



## THE LEGAL MEMO

### ***POWERS OF ATTORNEY FOR PROPERTY***

- Everyone needs a power of attorney (POA). There are two types of powers of attorney; one is the *power of attorney for property* and the other, dealt with in a separate article, is the *power of attorney for personal care*.
- Generally speaking a power of attorney is a legal document whereby one person grants to another person the power to make legally binding decisions/contracts for them. Powers of attorney for property derive their authority from the *Ontario Powers of Attorney Act*. A power of attorney can be limited in time frame and/or in scope. e.g. a power of attorney could be just to sell a specific property while you are away on holidays or it can be a “continuing” power of attorney with no limitations (and continues if eventually you become incapable).
- A Power of Attorney for property can be used to, among other things:
  - sell or buy real property
  - discharge a mortgage
  - buy or sell a vehicle
  - buy or sell stocks or bonds
  - sign for and submit income tax returns
  - do banking generally
- Who you should appoint as attorney:
  - someone you trust
  - someone of an age that will in all likelihood survive you
- You can appoint joint attorneys.
- Consider appointing an alternate attorney in case the first appointed attorney cannot act.



- A power of attorney for property should be retained by the grantor until it is necessary to provide it to the attorney. It is a powerful document that should be safeguarded.
- What happens if there is no POA and you become incapable:
  - then bank accounts that are not joint cannot be accessed
  - then assets such as stocks and real estate cannot be bought or sold
  - then an Application will need to be made to Court or the Public Guardian and Trustee of Ontario to have someone appointed and that is both time consuming and expensive.
- What happens on death:
  - on death, the POA ceases to have validity and the terms of the will govern.

***Remember that every situation is different and this article deals only with generalities. If you are uncertain as to your legal rights in a certain situation you should always consult your lawyer.***