

The Examiner's Note

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BUZBEE, UPCHURCH, SQUIRES & EASTWOOD BEGINS EFFORT TO ADVANCE THE ARTS IN WESTERN OKLAHOMA SCHOOLS

The law firm of Buzbee, Upchurch, Squires & Eastwood has begun a program to promote students focused on the arts in schools throughout Caddo County. The program provides an opportunity for a student from a Caddo County school to have his or her artwork displayed for the public. The art instructor at the partner-school will select a student's work that best showcases the talents and quality of the school's art program. The selected student's art work will be framed and exhibited in the office of Buzbee, Upchurch, Squires & Eastwood for one month, and the artist will be awarded prize money to promote his or her artistic talent. The Anadarko High

School Art Department was the first partner-school to participate in the program. The winner of the contest was

Jamon Alexander Gourd

with his portrait of musician Nicki Minaj. Mr. Gourd's artwork was drawn entirely in colored pencil and is currently displayed in the firm's Anadarko office.



Marital Interests and Marketable Title

No deed, mortgage or other conveyance by an individual grantor can be approved as vesting marketable title in the grantee unless the body of the instrument contains the grantor's recitation to the effect that the individual

grantor is unmarried; or the individual grantor's spouse, identified as such in the body of the instrument, subscribes the instrument as a grantor; or the grantee is the spouse of the individual grantor and that fact is recited by

the grantor in the body of the instrument. Husband and wife must execute the same instrument, as separately executed instruments will both be void. *Thomas v. James*, 1921 OK 412. (Continued on Page 4)

Adapted from 2012 Title Examination Standards Handbook

BARRY SQUIRES ON THE IMPORTANCE OF ESTATE PLANNING

Many of our clients come to our office asking why estate planning is important. The answer is: It is not, if you do not care where your assets go upon your death. However, most people care, and that is why it is important to properly plan.

A popular myth about estate planning is the belief that if a person has a will, a probate will not be necessary upon their death. A will is only a legal instruction sheet that the court uses to conduct a probate proceeding and distribute the assets to the people or entities the decedent directs them to go to. A probate proceeding is still necessary to change ownership from the deceased person to the person or entity identified to receive the assets in the will. Only a properly prepared and funded Revocable Trust allows a person to retain complete control of their assets until death *and* transfer those assets to their chosen beneficiaries without the necessity of probate.

Another common question asked is whether a will can be broken. In almost twenty (20) years of practice, I have not been involved in a case in which a will was not followed. Courts and case law always attempt to follow the wishes of the deceased. Absent clear undue influence or proven incompetency, a properly executed last will and testament has great strength in Oklahoma courts.

The question almost all of my clients ask is, "What do I need to have a proper estate plan?" The first document



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needed is a clear Last Will & Testament. This document should clearly identify who you want your assets to go to upon your death, and who you want to manage your affairs as your Personal Representative.

The next document I advise people to have is a Durable Power of Attorney. This document appoints someone to take care of your business if you have a time period where you are still living but incompetent or incapable of caring for yourself. This document becomes ineffective upon your death.

The third document I always recommend to clients is a Health Care Durable Power of Attorney. This document allows someone you trust to interact with doctors, nurses, and other medical professionals if you have an accident or health episode that has rendered you unable to make decisions about your health care.

This document allows your “health care proxy” to obtain medical records, consent to medical procedures, and stay informed of your medical condition. This document does not provide for end-of-life care.

Finally, I advise clients to consider an Advance Directive for Health Care (“Living Will”). This document is only for those who do not want to be artificially kept alive if certain health conditions diminish your quality of life to a certain level. This document can be important and can prevent your loved ones from having to make that decision on your behalf without your guidance.

Many other estate planning tools exist; such as a Revocable Trust, Irrevocable Trust, Family LLC, Transfer on Death deeds, among other options. Oklahoma law provides a wide range of estate planning tools to meet every person’s needs. Our firm provides free initial consultations regarding estate planning options. We provide advice to the client as to what we believe are the proper estate planning tools for their particular situation. Once we gather as much information as possible, we advise the client about what steps are necessary and the cost of their estate planning from beginning to end.

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Serving Caddo County and Western Oklahoma for More Than 80 Years

Buzbee, Upchurch, Squires & Eastwood is an Oklahoma professional limited liability company providing legal services in almost all types of situations. Our primary areas of practice are title examination, foreclosure, collections, personal injury and estate planning. Whether you visit us in our Anadarko, Carnegie or Hinton offices, our firm is ready to deliver quality legal services at a competitive rate.

Marital Interests and Marketable Title, continued

While 16 O.S. § 13 states that the husband or wife may convey or mortgage any real estate, other than the homestead, belonging to him or her, without being joined by the other in such conveyance, joinder by husband and wife must be required in all cases due to the impossibility of ascertaining from the record whether the property was or was not homestead. A well-settled point is that one may not rely upon recitations, either in the instrument or in a separate affidavit, to the effect that property was not the homestead. However, if an individual grantor is unmarried and the grantor's marital status is inadvertently omitted from an instrument, or if two grantors are married to each other and the grantors' marital status is inadvertently omitted from an instrument, a title examiner may rely on an affidavit executed and recorded which recites that the individual grantor was unmarried or that the two grantors were married to each other at the date of such conveyance.