



Fannie Mae and the Florida Housing Coalition are Partnering on Heirs' Property

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The Florida Housing Coalition is turning its expertise toward identifying and remedying heirs' property issues. In collaboration with Fannie Mae, the Coalition is creating a set of indicators to identify properties that currently have or are likely to develop heirs' property title issues and provide solutions that can help reduce and resolve heirs' property issues where they appear.

Heirs' property refers to a home or land that passes from generation to generation without a will or legal documentation of ownership. Heirs' property, as described by MacArthur Fellow and noted property law scholar Thomas W. Mitchell, is "a subset of tenancy-in-common ownership, the most prevalent type of common ownership in real property in the United States. Those who own a fractional interest in a tenancy-in-common property do not own any particular 'piece of the property' but instead own a fractional interest in the entire property." In most cases, heirs' property involves landowners who died without a will. In Florida, routine real estate transactions, mortgage financing, or liability insurance cannot occur without the agreement of all co-owners. In the disaster recovery context, lives and property are at risk and present a vulnerability that must be addressed.

One effect of landowners dying without a will or proper legal documentation is that ownership can be split between multiple heirs, with many of these heirs difficult to trace. There can be instances where a piece of heirs' property has 15 co-owners, each owning a 1/15 interest in the property, and each with an equal right of possession and right to sell or encumber their interest to an outsider. While heirs' property affects people of all races and affects both rural and urban communities, it is more common within rural African American communities because of low land values, distrust of the legal system, and lack of access to legal services. Most studies of heirs' property have covered the South, particularly the "Black Belt" region that runs across the South and includes the highest concentrations of rural Black residents, but studies in Appalachia and the border region of Texas have similarly found very high levels of heirs'

property issues among extremely low-income communities who lack access to legal services.

Because heirs' property may have multiple co-owners with equal rights to use, sell, or encumber their proportionate interest, clear title issues can arise when seeking financial support to improve or repair the property. When clear title cannot be established, the property cannot be sold or mortgaged without the agreement of all heirs, unless a co-tenant seeks a forced partition by sale. The heirs typically cannot qualify for housing rehab programs or secure financing for needed repairs. It is unclear if heirs may purchase hazard, flood, wind, or liability insurance for the property and contents. In many cases, deferred maintenance has resulted in substandard housing, leading to decreased value and ineligibility for insurance.

These properties tend to be undervalued by tax assessors and property appraisers, reducing the capacity for wealth building among the heirs. The deteriorated condition of the properties renders them at risk of significant damage with little option other than demolition in the event of severe damage. This can lead to prolonged or permanent displacement and eventual abandonment. The co-tenant heirs often cannot participate in government programs offered by USDA, FEMA, SBA, or HUD. They cannot qualify for loss mitigation programs when facing foreclosure, and in the disaster context, it may be difficult for survivors to receive FEMA Individual Assistance, though recent policy changes make it more accessible.

The Climate Justice team of the Coalition's Center for Racial Equity is tackling heirs' property issues as its first priority.

The priority for this housing mitigation and recovery strategy is to preserve lives and properties of households that are low income, of a racial minority, elderly, and who live with disabilities in special flood hazard areas. Resolving heirs' title issues requires qualified legal teams, resources for court costs, and investigators to search for co-tenant heirs. The restoration

of clear title to heirs will open the door for financing, disaster assistance, and mitigation, leading to insurable assets.

A key feature of the heirs' property issue is its near invisibility; while property appraisers will sometimes notice when an owner has died and a property now belongs to heirs, the issue is often missed. Over generations, properties can be owned by dozens and even hundreds of descendants while governments and legal services providers remain in the dark. The Coalition believes that heirs' property issues are a risk that must be assessed along with other social and structural vulnerabilities.

The Florida Housing Coalition, in partnership with Fannie Mae, has identified three Florida counties to study and understand the impact of heirs' title issues and associated disaster impact and future disaster risk. These three counties, Duval, Alachua, and Gulf, are all located in North Florida and with significant African American populations, provide the perfect urban, small city, and rural study areas to understand the impact on heirs' property in these very different geographies. Working with the Shimberg Center for Housing Studies at the University of Florida and Dr. Christopher Emrich at the University of Central Florida, the Coalition is gathering parcel, demographic, and vulnerability data. With these data sets, the Coalition will rank residential parcels across the counties by risk of being heirs' property. These layers can be used by legal services and local governments to identify homeowners in need of title clearing support and will also be used to further understand disaster vulnerability and the impact of climate change.

The Coalition will use this study to provide solutions on how to prevent and remedy heirs' property issues. The solutions will cover how low-income families with heirs' title issues can clear and avoid legal issues, and heirs' title holders can access adequate financial resources and insurance even in the absence of clear title, as well as other conclusions that will arise from exploring the wealth-building and equity impacts of heirs' property. The Climate Justice team will look at all aspects of the issue, from lack of access to legal services and proper will drafting to the lending standards set by Fannie Mae, Freddie Mac, USDA, SBA, HUD, and other institutional parties. Through this work, the Coalition aims to increase awareness of heirs' title issues in the disaster mitigation context and to preserve the generational wealth of the many communities of color that are disproportionately harmed by not having clear title.



The Four Corners of Climate Justice

The Florida Housing Coalition Center for Racial Equity Climate Justice Team will focus on the four corners of climate justice, the framework for ensuring sustainable housing infrastructure that is resilient to the impacts of climate change.

The Four Corners Are:

People: all residents, especially children, the elderly, those with disabilities, and vulnerable to natural hazards, are included in the planning, mitigation, response, and disaster preparation process.

Places: special flood hazard areas, heat islands, and disadvantaged communities are prioritized for mitigation and recovery programs, regulatory initiatives, and incentives to encourage resilient land uses.

Houses: Structures that are vulnerable to flood, deterioration, wind, heat, and legal title issues, such as older mobile homes, are prioritized for mitigation treatments including rehabilitation, replacement, buyout, or elevation.

Values: All residents will know they can safely shelter in place during emergencies (unless ordered to evacuate). Communities of all types, including disadvantaged communities, will have access to resources to restore the safety, insurability, and marketable title to their homes. Equitable disaster planning, preparation, response, and mitigation will be central to all public policy making, including adherence to scientific data, working across all disciplines and agencies, with initiatives that are both proactive and reactive to correct past injustice and protect housing infrastructure from natural disasters and a changing environment.



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