

NOTARIES ON DOUGLAS

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TOP 10 EXCUSES FOR NOT DOING A WILL

We all should have one, but too many of us don't (do you?). Some of us buy the "will kit" and try to do it ourselves. Some of us can't be bothered and some plain just don't care. If I could publish a book detailing all of the problems I've seen and heard when there's no will, or an improperly drawn will (saving money?), I'd have quite a book and it would never end. Unfortunately it's a fact that we will all die. But there's a way you can make your last act of kindness, that is, a statement of your wishes to give the living some peace of mind and fewer hassles in the midst of grieving.

After 26 years as a Notary I've heard many sad stories of hurt and betrayal that could have been avoided, even with a simple will. Also, during that time I've heard all of the excuses about why someone hasn't done their will. Here's a top ten list of excuses and my reasons why these excuses don't measure up.

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| 1. It's too expensive | 6. I don't want to leave my debts to anyone |
| 2. It's too much of a hassle | 7. It's too complicated |
| 3. My kids will take care of everything | 8. I don't have the time |
| 4. My family knows what I want | 9. It will all go to my family anyways |
| 5. I don't have anything | 10. I'll be dead, so who cares what happens |

- It's Too Expensive** Making a will doesn't have to be complicated or expensive. Contact Notaries on Douglas for our prices and I'm sure you will be surprised. There are times, however, when a more complicated will prepared by a lawyer may be necessary, for instance, to provide a special trust. In some cases, it's very much worth the extra fees to have such a will properly drawn so that the adult child who may be addicted to drugs does not inherit a large sum of money at once which may be the worst thing for him or her. Instead, a special trust can be set up allowing the adult child only a certain amount of money per month. Reasons for such trust wills vary however, the additional cost should not stop you from spending the extra money to safeguard their inheritance, your money that you have worked a lifetime to accumulate.
- It's Too Much of a Hassle** Most of the questions we ask are straightforward and not difficult to answer. It is usually a two visit procedure. The first appointment is to gather information

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and take your instructions and usually takes 45 to 60 minutes. Anything we need to clarify can be done by phone or email before you come back to sign, a week or so later. At that time, you read over the draft will, we print the final copy and it is signed and witnessed in accordance with the laws of the Province of British Columbia. We supply the witnesses. You can then have as many copies as you like and we advise you as to where the original should be kept. Once it's done, you may never have to change it or, of course, it can be changed at any time usually at a lower cost, depending on the changes. Also, once it's done you can stop worrying about doing it and only make changes if necessary, ie. your executor dies, a beneficiary dies, you change your mind, etc.

3. **My Kids Will Take Care Of Everything** Without the written authorization to “look after everything” your children do not have that right without an expensive and time consuming court procedure. Which child will look after everything? Your eldest? What if they already don't get along? Your lack of a will opens the door to the possibility of sibling rivalry that could easily be avoided with a will. Your will appoints an executor to handle your assets and estate. That executor does not even have to be one of your children as they are not always the best choice. An outside person may be the better choice. Even if your children will inherit your estate and you don't have a lot, a will appoints a person to make the decisions and handle all of the paperwork. Otherwise it's so difficult for them to prove that they are in charge, particularly with small estates that don't have to be probated. So many times I have people coming in to my office to sign bank forms that would not be necessary if there was a will. These forms assign liability to the person signing them that can be confusing and a problem later on.
4. **My Family Knows What I Want** You may think that your family knows what you want, but do they really? What if you change your mind? Generally it's not the money that families fight over, it's the “things”, the jewellery, the sentimental items usually of little monetary value. You may be surprised to find that your daughter has had her eye on a certain figurine since she was a little girl and now with no will and the big brother taking over, he has no clue and sells it or gives it to his own daughter. Even if your family knows what you want, without a written will, no one has the authority to make it happen.
5. **I Don't Have Anything** It's almost worse to have no will when you have nothing. Again, no one has the authority to make any decisions, for example, giving up and cleaning out your apartment, collecting the security deposit, making funeral arrangements, collecting the CPP Death Benefit, disposing of your belongings and filing income tax returns with Canada Revenue Agency. Even if you only have a few hundred dollars in the bank, someone has to deal with it. It's very difficult for a friend of yours to go to the bank and try to look after your estate without the written authority to do so. A simple will gives that authority and makes the survivor's life much easier and less stressful.
6. **I Don't Want To Leave My Debts To Anyone** If you die with only debts, your executor does not have to pay them from their own money, however, someone needs to notify your creditors, credit card companies, banks, etc. They may have to make arrangements to return a car to the dealership if there's an outstanding loan. Someone needs to be in charge.

