



Divorce and Your Property

ONE DAY AT A TIME!

By: Steven Boucher

Divorce and your Property

You Are Not Alone

First, sorry for your situation.

While I have never been in your shoes before I have witnessed family members and numerous clients go through the process. Most have been professional and respectful but some have been doozies. I hope you are the former and not the latter.

[The Centers for Disease Control and Prevention](#) indicate that in 2014 there were 813,862 divorces with 45 states reporting. With some remaining States still to report it may be a safe estimate of about one million divorces each year.

Like I said, you are not alone.

Now how does the process work when you own joint property together.

Get a Plan Together

Your first concern – is the separation or pending Divorce amicable.

Can you be in the same room with each other at the same time? If that is the case then you are already much better off than several I have witnessed.

If you or perhaps children are in an explosive situation and there is high energy, heavy fighting and a high probability of some personal injury or damage to the property – please physically remove yourself and the children from that situation IMMEDIATELY and seek help from the police and ask them for professional consulting services first and foremost.

Once removed from the toxic environment, if need be, take a good look at yourself and make an honest assessment of how much you contribute to the high energy and fighting. If you are part of the problem I suggest you start looking toward a solution and become more amicable. Attitude and anger only fuels the frustration and stress levels.

I say that because if the two of you cannot act civilly it may be best to keep both parties completely separated and appoint the lawyers to handle all business of the divorce and not the primary couple under powers of attorney as agent.

The house is secondary to everybody's safety and sanity.

Now that you can think, you need a plan.

- Go to Counseling to have someone to talk to!

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- If your divorce is amicable – do you need an attorney?
- If not amicable – start researching and making phone calls.
- You have the right to interview attorneys and ask if they are the actual people that will be by your side through it all or are subordinates your primary point of contact.
- You have the right to ask around and check referrals to confirm a level of service and results.
- You need to start a list of all assets.
- Do you own more than one property? An investment property? Beach House? Time Share and so on.
- Make a list of all savings, checking, Certificates of Deposit, Retirement accounts and so on.
- What are the debts.
- What are the cash flow sources?
- And so on...

We will get into this a little more in the next chapter, but the point of the exercise is to determine if there is enough on the table – asset wise to even go through it.

Quick little bit of advice, there are a ton of smartphone and tablet apps that allow you to scan everything and anything into a PDF file for quick retrieval and organizing. If you have all the papers anyway – not a big deal. If you need copies this little nugget may help quite a bit.

Get Organized

Now that you have a plan in process and there are assets in play. You need to really dig deep and get organized. The confusion and emotions must be put aside. There is no mine and theirs. It is ours until separated or agreed to.

The more you can track down, write down and discuss with an attorney the better. You cannot have too much information when you sit with the attorney.

The attorney and the courts will decide the awards, penalties, child support and alimony.

- Documents for Real Estate: Track down all property documents. Call town hall for Assessor Cards, Deeds, Plot plans and tax bills to make sure everything is okay. Put in a file.
- Financials: Track down all financial records as noted above. If you are on the accounts the banks should be willing to provide copies. If your name is

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not on certain accounts but they are shared then let the attorney know some assets may be hidden.

- Incomes: What are your incomes. The courts will need to know who makes what, how much and from where. Are there bonuses, stock option or profit sharing type items involved. Be thorough with where you are at.
- Debts: mortgage, car loans, credit cards, personal loans and so on.
- Living Expenses: Break it down as a household and track every nickel after separation. This factors into the reward or obligation process later.
- Retirement: What do you have, what does your soon to be ex-spouse have. Write everything down whether you think you are entitled or not. The attorneys and courts will decide what goes where.
- Insurances: Of course, you need to know medical policy numbers, eye care, dental, homeowners, auto policies and so on. One thing many people forget – so I hear is Life insurance, beneficiaries and amounts.
- Other Documents: Do you have Wills, Trust, LLC's, corporations, businesses and other joint documents or projects?
- Household Inventory: Of course, you need a list of all the household inventory. Focus on the larger items that may be of value or need. Do not get hung up with every little thing and do not place sentimental value on anything. It is a pretty sanitized process.

