6 June 2008

COLLINS & MAY | LAW

NEWSLETTER Volume 12 2008

Protecting Your Assets for Retirement

By Davina Rowan

- Contacts

Lloyd Collins
lloyd@collinsmay.co.nz
DD: 576 1403

Paul May
paulm@collinsmay.co.nz
DD: 576 1400

Eugene Collins
eugene@collinsmay.co.nz
DD: 576 1407

Nicola Goss
nicola@collinsmay.co.nz
DD: 576 1404

Paul Whitmarsh
paulw@collinsmay.co.nz
DD: 576 1409

Davina Rowan
davina@collinsmay.co.nz
DD: 576 1411

Camille Bell
camille@collinsmay.co.nz
DD: 576 1406

Amy McLennan
amy@collinsmay.co.nz
DD: 576 1405

Michael Moohan
mike@collinsmay.co.nz
DD: 576 1417

If you would like any of our previous newsletters or any of the our free booklets on Wills, Family Trusts, Relationship Property of Business Law please email

A vast number of people work the majority of their lives to acquire assets to enjoy in their retirement. No one wants to see 40 years worth of hard work depleted in two to three years to pay for their rest home care.

When moving into a care facility most people will be of an age to receive the government superannuation. This superannuation is far from sufficient to cover the cost of cared living. Some people are eligible for a rest home allowance to top up their superannuation to cover the cost, however, many are not as they own "too many assets".

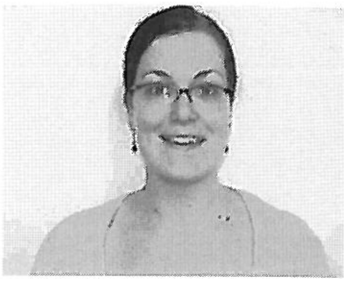
"Too many assets" as at 1 July 2008 is defined as:

(a) for single person who requires care, any assets that exceed \$180,000.00;

(b) for a couple where both are in care, any assets that exceed \$180,000.00;

(c) for a couple with only one partner in care, any assets that exceed \$85,000.00 (family home and car not included) or any assets that exceed \$180,000.00 inclusive of the family home and car.

Assets include cash, savings, investments, loans made by you to others, boats, caravans, campervans investment properties, the family home, the car. The only asset excluded is pre-



paid funerals up to the value of \$10,000.00.

If your assets exceed the specified amounts you may apply for a loan to pay for the extra costs of your cared living but unlike the allowance it will need to be paid back.

So you ask, how can you reduce your assets?

One solution is to "transfer your assets to a family trust. A family trust can own any asset that you wish for it to own and as a trustee of your family trust you maintain control of those assets. However, there is a catch. For the entire value of the asset to be excluded from the asset test, the Trust must have paid you for all the assets you transferred to the Trust at least five years before you apply for the allowance.

For example, Brad and Angelina establish a family trust when they get married at the age of 37 and 32. The family trust "purchases" their property from them for \$650,000.00. The trust does this by way of a loan of \$650,000.00 from Brad and Angelina (\$325,000.00 each). Brad and Angelina each forgive the loan at or gift to the Trust (\$27,000.00 per year (this is the maximum amount that an individual can gift in a year before it can be heavily taxed). Within 13 years the loan is forgiven. When Brad and Angelina require full time care at the age of 75 and 70 the property has been completely transferred for 25 years. The home owned by the trust cannot be included in the asset test.

However even if gifting is started later in life it could still have its benefits.

Vera was widowed at the age of 60. She decided to transfer the family home into a family trust. Her home was valued at \$300,000.00. When Vera was 72 it was determined that she needed full time care in a rest home. Although her gifting program had been completed it had only been completed one year prior to her application. Therefore the trust had to repay her the last four years worth of gifting. This was done by selling the family home. Although \$108,000.00 had to be used to pay for Vera's care the remaining \$192,000.00 was safely held by the trust and could not be included in an asset test.

As said previously no one wants to see their hard work frittered away.

If you have any queries in regards to family trusts to protect your assets please don't hesitate to give us a call.

On a completely different topic our next newsletter will fill you in on all the employer requirements involved with Kiwisaver.