



Understanding Property Ownership: What Every Family Should Know Before It Matters

When we lose a loved one, the last thing anyone wants to deal with is confusion about how property ownership works. Yet understanding these basics ahead of time can save your family significant stress, time, and money during an already difficult period.

As someone who specializes in probate real estate here in St. Louis, I've seen how different ownership types can either streamline the process or create unexpected complications. Let me break down what you need to know in plain language.

It's Not Just About Real Estate

When most people hear "property," they think of houses and land. But in the legal world, property includes everything you can own - your bank accounts, business interests, stocks, furniture, vehicles, and yes, your real estate. We call land and buildings "real property" and everything else "personal property."

Why does this matter? Because how you own these assets determines what happens when you're gone.

The Default: Individual Ownership

By default, when you own something individually, it automatically becomes part of your estate when you pass away. This means your executor will need to take possession of it, use it to pay any debts, or distribute it to your heirs according to your will or state law.

This is straightforward but can tie up assets in probate - something many families want to avoid.

Community Property: For Married Couples

If you're married and live in a community property state, property acquired during marriage is typically owned 50/50 by both spouses. Missouri isn't a community property state, but if you've moved here from Arizona, California, Idaho, Louisiana, New Mexico, Nevada, Texas, Washington, or Wisconsin, this might affect assets you brought with you.



In these situations, when one spouse dies, their 50% share enters the probate process unless other arrangements have been made.

The Game-Changer: Right of Survivorship

This is where things get interesting. When property is held with "right of survivorship," the surviving owners automatically inherit the deceased owner's share. No probate required.

Common examples include:

Joint Tenancy with Rights of Survivorship (JTWROS): Multiple people can own property this way, and when one dies, the others automatically receive their share.

Tenancy by the Entirety: Similar to JTWROS but only available to married couples.

Community Property with Rights of Survivorship: Available in some states, allowing married couples to automatically inherit each other's share.

Here's what this means practically: If you and your spouse own your home with right of survivorship and one of you passes away, the surviving spouse automatically owns the entire house. You'll need to file some paperwork to make it official, but there's no probate court involvement.

Tenancy in Common: Proceed with Caution

With tenancy in common, each owner has a specific percentage of the property, and that percentage becomes part of their estate when they die. This can create complications, especially with real estate, because the deceased's share might go to someone the other owners didn't expect.

The Modern Solution: Transfer on Death

Many states now allow "transfer on death" designations for various assets. This lets you name beneficiaries who automatically receive the property when you die, avoiding probate entirely.

Common examples include:

- Retirement accounts (IRAs, 401Ks) with beneficiaries
- Life insurance policies



- Payable on Death (POD) bank accounts
- Transfer on Death (TOD) investment accounts
- Transfer on Death real estate deeds (available in most states)
- Transfer on Death vehicle registration (limited availability)

What This Means for Your Family

Understanding these ownership types isn't just academic - it directly impacts how smoothly your family can transition after you're gone. Property with right of survivorship or transfer-on-death designations can often be handled without probate court involvement, saving time and money.

However, even these "automatic" transfers usually require some paperwork and death certificates. As an executor or family member, you'll want professional guidance to ensure everything is handled correctly.

The Bottom Line

Property ownership might seem complex, but the key is planning ahead. Whether you need to sell quickly during probate or want to maximize value for beneficiaries, understanding how ownership types affect the process is crucial.

Every family's situation is unique, and Missouri probate law has specific requirements that can impact how these general principles apply to your circumstances. The goal isn't to become a legal expert - it's to understand enough to make informed decisions and know when to seek professional help.

If you're dealing with probate real estate questions in the St. Louis area, I'm here to help navigate these complexities. My specialized training in probate matters means you won't face these challenges alone.



Download eBook - The Essential
Guide To Navigating The Probate
Process And Settling An Estate



Schedule a Consultation

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