FEDERATION OF SOUTHERN COOPERATIVES/
LAND ASSISTANCE FUND

FORWARD 2020: A Wealth Plan
For My Land

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Introduction

Welcome to Forward 2020: National Heirs Property Conference! (FORWARD). Forget what you already know about conferences! We have flipped the traditional concept to create a high energy skill-based “boot camp” experience that is laser focused on heirs property and what it entails.

FORWARD is a two day basic skills learning program for both heirs property owners and land assistance practitioners. Experts in the field, aka “Drill Sergeants”, will concentrate on what you need to know as well as what you need to do as it relates to heirs property. The goal is to get you in ship shape for clearing title and navigating a path to intergenerational land based wealth!

The workbook and the conference instructions you receive at FORWARD will be the strategic tactics you will need to work through your heirs property issues and measure your progress over the next year. Let’s get started!
Standing In The Gap: The Federation Of Southern Cooperatives/ Land Assistance Fund

By: Edward “Jerry” Pennick

African Americans have always had a connection to the land – a connection that became even stronger after the Civil War. They not only viewed land as a source of food and economic development they viewed it a source of power to control one’s own destiny. The promise of forty acres and a mule for each former male slave offered an opportunity to achieve true freedom. Although the promise of forty acres and a mule was never realized (due in large part to the racism of President Johnson, southern democrats and northern ambivalence), former slaves and their decedents were able to amass over 15,000,000 acres of land by 1910.

This was accomplished in spite of government sanctioned discrimination and racism. Things eventually became so bad that formerly enslaved African-American farmers and their descendants began to migrate to the north in search of better opportunities for economic advancement. However, they never lost connection to the land even though it slowly began to slip away until today - there are less than 3 million acres of African American owned farm land left and approximately 5 million acres of idle land. So African Americans own approximately 8 million acres of land with a conservative value of 14 billion dollars.

Those African-Americans who remained in the south during the great migration early on realized that survival depended on working together on behalf of the entire community. This working together took many forms including formal and informal cooperatives, land buying associations and sharing labor and equipment. The guiding force behind these efforts was and remains the Federation of Southern Cooperatives/ Land Assistance Fund. Some of our accomplishments, with help from partners, include the following:

- Organized 75 cooperatives and associations throughout the South
- Organized land buying associations to purchase land at tax and partition sales. The land was either returned to family members or other African-Americans
• Organized marketing associations that enabled farmers to expand markets to include local, commercial and international.
• Saved over 500,000 thousand acres of black owned land
• Conceived and, with support from partners, advocated for and secured passage of USDA’s 2501 outreach and technical assistance program
• Recruited and trained a network of over 144 volunteers in the Black Belt Region
• Developed a series of land and farm related educational materials aimed at landowners and professionals
• Conducted the first definitive research on heirs property
• In the late 1970’s and 1980’s advocated for more family friendly heirs property legislation in Alabama, Georgia and South Carolina. This, along with additional research and advocacy, was the precursor to current uniform partition of heirs property acts
• Was the major organization behind the heirs property provision in the 2018 Farm Bill
• Established a member owned 1300 acre rural training and research center.
• Expanded our partnership network to include countries in Africa, South America and the Caribbean
• Developed mutually beneficial relationships with 1890 Land Grant Colleges and Universities.
• Organized the first Black farmers March on Washington

All of these, as well as other, accomplishments are the results of efforts by the Federation to stem and eventually reverse the tide of land loss so that the dream of formerly enslaved African-Americans can become a reality for their descendants.
Session A: GETTING STARTED AND CHOOSING THE RIGHT PATH FORWARD

Overview of Heirs Property Ownership

When land is passed down to heirs according to state law, as opposed to a will or other type of estate plan, that land is commonly known as heir property. When a landowner does not have a will, or other type of plan for transferring land, or other property, to his descendants, state law will step in and control how that land is passed down when he dies. When land or other possessions are passed down to heirs according to state law, it is called intestate succession.

When property is inherited through intestate succession, the heirs often share ownership of that property. Those who inherit heir property each own a fractional, undivided interest in the land. The interests are fractional because each co-owner has an individual, partial interest in the land. The interests are undivided because each heir does not receive a deed reflecting their respective fractional ownership in the land. Since the land has not been subdivided according to the ownership interest each heir has, it is not clear which portion of the land each heir owns.

