

SOUTH COUNTY SENIOR LAW & ESTATE PLANNING CENTER, LLC

Senior Law Quarterly

Volume IV, Issue 1

Spring 2007

Inside this Issue

- South County Senior Law Expands its Practice
- The Telephone Tax Refund
- Reverse Mortgage Factsheet
- Providing for the Family Pets in Your Estate Plan
- About Our Firm
- Meet Dennis Mertz



National Academy of
Elder Law Attorneys, Inc.

MEMBER

The articles in this newsletter are written by the attorneys of South County Senior Law & Estate Planning Center, LLC as an informational resource for our friends and clients. Nothing in this publication is intended as legal advice for anyone's particular legal situation. If you have a specific legal issue, please call our office for assistance.

South County Senior Law & Estate Planning Center Expands Its Practice

On January 1, 2007, Dennis B. Mertz and Mavis Kennedy officially combined the law practices of South County Elder Law d/b/a South County Senior Law and the Law Office of Mavis Kennedy, LLC under the new firm name, South County Senior Law & Estate Planning Center, LLC. Attorney Christine F. Hart joined the firm as Senior Associate.

Mr. Mertz has been serving the legal needs of the Senior community from his law office in Oakville

for almost twenty years. Mavis Kennedy made the decision to join the firm in an "of counsel" position in 2002, moving her practice from Clayton to the South County location.

Both Mr. Mertz and Ms. Kennedy concentrate their practices in the areas of estate planning, probate and trust administration, tax planning and advice, including charitable giving, Special Needs Trusts, and Medicaid and long term care planning. Both attorneys also have substantial experience in real estate matters and corporate representation, and con-

tinue to handle real estate and corporate matters.

Christine Hart began serving as of counsel to the two firms in 2003. Ms. Hart's legal background is in litigation. She represents firm clients in will contests and other contested estate matters, guardianship and conservatorship petitions, as well as personal injury and nursing home abuse matters. In addition to serving as a Senior Associate with the new firm, Ms. Hart is a legal professor with Webster University.

What is the Telephone Tax Refund?

The federal government agreed to offer up to \$15 billion in credits or refunds of the tax collected during a 41-month period, February 23, 2003 to August 1, 2006. The credit is available only on 2006 federal income taxes. Even people who make too little to file income

tax returns can get the money by filing a special form.

The tax credit affects anyone who had a phone and paid some of that tax, according to an IRS spokesman.

Consumers can get a credit or refund based on the number of

exemptions on their tax return. Individuals who want to recover the actual amount paid must file Form 8913. The standard amount for individuals is \$30 for one exemption, \$40 for two, \$50 for three, and \$60 for four or more.

For more information on the credit, visit the IRS website, www.irs.gov.

The choice of an attorney is an important decision and should not be based solely on advertising.

REVERSE MORTGAGE FACTSHEET

Our firm receives periodic calls from clients asking whether they should consider a reverse mortgage. If an individual or couple needs access to cash for home repairs or other emergencies and cannot qualify for a less expensive home equity loan or cannot afford monthly payments on the loan, a reverse mortgage may be an more attractive option than selling your home. However, anyone considering such a loan should consider whether it might be appropriate for their circumstances. The following information on reverse mortgages was available on the Department of Housing and Urban Development's (HUD) website. You can also receive free information about reverse mortgages by calling AARP at: 1-800-209-8085, toll-free.

What is a reverse mortgage?

A reverse mortgage is a special type of home loan that lets a senior homeowner convert a portion of the equity in his or her home into cash. Unlike a traditional home equity loan or second mortgage, no repayment is required until the borrower(s) no longer use the home as their principal residence. A reverse mortgage is NOT a loan to consider if the senior is either living in a skilled care facility or considering a move to one, as the loan must be repaid when the home is no longer owner occupied.

Can I qualify for a HUD reverse mortgage?

