Protecting the Family Cottage

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Certified Elder Law Attorney
4-Time Best-Selling Author
Top Lawyer – Washingtonian Magazine
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Named in Best Lawyers in America
Martindale-Hubbell Top Rating
Avvo Top Rating 10/10 "Superb"
DC Metro and Virginia Super Lawyer
Creator of the Living Trust Plus® Asset Protection System

The Emotional and Financial Value of the Family Cottage

- For many families, the cottage is the most emotionally significant asset in the estate
  - ➢ Memories
  - ➢ Tradition of Family Gatherings.
- Often illiquid and difficult to divide among heirs
- Frequently triggers disputes among siblings after the parents die
- Maintenance costs often exceed expectations
- Without planning, the property is frequently sold within one generation

The Core Planning Problems

Multiple heirs inherit a vacation home

- Unequal use of the property
- Unequal ability to pay maintenance costs
- Disagreements over repairs or improvements

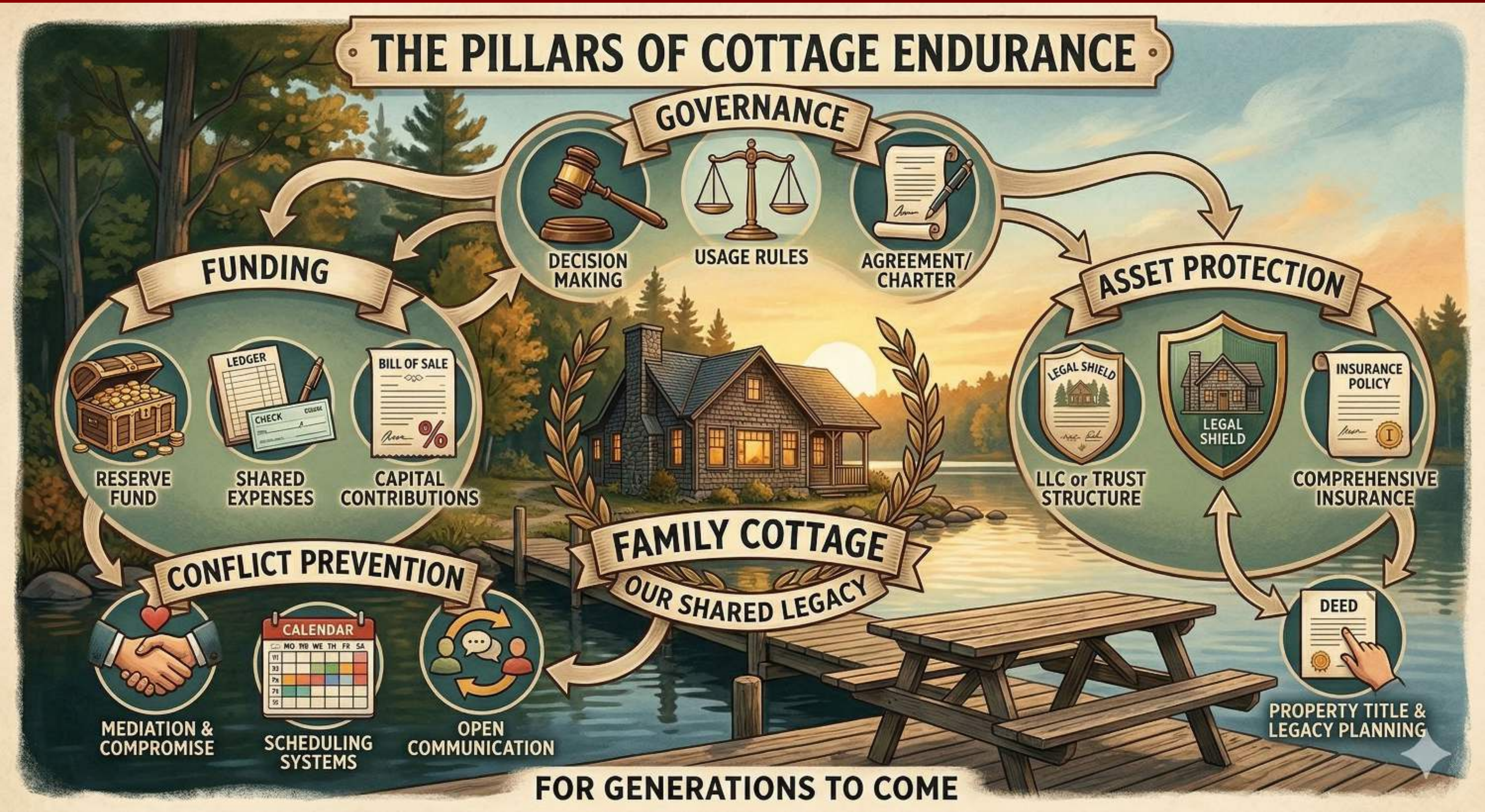
- Liability exposure
- Pressure to sell
- Key issue: real estate is indivisible but heirs are multiple

