

Tips for negotiating a property settlement with your ex-partner

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Dividing property after a separation can be an overwhelming task. At a time when emotions are often running high, it can be challenging to think clearly and make good decisions. This article covers our top 9 tips to help you negotiate a property settlement with your ex-partner and agree on how to divide the assets of the relationship in a way that is fair and equitable to you both.

1. Stay safe

It's not always appropriate to have direct settlement discussions with your ex-partner. For example, if there has been family violence throughout your relationship then you should seek legal advice early and get appropriate referrals to ensure your safety and wellbeing.

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2. Be prepared – collating information about the asset pool

List all your property and assets. Consider all the different types of assets you have like:

- real estate;
- money in cash or bank accounts;
- investments;
- insurance policies;

- shares;
- superannuation;
- cars, boats etc;
- furniture;
- jewellery;
- debts, including mortgages, loans and credit cards.

Take the time to value each asset and get appraisals if you need to. If you are thinking of keeping the family home or an investment property, contact your lender and get advice about what you can borrow.

3. Seek legal advice

Getting expert legal advice early can help you to progress property settlement discussions with your ex-partner.

An experienced family lawyer can advise you on appropriate settlement outcomes and help you navigate the process. Importantly, before signing any documents, seek legal advice to ensure that your rights are protected and the agreement is fair and legally binding.

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4. Keep your emotions in check

Negotiations after a separation or divorce can be emotionally charged, so try to stay level-headed and focused on the task at hand. It can help to be clear on what is important to you and the key points you need to discuss with your former partner and/or your lawyer.

5. Be flexible

Keep in mind that you may not be able to get everything you want. Be willing to compromise and consider balanced solutions to your property settlement.

6. Communicate clearly and respectfully

When negotiating, it is important to clearly state your position and be open to hearing your ex-partner's perspective. Express your needs and concerns in a calm and respectful manner and avoid making accusations or personal attacks.

If communicating face to face is becoming challenging, it can be helpful to communicate via email or text, which can allow you to structure your thoughts more clearly and give time before responding. It may even be a good idea to arrange a mediation so that a third party can help guide the discussions.

7. Plan a way to divide the property pool

Once you and your ex-partner agree on a fair division of the property, it is important to plan how it will be divided. That way, you can move forward more smoothly with the process. For example, does the family home need to be sold? Does one party need to obtain finance approval to take over a loan?

8. Keep the future in mind

If you are struggling with negotiations in general, a great technique to reduce anxiety and frustration is to picture yourself years into the future and consider what will be in the best interest of both parties in the long term. This can help give you some perspective as you make decisions, rather than just focusing on the immediate issues or short term ‘wins’ over your ex.

9. Remember: time limits apply

It is important to know that, in most cases, you will need to finalise your property settlement within set timeframes:

- For married couples, property settlement can be done any time after separation and must be done within 12 months of a divorce order being issued.
- For de facto couples, property settlement must be completed within 2 years of the date of separation.

Who else can help with your property settlement negotiations?

These organisations may be able to help you resolve issues and disputes with your ex-partner after separation, however, they don’t provide legal advice:

- Family Relationship Centres give information, referrals, offer dispute resolution and advice on parenting after separation.
- The Federal Circuit and Family Court of Australia's website has many resources, including how to ‘separate smarter’, information on family court processes for matters relating to family law, child support and divorce.

Need an experienced family lawyer?

Our team at Emera Family Law is highly experienced in property settlement negotiations and ensuring all assets, liabilities and contributions are appropriately and fairly accounted for. We are settlement-focused and skilled at achieving out-of-court settlements.

This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.