

Heirs' Property

How Tangled Title Can Lead to Property Vacancy, Abandonment, and Deterioration

To address vacant, abandoned, and deteriorated (VAD) properties, local governments must first identify what types of VAD properties exist in the community. Some properties are abandoned with no mortgage and near tax foreclosure. Some fall into disrepair during a long mortgage foreclosure process. In other cases, a property owner may die without a will, passing the property to multiple heirs and creating “heirs’ property.” **The lack of a clear plan of a succession can set properties on the path to deterioration and abandonment.**

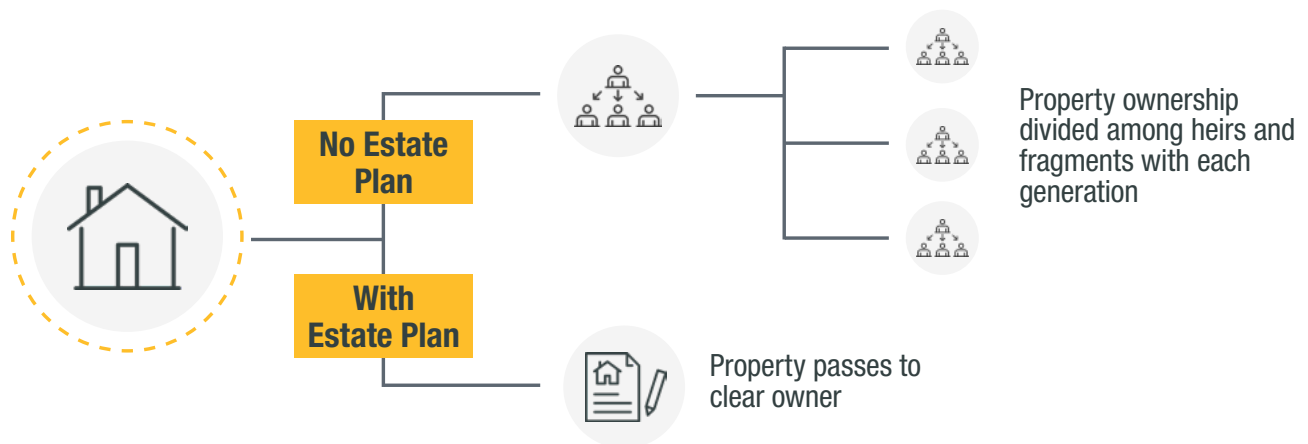
What is Heirs' Property?

When a property owner dies without a will or estate plan, state laws governing inheritance determine how the property is passed to family members legally entitled to it. Probate courts can clarify the distribution of real property (e.g., land and buildings), but some family members may be unaware of probate, lack the resources to use it, or distrust the system.

These unresolved property issues become more complex over time, especially with multiple heirs, or when heirs pass away, leaving their interest to other relatives. Resolving this heirs' property phenomenon—also referred to as tangled title, family property, or family land—requires tracking down all living heirs to clear the title and specialized legal expertise. This process is complex and often unaffordable for many families, especially if several generations have gone by since the original title owners passed.

What Happens to Property When the Owner Dies?

The answer depends on whether they have a will or have gone through probate.



Our Position in the Heirs' Property Landscape

Many organizations at the national, state, and local levels, including legal aid and other nonprofit legal service providers, specialize in helping families prevent and resolve heirs' property issues.

Community Progress helps state and local partners—primarily state and local governments—support these efforts to address or prevent heirs' properties that are or might become VAD properties.

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A Problem for Racial Equity and Generational Wealth

Heirs' property is one of the most unstable forms of property ownership for individuals and families. Heirs must coordinate maintenance of the property and payment of taxes or debts to avoid foreclosure. Speculators and developers can exploit vulnerable or disinterested heirs to gain an interest in the property and force property sales through a "partition" action, often acquiring the property for a fraction of its value and depriving families of both property and wealth associated with the land.

A conservative estimate found there are at least [half a million residential heirs' properties](#) across the nation. Estimates looking at all property types found a half million heirs' properties in the [South and Appalachia alone](#). Though heirs' property is widespread, it disproportionately affects Black landowners in the South due to the legacy of slavery and racist land ownership laws. Just [24 percent](#) of Black Americans have a will. The [significant income and wealth gap](#) between Black and white families also means Black households are less likely to have the funds to access legal assistance to resolve fractional ownership. The Center for American Progress estimates Black landowners lost about [90 percent of their rural and agricultural land](#) between 1910 and 1997—hundreds of billions of dollars of [lost wealth](#)—and heirs' property situations can cause further land loss.

Heirs' Properties and VAD Property

Heirs' properties are not necessarily a problem for neighborhood stability. Some are occupied, well maintained, and current on their property taxes. However, fractional, unrecorded ownership results in cloudy title, which makes it difficult—often impossible—to insure the property, get property tax relief, or secure funding like repair or rehab grants, loans, or disaster relief funding. Title issues also make it difficult to sell the property.