What Happens Without Planning

If the cottage passes outright to multiple heirs:

- Tenancy in common ownership
- Each owner can force a partition action
- One heir’s creditor can attach the property interest
- Divorce of one heir can create claims against the property
- No governance structure
- Result: forced sale or litigation

Planning Objectives



Strategy #1: House Sub-Trust

The trust creates a dedicated sub-trust to own the cottage.

Features:

- Cottage transferred into the sub-trust upon death
- Trust also funded with maintenance reserves (often $200,000–$250,000 depending on the property)
- Trustee manages expenses and usage rules
- Beneficiaries receive usage rights, not direct ownership

House Trust Funding Structure

Typical funding structure — assets transferred to house trust:

- The cottage property
- Maintenance reserve fund
- ➢ Possibly an investment account

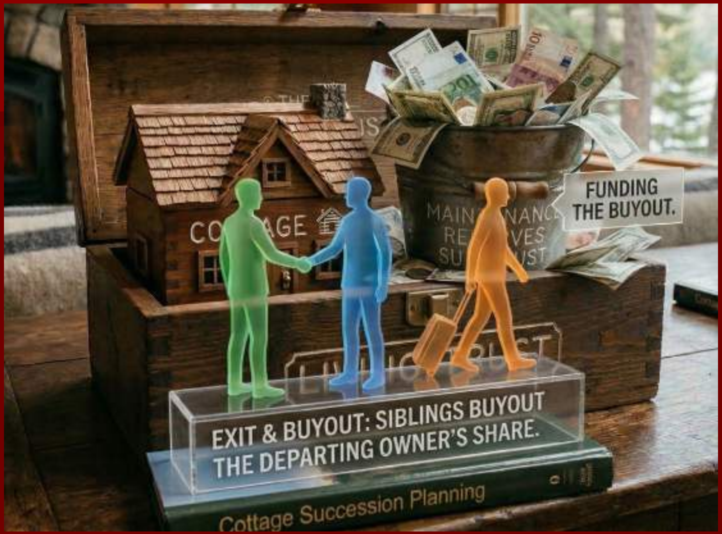
- Reserve fund pays:
  - ➢ Property taxes
  - ➢ Insurance
  - ➢ Repairs
  - ➢ Major capital replacements.

Governance Rules Built Into the House Sub-Trust

The trust document addresses:

- Scheduling system for use of the property – shared calendar – priority scheduling rotates annually
- Cost sharing rules
- Required contributions from beneficiaries
- Maintenance standards
- Decision-making process for major repairs

Exit and Buyout Provisions



The house sub-trust might anticipate that not every heir will want to keep the property.

Possible provisions:

- Right of first refusal for other beneficiaries
- Appraisal-based buyout formula
- Possible mandatory sale trigger if ownership falls below a threshold
- Trustee authority to sell if maintenance fund runs out or maintenance becomes impractical.

Strategy #2: Separate Cottage Trust

Instead of a sub-trust inside the primary estate plan, the cottage can be placed into its own trust.

Advantages:

- Clear separation from other family assets
- Begin formal sharing structure while parents living
- Dedicated child-trustee while parents living to see how they do
- Can include long-term management rules
  - ➢ Separate Revocable Living Trust
  - ➢ Irrevocable Medicaid Asset Protect Trust

Strategy #3: LLC Ownership

Another common strategy is ownership through an LLC.
Structure:

- Cottage titled in the LLC
- Children are members of the LLC or Trust owns the LLC.
- Operating agreement governs usage and expenses.
- Advantages:
  - Liability protection
  - Familiar governance structure
  - Flexible buyout provisions.

