



My ex wants to buy me out! 3 things you need to know before you agree

If you have separated from your ex and you own a property together, your ex may offer to “buy you out”. This means that they will pay you a sum of money in return for the property, and any mortgage over the property, being transferred into their sole name.

Andersons Associate in Family Law Joel Niles shares 3 things you need to know before you agree to your ex buying you out.

You need to know your entitlements

If you have separated, it is likely that you will need to agree to a property settlement with your ex. This involves looking at all your assets, liabilities and superannuation, and not just the property you own with your ex.

It is important to bear in mind that by agreeing to your ex buying you out without understanding your entitlement, you may be agreeing to a property settlement that is not favourable to you.

A family lawyer will be able to tell you what your legal entitlement is so that you can negotiate a buy out of the property with your ex with confidence. It is even more important that you see a family lawyer if your ex is trying to force you into an agreement that allows them to buy you out.

You need to think about the future

While you may be comfortable with your ex buying you out of your property, it is important to plan for the future.

You may wish to think about:

1. Your future living arrangements – once the property is transferred into your ex’s name, will you have appropriate accommodation to move into? Will the settlement sum from your ex allow you to purchase or rent a new property?
2. Living arrangements for your children – if you have children, will you be able to secure new safe, comfortable accommodation for them that is proximate to childcare or school?
3. Your future financial position – divesting yourself of a valuable asset such as a property may affect your financial position in the future. You may wish to obtain advice from a financial planner or accountant to understand and organise your personal financial affairs following separation.

If the idea of being bought out of the property is not something you are comfortable with, you may wish to explore either buying out your ex yourself or selling the property. These negotiations can occur directly either between you and your ex or indirectly with the assistance of a family lawyer or mediator.

If you are not sure whether you can buy out your ex, particularly if there is a mortgage over the property, you may wish to speak to a mortgage broker or your bank.

You need to formalise your agreement

Regardless of whether your ex is buying you out or you reach some other agreement for the treatment of the property, it is important that you formalise your agreement in a way that is binding.

You can formalise your agreement by entering either:

1. Consent Orders; or
2. Binding Financial Agreement.

Prior to entering either Consent Orders or Binding Financial Agreement it is important to seek advice from a family lawyer to understand which method is the most appropriate for your circumstances.

Without a formal binding agreement, you run the risk of your ex pursuing a formal settlement at a future date even if your ex has bought you out of your property already.

If a property settlement was to be pursued at this future date, your ex could make a claim against assets you have acquired post-separation such as any new properties or motor vehicles you own.

By agreeing to be bought out by your ex without formalise your agreement, you risk jeopardizing your future financial security and property rights.

How can Andersons Solicitors help?

At Andersons, we have a highly experienced family law team who can help you through your separation or divorce including to help you understand your entitlement and how best to formalise your agreement.

At Andersons we work a little differently than many law firms in that we offer a 90 minute **Family Road Map** meeting tailored to your personal situation.

All your concerns and questions will be addressed in this appointment and your lawyer will explain the process and outline a plan for next steps. All for a set fee.

There is no obligation to engage our team after this meeting but at the very least you will have a solid plan to progress through your separation.

For more information or to book your 90 minute **Family Road Map** appointment, please call 8238 6666 or email enquiry@andersons.com.au