

Divorce, Your Home and Your Next Move

By Ida Reis, CMPS®

You and your spouse have decided to separate and one of the most burdensome concerns you have centers around your home. Should it be sold? Should one of you continue to live in the home so the children can continue to attend the same schools? Who's going to move out? Where will you live and how much can you afford? Should you rent? If you are contemplating staying in the family home, what should you consider?

Let's start with an evaluation of the fair market value of your home. It would be advisable to hire a licensed appraiser to determine the "as is" value of your home based upon comparable sales currently available. Once you have this number, you can then proceed to evaluate your options.

If you are considering staying in your home, consider the size of the home, the size of the new mortgage payment after buying out your spouse's equity, utility costs, cost of maintenance and family needs. With a restructure of your debt and your good credit, you probably can afford more than you think. Keep in mind that child support and alimony can be used for qualifying income. The terms will need to be documented and usually you will have to prove 3 months receipt and the likelihood it will continue for a minimum of 3 years.

To finance the buyout, you can refinance your mortgage or add a home equity line of credit or a second mortgage to obtain the cash. A refinance of the existing mortgage will automatically remove your spouse from mortgage liability. If you choose to fund the buyout with other assets, you can request the lender do a "Qualifying Name Delete Assumption" where the lender will release your spouse from liability on the current mortgage. If the lender will not do a name deletion, then you will still need to refinance to remove your spouse's name from mortgage liability. In either case, to complete the buyout, your spouse will have to release his or her interest in the real estate by signing a "Quitclaim Deed".

If you are going to be leaving the family home, you are probably wondering about your options. First, you may want to know if you should buy another home before the terms of your divorce are finalized. Keep in mind that your spouse could have a marital interest in your new home so consult your attorney on this issue. If you have ironed out the key issues relating to financial obligations, you may have the ability to use the "Six Point Letter". This letter has six questions that cover financial obligations including child support and/or alimony and must be signed and notarized by you and your spouse. It could be used in lieu of a separation agreement to complete the mortgage transaction.

What if there is very little or no equity in the family home or your mortgage is greater than the value of your home? This scenario will require a very different evaluation. A "short sale" may be an option. Perhaps it makes sense to rent for the short-term with a plan to buy another home at a later time. Or, maybe there are enough other assets to create other solutions.

There are many questions to ask and many options to consider. You will want to seek the assistance of a trusted mortgage planning professional who can help you evaluate your overall liability structure, preserve your credit and choose the mortgage option that makes the most financial sense. Consider a short-term plan and a long-term plan with an annual evaluation to be sure you are on track to meet your goals

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