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In this issue, we answer some common questions about our move to a new office building. We also share insights about Medicaid estate recovery and options for transferring real estate after death.

If you have questions or would like to schedule a meeting to discuss your needs, please call us at (513) 251-4900.

Fall 2014

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## Save the Date:

If you would like to stop in and see our new office, please join us for an open house at one of the following times:

- Wednesday, November 5 from 4pm – 7pm
- Thursday, November 6 from 4pm – 7pm
- Tuesday, November 11 from 8am – 11am

**Niehaus Law Office, LLC**  
5600 Harrison Avenue  
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## We Have Moved! New Location, Same Great Services

We are excited to announce our move to a brand new office building. Below we answer some frequently asked questions about our move.

### Where exactly is the new building?

The new building is located at 5600 Harrison Avenue 45248 in Green Township. It is near the intersection of Harrison Avenue and Westwood Northern Boulevard and across the street from the Zip Dip soft serve stand. We have two driveways on Harrison Ave. and one on Westwood Northern Blvd. See the map on page 4.



### Have your phone numbers stayed the same?

Yes, all of our phone numbers have remained the same.

### What are some features of the new office that I might appreciate?

Our new location features more parking and easier driveway access, with entrances/exits on both Harrison Ave. and Westwood Northern Blvd. Our new space is much more accessible for those who have trouble with stairs: there are no steps to the front door; there are plenty of conference rooms and meeting spaces on the first floor; and accessible restrooms are available on all floors.

### Why did you decide to move?

We have been slowly outgrowing the building at 4820 Glenway for some time, and eventually found ourselves with

### New building features:

- More parking
- Easier access with entrances/exits on both Harrison Ave. and Westwood Northern Blvd.
- Increased accessibility
- More conference rooms
- Larger seminar space

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## We Have Moved! New Location, Same Great Services

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inadequate work space and too few conference rooms for our clients. Our parking lot was also small, with too few spaces for clients during tax season, and no spaces for staff. Finally, our old office had many stairs and was difficult to navigate for clients using wheelchairs or walkers.

Although we are excited about the amenities of our new building, we will miss the character and charm of our Glenway office, which has been home to our businesses for 27 years.

### Are you having a grand opening celebration?

Yes, and you are invited! We plan to host a few open houses to welcome clients to our new location. Feel free to stop by and see the space during one of the following times:

- Wednesday, November 5 from 4pm – 7pm
- Thursday, November 6 from 4pm – 7pm
- Tuesday, November 11 from 8am – 11am [📍](#)

## Benefits & Risks of Naming Transfer on Death Beneficiaries on Real Estate

As we have mentioned in past newsletters, Ohio now allows transfer-on-death (“TOD”) beneficiary designations on real estate. Clients frequently ask whether they should put a child’s name on their real estate either as a joint owner or as a beneficiary. In some cases, it can be an efficient way to transfer real estate; in other cases, it can lead to complications and potential risk.

By placing a TOD designation on your house, you can direct who will receive the property at your death. This designation supersedes any instructions in your Will, and thus the house transfer will not be part of a probate estate.

When real estate passes by TOD, beneficiaries take individual ownership of the real estate at the moment of death. Thus, they not only have the rights incident with owning real estate, they also have the responsibilities that real estate ownership brings, including property taxes, property maintenance, upkeep, and liability risks.



If there is a single beneficiary, those responsibilities may be a fine trade-off for probate avoidance. But if there are multiple beneficiaries, a greater potential for complications exists.

For instance, if a mother names three children to receive her house by TOD upon her death, then the three become jointly responsible for property taxes and maintenance of the property at the time of death. If one of the children has creditor problems or cannot afford to chip in for the house maintenance, this could present a substantial problem.

If the children sell the real estate, they would also have to agree on the sale price. At the time of closing, the spouse of any married child must sign the deed as well, because of Ohio dower rights. If there were any unreasonable people among the three children and their spouses, or if any were estranged or unreachable, selling the real estate could be a burdensome process.