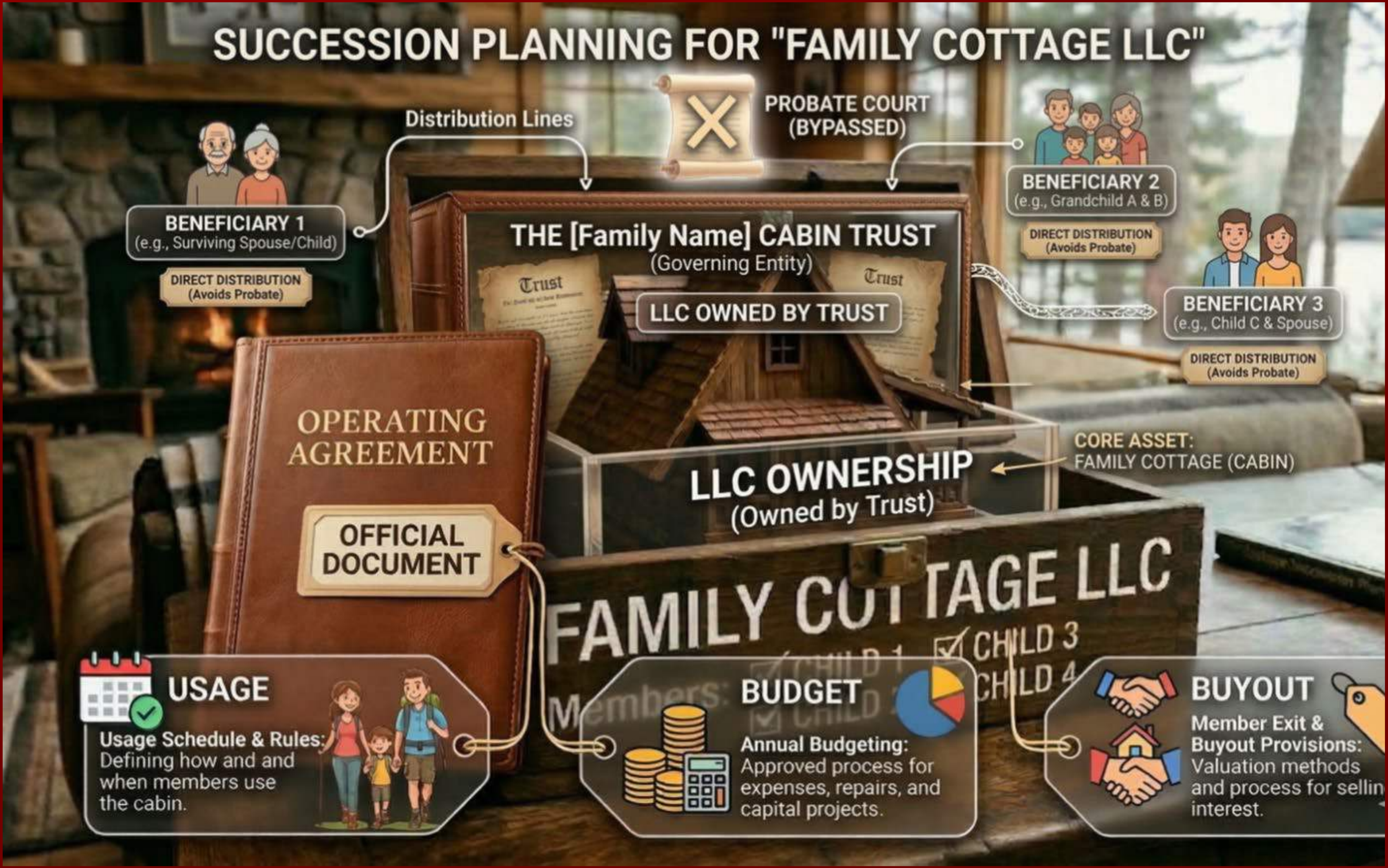
Operating Agreement Provisions

The operating agreement should address:

- Scheduling system for property use
- Annual budget and contributions if maintenance fund runs out or not set up
- Capital call procedures
- Buyout rights
- Transfer restrictions

Without these provisions, LLC ownership can devolve into the same conflicts as tenancy in common.

