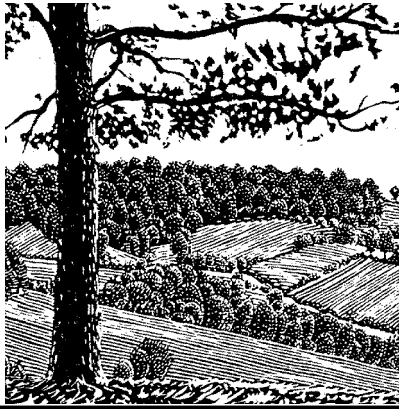


family - land - legacy - wealth



HEIRS' PROPERTY

Retention Coalition

<http://www.southerncoalition.org/hprc>

(334) 956-8308 [voice]

(334) 956- 8481 [facsimile]

TO: John Sebert, Executive Director, Uniform Law Commission
FROM: John Pollock, Heirs' Property Retention Coalition
RE: Uniform Partition of Heirs Property Act

Mr. Sebert:

I am writing to you on behalf of the Heirs' Property Retention Coalition (HPRC) in support of the Uniform Partition of Heirs Property Act, which helps to protect the interests and needs of the most vulnerable landowners. HPRC was formed in 2006 to address the needs of low-income and African-American heirs' property owners, and was heavily involved in the drafting process of the Act.

Extremely common amongst African Americans and in low-income communities, heirs property is typically owned by a family for generations upon generations, is the only asset owned by the family, and often has historical, ancestral, or other significant noneconomic value in addition to its financial value. And oftentimes one or more of the family members has their homestead on the property. Unfortunately, such land is also frequently auctioned off in a partition sale against the wishes of most of the family members that own the property and through no fault of their own. These problems occur in part because the partition statutes do not require the courts to consider the non-economic value of land, do not require property sold at auction to be sold at fair market value, and do not generally provide any mechanism for family members to resist the partition sale to protect their family land. As a result, developers, land speculators, and others are able to take advantage of the ease of partition sales to dispossess these family members and purchase the property for a fraction of its price, and the indigent landowners typically lack the resources to either hire an attorney or attempt to buy the property at the auction.

The Uniform Partition of Heirs Property Act ("Uniform Act") addresses these serious concerns while retaining flexibility for those wishing to sell their interest in the land. Most notably, the

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HPRC partners: Duke University Community Enterprise Clinic • Gateway Development (SC) • Land Rich (WI) • Self-Help (NC)

Uniform Act only authorizes a forced sale if a division of the property would cause great or manifest prejudice to “the cotenants as a group”. In judging whether “manifest prejudice” exists, the Uniform Act considers all relevant factors, such as length of ownership and non-economic uses of the property, instead of focusing exclusively on economic factors. The Uniform Act also provides the defending co-owners the right to buy out the interest of the co-owner requesting a partition sale within 45 days of the action’s initiation, thus meeting the needs of both the co-owner seeking the sale of his interest and those wishing to not be dispossessed. Finally, the Uniform Act establishes a preference for an open market partition sale process (instead of an auction on the courthouse steps) utilizing a realtor who seeks fair market value, unless a sale by sealed bids or auction would be “economically advantageous and in the best interests of the cotenants as a group.” This preference increases the likelihood that land sells at market value and family members realize the maximum economic benefit in the event that they are to be forcibly dispossessed.

The Uniform Act establishes a more equitable statutory regime for all heirs property co-owners, allowing families to hold onto their land yet also sell their land under the best of circumstances. I encourage you to strongly support the Uniform Act.

Regards,

John Pollock
Facilitator, Heirs’ Property Retention Coalition

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