

# Estate planning in the 21<sup>st</sup> century: New considerations in a changing society

## Executive summary

While the basics of estate planning have been the same for centuries, the traditional approach needs to be broadened to reflect changing realities. Boomers are embracing new technologies at unprecedented rates and now have access to a world of digital information and online tools. Individuals are also living longer than ever before, so it is possible that boomers may care for both their aging parents and growing children, and seek companionship in the form of pet ownership. These changes may increase the risk of overlooking important aspects during the estate planning process.

To keep up with these new realities, estate planning needs to evolve. Individuals and their advisors should consider broadening discussions to include three emerging estate planning issues:

1. The accumulation of digital assets: We should start looking beyond tangible, physical assets and make provisions for our intangible assets.
2. The growing need for elder care: As lifespans lengthen, we should ensure that the loved ones we care for will be comfortable if we're no longer able to look after them.
3. The changing status of pets in our lives: As pets are increasingly considered "members of the family," we should also be considering their needs in the event of our death or incapacity.

In this report, the Institute takes a closer look at these trends<sup>1</sup> and suggests ways in which individuals could adapt their estate plans to reflect these new realities.

The findings are reported on a North American basis. To view U.S. specific data, please refer to the At-a-Glance section on page 12, which highlights key findings from American respondents on each of the three trends examined which do not necessarily match the North American findings highlighted in this report.

The BMO Retirement Institute was established to conduct research and provide thought-provoking insight and financial strategies for those individuals planning for, or currently in, their retirement years.

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## The surge in boomers who have a presence online has created millions of intangible digital assets.

### Introduction

*When planning for tomorrow, you can't expect to meet the challenges of today with yesterday's tools.*

Individuals continue to adapt well to a new world that is being rapidly transformed by an ever-evolving digital realm, an aging population and longer life expectancies. Recognizing these changes and anticipating their consequences can help motivate individuals to take positive action and reinforce their estate plans. As innovative technologies continue to transform the way individuals live, work, communicate and create value, the traditional estate planning process needs some rethinking to keep pace with new realities facing boomers<sup>2</sup> today.

### Digital presence

#### Boomers are wired into the digital world

Recent studies show that boomers have embraced technology and have gone online in ever-increasing numbers. User-friendly features such as larger screens on smartphones and easily enlarged small text on multitouch tablets have notably enhanced boomers' ability to join the wired world.

Individuals 50 years of age and older already account for 25 percent of Facebook™ users.<sup>3</sup> In general, social networking site use among those ages 50 to 64 grew by 88 percent between April 2009 and May 2010 alone.<sup>4</sup> The increase in online banking usage among the 55-plus group was also impressive. In 2010, only 20 percent of this age group preferred online banking. In 2011, that figure shot up to 57 percent.<sup>5</sup>

One significant difference between wired boomers and their tech savvy younger counterparts is their bank balances: older boomers (ages 55 to 66) are the biggest group of online spenders and spend more money on technology than any other demographic.<sup>6</sup> From social media to on-line stock trading, the surge in boomers who have a personal, professional or financial presence online and the scale of their involvement has created millions of intangible digital assets.

The concept of an "heirloom" has also taken on new meaning in our digital world. The precious family photo album or the shoe box full of snapshots taken over the years is now more likely to be stored on the computer hard drive than printed in hard copy. The transition from paper to paperless is also notable, especially as important records, including income tax returns, account statements and receipts are now increasingly saved in soft copy.

Given the impressive growth of individuals embracing emerging technologies, it's no wonder that the use of personal online tools is universal among those aged 45 and over. In a survey commissioned by the BMO Retirement Institute, 99 percent of North Americans report using at least one personal online tool, and 85 percent at least one financial online tool.

**Breakdown of the 85% who use at least one financial tool**



Note: Top responses shown, multiple responses permitted.

