

UNTYING THE KNOT: Navigating Your Marital Home During Divorce

By Certified Mortgage Advisor Kevin Martini



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Hi, I'm Kevin Martini

Over the years, I have had the privilege of assisting numerous individuals in navigating the complex terrain of marital real estate and mortgage intricacies during the challenging phases of separation and divorce. The journey through separation and divorce is challenging and emotionally taxing, with the marital home often emerging as a significant point of contention.

"Untying the Knot: Navigating Your Marital Home During Divorce" is a comprehensive guide that provides those traversing the path of separation and eventually divorce with the crucial knowledge and resources required to make informed decisions concerning their marital home.

This guide is meticulously curated to offer practical insights regarding the marital home, its mortgage, and the common pathways explored by those who have journeyed through this landscape. It's imperative to underscore that every situation is unique, and this guide serves as a reference **ONLY**, drawing from my extensive experience over decades in the financial services sector. It does not intend to provide legal opinions or advice. The content reflects my long-standing expertise in financial services, aiding individuals as they embark on this new chapter amidst the divorce process.

Each chapter is crafted to provide you with a clear perspective on the myriad options surrounding marital properties and mortgages. Whether you are contemplating selling the home, buying out your spouse, or retaining the property jointly, this guide is a stepping stone toward a more detailed, free, and confidential Transition Strategy Consultation. Here, a personalized plan and timeline can be tailored to your unique circumstances.

This guide is not just a resource but a companion in your journey toward making enlightened decisions during a significant transition. Your path may be challenging, but with the correct information and guidance, you can navigate through with empowerment and clarity.

The Financial Transition Plan

Experiencing separation or divorce is a journey that extends beyond the emotional realm; it also significantly impacts your financial landscape. Recognizing this crucial aspect, Certified Mortgage Advisor Kevin Martini has crafted the Financial Transition Plan. This plan embodies a fiduciary approach to guide you through this transformative phase of your life, armed with accurate and insightful information. Consider the Financial Transition Plan as your guiding light, illuminating the path toward devising a well-thought-out housing plan, strategy, and timeline tailored to your unique circumstances.

Securing a stable housing situation is paramount as you traverse through this process and reach its culmination. Your housing options are diverse: retaining your current marital home, embarking on homeownership independently, or exploring rental opportunities.

The essence of making an informed housing decision must be balanced, as opposed to relying on mere intuition or guesswork. You deserve a decision-making process that is enlightened and well-informed. This is where the expertise of the Martini Mortgage Group shines through their proprietary Financial Transition Plan. This plan elucidates the housing possibilities awaiting you, providing a structured pathway to transition seamlessly from one abode to another.

It's important to note that during the initial consultation, there's a nurturing environment fostered. No credit inquiries will be initiated, no document submissions required, and no sales pitches. This is a complimentary service extended by the Martini Mortgage Group, underlining their commitment to your well-being and financial empowerment. The Financial Transition Plan is designed to provide factual information, enabling you to understand your housing options clearly. With this knowledge, you can confidently make decisions that resonate with your needs and aspirations as you enter this new chapter of your life.

Beginning the Journey

Understanding the financial value of your marital home is a crucial step amidst the challenging times of separation or divorce. Here's a simplified pathway to gaining clarity on your home's worth, the outstanding mortgage, and the equity you hold.

Determining Your Home's Worth: The initial step is to ascertain the accurate value of your marital home. While several public websites offer estimates, a more precise, secure, and complimentary evaluation can be obtained by visiting the "What's your home worth" section on www.MartiniMortgageGroup.com.

Calculating What You Owe: With the value of your marital home in hand, the subsequent step is to figure out the outstanding amount on your mortgage. Review your most recent mortgage statement to find the remaining balance. If there's a second mortgage or a home equity loan involved, it's essential to know the outstanding balances on these as well and sum them up.

