Georgia's Heirs Property:
Assessing the Impacts of "Locked Wealth"

Georgia Institute of Community Housing
Retreat
February 22, 2017

Scott Pippin and
Shana Jones
Public Service Faculty

Carl Vinson
Institute of Government
UNIVERSITY OF GEORGIA

3 Goals for this session:
What is an "heirs property"?
Why do we care about heirs property?
What is being done to resolve this issue?

What is an "heirs property"?

Uniform Partition of Heirs Property Act:

- The property is jointly owned by the heirs of the testator.
- The property consists of real property and/or personal property.
- The property is owned by at least two or more persons.
- The heirs are unable to agree on the disposition of the property.
- The property is subject to the Uniform Partition of Heirs Property Act.

Prezi
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What is an "heirs property"?

Heirs property refers to a specific condition of the title (legal ownership) of land that limits its productive use.

- Generally created through the death of an owner without a will.
- Title to the land passes to the owner's heirs through an intestate process, which is defined in state law.
- All of the heirs own the land as "tenants in common", meaning they all have equal rights to all of the property.
- Decisions affecting the property require unanimous agreement of the tenants in common.
"Heirs property" means real property held in 
\textit{tenancy in common} which satisfies all of the following requirements as of the filing of a partition action:

A) There is \textbf{no agreement} in a record binding all the cotenants which governs the partition of the property;

B) One or more of the cotenants \textbf{acquired title from a relative}, whether living or deceased; and

C) Any of the following applies:
   i) 20 percent or more of the interests are held in common by cotenants who are relatives;
   ii) 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or
   iii) 20 percent or more of the cotenants are relatives.
A Simplified Six-Generation Example of Undivided Heirship

Fractionated Values and Lease Payment Values of Undivided Interest*

Original Allottee
160 acres
$1000

Second Generation
1/3
$333.33

Third Generation
1/9
$111.11

Fourth Generation
1/27
$37.04

Fifth Generation
1/81
$12.35

Sixth Generation
1/243
$4.12

*Presumes only three heirs per person per generation.

Limitations of heirs property ownership:

Greater risk of land loss from unpaid taxes
Greater risk of fines for nuisance
Can't access loans
Difficulty selling or leasing land
Difficulty selling timber
Can't access USDA farm assistance
Difficulty accessing FEMA pre-and post disaster assistance
Difficulty accessing federal and state grants (septics, home improvement)
The result is that significant personal and community assets are diminished in value.

This in turn entrenches cycles of poverty -- concept of "locked wealth"

Displaces local land owners through partition sales, often to outside developers.

It also:
- diminishes other land values,
- harms community character,
- inhibits code enforcement,
- etc.
Early Data

1976 data collection on black-owned land uncovered issues with intestate estates, heir properties, and partition sales that lead to land loss

15 million acres acquired by black land owners from 1865-1910

Reduced to 5.5 million acres by 1969

(Salamon & Others, 1976)
Early Data

1980 study employed a randomized sample survey in 10 counties to extrapolate the scope of the issue across the rural south

27% of black-owned properties in the south were found to be owned by heirs

82% of land owners surveyed stated they had no will

(The Emergency Land Fund, 1980)
Overview of the Issue

- Heirs’ property estimates vary widely
  - As high as 30% of all rural land (Baab, 2011)
  - Highest in agricultural areas, also found in declining or distressed urban areas
  - Probably in range of 10-15% of all properties in the southeast

- According to the Census, 80% of black-owned land has been lost since 1910 due to heirs’ property (USDA)

(U.S. Census of Agriculture)
2001 Associated Press Story: *Torn from the Land* investigated abuses of the partition sale process

*Hurricane Katrina* highlighted heirs property in the urban context: 25,000 of 185,000 applicants were initially denied disaster assistance because of title problems.
Renewed interest in addressing heirs property in order to:

- Stem minority land loss,
- Improve community resilience,
- Remove barriers to community development, and
- Alleviate entrenched poverty
Threshold Question: How Much Heir Property is There?

