

# Lack of legal status financial nightmare for homosexuals

By Maresa Archer  
Staff Writer

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John Smith's world is teetering on the brink of ruin.

His mate is dead, the victim of a murder. His mate's family is threatening to evict him from the home the couple shared during their 6½-year relationship. Already family members have removed precious mementos from the house and confiscated a car.

Even worse to Smith (not his real name; he requested anonymity because he is afraid of losing his job, if it is discovered that he is gay), society will not recognize his legal claim to the estate of his mate because he and his partner were a homosexual couple.

"It's like I don't exist, like our life together was a joke," Smith said, blinking back tears. "I lost my mate and society doesn't give a damn."

Christopher Arth, Smith's lover, died from stab wounds inflicted by two youths during an attempted robbery on Jan. 21 in Ganesha Park in Pomona, according to Pomona police Detective Greg Collins, the officer assigned to the case.

Smith said he has many questions about the murder and the suspects, but he has not been able to get any answers because he is not a blood relative or legal family member.

"The law says I don't have any right to know. But there are so many unanswered questions," Smith said.

Not having any legal status is a growing problem among homosexual couples. Little progress has been made to gain legal married status for same-sex couples. Most of the gay and lesbian community's lobbying efforts have been devoted to AIDS issues.

Currently, the only form of protection for homosexual couples is through estate planning.

"Unless there is a will or a trust, there is no way to transfer something to an unrelated party," said Jan Stone, a lawyer with Stone and Wood, a Santa Monica firm that specializes in estate planning and conservatorships.

Stone advises that to protect themselves, gay and lesbian couples should have wills and powers of attorney for both assets and health care. The latter is to insure that, if one partner is incapacitated by a debilitating illness or injury, the healthy partner will be able to make decisions for them.

"People end up losing their homes and personal property," Smith said.

"Some say, 'Well, they're on the deed, so they get the house and I don't need a will.' Well, they may have the house, but they probably won't have the toaster."

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—John Smith

The importance of such documents was illustrated last year in a case in Long Beach. The blood relative of a gay man successfully removed the healthy partner from any interaction with his stricken mate.

In that case, the two men had lived together and had been acting as a family unit for nearly a decade, according to Thomas F. Coleman, an attorney for Family Diversity, a Los Angeles-based non-profit organization that specializes in family issues.

One of the men suffered brain damage in an accident, Coleman said. His mate visited the hospital every day during the 10 months following his injury. The injured partner had only one blood relative: a brother who went to court and gained conservatorship over his injured brother.

His first actions were to move the man to a nursing home and begin eviction proceedings on the partner, Coleman said. The brother also refused to give the partner the location of the nursing home.

"He found out only after a bill from an ambulance company that transported the partner to the nursing home came to the house," Coleman said.

But the nursing home refused to let the partner visit, on the brother's orders, Coleman said.

Before Coleman was able to get the case heard in court, the injured partner died, he said.

"The day we were to go to court, I got a call from the brother's attorney's office informing me that the man had died five days before. No one had notified the mate. It's just brutal the way this was handled," Coleman said.

Smith is facing similar problems. The condominium in which he lives was in Arth's name and, so, reverted to Arth's estranged father as the next of kin. The father, who lives in Northern California, informed Smith he wants to be paid for the dwelling, said Smith.

Smith remains in the condo and makes the mortgage payments, he said.

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300 South Thomas  
Post Office Box 2708  
Pomona, California 91769



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