

YOUR CATHOLIC LEGACY

From the Development Office of the Archdiocese of Toronto

ISSUE #53, 2020

THE IMPORTANCE OF
PROPER WILL PLANNING

TAX-CONSCIOUS GIVING –
GIFTS OF SECURITIES

JOIN THE LEGACY SOCIETY

Sing a New Song unto the Lord

BY MICKEY CONLON, REPRINTED WITH PERMISSION FROM THE CATHOLIC REGISTER

Retirement brought an end to what Catherine von Zuben called “35 wonderful years in education” where she felt she made a difference in the lives of children under her care. It also brought a new challenge: how to continue making that difference in the life of others.

It didn’t take long for von Zuben to find a new way to continue giving back to her community.

“I soon realized that there were many opportunities for me to make a difference in other people’s lives by volunteering in any number of areas within the Archdiocese (of Toronto),” said von Zuben, a former choir director in Thornhill, Ont., and former principal with the York Catholic District School Board, who now is a member of the Blessed Trinity Choir.

“For the past 20 years I have been busier than I ever imagined.”

She has a particular soft spot for ShareLife, the charitable fund-raising arm of the archdiocese and its partners serving the community, and has served on its board in the past among other volunteer duties. She said it “has always been my favourite charity” and through it and the Development Office she sought advice on how to best give back to the Catholic Church “in gratitude for all that I had received over these many years.”

To that end, von Zuben has purchased a life insurance policy that is directed to St. Augustine’s Seminary, where future priests are trained to serve the Church. At her death, the seminary will be the beneficiary of the policy. The policy, in life, also allows her to make charitable tax deductions for the total amount she pays into the policy, which she calls “a win-win situation” – the seminary benefits in the long run and she does likewise over the short haul.

There are plenty of people like von Zuben who make such donations to various charities within the archdiocese. And the Archdiocese of Toronto understands that it is people like von Zuben that help the Church in its efforts to make life easier for so many others.

CONTINUED ON PAGE 4



The Importance of Proper Will Planning

BY JENNIFER A.N. CORAK, REPRINTED WITH PERMISSION FROM THE MILLER THOMSON WEALTH MATTERS E-NEWSLETTER, FEB. 11, 2020

In Ontario, if an individual dies without a valid will, their estate will pass in accordance with the laws of intestacy, which are set out in the Succession Law Reform Act, R.S.O. 1990, c. S.26 (the “SLRA”). This is, for some, the motivating factor for engaging in the estate planning process as a person can, in their will, specify who is and is not to inherit a portion of their estate. In such circumstances, it becomes even more important for the person executing the will (the testator) to take the time to think through their wishes, remembering that we cannot plan the order in which individuals die. The case of *Re Vaudrey*, 2019 ONSC 7551, serves as an example of how a testator’s wishes can be defeated despite taking the time to execute a will.

The deceased, William J. Vaudrey (the “Deceased”), died in September 2018. His wife, Ethel, died in January 2007. The Deceased and his wife had two adopted children, Sheila and Kristin. Sheila died in September 2013 without a spouse or any children. Kristin became estranged from the Deceased after her parents divorced when she was 12 years old. She described the Deceased as being emotionally and verbally abusive to Ethel, Sheila and Kristin and indicated that she remained close with Sheila until Sheila’s death. There was no evidence that the Deceased had any children other than Kristin and Sheila.

Kristin applied to the court for the following relief: (i) a declaration that a will said to be executed by the Deceased in 2005 and witnessed by Sheila and another witness (the “Will”) was valid; (ii) an order appointing her as the Estate Trustee with a Will; (iii) a finding that the Will resulted in an intestacy; and (iv) a declaration that Kristin was the heir-at-law of the residue of the Deceased’s estate.^[i]

The Will provided for Sheila to be appointed as estate trustee and to inherit the residue of the Deceased’s estate if she survived the Deceased by 30 days (which she did not). It went on to provide that should Sheila not survive the Deceased by 30 days, Ethel was to be appointed as trustee and inherit the residue of the

Deceased’s estate, provided she survived the Deceased by 30 days (which she did not). The Will did not specify what was to happen if neither Sheila nor Ethel survived the Deceased by 30 days. The Will did, however, include a statement at the bottom of the first page: “I state unequivocally that under no circumstances is any part of my estate to be transferred to my estranged daughter, Kristin P. Vaudrey, or to any of her descendants.”^[ii]

The court found that the Will was valid. The decision starts off by considering subsection 4(1) of the SLRA (i.e. the section of the SLRA that sets out the requirements for execution of a will) and concluding that there was no evidence to suggest the Will was not properly executed in accordance with that provision.^[iii] It continues on to point out that although Sheila, who was named as a beneficiary in the Will, acted as one of the witnesses, this did not invalidate the Will. Instead, pursuant to subsection 12(1) of the SLRA, Sheila’s acting as a witness to the execution of the Will had the effect of rendering the bequest of the residue of the Deceased’s estate to Sheila void. Further, the Deceased’s statement in the Will attempting to disinherit Kristin did not serve to invalidate the Will.