A. RIGHTS & RESPONSIBILITIES OF HEIR PROPERTY OWNERS

1. Right to Occupy the Land
Co-owners have an equal right to occupy land, but no one co-owner can exclusively occupy the entire property. A co-owner may occupy that part of the land that equals his fractional ownership interest, BUT he cannot occupy the entire land. If a co-owner uses or occupies any part of the land that exceeds the size of his fractional interest, he may owe the other co-owners rent.

2. **Right to Receive Fair Share of Profits Earned on Property**
   Co-owners have the right to receive their share of any profits earned from the land. For example if there is timber on the land and it is sold, each co-owner has the right to receive their share of the proceeds from the sale. Each co-owner's share is based on the size of his fractional ownership interest. A co-owner(s) may be selected by other co-owners to keep track of expenses and fairly distribute profits earned on the land.

3. **Right of Reimbursement**
   Generally, all co-owners should contribute their fair share toward the management of their land. This, however, does not always happen. In most cases, land management responsibilities rest either in the hands of one co-owner or a small number of co-owners. As a result, the other co-owners who do not contribute reap an unearned benefit. This is known as the *free rider problem*. In some instances, a co-owner may file a request to receive a reimbursement of money invested in the upkeep of land. This process is called an *accounting*.

4. **Limitation on Co-Owners' Rights**
   Because each co-owner has an individual, fractional interest, he can freely sell, donate, or lease that interest, or the equivalent of that interest without the consent of the other co-owners. However, a co-owner cannot make
decisions that impact the property rights of all the co-owners UNLESS all consent to it. Therefore, any decisions that impact the entire land require unanimous consent by all co-owners.

Example 1. A hunter approaches a co-owner to use the land for hunting. All co-owners must consent to entering into a hunting lease with the hunter and all proceeds from this lease must be fairly distributed to all the co-owners.

Example 2. A co-owner decides to lease her interest in property to a local farmer. The co-owner can lease the equivalent of her fractional interest BUT she must make sure the farmer-tenant knows that she cannot guarantee exclusive possession and use of all the land.

B. DISADVANTAGES OF HEIR PROPERTY OWNERSHIP

With each passing generation of heir property owners who die without a will or other type of estate plan, new generations of heirs inherit fractional, undivided ownership interests in the land. As the number of co-owners of heir property grows, the following problems often occur:

- Heirs do not live on or near the land;
- Heirs do not know each other;
- The whereabouts of one or more heirs are unknown;
- The identity of one or more heirs is unknown;
- One or more heirs having no connection to the land; and,
- One or more heirs not knowing they have an ownership interest in the land.

This is problematic not only because the new generation of heir property owners is often larger than the preceding one, but they are also more than likely not to have any connection to the land and, therefore, no desire to manage the land, which can lead to land loss.
In the alternative, management responsibilities of the land may lie in the hands of one or a few of the co-owners. However, they are limited in what they can do with the land. This is especially true when major land use decisions, like harvesting timber or leasing the land, need to be made.
Getting Started: You don’t know what you don’t know....
10 Biggest Mistakes Heirs Property Owners Make

1. Trying to handle heirs property issues without the assistance of professionals who know how to develop the legal and financial strategies to achieve your goals – Not Calling the Federation of Southern Cooperatives/ Land Assistance Fund First!

2. Procrastinating! Doing nothing and hoping that the problem will work itself out.

3. Failing to secure and protect the property from outside threats such as trespassers and squatters while you work out the heirs property issues.

4. 3 C’s of Heirs Property - Communicate, Communicate, Communicate - Not Communicating early and often with family members. “Knowing Who’s in? Who’s out?” Ignoring heirs property owners who want “out” can bring your title clearing process to a halt, especially if that person is only interested in getting cash for his/her interest and may be willing to sell to an outsider.

5. Don’t make important decisions immediately after the death of a key family member (Mother, Father, Grandparent) when emotions may be really high.
6. Not setting a realistic budget or timeline to resolve to your heirs property issues.

7. Not making sure taxes are paid and not developing a plan for paying taxes while you are clearing title.

8. Not spending the time to set goals- What do you really want to do with your land?

9. Not contacting the USDA to apply for resources to secure a land management plan other financial resources for your land transition.

