

Evidence

# The Deprivations of Heirs' Property

Racial wealth gap impacts owners' rights.

BY SEAN DOOLITTLE '24

In 2022, the BC Law Initiative on Land, Housing, & Property Rights (ILHPR) was founded by Professor Thomas W. Mitchell to address disparities in home-ownership, in estate planning, and in the preservation of property rights more broadly that disadvantaged communities experience—communities that are disproportionately, though not exclusively, communities of color. Under the direction of Professor Mitchell, ILHPR conducts research, devises legal reforms and policy solutions, trains law students, and engages in community outreach to ameliorate the systemic problems that disadvantaged communities face with respect to various property, housing, and community development matters.

One of the most pressing issues for ILHPR is that of heirs' property, a highly unstable form of property ownership that was the focus of a two-day conference at BC Law this spring. When a property owner dies intestate—lacking a formal will or estate plan—his or her descendants can experience decades of legal headaches in their efforts to establish their full legal ownership of the property to avoid having severely diminished property rights. Here's a quick look at the scope of the problem, and some efforts to improve estate planning outcomes within communities at risk of property loss.

**Sources:** "A Methodological Approach to Estimate Residential Heirs' Property in the United States," The Housing Assistance Council, December 2023; Ryan Thomson, Auburn University Department of Agricultural Economics and Rural Sociology; Center for Retirement Research at Boston College; "Can Incentives Increase the Writing of Wills? An Experiment"; and "Wills, Wealth, and Race," based on Health and Retirement Study.



BC LAW INITIATIVE

**\$2 million**

Grant awarded to the Initiative on Land, Housing, and Property Rights by JPMorgan Chase.

**\$350,000**

Grant awarded to ILHPR and its grant partners, the Massachusetts Affordable Housing Alliance and the Legal Services Center of Harvard Law School, by Harvard and the Legacy of Slavery Initiative's (H&LS) Reparative Partnership Grant Program

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Number of inaugural BC Law graduates in 2024 to complete new Real Estate and Community Development Law degree concentration developed by ILHPR.

THE GREAT WEALTH TRANSFER

**2045**

Year economists call end of "Great Wealth Transfer," when most wealth accumulated by Baby Boomers will have made it into hands of Gen Xers and Millennials.

**\$84,000,000,000**

Estimated accumulated wealth younger generations stand to inherit, largely by transfer of real property and investments. Result: White households are estimated to own 99+ times more than Black counterparts by 2053.

In Massachusetts

**\$8**

Average net worth of Black families in Greater Boston

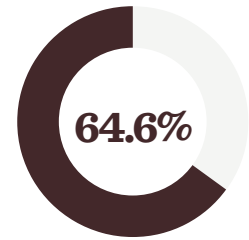
**\$247,000**

Average net worth of white families in Greater Boston

HEIRS' PROPERTY OVERVIEW

**\$32.3 billion**

Very conservative estimate of heirs' property value in US, 2023



Percentage of most likely at-risk heirs' properties in rural areas

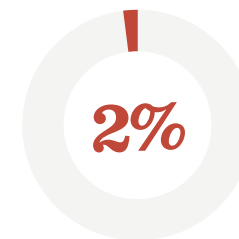
**491,537**

Conservative estimate of properties at risk of becoming heirs' property

Legal Disparities

**<1:1,000**

Ratio of attorneys to residents within communities designated as "legal deserts," which are overwhelmingly rural.



Legal practices located in rural areas

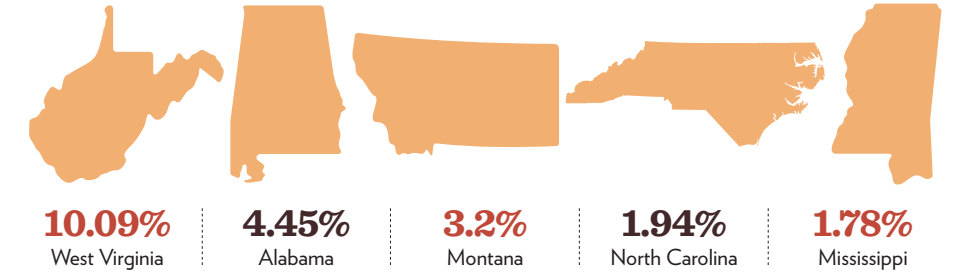
**13,000,000**

Acres of land trapped beneath clouded title

**\$443.5 billion**

Value of land trapped beneath clouded title

States with greatest percentage of heirs' property



Land and Poverty

**16,000,000**

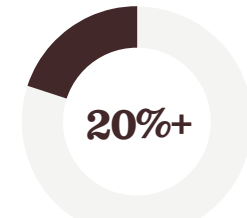
Acres of agricultural land acquired by Black Americans, 1865-1910

**5,500,000**

Acres of agricultural land that remained in Black Americans' hands by 1969

**2,397,710**

Acres of agricultural land that remain in Black Americans' hands as of 2022



Benchmark for "persistent poverty" within a given county, i.e., if 20% or more of population falls below poverty line for three consecutive decades or longer

**2X**

Likelihood of properties in persistent poverty counties to be heirs' property is two times the rate for heirs' properties not in those counties.

Homeownership by Race



ESTATE PLANNING



White Americans without a will



Asian Americans without a will



Black Americans without a will



Hispanic Americans without a will



Decline in will drafting, 1993-2023

White Americans are **25%**

more likely to receive an inheritance than their Black counterparts.

Who are the Beneficiaries?

**67%** are children  
**6.8%** are grandchildren  
**17.9%** are other family members  
**8.3%** are other unrelated individuals or organizations