



The importance of obtaining legal and financial advice when negotiating your property settlement

Written by Lucy Padula

Property settlement is an important step in any separation. Depending on the length of your relationship, you could have years or decades worth of property owned by you and your former partner, all of which will need to be considered and settled between you. Negotiating your property settlement does not mean that you need to litigate your matter in court. However, it is really important that you seek independent legal and financial advice when negotiating your property settlement.

What is considered property

When the topic of property settlement comes up, it's easy to think of big things like the house and car, but there are lots of possible assets and liabilities to consider. For the purposes of negotiating settlement, property is considered to be any and all assets and liabilities owned by both parties, including items in both your names, or just in one person's name. Depending on your circumstances, this could include:

Expert advice in plain English

Anderson

F A M I L Y L A W Y E R S

- Your family home
- Investment properties
- Businesses
- Money (both held in cash and bank accounts)
- Investments
- Jewellery
- Cars and other vehicles
- Debts (e.g. mortgages, loans, credit cards etc)
- Superannuation
- Trusts

It is important to obtain financial advice to consider, for example, any possible tax implications which could arise from a property settlement, consider what your future needs and entitlements may be and put together a budget moving forward. It may also be necessary to obtain a valuation of if a business or investments whilst negotiating financial matters.

Formal property settlement agreements

Married parties have one year from the date of separation to seek property orders. Once both parties have agreed on the property settlement, best practice would be to formalise your agreement by way of consent orders which are filed with the court, or a financial agreement which is not filed with the court, but does require each party to obtain independent legal advice. The reason why we recommend that an agreement is formalised is to give you finality and to avoid your former partner/spouse attempting to obtain a further settlement from you down the track. Married couples have one year from the date of divorce to seek property orders. De facto couples have two (2) years from the date of separation to seek property orders. Seeking professional financial and legal advice in this situation will assist you in understanding your rights and obligations throughout the process and assist in finalising property matters.

Are you currently negotiating property settlement, or are unsure how to start the process? Our expert Family Lawyers are here to help. [Contact us](#) today to discuss your needs.

Please note that this article is not an alternative to obtaining independent legal advice and does not constitute independent legal advice.