



WAYS TO TAKE TITLE TO REAL PROPERTY (VESTING)

	TENANCY IN COMMON	JOINT TENANCY	COMMUNITY PROPERTY	COMMUNITY PROPERTY (with right of survivorship)
Parties	Two or more persons	Two or more natural persons	Spouses or domestic partners	Spouses or domestic partners
Division	Ownership can be divided into any number of shares. They do not need to be equal shares	Ownership interests must be equal	Ownership interests must be equal	Ownership interests must be equal
Possession	Equal right to possess property	Equal right to possess property	Equal right to possess property	Equal right to possess property
Control	Equal right to control of property	Equal right to control of property	Equal right to control of property	Equal right to control of property
Transferability	Each co-owner can transfer his/her interest separately	Each co-owner can transfer his/her interest separately but this results in a tenancy in common (i.e. a transfer of one co-owner's interest without the other severs the joint tenancy)	Both spouses or domestic partners must agree to transfer the property	Both spouses or domestic partners must agree to transfer the property
Ability to mortgage property	Each co-owner can mortgage his/her interest separately (the property will be liened but the other co-owner is not liable for the mortgage)	All co-owners must consent to a mortgage on the property	Both spouses or domestic partners must consent to mortgage the property	Both spouses or domestic partners must consent to mortgage the property
Can co-owner force the sale of the property	A co-owner may force-sale the property with a court order for any reason	A co-owner may force-sale the property with a court order for any reason	Not usually, unless property is part of a legal separation/dissolution	Not usually, unless property is part of a legal separation/dissolution

	TENANCY IN COMMON	JOINT TENANCY	COMMUNITY PROPERTY	COMMUNITY PROPERTY (with right of survivorship)
Death of Co-Owner	Deceased co-owner's share passes to his/her heirs/devisees	Deceased co-owner's share automatically passes to the surviving co-owner (subject to the debts of the deceased co-owner). Deceased owner's share does not pass to his/her heirs	Deceased co-owner's 1/2 interest passes to surviving spouse or domestic partner unless otherwise indicated in will of deceased co-owner	Deceased co-owner's 1/2 interest passes to surviving spouse or domestic partner
Creditor's Rights	Co-owner's interest may be sold to satisfy his/her creditor. Creditor becomes tenant in common with other co-owner	Co-owner's interest may be sold to satisfy his/her creditor. Joint tenancy is broken, and creditor becomes tenant in common with other co-owner	Entire property may be sold to satisfy the debt of either spouse or domestic partner	Entire property may be sold to satisfy the debt of either spouse or domestic partner
Possible Advantages	Each co-owner's interest is protected from the other co-owner's creditors (unless married couple or domestic partners)	Avoids probate	Surviving spouse or domestic partner receives a step-up in basis upon death of first spouse/domestic partner	Surviving spouse or domestic partner receives a step-up in basis upon death of first spouse/domestic partner
Possible Disadvantages	Does not avoid probate	No step up in basis after death of first co-owner (even if married couple or domestic partner)		
Presumption	If no vesting of title is indicated on the deed/transfer document, tenancy in common is presumed, unless it is a married couple or domestic partners	Joint tenancy must be specifically indicated on the deed/transfer document	If no vesting of title is indicated on the deed/transfer document, community property is presumed for married couples and domestic partners	Not presumed unless specifically indicated on the deed/transfer document

***** This chart is provided for informational purposes only. For specific questions or for the best method of vesting title for your specific circumstances, we strongly advise you to consult with a licensed attorney or certified public accountant.**