PRESENTED AT

21st Annual Changes and Trends Affecting Special Needs Trusts

February 6-7, 2025
Austin, Texas

Buying A House Step-By-Step: A Roadmap for SNT Trustees

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A trustee exercising its discretion to purchase a home to be held within the trust has an underlying obligation to ensure that the purchase is in line with the best interests of the beneficiary(ies). This task can be especially daunting when working with special needs trust beneficiaries who for various reasons may have additional or special circumstances that the trustee must consider. For example, a special needs beneficiary may have mobility limitations requiring specific or specialized home features, or may be unable to live independently, or may have higher liquidity needs to cover necessary medical costs, thereby leaving fewer funds available to cover necessary home expenses.

The outline below is intended to serve as a reference for trustees of special needs trusts to highlight important processes, considerations, and best practices throughout the home-buying process. Importantly, this outline only deals with residential homes purchased outright by the trustee to be held by the trust for the benefit of a special needs trust beneficiary.[1]

STEP 1: DECIDING TO BUY A HOME

- **Financial considerations** - *Can the trust reasonably afford to buy a home?*
  - Discuss beneficiary's current and anticipated liquidity needs from trust
    - In addition to living expenses, consider upcoming expenses such as vehicle purchase, supplemental caregiving and care management needs, tuition costs, etc.
  - Review current home prices in the area
  - Can the trust afford necessary updates and modifications?
    - Beneficiary may want to 'save money' by purchasing a home in fair/poor condition, but bringing up to standard will be costly

[1] The following topics are not covered in this outline (this is a non-exhaustive list): pros and cons of putting the home in name of the trust vs. the beneficiary vs. another; effects of housing options on various public benefits (rent vs. own vs. borrow), loans from the trust to purchase a home, purchasing homes as investment properties, purchase or acquisition of non-residential properties, pros and cons of purchasing homes with swimming pools.

        - Modifications are expensive! Review pricing for common modifications as needed: replacing carpet, roll-in shower conversion, widening doors, etc.[2]
    - Can the trust afford ancillary expenses (holding costs) like insurance, property taxes, HOA, maintenance, and portion or all of utilities?
        - Insurance is based on replacement cost and has a standard 2%-3% annual increase
        - Property tax expenses vary significantly by county
        - Consider beneficiary/family's ability to pay utilities and discuss any expense-sharing expectations
        - Maintenance & repairs budget guideline: 3%-5% of the home valuation annually
        - Consider any need for furnishings, appliances, window treatments and beneficiary/family's ability to pay
    - Ensure sufficient liquidity to purchase home (cash purchase) and tax consequences to generate cash, if any
- **Practical considerations** - *Does owning a home make sense for this beneficiary/family?*
    - Discuss who will live with/care for the beneficiary now and in the future[3]
    - Does beneficiary intend to remain in the home for the foreseeable future?
        - Discuss proximity to services (medical, school, work, family)
        - Communicate trust's intention that the home should be a long-term investment
            - Consider renting first if beneficiary/family is unsure of location, feasibility of living or caregiving arrangements, etc.[4]
        - For minor beneficiaries, review options after beneficiary turns 18, as needed[5]
    - Separate vs Community Property discussion
        - Trust-owned home does not carry any presumption of community property; thus, there are no homestead rights for the non-beneficiary spouse and no rights to occupy after beneficiary dies

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[2] Recent pricing examples from known 2024 projects: $15,000 for roll-in shower in Seguin; $25,000 for Houston-area home ramps, thresholds, roll-in shower, bedroom/bathroom door/widening, replace bedroom flooring.

[3] For example, if a beneficiary needs 24/7 care and family or in-home caregivers are struggling to provide adequate care, it is possible that beneficiary's interests may be better served at a medical facility with more resources.

[4] As an example, it may be better for a young adult beneficiary who has never lived on their own, or never had to be responsible for maintaining a home, to rent for a period of time – prior to the trust purchasing a home.

[5] Once the beneficiary turns 18 (assuming no guardianship or other capacity issues), the adult beneficiary becomes the primary contact for the trustee and may decide they want or need to move, sell the home, or request that their family vacate the home.

Title search: Buying A House Step-By-Step: A Roadmap for SNT Trustees

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2025 Special Needs Trusts eConference

First appeared as part of the conference materials for the
21st Annual Changes and Trends Affecting Special Needs Trusts session
"Buying A House Step-By-Step: A Roadmap for SNT Trustees"