

New York Divorce and Family Law Blog

Divorce and the Marital Residence: Should I Sell or Stay?

By Daniel Clement on October 18, 2011

“Be careful what you wish for, you may get it.” This adage is particularly true when one spouse seeks the marital home during a divorce. While the marital home may be the single most valuable asset of the marriage, it is also associated with debt, maintenance and other carrying costs; without sufficient income, the costs of home ownership could burn through a party’s savings.

In the current economic environment, the marital home may not be a desirable asset. Traditionally, the marital home was viewed as getting money in the bank; pay the mortgage and related expenses for a couple of years and you could cash out with a large profit. However as Forbes contributor [Marcelle Sussman Fischler](#) points out in her article [House Regret: Among Divorcing Couples, The House Is Now A ‘Hot Potato’](#), the marital home is now viewed as a an albatross” that is sinking in value.

If the depreciating value of the marital home was an insufficient deterrent to seeking it as part of the divorce, issues of liquidity and affordability may be. It would be imprudent as a single person to seek an asset that took two incomes to support, particularly when it may be unsellable in a glutted real estate market. “If you lived towards the top of your means when married, you can’t divide that lifestyle in half and both afford the same kind of house.”

There may be very valid reasons for seeking to remain in the marital residence after a divorce; for example, when one parent desires to provide a sense of continuity for children and to allow them to complete their high school education in their home

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community. In such cases parental responsibility may trump economic practicality. However, in the absence of this type of issue, and particularly when I represent the economically dependent spouse, I suggest the person divorce the marital residence, cash out and run.

When the non-monied party, in particular, is insistent on keeping the marital residence, I may suggest they meet with a financial planner who can plot out the carrying costs of the maintaining the home against current income and anticipated cash flow. The demonstration may show that party may be house poor, or even worse, broke and unable to afford the house within in a foreseeable time; at a minimum the party can make a informed decision.

Which gets me back to may point, be careful what you wish for. . .

The Law Offices of Daniel E. Clement
420 Lexington Avenue, Suite 2320
New York, New York 10170
(212) 683-9551
dclement@clementlaw.com