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TO: Roberta Rhodes

FROM: Applicant

Date: July 29, 2025

RE: Advice on a Partition Action for Joan Tate

Dear Ms. Tate,

Thank you for contacting The Rhodes Law Firm for inquiry into your legal matters. We are sorry to hear about your ongoing property battle with your cousins. We understand that you have asked us to look into two specific questions: 1) If you can force a sale of the entire property or if you'll be forced to divide the property into three parcels and if 2) you can recover the full amount of your contributions to the property. Please find the answers to these questions below and let us know if you have any further questions.

1. Can you force a sale of the entire property, or will she be forced to divide the property into three parcels?

Ms. Tate please understand that in previous cases, the court has held that cotenants such as yourself combined with Frank Tate and Crystal Tate have been provided with the preference to sell property as one parcel because it holds greater economic advantages. Specifically, Ms. Tate in the case of *Mahone v. Donnelly*, a tenant such as yourself wanted to buy out the other tenants's interest and the court permitted them to proceed accordingly because the property in question, River Fram, had significantly greater value than the total value if the parcels were physically divided. Furthermore, the tenant was able to provide favorable testimony that the larger, undeveloped parcel would have slight value. Finally, while the court did not question the tenant's testimony about her family's attachment to the house and the land

Furthermore, Ms. Tate, in *Columbia*, it has been noted that if cotenants cannot agree on how to divide their co-owned property the one cotenant has the right to file a partition action to compel a division of the property. (Columbia Partition Code section 1020). Additionally, the court only orders a physical division unless the "physical division results in economic harm to the parties or is other impracticable." (*Id.* section 1025). These facts in particular are favorable for our case because it is our understanding that the fair market value of your property as a single parcel is worth approximately \$600,000 and you would like to use it for both residential and commercial uses. It is also favorable to know that as separate parcels would only amount to \$450,000 and the court will look at the vast difference when considering whether it is worth executing a partition where the parcels are actually divided.

Additionally, Ms. Tate the court in this case has also held while referencing another favorable case that there is a rebuttable presumption that we must overcome in favor of physical division that any one of the parcels out of the divided property would have little to no economic value. *Timmons v. Warnes*. Which you would be able to overcome because the open land near the house is currently not being used for anything and holds very little economic value but with your great idea of turning that land into a professional office space or high-end retail there would

be much higher rate of return. Furthermore, Ms. Tate, we can also overcome the presumption stated in other favorable case, *Quick v. Scartz*, that the market value of the property as a whole would be significantly larger than the total value of all parcels after division because as stated above the the single parcel alone is worth \$600,000 whereas the partition of the parcels would cause the entire parcel to only be worth \$450,00.

Finally, Ms. Tate I know that you have expressed to us that while this house was passed down by your grandfather and Crystal Tate since then took occupancy she has also expressed that she has a deep attachment to the house. However, please know that the court in *Quick v. Scartz*, has also held that while families and individuals can develop a strong attachment to land on which they reside or given by inheritance they are in fact given some weight if the land is used as primary residence. Ultimately, the court has made it clear that considerations of economic value should be the determining factor. *Id.* This is particularly great news for us for many reasons because no one will be occupying the house as you have let us know that Crystal Tate and her family will be moving, Frank Tate never occupied the house, an the fair market value is what will given the most weight.

Thus, the court will likely force a sale of the entire property instead of forcing it into partition of three parcels.

2. Will Crystal Tate recover the full amount of her contributions to the property?

Ms. Tate we now explore the issue of whether the Crystal Tate can recover the full amount of her contributions to the property at hand. I would like to note initially that while some of the courts holdings are favorable for our case, others are not. In the case of *Boyd v. Boyd* the court held that the plaintiff, Douglas Boyd, was correct in the action he brought against his sister, Patricia Boyd, in which she was also seeking full contribution. Due to the fact, that Patricia lived with their mother and they both inherited the residence Patricia paid for most of the maintenance costs and also spent money to make improvements around the case. However, please be rest assured that ultimately the court held that while a cotenant can seek to receive contributions for costs regarding improvements they cannot seek the same of maintaining the property.

Specifically Ms. Tate, a cotenant who has paid more than their share the costs of maintaining the co-owned property could bring an action for contribution if they assume all these costs and it exceeded the tenant's share because it rests on a equitable doctrine of contribution. *Pomeroy v. Kent*. In your case Ms. Tate it is knowledge that Crystal Tate has paid the property taxes for the last 10 years that has totaled \$30,000. These property taxes will be allotted amongst yourself, Crystal Tate, and Fred Tate equally because as stated you are all cotenants and cotenants all have a duty to pay the total costs of maintaining property.

Furthermore, Ms. Tate, it is to be mentioned that there is no explicit provision for deducting contribution costs from the proceeds of a partition sale as they are not necessary because under the Columbia Partition Code, section 1044, "The court orders the proceeds of the sale to be divided among the several claimants in proportion to their respective interests after deducting the expenses of the proceeding." However, the court has not always held that this is true and you will receive an amount equal to your interest from the partition sale because one cotenant's right of contribution may be deducted from the costs of the sale. I would like you to know in many such cases the court found that the costs of routine maintenance has been deducted. It varies from termite removal (*Frome v. Snopes*), real estate taxes (*Jarndyce v.*

Supten) real estate taxes and other catastrophic damages to the house (*Trillian v. Triilan*) and even deduction for damages caused by a forest fire. Therefore, there is a likelihood that your proceeds from the partition sale will be deducted according to the amount you owed for property taxes all the years that Crystal Tate did pay them.

Finally Ms. Tate, we know that Crystal Tate has alleged that she roughly spent about \$60,000 and while the property taxes amount for half of that it is to be noted that she also invested an additional \$10,000 in repairs and maintenance during that time. This amount will be allocated into the contribution amount as well accordingly as the case law above suggests. However, the \$20,000 that Crystal Tate spent on the garage will not be allocated into this amount because the court does not award contribution for the any improvements that are made on the property. *Boyd v. Boyd*. The garage will be treated as an improvement because it has added value to the property as you have mentioned to us.

Thus, Crystal Tate is entitled to contribution but she will not be able to recover the full amount.

Conclusion

For these reasons Ms. Tate, you may force a sale of the entire property instead of dividing the property into separate parcels and Crystal Tate will not be entitled to contribution for the full amount. Again, please reach out if you have any further questions and we would be more than happy to help!

Question #6 Final Word Count = 1448

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