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Special needs require special lawyers.

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PARTITION BY BRADLEY BRICKHOUSE

Brandon, Matthew, and Madison are siblings who recently inherited real property after the death of their mother, their last living parent. The real property is located in Virginia and is the childhood home of Brandon, Matthew, and Madison. Brandon, recently divorced, wants to live in the home and pay a discounted rent to Matthew and Madison. Brandon has made it clear that he does not have the financial ability to purchase his siblings' shares of the property. After much debate and discussion, Matthew and Madison have decided they prefer to sell the home. Brandon refuses to agree to the sale of the home and has started to sleep in the home a few nights a week.

Virginia Code § 8.01-81 allows Matthew and Madison to petition the court to partition the real property they own as tenants in common with Brandon. A partition is the division between two or more persons of lands which they own as joint tenants or tenants in common. Compulsory partition or partition by a judicial proceeding is a division made by the court at the instance of one of the co-owners regardless of the wishes of other co-owners.

In Virginia there are three types of partition available to co-owners: division in kind, division by allotment, and division by sale. Division in kind is the division of the property itself among the co-owners. Therefore, after the division in kind, each previous co-owner would own a portion of the original property individually. In a partition by allotment the court awards full ownership of the land to a single owner or subset of owners and orders them to pay the person or persons divested of ownership for the property awarded. Partition by sale constitutes a forced sale of the land, followed by division of the profits among the tenants. If the court determines that the property can not be conveniently partitioned by division in kind or by division by allotment, then a partition by sale can be ordered. The sale is made by a special commissioner appointed by the court for that purpose, and the sale is subject to confirmation by the court. The sale of property through a judicial proceeding must be made with the goal to obtain the best price, and to

achieve this goal the sale must be conducted to encourage fair, open, and competitive bidding. After the sale is confirmed by the court, the proceeds from the sale will be distributed by the previous co-owners.

Matthew and Madison should contact an attorney experienced with the partition of real property. The attorney could attempt to negotiate the sale to Brandon or file a partition suit in the city in which their real property is located.

The attorneys at Oast & Hook can assist clients with their estate, financial, insurance, long-term care, veterans' benefits, and special needs planning issues.

Bradley Brickhouse is an elder law attorney with Oast & Hook, and he practices in the areas of estate planning, guardianships and conservatorships, financial abuse, will contests, estate and trust disputes, and litigation in support of these areas.

Ask Allie

O&H: Allie, we know a lot of pets are traveling with their families this summer. Please give us some tips to help keep pets happy while on vacation.

Allie: Sure! A recent article in the *Purdue Alumnus* described several things families can do for their cats and dogs while traveling. Lorraine Corriveau, a wellness veterinarian at Purdue's School of Veterinary Medicine, says that families should try to keep a normal schedule to reduce stress for the pet. You should make sure your pet is healthy enough to travel, and that your pet is up to date on all flea, tick, heartworm prevention and vaccinations. Your pet should wear a collar with identification and rabies tags; you may want to add a temporary tag with the phone number and address of your final destination. A microchip implant is another good idea for identification. You should feed your pet about one-third of a usual meal before leaving and the rest upon arrival. Use tranquilizers sparingly and with your veterinarian's advice. If you are driving, then be sure to take a break every three hours to allow your pet to exercise, go to the bathroom, and get a drink of water. Bring an extra leash with you, and research pet-friendly parks and hotels in advance. I'll talk about options if you decide to travel without your pet in a future column. Time to play . . . See you next week!

Speakers

If you are interested in having an Oast & Hook attorney speak at your event, phone Darcee Hale at 757-967-9702 or e-mail her at hale@oasthook.com. Past topics include estate planning, long-term care planning and veterans benefits.

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