



UNDERWRITING BULLETIN

Bulletin No.: 13-007 SAME SEX VESTING ISSUES

We are getting inquiries concerning the wording of same-sex couples who are taking title.

Our only concern with marital status in a vesting is to determine if there is a possible marital interest that needs to be extinguished for the purposes of our title insurance. Historically, we have not questioned the verity of the claim of status for a vestee. If they say they are single or married or unmarried, we don't institute an investigation to find out if that is true or not.

The recent Supreme Court decisions regarding marital rights of same-sex couples in California means, in part, we will be presented with more varied vestings than we perhaps addressed before. We do not now, or did we ever, advise buyers how to hold title. That is a matter for them to determine with their legal counsel or other advisor.

There are multiple ways for a same-sex couple to hold title.

John and Jack, husband and husband as joint tenants.

John and Jack, spouses, as joint tenants

John and Jack, who are married to each other, as joint tenants.

John and Jack, registered domestic partners as joint tenants.

You can substitute "Community Property" or "Community Property with right of survivorship" in the above examples. There are a lot more versions of the same thing that I won't repeat here. We really don't care how it is worded, providing the issue of a possible community interest is addressed.

Recently we were presented with a chain of title which ran in a rather odd direction. The last deed was several years old and read "*John Jones, a single man, and Mary Jones A Widow as Community Property with right of survivorship*". Later, an affidavit recorded revealing the death of Mary. An investigation into this matter revealed that they were son and mother, not married to each other. The parties were dismayed that we would not pass title through the affidavit and some form of probate proceeding will be required for us to insure a conveyance to a new owner. Community Property vesting is unique to married couples and Registered Domestic Partners. In this case, the record read so strangely that additional investigation was clearly necessary.

Intentional disregard of the matters contained in this Bulletin may cause any loss sustained under the terms of a policy to be allocated entirely to the Agent