Family Dispute Resolution (FDR)

Financial and Property Settlement

Financial and Property FDR can help you to reach a financial settlement following the end of a relationship. We work with people who were married as well as people who were in a de facto relationship.

At Bendigo Mediation, our approach to your financial settlement relies on collating a complete picture of your assets and liabilities and helping you decide what your goals are for the future. Together we then figure out how to best divide those assets to achieve your goals.

This information brochure will provide insight and guideline into how Australian Courts divide property between a couple when they separate or divorce. It can also help you prepare for your financial settlement through mediation when looking at negotiations and

agreements.

The process involves a 4-step approach when assisting couples in negotiating and making agreements for a property settlement.

1. **Establish The Asset Pool**

What are the assets, financial resources and liabilities of the parties and the value of each item?  This includes what is in your individual bank accounts, the value of properties you own, the value of shares you own, superannuation, and any interests you may have in a trust, business, or company. You will also need to confirm the combined value of all of your debts or the money you owe to banks, the Government or any other person or entity.

1. **What Contributions Were Made During The Relationship**

This includes financial or non-financial contributions. Financial contributions can consist of wages, government payments, any gifts or inheritances received. Non-financial contributions can consist of domestic duties, looking after the children of the relationship, renovating the house, etc. It can include anything that helped maintain the home, the family and the relationship.

1. **Future Needs Of The Parties**

After deciding on the respective shares of property based on the above contributions, mediating couples can make some adjustments. The adjustment takes into account factors, including the future needs of each of the parties.

A variety of factors are taken into consideration here. Factors include future earning capacity, each person's health, the ages of each person, employment prospects, and financial resources. Other factors include responsibility for the care of children post-separation and divorce, the duration of the marriage and the extent to which it has affected the future earning capacity of the parties.

1. **Is the Decision Fair & Equitable?**

It is also essential to look at whether or not the decision will be equitable and fair to both of you. The Court will only approve an agreement that is fair and equitable based on all information provided.

Full and Frank Disclosure

 Under the Family Law Act 1975 you must disclose all assets and liabilities, even assets not in your private name but are a beneficiary of. That means companies or trusts that you are a shareholder of. You must also disclose recent disposals of property or other assets.

Agreements and next steps.

Once an agreement has been reached the Mediator will provide you both with the Heads of Agreement in a written and spreadsheet format and the draft for Consent Orders. These documents will be required if making the agreement enforceable. An enforceable agreement is either a Consent Order or a Binding Financial Agreement.

Consent orders are filed in a Court. The Court will only make orders that the parties have agreed upon if the Court thinks they are "just and equitable", which in essence means fair and reasonable.

A Binding Financial Agreement is a contract between the parties and does not come under scrutiny of the Court. Each party must have their own lawyer who will give them independent legal advice and sign a certificate stating that they have provided that advice to their client.

For more information, contact Bendigo Mediation on 0438 023 155