UNDERSTANDING HEIRS' PROPERTY AT THE COMMUNITY LEVEL:

OVERVIEW, PREVENTION, & RESOLUTION



Alcorn NATIONAL POLICY RESEARCH CENTER

SOUTHERN EXTENSION RISK MANAGEMENT EDUCATION

SRDC

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OVERVIEW PAGES 3-80

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RESOURCES PAGES 239-256

Summary of Linked Resources
Case Studies

This material was developed and training for trainers was provided as a partnership with the National Policy Research Center at Alcorn State University, the Southern Extension Risk Management Education Center, and the Southern Rural Development Center hosted at Mississippi State University through funding in part from USDA.

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UNDERSTANDING HEIRS' PROPERTY AT THE COMMUNITY LEVEL: OVERVIEW



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OVERVIEW

OBJECTIVES

- What is heirs' property?
- Impacts of heirs' property
- Importance of legal and cultural considerations
- Fractional ownership: Challenges of time, distance, and knowledge
- Locating and preventing land loss

ESTIMATED TIME TO COMPLETE

4 hours

BEFORE THE MEETING

- Add dates and location to slide 1.
- Add today's presenter names to the designated slide.
- Set out registration materials, including sign in and nametags.
- Access and test for video and sound of video on slide 25.
- Prep for Activity slide 43.
- Check the map on slide 54 against the source. If the map has changed, update the map and the date to reflect the current information. Map Source: https://www.uniformlaws.org/committees/community-home?CommunityKey=50724584-e808-4255-bc5d-8ea4e588371d
- Set out all handouts except the evaluation for each person.

MATERIALS NEEDED

- Nametags
- Pens or pencils

HANDOUTS AND TOOLS

- Agenda – A sample agenda for the entire curriculum is included in the **Overview** section. If you are doing this session as a separate session, you can adapt that sample to fit your situation.
- Definitions and Key Terms

- Guidance for Heirs' Property Operators Participating in Farm Service Agency (FSA) Programs. Fact Sheet, July 2020. Available at: https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/FactSheets/guidance_heirs_property_operators_participating_in_fsa_programs-factsheet.pdf
- Update to FEMA's Individual Assistance Program and Policy Guide, Version 1.1 available at: https://www.fema.gov/sites/default/files/documents/fema_updated-iappg-version-1.1.pdf
- FEMA Makes Changes to Individual Assistance Policies to Advance Equity for Disaster Survivors available at: https://www.fema.gov/press-release/20210902/fema-makes-changes-individual-assistance-policies-advance-equity-disaster#:~:text=FEMA%20is%20amending%20its%20current,the%20survivor's%20home%20before%20the
- State Factsheets on Heirs' Property – Go to the link to identify and print the fact sheet for your state if it is available (scroll down the page to see the states). https://farmlandaccess.org/heirs-property/#statefactsheets
- Evaluation – The evaluation covers all three sections. If you are not doing all three sections together, you can adapt as described in the evaluation instructions.

SLIDE 1

INSTRUCTIONS



Before the session begins, insert the date and location for your event. Have this slide up as participants enter the room.

Please acknowledge that this material was developed in partnership with National Policy Center at Alcorn State University, the Southern Extension Risk Management Education Center, and the Southern Rural Development Center through funding in part from USDA.

Time: 1 Minute

Materials: None

Handouts: None

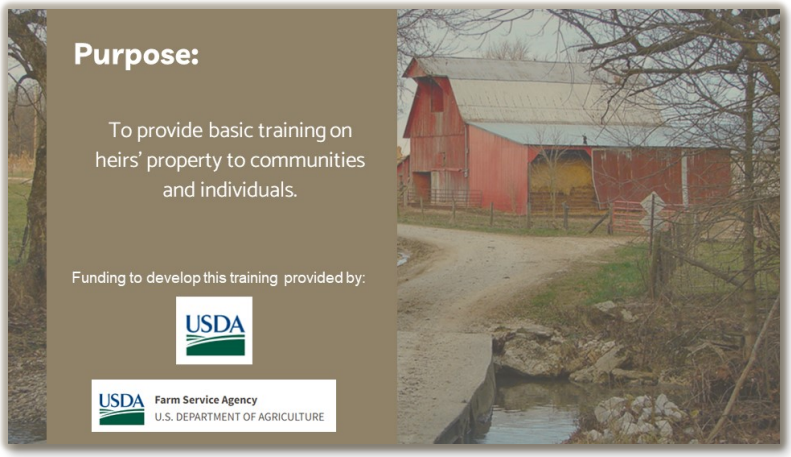
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NOTE: If you do not do all three segments at the same event, insert slides 1-4 at the beginning of your other sessions as they provide the overarching foundation for the training.

SLIDE 2

INSTRUCTIONS

Explain the purpose of the overall curriculum.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 3

INSTRUCTIONS

This slide highlights the partnering organizations that have worked together to develop materials and host trainings.



This material was developed and training for trainers was provided as a partnership with the National Policy Research Center at Alcorn State University, the Southern Extension Risk Management Education Center, and the Southern Rural Development Center hosted at Mississippi State University through funding in part from USDA.

Time: 1 Minute

Materials: None

Handouts: None

SLIDE 4

INSTRUCTIONS

Please acknowledge the primary and contributing authors to this material as well as the funding stream through the Southern Rural Development Center and the National Policy Research Center at Alcorn State University.



Acknowledgements

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- Savi Horne, Esquire, Executive Director, Land Loss Prevention Project
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Time: 1 Minute

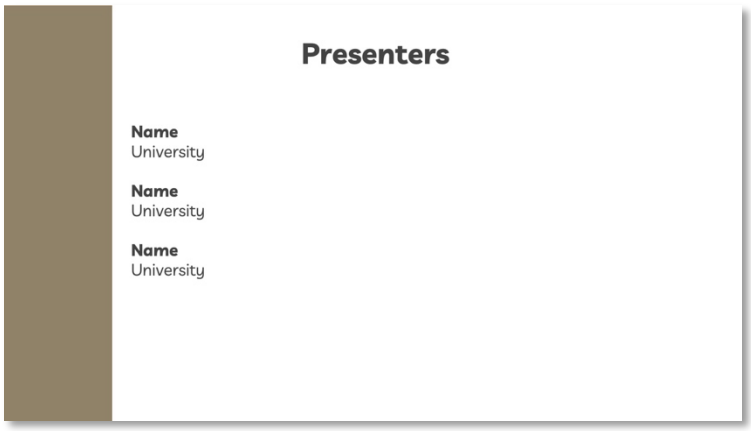
Materials: None

Handouts: None

SLIDE 5

INSTRUCTIONS

Add presenter information and introduce yourselves.



Time: 1 Minute

Materials: None

Handouts: None

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SLIDE 6

INSTRUCTIONS

This slide shows the three parts of the curriculum and gives a quick view of the components covered in each section.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 7

INSTRUCTIONS

Give time for participants to introduce themselves and their interest in learning about heirs' property.

Have participants give their name and affiliation, etc.

Possible prompts: What brings you to this workshop? What are you curious about when it comes to heirs' property?



If in tables, have people share for a maximum of a minute. If in rows, have them form dyads or triads and share.

Time: 1 Minute

Materials: None

Handouts: None

SLIDE 8

INSTRUCTIONS

This slide begins the Overview section.



Time: 1 Minute

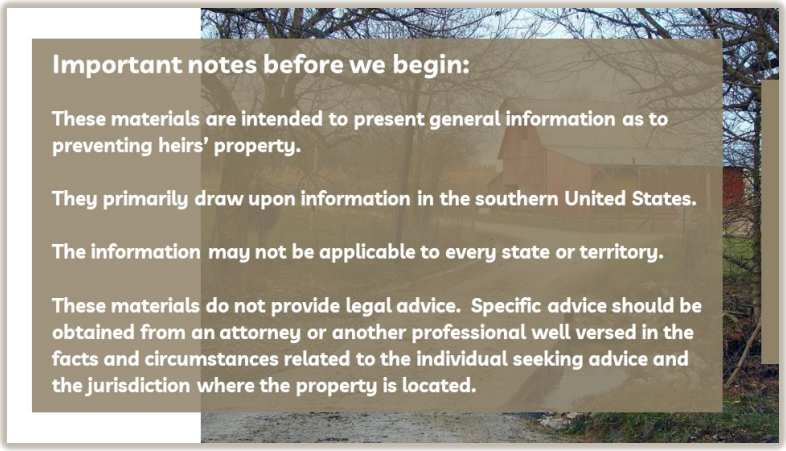
Materials: None

Handouts: None

SLIDE 9

INSTRUCTIONS

Read the disclaimer and answer any questions that may arise.



Time: 1 Minute

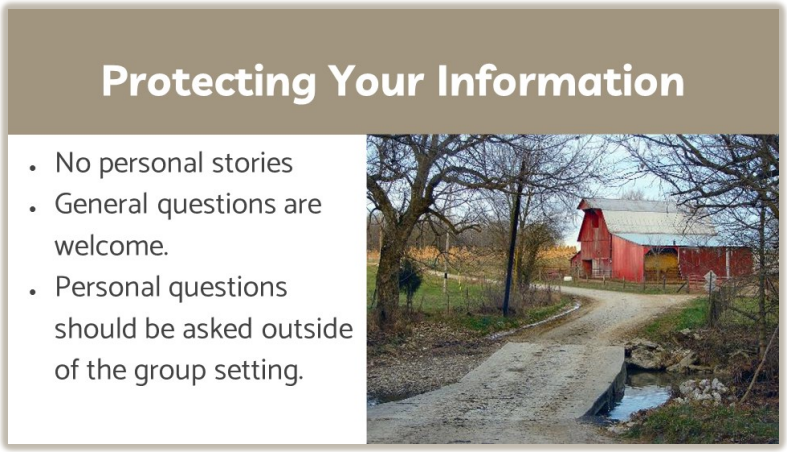
Materials: None

Handouts: None

SLIDE 10

INSTRUCTIONS

Go over these guidelines with participants to ensure that participants understand the reasons for not including stories or questions of a personal nature.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 11

INSTRUCTIONS

This is the section opener for discussing what heirs' property is.



Time: 1 Minute

Materials: None

Handouts: None

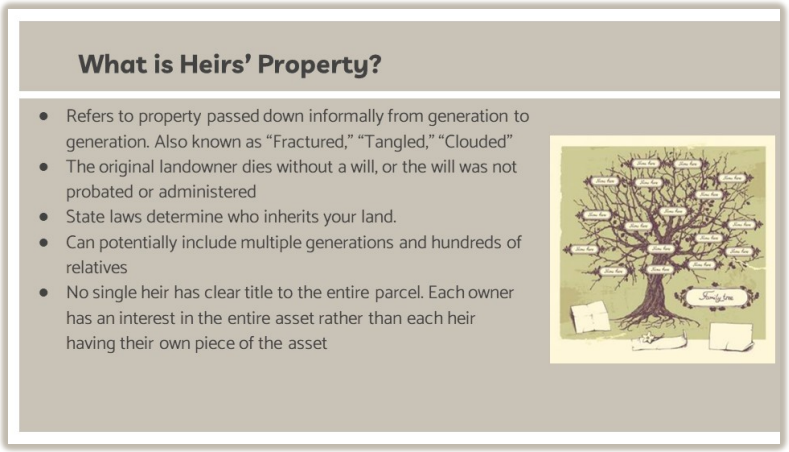
SLIDE 12

INSTRUCTIONS

Using the talking points on the slide, give a brief overview of what is meant by heirs' property.

Everyone gets their interest in the property. The interest amount is determined by heirship.

A person is not an heir until their previous generation has passed.



No matter what the interest size, each person is a co-owner, and all co-owners have the same amount of right (legally) to do or not do anything to the land. This will be explained more in the family tree section later in this presentation.

Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 13

INSTRUCTIONS

Go over the rights that each heir has a co-owner as described on this slide.



Time: 1 Minute

Materials: None

Handouts: None

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SLIDE 14

INSTRUCTIONS

As these examples demonstrate, heirs' property is referred to by a lot of different names. These variations sometimes even appear within the same county.

- The heirs' own the property "**without a clear title**"
- Sometimes referred to as "**Family Land**", "**Fractured**", "**Tangled**", or "**Clouded**"



This restricts being able to manage the property and use the asset to accumulate wealth

Discussion: What challenges do you think this might cause?

Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 15

INSTRUCTIONS

As these examples demonstrate, heirs' property is referred to by a lot of different names. These variations sometimes even appear within the same county.

Discussion: What challenges do you think this might cause?

Common Terms

The heirs' own the property without a "**clear title**"

Sometimes referred to as "**Family Land", "Fractured**", "**Tangled**", or "**Clouded**"

This restricts being able to manage the property and use the asset to accumulate wealth

Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 16

INSTRUCTIONS

This important note helps set the stage for why this education is needed. No one wants the state to make the final decision on how their estate is divided after their death.



Time: 1 Minute

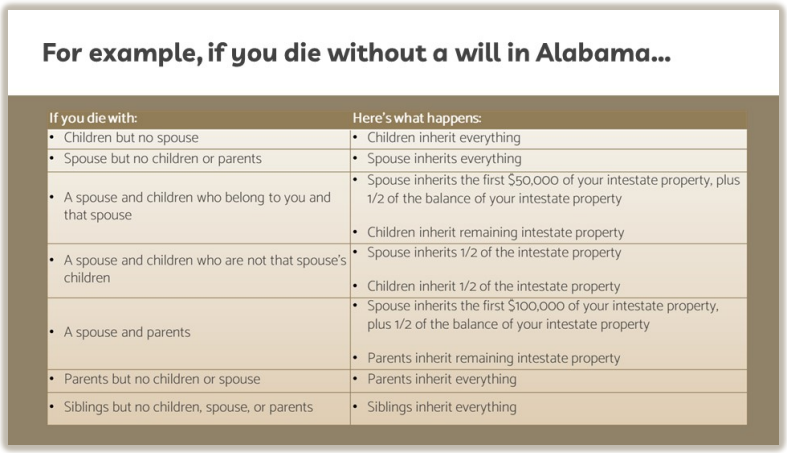
Materials: None

Handouts: None

SLIDE 17

INSTRUCTIONS

This chart shows the complexity of what could happen in just one state. State laws vary, making for a very complicated system.



For example, if you die without a will in Alabama...

If you die with:	Here's what happens:
• Children but no spouse	• Children inherit everything
• Spouse but no children or parents	• Spouse inherits everything
• A spouse and children who belong to you and that spouse	• Spouse inherits the first $50,000 of your intestate property, plus 1/2 of the balance of your intestate property • Children inherit remaining intestate property
• A spouse and children who are not that spouse's children	• Spouse inherits 1/2 of the intestate property • Children inherit 1/2 of the intestate property
• A spouse and parents	• Spouse inherits the first $100,000 of your intestate property, plus 1/2 of the balance of your intestate property • Parents inherit remaining intestate property
• Parents but no children or spouse	• Parents inherit everything
• Siblings but no children, spouse, or parents	• Siblings inherit everything

Note: If participants begin asking a lot of "what if" questions about specific situations, use caution in responding. Rather remind participants that these are general statements intended to demonstrate the complexity of the situation.

Also, remember, and remind the participants, that you are not a lawyer, and detailed questions are better answered by a lawyer.

Time: 5 Minutes

Materials: None

Handouts: None

Source: https://www.nolo.com/legal-encyclopedia/intestate-succession-alabama.html

SLIDE 18

INSTRUCTIONS

This is the section opener for discussing what heirs' property is.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 19

INSTRUCTIONS

Heirs' property impacts multiple levels from the personal/family to community levels.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 20

INSTRUCTIONS

Heirs' property may restrict what the land can be used for, including generating income or improving it, e.g., getting a loan to build a permanent structure such as a house.

Heirs' property restricts how land can be managed. Heirs need to agree on any decision concerning the land, including division of profits, for example:

- Timber harvesting and reforestation
- Farm planting and harvesting
- Mineral rights
- Mortgages and other loans
- USDA programs
- Conservation easements



Time: 5 Minutes

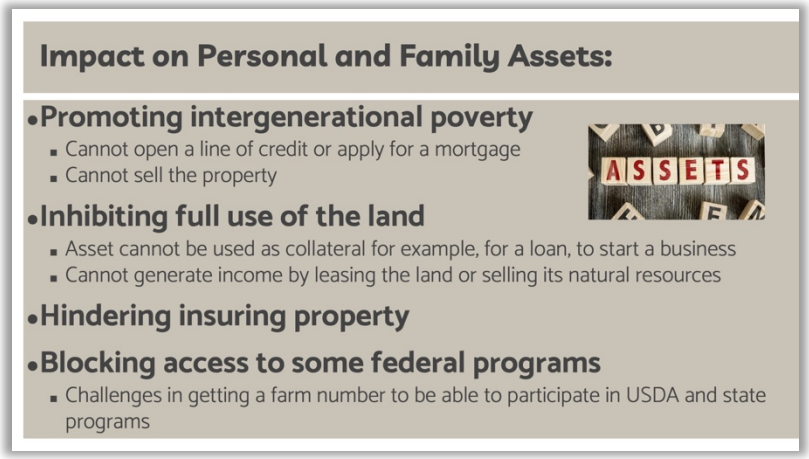
Materials: None

Handouts: None

SLIDE 21

INSTRUCTIONS

While owners of heirs' property have an asset, it is an asset with very limited capability. Stress these shortcomings of this asset.



- Promoting intergenerational poverty – the lack of personal ownership of the land inhibits wealth creation.
- Inhibiting full use of the land– some potential uses of the land require all heirs to agree, which can be challenging.
- Hindering insuring property – May require proof of ownership, which is challenging for heirs.
- Blocking access to some federal programs – some federal programs require proof of ownership to participate.

Time: 4 Minutes

Materials: None

Handouts: None

SLIDE 22

INSTRUCTIONS

While owners of heirs' property have an asset, it is an asset with very limited capability. Stress these shortcomings of this asset. Especially when trying to participate in federal programs like USDA or FEMA.

Impact on Participation in Federal Programs:

- **Historically lack of title has made it difficult to participate in federal agricultural programs offered by (USDA)**
- **Recent positive policy changes address some of those challenges (ex: heirs' property owners can now get farm numbers and participate in USDA programs under certain conditions).**

Time: 4 Minutes

Materials: None

Handouts: None

SLIDE 23

INSTRUCTIONS

This slide shows how limits in use of heirs' property land ultimately impact the community.

If heirs' property affects how land is managed, and it cannot be developed to its full potential, then the community loses on potential taxes based on increased development and improvements.

This impacts:

- Roads and Bridges
- Fire and Safety
- Sanitation
- Education



Time: 5 Minutes

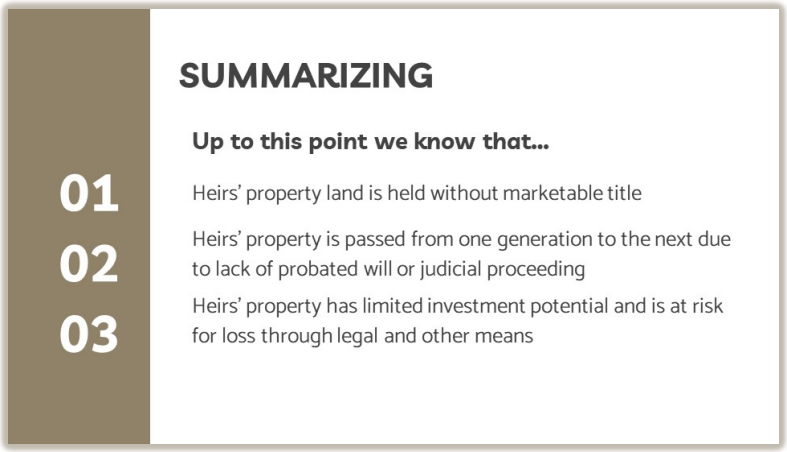
Materials: None

Handouts: None

SLIDE 24

INSTRUCTIONS

Review these summary points to prepare for the next section..



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 25

INSTRUCTIONS

This is the section opener for discussing legal and cultural barriers that heirs' property owners may face. Both legal and cultural considerations are Important in determining how land is passed down and used from one generation to the next.



Time: 1 Minute

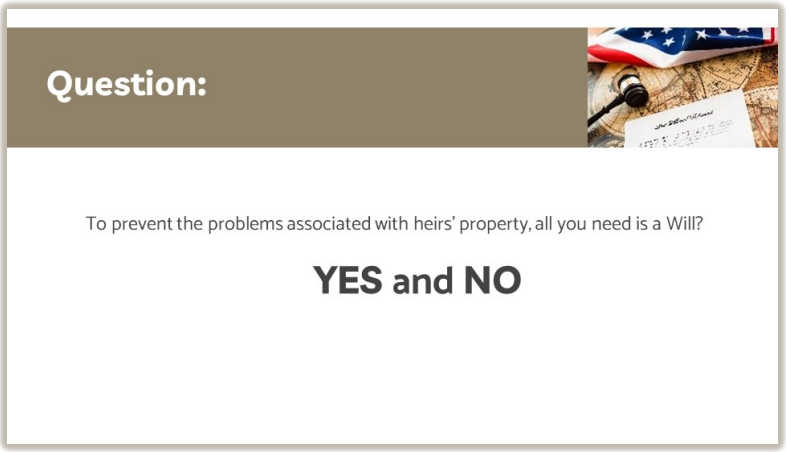
Materials: None

Handouts: None

SLIDE 26

INSTRUCTIONS

Some might quickly assume that all that is needed is a will. However, several points come into the picture as families navigate this space.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 27

INSTRUCTIONS

This slide discusses the "**yes/no**" in more detail. Note that in addition to the slides in this overview section, this curriculum includes a more detailed section on prevention of heirs' property through estate planning.



Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 28

INSTRUCTIONS

Several barriers exist to transferring land. Some of the most often noted ones are listed here.



Previous studies have found that a large percentage of Americans in general do not have a will (often as high as 50%). The percentage of African Americans without a will is significantly higher, approaching 70% or more. The reasons for not writing a will or other forms of estate planning include misinformation about how, when or who to include in a will; the avoidance of family disputes on who will receive what assets; to even beliefs that writing a will indicates that a person is ready to die or will bring on death.

Time: 5 Minutes

Materials: None

Handouts: None

The expense for an attorney is not insignificant, though some may provide a sliding scale.

Many landowners have past experiences or heard stories dealing with lawyers, judges, and other county officials who participated in land takeaway schemes.

SLIDE 29

INSTRUCTIONS

Culture may also play a part in creating barriers. For instance,



- Land is not a commodity to be sold. Some consider land to be a part of the family in a different way than other financial assets. Thus, it isn't considered a commodity to be sold.
- Taboo Death Talk. In some cultures, talking about death is considered "taboo," which can hinder discussions about prevention or resolution.
- Land provides a homestead where everyone can come back. Having a family "homestead" where all generations can gather is valued in some cultures.
- Land gives a religious connection that should be respected. The history of the land should be respected.

Time: 5 Minutes

Materials: None

Handouts: None

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SLIDE 30

INSTRUCTIONS

Other cultural barriers include:

- Heirs that live further away in distance from the land may place less priority on keeping the land intact.
- All heirs may not agree on how the land should be used and accessed.
- Younger generations may value land differently than older generations.



Time: 5 Minutes

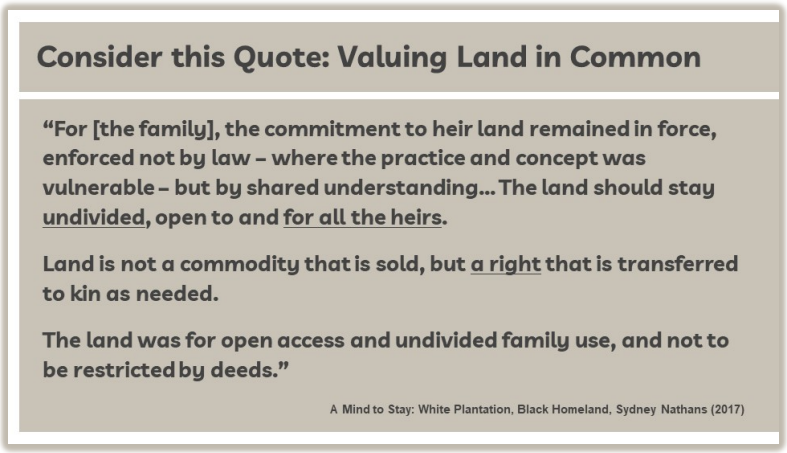
Materials: None

Handouts: None

SLIDE 31

INSTRUCTIONS

On the other hand, some families prefer that all family members have equal access to family land. Unfortunately, besides the economic consequences of heirs' property (provided previously), having unsecured title means that the land is vulnerable to partition sales (upcoming slides).



Read this quote.

Pair/share: What do you hear in this quote that is similar to your family's thoughts about land ownership? What is different?

Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 32

INSTRUCTIONS

Read this quote.

Pair/share – Do you see this situation in your family? What interest do you see in younger generations in maintaining the land?

What challenges could be created if any of the heirs are no longer interested in keeping the land?

Consider this quote: Changing Values

"When young people grow up…they don't see the necessity of owning land….My parents, my grandparents, suffered all their lives to buy eleven hundred acres of land…[Land] had a sentimental value to it, 'cause we had to get a livelihood, we had to get our bread from the land….Now children think that milk comes from the store….They don't see the relevance of the land….[They] have no idea what it took for black folks to own land."

A Mind to Stay: White Plantation, Black Homeland, Sydney Nathans (2017)

Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 33

INSTRUCTIONS

Search Title: "How Property Law Is Used to Appropriate Black Land"

Before playing the video let people know this video could raise difficult emotions, which we will have time to talk about after the video.

After viewing the video, ask participants what they have learned from this family's experience?



.**Link:** https://www.youtube.com/watch?v=ls3P_Fic07I

Time: 22 Minutes

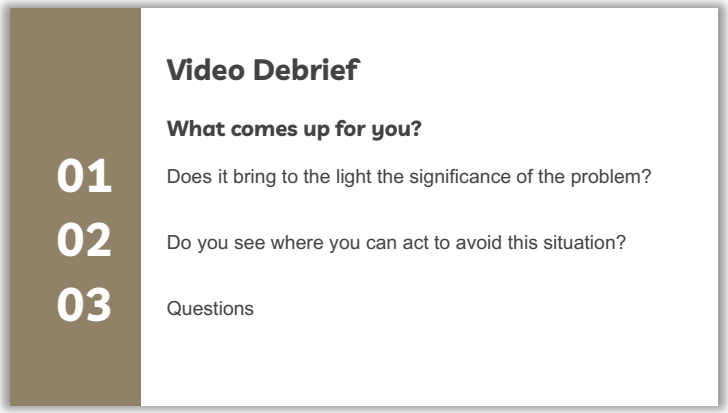
Materials: None

Handouts: None

SLIDE 34

INSTRUCTIONS

Guide a discussion about the film and give the audience a chance to speak on thoughts and feelings.



Time: 5 Minutes

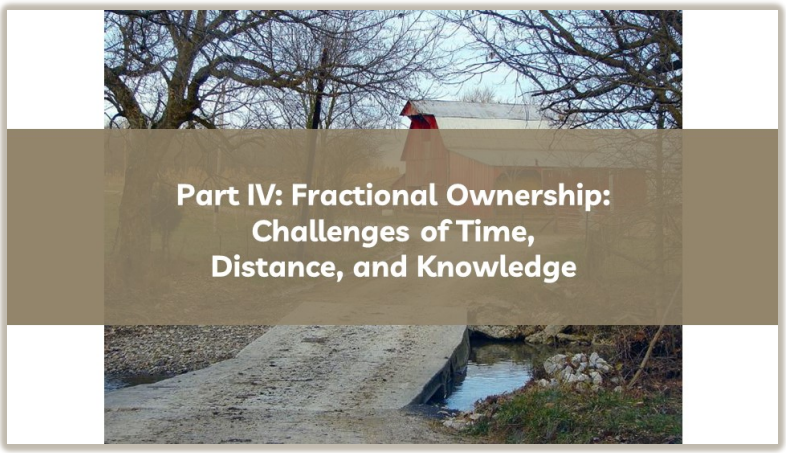
Materials: None

Handouts: None

SLIDE 35

INSTRUCTIONS

This is the section opener for discussing how fractional ownership begins and challenges associated with the increase of owners.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 36

INSTRUCTIONS

Heirs' property means that heirs have an undivided fractional interest in the land. Fractional here means a percentage interest as opposed to actual acreage. Note these two key factors that influence fractional interest. These are discussed further in the next slide.



Time: 1 Minute

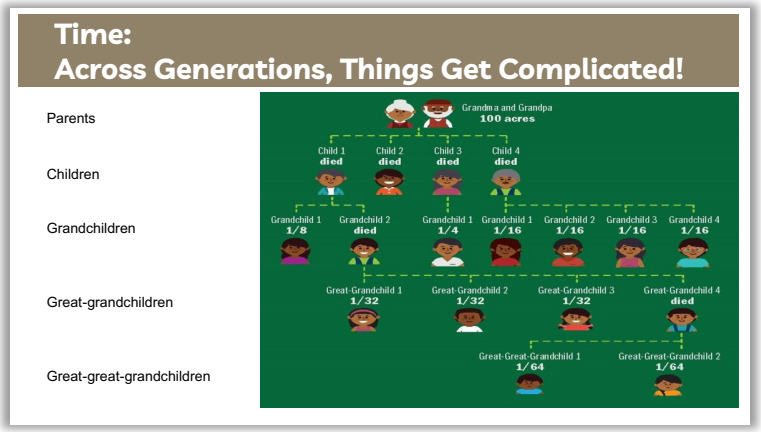
Materials: None

Handouts: None

SLIDE 37

INSTRUCTIONS

In this example, the diagram shows four generations of heirs, with more people in each generation having a smaller fractional interest. Each generation gets a percentage of their parents' share. So, in this example, the four children each had 25%. But as they pass away, their percentage is divided among their respective children.



In all, there are 17 heirs, 11 heirs surviving, across four generations, with fractional interests ranging from 1/4 to 1/64.

NOTE: Remember, although not depicted here, a spouse of a deceased heir may inherit that person's share.

Time: 5 Minutes

Materials: None

Handouts: None

Source: https://www.atlantafed.org/-/media/documents/news/conferences/2017/0615-heirs-property-in-the-south/infographic.html

SLIDE 38

INSTRUCTIONS

This slide begins another example of land fractionation over time.



