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## **OWNERSHIP CHARACTERISTICS OF HEIR PROPERTY IN A BLACK BELT COUNTY: A QUANTITATIVE APPROACH\***

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### ABSTRACT

The existing literature identifies heir property, land held communally by heirs of someone who has died without a will, as a primary cause of land loss among African Americans and a major factor contributing to persistent poverty in the South's demographically-defined Black Belt. Despite the importance of this form of property, little systematic research has been done to quantify the extent of heir property or the potential wealth tied up in clouded titles. This study documents the presence of more than 1,500 heir property parcels in one Alabama Black Belt county (Macon) and describes the methodological challenges involved in such research. Our analysis identified distinctive characteristics of and significant relationships between a set of key ownership variables (taxpayer location, size and value of land, structural improvements, and municipal incorporation). We argue the need to document the extent and consequences of heir property to spur action by legislators, Extension Systems across the region, and pro-bono attorneys, among others, to address the personal and economic costs associated with this form of insecure ownership.

When a landowner dies intestate (without a probated will), state laws of descent and distribution regulate what happens to the property, which usually gets passed as an undivided unit to the decedent's heirs. Because there is no right of survivorship, the property becomes further fractionalized and the number of co-owners increases with each passing generation. Often only one or a handful of heirs remain on the land, paying taxes and maintaining the property. Yet these co-owners hold no more legal claim to the land than those living several states away. This form of property ownership (legally known as "tenancy in common") is common among low-income rural populations, including Appalachians and Native Americans (see Deaton 2009; Gilbert and Sharp 2001). The prevalence of heir property relegates "a broad group of African Americans who inherited land through intestacy to a disadvantaged class of property ownership" (Rivers 2007:7).

Heir property can be a source of family unity and a place of sanctuary in time of need, but the literature is full of conflicts over heir property that have torn

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families apart (Dyer and Bailey 2008; Lewan and Barclay 2001; Persky 2009). There is a consensus in the literature that heir property has been a primary source of land loss among African Americans, including black farmers (Gilbert et al. 2002; Kelley 1985; Thomas et al. 2004; Zabawa 1991). These publications generally stress the importance of addressing heir property issues, but offer limited empirical evidence of the extent or economic impact of this unstable ownership form. This in turn has contributed to relative inattention to heir property as a phenomenon that has contributed to land loss and persistent poverty in rural areas where African Americans make up most of the population.

Generations of black landowners have died without wills, leaving large amounts of land under “clouded” titles. Because land deeds remain under deceased landowners’ names (instead of reflecting the names of current owners), tracking how much land is held as heir property is difficult. The literature on heir 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 heir property (Graber 1978b; Gilbert and Sharp 2001; Rivers 2006). 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 heir property.

This study reports on the results of a quantitative analysis of heir property in Macon County, Alabama, part of the South’s demographically defined Black Belt. We describe the challenges inherent in collecting quantitative data on the extent of heir property and discuss the importance of such data in attracting the interest of legislators and policy makers so that remedies may be found to protect against future land loss. Our study of Macon County represents a start to systematic collection of data on heir property. We provide a basis for estimating the number of families affected and the wealth tied up in clouded titles—wealth that, were it accessible, could potentially change the economic, political, and social fabric of the Black Belt.

## LITERATURE REVIEW

In 1910 the number of farm acres owned entirely by black farmers reached a peak of more than 15 million acres (U.S. Department of Commerce 1913). Since then, that number has dropped to about 3.4 million (USDA 2007). African Americans have lost land through a variety of means: tax sales, partition sales, land sales to non-African Americans, limited access to legal counsel, forceful land takings, discrimination by public and private institutions, and failure of the USDA

and the land grant complex to provide adequate resources to small farmers (Thomas et al. 2004; Land Loss Fund 2005).

The importance of landownership as a source of political and social strength and stability for rural African Americans has been well documented (Gilbert et al. 2002; Nelson 1979; Salamon 1979). Small farms fill economic needs, support community growth, and can be a source of labor and on-the-job training for younger family members (Brown and Christy 1994; Zabawa 1991). Widespread ownership of land also ensures a more equal distribution of power and wealth. Loss of black-owned land can have devastating results, including loss of independence, and lack of control over and participation in social, economic and political activities (Zabawa 1991). Racism in the past and still today is a major factor in black land loss (Gilbert et al. 2002). There is a history of lawyers, land speculators and county officials taking advantage of limited education and literacy of African Americans by forcing tax sales, partition sales and foreclosures that lead to land loss (Zabawa 1991).

Because it is collectively owned and lacks clear title, heir property formed through intestate succession is the source of numerous legal problems. Owners cannot use the land as collateral for home mortgages (Tinubu and Hite 1978; Deaton 2005), and are ineligible for virtually any USDA program requiring clear title, including USDA Rural Development loans for home construction, repairs or weatherization, or the full suite of farm programs including crop insurance (Graber 1978a, 1978b; Dyer 2007). Heir property owners may be unable to sell timber off their land; because they do not want to be held liable for failing to make sure all owners were paid, most companies will not purchase timber off a tract without clear title (Dyer 2007). Loss of land through tax sales is another common consequence because as the number of owners grows, it becomes harder to keep track of who is paying the taxes. Landowners have trouble contacting one another and organizing to save the property, which may be sold to recoup unpaid taxes (Thomas et al. 2004). Yet partition sales, where one or several co-owners force a sale of the property to the highest bidder (described in more detail below), may be the primary cause of land loss among African-American owners of heir property.

Heir property is most commonly associated with poor, rural areas and much of it is or once was in agricultural production (Tinubu and Hite 1978; Dyer 2007). Zabawa (1991) shows that heir property negatively affects access to participation in commercial agriculture. This is so in part because improvements to the farm, which would increase its value, could be dissipated among many family members if any one co-owner decided to force a partition sale of the property (McDougall 1980). The same could happen to any individual who built a house on heir property;

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although one individual paid for the house, that individual would have no increased ownership interest in the property were it sold through a partition sale. In short, there are serious disincentives in place for permanent improvements being made on heir property (Deaton 2009).

