

Getting Legal Advice – Property Settlement

Family Dispute Resolution operates in the shadow of the *Family Law Act 1975*. Family Dispute Resolution Practitioner work under the *Family Dispute Resolution Regulations 2008*. The Family Dispute Resolution Practitioners have obligations under the Act and the Regulations to give you certain legal information about what the *Family Law Act* says. However, a Family Dispute Resolution Practitioner cannot give you legal advice that is specific to your circumstances.

You and the other party will both be encouraged to seek legal advice from your own lawyer. Consultations with Family Lawyers are often in the range of \$400 to \$600 or more per hour. If you don't have a private lawyer or cannot afford a lawyer, you may be able to get free legal advice from a Community Legal Centre in your area. Some private law firms provide the first half hour or the first hour of consultation free or provide free legal clinics.

Property settlement agreements should generally reflect what the *Family Law Act* says is *Just and Equitable*. Deciding what your property settlement looks like is up to you and the other party. However, it is wise for both parties to get legal advice of what sort of range of orders would a court make in your circumstances if the matter was to be heard in a family court. What would a court say in your case is *just and equitable*?

If you and the other party both come to your Family Dispute Resolution session with having got good legal advice about what a court might say, you will both likely be in the same “ballpark” when it comes to negotiating property settlement. This means there is a greater chance of reaching an agreement and reduce conflict with the other party.

If neither you or the other party get any legal advice, you and/or the other party may have unrealistic expectations of getting what you want. A good family lawyer can be a good “sounding board” for your thoughts about a proposed property agreement and advise you if a family court might agree with you or not. Your Family Lawyer's advice could be considered as your “bottom line” of what to accept in the negotiation with the other party. Alternatively, you may spend tens of thousands of dollars on family court proceeding and get a result that has little difference to yours and the other party's legal advice.

Once you have your property agreement, you are encouraged to see a lawyer who can formalise and make your agreement legally binding either by making an application for Consent Orders or a Binding Financial Agreement.

See the information sheet; **Questions to ask you Lawyer regarding Property Settlements.**