



# Help For Divorcing Homeowners

Ris & Carol Cowan

Cowan Home Team / Century 21 CapRock Real Estate



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# About the Authors.

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Ris and Carol Cowan are realtors in the Western Slope area of Colorado, based in Grand Junction. Their company, Cowan Home Team/Century 21, is making dreams come true for home buyers/sellers and those homeowners ready to move on with the next chapter of their lives.

Both Ris and Carol experienced the pain, confusion and dilemmas of divorce in their previous marriages as well as the tough decisions that divorce forces us all to make. After their respective divorces they met each other one day at church – in a singles bible study group – and fell in love. They've been happily married for more than 25 years, blended four children into a new family and now run a very successful family real estate business together.

But they never forgot the lessons they learned during their divorces. By combining those learnings with their deep experiences in marketing and selling real estate, Ris and Carol developed this guide to help others in divorce navigate the real estate process. They've been fortunate enough to help many people sell their homes at all stages of the divorce process.

**To learn more about Ris and Carol Cowan, feel free to visit their web site:**

CowanHomeTeam.com – or Real Estate Divorce Pros on Facebook – where you'll find a treasure trove of information about buying or selling a home.

**They also have a very prolific YouTube channel:**

<https://www.youtube.com/channel/UCpp-mt75B9UnJkrwuWprY0w>

If you or someone you know are going through divorce and need help with their real estate needs, please reach out to Ris and Carol Cowan.



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# Introduction.

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We've been through divorce. And we've bought and sold homes ourselves. We've also helped hundreds and hundreds of other buy and sell their homes. Now, we're increasingly dealing with more clients who are going through divorce themselves (or considering it). And we want to help. So we felt it was the time to pull together what we've learned into a "guide" for others on this journey. As such, this is only a guide. It won't have all the answers. And it won't address all the questions you may have. Why? Because all marriages aren't alike; all divorces aren't alike; and all homes aren't alike.



We have to insert this disclaimer: Carol and I are NOT attorneys, tax experts, accountants or counselors. We are Realtors.® That's our area of expertise. We highly recommend you consult the kinds of experts above for your specific circumstances. They are the experts in their fields. This guide, however, provides a solid overview of what kinds of issues you'll encounter during this journey. It should be sufficient to help you with your decision-making process - that's where we felt the most help was needed.

You are not alone.

**Ris & Carol Cowan**



# Should You Sell Your Home during a Divorce?

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When in the middle of a divorce, many different things will come to mind. One of the first things you might consider is whether or not you should sell your home. Sometimes, depending on the circumstances, you may not have a choice. In some situations, a judge may determine that you must sell your home and split the proceeds. Divorce and selling a home are most likely two of the most stressful, trying events that you'll encounter. Going through both at the same time just flat out sucks. They can make the stress much, much higher than dealing with just one of the two life events by itself. Questions surrounding owning a home will become harder to deal with when you are facing a divorce.

For many married couples their home is the largest asset they have, not to mention the sentimental value the home may have. Even though the owners may want to hang onto it, many times the situation demands selling the home. It may be because of financial, legal or personal reasons, but when all is said and done they are not left with any other option besides selling the home.

It's important to know how divorce affects the sale of a home, including the reasons for selling in the first place. Even though a divorce is emotionally trying, a bad move involving a home can end up affecting you negatively for years – long after the divorce is finalized.

Most couples who go through a divorce end up going with one of these 3 options:

- One will buy out the others legal interest and keeps the home.
- One spouse keeps the home for a specified period of time, usually until the youngest child turns eighteen at which time the home can be sold.
- The house is put on the market and sold immediately, and the proceeds are split.

Selling a home while getting divorced is no doubt difficult and sensitive. Don't underestimate legal and tax ramifications. But with the help of a great attorney, tax professional, and Realtor, it can be done successfully.

# Legal Reasons For Selling a Home in Divorce.

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Unless the divorcing couple can find a way to deal with each other amicably, the division of property and specifically the family home is not cut and dry. Each person contributed in some way to the purchase of the home – which is almost never 50/50 – and naturally, each wants their fair share of the home's equity. If the couple can't arrive at an agreement outside of court, either on your own or through mediation with your attorneys, the court will decide for you. As you can imagine, this is not a pleasant experience for most homeowners. The judge hardly ever rules in a way that both parties are happy with.

