

Divorce Mediation and The Marital Home

By Lisa Wolman, MSW and Ken Neumann, PHD

New Jersey is an "equitable distribution" state, which means if you litigate your divorce, courts will divide your marital property equitably, but not necessarily equally. Mediators often see discontented clients who tell us they were "betrayed and misled" by divorce attorneys. "We were encouraged to fight to the bitter end, only to have a judge issue a court order to sell our home through a "court appointed" real estate company...and to make matters worse, the court ordered us to use the proceeds to pay legal fees!"

At the New Jersey Center for Mediation and Training, we help couples explore alternatives to protect their assets, including their marital home. When couples litigate, the family home often becomes an emotional and financial battleground – a costly war that rarely ends well. By contrast, the mediation process enables a couple to address their emotional attachment to the family home while also taking into account their overall financial stability and the emotional needs of their children.

Mediation provides a non-adversarial, cost-effective means for couples to explore various solutions to the marital home dilemma. For example, during mediation a couple may come to realize that neither spouse can afford to maintain the marital home after their divorce. In this case, the couple usually decides that the best solution is to list the house with a real estate agent both parties agree on and divide the proceeds of sale equally or in unequal shares to compensate one spouse for giving up another asset.

Another option is for one spouse to buy out the other spouse's equity in the marital home. Usually, the buyer-spouse will refinance the loan in his/her own name and at the closing, the seller-spouse receives the agreed-upon share of equity. The mediator will help the couple decide how expenses, such as title cost, a new survey, recording fees, and attorney's fees will be divided.

A third option is for the couple to continue to own the house together, with no sale or refinance. This option works well when children are in high-school and would benefit from remaining in the home and in their current school for a few more years. Generally, one spouse moves out, and the house is sold at a future agreed-upon date. The Mediator works with the couple to help them develop realistic options for when to sell the family home and how to divide expenses and sale proceeds.

About The Authors:

Lisa Wolman, MSW
Director
The New Jersey Center For Mediation and Training

Lisa Wolman is committed to helping couples and families resolve conflict through mediation. Lisa advocates for avoiding costly litigation that tears families apart, causes intense resentment and emotionally damages children. *"When couples learn to stop fighting, they become open to productive and fair communication"*. Lisa has worked with high-conflict families and troubled teens for over 20 years. She understands how Family Court works, has placed and counseled troubled teens in foster care and group homes, and worked for the Psychiatric Institute of Washington DC where her patients suffered from a wide range of psychiatric illnesses and drug addiction.

Ken Neumann
Director
The Center for Mediation and Training New York City

Ken Neumann is a Founding Board member of the Academy of Professional Family Mediators and Advanced Practitioner Member of the Association for Conflict Resolution, Family Section. He is a Founding Board Member and Past President of the New York State Council On Divorce Mediation. Ken also serves on the Board of the Association Of Divorce Financial Planners as well as being a member of the Financial Therapy Association. Ken has received training as both a Family Therapist and Clinical School Psychologist. He has been working with parents and children going through the divorce process for over 35 years, is a frequent presenter at conferences and has been actively involved in the training of family mediators since 1983.