

Vesting – Two Common Ways To Hold Title (Colorado)

Before you reach the closing day, you have to make a decision as to how you will “hold title” to the property. This decision has legal, tax and estate planning ramifications. Therefore, it is prudent to consult an attorney or certified public accountant (CPA). Some lenders or states restrict how the borrower is allowed to hold title.

	Tenancy in Common	Joint Tenancy
Parties	Any number of persons (can be husband and wife)	Any number of persons (can be husband and wife)
Division	Ownership can be divided into any number of interests, equal or unequal	Owner interests must be equal.
Title	Each co-owner has a separate legal title to his or her undivided interest.	There is only one title to the whole property.
Possession	Equal rights of possession.	Equal rights of possession.
Conveyance	Each co-owner has a separate legal title to his or her undivided interest.	Conveyance by one co-owner without the others will break that individual’s joint tenancy.
Purchaser’s Status	Purchaser will become a tenant in common with the other property co-owners	Purchaser will become a tenant in common with the other property co-owners
Death	Upon co-owner’s death, his or her interest passes by will to that person’s devisees or heirs. No survivorship right.	Upon co-owner’s death, his or her interest ends and cannot be disposed of by will. Survivor owns the property by survivorship.
Successor’s Status	Devisees or heirs become tenants in common.	Last survivor owns property in severalty.
Creditor’s Rights	Co-owner’s interest may be sold on execution sale to satisfy his or her creditor. The creditor becomes a tenant in common.	Co-owner’s interest may be sold on execution sale to satisfy his or her creditor. Joint tenancy is broken; creditor becomes tenant in common.
Presumption	Favored in doubtful cases except in husband and wife cases.	Must be expressly stated. Not favored.