

DON'T BE FORCED TO SELL YOUR BUSINESS WHEN THE ROMANCE ENDS

LAW

Always best to write things down sooner than later

BC business owners need a spousal agreement now more than ever.

If you are in an unmarried relationship in BC, the legal situation has changed. Without proper planning, if your relationship ends, you may be forced to sell your business, your home, or split your pension or retirement savings. If you die or become incapacitated, the rights of your new partner may trump that of your children and other family members.

"Common-law" couples automatically became "spouses" when BC's new Family Law Act came into force on March 18, 2013. Unmarried couples that have been living together for two years now have most of the same rights and obligations as married couples. For partners who have always acted as married couples but never got around to "tying the knot," this may provide some welcome protection. For partners who viewed their relationships differently, being forced into the legal equivalent of marriage may be an unwelcome surprise.

There are many good reasons why couples choose not to get married. A retired couple with children from previous marriages might not see the benefit. Marriage may interfere with carefully



Tyler T. Luchies of Stevenson Luchies & Legh

crafted individual retirement, estate, and succession plans. A younger couple might wish to live together without joining their finances together. For example, if one partner has significant debts or is starting a business, or if the couple is just not ready for that sort of commitment.

The Family Law Act has changed the way property is treated at separation. The previous law effectively combined all the couple's property and gave half to each spouse, subject to a challenge by either spouse. Debted to property, such as mortgages or car loans, was divided with the property. Other debt, such as credit cards or unsecured lines of credit, was not considered in the division of property. This gave unfair

results, for example if the property had been divided equally but one partner was left with debt that had been incurred for the couple's benefit.

Under the new system, the value of any property and debt that the partners brought into the relationship effectively returns to them on separation. Any new property or debt, or any increase or decrease in value during the relationship, is divided between the partners. This addresses some of the concerns that led couples to avoid legal marriage under the old system. For couples in very different financial positions at the start of their relationship, the new system will not simply equalize their net worth on separation. Unsecured debt is also treated more fairly.

There are some couples, however, who will prefer to keep their finances separate, even under the new legislation. If a partner brings significant property or debt into a relationship, the couple may agree that it should be excluded or treated specially on separation. Some assets, such as businesses or real estate, can be extremely difficult to value or sell. Assets may not fetch their full value if sold in a hurry. Even with enough time, sale prices might be less than desired. Under the new legislation, if one partner entered into a relationship owning a \$1,000,000 house, and at separation the house is valued at \$1,500,000, the partner who owned the house would be entitled to keep the \$1,000,000 of value, but might be forced to sell the house, in order to pay the other spouse a share of the \$500,000

increase. A business would need to be valued by a professional – a process that is expensive and time-consuming.

Under the new legislation, a couple may agree in advance about the way that property will be divided on separation. The agreement can specify which property and debt is to be treated as "family" property and debt, and how "family" property and debt will be divided. There are certain formalities required. The agreement must be in writing and witnessed. Both spouses must have entered into the agreement voluntarily with full knowledge, with neither spouse taking "improper advantage" of the other.

Couples who have an understanding about property should consider committing their understanding to paper. A property agreement can be entered into at any time during the relationship. As always, however, it is best to write things down sooner rather than later. A verbal agreement that both partners believe is fair at the beginning may be remembered differently later. In stressful times such as separation, it can be difficult to find common ground. A written agreement commits the partners to an agreement which both have agreed is fair, and which they can turn to later if the situation changes.

When drafting an agreement, retaining a lawyer will ensure the agreement meets legal requirements and covers all relevant topics. A lawyer can also add value by melding the agreement into the couple's long-term planning and providing objective professional advice.

4. Conflict Styles Quiz

a. Individual Activity: Choosing a Focus for the Quiz.

Take 5 minutes to reflect on the following questions:

- What area do you respond to conflict most effectively? E.g.: professional (work) or personal (home, family, friends)?
- What area would you like to know more about?

b. Conflict Management Styles Quiz

Each statement below provides a strategy for dealing with a conflict. Rate each statement on a scale of 1 to 4 indicating how likely you are to use this strategy.

1 = Rarely 2 = Sometimes 3 = Often 4 = Always

Be sure to answer the questions indicating how you would behave rather than how you think you should behave.

1	I explore issues with others so as to find solutions that meet everyone's needs.	
2	I try to negotiate and adopt a give-and-take approach to problem situations.	
3	I try to meet the expectations of others.	
4	I would argue my case and insist on the merits of my point of view.	
5	When there is a disagreement, I gather as much information as I can and keep the lines of communication open.	
6	When I find myself in an argument, I usually say very little and try to leave as soon as possible.	
7	I try to see conflicts from both sides. What do I need? What does the other person need? What are the issues involved?	
8	I prefer to compromise when solving problems and just move on.	
9	I find conflicts challenging and exhilarating; I enjoy the battle of wits that usually follows.	
10	Being at odds with other people makes me feel uncomfortable and anxious.	
11	I try to accommodate the wishes of my friends and family.	
12	I can figure out what needs to be done and I am usually right.	
13	To break deadlocks, I would meet people halfway.	
14	I may not get what I want but it's a small price to pay for keeping the peace.	
15	I avoid hard feelings by keeping my disagreements with others to myself.	

How to Score the Conflict Management Styles Quiz:

As stated, the 15 statements correspond to the five conflict resolution styles. To find your most preferred style, total the points in the respective categories. The one with the highest score indicates your most commonly used strategy. The one with the lowest score indicates your least preferred strategy. However, if you are a leader dealing with conflict on a regular basis, you may find your style to be a blend of styles.

Style Corresponding Statements: Total:

Collaborating:	1,	5,	7	_____
Competing:	4,	9,	12	_____
Avoiding:	6,	10,	15	_____
Harmonizing:	3,	11,	14	_____
Compromising:	2,	8,	13	_____

Brief Descriptions of the Five Conflict Management Styles

- 1. Collaborate:** Problems are solved in ways in which an optimum result is provided for all involved. Both sides get what they want and negative feelings are minimized.
Pros: Creates mutual trust; maintains positive relationships; builds commitments.
Cons: Time consuming; energy consuming.
- 2. Compete:** Authoritarian approach.
Pros: Goal oriented; quick.
Cons: May breed hostility.
- 3. Avoid:** The non-confrontational approach.
Pros: Does not escalate conflict; postpones difficulty.
Cons: Unaddressed problems; unresolved problems.
- 4. Harmonize:** Giving in to maintain relationships.
Pros: Minimizes injury when we are outmatched; relationships are maintained.
Cons: Breeds resentment; exploits the weak.
- 5. Compromise:** The middle ground approach.
Pros: Useful in complex issues without simple solutions; all parties are equal in power.
Cons: No one is ever really satisfied; less than optimal solutions get implemented.