

HOLDING TITLE

to California Property

PART
1

JOINT TENANTS & TENANTS IN COMMON



BREWER

OFFORD & PEDERSEN LLP

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ATTORNEY

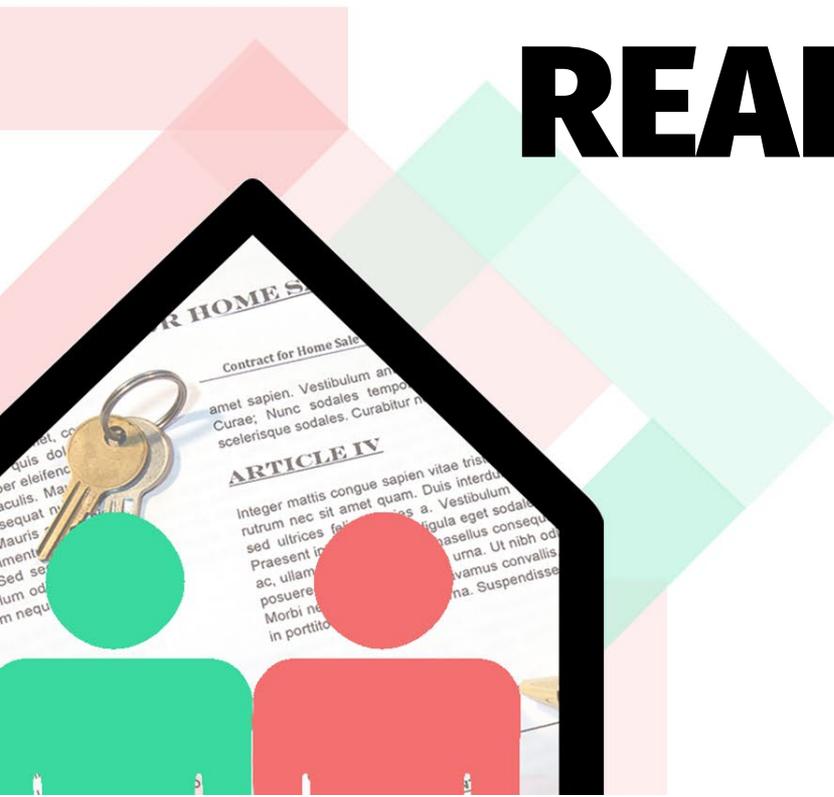
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ROEL**



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BASICS OF HOLDING TITLE TO REAL PROPERTY



METHODS FOR OBTAINING TITLE

TRANSFER FROM PREVIOUS OWNER TO NEW OWNER

- Grant Deed
- Quitclaim Deed
- Warranty Deed
- Deeds at Judicial Sales

A Deed is a Written Instrument That Conveys or Transfers Title to Real Property



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REQUIREMENTS FOR A DEED

BASIC REQUIREMENTS

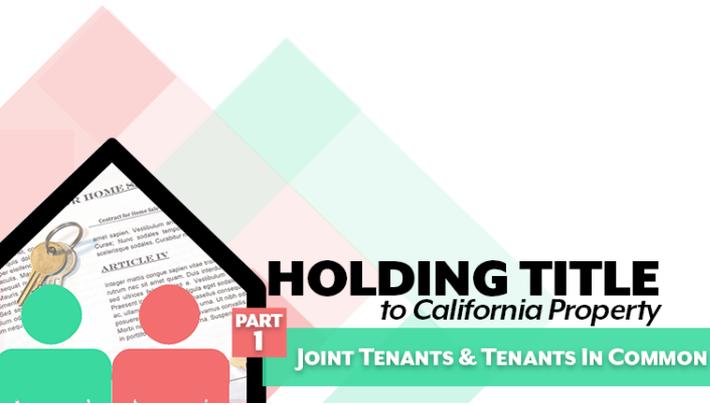
1. Name of Grantor
 - Living and Have the Capacity to Contract
2. Name of the Grantee
 - Living and Capable of Taking and Holding Title to Real Property
3. Description of the Property
4. Language Indicating Intent to Convey Property



REQUIREMENTS FOR A DEED

RECORDING A DEED

- Recorded at County Recorder's Office
- Race-Notice System in California
- Required to Be Notarized for Recording



