

**FORMAL TESTIMONY
BEFORE THE LEGISLATURE OF THE VIRGIN ISLANDS
COMMITTEE ON DISASTER RECOVERY, INFRASTRUCTURE & PLANNING**

Hearing: “Heirs Property, Prolonged Probate, and Vacant & Abandoned Historic Properties in the U.S. Virgin Islands”

Date/Time: Thursday, January 29, 2026 — Block II – 1:30 PM – 5:00 PM

Submitted by:

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“Preserving family heritage and prosperity.”

Greetings! Honorable Chair Senator Marise C. James, Esq., Vice Chair, and distinguished Members of the Committee:

My name is Karabo Molyneaux-Molloy. I am the Managing Attorney of the Karabo Molyneaux-Molloy Law Firm, a U.S. Virgin Islands virtual law firm focused on estate planning for probate avoidance and probate representation. I have also served as a probate law clerk in the Magistrate Division of the Superior Court of the Virgin Islands, District of St. Croix.

I appreciate the opportunity to testify on the interconnected issues of heirs property, prolonged probate, and vacant and abandoned historic properties in the Virgin Islands.

These issues are not separate.

They are parts of the same system.

When legal ownership is unclear, stewardship breaks down.

When stewardship breaks down, properties deteriorate.

And in historic areas, deterioration becomes permanent loss.

My testimony will explain what heirs property is in practical terms, place it within its broader historical context, and then turn to specific Virgin Islands challenges and solutions.

I. Definition of Heir and Heirs Property

An heir is a person legally entitled to inherit property or assets from a deceased person.

“Heirs property” refers to land that has passed from generation to generation without clear estate planning or recorded transfer, meaning without designating beneficiaries through wills, trusts, Transfer on Death (TOD) deeds, or completed probate.

II. Practical Consequences of Heirs Property Ownership

Heirs property makes it extremely difficult to insure property, borrow against it, pull permits, undertake major rehabilitation, respond quickly after disasters, or sell property in a timely and orderly way.

Heirs property is therefore not merely a technical label. It is a structural condition of ownership that explains why properties become stuck, deteriorate, and, especially in historic districts, become vacant and abandoned.

III. National Land Loss, Generational Wealth Lost and Heirs Property

Nationally, heirs property has produced massive land loss.

African Americans owned roughly sixteen million acres of farmland in 1910. By 1997, they had lost approximately ninety percent of that land, according to the Union of Concerned Scientists and the American Economic Association.

This land loss represents not only lost acreage, but lost generational wealth, lost economic mobility, and lost opportunity for families and communities to build and transfer assets over time.

Economists estimate the compounded value of Black land loss between 1920 and 1997 at approximately three hundred twenty-six billion dollars, as reported in American Economic Association Papers and Proceedings.

The United States Department of Agriculture (USDA) has identified heirs property as the leading cause of Black involuntary land loss.

IV. Historical Exploitation of Heirs Property Through Partition by Sale

Historically, speculators exploited heirs property through partition by sale.

A speculator would purchase a tiny fractional interest, sometimes as little as one percent, from a distant heir and then use that interest to force a court-ordered sale of the entire family estate.

One of the most well-documented examples is the case of Melvin and Licurtis Reels in Carteret County, North Carolina. Their grandfather did not leave a will, allowing the family's land to become heirs property. By 2011, the brothers had spent decades fighting to keep their family's waterfront property. Instead of receiving a hearing, they were ordered jailed for civil contempt and spent eight years incarcerated while continuing to fight their case.

This history explains why heirs property is not only an economic issue. It is also a civil and human rights issue.

V. Uniform Partition of Heirs Property Act (UPHPA) and Virgin Islands–Specific Impacts

The Uniform Partition of Heirs Property Act (UPHPA) has been enacted in 22 states, the District of Columbia, and the U.S. Virgin Islands through Act 8169 to prevent exploitative partition practices and protect families from involuntary land loss.

In the Virgin Islands, these problems are intensified by:

- Longstanding informal family land and oral succession practices;
- High rates of off island-migration and a dispersed population of heirs; and
- A historic built environment especially vulnerable to neglect and decay.

Here, heirs property does not just mean lost equity. It also means lost historic structures, lost neighborhood stability, and lost opportunities for local families to participate in development and recovery on their own terms.

