

SUSTAINABLE FORESTRY & AFRICAN AMERICAN LAND RETENTION

Newsletter



Welcome back!

MONTHLY NEWSLETTER

In this issue, the Sustainable Forestry & African American Land Retention (SFLR) newsletter features our South Carolina anchor site, the Center for Heirs Property Preservation (CHPP). CHPP is a 501(c)(3) non-profit that protects heirs' property through legal education and direct legal services, and promotes sustainable land use to help under-served landowners recognize the value of managing their forestlands.

What's inside our latest issue:

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- SPOTLIGHT ARTICLE:
SERVING OUR
COMMUNITY



Feature Story

Five Steps Toward Protecting Your Heirs Property



*Joshua F. Walden [CSI], Esquire, Chief Operating Officer,
Center for Heirs Property Preservation (CHPP)*

As an heirs' property owner, the best way to safeguard your family's land is to get full family agreement and work with a trusted attorney to legally clear the title to the property. However, there are also five other important steps you can take to help protect that land.

1 - Keep an up-to-date family tree

Creating a family tree (with the names and addresses of family members who are alive and the dates of death for those who have passed away) is essential in protecting your family's land. Remember that it is much easier to create and maintain a family tree if the information is recorded and updated regularly. Too often, I have seen families give up on trying to fix their heirs' property because it is too difficult to compile a family tree when facing challenges to their property. Further, it can be expensive to gather this information when you are "on the clock" with a lawyer.

2 - Take the time to understand a document before you sign it

Unfortunately, this is a common problem. For example, I had an elderly client who asked me to notarize a paper given to her by her nephew. He told her that the paper gave him permission to place a mobile home on the family's heirs' property. In actuality, the paper was just one page of the deed to the heirs' property. Had she signed the paper and returned it to the nephew, he could have submitted the deed, recorded it with the county, and claimed possession of the property.

Moral of the story: Make sure you are completely aware of what you are asked to sign, no matter who gives it to you. And, if possible, have an attorney or several other heirs you trust read the document before you consider signing it.

3 - Have a plan for taxes

Heirs' property is sometimes lost because the family does not have a system to ensure that all taxes are paid in a timely fashion. I have seen cases where one heir is responsible for collecting everyone's share and then paying the taxes. If, for whatever reason, that heir fails to pay the taxes—and there is no backup plan for other heirs to double-check that taxes have been paid—the property can be sold at a tax sale.

I have also encountered situations where heirs forgot to pay the taxes, did not have the money to pay the taxes and were too proud to let others know, or chose not to pay the taxes because they thought they could buy the land at a tax sale without the other heirs knowing. To minimize these and other risks, be sure more than one or two people are responsible for keeping up with the taxes.

4 - Do not ignore legal documents mailed to or served on you

Sometimes, heirs' property owners ignore paperwork mailed to them or served on them by a sheriff or a process server. Paperwork you receive from an attorney, the local courts, or a county assessor or treasurer's office cannot be disregarded. These documents usually provide a notice of certain deadlines that can affect your rights. If you miss a deadline, you might not be able to make a claim or defense, no matter how correct it is legally.

If you receive paperwork like this, reach out to an attorney or a legal aid agency as soon as possible because the clock is ticking once you are served. The worst possible thing to do is nothing!

5 - Have a will

A will can prevent heirs' property. If you already have heirs' property, a will can still allow you to determine who inherits your ownership interest.

What is Heirs' Property?

Heirs' property is property passed to family members by inheritance, usually without a will or estate planning strategy. It is typically created when land is passed on from someone who dies intestate—that is, without a will—to those legally entitled to their property, such as a spouse, children, or other relatives.

However, if the title remains in the original owner's name, it is considered "cloudy," negatively impacting the heirs. Land may pass through several generations without a will (or a carefully crafted will), increasing the number of heirs and causing complex legal issues.

Heirs' property is most predominant among African American landholders, contributing to the loss of millions of acres of their land over the last hundred years.

Site Spotlight



Why Landowners Might Not Have A Will



*Joshua F. Walden [CSI] , Esquire, Chief Operating Officer,
Center for Heirs Property Preservation (CHPP)*

Basically, the difference between having a will vs. not having a will boils down to one question: Do you want to decide who gets your property, or do you want someone else (through your state's law of intestate inheritance) to determine who gets your property? While this may seem like an easy question to answer, there are prevalent reasons why many landowners we work with still do not have wills.

Lack of public education regarding the basic law surrounding how land records are kept and why it is crucial to keep the "chain of title" clean.