In their South Carolina study, Tinubu and Hite (1978) identify several characteristics directly related to type of ownership (fee simple versus heir property). They discovered that heir property owners in South Carolina are more likely to be African American, have less education, to be older, and have lower income. As a whole, this population (despite the capacity in which they hold their land) are often subject to many economic disadvantages unrelated to landownership status. Economic value of heir property as a source of income or repository of wealth is limited because of difficulties in collective ownership. With each succeeding generation, the number of shares increases while the size of interests decrease, making it more difficult to farm or reach consensus about land-use decisions (Zabawa 1991). Diminished ability to use the land productively or to obtain credit, Kelley (1985) states, increases the risk of involuntary sale of land to pay property taxes.

Deaton et al. (2009) explore consequences of heir property in Appalachia, characterizing primary concerns of cotenants as *efficiency* and *displacement*. Efficiency concerns relate to underuse of the property, particularly natural resources, such as timber and mineral deposits. Displacement concerns relate to heirs' (or courts') rights to force a sale of the property. The two concerns are not mutually exclusive, and may both pertain to non-pecuniary interests of co-owners. Their work makes it clear that heir property as a phenomenon is not limited to African Americans in the South.

### *Partition Sales*

One of the most devastating ways families can lose land is through partition sales, a forced sale of heir property. Most of the literature on heir property focuses on the detrimental impact partition sales have had on black landownership (Brooks 1979; Thomas et al. 2004; Zabawa 1991; Mitchell 2001; Craig-Taylor 2000; Rivers 2007). Partition sales occur when any co-owner decides they want to liquidate their holding. When partition sales are sought by family members, it is usually family members who do not live on or near the property and do not have strong ties to the land (Mitchell 2001). Sometimes, the co-owner may approach other members of the family asking them to buy out his or her individual share. If the family is unable or unwilling to do this, the co-owner has the right to force a partition sale by suing the

remaining heirs, forcing a court-ordered sale of land to the highest bidder. Developers or real estate speculators may purchase a distant relative's share, then petition the court to have this share sold – forcing the whole tract of land to be sold (Zabawa 1991; Brooks 1979). Family members who live on the land are often unable to outbid others (Brooks 1979; Thomas et al. 2004). Proceeds are distributed among the co-owners according to their fractional interests, but only after the costs of conducting the sale and attorney fees are deducted (Thomas et al. 2004). Frequently it is the case that the land is sold for far less than its true value (Craig-Taylor 2000; Mitchell 2005; Dyer 2007).

Alabama (and other) state laws allow for physical partitioning so an interest holder can sell his or her share separately from the whole parcel. However, most courts order the sale of the entire property on the assumption that sale as a unit will bring a higher price than the sum of the subdivided interests (Mitchell 2001). In adopting this approach toward land, courts place monetary value over historical, familial, cultural, or emotional values the land may hold for its owners. Sometimes, courts have justified ordering single unit sales instead of physical partitions because topography makes division unequal, or division would force some parcels to be landlocked and inaccessible, or because special attributes such as water sources or hunting grounds make division complex (Craig-Taylor 2000). Of course, Craig-Taylor says that these attributes cited by courts in favor of sales may be the exact reasons families oppose the sales to begin with.

Using case file numbers collected from legal ads printed in the local newspaper, Dyer (*in press*) examined courthouse records for 12 partition cases conducted at the Circuit Court of Macon County (the county where the present study was conducted) covering the period 1997 to 2006. In five of 12 cases, the property was sold to someone outside the family. In those cases resulting in sale of the property, defendants (those opposing the sale) individually received an average of \$2,800 from the sale proceeds, while plaintiffs received an average of \$4,300.

### *The Two Faces of Heir Property Ownership*

The literature demonstrates clearly and convincingly that heir property represents serious constraints to economic growth and family security against loss of land. Yet some heir property owners are clearly not interested in clearing their title and would rather that the land remain as heir property even if this means the land has limited use as collateral or for economically productive purposes (Dyer and Bailey 2008). Pearce (1973) suggests that it is possible original landowners “may have intentionally not transferred the property before or at death, hoping to

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guarantee each heir a place to live ... without fear of being ousted.” That author suspects, however, it is more likely that heir property is the result of “lack of awareness” concerning estate planning. There is confusion about tenancy-in-common laws, as Graber points out: “Many blacks still believe that Heirs Property is a blessing, that this confused ownership protects them from developers” (1978a:271).

Dyer (2007) points out that heir property can serve as a refuge, a place to call home and live among members of an extended family. This quality may represent a small measure of control over their lives and a form of security. Families often live in compounds, sharing space and communal resources (Rivers 2006, 2007). In other cases, supportive communities of kin could maintain a “homeplace” and reach consensus for the benefit of all. While some cases of conflict result in land loss, many others result in stalemates that can last years, or even generations. This is not surprising given the likelihood that as the number of interests increases, so too will the number of opinions concerning what should be done with the property and the complexity involved in settling legal disputes (Craig-Taylor 2000; Deaton et al. 2009). Researchers have shown that family infighting is a significant barrier to settling heir property issues (Deaton et al. 2009; Tinubu and Hite 1978; Rivers 2006; and Dyer and Bailey 2008).

*Efforts to Quantify the Extent of Heir Property*

Various authors have offered estimates of the extent of black-owned heir property ranging from “one-third of black-owned land from North Carolina to Mississippi” (Graber 1978b) to “as much as 40 percent of black-owned rural land” (Gilbert and Sharp 2001) to “more than half of all ‘black-owned’ property in the rural South” (Rivers 2006). These authors, however, present no clear basis for these estimations.

