STRATEGIC ADVANTAGE REALTY

SELLER RESOURCE GUIDE

The Divorce Home Sale Playbook

What to know before you list, sign, or agree to anything

Selling a home during a divorce is not the same as a regular home sale. There are legal rules, timing issues, and financial decisions that most sellers don't know about until they're already in the middle of it. This guide covers the real stuff — no fluff, no opinions, just the information you need to make smart decisions.

1 The Financial Picture First

Before anything else, you need to know what the home is actually worth right now. Not what you paid for it. Not what your neighbor sold for two years ago. What a buyer would pay for it today, given its current condition and the current market.

This matters because every financial decision in a divorce home sale is based on net proceeds — the money left over after all the costs of selling are paid. That number determines what gets divided.

HOW NET PROCEEDS ARE CALCULATED	
Sale Price	**Your starting point**
Minus: Mortgage payoff balance	**What you owe the lender**
Minus: Real estate commissions	**Typically 5–6% of sale price**
Minus: Closing costs	**Typically 1–3% of sale price**
Minus: Pre-sale repairs or updates	**Agreed upon by both parties**
Minus: Court-appointed referee fees (if applicable)	**$2,000–$5,000 if court orders sale**
= Net Proceeds	**What gets divided**

Getting a realistic number early is not optional. It is the foundation for every agreement you and your attorney will make.

2 Who Has to Agree to What

This is where a lot of sellers get confused, especially when they have heard different things about what their rights are.

INDIANA IS NOT A COMMUNITY PROPERTY STATE

You may have heard someone mention community property rules, or read something about how a home gets split 50/50 automatically. That applies to nine specific states — Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. Indiana is not one of them.

Indiana follows **equitable distribution**. The court divides property in a way that is fair, not necessarily down the middle. Judges start with the assumption that a 50/50 split is reasonable, but either spouse can present evidence for a different outcome based on individual circumstances.

Factor	Community Property States	Indiana (Equitable Distribution)
Default split	Exactly 50/50	Presumes 50/50, judge can adjust
Pre-marital property	Usually protected from division	Can be included under Indiana's one-pot rule
Inherited assets	Usually protected from division	Can be included in the marital estate
Gifts received	Usually protected from division	May be subject to division
Who decides	Law sets the formula	A judge decides based on fairness

INDIANA'S ONE-POT RULE

Under Indiana law (IC 31-15-7-4), nearly everything either spouse owns at the time the divorce petition is filed goes into one pot to be divided — including assets from before the marriage in many cases. In some ways, Indiana's approach is actually broader than community property states. Your attorney can advise you on what applies in your specific situation.

TITLE DETERMINES WHO SIGNS

The name or names on the deed determine who has the legal authority to sign listing agreements and closing documents. If only one spouse is on the title, that person is the decision-maker for the transaction — they can choose the agent, approve the list price, accept an offer, and sign at closing without the other spouse's signature on those documents.

There is an important exception. Once a divorce petition is filed in Indiana, provisional orders are typically put in place that restrict either party from selling or transferring marital assets without the other's consent or a court order. Even if you are the sole title holder, selling after the petition is filed without that agreement or order can result in legal consequences. Always confirm with your attorney what is permitted at your specific stage of proceedings.

If both spouses are on the title, both must sign. If one refuses, the other can petition the court to order the sale — which takes additional time and adds cost.

3 Timing the Sale Around the Decree

The timing of when you list and when you close affects both the legal process and the financial outcome.

- **Both spouses agree to sell before the divorce is final.** This is the cleanest path. You can list, sell, and close while proceedings are underway, as long as both parties sign off and the court has not issued orders restricting the sale. Proceeds are held until the court approves the distribution.
- **The divorce decree orders the home to be sold.** The court specifies how proceeds will be divided. Once that order is in place, the titled owner — or both, if jointly titled — moves forward with the sale.
- **The decree gives the home to one spouse.** That spouse becomes the sole seller. A quitclaim deed transfers the other spouse's interest, and the sale proceeds from there.
- **One spouse wants to sell, the other does not.** The spouse who wants to sell can petition the court. Indiana courts have full authority to order a sale. Getting a hearing and ruling typically adds two to four months to the timeline.
- **The decree has a deadline attached.** Some agreements require the home to be listed or sold within a specific timeframe. Missing that deadline can put you in violation of a court order. Know your dates before you meet with an agent.

> **HEADS UP**
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> If the home sits on the market too long and a court deadline is approaching, you and your attorney may need to discuss a price adjustment to meet the timeline. A delayed sale can affect other parts of the divorce settlement. Your real estate strategy and your legal strategy need to work together from day one.

4 Selling While Living Under the Same Roof

This situation is more common than most people expect. If both spouses are still living in the home during the sale, the process requires some structure to keep things moving without adding conflict.

Agree on a showing plan in writing

Set minimum notice time, access hours, and who coordinates with the agent. Put it in writing so there is no room for dispute when a showing request comes in.

