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Introduction to the Special Issue on Heirs' Property

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ABSTRACT

This essay presents a brief introduction to the special issue of the *Journal of Rural Social Sciences* focused on heirs' property. Real property transferred over generations without a proper will or other transfer device, heirs' property and heirs' property owners are vulnerable to a range of challenges, from limited productive land use to the actual loss of land. A situation that is national in scope, heirs' property rates are particularly high in the southern region of the United States and among African Americans. Articles in this special issue address operationalizing and measuring heirs' property at the county-level, describing the characteristics of people seeking assistance with heirs' property, and the situation and implications faced in a state with limited protections of families with heirs' property.

INTRODUCTION

Since the height of African American land ownership as recorded in the 1910 Census of Agriculture at around 16 million acres (U.S. Department of Commerce 1914), most succeeding census counts have registered a steep decline. And even with recent modest up-ticks in African American owned land, the overall result is a 75 percent decline over 100 years later as recorded in the 2017 Census of Agriculture (U.S. Department of Agriculture 2019). There are many reasons for this decline (Marable 1979a, 1979b; Gilbert, Sharp, and Felin 2002; McGee and Boone 1979; U.S. Commission on Civil Rights 1982). Among them are the push of being forced off the land through Jim Crow laws, violence, intimidation, and discriminatory practices by state and federal governments, as well as the pull to the North in the Great Migration.

Another major cause is the intergenerational transfer of land without an effective will resulting in heirs' property.¹ And while this disproportionately affects African Americans in the rural South, other racial, ethnic, and economic groups are negatively affected by heirs' property as well, including rural whites in Appalachia, Latinx communities in the Colonias of Texas, Spanish land grants in the Southwest, and Native Americans near reservation communities.

In heirs' property cases the descendants of the original owner do not own a specific acreage, but rather an undivided interest in the whole, and are called co-tenants in common. If this land continues to be passed down as heirs' property, after several generation, tens, if not hundreds, of heirs all have varying interests in the land. Because all the co-tenants must agree on any kind of change to land use management, heirs' property cannot be used as collateral for mortgages, and there is difficulty in harvesting timber or accessing mineral rights, as well as accessing many government programs. The lack of development opportunities posed by heirs' property also impacts local community income from taxes and the services that are dependent upon them. Due to the lack of secured title of heirs' property, it is also the target for partition sales, tax sales, adverse possession, and eminent domain. Land, as a major factor in terms of individual wealth and community asset building, is at risk as heirs' property, with economic, political, and social implications.

There have been numerous efforts to provide outreach, education, and policy and legal changes to help address the challenges faced by heirs' property owners and their communities, coupled with efforts to prevent heirs' property in the future. Early and continued work has been led through nonprofit organizations working at the community, state, regional, and national levels. Starting in the late 1960s, African American-focused organizations such as the Federation of Southern Cooperatives, the Black Economic Research Center, and the Emergency Land Fund, highlighted the need for policy initiatives and land promotion strategies that focused on acquisition, retention, and development efforts along with a commitment to legal, financial, and technical assistance. Key was attention to curbing land loss from tax sales, partition sales, foreclosures, and intestacy, coupled with the need for African American attorneys (see Brooks 1983; Browne 1973; The Emergency Land Fund 1980; and Figures 1971). This work continues today through the efforts of organizations such as the Federation of Southern Cooperatives/Land Assistance Fund (merged in 1985 and headquartered in Georgia); Land Loss Prevention Project in North Carolina; Center for Heirs Property Preservation in South Carolina; various Appleseed organizations across the Southeast; LiKEN Knowledge in Kentucky; Mississippi Center for Justice; Rural Coalition, which works nationally; and finally, the more recently established Socially Disadvantaged Farmers and Ranchers Policy Research Center, located at Alcorn State University in Mississippi but having a national scope, has focused considerable attention on research concerning contemporary heirs' property issues.

In the early years, African American applied scholars highlighted the historic nature of land acquisition and eventual loss including the economic, legal, and political implications of inaction in response to heirs' property (see Copeland 1984; Marable 1979; and Tinubu and Hite 1978). Important efforts through the 1890 Historically Black Land-Grant University System followed, for example, the seminal work *The Black Rural Landowner: Endangered Species* (1979) edited by McGee and Boone at Tennessee State University and publications by Beauford and Nelson (1988) at Fort Valley State University, Demissie (1990) at the University of Maryland Eastern Shore, and Zabawa (1991) and Zabawa and Baharanyi (1992) at Tuskegee University. Scholars at 1862 Land-Grants have also gotten involved, starting, for example, with Schulman et al. (1985) at North Carolina State University, Dyer and Bailey (2008) at Auburn University, and Mitchell (2001) formerly at the University of Wisconsin and currently at Boston College. Researchers at other universities are joining this scholarly community at a rapid pace. The contributors in this issue represent renewed interest in heirs' property of the last 10 to 15 years.

Finally, there has been expanded efforts on behalf of African American farmers, land loss, and heirs' property among federal agencies, in particular the U.S. Department of Agriculture's Economic Research Service (see Banks 1986; Hoppe et al. 1986; and Lewis 1976); the United States Commission on Civil Rights (1967, 1982); the U.S. Forest Service (see, for example, the works by Johnson Gaither 2016, Johnson Gaither et al. 2019, and Schelhas et al. 2017); and other federal entities like the Federal Reserve Bank of Atlanta (see Stein and Carpenter 2022). Law schools are also engaged, for example those at Southern University, Texas A&M University, Vermont Law and Graduate School, Boston College, and Harvard, as well as private law firms and practicing attorneys.

In addition to awareness raising, educating families, and practicing attorneys providing direct legal assistance, broader advances have included the Uniform Partition of Heirs' Property Act (UPHPA) (Uniform Law Commission 2010; Mitchell and Powers 2022), changes in ownership and documentation requirements with the Federal Emergency Management Agency (FEMA) and the United States Department of Agriculture (USDA), and several efforts with USDA offices and sub-agencies with advancements made via the 2018 Farm Bill. These make it possible for farms with heirs' property to receive a farm number, and, therefore, access to USDA programs, as well as support for a re-lending program to assist heirs to resolve title issues. There is much to celebrate in these efforts integrating community-based engagement, research, data-informed decision making, and policy and legal change that is highlighted by the researchers and service providers in this issue area. However, there are still many issues in need of attention, and this special issue helps make some of the advancements.

ARTICLES IN THIS SPECIAL ISSUE

To direct more attention towards heirs' property, this special issue of the *Journal of Rural Social Sciences* focuses on heirs' property, especially in the South. Articles draw from multiple disciplines and use a range of methodological and analytical approaches.

The first set of articles in this collection seeks to operationalize and measure the extent of heirs' property using secondary data sources. Dobbs and Johnson Gaither (2023) utilize LightBox data – a commercial parcel dataset product derived from county tax offices – for estimating the extent of heirs' property in terms of parcels, acreage, and value. Across states and DC, they estimate the combined national area of heirs' property at 9,247,452 acres worth \$41,324,318 billion. They also use spatial analysis techniques to identify clustered patterns at various scale levels, from census tracts to counties. Thomson and Bailey

Introduction

(2023) use a different data source – CoreLogic, a company that aggregates county-level data also derived from county tax offices – to estimate heirs’ property in 11 states in the Southern and Appalachian Regions. In a separate comparison of the two approaches (Bailey et al. 2023), they note that while compatible, the two approaches provide different estimates partially because there are no standards for how heirs’ properties are reported between states and even between counties within states.

The third article in the issue utilizes a unique data source to explore the pathways and service connections pursued by heirs’ property owners in South Carolina (Stephens and Simington 2023). Drawing on administrative data from the Center for Heirs’ Property Preservation®, the authors analyze the demographic characteristics, types of legal services, and referral pathways landowners sought from 2017 through 2021. Noting the combined importance of personal networks, word of mouth, and more organized efforts through the Center and its networks, Stephens and Simington argue there are opportunities for designing targeted approaches to serving heirs’ property owners. They also point to interest in estate planning education and assistance.

The fourth and final contribution is a research note focused on the connections between heirs’ property and poverty concerns in Louisiana. Connecting historical legacies, contemporary socioeconomic concerns, and legal analysis, Hall and Davis (2023) point to the need for reforms such as the Uniform Partition of Heirs’ Property Act in states that have yet to adopt it.

SUMMARY AND LOOKING TO THE FUTURE

The articles presented in this special issue of the *Journal of Rural Social Sciences* make important contributions to our understanding of heirs’ property. From conceptualizing, measuring, and reporting on the extent of heirs’ property to reporting the characteristics and lived experiences of people and places facing associated vulnerabilities and looking for assistance, they can help inform outreach, education, and policy and law. In addition to expanding the knowledge base around heirs’ property, we hope this collection helps to inform future research.

As this special issue was in process, the editors and several of the authors were also pursuing formalization of a multi-state working group focused on heirs’ property. Building from a previously organized and mobilized network that has been evolving over several years, including the construction and delivery of an Extension program (Welborn and Kelly 2022), this year their work was transformed to a Southern Region Extension/Research Activity (SERA) entitled “Heirs’ Property: Impacts at Family, Community, and Regional Levels.” (See SERA 49 with the National Information Management and Support System, <https://www.nimss.org/>). The editors invite readers to learn more about SERA 49, consider joining, and continue this important conversation.

ENDNOTES

- 1 There are several key sources for the broad-based, generalized knowledge review of heirs’ property research in this section. Sources of particular use here include Emergency Land Fund (1980); Johnson Gaither et al. (2019); Mitchell and Powers (2022); and Schulman et al. (1985).

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How Much Heirs' Property Is There? Using LightBox Data to Estimate Heirs' Property Extent in the United States

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ABSTRACT

The ramifications of a tenancy in common or heirs' property ownership are extensive. This kind of tenuous ownership affects not only individual families but also the economic health of the typically minority and lower-wealth communities where these properties tend to cluster. Very little research has identified heirs' property extent at a broad scale, however. We present results of our approach to identifying heirs' parcels for every county and census tract in the United States, using geospatial methodologies and aggregated parcel records acquired from LightBox. The method estimated 444,172 heirs' parcels for the U.S., not including territories. The combined acreage is 9,247,452 worth \$41,324,318 billion. We discuss shortcomings of secondary parcel data and the problems this presents for accurately assessing heirs' property extent, while the spatial location aspect allows us to analyze for spatial patterns such as clustering, which supports new analyses of issues associated with heirs' property.

KEYWORDS: geographic information systems, heirs' property, spatial analysis, tenancy in common

INTRODUCTION

Wealth disparities between African Americans and Whites were more pronounced in 2020 than at the turn of the twentieth century (McIntosh et al. 2020; Traub et al. 2015). This is due in large part to differences in assets held by the two groups, especially for those at the lower end of the socioeconomic ladder (Oliver and Shapiro 2005; Thompson and Suarez 2015; Traub et al. 2015). Those in the top 10 percent of the U.S. income distribution are twice as likely as those in the bottom 50 percent to receive an inheritance (Feiveson and Sabelhaus 2018). Also, White families are two times as likely as African Americans to receive intergenerational wealth transfers, which add a median \$104,000 for a typical White family, compared to \$4,000 for the typical African American family (Batchelder 2020).

Home ownership represents a larger share of African American (relative to Whites) assets and thus intergenerational wealth transfers (Aliprantis and Carroll 2019; Oliver and Shapiro 2005; Shapiro, Meschede, and Osoro 2013). Yet, there are dramatic differences in homeownership rates between African Americans and Whites, a large part of which can be attributed to both historical and contemporary racial discrimination (Rothwell and Perry 2022). In the past, this presented as federally mandated redlining in the public sector and exclusion of Blacks from federal lending programs, and more recently as institutionalized banking practices where subprime mortgages were more likely to be offered to African American and Hispanic or LatinX borrowers (Rothstein 2017; Traub et al. 2015). Crucially, when African Americans do own homes and other real property, it is more likely to be held in an informal manner, as a tenancy in common, that is, as “heirs’ property.” This means the property is owned by multiple family members whose names do not appear on the property deed or title, but rather the names of deceased family members who died without a will (that is, intestate) transferring their ownership interests to specific family members. Because of uncertainties about who the co-heirs are or how many exist, heirs’ property ownership amounts to undocumented possession, which severely curtails co-owners’ ability to operate more fully in formal credit markets, other factors equal (Deaton 2005; Heller 1998).

Challenges associated with heirs’ property ownership have become a focal point of national-, state-, and local-level policy, owing to the array of problems this form of real property ownership presents to owners. To address these issues comprehensively, it is necessary first to understand the scope or magnitude of heirs’ property extent. Certainly, one of the first questions typically posed about heirs’ property is “How much exists in my [fill in city, state, or neighborhood]?” Recent popular press articles (*ProPublica*, *New Yorker*, *The Nation*) report that more than one-third of all Black-owned land in the South is heirs’ property, summing to 3.5 million acres worth approximately \$28 billion (Chen 2019; Presser 2019). However, these estimates were misconstrued. The \$28 billion price tag reported by Presser (2019) is a preliminary, unpublished estimate of heirs’ property extent calculated by the second author and applies to heirs’ properties broadly in the U.S. South, not just to African American-owned land. The reporters may have also linked this estimate to C. Scott Graber’s late 1970s calculations which estimated that roughly one-third of all Black-owned land in the South was heirs’ property at that time (Graber 1978). Of course, the more recent dollar value is not related to the prior tabulations of heirs’ property acreage. This is just one instance illustrating how information about heirs’ property ownership and extent has been difficult to calculate and even more challenging to verify.

We present a methodology that automates the process of identifying heirs’ property parcels and related values at both the county and U.S. Census Bureau census tract scale for all 50 U.S. states and the District of Columbia. This is an important undertaking from a policy perspective because it helps delineate where

this kind of ownership clusters. This demarcation, in turn, aids efforts to pinpoint place-based, legislative responses to communities contending with an array of social challenges, in addition to heirs' property ownership (Mitchell 2005). Recognizing that social vulnerabilities bunch and are thus compounded, identifying heirs' property concentrations can also help determine whether and to what extent these parcels co-locate with other social vulnerability metrics and indices (e.g., SoVI, SVI) (ATSDR 2022; Rufat et al. 2019). However, our primary goal in this paper is to estimate the number of heirs' property parcels in the U.S. and to map their extent across the country.

LITERATURE REVIEW

Since the late 1970s, various efforts to document heirs' property ownership at varying scales have been undertaken. We review several of the most-cited efforts historically, along with several recent attempts. Our review is not exhaustive. For instance, we do not include estimates for some smaller locales and any examining Native American allotments, which are effectively heirs' properties if they remain in federal trust (Johnson Gaither 2016; Kunesh 2019; Shoemaker 2003).

Early efforts involved manual reviews of tax and court records and surveys. Graber (1978) assessed heirs' property extent in 10 Alabama, Georgia, Mississippi, North Carolina, and South Carolina counties. Local tax officials identified African American landowners listed on county tax rolls, and then local tax auditors named heirs' properties. Graber (1978) extrapolated these findings to the larger five-state region, estimating that roughly one-third of all rural Black-owned land was heirs' property at that time. Two years later, the Emergency Land Fund (1980) used a household survey and extensive ground-truthing (collaborating with local tax and court officials) to verify African American-owned land, again in the same five states. That analysis uncovered roughly 9 million acres of land in these states associated with Black landowners. Of these, about 3.8 million acres were classified as heirs' property based on respondents' replies on queries specific to heirs' property.

Deaton's (2005) study of Letcher County, Kentucky, was the first to document heirs' property outside of the Deep South, using data from the county's taxing authority. A randomly distributed survey was sent to nonindustrial family landowners asking how they held land, that is, as fee simple (allodial holding), partial interest (tenancy in common), life estate, or another arrangement. Roughly 24 percent indicated they owned a tenancy in common or heirs' property. A few years later, Dyer et al. (2009) examined tax records in Macon County, Alabama, to identify specific terms used to denote heirs' parcels. Notation such as "heirs of" or "both dec'd" (deceased) next to the owner's name provided evidence of tenancy in common status. Estimates were verified by staff at the taxing office who were familiar with the property-owning public. The method yielded 1,516 parcels, covering 15,937 acres (4.1 percent of county land area), with a value of more than \$25 million.

Building on Dyer et al. (2009), Georgia Appleseed (2013) used a two-stage process to identify heirs' parcels in Georgia. They first examined online tax parcel cards for properties in selected Georgia counties. These data were used to build an index of probable heirs' parcels based on property characteristics indicating whether the owner's mailing address was different from the property address; low land value; lack of recent sale or conveyance information; and lack of or dated improvement information. Seasoned real estate attorneys then narrowed these selections to derive final estimates. For Chatham, Chattooga, Dougherty, Evans, and MacIntosh counties, 1,620 parcels were found across 5,215 acres, valued at \$58,649,195.

Advances in data digitization and aggregation have resulted in the proliferation of “big data”—that is, exponential increases in the volume, production, and variety of data that allow analysts to mine and manipulate huge quantities of data relatively in short timeframes (King 2011). Pippin et al. (2017) accessed one such data source, computer assisted mass appraisal (CAMA) files from the University of Georgia, Anderson County, South Carolina, and Cameron County, Texas. The researchers used a geographic information sciences (GIS) format to automate the methodologies described by Georgia Appleseed (2013) and to a lesser extent Dyer et al. (2009), resulting in the first documented effort to spatially locate heirs' properties across a broad geographic range.

The methodology scrubbed parcels associated with businesses, educational institutions, religious organizations, or governments, leaving only “natural people” (Pippin et al. 2017:26). Also excluded were parcels with preferential tax status, as heirs' property owners are less likely to have this advantage; and parcels that had a sale date within the past thirty years were removed because parcels with more recent sale dates are less likely to have deceased owners. The resulting dataset was described as “potential heirs' properties” because indirect indicators were used to pull the records. Estimates for ten Georgia counties ranged from 11 to 25 percent of all county parcels. The total appraised value was \$2.1 billion. Percent of heirs' property for Anderson County, South Carolina, was 9 percent, with a value of \$821 million, and 25 percent for Cameron County, Texas, total value of \$2.5 billion.

