



## Tenancy in Common Questions and Answers

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By Andy Sirkin  
250 Montgomery Street, Suite 1200  
San Francisco, CA 94104  
(415) 738-8545  
[www.andysirkin.com](http://www.andysirkin.com)

### What is a tenancy in common (TIC)?

The acronym "TIC", which stands for tenancy in common, along with the terms "cotenancy" and "fractional ownership", refer to arrangements under which two or more people co-own a parcel of real estate without a "right of survivorship". This type of co-ownership allows each co-owner to choose who will inherit his/her ownership interest upon death. By contrast, the type of co-ownership called "joint tenancy" requires that each co-owner's interest pass to the other co-owners upon death.

The TIC has become a popular style of ownership in many different real estate contexts. For example, income property investors and real estate syndicators are increasingly using tenancy in common as a vehicle to facilitate income tax-deferred exchanges, a trend that has been propelled by recent IRS rulings recognizing certain tenancy in common structures as legitimate vehicles for these exchanges. At the same time, vacation home buyers and resort developers are increasingly using tenancy in common (often called "fractional ownership" in this application) to share ownership and usage of vacation properties so that owners need not buy more than they can use and afford, but still get legal title to real estate (unlike in a traditional "time share" arrangement).

This article will focus on a third common usage of tenancy in common which is the co-ownership of multi-unit property by co-owners who each wish to have exclusive usage rights to a particular area of the property. TIC owners own percentages in an undivided property rather than particular units or apartments, and their deeds show only their ownership percentages. The right of a particular TIC owner to use a particular dwelling comes from a written contract signed by all co-owners (often called a "Tenancy In Common Agreement"), not from a deed, map or other document recorded in county records. This type of tenancy in common co-ownership should not be confused with the legal subdivisions known as the "condominium" and the "stock cooperative", as discussed below.

### What is the difference between a tenancy in common and a condominium?

In a condominium, property has been legally divided into physical parts which can be separately owned. Each condo owner owns a particular area of the property which is delineated on a map recorded in the public records, and has a deed which identifies the area which is individually owned. By contrast, TIC owners own percentages in an undivided property rather than particular units or apartments, and their deeds show only their ownership percentages. The right of a particular TIC owner to use a particular dwelling comes from a written contract signed by all co-owners (often called a "Tenancy In Common Agreement"), not from a deed, map or other document recorded in county records. The difference between physical

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