

FAMILY CABIN | FAMILY POLL & DISCUSSION TOOL

What follows are questions and considerations designed to assist the family members who own, or who will own family heirloom property, such as a cabin or cottage, and wish to arrange for an orderly transition of ownership and management to the next generation. Your responses may help in creating an agreement among owners (or future owners). Our firm regularly uses this tool for input in preparing a Family Cabin LLC, or other family cabin, cottage or vacation home ownership agreement.

KEY:

- (1) I firmly disagree with the statement
- (2) I generally disagree
- (3) I am ambivalent or not sure
- (4) I generally agree
- (5) I am totally on board with the statement

Who is completing this checklist: _____

GAUGING FAMILY INTEREST

1. I would like to see the family keep the home for future use by as many as can enjoy it.
1 2 3 4 5
2. I personally want to be part of any future use of the property.
1 2 3 4 5
3. I foresee being able to contribute in a substantial way to maintaining the property, for example by financial contribution, management, or upkeep.
1 2 3 4 5
4. If there were funds set aside to support the property for things like taxes, upkeep and improvements it would help us to keep it for at least the next generation if not longer.
1 2 3 4 5

HOW DO YOU FEEL ABOUT OWNERS BEING ABLE TO TRANSFER THEIR INTERESTS TO OTHERS?

5. Family members should be able to sell their interest to third parties – in effect to strangers.
1 2 3 4 5
6. Family members should be able to sell their interest to other owners in the family to buy them out.
1 2 3 4 5
7. I'd like to see funds set aside if possible by the current owners to help with buying out a family member who is not interested in "staying in".
1 2 3 4 5

8. I'd like to be sure that the property does not have to be sold in order to settle a divorce or debt collection against an owner.

1 2 3 4 5

9. I'd like to avoid the property having to be sold to pay for an owner's disability care or nursing home if the property could still be enjoyed by other family members.

1 2 3 4 5

HOW DO YOU FEEL ABOUT WHO SHOULD BE ABLE TO INHERIT THE PROPERTY (OR SHARES IN THE PROPERTY) NEXT?

10. Family member owners should be able to leave their interest to their spouse or domestic partner.

1 2 3 4 5

11. Owners should be able to leave their interest to their spouse or domestic partner for lifetime use only (the spouse can still use the property but has no vote or ownership interest).

1 2 3 4 5

12. Owners should be able to leave their interest in the property to their children or grandchildren.

1 2 3 4 5

13. Owners should be able to leave their interest in the property to their step children.

1 2 3 4 5

PUTTING UP AS A SILENT OWNER VS. COMPELLING A SALE

14. Members of the generation of owners FOLLOWING THE CURRENT LIVING GENERATION should have the right to compel a buyout of their interest or else a sale of the whole property in order to get money for their piece of the ownership¹

1 2 3 4 5

15. Members of generations AFTER THE CURRENT LIVING GENERATION and THE NEXT GENERATION should have the right to compel a buyout of their interest or else a sale of the whole property in order to get money for their piece of the ownership.

1 2 3 4 5

16. If ANYONE (for all time) inherits the property with others they should have the right to compel a buyout of their interest or else a sale of the whole property or a buyout in order to get money for their piece of the ownership.

1 2 3 4 5

17. Anyone who wants to sell out should be bought out if there is cash set aside for this purpose, but for less money than they would get if the property were sold.

1 2 3 4 5

CHOOSING AN APPROACH TO SELLING THAT IS DEMOCRATIC, UNANIMOUS OR MANAGER'S CHOICE

18. To avoid a forced sale by any owner, the decision to sell the property ought to be a DEMOCRATIC choice by majority vote that everyone has to abide by. The minority would be locked in by the result, but at least the majority would be satisfied.

1 2 3 4 5

19. The decision to sell out should be UNANIMOUS. The next generations of owners are supposed to be able to keep enjoying the property and all owners should be in agreement to sell.

1 2 3 4 5

20. Deciding whether it's time to sell should be left up to an EXECUTIVE OR EXECUTIVE COMMITTEE of owners who have the best interest of all owners in mind.

1 2 3 4 5

21. Deciding whether it's time to sell should be left up to A THIRD PARTY WHO IS NOT AN OWNER, like an independent trustee or trust advisor who would have to consider the best interests of all owners.

1 2 3 4 5

22. A TIE BREAKER SHOULD BE PROVIDED FOR like a third party who is not an owner, an independent trustee or trust advisor who would have to consider the best interests of all owners.

1 2 3 4 5

HOW LONG SHOULD THE CO-OWNERSHIP GO ON FOR?

23. Assuming that the next owners inherit the property following the normal life expectancy of the current owner(s), how many years after that would you want the coownership to go on, approximately. (*A generation is approximately 30 years, as a point of reference.*) Select one:

10 20 30 40 50 60 (years) Indefinitely (until agreement of the owners)

24. Any period of ownership set in advance can be cut short by unanimous agreement of all the owners.

1 2 3 4 5

THE USE, OPERATION AND MAINTENANCE OF THE PROPERTY

25. All owners should pay their percentage share for maintenance and improvements.

1 2 3 4 5

26. All owners should pay at least a modest fee for use of the property even if the property has been endowed.

1 2 3 4 5

27. Owners should not pay for use of the property unless necessary to keep the lights on.

1 2 3 4 5

28. A manager or management committee and successors should be chosen by the current owners in advance, one generation at a time.

1 2 3 4 5

29. Unless chosen in advance, a manager or management committee and successors should be elected by majority vote by the owners.

1 2 3 4 5

30. A manager or management committee should decide on expenditures up to some number, say \$5000 per year as an example only.

1 2 3 4 5

31. All owners should be involved in all decisions or else they do not count.

1 2 3 4 5

32. The use of the property should be regulated by some sort of fair sign-up procedure with limitations on length of stay, use on holiday weekends, number of guests, and, perhaps, the drawing of lots for choice of particularly desirable weeks, such as holiday weeks.

1 2 3 4 5

33. I would abide by whatever agreement is set up by the current owners or agreed upon by a majority of owners in this regard.

1 2 3 4 5

IF ANYONE CANNOT CONTRIBUTE THEIR FAIR SHARE FINANCIALLY, BY HELPING WITH MANAGEMENT OR BY HELPING WITH UPKEEP:

34. If its money we're talking about, then they should have a certain GRACE PERIOD of time to pay up.

1 2 3 4 5

35. They should have to pay INTEREST if they do not pay by the end of the grace period but eventually do pay.

1 2 3 4 5

36. INSTEAD OF charging interest, if someone doesn't pay, they should LOSE A PART OF THEIR OWNERSHIP in relation to what they have failed to pay.

1 2 3 4 5

37. Even if someone fails to contribute to the property financially, by helping with management and/or by helping with upkeep, they should retain the right to use the property (as long as they pay any use fees set at the usual rates).

1 2 3 4 5

38. Others who pitch in and pay for an owner or do the owner's work should increase their ownership percentage as a result.

1 2 3 4 5

39. If the property is well endowed financially, owners who do not fully contribute to the upkeep or management or in other material ways should NOT be penalized in any way. If the property is sold or handed down, even those who did not contribute to maintaining the property still get their original percentage of the proceeds.

1 2 3 4 5

40. Owners who do not contribute financially or by assisting with management or upkeep should NOT be penalized in any way even if it means that eventually the property has to be sold and those who could not contribute still get their original percentage of the proceeds.

1 2 3 4 5

Thank you for your input.

Questions? Suggestions? Please email our firm, BORAKOVE | OSMAN LLC, at firm@borakoveosman.com.

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