

## Romance among our Elders

I recently read an article in the Globe and Mail (Friday, May 27, 2016), entitled “Some older couples have ‘weddings without getting wed’”. Next to it was a picture of a happy and apparently affluent elder couple, (sitting next to the grand piano and chandelier), with the tag line “‘we laugh a lot’, Joe Pendergraft says of his equivalent-to-married relationship with Dixie Reppe”. I smiled, as one of the more joyful experiences I have as a family law lawyer is assisting couples at the beginning of their lives together. I have many elder clients who are cohabitating or re-marrying. Elders often have acquired significant wealth and have adult children from previous relationships, for whom they wish to protect their assets.

The opening paragraph, of the article written by Beth J. Harper states:

“Some older couples who want social recognition for their love relationship are exchanging rings, throwing parties and holding wedding-type ceremonies, but they’re stopping short of getting legally married to avoid the complications with retirement funds, property and grown children.”

My concern is that this article does not accurately reflect the current law in Canada. The Supreme Court of Canada has ruled that if it looks like a marriage, is treated as a marriage by the couple and for all intent and purposes the couple is married but for the marriage certificate, the law may recognize the relationship as a “joint family venture”, in which case the unmarried couple in a long term relationship, may be subject to similar property sharing, and certainly support obligations, as a legally married couple. It is recommended that if you do not want to be bound by the financial obligations of marriage, the couple should specifically contract out of these obligations. Therefore, whether you decide to get a marriage license or cohabit in a common law relationship, the parties should meet with a family law lawyer to discuss the kind of contract required to fulfil their intentions in the event of separation, either by choice or by death.



As I have previously written, developing an agreement that sets out the unique needs of any particular couple can be best accomplished using the Collaborative approach. Working together with independent legal advisors can be a positive experience that reassures the parties, and their families, that their intentions toward each other will be honoured.