



Divorce & Real Estate

What We'll Cover

- Types of co-ownership
- Spousal rights to real property
- Division of property
- Agent duties & obligations

A photograph of a person from the chest down, wearing a white t-shirt and blue jeans. Their hands are clasped together in front of their waist. They are standing in a field of tall, dry grass. A semi-transparent dark horizontal band is overlaid across the middle of the image, containing the text 'Co-Ownership Interests' in white. The background is slightly blurred, suggesting an outdoor setting.

Co-Ownership Interests

Tenants in Common

- Two or more owners
- Undivided, equal interest
- Rents & profits
- Partition

Tenancy by the Entirety

- If owners are married, presumed unless otherwise stated
- NOT 1/2 interest...each by the entirety
- Right of survivorship
- 120 hr rule



Non-Marital Survivorship

- concurrent life estates in the two grantees as tenants in common, with a contingent remainder to the survivor

Transfer on Death Deeds

- designate a beneficiary or beneficiaries who will acquire title to specified real property on the individual's death.

A scenic landscape featuring a lush green field in the foreground, a line of trees in the middle ground, and a stone house on the left. The sky is a vibrant blue with scattered white and grey clouds. The title 'Estates in Land' is overlaid in large white text on a dark horizontal band across the center of the image.

Estates in Land

A row of historic white buildings with red shutters and wooden barrels in front of them. The buildings have a rustic, colonial-style appearance with gabled roofs and stone chimneys. The foreground is a gravel courtyard with a wooden bench and two wooden barrels. The sky is clear and blue.

Fee Simple Absolute

Life Estates

- Duration limited by life of some person
- Alienable

Other Types of Fees

- “. . . to A for so long as the property is used for school purposes, but if it ceases to be used for school purposes, then the property reverts back to the grantor.”
- [Fee simple defeasible / fee simple subject to condition subsequent]

Reversion

- "... to A for life."
- If the grantor does not deed the future interest to a third party, then it is deemed to be retained by the grantor.

Remainder

- “. . . to A for life, then to B.”
- B is an identifiable person and A’s interest is certain to end, so B has a vested remainder.

Adding Partners to Title - Pitfalls

- Mortgage with a due-on-sale
- Title Insurance
- Tax Consequences
- Owner w/o mortgage obligation

Rights During Marriage

- Power to convey interest
- Grantee subject to right of survivorship of remaining spouse
- "Subject to defeasance by his death prior to that of his cotenant."



Community Property v. Equitable Distribution

Equitable Distribution

- Current earnings
- Future potential earnings
- Value of stay-at-home spouse

Distribution of Assets

- Marital settlement agreement
- Judicial court order



Practical Considerations

- Buyout of spouse's interest
- Refi with one spouse only
- Short Sale
- Empty house stigma

Duration of Liens

- Federal Tax - 10 years
- HOA / Condo - 6 years
- Construction - 120 days
- Mining Lien - 6 months
- Child Support - 35 years

Agent Issues

- Client conflicts
- Confidential information





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