A recent analysis of heirs' property in an urban context was published by The Pew Charitable Trust for Philadelphia in 2021 (Pew Charitable Trust 2021). Called “tangled titles” in Philadelphia, heirs' parcels were identified by matching names and addresses of residential property owners as of 2016 with the Social Security Administration's Death Master File to determine whether the recorded property owner was still living. Properties with owners who had been dead for more than two years were flagged as heirs' parcels. A total of 10,407 properties were identified which accounted for 2 percent of all residential properties, with a value exceeding \$1.1 billion. The study found similarities in terms of co-location of heirs' property with other vulnerability markers such as low income, higher poverty rates, and percent African American. An earlier analysis was also conducted in Philadelphia in 2007 by the University of Pennsylvania's Cartographic Modeling Lab for the nonprofit group VIP, also comparing the same database of death records with owners listed on the deed—14,001 parcels were classed as tangled.

Finally, Thomson, Bailey, and Gunnoe's (forthcoming) analysis built on both Dyer et al. (2009) and Pippin et al. (2017) to automate heirs' property identification for the thirteen states comprising the USDA Forest Service's Southern Region (Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia), plus West Virginia. Like others, they restricted their search to residential properties owned by natural or noncorporate individuals. Their approach employed a weighting scheme where properties with more explicit indications of heirs' status, such as “estate of,” “heirs of,” “et al.,” were assigned a value of two. Parcels with the notation “care of,” those that had not been repaired in the past 29 years, nor sold in the past 29 years were assigned a score of one. A parcel could obtain a maximum score of five. Parcels with a score of three or more were categorized as heirs' property.

METHODOLOGY

To build an automated process and complete estimates of heirs' property quantities across the U.S., we required three inputs: parcel data, knowledge of terms and phrases associated with heirs' property designations, and applicable computing technology. For input data we used a commercial parcel dataset

product from LightBox (formerly Digital Map Products, Inc.) (LightBox Holdings, L.P., 2022), acquired through a contract that the Forest Inventory and Analysis (FIA) Branch of the USDA Forest Service has with the company. The dataset provides spatial location and an array of attribute fields, most importantly including owner, area, and value information, for each parcel. Proprietary datasets such as this are usually built by performing mass imports of county parcel data; however, neither the original county data nor the mass imports are without error.

Consequently, some fields, such as market and assessed property values and acreage varied by state, with respect to being completely populated. Thus, we advise caution in interpreting parcel value results. The LightBox datasets we used were transferred to FIA on November 23, 2021, and stored by FIA in geodatabases, one per state. Each state geodatabase contained a polygon feature class and a point feature class. In many cases the former was missing the parcels of one or more counties, so we used the points feature class throughout.

We estimated heirs' parcels for each county and census tract in the U.S., including the District of Columbia. Our approach to identifying heirs' properties relies on computer evaluation of terms and phrases in the parcel data to identify those that indicate a parcel has not been probated and ownership not formally transferred. Following Pippin et al. (2017) and others, we also concentrated on parcels owned by actual people, removing from the data parcels described as businesses, various forms of trusts, religious organizations, and publicly owned properties. We also build significantly on Dyer et al. (2009) in terms of identifying phrases indicating heirs' parcel status. The method thus returns what we consider to be actual counts of heirs' property rather than potential heirs' property or a weighted likelihood of heirs' status. We nevertheless consider our results to be estimates due to possibilities of error in the input datasets and in our choice of terms. See table 1 for a list of inclusion and exclusion terms used to select heirs' parcels. The inclusion terms were found as notations in the owner name column, next to the owner name. The exclusion terms were identified by the owner name.

Table 1: Inclusion and Exclusion Terms Used in Research Process

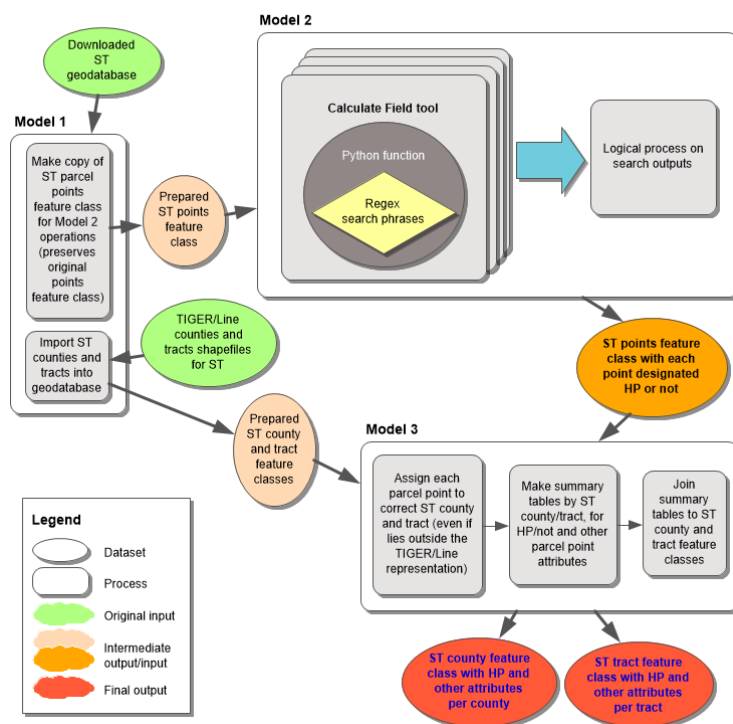
Term or category	Include or exclude	Comments
Business indicators	Exclude	LLC, Inc, etc.
Care of	Include	Recognizes an heir who acts for the whole group, or a caretaker of the property
Conservator*	Include	A court-appointed manager of the property
Deceased	Include	
Digit as first character of owner name	Exclude	Is likely to represent a business
Estate	Include	Include where refers to legal status
Estate	Exclude	Exclude where refers to real estate businesses, subdivisions, etc.
Et al.	Include	Sometimes used with names or one or a few heirs, to represent the rest
Executor or executrix*	Include	
Family of*	Include	Survivors of the deceased owner
Financial institutions	Exclude	As owners or co-owners of parcels
Heirs	Include	
Interest; a fraction; undivided; each	Include	Refers to heirs having ownership of a fractional or undivided interest in the parcel
Public entities	Exclude	Counties, towns, states, etc.
Religious entities	Exclude	Churches, temples, etc.

*Subsequent conversations with a real property attorney and review of our data suggested that these identifiers are less useful. Parcels with this notation are included in our estimates but represent less than 1 percent of the estimates.

The appropriateness of heirs' proxy indicators was triangulated via interviews with personnel at fifteen Property Valuation Administrator's (PVA) or tax assessor county offices in Kentucky. Commonly used terms in these counties were "heirs/heirs of," "estate," "et al.," an indicator of fractional interest such as 1/6, and "care of." We also observed that the data contained many variations on each term (e.g., "heirs," "heirs of," "HRS," "et al.," "etal") due to lack of conventions among counties or even between clerks or the same clerk on different days, regarding abbreviations, punctuation, spaces, and ways of denoting ownership. This suggested that the search mechanism needed to encompass the potential permutations of the search terms. We therefore used "regular expression" (regex), a powerful pattern-matching language that can be used inside code written in other languages. We embedded our regex search parameters within Python functions, which were in turn embedded in ArcGIS (ESRI 2019) Modelbuilder models that could be run with ease by both members of the research team. The Modelbuilder subprogram allows the user to build, store, edit, and run complex sequences of geospatial processes by adding and connecting input datasets, tools and parameters, and output datasets diagrammatically in a model window. The term "model" in this context thus refers to a model window containing one or more such stored sequences.

The basic shape of our automated process is illustrated in figure 1. Model 1 prepares a state's parcel point feature class and TIGER/Line (U.S. Census Bureau 2021) census tract and county feature classes for the subsequent operations. Model 2 runs the Python functions containing the regex expressions and adds attribute table fields whose values reflect the presence or absence of inclusion terms and exclusion terms, respectively. A logic process on those values creates a single final value for each parcel indicating whether or not it meets our criteria for heirs' property. Model 3 then associates each parcel with its correct county and tract and creates summary outputs which are then joined to the county and tract feature classes. After all three models have been run, the user is able to visualize heirs' properties individually as parcel points carrying the heirs' property designation, and collectively as quantities or percentages of such parcels per tract and per county. Assessed or market values and acreages, where included in the acquired parcel datasets, are likewise summarized and can be visualized.

Figure 1



RESULTS

Table 2 contains the total estimated heirs' parcels by state and the District of Columbia, along with associated acreage, and land values for all parcels. The methodology estimated 444,172 heirs' parcels for the entire country.

Table 2: State Heirs' Parcels and All Parcels Totals (dollar figures as of November 2021)

State	Heirs parcels	Heirs acres	Total parcels	Total acres	Perc. heirs	Land market value (x \$1,000)	Market value (x \$1,000)	Heirs land market value (x \$1,000)	Heirs market value (x \$1,000)	Assessed value (non-heirs) (x \$1,000)	Assessed value (heirs) (x \$1,000)
Alabama	18,132	334,265	3,074,053	33,906,354	0.59	146,492,522	468,326,922	727,694	1,296,743	71,102,034	189,106
Alaska	3,593	8,594	792,034	14,977,778	0.45	41,105,031	112,283,557	41,454	87,420	112,113,697	87,728
Arizona	1,970	8,949	3,372,997	31,317,740	0.06	225,566,441	1,107,169,900	47,155	160,970	106,456,341	19,199
Arkansas	7,496	183,002	2,303,114	34,004,454	0.33	50,112,127	207,783,697	113,402	238,881	41,508,955	47,776
California	15,513	141,784	13,034,235	103,382,702	0.12	0	0	0	0	7,319,506,391	3,207,561
Colorado	2,877	143,605	2,756,634	61,374,344	0.1	337,521,079	1,266,817,380	173,269	475,312	146,316,422	59,958
Connecticut	365	1,351	1,339,557	3,924,145	0.03	0	0	0	0	407,665,283	91,265
Washington, DC	67	54	215,689	37,575	0.03	159,675,813	34,655,5390	180,044	300,665	346,254,725	300,665
Delaware	791	3,347	485,199	1,810,671	0.16	1,425,340	8,277,442	2,398	9,014	32,836,367	6,641
Florida	27,743	128,849	10,486,369	41,033,928	0.26	1,008,009,754	3,341,933,347	1,257,759	3649,651	2,968,748,405	3,252,769
Georgia	22,779	371,318	4,754,048	35,904,901	0.48	365,311,729	1,188,355,678	1,072,153	1,914,117	475,704,926	766,485
Hawaii	1,388	55,639	585,470	4,826,985	0.24	646,125,283	1,190,579,577	364,559	539,569	1,177,225,434	381,261
Idaho	996	26,022	1,076,201	29,560,244	0.09	82,497,841	263,714,051	64,669	140,533	261,347,869	140,167
Illinois	6,322	233,400	5,888,607	132,504,817	0.11	226,779,528	1,190,825,225	210,283	667,364	293,846,998	213,262
Indiana	5,535	164,358	3,509,984	21,623,117	0.16	117,842,201	510,624,496	230,737	415,883	339,680,960	415,883
Iowa	6,975	205,310	2,660,512	36,889,007	0.26	92,689,460	346,776,101	301,737	406,127	510,208,613	403,379
Kansas	2,279	160,331	1,679,141	53,794,988	0.14	54,502,330	269,792,535	44,010	113,959	33,554,766	19,806
Kentucky	21,129	582,477	2,389,567	26,754,884	0.88	63,135,357	360,734,063	214,964	844,070	353,382,495	746,178
Louisiana	23,185	284,784	2,717,995	28,347,963	0.85	84,889,069	400,683,915	465,856	1,586,967	49,870,623	150,717
Maine	251	30,765	890,182	26,997,184	0.03	0	0	0	0	193,694,167	41,147
Maryland	7,436	29,274	2,381,409	6,757,045	0.31	354,162,220	950,245,777	764,956	2,136,720	923,997,951	2,075,585
Massachusetts	2,293	11,455	2,518,126	7,303,758	0.09	0	0	0	0	1,523,357,192	906,736
Michigan	3,008	35,261	5,213,426	42,853,443	0.09	72,591,642	966,765,482	52,669	331,382	485,053,612	165,770
Minnesota	1,239	26,545	3,215,925	56,827,965	0.06	348,594,973	888,594,502	149,538	267,345	888,035,242	266,706
Mississippi	30,811	468,447	1,885,157	27,858,931	0.04	36,451,764	147,893,185	320,358	906,385	18,141,659	165,770
Missouri	2,364	70,263	3,320,484	42,648,871	1.63	87,873,438	540,874,815	42,524	184,170	121,677,789	37,672
Montana	1,666	218,185	938,255	91,285,642	0.07	67,965,232	190,907,237	74,362	138,280	185,312,784	135,725
Nebraska	1,100	135,270	1,170,317	49,397,760	0.18	145,424,700	276,831,966	343,806	395,678	251,380,370	324,850
Nevada	342	3,568	1,255,845	45,348,721	0.09	166,256,124	43,431,7351	16,475	42,634	153,613,911	14,951
New Hampshire	518	7,871	696,619	5,475,772	0.03	0	0	0	0	214,656,734	105,994
New Jersey	5,254	9,370	3,172,633	5,110,218	0.07	551,790,760	1,303,798,089	780,624	1,640,316	1,301,184,774	1,642,825
New Mexico	3,445	94,343	1,648,375	46,655,134	0.17	51,422,442	193,546,945	37,484	86,752	65,173,413	30,656
New York	12,338	183,372	6,385,853	34,973,465	0.21	1,907,249,194	4,797,468,314	1,681,300	3,425,506	1,269,306,674	1,371,485
North Carolina	39,162	301,997	5,599,920	27,961,731	0.19	386,788,427	1,239,805,529	1,370,100	2,332,102	1,259,711,734	2,313,678
North Dakota	1,836	182,205	739,678	42,815,470	0.7	40,139,521	107,000,417	138,667	149,997	53,455,868	74,705
Ohio	5,088	68,364	6,246,221	26,140,063	0.25	292,920,790	1,055,741,230	351,552	574,211	365,061,780	179,719
Oklahoma	6,072	303,592	2,367,084	49,747,766	0.08	55,740,719	266,293,961	57,771	133,249	28,117,190	14,924
Oregon	1,564	37,467	1,963,680	60,368,758	0.26	343,697,349	864,181,647	18,0260	1,497,225	449,591,971	321,593
Pennsylvania	4,801	106,506	6,003,325	30,986,689	0.08	216,151,913	959,674,465	144,824	639,208	685,977,543	325,726
Rhode Island	108	193	418,628	964,839	0.08	0	0	0	0	160,341,162	34,696
South Carolina	16,779	162,803	3,060,041	18,523,812	0.03	180,306,763	552,895,683	529,203	930,169	31,601,815	34,599
South Dakota	1,878	162,418	717,392	45,024,816	0.55	0	0	0	0	119,677,658	302,909

Table 2: State Heirs' Parcels and All Parcels Totals (dollar figures as of November 2021)

State	Heirs parcels	Heirs acres	Total parcels	Total acres	Perc. heirs	Land market value (x \$1,000)	Market value (x \$1,000)	Heirs land market value (x \$1,000)	Heirs market value (x \$1,000)	Assessed value (non-heirs) (x \$1,000)	Assessed value (heirs) (x \$1,000)
Tennessee	5,607	163,091	3,451,380	27,843,061	0.26	199,554,291	706,510,418	266,987	501,650	188,890,235	138,651
Texas	77,462	2,677,481	13,426,841	197,916,219	0.58	1,192,999,772	3,616,012,433	5,202,517	8,472,347	3,369,969,063	5,877,114
Utah	409	12,059	1,386,084	16,837,120	0.03	185,763,584	546,567,879	38,727	78,868	533,536,957	73,212
Vermont	1,599	40,975	337,938	5,960,848	0.47	0	0	0	0	92,024,181	252,549
Virginia	14,333	202,015	3,934,881	23,718,994	0.36	495,815,716	1,447,717,410	858,586	1,392,619	1,444,610,772	1,389,352
Washington	1,968	53,442	3,345,947	37,768,608	0.06	613,082,058	1,527,972,147	311,162	690,522	77,582,497	655,999
West Virginia	17,880	341,587	1,489,839	17,061,120	1.20	37,989,163	130,219,944	312,751	623,843	483,403,658	344,909
Wisconsin	5,427	48,991	3,104,606	32,034,962	0.17	27,359,711	433,679,781	43,105	663,358	483,403,658	636,798
Wyoming	999	20,838	344,814	28,575,593	0.29	27,853,698	92,021,897	86,498	242,537	8,782,830	23,016
Total	444,172	9,247,452	155,752,311	1,875,720,975		11,789,626,872	36,818,771,780	19,668,949	41,324,318	32,477,658,148	30,779,827

These contain 9,247,452 acres with a land market value¹ of \$19,668,949 billion and total market value of \$41,324,318 billion.² The average land market value per acre for all heirs' parcels is \$2,179, which compares to an average land market value per acre for all parcels of \$7,032; the average total market value per acre for heirs' parcels is \$4,669, and \$21,959 for all parcels. The assessed value includes values for both land and improvements before any tax exemptions are applied. This is the value on which property taxes are based. As such, it is a useful indicator for calculating potential tax revenues associated with heirs' parcels. Heirs' property parcels identified by our methodology have an assessed value of \$30.7 billion compared to roughly \$32.5 trillion for all non-heirs' parcels in the country.

Table 3 displays mean values for heirs' parcels summed at the state (and District of Columbia) level. The mean number of heirs' parcels for all states and the District is 8,709. The mean number of heirs' parcels acres in each state is roughly 181,000. The average land market value for the state/district distribution is approximately \$458 million, \$961 million for the market, and \$618 million for assessed value.

