

WE'RE EXCITED!

This is the first edition of our newsletter. Our law firm just completed its first quarter (we opened June 1, 2005) and we are very excited about our new venture. We are looking forward to continuing to serve all of our existing clients and creating new relationships as we go forward.

The new firm combines the talents of two attorneys, Tom Stover and Jennifer Spitz, into a very strong new whole. We are very pleased to have wonderful legal assistants. Robbin Bowler, primarily supports our estate planning and probate practice, while Josie Chaffee covers real estate and business matters. Jean Peila will help us with special projects, primarily in the tax area.

Stover & Associates LLC focuses on trust and estate planning, probate, related estate, gift and fiduciary tax planning, planned charitable giving, real estate and business law.

Tom Stover is a native of Colorado and has practiced in Longmont, Colorado, for over 20 years, previously as a partner at Flanders Stover Elsberg LLP. He graduated from the University of Colorado School of Law (Order of the Coif) in May 1985. He is a Fellow of the **American College of Trust and Estate Counsel**. He is the author of numerous publications on estate planning and administration, and speaks frequently on those topics, often in the context of continuing education for other lawyers. He is active in the Trust and Estate Section of the Colorado Bar Association, serving as its Chair in 2001-2002.

The American College of Trust and Estate Counsel (ACTEC) is a nonprofit association of lawyers and law professors skilled and experienced in the preparation of wills and trusts; estate planning; probate procedure and administration of trusts and estates of decedents, minors and incapacitated persons. Its more than 2,700 members are called "Fellows" and practice throughout the United States, Canada and other foreign countries.

To qualify for membership, a lawyer must have no less than 10 years' experience in the active practice of probate, trust law and estate planning. Lawyers and law professors are elected to be Fellows based on their outstanding reputation, exceptional skill, and substantial contributions to the field by lecturing, writing, teaching and participating in bar activities. It is their aim to improve and reform probate, trust and tax laws, procedures, and professional responsibility. There are less than 50 ACTEC Fellows in Colorado. Tom is the only ACTEC Fellow in Longmont, Colorado.

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Jennifer Spitz received her Bachelor's Degree from Fort Lewis College summa cum laude in 1994 and her J.D. from the University of Colorado in 1998 (Order of the Coif). She has practiced law in Longmont, primarily in the areas of trust and estate planning and administration, since graduation from law school. She is active in the Trust and Estate Section of the Colorado Bar Association, serving as editor of the Section's newsletter since 2001, and previously chairing the Section's Statutory Revisions Committee.

Our many years of practice in Longmont, coupled with high levels of professional expertise uniquely qualify us to serve you in the coming years.

Exciting and Challenging Times

These are exciting times to be living in Northern Colorado and especially Longmont. Longmont is Boulder County's fastest growing city and second in size only to Boulder. Formerly sleepy little towns like the tri-towns of Firestone, Frederick and Dacono; Erie, Hygiene, Mead, Lyons and Johnstown are grappling with the transition from rural to urban or suburban (or something in between).

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We watched the influx and growth of new leading edge businesses like Amgen, Seagate, Maxtor and Xilinx, and the continued prosperity of Longmont's traditional employers, such as ConAgra Foods and Longmont United Hospital. Circle Capital Partners LLC recently purchased over two million square feet of office space from Pratt Properties, thought by some to be the biggest commercial real estate transaction in Colorado this year.

There is good reason to be optimistic about our future. Colorado is a great place to live. Newcomers love it as much (if not more) than we do and often encourage their families and friends to join them here. Many retirees are foregoing beaches and deserts to relocate to Northern Colorado and its environs. We recently learned that Weld County was the fastest growing metropolitan area in the nation between 2000 and 2003. This will come as no surprise to those who have driven east and north of Longmont in recent months. Weld County leaders plan for a projected 200,000 residents to move into the southwest corner of their county over the next twenty years. All of our lives are affected directly and indirectly by this amazing growth.

