal names and birth dates of your children and also appoint guardians in the event both parents have died;
- Information as to your marital status is required, even if you are securing only a single Will. (Please note that, while common law spouses may have many of the rights of legal spouses, common law spouses are not entitled to an equalization under the Family Law Act and are not entitled to a share of the estate under part 2 of the Succession Law Reform Act when their common law spouses die without a Will.)
- Advise if there are any former spouses who might have an interest in your estate by way of a separation agreement, as a dependent, or by some form of marital contract. In this regard, please also advise if you and your current spouse have a Marriage Contract and, if so, please provide us with a copy of it so that we can draft the appropriate wording in your Will;
- If you have also been married more than once, please provide us with any separation agreement or divorce orders so that we can confirm that there would be no on-going liabilities to these prior spouses from your estate; and,
- Indicate if you own or have any interest in a business such as a sole proprietor, partnership, or limited liability corporation. If there are certain business agreements you have entered into which deal with the disposition of your interest in such a business upon your death, please provide us with a copy of these documents or provide us with details of those sections within those agreements.

We have assumed, for the sake of simplicity, that the testator is a resident of Ontario and Canada for the purposes of income tax and that the testator is a citizen or landed immigrant of Canada. Please advise if this is not the case. If there are any other questions with respect to the instruction sheet please do not hesitate to contact us. It is not our intention that this instruction sheet should replace a personal interview, which can be arranged by contacting our offices.

WILLS/POA CLIENT INSTRUCTION SHEET
PLEASE COMPLETE AND RETURN TO CARSON LAW OFFICE P.C.

TYPE OF WILL (Check one)				POWERS OF ATTORNEY (Check One)		
Single		Couple		Do you require POA(s)?	Yes	No

Full Legal Name and Commonly known as Names:		Birthdate and Citizenship	
Occupation		Do you have a pension?	
Home Phone:		Cell Phone:	
Work Phone:		E-mail:	

Full Legal Name and Commonly known as Names:		Birthdate and Citizenship:	
Occupation:		Do you have a pension?	
Home Phone:		Cell Phone:	
Work Phone:		E-mail:	

Primary Residence Address:	
If current address has been your place of residence for <u>less than 2 years</u>, please indicate the date that it became effective (ie. your move-in date):	

Current Marital Status (Check one)

Single:	<input type="checkbox"/>	Married:	<input type="checkbox"/>	Divorced:	<input type="checkbox"/>	Separated:	<input type="checkbox"/>	Common Law:	<input type="checkbox"/>
----------------	--------------------------	-----------------	--------------------------	------------------	--------------------------	-------------------	--------------------------	--------------------	--------------------------

Is there a Marriage Contract or a prior Court Order or Separation Agreement which will require payments for Child/Spousal support by your estate to an ex-spouse and needs to be mentioned in your Will?	Yes	No
---	------------	-----------

Do you have a Domestic Contract?	Yes	No
---	------------	-----------

Do you have any previous Marriages?	Yes	No
--	------------	-----------

If yes, please provide full names of ex-spouse(s):

Do you have any spousal or child support obligations?	Yes	No
--	------------	-----------

If yes, please provide further details and/or explanation:

Do you have an existing Will?	Yes	No
--------------------------------------	------------	-----------

If yes, please indicate the date it was signed:

EXECUTORS AND TRUSTEES

Who will administer your estate and distribute your assets and manage trusts established for your beneficiaries in your will when you pass away? Normally spouses would name each other as the primary Estate Trustee, with or without another person. If this is not the case, please advise who the Estate Trustee is to be.

Estate Trustee(s)

Full Name(s): _____ Relationship: _____

Address: _____

Full Name(s): _____ Relationship: _____

Address: _____

Alternative Estate Trustee(s) - In the event your Trustee has predeceased you or is unable to act, who is to be the alternative Estate Trustee?

Full Name(s): _____ Relationship: _____

Address: _____

Full Name(s): _____ Relationship: _____

Address: _____

CHILDREN (Check one)

No, I / we do not have children:

Yes, I / we do have children:

If yes, please provide their names and date of birth:

Full Name	D.O.B.

Are any of your children disabled?

Yes

No

If yes, please provide information concerning disability:

Guardian(s) for Children

You may appoint one or more persons to be the Guardian(s) of your minor children upon your death. If an alternate parent is alive, he or she will be the guardian. The wills of both parents should be consistent. The Guardian(s) named in the Will has the authority to act for a period of 90 days from the date of the last parent's death. On the expiration of the 90 days an application must be made to the Court for an Order formally appointing the named individual(s) as the Guardian of the minor children.

Guardian(s) (not your spouse)

Full Name(s): _____

Address: _____

Full Name(s): _____

Address: _____

Alternative Guardian(s) (if you are predeceased by your spouse and primary guardian)

Full Name(s): _____

Address: _____

Full Name(s): _____

Address: _____

Any special instructions for the Guardian(s)

Blank area for special instructions.