**What digital assets do you use?**

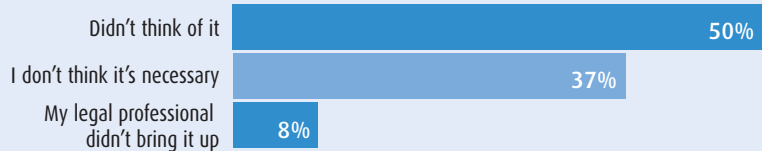
- Online bank account
- Electronic statements
- Online investment account
- Online bill payment – credit cards, phone bills
- Online store accounts – Amazon™, eBay™
- E-mail
- Loyalty programs – frequent flyer miles, grocery store points
- Virtual money - PayPal™
- Social media accounts – Facebook™ and Twitter™
- Entertainment accounts – iTunes™
- Photo storage/sharing – Flickr™, Picasa™
- Personal websites or blogs
- Softcopy receipts

**Your digital persona in the afterlife**

This accumulation of online property raises an important estate planning question: what happens upon death or incapacity in a digital age? As our digital assets multiply, the concept of digital estate planning has emerged, and online activity needs to be taken into account to avoid leaving a daunting digital mess for our loved ones.

By and large, boomers have given little thought to their “digital estates.” More than half of survey respondents aged 45 and over with digital property believe it is very or somewhat important to put contingencies in place for their personal and financial digital assets, yet the majority (57%) of these individuals have not made such provisions in their formal estate plans. When those who had not made arrangements were asked why not, the most common answer was, “I didn’t think of it”.

**Why haven't you included any of your digital properties in your estate plan?**



Note: Top three responses reported.

There are consequences of not making provisions for your digital assets. A spouse or heirs may not have access to the passwords for online bank and investment accounts. In the case of incapacity, they may not even know about the existence of stock options that

**Don't leave your next of kin frustrated and scrambling to access online finances.**

**Digital estate planning will surely increase as the adoption rate of emerging technologies continues to grow.**

are about to expire. Boomers are the fastest growing group of self-employed workers, and statistics show that retired men are especially likely to start small businesses in retirement – often in the form of a niche Internet business.<sup>7</sup> Whether business or personal, why risk leaving your loved ones unable to access accounts, pay suppliers or contact customers when adding provisions in your estate planning documents can mitigate this mess?

A family who loses a loved one is already bound to feel anguish – the last thing the departed individual would want is to leave their next of kin frustrated and scrambling to access online finances as overdraft charges accumulate, a business unravels and bills go unpaid.

There is more than the financial value of digital assets at stake. Digital assets often have an emotional value as well. Sentimental photo collections or extensive music files risk being lost if they are overlooked in the estate planning process. Unless appropriate provisions are made, many email providers will deny family members access to the deceased's emails due to a clause in the terms of service that states that "accounts are non-transferable."<sup>8</sup> There is also the issue of privacy and respect. For example, friends and colleagues will continue to receive LinkedIn™ professional connection recommendations after the individual is gone, unless someone freezes the account.<sup>9</sup>

#### Digital estates: A new frontier

The existence of digital assets and the idea of leaving a digital legacy is a new frontier. Due to the inherently intangible nature of digital assets, there is still little precedent established in the field of digital estate planning. Understandably, this is a growing concern for estate planners. Nonetheless, the importance of, and attention to, creating a digital estate plan will surely increase as the adoption rate of emerging technologies continues to grow.

It is important to think actively and openly about including digital assets as part of your estate plan. Although tracking down online accounts and passwords may seem daunting, it is important to take an inventory of your online presence. In fact, many individuals aged 45 and over already keep a list of accounts and passwords. This is a good start. However, among the 36 percent of those who have included their online properties in their estate plans, nearly two-thirds have failed to provide any specific instructions about what should happen to the accounts in the event of death or incapacity.

The minimum that can be done is to clearly express your wishes and intent in writing.

As life expectancies rise so do the chances of becoming a caregiver to an elderly relative.

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In light of this growing digital online presence, it is important for individuals to be proactive when planning their estates. They should consider consulting a legal advisor<sup>10</sup> about how to safeguard these non-physical assets and ensure orderly distribution to their loved ones with minimal burden.

Whether addressed formally, through special provisions in your estate planning documents<sup>11</sup>, or less formally, by leaving instructions with a trusted family member or friend, the importance of dealing with a digital legacy is becoming ever more important.

## Caring for our elders

### A changing family paradigm

In a dramatic and unprecedented demographic shift, the number of young people is dwindling while the older segment of the population is rapidly expanding. The underlying cause is that we are living longer and having fewer children, and as the boomer generation enters retirement, this trend is accelerating. Boomers are more likely today to have a living parent. Currently, 71 percent of boomers have at least one living parent while in 1989, just 60 percent of people ages 41 to 59 did.<sup>12</sup> As life expectancies rise, and our older relatives get older still, so do the chances of becoming a caregiver to an elderly relative.