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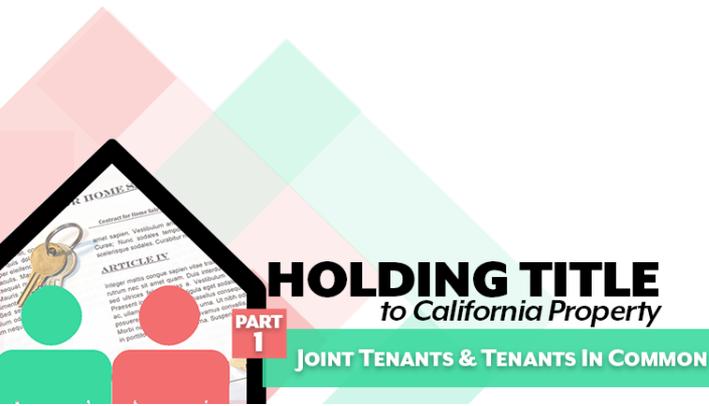
TITLE INSURANCE & LOANS

TITLE INSURANCE

- Available Throughout the State
- Not Legally Required to Obtain
 - Lenders May Require Title Insurance Before Funding

LOANS

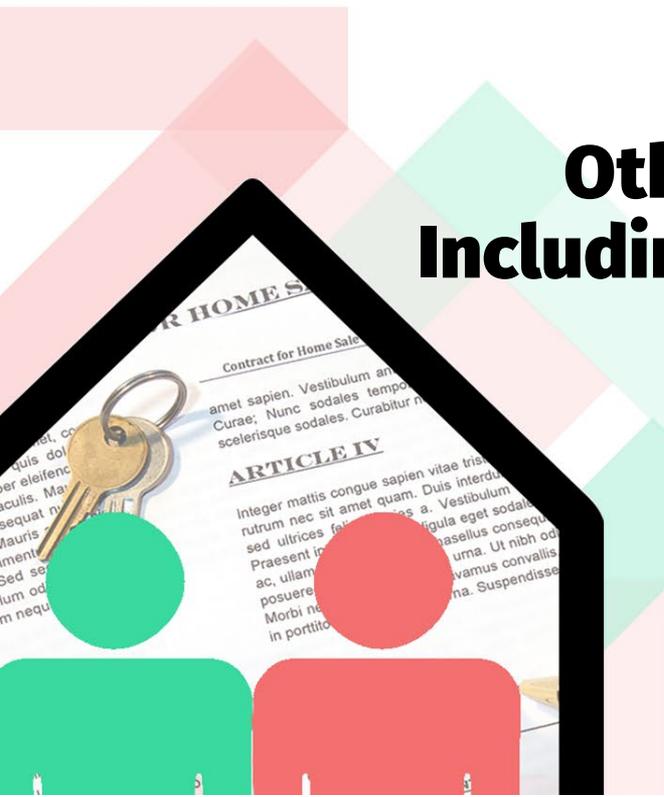
- Person on Title to the Property Can Be Different Than Who is on the Loan



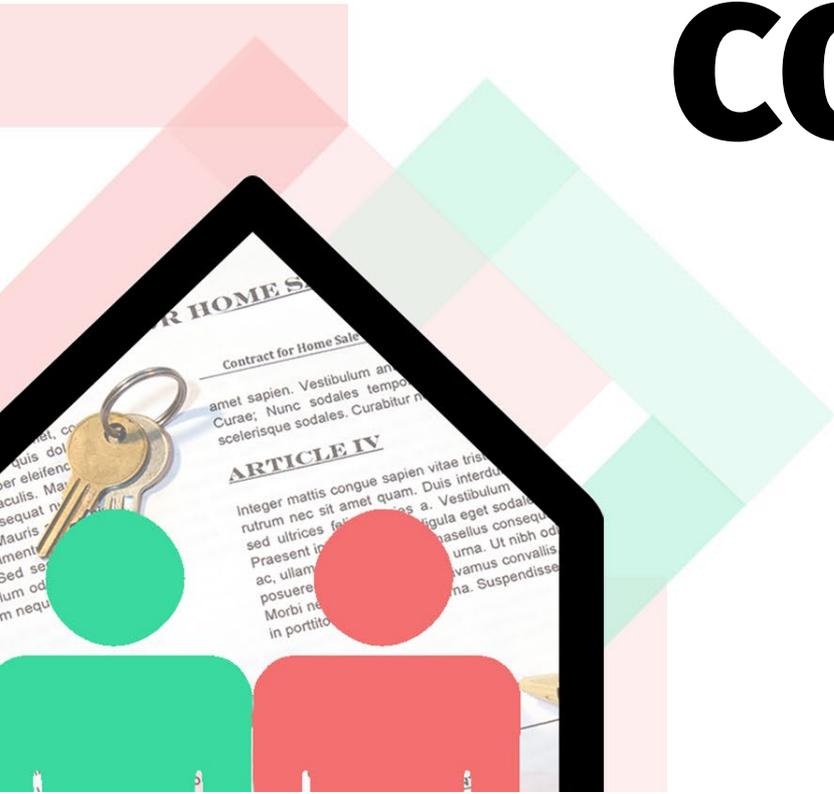
NOTE:

