

My sister moved in to our tiny townhouse by the train tracks a few weeks after my father passed away, and suggested I have a small back-to-school party. I invited a few grade 10, big-haired, skinny guys over for popcorn, but as my night approached, word spread, and suddenly the cool thing was to crash my place. Literally. Wreck it, they bragged.

Our school included a few members of a notorious biker gang – and their entourage of worshipful gerbils. They drank and fought hard, brandishing stories of violence. Everyone wanted to be near the action they stirred up on the weekends, except we who feared being twig-snapped in the wake of some wildly-tossed train tie.

Hearing that trouble loomed, most of my group didn't show up, and the tiny crew that did decided it was best to get out too. We told my sister, and hid nervously in the darkened playground across the street. In due course, the unmistakable rumble of Harleys approached our place, followed by a few pick-up trucks, a VW van, and a rusty Ford Pinto.

Nobody in school ever teased the massive biker about his girly name. Only Sandy could get away with being Sandy. Gripping a twenty-sixer in one hand and a fish bonker in the other, he led the crowd to our paper-walled townhouse, banged on the door, and waited. No answer.

Encouraged by the taunting crowd, Sandy smacked the aluminum doorframe with the fish bonker, egging the crowd by waiving his arms. Cheering, but still no answer.

He was about to kick the door when she opened it. All 5'3" and 96 lbs of glowing anorexia, with love beads around her neck, and a long tie-die tee shirt. In 1978, my sister lived squarely in the 60's. She had big funky glasses, long flowing hair, and a smooth FM voice which gave away her affinity for pharmacies. Her striking resemblance to Elizabeth Taylor, gave her the mystique of a philosopher-washed-up-movie-star, content to be just that.

"We're here for the party!" Growled Sandy egged on by his numbskull friends. She stared at him, mildly disgusted. Sandy beefed on: "It's pretty dead in there – maybe we need to come in and crank it up!"

This pleased the crowd, but just as he looked like he might take the threshold, she leaned toward him, took off her glasses, and just stared, Yoko-Ono-calm, then hissed something unintelligible.

He rocked back on his heels, and froze – digesting. She still hadn't washed the sixties out of her eyes, and he didn't have enough seventies in him to step past her. She was an unnerving glimpse into a place he desperately didn't want to go. Hypnotized, he stepped back, mounted his bike, and rode off with his groupies.

The death of my father was 50 years ago, and still looms large. Today we touch further on estate planning considerations for blended families, a much more common occurrence today than in 1978.

#### **Part 4**

In a blended family situation, you may want to ensure that both your spouse as well as your children from a previous marriage or relationship are provided for on your death. Leaving your entire estate outright to your spouse on death may be problematic because your spouse is free to leave those assets to whomever they see fit. They are also free to change their Will at any point and remove any gift to your children that was previously in their Will. Your ultimate gift to your children would therefore not be protected.

**Mutual Wills** can be used as an effective estate planning tool to deal with this situation. Mutual Wills are based on an explicit agreement between spouses that following the death of one of them, they will not

change their Will to defeat their current joint intention. In order for the doctrine of mutual Wills to apply, the agreement must satisfy the requirements for a binding contract, it must be proven by clear and satisfactory evidence, and it must include an agreement not to revoke the Wills.

If done properly, a mutual Will agreement may prevent a surviving spouse from changing the terms of their Will and disinheriting your surviving children in favour of a new spouse or other beneficiaries.

There are risks associated with mutual Wills. For example, it is difficult to monitor or reprimand a surviving spouse who accelerates spending and depletes the assets of the estate by gifting assets to other family members. Also, what will happen if divorce occurs and specific instructions about what assets are included in the Wills?

In order for a lawyer to advise you about the kind of Will they should choose they need to meet with you and get a better feel for your family situation. And find the right lawyer. As they say around here: "A Real Estate lawyer is not a real Estate Lawyer.

**And then there's:** As touched on earlier, life insurance can also play a role in evening out potential inequities in Wills and estates, particularly for blended families. Designating your children from a previous marriage as the beneficiaries of a life insurance policy may satisfy your obligations to them, thereby freeing up your estate to be left to your spouse.

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