10. Not Understanding Your Land's Value - Entering contracts for timber sales, land leases, mineral rights, etc. without having a land appraisal or consulting a professional.
Forward March: Setting Goals and Taking Action

Planning 101: The Ultimate 12 Month Heirs Property Planner and Checklist

December 2019
- Attend Forward 2020! Commit to a 1 year timeline to Kickstart your heirs property journey!
- Decide what matters most? Consider your core values. What is important to you?
- Create your own land legacy letter. (SEE SAMPLE)
- Visit or Contact your local property tax office to be sure taxes are paid

January 2020
- Secure the property – Do a visual inspection of the entire tract. Are there issues which threaten the property? These may include ongoing trespasses, squatters, landlocked issues, dumping, timber theft, and illegal hunting,
- Plan a trip to your local court house.
- Research and Document your family land history. Gather legal records and documents
- If you are unable to locate key documents, get a professional title search.
- Identify all owners of your property and create a contact list including Names, Addresses, Phone Numbers and Email Addresses
- Host a New Year Celebration and Informal Family Meeting to discuss Family History. Invite all known heirs. This could also be teleconference.
- START A CONVERSATION ON SOCIAL MEDIA! ...and share that history with other family members/ heirs

February 2020
- Contact the Federation of Southern Cooperatives/ Land Assistance Fund to schedule the first family meeting to discuss family Vision/Mission, Objectives, and Goals for the land
  Discuss Expectations –Put everything on the table!
- Set family goals- What do you really want to do with your land?
- Establish a Family Coordinator(s) and Core working group of family members
- Small family groups may decide to designate a limited Power of Attorney to handle financial matters regarding the land.

March 2020
- Create a Family Tree - Free online Resources at My Heritage.com – Be sure to include all known marriages, children, and death dates for heirs of late property owner.
- Create a Family History Facebook Page
- Conduct a Land Survey if you are not sure about your legal boundaries or if you believe there is an encroachment issue from a neighbor.

April 2020
- Know the value of your land! Gather market data on land values or get a professional land appraisal.
- What's out there and what's it worth? Hire a land management professional to advise on timber sales, land leases, mineral rights, or other income generating opportunities.
- Make an appointment with the Natural Conservation Resources Service (NRCS) to identify conservation concerns on your
property and get more information about conservation programs.

- Contact the USDA’s Farm Service Agency (FSA) Office in your county to start eligibility process for program resources to assist with your land (Ex. EQIP- Conservation Activity Plan)

**May 2020**

- **Schedule Second Family Meeting with** Federation of Southern Cooperatives/ Land Assistance Fund to discuss all options for clearing title.

- **Commit to a path FORWARD! Focus on getting Family Agreement. Get consensus in writing from all heirs.**

- **Got uncooperative heirs or heirs that won’t communicate? Call the Federation’s Agricultural Mediation Program to assist with family farm transitions.**

- **Set a realistic budget and timeline to resolve to your heirs property issues. Keep in mind that it may take an average of 20% of the total value of the property to clear title.**

**June 2020**

- **Narrow the group of heirs by determining which family members are willing to sell or quit-claim their interests to other family members. Make offers based on fair market appraisal.**

- **Start intra-family buyouts**

- **Decide whether family will create a business entity or set up a family trust. Get written agreement from all owners!**

- **Consult with legal and business advisers.**

- **Identify key decision makers and managers for business entity and prepare start-up documents. These documents may be free online at your Secretary of State’s website.**

- **All owners prepare to execute quit claim deed transferring individual interest to the business entity**
• For a family trust, you will need to hire an attorney to draft the trust agreement.
• All owners prepare to execute quit claim deed transferring individual interest to the trust.

**July 2020**
• Complete intra - family buyouts
• Consult with 2 to 3 attorneys. Discuss family objectives/agreement and get a clear understanding of fees for services.
• Hire a trusted attorney. Sign a retainer and agree on how legal expenses will be paid by the owners.
• If your state recognizes an Affidavit of Heirship and all heirs agree to a resolution, consult an attorney about preparing an Affidavit of Heirship.
• If heirs property issues can’t be resolved by family agreement, your attorney will initiate a quiet title action.
• Attorney will initiate probate proceedings for deceased relatives, if necessary. Probate may not be required if a decedent has been dead over a specific period of time.
• If the heirs agree on how the property should be divided, your attorney will initiate a partition in kind.

