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While great care was taken to prepare this course, it is not a substitute for legal, financial, medical or other professional advice based on your specific circumstances. Consult with an experienced Family Law Attorney, Mediator, Accountant, Certified Financial Planner® (CFP®), and Certified Divorce Financial Analyst™ (CDFA™) about your specific case. While the author of this course is a Certified Financial Planner® and a Certified Divorce Financial Analyst™, in this course, she is not dispensing financial advice based on your own situation, or legal advice either directly or indirectly. The intent of this course is to help you move through your divorce and avoid becoming a financial victim of your decisions and those of your spouse. Under no circumstances will Adrienne Rothstein Grace or any of her representatives be liable for any special or consequential damages that result from the use of, or the inability to use, the information or strategies communicated through these materials, or any services provided prior to or following the receipt of these materials, even if advised of the possibility of such damages. You alone are responsible and accountable for your decisions, actions and results in life. By your use of these materials, you agree not to attempt to hold Adrienne Rothstein Grace or her agents or employees liable for any such decisions, actions, or results, at any time, under any circumstances.

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## KEY POINTS

### WHAT WE'LL COVER IN THIS SESSION

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- In this session, we'll cover the emotions and practical issues that shape your decision to stay or go:
  - Do you want to stay?
  - Can you afford to stay?
  - What is your house worth?
  - If you can afford to stay, what to do next; If not, what to do next;
  - Mortgage issues
  - Selling the house
  - Other options

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## SHOULD I STAY OR SHOULD I GO?

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- What does your home represent to you?
  - A refuge in a time of great change?
  - A source of cash for a fresh start?
  - A money pit with constant challenges?
- Spend a few minutes thinking about this
- One of the biggest decisions of your divorce

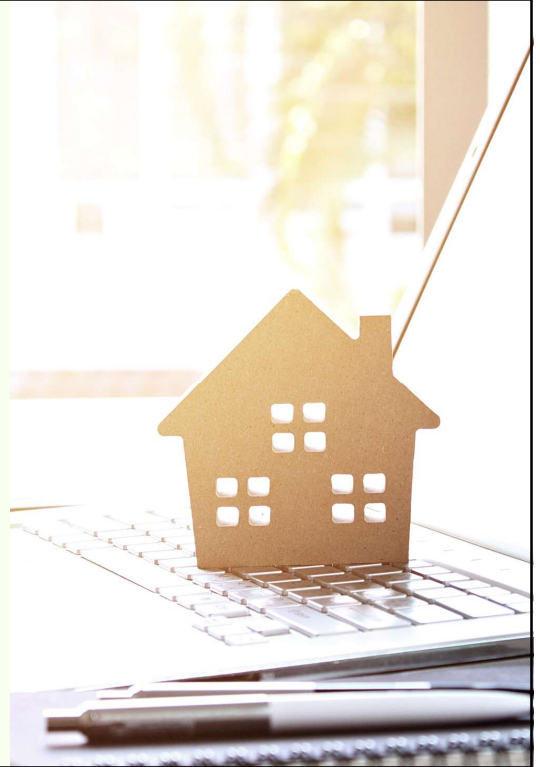
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## PROPERTY DOCUMENTS

- While you're thinking ...
- Gather together all the important documents related to the property,
  - Deed,
  - Mortgage
  - Home equity loan or line of credit, or any other lien documents
  - How much is owed
    - Interest rate? Term?
  - The title
  - Search and survey
  - Documentation of major repairs, damages and improvements
  - Copies of any restrictive covenants which may be imposed by your community

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## CAN YOU IMAGINE LIVING SOMEWHERE ELSE?

- If yes- Great, you have lots of options
- If no:
  - Make a list of the benefits of living in this house
  - For each one, how does it make you feel? Could you get a similar feeling elsewhere?
    - Neighborhood
    - Schools (if you have kids)
    - Features of your specific house
      - Can these be duplicated in another place?
  - Consider this seriously to be able to make a free, practical decision about your house.

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## HOW MUCH IS IT WORTH?

