

Have a bit of sage advice for a newcomer to your area of practice? Send us your "tips & traps"! Your colleagues will be grateful. Email suggestions, cautions, and tales of woe to bb@mnbar.org

Save Time: Ignore Your Email

According to a British study, it takes over a minute to recover focus after checking email. So if you check your email about every five minutes, you lose over eight hours a week trying to recover your focus!

To get back some of that time, turn off the auto-check feature on your email software. If you use Web mail, don't leave it open in a browser tab all day.

Instead, wait until your attention is already diverted to hit "Send/Receive." Do it after you finish a task and your focus is already in limbo. Or before and after lunch when you have a few moments. You will spend less time in transition and more time getting things done in your day.

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Zoning Appeals

A party aggrieved by a land use (zoning or subdivision) decision of a city or a township may appeal to the district court under Minn. Stat. § 462.361. An appeal by declaratory judgment action has no limitation period. *Fryberger v. Township of Fredenberg*, 428 N.W.2d 601 (Minn. App. 1988).

In contrast, a party aggrieved by a land use decision of a county must appeal promptly. A quasi-judicial

decision by the county board must be appealed by writ of certiorari to the Court of Appeals within 60 days. *Interstate Power Co. v. Nobles County Bd. Of Comm'rs*, 617 N.W.2d 566 (Minn.2000). A decision by the county board of adjustment must be appealed to the district court within 30 days under Minn. Stat. § 394.27

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Transfer on Death Deed

A new Minnesota law allows people to transfer title to property upon their death by executing a Transfer on Death Deed ("TODD"). A TODD is comparable to the use of pay-on-death or transfer-on-death accounts at banks or with brokerage houses. A TODD allows the owner of real property to designate a beneficiary of the property, and, upon the death of the owner, the property passes to the beneficiary as non-probate property, without the disadvantages of using a joint tenancy or life estate deed.

A TODD can be very beneficial for small estates, including situations where there is one owner and one beneficiary, unmarried committed partners, or individuals who do not need the tax benefits of a trust.

How to Use a TODD

- A TODD must be recorded during the lifetime of the owner to be valid, but the transfer of the real estate becomes effective only after the death of the owner.
- After the owner's death, the beneficiary named in the TODD must record a death certificate and affidavit of survivorship and clearance certificate (from medical assistance claims and liens) to have the property put into the beneficiary's name.
- The new law specifically provides that a designated beneficiary has no rights to

the owner's property during the owner's lifetime. Beneficiaries cannot transfer, mortgage, or pledge any interest in the property as long as the owner is alive.

■ Unlike other types of deeds, if the owner changes his or her mind about who should get the real estate, the owner can revoke the TODD or simply record a new one

naming a different beneficiary. A revocation of a TODD must be recorded prior to the owner's death.

■ An owner can name more than one person as a beneficiary.

An owner can name a contingent beneficiary or class of beneficiaries who get the property if the original beneficiary dies.

■ A TODD is exempt from state deed tax per Minn. Stat. § 287.22(15).

■ See Minn. Stat. § 507.071 for provisions, including suggested deed and revocation forms.

While a TODD transfers property upon death, there are several things that it does not do:

- A TODD does not avoid estate taxes.
- It does not protect the property from creditors. Mortgages or other liens that become attached to the property during the owner's lifetime carry over to the beneficiaries.
- A TODD does not protect the owner's home or other real estate from a medical assistance claim or lien.

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