

ELDERLAW

NEWS

New Jersey®

Legal News for the Aging and Disabled

October 2002

RESIDENCE OPTIONS FOR OLDER OR DISABLED PERSONS

Part I - Housing Needs of Older or Disabled Persons

The quality of life of many older or disabled persons depends heavily on the appropriateness of their housing. The right housing can facilitate a happy and contented life; the wrong housing can actually be dangerous. For example, an elderly person living alone in a large house may be at risk of falling. A developmentally disabled adult may be at great risk of becoming a victim of crime if he or she does not live in a safe locale. An older couple living in an assisted-living facility may have few options if they use all of their assets without considering the typical lack of public benefits available to support assisted-living residents. Thus, it is critically important to understand housing options and the advantages and disadvantages of each option. This article is the first in a

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series addressing issues of residence options for older or disabled persons.

Issues in Housing Choices

Family: Family considerations often dictate where older and disabled persons live and the type of housing they live in. A majority of older persons live within a 30-minute drive of one of their children, and many older and disabled persons live close to a sibling or other relative. In addition, many older people keep a larger house than they need, or continue to maintain a vacation home, in order to encourage visits from children and family get-togethers. The financial burden on older adults from these typical practices can be significant. More appropriate housing for this population would be smaller, less costly and less maintenance-intensive.

Social Life: Older persons who relocate often do so in order to live where there are social and recreational activities. Many elders move into housing designed specifically for older people, such as retirement communities or age-restricted condominiums or apartments. Others move into housing which, though not designed specifically for older people, is located in an area that offers the desired recreational activities. For example, many elders move to Florida, or to college towns which offer classes, lectures, concerts and the like.

Health: Housing for the eld-

erly and disabled is appropriate only if it is usable even when the occupant becomes less capable of caring for him- or herself. A ranch-style home is desirable, as well as housing located near health services. Generally, the larger the community, the more likely the appropriate health services may be available.

Safety: Security is a two-fold issue. First is the security in the neighborhood. Second is the security of the living unit itself. The older the individual is, the more important the issue of safety becomes. What may seem safe for a 65 year old may seem less secure at age 85. Also, feelings of security may change over time if the neighborhood changes.

Mobility: It is important to select housing that minimizes the dependency on driving, particularly for persons aged 75 or older. As individuals age, driving may become more burdensome or even dangerous and, possibly, impossible. What is appropriate for a person aged 65 may not be suitable for someone aged 85.

Effects of Aging on Housing Choices

Physical Aging: The effects of aging begin to intrude on individual's housing choices when they reach their 60s or 70s. The most important characteristic of aging is the decline of physical

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strength and vigor. Bones lose calcium and become weaker, joints become stiff, and walking becomes more difficult. Aging also causes a loss of muscle, resulting in less upper body strength. Vision loss is also a common, and serious, problem. Most older persons suffer some vision loss, making living alone or in a large house unsafe. In addition, many older persons experience eye diseases, such as cataracts, macular degeneration, and glaucoma. Hearing loss is another common experience. 1/3rd of all adults between 65 and 74 and 1/2 of those between 74 and 79 experience deterioration of the inner ear that results in a permanent hearing loss. Because they cannot hear clearly, individuals become less sensitive to noises that could alert them to dangers or problems in the house. Typically, people also suffer short-term memory loss as they age. The loss of short-term memory is associated with the aging of the brain and does not indicate a loss of mental cognition or capacity, usually associated with the onset of dementia or Alzheimer's disease. Although the person can reason as well as ever, loss of short-term memory makes it more difficult to remember names, numbers or specific information. As a result of physical aging, climbing steps becomes more difficult, and housework, yard work and household maintenance become burdensome. A common conclusion is that the current housing situation is inappropriate.

Mental Decline: A decline in cognition or mental capacity may also necessitate a reevaluation of housing. The most serious interference with an older person's ability to live independently is the onset of dementia. Dementia is a

deterioration of intellectual function and other cognitive skills, leading to a decline in the ability to perform activities of daily living (ie., walking, sitting, eating, toileting and the like). Dementia is very common among the elderly. It is estimated that 15% of persons aged 65 and older and 50% of those aged 80 and older suffer from some type of dementia. There are many types of dementia, the most common being Alzheimer's Disease. Alzheimer's accounts for half of all dementia, with Parkinson's Disease causing about 20%. Dementia caused by Alzheimer's is irreversible and not only causes loss of cognitive functions but also can affect behavior, making the person violent or antisocial. The rate of progression of Alzheimer's varies, and individuals can survive from 2 to 20 years after its onset, although the average is 7 years. Individuals with dementia clearly have special housing needs which usually include the need for round-the-clock custodial care as the disease progresses.

Economic Changes: Although the average retirement age is a little over age 63, the average life expectancy at that age is almost 20 years for women and 16 years for men. Accordingly, retirees experience the problems of how to replace the loss of employment income for 15, 20, or more years. Further, older persons generally have greater net worth than younger persons. Although the single most valuable asset of most people is their house, which usually increases in value as the owners age, the house provides no greater quality of living than it did when the owners were younger and it was worth less. For many people, the problem is how to convert the high value of the house into disposable income

while maintaining a comfortable housing style. In addition, Americans inherit significant amounts from their parents and grandparents, but because average life expectancy has increased, the age at which the inheritances are received has also risen.