**This Presentation – Part 1 – Only
Covers Joint Tenants and Tenants in
Common.**

**Other Methods of Holding Title,
Including as Spouses, Will Be Covered in
Part 2 at a Later Date**



TENANTS IN COMMON

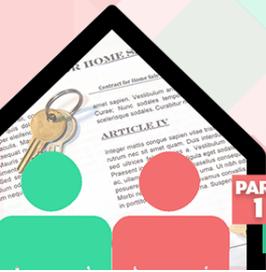


TENANTS IN COMMON

BASIC ELEMENTS

- When Title is Held By Two or More People
- Created By Deed
 - Express Terms; or
 - Implied Terms
- Percentage of Ownership
 - Express; or
 - Implied

All Tenancies Owned By Several Persons That is Not In Joint Ownership, Partnership, or CP is Considered Tenants in Common



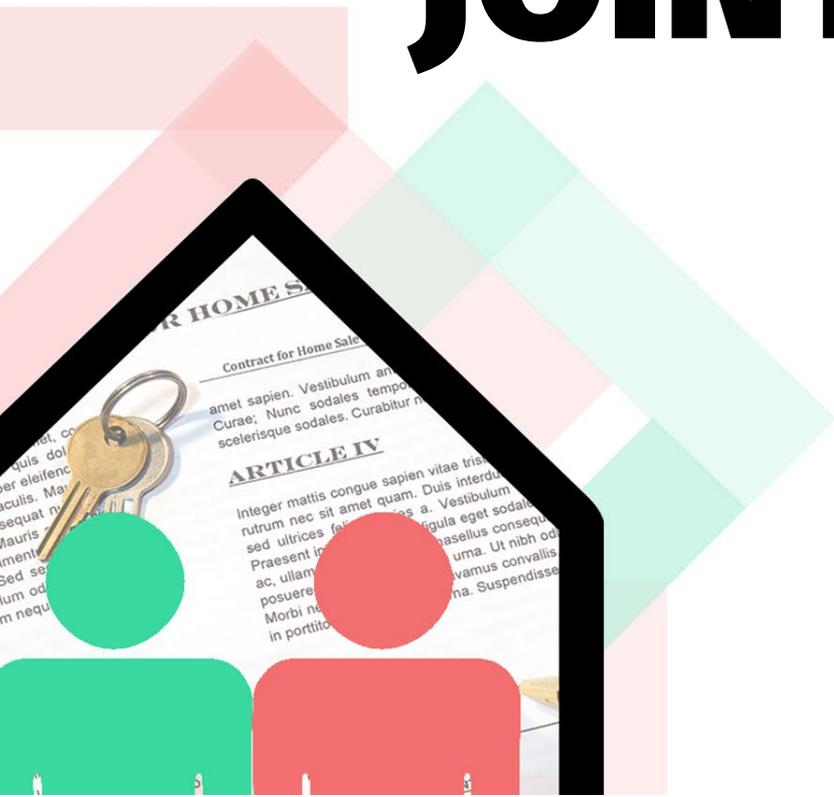
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JOINT TENANTS

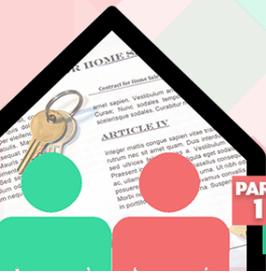


JOINT TENANTS

BASIC ELEMENTS

- When Title is Held *Equitable* By Two or More People
- Percentage of Ownership
 - Equal
 - Identical
 - Coextensive

One Joint Tenant Cannot Have a $\frac{1}{2}$ Interest in the Property and the Other Joint Tenant Have $\frac{3}{4}$ — Must Be Equal