If you do not reside in a property such as an apartment building, condominium or multi-family type property get permission from the management or association before gaining entry otherwise the police will most likely be called.

Also keep track of current bills, debts, mail and any ongoing responsibilities.

Obviously take stock of cash, jewelry, collectables, old coins, small safes, lockboxes, weapons or anything that may need immediate attention and removal.

If there are weapons and/or ammunition at the premises and you are not licensed or knowledgeable about them, contact family members that are. If there are none then contact the local police who will take possession and temporarily store them until things can be figured out.

Lastly but still most important, keep an eye out for all prior communications with attorneys, accountants, insurance providers and elder care issues.

Should you find information concerning an attorney, make that phone call now!

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- **Attorney:** Hopefully there is documentation indicating the decedent had some prior contact with legal counsel now in your possession. If none, you should contact one immediately to transition and assist you in the process. Estate liquidation can become complicated at times. If you do not know of a qualified attorney ask family, friends and neighbors for recommendations. Lastly, you can always use the internet. Please check them out to make sure others have had a good experience with them. The last thing you need is more stress and unprofessional service is this difficult time.
- **Estate Documents:** Again, I can only hope you found some estate planning documents to assist at this difficult time but unfortunately it is very common someone passes away with no will, trust or estate plan in place. The lack of a will does make your duties a little harder and more involved.
- **Legal Documents:** Go back through the paper documents you collected early on as well as going back through the property with fresh eyes looking for all documents. Items such as social security card, lease agreements, deeds to property, car title, divorce settlements, child support, business agreements, stock certificates and a large host of other items now come into play.
- **Bank Accounts:** Naturally you are keeping an eye out for bank accounts, checking accounts, Certificates of Deposit, safe combination or keys, safety deposit box key or information and maybe even a hidden jewelry box or safe. All assets must be accounted for.

While you have everything in your possession make a detailed accounting of everything you have including account numbers, dates and the approximate total value projection of the debt and assets. Prepare this for the attorney and for your own reference. It may be helpful to buy one or two large 3 ring binders and some see through insert pages and keep all your papers in the book and in some form of order. Separate the debts and assets for obvious reasons to get a clear understanding of the situation.

You also need to know that no one at the bank, social security office or most anywhere else will talk to you concerning the estate without death certificates and preferably proof that you are the executor and controlling the estate.

Go to the County Clerk or the Town clerk where death certificates are issued and get several. You may be amazed how many will be needed.

Property Protection

You are now responsible for any property the decedent may have owned. Should they own a house, car, vacation home or any assets you must protect them from fire, theft and damage.

Make sure keys are in your control, cash, antiques and valuables are locked up or removed, electric and heat on and operational.

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If you do not who has keys or how many may be out there for the property it may be wise to change all the locks to the house, apartment, garage, storage unit and so on. You are now in control of the estate so – control it.

If you are local to the property you may be able to keep an eye on it yourself daily. If you are out of area or state you will need someone else near the property to keep an eye on the place. Contact local family members, neighbors to the property or even a real estate agent or property management company. Even if it cost a little bit, I am sure it will be less than the potential of a fire, flood or vandal.

Social Security

Of course, the federal government and the Social Security Administration will need to be in the loop early on. Do not cash a social security check or any other government sponsored check after the date of death. Please seek advice from counsel and the Social Security Administration as this occurs.

Legal Counsel

You now have the paperwork and detailed information of debt and assets.

It is time to book an appointment with the attorney and begin the process of notifying the court of the probate and filing the proper paperwork.

- **Letter Testamentary:** Petition the court appointing you executor or administrator of the estate.
- **Public Notice:** It is common to provide statutory notice of the probate, the proposed executor or administrator and public notice of any debtors so they may initiate claims procedures.
- **IRS Filing:** The attorney can help you file the needed forms with the IRS. They want to know who you are, who the attorney is and to obtain an estate tax number.
- **Bank Account:** If there is an existing checkbook and you already have signatory powers you are sitting pretty. If you do not, you will need to open a new one for the estate as a conduit to pay bills, deposit assets and income as they become available.

