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To: Joan Tate

From: Applicant

Date: July 29, 2025

RE: Advice on a Partition Action

I. Introduction

Hello Joan,

I hope this letter finds you well.

We have conducted additional research around your partition action for 23 Corinth Road and have included the results of our research for you below. First, you may force a sale of the entire property and you will not be forced to divide the property into three parcels. Columbia's partition statutes and case law place economic value at the center of how to partition land. Here, the land will be more valuable if you sell it as a single parcel, which will ensure that the property is not forced into three parcels. Second, Crystal will not be able to seek a full contribution from you. She will succeed in getting a partial contribution and will retain some value from the sale of the property given she improved the property with the garage.

II. You may force a sale of the entire property, and you will not be forced to divide the property into three parcels.

Yes, you may force a sale of the entire 23 Corinth Road Property and you will not be forced to divide the property into three parcels. This is largely because the relevant partition laws of Columbia, along with the relevant cases within Columbia favor the economic value that can be gained by such an arrangement rather than the sentimental value of maintaining three separate parcels.

In Columbia, if co-tenants cannot agree on how to divide their co-owned property, one co-tenant has the right to file a partition action to compel a division of the property. *Columbia Partition Code Section 1020*. A court must order a physical division unless "physical division would result in economic harm to the parties or is otherwise impracticable. *Id. section 1025*. In other words, there is a rebuttable presumption that physical division is preferred. Yet, this can be overcome in one of two ways. First, the presumption may be overcome if any one parcel would have little to no economic value. *Timmons v. Warnes* (2002). Second, the presumption may be overcome by proof that the market value of the property as a whole would be significantly larger than the total value of all parcels after division. *Quick v. Scartz* (2008). Individuals and families can develop a strong attachment

to land on which a family resides and which has been received by inheritance. *Mahone v. Donnelly* (2011). In other words, considerations of economic value should be the determining value. *Id.*

In *Mahone v. Donnelly* (2011), the court held that the physical division of the property was not possible and, after the first co-tenant (who had no familial connections to the land) gave the second co-tenant (who had familial connections to the land) the option to buy out second co-tenant's interest, ordered the sale of the property. There, the co-tenant who had inherited the property from her ancestors wanted to use the farm property as a vacation property while the other co-tenant who purchased his interest in the land wanted to develop the entire property into a resort property. The co-tenant who wanted to develop the property offered to buy out the other co-tenant but she refused to sell her interest. Eventually, the court ordered the sale of the farm property and the division of the profits for the following reasons. First, there was sufficient evidence that the River Farm would have significantly greater value than the total value of the separate parcels if physically divided. Second, credible testimonial evidence showed that the value of the larger, undeveloped property would have slight value, especially given the lack of a road to the property from the smaller parcel. Third, the co-tenant with the family ties to the River Farm--her family did not use the house as their primary residence.

Like in *Mahone*, where there was sufficient evidence that the River Farm would have significantly greater value if sold as a whole than sold as separate parcels, here there is sufficient evidence that 23 Corinth Road will sell for more as a single property than as three separate parcels. Specifically, 23 Corinth Road will sell as a single property for \$600,000 while it would sell for \$450,000 as three separate properties. Moreover, like in *Mahone*, where the co-tenant's family ties were based on inheritance but the River Farm was not used as a primary residence, here the same will hold true within several months. Although Crystal and her husband currently reside at 23 Corinth, they are expected to move within the next six months. Moreover, Frank does not currently reside at 23 Corinth and his attempt to move in to prevent you from "commercializing it" would not hold up under the relevant case law.

In short, you will be able to force a sale of the entire property rather than be forced to divide the land into three parcels because the economics of such a partition weigh in your favor.

III. Crystal Tate will not be able to recover the full amount of the contributions from you but will get her share of value from the garage.

Joan, Crystal will be able to obtain the following: 1) she will be entitled to a one-third contribution on the taxes she paid on the property for the past 10 years. She paid \$30,000 in total. Because she--like you and Frank--each have a one-third interest in the land, each of you will be responsible for \$10,000 worth of taxes. Meaning, she can seek contribution from you for \$10,000. Moreover, she will get \$20,000 in value if you were to sell the land because she improved the land by investing \$20,000 in the garage.

At common law, a co-tenant who paid more than her share of the costs of maintaining the co-

owned property could bring an action for contribution against the other co-tenants. *Boyd v. Boyd* (1994). All co-tenants share equally in the obligation to maintain the property they own. *Id.* Nothing in the Columbia partition statute alters this principle. *Id.* A court shall order the proceeds of the sale to be divided among the parties in proportion to their respective interests after deducting the expenses of the proceedings. *Columbia Partition Code Section 1044*. A co-tenant seeking contribution may only obtain credit for the share of the total costs that the other co-tenants should have borne. *Boyd v. Boyd*.

In *Boyd v. Boyd* (1994), the court held that the co-tenant was not entitled to the full amount of the contribution but was entitled to the value of the improvements she made on the land upon sale of the relevant property. There, one co-tenant lived at the Oceanside property while the other co-tenant never visited the property. During her time at the property, the co-tenant who lived there spent \$25,000 to maintain the house and she also expended \$5,000 to build a construction tool shed at the back of the house. She sought to obtain \$25,000 from the co-tenant who did not live there, arguing that she was entitled to the full amount. However, the court disagreed with respect to this amount. The court reasoned that she has an obligation to bear half of the total costs of maintaining the property as a co-tenant. Meaning, she could only recover \$12,500 from the absent co-tenant with respect to the \$25,000 figure. The court further reasoned that the co-tenant who paid \$5,000 to build the shed was not entitled to contribution for that figure. Instead, because she had improved the land through the addition of the tool shed, she could receive a share of that improvement's value upon the sale of the property itself.

Like in *Boyd*, where the co-tenant received half of the amount she sought in contribution, here Crystal will only be able to get one-third of the contribution she seeks for the taxes because you only have a one-third interest in the land and each co-tenant is thus responsible for \$10K. Moreover, like in *Boyd*, where the co-tenant could get the \$5,000 based on her improvement upon the sale of the land, here Crystal will get the \$20,000 share of the sale of the land due to her improvement with the garage.

Thus, Crystal will not be able to get the full amount of the contribution from you.

IV. Conclusion

You may force the sale of the property as a single parcel. You will not be forced to divide it into three parcels. And Crystal will have a right of partial contribution against you.

Question #6 Final Word Count = 1437

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