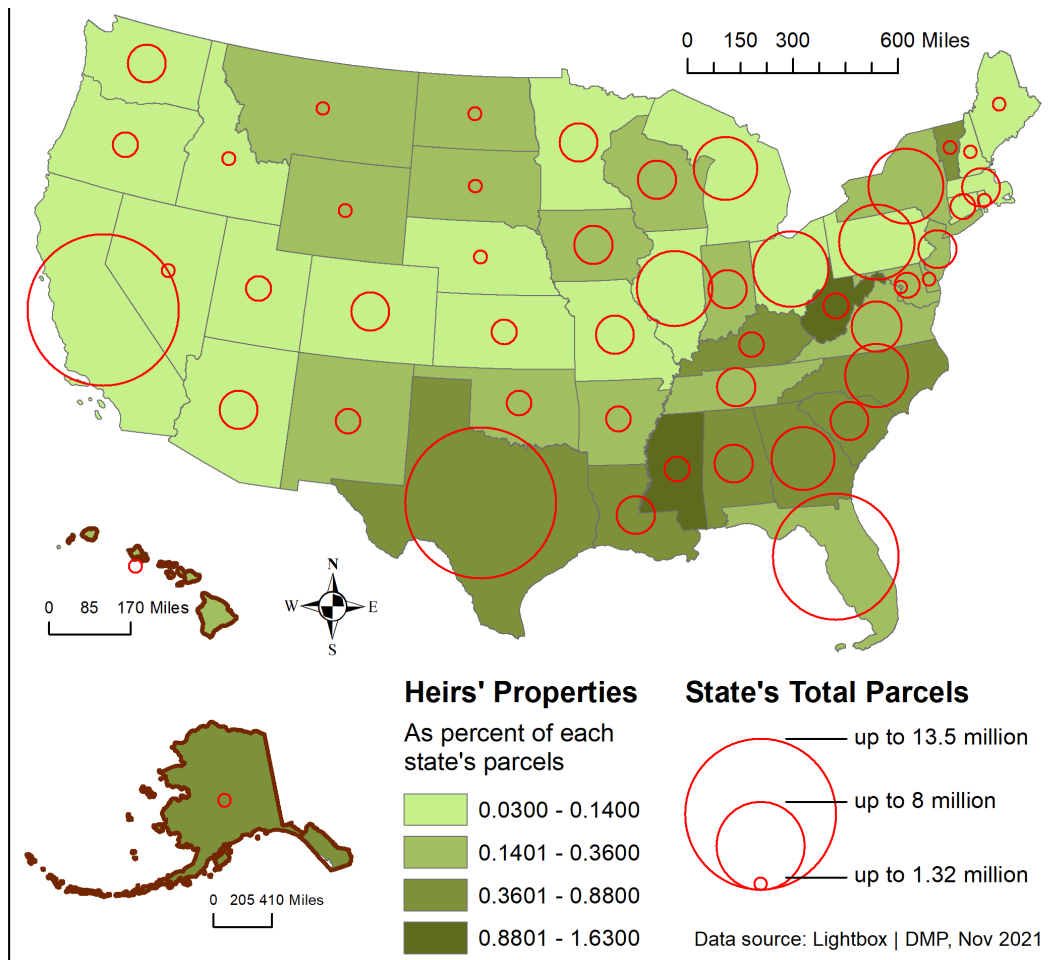
Table 3: Heirs' Parcels Descriptive Statistics for 50 States and District of Columbia Totals (N=51) (dollar figures as of November 2021)

	Parcels	Acres	Land Market Value	Market Value	Assessed Value
Mean	8,709	181,322	\$457,417,458	\$961,030,588	\$617,856,978
Std. deviation	13,349	380,041	\$840,171,961	\$1,452,219,230	\$1,084,608,852
Median	3,445	106,506	\$210,280,000	\$501,650,000	\$179,270,000
Minimum	67	54	\$2,398,400	\$9,013,600	\$34,695,725
Maximum	77,462	2,677,481	\$5,202,516,922	\$8,472,347,435	\$3,207,560,812

The very large standard deviations indicate the wide range of totals for the states/district. As well, both the heirs' land market and total market value distributions are positively skewed with Texas as an outlier (\$5.2 billion). For total market value, the states with the five highest totals are Texas (\$8.47 billion), Florida (\$3.6 billion), New York (\$3.42 billion), North Carolina (\$2.33 billion), and Maryland (\$2.14 billion). States with the lowest total market value are Delaware (\$9 million), Nevada (\$42.6 million), Utah (\$78.9 million), New Mexico (\$87.8 million), and Alaska (\$87.4 million). Median values for all values are well below the mean, which again indicates the positive skew.

Using the geospatial outputs of the automated process for the fifty states and District of Columbia, it is possible to visualize our results in a number of ways that help us understand nationwide patterns of heirs' property occurrence. In Figure 2, states are shaded to represent heirs' property extent as percent of all parcels in the state. Because the total number of parcels varies widely from state to state, changing the absolute meaning of a given percentage, we have included, for reference, a circle at each state, associated with the size of the state's parcel total. As expected, visualization of the data at this scale shows broad regional patterns, most notably that the South (Virginia to Oklahoma and Texas) contains more of the country's heirs' properties than any other region. Figure 3(a), while covering the same geographic area, visualizes percentage of heirs' property per county instead of per state and demonstrates both the same broad regional patterns and the presence of variation within states, including individual counties with percentages much higher than any at state level. County-level patterns and visual comparison to figures 3(b)-3(c) suggest potential correlations for investigation, between current heirs' property and historical plantation agriculture in the Black Belt South; historical and modern fossil fuel and timber extraction in Central/North Central Appalachia; and historical allotment of Indian reservations (even though we did not include allotment-specific terms in our process) spotted throughout the Great Plains and West. We find it no coincidence that the spatial distribution of heirs' property parcels is co-located with such places of long-standing poverty and other inequities.

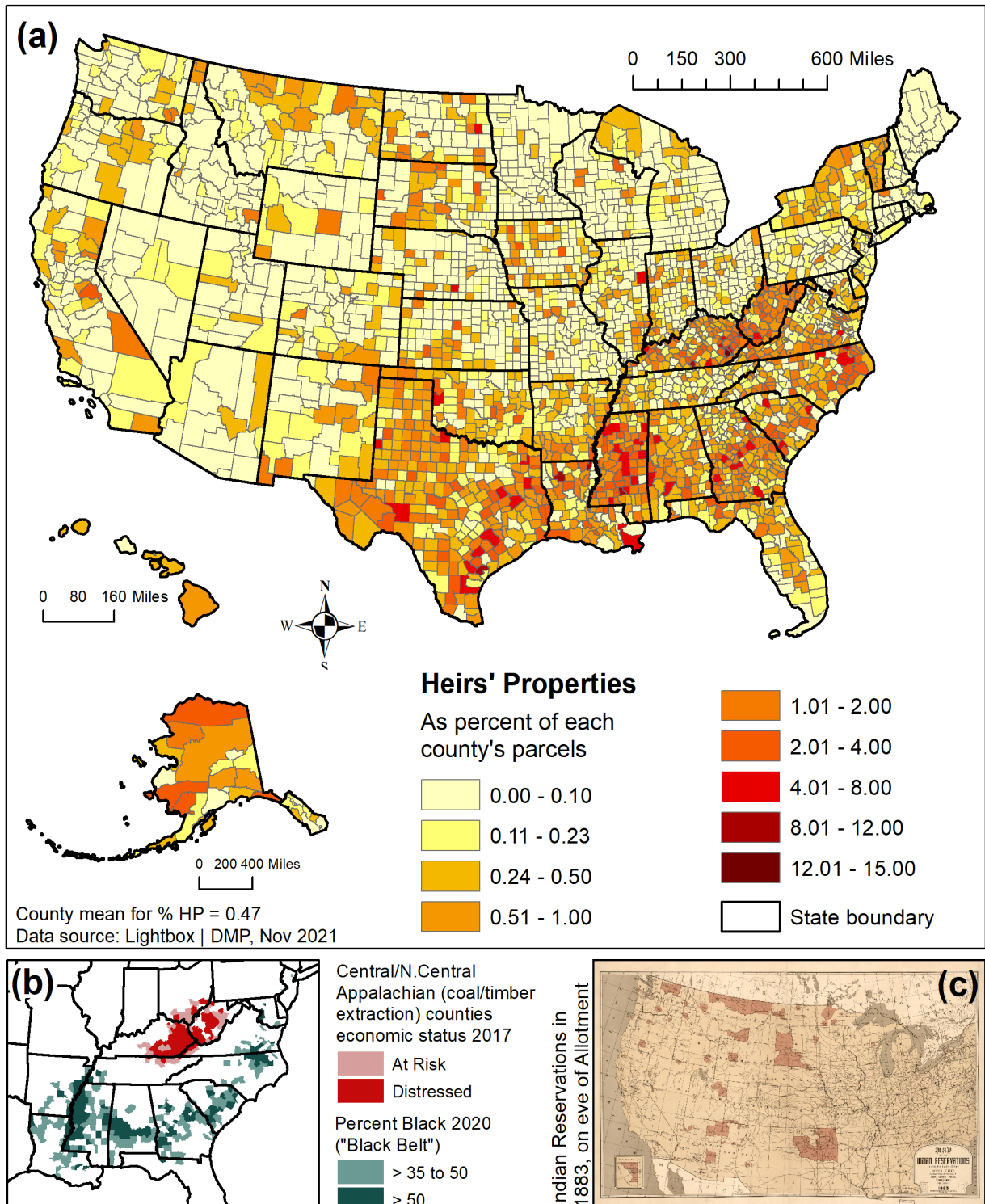
Figure 2: Output of Automated Process by State



State shading represents heirs' properties as a percent of all parcels in the state. Red circles for each state indicate total number of parcels in the state.

Figures 3(a)-(c): Output of Automated Process by County

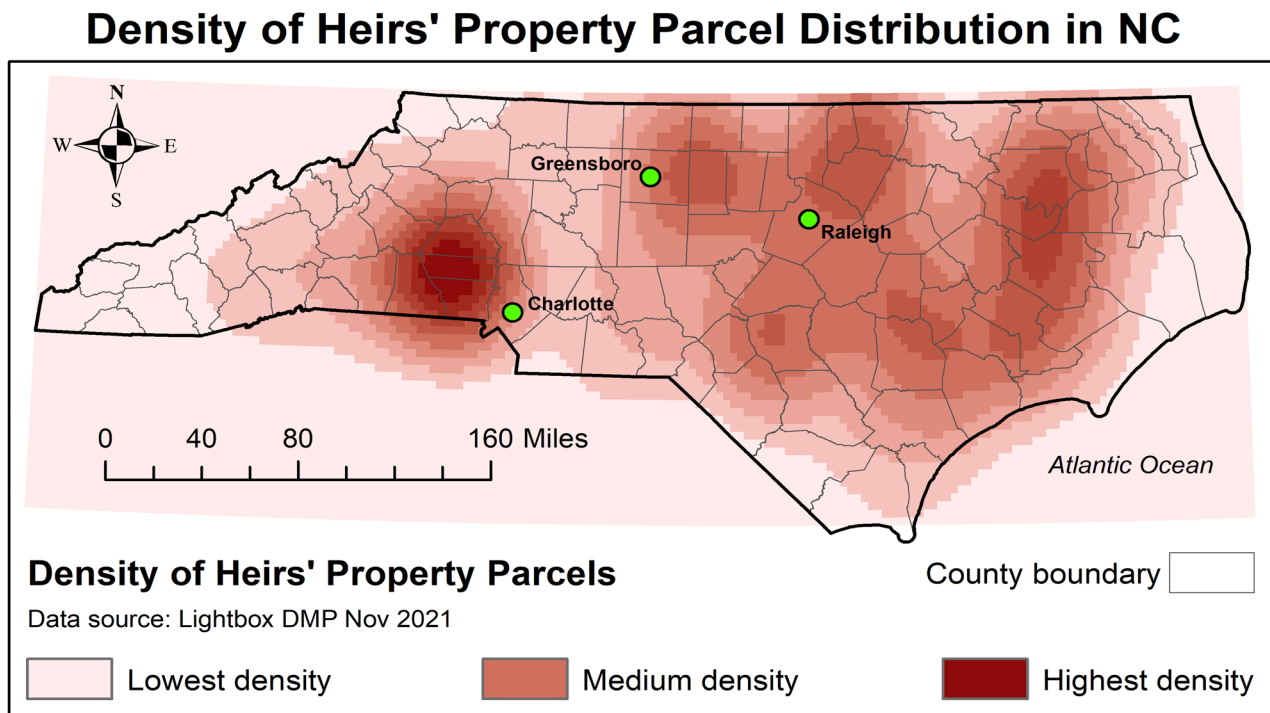
Percent Heirs' Properties in U.S. Counties



Output of automated process by county is shown in figure 3(a). Shading represents heirs' properties as a percent of total parcels in the county. Figure 3(b) displays "Black Belt" and "Coal Country" areas for visual comparison. (Data sources: US Census Bureau, 2020 Decennial Census; Appalachian Regional Commission.) Figure 3(c) illustrates (again for visual comparison) Indian Reservations in 1883, not long before the federal government cut them up into individually held allotments. (Image source: Library of Congress, Geography and Maps Division.)

The data outputs can be visualized at additional scales. In figures 4 and 5, we employ two different means of identifying spatial clusters of heirs' property within an individual state. The first (figure 4) utilizes kernel density to visualize patterns within those parcel points identified as heirs' property for North Carolina, thereby illustrating both distribution and density of heirs' properties. We used a cell size of 0.05 degrees and a search radius of 0.7 degrees, with the weight field set as the HP indicator resulting from our Model 2. We speculate that the highest density area, west of Charlotte, results from the dissolution of former mill villages, as this part of the state was home to an intense concentration of textile mills. The other dense areas are agricultural regions, where legacies of enslavement probably contributed to formation of heirs' properties. For instance, concentrations are evident in the northeastern part of the state near Warren and Bertie Counties, where percent of the population that is African American exceeds 50 percent.

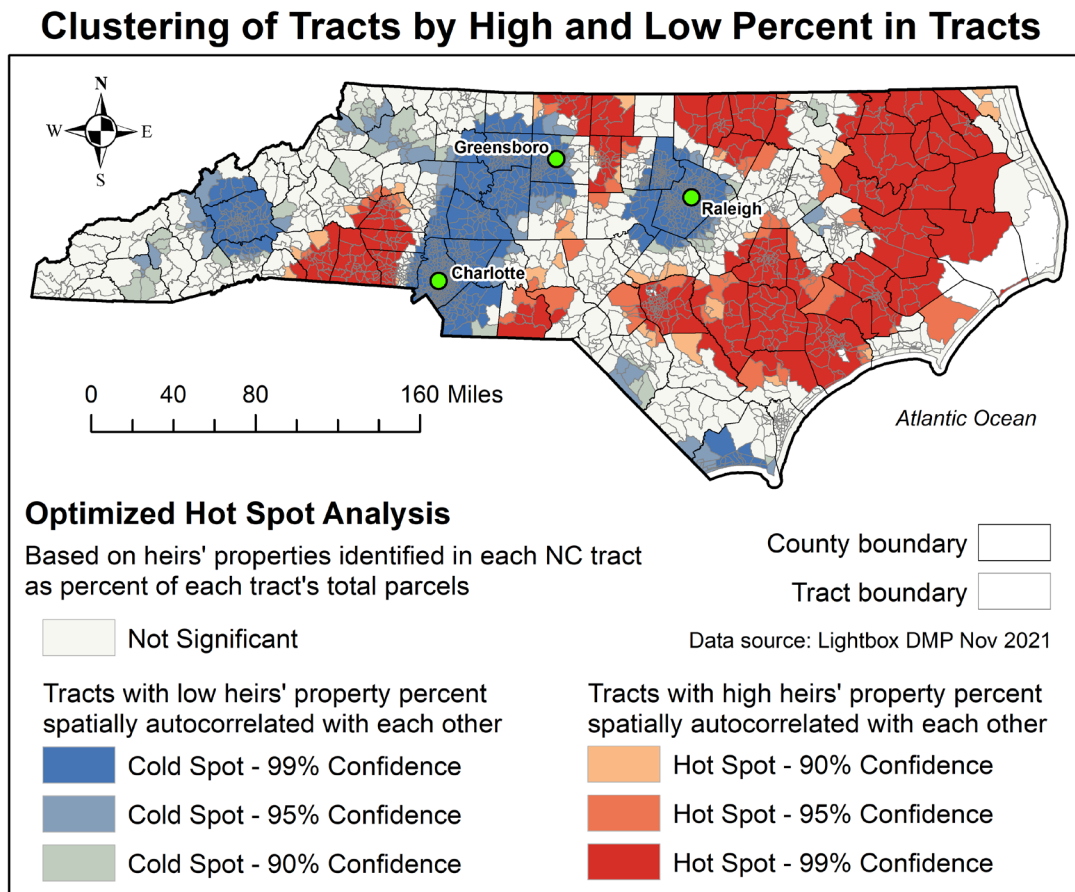
Figure 4: Heirs' Properties Parcel Densities in North Carolina



Heirs' properties parcel points in North Carolina have been processed with the kernel density tool in ArcGIS to produce this representation of distribution and density of heirs' parcels without regard to county or tract boundaries. County boundaries are shown for the viewer's orientation only.

The second (figure 5) uses the Getis-Ord G_i^* calculation to find "hot spots" and "cold spots" of heirs' property percent at the tract level (Johnson Gaither 2017). This is a univariate spatial autocorrelation metric identifying tracts that are both similar in value of the variable and close in spatial proximity. Because we used the Optimized Hot Spot Analysis tool to generate this example, ArcGIS calculated the best parameters, including contiguity type, based on the input data; a fixed-distance band was used as a result. The results of the process broadly reinforce the patterns seen in figure 4, with agricultural and major mill areas hot and major urban areas cold.

Figure 5: Clustering of Heirs' Property Tracts in North Carolina



Getis-Ord G_i^* analysis of heirs' properties in North Carolina at the tract level. The technique identifies tracts that are both similar in value of heirs' properties percent and in proximity. Red shades reflect high percentages and blue shades reflect low percentages.

Beyond identifying the presence and location of heirs' property, the outputs of our automated process will make a substantial contribution to research associating heirs' property with various types of vulnerability. For example, the Federal Emergency Management Agency (FEMA) has produced a composite risk index that combines expected economic loss from multiple physical hazards with social vulnerability (using SoVI) (Hazards Vulnerability & Resilience Institute, n.d.b) and then mediates the result based on community resilience (using BRIC) (Hazards Vulnerability & Resilience Institute, n.d.a). This National Risk Index (NRI) is downloadable for both counties and census tracts and includes separate scores for each component as well as the composite score (Zuzak et al. 2021).

