



Heirs' Property Efforts in the South: Survey Responses 2018

Overview

Situation: Heirs' property is inherited land or real estate owned by two or more people as tenants-in-common. Heirs' property often arises because someone dies without a will. In such cases, the decedent's interest in real property is passed down to heirs via state laws of intestate succession (Craig-Taylor, 2000; Mitchell, 2001, 2005; Johnson Gaither, 2016). Over the course of time, a piece of property could have hundreds of owners as it passes from generation to generation (Baab, 2011; Hitchner, et al., 2017; Dyer, 2007; Bailey, 2008; Johnson Gaither, 2017). These fractional interests inherited by individual co-heirs are held *informally*, in that the names of these co-heirs do not appear on formal documents such as property deeds (Thomas, et al, 2004; Breitenbach, 2015.) This lack of documentation creates financial problems for co-heirs because with unclear or fragmented ownership, the property has no value as collateral for conventional home mortgages or loans for farm improvement, crops, or equipment (for example) (Copeland, 1984; Norejko, 2009; Hamilton, 2009; Thompson, 2017). Participation in federal or state programs or to access disaster recovery support for assistance with farming operations is limited based on this type of property ownership (Fleming, Williams, Neubauer, and Schiavinato, 2016). Given that most heirs' property is in the form of small/medium-sized farm land and associated dwellings and outbuildings, the impact on farm viability for these families is immense. Likewise, timber sales on these farmlands are inhibited (often requires all owners signing off on the transaction) and possible increased fire hazards exist on these lands and bordering lands given the relative lack of fire mitigation efforts such as timber harvesting or thinning (Barlow & Bailey 2017; Deaton et al., 2009). Partition sales often result in eviction of tenants (who may be farming the land) (Dyer and Bailey 2008; Grabbatin & Stephens, 2011), which creates hardships for families. Disagreements stemming from heirs' property creates immense strain, regardless of the level of closeness among family members (Thompson, 2017). Policies, laws, and other systems to help families tend to be complex, often requiring families to access additional information, education, and even legal counsel to understand their options. These issues foster not only land loss, but also a loss of family legacy. The linkage of land and homeownership to healthy community life is unmistakable (Hitchner, et al, 2017).

African American communities in the southern Black Belt (a central portion of the Southern Region) have been particularly affected with heirs' property concerns. Much research has examined this issue from within this sub-regional level, particularly from NGOs such as the Federation of Southern Cooperatives, the Land Loss Prevention Project, the Arkansas Farm and Land Corporation, and others. Recently, more community-based studies have addressed this issue as well (Baharanyi et al. n.d.). These studies: (1) show the extent of heirs' property in the African American community, (2) show that heirs' property is treated differently than titled property in terms of access to financial resources, investment and farming activity, and (3)

demonstrates how residence (in or out of county or state) of the “heir on record” (who pays the taxes on the land), also plays a role in how heirs’ property is used (Baba 2010; Bownes et al. in press; Patterson 2018). Also critical, heirs’ property is the primary cause of persistent poverty in areas like the Black Belt due to the inability of owners to access the surplus value inherent in non-collective private property (Wimberley & Morris, 2003).

Similar situations exist throughout the South with White communities in Appalachia, Native Americans living on tribal lands, and in Hispanic *Colonias* in South Texas (Way, 2009; Ward, Way, & Wood, 2012; Way & Wood, 2013; Johnson Gaither, 2016). With each of these areas touching the thirteen states of the SRDC’s footprint (AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA), interest is growing to explore how the SRDC could align with researchers, Extension and others among the region’s LGUs and strengthen active partnerships with non-profit agencies to help address concerns across the South. One missing piece where this proposed regional approach can make an important contribution is to help define the actual extent of the problem across the entire region, making linkages among these pockets of concern noted above, plus considering the other areas in the SRDC region. This 13 state approach is important given that approximately 75% of the nation’s persistent poverty counties are in this Southern region, and agriculture is an important driver of the region. Thus, gaining a clear picture of the impact of heirs’ property for the region is vital. The absence of quality data on the extent and value in dollars of heirs’ property makes it difficult to argue effectively for legal or policy changes that would benefit heirs’ property owners or the larger rural economy (Mitchell 2005). Examples of previous efforts to document the issue’s scope include a few dated estimates (Grabber, 1978; Tinubu and Hite, 1978; Emergency Land Fund, 1980) and a few county level studies that looked deeply into the extent of heirs’ property ownership within those smaller boundaries (Dyer, Bailey, and Tran 2009; Georgia Appleseed 2013). Pippin et al.’s, 2017 recent study uses parcel characteristics within a geographical information system framework to estimate heirs’ property in a more broadly-defined study areas, but confidence intervals for those estimates are not well-established (Johnson Gaither and Zarnoch, 2017). Based on the limited data available, Bailey et al. (in press) conservatively estimate that 1.5 million acres valued at \$4.2 billion are held as heirs’ property in the Black Belt counties of the South. Additional work is needed to more adequately document these figures and expand to the greater Southern Region in order to attract attention of legislators, policy makers, and other influential decision-makers to help foster meaningful change.

