

The Fine Art of Cottage Co-Ownership

“When people are divided, the only solution is agreement.” John Hume

Since we are all human, where there's family, sooner or later there's friction. Unfortunately, all too often the family cottage can become the source of such friction. Everyone has probably heard at least one unfortunate story about family members disagreeing over sharing time, money or energy on the cottage. Where successive generations are to hold the property for a lengthy period, the likelihood of disputes increases, in particular where beneficiaries have different levels of assets, income or interest in the cottage. Anyone who owns a cottage they want to keep in the family should be concerned that the cottage may become the source of family friction and dissent rather than the oasis of relaxation and togetherness they want to ensure.



Aside from personal and tax issues arising from ownership itself, which are more fully explored in our [advisory](#), day-to-day issues often arise between family members who co-own cottages. Cottages can be expensive and time-consuming to maintain, and family members may be unable to agree on how to share responsibility for upkeep and maintenance. Family members with less ability to pay expenses may expect other, more financially able, members to pay more of the expenses. Family members using the property less often, or who are not as "handy", may expect to perform a smaller share of the

upkeep chores than those using it more frequently or who are more "handy", despite equal ownership interests.

Then there are scheduling visits and guest access issues. The prime cottaging season is relatively short in Canada, and family members usually value the peak opportunities (such as long weekends) available during the summer. However, unless your cottage is very large, it may not reasonably or comfortably accommodate all family members at once. There may also be members who are not excited to spend time together. Certain members may wish to have their guests, which may clash with other family members' wishes. Issues related to use of the cottage as a result can abound.

Fortunately, a solution is available to minimize friction where cottages are co-owned. A co-owner agreement can be an effective planning tool for a family vacation property. Even where family members get along well, a co-owner agreement is still a good idea so that multiple owners can jointly work out issues such as: division of the use of the property; sharing and payment of expenses; deciding on improvements for the property and their payment; and determining how any default in expense payments will be dealt with.

In addition, typically a cottage owner will want to pass along a family property to family only, and ensure that it stays in the family. A cottage co-ownership agreement can include a method of decision-making on various issues regarding the transfer or sale of the property, including on death, incapacity or marriage breakdown of an owner with options to purchase and rights of first refusal for the other owners or others in the family, delineation of eligible persons to whom the property can be transferred, and how (or indeed whether) encumbrance of the property will be permitted.

Encouragement from the original owner of the cottage can be vital in ensuring an agreement is entered into by the next generation of owners. Whatever emotions may be at play, it is rare that family will ignore the stated wishes of an individual, particularly if they are expressed in writing and not ambiguous or open to interpretation. A wish that beneficiaries enter into a co-ownership agreement if they decide to own a family cottage jointly expressed in a will or letter of wishes can make the difference between avoiding arguments and constant bickering and negotiation. Entering into a co-ownership agreement can also be made a condition of a gift of the property to multiple family members.

The family cottage can be a joy, but can quickly turn into a nightmare if certain issues or problems are not anticipated and planned for properly. One such issue can be the inability of multiple successor owners to make decisions together or agree on how expenses and maintenance will be taken care of. A co-ownership agreement can make all the difference in setting out guidelines and eliminating needless disputes, and keeping that wonderful cottage view ever so serene.

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