SHER & ASSOCIATES, P.C.
ATTORNEYS AT LAW

James E. Sher, Esq.
jsher@sherpc.com

Richard D. Adamson, Esq.
radamson@sherpc.com

Thinking About Transferring Your Home?
Attorney James Sher, Sher & Associates, P.C.

At least a few times a month we receive calls from seniors who are thinking about transferring their homes to their children (or other family members) to save on inheritance tax and to avoid having the home used to pay for long-term care expenses.

The potential pitfalls of such transfers must be carefully considered before any transfer is made. Here are just a few concerns to take into consideration if you or your loved one are thinking about transferring your home.

1. **The Look Back.** Medical assistance will look back 60 months from your first request for assistance. If your home is not transferred 60 months prior to your application, the state can refuse to pay for your medical care for a period of time know ass the period of ineligibility. The 60-month look back starts on the date you are admitted to a long-term care facility or *assessed eligible for home care services* and have applied for medical assistance. The state follows a set formula to determine the period of ineligibility. The penalty period begins on the date you would otherwise be eligible for medical assistance funded care.

2. **What if?** If you transfer the home to your child and your child gets divorced, sued, declares bankruptcy, or dies your home is now in jeopardy. Sadly, we have also come across too many situations where the relationship between the child and parent changes as the parent ages and the parent is forced out of the home. Although there are ways to protect you from eviction, they must be addressed prior to the transfer.

3. **Oh Mercy**. If you give your home away you are at the mercy of medical assistance and what the state will pay for. If your home is no longer a resource for funds to pay for your healthcare or any other expenses you have much less of a say in the nature and quality of your care.

4. **Taxes!** Before any decision of transfer is made, it is important to evaluate the tax ramifications. At current time there is no Pennsylvania transfer tax on homes passed from a parent to a child and there is also no Pennsylvania gift tax. However there may be federal tax implications to take into consideration. If the transferred home does not serve as the child's primary residence for 2 of 5 years prior to the child selling the home, the child pays capital gains at 15% upon sale, 20% if the child is a high income earner. [Note: Your child pays nothing if the home is never sold.] If your home was inherited and not transferred as a gift, your child would pay the inheritance

tax of 4.5% at the time of your passing and the child's basis in the home would then be equal to the home's Fair Market Value at the time of inheritance. [Note: This is a possible savings of 10.5% in taxes vs. the transfer method.] It is also recommended to file a federal gift return. The transfer of the home exhausts part of your lifetime gift tax exclusion and part of your federal unified credit.

PLAN FOR PEACE OF MIND... To learn more and to discuss your individual needs, schedule an appointment with Attorney Jim Sher by calling 610-683-0771 or emailing info@sherpc.com.

Disclaimer: This is a brief overview of the subject matter. Please consult an attorney for legal advice regarding your estate planning goals, objectives, and needs.