

Deceased man's trust document will clarify who inherits his property

By Illyce Glink and Samuel J. Tamkin
Tribune Content Agency

Q: My wife just found out her father died. His home, which is in South Carolina, was left in a living trust. She also was told she is the last living and only heir to this home, and it is supposed to be hers.

But we have a problem. Her father's ex-wife of 24 years has moved into the house and says she owns it. As far as we know, there is no paper stating it's hers. What do we do now that she is trespassing and is not an heir?

A: Our condolences to your family on your loss and the difficult situation you now find yourselves dealing with.

Let's start with the trust. In your email, you indicated that your wife's father left his property in South Carolina in a living trust. Do you have a copy of the trust documents? Generally a person puts a property into a living trust to facilitate the transfer of ownership to the

home after the trust owner dies.

The trust owner, your wife's father, generally would have been the trustee of the trust while living. Upon his death, the living trust should have named a successor trustee. If your wife is the successor trustee and the sole successor beneficiary of the trust, she can act as the owner of the property. She needs to verify the details of the trust to know exactly what her rights are with respect to the property.

The second issue is a distinction between the types of legal documents that deliver assets to other people once the owner dies. The word "heir" typically goes with a will, not a trust. But when you talk about trust documents, the trust document generally will take priority over a will. For example, if a person dies with a will and the will specifies for a home to go to "Joe" but at a time prior to the death of the owner of the home, the home was placed in a trust and the beneficiary of that trust was "Sally," Sally would become

the owner of the home.

In certain circumstances, a wife may have an interest in her marital residence. You mentioned that your wife's father was divorced and presumably the ex-wife did not, or no longer has, any legal interest in the home. If it is true that she has no legal right to be in the home and no legal right as an owner of the property, your wife may need to evict her if she is unwilling to move out voluntarily.

The eviction process will involve going to court and filing papers to have the sheriff evict the ex-wife from the home. You may need (or want) the assistance of an attorney for the process.

Before it comes to legal proceedings, your wife needs to have a thorough understanding of the legal ownership of the home. She might want to hire an attorney to go over the documents with her and give her a complete understanding of what her rights are and the next steps she might need to take. If the ex-wife has a legal claim of some sort, your wife will have to work through that. If her father owed money to his ex-wife, for example, your wife would have to take care of that issue or negotiate a settlement with the ex-wife.

In essence, your wife will need to evaluate what it will cost her in time, effort, legal fees and other costs to evict the ex-wife and what it might cost her to negotiate a settlement to get her out of the home. Good luck.



We get it. Your home and car are more than just things. They're where you make your memories and they deserve the right protection. It's why we're here. LET'S TALK TODAY.



Dan Ceniga, Agent
1704 SW Frazer Ave
Pendleton, OR 97801
Bus: 541-276-3182
www.danceniga.com



Stan Henderer, Agent
33 SE Dorian Ave
Pendleton, OR 97801
Bus: 541-278-0880
www.henderer.com



State Farm Mutual Automobile Insurance Company
State Farm Fire and Casualty Company
1706816 Bloomington, IL



**THE CATHERINE CREEK PROPERTY
UNION COUNTY, UNION, OR**
325.97 +/- acres. Timber parcel with $\frac{1}{2}$ mile of Catherine Creek. 1 mm BF timber per 2010 cruise. Adjacent to USFS. Downstream from wilderness access area. 11 mi south of Union. \$499,000. RG#02614



**SIMPSON ROAD DRYLAND WHEAT FARM
UMATILLA COUNTY, PENDLETON, OR
REDUCED** - Oregon-316.32 acres at the junction of Stage Gulch and Simpson Road in dryland wheat production. In 2017, the Seller produced 97 bushels per acre. \$249,000. RG#02917

KENNEWICK HORSE PROPERTY - BENTON COUNTY, KENNEWICK, WA - 6.29 acres with an indoor arena, horse barn, shop, with a new 2,254 square feet of home, built in 2009 with too many amenities to list. A must see! \$625,000. RG#02916

DOUBLE BAR F RANCH - MALHEUR COUNTY, ONTARIO, OR - 115 acres, 66 acres irrigated. Pond, 2,500 sq. ft. home, and outbuildings. Wildlife, views, 6 miles from Ontario. \$550,000. RG#01915

