

Mirror wills or mutual wills?

ALAN KNOWSLEY
LEGAL MATTERS



When a woman contacted her family lawyer after her husband died, she was shocked to discover that her husband's will was very different to the mirror wills they had prepared together with their lawyer about five years before her husband's death.

Apart from some specific gifts of sentimental family items to be given to their children, the couple had agreed to leave the residue of their respective estates to each other, and to their children in the event that their spouse was already deceased. The two wills were typical mirror wills - same assets, same beneficiaries; they mirror each other.

Now the woman discovered that a property owned solely by her husband had been left to a charitable organisation and a shareholding had been left to one of the three children. The woman felt aggrieved at this discovery, not only because of her own expectations, but also because one

of their children had been favoured over their siblings. How could this situation have arisen and how could it have been avoided?

It is important to understand that when you make mirror wills with your spouse or partner, it does not constitute a binding agreement. Everyone has the liberty to revoke their will, whether or not it is made in good faith, with the intention of each person providing for their spouse or partner and, ultimately, for their children.

Mirror wills can work well for a lot of families, but sometimes complications arise, for example when the surviving spouse or partner forms a new relationship. In this scenario some, if not all, of the assets that you thought were ultimately destined for your children may have become the subject of relationship property with the new partner.

Furthermore, if your surviving spouse or partner dies before their new partner, there is a possibility that the new partner may disinherit your children (ie. the new partner's step-children).

Mutual wills, on the other hand, contain clauses in which each person agrees on how to deal with their assets on their death



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and promise not to change their will in a way that is not in accordance with that agreement.

It is a promise not to revoke their will or to make their will less favourable to particular beneficiaries, without informing the other person.

Such promises may also be made in a separate deed to sit alongside your will. Either way, it is prudent to record such promises in writing and to have that document filed in your lawyer's deeds system with your other family documents.

It may be time for your family to review their wills and to have a conversation with your lawyer

about what type of will best suits your situation. It is important to be assured that the will you have in place reflects your intentions and protects your assets from going to people other than those you want them to.

Column courtesy of Rainey Collins Lawyers phone 0800 733-484 www.rainey-collins.co.nz. If you have a legal inquiry you would like discussed in this column please email Alan on aknowsley@rainey-collins.co.nz

TITAHI BAY BEACH FESTIVAL PROGRAMME

2pm-7pm 17 Feb
(Postponement date 18 Feb)

Photo Credits: Geoff Marshall

MUSIC

- 2.00 Ngati Toa powhiri & Mayor Mike Tana
- 2.15 Quarter Acre Block - band
- 3.00 Ma Rie - reggae
- 3.30 AMDC Dante Academy - Hip Hop
- 4.00 All Goodz Entertainment - Hip Hop Artist
- 4.30 Dances for Schools
- 5.00 Lei & the Bay-ites - band
- 5.30 Matt Carnihan - solo acoustic artist
- 6.00 Cool Dads - band
- 6.30 Fraser MacKenzie - folk/rock singer
- DJ Vinnie will gap-fill with great beats.

BEACH ACTIVITIES

2.15 ONWARDS:

- Ring Toss
- Ball Throwing
- Sandcastles
- Big Dig
- Volleyball
- 4pm Tug of War & Sack Races
- Planting with Titahi Bay Horticultural Society
- Free Supervised Snorkelling: Gear Provided

DISPLAYS & DEMOS

- 2.15 Tae Kwon Do
- 3.00 Surf Life Saving
- 3.30 Talaha
- 4.30 Fire Service

STALLS

- Art • Beauty products • Braids • Crafts • Flower garlands • Food products • English Language Info • Fruit & Veges • Mountain & Sea - Wellington • Horakeke/Flax weaving • Pestfree Titahi Bay • Playcentre • Rape Crisis • Titahi Bay Community Patrol • Scouts New Zealand • Whitireia Health Education ETC.

KAI & INU

- Food - Sausages, Gluten Free, Hangi, Sealoot, Filipino, Fijian, Thai, Indian, Mexican, American ETC, Coffee, Ice Cream, Smoothies, Frozen Cones, Drinks ETC

GENERAL INFO

Smoke free and sunsmart festival. Programme subject to change. Bay Drive beach entrance and Richard St. (Bay Drive to John St.) closed to vehicles 12 noon-8pm on the day of the festival.

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