



Bequest Assist



**INCLUDE
A CHARITY**

olivetree
LEGAL

Understanding life estates



Typical estate = distribute estate in specific, pecuniary and residual gifts to beneficiaries within 12–36 months

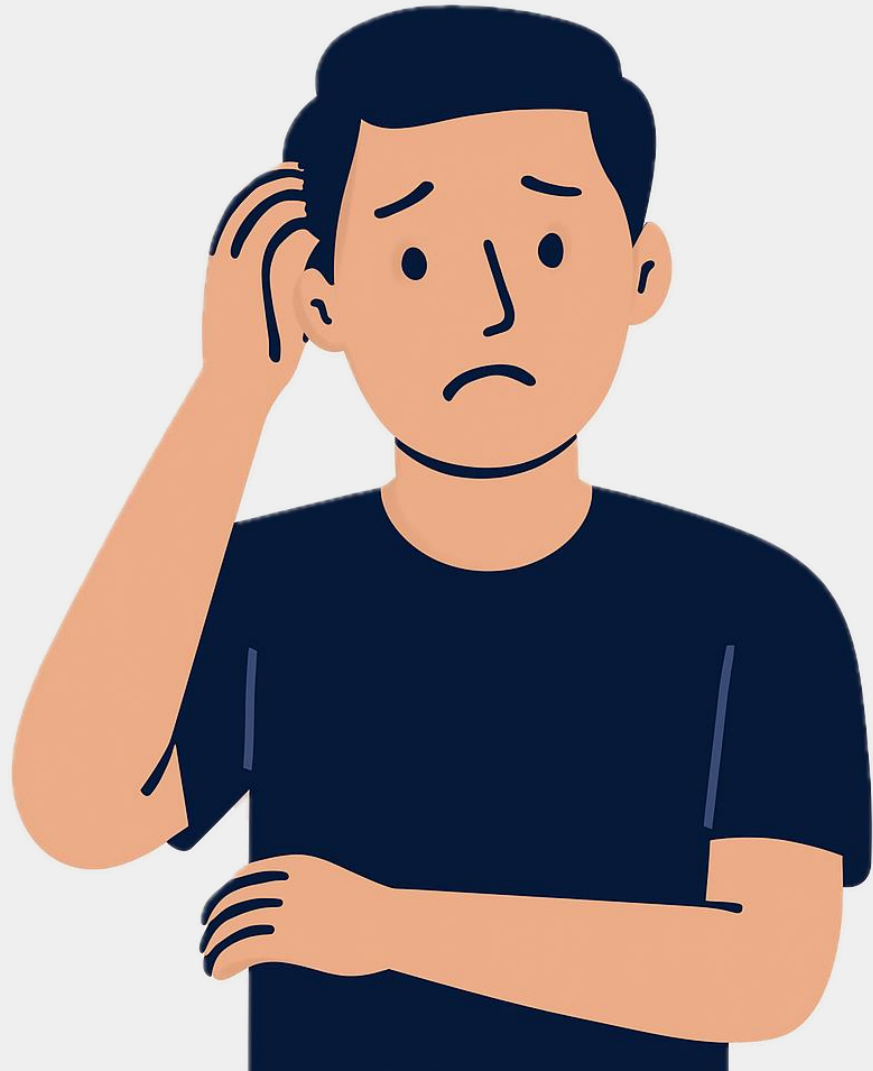
Life estate = provides a benefit to the life tenant for lifetime (or other period) then distributes assets to remaindermen



Forms:

- Income
- Capital and income
- Right to reside
- Life interest in property





Main issues for charities

- Understanding their entitlement
- Keeping track over many years
- Access to limited information
- Things go wrong!

