Estate planning is for everyone

By Patricia Dougan, staff attorney

Even the lawyers agree: estate planning can sound intimidating….confusing…out–of-reach...irrelevant. For many, estate planning is something only for people with big homes, vacation villas, expensive cars, investment accounts, and myriad other assets. In reality, estate planning is something that can benefit us all. It can benefit our families and even our beloved home communities in lasting ways. Ironically, this may be truest of all for those who historically have had the least.

Estate planning by writing a will, executing a transfer on death affidavit for a home, and setting up survivorship accounts is a critical piece of the end-of-life planning process. These simple steps address what should happen to your assets when you die. They determine, at your direction, who gets your home, bank accounts, and other assets and possessions. They make the transfer of real and personal property easier, often eliminating the need to go through probate court.

A whopping 67% of Americans don't have estate plans. Many of us avoid thinking about these important questions because they make us uncomfortable, we distrust or don't understand the system, we think we're too young, we think it's unnecessary and expensive, or we think we just don't own enough things of value. Unfortunately, this phenomenon is particularly true in low-income communities and among people of color. For example, while 55% of American households making over $75,000 per year have a will, only 31% of those making under $30,000 do. And while approximately 40% of white people have a will, only 28% of Black and 18% of Latinx people do. A lack of estate planning - particularly among our most disadvantaged and historically disenfranchised community members - is, in fact, widening the wealth gap for people of color and crippling community investment efforts in the neighborhoods that need it the most.

How can this be?

Without adequate estate planning, loved ones struggle to access financial accounts and distribute property when a family member has passed. They are powerless to care for important assets like the family home. They can be frustrated by a complicated and costly probate process which with proper planning could have been avoided. Without legal rights such as ownership by inheritance or appointment as an executor, they may be unable to work with mortgagees, have a voice in foreclosure actions, or apply for home renovation grants or home equity loans. Without understanding the wishes of the deceased, family members may find themselves mired in unnecessary conflict and stress around how to distribute or manage assets. Rather than family assets easily passing into the right and responsible hands - they may be lost, abandoned, or squandered. Without proper planning, an opportunity to lay a foundation for generational wealth (and wellbeing) is lost. Rather than moving financially forward, families may find themselves in an even worse position.

When this happens time after time, decade after decade - and particularly within our lowest income communities - neighborhood blight is compounded and communities slowly become unhealthy and undesirable communities in which to live and do business. Out-of-state investors end up with what should remain family homes. These houses are often minimally maintained and put on the rental market. When they become too expensive to fix, they are eventually boarded up or demolished leaving empty or crime-ridden spaces where nobody could or would want to rebuild or invest. These cycles often perpetuate further decline in low-income and predominantly minority communities suffering from historic disinvestment through illegal activities such as redlining, a practice of drawing a redline around communities of color and refusing to provide loans and other services to those who live there.

What can be done?

Widespread community education and creative responses are needed to increase end of life planning. As a starting point, we need to change the narrative by replacing the language we use with clear and culturally sensitive substitutions. We need to clarify what “estate” does and doesn’t mean and perhaps find another word altogether.

Estate planning should be presented as one piece of the larger end-of-life planning process that is important not only to the individual and their family, but to the community. We need to make it clear that what someone owns today, no matter the value, and what they could own tomorrow very much merits an estate plan. We can help individuals understand the ramifications to their loved ones and their communities if they skip this important safeguard.

Finally, lending agencies, nonprofits, government entities, and community service providers should get creative about when and how they have conversations about estate planning. These discussions might take place when a bank account is opened or a home equity loan granted. Education regarding the transfer of property could be a part of home ownership classes or a discussion at closing. After all, protecting the property is in the lender’s interest. Perhaps lenders could partner with local attorneys for estate planning clinics for their borrowers. Could and should government entities, strapped with the demolition cost of abandoned properties, develop a small incentive program for the creation of an estate plan?

All of these strategies could make it easier for individuals to understand the urgency of estate planning and the need to immediately take steps to protect their family’s ability to build generational wealth and the liveability of their neighborhoods in the decades to come.

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