Further, some heirs may have no interest in taking care of the property, and distant heirs may not even know they own a share. As a result, heirs' properties can fall into serious disrepair and sit abandoned for decades, [harming neighborhood stability](#).

Common VAD property challenges—such as repair costs exceeding the value of the property—are exacerbated by the lack of clear title. The cost to clear the title to access these benefits, if the benefits are even available, can creep into the tens of thousands of dollars, further diminishing limited resources needed to invest in repairs or upkeep. Local governments may ultimately spend a great deal of resources, with little likelihood of success, attempting to compel distant or uninterested heirs to maintain or repair these types of properties. A University of Georgia survey found that of those respondents that frequently encountered heirs' properties in revitalization work, nearly 90 percent reported that heirs' properties disrupted their neighborhood revitalization efforts.

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What State and Local Governments Can Do About VAD Heirs' Property



Provide Education and Pathway to Legal Support: The most important investment is in helping prevent heirs' property issues in the first place. Local governments should work with and support community partners in their efforts to educate homeowners on the importance of having a will or estate plan. They should also offer discounted legal services to low-income owners for will or estate planning and support legal services to help existing heirs exit the probate process. By using existing touchpoints like property taxation, deed recording, and code enforcement, governments can refer current or future heirs to legal resources and education.

Analyze Data: Identify where heirs' properties exist in the community and if those properties are vacant, abandoned, or deteriorated, using available data. For example, starting with residential properties, compare the register of deeds and ownership records against death records or identify addresses without ownership changes in 20 years where the tax bill is being sent elsewhere. Cross referencing data will help local governments find likely heirs' properties that would not otherwise be identifiable from a single data source. This information could be used to facilitate outreach to those families around potential resources or programs to help resolve title or condition issues.



Make Key Programs Available to Heirs' Properties: Allow people living in heirs' properties to qualify for home repair grants, property tax relief, or payment plans, for example, by accepting affidavits from heirs. This helps protect an individual's housing stability and hopefully prevent an heirs' property from becoming another vacant property.

Explore Changes to State Law: Nearly 20 states have adopted Uniform Partition of Heirs' Property Act (UPHPA), which provides a series of due process protections to ensure heirs have adequate notice and opportunity to prevent or minimize the harm of a forced partition and sale of property. Additionally, [29 states and the District of Columbia](#) allow the use of some form of Transfer upon Death Deeds (TODDs), which could serve as a less costly, though limited, alternative to creating a will or probating the property. These tools can be a helpful part of a range of strategies to address some heirs' properties issues.



Ensure Clear Title in Property Tax and Other Public Lien Foreclosure: If heirs abandon property, especially in more urban environments, the property will negatively affect community stability. Tax and other public lien foreclosure tools should be designed to resolve fractured heirship and ensure that the foreclosure and sale of abandoned property transfers marketable, insurable title to the new owner.

Help Heirs Reclaim Lost Family Land: Where possible, local governments or land banks may be able to help certain heirs in reclaiming family land that has been lost to tax or other public lien foreclosure by selling tax foreclosed properties back to heirs or helping clear title. Programs should offer counseling and other financial and social services to ensure the heir has a strong understanding of and the ability to responsibly manage and rebuild their home and family wealth.





Snapshot: Programs Addressing VAD Heirs' Properties

Philadelphia, Pennsylvania

Tangled Title Fund

The City of Philadelphia awards [Tangled Title Fund \(TTF\)](#) grants to low-income individuals to clear legal title to their homes. TTF grants cover costs like probate fees, delinquent property taxes, and inheritance tax. Applicants are eligible for up to \$4,000, with an additional \$5,000 in some cases for high inheritance tax and transfer tax bills. The City's allocation of resources to resolve these issues helps prevent vacancy and preserve homeownership.

Texas

Senate Bill 1943

Adopted in 2019, Senate Bill 1943 (S. 1943) reformed the Texas Property Tax Code to improve heirs' property owners' [access to the homestead exemption](#). S. 1943 allows heirs to file an affidavit for the homestead exemption without going through probate to resolve all heirs' property issues, reducing costs for low-income households and making property taxes more affordable, preventing vacancy and potential deterioration by leaving homeowners with money to put towards property repairs.

Memphis, Tennessee

Neighborhood Preservation Legal Clinic

Launched in 2015 by the University of Memphis School of Law and the City Attorney's Office, supervised [law students working for the clinic help with casework](#) to resolve code enforcement issues with the City. To address code compliance challenges in heirs' properties, the clinic searches for an accountable owner to voluntarily [bring the property into compliance](#) so that the property does not end up in enforcement proceedings.

Washtenaw County, Michigan

Homes for Generations

The [Homes for Generations](#) program offers free assistance to families living in inherited homes. When the County Treasurer identifies families with unclear ownership and delinquent property taxes, the Probate Judge recruits attorneys and mediators to volunteer their time to determine ownership and waive probate and publication fees. The program preserves homeownership for families that would otherwise have been foreclosed upon for non-payment of taxes and allows access to tax code entitlements, financing, and other benefits.

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