Many people do not understand how the historical records for land ownership (referred to as the "chain of title") are kept or how important it is to keep those records up to date (or "clean"). Understanding how this process works makes the need for a will and getting your business in order crystal clear.

Lack of public education on what a will does and what happens to your property when you die without a will.

Many people do not know what a will actually does (or does not do) or what happens to their property if they die without a will. This lack of information can lead to someone deciding they do not really need a will for themselves. In my experience, clients are often shocked at who can inherit their property if they die without a will.

Lack of public education on what makes a property "heirs' property" and the dangers associated with this type of ownership.

Having a will is a way to avoid heirs' property and manage who inherits heirs' property. Many myths about heirs' property law have led people to believe they do not need a will or that a will would be useless. A true understanding of the dangers of owning land as heirs' property and how a will can prevent and/or control heirs' property might inspire more landowners to create a will.

Lack of access to trusted legal services.

Many African American landowners do not trust attorneys when it comes to their family land or heirs' property. Historically, African American landowners and their families were either taken advantage of directly by an attorney or witnessed (within their community) a legal process begun by an attorney, which eventually led to a forced sale and a family losing their land.

The general distrust of attorneys keeps many from seeking the necessary legal services to resolve heirs' property problems or even basic legal services that could prevent an heirs' property issue (such as creating a will).

Lack of access to affordable legal services.

The ability to find an affordable attorney is a problem for many people. While legal aid organizations may provide free services, such as creating a will, most have income guidelines that leave many landowners on the outside looking in.

While some people may not qualify for a free will because their income is too high, they are often unable to afford the cost of a private attorney. Those caught in the gap between not qualifying for free legal services and the inability to pay an attorney may deter them from obtaining a will.

Spotlight Article

Drive-Thru Wills Clinics: Serving Our Community in the Midst of COVID-19 and Beyond



*Brianna Bogan, Esquire, Director of Legal Services,
Center for Heirs Property Preservation (CHPP)*

Since our inception, CHPP has been committed to preventing and resolving the complex issues surrounding heirs' property. Much of our work focuses on cooperative engagement with landowners through seminars, legal consultation and representation, simple wills clinics, and personalized family presentations to help families decide collectively what they want to do with their land.

However, the onset of the COVID-19 pandemic severely impacted our ability to interact in person with heirs' property owners. We were faced with many challenges regarding how to continue to provide services and technical assistance when health and safety mandates forced the closure of our "meeting grounds," including churches, community centers, and libraries. At the same time, the need for estate planning only heightened because of the inherent dangers of the virus, particularly in the communities we serve.

Our legal department recognized the elevated risk and understood that traditional models of prevention and resolution would no longer be safe yet were more critical than ever. One innovative response—embraced by our entire staff—was the development and introduction of drive-thru wills clinics conducted in the parking lots of our offices.

In the weeks leading up to the "drive-thru," our staff attorneys interviewed clinic participants and collected data through questionnaires to tailor the will according to each participant's needs. We then scheduled an appointment for them to arrive, review, and execute their will.

The first two drive-thru clinics were held at our Charleston and Orangeburg locations. Since then, we have conducted over a dozen drive-thru clinics and executed more than 150 wills. We plan to continue this service, letting our hosting sites decide which format is best for their communities. Through this evolution in delivering our services, we have maintained our dedication to the property owners we serve and to our partners in the community.

Most rewarding is the positive feedback, encouragement, and even donations, from our clients. As one participant said, "Thank you so very much. The great work you do here has helped so many, and I'm happy to say I'm one of the recipients. I can have some peace of mind and leave my house in order."

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CHPP Client



Left: Huger Wills Clinic (Berkeley County): CHPP Staff and student volunteers assisting in the signing of a drive thru will.



Right: Huger Wills Clinic I: CHPP Staff and student volunteer group photo.



Left: Huger Wills Clinic 1: CHPP Staff and student volunteer group photo.



Right: Wills Clinic (Beaufort): Group photo of Beaufort Co. Drive Thru Clinic Host.

Events



June 29, 2022

PVAMU SFLR Reckoning Program

1:00 p.m. - 3:00 p.m. CST

[Click here to register](#)

June 30, 2022

PVAMU SFLR Legal Clinic

1:00 p.m. - 3:00 p.m. CST

[Check here for more information](#)

July 14, 2022

PVAMU SFLR Outreach Workshop

1:00 - 4:00 p.m. CST

[Click here to register](#)