The resulting land loss in the Virgin Islands means families lose wealth, lose chances to move ahead financially, and lose opportunities to pass something on to the next generation, while the Territory also loses housing, tax revenue, and small business growth.

VI. Framing the Problem: When Title Is Unclear, Stewardship Breaks Down

At the heart of today's hearing is a simple chain reaction:

1. A property owner dies without a clear plan—or without probate being completed.
2. Legal ownership becomes fractured or unclear, often across many heirs, some off-island.
3. No single person can lawfully sign, insure, finance, permit, repair, lease, or sell.
4. The property becomes stuck—tax delinquency grows, maintenance stops, and disasters accelerate deterioration.
5. In historic areas, each stalled property has a multiplier effect: it undermines adjacent properties, discourages investment, and erodes cultural heritage.

Deterioration is not neutral. Once a historic structure crosses a certain threshold—roof failure, termite damage, structural movement—the cost to stabilize can exceed what most families can absorb, especially when they also must pay lawyers, genealogists, appraisers, and court costs.

Another downstream consequence of tangled title and prolonged vacancy is unauthorized



occupancy, often referred to as squatting. When no single person has clear legal authority to control, secure, or manage a property, vacant structures become easy targets for long-term unauthorized occupation. Families are often told they cannot pursue eviction or trespass

remedies because they cannot prove who has standing to act. This discourages rehabilitation, accelerates deterioration, and destabilizes neighborhoods. In this context, squatting is not primarily a criminal law issue; it is a symptom of unresolved title and probate bottlenecks.

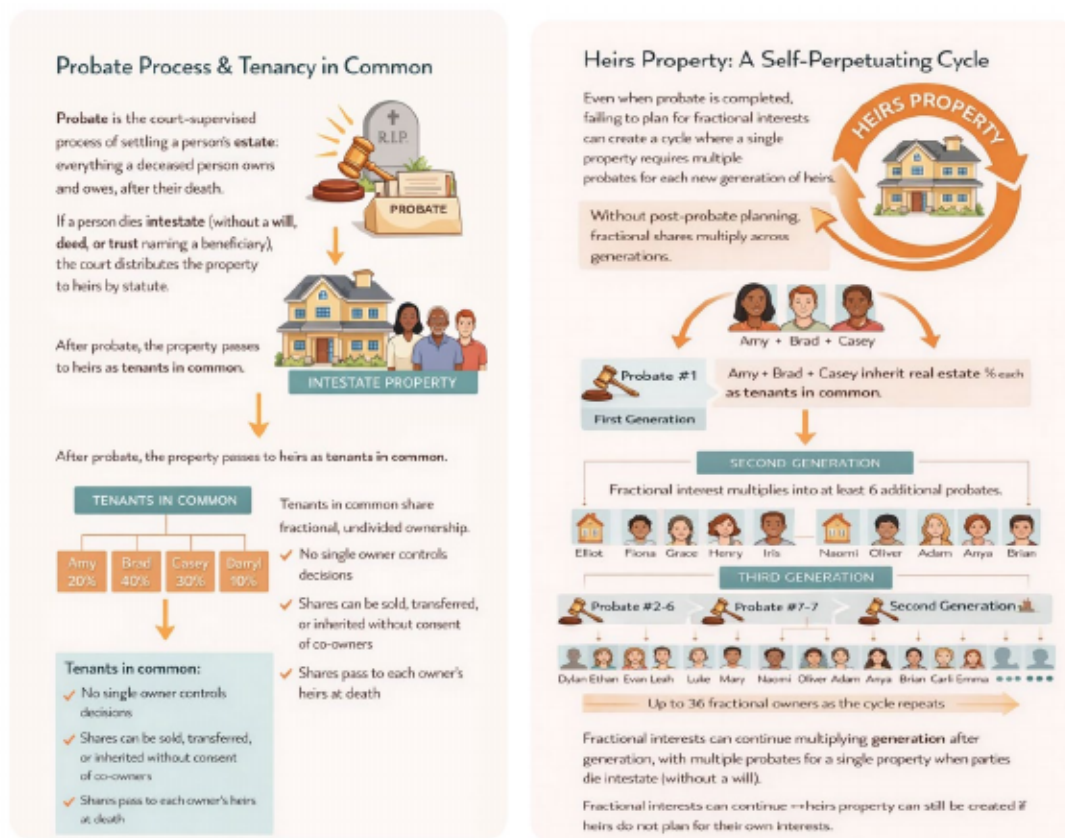
VII. How Probate Creates a Perpetual Cycle of Heirs Property

Probate is the court-supervised process of settling a person's estate—everything a deceased person owns and owes—after death. When a property owner dies intestate

because no beneficiary is named through a deed, will, or trust, the court distributes the property to heirs by statute.