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7. **It's Too Complicated** A will does not have to be complicated although, as indicated above, sometimes there are reasons to make a more complicated will. In most cases, however, it's very straightforward. You need to think primarily about: a) who will be your executor and alternate executor? b) who will you leave your estate to? Include alternate(s) should a beneficiary predecease you. c) who will be guardian of minor children? d) funeral/burial instructions.
- a. Your executor does not have to be your eldest child or even one of your children. You can pick a close friend, relative, Notary, lawyer, accountant – someone who is trustworthy and good with money and paperwork!
 - b. You can leave specific amounts of money to beneficiaries or divide your estate into shares, or both. For instance you can leave \$20,000.00 to a charity and divide the rest into five shares, or leave it all to your children equally. It's possible but not necessary to get specific and leave a certain investment to one person, a house to another and a bank account to another. You deal with what assets you have at the time of making a will. What happens if you sell that property or close that bank account and forget to change your will to provide the beneficiary with something else? Are they entitled to something else? As well the income tax implications should be explored.
 - c. Excellent question – who will be the Guardian? The government? – at least until someone applies through the court and is appointed, possibly while families fight over who should be guardian? What if you really don't want your brother or sister to be guardian – then say so! There are many things to consider but remember it can always be changed if circumstances change.
 - d. It's not necessary to go into great details in your will about funeral/burial instructions but do you have strong feelings regarding cremation vs. burial? Are your ashes to be spread somewhere or buried? While it may be best to handle this information by pre-planning (pre-paying is not necessary but is an option) with a funeral home, at least some basic indications in a will are a good idea.

It all comes down to choice – your choice. Have your say as to what will happen, not leaving it to chance, the government or your next of kin who may be someone you don't even like.

8. **I Don't Have The Time** Everything takes time and this time is well invested. The whole process can be done within a couple of hours, maximum (depending on the circumstances) but think of the time, stress and hassle you will save your family and friends. How much time have you spent building up your estate and working to keep your family happy? So often when clients leave my office their first comment is how easy it was and they ask themselves why they put it off for so long.
9. **It'll All Go To My Family Anyways** The law states what happens to your estate if you die intestate (without a will). There's no chance for deviation or choice as it passes to your closest living relative, in the order set out by law. The Public Trustee will look after the funds for minor children until they reach the age of 19. The court will appoint an administrator (but someone has to apply) and all of your assets will be sold. If you have no family then the government will get your estate instead of your lifelong friends or some needy charities.

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10. **I'll Be Dead So Who Cares What Happens** This is one of my most despised excuses. Nothing says "I don't care" like leaving a mess when your family and friends are grieving. We've all heard the expression that someone would turn over in their grave if they saw what was going on after they die. It's probably said more times in relation to the fighting and bickering that can happen when someone dies. Of course, even with a will, fighting can and does occur but in a lot of cases, seeing it in writing makes an unfair decision more palatable and your family tends to respect that decision because you've made it.

Our passion for this topic is obvious and I would urge everyone, of all ages, to have a properly drawn will. This should be done by a Notary or lawyer and once it's done, you can stop thinking about it though it should be reviewed every few years to be sure your wishes and circumstances haven't changed. Maybe it never has to be changed and the two hours it took to do it were very well spent providing you with peace of mind.

MAKE IT A PRIORITY to get your will done today!

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