- Establish Market value- what would the house sell for?
- Professional real estate appraiser vs real estate broker
  - If you plan to keep the house, for a guideline on your home's value, market analysis by a real estate agent familiar with your neighborhood may be enough
  - Compare your house with sales and listings of similar homes in the area,
  - review local price trends
- Professional appraiser will provide a multi-page written report for a fee, often in the \$500-\$1000 range.
- Appraisal Foundation website at [www.appraisalfoundation.org](http://www.appraisalfoundation.org).

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## EQUITY IN THE HOUSE: HOW MUCH DO YOU REALLY OWN?

- No mortgage or home equity loan? - It's all yours.
- Mortgage balance, home equity loan or a home equity line of credit? - The lender owns the house with you.
- Their loan has to be paid off before the house changes title.
- The balance of the home's value less the balance owed = your equity

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## HOME VALUE-MORTGAGE BALANCE = HOME EQUITY

- Home Equity is usually a marital asset
- In community property states- divided 50/50
- In equitable distribution states- often divided 50/50

Home value	\$400,000
Mortgage balance	-\$205,000
Home equity loan	-\$ 50,000
Equity	\$145,000

Divided 50/50= **\$72,500 each**

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## WHAT REPAIRS ARE NEEDED?

- Repairs may be needed to sell the house- or to make it safe to retain
- If repairs needed are extensive, home value can be impacted
- Home Inspector to identify any problems
- See **Quick Home Inspection checklist** in Workbook
- See **Home Repair checklist** in Workbook

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## HOME REPAIRS

- Complete necessary repairs to sell
  - Who pays?
- If you plan to stay in the home:
  - Complete urgent repairs with joint funds
  - Make a list of other issues
  - Estimate expenses to complete repairs
  - Credit expense against equity share

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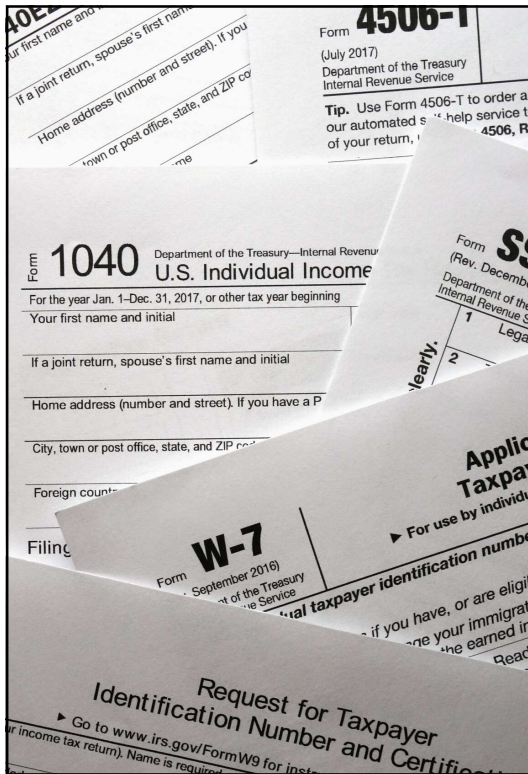
## CAN YOU AFFORD TO STAY?

- See **Can I Afford to Stay in this House?** worksheet in workbook
- If the answer is NO - go to slide 24
- If the answer is YES - continue



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## TAX CONSEQUENCES OF KEEPING THE HOUSE

- If your house has grown significantly in value when you sell:
- Capital gains tax on profit due at sale
- If you are the sole owner, you can exclude \$250,000 in gains from tax
- If you and your husband sell the home jointly, you can exclude up to \$500,000 of gain from tax if you've lived there for two of the five years before sale.

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## WHAT WILL YOU HAVE TO GIVE UP TO KEEP THE HOUSE?

- See: **Splitting it Up, Session 4**
- Can you trade off other assets for his share of home equity?
- When trading assets, prioritize cash flow. Will you be able to pay the bills without resorting to selling the things you are bargaining for now?

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## WHAT WILL YOU HAVE TO GIVE UP TO KEEP THE HOUSE?

- Are you tempted to give up pension/retirement accounts for the house?
- How close are you to retirement age?
- Can you re-fund the retirement savings you are sacrificing? (You already get only half of total savings)
- What is the financial impact to you when spousal support/child support ends?
- **Now is when you need the skills of your CDFA to help you make this critical decision**

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## HOW LONG WOULD YOU STAY IN THE HOUSE?