Disabled Adults

It is obvious that persons with physical and mental disabilities have special housing needs, although persons with physical disabilities have significantly different housing needs than those with mental disabilities. Physically disabled persons require housing adapted to their limitations. For example, a person with a wheelchair requires structural modifications, while persons with more severe physical disabilities may require attendant care, and perhaps a live-in caregiver. Mentally disabled persons may live independently, or may need support and supervision in a group home. Because most housing for the disabled requires modi-

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fication, approval must besought from local officials, who may resist. Housing for the disabled must be appropriate to their abilities and needs, must be safe, and should promote independence and autonomy. (This article was adapted from *Residence Options for Older or Disabled Clients*, by Lawrence A. Frollik, published by Warren, Gorham & Lamont (2002))

U.S. News concluded a home-by-home examination of the nursing home industry's finances. The industry is profitable and growing, the magazine found, with operators spinning a far brighter tale for Wall Street than for Capital Hill. Many nursing homes are earning exceptionally healthy profit margins, often 20% to 30%. There is no strong evidence, as the industry claims, that inadequate Medicaid payments are dragging down profits. U.S. News found

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no relationship between a home's profits, or the size of its losses, and the portion of its patients covered by Medicaid. Likewise, there is no evidence that patients are markedly sicker today. Even as they report tough financial times in their official government filings, many nursing home operators steer big chunks of their revenues to themselves or related businesses before they calculate the bottom line. (Source: *U.S. News, Sept. 30, 2002 edition*) ❧

***Nursing Home
Industry Profitable,
Study Concludes***

A reverse mortgage is a loan against a home that transforms the equity in a home into liquid assets that can be used to pay living expenses, health care, home improvements or other debts. The loan does not have to be paid back as long as the owner lives in the home. The older the borrower and the more expensive the home, the higher the loan. The loans are available only to those owners aged 62 or older. The typical reverse-mortgage borrower is aged 75.

In a reverse mortgage, a borrower can take the loan proceeds all at once in a lump sum payment, monthly or as needed in amounts that the borrower selects. The borrower or his estate must repay the loan, with interest and any other charges, when he or she sells, moves, is institutionalized or dies. The borrower must also continue to pay for property taxes, insurance and repairs. If not, the reverse mortgage loan becomes due and payable in full.

Because a borrower makes no monthly payments, the amount of

***Reverse Mortgages
Looking More Attractive
Than Ever***

the reverse mortgage loan grows larger over time. As the amount of the loan grows, the owners equity in the home declines, and the pro-

ceeds left for the owner (or heirs) after the home is sold grows smaller. However, the borrower can never owe more than a home's value at the time the loan is repaid.

According to the National Reverse Mortgage Lenders Association, the combination of record low mortgage interest rates and surging home values is expected to nearly double applications for reverse mortgages this year. In fiscal 2001, about 7,800 homeowners took out reverse mortgages. If the pace continues, about 12,800 reverse mortgage loans will be made this year.

Because of high closing costs and fees, potential borrowers must still determine if a reverse mortgage is better than a home equity loan, buying a less expensive home, renting an apartment or moving to an assisted-living facility. (Source: *Washington Post, Sept. 7th*) ❧

As more families face the need to care for aged parents and grandparents, some are considering a solution that might once have been shocking: paying a family member to provide care.

There are several reasons to consider this option: first, it is very difficult to find a reliable, qualified home-health aide. Demand far outstrips supply in this area. Second, fewer people today are able financially to quit jobs to provide free care.

Moreover, several state Medicaid programs now allow elders on the brink of nursing home admission to employ family caregivers without penalty.

However, a major problem with such an arrangement is the danger of elder abuse. It is surprisingly common for relatives to take the elder's money but fail to provide care. Safeguards that can help to prevent such abuse include: holding a family meeting to reach agreement on the care to be provided; drawing up a written agreement in advance, including a pay rate based on the market value of the caregiver's services, a list of the services to be provided, assets available and the elder's life span; and ensuring that the agent under the elder's power of attorney is someone other than the caregiver. Many families do best

***Some Are Paying A
Family Member To
Provide Care***

when a trusted third party, such as a financial planner, banker or accountant, manages the elder's assets.

Paying family members for care can be a great idea, as long as safeguards are in place. ❧

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Mr. Vanarelli provides information on Estate Planning for Catastrophic Nursing Home Costs at a recent seminar held in Westfield, NJ.

Donald D. Vanarelli, Esq., **certified as an Elder Law Attorney** by the National Elder Law Foundation, an ABA-approved certifying organization, and **certified as a Registered Guardian** by the National Guardianship Foundation, conducts seminars on various estate and elder law topics. A partial list of Mr. Vanarelli's recent and upcoming seminars follows.



Fall 2002 Speaking Engagements

September

- 9 Planned Lifetime Assistance Network of NJ
- 12 Springfield Library
- 24 Paine Webber (2 CE credits)
- 25 Westfield Municipal Building

October

- 2 Cranford Women's Club
- 3 Westfield Municipal Building
- 8 Plainfield Library
- 17 Kemper Insurance Company
- 26 Boomer/Senior Expo, Sponsored by the Somerset County Partnership for Our Aging Future

November

- 2 Hudson County Chapter of CPAs (2 CE credits)
- 6 SANJ Conference
- 12 Henry Inman Library (Colonia)
- 25 SAIL Group-Somerset Medical Center

For more information, visit Mr. Vanarelli's web sites at dvanarelli.lawoffice.com and elderlawanswers.com/attorney/vanarelli.html

To receive future editions of the ElderLaw News via email, send a request to dondv@superlink.net

Publisher of ElderLaw News Certified as Guardian and Court Evaluator in New York

Recently, Donald D. Vanarelli, Esq., the publisher of the ElderLaw News, was certified by the Office of Court Administration of the State of New York as a Guardian and Court Evaluator under Article 81 of New York's Mental Hygiene Law. Under NY law, a Court may appoint a Guardian or Court Evaluator to assist the Court in evaluating and providing appropriate care to a elderly or incompetent person.

ELDERLAW NEWS

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