**Investor FAQs**

**Q: How is the equity or down payment split by the parties?**

A: In a typical transaction, 20% of the property value is equity and the loan is 80%. The Occupant Investor Occupant Investor buys a portion of the equity from the Investor / Landlord - typically less than 50% and achieves some percentage of ownership of the equity . The Occupant Investor portion may be "staged" over time if approved by the Investor.

**Q: What are the Investor's greatest benefits in this type of transaction?**

A: The Investors greatest benefit is owning a property with a co-owner who cares for and often improves the property and pays its expenses. No more tenant hassles, maintenance concerns or paying holding expenses. A comparison could be made of a Company owner purchasing a building in his name with the Company as the tenant responsible for the occupancy, maintenance, etc.

**Q: I am a shareholder in an LLC that buys property as its own stand-alone legal entity. Can our club be the Investor partner?**

A: Yes. In fact equity sharing is well suited to Investor groups who seek a mid-risk potentially high return investment strategy. Many Investors decide to own their investment properties in an LLC to shield their personal assets from liability.

A . **Q: I hear that I can use my retirement account funds to purchase real estate, including co-owned real estate. Is this true?**

A: Yes, as long as you do it through a self-directed retirement account custodian.

**Q: I am a seller who can't sell my property. Should I consider offering equity sharing?**

A: Yes. Because you will retain an investment in your property. Sellers think of this as the best of both worlds. In a buyer's market, the seller who equity shares gains a market of his own. In this new market where loans are nearly impossible to come by, the seller's best way to get out from under is to refinance or just keep the existing loan and offer the Occupant Investor an All-Inclusive Note and Mortgage/Deed of Trust.

**Q: If I want to sell my property but have excess gain, can equity sharing solve my problem?**

A: Yes. A seller confronted with capital gains exceeding his principal residence exclusion or basis can solve his tax problem by an equity share sale. This reduces his sale price ( sell 50% or less) and his tax basis so it conforms to a tax-free sale (return of capital). He converts the rest of the property to his investment property and becomes the Investor in the equity share.

**Q: I'm not sure I have enough funds for proper diversification. Is there another way to invest?**

A: Yes. You might joint venture with other investors or purchase interests in a LLC.

**Q: How is ownership of the property split between the co-owners?**

Typically, it depends on the return on investment the Investor desires. Ownership and sharing of appreciation are not necessarily the same. This factor is considered when setting the co-owners' ownership interests. Remember, the Occupant Investor may elect 100% ownership at any time.

**Q: Can the Occupant Investor make improvements to the property?**

A: If a capital improvement is desired (i.e., a room addition), the Occupant Investor must make it and pay for it. The written consent of the Investor is required. For necessary repairs not covered by insurance (a new driveway), typically the costs are shared.

**Q: Will the Occupant Investor get the cost of improvements back at the end?**

A: Yes, before the property's appreciation is split, capital contributions such as down payment and improvement contributions are returned. You will have agreed to any improvement and its cost in advance.

**Q: Can I see what a transaction will look like?**

A: Yes, examples are available.

**Q: How is the appreciation divided?**

A: This is a bargaining point for the Investor and Occupant Investor. The Investor projects the minimum return he or she would like to see on investment. If not achieved, the equity share continues until reached. Alternatively, the Parties may elect merely to share the appreciation on some basis mutually agreeable.

**Q: What about tax benefits?**

A: Investors get the same tax benefits as a solely owned rental property, including depreciation *on their ownership interest* and tax free gain by exchanging out at the end of the term.

**Q: Does the IRS allow mixed tax treatment for one property?**

A: Yes, the mixed tax treatment in the traditional equity share format is permitted by the IRS. Internal Revenue Code §280A allows the Occupant Investor to claim his interest in the property as his principal residence while the Investor claims his as his investment property.

**Q: What will my tax return look like?**

A: Since the Occupant Investor lives in the entire property but only owns part, the IRS requires the Occupant Investor to rent the Investor's interest in the property. What happens is the Occupant Investor pays a small portion of the expenses earmarked as rent into an Investor Account. Then he pays an equal amount of property expenses out of this Investor Account. The net result is you have some rental income offset by deductible property expenses. This enables you to claim the property as your investment property and receive investment property tax treatment.