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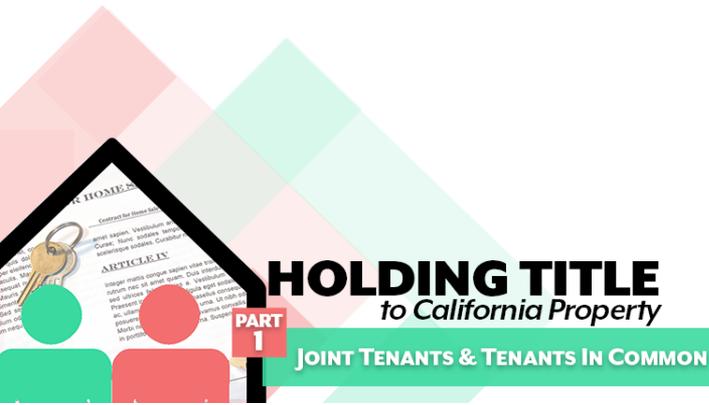
JOINT TENANTS & TENANTS IN COMMON



JOINT TENANTS

BASIC ELEMENTS

- Joint Tenancy Created By Deed
 - Express Declaration
 - Explicit Language
- All Four Unities Must Be Present for Joint Tenancy
 - Interest
 - Time
 - Title
 - Possession

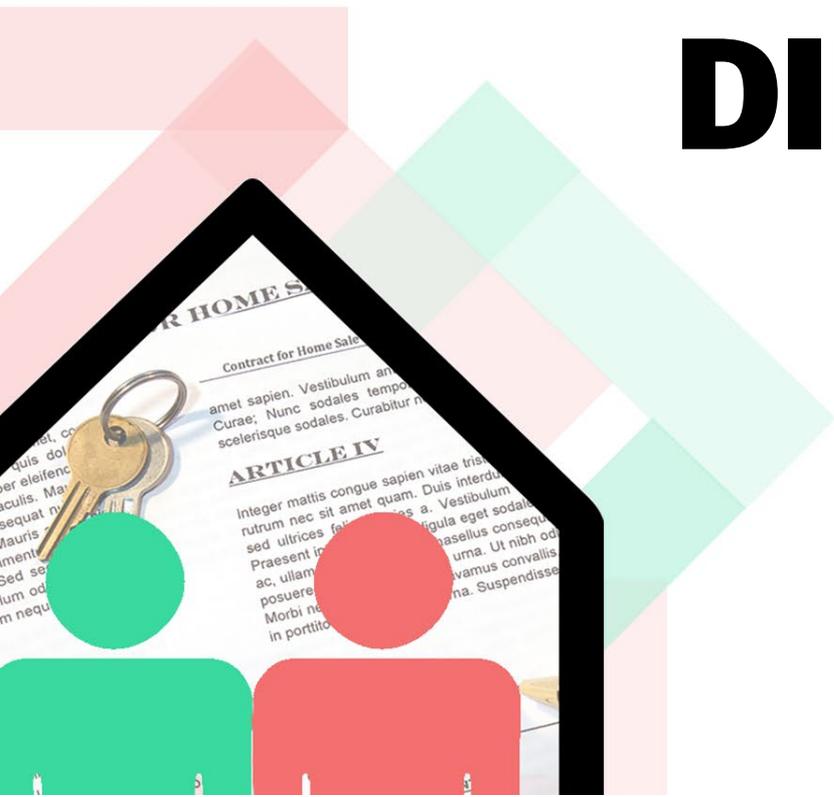


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RIGHTS & DIFFERENCES



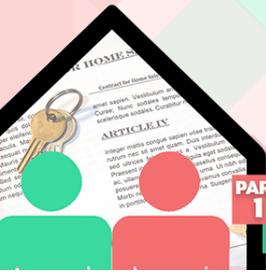
RIGHT OF SURVIVORSHIP

JOINT TENANCY

If One Owner Dies, The Other Owner(s)
Now Own 100%

TENANTS IN COMMON

If One Owner Dies, Their Interest Can
Be Disposed of Through Their
Will/Trust/Intestate



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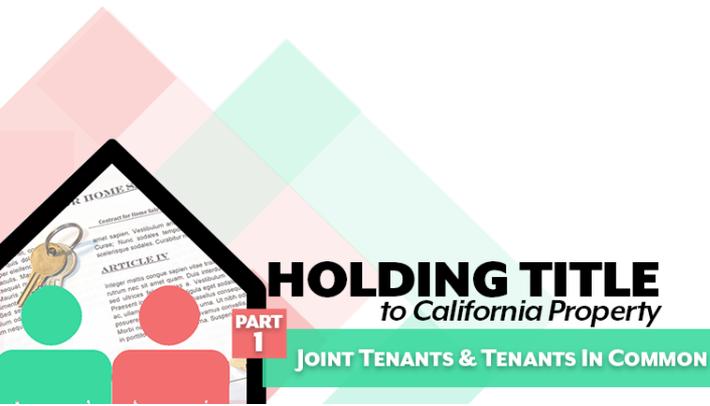
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RIGHTS OF TENANTS

