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Home appraisals can become a battleground at divorce

For many people, a home is the single most valuable asset they own. So it's not surprising that divorcing couples often fight over the value of that asset.

And the recent crash in real estate prices has only exacerbated this trend. The crash has made the market value of certain types of property more uncertain. And tempers frequently flare if people are told that their home isn't worth what they once thought it was.

When a couple are married, they usually have a common interest – they both want their home to be worth as much as possible. But when they divorce, their interests might suddenly become very different.

For instance, suppose a couple agree that the wife will get the home and the husband will get other assets of equal value. The husband will then argue that the home is highly valuable, so he should be entitled to a lot of other assets. But the wife will argue that the home is worth much less, so the husband should get much less.

As a result, it can be very difficult to arrive at a figure that makes both sides happy.



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The usual solution is to hire an independent real estate appraiser. Much of the time this works fine, but sometimes contentious spouses will each hire their own appraiser. And the spouses might be tempted to try to “steer” the appraiser toward a favored outcome by highlighting certain benefits or drawbacks to the property.

If two appraisers come to different conclusions, sometimes they

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Married man entitled to obtain paternity test

In most family law disputes involving children, a court is required to act in the best interest of the children. But there may be exceptions – including when a parent suspects that a child he’s raised as his own isn’t really his after all.

Take a recent case in New Jersey where a man suspected that his wife had cheated on him and that one of their three children – who was by this point a young adult – wasn’t actually his. When the wife filed for divorce, the husband claimed she’d hid the fact that he was not the child’s biological father. He asked the court to order the wife and son to submit to genetic testing.

The judge rejected this request on the grounds that the testing wouldn’t be in the best interest of the now 22-year-old son.

But the New Jersey Supreme Court disagreed. It said that in these circumstances and under New Jersey’s parentage law, the best interest of the child was only one of many factors to be considered when deciding about genetic testing.

The law on this issue differs quite a bit from state to state, and often depends on the unique circumstances of each case.

Guardian can file divorce

A woman whose mother suffered brain damage and other disabilities in an accident could sue to end the mother’s 33-year marriage to her father, the Illinois Supreme Court recently ruled.

The daughter had become her mother’s guardian three years earlier, when her father, who suffered from Parkinson’s disease, could no longer care for her. The daughter claimed that her father then moved in with another woman and began concealing marital assets.

A trial judge initially rejected her suit, saying a guardian didn’t have the authority to bring divorce proceedings on behalf of a ward.

But the daughter appealed, and the state supreme court sided with her. It said the decision

to file for divorce was no different from any other deeply personal decision that a guardian might make for a ward, such as the decision to refuse life-support treatment or to undergo sterilization, when acting in the ward’s best interest.

Husband needn’t help wife take out insurance on his life

A court can require many things in a divorce case. But at least in Kansas, requiring a husband to “cooperate” in taking out an insurance policy on his own life is not one of them.

In that case, a divorce judge ordered the man to cooperate in obtaining life insurance. The idea was to make sure that if he died, his child-support obligations would be taken care of through the policy proceeds.

Even though the wife was to pay the policy premiums, the husband argued that the order violated state insurance law, because it forced him to help obtain insurance without his consent.

The Kansas Supreme Court agreed with him. It said that even though it might still be possible for the wife to obtain the policy, the husband had no legal obligation to “cooperate” in the process.

This is an issue on which courts in different states have made different rulings, because insurance law varies a great deal from state to state.

Bankruptcy didn’t release spouse from divorce debt

A woman whose divorce decree required her to pay half of her ex-husband’s federal income taxes for the previous year couldn’t escape this obligation by filing for bankruptcy, the New Hampshire Supreme Court recently decided.

When the wife filed for bankruptcy, she listed her husband as a “creditor” in the amount of the \$4,500 tax debt.

The husband sought to hold her in contempt of court when she failed to pay the debt. A judge initially decided that the bankruptcy cleared the wife, but the New Hampshire Supreme Court disagreed and said that under federal law, this type of debt couldn’t be avoided in bankruptcy.



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Home appraisals can become a battleground at divorce

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will recommend a third, neutral appraiser to resolve the difference.