Mitchell highlights problems with data available on heir property, and on partition sales specifically: “records of these cases are inaccessible because they exist only in local courthouses that tend to be located in small towns dotted across the rural South” (2005:599). Because there is little data of any kind about partition sales of heir property, Mitchell said, most scholars rely on anecdotal evidence and generalized statements made by advocacy organizations. Advocacy groups generally are not able to conduct in-depth research because of financial, time, and labor constraints. The lack of quality data, Mitchell states, makes it difficult to evaluate broad and often reiterated claims about the impact of heir property and partition sales on black landownership. He stresses the importance of conducting

empirical research on this understudied legal topic, and how such data would be useful in shaping public policies and programs of advocacy organizations. Mitchell proposes employing a “bottom-up” data collection approach to gain a better understanding of how the law affects people in their everyday lives.

We could find only three systematic efforts to examine the extent of heir property. In their survey of subscribers of three rural electric cooperatives in South Carolina, Tinubu and Hite (1978) drew the conclusion that heir property owners were likely to be more reluctant than fee simple landowners to reply to a questionnaire about their land. In their estimation (based on responses of 1,067 households), approximately 8.5 percent of the land in South Carolina valued at \$779 million was heir property. The authors state: “If intestacy is causing real property of such large values to be out of the stream of economic activity, the state’s economy is suffering a substantial loss, because of the existence of the intestate real property problem” (1978:21).

The Coastal Community Foundation in Charleston, South Carolina, collaborated with the nonprofit group Trident Urban League to quantify the amount of heir property in two counties and in several communities and Sea Islands. They could identify 2,000 tracts of heir property in one South Carolina county, and 1,300 tracts—amounting to approximately 17,000 acres—in another (Rivers 2007). The methods used in this study were not available.

A third study by the Southern Coalition for Social Justice (2008), estimated that in Orange County, North Carolina, there were 475 parcels of heir property. SCSJ relied on a list of heir property owners supplied by someone in the Orange County Land Records Office who also offered guidance on how to interpret the data. Using this information, along with data from the Register of Deeds Office, the SCSJ concluded that heir property parcels had an average acreage of 9.4, a median acreage of 1.1, and totaled approximately 5,623 acres, about 2 percent of all land. In concluding, the SCSJ states: “[I]t is clear that there are many more parcels held as heirs’ property than anyone would have expected ... it is also obvious that heirs’ property occurs no matter the total size/acreage of the property” (2008:11).

## SETTING

Macon County is located in east-central Alabama and is considered part of the state’s demographically defined Black Belt. Like other counties in this region, Macon has a large African American population (84.6 percent) and high numbers of families living below poverty (17 percent) (see Table 1). According to the 2002 Census of Agriculture, which tracks ownership of agricultural lands, approximately



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Table 1. DEMOGRAPHIC PROFILE OF STUDY COUNTY, BLACK BELT, ALABAMA, AND THE U.S.

VARIABLE	BLACK				
	MACON COUNTY 2007	MACON COUNTY 2000	BELT AVG. 2000 <sup>1</sup>	ALABAMA 2007	UNITED STATES 2007
Population. ....	22,549	24,105	N/A	4,585,900	298,757,310
African American population (%) . ....	N/A	84.6	65.5	N/A	N/A
Population 65 years and over. ....	14.9	14.0	14.1	13.4	12.5
Families below poverty (%).....	17.0	26.8	27.1	12.9	9.8
Median household income (\$). ....	26,670	21,180	22,301	40,052	50,007
Less than high school degree (%)..	23.9	30.0	34.3	20.0	16.0
Disability status (%).....	21.7	29.6	29.0	20.3	15.1

Source: U.S. Bureau of the Census 2000, 2007

<sup>1</sup>2007 data were available for only three Alabama Black Belt counties.

19,982 acres in Macon County were operated by black or African American operators (detailed county level data from the 2007 Census of Agriculture were not available at the time this was written). Of those acres, 8,249 acres (41 percent) had more than one black or African American operator; in other words, more than one person (may include family members) was involved in day-to-day farm decisions. The 2007 Census of Agriculture reported that 17,073 farm acres in Macon County had a black or African American operator. Other social and economic characteristics (Table 1) paint a bleak picture of the county’s social and economic conditions with low rates of education and high rates of poverty and disability. These rates are, in fact, deceptive as the rates of poverty and disability among African Americans are far higher than those of the population as a whole, just as the proportion of African Americans who have achieved a high school diploma are lower (U.S. Bureau of the Census 2000). Macon County is the only Alabama Black Belt county for which the parcel data we sought were available electronically. While this may suggest the county is more progressive than the other 11 Black Belt counties in the state, Census Bureau statistics comparing Macon with the region demonstrate it suffers from many of the same socioeconomic challenges.

Macon County is characterized by many of the negative attributes of the South's demographically-defined Black Belt region, which runs from coastal Virginia south to Georgia and thence west to Arkansas and eastern Texas. Macon County has a rich agricultural, political, and social history, and is home to Tuskegee University, the Tuskegee Airmen, and the legacy of George Washington Carver. Macon County is also where the Prairie Farms project was established. Prairie Farms was a colony created by the New Deal Resettlement Administration in the 1930s to help black sharecroppers become landowners (Zabawa and Warren 1998). Nonetheless, Macon County was like many other Black Belt counties of the South where agricultural production was dominated by white-owned cotton plantations and black sharecroppers trying to make a living. Along the way, some African Americans were able to buy land, both for farming and for their homes. Heirs of these early African American landowners today struggle over this land, which to many is patrimony, home and sanctuary, to others (mostly those who have moved away) may have little meaning, and to yet others represents a potential source of cash if the land were to be sold.

#### DATA COLLECTION

Individual land parcels were the unit of analysis for this study and all parcels identified as heir property according to Macon County property tax records were examined. The Revenue Commissioner's office in Macon County produces a list each year of property tax accounts called the Collections Report. The 2007 Collections Report, however, was unavailable because it had not been bound yet. Because it was unavailable, the lead author (after multiple visits and after establishing a rapport with office workers and the revenue commissioner) was provided with a boxed copy of the Account Status Report for 2007 (see Appendix for a facsimile of a page from the Account Status Report). This list provided names with which parcel data could be accessed electronically.

