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Serving the Greater Houston Area

Whose Name Goes on the Title: Holding Title & Passing the Home On

The names on the deed decide how the home passes on

The wrong name on the title causes trouble decades later. How the main ways of holding title — spouses, children, a trust, a TODD deed — each play out at death, divorce or a sale. Ten minutes before you sign can save your family a long detour.

Whose Name Goes on the Title: Holding Title & Passing the Home On

Decide Before Signing

1. Why this is decided before closing

How the deed names the owners decides who gets the home — and whether a court gets involved — when an owner dies, divorces, or faces a debt claim. Names can be changed after closing, but it takes a new deed, can trip a loan's due-on-sale clause, and can carry tax consequences. Ten minutes before signing is far cheaper than fixing it later.

2. Texas is a community property state

Income and property acquired during a marriage are generally community property, owned half and half; property owned before marriage, plus personal gifts and inheritances, is separate property — but keep the paper trail, because after years of mixing, the two are hard to separate again. The distinction drives both divorce division and who can dispose of the home at death.

3. The common ways to hold title

Tenancy in Common: each owner holds a stated share that passes to their own heirs — no automatic survivorship. It fits co-buyers with unequal shares.

Joint Tenancy with Right of Survivorship: requires a clear written agreement; when one owner dies, their share passes automatically to the survivor, outside probate. Texas also has a specific community-property-with-survivorship form for spouses.

One name only: simplest to run, but at death the home usually needs probate before it can be transferred or sold — and a home bought during a marriage still has to be split into community and separate shares first.

4. A TODD names the home's successor in advance

A Texas Transfer on Death Deed (TODD) records a beneficiary while you are alive: you keep full control and can revoke it at any time, and at your death the home passes directly to the beneficiary, outside probate. It must be recorded before death to work. It suits simple family situations; complex families or minor beneficiaries need more than a TODD alone.

5. Trusts and LLCs each have their place

Holding a home in a living trust can avoid probate and make incapacity manageable — but signing the trust is not enough: the home must actually be deeded into it (funding), and the mortgage, insurance, and homestead exemption need checking at the same time. An LLC is a common liability shield for rentals, but putting a primary home into one can affect the homestead exemption, loan terms, and insurance — and any transfer into an LLC should be cleared with the lender first.

6. Probate — and the cost of "just add my child to the deed"

With no survivorship right, TODD, or trust in place, a home left at death usually goes through court probate before it can be transferred or sold, which takes time and money; a will directs how things are divided but does not by itself avoid probate. One common misconception deserves a warning: adding a child's name to your deed during your lifetime is a present gift of an ownership share — it can affect tax basis, the parents' homestead exemption, and the loan (see this site's Gift Funds Guide). Ask an attorney and a CPA before doing it.

If this is sitting inside your transaction right now, ask me — free consultation: (347) 774-5396 | owenrealestatetx.com

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