

METHODS OF HOLDING TITLE IN CALIFORNIA

The following are common methods of hold title in California:

SOLE OWNERSHIP - Sole ownership may be described as ownership by an individual or other entity capable of acquiring title. Examples of common vesting cases of sole ownership are:

- A Single Man/Woman: A man or woman who is not legally married or in a registered domestic partnership.
- A Married Man or Woman as His or Her Sole and Separate Property: A married man or woman who wishes to acquire title in his or her name alone. The title company insuring title will require the spouse of the married man or woman acquiring title to specifically disclaim or relinquish his or her right, title and interest to the property. This establishes that both spouses want title to the property to be granted to one spouse as that spouse's sole and separate property.

A Registered Domestic Partner as His or Her Sole and Separate Property: A registered domestic partner who wishes to acquire title in his or her name alone. The title company insuring title will require the domestic partner of the person acquiring title to specifically disclaim or relinquish his or her right, title and interest to the property. This establishes that both registered domestic partners want title to the property to be granted to one partner as that person's sole and separate property.

CO-OWNERSHIP - Title to property owned by two or more persons may be vested in the following forms:

- Community Property: A form of vesting title to property owned together by husband and wife or by registered domestic partners. Community property is distinguished from separate property, which is property acquired before marriage or before a registered domestic partnership, by separate gift or bequest, after legal separation, or which is agreed in writing to be owned by one spouse or registered domestic partner. In California, real property conveyed to a married person, or to a registered domestic partner, is presumed to be community property, unless otherwise stated. Since all such property is owned equally, both parties must sign all agreements and documents transferring the property or using it as security for a loan. Each owner has the right to dispose of his/her one half of the community property, by will.
- Community Property with Right of Survivorship: A form of vesting title to property owned together by husband and wife or by registered domestic partners. This form of holding title shares many of the characteristics of community property but adds the benefit of the right of survivorship similar to title held in joint tenancy. There may be tax benefits for holding title in this manner. On the death of an owner, the decedent's interest ends and the survivor owns the property.
- Joint Tenancy: A form of vesting title to property owned by two or more persons, who may or may not be married or registered domestic partners, in equal interests, subject to the right of survivorship in the surviving joint tenant(s). Title must have been acquired at the same time, by the same conveyance, and the document must expressly declare the intention to create a joint tenancy estate. When a joint tenant dies, title to the property is automatically conveyed by operation of law to the surviving joint tenant(s). Therefore, joint tenancy property is not subject to disposition by will.
- Tenancy in Common: A form of vesting title to property owned by any two or more individuals in undivided fractional interests. These fractional interests may be unequal in quantity or duration and may arise at different times. Each tenant in common owns a share of the property, is entitled to a comparable portion of the income from the property and must bear an equivalent share of expenses. Each co-tenant may sell, lease or will to his/her heir that share of the property belonging to him/her.

OTHER METHODS - In cases of corporate, partnership, L.L.C. or trust ownership - required documents may include corporate articles and bylaws, partnership agreements, L.L.C. operating agreements and trust agreements and/or certificates. Following are some examples:

- A Corporation: A corporation is a legal entity, created under state law, consisting of one or more shareholders but regarded under law as having an existence and personality separate from such shareholders.
- A Partnership: A partnership is an association of two or more persons who can carry on business for profit as co-owners, as governed by the Uniform Partnership Act. A partnership may hold title to real property in the name of the partnership.
- Trustees of a Trust: A Trust is an arrangement whereby legal title to property is transferred by the grantor to a person called a trustee, to be held and managed by that person for the benefit of the people specified in the trust agreement, called the beneficiaries.
- Limited Liability Companies (L.L.C.): This form of ownership is a legal entity and is similar to both the corporation and the partnership. The operating agreement will determine how the L.L.C. functions and is taxed. Like the corporation its existence is separate from its owners.

NOTE: The preceding is provided for informational purposes only. For a more comprehensive understanding of the legal and tax consequences, appropriate consultation is recommended. There are significant tax and legal consequences on how you hold title.

