



Does your horse need an Estate Plan?

HOW TO PROTECT YOUR EQUINE FAMILY IF THEY OUTLAST YOU

By Melissa N. Subjeck and Catherine B. Eberl

You've just finished your morning barn chores. The horses are fed, their stalls are clean. As you start your second cup of coffee, a news article catches your eye: "Horses Seized after Owner Dies."

You read on. Twenty horses were seized after the owner's unexpected death. The owner's widow, not a horse person, asked for the horses to be taken away. The horses will be sent to auction. The horses that don't sell may be euthanized if they cannot find other homes. You wonder: How can this happen? Will these horses really be euthanized? Will others be sold to killer buyers? Looking out at your small herd, you realize this could happen to them. You don't have an estate plan, you've never even thought about a will. If something happened to you, your horses could meet the same, sad fate.

If owners don't take appropriate steps to provide for their horses, the consequences can be dire. Without a will, your horse will become the property of your heirs, in accordance with New York state law. These family members may have no interest in inheriting your horses, and no knowledge of how to care for them or how to go about selling them.

What can I do to protect my horses if they outlive me?

Horses can be protected with careful planning and sound legal advice. The first consideration in estate planning for your horse is 'who': Who among your family, friends, or equine contacts has the desire and knowledge to care for or sell your horse?

The next consideration is 'how': How should this person take ownership of your horse? The simplest option is stating in your will that the horse be given to a specific friend or relative. You may want to consider leaving a bequest of cash or other property to that person to help cover the care of the horse. If your will gives specific horses to different people, remember to revise your will as horses are bought, sold or die.

Another option is to create a trust for your horse. An increasing number of horse owners are opting for a trust, which is a written declaration of how the owner wishes their horse to be cared for after their death. A trust can also ensure care for the horse if the owner gets sick.

In a trust, you name a trustee who will carry out your

wishes for the horse and provide detailed instructions for the distribution of trust funds for the horse's care. The trust will mandate how the funds will be administered, and where the remaining assets should go after the horse dies. The trust can contain information about your horse's conditioning, health issues and food preferences. When selecting the horse's guardian, you ideally would want a person who owns a horse or has cared for horses in the past. The guardian will care for your horse in accordance with the instructions set forth in the trust. When preparing the trust, carefully consider the cost of care for your horse, and fund the trust accordingly.

A horse trust terminates upon the death of the animal. If the trust is established to provide for the care of more than one horse, the trust will terminate upon the death of the last surviving horse.

What are the benefits of establishing a trust, as opposed to making a simple bequest of a horse in your will?

If you want to give the person who will care for your horse money to pay for expenses, a trust structure offers more oversight. Trust assets must be segregated from the trustees' personal assets, and must be used for the horse's upkeep as directed in the trust document. If money is given to the horse's new owner outright, as a bequest, it can be used by that person however they choose, without limitation. You take your chance that the horse will receive proper care.

In addition, a trust allows for succession of the horse

guardian. If you leave your horse to someone as a bequest, and that person dies, their estate plan determines what happens to your horse. If the horse is left to a trust, and the trustee dies or becomes incapacitated, the person you name as the back-up trustee will take over and continue to carry out your wishes.

Although proper estate planning can be daunting, having a knowledgeable equine attorney to guide you through the process will relieve much of that burden. The time and effort to think through and plan these complex issues will assure that your equine family is protected after your death.

Melissa N. Subjeck and Catherine B. Eberl are attorneys at Hodgson Russ LLP, located in Buffalo, and members of the firm's Equine Practice. Reach them at msubjeck@hodgsonruss.com and ceberl@hodgsonruss.com.



Melissa N. Subjeck



Catherine B. Eberl

Tully Building Supply
Build yourself a Merry Little Christmas

Great work lasts longer.
Construct a brag-worthy holiday with a gift from Milwaukee Tools and Tully Building Supply. Milwaukee Tools: Nothing but **HEAVY DUTY..**

Two locations to serve your needs
TULLY BUILDING SUPPLY 24 Onondaga St., Tully 315-696-8984
ALPINE BUILDING SUPPLY 1600 US Rt. 38, Moravia 315-497-1221

"Big enough to serve you, Small enough to care"