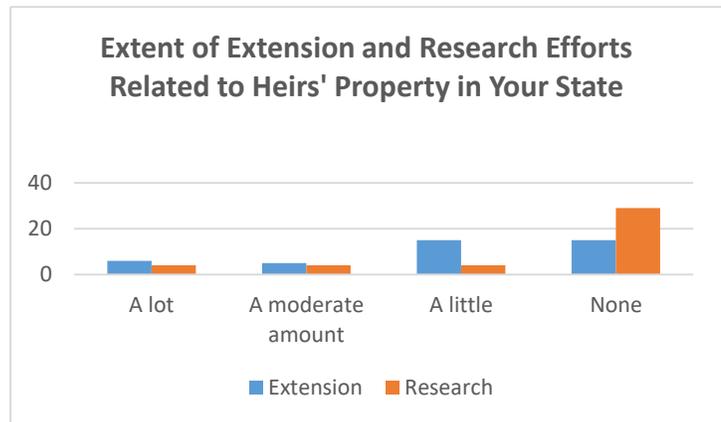
Initial Steps: As efforts to address these concerns rise across the Southern Region, the Southern Rural Development Center’s Board of Directors and the Technical & Operations Advisory Committee (TOAC) identified heirs’ property in October 2017 as an issue for the Center to explore as a part of its 2018 Plan of Work. While modest, initial efforts stemming from the SRDC’s 2017 charge have taken important strides towards bringing the appropriate personnel together. In December 2017, SRDC sent a request to State Program Leaders in Agriculture and Natural Resources and Community Resource Development across the South to identify LGU faculty engaged in efforts around the issue. This initial scan resulted in identifying approximately 40 individuals across 19 of the South’s 30 LGUs. SRDC invited these professionals to join a conference call in January, 2018, to learn more about the interests and

work of this group. After hearing an update from each of the 18 LGU participants, the group requested SRDC conduct a simple survey to begin capturing the work that exists in the LGU system across the South to include who is working, what resources are available, who partners are, and what might be useful next steps. This survey was seen as a crucial early step to avoid duplication of work, gaps in efforts, and missed opportunities to jointly build capacity to respond to the South’s heirs’ property/land tenure challenges, as well as to provide a segue into further collaboration.

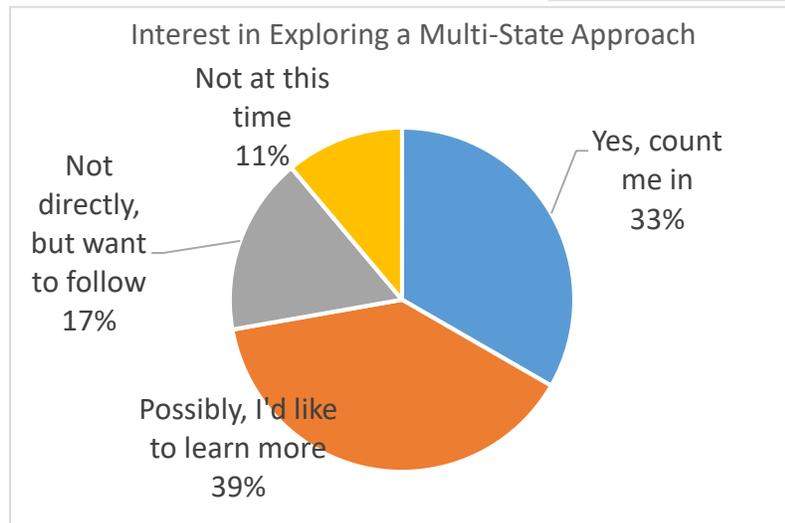
The survey, open between February and June of 2018, took a snapshot of the current state of this work across the South with 41 individuals reporting representing 21 LGUs across 12 of the Southern states. These LGU professionals represented a number of program areas, including agriculture and natural resources; community development; and family and consumer science. The responses received through that effort are summarized in the section that follows.

