

Real Estate Question: What are the Differences between some Common Forms of Property Ownership?

Written by Lucky
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A regular question asked to me by people is about the difference between Joint Tenancy and Tenancy in Common. The terms can get sometimes confusing, but each form of ownership is unique and involves different rights when there are multiple owners. Below I describe the different forms of ownership of Real Estate:

Sole Ownership: owned entirely by one person. Words in the deed such as "Bill, a single man" establish title as sole ownership.

Tenants in Common: a form of co-ownership where property is owned by two or more persons at the same time. The proportionate interests and right to possess the property between the tenants in common need not be equal. Upon death, the decedent's interest passes to his or her heirs named in the will who then become new tenants in common with the other tenants in common. Words in the deed such as "Bill, John and Mary as tenants in common" establish tenancy in common.

Joint Tenancy: a form of co-ownership where property is owned by two or more persons at the same time in equal shares. Each joint owner has an undivided right to possess the whole property and a proportionate right of equal ownership interest. When one joint tenant dies, his/her interest automatically passes on to the surviving joint tenant(s). Words in the deed such as "Bill and Mary, as joint tenants with right of survivorship" establish title in joint tenancy. This form of ownership is not available in all states.

Tenancy by the Entirety: a special form of joint tenancy when the joint tenants are husband and wife -- with each owning one-half. Neither spouse can sell the property without the consent of the other. Words in the deed such as "Bill and Mary, husband and wife as tenancy in the entirety" establish title in tenancy by the entireties. This form of ownership is not available in all states.

Community Property: this special form of ownership between spouses is only available in "community property" states. Upon death, the decedent's interest passes in a manner similar to tenants in common. Words in the deed such as "Bill and Mary, husband and wife as community property" establish community property ownership.

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Trusts: While not technically a form of ownership, you may own real property through your Living Trust. Upon your passing, your interest would pass to successor trustees and/or beneficiaries you have designated in your trust.