



Georgia Appleseed's Heir Property Project

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Heir property is a relatively unknown term in the Georgia legal community. When "heir property" is mentioned, people usually look up to the sky, wondering perhaps why a strong public-interest law center and notable campaigner for social justice like Georgia Appleseed is concerned with "Air Property?" Well, the precise reason is because an entire group of Georgians who are disadvantaged and marginalized face the threat of great social and economic losses due partly to a lack of knowledge about the issue of Heir Property.

The problem of heir property was revealed most prominently across the southern United States in the aftermath of Hurricane Katrina, when lack of clear title to property prevented families in Louisiana from accessing disaster assistance available for home owners recovering from the impact of the disaster. In trying to identify whether persons rebuilding after Katrina held proper title to the property for which they were seeking federal assistance, the government discovered that an estimated 20,000 titles did not correspond with the identity of the claimant.

Initial research shows that heir property largely results from intestate succession and more prominently arises in African-American communities in the rural South where as many as 80% of African American rural landowners do not have wills. Often, when a decedent dies intestate, parties who succeed to property in accordance with the Georgia intestacy laws fail to formalize title to the property in the deed records. Georgia laws on descent and distribution provide that intestate property to which there are multiple heirs-at-law be held jointly in a tenancy in common ownership arrangement. Tenants in common each have an undivided, fractional ownership interest in the property. While each tenant has a distinct interest in the entirety of the land, no tenant holds legal title to a distinct portion of the land that corresponds to the fractional interest. Therefore, co-owners of heir property as individuals lack clear

title to land and as a result, are not eligible, independent of all other co-owners, for government assistance and grant programs, have difficulty using the land as collateral to obtain loans, and cannot use the timber, mineral or agricultural resources of the land without the consent of all co-owners. Thus, lack of clear title resulting from heir property succession limits the ability of those living on the property to rehabilitate, maintain or develop their property. This issue is referred to as the heir property problem.

Georgia Appleseed initially became involved with heir property after Hurricane Katrina by way of the Young Professionals Council (YPC). Formed as a sapling of the Georgia Appleseed Board of Directors, the YPC is comprised of a group of young professionals committed to carrying out the mission of Georgia Appleseed by adopting a "signature project" and encouraging young professionals to devote pro bono time and efforts to effect systemic change, as needed, related to the signature project. Led by **Jason Carter** of *Bondurant, Mixson & Elmore, LLP* as President of YPC and **Avril McKean-Dieser** of *UCB, Inc.*, as Chair of the Heir Property Committee, the YPC determined that Heir Property should be its first signature project. Through the efforts of the YPC, the UGA School of Law chose to award Georgia Appleseed and Crystal Chastain Baker with the prestigious Cousins Fellowship for the study of Heir Property in Georgia.

The mission of the YPC Heir Property Project is threefold: to find solutions that provide low income landowners of heir property with the necessary tools to protect and preserve their property from land loss while generating wealth and economic value among these landowners; to increase the capacity of service providers to offer pro bono services in Georgia in an effort to address and remedy the problems associated with heir property; and to find sustainable solutions by increasing awareness of the topic of heir property and creating systematic responses to the heir property problem,

including possible legislative changes within Georgia.

YPC members have been working to meet the mission of the project through building a volunteer network. The strongest example of volunteer effort thus far has been by the Atlanta team of *DLA Piper, LLP (US)*. When the YPC reached out to *DLA Piper* for pro bono assistance, two associates with the firm's Atlanta office, **Shunta Vincent** and **Brian Gordon**, joined the YPC and became actively involved in heir property work. Ms. Vincent and others dedicated numerous pro bono hours to the preparation of an educational manual entitled "Heir Property in Georgia." This manual will serve as the cornerstone for educational programming on heir property. The manual will be available to Georgia landowners and will be distributed at educational seminars throughout the state. The first such seminar will occur on May 2, 2009 in Liberty County, Georgia. Ms. Vincent and Mr. Gordon, along with a team of *DLA Piper* attorneys including **Shawn Lanier**, **Melissa Baratian** and **Bert Ritvo** (Pro Bono Counsel- DC) were instrumental in organizing the seminar and creating some of the presentations, one of which will be presented by Ms. Vincent and Ms. Baratian. The seminar will serve to empower coastal Georgians--by better understanding their rights and obligations as landowners--to confront the common (and often complex) legal, social, and environmental issues brought on by ownership of heir property, particularly in areas impacted by coastal development.

Volunteer opportunities are numerous within the heir property Project, and many can be done by a non-legal professional. The YPC welcomes the involvement of young professionals throughout Georgia, as this Project has a statewide focus. Current volunteer opportunities include researching tax database and property records to determine the prevalence of heir property in various counties in Georgia, presenting educational seminars to various organizations, researching partition cases in various counties and training to assist individual property owners with legal and non-legal property issues. Volunteers are essential to the success of the Heir Property Project. If you are interested in learning more about Georgia Appleseed, the Young Professionals Council and/or the Heir Property Project, please contact Georgia Appleseed at (404) 685-6750 or visit the website at www.gaappleseed.org/heir. ■