PLANNING YOUR ESTATE?

HERE ARE SOME MEMBERSHIP ISSUES UNDER THE CLUB'S BY-LAWS THAT YOU SHOULD KNOW WHEN PLANNING YOUR ESTATE

BOCA WEST
COUNTRY CLUB

The purpose of this memo is to give you a better understanding of how your estate plans affect the membership privileges and liabilities of your beneficiaries and heirs. Our goal is to equip you with enough information so that you can, with the help of your legal advisors, work through those issues that impact how membership will be handled by your estate. The time you spend now will benefit your loved ones, and also will ensure that your wishes will be carried out. It is vital that you discuss these plans with your beneficiaries, heirs and advisors to provide them a clear understanding of membership issues in advance.



Upon your passing, the Club's staff and Board of Governors will have no power to resolve any disputes among your beneficiaries and heirs, and will rely on the Club's bylaws, rules and regulations. Accordingly, when you consult with your legal, financial and tax advisers regarding estate planning, we encourage you to provide them with this memo, as well as the Club's governing documents.

The basis for any estate planning decision regarding Club membership is that membership is associated with residential units in the Boca West community. The beneficial owner of the Boca West residential unit with which the membership in the Club is associated is responsible for the payment of all charges, dues, fees and assessments (regardless of whether it is owned by an individual, family, trust, corporation or other type of entity). This responsibility continues until a change in membership occurs under the Club's bylaws.

For ease in understanding, this memo utilizes a Frequently Asked Questions (FAQ) format to provide guidance on how changes in membership are addressed under the Club's governing documents.

> ***Get a better understanding of how your estate plans affect the membership privileges and liabilities of your heirs and successors.***

1. My spouse and I are Members. What happens to our membership if one of us passes away?

If one of you passes away, as long as your surviving spouse retains ownership of your residence in Boca West, he/she will also retain membership privileges and obligations for the remainder of his/her life. This means that all the financial responsibilities of the decedent pass to the surviving spouse as long as they live, even if the residence is bequeathed to others. You should discuss the surviving spouse's rights with your legal advisors and how you want to treat this issue in your estate plans. If you intend that your residence to eventually left to others (for example, your children), you should also have this conversation with them. During the life of the surviving spouse, whether he/she remains in the residence or not, membership cannot pass to the beneficial owners under your will without them being required to pay a transfer fee. The only way to avoid the payment of another joining fee or a transfer fee is through the testamentary process that leaves the residence to the beneficial owners after the surviving spouse passes away.

2. I am the surviving spouse. Who takes the membership when I pass away?

The person(s) entitled under a will, a trust or any other document that bequeaths the Boca West residence takes the membership. If there is no will, trust or other document that bequeaths the residence then any person or entity entitled to the residence by operation of the law would be eligible to take the membership. If more than one person is eligible (or if your estate planning documents are silent or ambiguous in this regard), then the Club will not issue a membership until all possible claimants submit a written agreement (together with all supporting documentation) to the Club designating the person who intends to assume the membership. The estate continues to be responsible for all financial obligations to the Club until the designation of membership is officially accepted by the Club.

3. What membership issues should we be discussing with our children or heirs?

There are many issues that should be discussed with your children or heirs regarding the Boca West residence when you are preparing your estate planning documents. For example, if the child to whom you intend to bequeath your residence has no interest in Club membership, you should explain that the estate will continue to be responsible for all dues, fees and assessments until the residence is sold. The Club has a lien on the return of equity, which is paid to the seller upon the sale of the residence. This would be used to offset any charges that remain unpaid prior to the sale. If the return of equity is not sufficient to cover a seller's outstanding indebtedness to the Club, and the shortfall is not collected in litigation, then the buyer will be responsible to pay any arrearages. This effectively reduces the value of the residence by the amount of any unpaid debts.

4. What if we leave the residence to siblings and they all want the membership?

Only one family may be designated as the member at any given time. Accordingly, the siblings would need to make a choice... The Club's bylaws provide that if the residence is left to multiple owners, such owners can designate the person entitled to membership privileges during each fiscal year of such ownership. In this instance, the other siblings would become guests of the designated member. Notably, however, those siblings who are not the designated member will no longer be entitled to gold cards, and would instead be subject to the general Club rules relating to guests, including those attributed to costs and restrictions on privileges.

