

## Forms of Ownership

### SEVERALTY

- Title held by one
- Sole owner is "severed" or "cut off" from other owners.
- UPON DEATH: Has sole rights to the ownership and sole discretion over the transfer of ownership.

### CO-OWNERSHIP

- Title held by TWO or more

### TENANTS IN COMMON

- Undivided fractional interest in the property
- Unity of possession (entitled to possession of the whole property)
- Ownership interest, not the property, is divided.
- Tenants presumed to hold equal shares.
- Hold ownership interest in SEVERALTY - Each can sell, convey, mortgage or transfer their interest without the consent of other owners.
- UPON DEATH: The interest passes according to their will.

### JOINT TENANTS

- Unity of ownership - Title held by all owners as one unit.
- Death of one Joint Tenant does not destroy the ownership unit. It just reduces the # of people who make up the unit by one. (right of survivorship) - This continues until only one owner remains. The last owner then holds title in severality - can pass to heirs.

### TENANTS BY THE ENTIRETY

- (Viewed as one- "husband and wife")
- Each has equal, undivided interest in the property.
- Rights of survivorship.

### COMMUNITY PROPERTY

- Both own - when one dies the heirs receive 1/2. If no will the surviving spouse gets it.
- Not automatic right of survivorship like Joint Tenants.

### TRUST

- Title held by a 3<sup>rd</sup> party for the benefit of another.

### How to create Joint Tenancies:

- 1) UNITY of POSSESSION - All hold an undivided right to possession - AS JOINT TENANTS
- 2) UNITY of INTEREST - All hold equal ownership interests. - Deed conveys equal interests to all parties.
- 3) UNITY of TIME - All acquire their interests at the same time - Deed executed and delivered at one time
- 4) UNITY of TITLE - All acquire their interest by the same document - One deed.

### How to Terminate Joint Tenancies:

- (When any one of the 4 UNITIES of Joint Tenancy is terminated.)
  - A Joint Tenant may convey his or her interest but by so doing destroys the UNITIES of TIME and TITLE. The new owner cannot become a Joint Tenant. Rights of other Joint Tenants are unaffected. <Tenant in Common>