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DISCLAIMER

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KEY POINTS

WHAT WE'LL COVER IN THIS SESSION

- 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?

- 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

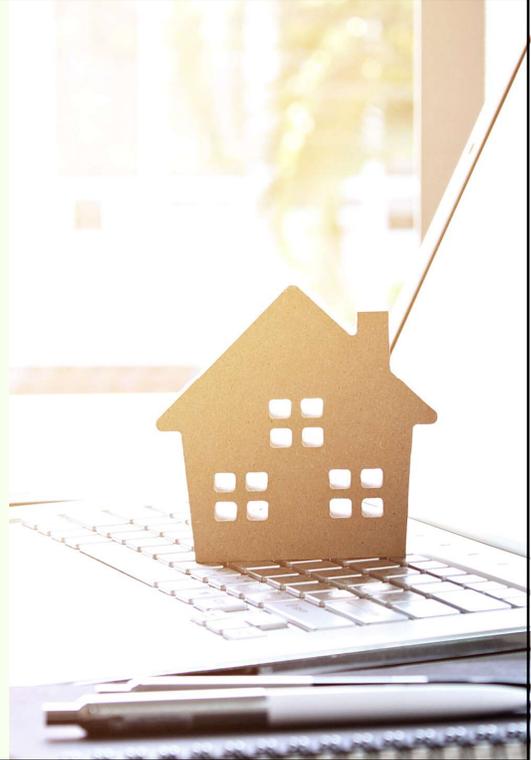
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PROPERTY DOCUMENTS

- 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.

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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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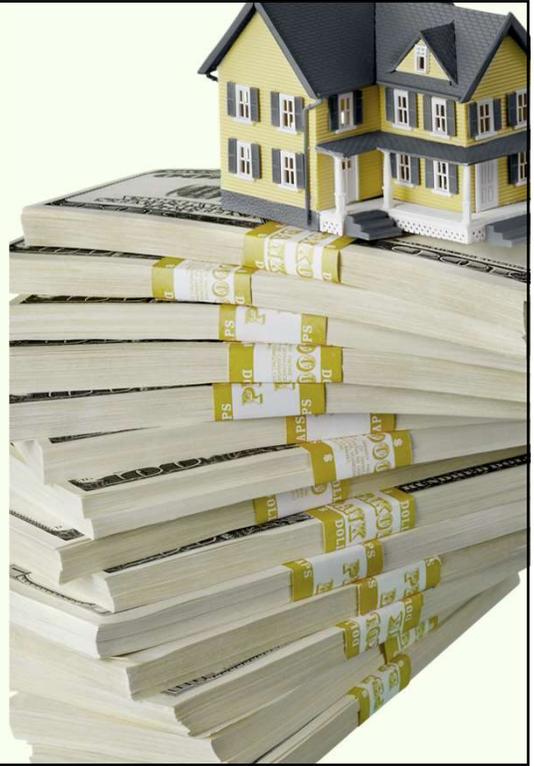
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HOME VALUE-MORTGAGE BALANCE = HOME EQUITY

- 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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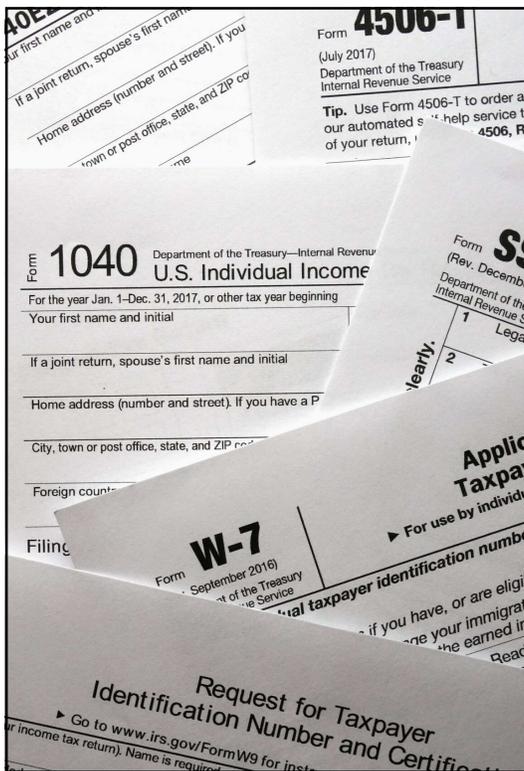
CAN YOU AFFORD TO STAY?

- 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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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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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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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 FORCLOSURE

- 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.

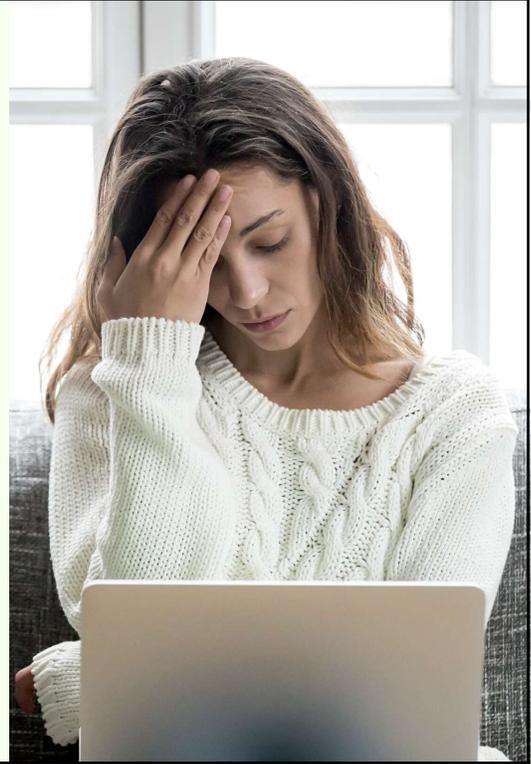
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CONTROL YOUR EMOTIONS

- 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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