While we are witnessing lots of change locally, nationally, tax laws remain in flux. The current congress and administration (like many before) talk about simplification, while annually passing mind-numbingly complicated new tax laws. As we have discussed with many of you, the estate tax may be repealed, may be modified, or may be allowed to return to what it was in 2001. If it is repealed permanently, we will need to learn to live with "carryover basis," a new, complex and potentially costly tax regime.

The Terry Schiavo case has reminded us all that end of life issues must be considered as part of any estate plan. (See the related article in this Newsletter).

Creative Legal Solutions

Interesting times breed interesting challenges, often requiring creative legal solutions. Your estate plan may not have kept pace with your changing financial and family situation or the changing tax laws. Your estate plan from another state that may or may not be the best plan in your new adopted state of Colorado. Multi-generational planning is assuming a greater role in people's lives as life expectancies increase and the younger generations acquire their own assets and build their own businesses, sometimes in conjunction with the older generation, but not always. Trusts are being used more and more for a host of purposes including tax planning, creditor protection and concerns about shaky marriages. They are also quite useful in planning for minors and incapacitated persons.

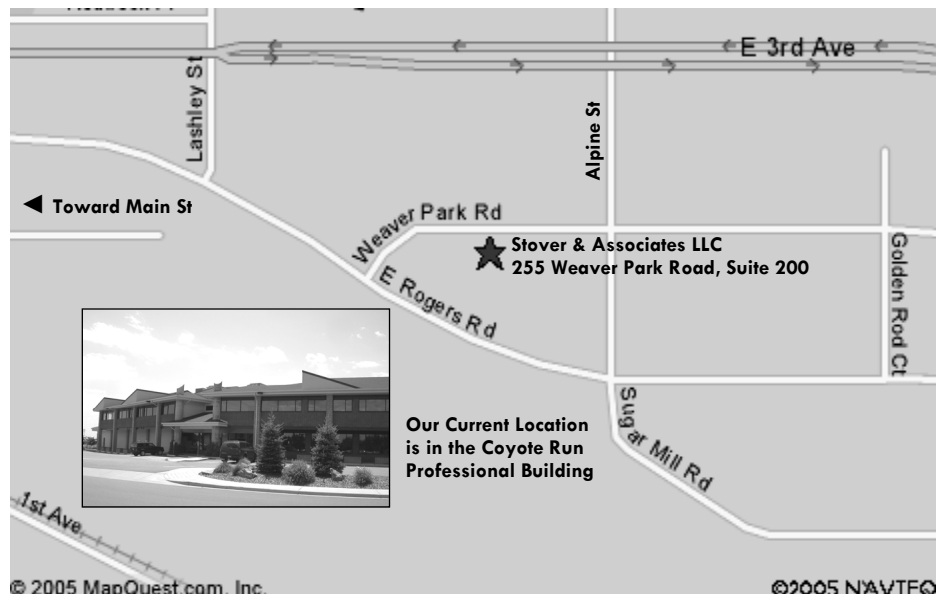
You may be buying, selling or trading real estate. Your agricultural property may suddenly be in demand by commercial or residential developers. You may be starting, expanding, selling or merging a business. The tax and business planning opportunities (and sometimes problems) can be significant. We look forward to the opportunity to work with you on all of these matters.

Office Space

We will be moving into permanent office space in early 2006. Our new location will be in Roosevelt Place, 636 Coffman Street. In the meantime, we are subletting space from Samson, Pipis & Marsh, LLC at 255 Weaver Park Road. Be assured that our firm is an entirely separate entity. We do not share phones, faxes, printers or copiers. No files or confidentialities will be shared between firms.

Referrals

Please think of us when recommending an attorney to your friends, clients or professional acquaintances. People often ask if we only accept large matters or have minimum net worth requirements for our clients. Be assured that we welcome referrals of all matters within our areas of expertise, large or small.



LIVING WILLS AND MEDICAL POWERS OF ATTORNEY

The Terri Schiavo case raised awareness about the importance of living wills. However, there is still considerable misunderstanding about what a living will does and what its limitations are.