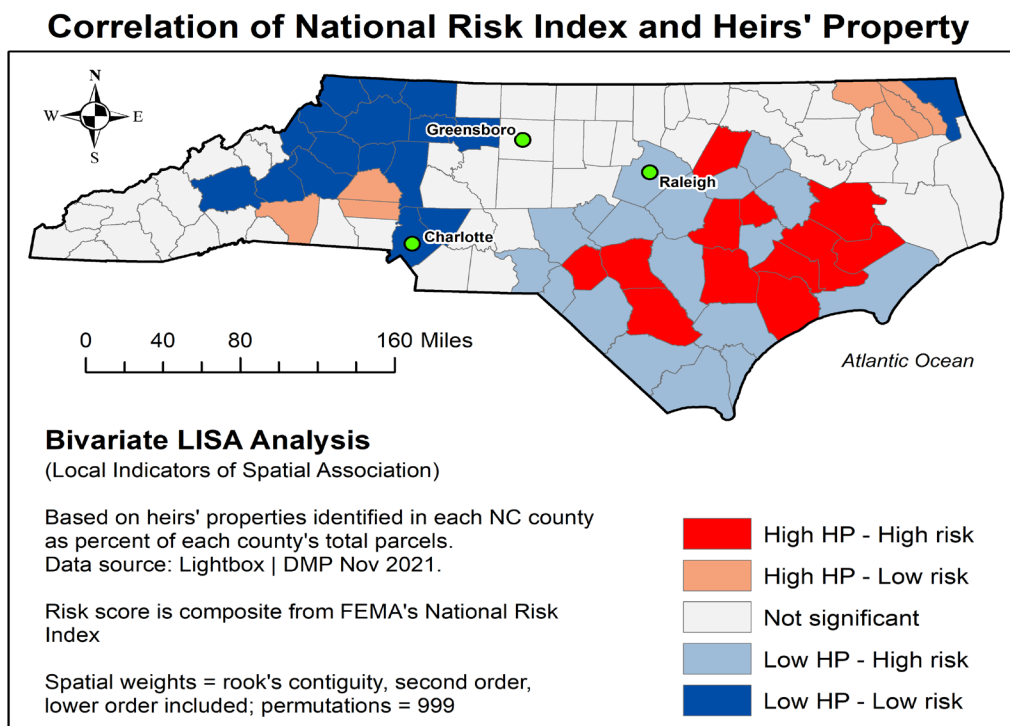
In figure 6, we demonstrate the feasibility of analyzing heirs' property outputs in conjunction with vulnerability indices. In this example we use North Carolina county-level heirs' property percent and the NRI composite risk score. The analysis method is Bivariate Local Moran's I, one of several techniques known collectively as Local Indicators of Spatial Association (LISA), which identify locations that have both similarity of attribute values and proximity in space as opposed to random spatial distribution.³

Results as shown in figure 6 indicate a strong correlation between heirs' property percent and risk for several counties in eastern North Carolina. The red polygons can be interpreted again as "hot spots," where counties have both higher-than-average percent heirs' and risk values; and the dark blue indicates

the opposite (“cold spots”), with both lower-than-average heirs’ and risk values. Such an analysis could be repeated with different combinations of scales and indices and different spatial statistical methods. Variation in any of these may produce outputs that illuminate some particular aspect of the problem in a new way. Scale, in particular, can affect not only the patterns revealed but the questions that could be asked. In this context we refer both to the scale of data units (e.g., parcel, tract, county, state) and the scale of the study area (local, county, state, nation). Analysis of heirs’ property parcels at a local scale might reveal, for instance, that particular parcels have become heirs’ properties through mechanisms different from the county-scale results and processes discussed in relation to figure 3.

Further, heirs’ parcel identification can be incorporated into existing vulnerability indices, not only correlated with them. This is important given the centrality of such measures for understanding people’s ability to prepare for, respond to, and rebound from disasters. A central component of vulnerability analyses is identification of the “architecture of entitlement” or a determination of which societal groups have access (both de jure and de facto) to key resources and information flows (Kelly and Adger 2000), as this access largely determines the extent to which populations are vulnerable or resilient. Existing social vulnerability indices involve identifying variables of exposure (e.g., physical indicators of risk), sensitivity, and adaptive capacity (those factors that enhance a place’s ability to lessen the effects of disturbance—for example, wealth, hospital facilities) (Cutter, Boruff, and Shirley 2003; Polsky, Neff, and Yarnal 2007). The sensitivity component typically includes sociodemographic variables representing different markers of sensitivity to adverse outcomes. However, we are not aware of any sensitivity measures that operationalize the construct in terms of the ability or inability of people to leverage real property assets either before or in the wake of natural disasters. Such capacity is most crucial in the preparedness and disaster recovery phases, where home ownership allows access to resources unavailable to those who rent or cannot prove ownership. An heirs’ property indicator could be included in a sociogeophysical vulnerability index that includes standard sociodemographic variables measuring sensitivity and a measure of housing vulnerability, denoting *clarity* of homeownership.

Figure 6: Correlation of National Risk Index and Heirs’ Property in North Carolina



Example of incorporating automated heirs' property outputs into analysis with additional variables. In this instance, heirs' property percent by county in North Carolina is analyzed in conjunction with a composite score from the NRI, using bivariate LISA analysis in GeoDa software.

DISCUSSION AND CONCLUSION

We recognize that one of the challenges of any estimation technique is verification of the methodology with real-world conditions. As discussed, our methods build upon prior efforts, but those methods, for the most part, have also not been subjected to ground truthing, for instance with the use of household surveys. The one exception that we know of is Johnson Gaither and Zarnoch's (2017) comparison of results obtained from a model they used to predict heirs' parcels (using indicators such as "heirs of" and "et al."), with "known" heirs' parcels for Macon-Bibb County, Georgia, and Leslie County, Kentucky. For both counties "true" or "known" heirs' parcels were obtained from county-level taxing authorities that used "heirs of" and "et al." notation to indicate heirs' parcel status.

Our attempt at ground truthing draws on results from the case studies of heirs' property identification conducted by the Pew Charitable Trust and the University of Pennsylvania in Philadelphia, PA. Again, "tangled titles" or heirs' parcels in the Pew study were identified by using the Social Security Administration's Death Master File, which provide indisputable evidence of whether the property owner of record was alive. As discussed, this method identified 10,407 properties for Philadelphia, and the earlier Philadelphia study found 14,001 tangled titles. These numbers are much larger than the 471 heirs' parcels we identified for Philadelphia (Philadelphia County). There were only 4,801 heirs' parcels identified for the entire state of Pennsylvania using our method. Although the methods were not identical, the large differences in findings between our study that relied solely on owner name notation and these prior studies, suggest that aggregated "big data" may severely undercount heirs' parcel counts. We can only speculate that all the associated details of county-level data, including heirs' notation, may not always be transferred to the purchasers of this data. In the case of the FIA data we obtained, heirs' measures and their proxies are incidental components of these datasets. FIA purchasers use the data primarily for identifying forestland parcels to inventory, and not for assessing ownership aspects of the property.

We also discovered that the LightBox data contains fields indicating vesting, which means how the local tax assessor recorded the title. Descriptors include "tenant in common" (TIC). The explicitly named "tenant in common" can indicate heirs' status. A look at how well this field was populated across each state revealed that in all states no more than about one-half of the parcel records had any vesting indicator. This reduced our confidence in this field as a sole indicator of heirs' status, although TIC was indicated to some degree in all states. Initially, it appeared that the vesting code could be an additional way of identifying heirs' parcels. However, the problem with relying on this variable is that it describes the property at the time of the last sale, rather than at periodic intervals throughout the year, which is when the notation in the owner field is updated.⁴ The TIC status could have been resolved since the sale occurred, even if the sale were relatively recent.

The lack of consistency in heirs' property descriptors across states is also remarkable. There is no standard for delineating these properties, if they are marked at all. For instance, in some states like North Carolina and Kentucky, "heirs" or "heirs of" seems to be a more common way of identifying heirs' parcels, but this descriptor is rarely used in Georgia. We also suspect there may be numerous heirs' parcels in some rural Black Belt counties like Taliaferro County, Georgia, where we identified only three. This may

have to do with a lack of priority placed on explicitly naming such parcels or the lack of staff to do so. As mentioned, in many states, various indicators are used, but there is no explanation for why this is the case. The naming convention does not seem to follow a logical pattern. This lack of accounting for uniformity has implications for disaster response, as noted by Pippin, Jones, and Johnson Gaither (2017). According to the National Research Council, uniform accounting of parcel data would have improved the federal government's response both to survivors Hurricane of Katrina and the 2007–2008 mortgage crisis.

Despite the data limitations, we believe our technique offers a transparent process for assessing heirs' property extent at broad scales. The patterns that we saw in the distribution of these data across the country are consistent with places of historical marginalization and with prior efforts locating heirs' parcels for specific places. The fact that the LightBox data undercounts these estimates is less important than the patterning and associations found, which again, support the contention that heirs' property ownership compounds vulnerability in places contending with a variety of other social stressors. This is the first such effort that provides counts for the entire U.S. and thus represents an advance in heirs' property scholarship.

ENDNOTES

- 1 Land market value is the estimated price that land only would sell for in a competitive and open market. The market value is the estimated selling price for the entire parcel, including land and any improvements. The assessed land value is an estimate of the tax value of the land only; the assessed value is the amount of estimated tax value for the entire parcel. All values were provided by the county or local taxing/assessing authority.
- 2 Market values were not populated in the LightBox data for California, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, South Dakota, and Vermont.
- 3 Because we are using all the counties in the state, there is no sample population on which to apply p-values. Instead, the procedure runs a large number of permutations with small variations in order to approximate a normal distribution and derives "significance" from the pseudo-p-values associated with these permutations. Note that the usual way of interpreting significance does not apply to this analysis technique; instead the strength of the technique is the categorization (different pairings of low and high relative values) made possible by combining the pseudo-p-value with location on a scatterplot (Anselin 1995, 2019, 2020; Anselin and Li 2020). In this instance we designated a "rook's contiguity" of second order (extending the analysis to the tracts contiguous to those first identified as contiguous with the analysis county) for the spatial relation between counties. We used 999 as the number of permutations because, as Anselin (2020) has shown, specifying any other number produces very little change in the output. We ran the analysis using GeoDa 1.18.0 software (GeoDa on GitHub).
- 4 In support of this information, Taylor et al.'s (2021) survey of Kentucky PVA officers revealed that county tax assessors do periodic updates of heirs' status (in Leslie County the office conducts a weekly obituary check primarily for the purpose of removing homestead exemptions for properties whose owners are deceased. This also seemed to trigger changing owner names or listing something as heirs' property if there is adequate documentation to do so. Also, like the other offices, it is also common for families to come in after someone has passed away and bring a will, deed, or affidavit of descent to get the property put in the living heir's name. Sometimes, properties stay in the deceased person's name if no heir makes the office aware of a death. We cannot be certain that all tax assessor's offices follow the same protocol.

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DISCLOSURE STATEMENT

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Identifying Heirs' Property: Extent and Value Across the South and Appalachia

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ABSTRACT

A database of property tax records was used to locate and quantify the extent of heirs' property across 11 states (Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia). Based on previously published work, an index of four variables was then developed to estimate the likelihood that a given parcel was heirs' property. The authors conservatively estimate that there are at least 496,994 parcels of heirs' properties with a combined total area of 5.3 million acres and a market value of \$41.9 billion in these states.

KEYWORDS: big data, heirs' property, inheritance, land, poverty, race, tenure

INTRODUCTION

Heirs' property is real property passed down across generations in the absence of a probated will. This means that title to homes and land is considered to be "clouded" rather than "clear" because there are multiple owners with undivided but often variable shares in the property. Moreover, the whereabouts of some heirs may not be known, particularly if several generations have passed since the original owners obtained title to the property. Most of the research on heirs' property has focused on African Americans living in the southeastern United States (the "South"), but heirs' property exists among white people in Appalachia, as well as among Native Americans and Hispanic populations in the Southwest (Bobroff 2001; Deaton 2007; Johnson Gaither 2016, 2017). The common denominator associated with the prevalence of heirs' property is the marginal status of the owners and a historical lack of access to trusted legal services (Bailey and Thomson 2022). The absence of a clear title limits the ability of heirs' property owners to obtain commercial loans, and until very recently has disqualified them from obtaining access to government loans and disaster assistance programs. As a consequence, heirs' property has consistently been found to limit the generation and transmission of intergenerational wealth and to be a contributing factor to persistent rural poverty (Bailey et al. 2019; Deaton 2007).

Despite decades of work since the early studies of Graber (1978), the Emergency Land Fund (1980), and Schulman et al. (1985), questions of scale, scope, and location of heirs' property have remained unanswered. Most research addressing such questions has been limited to the examination of single counties (e.g., Dyer, Bailey, and Tran 2009). Recently, however, private companies such as CoreLogic have collected data from over 3,000 counties and county-equivalent jurisdictions in the United States and made these data available for purchase. Increased availability of such data over the past five years has made large-scale heirs' property research possible. For example, Dobbs and Johnson Gaither in this journal present their own prevalence estimates of heirs' property using different data sources and methodologies.

This study takes advantage of such data to estimate, map, and analyze the extent and economic value of heirs' property at the county level across 11 states (Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia). The data reflects a snapshot for December 31, 2019. We use a summative index approach and corresponding geovisualizations to identify heirs' property hot spots at the county level across 11 states both in the South and in Appalachia.

LOCATING HEIRS' PROPERTY

CoreLogic is a private corporation that sells county-level data derived from county tax offices. They do not generate any data themselves but do some organization of the data based on what they receive. We purchased property ownership data to document the extent in acres and the value in dollars of heirs' property in the 11 states noted here. Data were processed using script coding in order to ensure consistency across each of the respective states. This also ensures the research is replicable should the need arise.

The CoreLogic data set includes 207 variables describing each parcel with considerable detail. The first task we had was to eliminate from consideration certain parcels. We began by removing properties such as corporations, government buildings, churches, trusts, similar tax-exempt properties, and land-use classifications requiring a clear title. We also removed parcels greater than 500 acres based on the authors' understanding that such large parcels were unlikely to be heirs' property, even if other indicators in our index would suggest otherwise. Large parcels of heirs' property do exist, but we believe the number of such parcels is small and that the aggregate size of such parcels would skew our results.

Indicators of Heirs' Property

We began by using a modified version of the indicator strategy developed by Pippin, Jones, and Johnson Gaither (2017) which was itself based on previous work by Georgia Appleseed (2013), Dyer, Bailey, and Tran (2009), and unpublished work by Craig Baab of Alabama Appleseed (Georgia Appleseed 2013:10). The index we developed has four variables, described in table 1; the table lists the four variables and the source references.

Table 1: Components and References for Heirs Property Index

Index Indicator	Reference
HP1. Ownership Rights Codes	Pippin, Jones, and Johnson Gaither 2017; Zabawa 2021
HP2. Owner "Care Of" Name Listed	Zabawa 2021
HP3. Effective Year Built Pre-1990	Dyer, Bailey, and Tran 2009; Georgia Appleseed 2013
HP4. Pre-1980 Sale Date	Georgia Appleseed 2013; Pippin, Jones, and Johnson Gaither 2017; Johnson Gaither and Zarnock 2017

Our first variable (HP1) we call "ownership rights." This variable is an assemblage of words and phrases associated with the name of the property owner in the CoreLogic database. From Pippin, Jones, and Johnson Gaither (2017), we adopted four different types of property classifications. We further expanded this indicator by integrating findings from Zabawa (2021), who found that heirs' property was commonly reported by local tax offices with an additional two terms. The CoreLogic database contained each of the terms from Pippin, Jones, and Johnson Gaither (2017) and Zabawa (2021). We incorporated these terms into our ownership rights indicator (HP1 in table 1) and included one variable found in the CoreLogic database ("99") that is simply labeled "heirs." We found that this 99 marker worked well in some counties but failed to identify properties in other states, reflecting the problem of variable tax office nomenclature between counties and states. The 99 indicator overperformed in North Carolina and was hardly used in Louisiana. For our purposes, if a parcel had any one of the terms identified by Pippin, Jones, and Johnson Gaither (2017) or Zabawa (2021), or the CoreLogic "heirs' of" variable, it was given a score of 2. If none of those terms were associated with the name of the parcel owner, it was given a score of 0. The score "2" reflects a decision to weight this indicator double the remaining three indicators. We do so because the ownership rights indicator is a more direct indicator of heirs' property than other variables in our index, discussed below.

Our second indicator (HP2) is the presence of the phrase "care of" associated with the name of the parcel owner. We considered including this indicator in HP1 but decided that while "care of" was identified by Zabawa (2021) as a good indicator of heirs' property, it could also be used for other purposes (e.g., the address where the tax bill was to be sent might be the address of a lawyer or other person helping manage the property). Because "care of" could be used for other purposes besides heirs' property, we did not want to give it double weighting. Where the phrase "care of" occurred, the other designations in HP1 did not occur, so there is no double counting.

Identifying Heirs' Properties

Our third indicator (HP3) is “effective year built,” which refers to when major housing renovations were made, not when the structure originally was built. Dyer, Bailey, and Tran (2009) presented data showing that homes or other buildings held as heirs' property rarely undergo repairs requiring building permits, while records of building permits were common for homes owned with clear title. This variable can only be applied to parcels with improvements on the land (i.e., a home or other building).

Our fourth indicator (HP4) is that the property had not been sold since 1990, a 29-year span. The longer it has been since a property has changed hands, the likelier it is that the property is heirs' property. Heirs' properties cannot be transferred readily due to the cloud on their title, and most transfers of the property would require a resolution of the title problem. For the purposes of this analysis, we expect that parcels that have not been transferred in more than 29 years have a substantially greater likelihood of being heirs' properties. This is a subjective demarcation based on expert knowledge from legal professionals working with heirs' property. A longer or somewhat shorter period could have been selected. This variable also was used by Pippin, Jones, and Johnson Gaither (2017), Georgia Applesseed (2013), and Dyer, Bailey, and Tran (2009).

HP1 was weighted as two and each of the other three was given one point each for a total of five possible points. We determined that a score of three or more out of five points would represent the point where there is a strong likelihood that a given parcel was owned as heirs' property. The ownership rights indicator alone is not sufficient to be included in our estimate of likely heirs' property; the parcel in question would need to meet at least one other criterion. Similarly, if none of the ownership rights indicators were found, to be considered a case of likely heirs' property, an individual parcel would need to match all three of the other variables.

