

TODAY IN FLORIDA REAL ESTATE

A Real Estate Newsletter for Florida Property Owners and Realtors

February 2019

Vesting and Your Loved Ones

Valentine's Day -- and for some, the whole month of February -- is the celebration of love through candy and Cupid. Ownership of Florida real estate with another person can take on many flavors, and the way in which you take title, the vesting on your deed, may allow for the sweet passing of your property to your partner or may require that your partner duel it out with the rest of your family while incurring extensive attorneys' fees and costs to probate your interest in the property.

Q. If my girlfriend and I purchase a piece of real estate together and are later married to each other, will the property automatically pass to my wife at the time of my death?

A. Not necessarily. Even if the two of you eventually get married, unless the deed includes express language of your intent to create a "joint tenancy with rights of survivorship," then you hold your interests as "tenants in common." Your marriage to each other does not, as a matter of law, convert the vesting on the face of your deed to "tenants by the entirety" -- a form of ownership reserved only for married couples -- or otherwise create a survivorship right. Without express survivorship language on the initial deed, or the recording of another deed upon your marriage to each other, your wife would likely need to administer your probate estate's interest in the property. To avoid the necessity of probating your estate at the time of your passing, you should seek the advice of an attorney to discuss the benefits of re-titling your property during your lifetime to accomplish this survivorship goal.

Q. We were married when we purchased our condominium unit, but now we are divorced. Will my former spouse automatically inherit my interest in our condominium unit at the time of my death?

A. No. If you purchased the condominium unit as a married couple and one of you passes during the time of your marriage, then the surviving spouse would automatically inherit the deceased spouse's interest in the unit. However, a legal divorce breaks the automatic right of survivorship and creates a "tenancy in common" between the now-divorced individuals. Absent a court order awarding the unit to one or the other pursuant to a divorce decree, the former spouses would remain 50/50 owners of the property, requiring the administration of a probate estate upon the death of one or both of the owners.

*It is never too soon
to contemplate
whether the way in
which you hold
title (vesting) will
achieve your goals.
See a real estate
attorney to discuss
the vesting of title
to your Florida
real estate.*