Among other things, the Collections Report and the Account Status Report provide for each tax payer account the name(s) on the deed(s), the name of the person to whom the tax notice is sent (if it is someone other than the landowner), the name of the person who pays the taxes, and the amount they pay. These reports were only available in hard copy and only provided information by account, not parcel (one person may have multiple accounts and one account may include multiple parcels). The Account Status Report contained largely the same information as the Collections Report, but sometimes, the information was cut short

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because of the smaller printout format. The Account Status Report also includes accounts that are no longer active.

In the Collections and Account Status reports of the Revenue Commissioner's office in Macon County, there are numerous accounts listed in which, following the landowners' names, it says "heirs of" in parentheses. Sometimes, it says "both dec'd" following landowners' names. According to workers at the office, these are property accounts in which family members of the deceased landowner have told the office of their relative's death and wish to pay the taxes in his or her name. Based on discussions with workers at the Revenue Commissioner's office, these were understood to represent cases of heir property. These cases may not include all cases of heir property in Macon County, but we are confident that the ones so identified are indeed heir property.

These self-identified property tax accounts provide the data documenting the extent and characteristics of heir property in Macon County used in this study. According to workers at the Tax Assessors office, there are other properties not on our list that are likely to be held as heir property, but there is no way to know this for sure without contacting each individual owner. Heirs may not notify the clerk that the landowner has died if the family believes the land is vulnerable to speculators. Recording an owner's death in the Revenue Commissioner's office might lead to a series of efforts by people outside the family to obtain the land through legal or other actions. As for documenting the extent of heir property in Macon County, we are confident that our data provide a conservative—and maybe a very conservative—estimate of the extent of heir property in Macon County.

Accounts identified as heir property by "heirs of" or "both dec'd" in the Account Status Report were recorded by name into a spreadsheet. Account numbers were cross-checked with those found in the Revenue Commissioner's copy of the 2006 Collections Report (which included lines 1 and 2 of the assessment record) to get the most thorough list possible. Names were also cross checked with records found on QPUBLIC, a public access network operated by a company that provides web services for tax assessors throughout the Southeast, including Macon County ([www.qpublic.net/al/macon](http://www.qpublic.net/al/macon)). Of the 23,997 accounts listed in the Account Status Report, 2,313 were designated as likely to be heir property. This represents a total of about 9.6 percent of the accounts. Once inactive heir property accounts (old accounts for which no taxes were owed) were removed from the spreadsheet and parcels for remaining accounts recorded (some accounts had multiple parcels associated with them), a total of 1,516 parcels were included in the analysis.

Once names of landowners were collected, they would be used to pull up data electronically online. QPUBLIC yielded a variety of information for each parcel including land acreage, address of the tax notice recipient, total land value (for 2007 taxes), improvement value (for permanent structures such as homes, or additions, such as fireplaces), years structural improvements were built, parcel number, and section, township and range for each parcel (lands in Alabama are divided in a system of rectangular surveys, with each section representing one square mile). Records also include a link to a map of the parcel. For those parcels that did not list acreage, an Area Tool was used to outline the parcel on the parcel map to determine acreage. Computer screen images of a parcel listing and parcel map on QPUBLIC are available in the Appendix. In a handful of cases, parcel information was not available online, so it was acquired by looking at the electronic assessment records found only in the computer at the Macon County Revenue Commissioner's office in Tuskegee.

Variables included in our statistical analysis include: size of parcel, value of land, value of buildings and structural additions (called "improvements" by the tax assessor and in our tables), appraised market value (land plus permanent structures), whether the taxpayer lives in Alabama, whether the parcel is in a municipally incorporated section, whether there are structures (e.g., a house) on the land, the most recent year improvements or structures were built, and the value of the land per acre. Once data was compiled, it was entered into SPSS to obtain descriptive statistics and run analyses.

## RESULTS

Descriptive statistics for heir property in Macon County are displayed in Table 2. Many records (about 45 percent) did not state acreage for the parcels. These parcels' total land values were usually lower, and descriptions often stated. The properties were lots within subdivisions, indicating the parcels were likely urban, and therefore smaller. For these missing values, the Area Tool feature of QPublic was used to determine acreage. Only four parcels with no listed acreage did not have parcel maps available. The mean acreage of the study parcels for which data were available was 10.54, with a median of 1 acre. The acreage under heir property ownership in Macon County is 15,937.07. This represents about 4.1 percent of the land in the county. This is what we can document and should be considered a conservative estimate.

According to the Property Tax Division of the Alabama Department of Revenue, all taxable real property in Alabama (except Public Utility property) is

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Table 2. DESCRIPTIVE STATISTICS OF HEIR PROPERTY IN MACON COUNTY

VARIABLE	N	MEAN	MEDIAN	SUM	STANDARD DEVIATION
Acreage of parcel. ....	1512	10.54	1	15937.07	25.11
Appraised value per acre.....	1512	\$5867.98	\$2,920		\$5,971.20
Total appraised value of land.....	1516	\$16,510.88	\$5,020	\$25,030,500	\$32,485.74
Appraised value of improvements.....	581	\$33,090.71	\$27,080	\$19,225,700	\$25,738.05
Appraised value of property. ....	1516	\$29,192.74	\$15,830	\$44,256,200	\$39,353.02
Location of taxpayer (0=outside Alabama, 1=in Alabama).....	1516	0.70	1	1066	0.46
Incorporation (0=no, 1=yes). ....	1359	0.43	0	587	0.50
Improvements (0=no, 1=yes). ....	1516	0.38	0	581	0.49
Year of latest improvement.....	518	1957.52	1960		18.72

NOTE: Values included in table are market values determined by county appraiser, not assessed values at which the property owner is taxed (usually 10 percent of current use value).

assessed at the local level by a county assessing official (Alabama Department of Revenue 2009). Appraised values, along with classification (kind of property), are used to determine assessed values. According to a clerk in the Macon County Revenue Commissioner’s office, every year a county appraiser uses state guidelines and local sales data to determine the average value of land in different areas of the county. Using these estimated values, along with individual characteristics of parcels (type of land, whether it is located on a paved road, etc.), each property’s approximate market value is determined. The assessed value (10 percent of estimated market value for residential property) is then multiplied by the county millage rate and any exemptions are subtracted to determine taxes due.