- Until the children graduate from the next level of school?
- Until they go to college?
- If just for a few years, cost to refinance to remove your husband's name from the loan, and costs of sale when you do sell, are high
- Many years of appreciation may justify the cost of keeping it
- Weigh the objective costs vs the benefit of staying in place

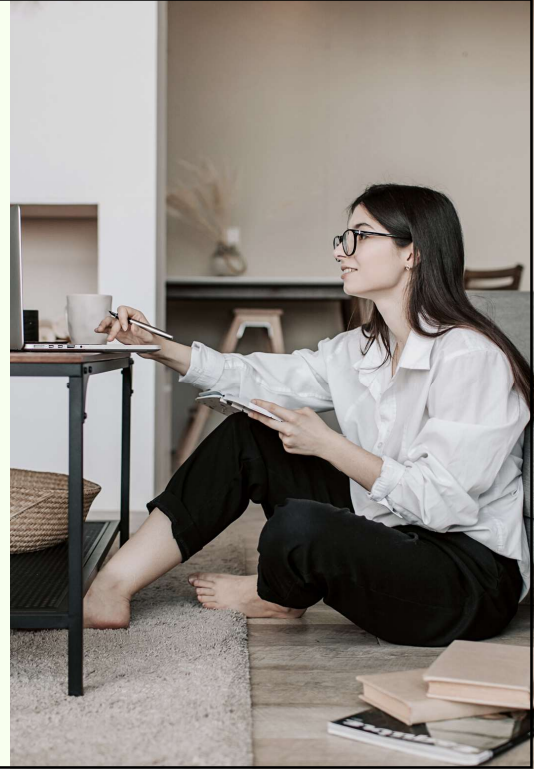
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## IF YOU PLAN TO STAY FOR JUST A FEW YEARS

- Continuing to own it jointly with your husband might make sense
- **Could you have a successful business arrangement with him?**
- **If yes:**
  - No mortgage refinance needed
  - Maintain current mortgage payments
  - Agree on costs of maintenance
  - Share costs at sale
  - Share profits at sale
  - **Get all the details in writing! Including what happens if plan stops working**

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## IF YOU PLAN TO KEEP THE HOUSE

- Next steps:
- Refinance the mortgage in your name alone
  - It would be great if you could pay it off, but this is not a choice for many women
- Can you qualify for a mortgage in your name, with just your income?
  - If yes- Great!
  - If no- Can you find a close friend or family member to cosign with you?
- Investigate this ahead of time, in case other measures are needed

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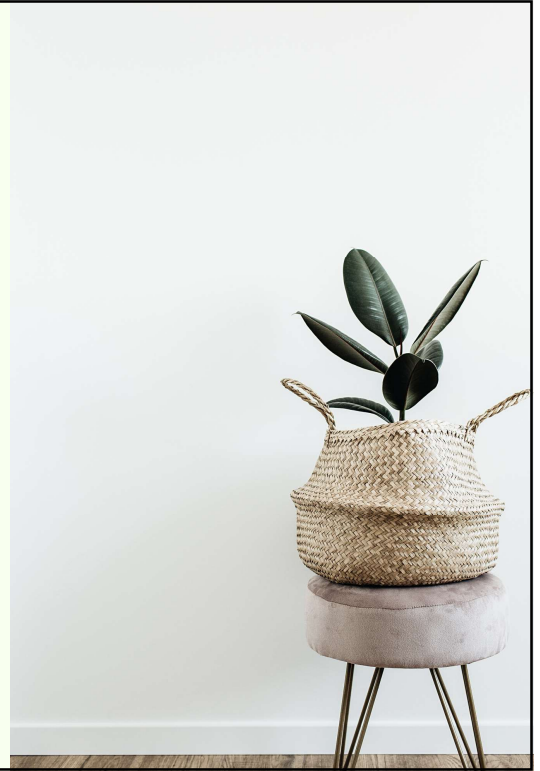


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## IF YOU NEED MORE TIME

- Specify in the divorce agreement that the house is to be refinanced into your name alone within six months, 12 months or another time of your choosing.
- Note that if this does not happen, then the house is to be sold, and the proceeds divided as you agree.