This is exactly why it's usually best to come to an agreement before it gets in front of a judge, if at all possible. More often than not, the easiest solution is to sell your home and split the equity. Dividing the couple's assets becomes much easier after selling the home because they're not trying to determine a future value of the home, which will usually cause yet another argument. You can find out what your home is worth by hiring an appraiser, or by calling a competent, knowledgeable local Realtor who should be more than willing to value your home for free.



# Financial Reasons For Selling a Home During Divorce.

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Selling your home during divorce obviously creates some important financial considerations. Because you were married, chances are that qualifying for your mortgage was taking into account both of your incomes. Once that income is cut in half, you quickly see why two incomes were necessary to pay for it. Even if your income is the higher of the two, the mortgage principal, interest, insurance, property taxes, utilities and the general upkeep of the home can quickly eat up all your money! It becomes too expensive for most people to handle.



# Taxes.

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Then comes the tax implications, specifically capital gains tax. The current capital gains tax law says that if you are married filing jointly and selling a home you can be exempt from being taxed on up to \$500,000 in profit. If you're single the capital gains exemption gets cut in half to \$250,000. To be eligible for this exemption it is required that you have lived in your home for at least two of the last five years. The home must be your primary residence and not an investment property or second home. For specifics on your personal tax situation, please speak to a qualified tax professional.

## The Bottom Line.

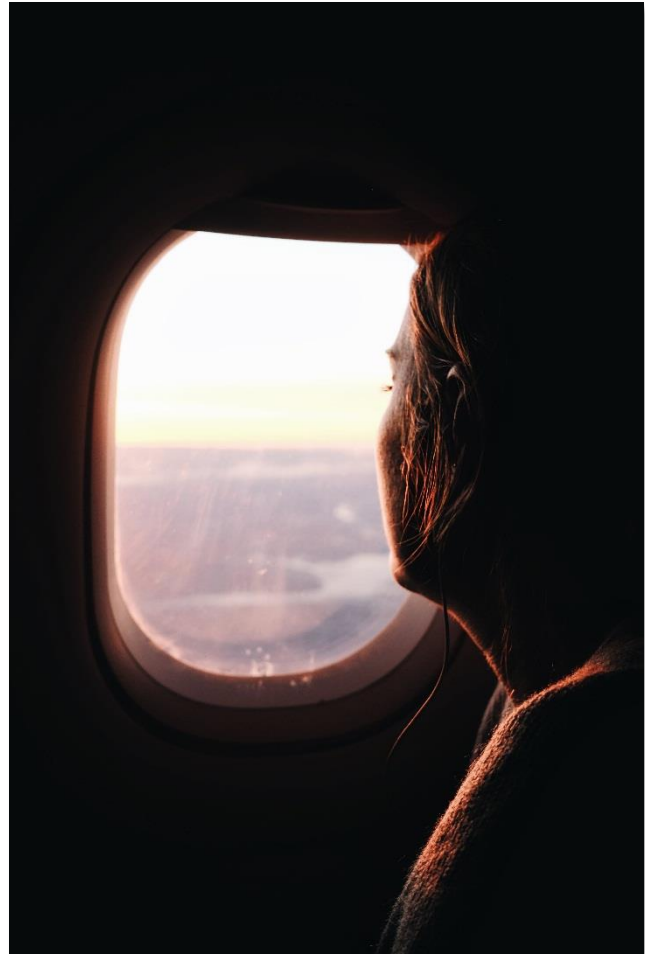
In summary, here's the bottom line: Essentially what all this means is that there is a huge financial incentive to sell the home while you are still legally married. Selling your home will allow for up to \$500,000 in profit to be excluded from federal capital gains taxes. Half a million bucks!

If you have owned your home for a long time and you have a big chunk of equity, this can translate to a HUGE tax savings. If just one party decides to stay in the home but plans on selling sometime in the future, they'll most likely miss out on a very large tax savings. This makes selling a home while getting divorced something that needs to be planned for carefully.

# Emotional Reasons For Selling a Home.

Divorce and selling a home often times go hand in hand because of the emotional issues that usually follow when keeping the property. You have so many memories in your home, including raising children, pets and any renovations or improvements that you have done to make it yours. With the departure of your spouse, though, the once happy home can quickly become unpleasant to live in, sometimes even painful. Many people want to avoid these negative feelings and emotions that are totally normal during this tough time.

This is usually why the spouse who kept the home may eventually feel that keeping the house was not as good of an idea as it sounded at the time of the divorce. It's easy to look past, and even underestimate the emotional factors that exist. So many things go through your mind during a divorce that it's easy to overlook how you may feel later on down the road.



