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PROPERTY SETTLEMENT ISSUES

The potential issues to consider in a Property Settlement mediation include (but are not limited to) the following:

Duty of Disclosure

The parties have a legal obligation to make full and frank disclosure of all significant income, assets, liabilities, superannuation entitlements and financial resources (such as expected inheritances or compensation payouts) in their respective possession or control.

Failure to comply with the duty of disclosure can result in a financial settlement being successfully challenged in Court.

Assets

Consideration should be given to what significant assets each party holds. This can include (but is not limited to) the following:

- real estate
- business interests / partnerships
- family trusts
- investments
- shareholdings
- cash savings
- motor vehicles, motorbikes, boats, caravans, or the like
- tools of trade
- antique furniture, artwork, or jewellery
- family heirlooms
- household contents.

Liabilities

Consideration should be given to what significant liabilities each party holds. This can include (but is not limited to) the following:

- mortgages
- tax liabilities
- personal loans
- credit cards
- hire purchase loans / leases.

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Superannuation entitlements

Consideration should be given to what superannuation entitlements each party holds, and whether these are self-managed, an accumulation interest, or a defined benefit scheme. It may also be prudent to obtain formal valuations.

Financial resources

Consideration should be given to what financial resources each party holds. This may be in the form of an expected inheritance or compensation payout.

Joint valuations

It may be prudent for the parties to obtain joint valuations of significant assets such as real estate and business interests to ensure that there are not significant differences between the parties as to the value of significant assets.

Contributions factors

The parties should consider what contributions – both financial and non-financial – they have made to the relationship.

Financial contributions can include (but are not limited to) the following:

- assets, liabilities and superannuation held at the start of the relationship
- income earned during the relationship
- improvements to real estate during the relationship
- inheritances or compensation payouts received during the relationship.

Non-financial contributions include (but are not limited to) the following:

- the role of home-maker and parent
- contributions to a family business (such as book-keeping).

Future needs factors

The parties should also consider what their relevant future needs factors are, which can include (but are not limited to) the following:

- age and health
- income earning capacity
- care of dependant children.