

Property Ownership Guide for Assessing Officials

Producing a grand list involves many ownership considerations. This guide is intended to answer common questions regarding ownership. Please see the Lister and Assessor Handbook for additional information.

Date of Ownership

By Vermont statute, real and personal property is to be listed to the “last owner or possessor thereof on April 1,” per 32 V.S.A. § 3651. There is some difference of opinion among attorneys and town officials as to whether the April 1 ownership date reflects the closing date or the date of recording. A closing date of April 1 is used for the determination of ownership for the Equalization Study and myVTax. Ultimately, the choice is that of the listing officials and needs to be consistently applied.

Grand List Ownership Codes

The ownership codes below are used in the grand list. These ownership codes refer to the *owner type*, which differs from property categories (property types).

T—Town Residents. People who live in the town where the property is located

S—State Residents. People who live in Vermont, but not in the town where the property is located

NS—Non-State. People who live outside of the State of Vermont

C—Corporations, partnerships and other entities

This includes federal, state, county and local government.

Note that in Vermont, trusts are vested in the trustee(s) and should be listed as either T, S, or NS depending upon where the principal trustee resides.

Ownership coding should be checked annually—especially for transferred properties—as ownership status frequently changes during property transfers.

Listers and assessors are responsible for the accuracy of this data.

Common Types of Deeds

Warranty

Grantor warrants and defends good, clear title. This is the most common deed used for purchase and sale transactions.

Quit Claim

Transfers ownership interest without any claim or guarantee that the title is good, or the property is free of claims. “Whatever title, interest or claim I have/had in the property is now yours.”

Limited Warranty

Warrants only that the grantor has done nothing to encumber the title during their ownership and takes no responsibility for the state of the title before they acquired title to the property

Easement

Grants the right to use land for a specific purpose

Trust Deed

Can be Revocable or Irrevocable. Used in place of a will to eliminate the need for probate upon death. In Vermont, real estate held by a trust is vested in the trustee of the trust. Property held in trust can only be conveyed by the current trustee or designated successor.

Divorce Judgment

Used to convey property. It must be recorded in Land records, per 15 V.S.A. § 754.

Probate Decree

A decree of distribution from Probate Court to transfer property of a deceased person to those entitled to receive it

Tax Collector Deed

Conveys title from a municipality to a buyer who purchased the property at a tax sale

Corrective Deed

Clarifies or corrects a previous deed

Lease

Conveys a right to a tenant to use property for a term, but does not convey ownership. A lease with a term of 50 years or longer, or containing the right of lessee to purchase and allowing the lessee to construct a building or make a major capital improvement, requires the filing of a property transfer tax return (PTTR).

Common Deed-Defined Types of Ownership

Tenants in Common

Ownership as tenants in common is the default ownership presumption when two or more persons (or entities) acquire property unless another provision is made in the deed. Equal ownership shares are not necessary. For example, one tenant in common could own a 75% interest in the property and the second could own 25%. (Regardless of ownership interest, each tenant in common has the full right to use the entire property, though they are free to make whatever agreement about possession of the property as they wish.) There is no right of survivorship, and when one tenant dies, their interest passes to their heirs, not to the other tenant(s) in common. A tenant in common can sell their interest without the consent of the other tenant(s).

Tenants by the Entirety

Only married couples and partners in a civil union may hold property as tenants by the entirety. Tenancy by the entirety has the same right of survivorship as a joint tenancy. However, in a

transfer of the property, both spouses or partners must sign the deed, or the deed is invalid. The law treats the couple holding the property as a separate legal person. Claims of creditors of one spouse or partner generally do not attach to the property.

Joint Tenancy

All joint tenants have a right of survivorship – the right of survivorship is the distinctive feature of joint tenancy and what distinguishes it from a tenancy in common. If a joint tenant dies, that person's interest in the property is passed by operation of law (no probate is needed) to the surviving joint tenant(s), not to the joint tenant's heirs. As with tenants in common, the ownership interests of joint tenants may be unequal, per 27 V.S.A. 2(b)(1), but each joint tenant has equal right to possess the entire property. Like a tenant in common, a joint tenant can convey their interest without the consent of the other joint tenants; however, the transferee becomes a tenant in common with respect to the other owners and not a joint tenant.

