

	Tenancy in Common	Joint Tenancy	Community Property	Community Property with Right Of Survivorship
Parties	Two or more persons <sup>1</sup> (may be spouses or domestic partners <sup>2</sup> )	Two or more persons <sup>1</sup> (may be spouses or domestic partners <sup>2</sup> )	Spouses or domestic partnerships	Spouses or domestic partnerships
Division	Ownership can be divided into any number of interests, equal or unequal	Ownership interests must be equal	Ownership interests must be equal	Ownership interests must be equal
Creation	One or more conveyances (law presumes interests are equal if not otherwise specified)	Single conveyances (creating identical interests); vesting must specify joint tenancy	Presumption from marriage or domestic partnership or can be designated in deed	Single conveyance and spouse or domestic partners must indicate consent which can be on deed
Possession and Control	Equal	Equal	Equal	Equal
Transferability	Each owner may transfer or mortgage their interest separately <sup>2</sup>	Each owner may transfer his/her interest separately but tenancy in common results <sup>3,4</sup>	Both spouses or domestic partners must consent to transfer or mortgage	Both spouses or domestic partners must consent to transfer or mortgage
Liens Against One Owner	Unless married or domestic partners, co-owner's interest not subject to liens of other debtor owner, but forced sale can occur <sup>4</sup>	Co-owner's interest not subject to liens of other debtor/owner, but forced sale can occur if prior to co-owner's/debtor's death	Entire property may be subject to forced sale to satisfy debt of either spouse or domestic partner	Entire property may be subject to forced sale to satisfy debt of either spouse or domestic partner
Death of Co-Owner	Decedent's interest passes to his/her devisees or heirs by will or intestacy	Decedent's interest automatically passes to surviving joint tenant ("Right of survivorship")	Decedent's ½ interest passes to the surviving spouse unless it is disposed of by Decedent's will. <sup>5</sup>	Decedent's ½ interest automatically passes to the surviving spouse. "Right of survivorship" overrides Decedent's will.
Possible Advantages/ Disadvantages	Co-owners interests may be separately transferable <sup>3</sup>	Right of survivorship (avoids probate); may have tax disadvantages for spouses	Qualified survivorship rights; mutual consent required for transfer; surviving spouse or domestic partner <sup>2</sup> may have tax advantage	Right of survivorship; mutual consent required for transfer; surviving spouse or domestic partner <sup>2</sup> may have tax advantage

1. "Persons" includes a natural person as well as a validly formed corporation, limited partnership, limited liability company or general partnership. Trust property is vested in the trustee (usually a natural person or corporation.)
2. For domestic partners meeting California statutory requirements, benefits are same as community property except certain tax benefits may not be available. Note: Two unrelated persons who are either (a) same sex, or (b) opposite sex if they meet age or disability requirements, may be domestic partners provided that they are not married or in a domestic partnership and comply with other statutory requirements.
3. Transfers by married persons or domestic partners may require a quitclaim deed from the spouse/partner for title insurance purposes.
4. If co-owners are married or domestic partners, property may be subject to legal presumption of "company property" requiring consent of both spouses/partners to convey or encumber title notwithstanding vesting as "joint tenancy."
5. In order to sell the property, the surviving spouse will likely need to file a Spousal Property Petition with the probate court to clear title.