

“Joint Tenancy with Right of Survivorship (JTROS)”

A deed is a legal document which transfers property ownership from one party to another party. Specifically, they are generally referred to as a Seller/Grantor, the party selling the Property, and the Buyer/Grantee, the party purchasing the Property.

There are many different types of deeds and it is impossible to cover in one post. However, a question we get frequently is dealing with two-party ownership on a piece of property. Specifically, if two or more persons own a property, how can it be owned? This article will examine “Joint Tenancy” or commonly seen as “Joint Tenancy with Right of Survivorship” (JTROS) **What**

is it?

Definition: “Tenancy”- Tenancy refers to how a property is being possessed. *Joint Tenancy with Right of Survivorship (JTROS)* is a type of Tenancy where the Parties own equal shares of the Property and upon their death, will automatically pass their interest in the Property to the other Joint Tenants, hence the “right of survivorship”.

Layman’s Terms: By owning a Property as JTROS, you’re guaranteeing that your ownership interest will be equal with other tenants. Think of it like the three musketeers: One for all, All for one. No inequality exists with JTROS.

Example- Tenant A, Tenant B, and Tenant C are JTROS in a property located at 123 Main Street Blackacre, PA. Tenant A owns 33 1/3%, Tenant B owns 33 1/3% and Tenant C owns 33 1/3%. The Parties are usually equally responsible for maintaining the Property (as always, some exceptions can apply). If Tenant A dies, Tenant A’s share is distributed to the remaining Tenants, so Tenant B would then own 50% and Tenant C would own 50%. This distribution occurs “by law”, meaning it happens without probate or Court intervention. Generally, you won’t need to execute a new deed if a JTROS Tenant dies, as that death will be handled in the chain of title evidence to the new owner.

How does it work?

Example 1 (Expenses)- 123 Main Street needs a new roof. The new roof costs \$9,000.00. Tenant A would be responsible to pay \$3,000.00 (33 1/3_{rd} %), Tenant B pays \$3,000.00 (33 1/3_{rd} %), and Tenant C pays \$3,000.00 (33 1/3_{rd} %).

Example 2 (Selling Property)- If 123 Main Street, Blackacre PA sells for 100k, each Tenant would get 33 1/3_{rd} of the proceeds.

Common Mistake (Survivorship to 3_{rd} Parties): Tenant A dies. Tenant A has a will that says Tenant A’s spouse gets all of Tenant A’s property. HOWEVER, since Tenant A owned Blackacre as a Joint Tenant with Right of Survivorship (JTROS), this transfer is **INVALID**. Tenant A’s property interest will pass to Tenant B and Tenant C, who will each absorb Tenant A’s share.



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Further Reading:

I see property titled as JTROS most frequently in family properties, i.e. the family hunting cabin. Dad will transfer the family hunting cabin to his three kids as JTROS so that it “stays in the family”. Dad dies. The kids end up fighting and want to transfer their interest in the property to a third party. Having JTROS complicates this transfer to a third party and will almost certainly incur more costs and expenses than if they owned the Property as TIC (tenants in common). If your closing/title agent asks you to title the Property as JTROS, get a legal opinion **IMMEDIATELY**. Don’t get me wrong, JTROS can be a great way to handle your planning for the future...**BUT** it can have serious drawbacks and consequences. As always, talk to a Lawyer (like me!) who can guide you through the potential pitfalls.

If you need a closing/title/settlement or escrow transaction handled in Pennsylvania, we would love to help! Our information is below:

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****This article is for informative purposes only and nothing in this article is intended to give legal advice. Please consult with an attorney prior to making a huge mistake by not understanding the consequences of your action! ****

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