

Perseverance Pays Off — Don't Give up!

Comelita J. needed financial help for home repairs, but couldn't get it until the title to her family's land was cleared.

[See page 6 for full story]

WHAT IS HEIRS' PROPERTY?

Most heirs' property in the Lowcountry is land that was either purchased by or deeded to African Americans after emancipation. Much of this land has been passed down through

This unstable form of ownership puts heirs' property at high risk for loss because any heir can sell his/her percentage of ownership to another who can force a sale of the entire property.

the generations without the benefit of a will so that the land is owned in common by all of the heirs, regardless of whether they live on the land; pay the taxes or have ever set foot on the land.



A Note From Jennie

Land owned as heirs' property was meant to be a gift that would keep on giving.

The gift of land can only keep on giving if the land is protected with a will. Historically, many owners of these properties either did not know how to do this legally or they did not have access to the legal system to make this happen.

In this issue, we want to make you aware of:

- [1] how we have helped owners of smaller tracts of land resolve their heirs' property issues,
- [2] the importance of estate planning [i.e., deciding "who will get what" upon your death and making plans to ensure that will happen], and

[3] the tools for making use of your land once you have received clear title.

Once you review this information, we want you and your family to take action - action to learn more, action to clear title, action to make full use of your land, and action to prepare a plan for its use and benefit for future generations.

A Chinese proverb says,
"A journey of a thousand miles
begins with a single step."

We know that sometimes it can be challenging to deal with heirs' property, but we ask that you begin the journey and take the first step towards protecting and maintaining the gift that was meant to keep on giving.

To find out more about the Center, go to www.heirsproperty.org

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CLEARING TITLE HAS A LARGER PURPOSE

Essential Partners: The Center and the Black Family Land Trust

Heirs' property owners say that clearing title to family land gives them a sense of "security and peace of mind." But actually — clearing title is only the first of several steps that can and should be taken to create and retain wealth through land ownership. "Without that first step of clearing title, we can't do anything to help these families," says Ebonie Alexander, executive director of the Black Family Land Trust [BFLT]. "With it, we can provide them with the education and tools to allow the family to make informed proactive decisions about the long-term ownership and use of their land."

The Center and BFLT have recently combined their talents to navigate heirs' property owners in the Lowcountry through the multiple steps of clearing title and becoming responsible land owners. Clearing title is the first strategy in the BFLT's Wealth Retention Asset Protection [WRAP] program. For more, go to www.bflt.org.

The Steps

Once title is cleared, the BFLT can help property owners become responsible and productive land owners by providing services for them to learn:

- How to be smart about money management and understand family finances;
- How to assess the many "land use" options available to them which could include farming, timbering,

starting a small business, or creating a limited liability corporation;

- How to determine which "land use" option will provide the most economic benefit, and
- How to develop an estate plan to protect this important asset for future generations.

Why These Steps Must be Taken —

Black land loss has reached a crisis stage. In the U.S. in 1920, Black farmers numbered 925,708 [1 of 4 owned their own land] and controlled approximately 14 percent of the nation's farmland.

According to the USDA definition of a "farmer" and the results of the 2007 Census, Black farmers have declined in number to approximately 18,000 and they control less than 1 percent of the nation's farmland.



Increasing H.O.P.E. — Helping Others Prosper Economically

Another Hand-in-Glove Success

Increasing H.O.P.E. is a local partner and resource for the Center to refer those who need financial literacy and the Center helps H.O.P.E. clients with heirs' property issues. H.O.P.E. programs include: Manage Your Money, To Your Credit, Financial Survival University and Homeownership Fundamentals. To learn more, call (843) 225-4343 or go online: www.increasinghope.org.

Hand-in-Glove Solution

The combined efforts of the Center to clear title and the BFLT to provide educational, technical and financial services help landowners transform their land into a wealth creating asset for their families and protect it for future generations. It's a perfect fit!

In Brief

by Josh F. Walden

The Mystery of... Et al?