As previously discussed, keep all receipts, bills and paper trail of all incoming and outgoing items.

Detailed Inspections

After the attorney has been put in the loop it is time to make a more thorough and detail investigation into all the home, contents and personal items.

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- **Keys:** Again, make a good accounting of all the keys. Verify what they fit, such as cars, doors, safety deposit boxes and so on.
- **Bank Deposit Box:** Visit the safety Deposit box at the bank to verify its contents, empty it out and with permission of the attorney close box service.
- **Mailbox:** If they mail is through the postal service with a paid mailbox or some other vendor it is time to go there and empty that out. If it is convenient enough leave it active, if not close it and forward the mail to a more convenient location.
- **Valuables:** If you have not by now, secure all valuables and get them out of the empty apartment or house. I have heard of problems where properties are broken into after death notices are posted in the paper. People with bad intent know the property is now empty and are not afraid to go break in.

Insurances & Benefits

It is time to go through all the insurances and benefits the decedent may have in play.

- **Hazard Insurance:** Notify the local insurance agent that has the home or apartment insurance of the recent death. Make sure the coverage is sufficient to clear the estate and probate stage.
- **Life and accidental death:** There may be policies or account numbers in the paper trail, contact all of them and ask about any and all coverages that may exist. Local lenders and credit unions also offer small policies as a member benefit, make sure you contact them as well to see if they may know of a policy that may be in play.
- **Employer:** Contact human resources at the company where the decedent worked or retired from. They are a treasure trove of information about current or owed wages, life insurance, disability and retirement information.
- **Local Banks:** Even though you may have paperwork from one or two local lenders it may be wise to contact several of the other local banks to see if the decedents name is in their files for any reason. There may not be a million dollars there but it is worth the few phone calls and due diligence.
- **State Unclaimed:** Over the years, since the advent of technology, the States have been tracking unclaimed properties. It may be worth your while to search their records as well. You just never know. If you are responsible to close the estate, you may do it right.
- **Credit Cards:** With the attorneys' permission, if there is nothing owed on a credit card it may be time to notify the credit card sponsors and start to close the accounts.
- **Credit Bureaus:** Notify the 3 credit bureaus as to the death and have them monitor the accounts for any activity and obviously provide your contact information.

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Housekeeping

It is time to start closing out the newspaper, magazine subscriptions and other services that are no longer needed. Items such as cable, land line telephone, cell phone and similar items are no longer needed.

Contact local charities, consignments shops, senior centers, food pantry, women's shelter and flea market establishment and vendors about the clean out of the property to place and donate most of the remaining personal items. You will be amazed how much these places may take. Don't forget the Red Cross or Epilepsy foundation among others for some of the furniture, clothing and so on.

The balance of the remaining items will be able to be discarded. Call a junk removal service, there are several in the market now and they will come and remove all unwanted items.

Property Sale

Need an Appraiser: If there is real property involved whether it be a single family, condo, business or land, ask the attorney if an appraisal is needed and order one as needed. If you do not know of any appraisers, let us know and we will refer a qualified professional to you in your market. Our referral service is free. If there are interested family members that want to buy or take over the property then it is always a good idea to get a formal appraisal. Let us know by filling out the referral form on our website HubAppraisal.com.

Must sell: If the property is to be sold to pay for debt, then start asking around about a good real estate agent and company. Roughly twenty percent of all agents control eighty percent of all the transactions. You want a good one that knows about estates. If you do not find one or you simply want help - please let us know. Again, we can help you research and get a good one in your local market as a free referral service to you anywhere in the country. Just fill out the referral form on the website and we will get on it right away. This again is a free service to you.

Utilities: It is typical to keep the water, electric and heat on until the property is about to sell. Most buyers have home inspections and it is much better with utilities on to fully check all operations of the components and appliances. Most states require smoke detector and carbon monoxide detector installation and certification prior to a sale. Having the electric on helps with this as well. Set up some timers to go on and off at various times and in different rooms to give the impression that someone is there.