5. What happens if this is a second or third marriage?

This circumstance can lead to some serious disagreements in the designation of membership after the surviving spouse passes away, especially when there is no discussion with the potential heirs to the residence. Membership complications arise in second or third marriages where there are children from prior marriages and possibly children of the present marriage. When preparing your estate, each spouse must have a serious discussion with the other as to who the residence should be left to after either survivor passes. Their decision should be discussed with the heirs, especially those membership issues discussed in FAQs 3 and 4 above.



6.What happens if the surviving spouse, after enjoying the privileges of membership for a period of time, subsequently decides to leave Boca West - Do the heirs who were left the residence automatically get the membership? No. Under our bylaws, the surviving spouse is responsible for all dues fees and assessments for life. In this case, the only way for beneficial owners to obtain membership while the surviving spouse is alive is through a transfer of membership, which requires a transfer fee. If this is not discussed with the heirs, then complications arise. In instances where beneficial heirs are unaware of this transfer fee requirement, they are often reluctant to pay it, especially if the estate or trust did not account for and fund this expense.

7. Can a single member leave the residence to his/her children and still provide for his/her designated companion to remain in the residence and continue as a member? Yes, this can be facilitated. First, you should discuss your companion's preferences with respect to remaining in the residence and continuing their membership after you are gone. Once you have confirming your companion's intent, you should discuss this process with those persons who will eventually end up with the residence once the designated companion either passes away or leaves, whatever the case may be. These conversations are particularly important when there may not be a close relationship between the designated companion and the eventual "owners" of the residence. Once you have this information and a clear understanding of what you wish to occur following your death, then you must seek the advice of competent legal counsel to ensure your intent is achieved. Some lawyers have modified members' deeds, along with their wills, other have used trusts to facilitate similar outcomes. You should make certain that your lawyer is aware of the bylaws regarding transfer fees and multiple ownership issues discussed above in the FAQs above.

8. In view of the above information, I still have a problem. What happens to those resident members who no longer can participate in Club activities or keep up the responsibilities of membership? How can membership be passed now without our heirs having to pay additional fees? The Club has a "Legacy Guest Program." Under this program, the resident member or members can give the membership to the heirs named in their testamentary documents as the eventual owners of the residence. There are several pre-conditions that have to be fulfilled, including a requirement that the resident member or members leave the community permanently. The heirs named in the testamentary documents will not only have to want to be members, but they must also pass all the requirements for membership, including acceptance by the Club's Board of Governors. Full details of the program are available in the Membership office. This is another option that should be discussed with the heirs or beneficiaries named your estate planning documents.

9. What happens if none of my heirs or beneficiaries are interested in membership and they do not want to accept any responsibility to pay any charges or debts when they take title to the residence as a result of the testamentary documents?

FAQ Number 3 describes the requirements of the Club's bylaws in this type of situation. This is a conversation that must be had with your heirs or beneficiaries so that they understand what their obligations will be should they take title to your residence following your death. This should give you and your attorney enough information to formulate your estate plan with respect to your Boca West residence.

A frank and open conversation with all who may be involved in the transfer of your Boca West residence when you pass away can avoid most of the complications regarding membership issues. This is not legal advice; that you get from your lawyer. It is practical guidance based on real situations that are regularly encountered by our Membership Department. Due to the vast array of differences in family relationships and the complexity of issues involved in estate planning, we cannot cover every foreseeable issue in this simple format. The Staff cannot get in the middle of family disputes that arise if no preparations have been made to comply with the requirements of our bylaws and rules. However, after you have decided what to intend to do and have confirmed that all those involved understand and agree what will occur when you pass, but before you commit to a final estate plan, the Staff can be most accommodating in helping you and your counsel walk through these types of situations.

IF YOU HAVE FURTHER QUESTIONS, PLEASE CONTACT THE MEMBERSHIP DEPARTMENT

Email: membership@bocawestcc.org
or Call: (561) 488-6934