



GEORGIA HEIRS PROPERTY  
LAW CENTER

# MYTHS & FACTS

## Heirs Property in Georgia

### WHO OWNS HEIRS PROPERTY, WHERE IT'S LOCATED AND ITS IMPACT ON GEORGIA'S ECONOMY

**MYTH:** My family is unique; we own land collectively.

**FACT:** Many families have heirs property or have a story about heirs property. Research conducted in 2017 found that 11% to 25% of properties in Georgia is probable heirs property.

**MYTH:** I've never heard of heirs property so I must not have it.

**FACT:** Heirs property is a legal term defined in Georgia law, but it goes by many names, such as: Family Land, Tangled Title, and Grandpa's Land, even though grandpa may have been dead for several decades.

**MYTH:** Heirs property is only found in one area of Georgia.

**FACT:** Heirs property is found all across Georgia and all over the country. Heirs property can be found in rural and urban Georgia and includes houses, farms, forests, and commercial properties.

**MYTH:** Heirs property only has negative consequences for the owners and not for me.

**FACT:** Heirs property impacts all levels of community. Heirs property causes blight, which decreases neighborhoods' stability, reduces housing values, and depresses a municipality's tax base. Heirs property prevents banks from making loans and insurance companies from being able to issue policies.

**MYTH:** People who have heirs property know that they have heirs property.

**FACT:** Some individuals may not know they have heirs property. Even though someone lives on heirs property, the tax bill comes to them, and they were told by relatives that the home is theirs, it can still be heirs property. Other heirs may not live in Georgia, may never have seen the property, or even know they have ownership, yet they are also co-owners.

### SELLING HEIRS PROPERTY IN WHOLE OR PART

**MYTH:** It's not important to clear title to heirs property because heirs property status protects the property by preventing it from being sold.

**FACT:** Marketable title is necessary to protect and manage property especially since individual heirs' interest in the property can be sold, making the property vulnerable to forced sales. Any one, family or non-family, who owns an interest in the property, no matter how small the interest, can force a sale.

**MYTH:** As an heirs property owner I can sell timber or produce from the heirs property.

**FACT:** A single heir does not have the right to sell timber or any other resource from the property without a written, legal agreement with the other heirs or permission from a court of law. Doing so is a form of theft.

## PROPERTY TAX MYTHS

### MYTHS:

- I have a greater ownership interest than others because I pay the property taxes.
- If I pay the property taxes, I own the property outright.
- If my family members don't pay the property taxes, then the property belongs to me, and I can do whatever I want with it.
- If someone pays all the back taxes, they own the property.

**FACT:** Paying current or back taxes does not increase your legal ownership of any real property, including heirs property.

**MYTH:** Buying heirs property at a tax sale clears the title.

**FACT:** When property is bought at a tax sale, the buyer obtains the title in whatever condition the title was in at the time of the sale. This means that if it was heirs property at the time of the sale, the buyer has bought a clouded title.

**MYTH:** If the tax bill is in my name, I own the property.

**FACT:** A tax bill does not indicate ownership of property.

**MYTH:** You aren't responsible for the back taxes on the property if the deed holder passed away. Those are their debts.

**FACT:** Property tax liens are debts of the deceased deed holder and must be paid by someone if the heirs want to keep the property from being sold at a tax sale.

## LIVING (OR NOT LIVING) ON THE PROPERTY

**MYTH:** If I live in the house I legally own it.

**FACT:** Living in a house does not increase your legal ownership in heirs property.

**MYTH:** An heir can change the locks or restrict other heirs' access to heirs property.

**FACT:** One heir cannot keep another heir from enjoyment of the property. All heirs have equal, legal right to use and possess the property.

**MYTH:** If I live on heirs property and take care of it, I can take out a loan against the property to put on a new roof or continue to farm the land.

**FACT:** An heir cannot use their partial interest in heirs property as collateral for a bank loan. Banks will not lend money to one heir who has a partial interest in a property, so loans with heirs property as collateral can only be obtained through the agreement of all heirs who co-own the property.

**MYTH:** If I am living in heirs property, I can qualify for home repair programs without the agreement of the other heirs.

**FACT:** Most home repair programs require clear title to the property, or require that all heirs are in written agreement to be considered eligible.

**MYTH:** Whoever lives on the heirs property and takes care of it automatically inherits the property upon the owner's death.

**FACT:** Living in and caring for property (house or land) does not mean you inherit it all upon the current resident or owner's death. All real property, if there is not a last will and testament, is passed down to all descendants of the person on the last recorded deed.

