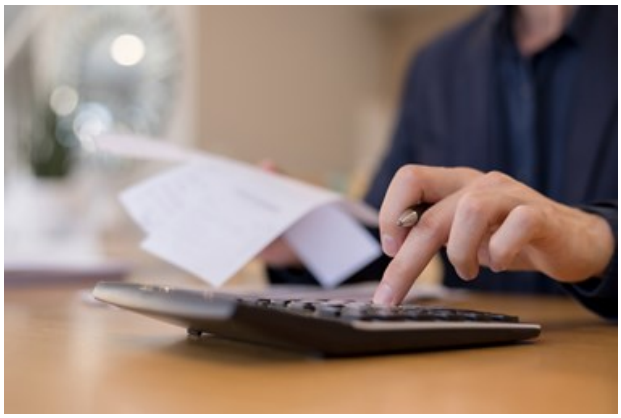


Property settlement costs: what you can expect to pay

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One of the most common questions people ask a family lawyer about dividing their assets after separation is "how much will this cost?"

Unfortunately, there is rarely a simple answer as every property matter is different. The total costs will depend on a number of factors, including the number and type of assets, whether the parties agree on their value, how much financial disclosure is needed and whether the matter can be resolved without going to Court.

Understanding the difference between your legal fees and the disbursements (third-party costs) you may incur in a property settlement can help you budget and make informed decisions.

In this blog, we explore the costs that commonly arise in a property settlement, from name searches and valuations to financial advice and conveyancing. If you are interested in the costs of parenting matters or what to expect if your matter goes to Court, you can read our other blogs on these topics.

This is intended to be a general guide only, and the estimates herein are subject to change.

Legal fees in a property settlement

Your legal costs for your family law matter are the fees charged by your lawyer for the work undertaken on your matter on your behalf. Depending on the circumstances of your matter, this could include:

- providing legal advice on your entitlements and options in your property settlement;

- reviewing documents and correspondence;
- negotiating with the other party or their lawyer;
- instructing valuers and other experts;
- preparing letters and legal documents;
- drafting applications, affidavits and supporting documents;
- attending mediations or family dispute resolution;
- appearing at court; and
- briefing and working with a barrister.

The amount you spend will depend significantly on how your matter progresses. For example, a relatively straightforward family law matter resolved by consent of the parties through early negotiation will cost much less than a matter that proceeds through the Court system and is determined at a trial.

Family law costs are also affected by the complexity of the issues. For example, a property matter involving a jointly owned home and a small number of bank accounts may require less work than a matter involving businesses, trusts, overseas assets, disputed valuations or allegations that one party has failed to disclose financial information.

At Smith Family Law, we are transparent and upfront about how we charge, and provide our first appointment free of charge so that we can obtain an overview of your situation, the issues in dispute, and provide an estimate of costs.

What disbursements can I expect in a property settlement?

Legal fees are only part of the cost of a property settlement.

You will most likely also incur ‘disbursements’. Disbursements are expenses or costs that your lawyer attends to on your behalf during the course of your matter (generally they are paid from funds you have paid into the lawyer’s trust account on retainer). They are not ‘legal fees’ for work done, but third-party payments required to progress your matter.

It’s important that you understand what disbursements you are likely to incur and at what stage in your matter, as together with legal fees your costs can quickly increase.

The most common types of disbursements you can incur in a family law property matter include the following (noting this is not an exhaustive list and should be read in conjunction with our blog on costs if your matter is litigated):

Verification of Identity

If you choose to engage a lawyer to represent you, you will most likely need to complete a Verification of Identity check before your lawyer is able to undertake substantive work on your matter.

A Verification of Identity check is standard, and currently costs around $50 to complete.

Name and asset searches

If you or your partner own, or are suspected of owning real property, have an interest in a company or another kind of registrable asset (i.e. a boat or car), name/asset searches can be undertaken to verify what assets are registered in their name.

There is a fee for each separate search undertaken, and the costs is different depending on the type of search, what State/Territory the asset is in, and the search method used. For each search, the cost could be between $10 and a few hundred dollars.

If you are confident that you are aware of what assets your former partner has an interest in, not all of these searches may be necessary (i.e. a general asset search), however some searches will always need to be undertaken to ensure the drafting of any agreement is accurate and enforceable (i.e. a title search to verify the Volume and Folio numbers for a property).

Valuation fees

In property matters, it is common for parties to disagree as to the value of an asset, such as a house, business, artworks, cars, etc.

Sometimes, the only way the parties can resolve this dispute is to obtain an independent valuation. These valuations are different from real estate appraisals, bank valuations, or the value attributed to an asset in tax returns/financial statements.

The cost of a valuation report varies depending on the type of asset being valued, and the type of report being obtained. Some of the most common valuations obtained in property settlements include (but are not limited to):

1. Real property – between $880 to $2,200;
2. Business – starting from $3,000 to upwards of $50,000, depending on the type/size of the business/es;
3. Artworks – a few hundred to a few thousand dollars for a valuation report;
4. Cars – from $50 for an online valuation up to around $2,000 for a more formal valuation report.

The cost of valuation reports can vary greatly from asset to asset and from valuer to valuer, so it is prudent to obtain a few quotes to determine who would be most appropriate to proceed with (as if the cost of the valuation is likely to outweigh the value of the asset in dispute, it may not be a worthwhile process to undertake at all).

Parties will usually meet the costs of any valuation report equally.

Independent financial and taxation advice

It is always recommended that prior to formalising a property settlement, each party obtain independent financial and taxation advice about the terms and effect of any proposed settlement.

Family lawyers are not qualified to provide financial and/or taxation advice, and so any fees incurred in this regard will be in addition to your legal costs, and dependent on the service provider's fees.

If you do not have a financial advisor or are not sure who to ask for taxation advice, your lawyer will be able to provide some referrals in line with your budget and the complexity of your matter.

Each party will be solely responsible for obtaining their own financial/taxation advice.

Conveyancing and PEXA fees

If, as part of your property settlement, you are dealing with a real property (for example, lodging or removing a caveat, discharging/refinancing a mortgage, and/or transferring the interest to another person), you will need access to the PEXA platform (or similar).

PEXA is the online platform that allows parties to deal with their real property/amend the title. Other States/Territories have similar platforms, but they do not all use PEXA.

Only registered subscribers can access PEXA, generally lawyers or conveyancers. You will need to pay the costs of the conveyancer and any additional fees required (i.e. transfer of land fees). These fees will vary between each lawyer/conveyancer and will be dependent on the work involved.

It is usual for each party to pay their own conveyancing fees, or if the parties are amicable and have jointly engaged a conveyancer, they will each meet half of these fees.

Planning for the costs of your property settlement

Depending on what steps are required to resolve your property matter, there are a number of disbursements that may be incurred in addition to your legal costs. It is important that you are aware of and kept up to date about what each stage of your matter will likely cost you, both in terms of your legal fees and any likely disbursements.

While it is not likely that you will incur each and every kind of disbursement to resolve your matter, it is important that you have a clear understanding both of what you are likely to incur, but also an 'up to' estimate of what you could incur in a worst case scenario.

Get help from a family lawyer

If you have questions or concerns about what steps/disbursements may be required in your property matter, it is important to obtain legal advice and a costs estimate from an experienced family lawyer. It is just as important to stay informed about what costs you are incurring throughout the progression of your matter, as changes/updates in your matter may affect your costs estimate.

Our family lawyers can give you an estimate of the likely costs of your property settlement at your free first appointment. Smith Family Law has offices in Melbourne, Sunshine and Williamstown.

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This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.