**August 2020**
• Work with the Federation of Southern Cooperatives/ Land Assistance Fund to develop a Land Utilization Strategy or Land Management Plan (Conservation Activity Plan- NRCS)

**September 2020**
• Make an appointment with your personal attorney or financial adviser for a comprehensive review or your assets and estate planning needs. Call the Federation for a referral to a trusted member of our attorney network.
• Each family member completes an estate planning questionnaire.
• Each family member completes an estate plan which includes a will, a power of attorney, and a living will.
• Discuss buy/sell agreements

**October 2020**

• Monitor court proceedings and appear in court as requested.
• Respond immediately to all attorney requests for information.

**November 2020**

• **Schedule Third Family Meeting with Federation of Southern Cooperatives/ Land Assistance Fund** to discuss progress on title case and land utilization strategy.
• Start farm business or income generating activities on the land.

**December 2020**

• Congratulations! You Did It!
• Plan to attend FORWARD 2021 and share your journey!
Exercise 1.

Write your Own Land Legacy Letter

Directions: Think about what is important to you and what matters most. Answer the following questions, then share with your family to start a conversation about the future of your land or farm.

Date:____________________

My family owns ___________ acres or heirs property in
______________

My family has owned heirs property since _________________

The total number of heirs is _________________

Land uses on the property include

__________________________________________________

Our land has changed over the years in the following ways:

__________________________________________________

__________________________________________________

__________________________________________________

My strongest memories of the land are:

__________________________________________________

__________________________________________________

__________________________________________________

__________________________________________________
My top three(3) goals for my land are:

Why are these goals important to me?

50 years from now, what do I want people to remember about this land?

What information can I share with the next generation of owners?
Session B: COMMON GROUND: CREATING A SHARED FAMILY VISION

Resolving Heirs Property With Family Agreements

Resolving heirs property with family agreement starts with three (3) key elements:

1. Knowing who are the rightful heirs;
2. Knowing what you own;
3. Engaging the other co-owners to work with you to resolve your heir property problems and concerns; and
4. Keeping track of your property if you do not reside on the heir property you co-own.


When a landowner dies without a will or other plan to transfer property, state law steps in to determine who can inherit from his estate. The law that determines who can inherit is called the Law of Descent and Distribution. These laws outline the order of priority in which relatives of a deceased landowner can inherit from the estate.

**Half Blood Relatives. Individuals who are half-blood relatives of the deceased inherit as if they were whole blood.**

**Adopted Children. Adopted children will inherit through their adoptive parents.**

**Children Born Out of Wedlock. Such children inherit through their biological mother. They can also inherit through their biological father once paternity is established.**
It is helpful to develop a family tree. A family tree will allow you to determine who the current heirs are. Your family tree should begin with the ancestor who originally purchased the land, and end with the most current generation of living family members. You should indicate on your family tree who has died, also noting the dates of their death and marriages.

A completed family tree will also allow you to estimate the size of each current co-owners' fractional interest using your state's laws of descent and distribution (SEE chart on previous page). It is recommended that you seek the counsel of an attorney to ensure accuracy in making this determination.

**Example 1. Diagram. Family Tree in Georgia**

Example 1. Who are the current heirs and what is the size of their individual, fractional interests? When the original landowner, Willie Brown, died, his wife, Mary Lou Brown, inherited a 1/3 interest in the estate, and his children equally shared the remaining 2/3 interest. Since Elizabeth Thompson died before her
father, she could not inherit. Therefore, the children, Mattie and Louis Brown, were the only children who could equally share the remaining 2/3 interest in Mr. Brown’s estate.

When Mattie Brown died in 2001, her 1/3 interest passed to her two children, Matthew and Catherine Brown, to share equally, giving each a 1/6 ownership interest.

2. **Knowing what you own.**

Over time, property lines can shift affecting the size and shape of land. Land ownership also change hands over time, either through land transfer plans, estate plans, and land sales. Heir property ownership can also change with each generation of new heirs who inherit a fractional interest in that land. Therefore, it is critical to know how your family land was acquired, and what, if any, activity has taken place on that land over time. To do this, it is important to visit the land records office located in the local, county courthouse where the land is located. The courthouse stores all land-related documents in the county – deeds, mortgages, easements (rights of way), assignments, judgments, etc. The courthouse land records office also records surveys of land lots and subdivisions. Researching the land records on file at the local courthouse is an excellent way to help you determine what you and the other co-owners own. It is recommended that you seek the assistance of an attorney and/or someone who is experienced with researching land title, or land ownership, records.