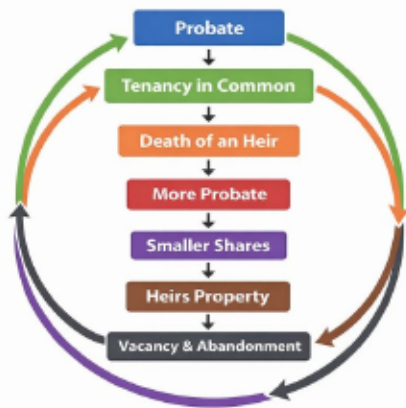
A critical and often overlooked dynamic is that probate itself can unintentionally create the next generation of heirs property. Most probate orders distribute real property to multiple heirs as tenants in common. This is legally correct, but it also establishes the structural conditions for future tangled title.

Tenants in common is a form of co-ownership in which each owner holds a fractional, undivided interest in the entire property. No owner has a right to any specific room, unit, or portion of the land. Each share may be sold, transferred, or inherited independently and passes to that owner's heirs at death rather than automatically to the other co-owners.



Heirs property does not only result from failing to complete probate. It also arises when probate is completed, but heirs take no further steps to plan for their own shares. Without post-probate planning, the cycle simply starts again.

For example, after probate, six heirs may inherit a property as tenants in common, each holding a one-sixth interest. If each heir later dies without post-probate estate planning, that single property may require at least six additional probates.



Over time, fractional interests multiply across generations. Within two or three generations, a single family home can have dozens of co-owners, many living off-island, some unknown, and some deceased with unadministered estates.

This is how we move from probate, to tenancy in common, to death of an heir, to more probate, to fractional shares, to abandoned property.

VIII. Prolonged Probate: Barriers I See in Practice

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When probate is delayed for years—or decades—it is rarely because of a single cause. It is usually a combination:

A Legal and Evidentiary Barriers

- Missing or incomplete records (birth, death, marriage, divorce, name changes, adoptions).
- Multiple generations of unadministered estates—one probate turns into several.
- Heirs who cannot be located, are deceased, or are incapacitated.
- Families run out of money or resources.



B Administrative Barriers

- Court capacity limitations and heavy probate dockets.
- The probate docket is frequently supported by short-term law clerks rather than dedicated personnel with specialized probate experience.
- No dispute resolution option to resolve contentious issues.
- Notice and service challenges in a diaspora community.
- Complex estates where the primary asset is real property, but cash is limited.



C Systemic Barriers

- Cost of legal services, surveys, genealogy tracing and appraisals.
- Family conflict and “coordination fatigue” among many heirs.
- Lack of immediate incentive—families often act only when a crisis hits (hurricane damage, condemnation, delinquent property tax sale, or a speculative offer).



Fractional interests can continue multiplying generation after generation, with multiple probates for a single property when parties die intestate (without a will).

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IX. How Prolonged Probate and Heirs Property Produce Vacant & Abandoned Historic Properties

Once title is tangled, families confront barriers that directly produce vacancy and abandonment:

- **Insurance barriers:** Insurers often require a clear named insured or a legally authorized representative.
- **Financing barriers:** Lenders require clear title and authority.
- **Permitting barriers:** Major repairs and rehabilitation usually require proof of ownership.

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- **Disaster recovery barriers:** After storms, unclear title complicates access to assistance, lawful contracting, and rebuilding.
- **Decision paralysis:** If multiple owners must agree on repairs, disagreements can stall all action.
- **Tax delinquency spiral:** No one feels both empowered and obligated to pay; delinquency and enforcement risk increase.

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X. The Uniform Partition of Heirs Property Act (UPHPA): What It Does—and Does Not—Do



The Virgin Islands enacted the Uniform Partition of Heirs Property Act through Act No. 8169. This has been a crucial reform because partition actions are often the point at which heirs property is most vulnerable to predatory loss.

A. How Partition Actions Result in Land Loss

A partition action is a court case that allows any co-owner of property to ask a judge to either physically divide the land or, more commonly, order the property sold and the proceeds split among the owners.

