

Matrimonial Home: Designations



By Brian Madigan

There is an opportunity under the Family Law Act to designate a home as a “matrimonial home”.

You might think that married couples would wish to avail themselves of this opportunity. However, it’s rarely used. In fact, no one bothers.

The reason is rather simple. If a property is not designated then third parties will presume that it is a matrimonial home. The consent of both parties will be required. The third party purchaser or mortgagee will not want to take a chance.

So, here are some of the rules that apply:

- A designation means that the property is a family residence
- There can be more than one property designated
- If both parties designate a property (or more than one) then all other properties that are not so designated will be deemed not to be matrimonial homes

Essentially, this means that the designation provisions are helpful to lawyers when a couple who are negotiating a separation agreement or divorce settlement need to dispose of one of their properties. When times are good, the designation is not particularly helpful since it only compromises matters later.

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