Based on the value assigned to the properties by the county, the nearly 16,000 acres of heir property in Macon are valued at more than \$25 million; if including permanent structures on lands, that figure climbs to more than \$44 million. The average value of the land for each parcel is \$16,510, with a median value of \$5,020,

while total appraised value (land plus structures) averaged \$29,192, with a median appraised value of \$15,830. The mean value of parcels on a per-acre basis (market value of land divided by acreage) was \$5,867.98, with a median value of \$2,920 per acre. Approximately 38 percent of the parcels have structural improvements. The mean amount of improvement value (for those parcels that have them) is \$33,090, with a median value of \$27,080.

The average size and values of our study parcels are smaller than those involved in partition cases reviewed by Dyer (*in press*). The properties that were the subject of partition sale lawsuits between 1997 and 2006 had a median acreage of about 20 and a median sale price of \$24,050—approximately \$8,000 more than the median appraised value of all heir property in Macon County.

#### *Taxpayer Location*

Of the 1,516 parcels of heir property, approximately 30 percent of those paying taxes on the land live outside Alabama, most notably in Ohio, Michigan, Illinois, and New York. Co-owners who are geographically dispersed may have more difficulty organizing and collectively managing the land. This may lead to failure to pay taxes, which can lead to loss of the land entirely (Thomas et al. 2004). Authors have suggested that heirs who do not live on or near the property may be less inclined to preserve the land, and more likely to seek a partition sale (Dyer and Bailey 2008; Kelley 1985; Mitchell 2001). In Dyer's (*in press*) study of partition cases in Macon County, slightly less than half (48 percent) of the plaintiffs lived in the state of Alabama. This supports the notion that co-owners living away from properties are more inclined to pursue a partition sale. However, plaintiffs from the study cases on average held about a 40 percent share in the land, in comparison to the average individual (not collective) interest of 10 percent by the defendants. This larger percentage held by the plaintiffs indicates that they may have more to gain from a sale of the land or that they may feel more entitled to a say in what happens to the property.

The literature on heir property suggests that a co-owner's sense of attachment to the land increases if they live on or near it (Dyer 2007; Mitchell 2001). We compared characteristics of parcels whose taxpayers live in Alabama with those who live elsewhere (Table 3). We found that the appraised value of heir property whose taxes are paid by someone living in Alabama are likely to be worth more overall than those paid for by someone outside Alabama. This may be because the property has a home where the taxpayer resides or, because the taxpayer is closer in

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proximity, he or she can maintain or make improvements to the property, increasing its value.

Table 3. CROSS TABULATION AND COMPARISON OF MEANS OF STUDY VARIABLES BY TAXPAYER LOCATION (STANDARD DEVIATIONS ARE IN PARENTHESES)

VARIABLE	N IN/OUT	TAXPAYER LOCATION		T-VALUE
		IN-STATE	OUT-OF-STATE	
Value of improvements (\$). . . . .	486 / 95	33721.28 (26402.62) 5755.46	29864.84 (21866.34) 6135.22	1.34
Value per acre (\$). . . . .	1064 / 448	(5947.34) 16306.30	(6025.76) 16995.51	-1.13
Value of land (\$). . . . .	1066 / 450	(33687.33) 31680.17	(29474.38) 23300.31	-0.38
Appraised value of property (\$). . . . .	1066 / 450	(41369.05) 10.26	(33415.82) 11.20	3.81 ***
Size of parcel (acres). . . . .	1064 / 448	(25.56)	(24.02)	-0.66

NOTE: \*\*\*  $p \leq .001$ ; Significant differences based on two-tailed independent sample t-test.

We also examined the influence of taxpayer residence (in Alabama or not) on whether the property in question had structural improvements (Table 4). Taxes on more than 70 percent of all heir property in Macon County are paid by residents of Alabama, a figure that increases to 84 percent for property on which improvements have been made. “Improvements” often may be homes that families have occupied for generations—often called “homeplace.” Ancestral homes may provide more tangible links to property and if an heir resides in the home, paying taxes and managing the property, there may be a stronger incentive to secure that ownership.

#### *Urban Heir Property*

Heir property is generally portrayed as a rural phenomenon (see Brooks 1979; Chandler 2005; Glanton 2006; Graber 1978a, 1978b; Kelley 1985; Lewan and Barclay 2001). But our results suggest that this portrayal may need to be reexamined. In Macon County, four towns are incorporated: Tuskegee, Shorter, Notasulga, and Franklin. Combined, these four incorporated areas contain portions or all of 53 sections. There are 633 sections in the county total, so approximately 8 percent of Macon County is incorporated. Of the parcels that listed range, township, and section, 587 (43 percent) were located in sections that are either partially or fully incorporated. Not as many parcels were located in incorporated

sections as unincorporated, but the ratio was higher than anticipated, considering the largely rural nature of the county. Table 4 contains data showing a statistically significant positive correlation between taxpayer residence in Alabama and location of the property within an incorporated part of Macon County.