Partition actions most often arise in inherited property situations, where a family member dies and multiple heirs inherit the property as tenants in common. Each heir owns an undivided percentage interest, even

if their share is very small.

Over time, as heirs pass away and their interests are further divided through additional probates, ownership becomes increasingly fragmented. Properties may end up with dozens of co-owners, many of whom live off-island or out of state, and who may not communicate with one another.

When co-owners cannot agree on whether to sell, keep, repair, or manage the property, any single owner — even one holding a small percentage — can file a partition action.

B. Partition Two Ways—In Kind or By Sale

Partition in Kind vs. Partition by Sale

Partition in Kind	Partition by Sale
<p>The court physically divides the property itself.</p> <ul style="list-style-type: none">• Co-owners each receive a portion of the land to maintain ownership and direct connection to the property.	<p>The court sells the entire property and splits the money.</p> <ul style="list-style-type: none">• Sales often forced and below market value• Family land can be permanently lost to the community.

Bottom Line:

- **Partition in kind** preserves land.
- **Partition by sale** converts land into cash—and often results in permanent loss of generational property.

Courts can partition property in two ways:

1. Partition in Kind

Partition in kind means the court physically divides the property among the co-owners, so each person receives a portion of the land itself. This allows families to keep ownership and maintain a direct connection to the property.

2. Partition by Sale

Partition by sale means the court orders the entire property sold and divides the money among the co-owners. In practice, these sales are often forced, occur below market value, and can permanently remove

family land from the community.

Bottom Line:

Partition in kind preserves land.

Partition by sale converts land into cash—and often results in permanent loss of generational property.

In practice, most partition cases result in a court-ordered sale of the property rather than a physical division. These forced sales frequently occur below market value and can permanently remove family land from the community.

This results in the loss of generational property and the growth of vacant and abandoned homes.

C. Uniform Partition of Heirs Property Act – Key Protections

The Uniform Partition of Heirs Property Act provides important safeguards for families who already find themselves in court over inherited property.

The Act requires courts to consider seven statutory factors when deciding whether partition in kind would cause “great prejudice,” including:

1. Whether the heirs property can practicably be divided among co-tenants
2. Whether partition in kind would result in aggregate fair market value materially less than the property's value if sold as a whole
3. Evidence of collective duration of ownership or possession by a co-tenant and relatives who preceded them
4. A co-tenant's sentimental attachment, including ancestral or unique value
5. Lawful use being made of the property and potential harm from inability to continue such use
6. The degree to which co-tenants have contributed their pro rata share of taxes, insurance, and maintenance expenses or contributed.
7. Any other relevant factors.

The Uniform Partition of Heirs Property Act requires courts to evaluate a defined set of statutory factors, including sentimental attachment, family history, and current use of the property, and it expressly prohibits treating any single factor as determinative.

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- 1 Whether the heirs property can practicably be divided among co-tenants
- 2 Impact on fair market value
- 3 Length of family ownership or possession
- 4 Sentimental, ancestral, or unique value
- 5 Current lawful use and harm from loss
- 6 Contributions to taxes, insurance, or improvements
- 7 Any other relevant factors

Why UHPA Is Stronger Than the Original Partition Statute

The Uniform Partition of Heirs Property Act protections are **stronger** than traditional partition law which relies on a broad “great prejudice” standard and focuses primarily on economic harm.


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By contrast, the UPHPA:



- 1 Requires courts to apply defined statutory factors, including non-economic considerations
- 2 Mandates professional appraisals
- 3 Creates a statutory buyout right
- 4 Requires open-market sales with licensed brokers and reporting
- 5 Imposes heightened “disinterested” standards for referees, appraisers, and brokers

These increased protections represent a significant improvement over the Virgin Islands’ traditional partition statute by increasing fairness and transparency.

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E. Important Uniform Partition of Heirs Property Act Limitations

These are meaningful protections. But it is critical to understand the Act’s limitation.

The Uniform Partition of Heirs Property Act is partition reform. It is not probate reform.

It helps families once they are already in litigation. It does not clear title. It does not open estates. It does not modernize probate procedures. And it does not fund rehabilitation of deteriorating properties.

