

TEXASLAW

From Cities to Colonias: Stopping the Regeneration of Fractionated Ownership

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in the South**

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Owner, on 1928 Deed
Died intestate, no children, survived by Wife.
1/2 Interest passed to Wife.

Became sole owner of both lots upon death of Husband. Interest passed to four family members via will probated in 1966.

Great Uncle 1
1/4 Interest
Cannot Locate

Great Uncle 2
1/4
Died 7/14/1981
San Antonio

Great Aunt 2
1/3 Life Estate in 1/4
Died 5/17/1996
California

Great Uncle 3
1/4
Died 3/21/2001
San Antonio

Great Aunt 3
1/3 Life Estate in 1/4
Died 5/17/1996
California

Grandmother
1/4
Died 1/30/89
League City

Grandfather
1/3 Life Estate in 1/4
Died 1/8/98
Galveston

Cousin 1
1/4
California Opposed

Cousin 2
1/4
Gift Deed

Mother
1/20
Died 8/12/08
League City

Uncle 1
1/20
Died 12/81
Houston

Aunt 1
1/20

Uncle 2
1/20

Uncle 3
1/20
Died 3/15/06
Galveston

(Plaintiff)
83/240
-1/60 (Grandmother, inherited)
-1/60 (Brother 2, deed)
-1/4 (Cousin 2, deed)
-1/20 (Cousin 2, deed)
-1/80 (Cousin 6, deed)

Brother 1
1/60
Died 3/7/04
Houston

Nephew
1/60

Brother 2
1/60
Gift Deed

Cousin 2
1/20
Gift Deed

Cousin 3
1/80

Cousin 4
1/80

Cousin 5
1/80

Cousin 6
1/80
Gift Deed

Impacts of Fractionated Ownership

- **Impact on Individuals**

- Inability to access loans and government loan programs
- Inability to access full benefits of homeownership (such as full homestead exemption)
- Inability to sell
- Stress on family members
- Wealth stripping

- **Impact on Communities**

- Abandonment and blight
- Fiscal impact: unpaid taxes, property depreciation, code and law enforcement
- Wealth stripping











UT Survey: Informal Homesteads

- Survey of 1300 residents in informal homesteads (South and Central TX)
- Mostly Owners: over 82%; 65% of new arrivals
- Aging Population: 25% > 61; 46% > 51yrs
- Low Incomes: 60% earn < \$1600/month household
- Stable: 56% of owners lived on their lot for at least 10 years; 20% for 25+ years.

Online at www.lahn.utexas.org (Texas Housing Database)

UT Survey: Informal Homesteads

- **89% of owners have wills**
- **44% have made “arrangements” that may not be honored**
- **23% of married owners have children from prior relationships**
- **13% divorced owners lack divorce decree**
- **Family sizes dramatically exceed state and nationwide averages**

Interventions to Stop Regeneration of Fractionated Titles

- **Free and low-cost estate planning and title clearing legal services**
- **New tools: Transfer on death deeds**
- **Adverse possession reforms—give primary occupant right to consolidate title**



More than 100 students involved
in single semester.

Title Project Pro Bono Clinics at Texas Law

Estate planning clinics to maintain consolidated ownership in the family

Assistance with property tax exemptions



Results from one clinic:

- Average expected property tax savings of $\sim 7\%$ annual income per client.
- Approx. 2/3 participants consolidated ownership in a single beneficiary.



Transfer on Death Deed

- Non-probate transfer of property via simple deed: property transfers automatically at death
- Expressly allowed in half of states
- Uniform law and recently-enabled Texas TODD as models
- Low-cost solution
- Need to focus on expanding access

Adverse Possession Reforms

- Allow co-owners in long-term possession and maintenance of a homestead to assert adverse possession against absentee co-tenants.
- Texas Senate Bill 1249: signed by Texas Governor Abbott on 6-12-17
- 10 years: paid all property taxes and in exclusive possession of the property; no other owners contributed to taxes or maintenance or challenged claim; no written agreement in place
- Written notice of claim to cotenant heirs required + recorded affidavit

Research Needed

- **Markers to predict and identify properties undergoing fractionation**
- **Long-term consequences of fractionated ownership**
- **Understand why certain heirs properties cycle into abandonment while others do not**
- **New generation of policy tools**