



Spilyay Tymoo

Coyote News, est. 1976

July 7, 2007

Free help to tribal members for estate planning, will writing

The University of Idaho Law School and the Institute for Indian Estate Planning and Probate have announced the placement of a Legal Extern on the Warm Springs Indian Reservation in Oregon to assist Indian land owners with estate planning and "Will" writing.

These institutions are partnering with the Confederated Tribes of Warm Springs to provide this service at no cost to Warm Springs community members.

Roberta Armstrong is a third year law student at the University of Washington Law School. She and 10 other law students have been selected to serve as Legal Externs in various Northwest Indian communities during the summer of 2007.

They will be providing legal assistance to Indian land owners who wish to document a set of instructions explaining how they want their trust property and trust funds distributed after death. This set of instructions is commonly known as a "Will".

A Will allows an individual to decide who will manage their funds and other property after death, and how it will be distributed. A Will may also include directions for the care of minor and disabled children or other family members. A Will should provide instructions for all types of property, trust and non-trust, real and personal. A Will prevents forced sales of your lands at Probate, except for the application of the Warm Springs Inheritance Act. A comprehensive Will should minimize

disputes among surviving relatives after death.

If an Indian dies without a valid Will, then federal, state and tribal laws will determine who receives the decedent's property, the amount each will receive and whether a decedent's trust property will be subject to forced sale at Probate.

New law

Under a new federal law that went into effect after June 20, 2006, the American Indian Probate Reform Act of 2004 (AIPRA), trust property of an Indian who dies without a valid Will will be distributed according to a new Federal Indian Probate Code incorporated into AIPRA. Such property will be divided into two categories:

1. Trust land ownership interests equal to 5% or greater will go to the following (in order): a) Legal spouse in a life estate; b) The remainder to all eligible children. The last surviving child will take the full interest; c) If no children, then the remainder goes to eligible grandchildren; d) If no grandchildren, the remainder goes to parents; e) If the parents are no longer alive, the remainder goes to siblings; f) If there are no siblings alive, the remainder goes to the tribe or federal government.

2. For trust land ownership interests less than 5% will go to the following (in order): a) Legal spouse in a life estate but only if the spouse lives on that parcel of land; b) The remainder goes to the oldest living eligible

- child (the Single Heir Rule); c) If no children survive, the remainder goes to the oldest living eligible grandchild; d) If no grandchildren survive, the remainder goes to the tribe or federal government.

Preparing a Will is not very different than giving instructions to a trusted relative for a person's funeral arrangements. However, a valid Will is more comprehensive, must generally be in writing, properly witnessed and prepared in accordance with law.

All 11 of the Legal Externs have attended a comprehensive week long seminar at the University of Idaho in May, 2007 and receive specialized training in Will drafting and the federal probate process. Each Legal Extern will be supervised by a state-licensed attorney. Ms. Armstrong's work will be supervised by an attorney from the Karnopp Peterson LLP firm in Bend, OR.

Ms. Armstrong will maintain office and client service hours at the Family Resource Center (the Old IHS Clinic) at Warm Springs. She will provide services at Warm Springs for approximately 11 weeks beginning the week of June 11, 2007 through the week of August 13, 2007. You may call the receptionist at the Family Resource Center beginning June 7, 2007 to schedule an appointment. The Family Resource Center phone number is 553.3438.

Individuals who schedule appointments with the Legal Extern should obtain the following

information from the Bureau of Indian Affairs (BIA) Realty Office (541.553.2419) prior to the scheduled appointment: 1) A Report of Individual Trust Interests (ITI) that lists all trust land ownership interests for that individual; 2) A current IIM account balance may be obtained from either the BIA or the Office of the Special Trustee (OST) IIM Office (541.553.2409).

No fee will be charged to members of the Confederated Tribes of Warm Springs for this specialized Will writing service. If you have any additional questions regarding this service please contact the Fiduciary Trust Officer for the Office of the Special Trustee, Mr. Charles V. Jackson, at 541.553.2409.