



Q&A By John T. Syrtash, Associate, Garfin Zeidenberg LLP

Answers to pressing questions on Family Law.

House Equity Depends on Many Factors

Question: I inherited my house. On the date of separation it was valued at \$850, 000. Today, it is worth C1\$ million. On the date of marriage it was worth \$500, 000. We never signed a marriage contract to vary my husbands normal right under Ontario law. What are my ex's rights to the equity in my house?

Answer: Subject to other factors, he could get as much as \$425,000 if the property was sold and the proceeds divided between the two of you. Or, if you don't want to sell the property, you might have to purchase his share. Assuming that your ex can't prove, 1: That he made any financial contribution to the home, either directly or indirectly and 2: That he personally assisted or paid anyone else to assist with renovations or upkeep. Unfortunately, because you never had him sign a marriage contract to vary his rights you must share with him the entire separation date value of the home. This includes its premarital value, subject to other factors. Based on your facts, the entire value of your home as of the date of separation forms part of your net worth for equalization purposes under Ontario's Family Law Act (this is called "net family property.") In the absence of other factors such as a mortgage or other third party debts as of the date of separation (such as unpaid income taxes) or the value of third party gifts or inheritances received after your marriage, your liability to your husband includes the home's premarital value. (Consult Ontario's Family Law Act or a family law lawyer for an extensive list of other factors.)

John T. Syrtash, Associate
GARFIN ZEIDENBERG LLP
Yonge-Norton Centre
5255 Yonge Street, Suite 800
Toronto, Ontario, Canada M2N 6P4
Phone: (416) 512-8000 ext 410; Direct (416) 642-5410
Fax: (416) 512-9992
email: jsyrtash@gzlegal.com

John Syrtash is an associate and family law lawyer with the Toronto firm of *GARFIN ZEIDENBERG LLP*. Neither *GARFIN ZEIDENBERG LLP* nor John Syrtash is liable for any consequences arising from anyone's reliance on this material, which is presented as general information and not as a legal opinion