BUYING A HOUSE & PROTECTING YOUR ASSETS

The subject today is getting cozy… So you and your sweetie are buying a home. Congratulations! Now comes the hard part: getting the paperwork right.

Married folks can get away without doing their legal homework when they buy their dream house, because the state has rules to protect both parties in the event of death or divorce. But without careful contracts, gay couples can find themselves up a creek—paying needless taxes or even losing their entire investment (and their home).

What could go wrong?

Three words: divorce, death and taxes. If the paperwork's screwed up and you and your partner break up, you may find yourself with no way to prove that you're a co-owner—or you may legally own less of the house than you thought. If your partner dies, you may find yourself kicked out of the house you helped pay for…or co-owning it with your homophobic brother-in-law…or paying estate taxes on the half of the house *you* own, when you're not dead. Then paying them again when you are.

Taxes can be ugly too. In the eyes of the law, you and your beloved are business partners, not spouses, so completely different rules apply. Let's say you own a million-dollar house, and you're adding your partner to the deed. Do it wrong and, oops: you've just made a half-million taxable gift.

What should this couple do?

1. **Do your homework.** You'll need to understand the difference between owning as joint tenants with rights of survivorship or tenants in common, and decide which best fits your needs. Do it one way and your part of the house is left to your partner automatically and the other leaves it to your next of kin unless you have a will. Many couples I've worked with thought they had this right and they didn't.

2. **Hash out the details.** Are you going to make this investment 50/50, or is one person going to pay more? If the financial split is 80/20, does that apply to just the down payment, or to the ongoing expenses as well? Is the excess payment a loan or a gift? Is one partner investing money, and the other investing time and labor? If so, how is that labor valued? Who gets the tax deductions? What happens if one partner suddenly can't or won't pay his or her share of the expenses? If you break up, what's the process for buying out your partner or splitting the profits of a sale? If you die, who inherits your share?

3. **Draw up the paperwork.** After you decide what you're doing, write it down. At minimum, you should have an ownership agreement and a will or trust.

4. **Get professional help.** Your lawyer and accountant need not be gay themselves, but they should be well-versed in the rules applying to unmarried couples in your state.