

FRANKENMUTH OFFICE  
526 West Genesee Street  
Suite 1  
Frankenmuth, MI 48734  
Telephone 989-652-9660  
Facsimile 989-652-9680

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ATTORNEY-AT-LAW  
**JOHN V. POLOMSKY II, P.C.**  
A PROFESSIONAL CORPORATION

polomskyj@polomskylaw.com

<https://polomskylaw.com>

DIRECT LINE  
989-213-3638

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**FROM THE DESK OF JOHN V. POLOMSKY II:**

**COVID-19 CONSIDERATIONS**

We will all be thankful when this year is in our rearview mirror. COVID touched us all in many ways; we hope that you are well. For those who have suffered a loss due to COVID, we send our deepest condolences.

If anything, COVID brought the need for having a current estate plan in place, including financial and medical powers of attorney. For those who did not have their documents in place, it became difficult to do so because of the lockdown and restricted entry into nursing homes and hospitals. So now it is time to take advantage of the slight window of opportunity to update wills, trusts and powers of attorney. Restrictions have been relaxed and together we can put those documents into place *before* we have another shutdown or 2020 event. If your power is more than five years old, then it is outdated.

*Call us to schedule an appointment to review your estate plan. Clients can download our Confidential Estate Planning Questionnaire at our website [www.Polomskylaw.com](http://www.Polomskylaw.com) to prepare for their meeting.*

**NEW FORM – UNAVAILABLE PATIENT ADVOCATE**

In cases like COVID-19, we heard about people being stuck where they were because of the lockdowns. What if that was your patient advocate, and they were unable to act on your behalf when you were hospitalized during this national emergency? You did not name a backup because you thought this would never be a problem.

We now have a form for use in these emergency type situations where you can name someone other than your original Agent or Patient Advocate to act on your behalf. That person will need to accept your designation by signing the same form. This way, you can have an advocate on your side even when the emergency strikes.

**CONDOMINIUM CO-OWNERS ARE RESPONSIBLE FOR PRE-EXISTING BYLAW VIOLATIONS**

Condominium associations maintain bylaws to establish rules controlling the uniformity of appearance in the condominium complex and to identify what changes the Co-owners may make on their own. In a 2019 unpublished Court of Appeals case, the new Co-owner of a condo unit was sued by the condominium association to remove unapproved elements changed by the prior Co-owner. That owner changed the style of the condo number on the exterior of the Unit, changed the color of the door, the door handle and front door lock without Association permission.

The Court ruled the new Co-owner was responsible for all bylaw violations pre-existing the purchase of the unit. Furthermore, the Court ruled in the Association's favor even though it

waited two years before taking enforcement action. The bylaws had an anti-waiver clause which protected the Association's failure to act. In this case, the new co-owner was responsible for hefty attorney fees both at the appeals and trial courts. The takeaway? Ask if the prior Co-owner has done any alterations to the unit for sale, and if so, whether they were approved by the Association. Check the bylaws before purchasing the units to make sure you can live with the restrictions.

*Time to update your condominium association bylaws? We can help.*

### **THE LADY BIRD DEED**

Most likely, you received a "Warranty Deed" when you purchased your home. The Lady Bird Deed is named after Lady Bird Johnson. I like to think of a Lady Bird Deed as a substitute for a trust because it transfers property to a beneficiary or beneficiaries and because it avoids probate. In this type of deed, the owner of the property records a deed which simply declares that the owner has all ownership rights in the property for his or her life, but at his or her death the property automatically transfers to a beneficiary or beneficiaries (called a grantee or grantees) named in the deed. Not everyone needs a trust; a Lady Bird Deed can be a good trust substitute.

### **SCAMMERS**

Scammers are always coming up with new and improved ways to prey on our insecurities. There is the call to grandma or grandpa that their beloved grandchild needs money for bail. Or you must pay your utility bill **right now** or get disconnected. When faced with those situations, fear and emotion can overrule our common sense. Even more irritating is when we answer the phone because it is the phone number of someone we know, only to have it be a scam.

What should we do?

1. Do not panic.
2. Recognize phrases like "right now" or "there's no time" as red flags.
3. The amount of money requested will be relatively small (the average loss is \$2,000).
4. Take a deep breath and think critically. Would a grandchild really call you for bail?
5. Never ever give out personal information over the phone. No Social Security Number, no birthdate, etc.
6. If the scam is in an email, **DON'T CLICK THAT LINK!** Make sure your virus protection is up to date.
7. Set alerts on your bank account. You can receive an email or text for every withdrawal so you can monitor for fraudulent activity.
8. Set a credit freeze on your accounts with Experian, TransUnion or Equifax. We can assist you.

Best wishes for a happy and healthy Fall season!