LAW OFFICE OF JAMES BURNS

Family Property Planning Guide

Equal is not always fair when one child receives the house

PREPARED FOR

California families planning for a shared or inherited property

A diagnostic guide to identify decisions that should be resolved before illness, conflict, or an ownership transition tests the plan.

James George Burns, Esq. | Estate Planning and Asset Protection

www.jamesburnslaw.com

Why a simple equal split can create an unequal result

A direction to divide the estate equally may sound fair. It becomes difficult when one child wants to live in the home, another needs cash, and another prefers rental income. Property cannot always be divided cleanly, and the trust may not explain valuation, carrying costs, financing, deadlines, or what happens when the children disagree.

This guide helps families identify the decisions that should be made before a death, incapacity, or trust administration forces the issue. It does not determine the Proposition 19, income-tax, reassessment, creditor, or family-law result for any particular property.

Start with the family objective

Possible objective	Yes	No	Unsure
Preserve the property for a child who will use it as a home.	[ ]	[ ]	[ ]
Treat children equally by value, even if they receive different assets.	[ ]	[ ]	[ ]
Keep the property as a long-term family investment.	[ ]	[ ]	[ ]
Provide income to one or more beneficiaries.	[ ]	[ ]	[ ]
Avoid forcing children into co-ownership.	[ ]	[ ]	[ ]
Create a workable exit when a beneficiary wants cash.	[ ]	[ ]	[ ]

1 The decisions families often leave unanswered

Readiness question	Yes	No	Unsure
Who may occupy the property, and for how long?	[ ]	[ ]	[ ]
Will the occupant pay rent, taxes, insurance, repairs, and improvements?	[ ]	[ ]	[ ]
How will the property be valued for a buyout or equalization?	[ ]	[ ]	[ ]
Will discounts, credits, or reimbursements apply to family labor or improvements?	[ ]	[ ]	[ ]
How much time will a beneficiary have to obtain financing?	[ ]	[ ]	[ ]
What happens if financing is unavailable or a deadline is missed?	[ ]	[ ]	[ ]
Can the property be rented, refinanced, or sold without unanimous consent?	[ ]	[ ]	[ ]
Who manages the property while a decision is pending?	[ ]	[ ]	[ ]
How are deadlocks, disputes, or an uncooperative beneficiary resolved?	[ ]	[ ]	[ ]
What happens if an occupying child divorces, dies, becomes disabled, or faces a creditor?	[ ]	[ ]	[ ]

2 Information to assemble before choosing a structure

Property and family information	Yes	No	Unsure
Current title, deed, and trust ownership	[ ]	[ ]	[ ]
Estimated fair market value and outstanding debt	[ ]	[ ]	[ ]
Property-tax assessment and current use	[ ]	[ ]	[ ]
Occupancy plans for each child	[ ]	[ ]	[ ]
Available cash, insurance, retirement assets, and other equalization assets	[ ]	[ ]	[ ]
Each potential occupant's realistic financing capacity	[ ]	[ ]	[ ]
Expected repairs, deferred maintenance, and carrying costs	[ ]	[ ]	[ ]
Relevant marital, creditor, disability, and public-benefit concerns	[ ]	[ ]	[ ]

Common planning paths

No single path is automatically best. Each option should be tested for control, liquidity, taxes, administration, and family behavior.

Approach	Potential advantage	Issue to resolve
Sell and divide	Creates a clean cash division.	May defeat a preservation goal and can create timing or tax consequences.
Child buyout	Allows one child to keep the property.	Requires valuation, financing, deadlines, and a fallback if the buyout fails.
Equalize with other assets	Avoids forced co-ownership and may preserve the home.	The estate must have sufficient liquid or insurable value, and values can change.
Continuing trust	Can define occupancy, management, and long-term stewardship.	Needs a capable trustee, expense rules, exit rights, and realistic funding.
Co-ownership or entity	Can formalize management and transfer rules.	Does not eliminate disagreement, tax issues, creditor risk, or the need for an exit mechanism.

Proposition 19 requires a separate review

A transfer through a living trust does not by itself preserve a parent-child property-tax exclusion. Eligibility depends on the property, the claimant, use of the property, value limitations, filings, and deadlines. Confirm the current rules and forms with the California State Board of Equalization and the county assessor before relying on an exclusion.

A practical family discussion

Use these questions to surface different expectations before documents are drafted. The objective is clarity, not a family vote on the legal plan.

Discussion question	Yes	No	Unsure
Does any child genuinely want to own or occupy the property?	[ ]	[ ]	[ ]
Can that child afford taxes, insurance, repairs, and a buyout?	[ ]	[ ]	[ ]
Would another child view occupancy or a below-market purchase as favoritism?	[ ]	[ ]	[ ]
Should the plan prioritize equal value, preservation of the property, or income?	[ ]	[ ]	[ ]
How long should the family wait for financing or a decision?	[ ]	[ ]	[ ]
Who is willing and qualified to manage the property during the transition?	[ ]	[ ]	[ ]
What neutral process should apply if the children disagree?	[ ]	[ ]	[ ]
Which facts require attorney, tax, appraisal, lending, or insurance advice?	[ ]	[ ]	[ ]

Your five decisions to resolve

Priority	Decision or gap	Owner	Target date
1			
2			
3			
4			
5			

What to bring to a property planning review

Document or information	Yes	No	Unsure
Current trust, amendments, wills, and relevant powers of attorney	[ ]	[ ]	[ ]
Recorded deed and latest property-tax bill	[ ]	[ ]	[ ]
Mortgage statement and estimated property value	[ ]	[ ]	[ ]
List of children, intended shares, and occupancy preferences	[ ]	[ ]	[ ]
Summary of other assets available for equalization	[ ]	[ ]	[ ]
Insurance policies that may provide liquidity	[ ]	[ ]	[ ]
Any existing co-ownership, lease, family loan, or occupancy agreement	[ ]	[ ]	[ ]

Request a Situation Readiness Briefing

A Situation Readiness Briefing is designed to map the property, tax, family, and administration issues before recommendations are made. Begin at www.jamesburnslaw.com/srb.

Official reference: California State Board of Equalization, Proposition 19 guidance, www.boe.ca.gov/prop19/.

This guide is educational and does not create an attorney-client relationship. It is not a substitute for advice based on the deed, trust, property value, intended use, family circumstances, and current tax law.