

Quinlaw - April 2010 Newsletter

One year since the merge of Catherine Quin and Trevor Knowsley and YES we continue to develop processes to assist our clients and help us to be more responsive to your needs.

We have launched into the 21st century with a new file management system.

This is called ActionStep. It is file based. Every email we send you will have an identifying number on it. You leave that on the subject line and when you email us back it goes automatically directly to the person that you sent it to and to the file. No longer will we need to print and file emails – they will automatically be saved in your file. It does mean that your Purchase of Brown Street will have a different file number to your Sale of Green Street so be aware of that. Don't just use the same ID number as the ID number will be different for each matter.

We are also scanning and saving every signed document to have a complete record of documents going out of the office on your behalf. Ultimately this will lead to savings in time, paper, and space. You wonder how we will save space? Well we are required to hold paper documents for 3 years for some matters. Other documents we are required to hold for a total of 7 years. Trust account records must be held

for 7 years. You may remember the old Land Transfer forms to transfer you property or obtain a mortgage. They were on heavy paper and we used to send them with cheque for the government fee to the Land Transfer office. The Land Transfer office in New Plymouth was to hold those documents forever. You could search the properties that your great grandparents owned. Well now, we are doing e-dealing. This now is where we register the document on the computer. It needs a legal executive to sign off on certain parts on the computer on the secure site, and either Trevor or Catherine have to sign off as well. The Land Transfer office, now called Land Information New Zealand (LINZ), no longer holds the documents. We have to hold them now for 10 years. Hence we can see that there is going to be a huge need for paper storage in the future. We are already planning for this and sometime later this year we hope to have scanned all old files.

WILLS

If you have Wills or other Deeds with us, including all those from Trevor Knowsley's practice; they are on hand, in a secure environment, both electronically and in hard copy. Contact us at any time if you have any queries regarding your documents or want a new Will.



Front, left to right: Trevor Knowsley, Catherine Quin, Gordon Wilson
Back, left to right: Lisa Steffensen, Maree Cotter

COURSES & FURTHER EDUCATION WE HAVE OR WILL BE ATTENDING

Catherine

- Appeals from the Family Court
- Real Estate in a tough market - for property lawyers & litigators
- Family Law Conference
- Maori Land Update
- Trust Law Conference
- Enduring Powers of Attorney

Lisa

- Enduring Powers of Attorney

Maree

- Maori Land Update
- Enduring Powers of Attorney

Gordon

- Introduction to Family Law Advocacy & Practice
- CYPF Work - Effective Advocacy in and out of Court
- Early Intervention Process - New Family Court Case Management

Lisa & Trevor

- The New REINZ Sale & Purchase Agreement Form

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RESIDENTIAL CARE SUBSIDY – MEANS ASSESSMENT

You probably are aware that when you apply for a Residential Care Subsidy (WINZ) they can immediately look at gifts made within 5 years of the date of the assessment. They particularly do this if the gift is in excess of \$5,500.00 per annum. You may not be aware though that this can also apply to gifts made by the rest home resident's spouse or partner as well.

The Ministry of Health have the discretion to look at a person's spouse or partner and gifts that they have made if they have "deprived himself or herself of assets".

The Social Security regulations include examples of deprivation of assets which include failing to demand interest under a loan and investment in non income earning assets. The Social Security Act itself goes wider and gives a discretion to look at even circumstances further back than 5 years. That is not usually utilised but it is there and you need to be aware of it.

TRUSTS & TRUST DEEDS

Many of you may have a Trust. You may be a Trustee. We cannot over-emphasise the need for keeping the documents to follow what you have done with the Trust. You should not just rubber-stamp anything; you need to take time to have an annual meeting at least and a discussion on the property and any issues.

As Trustees you need to know the terms of the Trust Deed. (Please read it). Not every Trust Deed is the same.

Likewise you need to know the extent of the assets and the debts of the Trust and ensure that these are actually all in the names of the present Trustees. If Trustees resign or die then there often needs to be changes to the property ownership or the way they own and hold properties.

We can assist and give you a folder with headings which will help keep the paper trail accurate. This also will help you to ensure that you have copies of the Trust Deed, Minutes and Resolutions and other Trust documents.

Beneficiary Information

The law continues to develop in the respect of rights for beneficiaries and beneficiaries now have the right to request information. Trustees do not have to make all information available but there is certain information that they need to make available if requested.

This aspect of the law is developing. The right to some information has always been there though, and years ago some trust deeds did provide for a wide range of potential beneficiaries to make the pool of potential beneficiaries so wide that it was impossible to "give" rights to beneficiaries. We have moved on from that but there may even be some old trusts that may have clauses like that.

You must always remember as trustees to avoid any conflict of interest and this includes that you must not benefit yourself unless the Trust Deed specifically permits that.

Beneficiaries have to be considered and you must always act in the interests of both the present beneficiaries and future beneficiaries. There are times when you need to give reasons and there are times when it is wise not to.

At all times you must have a level of care as a Trustee. The standard of your care is that of an ordinary prudent business person who would be managing the affairs of others. If you have a Trustee who is a lawyer, or account, or a professional person or organisation then a higher standard of care is required of that Trustee.

We are ready to assist you to discuss these matters and will continue to keep you up to date as more law develops in this area. We are always happy to discuss these issues with you.