

# Who gets the house when mom dies?

Many factors determine inheritance and future ownership of a home

By **Paul Premack** Published 5:04 pm, Thursday, March 9, 2017

**Dear Mr. Premack: I am the daughter of a 95 year old mom. My only sister is 70, and our only brother passed away in 2013 leaving three children. My mom's house has my sister's name on the deed so it will go to her at our mom's death. I would be the next blood living relative after my sister's death. Do my brother's widow or his children have any rights to the property? - BH**

Every inheritance situation is different. Sometimes property passes via a Will, sometimes through a Trust, sometimes via the intestacy laws, and sometimes by deed arrangements. Every family is different as well, so to provide an answer we have to examine a wide variety of factors. For instance:

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Did your mother own 100% of the house? When your father died, did he have a Will? Was it probated? Did it leave his half to your mother? Did he die intestate? If so, are all of the children from the same two parents, or did any of have a different mother or father from the others (being half-siblings)? Did any of those siblings die before either parent died?

You say there was a deed with your sister's name on it. What does the deed say? How does it list your sister? What rights does it grant to her? Was it signed before or after your father died? Did your sister also sign the deed? Has it been recorded with the county clerk? Was your mother competent when she signed the deed? Was your mother under any pressure from your sister to sign the deed?

If your father died testate or all of the children are whole-siblings, then his one-half of the house passed to your mother making her 100% owner. If the deed creates a transfer on death or a right of survivorship, your sister gets to keep the house if she

outlived your mother, if your mother was competent and not under any undue influence when the deed was signed.

On the other hand, if your father died intestate and any of the children are half-siblings, then his one-half of the house passed to the children instead of passing to your mother. Your mother would only be a 50% owner of the house. Consequently, when your brother died, his three children would receive his 1/6th share unless he had a probated Will leaving his share to his wife. Your mother's one-half may pass to your sister via the deed, if the deed is valid. If so, your sister would own 4/6th of the house, you would own 1/6th and your brother's heirs would split the last 1/6th.

You mention that you are the next blood living relative after your sister's death. Do you expect to receive the house if your sister dies? What does the deed say about that? What did your mother's Will say about that? Does your sister have a Will, Trust, Deed or other document that would make you owner on her death?

Your mother is still alive. If your sister dies before your mother, the house likely remains part of your sister's estate and passes according to your sister's Will, Trust or other legal arrangement. It would not pass to you under the deed which your mother signed unless the deed contains specific terms naming you as owner in case your sister predeceases your mother.

Your mother should consult an experienced lawyer directly. There is still a chance to review all the facts and documentation. Concrete answers and preparation of appropriate legal documents can eliminate the "if's" and give your family certainty about ownership of the property.

*Paul Premack is a Certified Elder Law Attorney with offices in San Antonio and Seattle, handling Wills and Trusts, Probate, and Business Entity issues. View past legal columns or submit free questions on legal issues via [www.TexasEstateandProbate.com](http://www.TexasEstateandProbate.com) or [www.Premack.com](http://www.Premack.com).*

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