Since there was no evidence that the Deceased had any children other than Kristin and Sheila or that the Deceased had any other family members who might have been available and interested to act as estate trustee of the Deceased’s estate, it was ordered that, on filing the original Will with the court, a Certificate of Appointment as Estate Trustee with a Will was to be issued to Kristin.

Where a person seeking to be appointed as estate trustee is not appointed under a will, the Estates Act, R.S.O. 1990, c. E.21, provides that an administration bond is required. However, the court has the power to dispense with such requirement.^[iv] Taking into consideration the approximate value of the Deceased’s estate, along with the fact that Kristin was employed on a full-time basis, was a home owner and had equity in her home in excess of the

value of the Deceased's estate, the court found that little to no purpose would be served by requiring Kristin to post a bond and dispensed with the requirement.

With the finding that the Will was valid, Kristin was to be appointed as the estate trustee and that she would not be required to post a bond, the next question related to the distribution of the residue of the Deceased's estate.

As mentioned earlier, the Will did not indicate how the residue of the Deceased's estate was to be distributed in the event that neither Ethel nor Sheila survived him by 30 days. Therefore, the residue was to be distributed in accordance with the laws of intestacy as set out in Part II of the SLRA. Specifically, pursuant to s. 47 of the SLRA, since the Deceased left no spouse surviving him, and since Sheila did not leave any children surviving her, Kristin was the heir-in-law entitled to the residue of the Deceased's estate, despite the statement in the Deceased's Will that he did not wish for Kristin to inherit a portion of his estate. Although it would have been within the Deceased's rights to set out how the residue of his

estate was to be distributed in the event neither Sheila nor Ethel survived him by 30 days, excluding Kristin from inheriting under his Will, he did not do so, resulting in Kristin inheriting a portion of the Deceased's estate against his wishes.

Facing one's own mortality and engaging in the estate planning process is difficult for many people. It requires time and consideration of scenarios that most would rather avoid (for example, the death of a loved one). That said, taking the time to properly plan out one's Will with a professional who specializes in estate planning can help improve the chances that one's wishes are carried out following their death.

[i] Re Vaudrey, 2019 ONSC 7551 at para 9 [Vaudrey]. [ii] Ibid at para 8. [iii] To read about a recent case dealing with the due execution of wills, please see the author's article "Due Execution of Wills: The Ontario Case of Bayford v Boese" [iv] See Estates Act, R.S.O. 1990, c. E.21 at ss. 35 to 37.

Jennifer A.N. Corak (jcorak@millerthomson.com) is a lawyer in the Toronto office of Miller Thomson LLP and a member of Miller Thomson's Private Client Services Group.

Tax-Conscious Giving – Gifts of Securities

If you are thinking of a charitable gift or bequest to a charity, it is prudent to consider the assets that appreciate in value and are subject to a capital gains tax. In this issue of the newsletter, let's concentrate on securities.

Securities are financial instruments that have monetary value and include stocks, bonds and mutual funds. When a donor, or donor's estate sells securities and donates proceeds from the sale, 50% of the difference between the purchase price and the current value will be taxed. On the other hand, if the securities are donated in kind, the capital gains tax is eliminated and as a result, the donation and the tax receipt are greater. Please see the comparison below:

Donating or Bequeathing Securities

	Sell securities for cash and donate after-tax proceeds	Donate securities directly	
Original cost of securities	\$10,000	\$10,000	
Current market value	\$50,000	\$50,000	
Capital gain	\$40,000	\$40,000	
Tax on capital gain*	\$8,032	\$0	
Donation amount after tax	\$41,968	\$50,000	Charity gets \$8,032 more!
Charitable tax credit**	\$16,854.35	\$20,080	Charitable tax credit is \$3,145 more!