BAKER VALLEY RANCH - BAKER COUNTY, HAINES, OR - 88.98 acres nestled at the base of the Elkhorn Mountains. This picturesque property has a large main house, several outbuildings, hay/livestock barn and cattle working facility. The remainder of the property is a beautiful irrigated grass pasture which has been used for hay production and livestock grazing. Call Travis or Blake 541-278-4444. \$549,000. RG#03116

TIN PAN MEADOWS - UMATILLA COUNTY, WESTON, OR - Investment opportunity. 102 +/- forested acres off of Hwy 204 south of Walla Walla. 65 acres are zoned FR (Forest Residential) which allows for the development of 5 acre tracts. Power to the property and a good well. Lots of wildlife. May be suitable for a conservation easement. WMU 54. \$525,000. RG#02416

OLD RATTRAY RANCH WEST - GILLIAM COUNTY, CONDON, OR - 939.75 total acres. Property consisting of 612.27 acres of range, 229.52 acres currently in wheat production, and 97.96 acres of CRP. Abundant deer and upland birds with occasional elk. \$385,979. RG#02516

HAWKINS PARCEL 1 - UMATILLA COUNTY, PENDLETON, OR - 11.6 acres of dryland pasture, 7 miles NW of Pendleton. 3 bedroom, 1 bath home with laundry area and deck. Large shop with multiple large overhead doors and living quarters. \$385,000. RG#02817

SADDLE MOUNTAIN CRP FARM - UMATILLA COUNTY, MILTON-FREEWATER, OR - 287.30 ac with 143.09 ac in CRP. Multiple developed springs, buildable home site, LOP tags for Walla Walla Unit. \$350,000. RG#01617

STEVENS FARM #1 - UMATILLA COUNTY, PENDLETON, OR - Development potential on this 76.37 acre parcel. Zoned to allow the creation of 4ea nine acre lots with 40+ acres of river bottom remaining for recreation. \$350,000. RG#02415

BIG BUTTERCREEK CRP - MORROW COUNTY, ECHO, OR - CRP income property. 186.9 acres of land with 157.7 acres of CRP. Annual CRP payment of \$10,992 with power and well located on the property. CRP contract runs through 2020. The balance of the property is range pasture. \$295,000. #RG03515

SKEELS PROPERTY - UNION COUNTY, UNION, OR - Secluded buildable 80 +/- acres near Tollgate and the Spout Springs Ski Resort. Mixed timbered and open parcel on the breaks of Lookingglass Creek. Forest Road access is seasonal. Bordered on 2 sides by Umatilla National Forest. Great view property. WMU 56. \$290,000. RG#02316

ELKHORN MOUNTAIN GETAWAY RANCH - BAKER COUNTY, BAKER CITY, OR - 230 +/- acres timber parcel located between Rock Creek and Muddy Creek. Adjacent to ODFW area at the base of the Elkhorn Mountains. Buildable. Located 8 mi West of Haines. \$229,000. RG#00717

BALLARD CREEK - BAKER COUNTY, OXBOW, OR - 160 acres hunters paradise surrounded by BLM and NF 3 sides. Good water and timber. Zoned timber/grazing. \$160,000. #RG01916

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**PILOT ROCK IRRIGATED ACRES
UMATILLA COUNTY, PILOT ROCK, OR** - 76 +/- deeded ac / East Birch Creek running through the property. 63.3 acres containing water rights. 27 ac alfalfa and grass mix and 37 ac wheat hay. Irrigated with 3 wheel lines & sub-irrigation. 40'x46' metal shop, equipment yard and 2 wells. Buildable lot within the city limits. \$385,000. RG#01517



**MISSOURI GULCH DRYLAND
WHEAT/CRP FARM
UMATILLA COUNTY, PENDLETON, OR
REDUCED** - 394.73 total acres of which 172 acres are enrolled in CRP through 2022 with balance of acres in production. The farm is located in the Missouri Gulch area, northwest of Pendleton. Clean farm. Production records available. \$312,000. RG#02914

The Whitney Land Co.

101 S.E. 3RD • P.O. Box 1614 • PENDLETON, OR 97801

Phone: (541) 278-4444

E-Mail: farms@whitneylandcompany.com