Survey Responses

Gauging the Current LGU Efforts and Interests: The first two questions asked on the survey sought to gauge current Extension and research efforts within the respective states as well as assess interest in participating in a multi-state effort to address concerns. Responses revealed that only 27% of respondents believed a lot or moderate amount of effort was happening within Extension and only 19% within research in their respective states.



Encouragingly, though, despite these low percentages of current



engagement on the issue, a third of respondents indicated their interest in participating in a multi-state effort, while another 39% indicated they may be interested in joining once they learned more about the effort.

Identifying Materials to Support Efforts: Respondents were asked to identify materials both from within the LGU system as well as from outside sources available that address issues related to Heirs' Property. This provides insights into the breadth of materials available for Extension and Research personnel, and also sheds light on the literature that influences the efforts. Approximately 40% of respondents indicated they used materials from within the LGU system and nearly half (47%) indicated they accessed resources from other organizations.

LGU Materials: Respondents shared a number of resources they used in helping individuals work through heirs' property concerns. Some of these were from within the LGU system while some were from other agencies and organizations. Respondents at 10 LGUs indicated they had materials already developed or in development from within the LGU system to support efforts. The majority of these resources centered on estate planning and working with an attorney. Some focused on specific issues impacting farmers while others had a broader potential audience. (See appendix for listing). The universities indicating they had materials were:

- Florida A&M University (materials in development)
- North Carolina A&T University (materials in development)
- North Carolina State University
- Oklahoma State University
- Texas A&M University
- Tuskegee University
- University of Arkansas
- University of Arkansas at Pine Bluff
- University of Georgia
- University of Tennessee

Materials from Other Organizations: Given nearly half of respondents saw materials from other organizations as valued resources, this points to a possible opportunity to strengthen collaboration on Heirs' Property issues between Extension personnel and researchers across the region, as well as with stakeholders that are outside the realm of the LGU system. To both demonstrate these connections and facilitate future efforts, respondents listed over 80 resources with URL links where available (see appendix for listing.) A survey of the sources listed showed a variety of perspectives from which the issue is being addressed, including social justice/advocacy/civil rights groups, forestry concerns, estate planning/legal interests, and family consumer advocacy groups.

Partnerships: A number of organizations on the national, state, and local levels are actively working to help communities, families, and individuals grapple with the challenges of heirs' property. Survey respondents were asked to identify those organizations with which they already worked. This information can provide clear pointers to where regional efforts can strengthen, beginning from these existing relationships.

National Partnerships: Clearly, USDA is looked to by respondents as a strong national partner. Within the agency, the following entities were specifically named, listed in order of number of people naming them (number in parenthesis):

- Forest Service Agency (4)
- Natural Resources Conservation Service (4)
- Rural Development (3)
- Farm Service Agency (2)
- National Agricultural Statistics Service
- National Institute of Food and Agriculture

In addition to the clear contribution of USDA, other federal agencies were named as important partners, including Federal Reserve Bank, U.S. Department of Housing and Urban Development (HUD), U.S. Department of Justice, Internal Revenue Service, and the Area Agency on Aging. Non-profit organizations also play a strong role in this work. Some of those specifically named include:

