

Asset Protection: Reasons to Hold Your Property in Trust

by Louis “Lou” Brown

You know, that’s what I used to say. I had no idea all the benefits trusts offered. I felt it was too complicated of a subject and that I could get by without them. That was in the early 1980’s before I had been sued by one of my “alien beings from another planet” (otherwise known as a tenant) occupying my property. **After I found out how easy it was for someone to stress me out, waste my time, cost me money and cause undue heart palpitations, I decided I might need to learn more about what the big deal about trusts was.**

So I set out to find out everything I could about the subject. I traveled around the country to learn what any guru I could find had to say about it. I then set out doing research on the laws in my state. (Later, I expanded that to learning about all the states.) I then tried to find an attorney who could fill me in and provide the documents. Big surprise! I couldn’t find anyone, ANYONE, who had a clue.

Of course, an attorney typically doesn’t want to admit it when they don’t know something, so they would ask questions like “why would you do that?” Some would ask why I didn’t use a limited Partnership. This was before the days of the LLC (Limited Liability Company), so they wouldn’t ask about that. By that time I was absolutely sold on the concept of holding property in Trust and couldn’t understand why anyone, especially trained professionals, didn’t think they were the greatest thing since that white stuff between OREO cookies! So, I would stutter a bit, get a little embarrassed, shut up and move my head in an affirmative action, making them think I agreed with them. I kept asking questions but in the meantime, I started a list of why I felt trusts were “it.” So far I’ve identified over 30 benefits of trusts not found in any other entity. Let me share a few with you:

Privacy of Ownership

When I got sued, I realized I was just a sitting duck, just waiting to get picked off. Anyone, unbeknownst to me, could go to the courthouse any time it was open, put my name in the computer or look it up in a book, and find out about every piece of property I owned! In this computer age they wouldn’t even need to go to the courthouse, they’d just go on the internet to get all that information! Now if I owned stocks, bonds, mutual funds, certificates of deposits, etc., they couldn’t do that... but they could just because I invested in Real Estate. What a downer. But with Trusts, and more specifically Land Trusts, I could enjoy the same privacy as the others because I could choose any name I could think of to name my trust. Then, once I had titled my property in trust, if anyone went down and typed my name into the computer, nothing would pop up. I would look like a pauper... penniless, in fact. How juicy of a duck would I look like then? Probably an attorney thinking of suing me might get a little discouraged if he did a preliminary search and could not readily find accessible assets.

Division of Assets

I realized if I had a corporation and I put all my eggs in one basket – the corporation – and then someone sued it, all of the eggs would be exposed to that lawsuit. WOW! All my work could be snatched because an “alien being” slipped and fell (on purpose?) on the corporation’s property. Of course, it would be the corporation’s fault that the person slipped and fell in the first place. But I learned that with a few documents I could actually own each property in a separate name. So, if anyone “slipped” at the Elm Street house, it wouldn’t expose my Maple Street house to the lawsuit (or the judgment).

Estate Planning

Overlooked by most “gurus,” this should actually be at the top of the list. If you are like me, you despise even thinking about “estate planning.” BORING! “That’s for when I’m rich” or “I’m too busy thinking about

making money” or “I’d rather do something – anything – else other than that”. I’ve said all that and yeah, I understand. But I found with Land Trusts I could choose my “beneficiary” (the one or more persons who would inherit) at the time I bought (or transferred) the property. No need to pile up a big estate and then pay someone thousands of dollars to fix my mess, instead I could plan my estate as I go. This also provides peace of mind... we don’t know what each day may bring and each day, no matter what happens, I have provided for the future of my family. I have left my affairs more or less in order where my absence would not produce panic or distress because I may or may not have left a will to be probated.

Passing Your Assets to Your Heirs

I don’t know if you’ve ever had this happen to you, but I’m sure you’ve heard of it. Mom and Dad are dead, leaving everything to the three kids. One kid doesn’t need the money and doesn’t want to sell. One could use some money, but wouldn’t mind keeping the asset(s). The other one “married” a guy with an advanced degree in beach combing, who can’t wait to get his hands on the money. Squabbles ensue. Upset lasts long past the sale and no one really appreciates all Mom and Dad’s hard work.

With a Land Trust, you could give the beneficial interest of Elm Street to Bobby, the beneficial interest of Maple Street to Sue, and the third house to Goldie. When the surviving spouse dies, the assets pass and each can do whatever they want with their inheritance – sell, it, keep it, mortgage it, or live in it. Each asset then becomes an individual inheritance without the other kids’ being involved in it. Everybody wins. And the family ties are not broken by controversy.

I actually came up with a list of eight things then, now my list is twenty or so reasons why Land Trusts make so much sense. Then there’s the Personal Property Trust. This is for the rest of what you own. Stocks, bonds, mutual funds, bank accounts, certificates of deposits, SeaDoos, mobile homes, mortgages, motor homes, cars (a really huge liability), boats, motorcycles, etc. can be set up like Land Trusts and further segregate your exposed assets. In addition, Personal Property Trusts can direct who each of your individual assets goes to by separating each asset into its own Personal Property Trust.

Probate Avoidance

Attorneys might not like trusts for another reason. When someone dies with or without a will, the estate must go through a court process called probate. The judge decides who gets what after the process, which can take a while. Marilyn Monroe’s estate is still being settled and Howard Hughes’s estate hasn’t been settled yet either. Trusts don’t go through probate! The trustee actually passes the asset to the successor beneficiary(ies) at the death of the primary beneficiary (mom or dad). No long, drawn out process. You get it **right now!**

The benefits are many; the hassles are few. Create the paperwork at the time you acquire the asset (or now for the ones you already own). The paperwork is critical. It’s not just a piece of paper. The words on the paper do matter. You need carefully crafted documents designed to provide all the benefits mentioned above and a whole lot more.

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