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How Can I Provide For My Pet?

Most pet owners consider their pets to be part of the family. In fact, many refer to themselves as the pet's "Mom" or "Dad." Often, our clients wonder who will care for their pets if they become ill, incapacitated or die. They wish to provide their pets with a continuity of care. Unfortunately, because a pet is considered personal property, like furniture or a car, it can not be named as a beneficiary of a Will. Often, a provision in a Will for the benefit of a pet, for instance by making a bequest to a caretaker, fails because there is no recourse if the caretaker takes the money and leaves the pet at the pound. Also, a Will is usually not reviewed until after the pet owner has died. Thus, if the owner is incapacitated or hospitalized, the pet is unprotected - and hungry!

In New York, and 38 other states, pet owners may now create trusts for the care and protection of their beloved pets. A pet trust is a legally enforceable mechanism for providing for the care and maintenance of pets in the event of the owner's disability and/or death. Such a trust can mean the difference between life and death for a pet. When billionaire hotel heiress Leona Helmsley's estate was made public this fall, it was revealed that she had left 12 million dollars in trust for her dog, Trouble. While this is certainly extreme, establishing a pet trust is important for pet owners who want to ensure that their faithful companion will receive proper care throughout its life.

There are limitations. The funding of the trust must be reasonable to accommodate the needs of the pet. Courts decide if the assets contributed to a pet trust are excessive. There is also a 21-year limit on the life of the trust. While this is more than enough for domestic dogs and cats, long-living pets such as parrots and turtles may be deprived of legal protection before they die.

Things to think about when establishing a Pet Trust: You will need to name a Caretaker, one who is willing and able to care for the pet and carry out detailed instructions concerning the pet's care and maintenance. The more particular the instructions, the easier it will be to care for the pet. Provisions can require the

Caretaker to bring the pet for visits with an incapacitated owner. A client with multiple pets may want to specify that they continue to live together. You should designate a substitute Caretaker if the first is unable to perform. A Trustee and substitute Trustee should be named, someone who disburses the funds to the Caretaker. Pet trusts can also designate an “Enforcer,” one whose job it is to make sure that the Trustee and Caretaker comply with the trust.

There are also not-for-profit sanctuary organizations that will provide perpetual care programs for pets and other organizations that will place these pets in foster care homes. Some programs require contributions. Almost all require advance enrollment. Once again, appropriate provision must be stated in the owner’s estate planning documents.

If you want to ensure that your pet, who has given you love and loyalty, will be continually cared for, please call us or make an appointment to talk about this important estate planning tool.