To be eligible for a HUD reverse mortgage, HUD's Federal Housing Administration (FHA) the borrower must be a homeowner, 62 years of age or older; who lives in their home and either owns the home free and clear or has a low mortgage balance that can be paid off at the closing with proceeds from the reverse loan. The applicant must receive

consumer information from HUD-approved counseling sources prior to obtaining the loan. You can contact the Housing Counseling Clearinghouse on 1-800-569-4287 to obtain the name and telephone number of a HUD-approved counseling agency and a list of FHA approved lenders within your area.

What types of homes are eligible?

Your home must be a single family dwelling or a two-to-four unit property that you own and occupy. Townhouses, detached homes, FHA-approved condominiums and some manufactured homes are eligible.

What's the difference between a reverse mortgage and a bank home equity loan?

The primary differences between a traditional second mortgage, or a home equity line of credit, and a reverse mortgage are in qualifying for the loan and monthly payments. A traditional home equity loan requires that you have sufficient income versus debt ratio to qualify for the loan, and you are required to make monthly mortgage payments. The reverse mortgage is different in qualifying for the loan is not based on income, and no monthly payments are due on the loan as long as the house is your primary residence. Like all homeowners, you still are required to pay your real estate taxes and homeowner's insurance, but with an FHA-insured HUD Reverse Mortgage, you cannot be foreclosed or forced to vacate your house because you "missed your mortgage payment."

Can the lender take my home away if I outlive the loan?

No! The loan does not have to be repaid as long as you or one of the borrowers continues to live in the house and keeps the taxes and insurance current. You can never be required to repay more than your

home's value.

Will I still have an estate that I can leave to my heirs?

When you sell your home or no longer use it for your primary residence, you or your estate will repay the cash you received from the reverse mortgage, plus interest and other fees, to the lender. The remaining equity in your home, if any, belongs to you or to your heirs. None of your other assets will be affected by HUD's reverse mortgage loan. This debt will never be passed along to the estate or heirs.

How much money can I get from my home?

The amount you can borrow depends on your age, the current interest rate, and the appraised value of your home or FHA's mortgage limits for your area, whichever is less.

How do I receive my payments?

You have five options:

- **Tenure** - equal monthly payments as long as at least one borrower lives and continues to occupy the property as a principal residence.
- **Term** - equal monthly payments for a fixed period of months selected.
- **Line of Credit** - unscheduled payments or in installments, at times and in amounts of borrower's choosing until the line of credit is exhausted.
- **Modified Tenure** - combination of line of credit with monthly payments for as long as the borrower remains in the home.
- **Modified Term** - combination of line of credit with monthly payments for a fixed period of months selected by the borrower.

Providing for the Family Pets in Your Estate Plan

Because the bonds between people and their pets are usually great—remember all the pet owners during Hurricane Katrina who risked their lives because they would not leave pets behind? – giving some attention to this issue can provide peace of mind—for you.

All too often, people assume that they will survive their beloved pets or that friends, relatives, or neighbors—who once verbally promised to care for these pets in the event of death or disability—are still able or interested in adding new animals to their households. This is not always the case; sometimes their current circumstances prevent them from fulfilling that promise.

Even individuals who have conscientiously provided for their pets in their wills may have neglected to consider a trust and/or powers of attorney affecting their companion animals that would commence in cases of severe disability, when a will would not be read. Similarly, people who want to ensure that they take their role as caregiver seriously may not know where to turn for advice on planning for their pets in estate documents.

The Missouri Uniform Trust Code includes the following provisions which specifically allows to a Trust for the care of pets:

456.4-408. Trust for care of animal. A trust may be created to provide for the care of an animal alive during the settlor's lifetime. The trust terminates upon the death of the animal or, if the trust was created to pro-

vide for the care of more than one animal alive during the settlor's lifetime, upon the death of the last surviving animal.

It may often be in a pet owner's best interest to keep companion animals in their company if they are elderly, incapacitated, ill and/or dying – and likely suffering the accompanying emotional consequences. These problems, of course, can be compounded for seniors who may have outlived loved ones, may live alone or far away from family members, or could have too much time on their hands, causing substantial anxiety.

Interacting with animal friends, who provide unconditional love, helps to lower blood pressure, increase exercise and circulation, as well as boost mental acuity and the opportunities for social interaction. Pets also provide something else on which to focus in order to alleviate people's worries about their own conditions and to reduce stress, depression, and loneliness.