- Farm Bureau
- Center for Heirs' Property Preservation
- Black Family Land Trust
- The Appleseed Network (offices in Alabama, Georgia, Louisiana, Texas specifically named) (2)
- U.S. Endowment for Forestry and Communities
- Forest Landowners Association
- The Nature Conservancy
- The Black Farmers Agriculturalists Association
- North American Food Systems Network (NAFSN)
- Federation of Land Trust
- Land Trust Alliance
- American Farmland Trust
- Trust for Public Lands
- Federation of Southern Cooperatives
- The Midwest Center for Nonprofit Leadership
- National Agricultural Law Center
- Southern Poverty Law Center
- The Center for Heirs' Property Preservation

Land-Grant University Partnerships: Clearly, a number of the survey respondents had identified colleagues within the Land-Grant System on which they could draw for help on this issue. Nine specific institutions were named as partners, all but one of which is in the Southern Region. These include (listed alphabetically):

- Auburn University
- Clemson University Extension
- Florida A&M University
- Fort Valley State University
- Kentucky State University
- North Carolina A&T University
- North Carolina State University Extension
- South Carolina State Extension
- Oregon State University (Western Region)
- Tuskegee University

Additionally, the 1890 LGU systems as a whole was seen as a strength to this work. This is somewhat evidenced by the fact that 6 of the 10 LGUs named above are 1890 institutions. Also, eXtension's Financial Security for All Community of Practice was named as an important LGU system partner.

State Partnerships: In addition to strong national partnerships, respondents revealed the importance of state organizations, many of which were forestry organizations, attorney and legal services organizations (many of which were associated with university law centers/schools), nonprofit/advocacy groups, agriculture lenders, and land trust organizations. Of course, those families and individuals experiencing the impacts of heirs' property issues personally had a proximate place in the local partnership list.

Funding Sources: Respondents shared information about useful funding sources for this work. Reflecting responses above related to partnerships, the number of times USDA entities were named as funding sources was not surprising. In addition to those noted as partners, the regional Risk Management organizations (funded through USDA NIFA) and funding through USDA's Renewable Resources Extension Act were also noted. HUD and the Department of Defense were also listed among the federal funding sources. From the non-profit arena, listings also reflected the partners noted above including:

- Farm Bureau/Farm Credit
- National Science Foundation
- North Carolina Sustainable Forestry Initiative (NC SFI)
- North Carolina Forest Service
- The Southern Risk Management Center
- The Fondren Foundation (Texas)
- The U.S. Endowment for Forestry and Communities (2)
- Forest Foundation Grant
- Land trust organizations
- Large banking institutions
- Private sources/gifts/foundations (4)
- Law schools

When asked what could be done to encourage funders to place a greater emphasis in this area, education and awareness were considered major approaches. Headlining this emphasis was stressing the importance of the issue to stakeholders who may not realize the urgency of the problem. One respondent suggested including real stories from landowners, which would help put a “face” on the struggles that heirs’ property issues can cause. Several suggested framing the issues around impacts rather than emphasizing racial divides. This might include the importance of conserving working lands to ensure farming in the future, supporting local economic development, preventing wildfires, and supporting eco-tourism and beautification programs.

Role of the Land Grant System in this Work: Respondents were asked to share that they thought LGUs could contribute to resolving these perplexing issues through Cooperative Extension Service. Specifically, with so many agencies at work, what is the specific role or niche for Cooperative Extension Service in this space? Given the CES mission, it is not surprising that education was specifically tagged as a key contribution. Educating farmers, funders, and community leaders were emphasized. Specifically, education targeting farmers should include financial management practices, business planning, and succession planning, as well as where to find resources to resolve existing problems. These could be done through a variety of methods including workshops, fact sheets, websites, etc., some of which could be tapped by farmers by training county Extension agents to assist. Additionally, some LGUs have dedicated legal staff that can assist in more direct ways to resolve heirs’ property issues that families may face.

Another role identified for CES is to build collaborations to help strengthen support on the regional, state, and local levels. Convening partners, engaging LGU research and CES in joint efforts, and helping to facilitate strategic planning sessions are all potential roles CES can play to support efforts.

To do this work well, the LGU system may need to build capacity internally. Respondents were asked what they thought were needed steps in order to strengthen capacity in the South within the system.