Table 4. CROSS-TABULATION OF PROPERTY IMPROVEMENTS AND INCORPORATED STATUS OF PARCELS WITH TAXPAYER LOCATION (NUMBERS IN PARENTHESES ARE PERCENTAGES)

	OUT-OF-STATE	IN-STATE	TOTAL	X <sup>2</sup>
No Improvements.....	355 (78.9)	580 (54.4)	935 (61.7)	
Improvements. ....	95 (21.1)	486 (45.6)	581 (38.3)	80.223***
Total.....	450 (100)	1066 (100)	1516 (100)	
Unincorporated.....	208 (52.5)	564 (58.6)	772 (56.8)	
Incorporated. ....	188 (47.5)	399 (41.4)	587 (43.2)	4.175**
Total.....	396 (100)	963 (100)	1359 (100)	

NOTE: \*\* p≤.05, \*\*\* p≤.001.

Data presented in Tables 5 and 6 show that heir property in incorporated areas was more likely to have improvements (i.e., a structure on the property) than rural heir property, and that the value of such structures was greater for urban heir property. Not surprisingly, the per acre value of urban heir property land also was higher, though rural heir property holdings were larger and, counting both land and structures, more valuable. Nonetheless, these data show that urban heir property is an issue that should not be ignored, especially since such property is likely to serve as the primary residence of some heir property owners.

### *Housing*

As a corollary to our findings that a higher than expected proportion of heir property was located in incorporated areas, our data also show that property with structures are often held in this form of tenancy-in-common. This unsettling truth was increasingly revealed following the devastation of the 2005 hurricanes along



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Table 5. CROSS-TABULATION OF IMPROVEMENT STATUS OF PARCELS WITH INCORPORATION STATUS (NUMBERS IN PARENTHESES ARE PERCENTAGES)

	UNINCORPORATED	INCORPORATED	TOTAL	X <sup>2</sup>
No Improvements.	494 (64.0)	339 (57.8)	833 (61.3)	5.470**
Improvements. ....	278 (36.0)	248 (42.2)	526 (38.7)	
Total.....	772 (100)	587 (100)	1359 (100)	

NOTE: \*\*p≤.05

Table 6. COMPARISON OF MEANS OF STUDY VARIABLES BY INCORPORATION STATUS (NUMBERS IN PARENTHESES ARE STANDARD DEVIATION)

VARIABLE	N INC./UNINC.	INCORPORATION STATUS		T-VALUE
		INCORPORATED	UNINCORPORATED	
Value of improvements (\$). ....	248 / 278	38812.34 (27807.62)	27812.45 (22921.88)	4.97***
Value per acre (\$). ....	586 / 771	9863.54 (6455.73)	2497.87 (2420.19)	29.11***
Value of land (\$). ..	587 / 772	7364.77 (13028.15)	24545.96 (40663.24)	-9.86***
Appraised value of property (\$). ..	587 / 772	23762.49 (28777.01)	34561.32 (45818.98)	-5.01***
Size of parcel (acres). ....	586 / 771	2.52 (8.78)	17.53 (31.83)	-11.10***

NOTE: \*\*\*p≤.001; Significant differences based on two-tailed independent sample t-test.

the Gulf Coast. States Times-Picayune editorialist Jarvis DeBerry: “[T]he upheaval of Hurricanes Katrina and Rita and the subsequent creation of the Road Home program have made it easier to understand what a handicap it is to not have clear title to one’s home and to see just how pervasive the problem is” (2008:7). Even several years after the hurricanes, legal services organizations in Louisiana continued to be inundated with requests to help families clear title to their lands so they would be eligible for housing aid (Hammer 2008).

As shown in Table 7, housing characteristics of Macon County reflect that many live in poorer conditions than those found at the state or national level. The median

2007 value of homes in Macon County was \$75,200, compared to \$181,800 at the national level. Many lived in mobile homes (19.9 percent) and more than 45 percent of homes in Macon County were not mortgaged. The data on the low number of mortgages may be influenced by the prevalence of heir property and the inability of many local residents to secure conventional mortgages.

Table 7. HOUSING PROFILE OF STUDY COUNTY COMPARED TO ALABAMA AND THE UNITED STATES, 2007

VARIABLE	MACON CO.	ALABAMA	UNITED STATES
Median value. ....	\$75,200	\$106,800	\$181,800
Valued at less than \$50,000 (%).	28.6	17.6	8.2
Mobile homes (%).	19.9	14.7	6.9
Not mortgaged (%).	46.2	39.2	31.8

SOURCE: U.S. Bureau of the Census 2007

Sometimes, the tax assessment records used in our study specified details of improvements made to the land (such as years structures were built, square footage and number of stories). The histogram in Figure 1 displays when the most recent structural improvements to the properties were recorded. Most of the improvements were made in the late 1940s to early 1950s and the late 1960s to mid-1970s. When the years of the most recent improvements made to our study properties are compared with years houses were built throughout Macon County (see Table 8), clearly structures on heir property are likely to be older.

Table 8. YEARS STRUCTURES BUILT: HOMES IN MACON COUNTY AND IMPROVEMENTS TO STUDY POPULATION (PERCENT)