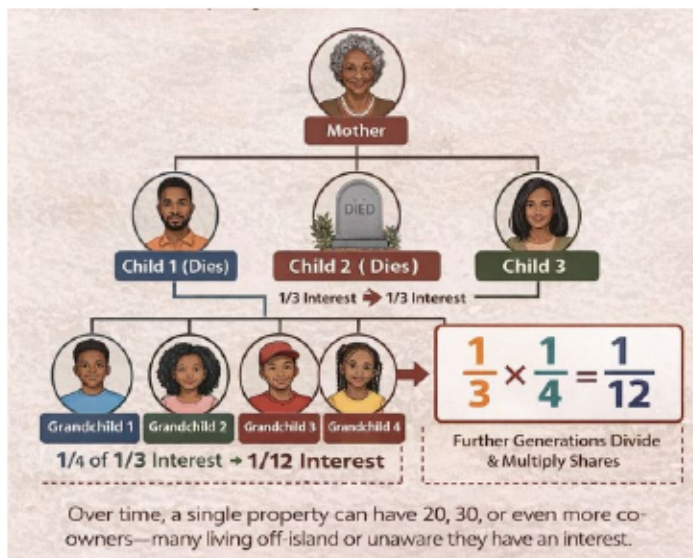
XI. Prevention Tools in Act 8169: Transfer on Death (TOD) Deeds and Beyond

Act 8169 also enacted the Uniform Real Property Transfer on Death Act, which authorizes Transfer on Death (TOD) deeds. A properly executed and recorded TOD deed allows real property to pass to a named beneficiary and avoid probate.

A. Example of Heirs Property Issue with a Transfer on Death Deed

The following example illustrates how property that initially avoids probate can still evolve into heirs property through successive generations.

- A mother dies and names her three children as beneficiaries on a Transfer on Death deed, holding title as tenants in common—each owning a one-third interest.



- One of those children later dies without a will and leaves four children.
- That child's one-third interest is divided equally among the four grandchildren, each receiving a fractional share.
- As those grandchildren pass away, their fractional interests may be further divided among their own heirs.

Within just two or three generations, a single property can have 20, 30, or more co-owners—many of whom live off-island, do not know one another, or are unaware they even own an interest.

This is how fractional ownership multiplies and creates modern heirs property—even when the first transfer avoided probate.

B. Lack of Education on Planning Creates The "Awareness Gap"

An "awareness gap" sits at the center of the heirs property problem.

Most landowners and heirs do not understand:

- What tenancy in common actually means in practice;
- That inheriting property requires new, affirmative planning after probate or after a deed-based or trust-based transfer;

- That without that planning, they are almost certain to pass on tangled title to their own children.

If we fail to address post-probate planning and tenants-in-common estate planning, we will continue to recreate heirs property in every generation, even while trying to fix it in the current one.

XII. Coordinated Solutions: Legal, Administrative, and Systemic

To return properties—especially historic properties—to productive use, we need coordinated solutions that address authority, capacity, and capital.



- Develop dedicated case management protocols to distinguish "simple estates" from complex, multi-heir/title problem estates, and route them appropriately.
- Incorporate dispute resolution to resolve probate disputes
- Standardize forms and checklists to reduce delays and lower the cost of competent self-representation where appropriate.
- Establish dedicated probate staff attorney positions within the magistrate division to ensure continuity, institutional knowledge, and specialized probate expertise.
- For historically significant properties, provide enhanced guidance on preservation responsibilities and available resources.
- Utilize grants or loans to reduce the

cost of probate and estate planning

- Pair post-probate planning with stabilization or preservation support through grants or loans so that these properties do not quietly slide into vacancy and abandonment.

- Establish dedicated probate staff attorney positions within the magistrate division to ensure continuity, institutional knowledge, and specialized probate expertise.
- Establish monitoring and annual reporting on Uniform Partition of Heirs Property Act case outcomes would provide data for future policy decisions. Property retention rates should be tracked. Speculator activity trends should be assessed.

Closing

Honorable Members, the Virgin Islands does not lack families who care about their land and their history. We lack systems that reliably convert that care into clear legal authority, timely estate administration, and funded stewardship—before historic properties are lost.

Heirs property reflects structural gaps in our legal, administrative, and financial infrastructure. The Uniform Partition of Heirs Property Act and TOD deeds are necessary foundations, but they must be paired with probate modernization, early dispute-resolution mechanisms, and post-probate planning pathways that move cases toward resolution while protecting heirs.

Thank you for the opportunity to testify. I am available to answer any questions.

