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PRACTICE BRIEF · REAL PROPERTY

Recent Developments in California Real Property Law: 2025-2026

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California real property law continues to evolve at an accelerated pace, driven by a convergence of housing policy reform, equity-focused legislation, and increasingly sophisticated property fraud. The 2025-2026 period has produced significant developments across four critical areas: heirs property protections under the Uniform Partition of Heirs Property Act, intensifying enforcement of the Tenant Protection Act, emerging title and partition complexities arising from ADU reform, and new enforcement tools targeting deed theft. Each area carries immediate practical consequences for property owners, co-tenants, landlords, heirs, and their counsel.

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I. UPHPA: Heirs Property Protection Enforced

California adopted the Uniform Partition of Heirs Property Act effective January 1, 2022, codified at Civil Code sections 874.311 through 874.323. The statute was drafted by the Uniform Law Commission to address a well-documented national crisis: the involuntary loss of family-

owned real property through partition sales that disproportionately harm communities of color, particularly Black families in the South and Latino families in the West who hold property through intestate succession without formal estate planning.

The UPHPA applies when a partition action involves "heirs property" -- real property in which one or more cotenants acquired their interest from a relative, whether by intestate succession, transfer-on-death deed, or other non-arm's-length familial conveyance. When the statute applies, it imposes a sequence of procedural protections that fundamentally alter the dynamics of partition litigation.

Mandatory Independent Appraisal

Before any partition by sale may be ordered, the court must appoint a disinterested real estate appraiser to determine the property's fair market value (Civ. Code section 874.316). This requirement directly addresses the historical practice of court-ordered partition sales conducted through commissioners' auctions, where properties routinely sold at 50 to 70 percent of market value, enriching speculators at the expense of cotenant families. The appraised value establishes the floor below which no sale may proceed.

Right of First Refusal

After the appraisal, any cotenant who did not request the partition has the right to purchase the interests of the requesting cotenants at the appraised value (Civ. Code section 874.317). This buy-out right is the statute's most significant practical protection: it gives family members the opportunity to consolidate ownership without losing the property to a forced sale. The purchasing cotenant must tender the appraised price within the statutory period, and the court retains discretion to structure payment terms.

Preference for Partition by Allotment

If no cotenant exercises the buy-out right, the court must next consider partition in kind -- that is, physical division of the property -- before ordering a sale (Civ. Code section 874.318). The statute codifies a strong preference for partition by allotment, under which the court divides the property into separate parcels and allocates them among the cotenants. A partition by sale may be ordered only if the court finds that partition in kind would result in "manifest inequity" to one or more cotenants, considering the totality of the circumstances including the property's sentimental, cultural, and historical significance.

The Manifest Inequity Standard

The "manifest inequity" test under section 874.318 is a deliberately high threshold. Courts applying this standard must weigh factors beyond mere economic value, including the length of time the property has been held within the family, whether any cotenant resides on or actively uses the property, and the availability of adequate alternative parcels. This multifactor analysis represents a significant departure from the pre-UPHPA rule, under which California courts routinely ordered partition by sale whenever the property could not be physically divided into parcels of equal economic value -- a standard that effectively guaranteed sale for most residential properties.

Enforcement Trends in 2025-2026

California trial courts are now regularly applying the UPHPA framework in contested partition actions. Early indications suggest that courts are taking the appraisal and buy-out procedures seriously and are denying partition by sale where cotenants can demonstrate that the property qualifies as heirs property and that a cotenant is prepared to exercise the buy-out right. The statute has also produced a practical shift in litigation strategy: prospective purchasers of fractional interests in family properties -- who historically acquired minority shares at steep discounts and then filed partition actions to force a sale -- now face substantially greater procedural friction and diminished economic incentives.

> *"The UPHPA does not eliminate the right to partition. It eliminates the right to exploit partition as a mechanism for expropriating family wealth at below-market prices."*

II. AB 1482 Compliance Battles Intensifying

The Tenant Protection Act of 2019 (AB 1482), codified at Civil Code sections 1946.2 and 1947.12, remains the most consequential statewide landlord-tenant legislation in California history. It establishes two core requirements: a rent cap that limits annual rent increases, and a just cause eviction requirement that prohibits landlords from terminating tenancies without a legally recognized reason. As the statute matures, enforcement actions and compliance disputes are intensifying.

The Rent Cap: 5% + CPI, Maximum 10%

Section 1947.12 caps annual rent increases at the lesser of 5 percent plus the applicable Consumer Price Index (CPI) or 10 percent. The CPI figure is calculated on a regional basis using data published by the Bureau of Labor Statistics, which has produced significant geographic variation in the effective cap. In years of high inflation, such as 2022-2023, the 10 percent ceiling became binding in many California markets. In the current low-inflation environment, the effective cap in most regions is closer to 7 to 8 percent. Landlords who impose increases exceeding the applicable cap are subject to damages, including recovery of excess rent paid, statutory penalties, and attorney fees.

