Identifying and Addressing Heirs Property:
A Case Study of Wake County, North Carolina

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Approved by:
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Abstract

Catherine T. Bartels: Identifying Heirs Property:
A Case Study of Wake County, North Carolina
(Under the direction of William Rohe)

If a property owner dies without a will in the United States, their property becomes known as heirs property. Heirs property is a significant legal issue for homeowners and communities across the American southeast. Because the deeds of heirs property remain in the name of the deceased property owner, it is difficult to determine where heirs property is and how much exists. Therefore, it is difficult to assess its impact on communities. This paper proposes a method for identifying heirs property and judging their community impacts. It uses Wake County, North Carolina as a case study. This paper also discusses current and proposed community options for dealing with heirs property.
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Introduction

In 1910, African American families across the country owned 15 million acres of property. By 1997, that number had fallen to 2.4 million (Federal of Southern Cooperatives Land Assistance Fund). One of the primary causes of this reduction in land was unstable property ownership in the form of heirs property.

Heirs property, also known as tenancy-in-common property, is real property that is owned by family members who are descendants of an original, deceased owner who did not have a will. Over generations, if additional descendants do not leave wills, the number of descendants (and property owners) can become unwieldy. Hundreds of people may own one piece of property.

Heirs property is highly unstable. Heirs property owners are more vulnerable to losing their property through tax liens, forced partition, or family disagreements than any other type of land owner (Land Loss Prevention Project 2005). In addition, because no one owner of heirs property retains clear title to the land, co-tenants do not enjoy most of the benefits of property ownership, such as unilaterally deciding when and how to sell land, receiving aid from FEMA or USDA in the case of a disaster, and using the equity in their home to take out college or small business loans.

In the United States, heirs property ownership is especially common among African-American families in the southeast. After the Civil War, African-American families were finally able to buy and own property in the United States. However, these early black landowners often encountered discrimination, intimidation and other strategies meant to force them off their new land (Lewan, Barclay, & Allen 2010). Thus, distrust of lawyers and ability of the law to protect them meant that few black landowners
left wills. When the property owner died, one of their descendants would stay on the land and live in the house, usually through verbal agreement.

Today, while one descendant may live in a house or pay property taxes, dozens of descendants own a “share” of that land. Each descendant who owns a share of an heirs property is known as a co-tenant. Regardless of the size of a co-tenant’s share, how long they’ve owned that share, whether they live on the land, or pay property taxes, all co-tenants have the same property rights. These rights include being able to sell one’s share to anyone, even a non-family member; being able to bequeath their share in a will; and being able to file a lawsuit petitioning a court to partition the property (National Conference of Commissioners on Uniform State Laws 2010). This means that anyone with an ownership stake, even a non-family member, can demand that an entire property be sold. Because the property must be sold immediately after a partition order is given, this often results in the property being sold at fire-sale prices at a public auction. In contrast, a shareholder who owns one piece of company stock cannot demand that the entire company be sold so he can recover his investment. Yet, this is the process that plays out frequently through heirs property law.

For two-thirds of American homeowners, their home is their biggest asset (Homeownership 2003). Most U.S. housing policies that subsidize home mortgages and the issuance of long-term, fixed-rate mortgages, champion homeownership and encourage Americans to use property ownership to build wealth. Thus, heirs property ownership concentrated among African-Americans creates further loss of wealth among an already poor, marginalized minority; as lack of clear title means that they cannot
access the equity in their homes and property. This lack of access to capital leaves them further marginalized and dispossessed.

While most policymakers agree that heirs property policy creates problems for individuals, few realize the significant issues that it creates for other property owners, whole neighborhoods, and the entire municipalities. Because heirs property deeds usually remain under the name of a deceased owner (and not under the name of the current owners), it is difficult to identify heirs property, and therefore, it is difficult to assess its impact on a region (Dyer, Bailey, & Van Tran 2009). The first part of this paper aims to use a quantitative methodology to identify heirs properties in Wake County, NC, and then provide an analysis of these properties to assess the impact on Wake County. The second part of this paper looks to cover current resources and policies available to communities, planners, and elected officials that seek to mitigate the impact of heirs property.

**Literature Review**


Thus, negative consequences for individual heirs property owners are well documented (Chandler 2005, Mitchell 2001, Reid 2003). In contrast, limited literature discusses the larger implications of heirs property for neighborhoods and communities. While Way (2010) provides a brief analysis on the ways that heirs property impedes
community redevelopment and raises costs for local governments, and Rowland (2011) offers a comprehensive look at existing zoning, planning, and policy strategies to help combat rural gentrification, these articles do not cover community-level impacts as their primary focus.

While discussions of heirs property policy and problems generate a bulk of the literature, some literature has used systematic methods to study heirs property. A study by Tinubu and Hite showed that heirs property owners in South Carolina are more likely to have lower incomes, less education, and are more likely to be older and African-American (1978). Other quantitative studies have focused on proving the disparity of land value price between market value and forced sale value (Mitchell, Malpezzi, & Green 2010) or that rural land that was heirs property was less likely to be used for commercial agriculture production (Zabawa 1991). Deaton (2005) used a survey method in Kentucky to conclude that heirs property owners are the most likely to state their form of property ownership limited their ability to use their property.

However, the literature does not address a systematic method for assessing the quantity and location of heirs property. This gap is partially addressed by Dyer, Bailey and Van Tran (2009) in their study of Macon County, Georgia. The authors studied property tax records to identify heirs property that was labeled “heirs,” and then created an initial study of the characteristics of these properties. However, this study did not address methods by which to find other properties which were likely to be heirs property, but were not listed as such. At the end of their study, Dyer, Bailey and Van Tran acknowledge the important connection between further study of collecting empirical evidence of heirs property, and using this analysis to inform public officials.
Chapter 1: Prevalence of Heirs Property in Wake County, NC

Introduction to this Study

Many scholars have attempted to categorize the amount of heirs property without the benefit of systematic methods. As Dyer, Connor, and Van Tran note, “The literature on heirs property speaks in broad terms, with some authors offering estimates of between one-third to one-half of all land owned by African Americans being heirs property. However, these estimates are made without the careful and often tedious examination of court house or property tax records necessary to document the true extent of heirs property” (2009, p. 193). More systematic study is needed to more accurately assess the number of families affected and implications to the region. The first part of this study attempts to categorize the prevalence of heirs property in Wake County, North Carolina.

