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1 February 2022

The Honorable William C. Smith, Jr.  
Chair, Senate Judicial Proceedings  
Miller Senate Office Building, 2 East Wing  
Annapolis, MD 21401

RE: SB 0092 – Favorable

Dear Chair Smith and Committee Members:

I am Ebonie Alexander, Executive Director of the Black Family Land Trust, Inc., one of the nation's only land trusts dedicated to the protection of land assets of African American and other historically underserved groups. It is a fundamental economic truth that land is an asset that is foundational to building both individual and family wealth. Historically, partition law across the country had inadequate protections for owners of heirs property – property passed down in families through generations by operation of law rather than through legal bequests at the death of the property owner. With the adoption of the Uniform Partition of Heirs Property Act over the past several years in 18 states and counting, that historical anomaly is changing. The Black Family Land Trust strongly supports such change in Maryland as well, and we encourage this committee to act favorably on the Maryland Uniform Partition of Heirs Property Act (“UPHPA”), Senate Bill Number 92.

The Black Family Land Trust was one of the lead organizations responsible for the passage of the UPHPA by the 2020 Virginia General Assembly, which was signed into law effective July 1, 2020. With guidance from the Uniform Law Commission and Law Professor Thomas Mitchell, the drafter of the model act, the legislation provides land asset protection to thousands of Virginians, rural and urban. Maryland's enactment of the UPHPA would further that goal, and similarly benefit thousands of Marylanders.

Under the existing legal framework, any fractional owner of land owned by tenancy in common can force a partition sale of the entire property in order to realize his or her share of the sales proceeds of the property. When it comes to heirs property or other tenancy in common property owned by multiple owners, potentially large numbers of owners who do not even know each other, this creates a perverse incentive and opportunity for speculators to identify one of the tenants in common, purchase his or her share, and then force a sale of the entire property by

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auction on the courthouse steps, simultaneously acquiring the entire property, against the wishes of most of the owners, at a below market value. No one with access to lawyers and real estate sales professionals would choose to sell their property in this manner, but people in economically disadvantaged groups do not have experience with or ready access to such resources.

The UHPA promotes economic equality for all persons by creating a legal framework that better protects land owned under a tenancy-in-common. While this issue affects individuals of all socioeconomic statuses, races, and religions, this issue disproportionately affects African American and other low-income families. African American land ownership has declined more than 80% since 1910. According to the USDA and other entities, much of this land has been lost pursuant to court-ordered partition actions of “heirs property”—a subset of tenancy-in-common property involving family land that is passed down to two or more heirs when the property owner dies without a will. As with all tenancy-in-common property, the heirs become co-owners of the property. Property is often subdivided in this way over generations of intestate inheritances—often without family members even knowing they own land as a family legacy of their ancestors. Often, those living on the property or tending to the land are unaware other co-tenants even exist. They often believe their property ownership is secure because they pay mortgages and taxes on the property, they live on the property, and they make productive use of the land. The families are shocked when they are haled into court after a co-tenant petitions the court for an equitable distribution of their proportion of the value of the property. The court, having little other choice under partition law, forces a partition-by-sale, which most often results in a quick auction of the property at below market value, whereby families who have lived and worked on the land for generations are suddenly forced from places that have significant cultural, historical, and economic value to the family.

The UHPA changes partition laws, and protects the land ownership of African American and other economically disadvantaged families. The UHPA seeks to address the problems caused by tenancies in common, including heirs property, by requiring buyout provisions for co-owners opposing the sale request, adding substance to the preference for partition in kind actions, and restructuring the sales procedure to improve sales price in a significant way, including by requiring the court to conduct a fair market value assessment, and by requiring an open-market sale, as by listings on the multiple listing service designed by the real estate sales industry to connect willing buyers and interested sellers. The co-tenant’s right to sell his or her interest in inherited real estate is maintained, while the rights of the other co-tenants not to be dispossessed of their land, and not to have it sold out from under them at below-market values, is also protected.

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Too many African Americans and other unprivileged individuals and families have been deprived of their land assets, and the generational family wealth that it represents, for far too long. Enacting the UHPA is one step the Maryland legislature can take to stop this practice from continuing, and help ensure the preservation of family wealth passed to descendants in the form of real property. It is therefore without hesitation, that the Black Family Land Trust supports Senate Bill 92, the Uniform Partition of Heirs Property Act.

Respectfully submitted,

A handwritten signature in blue ink, which appears to read "Lillian Ebonie Alexander".

Lillian "Ebonie" Alexander  
Executive Director

CC: Senator Malcolm Augustine