



How to handle mortgage payments and title transfer after divorce

By Ilyce Glink and Samuel J. Tamkin, Tribune Content Agency, Real Estate Matters

Q I have been divorced for eight years. My ex-spouse still lives in the house we both own. I was OK with it for a long time, but now my ex-spouse is out of work and can't pay the mortgage. And, of course, both our names are still on the mortgage.

In our divorce agreement, we both agreed that he would be allowed to stay in the house for a year. After the year, we would sell the house and split the money. He can't seem to move, and I don't want to take him to court. I'm willing to have him keep the house. I just want to pay off the mortgage and get my name off of it, as it is the only thing keeping us in contact.

If I pay the loan off (the balance is less than \$5,000), will that release me from all responsibility regarding the mortgage, deed, property taxes, etc. if he still lives there?

A You're kind to let him keep the house and even put more money into the pot well beyond what is called for in your divorce settlement.

Here's the good news: You're right. If you pay off the mortgage, you will end up no longer having any responsibility relating to a loan on the home. But you'll still need to give your ex-spouse title to your share of the home. As you are both still owners on the home, you'd want to convey your ownership interest to him.

Once you no longer have a loan on the property and you no longer have an ownership interest in the home, you'd be free and clear of any responsibility relating to the home.

You can order a payoff letter (also called a demand letter) from the lender and send the lender the exact amount owed on the loan by the date required under the payoff letter. Once you've done that, you'll be done with the loan. Simply call the number on your mortgage statement and order

the payoff letter. Follow the instruction on the payoff letter to make sure that the lender gets the right amount by the right date.

Once you take care of the lender -- and you can take care of the lender and the title to the home at the same time -- you can have a quitclaim deed prepared conveying your interest in the home to your ex-spouse. You can take it a step further by recording or filing that quitclaim deed with the local office where the home is located that handles property records. Recording the quitclaim deed puts the world on notice that you no longer have anything to do with the property.

With the deed recorded and the loan paid off, you should, in theory, be done with any responsibility relating to the home.

If there are other liens on the home or other issues that relate to the home that came up during your ownership, you could still have some responsibility for those issues. However, those issues are usually rare. For example, if someone tripped and fell on the property while you owned it, the insurance carrier you had while you owned the home would cover that claim, but the person that sued would have sued you and your ex-spouse. You would have been sued as an owner of the home.

As you approach this issue, you might want to make sure that you do a little digging to make sure there are no unexpected surprises once you put money into paying off the loan and transferring ownership of the home to your ex-spouse. Good luck.

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