Time: 1 Minute

Materials: None

Handouts: None

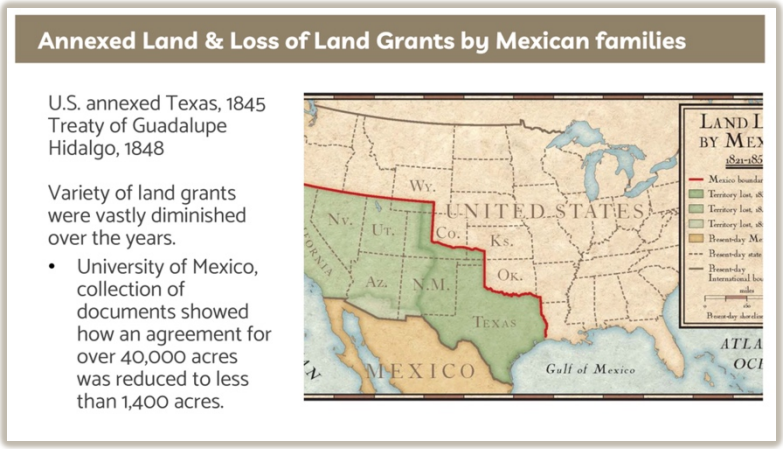
SLIDE 39

INSTRUCTIONS

Facilitators can share all three options or the option that is most relevant to the audience.

Option 1: Example of Land Grant States

Instructions: An example of annexed land and land grant lands.



Time: 3 Minutes

Materials: None

Handouts: None

SLIDE 40

INSTRUCTIONS

Option 2: Example of Midwest States

Instructions: An example of the Homestead Act of 1862.



Time: 3 Minutes

Materials: None

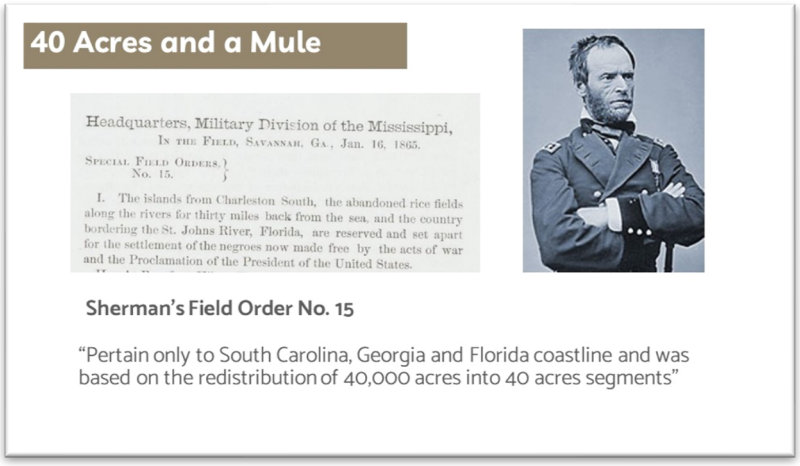
Handouts: None

SLIDE 41

INSTRUCTIONS

Option 3: An example of Southern States

An example is land taken by the advancing Union armies and distributed to the formerly enslaved.



Time: 5 Minutes

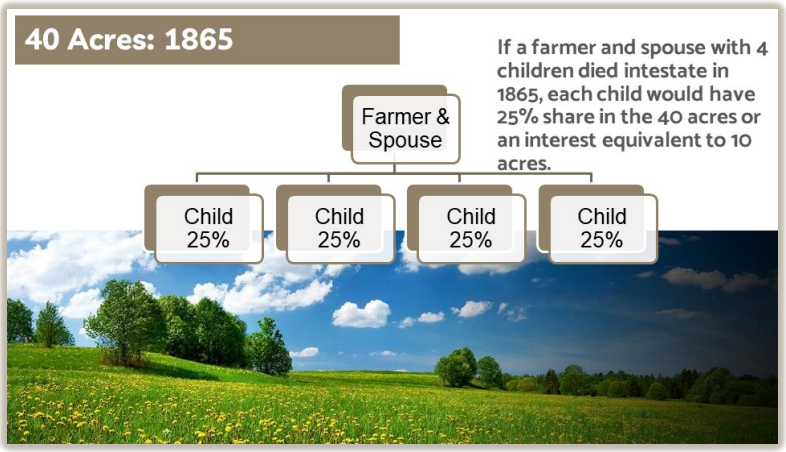
Materials: None

Handouts: None

SLIDE 42

INSTRUCTIONS

Walk participants through this example that might have happened in 1865.



Time: 2 Minutes

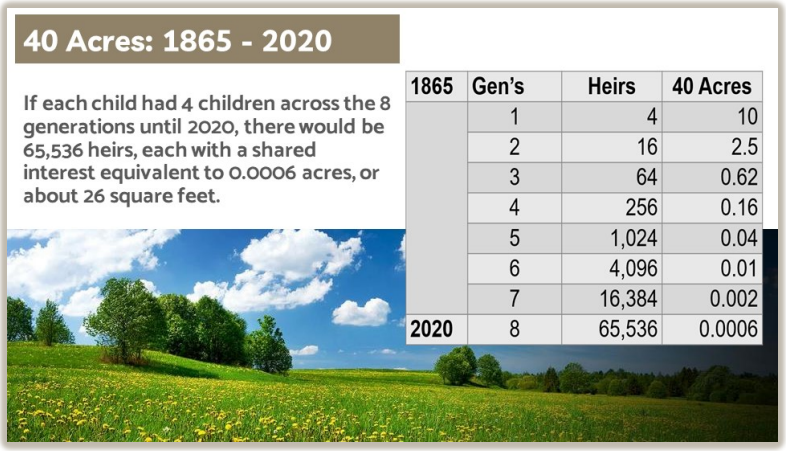
Materials: None

Handouts: None

SLIDE 43

INSTRUCTIONS

"Fast forward" the story to 2020.
How would the story be different?



1865	Gen's	Heirs	40 Acres
	1	4	10
	2	16	2.5
	3	64	0.62
	4	256	0.16
	5	1,024	0.04
	6	4,096	0.01
	7	16,384	0.002
2020	8	65,536	0.0006

Time: 5 Minutes

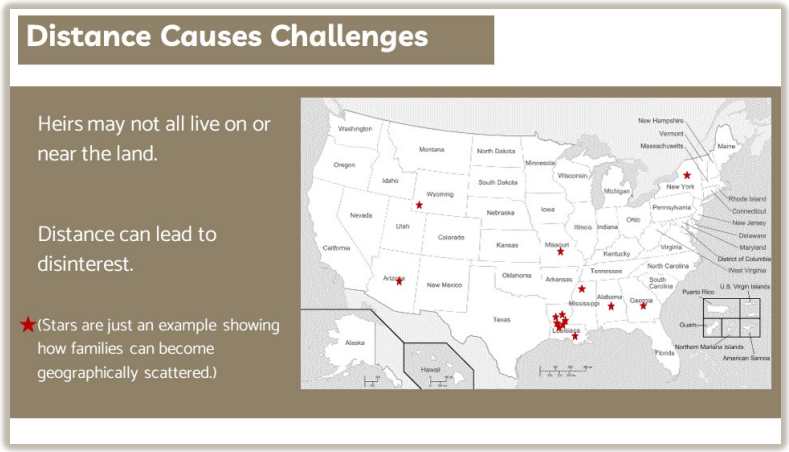
Materials: None

Handouts: None

SLIDE 44

INSTRUCTIONS

As time goes on, heirs may move to different places and no longer have strong connections to the land. Yet they are still heirs. The lack of connections may leave the land vulnerable as remote heirs may be more willing to sell their share in the land to someone outside the family.



Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 45

INSTRUCTIONS

In sum, family land is hard to manage. Here are reasons why.

With numerous co-owners, the following can occur, which can impede proper management of the land:

- Heirs do not live on or near the land
- Heirs do not live near each other
- Heirs do not know one another
- Heirs do not how to locate one another
- Heirs do not have a connection to the land



Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 46

INSTRUCTIONS

This is the section opener for discussing how landowners can find out if their family land is considered heirs' property in the county system.



Time: 1 Minute

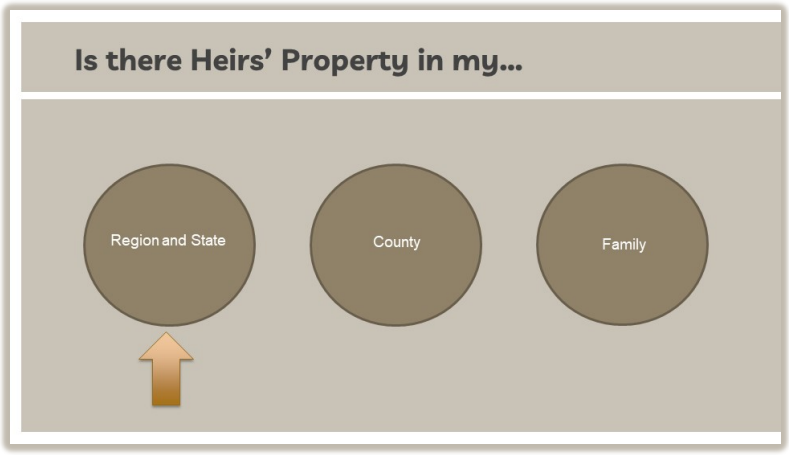
Materials: None

Handouts: None

SLIDE 47

INSTRUCTIONS

Heirs' property is a phenomenon that has personal and regional implications. The next few slides will walk participants through some data on heirs' property on different levels, helping to create understanding on the extent of the problem.



Time: 1 Minute

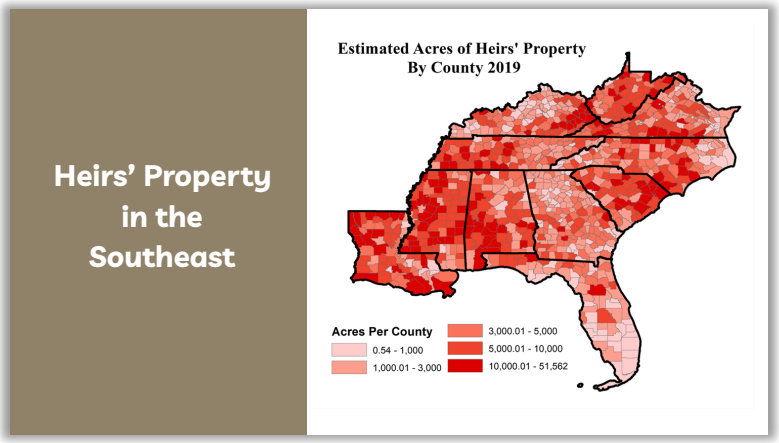
Materials: None

Handouts: None

SLIDE 48

INSTRUCTIONS

While there are concentrations of heir's property across the United States, African American heirs' property is found mainly within the Southeast region.



Source: Thomson, R. and Bailey, C., 2023. Identifying Heirs' Property: Extent and Value Across the South and Appalachia. Journal of Rural Social Sciences, 38(2), p.2.

Time: 1 Minute

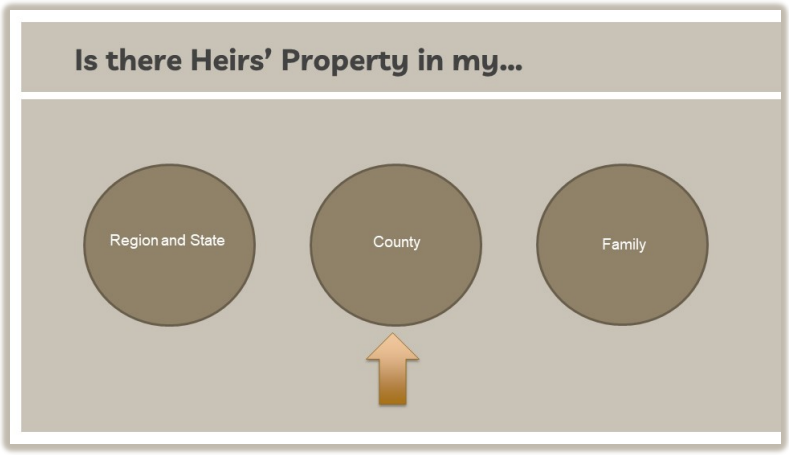
Materials: None

Handouts: None

SLIDE 49

INSTRUCTIONS

Many families of one county may have heirs' property. Also, in many cases, those with heirs' property may not even live in the same community, county, or even state, where the property is located.



Time: 1 Minutes

Materials: None

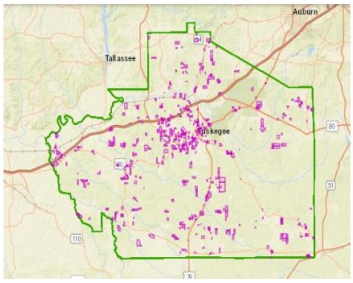
Handouts: None

SLIDE 50

INSTRUCTIONS

Local GIS websites can allow you to see heirs' property at the county level in some states. This example is from Macon County, Alabama, with heirs' property in red.

Heirs' Property in Macon County, AL



Time: 1 Minute

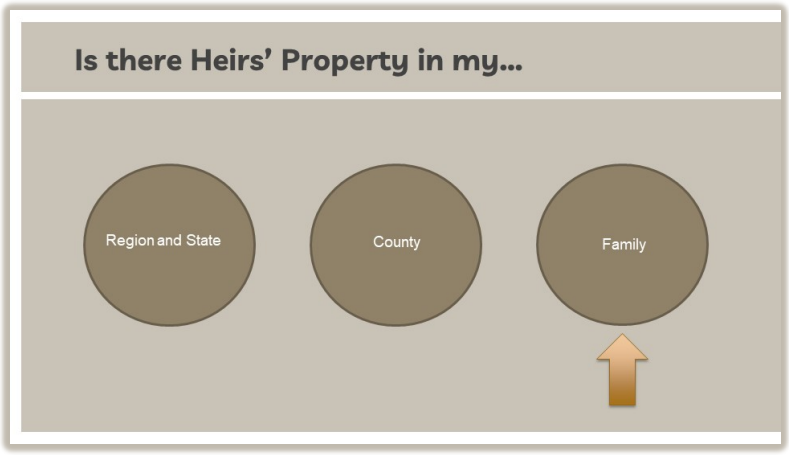
Materials: None

Handouts: None

SLIDE 51

INSTRUCTIONS

Now, let's focus on your family.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 52

INSTRUCTIONS

Online records are sometimes available through the county revenue commissioner's office (or similar office in other states). The next few slides will demonstrate an example of what might be available online.



You may find it helpful to find the local office for this training and be ready to discuss differences. Instructions for doing this are on the next slide.

Time: 5 Minutes

Materials: None

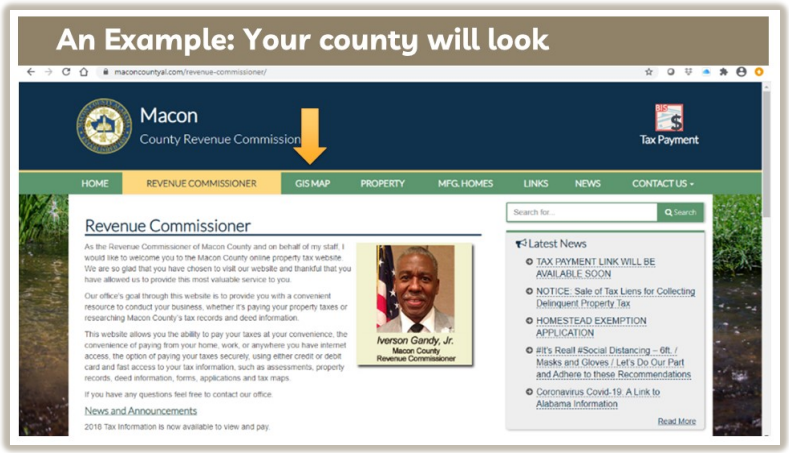
Handouts: None

SLIDE 53

INSTRUCTIONS

This slide shows how Macon County, Alabama's site looks.

Notice the link to the GIS Map as the starting point.



Activity:
Searching your county records online

- Open your browser on your computer, phone, or other web-based device.
- Search for your county, state, GIS
- Is it accessible? If so, can you type in a search?
- If you can type in a search, type in your last name. Did anything show up?
- Discussion: Take a few minutes for different participants to share what they found or anything they noticed.

Time: 10 Minutes

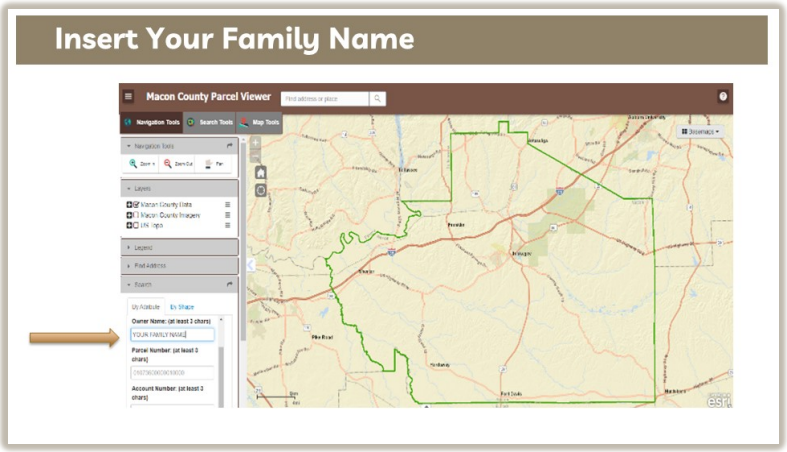
Materials: None

Handouts: None

SLIDE 54

INSTRUCTIONS

A family name can be entered to begin the search.



Time: 1 Minute

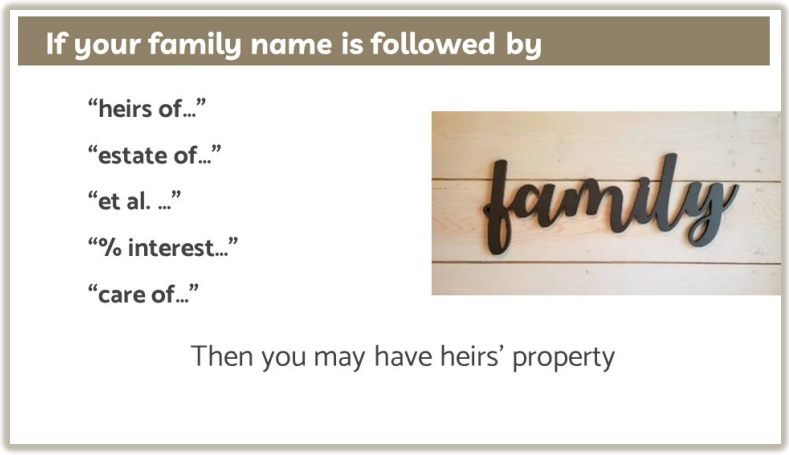
Materials: None

Handouts: None

SLIDE 55

INSTRUCTIONS

These words will sometimes appear in the search for a family name. Seeing any of these may indicate you have heirs' property. The next slide shows how those might appear.



Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 56

INSTRUCTIONS

In addition to the challenges of having different terms for heirs' property, inconsistencies in how they are written create even more challenges. Additionally, search terms also may be part of larger terms, "heir" is inside "their" and "estate" may be a proper name for a residential community, or the name of a road.



Also, while all the land tracts listed under et al, or estate, etc. may not be heirs' property, a significant percentage may be.

Therefore, it may be necessary to ask your county official, the Tax Assessor, the Revenue Commissioner, etc., what term(s) they use to indicate heirs' property.

Time: 5 Minutes

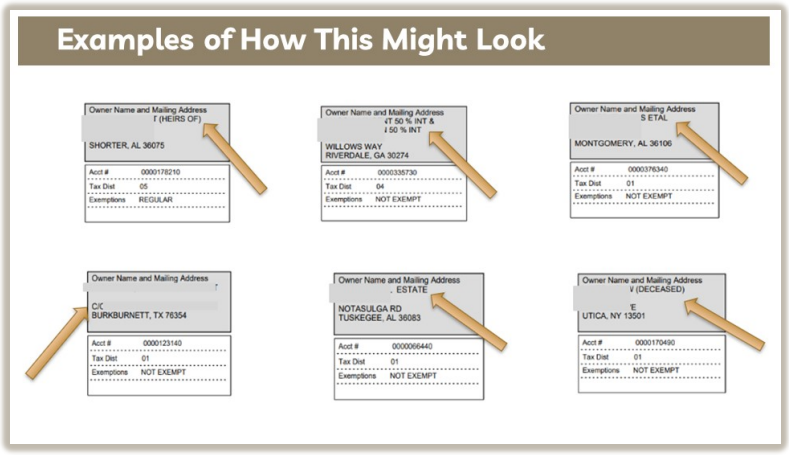
Materials: None

Handouts: None

SLIDE 57

INSTRUCTIONS

Point out how the different designations show up on these examples.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 58

INSTRUCTIONS

Different counties have differing levels of access to on-line land parcel information. Some information is easily accessible, while some may require a login and password, or even a fee.



Time: 5 Minutes

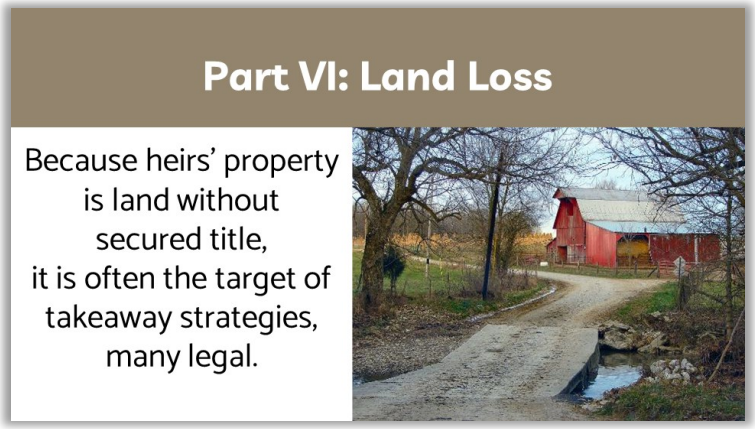
Materials: None

Handouts: None

SLIDE 59

INSTRUCTIONS

Because heirs' property is land without secured title, it is often the target of takeaway strategies, many legal. This next section explores some of the common ways in which the land is lost.



Time: 1 Minute

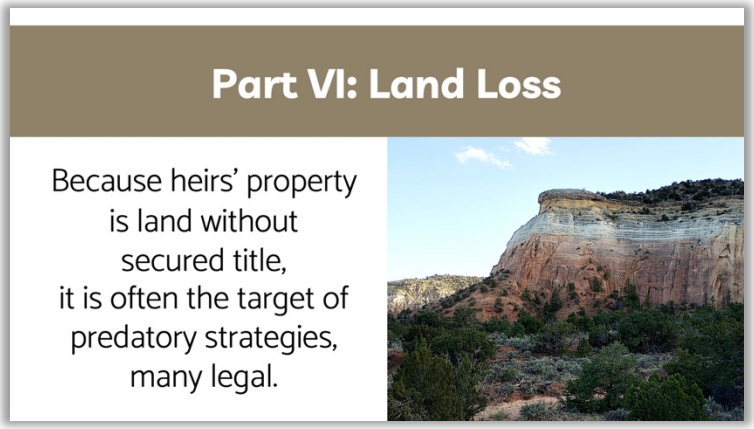
Materials: None

Handouts: None

SLIDE 60

INSTRUCTIONS

Because heirs' property is land without secured title, it is often the target of takeaway strategies, many legal. This next section explores some of the common ways in which the land is lost.



Time: 1 Minute

Materials: None

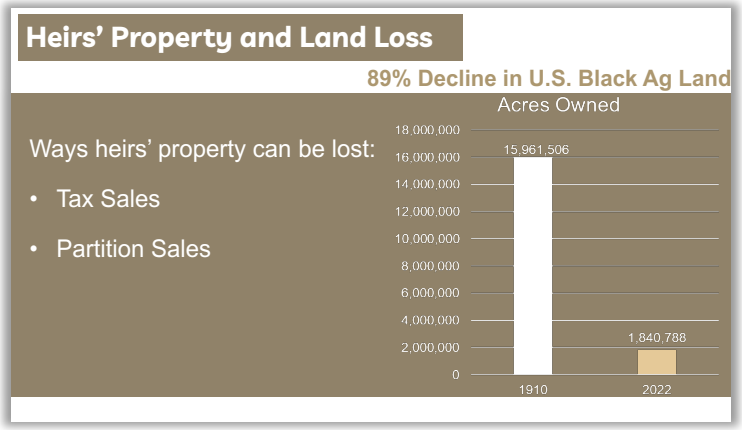
Handouts: None

SLIDE 61

INSTRUCTIONS

This slide outlines some of the ways heirs' property can be lost.

In 1910, there were 15,961,506 acres on Black-owned farms in full-ownership (with no additional rented acres or part-ownership, or land used by tenants or sharecroppers). By the last agricultural census in 2022, this number has declined by 89% to 1,840,788 acres on Black-owned farms in full-ownership.



Major cause of this land loss was through land as heirs' property.

Ways heirs' property can be lost:

- Partition Sales
- Tax Sales

...and some heirs have no interest in the land at all.

Time: 10 Minutes

Materials: None

Handouts: None

Sources:

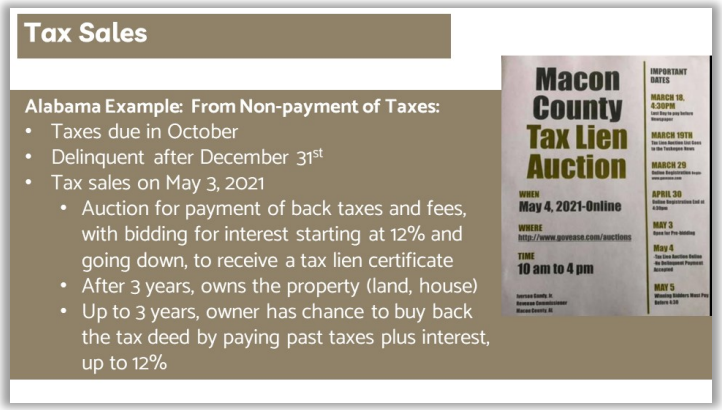
US Department of Commerce, Bureau of Census. 1914. 1910 Census: Volume 5. Agriculture, 1909 and 1910, General Report and Analysis. Chapter IV, Table 16, p. 182. Washington, DC. https://agcensus.library.cornell.edu/wp-content/uploads/41033898v5ch03.pdf

US Department of Agriculture, National Agricultural Statistics Service. 2022. Census of Agriculture, United States Data, Table 61, p. 80. https://www.nass.usda.gov/Publications/AgCensus/2022/Full_Report/Volume_1,_Chapter_1_US/usv1.pdf

SLIDE 62

INSTRUCTIONS

If you don't pay your property taxes, the county auctions your tax bill and interest in a "bid down" process starting at 12%. If you don't reclaim your tax lien within three years, which includes repaying the tax bill plus interest, then the land will go to the bidder.



There are always investors who look for these tax sales as a way of either getting land for just the tax value, or as a way to invest their capital at a high interest rate.

This means that all heirs/landowners, particularly absentee landowners, need to keep track of who is paying the property taxes on their heirs' property.

Time: 10 Minutes

Materials: None

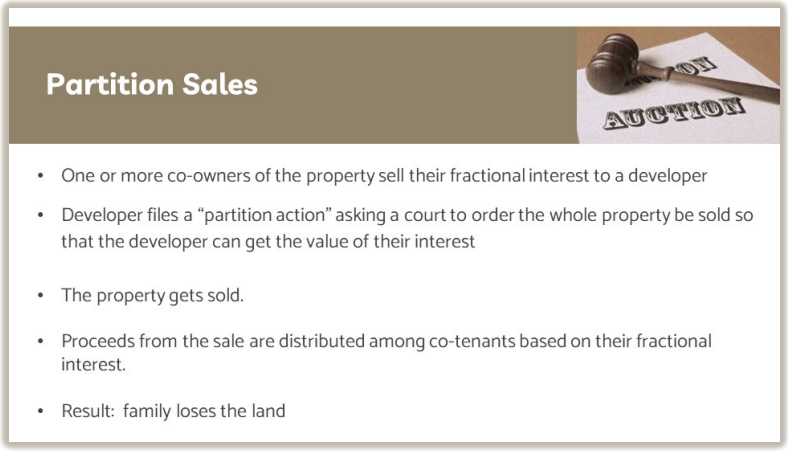
Handouts: None

SLIDE 63

INSTRUCTIONS

A partition action may be brought against the co-tenants of heirs' property, either family members or non-family members.

While a co-tenant cannot "sell" the land, they can sell their interest in the land. In this case, an outside party can gain access to the land as if they were a part of the original family unit, with all the rights and obligations.



Time: 10 Minutes

Materials: None

Handouts: None

In many cases, the point of gaining access to the land is to file a partition action with the final objective of gaining the whole piece of land.

- Partition sales are a common way African-American landowners have lost, and continue to lose, their land.
- A partition sale is a court-ordered sale of land.
- A partition action may be brought by any co-tenant, regardless of their percent interest.
- With a partition sale, at public auction, the highest bidder becomes the owner. The proceeds from the sale are then distributed among all the co-tenants of the property according to the size of their fractional interest.
- The end result is that the land is lost to the family.

SLIDE 64

INSTRUCTIONS



For decades, state partition laws contributed to widespread and devastating land loss among families who owned land as tenants-in-common. As a result of class action lawsuits and the publication of an article on partition action abuses, a task force was formed to start efforts to reform partition law. The next few slides give an overview of what this means to heirs' property owners.

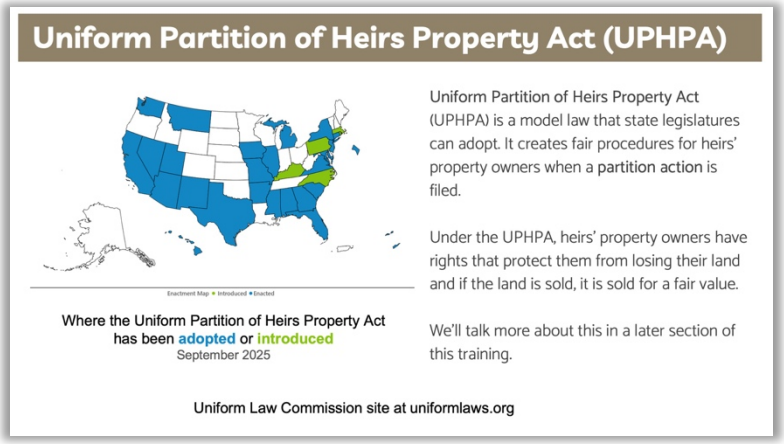
Time: 1 Minute

Materials: None

Handouts: None

SLIDE 65

INSTRUCTIONS



The American Bar Association's (ABA) Section of Real Property, Trusts and Estates Law formed a task force and submitted a proposal in 2006 to the Uniform Law Commission. The Uniform Law Commission also known as the National Conference of Commissioners on Uniform State Laws worked to develop a model State statute that would address partition laws. The Uniform Law Commission approved the Uniform Partition of Heirs Property Act ("UPHPA") in the summer of 2010.

