



SO-CAL ESCROW CENTER, INC.

Common Methods of Holding Title...

The following is provided for general information only. The method of holding title (vesting) has certain significant legal and /or tax consequences and you are encouraged to obtain advice from an attorney or tax consultant or another qualified professional.

	TENANCY IN COMMON	JOINT TENANCY	COMMUNITY PROPERTY
Who can take title?	Any number of persons (can be husband and wife).	Any number of persons (can be husband and wife).	Only husband and wife.
How is ownership divided?	Ownership can be divided into any number of interests, equal or unequal.	Ownership interest cannot be divided.	Ownership interests are equal.
Who holds the title?	Each co-owner has a separate legal title to his undivided interest.	There is only one title to the whole property.	Title in the "community" (similar to title being in a partnership).
Who has possession?	Equal right of possession.	Equal right of possession.	Equal right of possession.
How do owners convey their interest?	Each co-owner's interest may be conveyed separately by its owner.	Conveyance by one co-owner without the others breaks the joint tenancy, and owners then become tenants in common.	Both co-owners must join in conveyance of real property. Separate interest cannot be conveyed.
Purchaser's status	Purchaser becomes a tenant in common with the other co-owners.	Purchaser becomes a tenant in common with the other co-owners.	Purchaser can only acquire whole title of community; cannot acquire a part of it.
What happens in case of death?	On co-owner's death, his interest passes by will to his devisees* or heirs. No	On co-owner's death, his interest ends and cannot be willed. Survivor owns the property	On co-owner's death, it goes to survivor in severalty. It goes by will to

	survivorship right.	by survivorship.	decedent's devisee* or by succession to survivor.
What is the successor's status?	Devisees* or heirs become tenants in common.	Last survivor owns property in severalty.	If passing by will, tenancy in common between devisee* and survivor results.
What is a creditor's interest?	Co-owner's interest may be sold on execution sale to satisfy his creditor. Creditor becomes a tenant in common.	Co-owner's interest may be sold on execution sale to satisfy creditor. Joint tenancy is broken. Creditor becomes tenant in common.	Co-owner's interest cannot be seized and sold separately. The whole property may be sold to satisfy debts of either husband or wife.
What is the presumption of law?	Favored in doubtful cases except husband and wife (see community property).	Must be expressly stated and properly formed. Not favored.	Strong presumption that property acquired by husband and wife is community.

*Note: A devisee is a person who receives real estate from another by will.

How should I take ownership of the property I am buying? This important question is one California real property purchasers ask their real estate, escrow and title professionals every day. Unfortunately, though these professionals may identify the many methods of owning property, they may not recommend a specific form of ownership, as doing so would constitute practicing law. Because real property has become increasingly more valuable, the question of how parties take ownership of their property has gained greater importance. The form of ownership taken ~ the vesting of title ~ will determine who may sign various documents involving the property and future rights of the parties to the transaction. These rights involve such matters as: real property taxes, income taxes, inheritance and gift taxes, transferability of title and exposure to creditor's claims. Also, how title is vested can have significant probate implications in the event of death. You are encouraged to obtain advice from an attorney or tax consultant or another qualified professional in this manner.

So-Cal Escrow Center

23 Journey · Aliso Viejo, CA 92656

(888) 372-7693 · (949) 215-7226 · Fax (949) 305-8050