

## EXECUTIVE SUMMARY

Land in Manitoba can be owned solely by one owner or by multiple owners. Where co-owners wish to terminate their co-ownership but cannot agree on the terms of the dissolution, they may seek a judicial order of either partition or sale of the land. Both remedies are provided for in sections 18-26 of *The Law of Property Act*.

Partition refers to the act of physically dividing the land between co-owners resulting in each owner owning a portion of the land outright. An order of sale requires that the co-owned land be sold and the proceeds of the sale be divided among the former co-owners.

In this report, the Manitoba Law Reform Commission (the “Commission”) considers whether the relevant sections of *The Law of Property Act* as well as Court of Queen’s Bench Rule 66 provide adequate direction on partition and sale of land in Manitoba or whether reform is necessary. In contemplating the matter, the Commission examined the current statute law and rules of court in other jurisdictions to determine whether they provided a superior framework for such orders. Additionally, the Commission considered the case law in Manitoba.

Ultimately, the Commission makes 22 recommendations that, if implemented, would modernize the current legislative scheme and would improve the process for co-owners receiving an order of either partition or sale of co-owned property. The Commission recommends that the statute should broadly define the class of persons who may bring an application for partition or sale to joint tenants and tenants in common of an estate or interest in land but should exclude from the class certain co-owners. It also recommends that the relevant sections of the Act be amended to expressly apply to estates and interests that are solely legal or equitable as well as to estates and interests that are both legal and equitable in nature. Additionally, the statutory law should provide clearer guidance on the information required in a notice of application for partition and sale and should be amended to reflect a societal shift resulting in a preference for orders of sale over partition. Finally, the Commission recommends that the terminology used in the Act should be modernized.

Ultimately, it is the Commission’s position that changes to the Act and to Court of Queen’s Bench Rule 66 in line with the recommendations contained in this report will clarify processes and ultimately enhance administration of justice in Manitoba.