

# ESTATE PLANNING FOR A BOOMER'S BEST FRIEND

*A Pet Trust Can Protect Your Feathered, Finned or Furred Friends* BY GARY ALTMAN, ESQ.

*"My goal in life is to be as good of a person my dog already thinks I am." ~ Unknown*

Do any of your closest *friends* have feathers, fins or fur? Are you also responsible for their room, board and ongoing veterinary care? Consider this: If something untoward were to happen to you today, what would happen to your feathered, finned or furred friends tomorrow?

## The Doggone Truth

Most Americans (approximately 58%) don't have a basic will, much less a health care directive (approximately 69%) or a power of attorney for financial or health care matters (approximately 74%).<sup>1</sup> That said, chances are very good that most pet owners haven't planned ahead for the care of their pet(s) in the event that they are outlived by their pet(s).

Without proper planning, pets who survive their owners face uncertain futures. Occasionally, a family member or friend takes the pet in and assumes responsibility for its care. Unfortunately, however, this is not always the case, leaving hundreds of thousands of pets to be euthanized each year by shelters and veterinarians when their owners predecease them.<sup>2</sup>

Whether you are among the minority who have completed comprehensive estate planning, or among the majority who have yet to do so, be aware that a new type of trust may be an appropriate adjunct to traditional planning. More than 30 states, including my home state

of Maryland, now have laws permitting the creation of Pet Trusts and a growing number are considering them.

## Pet Trust Anatomy

A Pet Trust is a legal arrangement providing for the ongoing management of assets specifically set allocated for the care of your pet upon your death. A Pet Trust may be created under a Last Will and Testament or a Revocable Living Trust. Either way, there generally are four parties to any Pet Trust: the trustee, the caretaker, the pet (one or more) and the remainder beneficiary.

A Pet Trust should have property contributed to it to adequately fund the lifelong care of your pet. The trustee may be an individual, a corporate fiduciary, or both. As with most choices, there are advantages to each approach. The same is true with the caretaker. However, it may be prudent to ensure that the trustee and the caretaker are not one in the same.

While a trusted friend or family member likely knows your pet better than any outsider, whenever money is involved...there also lurks the temptation for mischief. For example, there have been reported instances where pets have died, only to be replaced by lookalikes so the trustees/caretakers continued to receive compensation for their services.

Another consideration is the appointment of successors in case a primary trustee or caretaker is unwilling or unable to serve. The remainder beneficiary is the party designated to inherit any remaining trust property upon the death of the last surviving pet beneficiary. Typically, the remainder beneficiary is a family member, friend or charity.

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## The Golden Nest Egg

So, just how much of a nest egg do you need to set aside to fund the future care of your pet? The amount depends on two variables - the life expectancy of your pet and the projected cost of care.

Setting aside the appropriate amount of property to fund your Pet Trust is essential to its success. For example, a horse not only eats like a horse, but has an average life expectancy of between 25 and 30 years (or more than 40 years, with tender loving care). By contrast, a Great Dane has a much smaller appetite and a much shorter average life expectancy of between seven and 10 years.<sup>3</sup> Accordingly, you would need to set aside a significantly larger nest egg to fund the future care of a horse than for a Great Dane.

Your veterinarian is an excellent resource when estimating the life expectancy of your pet, just as your check register is an excellent resource to calculate the actual cost of annual care. Once you know the likely remaining life expectancy of your pet and the historical cost of care, simple multiplication is all that is needed to determine the amount of trust property required to provide the appropriate nest egg. You may want to err on the conservative side, too, since inflation will affect the future cost of care for your pet.

## Kibbles and Bits (of Information)

Before leaving for a night out on the town, many parents leave detailed notes on the refrigerator containing such child-specific instructions as authorized snacks, favorite games and the appointed bedtime hour.

Just like these parents, consider leaving written instructions for the trustee and caretaker of your pet friend. You can update these written instructions as necessary without formal changes to your Pet Trust (or additional legal fees!). In your instructions, tell the trustee and caretaker everything about your friend, from favorite daily rituals (e.g., walks and feeding) and personal preferences (e.g. peanut butter filled bones) to dislikes (e.g. thunderstorms and 4th of July fire crackers)

and, probably most importantly, medical information (e.g. veterinarian, medical history, etc.)

## No Bones About It

Your pet has been a loyal companion and friend, whether it has feathers, fins or fur. Unfortunately, if you haven't factored them into your estate plan, you are simply leaving the future care of your pet to chance. Alternatively, a properly prepared and adequately funded Pet Trust can replace this element of chance with the requirements of law – providing greater peace of mind. And there is no better time than today to ensure that your pet will be okay - even if you are not.

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1. Ibid.

2. Survey, LexisNexis Martindale-Hubbell, 2004

3. Souce, [www.estateplanningforpets.com](http://www.estateplanningforpets.com)