Time: 2 Minutes

Materials: None

Handouts: None

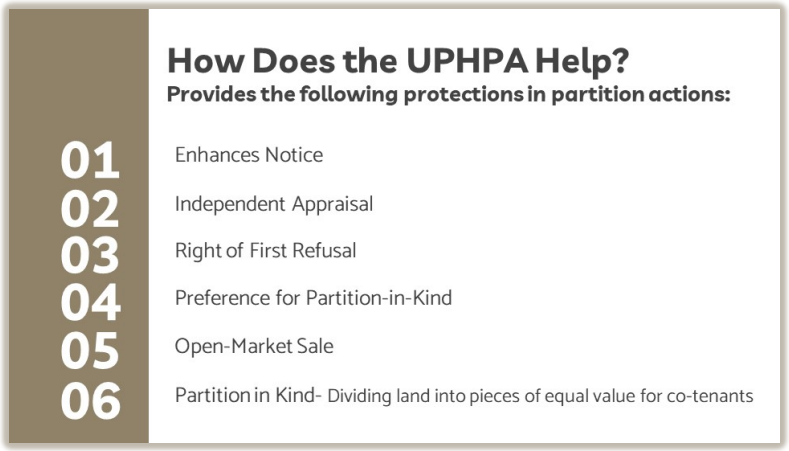
Note: It is important to note that the Uniform Law is not effective until adopted by state legislature. This is a map of states who have enacted the Uniform Partition of Heirs Property Act, highlighted in blue. It also shows states where the UPHPA was introduced, and those states are highlighted in green.

Source: https://www.uniformlaws.org/committees/community-home?CommunityKey=50724584-e808-4255-bc5d-8ea4e588371d

SLIDE 66

INSTRUCTIONS

This slide gives a snapshot of the specific protections included. The following slides go into more detail.



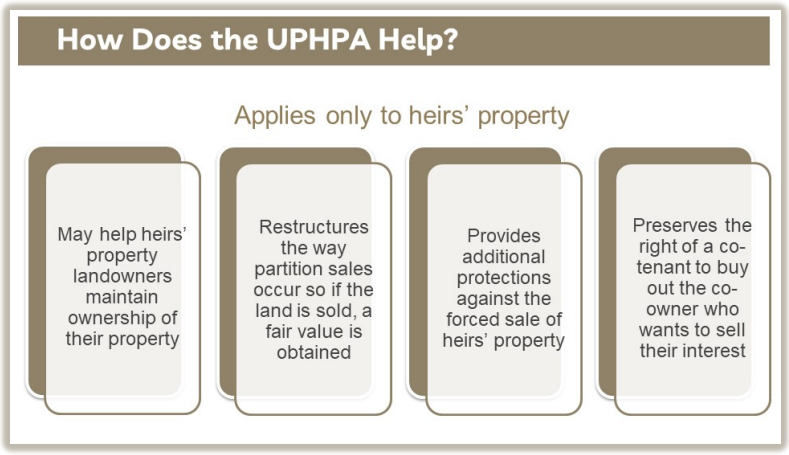
Time: 1 Minute

Materials: None

Handouts: None

SLIDE 67

INSTRUCTIONS



This slide gives an overview of how the UPHPA helps heirs' property owners. The UPHPA contains legal protections for heirs' property landowners designed to address the devastating effects of partition sales while balancing the interest of all owners of the property. In order for a partition action to be governed by the UPHPA, the property in question must constitute "Heirs Property" as defined by the UPHPA.

NOTE: A co-tenant is defined as a person having a fractional ownership interest in property.

The next few slides give more detail.

Source: The Uniform Partition of Heirs Property Act, Section 2. Definitions.

Time: 2 Minutes

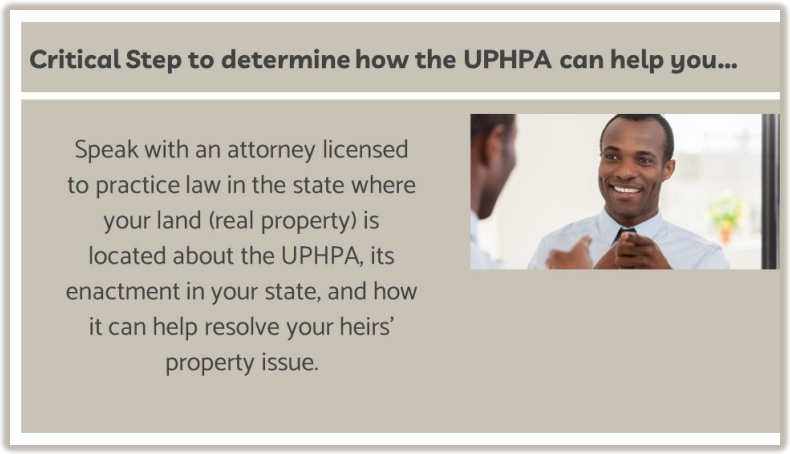
Materials: None

Handouts: None

SLIDE 68

INSTRUCTIONS

Be sure to emphasize that for your audience to understand how the UPHPA can help resolve their heirs' property issue, it is important to speak with an attorney licensed to practice law in the state where the land (real property) is located.



Points to discuss include:

- The ethical rules concerning representing a family or one or more members
- Whether UPHPA is enacted in your state, and if not, how the heirs' property law is governed
- How the UPHPA or other applicable real property law may help resolve your heirs' property issue.

Time: 1 Minute

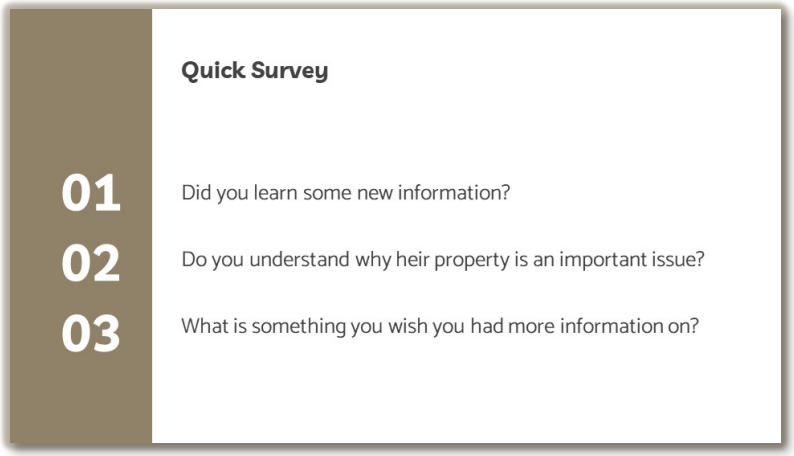
Materials: None

Handouts: None

SLIDE 69

INSTRUCTIONS

Take a quick hand survey to see how the participants feel about the information they just learned.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 70

INSTRUCTIONS

Thank the participants and ask for any additional questions.



Time: 1 Minute

Materials: None

Handouts: None

Understanding Heirs' Property at the Community Level

[SAMPLE AGENDA]

[LOCATION]

[DATE]

[DATE]

8:30	Welcome, orientation, objectives
	Introductions and warm-up
9:15	Overview
10:00	Break
10:25	Overview, continued
12:00	Lunch
1:00	Regroup, questions from over lunch, transition to Prevention
1:20	Prevention
3:00	Break
3:20	Day One Reflections,
4:30	Adjourn

[DATE]

8:30	Warm-up, recap, overnight questions
9:00	Resolution
10:10	Break
10:30	Resolution, continued
12:10	Last items, evaluation, closing activity, thanks
12:30	Adjourn

[YOUR LOGO HERE]

HEIRS' PROPERTY: DEFINITIONS AND KEY TERMS

"DURING LIFE" DOCUMENTS

Conservatorship and/or Guardianship - the appointment of a guardian or conservator by a judge to manage the financial affairs and/or daily life of another person due to old age or physical or mental limitations

Living Will (advance healthcare directive) - a written, legal document that spells out medical treatments you would or would not want to be used to keep you alive, as well as your preferences for other medical decisions, such as pain management or organ donation, when you can no longer make decisions for yourself

Power of Attorney (POA) - a legally binding document that allows you to appoint someone to manage your property, medical, or financial affairs

"END OF LIFE" CONCEPTS, ROLES, & DOCUMENTS

Key Concepts

Assets - real or personal property (including cash/liquidity) owned by a person or company, regarded as having value and the ability to meet debts, commitments, or legacies.

Decedent - a person who has died

Estate - a person's property or net worth. When the person is deceased, their estate goes through probate and is distributed according to the terms of their Last Will & Testament. If there is no will, the estate is "administered" in accordance with the state's laws of intestate succession

Estate Administration - a court-administered process in which the probate court administers the estate in accordance with the state's laws of intestate succession to the decedent's heirs-at-law

Intestate - the decedent died without a valid Last Will & Testament. When a person dies intestate, the estate is distributed in accordance with the state's laws of intestate succession, after creditors are paid

Probate - a court-administered process in which the probate court confirms the validity of a Last Will & Testament and allows other people the option to challenge the will. The estate is then administered in accordance with the Last Will & Testament. (Called "succession" in Louisiana)

Testate - the decedent died with a valid Last Will & Testament

Roles

Administrator – a court-appointed person ordered to manage the estate of a deceased person who died intestate

Beneficiary – a person entitled to receive funds or other property under a trust, Last Will & Testament, retirement account, or insurance policy.

Executor/Executrix – a court-appointed person or institution who is responsible for carrying out the terms of a Last Will & Testament and overseeing the probate of the Will & administration of the assets/estate

Heir – a person legally entitled by law to the property of a decedent; a person inheriting and continuing the legacy of a predecessor

Notary – a person authorized to perform certain legal formalities and certify/witness signatures on estate planning documents, contracts, deeds, etc.

Personal Representative – a collective name for either Executors or Administrators

Spouse – a life partner in a marriage, civil union, or common-law marriage as recognized by state law

Testator/Testatrix – a person who has written and executed a Last Will & Testament before their death

Trustee – a trustee is a person or business that administers a trust

Documents

Codicil – an addition or supplement that explains, modifies, or revokes a Last Will & Testament or part of one

Holographic Will – a handwritten and testator-signed document that is legally binding in some states, but not produced by a lawyer

Irrevocable Trust – created when a person gives up his/her rights to change the terms of a trust once created. The trustor/grantor cannot later change the terms of an irrevocable trust.

Last Will & Testament (Will) – a document which directs how property (including minor children) is to be distributed to beneficiaries and heirs upon a person's death

Living Trust – a legal arrangement established by an individual (the grantor/trustor) during their lifetime to protect their assets and direct their distribution after the grantor's death. Avoids the probate process.

Mutual Will – a type of will, usually executed by a married or committed couple, that is mutually binding

Revocable Trust – allows the trustor/grantor to amend and make changes to the trust after it has been formed

Testamentary Trust – a trust that is specified in and created by a person's Last Will & Testament

Trust – a fiduciary arrangement that allows a third party, or trustee, to hold assets on behalf of a beneficiary or beneficiaries.

Ownership/Distribution of Property

Community Property – property owned jointly by a married couple (in some states).

Heir's Property – property owned jointly by numerous co-owners, most of whom are related. It usually passes from one generation to another when a landowner dies intestate or with no succession/estate planning for the land

Joint Tenancy with Rights of Survivorship – the holding of an estate or property jointly by two or more parties, the share of each passing to the other or others upon death.

Life Estate – an interest in property only for the life of a person with the remaining interest (remainder) to vest in others upon the death of the person holding the life estate

Per Capita – Latin term = "by head" or "for each head." The inheritance is distributed among all the heads of your beneficiaries within the same generation/class. Lower generations are effectively disinherited.

Per Stirpes – a way of distributing the estate of a decedent where each branch of the family receives an equal share of an estate. Latin term = "by roots" or "by branch"

Tenants-In-Common – co-owners who jointly own property without rights of survivorship

Transfer on Death/Payable on Death – lets beneficiaries receive assets at the time of the person's death without going through probate

Types of Entities

Corporation – a legal entity that is separate and distinct from its owners. For profit corporations act through a board of directors selected by its shareholders (owners).

Limited Liability Company – a legal entity that is separate and distinct from its owners. It acts through its manager(s) or its members (owners)

HEIRS' PROPERTY

"THAT'S ME" ICEBREAKER

Instructions: Tell everyone in the room to move their chairs back so they can stand up and sit down easily without bumping into tables or other people. Let people know that if standing up and sitting down is difficult for them, they can simply raise their hands high.

To start, tell participants you will be reading some statements. If the statement is true for them, they will stand up, say "That's me" then sit back down. They start the icebreaker sitting down.

Do a quick practice statement relative to why people are assembled. This could include something like:

- I am in [location.]
- I am at the [event name].

Encourage people to be enthusiastic with their responses. "That's me"

Some sample statements:

- I have lived in only one state my whole life.
- I have lived in another country.
- I have driven a tractor
- I have cooked for more than 20 people.
- I am the baby of the family.
- I am the oldest child in the family.
- I am a middle child.
- I work for a Land-Grant University
- I work for a non-profit or community-based organization
- I am a lawyer.

You can add/adapt to fit the content of your session. You can go to really fun and unusual statements, such as:

- I have ridden in a hot air balloon.
- I like rollercoasters.
- I like a good watermelon

or add in some that are more serious.

- I am deeply concerned about heirs' property.
- I know someone who has lost heirs' property land.

My family has lost heirs' property land.

UNDERSTANDING HEIRS' PROPERTY AT THE COMMUNITY LEVEL: PREVENTION



Alcorn
NATIONAL POLICY RESEARCH CENTER

SOUTHERN EXTENSION RISK MANAGEMENT EDUCATION

SRDC

PREVENTION

OBJECTIVES

- Contemplating estate planning
- Important terms
- Basics of estate planning/succession planning
- Preventing heirs' property when writing your will
- Title to real property
- Working with an attorney

ESTIMATED TIME TO COMPLETE

4 hours

BEFORE THE MEETING

- If this is a continuation of the training on the same day, remove the introduction slides. If it is a session held on a day by itself, fill in the date and location information on the first introduction slide.
- Insert today's presenters on the designated slide.
- Print out copies of the Vocabulary fill-in-the-blank sheets for activity on slide 15.
- Prepare cards for What's My Meaning Game by printing on card stock and cutting to make the card deck from slide 15.
- Print out copies of the Estate Planning Worksheet, slide 17.
- Print out copies of the Sample Role Play Scripts (one copy for each person who will play a role). Feel free to adapt these to fit your audience.

MATERIALS NEEDED

- In-person: What's My Meaning Game.
  - Vocabulary fill-in-the-blank sheets with pens and pencils
  - **OR** Definitions and Key Terms Card Set – print on cardstock and cut out for use in the game.
- Virtual: What's My Meaning Game.
  - Quizlet: Use online flashcards and quizzes to learn the terms
  - Jamboard: Write the terms and definitions on sticky notes and participants work in a group to match them up
  - Flippity: Can create online games to facilitate vocabulary quizzes
- Lawyer Client Script: Planning My Estate

HANDOUTS AND TOOLS

- Agenda – A sample agenda for the entire curriculum is included in the **OVERVIEW** section. If you are doing this session as a separate session, you can adapt that sample to fit your situation.
- Definitions and Key Terms Handout (See **OVERVIEW** section for handout)
- Estate Planning Worksheet
- Evaluation – The evaluation covers all three sections. If you are not doing all three sections together, you can adapt as described in the evaluation instructions.

SLIDE 1

INSTRUCTIONS



Before the session begins, insert the date and location for your event. Have this slide up as participants enter the room.

Please acknowledge that this material was developed in partnership with the National Policy Research Center at Alcorn State University, the Southern Extension Risk Management Education Center, and the Southern Rural Development Center through funding in part from USDA.

Time: 1 Minute

Materials: None

Handouts: None

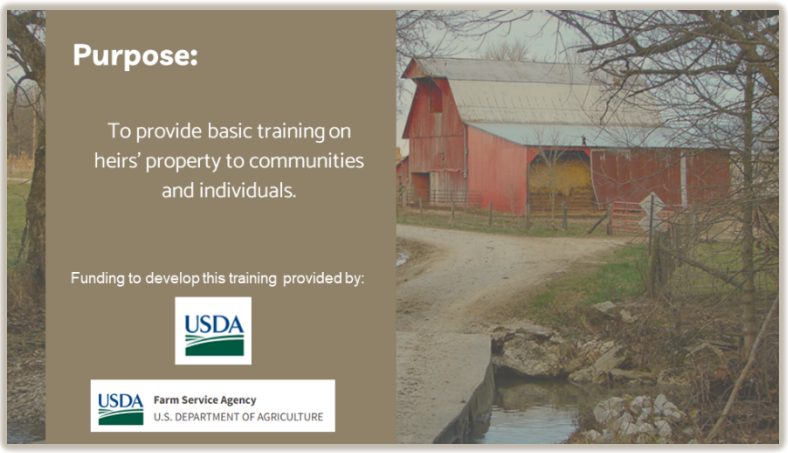
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NOTE: If you do not do all three segments at the same event, insert slides 1-3 at the beginning of your other sessions as they provide the overarching foundation for the training.

SLIDE 2

INSTRUCTIONS

Explain the purpose of the overall curriculum.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 3

INSTRUCTIONS

This slide highlights the partnering organizations that have worked together to develop materials and host trainings.



This material was developed and training for trainers was provided as a partnership with the National Policy Research Center at Alcorn State University, the Southern Extension Risk Management Education Center, and the Southern Rural Development Center hosted at Mississippi State University through funding in part from USDA.

Time: 1 Minute

Materials: None

Handouts: None

SLIDE 4

INSTRUCTIONS

Please acknowledge the primary and contributing authors to this material as well as the funding stream through the Southern Rural Development Center and the National Policy Research Center at Alcorn State University.



Time: 1 minute

Materials: None

Handouts: None

SLIDE 5

INSTRUCTIONS

Add presenter information and introduce yourselves.



Time: 1 minute

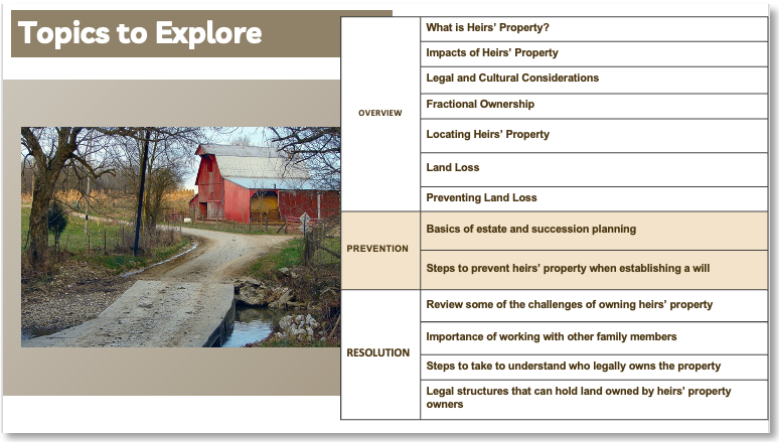
Materials: None

Handouts: None

SLIDE 6

INSTRUCTIONS

This slide shows the three parts of the curriculum and gives a quick view of the components covered in each section.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 7

INSTRUCTIONS

Give time for participants to introduce themselves. You could also include a brief question for them to answer such as what is one question or curiosity you have about heirs' property. Don't take time to answer those at this point. Rather this is about acknowledging where their curiosities are, and how the group can share this time together to learn and support each other.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 8

INSTRUCTIONS

Have this slide up when participants enter the room.



Time: 1 Minute

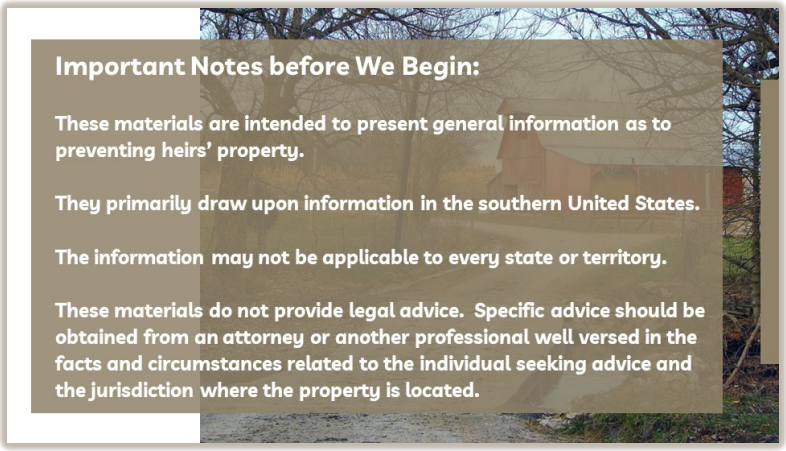
Materials: None

Handouts: None

SLIDE 9

INSTRUCTIONS

Read the disclaimer and answer any questions that may arise.



Time: 1 Minute

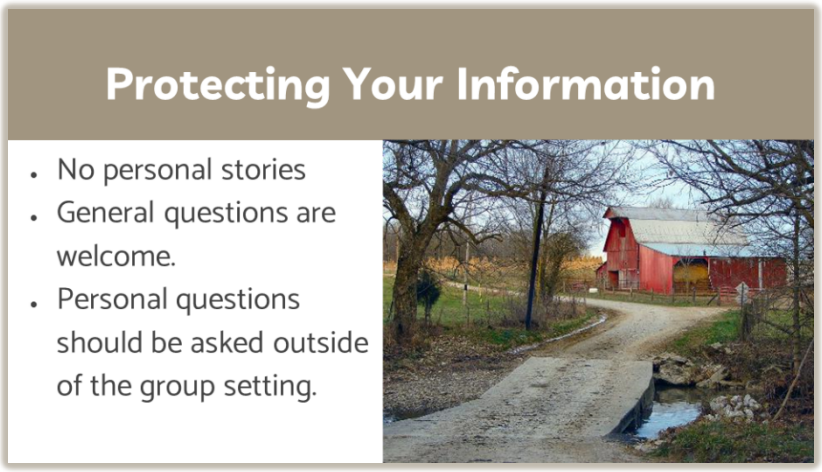
Materials: None

Handouts: None

SLIDE 10

INSTRUCTIONS

Go over these guidelines with participants to ensure that participants understand the reasons for not including stories or questions of a personal nature.



Time: 1 minute

Materials: None

Handouts: None

SLIDE 11

INSTRUCTIONS

Use the talking points on the slide to provide an overview of this session.



Time: 1 minute

Materials: None

Handouts: None

SLIDE 12

INSTRUCTIONS

Ask the participants: What is an estate? Do you have an estate plan? Asking your audience this will help you get an idea of the "mental models" in the minds of the audience. Many people do not feel like the term "estate planning" is far removed from their lives because "estate" signals a high level of wealth.



Time: 3 Minutes

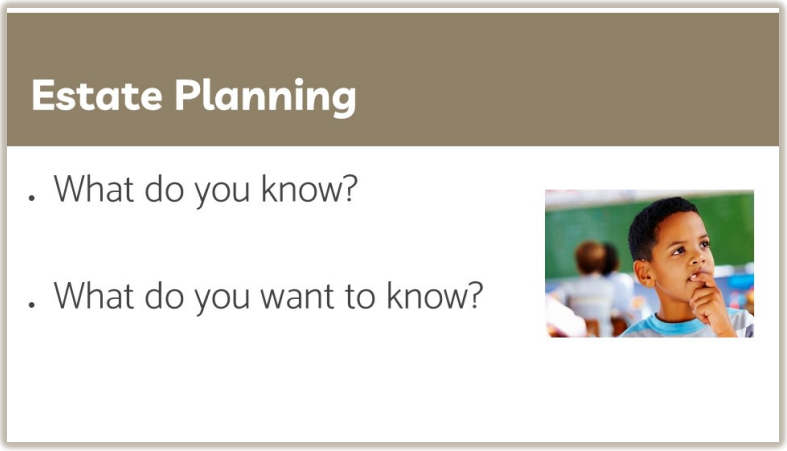
Materials: None

Handouts: None

SLIDE 13

INSTRUCTIONS

Ask the participants the questions on slide. Asking these questions will help you get to know where the audience is and what they are interested in learning.



Time: 4 Minutes

Materials: None

Handouts: None

SLIDE 14

INSTRUCTIONS

Ask the question on the slide. Asking this question will help you see who in the audience might be able to share their experiences.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 15

INSTRUCTIONS

Ask the participants the question on the slide. Most people are focused on the monetary and time costs of getting a will in place. This will help people think about the hidden costs of not having one.

- Probate can be very costly
- Incapacitation and the need to obtain guardianship can be expensive
- Higher taxes without a trust



Time: 3 Minutes

Materials: None

Handouts: None

SLIDE 16

INSTRUCTIONS

Ask the participants the question on the slide. This will give you an understanding of obstacles your audience feels or experiences.



Time: 2 Minutes

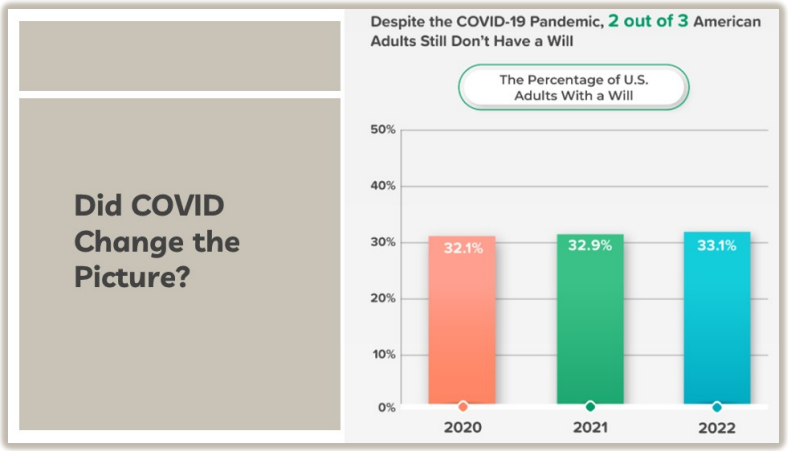
Materials: None

Handouts: None

SLIDE 17

INSTRUCTIONS

Discuss the slide. It is possible that the most important thing that an Extension educator can do in the space of estate planning is to provide motivation for taking action.



Time: 2 Minutes

Materials: None

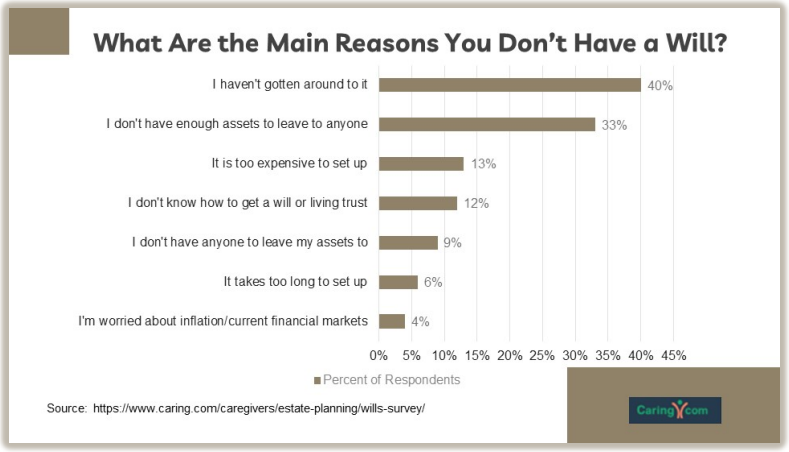
Handouts: None

Source: https://www.caring.com/caregivers/estate-planning/wills-survey/

SLIDE 18

INSTRUCTIONS

Discuss the slide. This will give you an understanding of obstacles your audience feels or experiences.



Source:
https://www.caring.com/caregivers/estate-planning/wills-survey/

Time: 2 Minutes

Materials: None

Handouts: None

Background: Extension has an opportunity to improve the completion rate of wills after workshops by increasing motivation. Tackling the fear of death as one of the main obstacles for having a will is an opening.

In 2005-2006, Minnesota Extension had twelve farm transition and estate planning workshops with 524 family members making up 301 farm family businesses. 152 (50.4%) farm family businesses completed a six-month follow-up survey. After the workshop itself, 81% intended to begin the process. However, of the 152 that completed the six-month follow-up, 57.4% reported they had begun the process of an estate plan with only 7.3% having completed it. For those who had not begun the process, time was the reported obstacle. For those who had made some progress, developing goals and consensus among family were the most reported obstacles.

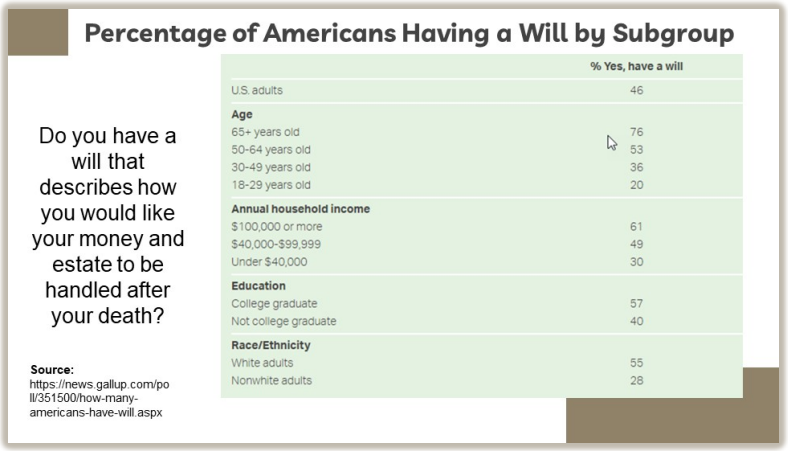
Hachfeld, G. A., Bau, D. B., Holcomb, C., Kurtz, J. N., Craig, J., & Olson, K. D. (2009). Farm Transition and Estate Planning: Farmers' Evaluations and Behavioral Changes Due to Attending Workshops. The Journal of Extension, 47(2), Article 8. https://tigerprints.clemson.edu/joe/vol47/iss2/8

SLIDE 19

INSTRUCTIONS

Discuss the slide.

- What do you notice?
- What surprises you?



Source: https://news.gallup.com/poll/351500/how-many-americans-have-will.aspx

Time: 2 Minutes

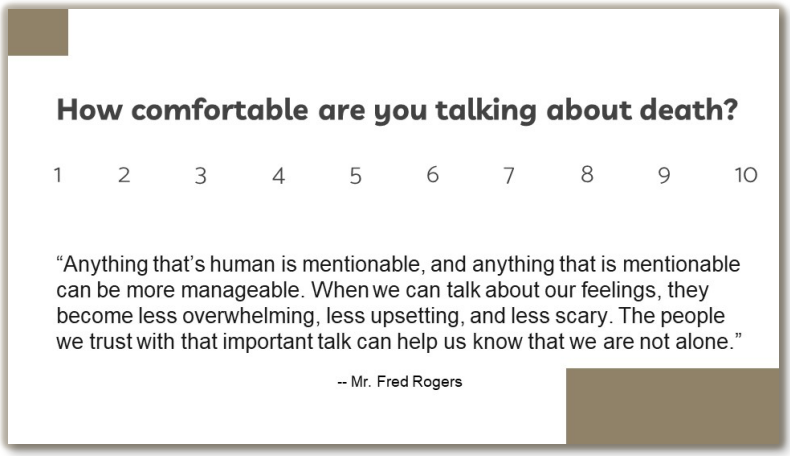
Materials: None

Handouts: None

SLIDE 20

INSTRUCTIONS

Ask the participants the question on the slide and discuss.