Exemptions and Their Traps

AB 1482 exempts several categories of rental property, but each exemption carries strict compliance requirements that have generated substantial litigation. The **new construction exemption** under section 1947.12(d)(4) excludes units with a certificate of occupancy issued within the preceding 15 years. This is a rolling exemption: units gradually lose protection as they age, and landlords must track certificate of occupancy dates to determine when the exemption expires.

The **single-family home exemption** under section 1947.12(d)(5) requires that the owner be a natural person (not a corporation, LLC, or REIT), that the property not be owned by any entity in which a corporation is a member, and that the owner provide the tenant with a specific statutory notice that the property is exempt. Failure to provide the required notice before the tenancy begins -- or failure to include the precise statutory language -- waives the exemption entirely. This

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notice requirement has become a fertile source of tenant claims: landlords who assumed their single-family rental was exempt but never delivered the statutory notice are retroactively subject to the rent cap and just cause requirements for the entire duration of the tenancy.

Just Cause Eviction: At-Fault and No-Fault Grounds

Section 1946.2 divides just cause into at-fault grounds (nonpayment of rent, breach of lease, nuisance, criminal activity, refusal to allow access, refusal to execute a renewal, subletting in violation of the lease, and other specified grounds) and no-fault grounds (owner move-in, withdrawal from the rental market under the Ellis Act, compliance with a government order, and substantial remodeling). No-fault terminations trigger relocation assistance obligations: the landlord must pay the tenant one month's rent as a relocation payment, or waive the final month's rent, before the tenancy terminates.

Enforcement Escalation

City attorneys in Los Angeles, San Francisco, Oakland, and San Jose have initiated enforcement actions against landlords who imposed rent increases exceeding the AB 1482 cap without qualifying for an exemption. Tenant advocacy organizations have filed class actions on behalf of renters in large apartment complexes where ownership entities applied the single-family or new construction exemption to properties that did not qualify. The interaction between AB 1482 and local rent stabilization ordinances -- such as the Los Angeles Rent Stabilization Ordinance (LARSO) and the San Francisco Rent Ordinance -- adds a further layer of complexity. Properties covered by local ordinances are generally subject to the stricter of the local and state protections, requiring landlords to analyze both regulatory regimes before issuing any rent increase or termination notice.

III. ADU Law Reform: Title and Partition Issues

California's sustained legislative campaign to promote accessory dwelling unit construction -- centered on Government Code section 65852.2 and its successive amendments -- has achieved its primary policy objective of dramatically increasing ADU permit applications and completions statewide. But the proliferation of ADUs has generated a new generation of property law disputes that the original ADU legislation did not anticipate.

AB 1033: Separate Conveyance of ADUs

AB 1033 (2023) amended Government Code section 65852.26 to authorize local jurisdictions to permit the separate conveyance of ADUs. Under this framework, a property owner who constructs an ADU on a single-family lot may, if the local jurisdiction adopts an enabling ordinance, convert the property to a condominium and sell the ADU as a separately titled unit. This represents a fundamental shift in California property law: for the first time, a single-family residential lot can support two independently owned dwelling units without formal subdivision.

Practical Barriers to Implementation

Despite its transformative potential, AB 1033 implementation has been slow. The statute requires affirmative adoption by local jurisdictions, and as of mid-2026, only a limited number of California cities have enacted the necessary enabling ordinances. Even where local ordinances exist, property owners face significant practical barriers. Converting a primary dwelling and ADU into separate condominium units requires preparation and recordation of a condominium plan, creation of a homeowners association (or equivalent governing structure), allocation of common area maintenance responsibilities, and compliance with the Davis-Stirling Common Interest Development Act (Civ. Code section 4000 et seq.). For properties with existing mortgages, the lender's consent to the condominium conversion may be required. HOA CC&Rs in existing planned developments may prohibit or restrict ADU construction or condominium conversion outright.

Partition Disputes Among Co-Owners

The more immediate source of ADU-related litigation involves partition disputes among co-owners. When multiple family members co-own a residential property and one cotenant constructs an ADU -- often investing substantial personal funds in the construction -- disputes arise over the allocation of the ADU's value in any subsequent partition action. Under traditional partition law, improvements made by one cotenant are credited to that cotenant's share, but the valuation methodology is contested, particularly where the ADU generates rental income that benefits the constructing cotenant but not the others.