From time to time, I have clients ask what does - "Et al"- mean on their tax bill or on other documents describing the ownership of their land. "Et al" is a term counties use to show that a property is owned by more than one person.

The tax bill may not show all the correct owner[s] or be a true reflection of legal title because obtaining the information to determine legal ownership of heirs' property can be very difficult and is not what a



Josh F. Walden, Supervising Attorney

particular county tax assessor's office is set-up to do. If you have questions regarding the ownership of your land, you should contact the Center or an experienced attorney.

Home Repairs: Getting the property straight

Many applicants call us because they need home repairs and they do not qualify for state and/or federal home repair assistance programs because they don't have clear title to their land.

These agencies also refer their clients to us to help "get the property straight" which involves all the heirs, not just the one living in the home or paying taxes.

Tax Bill Issues: Who should pay it?

One of the biggest reasons people come to see us is the question of who should pay the tax bill. All of the heirs in a family need to agree on who is responsible for collecting everyone's tax contribution or which specific heir [or heirs] will pay the taxes in full.

Paying taxes does not "fix" the problems of heirs' property, and the heir[s] who pays the taxes does not have any more "rights" than another heir.

Remember, if the taxes are not paid, for whatever reason, the property will be sold at tax sale.

Family [Dis]Agreement: Don't Wait... Start the Process NOW!

Heirs' property is a very unstable form of land ownership. As the older heirs pass away, more people are added as heirs, making it more difficult for the family to maintain control. As the number of heirs grows, so do the disagreements regarding the land.

Some heirs may want to sell. Some may want to divide and keep the land, while others may want to leave the property the way it is.

Many people come to the Center seeking advice on how they can "make" heirs "go along" with what a majority of heirs want to do. The only way to truly protect the property is for 100% of the family to agree on how the land will be held. The longer an heir waits to begin the process of exploring and discussing a family agreement, the more complicated it becomes. Don't wait. Start NOW!

UPHPA...whata?

On February 21, 2012 the Uniform Partition of Heirs' Property Bill derived from the Uniform Partition of Heirs' Property Act (UPHPA) was introduced in the South Carolina Senate. The proposed law requires that notice be posted on the property; that the court consider several factors when determining the type of partition and valuation of the property, and also allows for a cotenant buyout and an open-market sale.

In South Carolina where there already exists a "right of first refusal" law, the Bill simply adds the provision for an open-market sale which may result in greater proceeds when a sale is inevitable. In states where no such right previously existed, the opportunity for an heir to buy-out the interest of another heir, who wants to sell the land, is an important improvement.



THANK YOU! Charleston School of Law students Kristin Smith and Audrey Davis [far left and right] with attorneys Evan Guthrie, Esq., and Capers G. Barr, IV, Esq. who generously donated their time to help draft simple wills for the Center's free Wills Clinic hosted by Reverend Arnold A. Gordon at Allen AME Church on Edisto Island. Twenty community members were proud to leave with their wishes and wills in order.

ESTATE PLANNING

Making a plan is a gift to yourself and those you leave behind

by Ginny Shuman

When I was in practice, people would call the office and say: "I don't need estate planning. I just need a simple Will." Even as I heard them sighing with suspicion, I would explain that a simple Will is estate planning. Estate planning does not have to be expensive or complicated. And it is not only for the wealthy.

Estate planning simply ensures that individuals and their property are taken care of in life and at death according to their wishes. Each one of us will die, and there is a good chance that each one of us will experience a period of disability during lifetime. Who has the legal authority to care for you and your assets if and when you become mentally or physically disabled? Who will inherit your property, and who will handle the transfer of that property at your death? Estate planning is the process by which we answer these questions in a legally binding manner.

Every adult should consider these legal documents when getting his or her affairs in order.

Durable Power of Attorney

What happens if you become disabled and cannot manage your affairs? Then Probate Court will name a guardian to make decisions about your person [where you live, what kind of treatment you receive, etc.] and a conservator to manage your assets. To avoid this, you should execute a Durable Power of Attorney giving someone you trust the power and authority to manage your assets for you in your best interests.