3. **Engaging the other co-owners.**
Since all co-owners of heir property must agree on those land management decisions that impact their land, it is important to know who shares ownership of that land. Knowing who the current co-owners are will allow you to work together to implement ways to secure ownership of heir property. Gatherings, like family reunions, are convenient ways to engage family in discussions about heir property in your family, and to solicit their assistance and commitment to help resolve heir property concerns and problems.

4. Keeping track of your property.
If you do not reside on the heir property you co-own, it is important that you find a feasible way to keep track of it. One way is to periodically visit the land.

For example, you could coordinate your next family reunion near the land. This would be a wonderful way to not only give you and your relatives an opportunity to see the land, but to also educate those relatives, including the next generation of potential heir property co-owners, about the family history on the land.

Another option would be to subscribe to the legal organ for the county where your family’s heir property is located. A legal organ is a publication, like a local newspaper, that publishes legal notices for the local area. It is important to know what the legal organ is for your county because all notices pertaining to legal proceedings like judicial sales, partition sales, tax sales, foreclosures, and other legal matters are published in it.
RESOLVING HEIRS PROPERTY BY CREATING A BUSINESS ENTITY

Setting up a business entity to hold land is one way to address issues inherent in heir property that can lead to loss.

Setting up a business entity to hold land is one way to address issues inherent in heir property that can lead to loss. There are two primary types of business entities that can be set up to hold land – a corporation and a limited liability company. Setting up a family business entity to hold heir property is a way to reduce the chance of loss, because management decisions are centralized. It is also a way to open up financing and land use opportunities. Moreover, land ownership is transferred to the business, eliminating the multiple owner issue.

A. CORPORATION

A corporation is created by filing articles of incorporation with the Georgia Secretary of State’s office. The basic decision making structure of a corporation consists of shareholders, board of directors, and officers. Shareholders are the owners of a corporation, but they do not directly run, operate, or manage the corporation. Shareholders influence decision-making indirectly by electing the corporation’s board of directors. The board of directors is responsible for making policy decisions for the business and appointing individuals to serve as officers. Officers (i.e. President, Vice President, Secretary, Chief Financial Officer, etc...) are responsible for the daily operations of the corporation. Advantages to a corporation include:

1) Indefinite duration. A corporation is not affected by changes in management, which means it can exist for an indefinite period of time. For example, co-owners can opt to pull out as shareholders of the business without disbanding the corporation.
(2) **Centralized management.** Management of the corporation and its assets is centralized in its officers and board of directors.

(3) **Ease of ownership and transferability of ownership.** For heir property, a business entity reduces the risk of land loss because transferring ownership of heir property from the heirs to the business eliminates the multiple ownership issue.

(4) **Flexibility of purpose.** A corporation may engage in any enterprise as long as it is not illegal.

(5) **Limited Liability.** The shareholders are not personally liable for the debts and losses of the corporation. Generally, they are personally liable to the extent of their investment in the corporation.

**B. LIMITED LIABILITY COMPANY**

One or more persons may form a *limited liability company* (LLC) by filing articles of organization with the Secretary of State. The owners of a LLC are called *members*. A LLC may be managed by its members or by managers who are elected by its members. Unless otherwise provided in the articles of organization, each member is entitled to one vote, and the profits are equally distributed among the members. This agreement sets out how the LLC will conduct business.

The advantage of a LLC is that the members have limited liability for the debts and losses of the company. Liability for each member is limited to the size of his/her investment in the business. In the case of heir property owners, this would be the size of their fractional interests in the land that is transferred to the business. An LLC may be formed for any legal purpose.
C. COMPARISON OF ORGANIZATIONAL FACTORS

The following is a comparison chart of the business forms discussed above.