Our index differs from that of Pippin, Jones, and Johnson Gaither (2017) in several ways. The first modification was dropping two indicators they used: out-of-state mailing address and multiple mobile homes. While studies such as Dyer, Bailey, and Tran (2009) also pointed out these two patterns, we were not entirely confident in the accuracy. We did not make this assumption largely because of research showing 59 percent of all timber land in Alabama was controlled by absentee owners, with a high proportion of these being outside the state of Alabama (Bailey et al. 2021).

A second change entailed the presence of multiple mobile homes on a single parcel of land as an indicator of heirs' property. This connection initially was suggested by Dyer, Bailey, and Tran (2009) and picked up by others, including Pippin, Jones, and Johnson Gaither (2017). No data were cited in the original source; it was only a suggestion to consider. As we examined the data, we found mobile home parks that had no other indication of being owned as heirs' property. We have concluded that this is not a useful variable for estimating the presence of heirs' property.

A third change involved the elimination of properties that received tax preferences (e.g., homeowners' exemptions). Pippin, Jones, and Johnson Gaither (2017) reasoned that because heirs' properties do not have a clear title, they would not be eligible for tax preferences. We believe they are largely correct on this point but are aware of no research to document that point. However, this is not universally true, and in some states there is what Way (2022:181) calls a “patchwork of local eligibility criteria and barriers for heirs who lack clear title.” Anecdotally, we have learned that in some cases county tax offices

did not remove such exemptions upon the time of death of the original owner. As a consequence, we did not eliminate from consideration parcels that had such exemptions.

In the process of exploring these strategies for identifying heirs' property, we relied on Macon County as a benchmark since it has been thoroughly studied over the past decade by Tuskegee University and nearby scholars providing a reliable source for comparison. The carefully documented study by Dyer, Bailey, and Tran (2009) focused on Macon and identified nearly 16,000 acres of heirs' property, representing 4.1 percent of the county's total land areas. The total value of heirs' property was over \$44 million, \$25 million of which was the value of land and the remaining \$19 million the value of buildings and other improvements. We estimate at least 13,713 acres of heirs' property in Macon County. It is possible that in the 10 years between the studies, titles to some heirs' property may have been cleared. The comparison between the two figures suggests that our methodology provided a conservative estimate but one not too far from the estimate based on detailed local investigation.

FINDINGS

Areal Extent and Market Value of Heirs' Property in 11 States

For our 11 study states of the South, we identified 496,994 parcels as likely to be heirs' property because they score three or more points out of a total of five possible points on our four-variable index. These parcels totaled 5.3 million acres with a total market value of \$41,874,378,352 (table 2). Figures 1 and 2 show the areal extent in acres and total market value of heirs' property by county, respectively. We did not correct for differing geographic sizes of counties, which affects the depiction for states with smaller counties like Georgia and Kentucky.

Relatively high market values for likely heirs' properties in coastal counties reflect the high demand for such properties. Market value also was strongly influenced by the presence of improvements (i.e., buildings) so that small towns and urban centers have relatively high property value compared to owners of bare land. As a state, Mississippi reports the greatest number of acres while the highest total market value can be found in North Carolina and Virginia. We observe two key geographic concentrations of heirs' property in counties of the Black Belt and Appalachian coalfield regions. We did not correct for differing county sizes in our depiction of areal concentration and market value in figures 1 and 2. The dense concentrations in the Appalachian coalfields generally report smaller acreage likely due to the mountainous topography relative to Deep South parcels. Prior research has found that Appalachian heirs' property is commonly linked with poor health (Gaventa 1985) and housing vulnerability (Johnson Gaither 2019). Heirs' property in Appalachia has the added complication of coal mining in the form of mineral rights (ownership claims for the resources located beneath a plot of land), which is rarely noted within our database and should be further explored. Future research should consider the impact of these severed estates alongside heirs' property issues.

Table 2: Total Estimates of Heirs' Property

State	Identified Properties	Acres Sum	Total Market Value (2019 Dollars)
Alabama	41,218	486,674.60	2,947,571,329
Florida	62,012	168,166.37	5,207,269,458
Georgia	39,430	480,610.22	3,826,323,840
Kentucky	21,482	552,810.57	1,004,878,195
Louisiana	34,197	511,227.93	964,061,998
Mississippi	45,574	760,470.46	1,240,342,106
North Carolina	88,339	537,224.32	8,847,215,298
South Carolina	41,584	414,784.00	3,042,757,968
Tennessee	43,512	516,957.78	5,515,654,399
Virginia	55,404	513,214.94	8,086,128,465
West Virginia	24,242	366,233.01	1,192,175,296
TOTAL	496,994	5,308,374	41,874,378,352

Figure 1: Estimated Acres of Heirs' Property by Country

Estimated Acres of Heirs' Property By County 2019

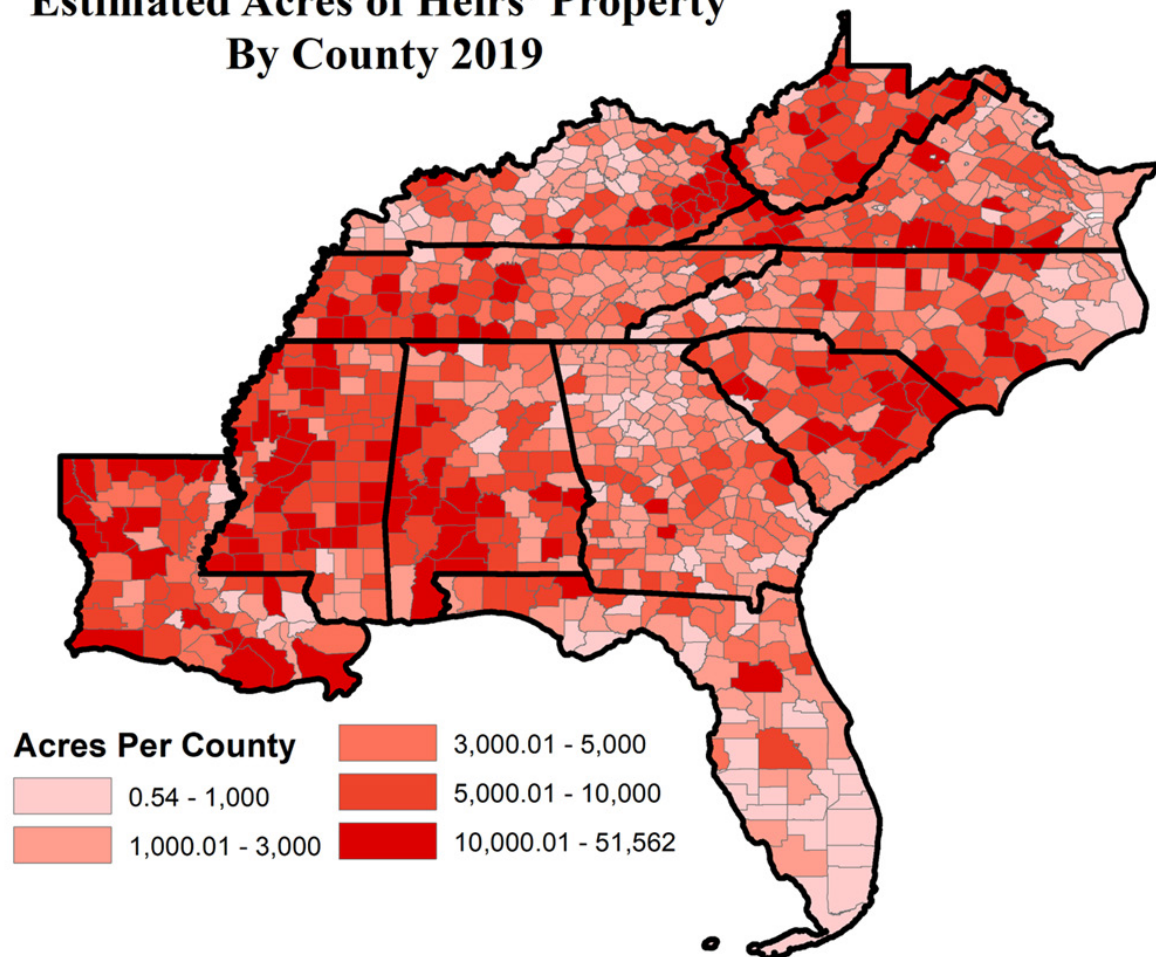
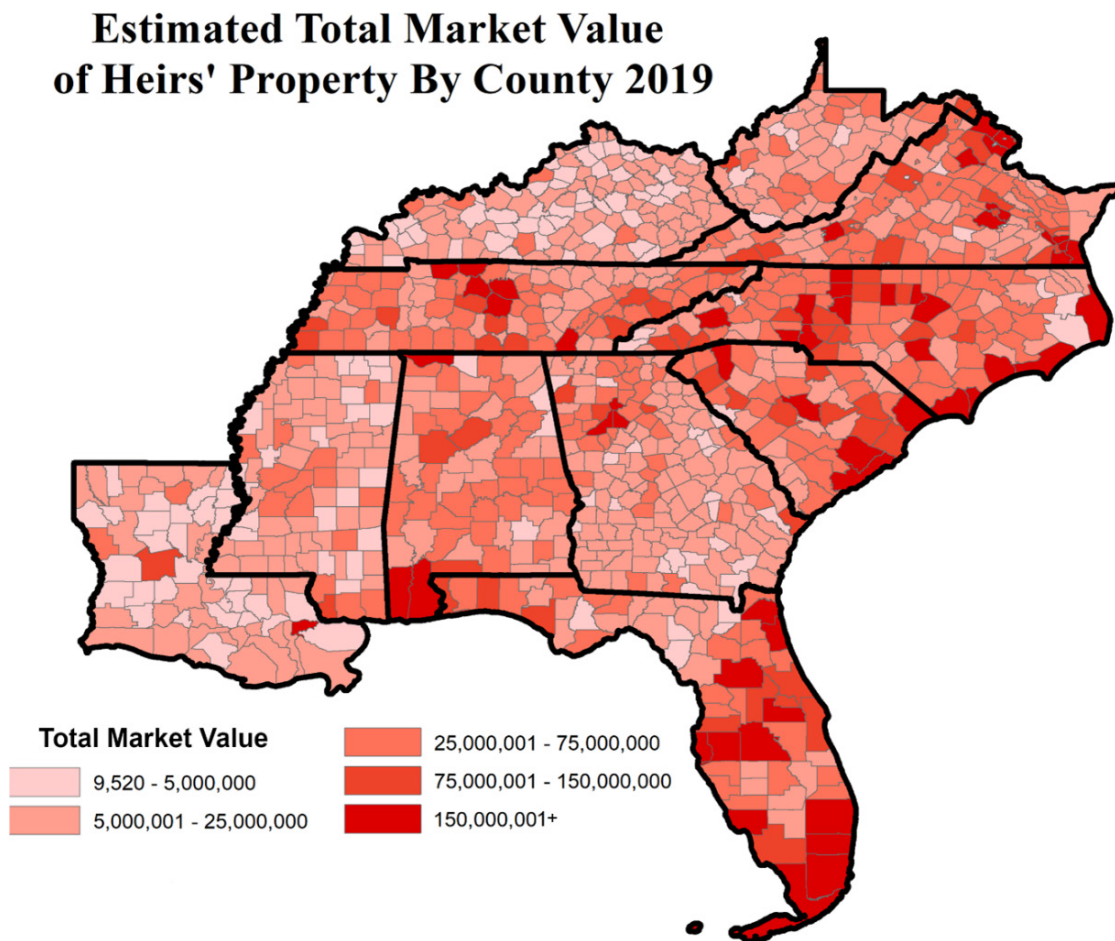


Figure 2: Heirs' Property Total Market Value by County

LIMITATIONS

Estimating the total number of parcels, acreage, and market value of heirs' property across this large geography is a challenging endeavor primarily because of data inconsistencies between states and even counties. There is considerable variation between and within states in the proportion of parcels that matched up with the different variables of our index. The lack of a standardized nomenclature remains a top priority necessary for addressing heirs' property issues, advancing research, and developing effective policy. The identification issue remains a primary barrier to the USDA Heirs Property Relending Program (HPRP) given that conducting title searches individually remains unfeasible at a national scale.

The CoreLogic database simply presents data that they have extracted from county-level records. While constituting a breakthrough in terms of data accessibility, it leaves a lot to be desired. We spent considerable effort in cleaning the data of obvious problems (e.g., timeshares in coastal resort communities reported as tenants-in-common). Nonetheless, an underlying problem of systematic error remains: each county has its own idiosyncratic approach to data reporting as indicated above by the variable "99," which CoreLogic reports as heirs' property. In other cases, data on the value of land or improvements to the land are missing. These data gaps limit our ability to increase the precision of our estimates at this time. However,

Identifying Heirs' Properties

we also should say that the recent availability of such “big data” for the first time makes analyses such as the ones we present here possible. We anticipate in future years that the quality of data will improve and allow for more precise estimates. The high quality of the mortgage database opens a range of different scales for analysis ranging from the parcel to the state level. This type of data grants new possibilities for more advanced analyses such as spatial regression, social network analysis, and mixed-method applications.

Returning to the issue of systematic error, it is apparent that some counties are suffering from underreporting on variables emphasized in our approach. Hundreds of likely heirs' property parcels do not have a reported market value. A similar problem is observed in the North Carolina coastal plain stretching from Bladen up to Bertie County, North Carolina, where ownership rights codes are often missing, making it difficult to accurately identify heirs' property and aggregate the county totals. Similarly, many counties in West Virginia do not report the last sale date. Other limitations such as the range of variation within the county units make comparison difficult (e.g., Georgia's small counties decrease their totals), suggesting that normalization would be helpful. Last, this study is likely underreporting of heirs' property totals in many counties. The estimates provided here remain conservative given that many parcels lacked key index information, and we removed parcels over 500 acres from consideration.

Difficulties in identifying heirs' property from large data sets like that of CoreLogic may have the unintended benefit of making it more difficult for unscrupulous speculators and developers to use such data in targeting owners of heirs' property. Researchers should be aware that efforts to identify and map locations where heirs' properties are concentrated at the subcounty level might pose a threat to the current family of owners. Concern that our research might help speculators and developers identify the location of heirs' property factored into our decision not to provide specific detail on components of variable 1 in our index.

CONCLUSIONS

The harmful ramifications of heirs' property are well understood—notably, its effects on limiting intergenerational wealth transmission and accumulation among largely impoverished and marginalized populations. However, much remains unknown about the extent of heirs' property, particularly the scale, scope, and locations of these properties. The goal of the current study was to identify and characterize heirs' property in 11 states covering two regions important to the topic of heirs' property, Appalachia and the South. This involved estimating, mapping, and analyzing the extent and economic value of heirs' property approximations.

Based on existing published literature on heirs' property, we developed an index using four variables often associated with heirs' property. We considered heirs' property instances to be those in which three or more variables are applied to a given parcel. Based on our conservative estimates, 5.3 million acres of land are held as heirs' property with a value of over \$41.9 billion. This figure should be a cause of widespread concern considering the well-documented limitations of heirs' property as a source of income and wealth generation. An important finding in our work is that improvements to property represent over half of the total market value of heirs' property. Such improvements are mostly in the form of housing.

Much of the research on heirs' property has focused on land loss among Black farmers, and much of the policy work has focused on the U.S. Department of Agriculture and the Farm Bill. Such work is, of course, vitally important, but we must keep in mind that heirs' property is also an urban phenomenon where the number of acres involved is less important than the value of housing. Our study includes both

rural and major metropolitan counties with slightly different, albeit overlapping, trends. Not surprisingly, the size of heirs' property parcels is smaller in urban areas than in rural areas.

This study represents a contribution to understanding the extent and economic value of heirs' property. Further study is needed to examine the relative significance of heirs' property across the rural to metropolitan continuum. This is a critical next step because much of the work on heirs' property has focused on farm and forest lands, leaving residential and urban heirs' property under-investigated.

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No potential conflict of interest was reported by the authors.

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Referral Pathways and Service Connections Among Heirs' Property Owners in South Carolina

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ABSTRACT

Researchers, practitioners, and policymakers interested in alleviating heirs' property ownership precarity have long sought to connect these owners to titling and land management resources, but there is limited scholarly evidence on successful interventions. Using administrative data from the Center for Heirs' Property Preservation® (CHPP®), this article explores the demographic characteristics, types of direct legal services received, and referral pathways of landowners seeking legal assistance from CHPP® between 2017 and 2021. We find that applicants are primarily elderly, Black women, referred through four main pathways: (1) owners' personal networks, (2) CHPP® Outreach efforts, (3) CHPP® partner organizations—including public, private, and nonprofit agencies, and (4) word of mouth (other individuals/entities not formally connected with CHPP®, including outside legal and forestry professionals). Last, we identify a strong desire for estate planning among applicants, despite documented legal distrust among heirs' property owners. This analysis has important implications for designing targeted interventions to assist heirs' property owners beyond the South Carolina context.

KEYWORDS: heirs' property, service connection, titling

INTRODUCTION

During Reconstruction, Black civic and political leaders fervently urged for land reforms because they identified land ownership as central to Black economic and political freedom (Logan 2018; Rivers 2007). In contemporary times, property ownership continues to symbolize economic mobility (McCabe 2016; Rothstein 2017). Precarious ownership arrangements, however, threaten Black landowners' ability to realize the full benefits of ownership as conceived by their emancipated ancestors. The heirs' property ownership arrangement is one such example. Heirs' property emerged as a treasured form of ownership tenure post-Emancipation, when Black freedpeople collectively owned their farmland and passed it down within the family (Craig-Taylor 2000; Kahrl 2012). In the present day, these owners face a range of risks related to displacement and wealth reduction (Bownes and Zabawa 2019; Casagrande 1986; Mitchell 2014; Rivers 2007).