Property & Ownership Situations

Appeals/New Owners

Because values and ownership are established as of April 1, legally only the seller could appeal. However, if agreeable, the seller could submit a signed letter to the Board of Listers stating a wish to designate the buyer as the seller's agent in the grievance process. As agent, the buyer could then participate in the grievance by acting on behalf of the owner of record.

Condominiums/Common Interest Ownership

By definition, there is common property involved in condominium ownership, and property subject to the Uniform Common Interest Ownership Act (UCIOA) contained in Vermont Law at Title 27A V.S.A. The assessment of each unit must include the value of that unit's percentage of undivided interest in the common areas and common facilities. See 27 V.S.A. § 1322 and 27A V.S.A. § 1-105.

For example, in a 100-unit condominium development where each unit was purchased with an undivided interest in the common land, the grand list would have 100 parcels, with each including the additional value of the 1% interest in the common property. The building, land and any of the common areas and facilities would not be listed separately. Time sharing condominiums have different listing rules, as discussed below.

Contiguous Property

Contiguous properties with the same ownership should be listed together for tax purposes as a single parcel in the grand list. "Parcel" is defined as "all contiguous land in the same ownership, together with all improvements thereon," per 32 V.S.A. § 4152(a)(3). All these combined contiguous parcels retain their individual legal identities. If the names are written a little differently (John L. Little and John Little) but are the same person, the "L." difference would not disqualify them from being listed under one SPAN. **Be sure to do your research.**

Current Use

A name change on a Current Use application is not reason enough to make a grand list change. A deed or other appropriate instrument recorded at the Town Clerk's office is what you would need to justify an ownership/name change. The owner of enrolled property is required by 32 V.S.A. § 3757 to notify both the director of PVR and the local assessing officials of any transfer of ownership. For other Current Use and ownership issues, please see our website:

- Overview
- Applications / Frequently Asked Questions
- Trust / Trustee Considerations

Deeds and Property Transfer Tax Returns (PTTRs)

PTTRs and the accompanying deeds will provide most of the information you will need in determining ownership. Establish a practice of reading the deed (the legal description of the property) for each sale to establish ownership and transferred or retained rights, as these may impact

your valuation. PTTRs simply are instruments to record the deed.

Estates

Undivided real estate must be listed to the estate in care of the executor or administrator, per 32 V.S.A. § 3654. Ownership does not automatically transfer to an estate upon the owner's death. Additionally, depending on the type of deed and when it was executed, a surviving spouse or partners do not automatically become the owner(s) of record.

Certain deed types convey legal rights upon death:

- **Life Estates** (e.g., death of the life tenant terminates the life tenancy and title is vested in the remaindermen),
- **Joint Tenants** (e.g., upon death of a joint tenant, the ownership interest passes to the surviving joint tenants), and in most, but not all cases,
- **Tenants by the Entirety** (e.g., upon death of a spouse or civil union partner, the ownership interest passes to the surviving spouse or partner).

A death certificate should be recorded in your town office before a name change is made in your grand list.

If unsure of how to proceed with anything concerning property ownership and grand list issues, the town's attorney should be consulted. Don't make changes without written documentation in your land records to back you up.

Foreclosures and Mortgaged Property

When real estate is mortgaged, the mortgagor (borrower) is the owner. But if the mortgagee takes possession, then the mortgagee (lender) becomes the owner, per 32 VSA § 3652.

A PTTR is required when there is a transfer by deed of title to property, per 32 V.S.A. § 9602. The timing of the transfer of title depends upon the type of foreclosure action:

- **Strict Foreclosure**—Generally, in a strict foreclosure, title transfers with the judgment order, and a PTTR

must be filed when the foreclosure judgment is filed. A court may order a sale in a strict foreclosure proceeding. See 12 V.S.A. § 4941.

