Tips to Help You Survive Selling a Home During a Divorce

Disclaimer: This is meant to be used for educational purposes only, not legal advice. If you need assistance navigating the legalities of keeping or selling your home in a divorce, always encourages you to reach out to your own advisor.

Deciding what to do with the marital home is a challenging part of every divorce where real estate is involved. Not only is the situation already emotionally charged by the circumstances, but the home itself carries sentimentality and enormous value. While it can feel like you're alone in an impossible situation, help is available.

Pick a divorce specialist agent that both spouses can trust.

Nothing will leave you feeling more isolated, alone, and backed into a corner than trying to get the house sold during your divorce with an agent who doesn't feel like an ally.

And if you hire someone you trust — but your ex-to-be doesn't — the entire process becomes an endless battle with no winners.

A home sale during a divorce is different than a traditional sale because of the type of communication that you need to have with your clients..You're typically communicating with each spouse separately, but sometimes you have to pull them together to make decisions during this very emotional, painful situation. So, both homeowners have to trust you.

Pick an agent who's objectively qualified in divorce sales.

In the past, you and your spouse may have selected to hire a family friend or mutual acquaintance to serve your real estate needs. But you may find that staying away from personal recommendations is ultimately beneficial when you're getting divorced. You need a neutral third party who's got experience in divorce sales to navigate the logistics and communications throughout the process of selling your house.

Fighting about the home sale will cost you both time and money.

When it comes to dividing assets, often the marital home is one of the most valuable assets. But where bank accounts and 401k's can literally be split in half, that's a lot more tricky to do with a home.

Contention and disagreements about the best way to move forward are all but inevitable. Some of the more frequent arguments include:

- Whether to sell the home and split the proceeds, or have one person keep the home and buy out the other.

- If one person is buying out the other, whether there are enough other assets to cover the equity owed to the person moving out or if there needs to be a cash-out refinance
- If the home was purchased prior to the marriage, how the equity balance should be determined where it isn't equal
- If selling, trying to figure out which repairs and upgrades to make, and who's going to pay for them
- If selling, agreeing on which offer to accept or which buyer concessions to make

Whatever the issue, neither party wins in the long run when you and your spouse fight about the home sale.

Just remember that every argument and disagreement during the divorce is costing you money. A lot of times, only one spouse is giving me 100% effort and the other party is working against us.

If one spouse is fighting the home sale every step of the way, the divorce attorney may need to get a court order to move the home sale forward — which will cost you.

Every time your divorce attorney needs to negotiate one of these little skirmishes, they're going to charge you — which adds up fast at an average rate of $270 an hour.

But maybe your spouse is the one paying the divorce attorney, so you're only too happy to rack up the bills. Well, if your spouse can prove that you're purposely dragging out the home sale to delay the divorce, the court may order you to pay your ex's attorney fees.

Accept what the numbers are telling you when you get an offer

A spouse determined to finalize the divorce as swiftly as possible may do anything to get the home sold — including accepting any lowball offer that comes along.

However, just because an offer isn't quite as high as you expected doesn't mean it's a bad offer — and turning it down may not be the smart play.

Instead of worrying about why your ex wants to accept or turn down an offer, you need to do the math and let the numbers tell you what to do.

"When the couple is determined to disagree over an offer, we go through the numbers very carefully," explains Fore. "For example, if it's less than one party wants, we talk about what it's going to cost to hold onto the house if we don't take the offer that we have on the table. If they continue to fight each other, that's not going to give them a financial advantage in the long run."

In some cases, it may even make sense to pursue cash offers at a lower-than-market value in order to sell your home fast.

Price the home to sell

During the course of a normal home sale, your real estate agent performs a comparative market analysis, or CMA, which looks at comparable home sales in your area to provide an estimated value for your home.

Although the CMA is a widely used and highly respected tool for pricing homes, it still might leave too much room for disagreement during a contentious divorce.

In that case, a home appraisal comes into play prior to listing the home. However, you'll have to pay between $300-$500 to get a pre-listing appraisal. Whatever method you choose to price the home, avoid the biggest mistake of overpricing your home, which can deter buyers from even booking a showing and cause your house to linger on the market.

Provide your agent with the relevant details of your divorce decree

Once you've hired an agent, you should provide them with any stipulations regarding real estate that have been laid out in your divorce decree.

These often involve which spouse the court has appointed to act on behalf of the couple—typically, the spouse still living in the home—the listing price, and when to reduce the price to a certain point. Other decrees can discuss who is responsible for any home repairs and how to get approval for those costs.

