



Title & Tenancy Guidelines

	Tenancy in Severalty	Tenancy in Common	Joint Tenancy	Tenancy by the Entirety
TENANCY DEFINITION	Property held by one party, severed from all others	Property held by 2 or more persons, with no right of survivorship	Property held by 2 or more <u>individuals</u> (no corporations, partnerships, etc). Includes right of survivorship	Property held by husband and wife or Hawaii registered Reciprocal Beneficiaries. Includes right of survivorship
CREATION OF THE TENANCY	Any transfer to one party	By express act; also by failure to express the tenancy	Express intention plus 4 unities of time, title, interest and possession (with statutory exception)	Express intention. Divorce terminates for husband & wife-marriage terminates Reciprocal Beneficiaries - automatically results in tenancy in common
POSSESSION	Total	Equal right of possession	Equal right of possession	Equal right of possession
TITLE TO THE PROPERTY	One title in one party	Each co-owner has a separate legal title to his undivided interest; will be equal interests unless expressly made unequal	One title to the whole property since each tenant is theoretically deemed owner of whole; must be equal undivided interests.	One title in the tenancy unit
CONVEYANCE OF INTEREST	No restrictions (check release of marital rights, if any)	Each co-owner's interest may be conveyed separately by its owner; purchaser becomes tenant in common	Conveyance of 1 co-owner's interest breaks his tenancy; purchaser becomes tenant in common	Cannot convey without the other tenant
EFFECTS OF DEATH ON THE TENANCY	Entire property subject to probate	Decedent's fractional interest subject to probate. The property passes, by will to devisees or to the heirs, who take as tenants in common. No survivorship rights	No probate - cannot be disposed of by will; property automatically belongs to surviving co-tenants (last one holds in severalty).	Right of survivorship - no probate
CREDITOR'S RIGHTS	Subject to creditor's claims	Co-owner's fractional interest may be sold to satisfy a creditor who then becomes tenant in common	Joint tenancy is broken and purchaser becomes tenant in common. Creditor gets nothing (as to the property) if debtor tenant dies before sale	A judgment creditor only of <u>both</u> tenants can execute on property. Federal liens may attach to the property.

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