

Community Lawyering for Environmental Justice Part 12: Heirs' Property

August 20, 2025

The webinar will begin shortly.



Today's Speakers

Miles Malbrough, Law Fellow, Environmental Law and Policy Clinic, Wake Forest University School of Law

Moderator

Furonda Brasfield, Managing Attorney, The Law Office of Furonda Brasfield, PLLC

K. Scott Kohanowski, General Counsel, Center for NYC Neighborhoods

Jamey Lowdermilk, Associate, Brooks, Pierce, McLendon, Humphrey & Leonard LLP



What is Tangled Title (Clouded Title)

- ◆ When clear title to property is uncertain
- ◆ Death of a title holder and decedent's estate has not been resolved
- ◆ Joint ownership of property and parties are not cooperating
- ◆ Marital property and spouses are separating or now divorced
- ◆ A scammer or unscrupulous investor has recorded documents in the land records that create clouds on title
- ◆ Paid-off mortgages or other resolved liens remain in the chain of title



Source: <https://openescrownow.com/how-to-avoid-clouding-title/>

Why It Matters

- ◆ Homes with unclear title are targeted by “investors” and scammers
- ◆ Title must be untangled for heirs property preservation including conservation easements and disaster relief
- ◆ It’s difficult or impossible to resolve mortgage delinquencies and property charge arrears when title issues are present
- ◆ True owners are unable to access benefits or programs that serve personal and public interests
- ◆ Hostile co-owners may threaten those public and personal interests



Property Basics: Title



Chain of Title Documents

Financial Documents and their corresponding release documents.

Deed of Trust → Deed of Reconveyance

Mortgage → Mortgage Satisfaction or Release

Promissory Note → Promissory Note Release

Transfer Documents and their subsequent transfer document.

Deed → Deed

Mortgage → Mortgage Assignment

Excise Tax: _____ Parcel ID: _____

NORTH CAROLINA GENERAL WARRANTY DEED

Mail after recording to _____

This instrument prepared by _____

Brief description for the index _____

THIS DEED made this the ____ day of _____, in the year _____, by and between

Grantor

Grantee

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, that certain lot or parcel of land situated in _____ Township, _____ County, North Carolina, and more particularly described as follows:

<https://www.proplogix.com/blog/important-chain-of-title-documents/>

Property Basics - Forms of Ownership

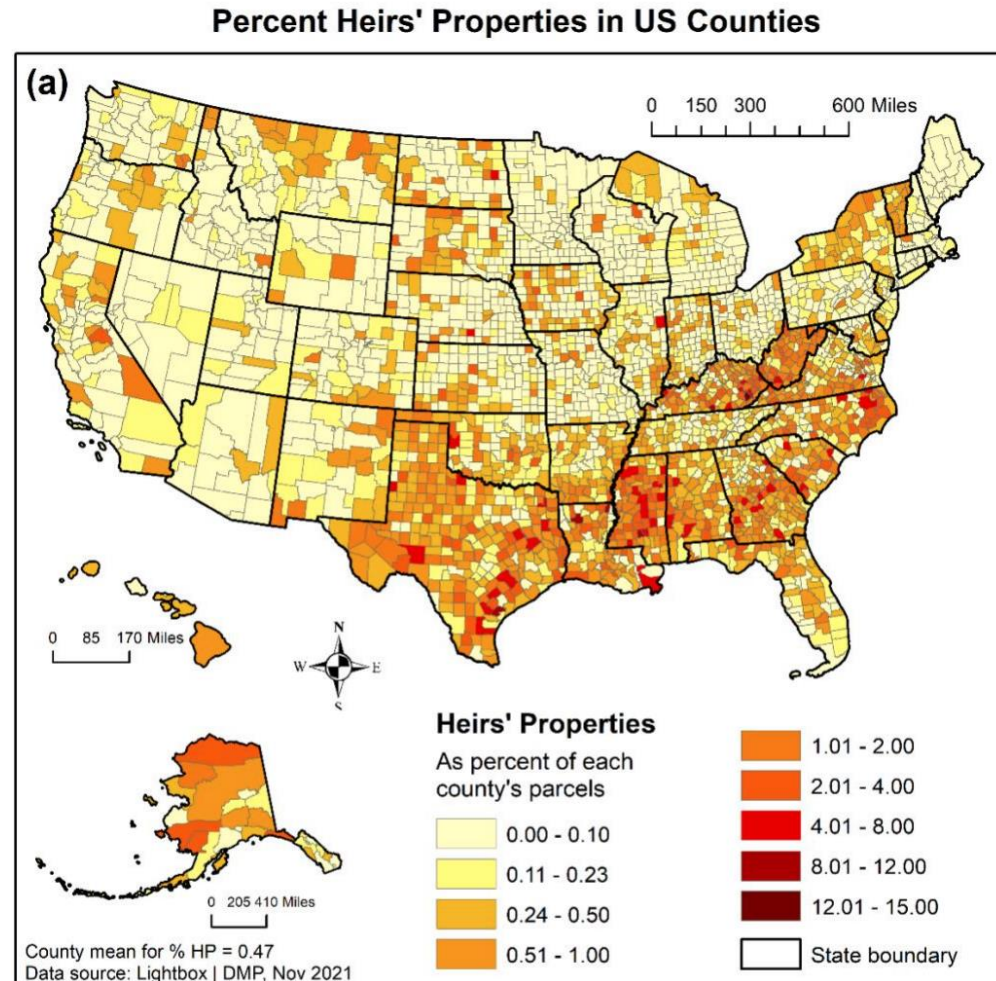
- ◆ Fee Simple
- ◆ Tenancy in Common
- ◆ Tenancy by the Entirety
- ◆ Joint Tenancy with Right of Survivorship
- ◆ Life Estates
- ◆ Coops vs. Condos