Note: There's a distinction between your mortgage balance and the mortgage payoff amount, as mortgage interest is paid in arrears. A helpful tip is to add one month of interest to the mortgage balance for a more accurate payoff estimate.

Evaluating Your Home's Equity: The final stride involves calculating the equity of your marital home. Utilize the estimated value obtained from "What's your home worth" and deduct your payoff estimate from it. The result is the equity you have in the home, representing the gross funds you would receive if the home were to be sold.

This structured approach aims to provide a clear financial picture of your marital home, aiding in informed decision-making during a period of significant transition.

The 3 Options for the Marital Home

Option 1: Sell the House

For many going through separation and divorce, this is the easiest thing to do, although it might emotionally be the hardest. If neither of you wants to live in the house or cannot afford the mortgage, selling the marital home is a good choice. A real estate agent can help you get the house on the market. Once it's sold, you each take half of the left equity and use it for your needs in the future. Remember that if you use a real estate agent, you'll have to pay their professional fees, and there will also be closing costs so that you won't walk away with half of the equity exactly.

***NOTE:** real estate is not just local; it is hyper-local. If all parties agree that selling the marital home is the best strategy to deploy, then the next step is not to find a real estate agent. The next step is to find a real estate professional with expertise in the market where the marital home is located, who can sell your marital home fast, for top dollar, and who has experience working with sellers going through the separation/divorce process. For an introduction to the right real estate professional for where your marital home is located, you can contact Certified Mortgage Advisor Kevin Martini by calling (919) 238-4934.*

Option 2: One Spouse Keeps the House

If one of you wants to live in the home and can afford the mortgage payments, this is an option. The person who keeps the house will essentially "buy out" the other spouse's equity by giving them other assets in the divorce, such as a retirement account, so they both walk away with roughly the same amount of bottom-line assets.

The biggest challenge with this option is the mortgage. The lender will not, in most cases, take one spouse off the mortgage. So, if one spouse wants to keep the marital home, there are options:

a. **You both remain on the mortgage**, and the spouse living in the house will make the payments. However, you need to know that the vacating spouse remains legally liable for the entire balance on the mortgage. In other words, if the spouse living in the house defaults, both spouses will be negatively impacted from a credit perspective, and the lender will come after the vacating spouse for payment.

In addition, the vacating spouse needs to know mortgage payment does count against their debt if they apply for a mortgage to buy their place. With the Martini Mortgage Group, if the terms are defined and court-ordered, then for the mortgage only, the debt may be omitted with the Martini Mortgage Group.

Suppose the home is sold at a later date. In that case, you split the equity that existed as of the date of the divorce (in almost all cases, any equity that accumulates after the divorce belongs to the spouse who lived there and paid the mortgage all those years; for more information, consult with a legal professional).

b. **Spouse A takes title to the home and responsibility for the mortgage** (either by refinancing it or by making the payments), and Spouse B lives there for a limited number of years (often until the children are grown). Spouse B could live there rent-free, or they could pay an agreed-upon amount of rent. This is a good option if there's not much equity (so selling the home doesn't help either of you) and you want to keep the kids in the marital home, but the residential parent can't afford the mortgage payments. Once the kids are grown, Spouse A can sell the house. You can decide how you will share the equity.

c. **The person who remains in the "home buys" out the other spouse's share of the equity and refinances the mortgage into their name.** The catch is that you probably qualified for your mortgage using both incomes and qualifying for a refinance with just one income may be challenging. Also, if interest rates have increased, you are looking at a higher monthly payment on the same amount of debt. There are also fees involved in a refinance.

In this scenario, it is important to understand two types of refinances: a cash-out and a rate-term. A cash-out refinance carries higher mortgage rates and fees; however, with the Martini Mortgage Group, if the cash-out is because of spousal “buy-out” and the cash-out funds are used to pay the cost associated with the refinance and to pay off the departing material home, then it is considered from a pricing perspective a rate-term refinance and would have more favorable terms.

