

# *Buying a Home with Your Partner*

## **Overview**

Buying a home with your partner requires plenty of thought and preparation.

- Questions to ask yourselves
- Writing a contract
- Discrimination against unmarried couples

Most people dream of one day owning a home. Property not only can be a sound investment, but, for many people, it can signify that they're ready to lay down roots. For this reason, you may have grown up expecting you would be married before you buy a home. It's true that the process is less complicated if you're married or even single. But your marital status shouldn't necessarily discourage you from buying a home with your partner. If you think through your reasons for wanting to own a home together, clearly grasp the emotional and financial commitment, and take action to protect yourselves and your investment, you will be prepared for the responsibilities and rewards of home ownership.

## **Questions to ask yourselves**

Buying a home with your partner is a commitment that can be just as strong as marriage. Owning property with your partner will link you financially as well as emotionally. Here are some questions to ask yourselves before making the decision to buy a home together.

- *Why do we want to buy a home together?* Be sure you and your partner are clear on your reasons for wanting to own a home with each other. Buying your own home means independence from landlords and can be a good investment. But it is also a major financial and emotional commitment. The couples who have the most success are the ones who plan to stay together for the long term and who have a realistic view of the responsibilities that come with owning a home.
- *Are we prepared to be joined financially?* Unlike married couples who are protected from losing their homes, if one member of an unmarried couple gets into financial difficulty, a lien could be attached to that person's share of the home, and you could be forced to sell.
- *Which one of us will take the lead in searching for homes, working with realtors, and applying for a mortgage?* While it's often one person who drives the home-buying process, it's best if you are both involved in each stage and that you make all decisions jointly.
- *How will we share the costs of buying and owning a home?* Purchasing a home requires considerable upfront costs, including the down payment, closing costs, and other fees. When you own a home, you're responsible not only for the monthly mortgage, but for property taxes, home owner's insurance, repairs, and upkeep. How will you and your partner divide these costs? Some couples decide

## 2 • Buying a Home with Your Partner

to split the costs 50/50, while others base their shares on a percentage of their incomes. Or, one partner may agree to do repairs and renovations in exchange for contributing financially.

- *How will our financial contributions change if one of us gets a raise or loses a job?* If the amount you each pay into the house is linked to income, be prepared to make adjustments if your financial situation changes.
- *How will we work out the mechanics of paying for our home?* If you open a joint checking account, how much will each of you contribute and on what schedule? Which one of you will make sure the mortgage and other bills are paid on time?
- *How will we make decisions about renovations or repairs?* If you disagree on renovations or repairs, how will you resolve the dispute? It might be beneficial to put in place criteria to help you decide on home improvements or repairs, or to come up with a system of weighing pros and cons of any work you do on your home.

### Writing a contract

Before you buy a home, draw up a written contract protecting your investment. Hire a real estate attorney to write the property agreement and make sure it includes details about ownership, responsibilities, liabilities, and logistics. Be sure to have the final document signed and notarized. The contract should include the following:

- *The amount each partner will contribute to the down payment.* Include any non-financial contributions as well. For example, one of you may cover the entire down payment while the other agrees to rehab the home over a period of three-to-five years.
- *The amount each partner will contribute toward housing costs.* Specify the percentage or the amount that each partner will put toward the mortgage and other household expenses, including property tax, insurance, maintenance, and utilities.
- *Who will benefit from property tax and mortgage interest deductions.* As an unmarried couple filing separate income tax forms, you can't jointly claim the property tax and mortgage interest tax deductions. Decide beforehand who will claim these tax benefits or whether you will divide them. If one of you earns significantly more and is in a higher tax bracket, it may make sense to give that person the entire deduction.
- *Your individual ownership shares of the property.* This should reflect the amount each of you pays into the property. If one of you supplied 80 percent of the down payment and pays 80 percent of the monthly mortgage, then it follows that he or she would own an 80 percent share of the home. However, if one of you has invested labor and skill in renovations, you probably want to factor that in when

### 3 • Buying a Home with Your Partner

calculating shares. However you decide to divide ownership, make sure you agree that the figure is fair.

- *How you will title the deed to the home.* Titling the property can be complex, so it's a good idea to hire a legal professional to help you. Among your choices are the following:
  - One partner as the sole owner. This is a risky arrangement for the partner whose name is not on the deed. If your relationship ends or the owner dies, the partner whose name is not on the deed has no legal rights to the property and could find him- or herself homeless. With a married couple, the survivor typically receives the house when his or her spouse dies. But unmarried couples receive no such protection, so the survivor not named on the title has no ownership rights to the home unless specifically stated in the owner's will.
  - Joint tenancy with right of survivorship. In this form of joint ownership, each partner has an equal, undivided, individual interest in the entire property. If one dies, that partner's interest extinguishes and the surviving partner now solely owns the entire property -- even if the deceased partner tried to give the home to someone else in his or her will.
  - Tenants in common. If you and your partner don't own the home as joint tenants with right of survivorship, you would take title as tenants in common. This arrangement does not carry a right of survivorship. If one partner dies, his or her share of the home goes to the person named in his or her will. If there is no will, the deceased partner's share of the property is distributed according to state laws.

If you and your partner get married at some point in your relationship, be sure to retitle the deed to reflect your new status. This will protect you from losing your home to creditors should one or both of you get into financial difficulty.

- *A process to dissolve your ownership in the property should you split up.* It's not pleasant to think about, but should your relationship end, you will avoid a lot of heartache, frustration, and expense if you determine ahead of time what you will do with the property. In the absence of an agreement, a court may have to decide each partner's interest in the home and whether the home will be sold. Among your choices are the following:
  - Sell the property and divide the proceeds according to your individual shares. Be sure to specify the time frame in which you'll sell the property and how you will agree on a fair selling price.
  - Decide who will have the first right to buy out the other partner and stay in the home. Again, set a method for determining a fair selling price and put in writing who will pay for the home appraisal. Be sure to include in the contract the stipulation that the partner who stays in the home will refinance the mortgage in his or her own name. Otherwise, the departing partner will still be

liable for the loan payments and probably wouldn't qualify for a new mortgage on another home.

### **Discrimination against unmarried couples**

Your marital status will not affect whether you're approved for a mortgage. The federal Equal Credit Opportunity Act forbids lenders from discriminating against anyone because of his or her marital status. However, federal fair housing laws do not protect unmarried couples against discrimination in housing. While it's rare that someone would refuse to sell you a home because you're not married, do be aware that it could happen and you would not be protected by federal law.

However, some states prohibit marital status discrimination in housing transactions. You can find out if yours does by checking with your state's housing agency.

A home is an enormous investment, emotionally as well as financially. It's important to think through the implications not just of buying a home but of buying one with your partner. By talking openly about your expectations, figuring out how to share the costs and responsibilities, and putting in place legal protections, you and your partner should be well prepared for this new phase of your lives together.

Written with the help of David Rivers, J.D. Mr. Rivers is an attorney and a legal consultant at Ceridian Corporation.