When you receive an offer on the home, your agent needs to know who has the authority to accept it and if there are any minimum price requirements.

Get the house ready to sell

In most divorce cases, you'll want to sell your home as quickly as possible to avoid carrying the costs of the mortgage any longer. At the same time, you and your ex-spouse will both be financially motivated to achieve the highest price for the home (this isn't always the case if one spouse decides to buy out the other and is gunning to get a low appraisal).

So, the same standard rules of thumb for home preparations apply: Deep clean, declutter, and stage the home if necessary to make sure the property presents well to potential buyers.

Follow these pro tips to get through the home prep process in the midst of a divorce:

- If it’s too painful to get rid of certain items in the decluttering process, put sentimental possessions in storage until you have more emotional energy to sort through it all.
- Experts recommend that at least one person stay in the house until it sells. For one, you don’t want to let maintenance slip (Murphy’s law has it that pipes are more likely to burst when no one’s home) and empty homes typically don’t show as well.
- Trust your agent when it comes to their recommendations on home repairs and preparations. They will know how to get your house into shape before the home inspection and what buyers in the area expect. (Note that your agent will need to follow the stipulations of the divorce decree. There may be a cap on how much money can be spent on preparations before the sale or guidance on who they have to consult—like you, your ex-spouse, and the judge—on these matters to get approval to move forward.)

List the home, market it, and plan for your showings

- At this point in the process, your agent will list the home on the MLS, which will then syndicate it to all the top real estate websites. They’ll also execute on your home’s marketing plan which may include a mix of online and offline promotions.

- You’ll also need to decide whether you’ll be scheduling an open house or sticking with private showings. Some drawbacks of open houses are that they can be time consuming and attract nosy neighbors who may be wondering what’s going on with you and your home.

- If you are in a time crunch, or just want to keep it simple, you may want to skip the open house and opt for private showings instead.
- Regardless, be sure to talk with your agent about any times that are off-limits for appointments, and if those living in the house will be expected to accommodate last-minute showing requests.

Consider offers from buyers based on your priorities.

- When it comes to fielding offers, you might find that things become complicated. You’ll not only be negotiating with the buyer, but also with your former spouse.
- However, with some pre-planning and pre-discussions about the goals of the sale, you will be all set to make this step as smooth as possible. Talk with your Realtor about what your priorities are—such as selling as fast as possible or getting a certain dollar value to cushion a tentative divorce financial situation —before those offers start rolling in.
- In most cases they want to move on to where they have already decided that they are moving on to. The house may be the only thing tying two people together and they want to cut that tie and move along.

Complete the closing process with your agent's help

- Once you've found a buyer, you are in the home stretch, but beware there could be unexpected issues that come up during the closing—particularly when emotions are high.
- "It's very important for the Realtor to understand that there may be more work to a divorce sale than other types of sales.
- Other issues that might come up are a disagreement about who will cover repairs that are found during the home inspection. Like everything else, if you have a discussion about this early on, it will save you time in the long run.

You Need to Keep Paying the Mortgage Until the Home Sells

Filing for divorce does not end your responsibility to your mortgage lender. As long as the home and the loan are in the name of both spouses, both are financially responsible for the debt—even if one is no longer living in the home.

If that mortgage isn't paid during the time it takes for the home to sell, the delinquency will damage the credit history of both spouses.

It's true that there are ways to remove yourself or your spouse from the title to the house, such as with a quitclaim deed or a court order. But doing so may require surrendering your right to any proceeds from the home sale.

Plus, removing one spouse from the title does not remove that spouse's name from the mortgage. The only way to remove a party from the mortgage is by refinancing. However, this is rarely a good idea if you're already in the process of selling.

Your best bet is to ask your attorney or a divorce mediator to hammer out an agreement as to how the mortgage and other bills will get paid during the divorce proceedings.

After all, your home may be the biggest asset you shared as a couple, but it isn't the only one. From cars to couches to credit card debt, all physical property, financial assets, and debts from the marriage must be assessed and divided by the court.

In fact, figuring out who should pay the mortgage and other bills in the interim may even require going to court to determine which spouse has the legal responsibility to pay. If you live in a state with community property laws, all debt owed and property owned equally by both spouses is divided equally.

When Selling Your Home During a Divorce, Leave Emotion Out of It

Divorce is difficult. Selling a home during a divorce is twice as difficult.

All of the anger, bitterness, and resentment in a broken marriage can result in one or both spouses derailing the home sale. But with these tips you can send those emotions packing into the past and treat the process like a cold hard business transaction.

If you can manage that, you'll be free to coast into your future with the proceeds from a successful home sale in your pocket.