Social scientists, historians, urban planners, lawyers, practitioners, policy analysts, and policymakers have sought to understand the experiences of heirs' property owners because of the aforementioned risks. Legal histories and law reviews have illuminated the complex web of property laws that come to produce heirs' property (Craig-Taylor 2000; Mitchell 2014; Rivers 2007). Likewise, historians have documented trends in Black land loss in Southern agricultural and coastal communities due, in part, to governmental and private actors dispossessing Black heirs (Daniel 2013; Kahrl 2012). Researchers have captured the everyday experiences of heirs' property owners navigating the benefits and challenges of this ownership arrangement at the individual and community level (Dyer and Bailey 2008; Deaton, Baxter, and Bratt 2009; Hitchner, Schelhas, and Johnson Gaither et al. 2017; Dyer and Bailey 2008). Scholars have also quantified the prevalence of heirs' property across various geographies (Dobbs and Johnson Gaither 2023; Dyer, Bailey, and Tran 2008; Johnson Gaither and Zarnoch 2017; Pippin, Jones, and Johnson Gaither 2017; Thomson and Bailey 2023) and explored macro-level reforms that could ease the precarity that heirs' property owners face (Cole 2021; Mitchell 2022; USDA 2022b).

According to the U.S. Agency for International Development (AID), land can be "a vital part of cultural and social identities, a valuable asset to stimulate economic growth, and a central component to preserving natural resources and building societies that are inclusive, resilient, and sustainable" (n.d.). Landownership is one of the major sources rural African Americans use to build wealth (United States Endowment for Forestry and Communities 2012). There is therefore an urgent need to address the instability of heirs' property ownership, given the sociocultural and economic significance of landownership broadly.

Although there is growing momentum around structural-level reforms in property law to mitigate the negative consequences of heirs' property ownership, scholarship has not sufficiently attended to direct interventions to resolve issues of clouded title and prevent property from ever becoming heirs' property. This article seeks to fill this gap through a descriptive analysis of programmatic data from the Center for Heirs' Property Preservation[®] (CHPP[®]). CHPP[®] is a nonprofit located in North Charleston, South Carolina, that offers direct legal services and forestry technical assistance to heirs' property owners. This article analyzes the demographic characteristics, types of direct legal services, and referral pathways of landowners who completed an intake with CHPP[®] between 2017 and 2021 for direct legal services or estate planning assistance. This analysis has important implications for designing targeted outreach and interventions to help heirs' property owners establish clear title in other contexts beyond the South Carolina case.

HEIRS' PROPERTY AND THE PROBLEM OF CLOUDED TITLE

Heirs' property is legally referred to as "tenancy-in-common" and describes an ownership arrangement where family members own collectively after inheriting some form of real property (Mitchell 2014). Research shows that heirs' property owners may view this ownership arrangement as a familial benefit, despite key challenges managing the property (Dyer and Bailey 2008). After Emancipation, it was considered a protective ownership tenure (Craig-Taylor 2000; Kahrl 2012). However, changes in partition law over time, the explosion of heirs' property across generations, and evolving land-use practices among Black landholders have made heirs' property ownership a uniquely unstable way to own in contemporary times (Casagrande 1986; Craig-Taylor 2000; Kahrl 2012; Rivers 2007; Zabawa 1991). When Black Southerners were emancipated and purchased their own land to farm, heirs' property enabled land to be kept in a family over time and contributed to household economic stability (Craig-Taylor 2000; Kahrl 2012). Considering the dramatic loss of Black-owned land starting in the early twentieth century, and the related loss of Black-owned farms, scholars argue that the heirs' property ownership arrangement has less functional use (Daniel 2013; Dyer, Bailey, and Tran 2008; Mitchell 2019; Zabawa 1991).

There are two features of heirs' property that make this ownership arrangement challenging—fractional interest and clouded title.¹ With heirs' property, each family member owns an undivided fractional interest in the entire property. In practice, this means that no single owner can make decisions about the property without agreement from all other heirs. Challenges related to clouded title emerge when there is ambiguity surrounding legal ownership status. Because heirs' property occurs when there is no deed recorded, the existing legal record may not accurately reflect the current owner and caretaker of the property. Owners with a clouded title are excluded from many of the traditional economic and social benefits of homeownership, including leveraging property as collateral, state aid based on legal homeownership status, and tenure security (García 2022; Kahrl 2012; Mitchell 2014).

Mitigating the negative implications of clouded title and fractional interest can occur through a myriad of options at the micro, meso, and macro levels. At the macro level, recent scholarship has identified how the Uniform Partition of Heirs Property Act (UPHPA) offers greater protections for heirs' property owners at risk for a forced partition sale. The forced partition sale is a dangerous source of wealth destruction for Black landowners (Mitchell 2022). Any legal co-tenant can file a partition action to request that the property be split among co-owners, and for a variety of reasons, the court may order the entire property to be sold in a forced partition sale.² In this arrangement, a property is ordered to be sold at a public auction to the highest bidder that can pay in cash. This can result in the property being purchased at a price far below its market value. Among other stipulations, the UPHPA allows co-tenants to buy out the share of the co-tenant who is seeking a partition, which prevents the property from being sold below its market value. Mitchell (2014) hypothesizes that this buyout option may disincentivize other co-tenants from seeking a partition action that could result in the forced sale of the entire property.

Legal reforms like the UPHPA create a more equitable housing market by reducing mechanisms within property law that disadvantage the heirs' property ownership arrangement. In particular, the UPHPA captures households' noneconomic use of property and helps prevent unjust forced sales. Likewise, the 2018 Farm Bill creates a more equitable agricultural market by authorizing alternative documentation for heirs' property owners to establish a farm number and enabling co-tenants with a majority share to access United States Department of Agriculture (USDA) programs (USDA 2022a). The 2018 Farm Bill also created a relending program for heirs' property owners to apply for loans to reduce the out-of-pocket costs

associated with establishing title. Taken together, these provisions are expected to mitigate documented discrimination by the USDA toward Black farmers broadly and heirs' property owners specifically (Daniel 2013; USDA 2021).

Structural reforms, however, are not designed to attend to the nuances of individual heirs' property cases, and they currently do not focus on the *prevention* of heirs' property (Mitchell 2019). Alongside legal and federal policy changes, practitioners working directly with heirs' property owners are well positioned to enrich scholarly understanding about ways to improve the outcomes of heirs' property owners. This article seeks to address this gap, using programmatic data from CHPP®, which co-locates and integrates direct legal services with land management technical assistance and community outreach programs that educate residents on heirs' property issues.

DIRECT LEGAL SERVICES FOR HEIRS' PROPERTY OWNERS

Heirs' property owners can establish legal proof of ownership by going through the titling process. Titling programs are more common in developing countries, where informal housing is thought of as more commonplace (Durst and Wegmann 2017; Ward et al. 2011). However, informal homeowners in the U.S. can also seek out these kinds of services through a private attorney or certain organizations and programs. Proponents of titling have posited that having clear title promotes economic development, offers tenure security, and reduces poverty by providing owners with collateral that allows them to access formal credit markets and achieve full economic citizenship (De Soto 2000; Galiani and Schargrodsky 2010; Payne, Durand-Lasserve, and Rakodi 2009). Critics of titling, however, warn that formalizing ownership also opens households up to tenure *insecurity* through legal forms of dispossession (De Schutter and Rajagopal 2019).

In a rare research study on clearing title in the United States, Ward et al. (2011) found a number of positive benefits for residents in a Texas *colonia* who were enrolled in a titling program. The study found that residents viewed the title as important for future use of their property and as enhancing their sense of social legitimacy. Additionally, securing title helped residents in the study feel more psychologically and financially secure and positioned them to leave their property to their descendants. The researchers also found that titling helped residents complete home improvements, which could result in increased home values and ultimately an increase in household wealth. StipeMaas (2019) describes how clearing title for clients of the Georgia Heirs Property Law Center helped heirs' property owners build their wealth portfolios, stop their homes from being demolished, prevent family members from being displaced, and access county funds for home repair.

In the absence of a systematic review of U.S. titling programs, comprehensive documentation on the detailed structure and activities of these kinds of programs is limited. This article advances scholarship on U.S. titling programs with a descriptive portrait of how to reach heirs' property owners in need of titling and the kinds of direct legal services relevant for this group of owners in South Carolina.

Center for Heirs' Property Preservation® (CHPP®)

CHPP® began as the Heirs' Property Preservation Project of the Coastal Community Foundation with funding from the Ford Foundation to explore solutions for economic development in rural communities. The current mission of CHPP® is to protect heirs' property and promote the sustainable use of land. In doing

so, its goal is to provide increased economic benefit to historically underserved landowners, including but not limited to heirs' property owners. The mission seeks to build wealth through education, legal services, and forestry technical assistance.

The current service area of CHPP® spans 22 South Carolina counties—Allendale, Bamberg, Beaufort, Berkeley, Calhoun, Charleston, Clarendon, Colleton, Darlington, Dillon, Dorchester, Florence, Georgetown, Hampton, Horry, Jasper, Lee, Marion, Marlboro, Orangeburg, Sumter, and Williamsburg. South Carolina is located in the southeastern region of the United States, where Black producers and landowners have lost millions of acres of land and where institutional distrust is pervasive (Mitchell 2019; Pennick and Rainge 2019). It is significant to note that the CHPP® service area is home to all 12 of the USDA-identified “persistently poor” counties in South Carolina, where at least 20 percent of the county’s population has been living below the poverty level for several years. Given the logic that securing title for heirs' property owners could move them out of poverty (De Soto 2000), placing CHPP® in “persistently poor” areas has the potential to directly impact its surrounding poverty rates.

Likewise, placing CHPP® in the southern “wood basket” region of the United States, where more than 60 percent of the nation’s timber supply is produced (Oswalt et al. 2014), offers a unique opportunity for heirs' property owners with forest land to work with CHPP® to implement sustainable forestry management practices on their land. Fifty-eight percent of the nation’s forest land is possessed by family forest owners—individuals, families, individuals, trusts, and estates (Butler et al. 2017). But heirs' property owners with forest land are typically locked out of this wealth-building strategy due to clouded title (Schelhas, Hitchner, and McGregor 2019). In 2013, CHPP® was selected as one of the three pilot sites for the U.S. Endowment for Forestry and Communities Sustainable Forestry’s African American Land Retention Program. The endowment, in partnership with USDA agencies—Natural Resources Conservation Service (NRCS) and the Forest Service—wanted to test the emerging theory that sustainable forestry technical assistance could be a tool to help African Americans create forestry enterprises and secure title to their land (Hitchner, Schelhas, and Johnson Gaither 2017). When CHPP® held its first sustainable forestry workshop, only one of the 83 attendees had ever heard of the USDA NRCS financial assistance program that provides cost-share funds to cover at least 75 percent of the estimated cost for prescribed conservation activities.³ Across three departments, CHPP® integrates direct legal services, land management technical assistance, and educational or outreach activities to help resolve cases of heirs' property and prevent further spreading of heirs' property throughout South Carolina.

METHODOLOGICAL APPROACH

Data

This study draws on program data collected by CHPP® between 2017 and 2021. CHPP® uses a Salesforce® database to record all interactions with landowners across their Outreach, Legal, and Forestry departments. Data are collected in three ways: (1) an intake meeting with all prospective applicants, (2) sign-in sheets from outreach events, and (3) documentation of ongoing services and/or site visits with those who become legal clients or forestry participants. Any interested landowner requesting direct legal services or forestry technical assistance completes a detailed intake form with information on demographic characteristics, parcel characteristics, ownership status, referral pathways, and their planned land management objectives. Management objectives may include help in clearing title or conducting sustainable forestry on the land. If the landowner signs a client retainer for direct legal services, they

Referral Pathways

become a formal CHPP® client. As such, some landowners may complete an intake form but not become a formal client, and we distinguish between these groups throughout the article. Landowners who do not receive services are referred to as “applicants.” Landowners who receive legal services are called “clients,” and clients who are also receiving forestry services are referred to as “joint forestry participants.” All *clients* receiving legal services are heirs’ property owners, but some *applicants* who completed an intake form were later determined by CHPP® attorneys to not own heirs’ property. This group is discussed separately in a section on reasons for declination, and we discuss the implications of landowners misidentifying their ownership status as heirs’ property further in the discussion section. For those who complete an intake and go on to become formal clients, all contacts (phone conversations, emails, in-person appointments, services performed when the client was not present) with their lawyer are logged into the Salesforce® database. This study was determined exempt by the University of Michigan Institutional Review Board (IRB), and this analysis does not access any data made confidential through attorney-client privilege.

Measures

Referral pathways. Data on CHPP® referral pathways are extracted from the organization’s intake form. An intake form is completed for any applicant seeking services from CHPP®. Prior to the COVID-19 pandemic, legal intakes were only taken in person. Due to social distancing practices implemented to reduce the spread of COVID-19, intake forms were completed via phone from March 2020 onward by members of the Legal department. An applicant may complete more than one intake form if they are seeking services for different parcels or if they are seeking additional legal services on the same parcel. If an intake record is found to be a complete duplicate, it is removed based on unique individual and household identifiers. If a landowner completes more than one intake requesting the same service for multiple parcels, and all other fields are the same except for tax-assessed value (TAV), the record with the highest TAV is retained in the data. This decision was made based on consultations with staff at CHPP® who explained that the reporting system disaggregates entries by parcel. For households with multiple parcels, we wanted to retain the combined total TAV across all parcels. Records excluded on the basis of TAV are referred to as “partial-parcel” records. For each analysis, we report the number of duplicate and partial-parcel records that were excluded. The intake form asks applicants, “How did you hear about us?” When entering data from the intake form into the Salesforce system, the administrator, lawyer, forester, or outreach coordinator inputs the response as given by the applicant, denoted by the variable “Referral Details.” Then the staff member classifies the open-ended response into the following categories: (1) former/current client, (2) media, (3) staff/board member, (4) government office/official, (5) religious institution, (6) Woodlands Community Advocate (WCA),⁴ (7) seminar/presentation, (8) word of mouth, and (9) other.

For this analysis, we recoded all of the open-ended responses for referral details in combination with the referral category selected by the CHPP® staff. We created a variable for referral pathways that arranges them into the following groups: (1) applicant’s personal network, (2) CHPP® partners, (3) CHPP® Outreach, or (4) word of mouth. Applicants were classified as being referred by their personal network if they listed a family member or friend in response to the question “How did you hear about us?” Applicants referred via a partner of CHPP® include anyone who listed the following as a response to the question “How did you hear about us?”: (1) USDA/NRCS; (2) an office of local government, including county probate courts; (3) any local, state, or federal individual government official or their representative; or (4) any other local private or nonprofit organization. Applicants classified as having been referred via CHPP® Outreach include

anyone who reported attending an outreach event by CHPP® or who encountered official outreach materials or attended presentations by CHPP®. This includes attending educational seminars and presentations or encountering information tables or flyers at local events. Applicants who viewed the organization's website and social media or spoke with a current or former staff/board member are also classified as being referred through the CHPP® Outreach category. Last, if the applicant listed a religious institution, they are classified as having been referred through CHPP® Outreach events because CHPP® holds many seminars and presentations at religious institutions. All other applicants are included in the word-of-mouth referral pathway, where they typically listed referral sources unique to them or too generic to categorize further.

This open-coding analytic method offers a nuanced and rich portrait of the referral pathways of heirs' property owners served by CHPP®, but an important limitation is that the analyst imposes meaning onto the categories of the applicant that could be different from their own understanding. To combat this, we employ a conservative approach to categorizing open-ended responses. We therefore acknowledge that we may be underestimating the personal network pathway and overestimating the word-of-mouth pathways in particular. An applicant may have listed the actual first and last name of a person that we could not distinguish as in their personal network or not. These cases are ultimately classified as a word-of-mouth referral. All names listed in referral details that could be readily associated with a CHPP® partner or CHPP® Outreach were recoded. For example, when applicants listed the name of a county probate judge or staff/board member at CHPP® and the record was entered in as a word-of-mouth referral, our analysis recodes this applicant as having been referred by a CHPP® partner or CHPP® Outreach, respectively.⁵

Direct Legal Services

Applicants who are accepted for direct legal services are considered formal clients of CHPP®, and the legal services offered to them are tracked in Salesforce® over time. The primary legal outcome of interest for this article is the type of service received. There are three possible outcomes for types of legal service received: (1) applicant was not accepted (i.e., they received only advice and counsel); (2) brief service—deed prep, a family presentation, and/or title search; and (3) extended legal actions, such as determination of heirs, probate, or quiet title (a lawsuit used to establish ownership; it is required in heirs' property cases where the estate has not been probated within 10 years of the original owners' death). Family presentations are educational seminars customized for a family with the incorporation of mediation. Additionally, we explore the number of titles resolved and household and demographic characteristics of this client subgroup.

Last, we report briefly on the number of wills and advance directives completed by CHPP® during the 2017-2021 time period. While this is typically defined as a direct legal service, we analyze the outcomes of this group separately from the legal clients who receive advice and counsel, a brief service, or extended legal actions. We separate the analyses of these two groups because data on demographic characteristics and referral pathways were not systematically collected for estate planning clients, as was done for the other direct legal services clients. In particular, detailed demographic data are not collected for clients who complete a will through CHPP®'s wills clinics, so the analysis can only disaggregate data by individual characteristics on clients who execute a will if they worked with one of the lawyers in the office. Therefore, we are not able to conduct the same kinds of analyses with this group. Information on wills and advance directives comes from data from the Legal department's client files, as well as Outreach data on wills clinics offered by CHPP®. No data made confidential through attorney-client privilege were accessed for this analysis.

FINDINGS

Table 1 displays the characteristics of applicants for direct legal services. In total, CHPP® served 2,003 applicants for direct legal services during the five-year period. Approximately 4 percent of the legal applicants ($n=77$) were also served by the forestry department. The median age of the heads of households served was 65 years old, and more than 90 percent of applicants identified as African American/Black. Nine percent of all applicants were veterans. Sixty-seven percent of applicants were female, while 33 percent were male. We also display the median and average TAVs for legal clients of CHPP® (\$39,900 and \$97,808, respectively).