Septic: Ask the attorney or the real estate agent you choose to work with about the local septic system regulations and what may be required, if applicable. Depending on the property location or the time of year, this may be of some concern involving the timing of the sale.

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End in Sight

After roughly 6 months to 9 months depending on the complexity of the estate and real estate holdings, the end should be near.

Assuming all went well and no distant heirs challenge the estate or some lawsuit has been filed for some reason it is just a matter of time to wrap everything up.

With the sale of the property, if needed, the debts should be able to be paid. All the accounts are being closed and all assets have been converted to cash and placed in one account.

There should be a final accounting of all debts and assets.

A final notice to the probate courts.

A final distribution of funds and assets if any.

A final filing with the IRS with estate taxes paid and filed as needed.

A release and closing of the estate accounts as needed.

Congratulations you have done it!

The very front end and the very back end of the probate and estate process is very involved with the attorney. There are filings and deadlines not to be missed.

When dealing with the chosen law firm and attorney keep an eye on their fees. Most firms are very efficient and cost effective while some others may try to nickel and dime you. At \$200 to \$500 dollars an hour depending on where you live those nickels and dimes can add up very quickly, keep an eye out at the rate of billing and services provided. I have been in the back ground of several estate liquidations now and they can go either way. The bill should match the estate being liquidated, small and simple or large and very complicated.

Conclusion

I hope you found some information that helps you in your time of need. It can sometimes be a daunting task to sort through someone's life details to the degree of minutia.

Surround yourself with family and friends and do not be afraid to lean on them for support and assistance. Most people do not have to go it alone.

Remember, the appraiser is not your advocate. An appraiser will not and cannot provide a value to help your specific cause or value desires. In other words, do not tell the appraiser the value needs to come in low or high for your specific needs. An appraiser is a neutral

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third party in this and will appraise the property based on fact, physical condition and market conditions at that specific time.

If you need any further services from us such as a referral of an local appraiser or real estate professional please let us know here at HubAppraisal.com, we would love to help you.

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Other works from the author;

The following books are available or will be available
spring to summer 2018;

“20 Ways an Appraisal Can Kill Your Deal!”

“What Should You Know About Your Appraisal
Inspection? And should you worry?”

“Real Estate Armageddon. Buyers and Sellers Caught in
the Crossfire”

“What Property Improvements Return Value on an
Appraisal”

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Disclosures

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I am not licensed nor certified to perform Veterans Administration (VA) appraisals and therefore have no information or input concerning their processes.

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About the Author



Steven Boucher is a second-generation real estate guy who followed his mother into the business back in the mid 1980's. He continues to serve the public as a traditional listing agent, a buyer agent, a residential certified appraiser and through the years has served on various REALTOR® committees at the local and State levels.

Steve has been involved in various levels of public service through the years from Little League coach to their local Board of Directors. Steve has served on many committees within his local Board of REALTORS® chapter, Condominium Board Trustee and a limited few small-Town committees.

Steve was one of the founding committee members and representatives overseeing the merger of a statewide Multiple Listing Service database conversion. This MLS is now known as Multiple Listing Service - Property Information Network (MLSPIN), which currently has grown to have major accounts in several states across the country. He is a past President of the local chapter Board of REALTORS®, local REALTOR® of The Year winner and two-time recipient of the local North Central Massachusetts Association of REALTORS® Presidents Award and a two time REMAX® President's Award winner.

Through the years, Steve has been involved and quoted in several publications, guest speaker on local radio shows and other media outlets. He enjoys every moment possible with his wife and two boys, travel & vacations, an occasional round of golf, fresh water fishing, walking his golden retrievers Bailey and Granger or camping with family and friends.

His latest hobby has been writing various books specifically to provide information to the real estate public. His intent is to tell the public what the government has put in place for regulations either directly or as a byproduct and how it impacts buyers, sellers and real estate agents when it comes time to buy, sell or refinance.

He currently enjoys working on his blog and website HubAppraisal.com as much as possible. Let me know if you have any ideas or topics you may want to see covered at **stevedirect@hubappraisal.com**.