

Handling Marital Dissolutions and Property Settlements

Dear Mr. Ketcham: Q. Our daughter is in the process of a marital dissolution and property settlement. She and her soon-to-be ex-husband own several commercial properties that must be divided as to ownership. Both his and her attorneys have recommended that each individual obtain appraisals of the properties and a negotiation would ensure as to who ends up with what. Is there not an easier way to complete this proposed property settlement? P. Connley, Smartsville



Daniel Ketcham

S: The approach that the attorneys are collectively suggesting is customary. Furthermore, as each attorney is retained as an advocate for his or her client and to seek the best possible settlement, this is legally the correct approach. However, this process is inherently problematic. For instance, two appraisers will inevitably conclude differing opinions of value. Under this circumstance, an additional resolution process must then be provided. This may be accomplished by:

- 1) hiring of a third appraiser to arbitrate a settlement;
- 2) the respective involved parties hammering out a settlement, or
- 3) failing the prior two options, settlement by the trial judge. None of the solutions are optimal, in that they represent additional cost, time delays, and may ultimately prove

inequitable for one party. In potentially disputed matters such as you describe, I always counsel the client(s) to approach the problem as follows: Ask or suggest that both parties to the disputed matter agree or stipulate to retain the services of one mutually selected appraiser. The appraiser

will be completing his analysis and report on behalf of both parties and there should be no belief that the appraiser's conclusions as to value will be biased or skewed to favor a specific client over another. From my professional perspective, this is a much preferred approach to a satisfactory resolution of the dispute. However, often it is not an easy task to accomplish the mutual selection of the appraiser. Nor is this approach to a settlement consistent with legal counsel if, in fact, their intent is to prolong the case and create more "billable hours." I try to encourage clients to utilize this approach when possible or applicable, and in the matter of a property settlement for your daughter this approach would most certainly apply.

---Submitted by Daniel R. Ketcham, MAI, SRA, SR/WA, a member of the Appraisal Institute and the International Right of Way Association. He welcomes questions on real estate valuation and appraisal issues. Write to him in care of Real Estate Editor, The Union, 11464 Sutton Way, Grass Valley, CA 95945.