- While not in the survey of reasons people do not have a will, when talking to people casually about establishing a will, they often mention being worried that if they write a will, it is like they are inviting their death. Many people are not comfortable talking about death.
- Helping people reframe the topic of death is very powerful. Once the audience shares, you can ask about upsides about talking about death, including that it helps us live more fully.
- This quote from Mr. Rogers is applied to a scene in "A Beautiful Day in the Neighborhood" movie about Mr. Rogers' life.

Time: 5 Minutes

Materials: None

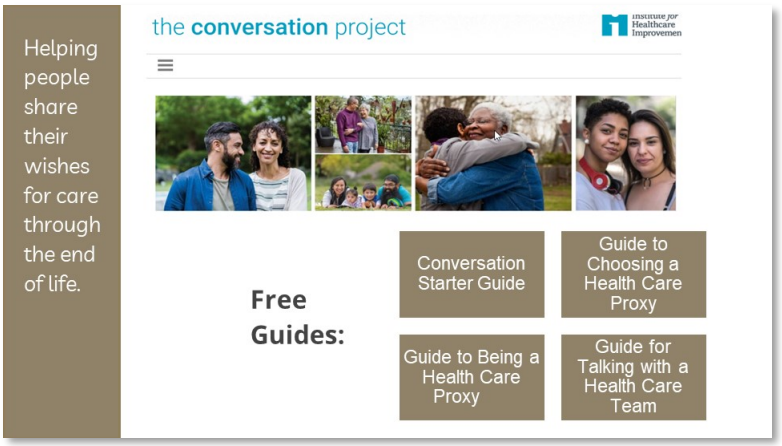
Handouts: None

Discussion: What do you think about this quote as it relates to estate planning?

SLIDE 21

INSTRUCTIONS

The Conversation Project has talking points and worksheets to help families having hard conversations.



Background:

- "Relationships are the main challenge facing farm families. Participants often pointed out that many programs teach management and planning strategies, but few focus on communication and family dynamics. Treating family members fairly and equally, dealing with off-farm heirs, and addressing in-law relationships are often the largest obstacles farm families face when building estate plans."

Time: 2 Minutes

Materials: None

Handouts: None

Sources:

- Hogge, J., Eborn, B., Packham, J., Findlay, R., & Harrison, S. (2017). Multiyear Succession and Estate Planning for Farm and Ranch Families. Journal of Extension, 55(4), Article 19. https://tigerprints.clemson.edu/joe/vol55/iss4/19
- The Conversation Project: https://www.ihi.org/Engage/Initiatives/ConversationProject/Pages/default.aspx

SLIDE 22

INSTRUCTIONS

There are some common terms you will hear during this training. Let's see who can guess their meaning. We are going to play a Vocabulary Exercise called "What's My Meaning?"



Prepare a vocabulary exercise that matches terms with definitions by having attendees fill in the blanks for each term. Attendees can work independently or in groups. Give the attendees 5-10 minutes to fill in the blanks with the term that matches each definition.

After everyone is finished, spend 10-15 minutes reviewing the terms and definitions with the group, asking a different person at random to provide their answer to each "blank." Discuss the differences in certain similar definitions, as the terms/definitions are grouped together for that purpose. Attendees can take the completed sheets home with them as a reference for future trainings.

Time: 20 Minutes

Materials: Vocabulary fill-in-the-blank sheets and pencils/pens

Handouts: Definitions and Key Terms

Virtual Ideas for the What's My Meaning Game:

1. Quizlet: Use online flashcards and quizzes to learn the terms.
2. Jamboard: Write the terms and definitions on sticky notes and participants work in a group to match them up.
3. Flippity: Can create online games to facilitate vocabulary quizzes.

SLIDE 22

INSTRUCTIONS

Alternative Activity for "What's My Meaning Game"

There are some common terms that you have heard during this training. Let's see who remembers their meaning. We are going to play a Card Game entitled "What's My Meaning."

Prepare index cards before the training (Print index card template on card stock and cut to make the card deck)



Time: 10 Minutes

Materials: Card deck with meanings and terms

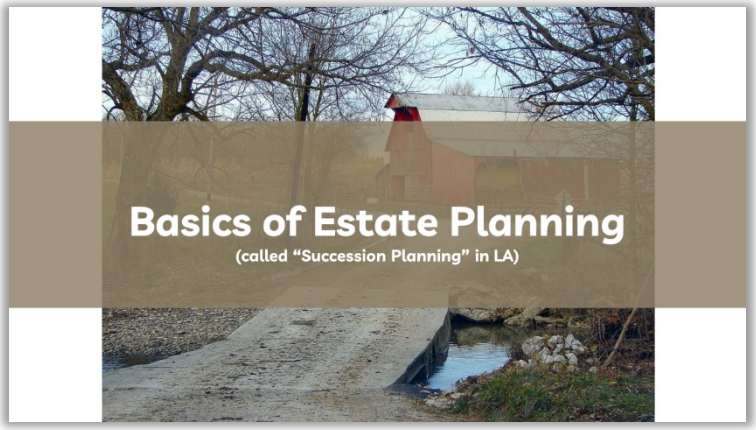
Handouts: Definitions and Key Terms

1. Have participants to select a card from the stack & place it face down on the table.
2. Review the most common terms with the group.
3. Ask for a volunteer to start the game.
4. Have the volunteer to read their term and tell the group the meaning.
5. To end the game, have everyone turn over the cards, answer if they know and understand the meaning of the term on their card.

SLIDE 23

INSTRUCTIONS

This is a section divider to introduce the next topic.



Time: 1 Minute

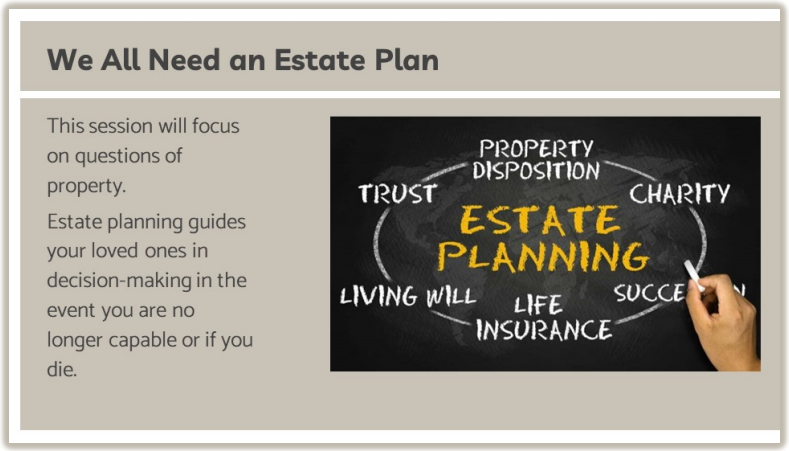
Materials: None

Handouts: None

SLIDE 24

INSTRUCTIONS

Most people take care of their property while living, but many of these same people make no plans for its management after their death. Despite concern for families, friends, and property during their lifetimes, they fail to provide guidance when it is most needed—when they are no longer present to make decisions.



As a result, the state decides how their belongings will be distributed. Therefore, everyone should consider having an estate/succession plan.

Source: https://www.investopedia.com/terms/e/estateplanning.asp

Time: 1 Minute

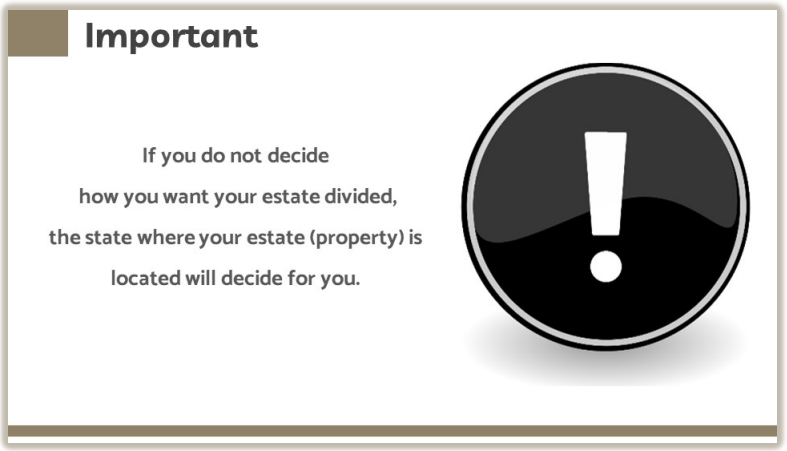
Materials: None

Handouts: Estate Planning Worksheet

SLIDE 25

INSTRUCTIONS

This important note helps set the stage for why this education is needed. No one wants the state to make the final decision on how their estate is divided after their death.



Time: 1 Minute

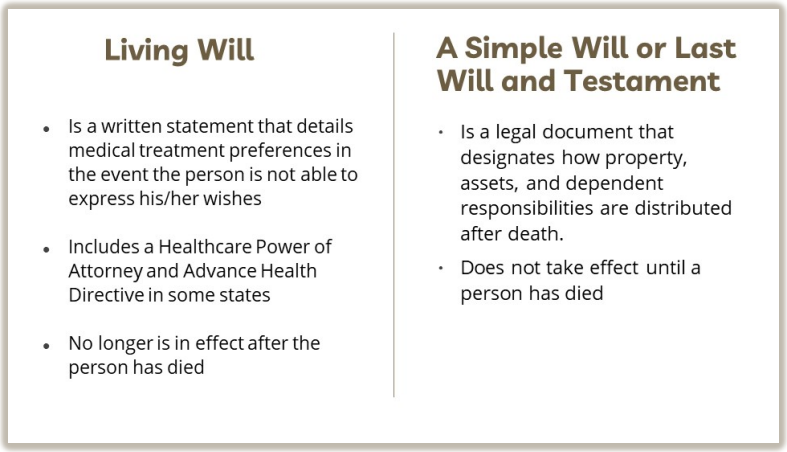
Materials: None

Handouts: None

SLIDE 26

INSTRUCTIONS

Explain these definitions and key differences between a living will and a simple will or last will and testament.



Time: 5 Minutes

Materials: None

Handouts: None

Source:https://www.americanbar.org/groups/law_aging/resources/health_care_decision_making/power_atty_guide_and_form_2011/

SLIDE 27

INSTRUCTIONS

Review the definition of a holographic will. Holographic wills are not recognized in some states. In states that permit the documents, the will must meet minimal requirements, such as proof that the testator wrote it and had the mental capacity to do so. This type of will can slow the process down and may impact other benefits as well.



Time: 5 Minutes

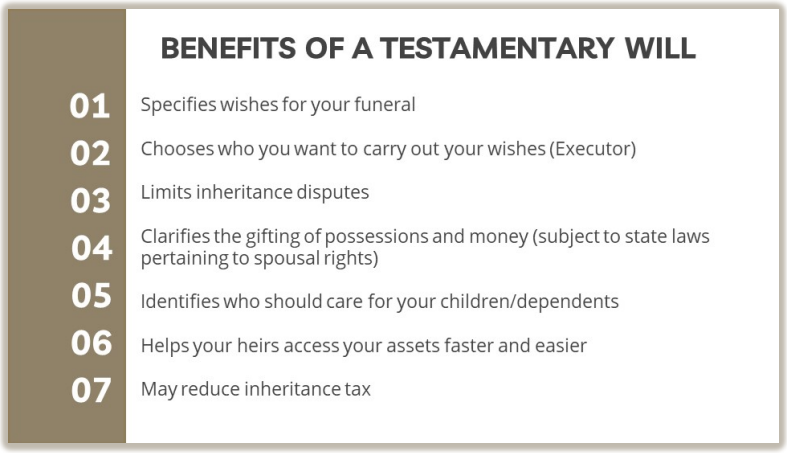
Materials: None

Handouts: None

SLIDE 28

INSTRUCTIONS

Review these potential benefits of a will.



Time: 5 Minutes

Materials: None

Handouts: None

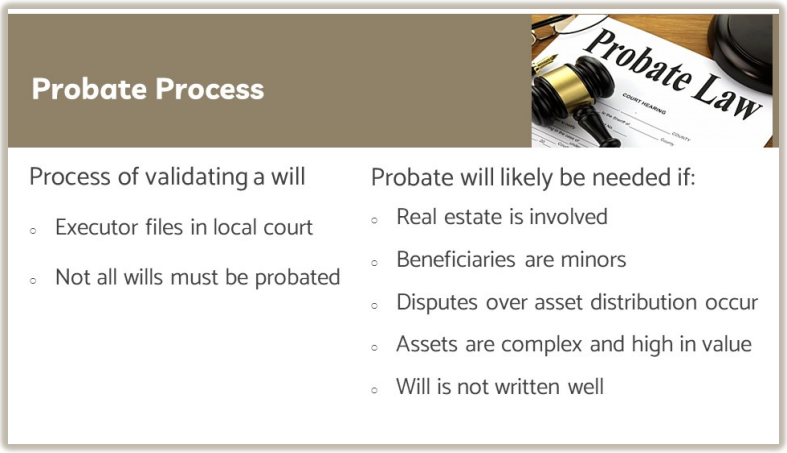
Sources:

- http://extension.msstate.edu/publications/publications/planning-your-estate-part-2-where-theres-will-theres-way
- https://www.investopedia.com/articles/pf/07/estate_plan_checklist.asp

SLIDE 29

INSTRUCTIONS

This slide describes the process for validating a will. It also describes situations where probate likely will be needed. Each state will have a specific process for estate administration/succession. Some states file copies of probated wills in the land records. Other states have the executor or administrator file a deed on behalf of the estate.



Time: 3 Minutes

Materials: None

Handouts: None

SLIDE 30

INSTRUCTIONS

Discuss the points on the slide that can cause a will to be deemed invalid.



Time: 3 Minute

Materials: None

Handouts: None

SLIDE 31

INSTRUCTIONS

If someone dies without a will, it is called "intestate," which means

- The state uses established rules to determine distribution.
- Dying intestate can add significant time to the process of distribution.
- If your children are minors, the court will appoint a representative to look after their interests.
- Dying intestate may have tax consequences.



Time: 10 Minutes

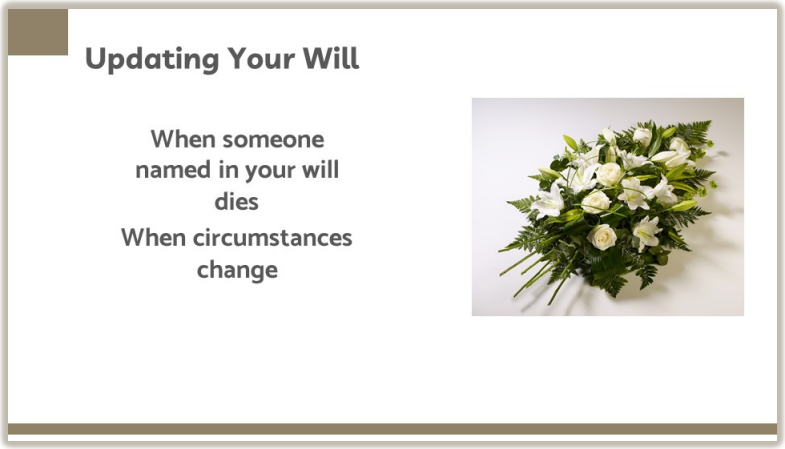
Materials: None

Handouts: None

SLIDE 32

INSTRUCTIONS

Updating a will after the death of someone named is important to prevent later difficulties. For instance, if a child is deceased and the will conveys property to more than one unnamed grandchild, it creates a risk for difficulties arising from lack of unanimous consent. Updating wills after the death of a spouse or child may avoid this problem. Similarly, a change in circumstances surrounding people or things named in the will should lead to the will being updated.



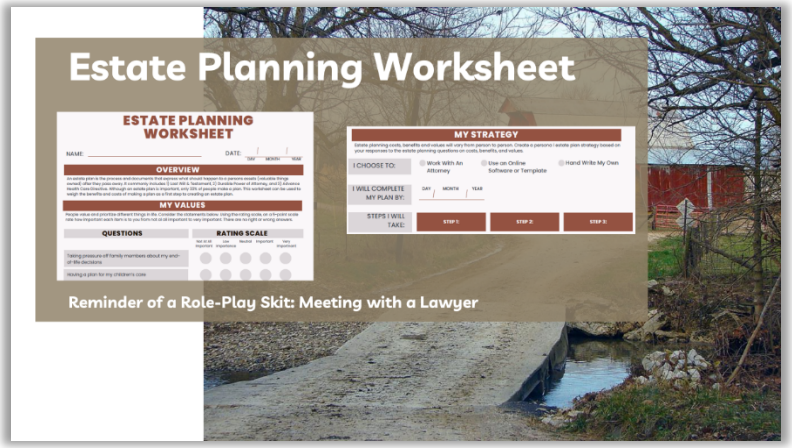
Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 33

INSTRUCTIONS



The purpose of this worksheet is to help you take action once you leave this workshop. Most people who go to workshops do not finish the process. This worksheet will help you clarify your values and help you get the plan that works for you.

Estate planning can seem like a daunting task. But it's an important way to help ensure that your wishes are honored, and your loved ones are cared for. Creating a strategy (or plan of action) is a wise first step for managing and distributing your assets after death.

Time: 20 Minutes

Materials: Sample Role Play Scripts

Handouts: Estate Planning Worksheet

Having a clear strategy might include having a checklist of tasks and tackling them across a manageable time. Using a checklist, like the worksheet on the screen can streamline the process of setting up your estate plan. Remember to set deadlines to complete each step.

An important first step in creating a strategy is to take some time to think about WHAT YOU VALUE. Knowing your values and priorities help determine what matters most in your legacy. For example, if you treasure your antique clock passed down from a parent, you'll want to ensure that your will states who should receive the heirloom. You may even want to provide instructions on how to care for it.

Activity 1: Provide copies of the Estate Planning Worksheet and go over it with the participants.

Activity 2: In the resource materials is a role-play skit about meeting with a lawyer for the first time. You may use this skit to reinforce learning.

SLIDE 34

INSTRUCTIONS

The next section explores important considerations in working with a lawyer in the planning process.



Time: 1 Minute

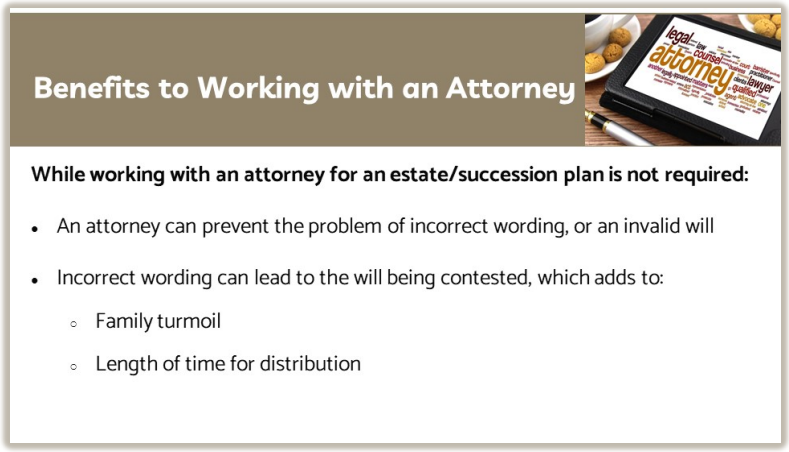
Materials: None

Handouts: None

SLIDE 35

INSTRUCTIONS

Note these important benefits to working with an attorney to develop your estate/succession plan.



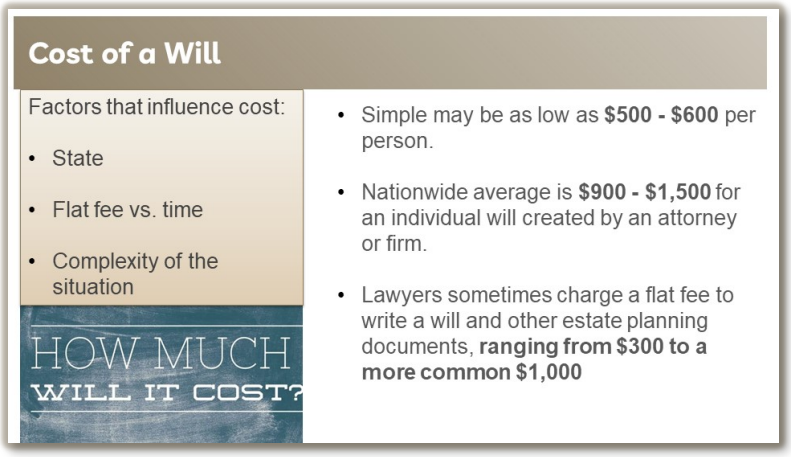
Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 36

INSTRUCTIONS



The cost of having a will developed varies widely. This slide gives some very general ideas of what someone might find locally.

Simple Will generally is around **$500-$600** per person.

Nationwide, the average cost for an attorney or firm to create a will is **$940 to $1,500** for an individual person. Most firms will reduce their price to a few hundred dollars when adding on a second nearly identical will for a spouse.

Time: 5 Minutes

Materials: None

Handouts: None

It's very common for a lawyer to charge a flat fee to write a will and other basic estate planning documents, **Ranging from $300 to a more common $1,000**.

If specific tax planning is needed, the will and tax advice will be more expensive.

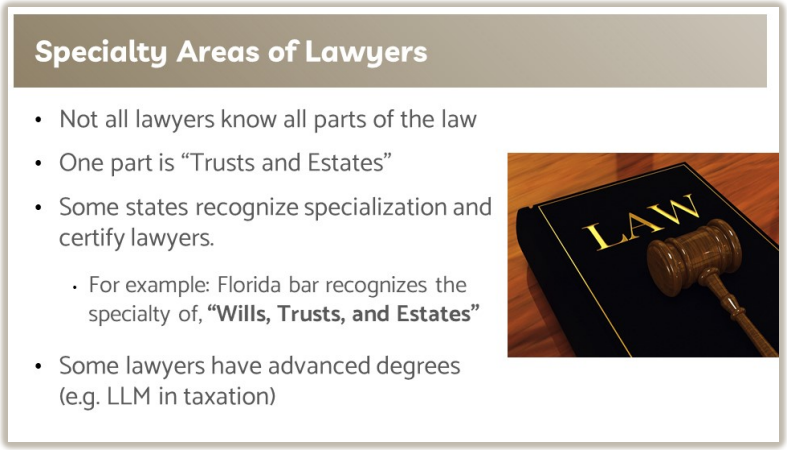
Other factors that can influence cost include these:

- Cost will vary from state to state and from attorney to attorney.
- Some attorneys charge by their time and others have a flat rate.
- The more complicated your situation is, the more expensive the fee.

SLIDE 37

INSTRUCTIONS

Lawyers can have a variety of specialties. This is important to understand so you are choosing one with the best training and experience.



Time: 5 Minutes

Materials: None

Handouts: None

Sources:

Here are specialties recognized by the American Bar Association for the chart:
https://www.americanbar.org/topics/
21 specialty areas of law are listed by the American Bar Association

SLIDE 38

INSTRUCTIONS

This slide gives just a sample of different kinds of specialty areas for lawyers. It helps provide an idea of why finding one with the right expertise is important.



Time: 1 Minute

Materials: None

Handouts None

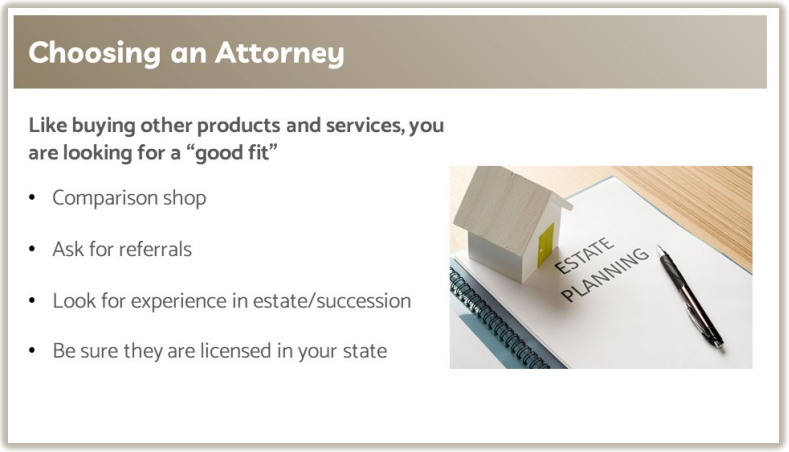
Source:

Here are specialties recognized by the American Bar Association for the chart: https://www.americanbar.org/topics/

SLIDE 39

INSTRUCTIONS

Choosing an attorney is similar to other good shopping. This slide offers some key points to guide the decision.



Time: 5 Minutes

Materials: None

Handouts: None

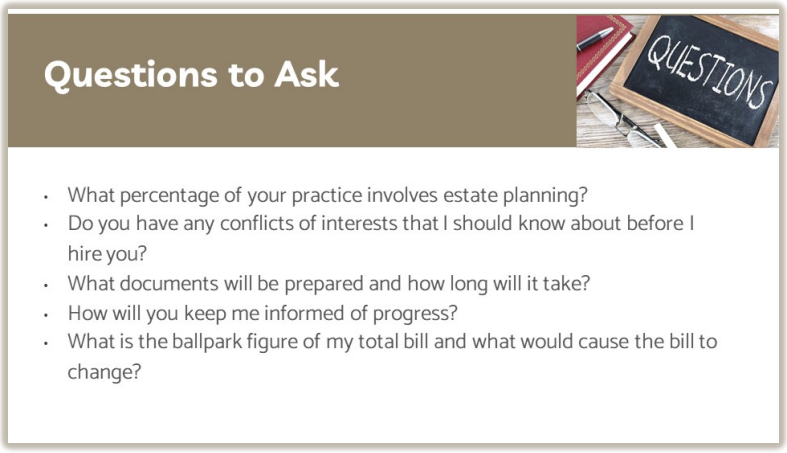
Sources:

- https://extension.tennessee.edu/publications/Documents/SP743-B.pdf
- https://www.uaex.uada.edu/life-skills-wellness/personal-finance/retirement-and-estate-planning/
- https://401kcalculator.net/retirement-calculator/

SLIDE 40

INSTRUCTIONS

When meeting to interview an attorney about possibly hiring him or her, listen and give the best information so that the attorney can assess your needs in the best way possible. Some questions to ask before deciding who to hire are depicted on this slide.



Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 41

INSTRUCTIONS

Being prepared is likely to save you time and money.

Attorneys may have you fill out a form and give you a list of documents to bring with you on your first appointment, which may include:



- Written summary of what you hope to achieve with your estate plan
- Document with your full name and address and the full names and addresses of your spouse and children and anyone you plan to include in your will
- Complete personal income tax returns for 3-5 years
- Balance sheet with assets and liabilities owned by you
- Deeds and mortgages
- List and details of any other oral or written agreements that you have with a lender, creditor, landlord, tenant or other party
- Marital agreements and/or divorce decrees
- Beneficiary designations (insurance, retirement plans, etc.)
- Prior wills, power of attorneys, any other pre-existing versions

Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 42

INSTRUCTIONS

Ensure that your will is safe by following these three steps.

- Store the original will in a safe place.
- Let your executor know where the original will is stored, along with needed information such as the password for the safe.
- Give duplicate signed copies to the executor and your attorney if you have one.



Time: 5 Minutes

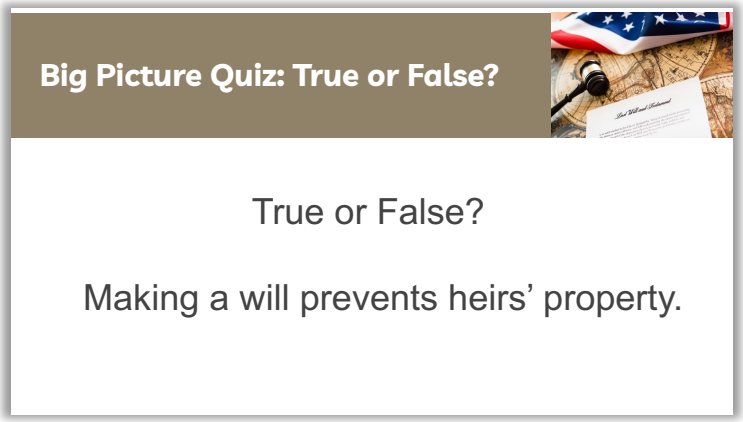
Materials: None

Handouts: None

SLIDE 43

INSTRUCTIONS

False. Having a will does not necessarily mean you avoided creating heirs' property.



Time: 5 minutes

Materials: None

Handouts: None

SLIDE 44

INSTRUCTIONS

This section will discuss important considerations in preventing heirs' property when writing a will.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 45

INSTRUCTIONS

Having a will does not mean you avoided creating issues similar to heirs' property. Decisions have to be made by owners to manage property and put it to productive use. If property is held jointly by children, all the children as owners must consent to the use of the property. This may lead to disagreements and a deadlock.

.



Time: 5 Minutes

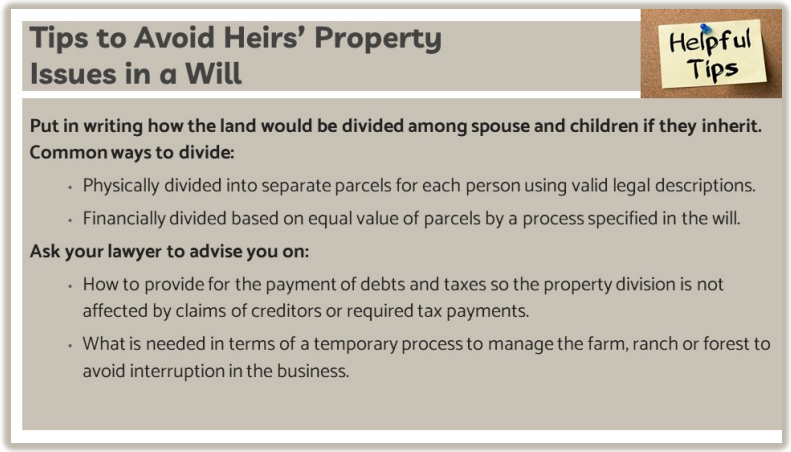
Materials: None

Handouts: None

SLIDE 46

INSTRUCTIONS

Review these tips for handling property distribution among multiple children. Additional talking points are below:



Physical division of property may require a survey.

Properties of the same acreage may have different values. For example, some properties having higher value are those having greater road frontage, more fertile soils, having utilities present, etc. Thus, some choose to have the property divided after death based on equal value of parcels (perhaps divided by an appraiser or other person).

Time: 5 Minutes

Materials: None

Handouts: None

Sometimes, if an appraiser or other person is asked to divide property after the death of the property owner, they might first divide the overall property into pieces of equal value (not necessarily equal size) and then there may be a drawing where each child obtains a parcel at random.

Your lawyer should advise you on:

- How provide for the payment of debts and taxes so the property division is not affected by claims of creditors or required tax payments
- What is needed in terms of a temporary process to manage the farm, ranch or forest to avoid interruption in the business.

Other problems are created if the children are under the age of majority when they inherit the property.

SLIDE 47

INSTRUCTIONS

This section will discuss important considerations in preventing heirs' property when writing a will.