Wake County, North Carolina sits in the middle of the “Black Belt” in the American southeast (Dyer, Bailey, & Van Tran 2009, Rowland 2011). It is in the northeast central region of the state, and the state capital, Raleigh, is located in the central part of the county. Slightly less than half of all residents live within Raleigh city limits, with approximately 403,000 residents in Raleigh and 900,000 in Wake County (2010 Census Data). In 2010, Wake County was also the 9th fastest growing county in the country; this is owed mainly to the presence of Research Triangle Park (RTP), a large research and manufacturing park located in the western part of the county which is nationally recognized as a prominent cluster of high-tech, biotech, and textiles research. Eastern Wake County, however, is much less developed and more rural than the rest of the county. In addition, most of the African-American population is located in the eastern part of the county. However, over the past 70 years, the African-American population has
decreased in comparison to the rest of the population in Wake County; in 1940, African-Americans made up 33.6% of the population in the county, but in 2010, they made up only 20.7% (1940, 2010 Census Data). However, as we have seen from the literature review, the presence of an African-American population is an important correlation to the presence of heirs property.

This study of heirs property in Wake County differentiates between properties that are ‘almost certainly’ (conclusive) heirs property, and properties that are ‘likely’ (semi-conclusive) heirs property. This differentiation is established by studying Property Tax Records of Wake County, and matching property tax records with conclusive and semi-conclusive indicators that I created. Then, I compared the dispersion and characteristics of these properties to understand where heirs property occurs, how it differs from non-heirs property, and what these differences mean for neighborhoods and government officials in Wake County.

**Methodology**

All of the property tax information in this report was downloaded from the Wake County website in September 2011 (last updated August 2011). This property tax information included, among other information: property owner(s), date of last recorded deed, size of parcel, address and location of parcel, and tax assessed value of parcel (broken into land assessed value, building assessed value, and total assessed value). This information was listed at the individual property parcel level, which is the scale of this analysis.
Heirs property in this analysis were broken into two levels that I created: conclusive heirs property, and semi-conclusive heirs property (See Table 1). For conclusive indicators, I looked for properties where the property owner was listed as ‘heirs of __’ or ‘__ family heirs.’ Then, I limited the search so that property owners with the words ‘LLC,’ ‘LP’ or ‘Limited Partnership’ would be excluded, as these words denote that a property could not be heirs property.¹ This search returned 2,021 properties out of 325,278 in Wake County.

Next, I identified three semi-conclusive indicators. If a property met at least two indicators, I determined that it was likely to be heirs property. The first indicator was the date of the last recorded deed. One characteristic of an heirs property is that the deed of the property is not transferred, leaving the property under the name of a deceased, previous owner (Dyer, Bailey, & Van Tran 2009). Thus, deeds that have not been transferred in a long time (for the purposes of this analysis, 60 years) have an increased likelihood of being heirs property. This indicator, however, has some margin of error, as a property owner either could have owned the property for more than 60 years, which would overestimate the amount of heirs property; or could have died quite recently, which would underestimate the amount of property. When I searched for properties that hadn’t been transferred since 1/1/1951, the search returned 517 properties.

The second semi-conclusive indicator was presence of the words “et. al,” or “others” under the name of the owner. These words both denote that there are multiple property owners, another indicator of heirs property. Again, I searched for these words

¹ The term heirs property only applies to tenancy-in-common properties and not to any other structure of ownership, including Limited Liability Corporations (LLCs) and Limited Partnerships (LPs).
only in property tax entries that did not contain the words ‘LLC’, ‘LP’, or any variant of these words, which would indicate that the property was not held as a tenancy-in-common. This search returned 309 properties in Wake County.

The third semi-conclusive indicator was the presence of a non-resident owner. In order to eliminate properties where a resident owner was not possible (undeveloped and commercial land), the search was limited to properties which contained either a single family home or a mobile home. Because heirs property have multiple owners responsible for its upkeep, property taxes that are mailed to someone that does not live in the home can be an indicator of heirs property. However, as this indicator also catches owners of residential investment properties, it is the least likely indicator of heirs property and has the largest room for error. This search returned 50,134 properties in Wake County.

Although these indicators each contain room for error, a property that displays two or more of these characteristics increases the likelihood that it is heirs property. Analysis showed that 74 properties had a non-resident owner and a deed that had not been transferred since 1/1/1951; 46 properties had a non-resident owner and the words ‘et. al’ or ‘others’ under the name of the owner. No properties had both the words ‘et. al’ or ‘others’ and a deed that had not been transferred since 1/1/1951. This left 120 properties in Wake County that met at least two semi-conclusive indicators. No properties met all three semi-conclusive indicators. In addition to the 2,021 conclusive heirs properties, this makes a total of 2,141 heirs properties out of a total of 325,278 property parcels in Wake County, or 0.66 percent.
<table>
<thead>
<tr>
<th><strong>Conclusive Indicators</strong></th>
<th><strong>Method of Discovery</strong></th>
<th><strong>Caveats</strong></th>
<th><strong>Number of Records Found</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Property is listed as ‘Name and heirs’ or ‘heirs or Name’</td>
<td>Took digitized property tax records and searched for word ‘heirs’</td>
<td></td>
<td>2,021</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Semi-Conclusive Indicators</strong></th>
<th><strong>Method of Discovery</strong></th>
<th><strong>Caveats</strong></th>
<th><strong>Number of Records Found</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Date of Last Recorded Deed</em> – The deed of the property has not been transferred in at least 60 years</td>
<td>Searched digitized property records of Wake County for deeds that were last recorded in 1/1/51 or earlier</td>
<td>Conceivably, someone could be living on the property. In addition, this indicator does not catch situations where a property owner died recently without a will.</td>
<td>517</td>
</tr>
</tbody>
</table>