FOR BOTH JOINT TENANTS & TENANTS IN COMMON

- Co-Tenants Have a Right, Without Consent or Approval Of Other Co-Tenant(s), To:
 - Sale
 - Encumbered
 - Take Possession



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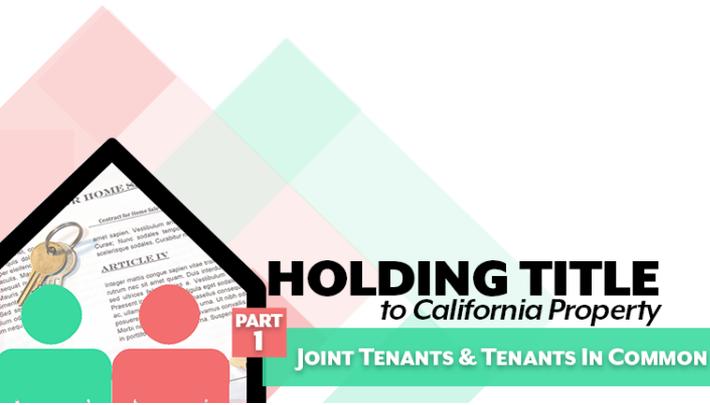
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RESTRICTIONS ON TENANTS

FOR BOTH JOINT TENANTS & TENANTS IN COMMON

- Regarding the Community Property, Co-Tenants Cannot Enter Into Certain Contracts:
 - Easement
 - Servitude
 - Removal of Timber or Materials



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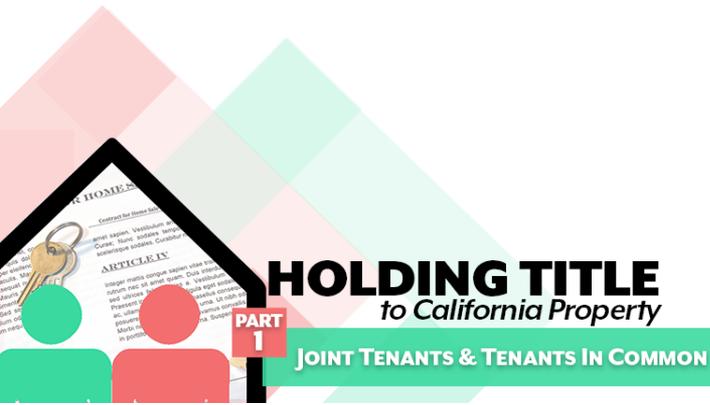
JOINT TENANTS & TENANTS IN COMMON



INCOME FROM PROPERTY

FOR BOTH JOINT TENANTS & TENANTS IN COMMON

- When Occupied By Co-Tenant
 - Contract Concerning Division of Income
 - No Entitlement If One Tenant Does the Labor and Management to Produce Revenue
- When Occupied By Third Party



INCOME FROM PROPERTY

FOR BOTH JOINT TENANTS & TENANTS IN COMMON

- When Occupied By Co-Tenant
 - Contract Concerning Division of Income
 - No Entitlement If One Tenant Does the Labor and Management to Produce Revenue
- When Occupied By Third Party

Absent an Agreement, There is No Entitlement for Compensation for Managing or Caring for the Property



REIMBURSEMENTS

JOINT TENANCY

No Entitlement to Reimbursement,
Absent an Express Agreement

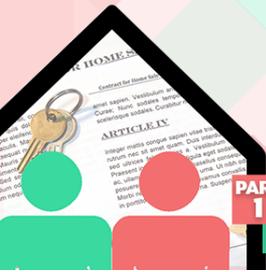
*Possible Recourse: Rebut Joint
Tenancy Presumption

TENANTS IN COMMON

(Based Upon Ownership Interest)

Entitled to Credit from Other Co-Tenants
for Expenditures Necessarily Made for
the Protection of the Common Property