Time: 1 minute

Materials: None

Handouts: None

SLIDE 48

INSTRUCTIONS

Discuss these key points related to transferring land by deed.



These options have been noted earlier but are repeated here to weave the connections.

- Conveying real property before death
- Reserving or granting a life estate when conveying property to allow limited use by the life tenant prior to death
- Conveying title by a transfer on death deed that transfers full title on death

Time: 5 minutes

Materials: None

Handouts: None

SLIDE 49

INSTRUCTIONS



One spouse/parent may prefer to leave real property as a life estate to a spouse or a child in the event of circumstances important to that parent.

A life estate may be limited so as to require the holder to live on the property for a specified number of months each year if there is a concern that commitment to a nursing home or other facility would not enable the holder to manage the property. The property could be managed by others in order to keep the income stream benefitting the nursing home resident. This may have implications on eligibility for the government benefit.

Time: 10 minutes

Materials: None

Handouts: None

A life estate ensures the parent that the children receive the property after the death of the person holding the life estate. For instance, if property solely owned by one person is first left by that person to their spouse, the surviving spouse may later remarry and change their will or for other reasons cut a child out of their will (as allowed by law).

Life estates may provide for a child with special needs so that they may remain in the family home if it is in their best interest.

Life estates may also allow a child who earns their livelihood on the farm/ranch to continue living there for their life.

Your lawyer should advise you as to what rights/obligations pass under a life estate under the law of the state where your property is located so that you could make changes to match your desires.

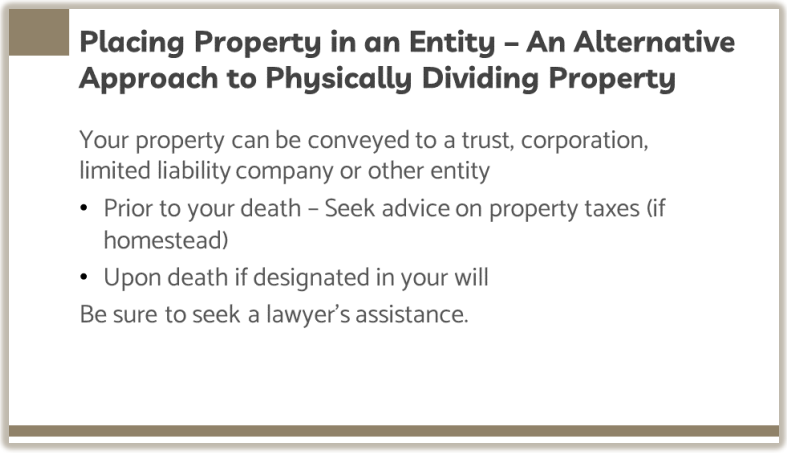
In most states, a life tenant has exclusive control of the property during their life. They generally must keep property in good repair.

SLIDE 50

INSTRUCTIONS

Using a trust or business entity can avoid partition and the decedent can determine the use and management of the property after his or her death.

Generally, interests in entities could include shares of stock in a corporation, membership interests in a limited liability company, partnership shares/units in a partnership, etc.



Time: 5 minutes

Materials: None

Handouts: None

Some trusts are created by a will. Other trusts are created prior to the owner's death by a trust instrument.

Prior to your death:

If the trust is created prior to the owner's death, the owner will deed their property to the trust. Trusts are managed by one or more trustees who have broad discretionary powers. Prior to the death of either spouse, your lawyer may help you convey property to a trust, corporation, limited liability company or other entity.

NOTE: Seek advice as to the effect on property taxes, if the property is your homestead.

If property is placed in an entity prior to your death, your will provides for the interests in the entity you created to be left to a spouse or children.

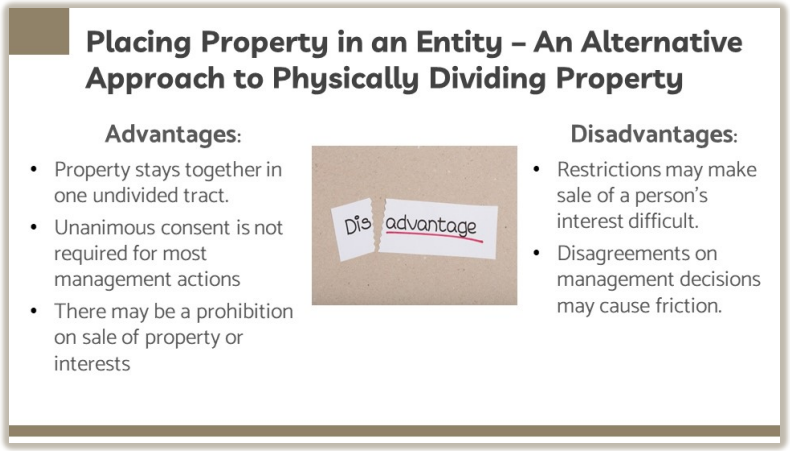
Upon death through a will:

Upon death, if you have kept the property in your name, a will may place property in a trust for the benefit of a spouse or children.

SLIDE 51

INSTRUCTIONS

Discuss these advantages and disadvantages of placing property in an entity.



Advantages include:

- The property stays together in one undivided tract and is managed by a trustee (if held in a trust) or a board, manager(s) or general partner(s) if held in another entity.
- This does not require unanimous consent for most management actions.
- There may be a prohibition on sale of property or interests.

Time: 5 minutes

Materials: None

Handouts: None

Disadvantages include:

- Restrictions placed on transfer of interests in the entity may make a sale difficult when a child needs to sell for health, financial or other personal reasons.
- Disagreements over management decisions made by others may cause family dissention.

In entities other than a trust, unanimous consent of the owners of an interest in the entity may be required to sell the property or place a mortgage on it. General day-to-day affairs are decided by majority vote of the board of directors (for a corporation), the manager(s) (for a limited liability company) and the partners (for a partnership). A holdout will usually not create a deadlock.

A common requirement may include restrictions on transfer of interest in the family-owned entities. A proposed sale may first be required to be offered to the other owners or the entity before being sold to a third-party.

SLIDE 52

INSTRUCTIONS

Discuss these key elements involved in keeping a title current.

Maintaining Property as Heirs' Property through Current Marketable Title

After title is examined, the names and percentage interests of each family member should be determined.

Record. Title should be updated to reflect current ownership and percentage interest according to the law of the states where the property is located which may include:

- Affidavit of Heirship
- Probate of wills
- Administration of Estates
- Judicial Determination of Heirship



Time: 5 minutes

Materials: None

Handouts: None

SLIDE 53

INSTRUCTIONS

Discuss the advantages and disadvantages of this approach using the talking points on the slide.



Time: 3 minutes

Materials: None

Handouts: None

SLIDE 54

INSTRUCTIONS

Wrap up this session with any questions participants may have.



Time: 5 minutes

Materials: None

Handouts: None

Heirs' Property Key Terms Cards – Print on Cardstock and cut apart for activity

Administrator	a court-appointed person ordered to manage the estate of a deceased person who died intestate
Assets	real or personal property (including cash/liquidity) owned by a person or company, regarded as having value and the ability to meet debts, commitments, or legacies
Beneficiary	a person entitled to receive funds or other property under a trust, Last Will & Testament, retirement account, or insurance policy
Codicil	an addition or supplement that explains, modifies, or revokes a Last Will & Testament or part of one
Community Property	property owned jointly by a married couple (in some states)

Conservatorship	the appointment of a guardian or conservator by a judge to manage the financial affairs and/or daily life of another person due to old age or physical or mental limitations
Corporation	a legal entity that is separate and distinct from its owners. For profit corporations act through a board of directors selected by its shareholders (owners)
Decedent	a person who has died
Estate	a person's property or net worth. When the person is deceased, their estate goes through probate and is distributed according to the terms of their Last Will & Testament. If there is no will, the estate is "administered" in accordance with the state's laws of intestate succession
Executor/Executrix	a court-appointed person or institution who is responsible for carrying out the terms of a Last Will & Testament and overseeing the probate of the Will & administration of the assets/estate

Heir	a person legally entitled by law to the property of a decedent; a person inheriting and continuing the legacy of a predecessor
Heir's Property	property owned jointly by numerous co-owners, most of whom are related. It usually passes from one generation to another when a landowner dies intestate or with no succession/estate planning for the land
Holographic Will	a handwritten and testator-signed document that is legally binding in some states, but not produced by a lawyer
Intestate	the decedent died without a valid Last Will & Testament. When a person dies intestate, the estate is distributed in accordance with the state's laws of intestate succession, after creditors are paid
Irrevocable Trust	created when a person gives up his/her rights to change the terms of a trust once created. The trustor/grantor cannot later change the terms of an irrevocable trust.

Joint Tenancy with rights of Survivorship	the holding of an estate or property jointly by two or more parties, the share of each passing to the other or others upon death.
Last Will & Testament (Will)	a document which directs how property (including minor children) is to be distributed to beneficiaries and heirs upon a person's death
Life Estate	an interest in property only for the life of a person with the remaining interest (remainder) to vest in others upon the death of the person holding the life estate
Limited Liability Company	a legal entity that is separate and distinct from its owners. It acts through its manager(s) or its members (owners)
Living Trust	a legal arrangement established by an individual (the grantor/trustor) during their lifetime to protect their assets and direct their distribution after the grantor's death. Avoids the probate process.

Living Will (Advance Healthcare Directive)	a written, legal document that spells out medical treatments you would or would not want to be used to keep you alive, as well as your preferences for other medical decisions, such as pain management or organ donation, when you can no longer make decisions for yourself
Mutual Will	a type of will, usually executed by a married or committed couple, that is mutually binding
Notary	a person authorized to perform certain legal formalities and certify/witness signatures on estate planning documents, contracts, deeds, etc.
Per Stirpes	a way of distributing the estate of a decedent where each branch of the family receives an equal share of an estate. Latin term = “by roots” or “by branch”
Personal Representative	a collective name for either Executors or Administrators

Power of Attorney (POA)	a legally binding document that allows you to appoint someone to manage your property, medical, or financial affairs
Probate	a court-administered process in which the probate court confirms the validity of a Last Will & Testament and allows other people the option to challenge the will. The estate is then administered in accordance with the Last Will & Testament (called "succession" in Louisiana)
Revocable Trust	allows the trustor/grantor to amend and make changes to the trust after it has been formed
Spouse	a life partner in a marriage, civil union, or common-law marriage as recognized by state law
Testate	the decedent died with a valid Last Will & Testament

Testator /Testatrix	a court-appointed person or institution who is responsible for carrying out the terms of a Last Will & Testament and overseeing the probate of the Will & administration of the assets/estate
Transfer on Death Payable on Death	lets beneficiaries receive assets at the time of the person's death without going through probate
Trustee	a trustee is a person or business that administers a trust
Trust	a fiduciary arrangement that allows a third party, or trustee, to hold assets on behalf of a beneficiary or beneficiaries.
Testamentary trust	a trust that is specified in and created by a person's Last Will & Testament

HEIRS' PROPERTY DEFINITIONS EXERCISE

"DURING LIFE" CONCEPTS, ROLES, & DOCUMENTS

Conservatorship and/or Guardianship	**Living Will/Advance Healthcare Directive**
Power of Attorney (POA)	**Durable Power of Attorney (DPOA)**

_____ a written, legal document that spells out medical treatments you would or would not want to be used to keep you alive, as well as your preferences for other medical decisions, such as pain management or organ donation, when you can no longer make decisions for yourself.

_____ a legally binding document that allows you to appoint someone to manage your property, medical, or financial affairs. This document terminates at the expiration date set by the appointer or at the appointer's incapacity or death, unless revoked earlier.

_____ a legally binding document that survives incapacity, meaning it will stay in place even when the appointer becomes incapacitated. Once the appointer passes away, the durable power of attorney agent's authorization and responsibilities end.

_____ the appointment of a guardian or conservator by a judge to manage the financial affairs and/or daily life of another person due to old age or physical or mental limitations.

"AFTER LIFE" CONCEPTS, ROLES, & DOCUMENTS

Key Concepts

Assets	**Decedent**	**Estate**	**Estate Administration**
Intestate	**Succession**	**Probate**	**Testate**

_____ a person who has died.

_____ a person's property or net worth. When the person is deceased, their estate goes through probate and is distributed according to the terms of their Last Will & Testament. If there is no will, the estate is "administered" in accordance with the state's laws of intestate succession. Some assets pass outside the administrative estate including insurance policies and retirement plans naming beneficiaries, financial accounts with survivorship rights in another person, and real property where the deed vests survivorship rights in another person.

_____ Louisiana's process of settling a deceased person's estate and distributing the property of those who inherit after debts are paid. The equivalent of administration/probate in other states.

_____ the decedent died with a valid Last Will & Testament.

_____ the decedent died without a valid Last Will & Testament. When a person dies intestate, the estate is distributed in accordance with the state's laws of intestate succession, after creditors and administrative costs are paid.

_____ a court-administered process in which the probate court confirms the validity of a Last Will & Testament and allows other people the option to challenge the will. The estate is then administered in accordance with the Last Will & Testament

_____ a court-administered process in which the probate court confirms the validity of a Last Will & Testament and allows other people the option to challenge the will. The estate is then administered in accordance with the Last Will & Testament.

_____ a court-administered process in which the probate court administers the estate in accordance with the state's laws of intestate succession and the laws defining the decedent's heirs-at-law.

_____ real or personal property, property (including cash/liquidity) owned by a person or company, regarded as having value and will be liquidated to meet debts, administrative costs or distributed according to the Last Will & Testament.

Roles

Administrator	**Beneficiary**	**Executor/Executrix**	**Heir**	**Notary**
Personal Representative	**Testator/Testatrix**	**Trustee**		**Spouse**

_____ a person who has written and executed a Last Will & Testament.

_____ a court-appointed person ordered to manage the estate of a deceased person who died intestate.

_____ a court-appointed person or institution usually named by the Decedent in the Last Will & Testament who is responsible for carrying out the terms of a Last Will & Testament and overseeing the probate of the Will & administration of the assets/estate.

_____ a collective name for either Executors or Administrators.

_____ a person entitled to receive funds or other property under a trust, Last Will & Testament, retirement account, or insurance policy.

_____ a person legally entitled to inherit the property and assets of a decedent.

_____ a person or business that administers a trust.

_____ a person authorized by the law of the state where they reside to perform certain legal formalities and certify/witness signatures on estate planning documents, contracts, deeds, etc.

_____ a life partner in a marriage, civil union, or common-law marriage as recognized by state law.

Documents

Codicil	**Holographic Will**	**Irrevocable Trust**	**Last Will & Testament (Will)**
Living Trust	**Revocable Trust**	**Testamentary Trust**	**Trust**

_____ a document which directs how property is to be distributed to beneficiaries and heirs upon a person's death and who is suggested as the guardian for minor children in the event the decedent is the last parent of the child to die.

_____ an addition or supplement that explains, modifies, or revokes a Last Will & Testament or part of one.

_____ a handwritten and testator-signed document that is legally binding in some states, but not produced by a lawyer.

_____ generally a fiduciary arrangement that allows a third party, or trustee, to hold assets on behalf of a beneficiary or beneficiaries according to specified terms and conditions.

_____ a legal arrangement established by an individual (the grantor/trustor) during their lifetime to protect their assets and direct their distribution after the grantor's death. Avoids the probate process.

_____ a trust that is created by a person's Last Will & Testament.

_____ created when a person gives up his/her rights to change the terms of a trust once created. The trustor/settlor cannot later change the terms of an irrevocable trust. This type of trust can protect assets from Medicaid estate recovery with proper Medicaid planning.

_____ allows the trustor/settlor to amend and make changes to the trust after it has been formed.

Ownership/Distribution of Property

Community Property	**Heirs' Property**	**Joint Tenants with Rights of Survivorship**
Per Stirpes	**Life Estate**	**Per Capita**
Tenants-In-Common	**Transfer on Death/Payable on Death**	

_____ property owned jointly by a married couple or registered domestic partners (in some states).

_____ co-owners who jointly own property without rights of survivorship, meaning a decedent's interest in the property passes as directed in the decedent's Last Will & Testament or by intestate succession.

_____ co-owners who jointly own property with rights of survivorship, meaning a decedent's interest in the property passes to the surviving owner(s) upon the decedent's death.

_____ property owned by numerous tenants-in-common, most of whom are related. It usually passes from one generation to another when a landowner dies intestate or with no succession/estate planning for the land.

_____ an interest in property only for the life of a person with the remaining interest (remainder) to vest in others upon the death of the person holding the life estate.

_____ lets beneficiaries receive assets at the time of the person's death without going through probate.

_____ "by roots," "by branch," or "by representation." The term refers to every person down a branch of a family tree. An estate of a decedent is distributed per stirpes if each heir of a deceased person takes the share to which their deceased relative would have been entitled had that relative been alive.

_____ "by head" or "for each head." The inheritance is distributed equally among beneficiaries within the same generation/class.

Entities

Corporation	Limited Liability Company

_____ a legal entity created according to state law that is separate and distinct from its owners. For profit corporations act through a board of directors selected by its shareholders (owners).

_____ a legal entity created according to state law that is separate and distinct from its owners. It acts through its manager(s) or its members (owners)

ESTATE PLANNING WORKSHEET

NAME: _____ DATE: / / (DAY / MONTH / YEAR)

OVERVIEW

An estate plan is the process and documents that express what should happen to a persons assets (valuable things owned) after they pass away. It commonly includes 1) Last Will & Testament, 2) Durable Power of Attorney, and 3) Advance Health Care Directive. Although an estate plan is important, only 33% of people make a plan. This worksheet can be used to weigh the benefits and costs of making a plan as a first step to creating an estate plan.

MY VALUES

People value and prioritize different things in life. Consider the statements below. Using the rating scale, on a 5-point scale rate how important each item is to you from not at all important to very important. There are no right or wrong answers.

QUESTIONS	RATING SCALE				
	Not At All Important	Low Importance	Neutral	Important	Very Importnant
Taking pressure off family members about my end-of-life decisions	○	○	○	○	○
Having a plan for my children's care	○	○	○	○	○
Reducing risk of family disputes	○	○	○	○	○
Knowing who will get family heirlooms	○	○	○	○	○
Providing input on my funeral/memorial	○	○	○	○	○
Choosing who handles my affairs	○	○	○	○	○
Helping family get quick access to my assets	○	○	○	○	○
Saving more money overtime	○	○	○	○	○

MY STRATEGY

Estate planning costs, benefits and values will vary from person to person. Create a persona l estate plan strategy based on your responses to the estate planning questions on costs, benefits, and values.

I CHOOSE TO: ○ Work With An Attorney ○ Use an Online Software or Template ○ Hand Write My Own

I WILL COMPLETE MY PLAN BY: DAY / MONTH / YEAR

STEPS I WILL TAKE:	STEP 1:	STEP 2:	STEP 3:

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ESTATE PLANNING WORKSHEET

NAME: _____ DATE: / / DAY MONTH YEAR

COSTS TO CREATING A PLAN

When estate planning, a person might 1) work with an attorney, 2) use a template or software, or 3) hand write the plan. Consider and describe potential costs of creating an estate plan. Consider your money, time, energy, and other factors.

	Working with an Attorney	Using an Online Template	Handwriting
Money			
Time			
Energy			
Other			

BENEFITS TO CREATING A PLAN

Think about the potential benefits or perks of each estate planning option. Write the benefits of creating an estate plan in this section. Consider your money, time, energy and other factors.

	Working with an Attorney	Using an Online Template	Handwriting
Money			
Time			
Energy			
Other			

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HEIRS' PROPERTY

LAWYER SKIT - PREVENTION

Role play a situation between a lawyer and a person or couple coming to visit a lawyer for the first time to begin working on a will. You may use some of the questions under "Questions a Lawyer May Ask" and allow the other person to make up answers. Or you may use the suggested script. Feel free to edit any of this content to fit your audience and the amount of time you have allotted for this activity.

Meeting with a Lawyer – Drafting a Will

Questions a Lawyer May Ask

- I require a retainer to begin. I will need you to pay me $250.00 before I can begin work.
- I need you to sign an engagement letter. It explains the legal services I am rendering to you and the terms, the use of the retainer, and the terms and conditions of my employment. Please let me know if you have any questions. If not, please sign the letter and return it to me.
- What is your full (legal) name and date of birth, address, and phone?
- Are you married and if so, what is the name of your spouse?
- Do you have children and if so, what are their names and ages?
- Who do you want to be the executor of your estate, that is the person who will handle carrying out the wishes for your estate you set out in your will?
- Do you have real property?
- To whom do you want to leave your real property (your home and any other land)?
- To whom do you want to leave your personal property (furniture, cars, jewelry, or other personal property?

- Do you have any children who are under 21, and if so, who do you want to designate as their guardian (if their other parent is not living at the time of your death)?

- Did you want to create a trust for any minor children or other person in your will and if so, let me know what you want to accomplish with the trust?

- Do you want to also execute a power of attorney for healthcare and a general power of attorney when you execute your wills? If so, I will have some more questions concerning those documents.

HEIRS' PROPERTY

LAWYER CLIENT SKIT: PLANNING MY ESTATE

Setting

A furnished office space in a quiet commercial building.

[Lawyer]

Good morning. My name is Blair Morgan, and I specialize in wills and estate planning. I appreciate you making the time to meet with me today.

[Client]

It's nice to meet you as well. My name is Cameron Martin.

I received your letter regarding today's meeting and outlining the process for hiring you as my lawyer. I brought along all the documents you requested, plus a few additional ones I thought might help with preparing my will.

[Lawyer]

Excellent, thank you for that. Before we start, let's clarify a couple of key points. First, I need to confirm whether I'll be representing only you or others as well.

Also, I'd like to review the terms of my engagement, particularly the retainer fee. Do you have any questions about the engagement letter? It's important to me that everything is clear and agreed upon before we proceed.

[Client]

You'll be representing just me. I'm divorced and haven't gotten remarried. I do have a question about the payment—you mentioned a retainer fee.

Why do I need to pay something upfront before you've actually started working on my will?

[Lawyer]

Good question. My policy for drafting a simple will is to charge a flat fee of $500, with $250 paid upfront and the remaining $250 due once your will is completed and signed. This arrangement ensures commitment from both sides—clients are motivated to see the process through, and it protects me from investing significant work without compensation if someone decides not to complete the will.

If you're comfortable with this arrangement, please sign the engagement letter and provide the initial payment of $250, payable to my firm's trust account as detailed in the letter.

[Client]

That makes sense. I'll go ahead with it. Also, I wanted to tell you, I have three children:

Alex Brooks, age 32, who lives in Austin, from my first marriage. My first spouse passed away.

Zuri Brooks, age 30, also from my first marriage, currently living in Austin.

Casey Martin, age 24, from my second marriage, residing in Nashville. I'm divorced from their parent.

I plan to leave everything equally to my three children.

[Lawyer]

Sounds good. To help draft your will accurately, I'll need some details about your previous marriages—specifically, your first husband's date of death and probate details, and the date and details of your divorce from your second husband.

[Client]

My first spouses' name was Jordan Brooks; he passed away on October 3, 2002. Their estate was probated in Travis County, and I inherited their assets. My second spouse's name was Jesse Martin, and our divorce was finalized on January 5, 2019, in Carson County. I've included copies of the probate closing order and the divorce decree, as you requested.

[Lawyer]

Great. Now, can we discuss your real estate holdings? Do you currently own any properties?

[Client]

Yes, I own two properties. My primary residence at 1920 Washington St. Houston, TX, and a family farm property, approximately 160 acres, in Dawson County.

I'd like to leave both properties equally to my children. They'll probably sell the house since none of them particularly want it, but I'd like them to keep the family land in the family. I've brought deeds for both properties as you asked.

[Lawyer]

That's very helpful, thank you. Let's clarify ownership details and debts on these properties. Are both properties solely in your name, and is there any outstanding debt, like a mortgage?

[Client]

Both properties are solely in my name. My home has a mortgage through Acme Federal Bank, but there's no debt on the family land. I've also included a copy of the mortgage paperwork.

[Lawyer]

Thank you. The scenario you're describing is common for drafting a simple will, particularly without a living spouse. Regarding your home, I'd suggest instructing your executor to sell the property, pay off the mortgage, and then distribute the net proceeds equally to your children.

This approach avoids potential conflicts if one child refuses to sell later. Does that sound reasonable to you?

[Client]

I hadn't considered potential disputes before. Actually, one of my kids can be quite challenging and tends to argue with the others. Your suggestion makes sense, so let's proceed with that.

[Lawyer]

Good. Now, about your family's 160-acre tract. Leaving it jointly to your children would mean they'll each own an undivided share, creating what we call heirs' property. This often leads to complications, as all of the children would need to agree on how to manage or use the land. To avoid potential disputes, there are several options:

1. Divide the property into three equal-value parcels.
2. Create a limited liability company (LLC), granting each child an equal share but with decisions made by majority vote.
3. Set up a trust to manage the property collectively, overseen by a trustee for everyone's benefit.

Do any of these options appeal to you, or is there another direction you'd like to explore? Please be aware, some of these options might involve additional legal fees, which I can estimate once you decide how you'd like to proceed.

[Client]

Let me think this over. These options are quite thorough, and I appreciate your clarity on each. I'd like to consider them carefully.

[Lawyer]

Of course, take your time. Once you decide, let me know, and we can proceed with drafting your will accordingly.

[End of skit.]

UNDERSTANDING HEIRS' PROPERTY AT THE COMMUNITY LEVEL: RESOLUTION



Alcorn
NATIONAL POLICY RESEARCH CENTER

SOUTHERN EXTENSION RISK MANAGEMENT EDUCATION

SRDC

RESOLUTION

OBJECTIVES

- Review some of the challenges of owning heirs' property
- Importance of working with other family members
- Steps to take to understand who legally owns the property
- Discuss different legal structures that can hold land owned by heirs' property owners

ESTIMATED TIME TO COMPLETE

4 hours

BEFORE THE MEETING

- If this is a continuation of the training on the same day, remove the introduction slides. If it is a session held on a day by itself, fill in the date and location information on the first introduction slide.
- Insert today's presenters on the designated slide.
- Check to see if map of where the Uniform Partition of Heirs' Property Act on slide 7 is up to date using the link below. If the map has changed, copy the map from the website and replace the one on the slide. Also update the date on the slide.
  https://www.uniformlaws.org/committees/community-home?CommunityKey=50724584-e808-4255-bc5d-8ea4e588371d

MATERIALS NEEDED

Paper and pencils/pens for participants

HANDOUTS AND TOOLS

- Agenda – A sample agenda for the entire curriculum is included in the **OVERVIEW** section. If you are doing this session as a separate session, you can adapt that sample to fit your situation.

- These are the same as in the **OVERVIEW session**. If your participants have these from that session, you do not need to print again. However, if you are doing this session as a stand-alone section, you will need to print these:
    - Guidance for Heirs' Property Operators Participating in Farm Service Agency (FSA) Programs. Fact Sheet, July 2020. Available at: https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/FactSheets/guidance_heirs_property_operators_participating_in_fsa_programs-factsheet.pdf
    - Update to FEMA's Individual Assistance Program and Policy Guide, Version 1.1 available at: https://www.fema.gov/sites/default/files/documents/fema_updated-iappg-version-1.1.pdf
    - FEMA Makes Changes to Individual Assistance Policies to Advance Equity for Disaster Survivors available at: https://www.fema.gov/press-release/20210902/fema-makes-changes-individual-assistance-policies-advance-equity-disaster#:~:text=FEMA%20is%20amending%20its%20current,the%20survivor's%20home%20before%20the
    - State Factsheets on Heirs' Property – Go to the link to identify and print the fact sheet for your state if it is available (scroll down the page to see the states). https://farmlandaccess.org/heirs-property/#statefactsheets
    - Lawyer Suggestions for Heirs Property Owners
- Case Studies – Three family focused case studies are provided. An additional case study allows participants to work through two scenarios to apply knowledge gained.
- Evaluation – The evaluation covers all three sections. If you are not doing all three sections together, you can adapt as described in the evaluation instructions.

SLIDE 1

INSTRUCTIONS

Before the session begins, insert the date and location for your event. Have this slide up as participants enter the room.



Please acknowledge that this material was developed in partnership with the National Policy Research Center at Alcorn State University, the Southern Extension Risk Management Education Center, and the Southern Rural Development Center through funding in part from USDA.

Time: 1 Minute

Materials: None

Handouts: None

Mississippi State University is an equal opportunity institution. Discrimination is prohibited in university employment, programs or activities based on race, color, ethnicity, sex, pregnancy, religion, national origin, disability, age, sexual orientation, genetic information, status as a U.S. veteran, or any other status to the extent protected by applicable law. Questions about equal opportunity programs or compliance should be directed to the Office of Civil Rights Compliance, 231 Famous Maroon Band Street, P.O. 6044, Mississippi State, MS 39762, (662) 325-5839.

NOTE: If you do not do all three segments at the same event, insert slides 1-4 at the beginning of your other sessions as they provide the overarching foundation for the training.

SLIDE 2

INSTRUCTIONS

Explain the purpose of the overall curriculum.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 3

INSTRUCTIONS

This slide highlights the partnering organizations that have worked together to develop materials and host trainings.



This material was developed and training for trainers was provided as a partnership with the National Policy Research Center at Alcorn State University, the Southern Extension Risk Management Education Center, and the Southern Rural Development Center hosted at Mississippi State University through funding in part from USDA.

Time: 1 Minute

Materials: None

Handouts: None

SLIDE 4

INSTRUCTIONS

Please acknowledge the primary and contributing authors to this material as well as the funding stream through the Southern Rural Development Center and the National Policy Research Center at Alcorn State University.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 5

INSTRUCTIONS

Add presenter information and introduce yourselves.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 6

INSTRUCTIONS

This slide shows the three parts of the curriculum and gives a quick view of the components covered in each section.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 7

INSTRUCTIONS

Give time for participants to introduce themselves. You could also include a brief question for them to answer such as what is one question or curiosity you have about heirs' property. Don't take time to answer those at this point. Rather this is about acknowledging where their curiosities are, and how the group can share this time together to learn and support each other.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 8

INSTRUCTIONS

This slide begins the resolution section.



Time: 1 Minute

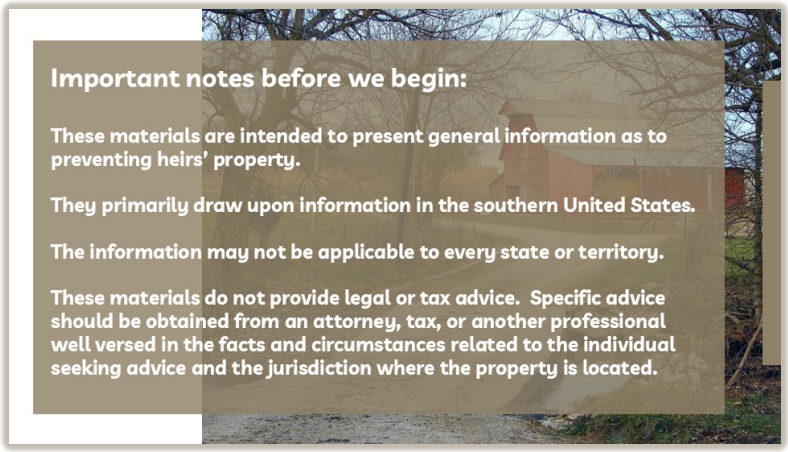
Materials: None

Handouts: None

SLIDE 9

INSTRUCTIONS

Read the disclaimer and answer any questions that may arise.



Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 10

INSTRUCTIONS

Read the disclaimer and answer any questions that may arise.



Time: 2 Minutes

Materials: None

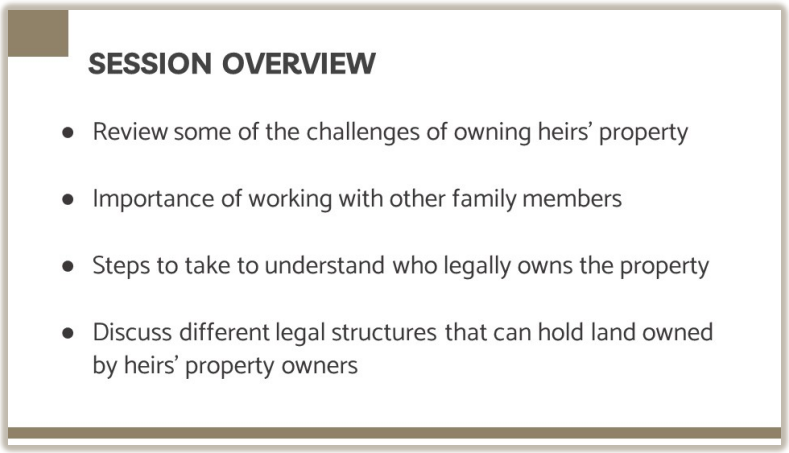
Handouts: None

SLIDE 11

INSTRUCTIONS

During this session, participants will better understand:

- The challenges of heirs' property but also understand why some families might choose to continue holding their land and homes as heirs' property
- The importance of working with other family members to consider how best to manage and enjoy their heirs' property
- The steps necessary should heirs decide to turn their heirs' property into a different legal form and what advantages such a change might bring
- The different legal forms available to owners of heirs' property should they decide to change



Time: 2 Minutes

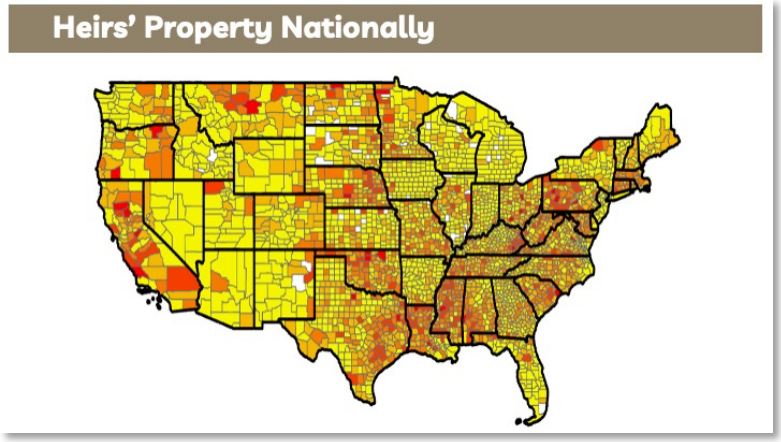
Materials: None

Handouts: None

SLIDE 12

INSTRUCTIONS

Map indicating the current number of heirs' property lands in the United States. For instructional use only, do not disseminate.



Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 13

INSTRUCTIONS

First, we'll do a review of things you have heard in previous sections.



Time: 3 Minutes

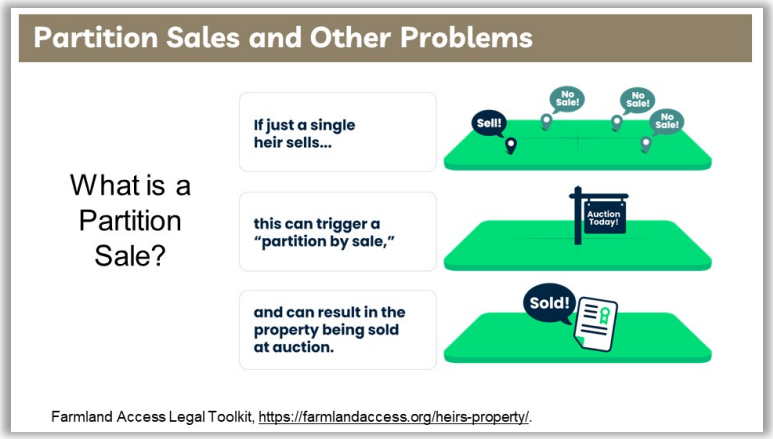
Materials: None

Handouts: None

SLIDE 14

INSTRUCTIONS

In previous sessions, heirs' property has been generally described as a form of ownership which has several serious problems. The problem which has attracted the most attention is the danger that the family may lose the property because of a court-ordered sale of the property, a so-called "partition sale."



Farmland Access Legal Toolkit, https://farmlandaccess.org/heirs-property/.

Two kinds of partition actions:

Time: 7 Minutes

Materials: None

Handouts: None

- **Partition in kind**: land is divided according to the percentage of ownership held by each heir. This may occur if all the land is similar in quality and value, the number of heirs is small, and the heirs agree on how the land should be divided. Heirs involved in voluntary partitioning should check with appropriate local government offices to be sure they are following all necessary procedures, and they should also consult with a lawyer to be sure all documents are properly filed.
- **Partition by sale,** where the property is sold, and proceeds of the sale are divided among heirs according to their respective shares. Some forms of property (e.g., a house) do not lend themselves to partitions in kind.

Heirs may agree that partition by sale is the best way to divide the property, or one heir (or the purchaser of an heirs' interest) may force the sale on other members of the family. There are numerous examples of partition actions brought about by an outsider such as a real estate developer who purchases the share of one heir and then goes to a local court and demands that the property be sold, and proceeds distributed. (Like in the Lewis family in the VICE video we watched during the "prevention" portion of this training.) Such sales historically often resulted in an auction of the property on the courthouse steps, and the property is sold for much less than it is worth. With the passage of the Uniform Partition of Heirs Property Act, which we'll talk about next, advocates hope that this has changed.

SLIDE 15

INSTRUCTIONS

For decades, state partition laws contributed to widespread and devastating land loss among families who owned land as tenants-in-common. As a result of class action lawsuits and the publication of an article on partition action abuses, a task force was formed to start efforts to reform partition law. The next few slides give an overview of what this means to heirs' property owners.



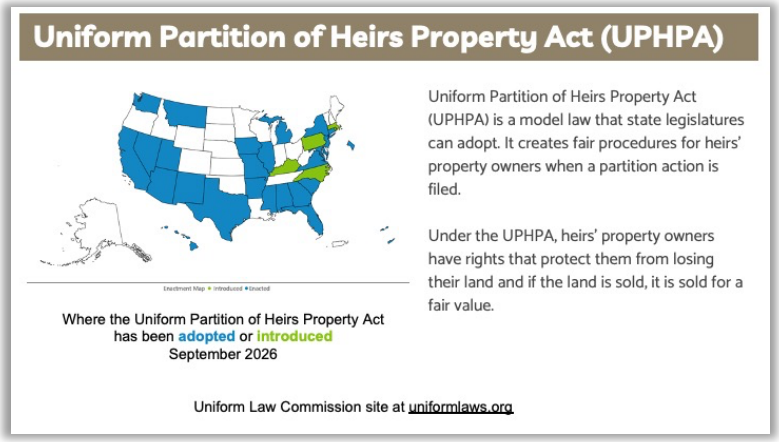
Time: 1 minute

Materials: None

Handouts: None

SLIDE 16

INSTRUCTIONS



The American Bar Association's (ABA) Section of Real Property, Trusts and Estates Law formed a task force and submitted a proposal in 2006 to the Uniform Law Commission. The Uniform Law Commission also known as the National Conference of Commissioners on Uniform State Laws worked to develop a model State statute that would address partition laws. The Uniform Law Commission approved the Uniform Partition of Heirs Property Act ("UPHPA") in the summer of 2010.

Time: 2 Minutes

Materials: None

Handouts: None

Note: It is important to note that the Uniform Law is not effective until adopted by state legislature. This is a map of states who have enacted the Uniform Partition of Heirs Property Act, highlighted in blue. It also shows states where the UPHPA was introduced, and those states are highlighted in green.

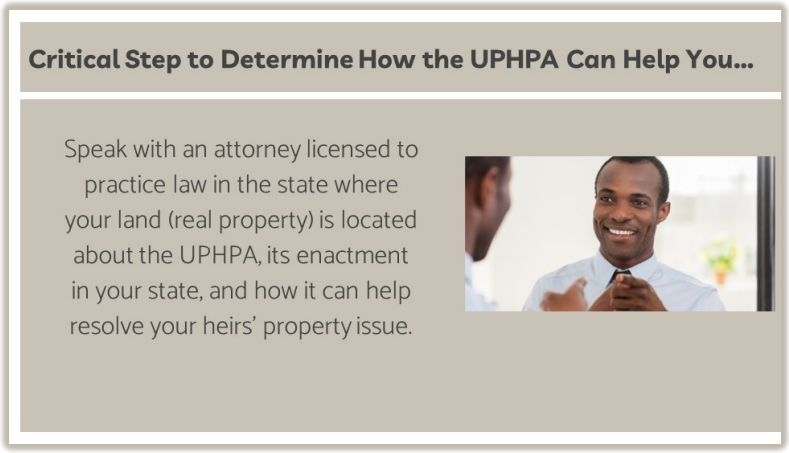
NOTE – Be sure to check this map source and update the map and the date before the presentation if anything has changed:

Source: https://www.uniformlaws.org/committees/community-home?CommunityKey=50724584-e808-4255-bc5d-8ea4e588371d

SLIDE 17

INSTRUCTIONS

Be sure to emphasize that for your audience to understand how the UPHPA can help resolve their heirs' property issue, it is important to speak with an attorney licensed to practice law in the state where the land (real property) is located.



Points to discuss include:

- The ethical rules concerning representing a family or o one or more members
- Whether UPHPA is enacted in your state, and if not, how the heirs' property law is governed
- How the UPHPA or other applicable real property law may help resolve your heirs' property issue.

Time: 1 minute

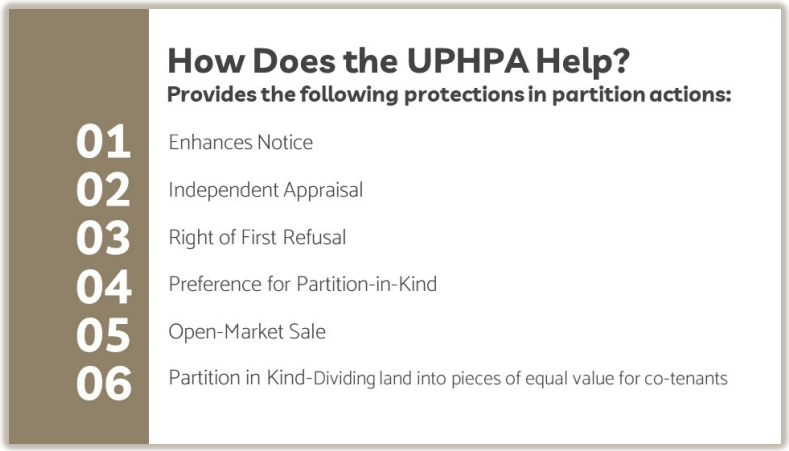
Materials: None

Handouts: None

SLIDE 18

INSTRUCTIONS

This slide gives a snapshot of the specific protections included. The following slides go into more detail.



Time: 1 Minute

Materials: None

Handouts: See note

SLIDE 19

INSTRUCTIONS

The new sales procedure is designed to mirror the traditional procedures real estate brokers use when they market properties and provides enhanced notice regarding the partition sale. In addition to sending notice of filing of a partition action to all known heirs' who are locatable, the plaintiff shall post a conspicuous sign on the heirs' property.



- The sign must state that an action for partition has commenced and list the name and address of the court.
- The court may require the plaintiff to publish on the sign the name of the plaintiff and of any known cotenants.

Time: 2 Minutes

Materials: None

Handouts: None

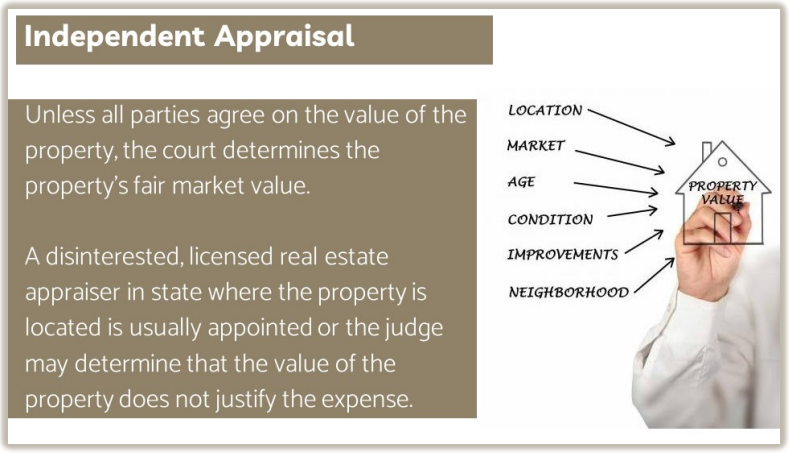
Source: The Uniform Partition of Heirs Property Act, Section 4: Service; Notice by Posting.

SLIDE 20

INSTRUCTIONS

Co-tenants can agree on the value of the property. If; however, all co-tenants do not agree on the value of the property, the court will order a disinterested licensed real estate appraiser to determine the fair market value of the property.

Source: Uniform Partition of Heirs Property Act, Section 6. Determination of Value.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 21

INSTRUCTIONS

The Right of First Refusal or Buy-Out Provision allows a co-tenant who did not request a partition by sale to purchase the property. Any cotenant who does not request a partition sale may purchase the share of the cotenants who petitioned the court for a sale. If two or more cotenants want to purchase the property, the court will divide the seller's interest between the buyers according to their existing ownership shares.



Time: 1 Minute

Materials: None

Handouts: None

Source: Uniform Partition of Heirs Property Act, Section 7. Co-tenant Buyout.

SLIDE 22

INSTRUCTIONS

Preference for Partition-in-Kind

If no co-tenant decides to purchase the shares from the co-tenant who petitioned the court to sell the property, or there is a co-tenant who has requested partition in kind, the court must use the "totality of the circumstances" test to determine whether a partition-in-kind is appropriate, considering:

- Economic factors such as the value of total land compared to value if sold as parcels
- Sentimental attachment to the land
- Lawful use of the land (Residing on the land)
- Paid property taxes, maintenance, and other expenses associated with the land

A co-tenant may elect to have his or her share of property awarded in kind where the court divides the property into physically distinct and separately titled tracts. The UPHPA requires a court to determine whether a partition-in-kind is appropriate when a co-tenant chooses to partite the property in kind or when no co-tenant decides to purchase the shares from the co-tenant who petitioned the court to sell the property. A preference exists to divide the property in kind unless the court using the "totality of the circumstances" test and considering economic and non-economic factors finds a partition in kind will result in manifest prejudice to the cotenants as a group.

Time: 2 Minutes

Materials: None

Handouts: None

Economic factor: The total fair market value of the parcels resulting from the division would be materially less than the value of the property if it were sold as a whole.

Non-economic factors considered by the court are:

- Sentimental attachment to the land
- Lawful use of the land (Residing on the land)
- Paid property taxes, maintenance, and other expenses associated with the land

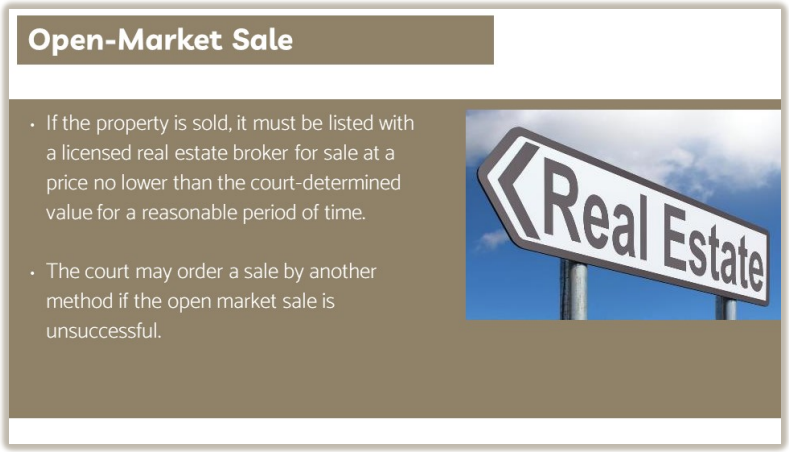
Source: Uniform Partition of Heirs Property Act, Section. 9. Considerations for Partition in Kind.

SLIDE 23

INSTRUCTIONS

If the property is to be sold, it must be listed with a licensed real estate broker for sale at a price no lower than the court-determined value for a reasonable time. If another method will produce a better price, the Court may waive the open-market sale procedure.

Source: Uniform Partition of Heirs Property Act, Section 10. Open-Market Sale, Sealed Bids, or Auction.



Time: 1 Minute

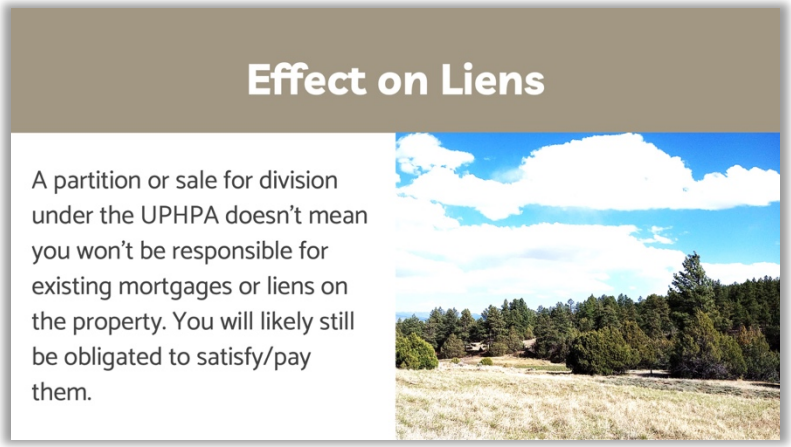
Materials: None

Handouts: None

SLIDE 24

INSTRUCTIONS

This is important to note to participants.



Legal language per Alabama Code:

"A partition, sale or other disposition of property pursuant to this chapter shall not affect or displace a mortgage or other lien on the property and shall not affect or displace the obligations of any person who is a party to the mortgage or other lien or who is obligated on any note or other agreement secured by the mortgage or other lien." Ala. Code 35-6A-12.

Time: 1 Minute

Materials: None

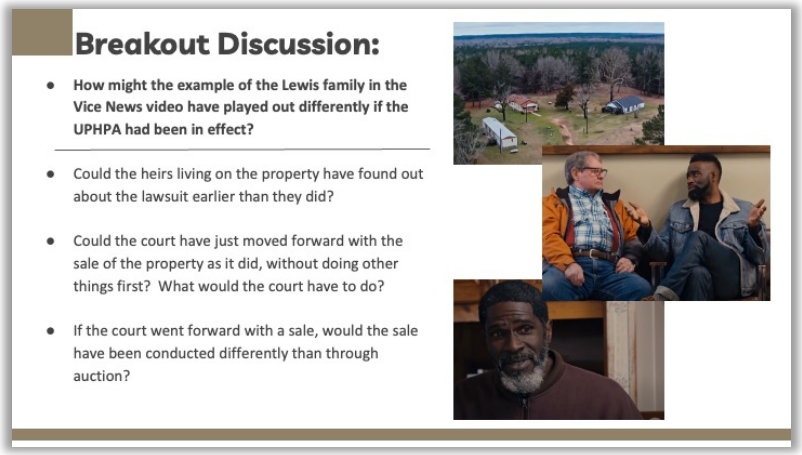
Handouts: None

SLIDE 25

INSTRUCTIONS

Reminder re the facts of the Lewis story:

The Lewis family owned 480 acres in Louisiana since the late 1800s. There were multiple heirs, not all in touch. Some family members lived on the property; many had raised kids there. A lot of the family was dispersed, in New York and other places. The family living on the land was unaware that heirs could sell their interests to people outside the family.



Time: 15 Minutes

Materials: None

Handouts: None

A timber developer was able to purchase about 20% of the family's shares from distant heirs and brought an action for partition in the local court in Louisiana, asking the court to sell the property so he could get the value of his shares. The "notice" provided by the court was solely in a local newspaper; no notice of the partition lawsuit was delivered to the property or given to any of the heirs living on the land.

Ultimately the property was sold at auction for $550,000. (The VICE story did not say whether the timber developer was the one who bid at auction, but he did end up owning all the land.)

Questions for discussion:

If the Uniform Partition of Heirs Property Act was law in Louisiana,

1. Could the heirs living on the property have found out about the lawsuit earlier than they did?
    - Better notice would have been given to all tenants, including a sign with notice on the property.

2. Could the court have just moved forward with the sale of the property as it did, without doing other things first? What would the court have to do?
    - The family members who did not bring the action would have the right to buy out (the right of first refusal) those members who want to sell their interests.

SLIDE 25

INSTRUCTIONS

3. If the court went forward with a sale, would the sale have been conducted differently than through auction?
    - The property would have been appraised to determine its fair market value. The property would be sold by an impartial broker on the open market rather than at auction.

SLIDE 26

INSTRUCTIONS



Other challenges of owning land as heirs' property include:

- Heirs' property owners can also lose their properties through tax sales if real estate taxes are not paid in a timely way. This has often happened because there can be confusion about who is responsible for paying property taxes, and people often don't understand they have legal rights to reclaim property within a certain time period even if the property is taken by the government.

Time: 4 Minutes

Materials: None

Handouts: None

- Unwillingness of banks and other lenders to accept heirs' property as collateral for a loan because who owns the property is not clear. As a result, heirs' property owners cannot use the land as collateral to get low-interest loans to start a business, pay for schooling, or even build a house on land owned as heirs' property. This limits the ability of owners of heirs' property to build wealth that can be passed from generation to generation. Research has shown that Black Americans have been less successful in building intergenerational wealth, and heirs' property is one reason.

- Dead Capital, which is an economic term related to property which is informally held, is not legally recognized, and cannot be exchanged for financial capital. So you have the burden but not the benefit of the property.

- Unable to participate in government programs that could help on the farm. For example, in order to participate in most USDA programs, farmers must get a "farm number" from the Farm Service Agency of USDA. Because people have to show clear ownership of land to get a farm number, many heirs' property owners were left out. This changed recently (see next slide).

SLIDE 27

INSTRUCTIONS

Progress:



- Farm Service Agency (FSA) of USDA: has now issued guidance listing alternative documentation heirs' property owners can use to show they are in control of the farm operation and obtain a farm number. However, heirs' property owners are generally unable to get help from USDA programs designed to assist homeowners because they do not have clear title to their homes.

- FEMA: Only very recently has the federal government changed its policies so that heirs' property owners can get emergency assistance after a hurricane or other natural disaster. For those with heirs' property that need emergency assistance, FEMA and the states have recently expanded the criteria to be eligible for disaster relief. Heirs' property owners can certify that they own the property damaged.

Time: 5 Minutes

Materials: None

Handouts:
Guidance for Heirs' Property Operators Participating in Farm Service Agency (FSA) Programs.
Update to FEMA's Individual Assistance Program and Policy Guide, Version 1.1
FEMA Makes Changes to Individual Assistance Policies to Advance Equity for Disaster Survivors

SLIDE 28

INSTRUCTIONS

Use this time to answer any questions from the previous section.



Time: 10 Minutes

Materials: None

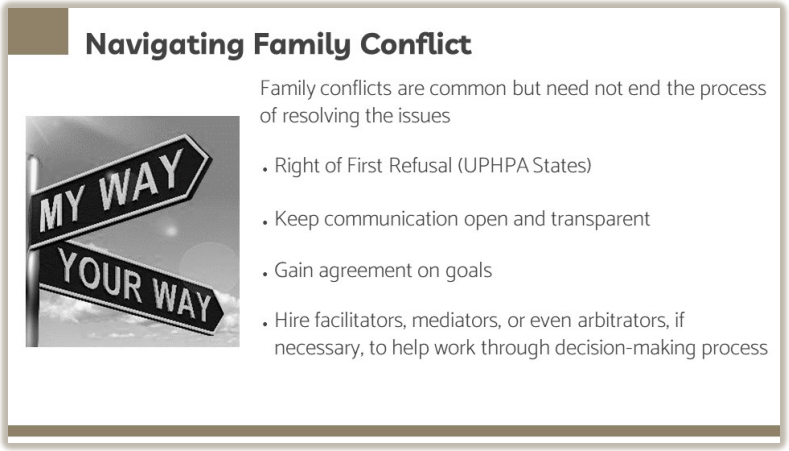
Handouts: None

SLIDE 29

INSTRUCTIONS

Conflict: Family conflicts and disagreements are common in resolving heirs' property. However, they should not stop families from moving forward.

Communication and transparency within the family is going to be critical. Is there someone in the family who can lead this as a project? Is it you?



Families will need to discuss these important points together:

- Discussing the issues
- Understanding the property as a resource, a potential source of wealth, and its cultural importance
- Figuring out how to deal with conflicts that will inevitably arise, these are all things that the family will have to discuss.

Time: 5 minutes

Materials: None

Handouts: None

Members of the family should decide how best to be in touch with one another, as the process of resolving heirs' property is generally long and complicated, and questions will arise, and discussion will be needed. Many one-on-one conversations will be held but there may be need for a family gathering/reunion where the family can work out issues together.

In some cases, it may be useful to consider using facilitators or mediators (or even arbitrators) to help conversations be productive. Some non-government organizations that focus on heirs' property might be valuable sources of assistance in identifying facilitators or mediators to work with you and your family.

Facilitators are neutral individuals whose job it is to help a group engage in dialogue, ensuring that all participants can share equally, and that the group's dialogue leads to a decision or resolution. Even where there is no conflict, having a skilled, neutral person outside of the family be tasked with helping family members have conservations about the property, ensuring that co-owners feel empowered to speak, and keeping the group focused on the task at hand can help tremendously.

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SLIDE 29

INSTRUCTIONS

Similar to a facilitator, a mediator is a neutral third party who facilitates conversation aimed at resolution of a dispute. Like facilitators, they do not make any decisions; rather they facilitate the conversation and make sure all parties are heard and understood. They can identify issues and interests and help guide the parties to a resolution.

Using a facilitator or mediator can be advantageous for numerous reasons. The burden of making sure the conversation happens is placed on the neutral third party. It also is typically more affordable than either inaction, which leads to its own challenges, or going to court. You can choose a professional who has deep knowledge about heirs' property, but this is not necessary since the person is not tasked with making a decision, but rather helping family members come to agreement.

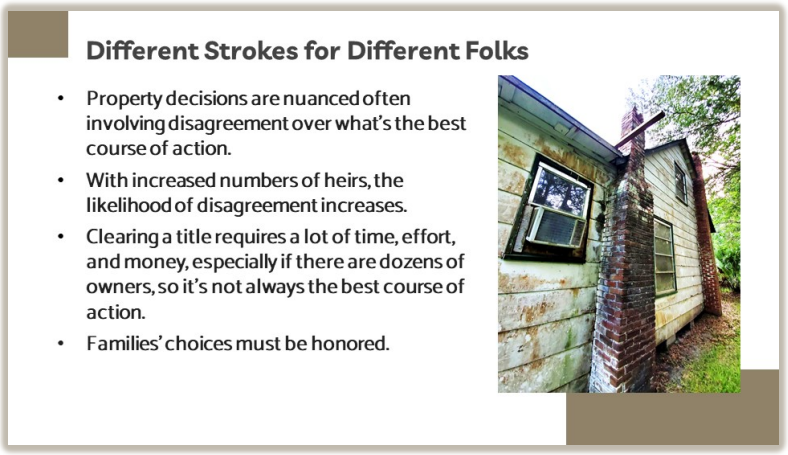
Arbitration, like mediation, is a dispute resolution process. The arbitrator is neutral like a facilitator or mediator, but they do make a decision. Their role is similar to a judge. However, unlike a judge, the parties choose the arbitrator, which allows them to choose someone with subject matter expertise. Parties present their "case," similar to court litigation, and then the arbitrator makes a decision to which all parties agree in advance, ruling for one party or the other.

SLIDE 30

INSTRUCTIONS

Because of these challenges, the most common advice that owners of heirs' property receive is that they need to change the way the property is owned. However, owners of heirs' property may decide no change is necessary.

Following are important things that families must consider in deciding whether to change the way heir's property is held.



Time: 5 minutes

Materials: None

Handouts: None

Resolving heirs' property requires a lot of time, effort, and money to identify all potential heirs, get unanimous agreement on what to do, and hire a lawyer to change the legal status of the property. If many generations have passed since the original property owner died, there may be hundreds of heirs, some of whom have moved away and may no longer be in contact with others in the family and may have no idea that they are owners of heirs' property.

Even so, these individuals have the same rights of ownership as those living on the land and paying taxes on the property. Because ownership is so complex and family members may have many different opinions on what should be done with the property, there may be advantages to changing the way the property is owned or even, in some cases, selling the property (including to a sub-set of heirs who are most interested in or emotionally attached to the property).

Or it could be that there are a relatively small number of heirs, who all get along, and who all agree on how the property should be used. This might represent a situation where leaving the property as heirs' property, at least for this generation, works.

SLIDE 30

INSTRUCTIONS

However, as the number of heirs increases, and different generations with different family lines are represented among the heirs, the likelihood of disagreements increases. That is where changing property ownership to a different legal status could make sense.

Some case studies illustrate the complex family dynamics associated with heirs' property. These case studies are drawn from research done in rural Alabama by Janice Dyer at Auburn University.

SLIDE 31

INSTRUCTIONS

Using either volunteers from the participants or training staff, act out the "First Meeting of the Family Skit."



Time: 5 minutes

Materials: None

Handouts: Four copies of "First Meeting of the Family Skit"

SLIDE 32

INSTRUCTIONS

The following three case studies give some pictures into why families may make different choices about their heirs' property. We will look at risks and resolution strategies for each.



Time: 2 minutes

Materials: None

Handouts: None

SLIDE 33

INSTRUCTIONS

Read or summarize the case study.

Darleen and 34 relatives each inherited a share of 20 acres of property purchased by Darleen's ancestors. The three largest interests are controlled by cousins who are over 80 years old with a total of 12 children between them. Nobody currently lives on the property, but the family regularly uses the cabin for family reunions and retreats.



Time: 6 minutes

Materials: None

Handouts: None

While there is currently no threat of development and all interests are held by the 35 family members, she wants to clear the title before the three elderly cousins pass away further fractionalizing the interest and making resolution more difficult. She is planning the next family reunion to have all interests in attendance in hopes of starting the process to clear the title. The lesson here is that time is of the essence when older relatives hold large interests which will become further divided should they pass.

