



Elder Law Guys Time to move from your residence? Be prepared

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Moving out of your residence to a retirement community or long term care facility, either assisted or skilled, is a transition that involves emotional, physical, financial and legal challenges.

Each one of these factors could be an article unto itself, but we'll stick to the legal ramifications. These communities are multi-million dollar investments for their owners, whether for-profit or nonprofit, and the financial commitment that a resident is making can be quite significant as well.

You can be sure that lawyers have prepared lots of paperwork to make sure everyone involved either knows the responsibilities of each party (or at least satisfies an obligation to disclose information). Some of the documentation is mandated by the government; some by the community's owner. Either way, it's important to understand this significant

commitment.

Many people navigating this move call an attorney once they are presented with a host of contracts, disclosures and other miscellaneous documents to sign. If you've ever gone through a real estate closing, the experience is similar. Remember the wise comment, "I can't help you negotiate the contract if you've already signed it."

Given that the initial investment in a retirement community can range from \$30,000 up to \$1 million, this is a decision that should not be taken lightly.

You will be confronted with a host of new vocabulary throughout this process. Phrases like "responsible party," "guarantor" and "life care plan" come to mind.

Some other questions will arise: What happens to my deposit, if any, over the years? What's the best choice for deciding how much to "invest"? How and how much of my deposit will be transferred to my heirs upon my death? How long will that take? What is the financial track record and solvency of the owner of the retirement community? If I need higher levels of care, where will I go for that care?

What government benefits might be available to supplement my income as my care costs increase over the years? Can I have my pet live with me? What is the financial obligation of my family members? Can I have visitors stay overnight?

And, with the changes brought about by the pandemic, people will ask: What is your community's COVID protocol? Visitation restrictions? Sanitizing standards? Vaccination standards for residents and staff?

It's a lot to think about.

In some cases, a resident has ample financial resources to sustain them at the community indefinitely.

But it is very common that a resident has limited resources and may run out of money before leaving this earth.

In that situation, what does the contract state about family members being responsible to pay for the resident's ongoing care? Furthermore, what does

the law say about a family member's obligation to pay these expenses? (For more details on this subject, please see our prior articles on Pennsylvania's filial responsibility law).

Many elderly people are part of a cohort that may have lived in the same residence for the past half century. This is a big move on many levels.

Sometimes these retirement communities are hot commodities and a common mistake we see made is contacting a busy attorney to review all the information on an expedited basis for fear that the prospective resident will lose the opportunity if comments are not returned to the community liaison promptly.

We recommend that when a person is considering investing in a long term care or retirement community that they combine the endeavor with an estate plan review (which may be long overdue) and ask for the legal documents in advance to allow their attorney to review them expeditiously and keep the transaction moving along.

It should also be noted that both of us have or have had relatives faced with this type of decision and that both of us are now or have been on boards of directors of long term care facilities and thus have a direct connection with a matter like this.

Wishing you and yours a holiday season filled with joy, comfort and peace.
Happy Holidays!

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