

Why to **Not** Use Tenants in Common or Joint Tenancy

If you buy property together with no legal entity, you will own it as Tenants in Common or as Joint Tenants. (The terms vary from state to state, as do the regulations for each.) If you don't choose, the state will automatically consider you Tenants in Common.

Tenancy in Common:

- ➔ Each member of your group has an undivided interest in the property. Unless you agree otherwise on the deed, you will all have equal rights to the use of the property, and will all share equally in any liabilities or profits. Usually this means sharing equally all maintenance costs and property taxes.
- ➔ You can distribute ownership interests in the property however you wish. Your ownership interests could reflect the relative amounts of money each of you contributed, or you could choose equal ownership portions even if you'd each contributed different amounts. Taxes, maintenance expenses, profits, and the value of any improvements must be apportioned at the same percentages as everyone's shares of ownership.
- ➔ If anyone dies, their ownership share of the property passes to their heirs or assigns, not to the other people in your group.
- ➔ **BUT ... any of you may sell, mortgage, or give your ownership interest in the property to anyone you wish —someone who isn't a community member — and the new owner becomes the new Tenant in Common with the rest of you.**
- ➔ **WORSE, any disgruntled community member can force the sale of the property to get his or her money out.**

Joint Tenancy:

- ➔ Each of you has equal rights to the use of the property, and each of you also shares equally in liabilities and profits, and usually maintenance costs, taxes, and work responsibilities.
- ➔ If one of you contracts for improvements on the land, she is solely responsible for paying the costs if the rest of you didn't consent to those improvements. This means **if one of you goes into debt, the creditor seeking collection could force the sale of the property to get the cash value of that person's share in the property.**
- ➔ You have the "right of survivorship" — if one of you dies that person's share doesn't pass to their heirs, but passes automatically to the rest of you (free from any creditors' claims or debts the deceased person might have incurred).
- ➔ **AND any community member could sell or give away their interest without the approval of the rest of you.** This would cancel the Joint Tenancy, and property ownership would revert to a Tenancy in Common.