

SoloAgersConnect reached out to Attorney Gregory F. DeManche for help with this real estate question from a solo ager.

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Question

I co-own a two-family house with my sister. Currently my half of the house is occupied by a tenant, so I do not live there. She does not spend much time there. When I told her I would like to sell my half, she presented me with a very low offer. I know what a house on our street sold for recently and consider her offer too low. I understand that I could do a partition to force the sale of the house, but I would rather not do this. What legal rights do I have if she does not agree to buy me out or sell the house?

Answer

You can proceed with a partition action, which is a court proceeding requesting judicial division or sale of jointly owned real estate. Another option is to have an attorney negotiate on your behalf to reach a settlement to where your sibling buys the house at a fair market price or you jointly agree to sell and divide the proceeds.

More information is below.

State-specific rules dictate how the process works. Consult with a local real estate attorney or a specialized partition action lawyer to ensure you follow local procedural rules and statutory requirements in your specific jurisdiction.

Selling Your Interest in a Co-Owned Connecticut Two-Family House

Informational Article: Prepared for Publication and General Educational Purposes Only

Overview

It is common for friends, business partners, siblings or other family members to jointly own residential real estate in Connecticut, including two-family homes used for investment, rental income, or family occupancy. Problems often arise when one owner wishes to “sell their half” while the other owner does not wish to sell the property, cannot afford to buy out the departing owner, or disagrees regarding valuation or management.

Under Connecticut law, a co-owner generally has significant rights to transfer or liquidate their ownership interest. However, the practical ability to sell “half of a house” is often more complicated than many owners initially expect.

Connecticut residential real estate is held either as: Joint Tenants with Rights of Survivorship, or Tenants in Common.

The deed controls the ownership structure.

Joint Tenancy with Right of Survivorship

Under a joint tenancy, when one owner dies, the surviving owner automatically receives the deceased owner's interest by operation of law, outside probate.

A joint tenant generally may still transfer their ownership interest during life. However, doing so may sever the survivorship feature and convert ownership into a tenancy in common.

Tenancy in Common

In a tenancy in common, each owner possesses an undivided ownership interest in the whole property. Ownership percentages may be equal or unequal.

Absent restrictions in a written agreement, each co-owner generally has the right to: Occupy the property; Share in rental income; Transfer their ownership interest; and Seek partition through court proceedings.

Can one owner sell "Their Half"? Technically, Yes.

A Connecticut co-owner can usually sell or transfer their ownership interest without the consent of the other owner unless restricted by: A written co-ownership agreement; An operating agreement; A trust instrument; A court order; or Certain contractual rights of first refusal. However, selling an undivided one-half interest in residential real estate is often commercially difficult.

Practical Marketability Problems: Most ordinary residential buyers do not want to purchase: A partial ownership interest; Shared management responsibilities; Potential litigation exposure; or Co-ownership with a stranger.

As a result, a partial interest sale frequently sells at a substantial discount compared to one-half of the fair market value of the entire property.

For example:

Entire property value: \$700,000; One-half mathematical share: \$350,000; Actual market value of isolated one-half interest: potentially much less. The discount reflects lack of control, illiquidity, and risk.

Most Common Resolution: Buyout by the other owner. The most efficient resolution is often for the remaining owner to purchase the departing owner's interest.

Typical Buyout Process: The parties commonly: Obtain an agreed appraisal; Determine mortgage balances and adjustment items; Negotiate a purchase price; Refinance the property if necessary; and Execute a deed transferring the departing owner's interest.

Mortgage Issues: A critical issue is whether both owners signed the mortgage note.

If both are liable on the mortgage: Conveying title alone does not remove the departing owner from loan liability.

The lender must almost always approve: A refinance; or A formal assumption and release. Without refinancing or lender release, the departing owner may remain liable despite no longer owning the property.

What If the owners cannot agree? When co-owners cannot agree regarding sale, occupancy, management, or buyout terms, Connecticut law permits a co-owner to bring a partition action in Superior Court.

Connecticut Partition Actions

A partition action is a court proceeding requesting judicial division or sale of jointly owned real estate. Partition actions in Connecticut are governed primarily by Connecticut statutes and equitable principles developed through case law.

Two Main Types of Partition:

1. Partition in Kind: The court physically divides the property between owners. This is more common with vacant land or large acreage. It is usually impractical for a typical two-family residential property because: Zoning may prohibit subdivision; The building may not be physically divisible; and Shared systems and utilities complicate separation.

2. Partition by Sale: The court orders sale of the property and division of proceeds. This is the more common outcome involving residential two-family homes.

The court may:

Appoint a committee to market and sell the property; Approve sale procedures; Resolve lien and accounting disputes; and Distribute net proceeds among owners.

Court Accounting Issues: Partition litigation frequently involves disputes concerning: Mortgage payments; Property taxes; Insurance; Repairs and improvements; Rental income; Occupancy value; Waste or damage to the property; and Unequal contributions. The court may adjust distributions to account for these issues.

Example: If one owner paid all carrying costs for several years, the court may credit that owner before dividing net proceeds.

Occupancy and Rental Issues: Where one owner occupies part or all of the property, additional disputes may arise regarding: Fair rental value; Exclusive possession; Maintenance obligations; and Collection and division of rents. Connecticut courts may consider whether one owner excluded another from use and enjoyment of the property.

Tax Considerations: Owners should carefully review federal and Connecticut tax consequences before transferring interests.

Potential issues include: Capital gains taxes; Depreciation recapture; Gift tax implications; Property tax reassessment; Transfer taxes; and Income tax treatment of rental operations.

Principal Residence Exclusion: If the property qualifies as a principal residence, some gain may potentially qualify for exclusion under Internal Revenue Code §121. However, mixed rental and owner-occupied use can complicate the analysis. Tax advice should be obtained from a qualified CPA or tax attorney.

Title and Financing Concerns

Before attempting transfer or litigation, owners should review: The current deed; Mortgage documents; Home equity loans; Liens; Insurance policies; Leases; Municipal code issues; and Any written agreements between the owners. A title search is advisable.

Mediation and Settlement

Because partition litigation can be expensive and emotionally damaging to relationships, mediation is frequently worthwhile. Creative resolutions may include: Installment buyouts; Delayed sale agreements; Exclusive occupancy arrangements; Rental management agreements; or Conversion into an LLC ownership structure.

Practical recommendations: A Connecticut co-owner wishing to sell their interest should generally consider the following steps: Obtain copies of all deeds and loan documents; Determine fair market value through appraisal; Review ownership percentages and contributions; Evaluate mortgage liability exposure; Attempt negotiated buyout discussions; Consult real estate and tax counsel; and Consider partition litigation only if negotiation fails.

Conclusion: Under Connecticut law, a co-owner of a two-family home generally has the legal ability to transfer their ownership interest or seek judicial partition.

Nevertheless, practical, financial, and relationship considerations often make negotiated buyouts preferable to contested litigation. The specific rights and remedies available depend heavily upon the form of title ownership, mortgage obligations, agreements between the parties, and the facts surrounding the property's use and financial history.

Disclaimer

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Readers should consult qualified Connecticut legal counsel, tax advisors, and financial professionals before taking action concerning the transfer, sale, financing, or partition of real estate interests.

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