

Below is a draft of a document (current as of 6/16/20) I have been working on for several weeks. My hope for this document is that it can be thoughtfully discussed and processed by the Race and Equity Sub-Committee of the Gainesville City Commission and eventually by the full commission with input from the community and staff along the way. I do not expect that this idea will be fast-tracked for funding for Fiscal Year 2021, but that we can work out the details inside city operations and bring along partners to make it a reality no later than Fiscal Year 2022.

### **Heirs' Property and Racial Equity in Gainesville**

Thousands of residents of our city have been generationally deprived of many of the tangible benefits of homeownership, despite having shouldered the responsibilities of the same. By assisting the owners of heirs' properties in gaining clear title to their homes, the City of Gainesville can empower these residents, improve neighborhoods and increase its tax base.

"Heirs' Property" is a legal concept that occurs when a property owner dies without a legally-sufficient will passing the property to a beneficiary. When this happens ownership of that land does not smoothly and legally transfer the way the owner might have wanted. Instead, legally, the property is divided among the deceased's heirs. As more generations die without leaving wills, the property is further divided among successive generations, leaving each "owner" with a smaller fraction of interest as time moves on. In some cases, families handed down property this way on purpose. They did not trust the courts to effectively handle their will so they assumed this method would keep their land in the family. But the dilution of ownership interest over time actually creates a crisis for the relative living on the land. In more technical terms, heirs' property is "a form of default collective ownership where descendants receive a fractional interest"<sup>1</sup> in a piece of property. That interest decreases exponentially as the fractions increase geometrically with successive generations.

A person might live on property handed down to them for years and consider it theirs. But, this person cannot claim clear title to the land because the deed has not legally transferred to them. This means that even an owner who has lived on and cared for the property in question for decades likely can't borrow money against it, can't substantially improve it, can't receive federal disaster relief for it, can't properly insure it ... but *can* be forced off of it with little recourse.

While not unique to the south, or to landowners of color, this is most distinctly felt by African-Americans in southern states. After generations of family land passing without wills, there are many parcels that are home to one family but legal ownership is actually divided among many of their distant relatives. Although this has historically been a more rural issue, happening on land used for agricultural purposes, it is increasingly an urban/suburban problem as cities grow over time. The problem for owners is clear: The Great American Dream of property ownership becomes ephemeral at best and burdensome at worst for the primary owners. Their literal equity exists

only as an academic exercise rather than as a tool for greater social equity and legal standing. These primary owners deserve for their legal rights to match their use of the land.

Beyond the personal, however, when the property exists inside an urban/suburban setting it creates a problem (or at least a series of lost opportunities) for the municipal entity and the community as a whole. Properties that exist for years - generations - without clear title are at greater risk of slum and blight, which affect the value and potential of surrounding properties. One plot of heirs' property can pull down the value - taxable and otherwise - of an entire block.

A recent Florida Bar Journal article indicates that within the limits of the City of Gainesville there exist 833 heirs' properties, and that they are primarily located in "several historical working-class, predominately African-American neighborhoods."<sup>2</sup> Throughout the rest of Alachua County there are another nearly 800 such properties. If we conservatively assume that each property is worth only a low \$25,000 each, the total value represented in Gainesville alone is greater than \$20 million.

An effort to bring clear title to only the properties inside Gainesville's city limits could easily and positively impact thousands of owners, most of whom are black. In the process, the surrounding neighborhoods would have the potential to improve, and the taxable value to the larger community would have the opportunity to increase by four or five times current value. The process of clearing title, however, is costly and complicated for individual, inexperienced heirs to maneuver.

If the City of Gainesville were to commit resources - preferably in cooperation and partnership with Alachua County - to a program that helps all of these fractional-interest-owning heirs develop clear title to their properties it would be a threefold investment in increased long-term tax revenue, neighborhood improvement, and most importantly, racial equity. In fact, there may be no more-tangible tool for equity empowerment and racial reconciliation than helping to cure this singular inequity.

There are national efforts being made to assist in improving the lot of heirs in these situations, primarily the creation of a Uniform Partition of Heirs' Property Act<sup>3</sup>. The Florida Legislature passed the UHPA this past legislative session<sup>4</sup>. UHPA is a powerful tool, but is only part of the solution. Local communities must step up as well, and there is a clear municipal interest in doing so.

How might Gainesville proceed? By funding an Office of Heirs' Property Assistance and empowering staff to reach out to known owners of heirs' property with the tools to help them work toward a clear title at no cost to the owners. Partnerships for this department could be found through the court system and through Alachua County government.

The end result would be empowering thousands of property owners whose families were generationally deprived of their rights of ownership, as well as improving neighborhoods and increasing the value of the city's tax base.

1. <https://www.floridabar.org/the-florida-bar-journal/the-disproportionate-impact-of-heirs-property-in-floridas-low-income-communities-of-color/>
2. <https://www.thenation.com/article/archive/heirs-property-reform/>
3. <https://www.uniformlaws.org/committees/community-home?CommunityKey=50724584-e808-4255-bc5d-8ea4e588371d>
4. <https://www.flsenate.gov/Session/Bill/2020/580>