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The Quill – January 2023



THE QUILL ARTICLE:

Life Estates

HAPPY NEW YEAR! Everyone at Barrister’s Title hopes you and yours had a lovely holiday season and hope your 2023 is off to a great start. Today I wanted to talk to you about an issue that kept coming up on files in December, hoping it will help your January go a little smoother. Today we’re going to talk about Life Estates (LE)! Who holds what rights? When do liens attach? What interests do heirs of LE holders have?

Who holds what rights? Well, for title insurance purposes, it’s straightforward, the life estate holder has the present possessive rights to the property, and the remainderman has future rights. That means the remainderman can’t sell the whole property out from under the current LE holder; they can only sell their future interest. The same goes for the LE holder. They can only sell what they own. Anything they do sell will be tied to the term of the original LE holder. For example, if Anne has a life estate, with Charlie as the remainderman, and she sells only her interest to Brian, Brian’s interest in the property lasts only as long as Anne’s life, then the property

would go to Charlie. Same thing if Charlie sells his interest to Brian. The only interest that transfers is the remainderman interest, not a fee simple interest.

It is very unlikely anyone would sell just their LE interest or their remainderman interest, but it's possible! Make sure all interests are accounted for when title is transferred out, if the buyer is expecting a fee simple ownership interest (and the title company is expecting to insure that fee simple).

When do liens attach? If the remainderman only has a future interest in the property, do their liens attach when they obtain fee simple rights, or do they attach when the future interest is granted? The simple answer is they attach when the future interest is granted. Liens and judgments against the remaindermen need to be paid off at closing before clear title can be transferred and insured to the new buyer.

What interest do heirs of LE holders have? The heirs of the LE holder do not have any rights to inherit the property from deceased unless they are also the named remaindermen on the property. The title transfer happens outside of probate, just like in Joint Tenants with Rights of Survivorship or Tenants by the Entirety. It is immediate upon death, whereupon the remainderman's interest is fully vested as a fee simple interest in the property.

It is possible to have restrictions on the use of the property by the remaindermen or the LE holder, but those are very uncommon, and might be found to be against public policy. Please refer all questions on these files to us, so we can evaluate them individually.

Finally let's talk about the Rule in Shelley's Case. It establishes a conveyance which attempts to give a person a life estate, with a remainder to that person's heirs but, will instead give both the life estate and the remainder to that person. Meaning "To Anne, for Life, then to Anne's heirs" does not create a life estate in Anne, it would vest fee simple title onto her. Her heirs would not be set up as remaindermen, and the property would not automatically transfer to them upon Anne's death as it would under JTWS or TBE, avoiding the probate process.

The bottom line for all these questions is to make sure everyone is accounted for on your deeds, all liens are paid off, and everyone understands what will happen upon the death of the LE holder. We're here to help if you have any questions or need help on Life Estates, or any other title issues. Go and enjoy 2023!

Sarah A. Fuentes, Underwriting Counsel

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CLE CORNER

5 NEWLY UPLOADED CLE/CPE'S

Currently we are offering 7 total on-demand CLE/CPE's - 5 of them newly uploaded! Click [HERE](#) to access the CLE library. This is where all of the on-demand courses will

be stored, so bookmark the link and check back periodically. We will also announce any new live or on-demand courses, here, in the monthly newsletter.

GET TO KNOW CANDICE MOTT

{A Day in the Life Edition}

1. Favorite Breakfast? *Pancakes, bacon, and scrambled eggs.*
2. Coffee vs Tea? *Coffee every morning, occasionally a sweet tea later in the day.*
3. Do you prefer working from home or in an office? *Home, but it's also nice to break the week up with some office time.*
4. Dinner at the table or on the couch? *Most of the time it's while standing at the kitchen island.*
5. What is your favorite dessert? *Tough one; I love devils chocolate cake with peanut butter frosting and I also love cheesecake.*
6. What are you currently watching? *Yellowstone!*
7. If you had one free hour in your day, what would you do? *Easy one, I would read.*
8. Are you a morning person or night owl? *Night owl, maybe. Definitely not a morning person.*
9. What is your bedtime? *I try to be in the bed between 9 and 10pm, then read or catch up on a show until I fall asleep.*
10. Tell us an interesting fact about yourself that we may not know. *When I was little my dream job was an attorney or writer.*



THE QUILL RECIPE

Jennifer's Ham & Cheese Biscuits

With the Super Bowl around the corner we've got a great party recipe for you! Jennifer's easy peasy Ham & Cheese Biscuits.

Ingredients:

- 1 lb. ham (or turkey)
- 1 lb. Swiss cheese

6 packs Pepperidge Farm Party Rolls (or any other small yeast rolls)

2 sticks butter

1/4 cup brown sugar

2 tablespoons poppy seeds

Instructions:

Slice the package of rolls in half – remove the top half. Cut ham and cheese into 1-inch squares. Melt butter and mix with the sugar and poppy seeds and spoon on the bottom half of the rolls. Layer each roll with 2 slices of cheese and 2 slices of ham. Put the top half on and wrap in foil. You can freeze at this point if you want. Thaw and cook on a cookie sheet with the foil still on at 325 degrees for 15-20 minutes. Keep foil on until ready to serve. Slice through bread to make sure they can be pulled apart. Enjoy!



THE QUILL MEME

If you make New Year resolutions do you usually keep them or break them? 🤔



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