CALIFORNIA VESTING DESCRIPTIONS

SINGLE, MARRIED, OR SEPARATE



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:

1. **A Single Man or Woman, an Unmarried Man or Woman or a Widow or Widower:** A man or woman who is not legally married or in a domestic partnership. (*e.g., Bruce Buyer, a single man.)*

2. **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. The same rules will apply for same sex married couples. (*e.g., Bruce Buyer, a married man, as his sole and separate property.)*

3. **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 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 domestic partners want title to the property to be granted to one partner as that person's sole and separate property. *(e.g., Bruce Buyer, a registered domestic partner, as his sole and separate property.)*

CO-OWNERSHIP

Community Property: A form of vesting title to property owned together by married persons or by domestic partners. Community property is distinguished from separate property, which is property acquired before marriage or before a domestic partnership by separate gift or bequest, after legal separation, or which is agreed in writing to be owned by one spouse or domestic partner.

Community Property with Right of Survivorship: A form of vesting title to property owned together by spouses or by 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 all interests in the property. *(e.g., Bruce Buyer and Barbara Buyer, husband and wife, as community property with right of survivorship, or John Buyer and Bill Buyer, husband and husband, as community property with right of survivorship. Another example for same sex couples: Sally Smith and Jane Smith, registered domestic partners, as community property with right of survivorship.)*

Joint Tenancy: A form of vesting title to property owned by two or more persons, who may or may not be married or 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. *(e.g., Bruce Buyer, a married man and George Buyer, a single man, as joint tenants.)*

[!] If a married person enters into a joint tenancy that does not include their spouse, the title company insuring title may require the spouse of the married man or woman acquiring title to specifically consent to the joint tenancy. The same rules will apply for same sex married couples and domestic partners.

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. *(e.g., Bruce Buyer, a single man, as to an undivided ¾ interest and Penny Purchaser, a single woman, as to an undivided ¼ interest.)*

Other ways of vesting title include as:

- **A Corporation**
- **A Partnership**
- **Trustees of a Trust**
- **Limited Liability Companies (LLC)**

*In cases of corporate, partnership, LLC or trust ownership - required documents may include corporate articles and bylaws, partnership agreements, LLC operating agreements and trust agreements and/or certificates.

REMEMBER

How title is vested has important legal consequences and tax consequences. The tax consequences may be different for same sex legally related couples. You may wish to consult an attorney or tax advisor to determine the most advantageous form of ownership for your particular situation.

Registered domestic partnership status is not limited to same sex couples. **Source: CLTA.org**

Fidelity National Title

FNT-CVD