SEPARATION, DIVORCE AND YOUR MORTGAGE

Separation and divorce can impact a family on many levels including financially. It's a stressful process for all concerned.

There may be the messy business of splitting the assets, including the family home and the mortgage. Many couples end up selling the house to pull out their equity, which may cause additional stress. However, there are other options.

For most couples, their home is their most significant asset and where they have the majority of their equity. If one spouse prefers to stay in the home, it may be possible to get a new mortgage to purchase the property from the other spouse for up 95% of the property's value.

It's the Spousal Buyout Program and allows one spouse to keep the home while paying the ex-spouse their portion of the home's equity. This option can create some stability for the family during this often-trying time.

Similar to other mortgages, the purchasing spouse must qualify to carry the loan. A legal Separation Agreement and a Purchase Agreement is also required.

Each province and territory have their laws regarding the division of family/marital property. Generally, marriage is seen as an equal partnership in the eyes of the law, so for the most part, anything that has been acquired during a marriage and is still owned at the time of separation would be divided equally.

The "matrimonial home" is the space where both spouses have their primary residence at the time of separation, and regardless of whose name is on the title of the house, both parties have an equal right to the home unless there is an agreement that states otherwise.

Here are a few requirements for a Spousal Buyout:

- The lender will require a signed separation agreement with the details of asset allocation.
- Net proceeds can only be used to buy out the other owner's share of equity and/or to pay off joint debt as explicitly agreed upon in the finalized separation agreement.
- The maximum equity that can be withdrawn is the amount agreed upon in the separation agreement to buy out the other owner's share of property and/or to retire joint debts (if any), not to exceed 95% loan to value (LTV).
- Max. LTV is the lesser of 95% or remaining mortgage + equity required to buy out other owner and/or pay off joint debt (which, in some cases, can total < 95% LTV).
- The property must be the primary owner-occupied residence.
- An appraisal is required.

Although almost 50% of marriages ending up in separation or divorce, life continues. It's only prudent to understand the various options.

If you have any questions about this program or would like to review your options, call me today.

Adam Buss
Mortgage Specialist

phone: **204.371.0278**
abuss@castlenet.ca
www.adambuss.ca

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