



Family Law

Property Matters

Property Settlements Post Separation

Navigating the complexities of property division during a separation or divorce can be challenging. Our goal is to provide clear, comprehensive information to help you understand your rights and responsibilities under the Family Law.

There is a 4-step process when dividing property post separation:

1 Identify and Value the Property Pool

List all assets, liabilities, and financial resources of both parties. This includes real estate, bank accounts, superannuation, investments, vehicles, personal belongings, and debts.

2 Assess Contributions

Contributions can be financial such as income, saving and investments and non-financial including homemaking, child-rearing, and property maintenance

Consideration is also given for assets and resources brought into the relationship by each party.

3 Consider Future Needs

Consideration is given to each person's future needs and what allowance should be made to take into consideration for the person's future financial position. Consideration is given to age, future earning capacity, care of the children and health needs, amongst other factors.

4 Make a Just and Equitable Division

Weigh the contributions and future needs to determine a fair division of the property pool.

Do I need to stay in the family home to protect my interest?

It is a common misconception that you have to stay in the family home to protect your interest in family law property. There are other ways to protect your interest once you move out, including placing a caveat on the property title in which you have an interest.

It is best to seek legal advice to ensure you are properly protected.

Married Couples

Divorce: You have 12 months from the date your divorce becomes final to apply for a property settlement or spousal maintenance. Divorces are usually final one month and one day after the divorce order is made by the court.

Separation without Divorce: There is no time limit if you are separated but not divorced. However, it is advisable to resolve property matters as soon as possible after separation to avoid complications.

De Facto Couples

You have two years from the date of separation to apply for a property settlement or spousal maintenance.

Parties can be separated 'under one roof' meaning time limits can run whilst you are still living with your former partner.

Clearly document the date of separation, as this will be crucial for determining your time limits.



Extending Time Limits

If you miss these time limits, you can still apply to the court, but you will need to seek special permission (known as "leave") to proceed. The court will only grant leave if:

- You can demonstrate a significant reason for the delay.
- You or a child of the relationship would suffer hardship if permission is not granted.

We can help with:

- ✓ Negotiations & Advice
- ✓ Mediation & Dispute Resolution
- ✓ Consent Orders & Binding Financial Agreements
- ✓ Court Representation



We also offer Legal Aid and Finance Solutions to help you move forward without financial stress.

Contact Us

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