

Ways to Hold Title

The following is a chart identifying possible ways for two or more individuals to hold title to real property in California. The information concerning ownership vesting is for informational purposes only. Contact an attorney or CPA if you desire advice regarding a specific manner of holding title to property.

| | Tenancy in Common | Joint Tenancy | Community Property | Community Property With Right of Survivorship |
|---------------------------|--|---|--|--|
| Parties | Any number of persons (including married or registered domestic partners). | Any number of persons (including married or registered domestic partners). | Only married couples or registered domestic partners have community property rights. | Only married couples or registered domestic partners have community property rights. |
| Division | Ownership can be divided into any number of interests; equal or unequal. | Ownership can be divided into any number of interests; all must be equal. | Ownership and managerial interests are equal. | Ownership and managerial interests are equal. |
| Title | Co-owners must acquire interests at the same time, through the same deed and from the same person (but may create joint tenancy by deed from sole owner to sole owner and others). Title must expressly state joint tenancy and ideally should state with right of survivorship. | Co-owners must acquire interest at the same time and from the same person (may be created by deed from a sole owner to self and to others). | Title is in the "community". Each interest is separate but management is unified. | Title is in the "community". Each interest is separate, but management is unified. Title must expressly state community property with right of survivorship. |
| Possession | Equal rights of possession. | Equal rights of possession. | Equal rights of possession. | Equal rights of possession. |
| Conveyance | Each co-owner's interest may be conveyed separately by its individual owner. | Conveyance by one co-owner without the others will sever (terminate) the individual's joint tenancy. | Conveyance requires both party signatures. If one party conveys alone, the other spouse or domestic partner must consent. | Conveyance requires both party signatures. If one party conveys alone, the other spouse or domestic partner must consent. |
| Death | Upon co-owner's death, his or her interest passes to that person's devisees or heirs. No survivorship right. | Upon co-owner's death, his or her interest ends and cannot be transferred or disposed of by will or inheritance. Remaining joint tenants own the property and the decedent's interests end equally. An affidavit may establish fact of death. | Upon death of spouse or registered domestic partner, 50% remains with the surviving spouse or registered domestic partner. The decedent's 50% goes to his or her estate which may go to the surviving spouse or registered domestic partner or may otherwise be disposed of by will. | Upon death of spouse or registered domestic partner, his or her interests end and cannot be otherwise disposed of. Surviving spouse or registered domestic partner owns the property 100%. An affidavit may establish fact of death. |
| Successor's Status | Devisees or heirs become tenants in common. | Last survivor owns property 100%. | Depends on decedent's will or rules of inheritance; when passing by will tenancy in common between devisees and surviving spouse or domestic partner results. | Surviving spouse or domestic partner owns property 100%. |
| Presumption | In most cases, tenancy in common is the default legal presumption of how title is held. (Except in married couples or registered domestic partner cases.) | Presumption against joint tenancy must expressly state joint tenancy with right of survivorship in the deed. | The legal presumption is that the property, which has been acquired during the course of the marriage or registered domestic partnership is community property without right of survivorship. | Presumption is against right of survivorship; must expressly state community property with right of survivorship in the deed. |