<table>
<thead>
<tr>
<th>ENTITY</th>
<th>LIABILITY OWNERS</th>
<th>TRANSFERABILITY OF OWNERSHIP</th>
<th>MANAGEMENT</th>
<th>NUMBER OF OWNERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporation</td>
<td>No liability if corporate formalities are followed</td>
<td>Stock can be freely transferred, unless the corporate bylaws give the other shareholders first right of refusal.</td>
<td>Shareholders elect board of directors. Corporate officers manage the daily activities.</td>
<td>If an S corporation, there can only be a maximum of 75 shareholders. If a C corporation, there can be an unlimited number of shareholders.</td>
</tr>
<tr>
<td>Limited Liability Company (LLC)</td>
<td>No liability if LLC formalities are followed</td>
<td>Interests in the company may be transferred freely if allowed by the operating agreement. Otherwise, members must consent to the transfer of ownership.</td>
<td>Members manage the company, unless managers appointed.</td>
<td>One or More</td>
</tr>
</tbody>
</table>

D. ISSUES TO CONSIDER WHEN CHOOSING A BUSINESS FORM
The first step is to decide which business entity form is best for you or in the case of heir property, for all co-owners. Some factors you should consider include:

1. **Type of business activity.**
   What is the purpose of your business? What specific activities do you want your business to engage in?

2. **Who is involved?**
   How many individuals do you anticipate participating in the business? What relevant skills and other contributions can they make to the business? For heir property owners the question should also be how many co-owners are there (each co-owner who transfers his ownership interest to the business will be a shareholder or member).

3. **Financial needs.**
   What are the foreseeable financial requirements of the business? What are the financial risks? For heir property owners who may be seeking to develop and implement land use plans, what are the costs associated with implementing the plan?

4. **Limited liability.**
   How important is limited liability for the business and its intended owner(s)?

5. **Continuity.**
   Is it important that the business continue beyond the life of the initial owner(s)? For heir property owners, do the co-owners of the business intend for it to last for future generations?
Photo contributed by the Mississippi Association of Cooperatives
RESOLVING HEIRS PROPERTY WITH AN AFFIDAVIT OF HEIRSHIP

An heirship affidavit is a sworn statement used to establish ownership of property when the original owner dies intestate and the estate isn't worth more than a statutory amount. This legal document is used in some states to avoid probate. Heirship affidavits are the easiest method to pass ownership of personal or real property to a deceased person's heirs.

An affidavit of heirship should be duly signed by individuals who have personal knowledge about the decedent's real property. Any witnesses should indicate in writing that they have no personal gain from signing the affidavit of heirship. The persons who sign the affidavit state under the oath that they knew the deceased person. The affidavit will contain the location and date of death, as well as the names of the legal heirs and family members of the deceased. It will also include the deceased person's history of marriage, including the name of the spouse. The names and addresses of the deceased person's living children will also be included in the affidavit. In case the decedent was never married, it may contain the decedent's parents' names. The signer of the affidavit of heirship typically swears that the deceased person had no debts at the time of death.

A small estate affidavit is a sworn statement filed in the probate court stating that an estate meets the requirements of a small estate and requires appropriate summary probate process. To make the heirship affidavit legally binding, it must be signed in front of a notary public. A notary is a person who is authorized to execute oaths and act as a witness officially. The notary confirms the identity of the deponent and the witnesses by verifying their identification documents. The process shall be complete after the notary dates and sign the affidavit, and affixes his official seal. It may be filed with the county's deed records. An affidavit of heirship can be used for collection of personal property only in some states.
Sample Alabama Affidavit of Heirship

AFFIDAVIT OF HEIRSHIP

(Decedent)

STATE OF ALABAMA

COUNTY OF _____________

Before me, the undersigned authority, on this day personally appeared ______________, hereinafter referred to as "Affiant," who is personally known to me (or, if not being personally known to me, did confirm his/her identity presenting ______________ as identification [i.e. drivers license]), and appearing to be fully competent and of sufficient age, upon being duly sworn, stated upon Affiant's oath the following:

1. My name is ______________ (name of Affiant), and I live at ______________ (address of Affiant's residence). I am personally familiar with the family and marital history of ______________ (Decedent), and I have personal knowledge of the facts stated in this affidavit.

2. I knew Decedent from ______________ (date) until ______________ (date). I was personally well acquainted with the Decedent during his/her lifetime.

3. The Decedent died on ______________ (date of death) at the following place of death: ______________ (City), ______________ (County), ______________ (State). At the time of Decedent's death, Decedent's residence was ______________ (Street), ______________ (City), Alabama, ______________ (Zip).

4. I was well acquainted with the family and near relatives of the Decedent, and with all those who would, under the laws of the State of Alabama, be his/her heirs. The following statements and the information contained herein, including my answers to questions below, are based upon my personal knowledge and are true and correct.