# How To Sell Your Home During Divorce.

Selling a home during a divorce is very similar to selling real estate any other time... except that you must think about, talk about, and determine before the sale who gets what. Are you splitting the equity in the home after it sells? Is it a 50/50 split? Selling your home for fair market value will be possible when you hire a top Realtor – as long as you actually follow your Realtor's advice on the strategy and specifics of selling your home.



This decision making process is where your attorneys need to be involved. Let them guide you both through the process of deciding who gets what. You'll need to know what your home is worth as well as how much money you have put into the home in terms of improvements and/or renovations.

Once this is decided, bring in your experienced, reputable real estate agent – one who you have hired based on interviews, credentials and online reviews – and get your house on the market. Follow your Realtor's advice, and be willing to compromise a little bit to get the job done. Selling your home for a little less than what you might want will only help to get the home off your hands faster and help you both move on with your lives. For example, if pricing the home a hair under market value in order to sell faster helped it sell 3-4 months faster, would that be worth it to you? Most people in a divorce situation would say Yes.



# Tips For Deciding On What To Do With a Home When Going Through a Divorce.

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Typically when selling a home during a divorce there are a handful of different options that a divorcing couple can decide on. It's important to think about all the options that are available and to select the best option. Below are three of the most common options to choose from when selling a home during a divorce.



# One of the Spouses “Buys Out” the Other.

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One option that exists for those homeowners who are going through a divorce is one spouse “buys out” the other. What occurs in this scenario is one of the spouses takes over the full responsibility of the home. In most cases, in order to do this, the spouse who is buying the other out will have to pay a lump sum to the other, which typically will incorporate any equity that has been built in the property over the years of marriage.



In order for a buy out to be possible, the spouse who is taking over full responsibility of the home will need to apply for a refinance of the home in only their name. The party who is going to take responsibility of the home will need to go through the mortgage pre-approval process and prove that they have the ability to afford the home.

If one spouse is able to afford the home only in their name and the divorce is final, the other spouse will need to sign what is called a “quit claim deed.” An attorney can draw up this document for a reasonable cost and it needs to be filed with the courts, which traditionally will have a small cost to do so. It’s recommended that when one spouse decides to buy out the other that an attorney and the courts are involved. This helps ensure that one party is not getting taken advantage of and certainly can help eliminate problems in the future.

# Sell the Home Immediately.

Another option that exists for divorcing homeowners is to sell the home immediately. Of the three options, this is the most common result. If the divorcing couple decides to sell the home immediately, the proceeds or shortages that result in the sale of the home are generally split. In the event that a divorcing couple does not have enough equity in a home, it is pretty common to see a short sale scenario since typically a divorcing couple does not want to put more money into the home or the divorce.





# The Couple Continues To Co-own the Home.

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The third option that exists when selling a home while going through a divorce is the couple will continue to co-own the property. The primary reason that a divorcing couple will choose this option is because there are kids involved. Selling a home with kids can be tricky enough let alone uprooting the kids from their family home because of a divorce.



There are some important considerations that need to be made when selecting to continue to co-own a home while going through a divorce. First it's important that there is a mutual understanding in place that because the property is still in both parties names, missing payments will affect both parties credit scores.

It's highly recommended that if a divorcing couple decides to co-own the home that there is an agreement in writing. This agreement should outline exactly who will be responsible for paying what. If one of the spouses is planning on buying out the other, this needs to be clear and concise in a written agreement.

# Is Your State an Equitable Distribution State?

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If you're selling a home while going through a divorce, it is important to understand whether your state is an equitable distribution state or not. Equitable distribution can be defined as the distribution of property and debt obligations when dividing marital property during divorce proceedings. Equitable distribution does not mean a 50/50 split but does mean a "fair" distribution.

If you're selling a home in Colorado during a divorce, Colorado is an "equitable distribution" state, meaning that issues regarding marital property and debt during a Colorado divorce are generally settled between the parties by a signed Marital Settlement Agreement within the Decree of Dissolution of Marriage. It's important to understand how property is divided in your state, so it's recommended you consult an attorney about the details of this vital law.