According to our survey, nearly one in six are already providing some kind of care, the majority to an aging parent and some to relatives or friends. More than one-third expect they will be required to provide eldercare at some point in the future. The impact of these responsibilities on the lives of caregivers should cause many to reconsider estate planning in its traditional form.

### Securing continuity of care for older relatives

Who will continue to provide care for older parents or relatives in the event of the caregiver's incapacity or death? With the prevalence of second marriages and blended families, is it reasonable to assume that our spouse or another "significant other" will step in to look after our older relative if we are no longer able? Given this, the question that ultimately arises revolves around the notion of "beneficiary." Is it perhaps time to expand the definition of beneficiary beyond the traditional choices of spouse, children and

**Seven in ten caregivers are providing some kind of financial assistance to their parents or aging relatives.**

grandchildren? It may be appropriate to consider older generations as potential beneficiaries, particularly parents and older relatives in our estate plan.

### The sandwich generation

Boomers with children still living at home are likely to join the ranks of the so-called “sandwich generation” by also becoming a caregiver to an older parent or relative. This means that they may have significant financial obligations, including funding their children’s post-secondary education. It may be onerous to give consideration in an estate plan to an older parent at a time when financial obligations towards the children are possibly at their highest. If there is a spouse in the picture, gaining his or her support may further add to the challenge. For example, how would a spouse react to the news that part of “their” inheritance is now going to be shared with an older parent-in-law? Or, consider the scenario in which the surviving spouse inherits the entire estate, remarries and does not provide financial assistance to ensure continuity of care for the deceased’s older parent.

Relatives under your care may be at risk of losing the quality of long-term care you provide in the event of your unforeseen incapacity or death. Consequently, it is important for caregivers to consider including these older parents or relatives when planning their estate.

### Coping with the costs of eldercare

The potential scale of an individual’s financial responsibility to an aging relative is often underestimated. According to the survey, approximately seven in ten caregivers are providing some kind of financial assistance to their parents or aging relatives, and a third of them have discovered that it’s costing more than they expected – a lot more, according to 15 percent of respondents. Most report that they simply had no idea what to expect when they took on the obligation. Half of those providing financial assistance to an aging friend or relative say they have had to adjust their retirement plans as a result.

Caregivers who provide financial assistance to a relative living in his or her own home may face higher costs than those who share accommodations with the older relative. Interestingly, the majority of parents for whom boomers are providing care and support happen to live in their own homes. Therefore, it is important to consider the cost of hiring a personal care worker to replace the care previously provided by the family member in this situation.

**Only 33 percent of caregivers made some form of provision in their estate plan for older parents or relatives.**

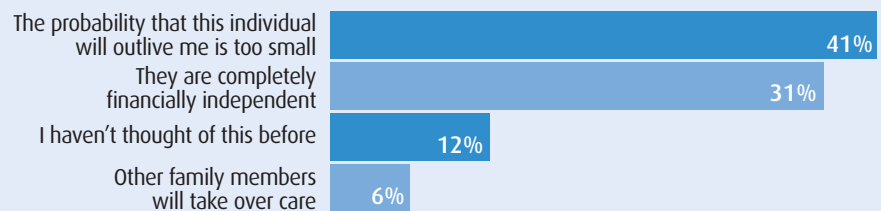
If the majority of caregivers are providing some kind of financial assistance, then why is it that over half did not make any provision in their estate for their older relatives? Only 33 percent of caregivers made some form of provision in their estate plan.

### Making provisions for older relatives in an estate plan

Older relatives are not normally included in estate planning discussions. In fact, of the 33 percent of caregivers who did include a provision in their estate plans for an elderly relative or friend, the majority said that they came up with the idea themselves rather than having their estate professional recommend it.

The main reason (41%) why caregivers have not made provisions in their estate plan for their aging parent, relative, or friend is because they think that the probability this individual will outlive them is too small. Some caregivers (12%) had not given any thought to it, while others expect immediate family members to take over care, despite not having made provisions in their own estate plans to that effect. Interestingly, 31 percent have not made any provisions because the individual is financially independent. Whatever the reason, it is still important to be proactive about securing the well-being of older relatives in the event of our unexpected demise.

#### Why haven't you made a provision in your estate plan for your aging parent/relative/friend?



Note: Top responses reported.

