

Steps to Keep Your Home in a Divorce

Homeownership is a large part of most marriages, but around 50 percent of marriages end in divorce. If you're like most couples, your home is most likely your largest and it is probably jointly owned with your spouse. Also, homes hold a great deal of sentimental value and provide stability.

For many, it is unthinkable that they might have to uproot themselves and their children and start all over in a new location due to a divorce. Fortunately, there are steps you can take to keep your home in a divorce.

Should You Keep Your Home?

During a divorce, emotions run high, and you have several considerations to make, including children, assets and just keeping your life in order. While one of the most significant and most stressful issues in any divorce is the marital home, sometimes it just doesn't make financial sense to keep it.

No matter how much stress you may think you have, it is vital to contemplate how much pressure you will go through if you keep your home but can't afford or maintain it. To ensure you are making the best decision for yourself, it helps to think in terms of an overall financial plan during and after the divorce.

The following are some of the most important steps to follow when deciding if it makes sense to keep your home:

- 1. Calculate the actual cost.** Although your mortgage payment will most likely not remain the same as it is now, it may be similar. A good starting point is to use your current mortgage payment in the calculations and go from there. You will then have to add several other expenses to the mortgage payment, including insurance, maintenance, and property taxes.
- 2. After coming up with a monthly total, compare this with your current monthly income or expected income.** If this meets your budget for living expenses, you will be okay to proceed with trying to keep your home. However, you must understand that there very well could be

many other one-time expenses that can drain your savings, especially if your spouse also wants to keep the home. First, you may have attorney fees to pay if you must battle a dispute involving the marital residence. Second, you may also have to pay your spouse up to half the value of the equity in your home, depending on other assets you are willing to give up.

3. If your monthly expenses are too high, you may have to consider selling your home and using the funds to buy a more affordable one. It may not be realistic to keep the marital residence, which means it will have to be sold. Keep in mind that you may have to pay taxes on the sale and any equity built up in your current home. Get your house appraised to see if this option makes financial sense in your situation.

4. How will your lifestyle change after the divorce? Will you be able to upkeep your home? Will you have the time and energy? In some divorces, renting a new home, purchasing a smaller home or even finding a townhome/condo/apartment is the best option.

Get Your Spouse Out of Your Home

Getting your spouse out of your marital home may be necessary during your divorce but it might also prove as an advantage if you want to keep the marital residence.. While there are several options to have your spouse removed from the home, the easiest way is to agree on a peaceful transition. If this is not possible, try to convince him to move out. Show your spouse the financial data, discussing the benefit of keeping the children at home or by considering another method.

If you cannot agree on who will keep the home and your spouse is abusive, you could try securing an order of protection. Getting it is simple if your spouse has recently committed any acts of domestic violence inside or outside the home. Such actions include battery, assault, stalking and harassment.

An order of protection can be obtained from the court on your own, with the help of the police or social services or by enlisting the aid of an attorney. To receive an order of protection, you will need details and specific timeframes about any abuse, domestic violence or illegal activity, and should your spouse contest the order of protection; you will most certainly need a reliable lawyer in Las Vegas.

If you cannot convince your spouse to leave or obtain an order of protection, you may still be

able to receive a temporary court order to remove him or her. To receive an interim order, you or your spouse must have already filed a complaint for divorce. With a pending divorce case, you will need to file a motion asking the judge that your spouse leave the home. You will need specific instances and reasons for filing the motion, and the final decision will be up to the judge.

Two Options for the Mortgage

Once you have definitively chosen to keep your home, and your spouse no longer resides there, you will have to decide how to handle the mortgage. In nearly all cases, both you and your spouse remain the owners on the deed and the mortgage. You will need the house to be in your name alone. Otherwise, you will both be responsible for the monthly payments.

The first option to get the deed and mortgage in your name is to buy out your spouse directly. Pay him or her their share of the equity they helped build up in the home. Do this with cash or with the distribution of assets during the divorce. Afterward, you will need to refinance the mortgage in your name.

The second option is to maintain co-ownership while transferring the mortgage into your name at a later date. This can be extremely helpful in several situations, such as when you cannot qualify for a home loan on your own right away, the housing market is not amenable or you want to retain the home for only a limited amount of time. In this scenario, you and your spouse will agree to a date that you must take put the mortgage into your own name. If you cannot get the mortgage into your own name by a certain date, you will agree to sell the residence.

Refinancing Your Home

To get the home in your name, you will most likely have to refinance the mortgage. However, if your interest rates and payments are too reasonable, some lenders will allow you to assume the current mortgage in your name. The only problem that you could run into is that you must qualify on your own.

Qualifying for refinancing depends on a few different factors. You must be able to repay the mortgage by having a steady income of an adequate amount. Next, you must have a good enough credit rating that shows you have historically been able to make payments on your debt. Finally, you must put up some form of collateral in the form of a down payment.

When you refinance the home, you will experience several benefits, including the following:

- You will be able to use the equity from the old mortgage to establish a nest egg of savings.
- You can lock in a fixed interest rate with fixed payments.
- You can lower your monthly payments.

As you already know, divorce can be a messy process, and distributing such substantial assets as a home can be troublesome. There are solid steps you can take, but the help of a reliable attorney will be indispensable.