

Oregon Law Commission

Partition of Heirs Property Work Group

April 9, 2026

Abe, Ben, Claire, and Debbie co-own equal $\frac{1}{4}$ shares of a 60-acre farm parcel with an aging farmhouse and a pond with a gazebo. It sits a half mile outside a UGB and has the potential to be brought within the UGB within the next 15 – 40 years. There is no mortgage on the property. They received the property 15 years ago when their grandfather Edward died.

Abe was always interested in farming and been functionally running the farm for a decade at Edward's death. With nothing formally drawn up and no probate, everyone acquiesced to treat the land as his. Abe has operated the land and paid taxes on it since Edward died and has kept the profits from the farming. Abe has also purchased an adjacent 40 acres for the farming operation. Abe wants to pass the operations on to his daughter when he retires. To keep the home habitable, he'd like to be able to take out a loan against the property for remodels within the next few years. He knows that he needs everyone else's cooperation for that to be possible. He's got good credit and could finance the purchase of anyone else's shares at market value, but it would be a financial stretch.

Ben lives out of state. He doesn't care about the property. Ben doesn't need the money (he wouldn't mind it though). Ben didn't have strong ties with Edward at his death or with the other heirs. He's content with the status quo, is strongly disinclined to join litigation or pick sides, but would sell his share or cooperate in a plan that everyone else agreed to.

Claire has no interest in the farmland but desperately needs some money. She doesn't hold any animosity toward them, but Claire doesn't care much for his co-owners' preferences over her preference that someone pay her as much as she can get for her share. Claire isn't going to sign anything unless it involves a path to her interest getting bought out.

Debbie has a strong sentimental attachment to the property and wishes Abe would continue to hold family barbeques down by the pond like the ones Edward always held when they were growing up. Since Edward's death, Debbie has suggested to Abe that he agree to partitioning off two acres with just the pond and let her buy it to continue the tradition. She'd also perhaps want to build a vacation cabin there that Debbie and her family (including the co-heirs) could use and that Debbie could rent out. Abe isn't opposed but doesn't know if the partition or the development would be allowed under land use laws or whether the others would cooperate, so it hasn't happened.

Fiona was a family friend of Edward and knows the heirs. She dabbles in real estate speculation and has contacted each of the heirs inquiring about purchasing their shares. Fiona might part with Debbie's potential pond parcel to get her on board, but Abe will not voluntarily sell. Fiona is willing to pay a bit above market value for the property (and could potentially outbid Abe if it came to it) and can buy Ben and Claire's shares, but doesn't want to buy into litigation unless there's a clear path to owning the entire developable parcel.

- 1) For each person, what could they expect to see under modern partition laws?
- 2) How would it change under the UHPA?
- 3) What result would you want to see as an omnipotent benevolent judge? What ***ought*** Debbie's sentimental attachment get her, if anything? How/who/when gets to figure out the land use partition/use question, assuming they're not obvious?