Table 1: South Carolina Heirs' Property Owner Intakes—Descriptive Statistics

	Frequency	Percent
Total applicants (2017-2021)	2,003	100
Gender:		
Female	1,334	66.60
Male	652	32.55
Missing/other	17	0.85
Median age (in years)	1,987	65
Race:		
African American/Black	1,825	91.11
Asian	1	0.05
Caucasian	46	2.30
Hispanic	1	0.05
Native American/Alaskan	3	0.15
Other	15	0.75
Missing/not reported	112	5.59
Veteran status	188	9.39
Joint forestry participant	77	3.84
	<i>n</i>	Value, \$
Median tax-assessed value (TAV) of all parcels	1,522	39,900
Average tax-assessed value (TAV) of all parcels	1,522	97,808

Note: This table is presented at the individual level. If an applicant conducted multiple intakes, they are counted only once. Estate planning clients are not captured in this table because their demographic data are not systematically collected.

Outreach Pathways

Table 2 shows an overview of the referral pathways identified. Among applicants who reported their referral source ($n=1,628$), the primary referral pathway is outreach efforts conducted by CHPP®. These efforts include seminars/presentations, media of various kinds (digital, social, and news), and interactions with current staff. Word of mouth is the next most common referral pathway (25 percent), followed by the applicant's personal network (21 percent) and partners of CHPP® (19 percent).

Table 2: South Carolina Heirs' Property Owner Initial Referral

	Frequency	Percent
Total referrals (2017-2021)	1,628	100
Applicant's personal network	334	20.52
CHPP partners	304	18.67
CHPP Outreach	587	36.06
Word of mouth	403	24.75

Note: Based on unique individual- and household-level identifiers, 180 intakes were excluded from analysis because they were either duplicate entries or a partial-parcel entry, as defined previously. Applicants have the right to refuse to answer questions on the intake form. As such, we report only on the intakes with complete referral data. Nineteen percent of initial legal intakes ($n=375$) did not record referral data. Estate planning clients are excluded from this analysis.

We further disaggregate the four main referral pathways in table 3 to offer a deeper understanding of how applicants learn about services at the CHPP®. Within the personal network pathway, 46 percent of these referrals were from family members or friends who knew of CHPP® but were not current or former clients. Another 44 percent are a legal client of CHPP® that the applicant knows personally (but is not a family member). Finally, approximately 10 percent of these referrals were from family and friends who were also current CHPP® landowners or clients.

Although partner referrals were the least common pathway, this referral pathway offers important implications for connecting heirs' property owners to direct legal services and land management technical assistance programs. Among legal clients referred by a CHPP partner, approximately half (49 percent) were referred via local county probate courts that directly benefit from the creation and filing of estate plans (StipeMaas 2019). Additionally, another 30 percent were referred via another county office, which typically included the local assessor or tax office. This means that four out of five legal clients referred from a CHPP® partner are connected with CHPP® through a court or local county office.

Table 3: South Carolina Heirs' Property Owner Referrals by Category

	Frequency	Percent
Applicant's personal network:	334	100
Family/friend	155	46.41
Unrelated former/current CHPP® landowner	147	44.01
Former/current CHPP® landowner is a family/friend to applicant	32	9.58
CHPP® partners:	304	100
USDA/NRCS	5	1.64
Probate	150	49.34

Referral Pathways

County government offices	90	29.61
Other public official/office	12	3.95
Private/nonprofit	47	15.46
CHPP® Outreach	587	100
Seminar/presentation	227	38.67
Information table	11	1.87
WCA	16	2.73
Media	267	45.49
Staff/board member (former or current)	40	6.81
Religious institution	26	4.43
Word of mouth	403	20.12

Note: Based on unique individual- and household-level identifiers, 180 intakes were excluded from analysis because they were either duplicate entries or a partial-parcel entry, as defined previously. Applicants have the right to refuse to answer questions on the intake form. As such, we report only on the intakes with complete referral data. Nineteen percent of initial legal intakes ($n=375$) did not record referral data. Estate planning clients are excluded from this analysis.

Outreach efforts conducted by CHPP® are the primary referral pathway for most legal clients (38 percent overall). More than four out of five legal clients who were connected to CHPP through the Outreach department were referred via a seminar/presentation or media from CHPP® (digital or social media, news outlets, the website, and flyers). CHPP® staff and board members refer another 7 percent of legal clients who were connected via the Outreach department. The WCA network at the CHPP® brings in an additional 3 percent of referrals coming through the Outreach department. Religious institutions represent 4 percent of referral pathways, but it is important to contextualize this number. First, many of the seminars and presentations conducted by CHPP®'s Outreach department occur at houses of worship (including more than 20 will clinics and 75 outreach events). In some instances, churches actually distributed flyers for the will clinics, according to staff at CHPP®. The religious institution category in table 3 refers solely to an applicant who listed a religious entity separate from a seminar/presentation.

Direct Legal Services

Table 4 displays the legal services offered by CHPP®, excluding estate planning. Between 2017 and 2021, CHPP® had 2,170 intake applications for legal services. Interestingly, 72 percent of those applications were not accepted, meaning the applicant received a free advice and counsel session but no direct legal services beyond that. We discuss this important finding in further detail below. Eleven percent of applicants sought assistance with a quiet title action, and 9 percent of legal applicants sought assistance with the probate process, an important aspect for the prevention of heirs' property. During the five-year period, CHPP® resolved 130 titles with a median TAV of \$71,125 and an average TAV of \$94,824.

Table 4: South Carolina Heirs' Property Owner Legal Services (Excluding Estate Planning)

	Frequency	Percent
Total legal intakes (2017-2021)	2,170	100
Type:		
Not accepted/advice and counsel only	1,562	71.98
Brief legal service	86	3.96
Extended legal actions:		
Determination of heirs	101	4.65
Probate	185	8.53
Quiet title	236	10.88
Number of titles resolved		130
Median tax-assessed value (TAV), \$		71,125
Average tax-assessed value (TAV), \$		94,824

Note: These data are presented at the intake level. Households that completed multiple intakes therefore show up multiple times. Clients who receive estate planning services are excluded from the calculations reported in this table. Although this is technically considered a direct legal service, we discuss those receiving estate planning services separately.

As stated above, approximately three out of four intake applicants were not accepted as legal clients. An application denial can be the result of a variety of reasons, including the applicant not being a South Carolina resident,⁶ the applicant having an income over the eligibility threshold, or the applicant not being an heir. Table 5 displays the breakdown of reasons for declination. Approximately one out of every three intake applications that were declined were from absentee landowners (17 percent) or applicants whose household income exceeded the organization's income qualifications (16 percent). CHPP® uses the United States Department of Health and Human Services (DHHS) poverty guidelines to determine income eligibility. Any applicant whose household income is less than or equal to 200 percent of the DHHS guidelines is determined income eligible.

Table 5: South Carolina Heirs' Property Owner Declination Reasons

	Frequency	Percent
Total	1,395	100
Applicant is not a resident of South Carolina	238	17.06
Over income	227	16.27
Not an heirs' property issue	183	13.12
Applicant isn't an heir	169	12.11
Applicant needs to bring an adversarial case	167	11.97
Not enough information	146	10.47
Applicant only wants advice and counsel	87	6.24
Applicant wants to sell	45	3.23
Property is outside of CHPP's service area	44	3.15
Applicant wants to sue another heir	6	0.43
Other	83	5.95

Note: This table is reported at the intake level. One hundred sixty-seven intakes (11 percent) ultimately declined legal services had missing data on the reason for declination.

Additionally, one out of every four intake applications that were declined were scenarios where it was determined that the issue was land related but not heirs' property after the initial meeting with the attorney (13 percent), or applicants who were found not be an heir to the property (12 percent). Twelve percent of applications that were declined were due to an adversarial case. Although most heirs' property cases are adversarial, there are some in which the dysfunction is so great among the family that an attorney offering mediation and conducting several family meetings will not bring about agreement. Therefore, the likelihood of the family resolving their title issues is diminished. In addition, should a case be filed in court with this unaddressed family dynamic, the likelihood of this family's land being ordered to be partitioned or sold by a judge increases exponentially, according to consultations with CHPP® staff. This is why CHPP® does not accept these types of cases. Furthermore, 10 percent of applications that were declined were cases where the landowners did not have sufficient knowledge of their family's land or the heirs who may be involved. For example, an applicant may have known that their family owned land in a particular county, but they did not know the address of the property, which is needed for the attorney to provide advice and counsel.

CHPP® also offers estate planning services in the form of wills and advance directives (power of attorney for medical and nonmedical scenarios). Because these respondents are tracked separately from the direct legal services clients, we discuss them separately here. CHPP® completed a combined 1,090 wills and advance directives for 1,059 legal clients between 2017 and 2021. Thirty-one clients completed both an advance directive and a will. Thirty-nine of the 40 advance directives completed were new—the client did not have an existing agreement establishing power of attorney. Ninety-six percent of wills completed were new (1,008 of 1,050). Importantly, 81 percent of the wills completed were at no cost to the client. Among clients who had a will completed through an appointment with a staff attorney at CHPP®, rather than one of the will clinics, their median age was 69, and 70 percent were women. This subgroup is slightly older than the overall client population served by CHPP®, and more heavily female. This may be related to longer life expectancies of Black women compared to Black men or could suggest disproportionate hesitation among Black men to create wills. These data cannot confirm or deny either of these hypotheses, but we discuss the implications of this finding further in the next section.

DISCUSSION

Studies on heirs' property have made critical advances for scholars, practitioners, and policymakers interested in this topic. In particular, important progress has been made on quantifying the scope of heirs' property (Deaton 2007; Johnson Gaither 2016; Johnson Gaither and Zarnoch 2017; Pippin et al. 2017), the historical roots of Black land loss among heirs' property owners (Mitchell 2019; Zabawa 1991), and legal reforms aimed at reducing Black land loss among heirs' property owners (Mitchell 2022; Rivers 2007). Complementing scholarship on the macro-level structural reform for the challenges of heirs' property ownership, this article offers a descriptive overview of the demographic characteristics and referral pathways of heirs' property owners seeking direct legal services and land management assistance.

Demographic Characteristics

Scholarly research has previously established that heirs' property owners are typically non-White, have lower household incomes, are elderly, and have little formal education (Dyer, Bailey, and Tran 2008;

Johnson Gaither and Zarnoch 2017; Pippin et al. 2017). Using administrative data from CHPP® on referrals and basic demographic characteristics for applicants who applied for direct legal services between 2017 and 2021, we find that the majority of applicants are women (67 percent), Black (91 percent), and elderly (the median age at the time of application is 65). This analysis of demographic data from CHPP® augments established scholarship that imputes the demographic characteristics of heirs' property from socioeconomic characteristics aggregated to the census tract and block level by analyzing self-reported demographic characteristics of heirs' property owners. Furthermore, this analysis uncovers an important demographic characteristic not yet discussed in the literature—veteran status. Nine percent of applicants were veterans. This means that integrating heirs' property prevention and direct legal services with the networks and service providers working with veterans could prove to be a fruitful endeavor for other titling programs and direct service providers working with heirs' property owners.

Furthermore, programmatic data from CHPP® reveal an important gendered nature to applying for direct legal services related to heirs' property. Sixty-seven percent of applicants who reported their gender identified as female. Although we cannot generalize to the heirs' property population at large from these gender disparities, it is important to note that these findings confirm the gendered patterns of pursuing social supports found in other settings (Addis and Mahalik 2003; Tobin-Gurley and Enarson 2013). This suggests that targeted outreach should be done to ensure male heirs' property owners are not excluded from necessary assistance.

On the other hand, the gender imbalance in applicants could be the by-product of age, as research shows that Black women have a longer life expectancy than Black men (Bond and Herman 2016). If it is true that Black women will be more likely to become heirs' property owners because of differences in life expectancy, then this also necessitates targeted programming and resources to women owners. Our data cannot adjudicate between these two explanations, but both have important implications for scholars and practitioners. These analyses of demographic characteristics of applicants to CHPP® can be used to inform the design and outreach of titling programs in other settings.

Referral Pathways

Outreach data revealing how applicants were connected to direct legal services at CHPP® offer important insight for micro- and meso-level approaches aimed at mitigating the negative consequences of heirs' property. This analysis revealed that applicants were connected to CHPP® through the following pathways: outreach events and activities conducted by CHPP® (36 percent), word of mouth (25 percent), the applicant's personal network (21 percent), and via CHPP® partners (19 percent). Notably, more than three in four applicants who were referred by a partner of CHPP® were referred through a probate office, or another county office, which often included the local tax assessor or register of deeds. These government offices directly benefit from heirs' property owners resolving their title issues (StipeMaas 2019). In other words, local government and local courts can play a significant brokering role in connecting heirs with direct legal services. Since the applicant's personal network and word of mouth are the top two referral pathways, it is clear that networks play a key role in being connected to heirs' property services within this applicant pool. This finding confirms a large body of evidence from other policy and social service contexts that argues social networks fundamentally structure what kinds of social supports people obtain access to, especially low-income households (Edin and Lein 1997; Royster 2003; Stack 1974). Socially isolated heirs' property owners, then, may be the least likely to obtain necessary assistance. Practitioners seeking

Referral Pathways

to connect heirs' property owners need to prioritize outreach strategies that can permeate across social networks within a community, such as local news media. Moreover, partnering with a diverse group of leaders and organizations can also help ensure a broader reach in the local community.

The data also show how integral partnerships with religious institutions have been as an outreach practice for CHPP®. Where no institutionalized titling program exists, other informal collectives of legal providers or individual attorneys could theoretically replicate similar outreach practices in their communities by identifying the core social institutions among their heirs' property population and creating brokering roles with those institutions. Understanding the key social institutions in the lives of heirs' property owners and creating pipelines between those institutions and direct legal services may prove to be central in addressing the challenges related to heirs' property.

Direct Legal Services

This study offers a rare look at the implementation of free and low-cost titling services in an organizational setting in South Carolina. This descriptive portrait can help demystify the various legal strategies that can reduce heirs' property precarity and prevent its future emergence. Approximately one in four legal intake applications to CHPP® (28 percent) received either a brief legal service or some form of extended legal action. Three out of four applicants were not accepted as a client but received advice and counsel. Scholars have rightly focused on the endpoint of clearing title as the ultimate goal for heirs' property owners. However, unpacking the variety of direct legal services used at CHPP® illuminates the intermediate and alternative strategies relevant to heirs' property owners that are not tied directly to measurable legal outcomes. For example, 6 percent of applicants who were not accepted for direct legal services reported they initially applied seeking *only* advice and counsel. While a comprehensive free and low-cost titling program may be the ideal intervention, making free and low-cost advice and counsel sessions (i.e., a form of asset education) widely accessible could be a critical starting point for communities seeking to build out a more robust titling program over time. Likewise, family presentations (one of the brief legal service options) can be a promising intermediate component of the titling process for heirs' property owners given the documented conflict among family members (Dyer and Bailey 2008). Offering family presentations alongside more direct legal actions takes seriously the collective ownership model of heirs' property and could serve as another key component of titling assistance for heirs in other contexts.

We also find that estate planning assistance makes up a considerable share of services offered by CHPP®. Over one thousand legal clients had a will or advance directive completed, and four out of five of the wills completed were at no cost to the client. Estate planning is essential to the prevention of heirs' property, but research shows that low-income and Black households are less likely to create wills due to distrust of the legal system, lack of access to lawyers, and associated fees (Mitchell 2019; Taylor Poppe 2020). According to the scholarly hypotheses about low rates of will making among Black households, the large number of clients for estate planning in this study is striking. This finding points to an appetite for estate planning among heirs' property owners. It is important to acknowledge that COVID-19 death rates during the study time period could be playing a role here, but the limitations of a descriptive analysis prevent us from drawing strong conclusions about what factors led clients to create a will. This finding underscores that practitioners focused on designing comprehensive interventions for heirs' property owners should explore ways to combine resolution and prevention strategies (i.e. co-locating titling and estate planning services).

Avenues for Future Research

These findings describing the demographic characteristics of heirs' property owners, referral pathways, and types of direct legal services point toward important avenues for future research. First, although these data contribute to the literature on U.S. titling programs by illustrating how to connect participants to direct legal services and what kinds of services are relevant, this is not a formal outcome evaluation of how titling changes heirs' property owners' socioeconomic positions. Given the limited research on the effects of titling in the U.S. context, more research is needed to understand the enduring impact of clearing title, especially across different spatial contexts. Likewise, more implementation research about titling programs in organizational settings is needed to establish a more substantial body of empirically driven best practices for comprehensive interventions designed to assist heirs' property owners. For example, given that estate planning was a large share of activities at CHPP®, qualitative data exploring how heirs' property owners dealt with their institutional distrust and came to the decision to create a will can offer important insights for future prevention programming geared toward heirs' property owners.

The rate of and reasons for denials also suggest important future avenues for researchers and practitioners to examine. Given that property laws are established at the state level, and absentee landownership prevents CHPP® from accepting an out-of-state applicant, direct legal service interventions that can accommodate absentee landowners could be an important option for heirs' property owners ineligible for current resources based on residence. Bownes and Zabawa (2019) found that 24 percent of heirs' property tracts in a North Carolina community were owned by out-of-state landowners, further supporting the need for direct legal services for absentee landowners. Moreover, 13 percent of rejected applicants were households who thought they had heirs' property issues; however, based on the information submitted to the attorneys, it was later determined they did not. This finding underscores the importance of connecting property owners with legal assistance to properly educate households on their ownership status. Households that may be reluctant to take full advantage of their property because they think it is heirs' property when it really is not, may be missing out on the full benefits of homeownership because of misinformation. Once again, the free advice and counsel session could stand alone as helpful to *all* property owners, even when further direct legal services focused on clearing title are not needed.

While heirs' property is traditionally associated with low-income households, these findings reveal that a sizable share of applicants were above the income limit set by CHPP®. The income eligibility threshold is defined as equal to or below 200 percent of the DHHS household poverty guidelines. This is still an important avenue to explore, even while we acknowledge that this applicant pool may not be representative of the larger heirs' property population in South Carolina. Research exploring heirs' property beyond the low-income context may bring to light a different set of benefits and challenges of this ownership tenure. For example, does family coordination or conflict look different when at least one of the heirs holds a different class status? Heirs' property may be a phenomenon that crosses class boundaries more than academic literature has currently captured, so more research on class heterogeneity and heirs' property is needed.