| Property name includes the words ‘et. al,’ ‘others’ or ‘family’ | Took digitized property records of Wake County for properties that included these terms, but not the terms ‘LLC,’ ‘LP’ or any combination of these terms. | Properties could be held as LLCs, LPs, etc. without clearly stating it under the name of the owner | 309 |

| *Property Tax Address* – Property taxes are not mailed to the same address for which they are for | Searched digitized property records of Wake County for properties with a Land Class of Residential or Manufactured Home where the owner’s address was different than the property’s address | This may indicate a landlord status, not an heirs property status. | 50,134 |
Results and Analysis

Dispersion of Heirs Property Throughout Wake County

Although the previous section tells us how much heirs property exists in Wake County, it is important to understand where that property is located in the county. In order to look at the county in smaller parcels, I broke the county down into townships (See Appendix A, Figure 7). Then, I calculated the percentage of heirs property in the township (as compared to the total number of properties in that township) and the percentage of Wake County heirs property in that township (See Table 2).

In the county overall, 0.66% of all properties were identified as conclusive or semi-conclusive heirs property. Within townships, the percentage of heirs property ranged from 2.08% of all properties in Little River township, to 0.16% of all properties in Leesville township (See Table 2). 279 non-heirs properties could not be associated with a specific township due to lack of information on property tax records.

When considering which township had the most overall heirs property, greater stratifications emerged (See Table 2). For example, while only 1.36% of all properties in Raleigh township are heirs property, 20.27% of heirs property in Wake County is in Raleigh township. St. Mary’s township comes in second with 13.73% of heirs property in Wake County. For a detailed map of heirs property in each township, see Appendix B.

A third way to view distribution of heirs property is by total acreage (See Table 3). Predictably, rural townships will have higher acreage for each heirs property. Thus, Little River had the highest total acreage of heirs property at 1009.1 acres. Marks Creek and St. Matthews had 952.4 and 947.8 acres of heirs property, respectively, while Raleigh township had only 156.9 acres. The dispersion of heirs property in Wake County is observable in Figure 2 below.
Table 2. Dispersion of Property Throughout Wake County

<table>
<thead>
<tr>
<th>Township</th>
<th>No. of Semi-Conclusive Heirs Properties</th>
<th>No. of Conclusive Heirs Properties</th>
<th>Total Prop. in County</th>
<th>Percentage of Heirs Property out of total properties in township</th>
<th>Percentage of Heirs Property out of total Heirs Property in Wake County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bartons Creek</td>
<td>0</td>
<td>37</td>
<td>8941</td>
<td>0.41%</td>
<td>1.73%</td>
</tr>
<tr>
<td>Buckhorn</td>
<td>5</td>
<td>33</td>
<td>1922</td>
<td>1.98%</td>
<td>1.77%</td>
</tr>
<tr>
<td>Cary</td>
<td>8</td>
<td>68</td>
<td>25263</td>
<td>0.30%</td>
<td>3.55%</td>
</tr>
<tr>
<td>Cedar Fork</td>
<td>0</td>
<td>33</td>
<td>13425</td>
<td>0.25%</td>
<td>1.54%</td>
</tr>
<tr>
<td>Holly Springs</td>
<td>10</td>
<td>77</td>
<td>14237</td>
<td>0.61%</td>
<td>4.06%</td>
</tr>
<tr>
<td>House Creek</td>
<td>0</td>
<td>44</td>
<td>18360</td>
<td>0.24%</td>
<td>2.06%</td>
</tr>
<tr>
<td>Leesville</td>
<td>0</td>
<td>23</td>
<td>14561</td>
<td>0.16%</td>
<td>1.07%</td>
</tr>
<tr>
<td>Little River</td>
<td>9</td>
<td>135</td>
<td>6937</td>
<td>2.08%</td>
<td>6.73%</td>
</tr>
<tr>
<td>Marks Creek</td>
<td>5</td>
<td>126</td>
<td>9716</td>
<td>1.35%</td>
<td>6.12%</td>
</tr>
<tr>
<td>Meredith</td>
<td>0</td>
<td>26</td>
<td>3870</td>
<td>0.67%</td>
<td>1.21%</td>
</tr>
<tr>
<td>Middle Creek</td>
<td>10</td>
<td>124</td>
<td>19455</td>
<td>0.69%</td>
<td>6.26%</td>
</tr>
<tr>
<td>Neuse</td>
<td>3</td>
<td>65</td>
<td>21228</td>
<td>0.32%</td>
<td>3.18%</td>
</tr>
<tr>
<td>New Light</td>
<td>2</td>
<td>50</td>
<td>4101</td>
<td>1.27%</td>
<td>2.43%</td>
</tr>
<tr>
<td>Panther Branch</td>
<td>1</td>
<td>51</td>
<td>9752</td>
<td>0.53%</td>
<td>2.43%</td>
</tr>
<tr>
<td>Raleigh</td>
<td>35</td>
<td>399</td>
<td>31870</td>
<td>1.36%</td>
<td>20.27%</td>
</tr>
<tr>
<td>St. Marys</td>
<td>8</td>
<td>286</td>
<td>24248</td>
<td>1.21%</td>
<td>13.73%</td>
</tr>
<tr>
<td>St. Matthews</td>
<td>6</td>
<td>121</td>
<td>25950</td>
<td>0.49%</td>
<td>5.93%</td>
</tr>
<tr>
<td>Swift Creek</td>
<td>4</td>
<td>89</td>
<td>17274</td>
<td>0.54%</td>
<td>4.34%</td>
</tr>
<tr>
<td>Wake Forest</td>
<td>10</td>
<td>150</td>
<td>27257</td>
<td>0.59%</td>
<td>7.47%</td>
</tr>
<tr>
<td>White Oak</td>
<td>4</td>
<td>84</td>
<td>26632</td>
<td>0.33%</td>
<td>4.11%</td>
</tr>
<tr>
<td>Unacct. Prop.</td>
<td>0</td>
<td>0</td>
<td>279</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

