



# Where There's a Will, There's a Way

Caring for your dogs  
after you're gone

By Corey Van't Haaff

Photo by Brooke Jacobs

**H**OTEL MAGNATE AND SO-CALLED QUEEN OF MEAN LEONA HELMSLEY LEFT a \$12 million trust fund for her white Maltese, Trouble, in her will. Little Trouble gets to continue to live at the Helmsley estate, and upon his death, is to be buried beside Leona in her mausoleum.

Oprah Winfrey, it has been reported, has some similar multi-million dollar bequest in her own will to ensure her beloved pooches are cared for after her death.

I'm certainly not a millionaire, but I suspect I love my dogs as much as these women love theirs. My dogs are the centre of my life and I owe them a duty of care when I'm gone. I want them to be treated as well as they are now; to be lavished with love and attention, and to receive excellent veterinary care.

But I'm not sure I'm your typical dog owner. I'm 47, divorced, no kids, three dogs, and a house. If I were to die tomorrow, my dogs couldn't stay in my home alone and without a spouse or family; it wouldn't be a case of status quo sans me.

I'm young enough to be having the time of my life still, yet old enough to know that death is inevitable. And that brings me back to my dogs. What on earth would happen to them if I were gone?

This whole thought process led to one ultimate conclusion: I had to provide for my dogs' welfare upon my death, and to do that, I had to make a will. Since you cannot leave money in a will directly to an animal (beneficiaries of a will must be human or legal entities like a charity), I was left with few choices. I could leave the money to someone I trusted and pray that they would take care of my girls, but this option offered me no way to guarantee that my wishes would be carried out. Instead, I created a trust fund designed to care for my dogs after my death.

It's not a complicated or particularly large trust. After my death, my assets and home will be liquidated, my stocks and car will be sold, and all the proceeds from this sale will be put into the Freda Fund, named after the first dog I owned during my adult life. Naming the trust after Freda was a way to honour this dog, now long dead, who gave me one of the most fulfilling relationships I've ever had.

Trust funds can have as little as one trustee, or as many as you like. The benefit of a single trustee is ease of making decisions, as all decisions are innately unanimous. A single trustee, however, may not be the best choice for a pet welfare trust.

"Multiple trustees can be desirable because they are less likely to make inappropriate decisions. There's more oversight," said Rhonda Murray, a lawyer practicing in Maple Ridge, BC. "If your dog is your beneficiary—and you have only one person in charge of a lot of money—your dog can't speak up for itself. It's in the dog's best interests to have more than one person making decisions about, and overseeing, its care."

My trust has five trustees, each one chosen because of their respect for me and their sincere desire to ensure my wishes are carried out. These people are well aware of how I treat my dogs and how I want them to be cared for after my passing and until their own deaths.

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The advertisement features a blue background with four product images stacked vertically. At the top is the Max & Co. logo in a red rounded rectangle. Below it is a green bag of PoopEase dog waste bags. The second image is a red box of TrainEase dog training pads. The third image shows a stack of DiapEase dog diapers. The fourth image is a black bone-shaped dog toy with the Max & Co. logo. At the bottom, there are cartoon illustrations of a dog, a cat, and a bird, and the website address www.maxnco.com.



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For the trust to be legally recognized, however, the courts typically require the remainder of the trust fund to revert to a human beneficiary or other recognized legal entity, such as a registered charity, upon the death of the pet. This is because trusts ordinarily and ultimately require a beneficiary that is a legal entity.

I made sure my will addressed this by stipulating that, once all my dogs are gone, the remaining funds will be given to a dog charity that is close to my heart. Because I wanted to allow the trustees some flexibility in the event that another dog-related cause had a more immediate need for some money, I gave them some discretion in how the money would be awarded. One of my trustees who also acts as a trustee for another pet trust fund was able to donate some of that fund to help animals affected by Hurricane Katrina because that trust had some flexibility built in.

Murray cautioned that owners should not attempt to create trusts in their wills without legal guidance.

"This is a matter for a professional solicitor to address and create for them. Trusts are recognized in Canada and the US, but there doesn't seem to be any legal provision for trust funds for animals. Despite this, pet trusts seem to be acceptable, as courts in Canada and the US have recognized such trusts as valid."

In most cases, you are free to choose how you want your estate disposed of, though, if you simply cut out your family, your will can be challenged and a court may overrule your will. When it comes to pets, a trust fund may be the best protection you have against such a challenge.

Which brings me to the next issue I needed to deal with. I wanted to make sure that no one in my extended family would challenge my will and possibly divert money that I wanted to be used exclusively for my dogs.

I spoke to my father and older sister and told them of my plans. They fully supported my decision and believed that

my wishes should be carried out. My little sister, a trustee as well as a co-executor of my will, was totally on board. But I still don't want any hurt feelings. I am certain that no one in my family is relying on receiving an inheritance, and most know that, in fact, they will not be getting anything. It's pretty easy in my case, as I have no children and my dogs, really, are my babies.

"If you have a family and still leave your estate to the dog, is that a symptom of an underlying conflict?" asked psychologist Owen James of Tri-city Psychology Services in Port Moody, BC. "If it is, ideally, you'd like to resolve that before the grim reaper comes."

Nothing is lost, he said, by telling family members in advance of your wishes to leave some or all of your assets to your dogs. If you don't do this, they are faced with the shock of finding out after the event, and may oppose the will.

The problem, he said, is that some people might view leaving money to the dogs as hatred of your relatives or some spiteful action against them. This is especially true if there is an existing conflict in the family.

"The manner in which you tell them is to explain your great love for your animals. First and foremost, position it as an endowment to the dogs, not as a punishment to them. A receptive family will respect their relative's wishes."

In my case, there's no unresolved issue or underlying hostility. I work hard for what I have and I do it so that my dogs and I can have a comfortable lifestyle and enjoy ourselves. I am sure some of my friends thought I was nuts when I bought the girls matching turtleneck Argyle sweaters, when Esmerelda, my oldest, received a pair of dog sunglasses, and when Tallula and Clara got matching leopard-print leashes and collars, just because. It boils down to one thing—it's my money and therefore I want to protect my decision to spend it how I wish, in my life and after my death.

And it's definitely going to the dogs. ■