The tension between state housing policy and individual property rights is most acute in these co-ownership contexts. California law strongly encourages ADU construction and prohibits most local restrictions, but the property rights of non-constructing cotenants receive less legislative attention. A cotenant who objects to ADU construction on jointly owned property has limited legal recourse: the state's preemptive ADU legislation overrides most local zoning restrictions, and courts have generally declined to treat cotenant objections as grounds for enjoining construction that is otherwise lawful under state law.

IV. Deed Theft: Enforcement and Civil Recovery

Real property deed fraud has emerged as one of the most serious threats to California property owners, particularly elderly homeowners, non-English-speaking owners, and absentee owners of vacant or investment properties. The typical deed theft scheme involves the preparation and recordation of a forged grant deed purporting to transfer title from the rightful owner to the perpetrator or a nominee entity. The forged deed is executed with a fraudulent notarization -- either by a complicit notary or through identity theft -- and recorded with the county recorder's office, where it becomes part of the official chain of title.

The Scope of the Problem

Once the forged deed is recorded, the perpetrator may encumber the stolen property with mortgage loans, sell the property to a bona fide purchaser, or extract equity through home equity lines of credit. The true owner typically discovers the fraud only when they receive default notices on

loans they never obtained, when a purchaser or lender contacts them, or when they attempt to sell or refinance and discover the break in the chain of title. By that time, the perpetrator has often disappeared with the proceeds, and the victim faces the burden of restoring clear title through litigation.

AB 1551: Enhanced Criminal Penalties

AB 1551 (2023) established enhanced penalties for real property deed fraud. The statute creates a specific criminal offense for knowingly filing a forged or fraudulent document affecting title to real property with the intent to defraud. Prior to AB 1551, deed theft was prosecuted under general forgery, identity theft, and grand theft statutes, which prosecutors found inadequate to capture the severity and scope of the harm. The enhanced penalties under AB 1551 reflect a legislative recognition that deed theft is not merely a property crime but a form of financial elder abuse and community destabilization.

County Recorder Fraud Alert Programs

California county recorders have implemented fraud alert notification systems that allow property owners to register for automatic notifications whenever a document is recorded against their property. These programs -- available in Los Angeles, Orange, San Diego, Sacramento, and most other major counties -- provide an early warning mechanism that can shorten the discovery period from months or years to days. Property owners, particularly those who own vacant or investment property, should enroll in their county recorder's notification program as a baseline protective measure.

Civil Recovery: Quiet Title and Lis Pendens

The primary civil remedy for deed theft victims is the quiet title action under Code of Civil Procedure sections 760.010 through 764.080. A quiet title action asks the court to declare the forged deed void and to confirm the plaintiff's title free of any claims derived from the fraudulent instrument. Because a forged deed is void ab initio -- not merely voidable -- the true owner's title is legally unaffected by the forgery, and a court order quieting title relates back to the date of the fraud.

To protect the disputed property during litigation, the victim should immediately record a lis pendens (CCP section 405.20 et seq.), which provides constructive notice to any prospective purchaser or lender that the title is in dispute. The lis pendens effectively freezes transactions involving the property, preventing the perpetrator from further encumbering or transferring the stolen title during the pendency of the quiet title action.

Title Insurance Gaps

Property owners commonly assume that their title insurance policy provides complete protection against deed fraud. In practice, title insurance coverage for fraud-based claims is limited and contested. Standard owner's title insurance policies typically insure against defects in title that existed at the time the policy was issued. A forgery that occurs after the policy date may not be covered. Even where the forgery predates the policy, insurers have disputed coverage on grounds that the insured had knowledge of circumstances suggesting a defect, or that the claim falls within a policy

exclusion for matters created or suffered by the insured. Victims of deed theft should carefully review their policy terms and consult counsel before assuming that title insurance will cover the cost of restoring clear title.

PRACTICAL RECOMMENDATIONS FOR PROPERTY OWNERS

- Co-owners of inherited property should engage estate planning counsel to formalize ownership structures before disputes arise -- the UPHPA provides significant protections in partition, but proactive planning avoids litigation entirely
- Landlords must audit every rental property for AB 1482 compliance, including verification of exemption eligibility and confirmation that all required statutory notices were delivered before the tenancy began
- Property owners considering ADU construction on co-owned parcels should obtain written consent from all cotenants and execute a co-ownership agreement addressing construction costs, rental income allocation, and future partition or sale
- All California property owners should enroll in their county recorder's fraud alert notification program and periodically verify their chain of title, particularly for vacant, investment, or out-of-state properties
- Deed theft victims should immediately record a lis pendens and initiate a quiet title action -- delay allows perpetrators to further encumber the property and complicates recovery
- Review existing title insurance policies with counsel to understand the scope and limitations of coverage for fraud-based title claims

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