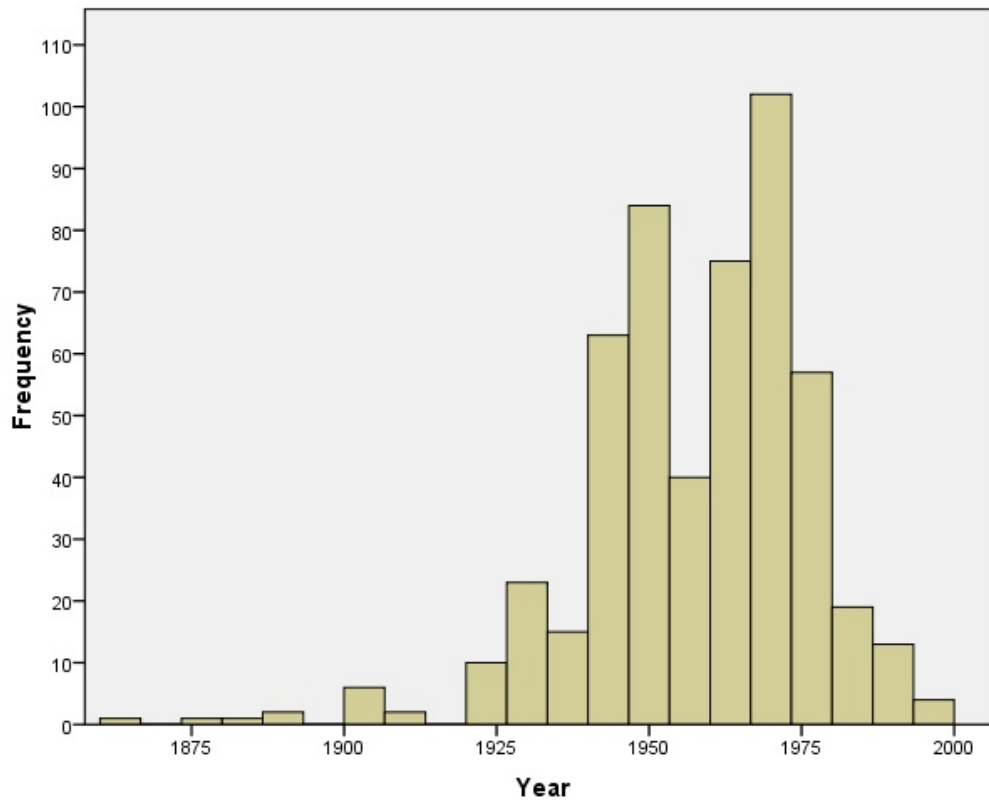
YEAR STRUCTURE BUILT	MACON COUNTY HOMES <sup>1</sup>	HEIR PROPERTY IMPROVEMENTS <sup>2</sup>
2000 or later. ....	7.3	0.0
1990-1999.....	15.8	1.9
1980-1989.....	19.1	5.0
1970-1979.....	24.7	24.8
1960-1969.....	14.0	20.4
1950-1959.....	9.8	19.7
1940-1949.....	3.0	16.4
1939 or earlier. ....	6.2	11.8

<sup>1</sup>SOURCE: U.S. Bureau of the Census 2007

<sup>2</sup>Improvements may include new homes, or additions to or improvements of permanent structures

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Figure 1. YEARS OF MOST RECENT IMPROVEMENTS TO STUDY PARCELS



CONCLUSION

Documenting the extent and economic value of heir property represents a significant challenge, and yet this challenge needs to be met to inform policy, shape legislative remedies, and mobilize advocacy organizations that play an important role in helping a long-disadvantaged population simultaneously experiencing persistent land loss and being ineligible for important government programs that could improve their quality of life. In this paper, we have described the challenges of documenting heir property in one Alabama county. Unfortunately, because property records are kept at the county level, and because counties are likely to differ in how readily heir property can be identified based on clerical annotations, an enormous amount of work would be necessary to document the full extent of heir property in the South. Because of the idiosyncratic nature of land records—especially in rural counties with limited resources—it is important to

develop a rapport with clerks, county officials, or others who can provide guidance in analyzing data that may vary from one source to the next.

This study, and the studies of the Coastal Community Foundation (2008; Rivers 2007) and the Southern Coalition for Social Justice (2008), provide a starting point for understanding the phenomenon of heir property on a regional basis. Conducting studies such as this in every Black Belt county in the South would be a daunting task, but just as social scientists have learned to sample populations of individuals, a sample of several Black Belt counties in each state of the South could be done. The benefit of such work would be more than simply confirming (or not) the findings of this study. More important, such research would serve to draw attention to the issue and thereby increase the likelihood that it would attract the attention of legislators, policy makers, the legal establishment, and advocacy groups. A study of the presence of heir property in urban areas would also benefit these groups. It may identify problems and issues unique to urban communities in need of policy or outreach programming developed to better target those populations.

As Mitchell (2005) states, lack of empirical data about the heir property issue can have unintended consequences. Making claims relating to black land loss—without backing them up with empirical support—can undermine credibility of those seeking to address problems associated with heir property. Acquiring a more extensive, quantitative understanding of heir property, and the economic impacts it may have on Alabama landowners, is an important step in ensuring the sustainability of rural and agricultural lifestyles, as well as quality housing, for some of the nation's poorest citizens.

Once identified, a combination of case studies and systematic surveys of heir property owners could be conducted to gain a greater appreciation for the effect of heir property on the individuals and families tied to this common property. Tax records reveal the facts concerning the property—size, value, and location. What they cannot reveal is what the land represents to family members.

Despite the geographical and methodological limitations of this study, several important conclusions can be drawn. First, heir property can take on many forms and is not restricted to rural areas. Most of the parcels in our study were too small to support significant farming operations and many were located in-town. While many had permanent structures, most of those structures may be several decades old. There is no way of knowing how many parcels may house mobile homes. While the properties may not be highly valued on a per-acre basis, collectively they represent a significant source of wealth that, were titles cleared, could be utilized to revitalize a poor, underserved region. Macon is one of twelve Black Belt counties

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in Alabama. If landownership trends in the other eleven Black Belt counties reflect those of Macon, there could potentially be more than \$300 million worth of land tied up in clouded titles in one of the poorest regions of the United States. Considering the social, cultural and political significance of black landownership, this is one resource families cannot afford to lose.

Landownership represents much more than the ability to open a line of credit. For many poor, rural African American landowners, heir property is family land that signifies hard work endured in places often entrenched in racism. The cultural significance associated with heir property cannot be quantified through any reasonable measures. Because of this, the findings of this study can only be viewed as a step toward developing a more thorough understanding of the multifaceted nature of heir property.