* 50% of capital gain is taxable ** Assumptions: 1. Donor/estate has already made other donations of \$200+ 2. Federal tax credit = 29%

The donor, or donor's estate, receives a tax receipt for the fair market value on the date of the transfer of the securities into the charity's account and the sale amount supports the charitable cause chosen by the donor. By donating securities, any capital gain accrued won't be taxed, leaving more for other beneficiaries when the donation comes through a bequest, or provides a larger amount for a charity. It is preferable from the smart-giving perspective to empower the estate trustee to identify and donate securities with the most capital gain, thus maximizing the tax savings while fulfilling the bequest.

Please contact the Development Office if you need more information. In the next issue, we will focus on donations of retirement funds.

Sing a new song unto the Lord

CONTINUED FROM PAGE 1



CATHERINE VON ZUBEN

The Legacy Society is its way of thanking those who give so selflessly to others.

“Anybody who has declared a gift in their Will to an archdiocesan charity, we invite them to be enrolled in our Legacy Society,” said Arthur Peters, executive director of ShareLife, and a member of the Society.

As well as thanking donors, the Legacy Society helps connect donors with like-minded philanthropists who share a common interest in the Church.

Elvira Foronda, also a member of the Legacy Society, has worked with Development Office and more recently as Charitable Gifts Manager with Catholic Missions In Canada, which gave her “the opportunity to work with and meet a lot of wonderful donors.”

She and her husband have their own reasons for including St. Augustine’s Seminary and the Companions of the Cross order of priests in her Will.

“Because we understand the importance of the work that they do in the formation of our priests. ... When we try to imagine the world without this ministry, we realize that there is no salvation. We will be lost,” she said.

Through the Legacy Society she’s met more people who share her charitable convictions.

“It was truly inspiring to hear the various reasons why they have decided to support our Church,” said Foronda.

In the archdiocese, the Legacy Society recognizes these contributions through an annual Mass, luncheon and talk with Cardinal Thomas Collins. Donors also receive a signed certificate of appreciation as well as a Cross blessed by the Cardinal.

“It’s just a way for people who have left a gift in their Will or estate plan to be thanked, in life, for their gift that will live on past them,” said Peters. “It’s a way of thanking them in life for their generosity in their estate.”

Von Zuben is grateful for the opportunity to continue to give back to a Church and “in return I feel very certain that I will be remembered in the prayers of those studying for the priesthood in our archdiocese” through her gift.

JOIN THE Legacy Society

If you have included your parish or favourite archdiocesan charity in your Will or estate plan, please let us know. Through the Legacy Society of the Archdiocese of Toronto, we would like to say a special thank you.

All Legacy Society members are invited to the Annual Legacy Society Lunch and Mass by the Archdiocese of Toronto. They will also receive:

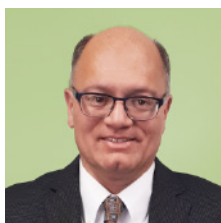
- A hand-crafted cross, blessed by His Eminence Cardinal Thomas Collins.
- A personal letter from Cardinal Collins and a certificate acknowledging your intention.
- Invitations to Legacy Society functions and other special events.

Let your legacy be a testament of your faith! To learn more about the Legacy Society, please contact the Development Office.

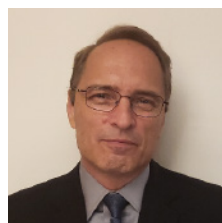
All calls are confidential. All Legacy Society members have the option of remaining anonymous.



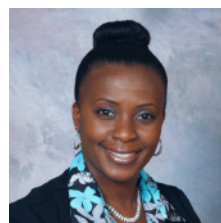
Archdiocese of Toronto
Development Office
Catholic Pastoral Centre
1155 Yonge Street, 5th Floor
Toronto, ON M4T 1W2
(416) 934-0606 ext. 519 /
1-800-263-2595 ext. 519



Arthur Peters
Director of Development
(416) 934-0606 ext. 559
apeters@archtoronto.org



Peter Okonski
Manager of Planned
Giving and Personal Gifts
(416) 934-0606 ext. 519
pokonski@archtoronto.org



Rhonda Sogren
Development
Coordinator
(416) 934-0606 ext. 561
rsogren@archtoronto.org

archtoronto.org/development

Your Catholic Legacy, the planned giving newsletter of the Archdiocese of Toronto, is a free biannual publication to keep parishioners informed about issues related to estate planning and the many tax-smart and creative ways they can support their parishes and Archdiocesan charities. While all articles are researched and come from reliable sources, you should always consult your own advisors before making a gift.