INHERITED HOUSE & PROBATE

Why Siblings Disagree on an Inherited Buffalo House, and How to Sell Anyway

Siblings disagreeing over an inherited Buffalo house? Learn your legal options, from buyouts to partition actions, and where a cash sale can fit.

By Rust Belt Cash Offer · Published May 14, 2026 · Updated October 31, 2026

When a parent dies and leaves behind a house in Buffalo, the estate typically passes to multiple heirs, usually adult children. On paper, the legal path is clear. In reality, siblings rarely agree on what comes next.

One wants to sell. Another wants to keep it as a rental. A third needs cash immediately. The executor doesn't want to make anyone mad. And suddenly, the inheritance that was supposed to bring closure becomes a source of tension.

This is normal. Disagreements over inherited property have nothing to do with how much your family loves each other. They're a natural collision of grief, money, life circumstances, and different visions for the future.

This guide walks you through the most common reasons siblings disagree, what New York law actually lets each of you do, and the real options, including where a cash sale can fit.

Why Siblings Disagree on an Inherited House

Emotional Attachment

One sibling grew up in the house. They have memories. They imagine their own kids playing in the backyard someday. Another sibling moved away 20 years ago and sees the house as a financial asset, nothing more. Both positions are valid. Both are hard to reconcile.

Financial Desperation

> If one sibling is in debt, needs a down payment for their own house, or is facing a medical bill, they want their inheritance *now*. Another sibling is financially stable and doesn't need the money. The first sibling feels resentment. The second feels pressure. Both feel unheard.

Life Stage Misalignment

A sibling with kids in the Buffalo school system might want to keep the house as a rental investment. A sibling who just took a job in another state needs out. A sibling who's recently divorced needs capital to rebuild. Same inheritance, three different needs.

Disagreement on Price

> If the house needs work, one sibling might value it well below what another thinks it's worth. Who's right? The market is. But getting market-rate comps and agreeing on an appraisal takes time, and disagreement on price often masks disagreement on *whether to sell at all*.

One Sibling Is Living There

If one heir is living in the inherited house, they have an incentive to delay the sale. They have a place to live for free. Other heirs are paying rent elsewhere and feel stuck. This is one of the most volatile disagreements.

> **Executor Conflict**

The executor (usually one of the heirs) runs the estate. Once Erie County Surrogate's Court issues Letters, New York law usually lets the executor sell the house without every sibling signing (details below). That is exactly why the other siblings often feel shut out, and why it pays to talk before anyone signs.

The short answer: how a family stuck on a house gets unstuck

If the heirs to a Buffalo house cannot agree on selling it, there are three ways it gets resolved: the co-owners work out a buyout or sale among themselves, the executor or administrator sells it under the authority Surrogate's Court gave them, or one owner files a partition action in Supreme Court and a judge orders the sale. The first is fastest and cheapest. The third takes months to years. Which one applies depends on whose name is on the deed right now and whether an estate has been opened.

Below: the law behind each path, what a refusing sibling can and cannot block, and how a cash buyer closes with several owners.

First question: whose name is actually on the deed?

Before anyone argues about price, find out who legally owns the house today. Three common cases:

The deed is still in the deceased parent's name. No one can sell the whole house yet. Each heir's share passes to them at death, subject to the estate's debts and costs, but no title company will insure a sale of the house until someone is appointed. For what an heir can and can't do with a share before then, see do I already own my share before Letters? Someone has to open an estate in Erie County Surrogate's Court and get appointed. That person signs the deed, not the heirs as a group.

The heirs already hold title as tenants in common. An estate closed and a deed went to the children, or a parent added children to the deed years ago. Every co-owner must sign to sell the whole house. One holdout blocks a voluntary sale.

The deed named joint tenants with right of survivorship. The survivor already owns it outright. But under EPTL 6-2.2, "a disposition of property to two or more persons creates in them a tenancy in common, unless expressly declared to be a joint tenancy." Unless the deed says joint tenancy in so many words, assume tenancy in common: the deceased owner's share went to their estate, not to the other name on the deed.

The current deed is on file with the Erie County Clerk. Check it first, because it decides who has to sign.

My parent died. Who has the right to sell the house?

The person holding letters from Erie County Surrogate's Court, 92 Franklin Street, 2nd floor, Buffalo 14202, (716) 845-2560. The court "hears cases relating to individuals who have passed away, including disagreements about wills and the proper way to manage or divide the estate."

If there is a will, the named executor petitions for probate, which NY Courts describes as "the process of proving that the Will is valid." Distributees (those who would inherit without a will) get a citation and can "sign a waiver (giving up their rights) and consent to the appointment of the Executor," or object.

If there is no will, a family member petitions for letters of administration, "the process where the Surrogate's Court officially gives out Letters of Administration to a qualified distributee (heir)." Priority runs spouse, then children, then grandchildren, then parents, then siblings (SCPA 1001). Other distributees are cited and can waive and consent, or contest.