Heirs Property

- ◆ What is Heirs Property - expansive and narrow definitions
- ◆ Intestacy vs. Valid Will
- ◆ High concentration in the South and Appalachia
- ◆ High concentration in racial minority communities, both urban and rural

GR Dobbs, CJ Gaither
Journal of Rural Social Sciences, 2023



Predatory Partition of Heirs Property

- ◆ A predatory investment practice that forces partition by judicial sale stripping equity
- ◆ A tactic identified in rural coastal South used by developers targeting lands acquired by Black families during Reconstruction
- ◆ Began seeing these practices in NYC about 8 years ago; the practice has accelerated since with some positive reforms

Heirs' Property: How to lose a home in three generations

WHQR | By Kelly Kenoyer
Published December 1, 2023 at 9:35 AM EST



▶ LISTEN • 4:35



2016 S. 12th Street

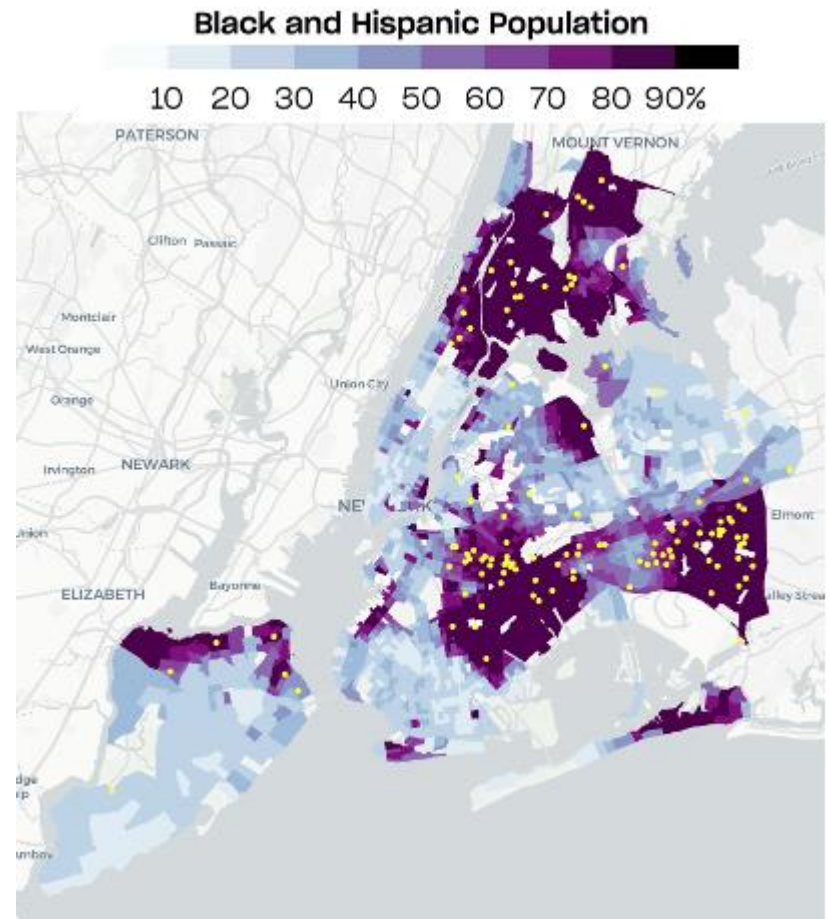
Google Maps

<https://www.whqr.org/local/2023-12-01/heirs-property-how-to-lose-a-home-in-three-generations>

Speculators Target Homes in Black and Latino Neighborhoods

The yellow dots show the locations of 119 properties in which LLCs affiliated with Eliot and Joseph Ambalo and Etai Vardi acquired fractional or total ownership

Source: THE CITY, “Heirs or Speculators? How One Brooklyn Landlord and Their Family Ended Up in Court.” July 13, 2023.