In order to further observe the dispersion of heirs property values, I ran an

Average Nearest Neighbor analysis in ARC-GIS to see if dispersion was clustered or random. This analysis showed that heirs properties were highly clustered, given a p-values of 0.00000 and a z-score of -38.68928 (see Figure 1).
Table 3. Total Acres of Heirs Property by Township

<table>
<thead>
<tr>
<th>Township</th>
<th>Total Heirs Property (in acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bartons Creek</td>
<td>415.6</td>
</tr>
<tr>
<td>Buckhorn</td>
<td>139.7</td>
</tr>
<tr>
<td>Cary</td>
<td>55.6</td>
</tr>
<tr>
<td>Cedar Fork</td>
<td>170.5</td>
</tr>
<tr>
<td>Holly Springs</td>
<td>231.7</td>
</tr>
<tr>
<td>House Creek</td>
<td>32.1</td>
</tr>
<tr>
<td>Leesville</td>
<td>40.5</td>
</tr>
<tr>
<td>Little River</td>
<td>1009.1</td>
</tr>
<tr>
<td>Marks Creek</td>
<td>952.4</td>
</tr>
<tr>
<td>Meredith</td>
<td>33.6</td>
</tr>
<tr>
<td>Middle Creek</td>
<td>838.2</td>
</tr>
<tr>
<td>Neuse</td>
<td>48.0</td>
</tr>
<tr>
<td>New Light</td>
<td>657.8</td>
</tr>
<tr>
<td>Panther Branch</td>
<td>538.6</td>
</tr>
<tr>
<td>Raleigh</td>
<td>156.9</td>
</tr>
<tr>
<td>St. Marys</td>
<td>646.9</td>
</tr>
<tr>
<td>St. Matthews</td>
<td>947.8</td>
</tr>
<tr>
<td>Swift Creek</td>
<td>561.5</td>
</tr>
<tr>
<td>Wake Forest</td>
<td>832.8</td>
</tr>
<tr>
<td>White Oak</td>
<td>403.7</td>
</tr>
<tr>
<td>Unacct. Prop.</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total Acres</strong></td>
<td><strong>8713.02</strong></td>
</tr>
</tbody>
</table>

Figure 1. Graph of Clustered Value Significance

![Graph of Clustered Value Significance](image-url)
Figure 2. Heirs Property in Wake County

Wake County by Township

Legend
- Township Boundary
- Conclusive Heir Property
- Semi-Conclusive Heir Property
Characteristics of Heirs Property

Land Use

Literature on heirs property has noted that heirs property is often rural farmland (Land Loss Prevention Project 2005, Mitchell 2001). However, most of this evidence is anecdotal. Knowing land use is important to communities for several reasons. First, land that lies fallow without being used or developed reduces property taxes. It also fails to generate income for owners, reducing personal income and income tax. In urban areas, vacant land or buildings decreases community cohesion and is associated with higher crime (Taylor, Shumaker, & Gottfredson 1985). When analyzing land use of heirs property in Wake County, I looked at two different measures: If the land was developed at all (contained a building) and the classified zoning use of the land. I then compared this data to all property in Wake County.

I determined which properties contain buildings by comparing properties which contain a Tax Assessed Value for Building Value greater than zero (0) to those properties where the building value was zero. I was thus able to reasonably approximate which properties contain development and which are undeveloped/vacant/do not contain a building. This analysis showed that 62.3% of all heirs property was developed/contained a building, but 85.2% of all property in Wake County was developed/contained a building. Thus, heirs property is less likely to be developed.

To get a clearer picture of heirs property land use, I compared properties by specific land types (See Figures 3 and 4). While 80.77% of all properties in Wake County are classified as single family residential, only 55.62% of heirs properties are. In contrast, 26.36% of heirs property is classified as vacant, although only 10.15% of all property is. In addition, while 4.82% of heirs property is classified as Agricultural – Farm, only
0.79% of all properties are zoned this way. Other property types overrepresented by heirs property as compared to all property include Manufactured Homes and Floriculture – Farm. This data reinforces the anecdotal idea that heirs property is less likely to be developed, more likely to be vacant, and more likely to be farmland than other property.

