

A photograph of a man and a woman sitting at a table. The man is holding a pen and looking at a document. The woman is sitting next to him, looking at the same document. On the table are several papers, including what looks like a deed or a title document, and a set of keys. The background is a plain, light-colored wall.

JOINT TENANTS OR COMMUNITY PROPERTY INFORMATION

Holding title as Joint Tenants or as Community Property involves a multitude of issues to be dealt with.

There are two distinguishing features between taking title as joint tenants or community property. When title is taken as joint tenants and one spouse dies, the surviving spouse automatically receives the property. This is called a right of survivorship. (Although the property does not go through any probate proceedings, the surviving spouse must still file an affidavit of death of joint tenant to remove the deceased's name from the deed.) When title is taken as community property however, and one spouse dies, there is no right of survivorship and the surviving spouse does not automatically receive title to the property.

If the deceased spouse died without a will, the deceased spouse's interest in the community property would go to the surviving spouse. If there was a will, the deceased spouse's interest would be handled as outlined in the will. In other words, each spouse has ownership of their half of the community property and can leave it by will to their surviving spouse or any other third party.

Joint tenancy has more certainty and community property has more flexibility.

Please let us know how we can be of service. We look forward to assisting you soon!