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MACON COUNTY  
ACCOUNT STATUS REPORT  
TAX YEAR: 2007

OWNER NAME	ACCOUNT	ACCT TAX EX	RECIPIENT	PAID DATE	PAID BY	SELLER	TAX DUE	FERS	INF	EXCESS TOTAL FSI
REID ANNIE MAE	000012774C	0.00 0	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID ANTHONY T	000013128C	376.75 0	8773	1/1/2008	REID SPAINY LLC	5	376.75	0.00	0.00	376.7
REID ANTHONY T	000013128C	0.00 0	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID ANTHONY T & CLEMENTINE E	000012775C	3,206.82 4	8772	1/2/2008	REID REALTY LLC	5	3,206.82	0.00	0.00	3,206.9
REID ARLINZELL	000012777C	0.00 3	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID DAVID S & SHARON R	000012797D	68.08 1	2761	11/5/2007	DAVID REID	80	68.08	0.00	0.00	68.0
REID DOUGLAS (HEIRS OF)	000012779B	56.12 0	4856	12/4/2007	LORNE REID	6	56.12	0.00	0.00	56.1
REID DR ROBERT D (HEIRS OF) &	000012794D	224.61 4	1149	10/5/2007	TERRE S REID	5	224.61	0.00	0.00	224.6
REID EDDIE & MARBLE U & ROBERT	000012783D	0.00 1	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID EDDIE & MARBLE OWENS	000013368D	0.00 0	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID EDGAR (HEIRS OF) & MARY ANN	000012781D	0.00 3	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID FRANK III	000013095D	107.36 0	10963	2/25/2008	REID FRANK III	6	107.36	0.00	2.12	114.4
REID FRANK III	000013097D	240.34 0	9196	1/3/2008	REID FRANK III	5	240.34	0.00	4.74	249.0
REID GEORGIA KORGAN	000012793D	1,034.73 4	8936	1/2/2008	MARSHA BROWN	5	1,034.73	0.00	0.00	1,034.7
REID GREGORY & BRENDA A	000013113D	176.46 0	1112	10/5/2007	LAURA TEMPLE	6	176.46	0.00	0.00	176.4
REID HUSGORY DONALD	000013156D	69.36 0	1113	10/5/2007	LAURA TEMPLE	5	69.36	0.00	0.00	69.3
REID JACOB W & VIRGINIA E	000012783D	0.00 4	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID JAMES (HEIRS OF) & JANIE	000012784D	70.56 4	10102	1/28/2008	LILLIE MARTIN	6	70.56	0.00	1.39	76.9
REID JOHN MILTON & JAMES S	000012785D	332.52 0	2659	11/2/2007	PEGGIE FERGIE	6	332.52	0.00	0.00	332.5
REID LAWYER EDWARD (HEIRS OF)	000012783D	0.00 0	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID LILLIE CLERY	000012786D	0.00 0	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID LILLIE M	000012789D	0.00 3	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID LOUISE P	000012787D	0.00 3	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID MABEL L	000012788D	22.44 0	5666	12/12/2007	ALPENA CORFIELD	6	22.44	0.00	0.00	22.4
REID MABLE OWENS	000012783D	140.85 0	5658	12/12/2007	REID MABLE OWENS	5	140.85	0.00	0.00	140.8
REID MARTHA P	000012789D	979.31 0	4777	12/3/2007	MAYNE S REID	5	979.31	0.00	0.00	979.3
REID MARTHA P	000013426D	0.00 0	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID MARY A & ROSIE I. (HEIRS	000012790D	0.00 0	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID OBIE D (HEIRS OF)	000012791D	26.84 0	3429	12/16/2007	REID OBIE JR	6	26.84	0.00	0.00	26.8
REID OBIE D (HEIRS OF)	000012789D	200.08 0	4277	11/21/2007	PATRICK E REID	5	200.08	0.00	0.00	200.0
REID OLAVIA S	000012792D	0.00 3	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID OLIVIA S	000012793D	577.06 0	6315	12/16/2007	REID OLIVIA S	6	577.06	0.00	0.00	577.0
REID PATRICK EDWARD	000019467D	0.00 0	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID REALTY LLC	000012790D	11,271.11 0	8774	1/1/2008	REID REALTY LLC	5	11,271.11	0.00	0.00	11,271.1
REID RICHARD LOUIS JR &	000012795D	35.70 0	11360	3/3/2008	REID RICHARD LOUIS J	5	35.70	25.00	0.79	61.4
REID ROBIN F & BEVERLY P	000013079C	42.70 0	1957	10/17/2007	ROBIN P REID	5	42.70	0.00	0.00	42.7
REID WILLIAM (HEIRS OF) &	000012796C	0.00 1	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID WILLIAM (HEIRS OF) & WILHELM	000013148C	51.45 1	10257	1/25/2008	WILLIE WELLS JR	5	51.45	5.00	1.01	57.4
REID YVONNE COLEY & WALE C	000012797C	0.00 3	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
REID YVONNE COLEY & WALE C	000012797C	66.67 1	11026	2/26/2008	REID DEANALYN	5	66.67	5.80	1.32	72.9
REID YVONNE COLEY & WALE C	000012795C	0.00 0	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
RELIANCE HEALTHCARE OF WISSEBACH	020019417D	0.00 0	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
RELIANCE HEALTHCARE OF WISSEBACH	000012466D	435.50 1	3622	11/20/2007	PHIL MONTGOMERY CURP	5	435.50	0.00	0.00	435.5
RELIANCE HEALTHCARE OF WISSEBACH	000012466D	0.00 0	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
RELIANCE HEALTHCARE OF WISSEBACH	000012466D	0.00 0	0	1/1/1900	UNPAID		0.00	0.00	0.00	0.00
RELIANCE HEALTHCARE OF WISSEBACH	000012466D	917.23 1	7996	12/28/2007	KENNETH WILLIAM S & K.	5	917.23	0.00	0.00	917.2



# OWNERSHIP CHARACTERISTICS OF HEIR PROPERTY

