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Joint Tenants or Tenants in Common?

If you have fee simple title, or an entitlement, and you own it together with other people, there are two different ways you can own it – as joint tenants, or as tenants in common. It is important to know the difference so that you choose the right one.

Important: Unless you indicate that you wish to own the fee simple title or an entitlement as joint tenants, there is a presumption under the *Property Law Act* (BC) that the owners are tenants in common with equal fractional ownership.

Joint Tenants

Joint tenants own 100% of the fee simple title or entitlement together. Joint tenants are all responsible for property taxes, or mortgage payments, and all benefit from the sale or rental of the entitlement or fee simple title. They need to act together if the ownership is transferred or a mortgage is registered.

When one joint tenant dies, their interest in the property vanishes and the remaining joint tenant(s) continue to hold 100% of the entitlement or fee simple title together.

All that is necessary is to provide the Nisga'a Land Title Office with a death certificate, fill out a *Nisga'a Land Title Act* Form 8 and pay the required fee. Staff of the Nisga'a Land Title Office can assist you.

Tenants in Common

Tenants in common own separate fractions of the fee simple title or entitlement. For example, you might own 2/3 of an entitlement and your brother might own the other 1/3. This means that you could sell or transfer your 2/3 without involving your brother, but you could not sell or transfer his 1/3. Only he could do that.

When one tenant in common dies, his or her fraction (sometimes called an 'undivided interest') forms part of their estate. It does not automatically pass to the surviving tenants in common. Using the previous example, your brother's 1/3 interest would pass to his estate and be distributed to his beneficiaries.

If there is a will, the fractional interest will be dealt with according to the will. If there is not a will, the provisions of the *BC Wills, Estates and Succession Act* will determine who the beneficiaries are.

For more information, please contact the Nisga'a Land Title Office:

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