I. THE CONCEPT OF OWNERSHIP

In Chapters 1 and 2, we learned that the concept of property consists of its physical characteristics and also of the rights and interests a person has in that property. The concept of ownership comprises the bundle of rights: possession, control or use, enjoyment and disposition. Ownership of real estate must always be vested in either public or private parties. Publicly owned real estate is held by federal, state or local government entities for such things as schools, roads, parks, public housing, military installations and government office buildings. Privately owned real estate may be held by one individual or entity or by more than one. Any freehold interest can be held in the forms of ownership discussed in this chapter.

For a real estate licensee, it is important to understand the various forms of ownership to determine what signatures are required on a contract involving a specific parcel of land. However, advising buyers about what form of ownership to use would be considered giving legal advice. Buyers often ask questions like, “Should the house be in both names?” or “Should we take title as joint tenants or tenants in common?” The proper response for a licensee is to recommend the buyers seek advice from an attorney knowledgeable about real estate law.

The types of ownership discussed in this chapter are presented in their basic forms. The laws of each state might vary about choices available to buyers and the legal rights associated with the type of selected ownership.

II. TYPES OF PROPERTY OWNERSHIP

A. SEVERALTY OWNERSHIP (TENANCY IN SEVERALTY).

When an estate is owned by one person or by a single legal entity, such as a corporation, it is called severalty ownership or sole ownership. It is NOT ownership by several people as the term might suggest, but single
Property Ownership

Ownership, "severed" or "separated" from that of anyone else. A severalty owner has sole control over the use and possession of the property, within the bounds of law, and sole unlimited liability for all obligations arising out of the ownership. When the property is owned in severalty, sometimes a spouse’s signature is required for the property to be transferred, so as to waive dower, curtesy or community property rights, if the land is in a state that recognizes those rights.

Since a corporation is by definition of law a single legal entity, a corporation usually owns real estate in severalty even though the company is owned by many stockholders. The stockholders elect a board of directors to manage the business. The directors elect officers to conduct the day-to-day operations. Before a corporation can buy, sell or lease real estate, the directors must adopt a resolution authorizing certain officers to act. Any documents signed by authorized officers must be accompanied by the resolution and the corporate seal.

B. CONCURRENT OWNERSHIP.

When two or more people simultaneously own rights in the same land, they are said to be co-owners or concurrent owners. This might be in the form of a tenancy in common, joint tenancy, tenancy by the entirety, community property, tenancy in partnership, a trust, a condominium or a cooperative.

In law the word “tenancy” refers to possession of lands and tenements (buildings) by any kind of right or title, not just to leaseholds. The words “tenancy” and “tenant” as used in this chapter, refer to ownership and have nothing to do with rentals.

1. TENANCY IN COMMON.

A tenancy in common is the form of concurrent ownership that imposes the fewest restrictions on the co-owners. Each holds separate title (with a separate estate) to an undivided interest in the property. A co-owner does NOT own any specific portion of the physical property. The co-owner owns a specific interest in the property as a whole (undivided).

![Figure 3-1 • Tenancy In Common](image)