Avoiding Probate with LLC Planning



Avoiding Probate with LLC Planning

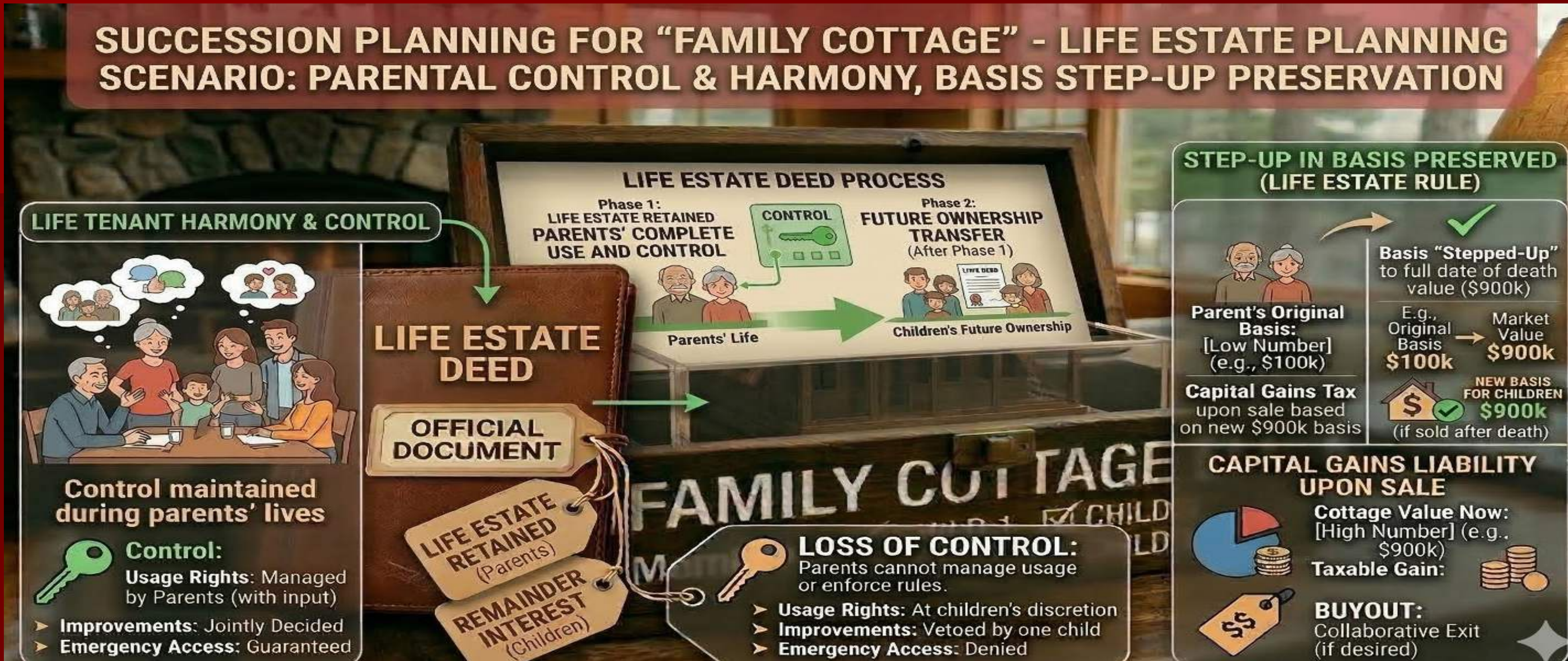
If the LLC structure is used, options for probate avoidance include:

- Good: Trust owns LLC, meaning membership interests owned by parent's RLT or MAPT.
  - Often the best option — with asset protection sub-trusts to hold shares of children.

- Not so Good: Transfer-on-death provisions in the operating agreement.
  - Lack of structure with joint ownership)

Strategy #4: Lifetime Gifting

Strategy #5: Life Estate Planning



Advantages:	Disadvantages:
• Avoids probate • Simple structure	• No governance rules • Harder to manage shared use among siblings

Funding Maintenance Is Critical

The biggest failure point in cottage planning is lack of funding.

Typical expenses include:

- Roof repairs/replacement
- HVAC systems
- Dock repairs
- Seawall repairs
- Insurance
- Property taxes

Without funding, heirs may be forced to sell.

Family Governance

Legal structure alone is not enough.
Successful plans include:

- Family meeting expectations / Written usage policies / Conflict resolution mechanisms / Effective leadership.

Shared Vacation Home Software:

OurSharedPlace: Purpose-built for families to manage vacation home scheduling, reducing calendar chaos.

Cozi Family Organizer**: Cozi is a free family organizing app** with a shared calendar, lists, and reminders — designed to keep everyone on the same page.

Governance and Multi-generational Family Management:

Govrn: platform designed for family businesses/estates, ensuring clear structure, secure communication, and documented decision-making.

Trusted Family: specializes in family governance for family offices and next-gen engagement.

Nines: Focuses on professional-grade household and estate management, including maintenance schedules, household manuals, and document storage.

Liability Protection if Rented

Vacation homes create liability risks.

Planning should address:

Proper insurance coverage.

- Liability shielding through entities.
- Guest rules.
- Rental policies.