

# LIBERTY FINANCIAL

A REAL ESTATE LENDING FIRM

## Common Ways to Hold Title

### Sole Ownership

Single man/woman

- A man or woman who have never been legally married

Unmarried man/woman

- A man or woman who having been married are legally divorced

A married man/woman, as his/her sole and separate property

- When a married man or woman wishes to acquire title in his or her name alone, the spouse must consent by signing a quitclaim deed. The spouse then has no claim to the property.

### Co-ownership

Tenancy in Common

- Two or more persons (may be husband and wife)
- Ownership can be divided into any number of interests, equal or unequal. This ownership can be 80%/20% or 70%/30%, unlike joint tenants which must be equal ownership. (Law presumes interests are equal if not otherwise specified)
- Do not have to be granted onto title at the same time. Each co-owner may transfer or mortgage their respective interest separately
- If tenant in common passes away, their interest passes to their heirs unlike joint tenants where the interest passes to the surviving joint tenant automatically.
- Co-owner interests are separately transferable

Joint Tenancy

- Two or more persons (may be husband and wife)
- Ownership interest must be equal
- Single conveyance required creating equal interests, i.e. 50%/50% or 25%/25%/25%/25%. Vesting must specify JOINT TENANCY or law presumes tenancy in common
- If a co-owner transfers their interest separately, a tenancy in common results
- If one joint tenant dies, then the decedent's interest automatically passes to the surviving joint tenant(s) ("Right of Survivorship")
- Right of Survivorship with Joint Tenancy avoids probate

### Community Property

- Husband and wife only
- Ownership interest must be equal
- Single conveyance or presumption from marriage
- Both spouses must consent to transfer or mortgage
- Entire property subject to forced sale to satisfy debt of either spouse
- Deceased's interest passes to spouse, except ½ of said interest may pass to devisee by decedent's will
- Qualified survivorship rights. Mutual consent required for transfer. Surviving spouse may have tax advantage

### Community Property with Right of Survivorship

- Husband and wife only
- Ownership interest must be equal
- Single conveyance and parties must indicate consent which can be indicated on deed
- Both spouses must consent to transfer or mortgage
- Entire property subject forced sale to satisfy debt of either spouse
- Decedent's interest automatically passes to surviving spouse due to Right of Survivorship
- Right of Survivorship (avoids probate). Mutual consent required for transfer. Surviving spouse may have tax advantage

### Trust

- Title to real property in California may be held in a title-holding trust. The trust holds legal and equitable title to the real estate. The trustee holds title for the trustor/beneficiary who retains all of the management rights and responsibilities.

\* As of January 1, 2005, The State of California recognizes Domestic Partnerships wherein the rights and obligations of married couples are given to registered domestic partners.

\* 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. We strongly suggest contacting an attorney and/or CPA for specific advice on how you should actually vest your title.