Figure 3. Land Use of Heirs Property in Wake County, by Percentage
Value

Because market land value is subject to high levels of fluctuation, it is difficult to determine how heirs property ownership impacts land value. However, knowing how heirs property land value differs from other property is important in assessing the cost of heirs property to a community or neighborhood. Lower land values translate into lower property tax revenues for municipalities, and can negatively impact neighboring land values. For the purposes of this study, I used Tax Assessed Value, because I had this information for all parcels in the dataset. Because total tax assessed value is affected by building value, properties without buildings are at a distinct disadvantage. Thus, I used the 2011 Land Assessed Values and divided them by number of acres to determine the average cost per acre in each township for heirs properties and for all properties in that township (See Table 4).
<table>
<thead>
<tr>
<th>Township</th>
<th>Ave. Cost per Acre of HP</th>
<th>Ave. Cost per Acre of all Prop.</th>
<th>Difference ($)</th>
<th>Difference (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bartons Creek</td>
<td>$42,242</td>
<td>$74,978</td>
<td>$(32,736)</td>
<td>-44%</td>
</tr>
<tr>
<td>Buckhorn</td>
<td>$18,086</td>
<td>$16,062</td>
<td>$2,024</td>
<td>13%</td>
</tr>
<tr>
<td>Cary</td>
<td>$138,370</td>
<td>$179,614</td>
<td>$(41,244)</td>
<td>-23%</td>
</tr>
<tr>
<td>Cedar Fork</td>
<td>$119,207</td>
<td>$156,581</td>
<td>$(37,374)</td>
<td>-24%</td>
</tr>
<tr>
<td>Holly Springs</td>
<td>$31,554</td>
<td>$56,020</td>
<td>$(24,466)</td>
<td>-44%</td>
</tr>
<tr>
<td>House Creek</td>
<td>$133,192</td>
<td>$212,793</td>
<td>$(79,601)</td>
<td>-37%</td>
</tr>
<tr>
<td>Leesville</td>
<td>$79,625</td>
<td>$137,642</td>
<td>$(58,017)</td>
<td>-42%</td>
</tr>
<tr>
<td>Little River</td>
<td>$15,088</td>
<td>$18,842</td>
<td>$(3,753)</td>
<td>-20%</td>
</tr>
<tr>
<td>Marks Creek</td>
<td>$19,117</td>
<td>$25,024</td>
<td>$(5,907)</td>
<td>-24%</td>
</tr>
<tr>
<td>Meredith</td>
<td>$227,652</td>
<td>$167,258</td>
<td>$60,394</td>
<td>36%</td>
</tr>
<tr>
<td>Middle Creek</td>
<td>$28,681</td>
<td>$43,571</td>
<td>$(14,890)</td>
<td>-34%</td>
</tr>
<tr>
<td>Neuse</td>
<td>$131,519</td>
<td>$169,871</td>
<td>$(38,352)</td>
<td>-23%</td>
</tr>
<tr>
<td>New Light</td>
<td>$20,722</td>
<td>$39,147</td>
<td>$(18,425)</td>
<td>-47%</td>
</tr>
<tr>
<td>Panther Branch</td>
<td>$16,760</td>
<td>$29,596</td>
<td>$(12,836)</td>
<td>-43%</td>
</tr>
<tr>
<td>Raleigh</td>
<td>$305,216</td>
<td>$339,664</td>
<td>$(34,447)</td>
<td>-10%</td>
</tr>
<tr>
<td>St. Marys</td>
<td>$29,994</td>
<td>$52,261</td>
<td>$(22,266)</td>
<td>-43%</td>
</tr>
<tr>
<td>St. Matthews</td>
<td>$36,270</td>
<td>$68,757</td>
<td>$(32,487)</td>
<td>-47%</td>
</tr>
<tr>
<td>Swift Creek</td>
<td>$46,755</td>
<td>$94,119</td>
<td>$(47,365)</td>
<td>-50%</td>
</tr>
<tr>
<td>Wake Forest</td>
<td>$29,985</td>
<td>$65,112</td>
<td>$(35,127)</td>
<td>-54%</td>
</tr>
<tr>
<td>White Oak</td>
<td>$55,619</td>
<td>$116,645</td>
<td>$(61,025)</td>
<td>-52%</td>
</tr>
<tr>
<td>Unacct. Prop.</td>
<td>N/A</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$76,283</strong></td>
<td><strong>$103,178</strong></td>
<td><strong>$(26,895)</strong></td>
<td><strong>-31%</strong></td>
</tr>
</tbody>
</table>

With few exceptions, the cost per acre of non-heirs property land in each township was valued significantly higher than the heirs property land in that township. The average cost differential was $26,895 per acre, and the average percentage differential was 31%.

Although this data shows that heirs properties have lower land values, it does not allow us to know why this is the case. Lower land values could be a result of the property being classified as heirs property or it could mean that heirs property is simply more likely to exist in less expensive areas of the county. As my land use analysis earlier in this report showed, there is more property located in rural areas of Wake County. Thus, this
rural heirs property is more likely be valued lower because of its location, and not necessarily due to its status as heirs property.

In order to see if we could observe a lower land value simply due to status as heirs property, I used the ‘intersect’ function in ARC-GIS to identify properties that shared a border with an heirs property (either semi-conclusive and conclusive). Then, I ran the land price comparison of price per acre again, using these neighboring properties instead of all of Wake County. When using this comparison, heirs properties were valued at an average of $38,142 per acre, while neighboring properties were valued at an average of $48,834 per acre (an increase of 28%), and all properties in Wake County were valued at an average $84,740 per acre (an increase of 122%). When comparing all heirs property value and neighboring property values, linear trendlines for both heirs properties and neighboring properties show that a formula \( y = 10^{-5}x + 3.7224 \) can be used for neighboring Properties, where \( x \) equals the cost of the properties in millions of dollars, and \( Y \) equals the size of the property in acres. This formula has an \( R^2 \) value of 0.83152, which shows a strong relationship. Heirs property, however, has a linear trendline with the formula \( y = 3.0 \times 10^{-5}x - 0.2688 \), with an \( R^2 \) value of 0.62189, or a moderate correlation. Although these trendlines don’t exactly match the trends of the data, neighboring properties still have a much steeper trend line then the heirs (see Figure 5).