- Raise awareness of the concern both within the LGU systems as well as in communities
- Identify topics and methods effective in helping individuals struggling with heirs’ property concerns
- Gather, distribute, and/or develop resources that could be used across the South to support Extension efforts
- Develop professional training opportunities for CES staff across the region.
- Synthesize data collection across the region to determine the extent of the issue more clearly
- Identify and link relevant research (and researchers) to Extension outreach efforts
- Build regional and national cooperation among LGUs and relevant partners.

Summary

In summary, without the blended expertise across disciplines, states, research and Extension, and across agency lines, conquering challenges related to addressing the issue of heirs' property/land tenure in the South will be difficult. More is possible by working collaboratively. Of all regions of the nation in need of effective work in bridging these needs, the South is a perfect place to start. The Southern Rural Development Center will continue to explore this work further and begin to help form bridges across the region to strengthen partnership ties.

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Appendix

Resources from within the LGU System Identified by Respondents, Organized by State:

Arkansas

- Advance directives worksheet: <https://www.uaex.edu/health-living/personal-finance/life-stages-events/end.aspx>
- Estate planning defined: <https://www.uaex.edu/health-living/personal-finance/EstateDefined.pdf>
- Financial inventory worksheet: https://www.uaex.edu/health-living/personal-finance/life-stages-and-events/Financial_Inventory.pdf
- Getting started on an estate plan: <https://www.uaex.edu/publications/pdf/FSFCS57.pdf>
- Legal language for property owners (FSFCS-85): <https://www.uaex.edu/publications/pdf/FSFCS58.pdf>
- Net worth worksheet: https://www.uaex.edu/health-living/personal-finance/life-stages-and-events/Net_Worth.pdf
- Retirement and estate planning: <https://www.uaex.edu/health-living/personal-finance/retirement-estate-planning.aspx>
- What is a will?: <https://www.uaex.edu/publications/PDF/FSFCS47.pdf>

North Carolina:

- Conserving working lands: Retrieved from <https://content.ces.ncsu.edu/conserving-working-lands-a-land-legacy-workbook-with-tools-and-resources-to-guide-your-conservation.pdf>
- Estate planning: <https://forestry.ces.ncsu.edu/estate-planning/>
- Estate planning in North Carolina: How do you own your property: <https://ag-econ.ncsu.edu/wp-content/uploads/2015/11/AG-688-01Accessible.pdf>
- Sustaining ecological and economic diversity among limited resource landholders by expanding opportunities for management of productive woodlands: https://projects.ncsu.edu/woodlands/current_pdfs/sw_final_hiatt.pdf
- Your estate plan – Where to begin: <https://content.ces.ncsu.edu/your-estate-plan-where-to-begin>

Tennessee:

- Planning today for tomorrow's farms: <https://extension.tennessee.edu/publications/Documents/PB1791.pdf>
- Power of attorney: <https://extension.tennessee.edu/publications/Documents/SP743-D.pdf>
- Wills: <http://www.tnstate.edu/extension/documents/Wills.pdf>
- Working with an attorney: <https://extension.tennessee.edu/publications/Documents/SP743-B.pdf>

Texas:

- Roberts, A. R. 2017. Documenting and preserving Texas freedom colonies. Texas Heritage (2): 14-19. https://www.academia.edu/33690477/Documenting_and_Preserving_Texas_Freedom_Colonies

Resources from Outside the LGU System Identified by Respondents

AgRisk Management Library, Presentations uploaded by Shannon Ferrell:

https://agrisk.umn.edu/Conferences/Presentation/farm_business_succession_transition_tools_and

American Farmland Trust: <https://www.farmland.org/>

Arkansas Forestry Commission: <http://www.aad.arkansas.gov/arkansas-forestry-commission>

Arkansas Land & Community Development Corporation: <http://alfdc.webs.com/>

Attorney Mavis Gragg (Durham, NC): <http://www.gragglawfirm.com/>

Black Family Land Trust: <http://www.bflt.org/>

Bowen School of Law (Bowen Clinic): <http://ualr.edu/law/>

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Center for Heirs' Property Preservation: <http://www.heirsproperty.org/>;
<http://www.heirsproperty.org/what-we-do/what-we-do-for-heirs-property-owners>

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