Case study

- Many years since contact with the life tenant
- Debts had accumulated on property
- Property being sold without charity's knowledge



I GIVE AND DEVISE to my Trustees my interest in the real property at Unit 1, 33 Croft Road, Forest Hills in the said State (“the property”) UPON TRUST for the use and occupation of my partner ASHLEY LINDEN during her lifetime she paying the rates and outgoings and keeping it in good order to the satisfaction of my Trustees and adequately insured against fire and such risks as my Trustees may reasonably require. Upon the death of ASHLEY LINDEN the property shall form part of my residuary estate.

MY TRUSTEES shall stand possessed of the residue of my estate UPON TRUST to pay the net income to ASHLEY LINDEN during her lifetime and on the death of ASHLEY LINDEN to pay the capital and any undistributed income:

- a) as to one half share to FOUNDATION FOR WOODLAND PRESERVATION for its general purposes;
- b) as to a one quarter share to the SAVE THE WETLANDS for its general purposes;
- c) as to one quarter share to CHARITY FOR FLIGHTLESS BIRDS for its general purposes



What rights/ responsibilities does the recipient of the life interest have?

- Defined by the Will
- Who is responsible for upkeep/insurance/etc?

I DECLARE a general charitable intention in respect of the bequests provided for in paragraphs (b), (c), (d) and (r) of the clause 4 of this my Will.

5.

- a) My executors shall hold the home as defined in this clause 5 on trust and shall deal with it in accordance with the remainder of this clause 5;
- b) My sister the said VIOLET THORNE may personally reside in the home as long as she wishes for her life, my executors to pay the rates, taxes and insurance premiums on the property and keep in in repair to my sister's reasonable satisfaction until my sister sells and receives the proceeds of sale of her property situated at 2 New Street, Brisbane in the State of Queensland after which my sister is to pay the rates, taxes and insurance premiums on the home and keep it in repair to the reasonable satisfaction of my executors;
- c) Until my sister the said VIOLET THORNE in the opinion of my executors, has ceased to live in the home permanently or has failed to comply with the conditions of her right of occupation, the home shall not be sold without her written consent or the written consent of her duly constituted attorney;
- d) At the written request of my sister the said VIOLET THORNE or her duly constituted attorney, my executors shall sell the home and apply all of the proceeds of such sale towards the acquisition or other costs of a substituted residence, including but not limited to payment of deferred management fees, exit fees, retention amounts or such other costs or fees incurred pursuant to a residency agreement or an accommodation bond agreement and in respect of such substituted residence, the same provisions as those expressed in the clause shall apply.

Continued...

(c) to hold the balance then remaining of my estate ('my residuary estate') to be divided into two equal parts or shares:

(i) The first of such equal parts or shares for my son **GERALD GROVER** for his own use and benefit absolutely;

(ii) The second such equal parts or shares for my daughter **MARY BETH GROVER** as a life interest and to pay the income there arising from to my said daughter during her lifetime. **IF IN ANY YEAR** my Trustees consider this income together with other money of her own insufficient to maintain her standard of living then **I EMPOWER** my Trustees to have recourse to the capital of my residuary estate to make the income up to such sum as shall in the opinion of my trustees be sufficient.

(d) After the death of **MARY BETH GROVER** then **I DIRECT** my Trustees that any remaining capital shall be divided equally between the following charities:

iii. The **VICTORIAN BIRD HOSPITAL**

iv. The **FEATHERED FRIENDS FOUNDATION OF AUSTRALIA**

Life interest

- Entitled to income from property (rent)
- Time period = life of life tenant
- May have right to sell or purchase alternate property

Right to occupy/reside

- Must live there / use it – not rent
- Can be for set period of time
- Usually subject to conditions

I GIVE, DEVISE AND BEQUEATH my real estate situate at 150 Jasmine Road, Lilydale, Victoria to my Trustees UPON TRUST to permit ROSE BLOOM to reside therein free of rent during her lifetime. My Trustees shall pay:-

- (e) all rates, taxes and other outgoings
- (f) keep it in a good and habitable state of repair;
- (g) keep it insured against fire, storm, tempest and other insurable risks.
- (h) Upon the death of said ROSE BLOOM; or
- (i) The said ROSE BLOOM failing to occupy the said residence as her principal place of residence for a period of six (6) months, unless with the prior written consent of my Trustees;
- (j) The said ROSE BLOOM advising my Trustees in writing that she no longer wishes to reside therein; or
- (k) The said ROSE BLOOM, in the opinion of my Trustees, being unable to live and care for herself independently in the residence and in this regard the opinion of my Trustees shall be final and binding on all beneficiaries of my estate;

Can you forecast?

