

mixer mortgage co-ownership agreement checklist

A decision to purchase property with another person requires careful planning and consideration. When two or more people want to purchase real estate together, it's highly recommended that individuals enter into a co-ownership agreement.

A co-ownership agreement sets out the ownership rights of both parties and provides for an equitable distribution of the property in the event that the relationship ends or the property needs to be disposed of for any reason. Basically, this agreement ensures that the investment of all buyers is protected.

who should have a co-ownership agreement?

A co-ownership agreement is recommended in any situation involving parties, not protected by a marriage agreement, who want to purchase real estate, including:

- Relatives
- Friends
- Business partners
- Individuals intending on living in or renting the property being purchased

A property co-ownership agreement is a legal document you discuss with and have drawn up by an attorney. Knowing at least some of the topics to include in your agreement will save you legal fees in the long run. The agreement can be tailored to your particular situation.

things to consider in the agreement

Every situation will be as unique as the diversity of interests among the co-owners. While all points noted below may not apply in every case, they're all worth considering. Here are a few topics to discuss and agree upon with your co-owners before seeing your attorney. When you meet with the attorney make sure he/she covers them all.

1. Outline each individual's "co-ownership interest" in the property, for example 50/50.
This split could impact decisions, such as how property is sold and how the proceeds are split.
2. Distribution of operating expense payments & revenue.
Agree to prepare an annual operating budget for expenses arising from the property, such as:
 - Property transfer tax in connection with the acquisition of the property
 - Legal fees in connection with the acquisition of the property
 - Property taxes and assessments fees
 - Property insurance payments
 - Strata corporation maintenance fees and any extraordinary fees
 - Water and sewer fees
 - Electricity and telephone charges
 - Expenses for maintenance resulting from normal wear and tear
 - If being rented, distribution of all revenue and income generated by the rental of the property

3. Distribution of property repairs and improvement expenses.
In order to avoid standstills or difficult negotiations, it's a good idea to have a process to help make decisions regarding day-to-day issues like maintenance and repairs. Consider:
 - Will repairs be carried out only as agreed by all parties except in the case of an emergency? And, how are emergency repairs paid for?
 - Will property improvements be done only by agreement from all parties?
4. Agreement on any division of use or access to any parts of the home or garden.
5. Furnishings purchased for the premises will be owned and paid for by whom?
6. How and when can the property be sold?
 - There are several ways to deal with exiting the co-ownership relationship. Most co-ownership agreements will include a 'right of first refusal.' This means one owner wants to sell their interest in the property and the other owner(s) has the opportunity to purchase that interest at an agreed upon price.
 - A co-ownership agreement can also specify the process for disposing of the property when both parties agree to sell the property. Setting out these details in advance will help to eliminate time-consuming, and perhaps costly, disagreements.

a few other things to consider

- Taking out life insurance for yourself is also a good idea so that your share of the home is protected in case of death. There are two ways that this can be done: each owner having their own life insurance policy; or all owners covered under the same life insurance policy. The second option tends to cost less overall as it eliminates multiple policy fees. Contact Vancity Life Insurance Services at 604.877.8412 to find out which life insurance option is best for you.
- Include a process for dispute resolution in the agreement
- Set up a joint slush fund (savings) for emergency repairs
- Agree how household tasks, such as taking out the garbage, will be shared
- Agree if you will have pets in the home
- Document all decisions you make

getting started

We can supply you with a list of attorneys who can help you with a home co-ownership agreement. Generally fees range from \$250 - \$1,000 depending on the complexity of the agreement. Also, for more complex agreements, attorneys recommend that all co-owners obtain independent legal advice.