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## REFINANCING

- Borrow enough to cover the mortgage balance, home equity or other loans AND the cash you need to pay off your husband's share.
- Be sure that you can qualify for a mortgage big enough to cover this amount
- You can get pre-qualified for a mortgage, so you'll know that this is a viable option
- Be sure that you can pay this new mortgage amount, including taxes and insurance.
- When the financing is in place, obtain a QuitClaim deed, removing your husband's name from the title.

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## IF YOUR HUSBAND WANTS TO KEEP THE HOUSE

- All the same applies, in reverse
- Note: Even if he is preapproved and will refinance it, do not change the title on the deed until the closing of the loan, or after.
- Why? If you execute the quitclaim deed and the loan does not close for whatever reason, you remain responsible for the mortgage, but don't own the house
- Mortgage debt stays on your credit report; may prevent you from buying a new house, or financing a car

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## IF YOU CAN'T QUALIFY FOR A MORTGAGE AND YOU STILL WANT TO STAY

- If the reason you can't qualify can be remedied in a reasonable period of time:
  - Your husband can keep the house and rent it to you until you are able to qualify for a mortgage to buy him out.
  - Requires clear communication between the ex's, as you go from being joint owners to a tenant-landlord relationship on the same property.
  - Establish a clear time frame for the transfer of the house.
  - Establish a procedure for actions if you are not able to qualify for the mortgage at the specified time.
  - Selling may be your last option.

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## "BIRD NESTING": ANOTHER SHORT TERM OPTION

- A transitional accommodation to make the divorce changes less stressful to children.
- Is there a compelling reason for your children to remain in the home for a limited period of time?
  - Transitioning change in smaller increments, especially for children with special needs
  - High school seniors soon to graduate
- Parents rotate ; Children stay in place.

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## "BIRD NESTING": HOW DOES IT WORK?

- You and your ex remain joint owners of the home.
- You also rent an apartment nearby, and each one alternates living in the house with the children and in the apartment on his/her own.
  - EX. Monday to Wednesday Mom is in the house; Dad is at the apartment
  - Thursday and Friday, Dad is in the house; Mom is at the apartment
  - They alternate weekends.
- Clear agreements are needed to provide for payment of the expenses of both residences,
- Privacy concerns need to be clearly arranged

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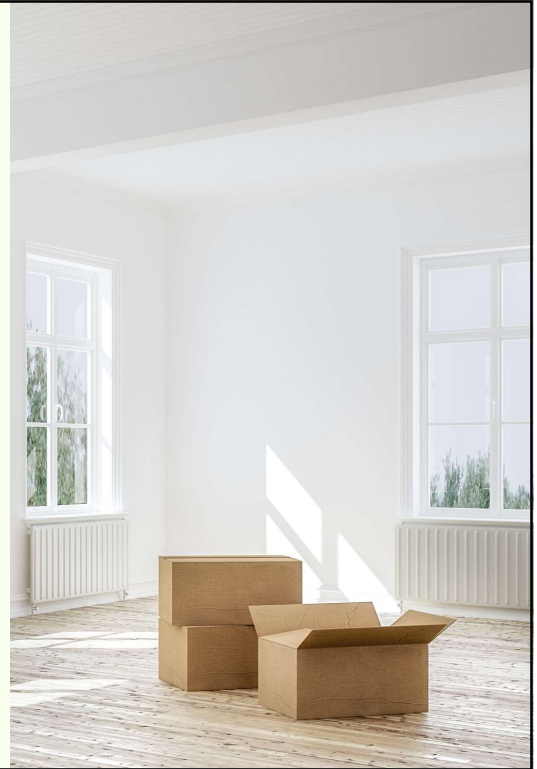
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## MAKING THE MOVE

- Once your decision is made to move on, other questions crowd in
  - Where will you go?
  - What can you afford?
  - What is the timeline?
  - Will you be ok?

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## WHERE TO GO?

- Take some time and explore surrounding neighborhoods. Where would you like to live? What area has the resources you need?
  - Schools, if you have kids
  - Shopping
  - Cultural/sports /recreation
  - If you are not close to family and would prefer to be, consider this a good time to move to where they are
  - Is there an area you have always wanted to live in? Now's your chance.
- You may want to rent for a year, and let the dust settle on your new circumstance, before committing to purchase a new place.