<table>
<thead>
<tr>
<th>County</th>
<th>Total Population</th>
<th>Total parcels</th>
<th>Land parcels Rd. 1</th>
<th>Land parcels Rd. 2</th>
<th># of heir property land parcels</th>
<th>Acreage of heir property</th>
<th>Fair market value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chatham</td>
<td>265,128</td>
<td>115,135</td>
<td>1,028</td>
<td>537</td>
<td>537</td>
<td>922.75 acres</td>
<td>$22,308,672</td>
</tr>
<tr>
<td>Chattooga</td>
<td>25,736</td>
<td>14,445</td>
<td>565</td>
<td>162</td>
<td>162</td>
<td>271.32 acres</td>
<td>$820,428</td>
</tr>
<tr>
<td>Dougherty</td>
<td>94,565</td>
<td>34,000</td>
<td>790</td>
<td>472</td>
<td>472</td>
<td>1,551.26 acres</td>
<td>$8,897,850</td>
</tr>
<tr>
<td>Evans</td>
<td>11,000</td>
<td>6,484</td>
<td>285</td>
<td>40</td>
<td>40</td>
<td>93.48 acres</td>
<td>$387,960</td>
</tr>
<tr>
<td>McIntosh</td>
<td>14,333</td>
<td>12,825</td>
<td>1,531</td>
<td>409</td>
<td>409</td>
<td>2,376.53 acres</td>
<td>$26,234,285</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td>1,620</td>
<td></td>
<td></td>
<td><strong>5,215.34 acres</strong></td>
<td><strong>$58,649,195</strong></td>
</tr>
</tbody>
</table>

Methodology: Tax Parcel Data Land Record Comparison
### How much heirs’ property is there?

<table>
<thead>
<tr>
<th></th>
<th>Area examined</th>
<th>Parcels</th>
<th>Acres</th>
<th>Percentage of land</th>
<th>Total value</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Multi-state</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Graber 1978</td>
<td>5 states</td>
<td>--</td>
<td>--</td>
<td>33</td>
<td>--</td>
</tr>
<tr>
<td>Emergency Land Fund 1980</td>
<td>10 states</td>
<td>101,648</td>
<td>3,836,498</td>
<td>41</td>
<td>--</td>
</tr>
<tr>
<td><strong>Multi-county</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tinubu and Hite 1978</td>
<td>3 SC, rural electric cooperatives</td>
<td>37</td>
<td>--</td>
<td>3.5</td>
<td>--</td>
</tr>
<tr>
<td>Plastrick 2001</td>
<td>2 counties SC</td>
<td>3,300</td>
<td>17,000</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Center for Heirs’ Property Preservation</td>
<td>6 counties SC</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia Appleseed 2013</td>
<td>5 counties GA</td>
<td>1,620</td>
<td>5,215</td>
<td></td>
<td>$58,649,195</td>
</tr>
<tr>
<td><strong>Single county</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Southern Coalition for Social Justice 2009</td>
<td>1 county NC</td>
<td>475</td>
<td>5,623</td>
<td>2</td>
<td>--</td>
</tr>
<tr>
<td>Prezi et al. 2009</td>
<td>1 county AL</td>
<td>1,516</td>
<td>15,937</td>
<td>4.1</td>
<td>&gt; $25 million</td>
</tr>
</tbody>
</table>
Demographic Indicators:
- Low Income;
- % Poverty;
- Minority Status;
- Low Educational Attainment

Parcel Indicators:
- 30+ years since transfer;
- Owned by "Natural Person";
- No Preferential Tax Status
Demographic Indicators:
- Low Income;
- % Poverty;
- Minority Status;
- Low Educational Attainment
Parcel Indicators:
- 30+ years since transfer;
- Owned by "Natural Person";
- No Preferential Tax Status
Phase 3 – “Identify Likely Heir Properties”
County-Level Analysis
- Owner/Taxpayer Name
- Mailing Address
- Property Address
- Land Value
- Land Information
- Improvement Information
- Acreage
- Sale/Conveyance Information
Heirs Property cluster counties
12 - 25% of parcels (avg. 19%)
2,000 - 13,500 acres
appx. $765 million assessed value

