



The Makofsky Minute | August 12, 2020

Don't Get Caught in The Storm!



While most people have heard of the probate process or estate administration, they may wonder what the practice actually entails. To put it simply, when a person dies owning assets in his or her name alone without named beneficiaries, the family of the decedent must look to the courts for the authority to collect and distribute those assets.

Depending on the number and type of assets that need to be collected and the family structure of the decedent, the process to authorize the executor (appointed under a Last Will and Testament) or the administrator (appointed by the court when the decedent dies without a Last Will and Testament) can be relatively simple or may be complicated. Taking the necessary legal steps to move forward in untangling an estate is important and delays in doing so can be detrimental to the estate and ultimately, its beneficiaries. In addition, the family member seeking to be appointed as the executor or the administrator will only face greater demands and pressure if the estate administration process is prolonged. As time goes by, taxes become due; expenses begin to add up; creditors become more aggressive; and heirs become impatient waiting for their share of the estate.

Delays in taking control of and selling or transferring estate assets, especially real estate, can lead to complications. It is important to make certain that all real estate owned by the estate is properly insured and maintained to protect the property against loss and waste. If the plan is to sell the real property or transfer it directly to the beneficiaries, it is best to move as quickly as possible to avoid issues or damages to the home while owned by the estate. The longer the property remains owned by the estate, the longer the named executor or administrator remains responsible for dealing with any damages to the property and/or any lawsuits brought against the estate in regard to the real property. For our readers who live on Long Island or in the New York boroughs, you recently saw how much damage one quick storm can do!

Losing a loved one is very difficult and moving forward may seem impossible. However, waiting too long to start the probate or estate administration process will likely only add pressure and demands from others and may subject the estate to unnecessary risk and liability. If you or someone you know needs assistance in moving forward with an estate matter, feel free to give us a call.

