

**This information is a summary only and should NOT be considered legal advice.**

It is possible that a friend or family member may become mentally incapable of making their own decisions about their property and finances. Your friend or family member may have planned ahead for this situation by creating a **Continuing Power of Attorney for Property**. This document gives someone the power to act on their behalf when they are no longer capable – this person is called their **“attorney”**.

**“Property”** includes anything that the individual owns, including real estate, bank accounts, investments, debts, vehicles, pets and jewelry.

If you are named as an attorney for property, it means you will be asked to make decisions about their property when your friend or family member no longer can. For example, you may need to open and close bank accounts, make investments, apply for benefits, pay bills and rent, buy groceries and pay for childcare, settle debts, and buy or sell property. However you cannot create a will or a new Power of Attorney on their behalf.

Mental incapacity may need to be confirmed by a **capacity assessment** before you can act on their behalf. You may need to decide when you think your friend or family member is no longer capable of making decisions about property and arrange for an assessment (for more information on capacity assessments, see the attached tip sheet).

Most organizations (such as banks) will need to see an original copy of the Power of Attorney and the results of the capacity assessment before they will give you access to that person’s finances.

Your friend or family member has made you responsible for their financial decisions because they trust you, and they know you care about their well-being. When making decisions about their property, you must consider the wishes and values of the incapable person. You are required to act honestly, openly, and transparently, and make decisions in their best interest.

When it is appropriate, the incapable person should still be allowed to participate in the decision making process and they should not be kept “in the dark.” You are responsible for keeping accurate records of any financial decisions that you make.

**If you have any questions about your role as an attorney for property  
SEEK LEGAL ADVICE**

www.communitylegalcentre.ca

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*Your community legal clinic*



Community Advocacy & Legal Centre

# Information for Attorneys for Property

A TIP SHEET...

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## Information and Resources

### **Community Legal Education Ontario (CLEO)**

- For information and pamphlets on Powers of Attorney and other legal subjects
- <http://www.cleo.on.ca/en>

### **Ministry of the Attorney General: Office of the Public Guardian and Trustee**

- For more information on Powers of Attorney.
- <http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/incapacity/poa.php>

## Referrals, Information and Resources

### **Community Advocacy & Legal Centre (CALC)**

- Advice, information and referrals related to Powers of Attorney and other legal matters

### **Law Society Referral Service**

- Referral service to the private Bar. 30 minutes free consultation for all online referrals.
- <http://www.lawsocietyreferralservice.ca>
- 1-855-947-5255

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