The small-estate shortcut does not work for real property. NY Courts is explicit that if "the decedent owned real property alone," the case is "not a small estate," and you must file full probate or administration even if personal property is under $50,000.

Can the executor sell without every sibling agreeing?

Usually, yes. EPTL 11-1.1(b) provides that "in the absence of contrary or limiting provisions in the court order or decree appointing a fiduciary… or in the will, deed or other instrument, every fiduciary is authorized" to "sell the same at public or private sale, and on such terms as in the opinion of the fiduciary will be most advantageous to those interested therein."

That is a broad power. The fiduciary decides whether to sell and on what terms, and the beneficiaries get their share of the net. A sibling who does not like the price cannot veto the deed. Their remedy is to object in Surrogate's Court, which is a real check but not a signature.

Two limits. The power does not reach property "specifically disposed of" in the will: if Dad's will gives the house on Seneca Street to your sister, the executor cannot sell it out from under her. And the court can restrict the power in the letters themselves. Read the letters before assuming anything.

The deed is in all our names and my brother refuses to sign. Now what?

Then the estate route is closed. The estate no longer owns the house; you do. And any co-owner has a right to get out.

RPAPL 901 lets "a person holding and in possession of real property as joint tenant or tenant in common" bring an action for partition, and it covers heirs holding as tenants in common "whether he is in or out of possession." The action is filed in Supreme Court, which can divide the property physically (almost never workable for one house on a 30-foot Buffalo lot) or order it sold and split the proceeds. For how partition works for any kind of co-owner, see can one owner force the sale of a house in New York.

The timeline is the cost. Like any contested court case, a partition case can take months to years.

Legal fees come off the top, on both sides. On a modest house in Riverside or South Buffalo, a two-year fight can eat much of what anyone would have netted.

Does the Heirs Property Act change this?

Yes. New York adopted the Uniform Partition of Heirs Property Act as RPAPL 993, effective December 6, 2019. It applies to tenancy-in-common property where "any of the co-tenants acquired title from a relative, whether living or deceased," the property is "used for residential or agricultural purposes," there is no written partition agreement, and a 20 percent relative-ownership test is met. Many houses passed down within a family can fit; the court decides.

When it applies, the court first orders an appraisal by "a disinterested real estate appraiser licensed in this state," unless the parties agree on a value. The co-owners who did not file then get a buyout right: they can elect to buy the filing owner's share at appraised value "not later than forty-five days after the notice of the determination of value," with payment due "not sooner than sixty days after the date the notice was sent." If nobody buys out and the court orders a sale, it appoints a broker to list the house "in a commercially reasonable manner at a price no lower than the determination of value."

The law also requires a settlement conference before any sale, which one New York law firm says is meant "to prevent a party from jumping straight into a partition of sale and to encourage the parties to negotiate in good faith." The Act was written to stop investors from buying one heir's small share and forcing an auction. A 2024 law (Laws of 2024, chapter 56, Part O, in effect since July 19, 2024) went further: someone who buys a share of heirs property can't start a partition case at all (RPAPL 993(12)), and when an outsider offers to buy one heir's share, the heirs get 180 days after notice to match the offer at the same price and terms (RPAPL 993(13)). The Act also makes partition of an inherited house slower than it was before 2019.

What is the realistic timeline for each path?

Roughly:

- **All co-owners agree and sign:** a matter of weeks. The sale closes like any other.
- **Executor or administrator sells under EPTL 11-1.1:** the estate must be opened and letters issued first, which goes faster when distributees sign waivers than when they demand a citation hearing. Once letters are in hand, the sale moves at normal speed.
- **Partition action under RPAPL Article 9:** months to years, plus the RPAPL 993 appraisal, buyout, and settlement-conference steps if it is heirs property.

The house does not wait. Taxes, user fees, and sewer rent keep accruing, and the City of Buffalo can start an in rem tax foreclosure once taxes or city charges have gone unpaid for at least 18 months. An empty house draws code enforcement. Our guides on back taxes, code violations, and foreclosure explain those clocks. In Cheektowaga and the other towns, Erie County runs the tax foreclosure, and the City of Lackawanna runs its own, but the Surrogate's Court and partition rules are the same.

How does a cash buyer close when the owners do not agree?

We're a Buffalo company with 350+ houses bought and sold.

If the house is still in the estate, we contract with the executor or administrator named in the letters, after confirming the letters are current and that the will doesn't leave the house to one specific person. Proceeds go to the estate, and the fiduciary distributes them. The heirs do not each sign the deed.

If the heirs hold title as tenants in common and all will sign, each owner signs the contract and deed and receives their percentage at closing. Out of state? Closing documents can often be signed remotely or by mail; your attorney and the title company decide. If one owner fronted taxes or repairs, the family can adjust the split at the closing table.