One point of contact with the agent

Designate one person to handle day-to-day communication. Your agent can keep both parties informed, but fielding calls from two people in conflict slows the process down.

Keep the home show-ready

Buyers form opinions in seconds. A home that looks lived-in by a household under stress sends a signal. Cleanliness and order during showings protect the sale price.

Align on offer decisions ahead of time

Decide in advance what your minimum acceptable price is, so when an offer comes in you are responding to terms — not reopening the broader argument.

> *"The smoother the showing process, the stronger the offers. Buyers notice disruption."*

5 Preparing the Home to Maximize What You Walk Away With

A divorce home sale is often treated as something to get through as fast as possible. That is understandable. But the difference between a rushed listing and a prepared one can be thousands of dollars in final proceeds — money that benefits both parties.

A professional stager evaluates your home through a buyer's eyes. They identify what needs to be addressed, what can stay, and how to present the space so it shows at its best. This is not about personal taste. It is about return on investment.

UPDATES PAID FROM THE SALE PROCEEDS

One of the most practical agreements two sellers can reach: pre-sale repairs and staging costs are paid from the net proceeds at closing — not out of either person's pocket today. This removes the argument about who pays for what upfront. Both parties benefit from the increased sale price, and the costs come off the top before the split. Your agent and attorney can outline this in writing before any work begins.

Common updates that consistently return their cost or more in a sale:

- **Professional staging consultation.** Even a one-time walkthrough produces a specific, prioritized action list. Staged homes photograph better, show better, and tend to attract more competitive offers.
- **Fresh paint in neutral tones.** One of the highest-return updates available. It removes years of visual wear in a single weekend and signals a well-kept home to buyers.
- **Landscaping and curb appeal cleanup.** First impressions form before a buyer steps inside. The front of the home sets the tone for how they evaluate everything else.
- **Deep cleaning and decluttering.** Buyers equate cleanliness with how well the home has been maintained overall. It affects perceived value even when nothing structural is wrong.
- **Minor repairs and touch-ups.** Leaky faucets, scuffed trim, broken fixtures. Small things buyers flag as signs of deferred maintenance. Addressing them protects the negotiation.

THE BOTTOM LINE ON PREPARATION

A home that is properly staged and prepared almost always sells faster and for more money than one that is not. In a divorce sale, speed and price both matter. Time on market increases pressure, and pressure leads to price reductions. Getting the home right before it hits the market is a financial decision, not a cosmetic one.

6 Red Flags That Slow or Stop a Closing

Buyers' agents are trained to notice when a transaction has complications. A divorce sale is not automatically a red flag, but certain situations can create problems that delay or kill a deal.

- **Both spouses on title, one is unresponsive.** If a required signature cannot be obtained, the sale stalls. Establish contact and response expectations before listing.
- **Disputed proceeds split.** If the distribution of proceeds is not settled before closing, title companies may hold funds. A closing does not automatically resolve a dispute the court has not addressed.
- **Liens on the property.** Unpaid property taxes, contractor liens, or second mortgages affect what the title company will insure and what buyers will accept. These must be resolved before or at closing.
- **Refinancing issues.** If one spouse refinanced without the other's knowledge and added debt, that shows up in title. It needs to be addressed in the legal agreement before the sale closes.
- **Court order delays.** If the sale requires court approval, closings can be delayed by the court's timeline, not the market's. Buyers may not wait if they have their own purchase contingencies.
- **One party trying to stall the sale.** Extended delays that become visible in the listing history raise questions about the property in buyers' minds that may not even exist.

IMPORTANT NOTE

Days on market matters in a divorce sale just as much as any other sale. Every week a home sits without an offer is a week of carrying costs, increased pressure, and potential for price reductions. A well-prepared home priced correctly gets both speed and a strong outcome.

7 What to Look for in an Agent for This Situation

A divorce sale is not a standard transaction, and not every agent is equipped to handle one well. The wrong fit adds conflict. The right fit removes it.

- **Process-driven, not personality-driven.** You need someone who follows a system, communicates clearly, and makes decisions based on data — not someone trying to take sides or become part of the emotional experience.
- **Able to communicate with both parties professionally.** Clear, factual updates on schedule — not calls that create more friction.
- **Pricing grounded in data, not optimism.** In a divorce sale, an overpriced listing is especially costly. Time on market creates pressure, pressure leads to reductions, and reductions signal weakness to buyers.
- **Connected to staging and preparation resources.** The agent should be able to bring in the right people quickly, coordinate prep work, and account for those costs in the closing settlement plan.
- **Experienced with the legal coordination a divorce sale requires.** A good agent knows when to loop in your attorney, understands court order timelines, and does not make promises that conflict with what the legal process requires.

> *"This type of sale rewards structure. The more organized the process, the less room there is for the transaction to become part of the larger conflict."*

Ready to Talk Through Your Situation?

Every divorce sale has its own set of variables. If you want to understand what your home is worth right now, what the process looks like, and how to protect what you walk away with, let's have a straightforward conversation.

SCHEDULE A CONSULTATION

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