Estate Planning Basics

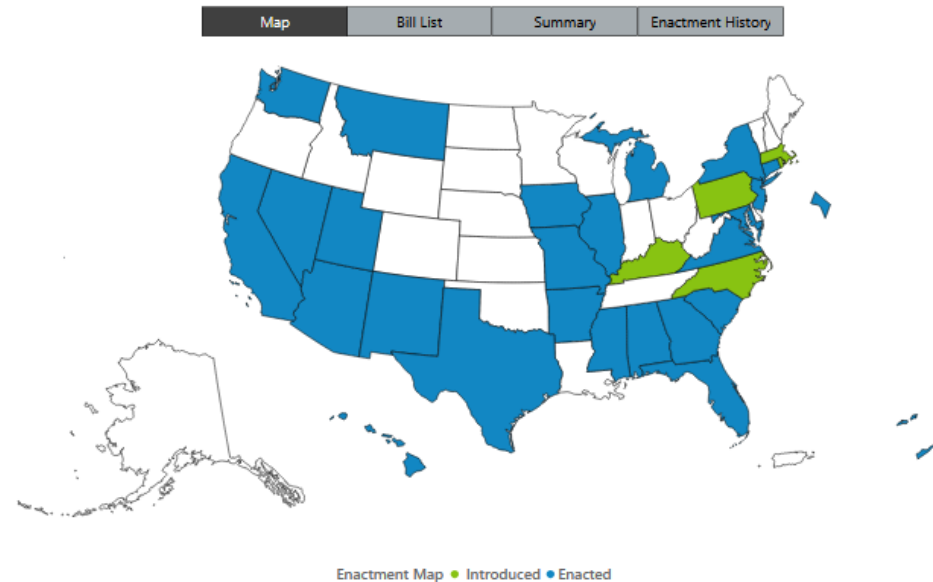
- ◆ Wills* & Trusts
- ◆ Transfer and Vesting of Property Interests by Operation of Law
- ◆ Recordation of Deeds and Easements - ACRIS in NYC; other jurisdictions
- ◆ Transfer on Death Deeds and Lady Bird Deeds
- ◆ Heirship Deeds, Family Tree Affidavits, and Verifying Heirship
- ◆ Partial Deeds and Establishing Claims – putting public on notice; adverse possession; property taxes and public benefits

National Efforts and NY's Approach

- ◆ Public Awareness
- ◆ Estate Planning and Legal Resources
- ◆ Uniform Partition of Heirs Property Act
- ◆ Other Legal and Systemic Reform

2010 | Partition of Heirs Property Act

Real Property, Mortgages, & Liens | Probate, Trusts, & Estates



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

Simple Title Review

- ◆ Review land records to determine how title is held and if there are any apparent encumbrances like mortgages or other liens
- ◆ Review Property Tax Records, water/sewer and other property charges
- ◆ ACRIS in NYC, online records in other jurisdictions and physical land records
- ◆ Chart out the chain of title and determine if there are any discrepancies
- ◆ Chart out mortgages, satisfactions, assignments and other liens
- ◆ Older deeds may not appear online, requires visit to physical land records office
- ◆ There may often be gaps in the chain of title that have to be resolved

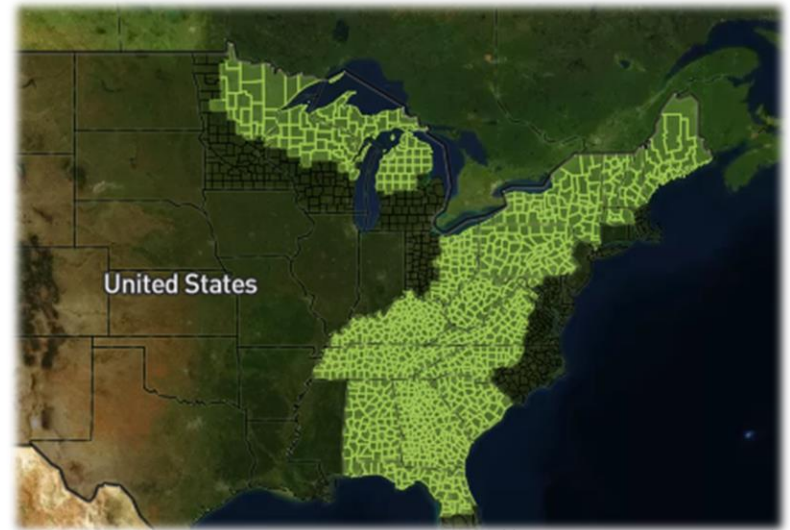
The Role of the Title Company



- ◆ What is title insurance
- ◆ The title report
- ◆ Pulling all information that may affect title, e.g., judgments and lis pendens, state and federal tax liens, property violations, easements.
- ◆ Excluding as much from the title report as possible
- ◆ Paying off liens, negotiating judgments, obtaining affidavits
- ◆ Recording land documents and insuring good and marketable title

Climate Resiliency, Disaster Mitigation and Recovery

- ◆ Relocating homes in flood-prone areas
- ◆ Programs like Rainproof NYC and Resilient Retrofits
- ◆ Hurricane Katrina – FEMA reforms to recognize heirs' property
- ◆ American Forest Foundation: Family Forest Carbon Program
- ◆ Role of conservation easements in preserving land for environmental and community benefit



<https://familyforestcarbon.org/>



THANK YOU!