- Income
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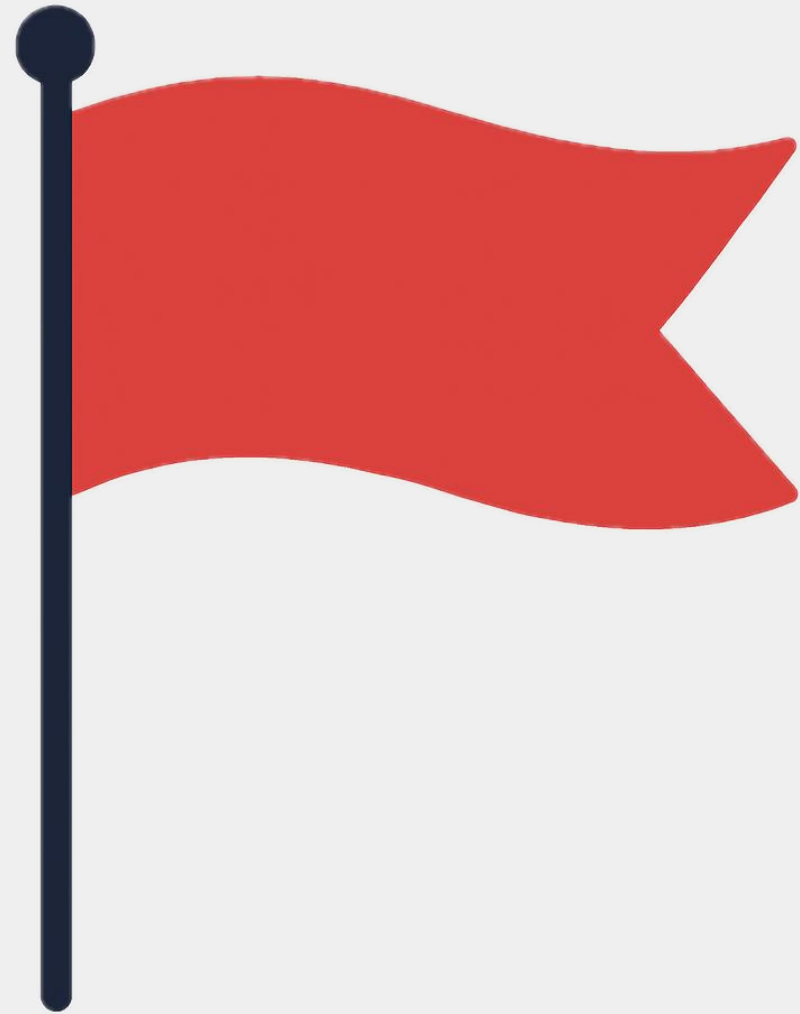


Other notes:

- Can be multiple people or generations
- Can be bought out
- Occur in 4% of bequests
- 2 in 10 are "at risk"

Red flags

- Executor is unaware they need to track or will not be able to
- Life tenant will be unable to meet their obligations (eg upkeep)
- Portable life interest



Take action

- Get copy of Will
- Understand specifics of the life interest
- Understand who the trustee is
- Check in every 1–2 years
- Determine if you need to protect the asset



Tips

- Make a plan for keeping these active
- Share a list with co-beneficiaries
- Seek advice on “at risk” life estates



LI Property/Trust Value

If life estate, address of property

Type of life interest

Available

Right to reside

Property

Trust – income only

Trust – income and pri...



Chosen

Caveat filed?

Life tenant details

Questions?