

# HOLDING TITLE TO REAL PROPERTY

## "A COMPARISON OF THREE DIFFERENT METHODS"



Compliments of

	COMMUNITY PROPERTY	JOINT TENANCY	TENANCY IN COMMON
<b>PARTIES</b>	Only husband and wife	Any number of persons (Can be husband and wife)	Any number of persons (Can be husband and wife)
<b>CONVEYANCE</b>	Both co-owners must join in conveyance of real property. Separate interests cannot be conveyed.	Conveyance by one co-owner without the others breaks the joint tenancy.	Each co-owner's interest may be exchanged or sold separately by each owner.
<b>CREDITOR'S RIGHTS</b>	Co-owner's interest cannot be seized and sold separately. The whole property may be sold to satisfy debts of either husband or wife, depending on the debt.	Co-owner's interest may be sold on execution sale to satisfy creditor. Joint tenancy is broken, creditor becomes tenant in common.	Co-owner's interest may be sold on execution sale to satisfy the creditor. Creditor becomes tenant in common.
<b>DEATH</b>	On co-owner's death, 1/2 goes to survivor in severalty. Up to 1/2 goes by will or succession to others.	On co-owner's death, the interest ends and cannot be willed. Survivor(s) own(s) the property by survivorship.	On co-owner's death, the interest passes by will to the devisee or heirs. No survivorship rights.
<b>DIVISION</b>	Ownership interests are equal.	Ownership interests cannot be divided without breaking the joint tenancy.	Ownership can be divided into any number of interests, equal or unequal.
<b>TITLE</b>	Title is in the "community" (Similar to title being in a partnership.)	There is only one title to the whole property.	Each co-owner has a separate legal title to their undivided interest which can be exchanged or sold.



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In any transaction, whether it's a sale or a §1031 tax deferred exchange, it is important to understand the differences among the various ways of holding title to real estate. The above chart provides a quick overview of some common ways of holding title. Not all of these methods are available in every state and there are other methods which may be available. It is important to consult with your legal and/or tax advisors to discuss the advantages and disadvantages of these methods in respect to your specific real estate transaction.

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