- Taxes
- Mortgages
- Necessary Repairs



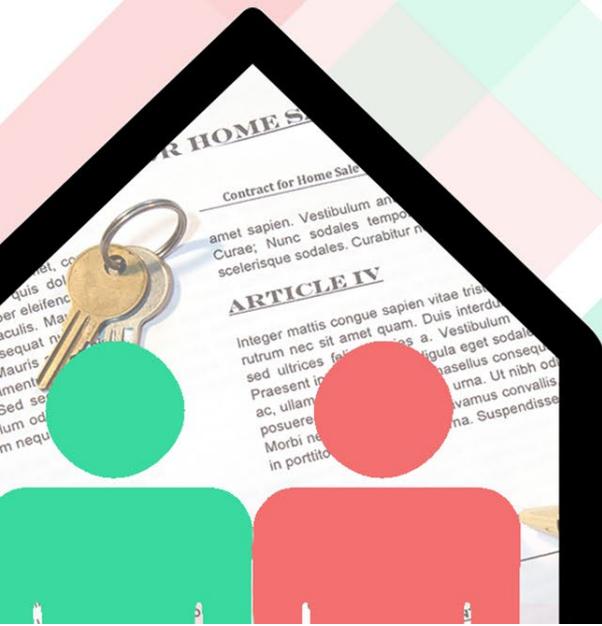
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CHANGING BETWEEN JOINT TENANCY & TENANTS IN COMMON

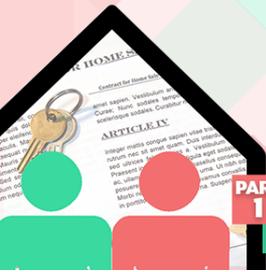


CHANGING BETWEEN FORMS

FOR CHANGES TO OR FROM TENANTS IN COMMON

- Back and Forth is Permitted
- Required Clear & Distinct Action

Absent an Agreement, There is No Entitlement for Compensation for Managing or Caring for the Property



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CHANGING HOW TITLE IS HELD

CHANGING OUT OF JOINT TENANCY

Co-Tenant Can Change to Tenants in
Common Without Other Owners'
Consent

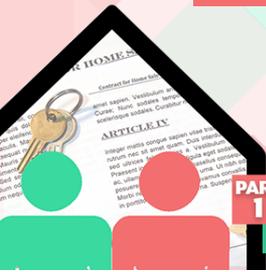
Only Applies to Co-Tenants Interest

If More Than Two Tenants, Other
Owners Stay Joint Tenants to
Remaining Percentage Interest

CHANGING OUT OF TENANTS IN COMMON

Cannot Change to Joint Tenancy
Without Consent

Can Subdivide, but Not As Joint Tenants



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DISPUTES OVER TITLE

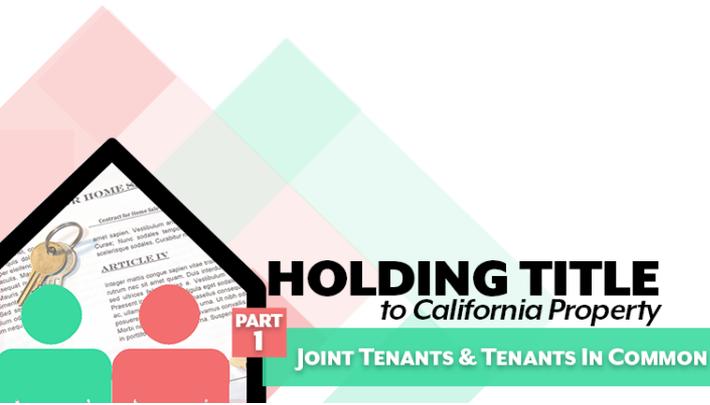


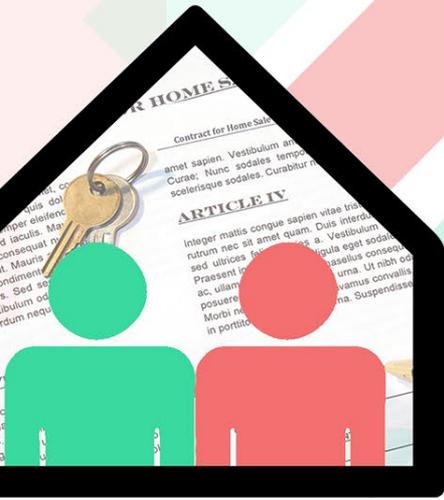
DISPUTES OVER TITLE

DISPUTES OVER OWNERSHIP PERCENTAGE

- Courts Will Evaluate
 - Money Contributed at Purchase
 - Money Contributed During Tenancy

PARTITION ACTIONS





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