QUESTION 1: Did the Decedent leave a will?

YES _____ NO _____ IF YES, please attach copy of same hereto.

QUESTION 2: If the Decedent left a will, has the will been admitted to probate?
YES ______ NO ______ IF YES, at what place and when?

________________________ County, Alabama, _______________ Case Number.

**QUESTION 3:** Give the name and address of the surviving widow or widower of the Decedent.

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**QUESTION 4:** If the Decedent was married more than once, give the name(s) of the former spouse(s) and other information.

<table>
<thead>
<tr>
<th>NAME</th>
<th>DATE OF MARRIAGE</th>
<th>STATUS (Dead or divorced)</th>
<th>ADDRESS OR DATE OF DEATH</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

**QUESTION 5:** Give the names and places of residence of all surviving children of deceased, together with the other information called for:

<table>
<thead>
<tr>
<th>NAME OF CHILD</th>
<th>DATE OF BIRTH</th>
<th>ADDRESS</th>
<th>BY WHICH SPOUSE</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

**QUESTION 6:** Give the name of any deceased children of the Decedent, together with the other information called for:

<table>
<thead>
<tr>
<th>NAME OF CHILD</th>
<th>DATE OF BIRTH</th>
<th>DATE OF DEATH</th>
<th>SPOUSE'S NAME</th>
<th>DATE OF DEATH OF SPOUSE</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>
QUESTION 7: Give the names and addresses of the children of any deceased son or daughter of the Decedent.

<table>
<thead>
<tr>
<th>NAME OF CHILD</th>
<th>ADDRESS</th>
<th>DATE OF BIRTH</th>
<th>DATE OF DEATH IF DECEASED</th>
<th>NAME OF FATHER OR MOTHER</th>
</tr>
</thead>
<tbody>
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QUESTION 8: Did the Decedent have any adopted children or step-children taken into his/her home?

YES _____  NO _____  If yes, provide their names and other information.

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>DATE OF BIRTH</th>
<th>DATE OF ADOPTION</th>
</tr>
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<tbody>
<tr>
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</tbody>
</table>

QUESTION 9: If the Decedent left no children or grandchildren, then give the names and addresses of the Decedent’s surviving father, mother, and all brothers and sisters.

<table>
<thead>
<tr>
<th>NAME</th>
<th>RELATIONSHIP</th>
<th>DATE OF BIRTH</th>
<th>ADDRESS OR DATE OF DEATH</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>
**QUESTION 10:** If the Decedent left no children, grandchildren, spouse, mother, father, brother, or sister, state all other known surviving relatives, including grandparents, aunts, uncles, nieces and nephews.

<table>
<thead>
<tr>
<th>NAME</th>
<th>RELATIONSHIP</th>
<th>DATE OF BIRTH</th>
<th>ADDRESS</th>
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</table>

**QUESTION 11:** What is your relationship to the Decedent?  

**QUESTION 12:** How long have you known the Decedent?

______________________________  
Signed this  ______ day of ________, 20____.

______________________________  
Notary Public

---

**STATE OF ALABAMA**

**COUNTY OF________________**  

______________________________  
of lawful age, being first duly sworn,  
upon his/her oath states that the information given in the above and foregoing affidavit  
is true to the personal knowledge of this Affiant.  
Subscribed and sworn to before me this ______ day of ____________, 20____.
My Commission Expires: ___________________
EXERCISE 2.

Create your own Family Tree

FAMILY TREE

Presentation Notes and Next Steps

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
Session C: HEIRS PROPERTY LITIGATION

Overview of Partition

A partition-in-kind is the physical division of land among co-owners according to their fractional interests. With a partition-in-kind, co-owned land, or heir property, is subdivided among the heirs. The end result is that each co-owner receives a deed to their individual parcel of land that was carved out of the whole. A partition-in-kind is often a court supervised process. If the court determines that the land cannot be subdivided fairly, it will order the sale of that land.

A. PARTITION SALE

A partition sale is a court-ordered sale of land. With a partition sale, land is sold at the courthouse steps to the highest bidder and the proceeds from the sale are distributed to the co-owners according to the size of their fractional ownership interests.

A co-owner of heir property may initiate a partition sale either by petitioning the court for a partition sale, or by petitioning the court for a partition-in-kind. If a court finds that a partition-in-kind would not be feasible or would not promote the interest of all co-owners, it will order a partition sale of the land.