What a Living Will is, and What it is Not

A **living will**, sometimes called a **Declaration as to Medical or Surgical Treatment**, directs when life-sustaining procedures and artificial nourishment will be withheld or withdrawn if, at some future time, you are in a terminal condition and either unconscious or otherwise incompetent to make decisions regarding medical treatment. The term “terminal condition” is an important one. It means an incurable or irreversible condition for which the administration of life-sustaining procedures will serve only to postpone death.

The standard statutory living will form is commonly used in Colorado. It consists of two parts. The first part directs when life-sustaining procedures will be withdrawn; the second part directs when artificial nourishment will be withdrawn. Life sustaining procedures are medical procedures that serve only to prolong the dying process. Artificial nourishment means nourishment supplied intravenously or through a feeding tube. You can select a certain number of days for life-sustaining procedures and artificial nourishment to continue if you become unconscious and are terminally ill.

A Colorado living will is not necessarily a solution to the Terri Schiavo case. The Colorado statutory form will not apply until two doctors verify that you are terminally ill and unconscious or otherwise incompetent to make decisions. Terri Schiavo most likely did not have a terminal condition, as the term is defined in Colorado, in which case a Colorado-type living will would not have helped her (see the discussion below).

Did you know that fewer than 30 percent of people in the United States have a living will?

The New York Times March 29, 2005

Medical Power of Attorney

It is not enough to have a living will. It is equally important to have a **medical power of attorney**. A medical power of attorney, sometimes called a **health care proxy**, names an agent to make medical decisions on your behalf.

As described above, the living will applies in very limited circumstances. Under the authority granted by the medical power of attorney, your agent can make decisions for you in a variety of circumstances, such as if you are temporarily unconscious due to illness or an accident, or if you suffer from a long-term debilitating condition such as Alzheimer’s disease. Also, the agent can make sure that your wishes expressed in the living will are carried out.

It is impossible to anticipate every potential illness or treatment. In addition, medical knowledge and treatment options are constantly evolving. By appointing an agent in a medical power of attorney, the agent can make appropriate decisions based on your medical condition at the time the need arises, taking into account available medical diagnostic and treatment procedures.

It should be noted that unless the agent is given specific authority, the provisions of the living will will be given priority.

HIPAA

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) has been in place for several years. Accompanying regulations issued more recently have made doctors and hospitals more cautious about releasing your medical information. It is important to have a medical power of attorney or HIPAA authorization that permits the release of your medical information to certain individuals, such as your agent. Your agent needs this information in order to make informed decisions about your health care. HIPAA authorizations should especially be considered if you are in a partnership or a member of an LLC, or if you are serving as trustee of a trust.

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Other Terminology

Some of the legal terminology regarding medical decision-making can be confusing. Other commonly-used terms include the following:

- An **advance medical directive** simply means either a living will or a medical power of attorney.
- A **Cardiopulmonary Resuscitation (CPR) directive**, also called a **Do-Not-Resuscitate (DNR) directive**, directs that if your heart and/or lungs stop, medical personnel will not attempt to resuscitate you. A CPR directive will not prevent you from receiving other kinds of medical care such as treatment for pain, bleeding, or broken bones. A CPR directive must be signed by your doctor.

Lessons from the Terri Schiavo Case

You should not assume that your wishes regarding your medical decisions will be carried out without the appropriate legal documents in place. You are not too young or too old to sign a living will and medical power of attorney (as long as you are a competent adult).

Terri Schiavo was 27 years old when she suffered from cardiac arrest. She did not have a living will or a power of attorney. She was severely brain-damaged, but kept alive by a feeding tube for 15 years. It may be that nothing could have prevented the dispute between her husband and her parents over her care, but advance medical directives would have helped by establishing her wishes and designating a person to make medical decisions on her behalf.

*Note: This article is based on the laws of Colorado.
The laws of other states may vary.*

The estate tax exclusion amount and the generation-skipping transfer (GST) tax exemption will increase to \$2,000,000 (from \$1,500,000) on January 1, 2006. It is also anticipated that the annual exclusion amount for gift tax purposes will increase to \$12,000 (from \$11,000).