



Ask the Expert

When it comes to purchases large and small, Long Islanders like to get expert advice before buying. To help them along, professionals throughout Nassau and Suffolk counties recently spoke with Newsday's Brand360 content studio to offer consumers advice on a variety of topics, from fixing a cracked roof to fixing a cracked tooth. Turn the page to read their tips.



RETIREMENT LIVING HOME IMPROVEMENT ELDER LAW REAL ESTATE ASSISTED LIVING COSMETIC DENTISTRY

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CURIOUS ABOUT THE CURRENT STATE OF OUR REAL ESTATE MARKET?

LOOK

Inside

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AT DOUGLAS ELLIMAN REAL ESTATE

QUESTIONS TO ASK YOUR ELDER LAW AND ESTATE PLANNING ATTORNEY

Protecting your assets and your loved ones is no small task. You want to be prepared when meeting with your elder law and estate planning attorney. Newsday's Brand360 content studio spoke with **Jennifer Cona**, founder and managing partner of **Cona Elder Law**, an award-winning elder law firm with offices in Melville, Garden City, Port Jefferson and New York City, to learn the top questions you should ask.



Q When should I update my estate planning documents?

A Estate planning documents are not one and done. Life circumstances change over time, which may necessitate updates or modifications to your documents, such as births, deaths, changes in health care needs, or a dramatic swing in assets. In addition, changes in the law may call for revisions to your estate plan, such as tax law sunsets or new Medicaid laws or look-back periods. You should never "set it and forget it." Review your estate plan every five years or so and sooner if any of the above circumstances apply.

Q Do I need an asset protection trust?

A This is probably the most important question to ask an elder law attorney! If you have any assets at all and you don't want to see them squandered, you need an asset protection trust. Everyone's circumstances are different, and one size does not fit all. Proper planning is required after full disclosure of your complete financial picture, family circumstances and health status so that an asset protection plan can be tailored specifically to your needs. It is also very important to know that the earlier you plan the better. There is currently a five-year look-back period for protecting assets held in trust, so everyone is encouraged to plan as soon as possible. In fact, asset protection planning and retirement planning often go hand in hand.

Q Do I need to do anything to prepare for the changes in the estate tax laws coming next year?

A Depending on your asset level, the answer may be yes. The increase in the federal estate tax exemption amount that has been steadily increasing and is now \$13.6 million is scheduled to sunset at the end of 2025, returning to \$5 million (adjusted for inflation). As such, many more individuals and families will have estate tax exposure for which they need to plan to minimize or avoid estate taxes altogether. Because federal and state taxes can eat up almost 50% of an

estate, more if you are over the New York state "cliff," this planning is critical for you but especially for your heirs.

Q How do I ensure a smooth transition for my heirs?

A In addition to having a well-thought-out, customized estate plan that includes a will and likely a trust, you want to make sure that your beneficiaries have information as to all your assets and liabilities, including all banks, brokerages, mutual funds, life insurance policies, retirement assets and, not only the account numbers, but all usernames and passwords. Access to digital accounts is critical as many accounts now are paperless and can only be found and accessed electronically.

Q How can I protect my house?

A For many people on Long Island and the metro New York area, their house is their most valuable asset. As such, protecting your home is paramount. There are several ways to protect your house, depending on your other assets, your age and health, and your family circumstances (again, one size does not fit all), but ideally, an asset protection trust can be used to protect your house. If properly drafted by an experienced elder law attorney, you will keep all rights to live in your home for your lifetime and maintain your tax exemptions (STAR, veterans, etc.). You may sell your home and buy a new home, and that home will be protected in the trust as well or, if you do not purchase a replacement home, the cash from the sale can be protected in the trust instead. Be sure to consult with your elder law attorney when selling real property held in trust or, better yet, have your elder law attorney handle the closing to avoid costly mistakes.

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GRANDPARENTS DO HAVE RIGHTS

By Jennifer B. Cona, Esq., Cona Elder Law



What Are Your Rights in the Life of Your Grandchild? During the month of September, we celebrate Grandparents Day. Let's honor this special day and recognize the importance of the grandparent-grandchild relationship by taking a look at the rights grandparents have in the lives of their grandchildren.

Grandparent Visitation Rights:

Historically, grandparents did not have legal standing to assert rights of visitation against a custodial parent. It was not until 1966 that grandparents were given standing by New York statute to seek visitation rights. However, such rights were limited only to situations where the grandparents' child had died.

Over the next decades, the Courts began to recognize the precious and unique nature of the grandparent-grandchild relationship and slowly began to consider, on a case-by-case basis, the nature and extent of the grandparent-grandchild relationship. And indeed, over time, the Courts even began to recognize situations where the parent had frustrated

and impeded the grandparent's relationship with the grandchild by denying visitation. In such cases, the grandparent needed only demonstrate that they had made sufficient efforts to foster a relationship with the grandchild, as determined by what could have reasonably been done under the circumstances.

After a grandparent has established the right to be heard, the Court must then determine if visitation is in the best interest of the grandchild. The Court has broad authority to analyze all of the relevant circumstances, the most significant consideration being the nature and quality of the relationship between the grandparent and the grandchild, with other key factors being the grandparent's ability to nurture the grandchild, the reasons for the parent's objections to visitation, and the grandchild's own preferences.

Grandparent Custody Rights: In 2003, New York statutes provided that if a grandparent can demonstrate the existence of "extraordinary circumstances", that grandparent can seek custody

rights if it is in the best interest of the grandchild. While a parent has a "right" to rear its child, those rights are not absolute and give way to the best interests of the child, which are paramount. As such, under "extraordinary circumstances" such as surrender, abandonment, persisting neglect, unfitness, and unfortunate or involuntary disruption of custody over an extended period of time, a grandparent may be granted custody if it is in the best interest of the grandchild.

The experience of an elder law attorney at Cona Elder Law can help navigate you through the complex legal issues surrounding grandparent's rights to visitation and custody so that you can rest assured that your relationships with your grandchildren remain protected.

Contact us to schedule your consultation at 631.390.5000

Jennifer B. Cona, Esq. is the Founder and Managing Partner of Cona Elder Law, an award-winning law firm concentrating in the areas of elder law, estate planning, special needs planning, estate administration and litigation, and health care law. The firm has been ranked the #1 Elder Law Firm by Long Island Business News for eight consecutive years. For additional information, visit www.conaelderlaw.com.



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