



COMMON WAYS TO HOLD TITLE TO REAL PROPERTY IN CALIFORNIA

| | COMMUNITY PROPERTY | COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP | JOINT TENANCY | TENANCY IN COMMON | PARTNERSHIP | TRUST |
|-----------------------|--|--|---|--|--|---|
| PARTIES | Husband and Wife, Spouses, OR Domestic Partners | Husband and Wife, Spouses, OR Domestic Partners | Any number of persons (can be husband and wife, spouses, or domestic partners) | Any number of persons | Any number of persons | Any number of beneficiaries designated in the trust |
| DIVISION OF INTERESTS | Equal | Equal | Equal | Any number of interests, equal or unequal | Partnership interests may be equal or unequal | Beneficial interests under trust may be equal or unequal |
| TITLES | In the names of the individual owners | In the names of the individual owners | In the names of the individual owners | In the names of the individual owners | In the name of the partnership | In the name of the trust with the name of the trustee "as trustee" |
| POSSESSION | Equal right of possession | Equal right of possession | Equal right of possession | Right to possess up to the boundaries of their tenancy | According to partnership agreement | According to trust agreement |
| CONVEYANCE | Both spouses or domestic partners must join in a conveyance | Both spouses or domestic partners must join in a conveyance | Conveyance by one co-owner breaks the joint tenancy. The result is the property will become a tenancy in common | Each co-owner's interest may be conveyed separately | Any general partner authorized by the partnership agreement may convey | Trustee may convey in accordance with the terms of the trust agreement |
| DEATH | Surviving spouse is entitled to 1/2 of the property. The decedent's portion of the property will pass to decedent's estate | Entire estate passes to the surviving spouse | The decedent's share of the joint tenancy will pass in equal shares to the surviving joint tenants | Decedent's interest passes to decedent's estate | Terms of the partnership will determine whether the succession of partnership interests, but not limited to passing to the decedent's estate, conveyance to other partners, forcing a sale of the interest, or termination of the partnership altogether | Trust agreement usually provides for distribution upon death of the settlor |
| SUCCESSOR'S STATUS | Tenancy in common between devisee and surviving spouse | Surviving spouse owns the entire estate | Joint tenancy will continue among surviving joint tenants | Devisees or heirs will become tenants in common with other tenants | Depends upon the succession of the partnership interest | Depends upon the succession of the trust estate |
| CREDITOR'S RIGHTS | Community property is liable for the debts of either spouse incurred before or during marriage or domestic partnership | Community property is liable for the debts of either spouse incurred before or during marriage or domestic partnership | The property may be sold to an execution sale to satisfy the debtor's obligation to the creditor. The creditor may only obtain the value of the property apportioned to the debtor-joint-tenant | The tenant's portion of the property may be sold at an execution sale to satisfy the debtor's obligation to the creditor | Only a partner's right to receive profits can be executed upon by the partner's judgment creditor | Usually, a creditor cannot execute on a beneficiary's interest |