This additional analysis of land value allows us to draw two conclusions: heirs properties are more likely to be in poorer areas, but when compared against their neighbors in these poorer areas, they are even further devalued. It is not clear why this occurs. One explanation could be that the property is devalued by assessors because of its
Heirs Property Size and Value compared to Neighboring Property

status as heirs property. If this analysis used market value and not tax assessed value, I could see how legal complications in acquiring heirs property would lower land values. However, as this analysis does not use market value, this is unlikely. Another explanation could be that status as heirs property changes the tax assessor’s assessment. However, I have no evidence that this is the case and I do not think that this explanation is very likely. A third explanation could be that because heirs property suffers from the ‘tragedy of the anti-commons’ (Deaton, 2005). This theory posits that co-tenants don’t invest money in their property for maintenance and upkeep, etc., because they don’t see a rise in the value of their property share proportional to investment into a ‘common pool’ resource (Deaton, 2005). In any case, the simple fact that heirs property is valued less than even the properties that neighbor it has negative implications for communities as lower land values
translate into lower tax revenue for municipalities, and lower land values for surrounding properties. In Wake County, heirs property has a total Tax Assessed Value of $454,875,908, including a total land assessed value of $332,338,525. As of 2011, Wake County charged a property tax rate of 5.34% of tax value. If we assume that heirs property land is undervalued by at least 28%, this translates to over 4.9 million dollars of lost tax revenue (See Table 5). This is a staggering figure, considering that this number assumes a conservative decrease in value for heirs property land, and does not account for possible decreases in building value or lost revenue in the form of lower rates of development or additional income. If we assume that the total tax assessed value (land + buildings) is also devalued by 28%, this becomes over 6.8 million dollars of lost tax revenue in 2011.

<table>
<thead>
<tr>
<th>Table 5. Tax Assessed Value</th>
<th>Heirs Property in Wake County</th>
<th>Property Value raised by 28%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Assessed Value</td>
<td>$454,875,908</td>
<td>$582,241,162</td>
</tr>
<tr>
<td><strong>Tax Revenue Generated</strong></td>
<td><strong>$24,290,373</strong></td>
<td></td>
</tr>
<tr>
<td>Total Land Assessed Value</td>
<td>$332,338,525</td>
<td>$425,393,312</td>
</tr>
<tr>
<td><strong>Tax Revenue Generated</strong></td>
<td><strong>$17,746,877</strong></td>
<td><strong>$22,716,003</strong></td>
</tr>
<tr>
<td><strong>Difference</strong></td>
<td></td>
<td><strong>$4,969,126</strong></td>
</tr>
</tbody>
</table>

**Size**

On average, heirs property parcels are larger than all properties in Wake County. Heirs properties are, on average, 4.07 acres, while all properties in Wake County are, on average, 1.54 acres. This finding is consistent with the previous finding above, and with the literature, that heirs properties are more likely to be farmland in rural areas.
**Race**

Today, heirs property is often thought of as a ‘black issue’ that primarily affects the American Southeast (Federal of Southern Cooperatives Land Assistance Fund, Geisler 1995, Lewan, Barclay, & Allen 2010, Mitchell 2001). Heirs property loss is sometimes even referred to as “African-American land loss.” Most of this evidence is anecdotal; practitioners who deal with land loss prevention most often work with African American families. All quantitative research that has been done in the American Southeast, though, supports this idea (Dyer, Bailey, & Van Tran 2009, Tinubu & Hite 1978). In order to see if heirs property in Wake County follows the same pattern, I laid a map of 2000 census data showing the percent of the population that is African-American over a map of the heirs property in Wake County. At first glance, it is clear that there is more heirs property and higher levels of African-American population in the eastern side of the county (Figure 6). In fact, an intersect in Arc-GIS shows that 7.94% of Wake County property is located in a census tract with a majority (greater than or equal to 50%) African-American population. However, 20.6% of heirs property resides in one of these same census tracts (Census 2000). This data supports previous research connecting heirs property to African-American families. This difference is best observed when viewing a map of a Raleigh area, where the correlation between the historic African-American neighborhood in southeast Raleigh and the prevalence of heirs property in that region is clear (Figure 7).
Figure 6. Percentage of Population which is Black, Wake County
Other factors

In an attempt to identify other factors that characterize heirs property, median age, percent renter-occupied, and percentage of households that were vacant were also considered (See Appendix C). While there was a correlation between vacancy and heirs property, it was not great enough to be statistically significant. However, I have demonstrated via land use that these individual heirs properties are more likely to be vacant, even if they don’t reside in a census tract with above average levels of vacancy. There was no correlation in Wake County between median age and percent renter occupied in the census tract, although Tinubu and Hebe showed that individual heirs property owners were more likely to be older (1978).
Summary of Statistical Analysis

This analysis allows us to draw several conclusions about heirs property in Wake County. Heirs property occurs more frequently in urban areas, like Raleigh township. However, it makes up a larger percentage of land (in both percentage of all properties and total acres) in the townships farthest away from the urban core (Little River and Buckhorn). In terms of land use, heirs property is more likely to be classified as vacant or agricultural land, and is less likely to be developed. Thus, heirs property, in general, has lower property tax values because of the lack of a building on the property. In addition, higher levels of vacancy mean that the land is not contributing towards the economic development of the region. In urban areas, increased vacancy is also associated with higher levels of crime, lower community safety and less community engagement, which further hurts a community (Jacobs 1961, Taylor, Shumaker, & Gottfredson 1985). In terms of land value, heirs property is also located in poorer areas of the county. Even within these regions, the property that neighbors heirs property is valued higher than heirs property itself. These lower property values hurt co-tenant owners as well as local governments, who would benefit from the increased tax revenue. Finally, owners of heirs property are less likely to be involved in their communities because they are more likely to live off-site, and they receive no benefits (legal or property) by investing in the upkeep of their property or paying property taxes. The implications of this data show that heirs property ownership has negative impacts for communities in addition to individuals. Because of the heirs property ownership structure, it is more difficult to owners to develop their land, enjoy economic benefits from that land. However, this legal structure has ramifications that impact more than just heirs property owners. Thus, communities
and municipalities, and not just individuals, need to be concerned with the presence of heirs property in their jurisdictions.
Chapter 2: Policy Solutions for Government Officials and Planners

The data analysis in the first part of this report shows how heirs property can impact communities as well as individuals. Communities need to take proactive steps to minimize heirs property. The information contained in this report will help Wake County planners and non-profit groups target communities with higher levels of heirs property for education and legal aid work. While current heirs property policy is limited, many non-profit groups offer education and outreach programs for heirs property owners.