Last Will and Testament

What happens when you die? If you die without a Will, then South Carolina law determines who inherits your assets, not you. For instance, under current South Carolina law, if you die without a Will but you are survived by a spouse and by children, your spouse inherits half of your probate estate and your children inherit the other half. But, if you die with a valid Will, you can name the person[s] who will handle your affairs at death and who will inherit what you leave behind.

Health Care Power of Attorney and the Declaration of Desire for a Natural Death

These are health care documents. In the first, you name someone you trust to make health care decisions

SAVE-THE-DATE

CSO Gospel Choir
"Center for Heirs' Property Preservation"
Benefit Concert – Music and Narration

Saturday, September 22, 2012 at 6PM

Calvary Baptist Church
(620 Rutledge Avenue)

Special thanks to Reverend Arthur Evans

CALL AND RESERVE
YOUR ADVANCE TICKETS: \$20
(\$25 at the door)
(843)745-7055

for you if you are unable to do so. The Declaration of Desire for a Natural Death is South Carolina's living will. It lets people know what your wishes are regarding life support.

Take Care of Business

Disability and death are hard. Having a plan makes them easier for you and for those you love. So make a plan! You will be giving yourself and your loved ones a valuable gift.



Ginny Shuman is an Assistant Professor at the Charleston School of Law. Before joining the law school, she practiced with Evans, Carter, Kunes & Bennett, PA, in Charleston.



After a long day at work, Comelita sits in the sun on the porch her father built.

Continued from Page 1

Like many before her, Comelita called the Center after she attended a legal education seminar and learned that the Center could help her obtain clear title to her family land.

“The Center’s lawyer guided me through the process — step by step. I was the one living on the land and I was pretty sure that my sisters and brothers would want me to have it.”

Being “pretty sure” was no guarantee and there was a lot of work to be done. First, Comelita had to complete a family tree. This is often one of the

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major obstacles to moving forward and can take a long time. Then, death certificates for both of her parents were obtained and Comelita asked all of the heirs if they would agree to sign over their deeds of ownership to her. Again, this was a small tract of land where Comelita’s parents and she had lived most of their lives. All of the family members, except for Comelita and her sister, currently live outside of South Carolina.

“The Center bends over backwards to be sure that all of the heirs are identified, located and notified about what we are doing,” said the Center’s Attorney Josh Walden.

Finally, Attorney Walden brought a Petition to Determine Heirs in the Probate Court, where a Judge listened to the testimony about Comelita’s family tree and then determined and confirmed exactly who were the heirs of her ancestor who had been deceased for more than ten [10] years. Thanks to funds from the Charleston County Bar Association, all court filings costs were covered.

In Comelita’s case, her “pretty sure” became a reality. Her family members agreed that she should own the land where she was raised and ultimately, the deed was put in her name.

“For me and my family, this has been

a tremendous blessing because now I can say that I have my own homestead. I can be without fear. I have a roof over my head.”

But that’s only the beginning. Remember why this all began? Comelita needed to access public funds to repair her home. With her deed in hand and referrals from the Center, she is now applying for those funds. Perseverance and patience pays off.

Comelita says “thank you” to the Charleston County Bar Association

Clients, like Comelita, contribute what they can to the extra costs of clearing title to their family land, including filing fees, surveys and title searches, so they are invested in the work. However, without the generous \$10,000 grant from the Charleston County Bar Association, neither the clients nor the Center would be able to afford all of those tangential costs. **THANK YOU!** Charleston County Bar Association for your continued help and support.

The Fielding Home for Funerals Celebrates Their Centenary



Judge Bernard R. Fielding

One hundred years ago, Julius P.L. Fielding began his funeral business briefly in an office on the corner of King and Queen Streets before moving [rent free!] into the ground floor of his mother's and stepfather's home at Short and Logan. The distinguished looking Black man with the close-cropped moustache had completed his embalming studies at The Renouard Training School for Embalmers in New York in 1912. In the class photo, he is the only Black man.

