

## Types of Vesting . . .



### When Buyer is:

#### **ONE SINGLE PERSON**

When holding title as a single person, any of the following vestings are acceptable:

*JOHN Q. BROWN, a single man*

*MARY S. JONES, a single individual*

*JOHN Q. BROWN, an unmarried person*

*MARY S. JONES, an unmarried woman*

It is acceptable, although unnecessary, to add "as her/his separate estate" to the above vesting.

#### **TWO OR MORE SINGLE PEOPLE:**

Tenants in Common - When two or more individuals hold title together, they do so as tenants in common, even if the deed does not reflect that (unless the deed creates a joint tenancy). This means that each of the individuals has a separate and distinct claim to some fraction of the ownership involved. The following are three examples of acceptable vestings:

*JOHN Q. BROWN and MARY S. JONES, both single individuals*

*MARY S. JONES, an unmarried woman, and JOHN Q. BROWN, an unmarried man*

*JOHN Q. BROWN, MARY S. JONES and JOHN J. JOHNSON, all single people, as tenants in common*

The specific amount of ownership can be established by inserting in the vesting the percentage of interest that each of the buyers will hold.

An example of this would be:

*MARY S. JONES, a single woman, as to an undivided 75% interest and*

*JOHN Q. BROWN, a single man, as to the remaining undivided 25% interest*

If no percentage is set-forth, each of the tenants will have a presumed equal percentage.

#### **JOINT TENANCY**

Two or more single individuals as "joint tenants with right of survivorship and not as tenants in common". This means that the joint tenants have agreed that if one of them dies that the other will automatically inherit the deceased's interest in the property. To create such an estate, the deed must reflect the above verbiage and should contain the following acknowledgement signed by the buyers:

"The grantee acknowledges that it is their intent to acquire the property described herein as joint tenants with right of survivorship and not as tenants in common".

An example of the vesting is:

*JOHN Q. BROWN and MARY S. JONES, both single people, as joint tenants with right of survivorship and not as tenants in common.*

Before acquiring title as joint tenants with rights of survivorship, it is recommended that the purchasers consult an attorney who can fully explain the legal effects of such a vesting and the alternatives which may be more advisable. This type of vesting has significant effect on the disposition of your estate upon your death. Further, as this estate can be easily terminated, most title companies are unwilling to insure title held in this manner.

#### **A MARITAL COMMUNITY**

Based on the community property laws of the State of Washington, a husband and a wife hold together as one entity, not as tenants in common.

When holding title in a marital community, any of the following is acceptable:

*JOHN Q. BROWN and MARY S. BROWN, a marital community*

*JOHN Q. BROWN and MARY S. BROWN, husband and wife*

*MARY S. BROWN and JOHN Q. BROWN, wife and husband*

It is possible for a husband and wife to acquire title as joint tenants with right of ownership rather than community property. However, Washington law does not favor joint tenancy between married persons and it is recommended that you consult an attorney before choosing this vesting.

#### **A MARRIED PERSON AS THEIR SEPARATE ESTATE**

When one member of the marital community wants to hold title separately from their spouse, title would be vested as follows:

*JANE Q. DOE, a married woman as her separate estate*

This vesting is usually perfected by recording a Quit Claim Deed from the spouse. In the absence of a deed, proof that community funds are not being used for the purchase of the property, or, a Decree of Legal Separation with the necessary language establishing separate property would be required. In the event that none of these options are available, the deed can still be recorded with this vesting, but the title company would not be able to insure title in this manner. Instead, vesting would be insured as follows:

*JOHN Q. BROWN, presumptively subject to the community interest of her spouse*

If financing is being obtained for the purchase, the scenario may not be practical as the lender will probably require that title be perfected in the separate estate as a condition of the loan. Automatic homestead laws may also require the execution of deeds and encumbrances by both spouses if the subject property is their primary residence.