Of course, this can get expensive. This is especially true because some appraisers charge more for divorce-related appraisals, due to the fact that one spouse may have necessary information about the property but be unwilling to cooperate.

There are other complexities, too. For example, suppose a wife owned the home before the marriage, but after the wedding the husband spent a lot of his own money renovating it. A court might decide that the wife is entitled to the original value of the home, the husband is entitled to the increase in value due to the renovation, and the couple should split the value of any appreciation due to market conditions.

That's a big job for an appraiser. He or she must not only evaluate the property right now, but also figure out what the home was worth at the time of the wedding, which could have been many years ago. In addition, the appraiser must figure out what part of the appreciation is due to the renovation and what part is due to other factors.

Renovations are often accompanied by new furniture. This can also be a source of conflict, because one spouse might have spent a lot of money on new furniture, but the value of the furniture will have sharply decreased – in the same way that the value

of a new car rapidly declines as soon as it's driven off the dealer's lot.

Yet more issues can arise if the couple plan to sell the home as part of the divorce.

In such a case, the couple will usually want to keep the divorce a secret from any potential buyer. The reason is that buyers are much more likely to make lowball offers if they think the seller is highly motivated due to a divorce or job relocation.

If the couple is splitting the furniture, they could end up showing a home for sale that's one-half furnished – a sure tipoff that a divorce is occurring.

Even if all the furniture stays and one spouse simply moves out, buyers might still suspect that a divorce is underway. For instance, they might notice a swing set in the backyard but no toys in the child's room, or a “man cave” downstairs but only women's clothes in the bedroom closet.

Many couples will hire a company to “stage” the property. This technique not only makes it look its best but can also disguise their true motivation for selling.



Some appraisers charge more for divorce-related appraisals, due to the fact that one spouse may have necessary information about the property but be unwilling to cooperate.

Unmarried couple's assets could be split equally after breakup

In some states at least, if you act like you're married for long enough, the legal system might treat you as married when you break up.

For example, an unmarried couple in Alaska broke up after 12 years and two children. The couple had maintained separate bank accounts the whole time, but they made many joint purchases while raising their children in the same home.

When the man sought custody of the children, the woman responded by seeking a court order that their property be divided 50-50.

The man argued that this was unfair because he had purchased the house in his name only, paid most

of the bills, and filed his taxes separately each year.

But the Alaska Supreme Court disagreed. It said that while this was true, the couple had also signed a health insurance domestic partnership affidavit to obtain coverage, looked for housing together, referred to each other as husband and wife in public, and even said they were married on paperwork when they jointly purchased a car.

Because the pair had formed a domestic partnership with the intent to “share in the fruits of their relationship” as though they were married, the court said, their property should be equally divided as though they were married as well.



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George Peters

Wife loses alimony due to secret money stash

When marriages get unhappy and divorce is on the horizon, there can be a real temptation to hide assets to keep them from the other spouse. But tempting as this may be, it's morally wrong, and it can also get you into legal trouble.

Take the case of a New Jersey woman who took \$350,000 from the business she owned jointly with her husband and secreted it away. Clever as she was, during divorce proceedings a forensic accountant discovered the secret stash.

The woman thought she'd be okay in the end, since the divorce judge simply ordered her to repay half the amount, and proceeded to award her \$600 a week in alimony.

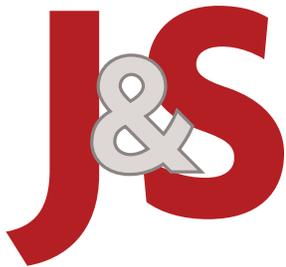
But husband didn't take this lying down. He appealed, arguing that her actions amounted to "egregious fault" that should disqualify her from receiving alimony payments.

Hiding assets from your spouse can be tempting, but it's legally risky.

A New Jersey appeals court agreed with the husband. In general, it said, under New Jersey law alimony isn't affected by who was at fault for the marital breakdown. But this was a rare case where the fault was so

blatant that the woman shouldn't be able to get away with it.

The wife did more than just cause marital problems, the court said; she also "kicked" the couple's economic security "in the teeth" through her scheme to embezzle cash from the business.



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