

February 18, 2022

The Honorable Kumar P. Barve
Chair, House Environment and Transportation Committee
House Office Building, Room 251
Annapolis, MD 21401

The Honorable Luke Clippinger
Chair, House Judiciary Committee
House Office Building, Room 101
Annapolis, MD 21401

RE: HB 0777 – Support

Dear Chair Barve, Chair Clippinger, and Committee Members:

Thank you for holding this public hearing on the Maryland Uniform Partition of Heirs Property Act (“UPHPA”), House Bill Number 777. The undersigned members of the Maryland Heirs Property Coalition write in strong support of passage of the Act. We share a concern about the ways in which existing partition law can be used to unfairly deprive under-resourced property owners of generational family real estate wealth. This issue primarily impacts African American and low-income families who inherit property through intestate succession, or inheritance without a will, but it is not limited by race, ethnicity, class, or gender. Protecting heirs’ property promotes conservation of forests and ecologically responsible farmland management by promoting the relationship between economic benefit, land retention, and family legacy on the one hand, and sustainable land use on the other hand. It unlocks educational and financial resources to help heirs’ property owners protect, cultivate, and economically benefit from their land, with important collateral benefits to society at large.

Current law does not provide adequate protection for tenants-in-common, or the land assets they own. Heirs’ property is a class of tenancies-in-common. Under Maryland partition laws, any tenant in common can file a partition action with the court. Speculators are able to target tenancy-in-common property, exploit the law to force unwilling sellers to leave their land, and take advantage of the economic incentives attached to the property. Court-ordered partition sales often result in below-market sales of property, and speculators are able to flip or develop the property, solely to their own financial benefit. The generational wealth in the property is shifted from the original family owners to the speculator.

The UPHPA provides common sense protection for owners of tenancy-in-common property, and creates conditions whereby these owners can generate additional wealth from their land – all while preserving the right of any co-owner to extinguish his, her, or their own interest in the property, and receive an equitable distribution of its fair market value. The UPHPA puts specific guidelines in place that allow any co-tenant the right to buy out a co-tenant that requests a partition-by-sale of the property, and, if the property must be sold, requires a disinterested broker to sell the property on the open market at its fair market value, as assessed by a court-ordered independent appraisal. Either way, the title to the property becomes clear, possibly for the first time in generations.

In addition, enacting the UHPA will enable Maryland property owners to fully utilize their land, positively benefitting both the owners and the State. Because each tenant-in-common owns a proportional share of the property, every co-tenant must agree on major decisions affecting the land – including using the property as collateral for grants or loans, and permitting resources to be harvested from the land. This problem is exacerbated with tenancy-in-common property – particularly heirs’ property – where there is lack of clear title to the property, as is often the case with property transferred without a will. The UHPA, however, provides avenues for clarifying titles, and otherwise unlocks access to critical resources and income generating programs. Pursuant to the 2018 Farm Bill, if Maryland enacts the UHPA, owners of heirs’ property automatically qualify for a farm number, which provides access to a range of USDA programs, including lending and disaster relief programs. Typically, USDA Programs require proof of ownership and control of the land to obtain a farm number. Maryland would also be given priority consideration for a legal assistance fund that allocates to certain organizations that help resolve title problems. Clarifying title would also make income available to property owners willing to implement certain conservation practices on their land. For example, owners can qualify for services that pay for waterfront buffers, or owners can be paid for putting their land under a conservation easement. The UHPA thus enables tenants-in-common to maximize the value and use of their property.

We respectfully request that the Maryland General Assembly enact the UHPA. This action will add our great state to the other eighteen states that have had the wisdom to do so. This is a critical protection to ensure Maryland property owners can remain on their land, and have access to resources to protect and develop that land – land which, in often cases, their ancestors have stewarded for generations. Quite simply, the UHPA ensures that the interests of all owners of tenancy-in-common property are protected, and removes the incentives for speculators (or sometimes even co-owners) to poach property at a fraction of its cost. We hope you will recognize the tremendous positive impact the UHPA will have on Maryland’s citizens and its natural resources, and enact the UHPA in Maryland.

We thank you all for your time and your attention to this important matter.

[Signatures on Next Page]

Very sincerely,

Audubon Naturalist Society
Chapman Forest Foundation
Chesapeake Conservancy
Chesapeake Conservation Partnership
Chesapeake Wildlife Heritage
Clean Water Action
Cleanwater Liganore, Inc
Defenders of Wildlife
Eastern Shore Land Conservancy
Forever Maryland
Friends of Quincy Run
Friends of Silgo Creek
Friends of St. Clements Bay
Friends of Ten Mile Creek
Friends of the Nanticoke River
Lower Shore Land Trust
Maryland Campaign for Environmental Human Rights
Maryland Conservation Council
Maryland Environmental Trust
Mattawoman Watershed Society
National Parks Conservation Association
National Wildlife Federation
NeighborSpace of Baltimore County
Potomac Conservancy
Scenic Rivers Land Trust
ShoreRivers
St. Mary's River Watershed Association
The Nature Conservancy
Waterkeepers Chesapeake
Wicomico Environmental Trust

CC: Delegates Samuel I. Rosenberg and Dana Stein