



family flyer

Michael Lynch
Family Lawyers

Issue #105

Introduction

The Family Flyer is a free community service by Michael Lynch Family Lawyers. The publication is designed to be informative and topical and to assist you in understanding the ever-changing field of Family Law.

This edition includes:

- Seminar Series – Last Dates – Don't Miss Out!
- Sham Couples Fail "Intimacy Tests"
- "Close-up" – Edition
- Mediators – Qualification Requirements!
- Why Document a Property Settlement?
- What is a Contact Centre?

SEMINAR SERIES – LAST DATES – DON'T MISS OUT!

If you have not been to one of the "Surviving Separation" Seminars – book NOW! There are only 3 left!

The information provided is straight-forward and practical. As reported in a recent newspaper article about the Seminars, "To someone who separated 6 or 7 years ago, the law is now almost unrecognisable..." click here to read the article. So come along and see what has changed.

Get information valued at over \$500, for only \$20! There is also an added Special Offer for those in attendance.

Great comments from those that have attended visit www.mlfl.com.au/seminars. Phone 3221 4300 to book your seat now for:

- Monday: 17 August, 6-7.30pm – The Colmslie Hotel, Corner of Wynnum & Junction Roads, Morningside;
- Tuesday: 18 August, 6-7.30pm – Sunnybank Sports Club, 470 McCullough St, Sunnybank;
- Tuesday: 25 August, 1-2pm – Sebel Suites, Charlotte St, Brisbane City.

SHAM COUPLES FAIL "INTIMACY TESTS"

Hundreds of spouses born overseas are being sent back to their home countries each year, after applying for spouse visa applications to stay in the country but then failing government "intimacy tests".

The department of Immigration investigated over 1,150 couples in 2007-2008, 220 of which were found to be shams and their partner visas were cancelled.

Partner visas are issued after 2 years and require couples to prove their relationship is genuine and ongoing for permanent residency to be granted.

The "intimacy tests" involve suspected couples being interviewed separately about their lives together. The couples could be asked about the floor plan of the house they claim to share, or what they did on birthdays together or the presents they received from one another on certain occasions.

"CLOSE-UP" – EDITION

Figuring out the size of a couple's available property for division is not as easy as it may sound – especially when one spouse has sold or spent part of it! Find out how property can be clawed back! Read ["The Treatment of Property that is Gone!"](#)

MEDIATORS – QUALIFICATION REQUIREMENTS!

From 30 June this year, Registered Family Dispute Resolution Practitioners need to have completed further training to stay accredited with the Federal Attorney-General's department.

Accreditation allows these practitioners to provide Mediation Certificates, which a spouse needs to obtain if they want to make an Application to the Family Court for a Children's matter.

A list of registered practitioners can be found on the Federal Attorney-General's website.



WHY DOCUMENT A PROPERTY SETTLEMENT?

Quite often separated couples will agree to the division of property (e.g. transferring real estate, cars, etc.) and move on with life, but having failed to correctly document the property settlement.

Beware! There have been many cases where a partner has come back years later claiming that the property has not yet been divided! Not only does this cause untold heartache and costs, but often the property has significantly increased in value.

The lesson for all – is – you **must** correctly document a property settlement to ensure it is final!

How?

- **Consent Order:** This is a standard Family Court form. Once it is completed it is lodged with the Court and becomes a Court Order. Obtaining legal advice prior to entering a Consent Order is strongly recommended.
- **Binding Financial Agreement (BFA):** This can be made before (i.e. pre-nuptial), during or after the marriage, to set out how property will be divided. It is legally enforceable and must be signed by both partners. It must also include a Solicitor's certificate for each spouse, confirming they have had independent legal advice.

Why Should I Document?

There are several advantages of documenting an Agreement, other than just ensuring finality, these include:

- **Stamp Duty:** By documenting a property settlement, there is the benefit of a stamp duty exemption (i.e. nil) on any transfers

of property done pursuant to the Agreement (e.g. house).

- **Capital Gains Tax:** For a CGT asset that is transferred, the CGT is rolled over (i.e. it is not payable at the time of the property settlement transfer).

When?

- **Defacto couples:** if a property settlement is not yet finalised, any Court Application must be made within 2 years of separation.
- **Married couples:** If a property settlement has not been finalised, any Court Application must be made within 12 months after the divorce.

WHAT IS A CONTACT CENTRE?

Contact Centres are staffed premises that facilitate contact changeovers and assist children from separated families to maintain or establish a relationship with the parent they do not reside with.

What can they do?

- Provide a neutral location for child changeovers between parents;
- If necessary, the Centre can supervise the time children spend with a parent or other family member.

A Contact Centre is not however a confidential service, anything that is said or done can be reported as evidence to the Court.

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