SLIDE 34

INSTRUCTIONS

Read or summarize the case study.

There are both joys and costs of collective ownership of family land. For example, Gwen moved from Michigan back to rural Alabama to care for her ailing mother. The condition of her home is deteriorating, and she is not eligible for government loan programs that could provide assistance.



Time: 6 minutes

Materials: None

Handouts: None

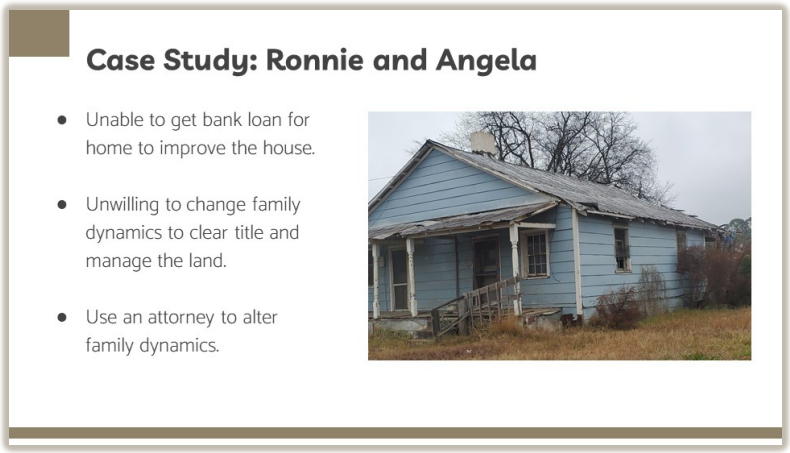
Gwen says her grandfather "fixed it" so that the 102 acres of heirs' property could not be sold, meaning that the land was not divided among individual heirs but rather passed down to the whole family with the understanding that the land was to be kept together for the family. Making decisions on what to do with the land has created tensions within the family.

For example, one family member took it upon himself to sell some timber off the land and pocket the proceeds rather than sharing with other heirs. In another case, a family member wanted to build a fence around their house, but other heirs objected. It is difficult to manage and maintain the property and fulfill the desire of her grandparents for the land to remain in the family if the land continues to be owned in common by so many people who have to agree on everything.

A possible resolution could be for the co-owners to agree to put ownership of the land into an entity, either a trust or an LLC, for example, and work out how to make decisions and manage the land on behalf of the family. (Or they could enter into a tenants-in-common agreement. We'll discuss these entities later.) Doing this would require family members to talk to each other and come to agreement about how to manage and maintain the land, for everyone's benefit.

SLIDE 35

INSTRUCTIONS



Read or summarize the case study.

Ronnie and his wife, Angela, live on heirs' property alongside several relatives. The family has maintained strong relationships over the years, sharing responsibility for property taxes and caring for the land together. Ronnie and Angela recently learned they qualified for a housing program that would allow them to build a new home, but the program required clear title to the property where the home would be constructed.

Time: 6 Minutes

Materials: None

Handouts: None

Recognizing the opportunity, Ronnie and Angela first attempted to address the issue directly with their co-heirs. They explained the housing opportunity and discussed potential options for resolving the title issues. While no one objected to the idea, family members were spread across multiple states, and many simply did not respond to calls, text messages, or requests for information. As a result, progress stalled despite Ronnie and Angela's efforts.

Concerned that the opportunity to build a home might be lost, Ronnie and Angela retained an attorney to represent them. After reviewing the ownership structure and learning of the family's unsuccessful outreach efforts, the attorney contacted the co-heirs on Ronnie and Angela's behalf. The attorney explained the legal issues associated with heirs' property ownership, outlined the benefits of clarifying ownership interests, and described how resolving the title issues could allow improvements to be made to the property while preserving family ownership.

The attorney's involvement helped move the process forward. Family members who had not responded to informal communications were more likely to respond to a formal letter from counsel explaining the situation and identifying specific actions that might be needed. The attorney was also

able to answer questions regarding ownership rights, inheritance interests, and available options for family members who wished either to retain or convey their interests.

As discussions progressed, several co-heirs expressed support for helping Ronnie and Angela move forward. Some agreed to participate in a title-clearing process, while others indicated a willingness to sell their interests. By having counsel coordinate communications and facilitate the legal work, Ronnie and Angela were able to pursue their housing goals without placing additional strain on family relationships.

SLIDE 36

INSTRUCTIONS

Understanding that some families will choose to continue owning their property as heirs' property, the remainder of this presentation will focus on how owners of heirs' property might proceed to resolve their heirs' property issues to overcome some of the known constraints that limit the ability of heirs' property owners to effectively use, manage, and generate wealth from their property.



Resolving heirs' property issues takes time and patience. Ultimately, you'll need to figure out who all the heirs are, come to an agreement among all the heirs regarding what to do with the land, and clear the title to the land so that ownership is controlled by the current generation.

Time: 4 Minutes

Materials: None

Handouts: None

In this section we'll talk about some general themes and then discuss how you can gather as much information as possible before getting legal help.

SLIDE 37

INSTRUCTIONS

Family Conversations:
Ultimately, all or most of the heirs to the property are going to have to reach agreement regarding what to do with the land.

Understanding your own goals and limitations is important before having a conversation with other family members about their goals and limitations.



What are your goals?
Do you want to continue to be an owner?
Do you want to make sure the land stays in the family?
Do you plan to improve the economic value of the land?

Time: 8 Minutes

Materials: None

Handouts: None

What are your limitations?
How much time and money are you willing to invest?
What about emotional limits?
Family dynamics can be complicated, especially when it comes to shared assets. Are there family members with whom you cannot work well or don't want to engage?

Knowing your goals and limitations is important and should help inform any strategy you pursue. It can be useful to check back on them if things get difficult and you need to decide whether to stick with the strategy you have developed.

Once you have your own goals and limits in mind, reaching out to other family members is next. Identifying heirs is an important first step. Then you can begin discussing goals. Having clear goals for addressing the challenges involved in owning land as heirs' property is important to be able to develop a strategy that leads to family agreement and, hopefully, resolution of title issues (meaning, getting the title in the name of the current owners).

SLIDE 37

INSTRUCTIONS

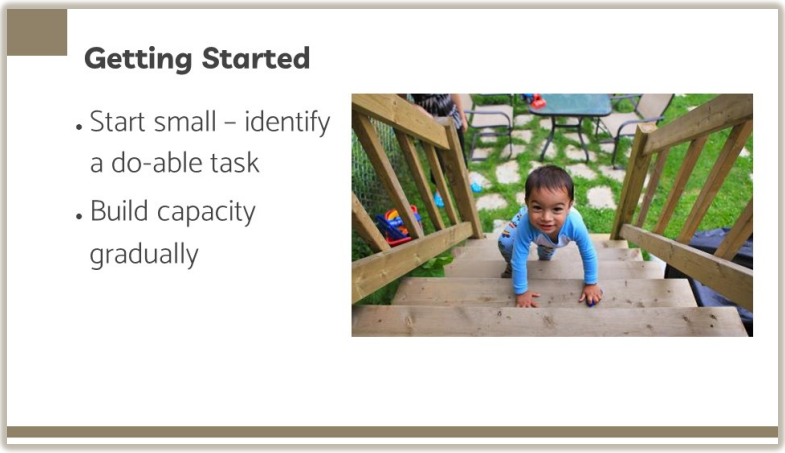
The goals can vary depending on your circumstances. They can include figuring out how to get qualified for USDA and other programs for agriculture and conservation, ensuring the family always has a place to live, or simply taking care of the same land your ancestors cared for.

Discussing all goals of all heirs is important because they may not be the same and may even conflict. Some heirs may have no interest in the property and may not want the burden of ownership. Other heirs might need money and would be happy to sell their share to others. (This, of course, can be a problem if that other person is not a member of the family.)

SLIDE 38

INSTRUCTIONS

Getting Started: Often when a family decides to change the legal status of their heirs' property, one person might lead the process. Maybe that is you. You are motivated by whatever goal or set of goals you have established. You are aware of your limitations and feel that the challenges ahead can be overcome. So now we are going to talk about how to proceed.



Time: 3 minutes

Materials: None

Handouts: None

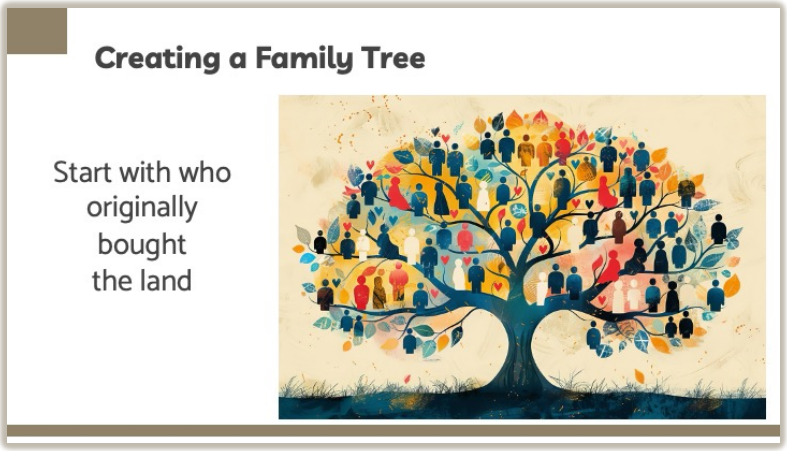
Resolving heirs' property issues can be overwhelming. This presentation is going to include a lot of information, but you will not be able to take action on everything all at once. START SMALL.

But don't procrastinate because you don't know where to start. START SMALL.

SLIDE 39

INSTRUCTIONS

One of the first things the family must do to resolve heirs' property issues is to identify all the heirs who have an interest in the land, from the person who initially bought the property to the youngest in the family. If only one or two generations are involved, this can be a relatively simple task, and you may be able to draw the family tree based on your own personal knowledge.



But imagine the property was bought by an ancestor three or four generations in the past. There could be hundreds of heirs, including many whose whereabouts (or even existence) may not be known. That sounds daunting, and it does make things difficult. But it is not impossible, and there are ways to satisfy courts that honest efforts have been made to identify all heirs. A court may allow an "heirship affidavit" to be filed, in which the family shows the information it does have about the heirs and demonstrates that it made a diligent search for anyone missing.

Time: 5 Minutes

Materials: None

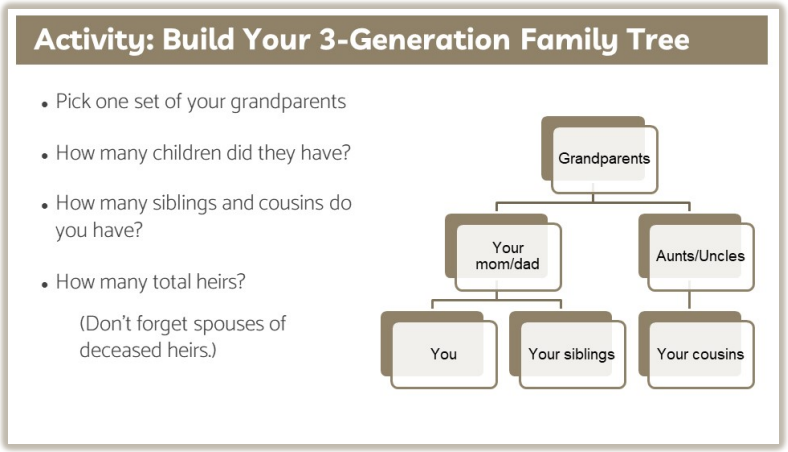
Handouts: How to Create a Family Tree

Simply do the best you can and keep records of your efforts. Consult family Bibles, birth certificates and death certificates, or use the various ancestry tracing websites that are available. Other ways to find information to create the family tree: cemeteries, obituaries, family Bible, social media. Make sure to add birth and death dates to the family tree, and if someone died whether they died with or without a will.

Talk with family members, including those you are getting to know for the first time. Tell them what you are doing and why and ask them what they want to do. Use these conversations to build a consensus, or at least a common understanding that something should be done.
Creating a family tree involves developing a list of all family members, their dates of birth and death, if they married, if they divorced, if they divorced and then remarried, and if they had any children from those marriages (or otherwise). For those who are living, write down their contact information (phone numbers, residential addresses, email addresses).

SLIDE 40

INSTRUCTIONS



This is an activity for each participant to complete. Consider the option of making this an assignment to all participants before start of the session and have them answer the first three questions posed in the slide.

Activity: Imagine one of your own grandparents owned 100 acres of land and died with no will. Build a family tree showing your own parent and your parents' siblings. Are they all alive? How many children and grandchildren do they have? Add up the number of potential heirs. Do you know how to contact all of them? Are they likely to be of one mind regarding what to do with 100 acres?

Create a family tree:
Note: Consider using "Family Tree Builder" a free software program, at www.myheritage.com
OR
National Genealogical Society: https://www.ngsgenealogy.org/free-resources/build-family-tree/

Time: 15 Minutes (if participants complete activity during session, 5-7 minutes otherwise)

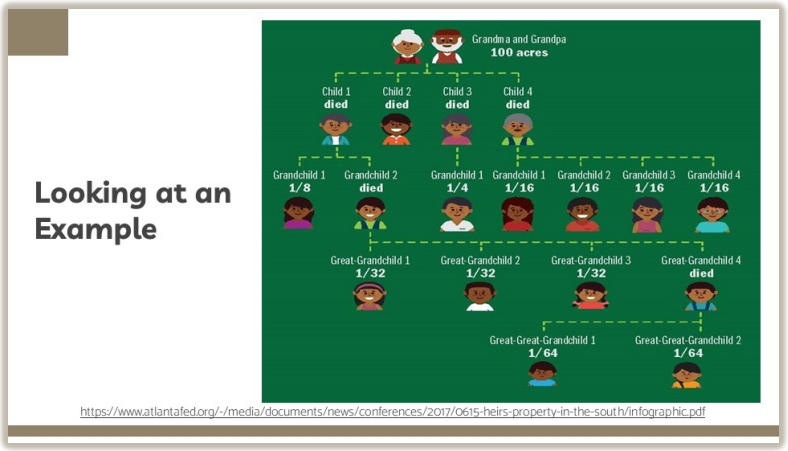
Materials: Paper and pencil

Handouts: None

SLIDE 41

INSTRUCTIONS

A slide to illustrate the fractionalization of shares. This process of intestate succession – when someone dies without a will, who inherits – differs by state and is even more complex if you include siblings from other marriages and children born to parents who aren't married.



Source: https://www.atlantafed.org/-/media/documents/news/conferences/2017/0615-heirs-property-in-the-south/infographic.pdf

Time: 1 Minute

Materials: None

Handouts: None

SLIDE 42

INSTRUCTIONS

Can you locate two individuals in your family tree who view or assess the value of land differently? Placed-based attachment and cultural significance largely differ between family members and across generations.



The Land

What is the value of your land, economically, emotionally, and culturally? Can you have an appraisal done to determine the economic value of the land? Do you have timber on your land that can be sold to generate income? Can you lease the land for agriculture or other activities? Do you know the history of the land, how your ancestor acquired it, and what it was used for? All of this information will be important to share with family members and help determine next steps.

Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 43

INSTRUCTIONS

So, the family is working on the family tree, thinking about what the land means to them. While these things are happening, there are still things that need to be done regarding the land.



1. The property must be secured and protected from outside threats such as trespassers and squatters. Otherwise, they can assert a legal claim to your land. Legally this is generally called "adverse possession". Each state's laws differ, but generally, in order to be able to claim adverse possession, trespassers or squatters have to show they have been living on the land for a certain number of years, they don't have permission to be living there, they have been living there openly, not in secret, and they had exclusive use of the land.

Time: 5 Minutes

Materials: None

Handouts: None

2. Property taxes must be paid. Otherwise, the town or county can seize the land and slap a tax lien on it and ultimately, sell the land. Again, every state's procedures for this are different, but if the taxes are not paid, you will lose the land.

3. Establish and maintain communication with known heirs/family members. You do not want an heir to sell their interest to an outsider, and then you and the other heirs will be subject to a partition action. Each state's laws differ, but generally any co-owner of the land can bring an action in court to obtain the value of their interest in the property, and then a court can order that the property either be physically divided or sold. Family members should all be reminded not to sign anything, especially from someone outside the family, without discussing the matter with a trusted advisor.

SLIDE 44

INSTRUCTIONS

Gathering documentation before visiting with an attorney is critical.

Examples of documents to bring include:

- Most recent deed to the land
- Wills
- Tax documents
- Deeds
- Any contracts or leases on the property
- Easements

Documenting Ownership: Things to Do Before Seeing an Attorney

- **Gather** all documents regarding the property – wills, tax documents, deeds, leases, easements
- **Search** the office where land records are kept (generally this office is in the county where the land is located) for deeds and maps
- **Explore** the office where records of property liens are kept for liens (debts) or other judgements against the property

Time: 4 Minutes

Materials: None

Handouts: None

Searching county offices:

- This differs by state, but there's usually a county office that holds land records including deeds and maps. You will find maps of the property and the history of ownership of the property.
- Clerk of Court records (or whatever office keeps land records in the county where your land is located) for any liens (debts) or other judgements and documents associated with the property.

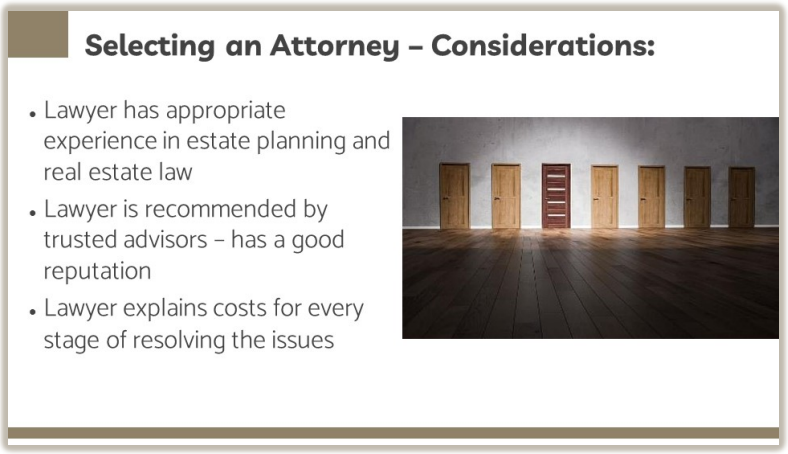
Title search:

Ultimately, you will have to conduct a title search to confirm the current owners of the family land. A title search is the formal process of retrieving the necessary documentation and information to determine the current ownership interests in a piece of land. This can be done by a title abstractor but will need to be confirmed by an attorney. A title search reveals all the past owners of the property, a legal description of the property, and any liens on or other unresolved issues concerning the property.

SLIDE 45

INSTRUCTIONS

Selecting an attorney: Lawyers who help families with heirs' property matters must have experience in estate planning (also known as succession planning), real estate, and business law. Choose someone with appropriate experience and with a good reputation. Asking trusted advisors can help.



Also, understanding costs for every stage of the process is helpful. Ask the attorney to explain potential costs along the way. A lawyer can review documents provided, review available records, and recommend next steps. These recommendations should include estimated costs for each stage of resolving the heirs' property issues and should also include estimated costs for advice regarding what the family can do to prevent further distribution of heirs' property, such as creating a trust or a business entity to hold the land.

Time: 3 Minutes

Materials: None

Handouts: None

SLIDE 46

INSTRUCTIONS

Understanding how your property is titled is vital to drafting your will. This next session explores some things to consider.



Time: 1 minute

Materials: None

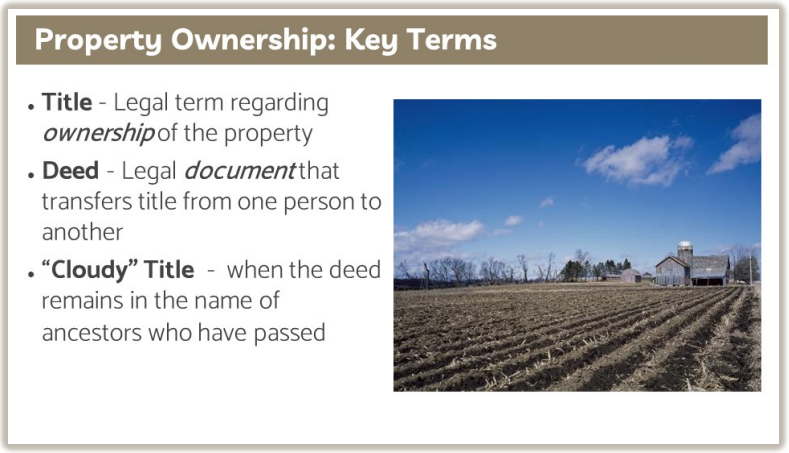
Handouts: None

SLIDE 47

INSTRUCTIONS

Review these key terms related to property ownership:

- Title – a legal term concerning ownership of property.
- Deed – a legal document that transfers title from one to person to another and should be recorded in the courthouse or other office of land records (depends on the state).
- Cloudy Title – Heirs' property owners generally have what's called "cloudy" title to their property, because the deed remains in the name of ancestors who are no longer alive, rather than in the name of the current owners.



Time: 4 Minutes

Materials: None

Handouts: None

SLIDE 48

INSTRUCTIONS

This slide depicts the types of information typically found on a title certificate or report.



A few things to note:

- Generally, only the surface title is examined (not mineral title).
- The examiner reviews all instruments for a period of years required by the law of the applicable state.

Type of shared ownership – your interest may be limited by the form of the deed to you if you hold title by:

- Joint Tenancy with right of survivorship (typical for husband and wife) that vests title in the survivor of the decedent.
- Tenancy in Common (typical for siblings) that vests title in the heirs of the decedent at law (in the absence of a will).

Time: 5 minutes

Materials: None

Handouts: None

SLIDE 49

INSTRUCTIONS

Use this time to answer any questions from the previous section.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 50

INSTRUCTIONS

Legal Strategies for Protecting and Maintaining Heirs' Property: The next few slides will introduce different structures that may be useful in securing heirs' property land. Protecting and maintaining family land is important. Sometimes family members will want to leave the status quo and not change any of the legal arrangements, but different legal structures can help protect lands from loss.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 51

INSTRUCTIONS

Now we're going to talk about different legal structures for holding land. We're talking about this, so you have some familiarity with the terms; obviously, it's not your job to give legal advice, but it is important that you have some sense of what these things are.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 52

INSTRUCTIONS

Sometimes, creating a single entity that owns the land, in which each family member effectively owns an interest, can be a more secure way of owning the property and transferring it to future generations. So, rather than each family member owning a share of the land directly, they would own a share in the entity that owns the land.



Trusts:

- Heirs' property owners can deed their interest in the land to the trust and then name one or more people to serve as the trustee(s).
- The remaining heirs' property owners can be the beneficiaries of the trust.
- The trustee would manage and control the land, and be responsible for maintenance and tax payments, according to terms set out in a trust agreement.

Time: 4 Minutes

Materials: None

Handouts: None

SLIDE 53

INSTRUCTIONS

LLCs or corporations:
Heirs' property owners can form a business entity such as an LLC (limited liability company) or corporation and transfer the property to the LLC or corporation. There are fees for the initial filing and annual reports.



An operating agreement or by-laws can establish:

- What happens to a member's share when they die
- What happens if a member wants to sell
- How decision-making and management will be handled
- Who is responsible for maintenance, tax payments, and other duties
- How profits and costs are shared

Time: 4 Minutes

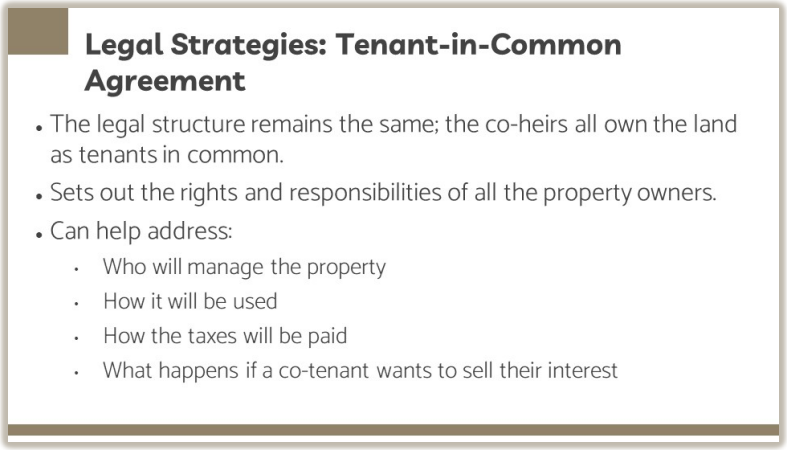
Materials: None

Handouts: None

SLIDE 54

INSTRUCTIONS

Tenant-in-Common Agreement
The legal structure remains the same; the co-heirs all own the land as tenants in common.



Instead of creating a new entity that governs the family's ownership of the property, family members could enter into a "tenant-in-common agreement." Here, each family member still owns a share in the land itself, but they reach an agreement that does the following:

- Sets out the rights and responsibilities of all the property owners.
- Can help address who will manage the property, how it will be used, how the taxes will be paid, and what happens if a co-tenant wants to sell their interest.

Time: 4 Minutes

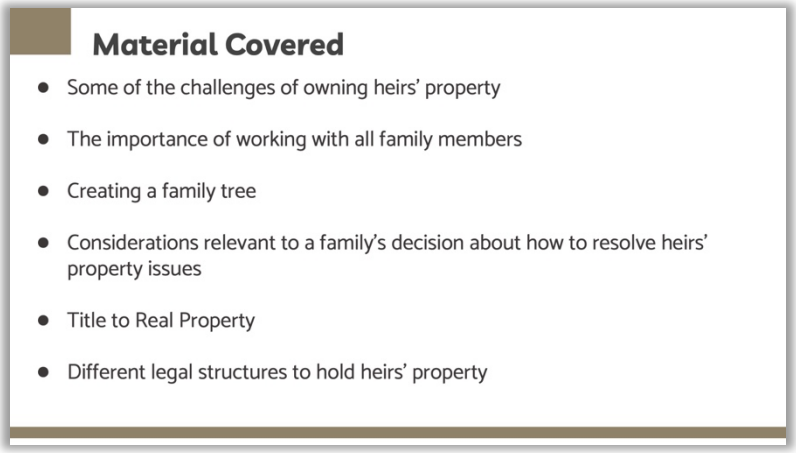
Materials: None

Handouts: None

SLIDE 55

INSTRUCTIONS

During this session, we have discussed:



- The challenges of owning heirs' property, including financial and litigation challenges.
- Legal improvements and progress to protect heirs' property owners.
- The importance of working with other family members to consider how best to manage and enjoy their heirs' property.
- Creating a family tree to identify the family members you need to bring to the table.
- The different legal structures and strategies to hold and protect heirs' property.
- What "Title" to real property means.

Time: 4 Minutes

Materials: None

Handouts: None

SLIDE 56

INSTRUCTIONS

Wrap up with any questions participants may have.



Time: 10 Minutes

Materials: None

Handouts: None

SLIDE 57

INSTRUCTIONS

Wrap up with any questions participants may have.



Time: 10 Minutes

Materials: None

Handouts: None

SLIDE 58

INSTRUCTIONS

This slide is to prompt the evaluation process. If you are using paper copies, please hand them out at this time. If you are using the online Qualtrics evaluation, use the QR code for the Heirs' Property Community Workshop Survey.



Note: Check to make sure the QR code is working properly before sharing with participants.

Time: 10 Minutes

Materials: None

Handouts: Paper copies of the Heirs' Property Community Workshop Survey and/or the QR code on this slide.

HEIRS' PROPERTY

FIRST MEETING OF THE FAMILY SKIT: POPPA'S LAND

May 2025

Setting

A modest home where a family gathering is taking place. The intent is for attendees to share a meal while discussing some pressing family business; inherited land.

Skit

Family Problem Solver [Taylor]

(Taps glass with fork to grab everyone's attention)

Hey family! I want to thank everyone for being here today; I know we all have busy schedules. It's great to see the family together around the table again.

I know we're here to enjoy a meal, but there's also something important we need to talk about: our family's property.

From what we understand, laws about inherited land have changed, and we need to understand our rights so we can protect what belongs to all of us.

Family Naysayer [Paris]

I knew there had to be more to this meal!

What exactly is there to talk about? We've already inherited the land, and we have our rights. Sounds like you're trying to make things more complicated than they need to be.

Family Lawyer [Amari]

Let me help clarify what Taylor is saying. As a lawyer, I think I can make it simple enough for all of us to understand.

When we talk about inherited land, we're talking about heirs' property.

This is property that belonged to someone in the family who has passed away, like our great-grandfather Poppa Bill.

When he passed a few years ago, the rights of his property passed from him to all of us here today.

However, Poppa Bill's property was never legally passed on through a will or estate planning. The state government calls this intestate succession, but some people call it heirs' property, "Cloudy Title," or "Family Land"

There are new laws, like the Uniform Partition Act, which was created to protect families like ours from losing the inherited land unfairly or it being stolen from us.

Family Naysayer [Paris]

I don't see the problem. Poppa Bill wanted us to use this land; that's why he left it to the entire family.

I don't think he would want us to change anything. He used to tell us to never let the government or outsiders get involved, they can't be trusted!

Remember, Mr. Brown from Jasper County? There is a huge residential development on his land.

A rich land developer used to come and sit on his porch all the time. Once he convinced Mr. Brown to sell his property, the developer promised him that he could stay in his house on the land. Mr. Brown died in a mobile home across the street from those 7 figure condos and never made any real money from that deal.

Are you trying to set us up for that to happen here, too? This seems like a scam.

Family Problem Solver [Taylor]

That's ridiculous! Why are you being so dramatic?

(Conversation gets heated and a family elder interrupts and directs everyone who is talking business to go finish this conversation in the living room. All interested parties leave the kitchen area)

Family Problem Solver [Taylor]

Listen Paris, I can relate to how you must feel, but there is no reason to get defensive.

All I'm saying is that a lot has changed since Poppa Bill was alive. We have to learn the law and work together as a family to keep what happened to Mr. Brown from happening to our family land.

Whether you are willing to accept it or not, doing nothing puts us at greater risk.

So many families have lost their property because outsiders came in and bought an interest in the land from one of the family members.

And then the same outsiders force a sale at the courthouse, resulting in the land being sold for pennies on the dollar!

These new protections can help prevent that, though nothing is ever completely foolproof.

Family Lawyer [Amari]

Exactly!

With the new laws, if anyone ever tries to force a sale, family members get a chance to buy out anyone who wants out, and the land would be professionally appraised.

This helps us keep things fair and transparent.

But yes, there's always a possibility of a sale, so we have to stay informed and proactive.

Family Naysayer [Paris]

See! There it is! I knew you were only concerned with money.

Mr. Brown's family said it was the lawyer they hired and the judge overseeing the case that ended up owning their land.

Amari, I think that you should stay out of this discussion. Lawyers cannot be trusted!