Existing Policy Solutions

Preventative Measures – Will Creation

For planners looking to reduce the impact of heirs property in their jurisdiction, the easiest way is to encourage current owners who do not have heirs property to leave wills. Several non-profit groups in North Carolina offer Will Clinics and public information about the importance of leaving wills, such as the Southern Coalition for Social Justice. However, these will clinics only limit heirs property from spreading; it does not cure the existing problem.

Education and Awareness

It is well documented that most owners of heirs property are not aware of the legal consequences of owning heirs property (Rivers, 2007) (Mitchell T. W., 2001). In fact, most co-tenants do not realize that they are at risk for partition or the loss of their lands (Rivers, 2007). Several non-profit groups in the southeastern U.S. have produced literature to educate heirs property owners (Land Loss Prevention Project, 2005), (Heirs' Property Retention Coalition (HPRC), 2009), (Federal of Southern Cooperatives Land
Assistance Fund). Some of these non-profit organizations also hold outreach sessions or clinics. Again, this approach has many limitations; it only raises awareness without actually solving the problem of heirs property. However, education is an important step in getting co-tenants to be proactive about their property.

**Creation of an LLC or Family Land Trust**

For regions that have significant amounts of heirs property, policy makers and planners should look to ally with non-profit legal aid groups that help and encourage heirs property owners to form LLCs. An LLC is a limited liability corporation that can own, sell, and hold property with a clear title. All co-tenants become members in the LLC. This new structure protects co-tenants from losing their property through partition and treats that LLC as single property owner, giving the LLC all equivalent property rights.

The creation of an LLC helps property owners to choose an economic development future for the land (a decision to farm, or develop) and allows heirs property owners to set up a structure where contributions and efforts are equally rewarded (Limited Liability Companies, 2007). These opportunities are available through non-profit legal aid groups. In North Carolina, these groups include the Heirs Property Retention Coalition, the Southern Coalition for Social Justice, and the Land Loss Prevention Project. However, there are still limitations to this approach. In order to form an LLC, a family has to show that they included all co-tenants, and that all co-tenants agreed to the formation of an LLC. Thus, family conflict, in addition to limited budgets of non-profits, are limiting factors.
**Obtaining Clear Title**

Having clear property title is very important for heirs property owners, because it is often necessary to:

1. Obtain Financing
2. Obtain Homeowner’s Insurance
3. Establish proof of residency for a driver’s license or a passport
4. Obtain disaster relief aid
5. Lease property
6. Sell the property to a third party (Georgia Appleseed)

Obtaining and clearing title is primarily a legal issue that should be handled by a lawyer. Again, communities should look to engage non-profit legal groups to help co-tenants to clear title. Clearing title means that lawyers have to work with recorders of deeds and county clerks to identify how the property is held. Thus, communities should make sure that this information is easily available and publicly accessible.

**Support of Future Legislation**

As outlined in the next section, there are several policy proposals in the works designed to mitigate the negative implications of forced partition sales and the ownership structure of heirs property. Policy makers with long range goals should consider advocating for one of the methods outlined below.

**Proposed Policy Solutions**

Many policy makers are beginning to understand that the way that the current laws are written, owners of heirs property have a lot to lose and not a lot to gain. As a
result, policy makers have begun to write, and in some cases implement, laws that try to treat some of the problems associated with owning heirs property.

**Uniform Partition of Heirs Property Act**

Recently, the most significant proposed legislation for heir property reform is the Uniform Partition of Heirs Property Act. Endorsed by the American Bar Association, the Uniform Partition Act attempts to minimize some of the negative effects which normally occur after one owner of an heirs property has filed a lawsuit to request a partition of the property.

While the Uniform Partition of Heirs Property Act (UPHPA) does not “replace in any comprehensive way existing partition laws,” (National Conference of Commissioners on Uniform State Laws, 2010) it creates a hierarchy of remedies for partition actions with the intention of avoiding partition by sale in a fire sale. First, under this proposed law, there are higher standards of family notification before the sale of a share. Frequently, partition actions start when one family member sells his share of the land to a non-family member, often a developer, who buys with the intent to partition. Higher standards of family notification keep other family members aware of who actually owns part of their property. In addition, under UPHPA, a court must consider how long that family has owned the land, and if the family would be homeless if the land was sold before a partition sale is ordered (National Conference of Commissioners on Uniform State Laws, 2010). However, courts are only required to consider these criteria; they do not have to legally act on it. Finally, UPHPA allows families to have a chance to buy-out other owners before a general partition sale occurs. Essentially, UPHPA gives co-tenants
options after a partitioning lawsuit has been filed. Unfortunately, it does not stop partitioning if the family cannot afford to buy out other groups.

UPHPA raises several good points about how to mitigate losses when partition occurs, it is a band-aid; it treats the symptoms of owning heirs property, and not the problem at the heart of this type of unstable ownership. It is also a reactionary solution; it only deals with issues that arise after a request for partition has been filed. Finally, it does not guarantee that, even if a buy-out occurs, that the family will be able to obtain clear title to the land; in most cases, the family can buy-out the land but will still hold the land in an heirs property structure. However, UPHPA places a high value on keeping property within the family, and forces courts to consider the ‘human cost’ of partition by sale. It is the goal of the Uniform Laws Commission, who drafted this act, to get it passed in every state; currently, it is only enacted in Nevada, although it has been introduced in Georgia and South Carolina.