"There wasn't anywhere around here you could get that training," says his son, Judge Bernard Fielding who, together with his siblings, has carried the work forward. There's a commemorative wall of photos in his office honoring family and colleagues who spent their entire lives in the business.

Each generation has faced its share of obstacles. When Judge Fielding returned to Charleston with a law degree from Boston University in 1958, he described living in two separate worlds. With a wink, he explains how there were so many Black lawyers in SC that they would

meet on Saturday mornings at the Fountainbleu Restaurant in Columbia and shove two tables together — and that was all of them. The scarcity of Black lawyers explains, in part, why so few heirs' property owners had their wills drafted.

"Everything we engaged in was a battle and every county had its boss." Early on, Judge Fielding lamented a court system that did not favor heirs' property ownership and a lot of land was lost. Road construction would open up an area long forgotten - exposing acres and acres of heirs' land which put it at risk.

"I've seen so much land lost," Fielding said. "One of the happiest days of my life was the birth of the Center for Heirs' Property Preservation."

From the beginning, Fielding has supported the Center and now calls on his colleagues in the mortuary business to work with the Center to provide valuable education for their clients and encourage them to protect their land. "We must all make that appeal."

JOIN US AND THE FIELDING HOME FOR THESE SEMINARS

Tuesday, May 22, 2012 at 7:00 pm,
First Baptist Church of James Island,
1110 Camp Road, Charleston

Thursday, July 12, 2012 at 7:00 pm,
Wesley United Methodist Church,
18 River Road, Johns Island

Thursday, Sept. 13, 2012 at 7:00 pm,
St. James Bethel AME Church,
5305 Maybank Hwy, Wadmalaw

For additional information, call
Barbara Johnson at Fielding Home for
Funerals: (843)722-3348

Leading up to the Fielding Home for Funerals' Centenary Celebration in the Fall, the staff has partnered with local attorneys and the Center to offer educational seminars in estate planning, will preparation and the drafting of durable Powers of Attorney [financial and health] across Charleston County.

"People need to understand what to do, especially with their heirs' property, and those of us in the mortuary business should work with the Center to help them. Heirs' property is like gasoline and fire. Sooner or later, the gas and fire will come together and you'll have one heck of an explosion."

The Center joins Judge Fielding and his family in celebrating those things that bring families together - hope, help, heart and heritage.

CENTER FOR HEIRS' PROPERTY PRESERVATION

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Host Committee member and Master of Ceremonies Trenholm Walker presents the award to Judge Sanders.



Co-Chair Rev. Nelson Rivers, III spoke with ardor and humor.



Charleston School of Law Professor Aureore Victor and Associate Professor and Center's Board Member Aleatra Williams are proud of the Chas. School of Law's generous support of the evening.



"Every good idea I ever had was Zoe's. We've been together for 68 years. Not even snow geese stay together that long!"

— Judge Sanders



Judge Fields [2012 CTJ Award recipient] and Judge Deadra Jefferson congratulate Judge Sanders.

Great friends and debaters — Judge Sanders and Mayor Riley.



On February 9th, more than 300 hundred friends and colleagues gathered in the "Crystal Ballroom" of the Charleston Marriott to salute Judge Alex Sanders who received the Center's 2012 "Commitment to Justice" Award.

ENORMOUS THANKS to the Sponsors, Program Participants, Attendees, Judge Sanders and Host Committee:
Co-Chairs Rev. Nelson Rivers, III and Edward J. Westbrook, Esq.
Hugh C. Lane, Jr. • Charles W. Patrick, Jr., Esq. • Abby Edwards Saunders, Esq.
Rita Little Scott • G. Trenholm Walker, Esq.



Local philanthropist and longtime friend and admirer of Judge Sanders, Doris Meddin charmed the crowd.