Buying a Home as an Unmarried Couple

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The number of unmarried partners living together nearly tripled in the past two decades, to 17 million, according to the U.S. Census Bureau. And there's a growing trend that more of those couples are buying a home together prior to getting married. Data from Coldwell Banker reveals that almost 25% of married homeowners between the ages of 18 and 34 bought their homes together before they wed, compared to 14% of homeowners 45 years and older.

Below are four things unmarried couples should consider before purchasing a home together.

Sharing Finances

The first step an unmarried couple should take before buying a home is to discuss their finances and goals. It is important that unmarried couples have an in-depth conversation to discuss how they plan on sharing expenses of the home, current finances and debts, spending habits, income, etc. before taking the leap of purchasing a home together. Managing finances as a couple for the first time is no easy feat. It is natural that couples will have different and individual goals and priorities, but it is important to discuss this topic with patience and willingness to compromise in order to design and commit to a household budget and spending plan together.

There is no "one-size-fits-all" solution when it comes to combining finances. Each couple is going to have to evolve to the changing needs of their relationship as life goes on. The best thing the couple can do is be open and honest about all income, debts, spending, and how those items relate to their priorities and goals.

Title to the Property

How an unmarried couple takes title to the property will determine legal ownership and how the property will transfer in the event of death.

Types of title are (1) sole ownership; (2) joint tenancy with rights of survivorship; or (3) tenants in common.

Sole ownership is exclusive ownership, meaning that one person would have complete ownership in the property and no other person may have any interest in that property. In the event the person who has sole ownership passes away, the interest in the property would pass in accordance with their estate plan.

Joint tenancy is often associated with the rights of survivorship, meaning that both partners would own the property in equal shares, and in the event that one of them dies, the deceased partner's equal share would automatically pass to the living partner.

As tenants in common, each partner would own a specific percentage of ownership in the property, and each partner would have the ability to sell or mortgage their percentage without the other's consent. Unlike joint tenancy, if one partner dies, the decedent's ownership does not automatically transfer to the other owner, unless that person is named in an estate plan.

Mortgage

When discussing finances, as mentioned above, it will be important to make the decision of whether one party will be obtaining the mortgage on their own or whether the parties will apply for the mortgage together. When making this decision, finances, debts, credit scores, and legal ownership of the property should all be taken into consideration.

Typically, the partner with the higher income, better FICO credit score, and best debt-to-income ratio will likely obtain a better interest rate, mortgage term, and higher loan amount. The partner who applies for the mortgage will be the sole responsible party for the entire debt.

It is important to note that, no matter how you take title to the property, if both partners sign the note and mortgage, both partners will be held "jointly and severally" responsible for the payments, meaning if your name is not on the deed but you are a party on the note and mortgage, you are assuming the financial risk without the benefit of legal ownership in the home.

Agreement Regarding Co-Ownership

In the event of a break up, the last thing either partner will want to deal with is who gets what and what is fair as it relates to the house. While not very romantic, a co-ownership agreement is a practical tool to prepare for those unforeseen circumstances that may arise during home ownership. Unmarried couples do not have the same legal protections as married couples, so a co-ownership agreement will allow partners to make decisions together about what will happen in the event of a breakup and how to best protect each partner's interest.

This agreement can provide information on how much, if any, each partner will pay toward the down payment, mortgage, utilities, and other household expenses; how each partner will share in the changes in home's value; who will have rights to other property, such as jewelry, furniture, pets, etc.; and what will happen in the event of a breakup, disability, or death.

Each party is advised to obtain an attorney to help draft and negotiate the terms of their co-ownership agreement.

Attorney William Broneill joined KKC in 2022 after 20 years in private practice in Manchester, Connecticut. He focuses his practice on Residential and Commercial Real Estate while also helping clients with their Estate Planning or Business needs. He can be reached at (860) 812-1764 or by email at wbroneill@kkc-law.com.