

# Getting Divorced? Important Considerations on Your Property & Mortgage

## Avoid several expensive and painful pitfalls

No question, divorce can be a difficult process to an impossible situation. It is common for emotions to run hot, and this can cloud judgment. Along with the emotional issues you must also make some important business decisions, which, of course, always seem to work better from a calm, dispassionate approach.

Often times, married couples will own a home together, which, like other property, is subject to division upon divorce. How the property is divided is not within the focus of this report, and could be affected by any number of factors. What we want to examine is how you make the division, and the implications of several options.

Will you want to stay in the property or move? Will the property be reassuring and familiar, or a painful reminder? Can you afford to keep the property? Will your spouse turn lose of the property? These are all considerations you will face, but eventually they all lead to four options.

## Options

- Sell the home and divide the net proceeds
- Keep the home jointly and deal with it later
- Buy out your spouse's equity
- Have your spouse pay you for your equity

Let's take a look at the implications to you for each of these options:

### Sell the home and divide the net proceeds

In this option, both you and your spouse prosper best by working together to maximize the net proceeds of the sale. That means that you should both meet, choose, and contract with the agent that you both agree will help you meet that end. Once selected, you must keep the property in its' best "show case" condition. Pricing the property well will lead to a faster sale and new beginning. How the proceeds are split will likely be a matter of your divorce settlement.

### Keep the home and deal with it later

This can lead to a number of issues, providing one spouse continues to live there. An appraisal of the property at the time of divorce could be an important benchmark if the occupying spouse realizes appreciation or depreciation on a later sale. Unless the property is refinanced, both spouses may be liable for mortgage payments, even the one that doesn't live there. If they remain on the mortgage, one spouse may still be affected by negative personal credit reports caused by failures of the other "mortgage responsible" spouse.

### Buy out your spouse's equity

If you want to stay on in the property you may need to buy out your spouse's equity position. To do this, an appraisal will give you an idea of the property's value minus, the existing encumbrances (loans) would represent the equity. If you are buying your spouse's equity, you may want to consider sales costs too. If you were to sell the home now to cash out your spouse, you would incur brokerage, title fees and other expenses that would further reduce your shared "equity." Even if you are not selling the home now, you will need to in the future, and those fees will still be waiting for you. When you buy out your spouse's interest, be certain to have them quit claim their ownership interest in the property back to you.

## Have your spouse pay you for your equity

In many ways this is the reverse consideration of the one above. However, if your spouse is able to cash you out, and relieve you of ownership status, **unless you verify your removal from the mortgage, you will still be liable for the mortgage to a property in which you have no control or ownership interest.** Even if your spouse is perfectly diligent in making the payments in this situation, **you will be compromised in your borrowing ability.** Even though your ex-spouse is making payments and enjoying the possession and ownership of the property, your lender will regard the mortgage as your responsibility, and consider this "potential" debt against your qualifying ratios. To avoid this pitfall, many people facing this situation will refinance the existing loan (even if it is higher interest) in the remaining spouse's name.

In a difficult situation a great agent can bring people together to accomplish a project in each individual's best interest. Their helpful neutral assistance and separation will cut down on the friction, and make your life a whole lot easier.

When buying your new home, you will have new considerations that your agent can help you with, too. Do you need to stay close, to facilitate moving the children back and forth, or keeping within the same school district? What can you afford under your new budget, and what will that buy in this market?