**MYTH:** If I own the largest interest in heirs property, then I get the most say in what happens to the property.

**FACT:** All heirs, no matter what percentage of their interest, are legal co-tenants with equal rights and equal say in the management and responsibility of the heirs property.



### AGREEMENTS

**MYTH:** An heir cannot sell his or her interest in heirs property without the consent of the other heirs.

**FACT:** An heir can sell his or her interest in heirs property to any non-family or family member and does not need the consent of any other heir.

**MYTH:** Heirs property can't be sold unless all of the heirs agree to it.

**FACT:** Under certain circumstances, such as a forced sale through a partition action or a tax sale, the property can be sold without all heirs agreeing.

### ESTATE PLANNING MYTHS

**MYTH:** You cannot create heirs property in a last will and testament.

**FACT:** When you leave property to multiple beneficiaries in your will you have created heirs property. For example leaving your house to all of your children in your will makes them the owners of heirs property.

### PROBATE MYTHS

**MYTH:** If I die without a last will and testament and do not have a Joint Tenancy with Survivorship Deed, my spouse inherits everything, even if I have living or deceased children.

**FACT:** Under Georgia law, if you pass away without a last will and testament and did not own your home with your spouse as joint tenants with right of survivorship, your children and your spouse inherit the property and co-own it together as tenants-in-common (aka heirs property). If one of your children has pre-deceased you, their children will inherit the deceased child's portion.

**MYTH:** If a last will and testament says I am to inherit property, then as long as I keep the last will and testament safe, I legally own the property and do not need to go through the Probate Court process.

**FACT:** Title to real property can only pass to the beneficiaries of a last will and testament (including spouses and children) if the will goes through the Probate Court process. The named executor or anyone else in possession of an original last will and testament is required to submit it for probate or, if they don't want to start the Probate Court process, file it with the county

### WHO IS AN HEIR?

**MYTH:** A spouse has to be on the deed to inherit a share of the property.

**FACT:** A spouse does not have to be on the deed to inherit a share of the property. A surviving spouse can inherit through a last will and testament or if there is none, under the Georgia intestacy laws. If there is no will and the deceased person also had children, the spouse and all of the children will inherit.

**MYTH:** Heirs property is a family problem and they are solely responsible for solving it.

**FACT:** To resolve and prevent heirs property, it takes a wide set of skills and people: ranging from attorneys to genealogists, elected officials, government employees, non-profit employees, and bankers.



**GEORGIA HEIRS PROPERTY  
LAW CENTER**

Georgia Heirs Property Law Center is a not-for-profit law firm that helps heirs property owners, nonprofits, and municipalities remediate fractured title, increase equity and transfer wealth to the next generation through title clearing, wills creation, estate planning and facilitating access to government, private sector, and nonprofit land management or home improvement programs.

# Building Generational Wealth and Strengthening Communities by Securing and Preserving Property Rights.

## WHAT WE DO



### LEGAL SUPPORT

Georgia Heirs Property Law Center provides legal support for families, individuals, nonprofits and municipalities. Title-clearing services include title audits, family meetings, probate, quiet title actions, and legal tools like management agreements; powers of attorneys; consolidation of title into single ownership, LLC, or trust.



### LAND LOSS PREVENTION

Georgia Heirs Property Law Center develops estate plans and prepares last wills and testaments for individuals to foster generational wealth transfer and prevent land loss. Services may include advanced directive for healthcare, financial power of attorney, and establishing a trust or LLC. In addition, the Center provides educational materials for nonprofits through its Estate Planning Forms Project.



### ASSET EDUCATION

Georgia Heirs Property Law Center provides financial education on home and land ownership to grow assets for the next generation. The Center engages nonprofit and governmental partners to help clients develop land/timber management plans, qualify for USDA programs, and access home repair, Disaster Recovery and Resilience programs.

## WHO WE ARE



Center attorneys, support staff, and a network of pro bono volunteers and grassroots organizational partners



Statewide work with geographic outreach in Atlanta and South Georgia



Serving families, individuals, nonprofits, and municipalities with legal support, prevention, and asset education services.



Offices in Atlanta, Athens, Fitzgerald, and Valdosta.

**Heirs Property is the hidden story behind blight and generational poverty in Georgia.**

Heirs property refers to a home or land that passes from generation to generation without a legally designated owner resulting in ownership divided among all living descendants in a family. This unstable form of ownership limits a family's ability to build generational wealth and hampers the efforts of nonprofits and cities to revitalize neighborhoods.

## CONTACT US

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