MAJOR ASSET INFORMATION

We ask that you fill out an accompanying checklist. In addition to which we require more detailed information concerning larger assets as requested below.

Your Home

Name(s) on title	
How is it owned? (ie. Joint Tenants or Tenants in Common)	
Current Market Value	
Value of Mortgage or other encumbrances	

Other Real Estate Property 1

Name on title and how is it owned? (Joint Tenants or Tenants in Common)	
--	--

Other Real Estate Property 2

Name on title and how is it owned? (Joint Tenants or Tenants in Common)	
--	--

RRSP | RRIF

Plan Holder	Issued By	Beneficiary	Value to the Estate
Who should receive the proceeds of any RRSP or RRIF or Pensions that you own?			
If that person predeceases you, who should then receive the proceeds of any RRSP, RRIF or Pension that you own?			

DPSP (Deferred Profit Sharing Plan)

DPSPs can be used as a supplement to a company's Group RRSP or as a company pension plan. Like other registered pension plans, a DPSP must be registered with the CRA and comply with the terms of the Income Tax Act.

DPSP (Deferred Profit Sharing Plan)			
Plan Holder	Issued By	Beneficiary	Value to the Estate

INSURANCE POLICIES			
	Policy 1	Policy 2	Policy 3
Issued by and policy #			
Name of Owner			
Name of Life Insured			
Name of Beneficiary			
Value to the Estate			
Who should receive the proceeds of any insurance policies on your life that you own?			
If that person predeceases you, who should then receive the proceeds of any insurance policies on your life that you own?			

PARTNERSHIP OR <u>UNINCORPORATED</u> BUSINESS		
Do you have any interest in a partnership or unincorporated business?	Yes	No
If yes, please describe all agreements.		

SHARES OF FAMILY BUSINESS or PRIVATE CORPORATION
If you have shares of a family business or private corporation, these shares may require special consideration. For example, should the shares be given to a particular family member, or is it more appropriate for the shares to be given or sold to business associates? Should the shares that have special voting rights be dealt with differently than the shares that participate in the growth of the business? Are there agreements or contracts that obligate you in some manner, such as in a shareholder agreement or a buy/sell agreement? Are there tax issues that will dictate what should be done with the shares?

Please advise of any special dispositions.

DISPOSITION OF YOUR ESTATE

After payment of all of your debts and funeral expenses the Estate Trustee needs instructions as to how you wish the remainder of your estate disposed.

a) Personal Belongings - The following is the clause we insert in our standard wills.

“To deliver all articles of a personal, domestic or household use or ornament or works of art to the persons I may direct in a separate list or memorandum signed by me that I may leave among my personal papers or attached to a copy of this my Will. If such a list or memorandum is not found with this Will or if there are personal belongings of mine which are not mentioned in the said list or memorandum, then my Trustee may deliver such items to any person my Trustee deems advisable, or my Trustee may otherwise dispose of my personal belongings as my Trustee may determine in my Trustee’s sole discretion.”

Is this satisfactory?

Yes

No

If no, please indicate changes bellow:

b) Specific Bequests — Such bequests would be payable BEFORE any payment of the residue to the surviving spouse/partner or surviving children /subsequent beneficiaries.

Do you have any specific bequests?

Yes

No

If yes, please identify:

Full Name	Relationship	Amount

c) Residue - Once all of the gifts of specific assets or cash amounts have been distributed and all taxes and debts have been paid, the remaining assets and/or money left in your estate is called the “residue”. Before deciding how you wish to deal with the residue it is important to understand the value of the residue. Your decisions about whether to leave the residue outright to a particular person or in trust for a period of time may differ depending on the value of the residue.

There are two main options when deciding how distributions of the residue are to take place. First, you may give the residue outright to one or more beneficiaries to deal with as they like. They will have complete control over the assets.

Alternatively, you may establish a trust whereby the Trustees of your estate hold the assets for the benefit of the named beneficiaries for a stipulated period of time. The Trustees will manage the property in accordance with the terms and conditions that you establish in your Will. You may set out how earned income is to be paid and when the capital is to be distributed and to whom. This type of arrangement is particularly appropriate in the following situations:

- a) where the intended beneficiary is handicapped;
- b) where the intended beneficiary is subject to substantial creditor claims, such as potential divorce or separation proceedings;
- c) where the intended beneficiaries are under the age of majority or are financially irresponsible or immature;
- d) where the assets are substantial and there is a tax advantage to be gained;
- e) where a second marriage is involved and the spouse is to have the benefit of the assets during his/her lifetime but the assets are to be preserved for the children who are to have the interest in the assets at the end of the day.

Our standard —Spousal/Partner Will provides that:

“when one spouse/partner dies, the residue of the estate is transferred to the survivor. In the event both of you have passed away, or this is an individual Will, how do you want your estate disposed?”

