



... a legacy, a history, a promise

Celebrating Five Years

January 28, 2011

John Sebert, Executive Director, Uniform Law Commission
111 N. Wabash Ave., Suite 1010
Chicago, IL 60602

RE: Uniform Partition of Heirs' Property Act

Mr. Sebert:

I am writing to you on behalf of the Center for Heirs' Property Preservation (CHPP) in support of the Uniform Partition of Heirs' Property Act, which helps to protect the interests and needs of the most vulnerable landowners. My organization, CHPP, has provided educational services, as well as direct legal services, to heirs' property families since 2005.

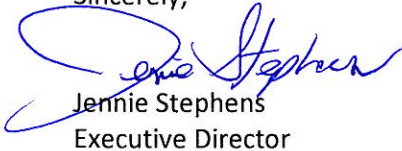
Heirs' property is the term generally used to describe African American property acquired during Reconstruction in the South. Although the issue is not exclusive to the South, its prevalence along the southern coast has affected many African American families in a negative way. Typically, the original owner dies without a will. As a result, the property is usually passed down multiple generations by way of intestate inheritance, rather than the formal probate process. This scenario leads to the land being owned by multiple family members (heirs) who each own a fractional interest as tenants in common. As years go by, and more of the heirs die, this fractioned ownership pool grows making the land more vulnerable to loss. Heirs' property families can lose their land to a forced partition sale even where a majority of the heirs want to retain the land. In these instances, heirs who have lived on the property for decades can be forced to sell and relocate. These problems occur in part because most partition statutes do not give local judges the latitude to consider non-economic factors. The importance of heirs' property extends well beyond its monetary value. It is usually the only asset owned by the family and is a source of heritage, pride, security, and family identity. These factors, and the historical significance of the property, are generally not relevant in the context of a forced partition sale. Additionally, most partition statutes do not require the property be sold at fair market value nor do they provide a legal mechanism whereby family members can resist a partition sale and save the family land. As a result, heirs' property is extremely vulnerable to land speculation and predatory developers that seek to dispossess heirs who have owned the property for generations.

The Uniform Partition of Heirs' Property Act ("Uniform Act") addresses these concerns while retaining flexibility for those heirs who wish to sell their interest in the land. The Uniform Act only authorizes a forced sale if the partition-in-kind would cause great or manifest prejudice to the "cotenants as a

group.” Under the Uniform Act, the Judge would be allowed to consider all relevant factors, such as length of ownership and non-economic uses of the property, when determining whether “manifest prejudice” exists. The Uniform Act also provides the defending heirs the right to buy out the interest of the co-owner requesting a partition sale. Finally, the Uniform Act establishes a preference for an open market partition sale process, utilizing a realtor instead of an auction on the courthouse steps, unless a sale by sealed bids or auction would be “economically advantageous and in the best interests of the cotenants as a group.” Such a preference would greatly increase the likelihood that heirs who are forcibly dispossessed receive the maximum economic benefit.

The Uniform Act, and the adoption thereof, would establish a more equitable regime for all heirs’ property owners. It offers more protection than most current state statutes and retains the flexibility to allow heirs to sell their property under advantageous circumstances. I encourage you to strongly support the Uniform Act and advocate for its adoption.

Sincerely,



Jennie Stephens
Executive Director