Option 3: You Both Continue to Own the Home

This might sound ridiculous, and it is rare, but it’s an option that works for some couples in particular situations:

a. **You both continue to own and live in the marital home.** Again, this tactic doesn’t work for everyone, but for ones that have young children, this option might work for you if you can establish clear boundaries and find a way to coexist as roommates. You both remain on the mortgage and continue to share ownership of the marital home. If you sell it at a later date, you split the equity.

b. **You both continue to own the home but rent it.** This is an option to consider if your mortgage balance is higher than the current market value of your home (so if you sold it, you wouldn’t get any equity, or you would have to bring money to the closing table). When deploying this tactic, you should be able to secure rent to cover the mortgage, taxes, and repairs. You can then plan to sell the marital home later once you both are revenue neutral, or there is positive equity, and then you can split the proceeds.

NOTE: in my professional experience as a Certified Mortgage Advisor, this requires massive cooperation from both spouses.

5 Random Things YOU Need to Know

ONE: The marital home often embodies a shared asset, regardless of whose name graces the title deed. This principle of shared ownership persists even if one spouse has ventured out of the home's embrace prior to the divorce.

TWO: The court navigates a path of equitable distribution for the marital home, though not always an equal division, reflecting a nuanced understanding of each spouse's circumstances. In sculpting its decision, the court weighs various factors including the marriage's duration, each spouse's contributions, and the nurturing environment for the children.

THREE: If you are awarded the marital home and it becomes your sole haven, securing a mortgage under your name is the ensuing step. Should qualifying for a mortgage pose a challenge, exploring the avenues of selling the home or refinancing the mortgage alongside your spouse may unfold as the alternative paths forward.

FOUR: If you are not awarded the marital home, you may need to vacate it. However, if moving out is financially challenging, you can request the court for additional time or ask for your spouse to cover your moving expenses.

FIVE: If a mortgage is tied to the marital home, the court will determine how to handle this debt. One possibility is for one spouse to take on the mortgage and retain the home. Alternatively, the home can be sold, using the sale proceeds to settle the mortgage. Should the home be sold, any remaining proceeds will be shared between the spouses based on the equitable distribution formula, ensuring a fair resolution.

NOTE: *It's advisable to consult a family law attorney and explain your unique situation so they can advise you because this guide is designed to be just that, a guide not legal advice. better. A family law attorney can clarify your rights and options, and represent you in court to ensure your interests are safeguarded.*

5 Additional Tips to Keep Top of Minds

Continue making your mortgage payments, even if you no longer reside in the marital home. This step is crucial to safeguard your credit score and prevent foreclosure proceedings.

Engage in open discussions with your spouse regarding the future of the marital home and the mortgage. Reaching a mutual agreement can significantly reduce the time and financial resources spent on legal assistance.

Be prepared for all potential scenarios, including the possibility the marital home will be sold. Should this occur, initiating the search for a new residence will become imperative.

Ensure you have all necessary financial documents, including mortgage statements, tax returns, and bank statements. These readily available documents will empower your attorney to advocate for you effectively.

Maintain a meticulous record of all expenditures associated with the marital home, like mortgage payments, property taxes, and insurance premiums. This organized approach will be instrumental when negotiating a fair settlement with your spouse, ensuring all financial contributions are duly acknowledged.

We Are Here To Help

I trust that the insights from "UNTYING THE KNOT: Navigating Your Marital Home During Divorce" have benefited you. It's crucial to acknowledge that the journey of separation and divorce transcends emotional aspects; it also significantly impacts your financial landscape. At the Martini Mortgage Group, we stand ready to assist you in exploring your housing possibilities during this transitional phase. This moment presents a valuable opportunity to contact us for a complimentary Financial Transition Plan. Your pathway to understanding and making informed decisions begins with this essential step, and we are here to guide you compassionately through every aspect of this process.

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