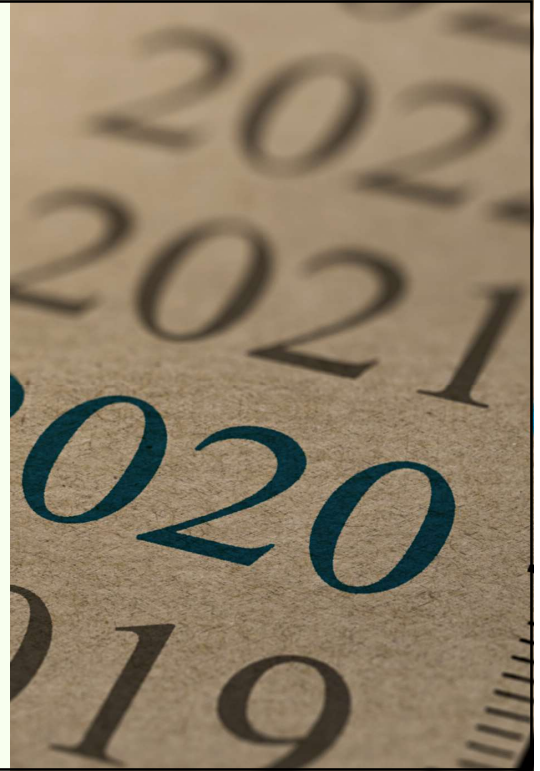
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## TIMELINE

- You can decide when you want to move
- Depending on what you wish to do, You don't need to wait for the house to sell or to reach agreement,
- You may need to wait for funds to be released if you plan to buy another home/condo

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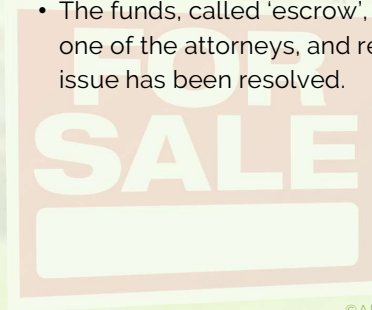


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## IF YOU PLAN TO SELL THE HOUSE

- Determine the selling price
- Determine the repairs, cosmetic fixes to make the house more saleable; staging
- Who will remain in the house (if anyone) while it's being shown?
- Who is responsible for cleaning it out and disposing of excess items?
  - Who will pay for what, when?
- In concert with real estate agent, set a timeframe for price adjustments. For example, if the house does not sell for the listing price within 30 days, drop the price by 10%
- Once the house sells, typically the proceeds will be divided and each of you can use the money as you wish.
- Sometimes an amount will be set aside for contingencies, or to cover unresolved issues.
- The funds, called 'escrow', are usually held by one of the attorneys, and released when the issue has been resolved.

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## IF THE HOUSE DOESN'T SELL AT THE PRICE YOU CHOOSE, WHAT CAN YOU DO?

- Sell the house at a loss, pay off the mortgage or other liens out of other assets, and move on.
- Short-sale
- Deed in lieu of foreclosure,
- Foreclosure,
- Bankruptcy.

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## OTHER OPTIONS: SHORT SALE

- A short sale occurs when you and the lender agree to sell the house at a loss.
- The lender may forgive the mortgage shortage, or may require that it be paid out of other funds.
- A short sale does not create the extreme credit damage made by foreclosure or bankruptcy.

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## DEED IN LIEU OF FORECLOSURE

- You, as the homeowners, deed the house back to the lender, in exchange for the release of all obligations under the mortgage.
- Avoids time-consuming, and costly foreclosure proceedings.
- Avoids the possibility of having officials show up at the door to evict you, which can happen with a foreclosure.
- In some cases, you may be able to reach an agreement with the lender that allows you to lease the property back for a certain period of time.