Amendment to the Disaster Relief and Emergency Act

In addition to properties that consider partition policies, other policies have tried to address limited access to disaster relief programs by heirs property owners. Currently, the Disaster Relief and Emergency Assistance Act, FEMA, and USDA only give disaster relief to those who can prove clear title. One policy that attempted to change this was H.R. 1059 (111th Congress). This policy was a proposed amendment to the Disaster Relief and Emergency Assistance Act that provided eligibility for heirs of deceased homeowners to receive certain housing-related disaster assistance. Funds would be distributed to whatever heirs could prove they were living in the house (Text of H.R. 1059 (111th), 2009). Unfortunately, this bill was never passed (Text of H.R. 1059 (111th), 2009).
Modifications to the Road Home Relief Act

Another solution to limited access to disaster relief funds for heirs property owners are modifications of specific acts. One example of this is the modifications to the Road Home Relief Act. The Road Home Relief Act was instituted after hurricane Katrina hit the American Southeast in 2005 and devastated large areas of land. However, the original version of the act only provided relief to those that could prove clear title to their land (The Road Home Homeowner Program Policies, 2008). It soon became clear that large portions of homeowners were ineligible for this aid because they owned heirs property. However, the Road Home Relief Act – Revision 6.0, enacted in 2008, allowed homeowners to prove occupancy if applicant was at least one of the names listed on property tax records, not just deeds (The Road Home Homeowner Program Policies, 2008). This allowed many heirs property owners to claim FEMA funds after Katrina. However, it still excluded some heirs property owners who could not prove that they were heirs, or were not living in the home and paying the property taxes (e.g., if an elderly relative was living in the home but another relative was paying the property taxes). Furthermore, because the revision was not made until three years after the Road Home Act was enacted, many homeowners had already personally invested in rebuilding their homes, or had permanently abandoned the property. If homeowners had already invested their own money, they could not apply for the costs of those revisions to be covered by FEMA. In addition, because this revision only affects the Road Home Act, it is extremely limited in its scope. However, it is a move in the right direction.

Tenancy-In-Common Policies outside of the United States

Finally, when critiquing policies related to heirs property, it is important to consider heirs property policies in other jurisdictions or countries. One example is the
management of heirs property on Native American reservations. While heirs property is quite common on Native American reservations, heirs properties on Native American Reservations can only be partitioned with the consent of all property owners or at the discretion of the Secretary of the Interior, who retains ultimate control over Native American lands (Mitchell T. W., 2001). These requirements have two benefits: it is difficult to sell and partition properties, and tenants are not left homeless or forced off their land. However, this policy has no provisions for fractionalization of land, still does not allow homeowners to have clear title, and does not allow owners to access equity in their land.

Another example of different heirs property policies exists in St. Lucia and other Caribbean countries. In these countries, owners of “family land” (their word for heirs property) have trouble securing credit and “marketable title” (clear title); this limits the productivity of their land. However, there has been little land loss of heirs property in St. Lucia because partition rules dictate that one common owner cannot “seek partition without the consent of all the other common owners” (Mitchell T. W., 2001).

Conclusion

Heirs Property is a significant problem that is currently ignored and misunderstood, both by the public, individual heirs property owners, and elected and appointed officials. It is an unstable form of property ownership that limits the rights of owners and lowers community engagement and tax revenues for communities. Because heirs property owners are more likely to have vacant property, not live on their land, and face greater barriers to land development, they are not as likely to be engaged in their community. Because heirs properties are less likely to be developed or hold property
values equivalent to their neighboring properties, they generate less tax revenue for the municipality and lower property values for neighbors. This study has shown not only the characteristics of heirs properties in Wake County, but how the instability generated by these properties lead to economic and community losses at the neighborhood and county level. While more research about this topic needs to be done, finding quantitative data about heirs property will help policy makers to realize the real losses of heirs property, and encourage them to prioritize this important issue.
Works Cited


Appendix A. Wake County

Figure 8. Townships in Wake County

Wake County by Township
Appendix B. Maps of Heirs Property in Wake County

Figure 9. Heirs Property, Bartons Creek Township
Figure 10. Heirs Property, Buckhorn and Holly Springs Townships

Heirs Property, Cary Township

Legend

- Township Boundary
- Conclusive Heir Property
- Semi-Conclusive Heir Property

Figure 11. Heirs Property, Cedar Fork Township

Heirs Property, Cedar Fork Township

Legend

- Township Boundary
- Conclusive Heir Property
- Semi-Conclusive Heir Property
Figure 12. Heirs Property, Little River Township

Heirs Property, Little River Township

Legend
- Township Boundary
- Conclusive Heir Property
- Semi-Conclusive Heir Property

Figure 13. Heirs Property, Marks Creek Township

Heirs Property, Marks Creek Township

Legend
- Township Boundary
- Conclusive Heir Property
- Semi-Conclusive Heir Property
Figure 14. Heirs Property, Neuse, House Creek, and Leesville Townships

Figure 15. Heirs Property, New Light Township
Figure 16. Heirs Property, Panther Branch and Middle Creek Townships

Heirs Property, Panther Branch and Middle Creek Townships

Legend

- Township Boundary
- Conclusive Heir Property
- Semi-Conclusive Heir Property

Figure 17. Heirs Property, Raleigh and Meredith Townships

Heirs Property, Raleigh and Meredith Townships

Legend

- Township Boundary
- Conclusive Heir Property
- Semi-Conclusive Heir Property
Appendix C. Maps of Other factors

Figure 18. Percentage of Households that are Renter Occupied, Wake County

Percentage of Households that are Renter Occupied, Wake County
Figure 19. Percentage of Households that are Renter-Occupied, Raleigh area
Figure 20. Percentage of Households which are Vacant, Wake County
Figure 21. Percentage of Households which are Vacant, Raleigh area
Figure 22. Median Age of Population, Wake County

Median Age of Population, Wake County

Legend:
- Darker green = younger
- Lighter green = older

Median Age of Population in Years, by Census Track (2000 Census)
- 0-10
- 10-19
- 20-29
- 30-49
- 50+
- 50-64
- 65-74
- 75+

47
Figure 23. Median Age of Population, Raleigh Area