Comparison Counties
11% - 19% of parcels (avg. 14%)
3,000 - 13,000 acres
appx. $1.4 billion assessed value
Responses

ADVOCACY/ LOBBYING

Property Owners

State & Local Decision-Makers

Agencies

Judges

Lawyers

CLIENT REPRESENTATION

RESEARCH, PLANNING, & EDUCATION

POLICY DEVELOPMENT
Client-based Resources:

Appleseed

The Georgia Heirs Property Law Center
An end to poverty begins with property rights.

The Federation of Southern Cooperatives

Center for Heirs Property Preservation

Atlanta Bar Association
Lawyers Who Serve

South Carolina Access to Justice
HEIRS PROPERTY & CLOUDY TITLES
A COMMUNITY PERSPECTIVE
VICTORIA PLACE URA/RAS

- Severely blighted neighborhood
- Numerous dilapidated and deteriorated houses
- Unsafe; high crime area
- Faulty lot layouts
- Infrastructure deficiencies and flooding
## PROPERTY OWNERSHIP

### Victoria Place Revitalization Area (2009)

<table>
<thead>
<tr>
<th>Occupancy</th>
<th>Total #</th>
<th>Cloudy Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner occupied</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>Occupied by heirs</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>Occupied by renter</td>
<td>26</td>
<td>2</td>
</tr>
<tr>
<td>Unoccupied residence</td>
<td>13</td>
<td>6</td>
</tr>
<tr>
<td>Unoccupied commercial</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Vacant lot</td>
<td>15</td>
<td>4</td>
</tr>
<tr>
<td>Occupied commercial</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td><strong>Total Properties</strong></td>
<td><strong>85</strong></td>
<td><strong>22</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>26%</strong></td>
</tr>
</tbody>
</table>
## PROPERTY CONDITIONS

Properties in RAS with cloudy titles (2009)

<table>
<thead>
<tr>
<th></th>
<th>Substandard</th>
<th>Deteriorated</th>
<th>Dilapidated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Occupied by Heirs</td>
<td>5</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Unoccupied Residence</td>
<td></td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Unoccupied Commercial</td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Rental Occupied</td>
<td>1</td>
<td></td>
<td>1</td>
</tr>
</tbody>
</table>
Some acquisition required condemnation to obtain clear titles:

- Plan had buy-in from neighborhood residents, property owners and community stakeholders
- Most often “friendly” condemnation
- High cost for legal, advertising, appraisals, surveys and administrative fees
- Lengthy process
- Elected officials supportive of project; withstood political pressure & negative public perception
COMMUNITY IMPACT

- Heirs property disproportionately affects low income minority neighborhoods
- Contributes to “slum and blight” and high crime
- Often results in substandard, deteriorated or dilapidated housing stock with numerous code and safety violations
- Properties often small and of low value
- Contributes to high incidence of vacant land & unoccupied houses
ECONOMIC IMPACT

- Families gradually lose economic and personal value of property ownership
- Lowered property values and low tax revenues
- Lack of investment in neighborhoods
- Limited viable commercial property in declining business environment
REMEDIES

- Provide education and other resources to families who want to establish clear title.
- Establish URA plan for greater flexibility and additional local resources.
- Use condemnation through code enforcement to remove blight.
  - Process varies by locale
  - Local government may force demolition of unfit structures but title remains cloudy on now vacant lot
LESSONS LEARNED

- Local government will not solve most heirs property situations.
- Cloudy titles are a detriment to the well-being of low income households and neighborhoods.
- Education and community resources are key to prevent further proliferation of heirs properties.
- Resolution of cloudy titles and property acquisition takes more time and money than you think.
For more information, contact:

Charlotte Christian, Grants Consultant
charlottec684@gmail.com, 229-292-0823