Bearing these matters above, please answer the following questions:

If your spouse is living at the time of your death, will he/she receive the residue?	Yes	No
If yes to the previous question, is it to be an outright distribution?	Yes	No
If your spouse is not living at the time of your death, do you want the residue to go to your children?	Yes	No
Is there a gift-over to your grandchildren if a child of yours is not then alive?	Yes	No
Is the residue to be held in trust for your children?	Yes	No

If yes to the previous question, please indicate at what age or ages you would like the capital to be distributed and in what percentages or amounts?

Age	%	Age	%	Age	%	Age	%

If you have no spouse and/or no children either currently or in the event that you have left your estate to a spouse or children, and you are involved in a common accident such that you have no spouse or children living at your death, then how would you like your residue to be distributed?

d) Other Instructions — i.e. re Home, Burial Instructions etc.

**POWERS OF ATTORNEY –SPOUSES
(Common Law, Legal or Same Sex partners)**

POWER OF ATTORNEY FOR PROPERTY-GENERAL

You may name a person to act on your behalf with respect to your financial matters in the event that you are incapacitated or in the event that you are unavailable for any reason. This person is usually your attorney for property. Your attorney will be able to do anything that you can do with respect to financial matters, **except they cannot rewrite your will.**

Name (Full Name(s)): _____

Address: _____

Alternate Property Attorney:

Name (Full Name(s)): _____

Address: _____

POWER OF ATTORNEY FOR PERSONAL CARE

You may also authorize a person to make decisions for you in connection with medical treatment, admission to care facilities and personal care decisions. This personal care attorney will only make these decisions when it is determined that you are incapable of making these decisions by yourself. The attorney must make the decisions that you would have made yourself, if capable. As a result, it is important that your attorney knows what decision you would have been made. Any instructions that you feel particularly strongly about should be explained to us.

Name (Full Name(s)): _____

Address: _____

Alternate Personal Care Attorney (In the event the primary Attorney is unable or unwilling to act):

Name (Full Name(s)): _____

Address: _____

Personal Care — “Living Will” Wording

The standard wording we use in our Power of Attorney for Personal Care includes the following clauses. Please review this wording and confirm if it is satisfactory.

“The powers granted herein are not subject to any conditions or restrictions. Not to limit the powers granted herein to my Attorney, but to enable my Attorney to complete the powers granted herein I direct my Attorney, my family, my physician, my executor and all concerned others as follows:

Where the application of measures of artificial life support would primarily serve to prolong the moment of my death, then let this document stand as an expression of my thoughts, intentions, wishes and directions that I do not wish to endure any prolonged period of pain and suffering. If:

- > *I am no longer able to make decisions for my own future;*
- > *I am no longer able to communicate;*
- > *I am unable to care for myself;*
- > *There is no reasonable expectation of my recovery from extreme physical or mental disability or incapacity;*
- > *Circumstances exist that render me incapable of rational existence; or,*
- > *I am afflicted with irreversible injury, disease, illness or condition, then I want my attorney(s) to respect my wishes listed below.*

If any of the situations listed above should arise, I direct that I be allowed to die and not be kept alive by measures of extending me. For greater certainty and not to detract from the generality of the wording in this paragraph, I confirm that measures of extending my life that I particularly do not wish, and which are to be withheld, withdrawn or discontinued include:

- > *Electrical or mechanical resuscitation of my heart;*
- > *Nutritional feedings;*
- > *Artificial mechanical respiration where my brain can no longer sustain breathing;*

- > Radiation, chemotherapy and similar forms of treatment; and/or,
- > Treatment for an illness or disease which I contracted when I was already afflicted with a terminal illness.

I do ask that medication be administered to alleviate pain, suffering or distress even though this may hasten the moment of my death.

I want the wishes and directions expressed in this power of attorney and the spirit of this document carried out to the fullest extent permitted by law. In so far as these are not legally enforceable, I nevertheless request that those responsible for me at such time will regard themselves as morally bound by these provisions, so that they will carry out these wishes to the fullest extent possible. I would like to die at home rather than in an institution, if that does not impose an undue burden on those around me.

If I should happen to be under the care of a physician whose moral, ethical or religious beliefs are not in sympathy with my wishes as expressed in this document, I direct my attorney to ask that physician to withdraw from my care and to recommend another physician who agrees with my views.

No participant in the making or carrying out of this power of attorney, whether it be a health care provider, hospital administrator, friend, relative or any other person, shall be held responsible in any way, legally, professionally or morally, for any consequences arising from the implementation of my wishes”

Please check one of the following options:

This wording is satisfactory

This wording is not satisfactory and I will review the changes I want in this clause with you

Other Instructions:

Thank you for taking the time to complete this information sheet. As previously indicated, this does not eliminate or take place of the need for a personal interview. Please return this completed document to our office and make arrangements for an appointment.

CARSON LAW OFFICE PROFESSIONAL CORPORATION

T. 905 336.8940 | F. 905 336.8943 | 3400 Fairview Street, Burlington, ON L7N 3G5

info@carsonlaw.ca | www.carsonlaw.ca