### Talk it over with older relatives – sooner rather than later

While it is important that an individual's plans include older generations, it is equally important to have a discussion with your parents or relatives today to ensure that they have taken the necessary steps to provide for themselves. Consider engaging older relatives in this discussion while they are still able to make decisions. Incapacity may strike when least expected, and it may be too late for older relatives to execute a legal document concerning their care. This can be a frank discussion about their financial preparedness



Consider leaving a lasting legacy to loved ones both young and old.

More than half of the North American population has a pet.

should their health fail and they require long-term care. The Power of Attorney document<sup>13</sup> can appoint someone to manage their finances in the event of incapacity and make decisions about their personal health or medical care needs if they are no longer able to do so.

Whether you are currently caring for an aging parent or relative, or if there's a significant chance of you becoming a caregiver in the near future, estate planning today requires a broader view of the list of potential beneficiaries to ensure that a lasting legacy is left to all our loved ones, both young and old.

## The importance of pets

### "Hairy" heirs join the new family paradigm

Welcome to the lives of the rich and famous – pets, that is! Pets have been joining the “millionaire club” and receiving worldwide news coverage. For example, a dog from Connecticut gained celebrity status when his owner left her faithful “furry” companion a \$12-million trust fund.<sup>14</sup> In Italy, a pet cat became the country's newest millionaire and the third-richest pet in the world when he inherited a staggering \$13.5 million upon his owner's death.<sup>15</sup> And in Hollywood, Oprah Winfrey's dogs are set to receive \$30 million for their care.<sup>16</sup>

While these stories shocked many and generated much outrage and criticism, they serve to remind us that pet lovers will go to extreme lengths for their pets. Owners do not have to be rich and famous to love their pets. In fact, more than half the population has a pet, divided almost equally between cats and dogs.

The economic downturn did not appear to have made a dent in pet spending; studies show that the cost of caring for pets has been rising by about four percent per year since 2008.<sup>17</sup> Interestingly, spending on pets is increasing by about 4.5 percent per year.<sup>18</sup> Dog and cat food sales are each projected to grow at a cumulative annual growth rate of three percent until 2015.<sup>19</sup> It is also predicted that pet-related spending will continue to increase rapidly over the coming years, due in large part to the aging pet population, because owners will seek higher-quality food for their pets.

Having a pet is evidently not considered a “discretionary” expenditure limited to the rich and famous; indeed, our survey results indicate that the incidence of pet ownership remained similar across all income levels. Interestingly, households making less than \$40,000 per year are more likely than those making more to say that they acquired a pet because they love animals and for companionship.



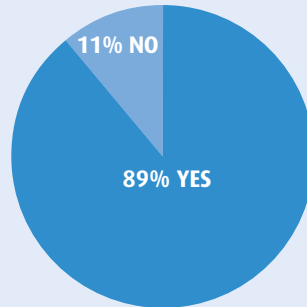
**Top reasons for having a pet**

- Love of animals (55%)
- Have always had pets (49%)
- Companionship (48%)
- For the family (30%)

**Only seven percent have made a formal arrangement for their pet in their estate planning documents.**

Individuals acquire pets for a variety of reasons and the majority consider their pet to be a member of the family. If more than half the population owns pets that are accorded “near-human” family status, then it stands to reason that pet owners might want to consider including their pets in their estate plan.

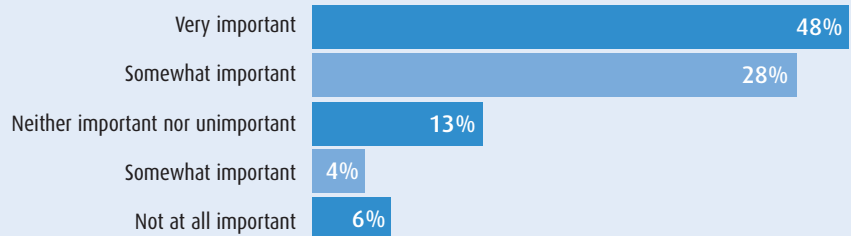
**Do you consider your pet(s) to be a member of the family?**



**Providing for Fido’s future**

Three-quarters of pet owners feel that it is important to make arrangements for the ongoing care of their pet. However, only one-third have made some kind of provision (informal or formal) for their pet, of which a small minority (only seven percent) have made a formal arrangement in their estate planning documents. According to Barry Seltzer, a Canadian estate law practitioner, and Gerry W. Beyer, an American professor of law, co-authors of *Fat Cats & Lucky Dogs —How to Leave Some of Your Estate to Your Pet*, this trend is expected to change as an increasing number of pet owners are seeking to make provisions for their pets in their wills.<sup>20</sup>

**The majority of pet owners feel it is important to make arrangements for the ongoing care of their pet in the event of their death or incapacity**



Note: Figures do not add up to 100% due to rounding.

