

**What to Do With Your Home in a Divorce?**  
**By Henry S. Gornbein**  
**Lippitt O'Keefe Gornbein, PLLC**

In my family law practice an issue that arises in many of my divorce cases is what to do with the marital home.

A few years ago when the economy crashed, most of my cases had homes that were underwater with negative equity. Things are changing and most homes have at least some equity.

If we were talking fifteen years ago, a typical divorce would end with the wife receiving the home for a number of years while the children were being raised so that their lives would not be disrupted. This was based upon an assumption that the mothers had primary custody and that homes were going up in value.

Let's look at the present. The norm with children now is some type of shared custodial agreement so each parent arguably has a right to stay in the home.

I have many clients who want to keep the marital home no matter what. Sometimes it is due to an emotional attachment. Sometimes it is due to a fear of change. Sometimes it is to keep the home from the other spouse.

Let's talk about what makes the most sense. A divorce is the end of a marriage. You are beginning a new chapter in your life. Do you want the home? Sometimes a home has a bad connotation. Does it make economic sense to keep your home?

Here are some questions that I ask my clients about the marital home:

1. Can you afford the mortgage payments and other expenses?
2. Does the home need a lot of updating?
3. Does the home need major repairs (is it a money pit)?
4. Is it too large for your needs?
5. Can you refinance the home to remove your soon to be former spouse from the mortgage?
6. How long do you want to live in the home?
7. Is it best to sell now or wait several years to sell? This is important because if a client keeps the home there are no real estate commissions or closing costs factored in as part of the property division. Only the net equity counts. If a client plans to sell in a couple of years, that makes no sense. It is better to sell now because then the costs of the sale, including real estate commissions and transfer taxes, are factored in as part of the settlement.
8. Last but not least, when you decide to move forward with a new relationship, will your new significant other or future spouse want to live in the home that you shared with your last one? Most will not.

Of course, if a decision is made to sell or refinance the house, it is important to have a good realtor involved or a mortgage lender that is willing to work with you regarding refinancing.

Lately, many of my clients have been listing and selling their homes in a matter of days. In light of this, before you make a final decision to sell the marital home, you will need to think about important issues such as whether or not to buy or rent your next home, as it is clearly a seller's market.

Henry S. Gornbein  
Lippitt O'Keefe Gornbein, PLLC  
370 E. Maple Road  
Third Floor  
Birmingham, MI 48009  
Main: 248-646-8292  
Fax: 248-646-8375  
Email: [hgornbein@lippittokeefe.com](mailto:hgornbein@lippittokeefe.com)