

URBAN AGING NEWS

Urban Aging L3C

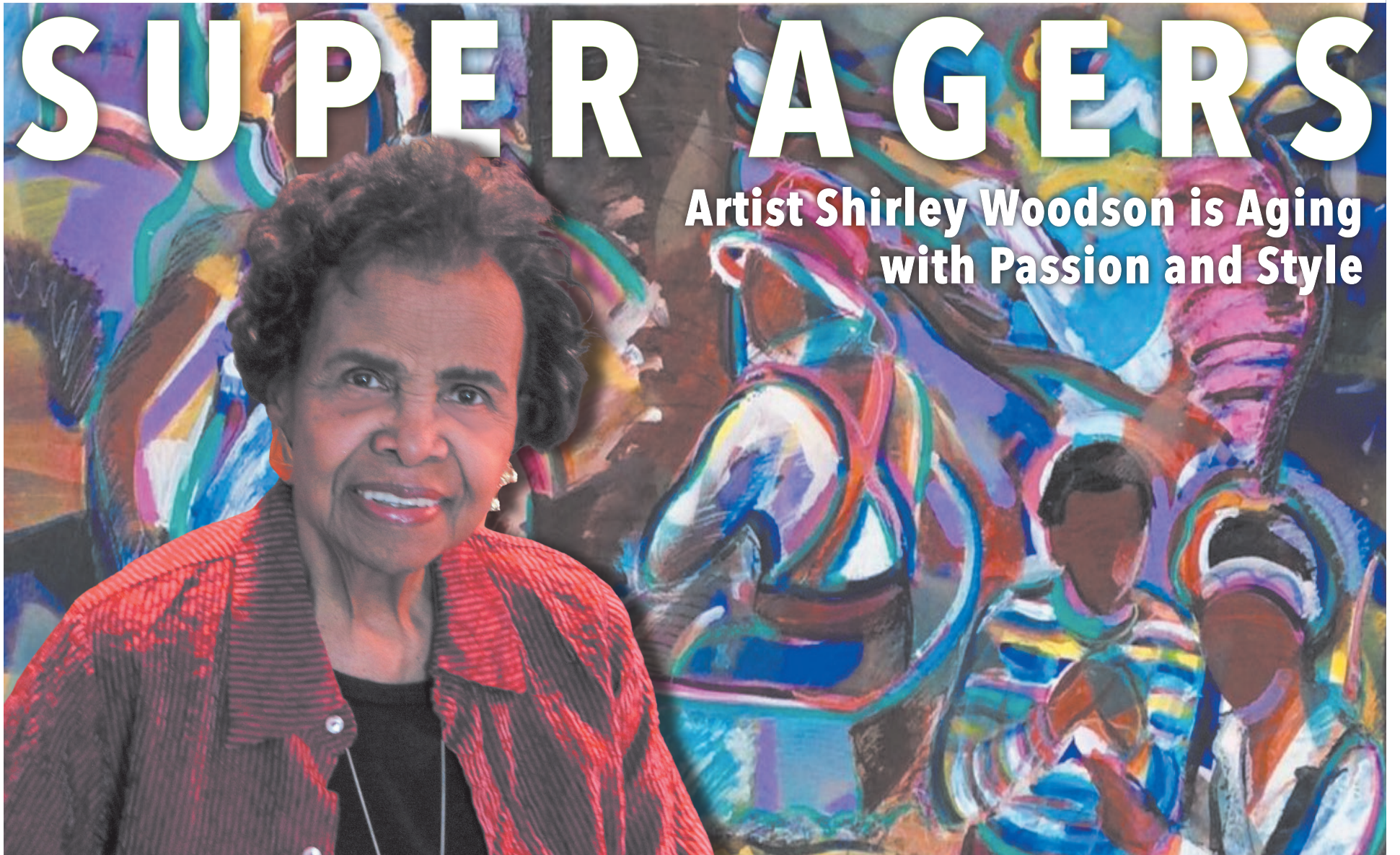
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Info, Insight, & Inspiration for Metro Detroit's Maturing Adults

SUPER AGERS

Artist Shirley Woodson is Aging
with Passion and Style



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Is a Ladybird Deed the best way to pass property on? See page 18

Share stories of your precious heirlooms. See page 11

Can you Tik Tok? See page 13

The Ladybird Deed



It's considered the simplest and least expensive way to transfer real estate when a person dies – with an equally lovely name – the “ladybird,” or “Lady Bird” deed.

But is that really the case? As with most concepts, what appears simple on the surface may be more complicated in application. Here is an overview of the ladybird deed, along with the benefits and challenges that come with that method of transferring property.

A ladybird deed transfers real estate property to a designated individual or individuals, called the beneficiaries, upon the death of the owner, who is the grantor. Until the grantor dies, they retain full control over the property, and still have the right to dispose of it. This means the grantor can choose to change the beneficiary, or to lease, sell or otherwise dispose of the property at any time. This lifetime power is known as an enhanced life estate.

As long as the grantor still owns the property at the time of death, then the beneficiary of the ladybird

deed automatically takes ownership of the property, without needing a trust or going through probate.

Avoiding probate is what makes ladybird deeds so attractive. It is much cheaper and easier to prepare and record a deed that transfers property upon death than it is to go through a probate proceeding or to create and administer a trust to transfer the property.

There are other benefits as well. Because the grantor retains full control over the property after signing the ladybird, there is no gift or otherwise taxable transfer. Also, if the property is the grantor's home, the grantor continues to qualify for the Principal Residence Exemption and there is no uncapping of the property tax rates. Once ownership transfers, the property taxes will remain capped, provided the beneficiary is a qualified relative and the property is used as a qualifying residence.

So, the ladybird deed can be ideal in some instances, but there are other considerations that are considered hidden risks. These potential problems include, but are not limited to:

Potential conflict if the Property is owned by multiple Beneficiaries after the Grantor's death.

There may be disagreement over the value of and/or whether to keep or sell the property. Such disagreements may require a court proceeding or lawsuit to resolve.

Loss of protection for a vulnerable Beneficiary.

If a beneficiary receiving the property has special needs, or is incapacitated, then the protections that would have been in place under a will or a trust will not be available to protect that beneficiary.

Confusion over what happens if a Beneficiary dies before the Grantor.

Because a ladybird deed is not a will, there is some legal uncertainty about whether the interests of a beneficiary who dies before the grantor are then passed on to the deceased beneficiary's heirs - or if this ownership right instead goes to the remaining living beneficiaries. There is no Michigan statute and very little case law governing ladybird deeds to resolve these issues.

Therefore, while there are pluses there are also serious considerations to take into account and consulting a professional is strongly advised.

Norman E. “Gene” Richards is a partner at the law firm of Cummings, McClorey, Davis & Acho, P.L.C. where he focuses his practice on estate planning and elder law. He assists clients with the development of customized estate plans to address their specific needs, including family-owned businesses, senior adults concerned about long-term care needs, and special needs trusts for children with special needs. He can be reached at 734.261.2400 or nrichards@cmda-law.com.

The New 60

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