# How to Determine The Listing Price of The Home When Going Through a Divorce.

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There are two major factors that determine whether a home will sell or not, price and marketing. Once a divorcing couple hires a top real estate agent who knows what real estate marketing strategies sell homes, it's now time to decide on the listing price of the home. Determining the wrong price is the kiss of death, typically leading to an unsuccessful home sale. There are many real estate pricing mistakes that homeowners make and it's important when selling a home while going through a divorce, they are avoided at all costs.

To determine the proper price of your home you should expect that your real estate agent will provide a detailed comparative market analysis, also known as a CMA. A detailed CMA is a great way to identify what has been going on in your local real estate market and what comparable homes have been selling for. It's important to initiate a timely sale that the price is attractive to prospective home buyers.

A detailed CMA also can help divorcing homeowners understand the current state of their real estate market. It's important to know whether the local market is currently a sellers market, balanced market, or a buyers market. One statistic that can help a seller understand what the current state of their real estate market is the local market absorption rate. If a market is currently a buyers market, it becomes even more important to price the home more aggressively since a buyer is able to choose from an abundance of homes for sale.

It should be noted that typically each party has the option to obtain a market analysis from a Realtor as well as have an appraisal done to help determine what the listing price of the home will be.

# Tips to Prepare a Home For Sale During a Divorce.

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One of the biggest mistakes that homeowners who are selling their home while going through a divorce make is not properly preparing it for sale. Since some divorces can be less than cordial, it's critical that both parties involved take all of the emotions out of the home selling process and realize it is now a business decision and properly preparing the home for the market is important for a quick sale.

Some of the best tips for divorcing couples as they prepare their home for the market include:

- Remove clutter
- Freshly paint rooms, where needed
- Consider making small updates such as light fixtures
- Eliminate any foul odors
- Clean up exterior and inspect curb appeal

It's important to remember when selling a home during a divorce that you have one opportunity to make a first impression. Many buyers can get a feeling of whether a home has been well cared for or not right away and it's important to not scare away potential buyers because of a dirty or smelly home.

# Dividing the Cash.

Finally, you'll have to figure out how to divide the proceeds. In general, that shouldn't be too complex—the escrow company can distribute the money, after paying off all the obligations on the house and making whatever other payments you've agreed to. (For example, you might pay off marital debts with the proceeds of the house sale.) And if one spouse has been making postseparation mortgage payments, that spouse has probably been reducing the principle amount and increasing the equity, which may increase the amount to be divided between the spouses after the closing costs and obligations have been paid. The distribution should be adjusted to account for the paying spouse's contribution.



## The Realtor You Pick is Important.

Don't underestimate the importance of picking the right divorce Realtor. When selling a home during divorce you will want to work with a divorce Realtor that has exceptional communication skills, and experience navigating the sensitivities and intricacies of a divorcing couple.

There's a good chance that both parties might not exactly be getting along so well anymore, so you want to be sure to work with a divorce Realtor who understands the nature of divorce and all the emotional baggage that can come with it. The Divorce Realtor you decide to hire will need to have a high level of patience, as many communications may need be repeated multiple times to each party.

Do your best to decide on the Realtor together. This is very important! As a real estate agent who has worked with divorcing couples on numerous occasions over our real estate careers, we have found that if only one party chooses the Realtor, the other party will feel cheated, or that the Realtor will benefit one party more than the other. It's human nature to worry that the real estate agent is going to play favorites because they may have more of a relationship with the other party. Whenever we're brought in to represent a divorcing couple, we insist that both parties are present for interviews or pre-listing meetings occur. We want it to be crystal clear to them that we represent both of them equally. No taking sides, no playing favorites. Selling the home for as much as money as possible, in a reasonable amount of time, with the least amount of headaches is top priority. Simple as that.

We need to begin by creating an environment of trust where either party can reach out to us at anytime. In fact, the success or failure of selling the home in a timely manner depends on it. Divorce is stressful enough all by itself. Adding a home sale on top of it can make you feel like your head could explode at any moment. Reducing your stress by making the sale process go as smoothly as possible is always one of our goals.

Think of it like this: You have a problem. The divorce Realtor you hire is the problem solver. Your real estate agent should not only have some experience with selling homes during divorce, but also a strong track record of success. Selecting a Realtor is an incredibly important decision with wide reaching implications, yet so many sellers do not take the time needed to really make a smart decision. Don't be one of these people. Choose wisely.

Divorce and selling a home at the same time can be tricky. Make sure you are well prepared, hire a great divorce Realtor, and follow their advice! After all, it's just your piece of mind, sanity, and financial wellbeing that are at stake!





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