If one owner will not sign, no one can buy the whole house, and no honest buyer will tell you otherwise. The options are a buyout of the holdout at a fair number, or a partition action, where the holdout keeps every RPAPL 993 protection. Call us and we'll talk through which one fits your family.

If a court order is required, because the letters restrict the power to sell or the Surrogate's Court proceeding is contested, we can sign a contract now and close on the court's schedule.

We're a real Buffalo company, at 50 Fountain Plaza, Suite 1400, BBB A+ rated, Accredited since 6/2/2021, and 5.0★ on Google. We are not the right buyer for every estate; if the house is in good shape and the family agrees, listing may net more. A cash sale can fit when the house needs work or the clock is running. If the family can't agree, we can buy one owner's share, with the heirs-property limits in RPAPL 993(12) and (13). If the house you live in is in foreclosure, or your mortgage payment is more than 60 days past due, New York's Home Equity Theft Prevention Act generally gives you 14 business days after signing to cancel a sale contract (Real Property Law §265-a). Our inherited house guide covers the simpler estate sale.

Once someone has the authority to sign, we can close in as little as 5 days when the title is clear and ready. Most closings take 14–30 days. We cover all closing costs.

Questions we hear from Buffalo families

> **My sister lives in the house and will not leave. Can we still sell?**

If the house is in the estate, the fiduciary can still sell it. If she is a co-owner on the deed, she can be named in a partition action, where under RPAPL 993 she gets first chance to buy out the others at appraised value. If she cannot, the court can order the sale.

Three of us want to sell and one does not. Does majority rule?

No. Tenants in common each own an undivided share, and a deed to the whole house needs every signature. The majority can sell their shares, buy out the holdout, or file for partition.

Nobody has opened an estate. Can we just sell it as the kids?

Not if the deed is still in your parent's name. Title has to pass through Surrogate's Court by probate or administration; the small-estate affidavit does not cover real property in the decedent's sole name. Once one of you is appointed, that person can sign for the estate under EPTL 11-1.1 without collecting signatures from everyone else.

Can I sell just my share?

Legally, yes. A tenant in common can sell their undivided interest, and the buyer becomes a co-owner with your siblings. If the house is heirs property, New York law since July 19, 2024 gives the siblings who inherited 180 days after notice to match an outside offer for your share at the same price and terms, and the buyer can't start a partition case (RPAPL 993(12) and (13)). We do buy one owner's share, with those limits, and we can't promise what happens after that. Call us and we'll tell you honestly whether it makes sense for your family.

Do we owe capital gains tax when we sell the inherited house?

Often little or none. The tax basis of inherited property is generally its fair market value on the date of death (IRS Publication 551), so tax applies only to gain above that value, after selling costs. Get a date-of-death appraisal and have each sibling ask a tax preparer about their share.

Does New York tax the house when a parent dies?

Only through the estate tax, and only for estates above the basic exclusion amount, which is $7,350,000 for deaths in 2026 (NYS Department of Taxation and Finance). The whole estate counts, not just the house, so ask the estate's attorney if there are large accounts or other property.

> **How long after the sale do siblings get their share?**

If the house is sold by the estate, the money goes to the estate first, and the executor distributes it after paying debts and expenses. Many executors hold funds until seven months after Letters issue, because after that a late creditor claim can't make them answer for good-faith payments already made (SCPA §1802). If the siblings already own the house together on the deed, each owner is paid their share at closing.

> **What if the executor won't sell or keeps stalling?**

A beneficiary can petition Erie County Surrogate's Court. The court can suspend, modify or revoke an executor's Letters for reasons that include mismanaging estate property or refusing, without good cause, to carry out a legal duty (SCPA §711). An estate attorney can tell you whether a letter or a court petition is the right first step.

> **Can I buy out my siblings' share instead of selling?**

Yes, if everyone agrees on a price. Siblings who already own the house together can deed it to the buying sibling, and a transfer from one co-owner to another is exempt from New York's property condition disclosure form (RPL §463). If the house is still in the estate, involve the estate's attorney, especially if the executor is the one buying.

Talk to us before the fight costs more than the house

If your family owns a Buffalo house together and cannot agree on it, tell us the situation or call (716) 800-2274. We'll make a cash offer within 24 hours, usually by phone, and tell you honestly whether a cash sale fits. No obligation, and no pressure on anyone who is not ready.

Sources

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- NY EPTL § 11-1.1, Fiduciaries' powers (NY Senate): https://www.nysenate.gov/legislation/laws/EPT/11-1.1
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- NY Courts, Probate (When a Person Dies With a Will): https://www.nycourts.gov/help/when-someone-dies/probate-when-person-dies-will
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- City of Buffalo, In Rem Foreclosure Information and FAQ (buffalony.gov)
- Laws of 2024, chapter 56 (S8306-C / A8806-C), Part O, adding RPAPL 993(12) and (13); signed April 20, 2024; in effect July 19, 2024 (nysenate.gov and nyassembly.gov bill text)

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