- **Court-Ordered “Judicial” Sale**—If the mortgage includes a power-of-sale clause, either party may request that the court order the sale of the property, per 12 V.S.A § 4945(b). Transfer of title occurs when the confirmation order is filed in the land records and a PTTR is required at that time.
- **Non-judicial Foreclosure Sale**—Under 12 V.S.A. § 4961, a mortgagee may “upon breach of mortgage condition, foreclose upon the property without first commencing a foreclosure action or obtaining a foreclosure decree.... No sale under and by virtue of a non-judicial power of sale shall be valid and effectual to foreclose the mortgage unless the conditions of this subchapter are complied with.”

Homesteads/HS-122

The Department’s fact sheet, The Vermont Homestead Declaration, contains information regarding special ownership scenarios.

Leases

Sometimes a lister will be asked to list a building to a person or entity other than the owner of the underlying land. For instance, a son or daughter might build a house on the parents’ land and then ask that the house be listed separately to the child. Absent some written instrument being recorded in the town office conveying the house to the child, the listers should list the house as a part of the parcel on which it is situated.

When real estate is subject to a perpetual or 99-year lease, it must be listed twice, per 32 V.S.A. § 3609 and 32 V.S.A. § 3610. When real estate is subject to a lease that is for a term of less than 99 years, the listers may list it to either the owner or the possessor. PVR recommends listing it to the owner of record.

Life Estates

Property conveyed by a deed that reserves the use and possession for the grantor for life (life tenant). When that life expires, the life estate ends, and title

passes to the owner directly without need for probate. The life tenant most often can sell, lease, mortgage or convey the property. If the present owners wish to amend or dissolve the Life Estate, a new deed will be needed.

Listers may choose to list Life Estates to either the owner (remainderman) or possessor (life tenant). It is advisable to list the property to the life tenant, which facilitates the owner filing a homestead declaration.

Current Use, however, uses the remainderman as owner of record because there will be no subsequent deed after the passing of the current owners (life tenants).

Name Changes

Ownership and name changes require a deed with accompanying PTTR or a recorded *Certificate of Name Change*.^{*} Or, in the case of a deceased person, a death certificate that has been recorded in your town records. See 27 VSA § 350.

^{*}A sample form from the Vermont Municipal Clerks’ and Treasurers’ Association is available at www.vmcta.org.

Municipally-Owned Property

If a town acquires property after April 1, the property remains taxable and needs to stay listed as such for that grand list year. Towns should base their tax rate on not owning the property. The town may abate the taxes on the property if they choose.

Timesharing

For property tax purposes, a property involving time share estates is considered to be a single property, owned by the owner’s association or whatever entity is authorized to manage the common property. Although the individual owners are ultimately responsible for paying their shares of the taxes, it is the responsibility of the association to allocate the shares and to obtain payment from the individuals. See 32 V.S.A. § 3619.

Trusts

Real estate held in trust should be listed to the trustee(s), per 27 V.S.A. § 351.

If or when the property is conveyed, a *Notice of Change in Trustee or Certificate of Trust* is usually filed in the land records to document the new trustee's authority to convey the property.

Veterans

If a qualified veteran owns property and resided there on April 1, and then sells that property after

April 1, the exemption stays on the grand list for the remainder of the year. Exemption credits can be negotiated at the closing of the sale if the parties choose. If a veteran sells their homestead after April 1, they cannot receive the exemption on a different property that year—the exemption is for the property they owned and resided at on April 1.

What you may do if someone requests separate tax bills for combined parcels

Town officials are under no obligation to produce separate tax bills for financial institutions or taxpayers. However, you do have the ability to assist by providing a cost sheet that shows a breakdown of the key elements. Calculations can be made from a cost sheet, and a copy of their tax bill with appropriate tax rates. Taking the extra time to explain to the property owner how the process works will help the owner make informed decisions about the property.