Family Conciliator [Quinn]

Wait a minute Paris, Amari loved Poppa Bill just like you did.

If I heard Taylor correctly, it sounds like things are different now when it comes to just letting the property sit there with no protection.

And, If I heard Amari right, those of us not wanting to sell could buy out the interests of those wanting to sell.

I think we need to hear each other out and determine the best way to protect our land together.

Family Naysayer [Paris]

This sounds like a problem waiting to happen. You two are trying to set us all up for failure and control everything.

I'm not having it! Nobody should be selling this land!

Who do you think is going to get John to move their firewood from the main road leading to Poppa Bill's house?

And are y'all talking about stopping Xavier from having their annual Turkey Shoot next to the pond?

Family and friends gather there on the land at least 3 times a week. That's what Poppa Bill would've wanted, why would we change any of that?

Amari and Taylor, the two of you never participate in family get togethers anyway, so why are you trying to call the shots?

Family Conciliator [Quinn]

You've got to calm down and stop taking things so personally. I think we all ought to just try to get along here and weigh all of our options. No one is saying that we have to stop people from using the land.

We are just trying to understand how to legally protect ourselves and the property.

Family Problem Solver [Taylor]

Agreed.

Paris, I hear your concerns, and you're right to be cautious. But I am not your enemy. Amari is not your enemy.

We are simply trying to have an open and honest conversation, so that we can eventually find a solution that works for everyone.

The first thing we need to do is to determine all of Poppa Bill's legal heirs.

I am going to give someone from each family a form on how to prepare your part of the family tree.

I will put them together and send a copy to everyone.

Can we at least agree to work together on this project? (poses the question to the groups by raising a hand)

GROUP Answers in Unison: YES!

Family Naysayer [Paris]

I still say we don't need to change anything with this property. Our family has held this land for four generations, and we don't need to mess it up now.

Family Problem Solver [Taylor]

I agree; we should not mess this up.

Poppa Bill knew his children and many of his grandchildren.

But let's be honest, some of us didn't know him and we don't all know each other very well.

We need to find the members of our family and then work to make sure we manage this inheritance correctly.

Paris, will you work with me to make sure that all decisions and actions taken are protective of the land?

Family Naysayer [Paris]

Doesn't speak but quietly nods their head while peering off into the distance. (Members of the family quietly smile and show physical signs of relief.)

Family Problem Solver [Taylor]

And who do you think is trustworthy enough to handle money?

Because, eventually, we are going to need to establish a family bank account to pay for a lawyer, a surveyor, an engineer and possibly permit fees.

Family Naysayer [Paris]

I will see about helping.

I know Angela is an accountant. She is trusted and liked by people in the family and the community. I think she would be a good candidate to handle finances.

Family Conciliator [Quinn]

I am so glad we can work together. I think cooperating will help us use our property in ways that truly benefit everyone.

I actually know someone who helps families like ours resolve conflicts about inherited property. They helped Denise Potter's family significantly reduce their legal costs by resolving their differences and identifying all heirs before talking to a lawyer.

Family Naysayer [Paris]

I just think we have to be careful. Next thing you know, they'll be trying to give the adopted family members the same rights as those of us who are blood relatives of Poppa Bill.

Family Lawyer [Amari]

From my experience, I can tell you our state's intestate succession laws say that legally adopted children have the same rights as blood children.

Family Naysayer [Paris]

Here we go again. That doesn't seem right to me!

Blood is the strongest tie. I don't see how making a family tree helps solve our problem anyway.

Family Problem Solver [Taylor]

This is just our starting point; it won't solve everything.

First, we'll identify all the family members involved and update the property title to reflect everyone's share.

As changes happen, we'll keep updating it together.

We might also consider options like creating a trust or a family-run LLC to better manage our land. Amari can help explain these options later.

Family Naysayer [Paris]

Why would we change the title?

I don't trust companies and I don't want anybody to try to steal my part of the family land.

Family Problem Solver [Taylor]

Paris, we hear you.

I am going to call you next week so we can lay out a plan to keep us on the straight and narrow.

Angela I will also be giving you a call, if that's OK?

Can we agree to have a meeting every first Tuesday of the month?

We can start with a facilitator as our first speaker to educate the family on inheritance property.

I will organize an online meeting and send everyone the details.

Family Conciliator [Quinn]

I think we can all agree that this will need to be an ongoing conversation, but I am so encouraged by the progress we've made here today!

We are family y'all, let's not forget that we love one another.

There is no doubt in my mind that we can work together to resolve any issues that we have, like those who came before us were able to do for generations.

I believe Poppa Bill would be proud.

Now, I don't know about the rest of you, but there is a second plate in the kitchen with my name on it!

HEIRS' PROPERTY

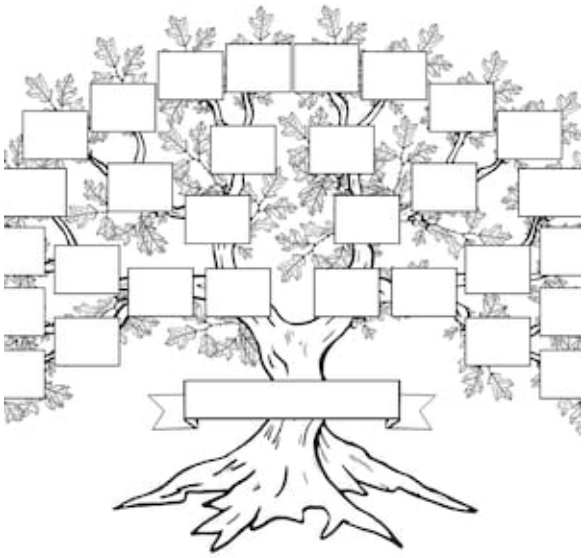
HOW TO CREATE YOUR FAMILY TREE

Creating a family tree for heirs' property involves documenting the descent and relationships of family members with a claim to the property.

1. Determine the property's history: Research the history of the heirs' property to understand its origins and any associated legal documents. This may include deeds, wills, or other property ownership and inheritance records.
2. Gather information: Start your tree with the ancestor(s) who originally bought the land. This is often the original ancestor with a deed solely in their name (or with their spouse). Collect as much information as possible about their descendants and family members, including their names, birth, death dates (if applicable), spouses, and other significant details. This information can be obtained through family records, interviews with relatives, or online genealogy databases.
3. Identify other potential heirs with a legal interest. Include legally adopted children and children born to any ancestor out of wedlock in your family tree. Depending on your state, these children may be entitled to inherit under your state's intestacy laws.
4. Create a visual representation: Use a family tree template, genealogy software, or an old-fashioned pencil and paper to create the family tree, starting with the original ancestor who bought or received the land.
5. Include relevant information: For each individual on the family tree, include their full name, date of birth, date of death (if applicable), whether they died with a Last Will and Testament, the name of any spouse who survived them, the spouse's date of death (if applicable), and their legally adopted and biological children.
6. Verify information: Double-check the accuracy of the information you have gathered by cross-referencing it with other sources and consulting with family members. Ensuring the family tree is as accurate and complete as possible is important.
7. Share and update the family tree: Once it is complete, share it with other family members interested in the property. This can help facilitate discussions and decision-making regarding the property's management and future ownership. Additionally, update the family tree as new information becomes available and people divorce and die.

8. Seek legal guidance: Depending on the situation's complexity, it may be advisable to seek legal advice to ensure that the family tree and related documentation comply with the laws and regulations of the state.

Creating an heirs' property family tree can be complex, especially if multiple branches and generations are involved. It may be helpful to consult with a professional genealogist or attorney specializing in property law to ensure the family tree is accurate and legally sound.



Family Tree

COMMONLY USED IN GENEALOGY.

- **admon** or **admin** = letters of administration
- **a.** – about, age, acre, ante
- **a.a.r.** – against all risks
- **ab.** – about; abbey
- **abbr.** – abbreviation
- **abd.** – abandoned
- **adm.** – administration
- **b.** – born
- **bur.** – buried
- **C.** – circa (approximately)
- **d.** – died
- **dau.** – daughter
- **col.** = colored
- **Decedent** – A person who has died.
- **Dower** – Share of the husband's real estate to which the widow is entitled.
- **Estate** – The total property held by an individual and available after death.
- **et al.** – and others
- **FGRA** – Family Group Record Archives
- **FGS** – Federation of Genealogical Societies
- **Grantee** – Recipient of property either through purchase, gift, or request.
- **Grantor** – Individual who sells or gives property to another person.
- **h/o** – husband of
- **Ibid** – Same location. Identifies a document that has already been quoted.
- **inf.** – infant (**Infant** – A person below the age designated as adulthood).
- **m.** – married
- **ob.** – obituary
- **SSDI** – Social Security Death Index
- **unm.** – unmarried
- **wf/o** = wife of

SUMMARY OF LINKED RESOURCES

Resources for Heirs' Property Education

Heirs' Property Resources

https://srdc.msstate.edu/sites/default/files/2023-06/Detailed%20Resources-2-17-2020.pdf

Extension, research, and outreach materials with a focus on heirs' property as well as organizations involved in the work.

Farmland Access Legal Toolkit

https://farmlandaccess.org/heirs-property/

Produced by the Center for Agriculture and Food Systems at the Vermont Law School, this provides a thorough website covering many aspects of heirs' property.

Heirs Property and the Uniform Partition of Heirs' Property Act: Challenges, Solutions and Historic Reform

https://www.americanbar.org/products/inv/book/422849297/

This book addresses many challenges that have plagued disadvantaged families that own heirs' property. The book also discusses a range of solutions to these problems, including legal reform measures, proactive legal planning to avoid heirs' property ownership or to resolve it, and wealth building strategies for heirs' property owners.

Preventing Heirs' Property/Estate Planning

Publications (Various)

https://www.gaheirsproperty.org/publications

Various publications produced by Georgia Heirs Property Law Center concerning prevention of heirs' property, owning heirs' property, and facts and myths of heirs' property.

Wills

https://www.tnstate.edu/extension/documents/Wills.pdf

One-page fact sheet published by Tennessee State University Extension. Discusses basic elements of wills.

Farm Transfer

https://farmlandaccess.org/farm-transfer/

Published by the Center for Agriculture & Food Systems. A farmland access legal toolkit, it discusses heirs' property, wills, and trusts, along with other farm transfer related subjects. Also available in Spanish.

Estate Planning – A Simplified Guide for Oklahoma Farm and Ranch Families

https://extension.okstate.edu/fact-sheets/estate-planning-a-simplified-guide-for-oklahoma-farm-and-ranch-families.html

Basic fact sheet on estate planning produced by Oklahoma State Extension.

Planning Today for Tomorrow's Farms: A Workbook for Tennessee Farm Families

https://extension.tennessee.edu/publications/Documents/SP822.pdf

Published by University of Tennessee Extension, the documents covers estate and succession planning extensively (126 pages).

Wills and Life Planning Self-help Tools

https://louisianalawhelp.org/issues/representing-yourself-audio-guides-forms-more/life-planning-forms-multimedia-presentations

Links to 12 resources on wills and life planning.

Louisiana Affidavit of Small Succession

https://lawhelpinteractive.org/Interview/GenerateInterview/7130/engine

Produced by probono.net, this site assists in filling out legal documents free of charge.

Where There's a Will, There's a Way

http://extension.msstate.edu/publications/publications/planning-your-estate-part-2-where-theres-will-theres-way

Estate Plan Checklist

https://www.investopedia.com/articles/pf/07/estate_plan_checklist.asp

What is Estate Planning? Definition, Meaning, and Key Components

https://www.investopedia.com/terms/e/estateplanning.asp

Working with an Attorney

https://extension.tennessee.edu/publications/Documents/SP743-B.pdf

Retirement and Estate Planning

https://www.uaex.uada.edu/life-skills-wellness/personal-finance/retirement-and-estate-planning/

Heirs' Property Resolution

Family Conversations

The Conversation Project

https://theconversationproject.org/

Various aids in assisting families in having end-of-life conversations with family members.

Create or Update the Family Tree

Suggestions for Heirs' Property Owners

https://farmlandaccess.org/suggestions-for-heirs-property-owners/

Step-by-step guide in planning towards single-entity ownership starting with developing a family tree.

Heirs Determination Worksheets for the State of Georgia

https://static1.squarespace.com/static/5994bdde197aea0c96b51664/t/5f2319fd5809270950f72026/1596135934663/Heirs+Determination+Worksheets+fillable+w+Resources.pdf

Downloadable forms: https://www.gaheirsproperty.org/preparation

Worksheet and family tree produced by Georgia Heirs Property Law Center.

Visiting the Attorney

Directory of Legal Sources in Your State

Working List – Legal Services Providers/Heirs' Property

https://documentcloud.adobe.com/link/review?uri=urn:aaid:scds:US:2a27c1ce-18c7-463e-8c72-63a4fc49c1c1#pageNum=1

Document developed by University of Georgia's Carl Vinson Institute of Government. Describes known resources of legal aid available by state.

Documents to Bring on First Visit

Working With an Attorney

https://extension.tennessee.edu/publications/Documents/SP743-B.pdf

Questions to ask and documents to bring to the first meeting with an attorney, University of Tennessee Extension.

State Specific Data on Heirs' Property

https://farmlandaccess.org/heirs-property/#statefactsheets

Extension Educator Competencies and Skills

Cultural Competency Skills

Cultural Competence in Health and Human Services

https://npin.cdc.gov/pages/cultural-competence

CDC document that discusses cultural and linguistic competence attitudes and policies that come together in a system, agency, or among professionals that enables effective work in cross-cultural situations.

Standards for Cultural Competence in Social Work Practice

https://nlcsw.ca/sites/default/files/inline-files/cultural_competency_standards.pdf

Standards and definitions of cultural competence.

Cultural Competence in Financial Counseling and Coaching

http://www.professionalfincounselingjournal.org/cultural-competence-in-financial-counseling-and-coaching.html

Article discussing cultural competence in financial counseling and coaching.

America Saves (Website)

https://americasaves.org/

A campaign managed by the nonprofit Consumer Federation of America, motivates, encourages, and supports low- to moderate-income households to save money, reduce debt, and build wealth.

Organizations Providing Direct Assistance to Heirs' Property Owners

Black Family Land Trust

http://www.bflt.org/

Center for Heirs Property Preservation

https://www.heirsproperty.org/

Located in South Carolina

Community Legal Services of mid-Florida

https://www.clsmf.org/

Federation of Southern Cooperatives/Land Assistance Fund

https://www.federation.coop/

Aids multiple states in the South

Georgia Heirs' Property Law Center

https://www.gaheirsproperty.org/

HeirShares:

http://www.heirshares.com/

Indian Land Tenure Foundation

https://iltf.org/

Land Loss Prevention Project

https://www.landloss.org/

Located in North Carolina

Legal Services of Eastern Missouri Neighborhood Vacancy Initiative

https://lsem.org/neighborhood-vacancy-initiative/

Louisiana Appleseed Center for Law & Justice:

https://www.louisianaappleseed.org/

McIntosh SEED

https://mcintoshseed.org/

Located in Georgia

Mississippi Center for Justice

https://mscenterforjustice.org/

Sustainable Forestry and African American Land Retention Program

http://www.sflrnetwork.org/

Includes links to the eight partners working with landowners.

Three Rivers Legal Services, Inc.

https://www.trls.org/

Located in Florida

University of Arkansas at Pine Bluff, Keeping it in the Family Program

https://www.uapb.edu/academics/school_of_agriculture_fisheries_and_human_sciences/outreach_and_cooperative_extension/small_farm_program/

Winston County Self Help Cooperative

https://wcshc.com/

Located in Mississippi

List of Service Providers

USDA Farm Service Agency
https://www.fsa.usda.gov/contact-us

USDA Natural Resource Conservation Service
https://www.nrcs.usda.gov/

USDA Forest Service (State, Private, and Tribal Forestry)
https://www.fs.usda.gov/

Southern Regional Extension Forestry
https://sref.info/resources/state-resources

Association of Consulting Foresters
https://www.acf-foresters.org/

American Forestry Foundation
https://www.forestfoundation.org/
https://www.forestfoundation.org/what-we-do/increase-carbon-storage/family-forest-carbon-program/

Historically Black Land-Grant Universities
https://www.usda.gov/partnerships/1890s-program

Forest Landowner Association
https://forestlandowners.com/who-we-are/

Land Trust Alliance, National
https://landtrustalliance.org/land-trusts/gaining-ground

SE Land Trust Alliance
https://landtrustalliance.org/resources/connect/field-services/southeast

National Woodland Owners Association: Attn: Mark Megalos
https://nationalwoodlands.com/homepage/nwoa-contacts/

Sustainable Forestry and African American Land Retention Program (SFLR):
https://sflrnetwork.org/network/

Federation of Southern Cooperatives
https://www.federation.coop/land-retention

Help for Landowners (NC & SC)
https://www.helpforlandowners.org/
https://landtrustalliance.org/resources/learn/explore/heirs-property-toolkit

Mano-Yola and Latino Farmers
https://www.mano-y-ola.com/about-us

HEIRS' PROPERTY

CASE STUDY #1: THE THOMAS FAMILY WORKS TOGETHER

Scenario

In 2012, a real estate developer, Mark, purchased a 1/15th interest in heirs' property from two grandchildren of the original owner at a very low price. Seeking to capitalize on this investment, Mark filed a partition lawsuit, intending to force a sale of the property. However, the lawsuit was dismissed in 2019, likely due to the deaths of several heirs and difficulties in getting all parties served. In 2022, the family hired an attorney to clear the title in hopes of preventing another partition lawsuit in the future.

Family Organization

The resolution process began with a thorough legal review of the property, which included a title search, title opinion, and creating a detailed family tree to identify all heirs and calculate their respective fractional interests. Although this process is intricate and time-consuming, it was necessary before the family could coordinate intra-family buyouts and create a unified ownership structure.

Family communication played a key role in the resolution's success. The attorney worked closely with the family to coordinate buyouts among the heirs. These buyouts simplified ownership, reduced the number of disinterested heirs, and allowed the family to regain control and unified management of the property. Family meetings were organized and held monthly to determine which members wished to retain ownership and which preferred to be bought out.

Solution

The solution involved negotiating with Mark to buy out his interest in the property. In 2023, after locating Mark, the attorney began negotiations, and Mark made a firm offer to sell his interest. The family sought a financial sponsor (a business with an heirs' property fund) and countered with an offer that deducted Mark's share of property taxes he had not contributed over the years. Mark accepted the offer, and the buyout was finalized by August 2023. To preserve the property and generate revenue from it, the family formed a limited liability company (LLC). This decision allowed them to protect individual members from liability, streamline management, and create a clear governance structure. The attorney worked with two family representatives to draft the necessary documents, including a name reservation, Articles of Incorporation, and an Operating Agreement. Their Operating Agreement addressed the payment of property taxes and maintenance expenses, income distribution, and succession of membership interests. Additionally, a deed was prepared to transfer ownership of the property from the individual heirs into the LLC, ensuring that the property would remain within the family for many years to come. 96% of the heirs

joined the LLC. 4% of the heirs refused to join, but they were advised to create their own estate plans to ensure their property interests passed seamlessly to their chosen heirs.

Lessons Learned

This case illustrates the importance of legal representation, access to capital, a thorough review of the title by an attorney, and a detailed family tree. It also underscores the value of family communication and cooperation in resolving complex property disputes. By working together and seeking professional guidance, the family was able to successfully navigate a complicated legal landscape, regain control of their property, and set the stage for its preservation and future revenue generation. Forming an LLC proved to be a strategic decision, providing both protection and structure to ensure the property remains a valuable family asset for generations to come.

Discussion Notes

- Rarely do you get a case where every heir is willing to join the entity.
- Success can be defined in many ways. 96% of consolidated title is better than 0%.
- Having an estate plan in place is key. Certain heirs may be willing to will or convey their interest in the property to a sibling or their children, rather than an entity.
- For elder heirs who don't want to be involved, see if elder's children will participate in meetings so that they're on board when the elder passes away
- Continue trying to get heirs on board at family meetings, reunions, etc. Don't give up!
- Heirs may come around over time when the family leads by example.

CASE STUDY #2: THE REED FAMILY AND LEVERAGING THE UPHPA

Scenario

This case revolves around a partition-by-sale lawsuit filed in 2021 concerning an urban heirs' property. The property belonged to a mother, with her son acting as her power of attorney (POA), and three other children (two brothers and a daughter). The mother and her two sons incorrectly filed a partition lawsuit under an old partition statute, trying to force the sale of the mother's house. However, the lawsuit should have been filed under the Uniform Partition of Heirs Property Act (UPHPA), which applied to all partition lawsuits after January 1, 2015. The lawyer representing the daughter filed an Answer to the lawsuit, arguing that the lawsuit should have been filed under the UPHPA because the property in question was heirs' property. Although neither the plaintiffs' attorney nor the judge was familiar with the UPHPA, they were open to learning and allowed the daughter's lawyer to guide the proceedings according to the UPHPA's provisions.

UPHPA Protections

The UPHPA, which prioritizes the preservation of family-owned properties, required careful adherence to its guidelines throughout the litigation process. During the first buyout round (where heirs who want to keep the property can purchase the shares of heirs who want to sell), the daughter elected to buy out the interests of her brothers and mother. However, the daughter faced a significant challenge, as there was a lack of capital to complete the buyout, and she needed a loan.

Solution

Securing financing became the critical obstacle in resolving the case. Despite the client's excellent credit, no financial institution was willing to provide a loan against heirs' property to accomplish the buyout. The lawyer and her team made several attempts to secure funding for the daughter through various banks and credit unions, but all were unsuccessful. Recognizing the urgency, the lawyer leveraged a personal connection at a trusted but small, rural bank. Establishing personal connections with bankers and loan officers are crucial to accessing capital and other resources. The legal team explained to the loan officer that the client would obtain a clear title upon entry of the final judgment, which ultimately persuaded the bank to provide the necessary financing. To meet the court's deadlines, the lawyer filed two extensions to allow more time to secure the financing. These extensions were

granted, and the lawyer maintained regular communication with the opposing attorney, facilitating a smoother process. The case concluded during the buyout rounds, with the daughter successfully purchasing the other heirs' interests and emerging from the litigation with clear title to the property. The client then put the property into a Trust to protect the property for years to come.

Lessons Learned

This case highlights the importance of legal advocacy and awareness of relevant statutes like the UPHPA, which can significantly influence the outcome of property disputes involving heirs' property. The lawyer's proactive approach in educating the court and opposing counsel about the UPHPA was crucial in ensuring the case was adjudicated fairly. Missing a single step or provision would have seriously affected the outcome. Additionally, the case underscores the challenges of financing heirs' property and the importance of persistence and resourcefulness in overcoming these hurdles. By securing financing through a small, rural bank, the lawyer demonstrated the value of leveraging personal connections and maintaining professional relationships. Finally, the decision to place the property into a trust after securing clear title reflects a strategic move to safeguard the property for future generations, ensuring that it remains a stable and protected family asset. Ensuring a proper estate plan is just as important as clearing title and will reduce the risk of the property becoming heirs' property in the future.

CASE STUDY #3: THE POWER OF BOLD & STRATEGIC LEGAL ADVOCACY

Scenario

The case centers on Lorine Jackson, an 83-year-old woman facing the potential loss of her home of over 60 years. Some developers purchased a minimal interest in heirs' property from a disinterested cousin. Willie Jackson, Lorine's late husband, owned an 11% interest in the property and had lived on the property with Lorine since the 1960s. In 2006, the developers filed a partition lawsuit to force a sale of the entire property to themselves. Because the lawsuit was filed prior to Alabama adopting the Uniform Partition of Heirs' Property Act, the lawsuit fell under the old partition statute. Following Willie's death in mid-2022, Lorine inherited his interest in the property via his Last Will and Testament. In late 2022, the filed a Motion for Entry of Final Judgment to have the property sold and a Motion for Lorine to be substituted as a party for her late husband. Lorine, recognizing the threat to her home, fired her previous attorney (who was encouraging her to sell and take the money) and hired a new attorney to help her save the land in January 2023. Her new attorney promptly filed a "Notice of Intent to Purchase" on Lorine's behalf, attempting to secure Lorine's right to buy the property and attempt to outbid the developers. Soon thereafter, the Court substituted Lorine in for Willie as a party to the lawsuit.

Family Organization

The legal battle highlighted significant challenges, especially concerning heirs' property and the tactics used by developers. The developers targeted a 40-acre rural parcel located near a popular University, potentially worth millions of dollars, which was owned by twenty family members, each owning small shares of the property. Over several years, these developers were able to purchase several family members' shares outside of court, thereby acquiring a 49% interest by 2022. Lorine's Notice of Intent was met with an objection from the developers, who argued that she filed it too late, based on a statute that required such notices to be filed at least 10 days before trial. The trial took place in 2014. Despite this, Lorine's new attorney argued that she should be allowed to bid for the property, citing her long-standing residence on the property and her lack of standing to file such a notice in 2014 because she was not a party to the case (as Willie was still alive at that time).

Solution

The situation escalated when the Circuit Judge, who initially seemed sympathetic to Lorine's case, recused himself shortly after expressing an inclination to allow her to bid against the developers. In fact, all circuit judges recused themselves from the case, resulting in the appointment of a District Judge with a "non-sympathetic" reputation. This judge swiftly denied Lorine's request to bid, allowing the developers to purchase the property for approximately $4 million. Lorine's attorney immediately appealed to the Alabama Supreme Court, arguing that Lorine's Notice of Intent was timely filed as soon as she became a party to the case. Additionally, the attorney filed a Motion to pause the sale while the appeal was pending so that Lorine could continue living in the home during the appeal process. Shockingly, the Judge required Lorine to secure a $4 million bond to pursue the appeal and pause the sale. Miraculously, a financial sponsor reached out to Lorine's attorney, offering to put up the bond in cash and cover the attorneys' fees and expenses for the appeal. While reviewing the 18-year-old case file and conducting legal research, Lorine's attorney discovered a critical oversight on behalf of the developers: the developers, who were accusing Lorine of filing a late Notice of Intent to Purchase had, themselves, failed to file their Notice of Intent to Purchase on time. In fact, they did not file their Notice of Intent to Purchase until 2019, before the second trial in the case. Lorine's attorney found case law which clearly required such a Notice to be filed 10 days before the **first** trial, not any subsequent trials. This revelation significantly strengthened Lorine's position and forced the developers into a favorable settlement which allowed Lorine to keep some of the property just seven days before Lorine's attorney was due to submit her Brief to the Alabama Supreme Court.

Lessons Learned

This case underscores the risks of owning heirs' property, the complexity of partition lawsuits, the great need for capital, and the dangers of not having the protections of the Uniform Partition of Heirs' Property Act. Developers, who are always represented by experienced real estate attorneys (or who are attorneys, themselves), will often exploit legal loopholes and absentee family members to gain ownership interests of valuable land. The importance of timely and strategic legal action is evident, as Lorine's attorney's persistence and thorough research ultimately uncovered a pivotal error in the developers' filings. The case also highlights the power of community and financial support in battling large developers, in that heirs' property owners need access to capital to pay competent attorneys, bid against developers, and afford other court expenses. Ultimately, Lorine achieved a favorable settlement in the 11th hour of an 18-year-old case, allowing her to preserve her husband's legacy, retain a valuable portion of the property as an investment, and purchase a brand-new home, mortgage-free. This outcome not only preserved the land to be used as generational wealth for her children and grandchildren, but also highlighted the importance of bold and strategic legal advocacy in protecting family assets.

HEIRS' PROPERTY

CASE STUDY #4: FRACTIONAL OWNERSHIP

Introduction

Fractional ownership of heirs' property occurs when more than one person inherits property, in this case land, that has been passed down across multiple generations, and where each heir has an undivided interest in (i.e., a fraction of) the land. In cases such as this, it is not unusual for there to be multiple if not tens of heirs after one generation, and even hundreds of heirs after multiple generations. For example, across generations, the farther away from the original owner (child, grand-child, great-grand-child, etc.), the greater the potential number of heirs; and, within generations, the greater number of siblings, cousins, etc., impacts the actual percent interest (fractional size) of the land-holding. For example, the two children of one brother will inherit a different percent interest in heirs' property opposed to the three children of a second brother (50% vs 33%).

Example 1: Hypothetical 40 Acres and a Mule.

As an example on how heirs' property can get complicated very quickly, the rallying cry of "forty acres and a mule" for post-Civil War land ownership is used. In January 1865, Union General Sherman issued Field Order 15, to redistribute 40,000 acres of confiscated land along the South Carolina, Georgia and Florida coastline into 40-acre tracts. If a husband and wife with four children had 40 acres of land in 1865, and both died without a will, then each child would receive 25% interest in the land (a ten-acre equivalent if each child had equal title). By the second generation (grandchildren), there are 16 heirs with a 6.25% in the land, or 2.5 acres. If this pattern continues across the eight 20-year generations from 1865 to the present, then there would be 65,536 heirs with each having a percent interest of land equivalent of 0.0006 acres or about 26 square feet. See Table 1.

Table 1: Fractional Ownership Example 1

1865	Gens	Heirs	% Int	40 Acres
	1	4	0.25	10
	2	16	0.0625	2.5
	3	64	0.0156	0.62
	4	256	0.0039	0.16
	5	1,024	0.00098	0.04
	6	4,096	0.00024	0.01
	7	16,384	0.000061	0.002
2020	8	65,536	0.000015	0.0006

Example 2: Potential Family Heirs.

One June morning, a TU Staff colleague asked if I would present an heirs property workshop with one of my PhD students at their family reunion in July. I casually asked about how many acres of heirs' property they were talking about, and they said about 150 acres. My surprise was when I asked about how many heirs they were talking about; and, without batting an eye, they said, about 1,000! To get a better grasp as to a more accurate count of heirs, we constructed a family tree starting with the original landowner. The original landowner was my colleague's great-grandparent, born in 1862, and who purchased their first piece of land in the 1890s, with two subsequent purchases in the 1900s and teens. This ancestor had eight children. Of the eight, the one in direct line to my colleague, their grandparent, had 13 children. If all the eight had 13 children, then that accounts for 104 possible heirs. Continuing to the next generation, my colleague's parent was one of nine children, and if all the 104 possible heirs had nine children, the possible number of heirs increases to 936, not far from 1,000 (see Table 2)! This is the information that we presented at the family reunion, and it created quite a buzz!

Table 2: Fractional Ownership Example 2

Generations	Children	Heirs
Great-grandparent	8	8
Grandparent	13	104
Parent	9	936
Colleague	2	(1,872)

Conclusion

Of course, not all siblings have the same number of children, some have more, some have less, some have none. However, even half of this number is close to 500 heirs, and more halves go to 250, 125, etc. The Point is, that with every death come more heirs, both within and across generations.

Second, not all heirs live near the land, have the same care for the land, or even know about the land. In many cases, most heirs live out of the county, state, or even region where the land is located. Similarly, one generation's reverence for the land as a family legacy, may not be shared by a younger generation's goal of investment or cash.

Finally, heirs' property, with all its fractional owners, is a family issue. Land use, potential business entities, trusts, taxes, all must be considered, often with the assistance of a legal professional or estate planner.