Taking both practical and estate planning steps for a win-win-situation benefits pet owners, who may receive greater peace of mind knowing their pets will be cared for as they intended. The animals themselves will be much more likely to experience a smooth transition to a new home, and family, friends and other survivors who may or may not want the responsibility of caring for the pets in question will certainly appreciate knowing that provisions have been made.

WHAT CAN YOU DO NOW TO PREPARE FOR THE UNEXPECTED?

- Find at least two responsible friends or relatives who agree to serve as temporary emer-

gency pet caregivers. Provide emergency caregivers with keys to the home, feeding and care instructions, the name and phone number for the pets' veterinarian, and information about the permanent care provisions made for the pet.

- Make sure neighbors, friends, and relatives know how many pets are owned and the names and contact numbers of the individuals who have agreed to serve as emergency pet caregivers.
- Carry a wallet alert card that lists the names and phone numbers of emergency pet caregivers.
- Post removable "in case of emergency" notices on their doors or windows specifying how many and what types of pets are in the home. These notices will alert emergency response personnel during a fire or other home emergency. Avoid using stickers. Because these are often left behind by former residents, firefighters may assume the stickers are outdated, or worse, risk their lives trying to find a pet no longer in the house.
- On the inside of front and back doors, affix removable notices listing emergency contact names and phone numbers.

The HSUS offers a kit which provides all of these materials, making it quite easy to follow the above steps. Contact the HSUS nearest you to request more information and a kit.

**SOUTH COUNTY SENIOR
LAW & ESTATE PLANNING
CENTER, LLC**

5520 Telegraph Rd., Suite 104
5518 Telegraph Rd., Suite 102
St. Louis, MO 63129

Phone: 314-845-0541
Fax: 314-845-2580
Email: dmertz@STLseniorlaw.com
mkennedy@STLseniorlaw.com
chart@STLseniorlaw.com



Dennis B. Mertz
Mavis W. Kennedy (seated)
Christine F. Hart

South County Senior Law & Estate Planning Center, LLC has been serving the needs of our senior clients for twenty years. The firm attorneys, Dennis B. Mertz, Mavis Kennedy, and Christine F. Hart are members of NAELA, Inc. (National Academy of Elder Law Attorneys), dedicated to meeting the legal needs of all persons of all ages, including seniors.

We concentrate our practices in the areas of estate planning, trusts and estates, powers of attorney, probate, asset preservation, including Medicaid planning and tax advice, Special Needs Trusts and trust administration, nursing home abuse, will contests and other contested estate matters, financial exploitation of the elderly, personal injury, guardianships and conservatorships. The initial consultation with any of our senior law attorneys is always at no charge or obligation to employ our firm. Call us at 845-0541 to schedule an appointment to discuss any of your legal questions.

SHARE YOUR NEWSLETTER

We encourage you to share this newsletter with anyone who is interested in issues pertaining to seniors. The information in this newsletter may be disseminated without charge or permission, but with appropriate citation to Senior Law Quarterly.

Anyone wishing to be added to our newsletter mailing list should contact our office at 314-845-0541 with your request.

**Getting to Know Us:
Dennis B. Mertz**

Dennis B. Mertz, founding attorney of South County Senior Law & Estate Planning Center, has been practicing law in St. Louis for over thirty-five years. Mr. Mertz is a graduate of Washington University School of Law. Twenty years ago, Mr. Mertz decided to concentrate his law practice in the areas of estate planning, trust administration, probate, and tax advice.

When not working at the practice of law, Mr. Mertz is extremely active in a number of civic and not

for profit organizations, including 27 years of service on the Board of Directors of the Evangelical Children's Home. Mr. Mertz is also a board member, speaker, and speaker coordinator for the Friends of Jefferson Barracks.

Dennis has a passion for recreational travel; he, with his wife Linda and daughter Alexandra, have visited over 30 countries, including Tibet, China, Iceland, Russia, and Turkey, to name a few. Dennis also enjoys travel planning, including serving as trip coordinator for an informal group of men who visit major league ballparks each year for a holiday excursion.