**The unfortunate reality is that often no one steps in and the pet ends up at a local animal shelter.**

**Consider leaving a reasonable amount of money to assist the pet caregiver.**

As life expectancies increase, the incidence of pet ownership is likely to continue to gain importance. Numerous studies have shown that pets are good for our health and for our emotional well-being; the unconditional love of a pet combats both loneliness and depression in people of all ages, particularly in the elderly.<sup>21</sup> Pets also promote a stable routine in aging owners, and seniors with pets visit the doctor less frequently than those without.<sup>22</sup>

Pets play an important role in people's lives and so many (76 percent of respondents) say that they feel it is important to make arrangements for the ongoing care of their pet. However, as they do when thinking about the older relatives in their care, pet owners may simply assume that their pet will be cared for by someone else. For example, 46 percent assume that a "surviving family member" will take care of their pet. Is this a reasonable assumption?

The unfortunate reality is that often no one steps in and the pet ends up at a local animal shelter.<sup>23</sup> This oversight may be due to a general tendency to assume that we will outlive our pet. But just as medical science continues to extend the human lifespan, it is extending the lives of animals as well, with the improvement of nutrition and medical care. Cats frequently live to be 20, and some breeds of dogs live almost that long, while some exotic pets, such as parrots, may live as long, if not longer, than most humans. If an individual owns a puppy or kitten as a companion in retirement, there is a distinct possibility that the dog or cat will outlive its owner.

#### Leaving a "reasonable" monetary legacy

When thinking of how to provide for a pet in an estate plan, an option is to consider leaving a reasonable monetary legacy to a caregiver who could use the funds to care for the pet. Making this provision and providing financial assistance to offset the rising costs of pet ownership can help minimize the risk of the pet being abandoned and given up to an animal shelter. In this regard, consider the appropriate amount of money to assist the chosen pet caregiver with financial costs associated with pet ownership. Of respondents who indicated they had made some kind of arrangement for their pet, however, only two in five had chosen to provide a monetary legacy, while 54 percent did not.

## It's time to review your estate plan

The three trends highlighted in this report are largely absent from most discussions of estate planning, but should not be. Individuals should incorporate their digital assets, aging parents and other relatives, and their pets into their estate planning considerations. Nearly everyone needs to consider the implications of their participation in the digital world, particularly boomers who have been keeping pace with younger generations in their adoption rate of online accounts and services. Including our parents or other close family members in the discussions about estate planning may seem foreign to many of us, but our interests and theirs are often closely intertwined. Pet owners have an obligation to think about their pets' welfare in broader terms, too. This means it is important to consult a legal advisor to review your estate plan in these areas to ensure your plan is current and up-to-date.

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## Emerging Trends in Estate Planning

### Key Findings at a Glance – United States

The following represents key findings from American respondents on each of the three trends examined and do not necessarily match the North American findings highlighted in this report.

#### 1. Digital presence

- 84% use at least one financial online tool
- More than half (57%) of those with digital property believe it is important to set contingencies for them in case of incapacity or death
- Top reasons why digital properties were not included in their estate plan are because 43% didn't think of it and 43% didn't think it was necessary

#### 2. Caregiving

- 15% are providing some kind of care most often to an aging parent (62%), other relative (34%) or friend (9%) and as many as 2% of caregivers provide care to step-parents
- Amongst those caring for an aging parent, 8% provide only financial support while 58% provide both personal and financial support and 32% provide only personal support
- 33% of those caring from an aging parent, relative or friend made a provision in their estate plan and of those, 55% thought of it themselves while 24% said that a legal professional made the recommendation

#### 3. Pet ownership

- 61% own a pet
- 77% feel it is important to make arrangements for the ongoing care of their pet (83% women vs. 69% men)
- 32% made some kind of estate plan provision (informal or formal) for their pet (36% women vs. 26% men)
- 44% of those who made a provision for their pet also included a monetary legacy to assist their chosen pet caregiver or animal shelter with the costs of looking after their pet