**Q: How long should an equity sharing agreement last?**

A: It should be at least three years and not much longer than seven. It can go on longer than this, but these are typical timeframes. At the end, you may elect to extend the agreement. Imagine equity sharing a property for the last 20 years. Big returns without hassles.

**Q: Are my co-owner and I committed to co-own the property for the entire term?**

A: Yes, all co-owners are in the investment for the term of the agreement. But, if something unexpected happens, they can choose from the options described in the agreement or agree on some other solution agreed by the Parties.

**Q: Can we refinance at any time?**

A: Yes, with the consent of all parties.

**Q: Does the Occupant Investor have to live in the home during the equity share?**

A: Yes, but if a situation arises where the Occupant Investor cannot, the Equity Sharing Agreement allows it to be rented with the Investor's consent.

**Q: Who pays the closing costs?**

A: Since the Occupant Investor receives full occupancy of the home, the Occupant Investor pays them at purchase and is not reimbursed. The Occupant Investor also pays them at sale if he makes the decision to move instead of buying out the Investor.

**Q: Does the Occupant Investor pay all the expenses of the property?**

A: Yes, the Occupant Investor receives exclusive occupancy of the property and pays all its expenses.

**Q: What about the loan? What is the qualification process?**

A: While the equity is shared by the co-owners, typically, the Investor qualifies for the entire loan or has it in place at time of the Agreement. Occupant Investor is added at escrow close.

**Q: How can I be sure that my Occupant Investor partner is making the payments on time?**

A: Loan Payments, Taxes, HOA fees, Insurance and Assessments are processed by an independent loan servicing company paid for by the Occupant Investor.

**Q: What if my Occupant Investor partner fails to make payments?**

A: This would create a "default" to the Investor. Process and remedies are outlined in the Agreement. e.g. The Investor may buy out the Defaulting Occupant Investor at 70% of value less costs and penalties and then pay this amount over time. A Occupant Investor default becomes a win for the Investor.

**Q: What if my Occupant Investor is not taking good care of the property?**

A: While proper vetting and cash contributions of the Occupant Investor minimizes this, Equity Sharing creates a powerful financial incentive for the Occupant Investor to take good care of the property. This person has a significant financial stake when the property sells, and therefore is motivated to take care of the property and to improve it. The Equity Sharing Agreement assigns maintenance obligations and necessary capital improvements to the Occupant Investor. If, for some unusual reason, the Occupant Investor does not take good care of the property, the Agreement considers this a "default" to the Investor.

**Q: Why do my co-owner and I need an equity sharing Agreement?**

A: In a standard transaction, all ownership rights and obligations are maintained by an individual or related parties. In a co-ownership of unrelated parties, an agreement is required to allocate these rights and duties between more than one owner and to set up procedures for circumstances that may arise.

**Q: Is the Equity Sharing Agreement thorough?**

A: Yes. It is highly detailed and attempts to address the most common situations that occur in co-ownership transactions. The rule of thumb is "never too long".

**Q: Why are there two legal agreements: the Preliminary Commitment and the Equity Sharing Agreement?**

A: The Preliminary Commitment allows the partners to have the confidence in one another to move forward and make an offer on a property or to withhold a property from being offered to others. The Equity Sharing Agreement is negotiated and executed once the property is found and the details about the property and the type of loan are known.

**Q: What are the standard provisions of the model Equity Sharing Agreement?**

A: Length of agreement, occupancy requirements, payments to be made by the Occupant Investor, the procedure for making improvements, how the proceeds are shared at the end, what is done in the event of default, and more.

**Q: How can I protect against losing my investment?**

A: The model Equity Sharing Agreement includes a provision requiring the property to appreciate by a certain minimum percentage designated by the Investor. If that appreciation is not reached at term, the co-ownership continues on until it does.

**Q: How does the co-ownership end?**

A: At the time specified in the agreement, the Occupant Investor buys out the Investor, the Investor buys out the Occupant Investor, the Agreement is extended or the property is sold.

**Q: How is the property valued on buy out?**

A: A formal appraisal.

**Q: How are the proceeds split?**

A: Before splitting the property's appreciation, each party gets back the capital contributions they have made (down payment, and cost of improvements**)**

**Q: Should we have our transaction reviewed by an attorney and a tax professional?**

A: Yes. The tax laws that pertain to equity sharing apply nationwide but it is still important to review your transaction with your tax professional. Your attorney should also put their stamp of approval on the agreement because laws differ across the country, and the world.