Finally, the primary referral method being the Outreach department at CHPP® raises an important and long-standing question about building trust with heirs' property owners to deliver state and nonprofit services. Schelhas, Hitchner, and Dwivedi (2018) highlight that distrust between Black

landowners, including heirs' property owners, and forestry professionals is the by-product of enduring racial discrimination by governmental actors and processes. The study described how community-based organizations used a "boots-on-the-ground" approach to help build trust in the community, leading to more forest landowners seeking services. It will be beneficial for future research to determine which outreach strategies by direct service providers are perceived as more trustworthy by heirs' property owners who do not own forest land. More qualitative and ethnographic research with service providers working directly with heirs' property owners can elucidate additional effective trust-building strategies for practitioners working with this population.

CONCLUSION

This article explores the demographic characteristics, referral pathways, and direct legal services of applicants to the CHPP[®] located in South Carolina. Applicants are primarily Black elderly women. We identify four primary referral pathways: (1) owners' personal networks; (2) CHPP[®] Outreach efforts; (3) CHPP[®] partner organizations—including public, private, and nonprofit agencies; and (4) word of mouth (other individuals/entities not formally connected with CHPP[®], including outside legal and forestry professionals). This analysis helps to fill an important gap in the literature on heirs' property regarding interventions that help prevent and resolve the negative consequences of fractional interest and clouded title. Interventions focused on heirs' property prevention through estate planning and those that assist with titling are a distinct and necessary complement to the important legal and policy-level reforms that will undoubtedly create more equitable housing and agricultural markets where heirs' property owners can thrive. Importantly, by analyzing referral pathways alongside demographic characteristics, we find that targeted outreach by gender and to veterans can increase awareness in the communities most likely to be affected. Additionally, descriptive analyses suggest that despite documented legal distrust among heirs' property owners, estate planning can be accomplished with this subgroup. We offer a variety of avenues for future research to build out a more robust evidence base of U.S. titling programs and best practices for recruitment and service delivery.

ENDNOTES

1. While heirs' property is commonly associated with the rural, Black South, the problems of fractional interest and clouded title are found in many communities—including on Tribal lands, *colonias* along the U.S.-Mexico border, and low-income communities across Appalachia (Deaton 2007; Johnson Gaither 2016; Pippin et al. 2017; Shoemaker 2019).
2. Scholars argue that historically, courts defaulted to the partition in-kind, where the property was split equally among co-owners. But over time, the courts evolved to ordering forced partition sales (Casagrande 1986; Craig-Taylor 2000; Mitchell 2014). There is little empirical evidence detailing *why* this transition occurred.
3. African American producers receive a 90 percent cost share because they are categorized as socially disadvantaged (SD). The USDA defines SD farmers and ranchers (SDFRs) as those belonging to groups that have been subject to racial or ethnic prejudice. SDFRs include farmers who are Black or African American, American Indian or Alaska Native, Hispanic or Latino, or Asian or Pacific Islander. Heirs' property applicants to CHPP[®] seeking sustainable forestry technical assistance and who identify as one of these racial/ethnic groups qualify as SDFRs.
4. The WCA network, an innovative component of the Sustainable Forestry Land Retention Project, brings landowners together for peer networking and empowerment.
5. A full list of terms used to identify referral pathways is available upon request.

6. CHPP® policies prohibit it from accepting out-of-state applicants with land in South Carolina for the following reasons: (1) There are usually in-state heirs living on the property or at least living in South Carolina. If these family members were overlooked, it could create a family dynamics issue that could slow the processing of the case. (2) It is logistically easier to work with local heirs who are more accessible. Due to the increase in out-of-state residents during the COVID-19 pandemic, this policy is being reconsidered.

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**Black Land:
Research Note on the Heirs'
Property to Poverty Pipeline in Louisiana**

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ABSTRACT

Successful heirs' property reform—the Uniform Partition of Heirs Property Act (UPHPA)—is widespread in the United States. Despite these advancements, Louisiana falls behind. Louisiana is the only state in the Deep South that has not enacted legal reform to protect heirs' property owners. Heirs' property locks many Black Americans into persistent poverty and economic oppression, eliminating generations of Black American wealth. This research note describes and examines these issues. Articulating the history of systemic legal oppression of Black land ownership, this article demonstrates how the current legal state shuns Black Americans economically and sociopolitically disadvantages them. It also examines how enacting the UPHPA could help Black Louisianans achieve economic stability.

KEYWORDS: heirs' property, poverty, race, Uniform Partition of Heirs Property Act

INTRODUCTION

The United States has failed to protect Black land in the years since Emancipation, creating persistent systemic discriminatory legal practices (Copeland 1984). After the Civil War, the federal government promised “forty acres and a mule” for formerly enslaved people, but the promised land was instead given to Confederate loyalists (*Pigford v. Glickman* 2000). This reparation would have contributed to economic sustainability for Black Americans (Mitchell 2019). The long-term implications of this monumental failure are staggering, as such land designation would be worth 640 billion dollars today (Packman 2020). In the years following emancipation, Black Americans managed to purchase property and land from the Civil War until the end of the twentieth century, acquiring 15 million acres of land (Breland 2021). Especially in the U.S. South, the accumulation of Black-owned properties housed Black families and sustained livelihoods through agricultural and real estate participation (Packman 2020). Despite this achievement, many Black Americans have suffered massive involuntary land loss, attributable to threatened and actual violence, discrimination, and legal actions that often resulted in forced sales of Black-owned property (Mitchell and Powers 2022). Important to this note is involuntary land loss of familial property, or heirs’ property.

Heirs’ property is fractionated ownership of land or property due to the lack of clear title or robust estate planning to transfer ownership of property from an ancestor to a descendant. Without a legal transfer of ownership, the property is inherited by the heirs of the deceased (LA Art. 880 1982; LA Art. 888 1982). This can continue for generations creating many heirs, or co-owners (LA Art. 882 1996). Partition actions, which occur when one co-owner of the familial property decides to sell their ownership stake, often force involuntary auctions of land (LA Art. 807 1991). Partition sales force the sale of the entire property, the proceeds of which are distributed to the heirs based on their interest (LA Art. 807 1991). Partitions are responsible for the loss of generational wealth, greatly affecting communities and individuals for decades.

Land ownership is touted as a symbol of equality achievement in American society (Craig-Taylor 2000). However, the benefits of property ownership are not equally distributed across race and place. For instance, the Deep South—which includes Alabama, Arkansas, Georgia, Louisiana, Mississippi, and South Carolina (Beck and Tolnay 1990)—is a notorious region of diminishing Black land ownership (Bownes and Zabawa 2019). As a region with a significant history of enslaving and exploiting Black people and their labor in exchange for white economic gain, Black Americans uniquely face the oppressive effects of property ownership in the Deep South (Beck and Tolnay 1990). After emancipation, the operation of de jure and de facto discrimination resulted in legal illiteracy and economic limitations that devastated Black land ownership (Rivers 2007). In addition to inequitable socioeconomic obstacles, owning heirs’ property substantially inhibits Black Americans from building generational wealth.

Louisiana is the only state in the Deep South that has not adopted heirs’ property reform. The UHPA provides land protections for Black Americans across the country (Mitchell and Powers 2022). In this note, we demonstrate why Louisiana must urgently adopt the UHPA, by historically contextualizing Black property ownership and detailing how current state laws governing partitions do not provide adequate protection. Finally, we provide an understanding of the UHPA and why Louisiana would benefit from adopting swift heirs’ property reform.

BLACK LAND OWNERSHIP AND THE PIPELINE TO POVERTY

The History of Black Land: White Supremacy and the Struggle for Class Equity

Throughout U.S. history, property law has functioned to oppress Black Americans (Rivers 2007). Until emancipation, Black people were commodified as property and had no legal right to own land themselves (Craig-Taylor 2000). The hyper-exploitation of Black labor meant race and property were so infused that Black people could not attain any social or legal status (Harris 1993). Post-emancipation, the Ku Klux Klan (KKK) organized violent resistance movements aimed at stealing property from and oppressing Black Americans (Rivers 2007). Black people who purchased property were often forced to abandon their homes due to threats and intimidation by the KKK, such as destroying property, committing assaults and murders, and armed guerrilla warfare that killed thousands of Black Americans (Glass 2016). Black people often acquired land under the threat of violence. Due to fear of reprisal, many Black property did not record their land deeds (Breland 2021). Moreover, the government failed to guarantee Black Americans property acquisition during Reconstruction (1865–77). By the post-Reconstruction era, 60 percent of employed Black Americans were sharecroppers or farmers who owned their own land (Bownes and Zabawa 2019). The racist economic violence created during the Jim Crow era included cutting off Black Americans from estate planning, formal deeds, federal loans, and grants (Rivers 2007). Despite this reality, Black people acquired more than 16 million acres of land by 1910 (Bownes and Zabawa 2019).

After the Civil War, land and kinship became defining features for Black Americans (Breland 2021). Aligning with the values of the American Dream, land ownership finally gave Black people access to economic resources, as well as refuge from bondage, isolation, and impoverishment. But because the legal system made it difficult for Black Americans to preserve land within the family, legal illiteracy and economic limitations started to obliterate Black land ownership (Rivers 2007). Segregation laws allowed banks, the Federal Housing Administration (FHA), and insurance companies to refuse loans to Black Americans (Rothstein 2017). Simply put, Black land ownership was not compatible with white supremacy (Rivers 2007).

As a consequence of the government preventing Black Americans from fully acquiring property in the mid-twentieth-century free labor market, lower income statuses became a multigenerational trait for many families (Rothstein 2017). In seeking to protect their land, Black Americans were met with difficulties in accessing sufficient legal assistance. The scarcity of Black lawyers in the South during this period meant land was vulnerable to being taken by force, coercion, or denial of access to legal recordation. The lack of access to legal counsel has had lasting impacts on Black property owners (Rivers 2007). Black Americans began to acquire property as early as 1863, but no Black lawyers were admitted to the bar until 1868 (Rivers 2007). Black Americans constituted a large population within the South, but the number of Black lawyers was severely low; therefore, many people managed property affairs without legal assistance, setting the foundation for the heirs' property issues that persist today (Rivers 2007).

The Legal and Economic Effects of Owning Dead Capital

During the summer of 2021, Louisiana Appleseed held a panel about heirs' property, centering the experiences of several Louisiana residents. Here, it was revealed that four hundred eighty acres of land were stripped from Trudie Stanley. Her family lived on this northern Louisiana land since the Civil War.

Stanley's family informally passed the property through the generations without formal recordation. The family was unaware of the need for a clear title. Because ownership of the property was passed through dozens of heirs, the property maintained fractionalized ownership across several generations of descendants dispersed throughout the country. Although Stanley's family paid taxes on the land, without clear title or estate planning documentation, they could not protect it.

A distant relative within Stanley's family sold their interest in their property to a timber company, which was then able to petition for a partition; this led to a forced sale or auction. The family who lived on the property was never given personal notice of the sale. Another relative discovered that the property was for sale in the newspaper, and alerted family members living on the property. The Stanleys scrambled to accumulate over \$500,000 to buy back their land, but the timber company outbid the family at \$600,000. Trudie Stanley and her family had to vacate their land, despite their diligent fight to preserve it.

This Louisiana tragedy is not unique. Black land in Louisiana is threatened by the laws that govern heirs' property. Court-mandated partitions of inherited property significantly reduced Black land ownership within families and, as a result, decreased Black generational wealth (Breland 2021). As exemplified by the Stanley family's story, experiencing involuntary land loss can harm familial relationships, destroy connections to home, and contribute to the cyclical nature of poverty.

Partition laws contribute to the ongoing systematic discrimination toward Black Americans, preventing the acquisition of generational wealth and economic power (Bailey et al. 2019). In the South, an estimated 1.6 million acres of heirs' property exists, worth nearly \$6.6 billion across nine states and 364 counties (Bailey et al. 2019). Heirs' property is considered dead capital—that is, the land cannot be exchanged for financial capital—therefore, the \$6.6 billion in land is meaningfully inaccessible (Bailey et al. 2019). With dead capital, banks refuse to lend to property owners without a marketable title. A lack of documentation renders heirs' property incompatible with economic systems that prioritize clearly defined private property rights (Johnson Gaither and Zarnoch 2017). As a result, heirs' property cannot be used as collateral for loans to improve, establish, and expand a business or home life (Bailey et al. 2019). Owning land is an essential measurement of socioeconomic status, but owning dead capital like heirs' property makes families vulnerable to the laws that strip generational wealth, causing further displacement and impoverishment due to involuntary land loss.

The most pronounced hemorrhaging of Black land loss began in the last quarter of the twentieth century and the first part of the twenty-first century (Breland 2021). A significant proportion of Black land loss is a direct result of partitions. Corporations and land speculators initiate legal actions with the sole purpose of acquiring Black-owned property against the wishes of Black landowners (Breland 2021). These outside entities capitalize on heirs' property by purchasing interests in the property and later buying the land at a sheriff's auction, typically below market value (Craig-Taylor 2000). Presently, lawful discrimination against Black landowners has led to urban migration, foreclosures, and Black land loss (Rothstein 2017). These impacts are greatly felt in Black agriculture. Currently, Black farmers represent less than 2 percent of all farmers and about 0.5 percent of landowners in agriculture (Bownes and Zabawa 2019).

The long-term and persistent disconnection from economic opportunities has contributed to financial and legal illiteracy that foments ongoing heirs' property issues (Rothstein 2017). Heirs' property prevents land from fully being utilized and leaves families vulnerable to land loss (Bownes and Zabawa 2019). The continued use of systematic discrimination has greatly contributed to generational poverty by limiting capital and economic opportunities for heirs' property owners. This inimitable system now begs the question: will the law continue blindly adhering to the exclusionary system, or realign to neutralize the disadvantages that exist in property laws (Rivers 2007)?

The Louisiana Uniform Partition of Heirs Property Act

The Louisiana Law Institute is proposing a new bill to the state legislature: the Louisiana Uniform Partition of Heirs Property Act (Scalise and Braun 2022). The UHPA reforms racially inequitable and discriminatory heirs' property laws (Mitchell 2019). As of 2023, twenty-three states have enacted the UHPA (Uniform Law Commission 2023). The UHPA requires the court to determine whether property that is the subject of a partition qualifies as heirs' property. If so, the partition action will follow UHPA guidelines unless all co-tenants agree otherwise. The UHPA provides five pillars of reform:

- (1) Enhanced notice provisions, including notice by posting on the property if notice by publication is requested (UHPA Section 4)
- (2) Independent appraisal of the property, unless all the owners indivision agree to another method of determining value (UHPA Section 6)
- (3) One-way co-tenant buyout provision based on the remedies requested, including reasonable time periods for potential buyer to arrange financing (UHPA Section 7)
- (4) Enhanced preference for partition-in-kind resolutions (UHPA Sections 8 and 9)
- (5) Open-market listing and sale by default, with other methods permissible only when the court finds it would be economically advantageous to the owners indivision as a group (UHPA Section 10).

The UHPA represents the most comprehensive partition law reform. It establishes hierarchies of remedies that are designed to help heirs' property owners preserve their real estate wealth (Mitchell 2019).

The intent of the Louisiana UHPA is to adopt the core components of the UHPA to become compatible with other provisions of Louisiana's current property law (Scalise and Braun 2022). In existing Louisiana law, if a co-owner petitions for a partition and owns *less* than 15–20 percent of interest in the property, then the co-owners have the right to buy the pro rata share of the petitioning co-owners share at the price determined by the court-appointed appraiser (LA §1113 2014). If a co-owner petitions for a partition and owns *more* than 15–20 percent, co-owners are afforded no right to purchase, and the property is sold at auction. While Louisiana will have a buyout provision like the UHPA in section 7, it remains questionable if Louisiana will keep the pro rata share provision as in LA. Rev. Stat 9:1113.

Buyout provisions are expensive and burdensome. There may be lack of communication and agreement among heirs to a property. Similarly, heirs may be unable to afford to purchase the accumulation of shares to protect their property. It is important to note that even if the pro rata share were to continue with the Louisiana UHPA, this remedy will still disincentivize those wishing for a partition because it allows any co-owner to stop a partition sale from occurring through a buyout. The UHPA recognizes that a partition by sale will be the most equitable remedy in some partition actions. The UHPA seeks to ensure that any partition sale will yield sales prices that maximize economic return for heirs' property owners. In the past, courts considered evidence of the fair market value without considering that state laws require property be sold under forced-sale conditions, thus yielding sale prices considerably below the fair market value. With the intention of maximizing economic wealth from partitions, the UHPA seeks to prevent families from losing generational wealth (Mitchell 2019).

Louisiana's current draft of the law includes open-market sales and court-appointed independent, state-licensed real estate brokers and appraisers to consider property values, ensuring a sale of the property in accordance with fair market rates (Scalise and Braun 2022). If the broker does not obtain an appraisal within a reasonable time, an outside offer to purchase the property may be approved by the court. The offer must be at a price no lower than previously determined. The court may also approve the highest outstanding offer, redetermine the value of the property, order that the property continue to be offered for additional time, or order that the property be sold at auction (Scalise and Braun 2022).

Louisiana is on track to implement heirs' property reform. Although the last state in the Deep South to put forth efforts to protect Black landownership, there is still hope for Black Louisianans under the adopted UHPA. As we build bridges for property justice in Louisiana, we must always repair the issues at their root. For southern states, this frequently begins with heirs' property.

CONCLUSION

Land is often the greatest asset within Black American families. Black Americans in the twentieth century owned more land than their ancestors, but the security of their property ownership has diminished due to persistent discriminatory practices. Owning heirs' property is a social fact for many Black American families, especially in the South. Because of the racist history of property law, generations of Black land ownership have been plagued by heirs' property consequences. Fractionated ownership between heirs creates opportunities for forced sales of familial property, putting Black American landowners at risk of involuntary land loss. Louisiana's laws allow for partitions, which extinguish ownership rights and deplete Black land ownership. Partitions result in complete economic deprivation and community dispersion. Without intervention, Louisiana will continue to face cultural disintegration in Black American communities.

Moreover, losing familial property thwarts generational wealth for Black Americans. By enacting the UHPA, Louisiana will be moving toward preserving Black land ownership. The UHPA created an appropriate reform to eradicate the systemic inequities inherent in heirs' property regimes. Protecting heirs' property by enacting the UHPA gives Black Louisianans the long-overdue economic safety and sustainability needed to provide for future generations. Adoption of the UHPA protects Black familial property and safeguards Black American wealth.

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