



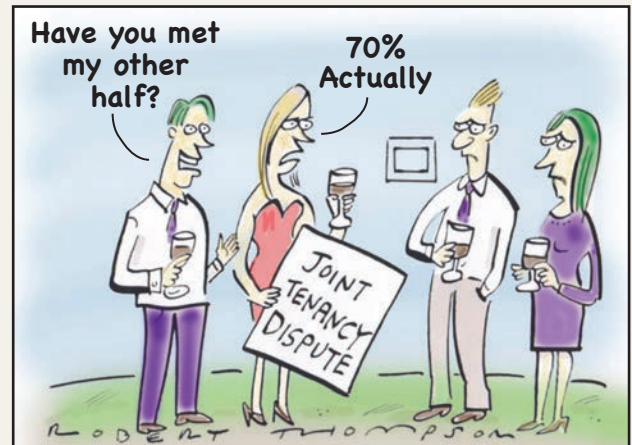
Providing Peace of Mind by Solving Problems with Integrity & Compassion in the following areas:

ESTATE & BUSINESS PLANNING • FAMILY LAW • REAL ESTATE

IT'S THE LAW!

How do you own your Property?

When was the last time you checked your *Deed* to confirm the manner in which you own your real property? Clients are often surprised to learn, sometimes too late, that they own a different property interest than they thought they did, requiring them to open a *Probate Estate*. A common misconception is that owning property with another person guarantees Probate avoidance, but that is not always true. The two main types of co-tenancies, aside from owning a property as husband and wife (*Tenants by Entireties*) are *Joint Tenants with Rights of Survivorship* and *Tenants in Common*, and there are fundamental differences between them. Below is a summary of the pros/cons of each one.



Joint Tenancy with Rights of Survivorship. This type of co-tenancy can only be created when owners obtain equal shares of the property. In this scenario, you and the other owner(s) co-own the property. When the first owner dies, the *Right of Survivorship* ensures that his/her interest automatically transfers to the surviving owner, taking precedence over the decedent's *Will* or intestate inheritance rules. This type of co-tenancy is common among family members or boyfriend/girlfriend because it allows the property to pass to the survivor without going through Probate (since the survivor inherits the property outright), saving time and money. However, one co-tenant cannot transfer or sell his/her interest without the consent of the other owner(s), which sometimes creates deadlocks when one party wants to sell and the other doesn't. Another drawback is that the deceased owner is prevented from passing on any property rights to his/her family because the co-owner automatically owns the entire property at the decedent's death.

Tenancy in Common. *Tenants-in-Common* may own equal or unequal shares of the real property. Because the tenants own their shares independently, any one owner can transfer or sell his/her interest without the consent of the other owner(s). When one owner dies, his/her interest passes to his/her Estate under his/her *Will* or Trust. This is different than in a *Joint Tenancy with Rights of Survivorship*, where the remaining interest passes to the surviving owner. Therefore, it is important that *Tenants-in-Common* plan their Estates carefully so that the property passes to the right beneficiary. With *Tenancies-in-Common*, it is quite possible that you can have multiple owners who inherit an interest from the original owner(s) and, over a few generations, the new owners don't even know each other – imagine trying to make a decision to repair or sell the property with 10 different cousins scattered throughout the country! A *Tenancy-in-Common* can be a good solution for second-marriage spouses who want to make sure that at least one-half (½) of the property goes to his/her children rather than all of it going to the new spouse.

At **JUPITER LAW CENTER**, we often have to ask our clients whether they want to buy or transfer their property as *Joint Tenants with Rights of Survivorship* or as *Tenants-in-Common*, so give it some thought before you show up at the Real Estate Closing. Feel free to call us if you have questions about your ownership interests in real property or any other aspect of the law.

Did you Know That, In Florida...

A Lady Bird Deed (also known as an Enhanced Life Estate Deed) is a way to transfer property to someone else outside of Probate while retaining a life estate in the property. But unlike a regular life estate, this Deed gives you the power to retain control of the property during your life, including the right to lease the property for profit, sell it or re-vest title in your own name.



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Attorney Adam S. Gumson of **JUPITER LAW CENTER** graduated from *Duke University (1988)* and the *University of Florida College of Law (1991 with Honors)*. In addition to preparing and reviewing Contracts, he primarily handles matters involving *Estate and Business Planning (including Wills, Trusts, Durable Powers of Attorney, Health Care Surrogates, Living Wills, Succession Planning, Contracts & Purchase/Sale Agreements)*, *Probate Estates*, *Family Law (Divorce, Custody, Alimony, Timesharing, Same-Sex relationships, Pre/Postnuptial Agreements, Modification actions and Collaborative Law)* and *Real Estate (Community Association, Residential/ Commercial Transactions, Deeds, Closings)*. He is married and resides in Jupiter with his wife and three children.

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