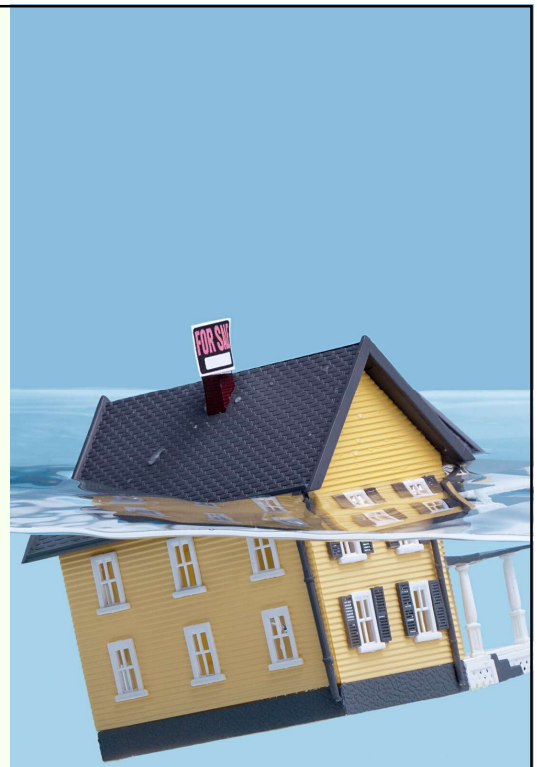
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## FORECLOSURE

- Once you stop paying your mortgage, your house can be sold without your consent so that your lender can recover the amount you owe.
- A foreclosure typically gives you a limited amount of time to negotiate with the lender or find another solution.
- Your home won't be lost unless/until a judge signs off on the foreclosure.
- A foreclosure will have a negative impact on your credit rating. It stays on your credit report for 7 years.
- Without great attention to credit repair issues, this can inhibit your ability to borrow money to move on – rent an apartment, buy another home, buy or lease a car, etc.

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## THE LAST RESORT: BANKRUPTCY

- Bankruptcy is designed to help you get a fresh start, when you can no longer pay your debts
- Assets are liquidated to pay off your debts to the extent that's possible
- Repayment plan established under the supervision of the Court.
- Certain debts cannot be wiped out in bankruptcy, including alimony and child support, student loans, taxes and tax liens, condominium or co-op association fees and assessments.
- A bankruptcy will seriously damage your credit rating, remaining on your credit file for seven to ten years.
- Bankruptcy laws are complex. Consult your attorney and divorce team if you are contemplating this step.

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## SHOULD I STAY OR SHOULD I GO?

- As you can see, issues around your house are varied and complex.
- Answers to this question lead to answers to many other issues surrounding your divorce, giving you some much-needed clarity.

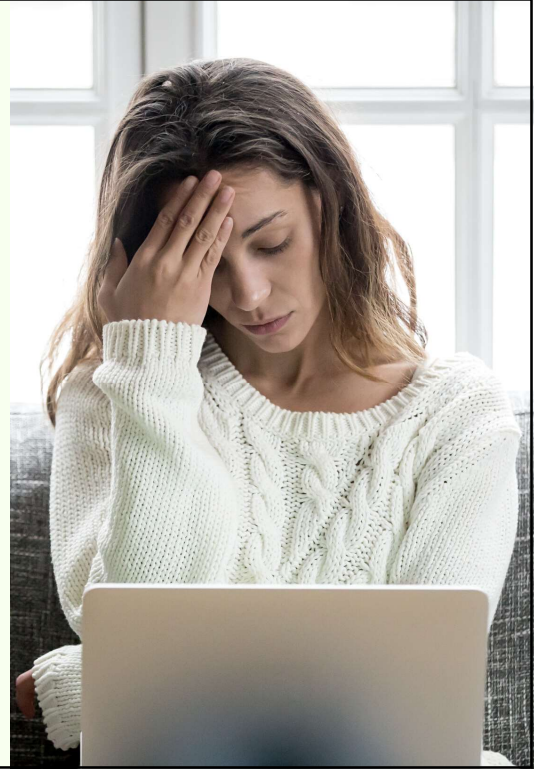
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## CONTROL YOUR EMOTIONS

- Emotional considerations interfere with divorce.
- They are not bad!
- You can be free to move forward if you can separate your emotions from the practical considerations of your situation.
- Consider discussing this with your counselor

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## IN REVIEW

WHAT WE COVERED IN THIS SESSION

- In this session, we covered many aspects of your decision to stay or go:
  - Do you want to stay?
  - Can you afford to stay?
  - What is your house worth?
  - If you can afford to stay, what to do next; If not, what to do next;
  - Mortgage issues
  - Selling the house
  - Other options

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