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- <sup>1</sup> BMO Retirement Institute North American survey, conducted online by Harris Decima from February 24<sup>th</sup> to 28<sup>th</sup>, 2012, of 2,009 North Americans (1,006 Canadians and 1,003 Americans) aged 45-plus. The data have been weighted to be representative of the Canadian and American populations by age, gender and region. Where noted, significance is reported at the 95% confidence level. Unless otherwise noted, the statistical information, graphs, and illustrations in this report are based on this BMO Retirement Institute survey.
- <sup>2</sup> "Baby boomers" or "boomers" refers to individuals born during the post-World War II years (1946-1964 in the United States, <http://www.census.gov/population/www/pop-profile/natproj.html> and 1946-1965 in Canada [www.statcan.gc.ca/pub/11-008-x/2007006/article/10379-eng.pdf](http://www.statcan.gc.ca/pub/11-008-x/2007006/article/10379-eng.pdf)).
- <sup>3,4</sup> PEW Internet and American Life Project, Older Adults and Social Media, 2011.
- <sup>5</sup> American Bankers Association, "Popularity of online banking explodes", <http://www.aba.com/Press+Room/090811ConsumerPreferencesSurvey.htm>, 8 September 2011.
- <sup>6</sup> Forrester Research, "The State of Consumers and Technology: Benchmark 2011 U.S.," November 2011.
- <sup>7</sup> U.S. data: Kelly Holder and Sandra Clark, U.S. Census Bureau, "Working beyond retirement-age," 2 August 2008. Scott Shane, "More Seniors Are Choosing Self-Employment," Bloomberg Businessweek, 12 January 2010. Canadian data: Mark Walsh, Statistics Canada, "Working Past Age 65," Summer Perspectives, 1999.
- <sup>8</sup> Howard Collens and Patricia Kefalas Dudek, "What is your digital legacy?" Presentation at the Changes and Choices Conference, 21 September 2011.
- <sup>9</sup> Kathryn Leger, "Digital legacy of dead new area of practice," The Montreal Gazette, 24 December 2011.
- <sup>10</sup> Note: the term "legal advisor" used throughout this report refers to an "attorney" in the United States and a "lawyer" in Canada, exception in Québec, where it refers to a "notary".
- <sup>11</sup> Estate planning documents throughout this report refers to the Will and Power of Attorney documents (Mandate in Québec).
- <sup>12</sup> Paul Taylor, Carl Funk, and Courtney Kennedy, PEW Research Centre, "Baby Boomers Approach Age 60: From the Age of Aquarius to the Age of Responsibility" 8 December 2005.
- <sup>13</sup> Note: The term "Power of Attorney" used throughout this report is referred to as "Mandate" in Québec, Canada.
- <sup>14</sup> Cara Buckley, "Cosseted Life and Secret End of a Millionaire Maltese", The New York Times, 9 June 2011.
- <sup>15</sup> Nick Pisa, "That'll be one hell of a night on the tiles: Cat inherits £10m empire after owner dies aged 94... and becomes third richest pet in the world" The Daily Mail, 12 December 2011.
- <sup>16</sup> "Oprah's Dogs will Inherit Millions", Woman's Day, 10 September 2011, <http://womansday.ninemsn.com.au/celebrity/celebrityheadlines/995377/oprahs-dogs-will-inherit-millions>.
- <sup>17,18</sup> "Cost of Pet Ownership on The Rise" March 16, 2012, <http://money.canoe.ca/money/business/canada/archives/2011/07/20110718-145313.html>.
- <sup>19</sup> Agriculture and Agri-Food Canada, "Consumer Trends Pet Food in Canada," July 2011 <http://www.ats-sea.agr.gc.ca/can/5827-eng.pdf>.
- <sup>20,23</sup> Barry Seltzer and Gerry W. Beyer, "Fat Cats and Lucky Dogs- how to leave (some of) your estate to your pet," Prism Publishing Inc. Toronto, 2010.
- <sup>21</sup> Ursula Cunningham "Health Benefits of Pet Ownership," <http://www.preciouspets.org/newsletters/articles/healthbenefits.htm> quoted in Allison Pedowitz, "People and their pets" 22 February 2010.
- <sup>22</sup> Katie Gougeon, "How Owning a Pet is Good for Your Health," [http://www.canadianliving.com/life/pets/how\\_owning\\_a\\_pet\\_is\\_good\\_for\\_your\\_health.php](http://www.canadianliving.com/life/pets/how_owning_a_pet_is_good_for_your_health.php).