DIVORCE REAL ESTATE
BULLETIN

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PAYING FOR PROPERTY REPAIRS IN DIVORCE

LAUREL STARKS, CEO, Divorce Real Estate Institute

It is no secret that selling a house involves many moving parts, and in a divorce case, any one of the moving parts can be a source of conflict of varying degrees. Making repairs to the house in a divorce can be a monumental ordeal, so the strategy and approach should be carefully vetted and handled.

Not all repairs are necessary and when finances are stretched thin, the recommended repairs by a Realtor should be as short a list as possible. In most real estate transactions, there are two phases of repairs: 1) Preparation for the market, and 2) Post-inspection repairs during the escrow period.

The first phase usually requires money out of pocket and should be limited to mostly cosmetic items. The goal of cosmetic repairs is to put the house's best foot forward and have a buyer fall in love with it as soon as they see it. A buyer's first impression of the house is paramount, and the path of the buyer's visit begins at the curb. From there, they approach the doorway, enter into the house, walk through the living spaces, kitchen, backyard, and bedrooms. The garage is usually the last thing they see.

It is important to put the bulk of our efforts on the key areas: Curb, living / family / dining room, kitchen, master bedroom, and backyard.

Typically, secondary bedrooms, closets, and garages are not deal-breakers for buyers, and should be given attention only after the homeowner has invested in the key areas first.

The second phase of repairs happens when the house is already in escrow, and hopefully a buyer has already fallen in love with it. Once inspections are performed, there is usually a second round of negotiations based on any maintenance items that an inspection turns up. These can include cracked foundations, leaky pipes and electrical problems, faulty appliances or roof issues. Unless required by the buyer's lender to complete prior to closing, an effective solution in a divorce case is for the sellers to provide a monetary credit to the buyers through escrow. This way, they do not have to come up with cash out of pocket, nor deal with the headache of managing repairs. This can prevent a lot of conflict in an already contentious situation.

> *It is important to put the bulk of our efforts on the key areas: curb, living / family / dining room, kitchen, master bedroom, and backyard.*

A Certified Divorce Real Estate Expert has the skills, knowledge, and tools to prevent conflict before it ever happens, as well as proven solutions to resolve issues that arise such as dealing with repairs when selling the house in a divorce case.

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QUALIFYING TO KEEP THE HOUSE

JODY BRUNS, CEO, Divorce Lending Association

Divorce and mortgage financing concerns are often a touchy subject in divorce situations, particularly when one spouse is dependent upon income awarded from the divorce for mortgage qualifying purposes. It is important to determine whether or not the spouse fighting to keep the house can keep the house.

Although all sources of income are considered "income" by the recipient, not all sources of income are considered "Qualifying Income" for mortgage qualification. Let's take a look into what income matters to mortgage underwriters:

Alimony/Maintenance: Along with child support, Alimony must meet specific requirements to be considered as "Qualifying Income" for mortgage financing purposes by meeting both continuance and stability tests.

Continuance: A key driver of successful homeownership is confidence that all income used in qualifying the borrower will continue to be received by the borrower for the foreseeable future and will continue to be paid for at least three years AFTER the date of the mortgage application. Check for limitations on the continuance of the payments, such as the age of the children for whom the support is being paid or the duration over which alimony is required to be paid.

Stability: A review of the payment history is required to determine its suitability as a stable qualifying income. To be considered stable income, full, regular, and timely payments must have been received for six months or longer, provided the income does not represent more than 30% of the total gross income used to qualify for mortgage financing. If full or partial payments are made on an inconsistent or sporadic basis, the income is not acceptable for the purpose of qualifying the borrower.

What is a CDRE?

A CDRE handles the sale of real property in family law cases as a neutral expert. A CDRE has knowledge and special skills to handle the effects of the family law process on divorce listings.

Complimentary Services:

- Title Documents
- Property Profiles
- Chain of Title
- Expert Advice to Attorneys with Solutions to Real Property Issues

CASE STUDY

CAN MARTHA KEEP THE HOUSE?

FACTS

Jose and Martha, through counsel, are negotiating whether or not Martha can afford to keep the house or if they should sell it. They have lived in the house for 15 years and Martha would really like to stay in the house until their two children, Molly, 12, and Seth, 17, graduate from high school.

Martha receives a monthly income of $6,000 from varying sources ($2,500 employment income; $1,500 alimony / maintenance income; $2,000 child support, allocated equally between the children). Maintenance income is awarded for 10 years and child support is awarded until each of two children turn 18. Martha has been receiving both maintenance and child support for six months at the time of application.

EVENTS

Since Seth will be 18 in less than three years, Martha's child support income will decrease by $1,000. So even though her income is $6,000 now, her "qualifying income" is only $5,000. This prevents her from refinancing the current mortgage and buying-out Jose's portion of the equity. Through the counsel of a divorce mortgage professional, the parties and their attorneys were able to offset some of the equity for another asset, thereby bringing the mortgage amount within a range that Martha can qualify based on her $5,000 qualifying income. Had their judgment or decree been finalized without verifying her ability to qualify for a mortgage, the result could have been costly and devastating.

There are many components of income considered in mortgage financing. When income from a divorce situation also comes into play, working with a divorce mortgage professional during the divorce process, rather than post decree, can help attorneys and divorcing clients identify and possibly avoid income qualifying issues for mortgage financing. When the situation also involves income from other sources such as property settlement notes, asset distribution income, etc., there are additional layers of stability and continuity required.