

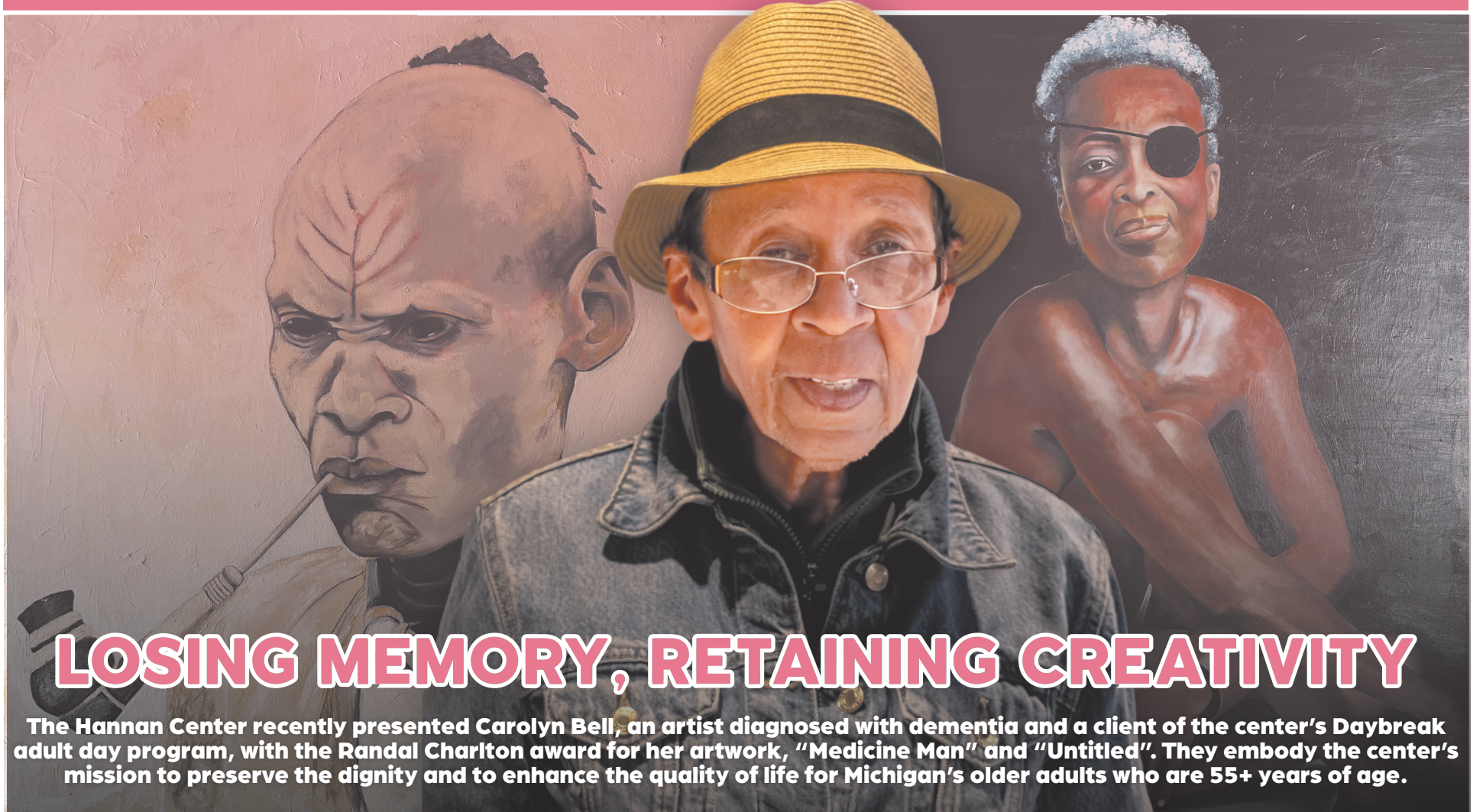
# URBAN AGING NEWS

Urban Aging L3C

FREE

Issue 38 | Fall 2024

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



## LOSING MEMORY, RETAINING CREATIVITY

The Hannan Center recently presented Carolyn Bell, an artist diagnosed with dementia and a client of the center's Daybreak adult day program, with the Randal Charlton award for her artwork, "Medicine Man" and "Untitled". They embody the center's mission to preserve the dignity and to enhance the quality of life for Michigan's older adults who are 55+ years of age.

## -ANNUAL CAREGIVER ISSUE-

Learn about the Caregiver Coalition. See page 4

Get tips for choosing a nursing home. See page 14

Preventing UTIs can also prevent ER visits. See page 21

# Leaving Real Property to a Loved One Without a Will or Trust

By Attorney Norman (Gene) Richards



As long as the grantor still owns the property at the time of the grantor's 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 after the owner's death.

There are other benefits as well. Because the grantor retains full control over the property after signing the ladybird, there is no gift tax or other 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. When ownership transfers at the grantor's death, the property taxes will remain capped, provided the beneficiary is a qualified relative of the grantor and the property is used as a qualifying residence.

While the ladybird deed may be ideal in some instances, it can result in unexpected problems. Some 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 trust or a will won't 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 pass to the deceased beneficiary's heirs - or if the beneficiary's interest goes

instead to the other named, living beneficiaries. There is currently no Michigan statute, and very little case law, governing ladybird deeds to help resolve these issues.

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It's considered the simplest and least expensive way to transfer real estate, or property, 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 its 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 property to a designated individual or individuals, called "beneficiaries," upon the death of the owner, who is the grantor. Until the grantor dies, they retain full control over, and all rights to, the property. This means the grantor has the power to change the beneficiary(ies), or to lease, sell or otherwise dispose of the property at any time. This lifetime power is known as an enhanced life estate.

A Collection of Stories from Black Families

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On the Front Porch

Caring for a Loved One Living with Dementia

DR. PAULA S. DUREN

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