Other potential problems with ownership by the children include liability risks. For example, if there

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## Spotlight on Staff: Sue Tedtman



*Sue Tedtman*

Sue Tedtman first became part of the Niehaus Law staff in 1995, assisting with the preparation of legal documents such as wills and powers of attorney. In 2001, Sue stepped away to be home with her young children. Since returning to our office in 2007, she has helped behind the scenes to keep our office well-organized

and running smoothly. Sue is particularly instrumental during tax season; she assembles hundreds of tax returns with an incredible eye for detail and a remarkable enthusiasm for the season. With fantastic skills and a cheerful demeanor, Sue’s presence in our office is greatly appreciated by every one of her coworkers.

Sue and her husband Dave have two children, Jason and Erin. Sue is our office’s most avid dog lover, and since our recent move, she holds the proud distinction of having the shortest commute. [📍](#)

## Benefits & Risks of Naming Transfer on Death Beneficiaries on Real Estate

(Continued from page 2)

was a condition on the property that caused injury or death to an individual who came on the property, the individual owners could be subject to liability. A large mortgage on the property could also cause the individual beneficiaries to participate in a short sale or foreclosure process that would place an additional burden on them.

If, instead, the real estate passed through the mother's probate estate or trust, there would be no individual liability of the beneficiaries for any potential injury on the premises – liability would be limited to the probate or trust assets. Secondly, if the house passes through a probate proceeding or trust administration, the executor or trustee would be the only person required to sign for the sale of the real estate. Further, if an heir or beneficiary was uncooperative or had disappeared, it would not impede the sale of the real estate by the executor or trustee.

In summary, the advantage of using a TOD designation is a potential cost savings in terms of legal expense. It can be especially useful for efficiently transferring real estate to one beneficiary who intends to continue living in the home after the owner's death.

On the other hand, having real estate pass through probate or a trust can limit beneficiaries' liability, allow for a simpler sale process with one person signing as the seller, and reduce issues with uncooperative beneficiaries or spouses. Thus, while naming multiple beneficiaries can be a great probate-avoidance tool for other assets, it is often not a desirable approach for passing real property.

If you have any questions about your individual circumstances and want to sit down with us to talk this over, please do not hesitate to call for an appointment. [☞](#)

## Medicaid Corner: Estate Recovery

As many of you know, Niehaus Law Office has been doing Elder Law/nursing home Medicaid planning for five years now, helping clients to preserve assets for themselves and their spouses during life, and in many cases, getting some assets set aside for children.

We want to use this corner of our newsletter to highlight issues that can come up with Elder Law/Medicaid planning. This newsletter's Elder Law topic is Medicaid estate recovery. Medicaid estate recovery occurs after a nursing home patient who was receiving Medicaid dies. The basic premise is that the state has the right to recover any amounts that it has paid out for the nursing care of the individual from assets that are still in the individual's name just prior to their death. In many instances, the remaining asset is simply a small bank account worth less than \$1,500. However, in some circumstances it can involve larger assets.

Typically, larger estate recovery issues arise when the Medicaid recipient still owns a house at the time of his or her death. An individual may own a house but still be on Medicaid because a house is an exempt asset (at least for a limited period of time). If an individual went on Medicaid while still owning an exempt house, and the state paid out \$50,000 for that individual's care, then after the individual passes away the state may recover up to \$50,000 from the sale of the house (whether it is sold in an estate, by a trust, or by a TOD beneficiary).

Because the state can only recover against assets that are still in the Medicaid recipient's name just prior to death, it usually makes sense to retitle the assets as quickly as possible once a person goes on full Medicaid.

For single individuals, this is typically accomplished by selling the real estate, transferring out the proceeds and then gifting some of those back to pay for the individual's care. For married couples, it may mean deeding the house to the healthy spouse while both are still alive. Regardless, there is no right for the state to recover against a deceased spouse's assets while the surviving spouse or a disabled child is still living.

Estate recovery is but one of the many variables we consider in practicing Elder Law/Medicaid planning as we work with our clients to preserve as many assets as possible for the individual, the spouse and, eventually, the children. [☞](#)

For the vast majority of our clients, we do not recommend transferring assets in advance of a nursing home admission. Rather, for most clients, we find that the only advanced planning necessary under current law is having a power of attorney (POA) with a full gifting provision. If you have any questions about POA gifting provisions, or if your document is now over five years old, it would be smart to make an appointment to have your power of attorney updated.

**We have moved!**

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