Co-owners must receive notice of a partition sale by mail or personal service. Co-owners must receive notice of a partition sale by mail or personal service. However, if the identity and whereabouts of a co-owner are not known and reasonable efforts were made to identify and locate that individual, notice of a partition sale will be published in the local legal organ in the county where the land is located.

Before the proceeds from a partition sale are disbursed to the co-owners, attorney fees, the cost of conducting the sale, and other sale-related costs are first deducted. What is left is then distributed to the co-owners according to the size of their individual fractional ownership interests.

While partition sales may be an easier way to solve the multiple co-owner problems inherent with heir property, there are also several disadvantages to partition sales for heir property owners. One, it is not known who will participate at a partition sale. Two, it is often difficult for co-owners, especially those who are "land rich, cash poor", to outbid land speculators and developers who may bid at the sale. And, Three, there is a strong chance the land may be sold at a partition sale for less than the land’s value.

Partition sales are typically initiated in one of three ways:
1. An heir petitions the court for a partition-in-kind of the land and the court finds it is not feasible to equitably do so;
2. An heir petitions the court for a partition sale; or,
3. An heir, or several heirs, sell their ownership interests to someone other than another heir (e.g. a land speculator, or timber company), and the purchaser of the heir's interest then petitions the court for the partition sale of the property.

In some states (Georgia, for example), a co-owner can make a timely request to the court to "buy out" those co-owners who initiated the partition sale of the land. To "buy out", a co-owner must pay to the court an amount that would equal the total value of the interests owned by those co-owners who initiated the sale. The "buy out" price is based on the appraised value of the land and the size of the fractional interests of each co-owner. A completed "buy out" will stop the partition sale.

After a co-owner(s) submits his request to "buy out," he will have ninety (90) days from the day the appraisal report is filed with the court to make full payment. Failure to make this payment on time will result in the partition sale of the land. If the purchasing co-owner(s) pays the "buy out" price on time, then he will acquire the interests of those co-owners who initiated the sale. If there is more than one purchasing co-owner, then each co-owner's interest increases by the amount he or she contributed to the "buy out."
OTHER LEGAL ISSUES
FOR HEIRS PROPERTY
OWNERS

Adverse Possession

One basic assumption is that a landowner will take care of his land and make the most efficient use of it. The upkeep of land, including keeping trespassers away, is one of a landowner's basic responsibilities. If a landowner does not monitor his land periodically, there is a chance that someone may claim ownership of it. This is known as adverse possession. Adverse possession only applies to privately owned land. To make a valid claim of ownership, an adverse possessor must possess land in a particular way for a specific period of time without being ejected from the land by the true landowner.

A. POSSESSION OF THE LAND
There are specific criteria that must be met by the adverse possessor to demonstrate that he is in possession of the land. The adverse possessor must show that his possession has been:

- **Open and Notorious.** An adverse possessor cannot secretly claim ownership of the land. Possession must be visible. Examples of visible possession include fencing the land; making repairs or improvements; putting the land to use; and, placing "No Trespassing" signs on the property.

- **Hostile.** This means that the adverse possessor has possessed the land without the permission of the true owner. If the true landowner authorizes someone to utilize the land, then this component is not met. Heir property co-owners cannot adversely possess land against the other co-owners.

- **Exclusive.** The adverse possessor must possess the land for himself ONLY. He cannot possess the land on someone else's behalf.

- **Continuous.** Possession of the land must be uninterrupted for a specific period of time as required by state law.

B. PERIOD OF TIME TO POSSESS
The adverse possessor must possess the land for a certain amount of time. The time of possession will depend on how the adverse possessor claims ownership to the land. There are two (2) ways an adverse possessor can claim ownership of land:

1. Under a *claim of right*, the adverse possessor claims ownership by asserting ownership of it through such means described in Section A (Open and notorious, hostile, exclusive, and continuous).

2. Under *color of title*, the adverse possessor has a deed or other document that demonstrates that he owns the land. The document relied on by the adverse possessor, however, cannot be a fraudulent document.

C. WHAT DO I DO IF I DISCOVER SOMEONE ON MY PROPERTY?

Adverse possession is particularly problematic for heir property owners because they often do not live on or near the land, which can make it difficult to periodically monitor the land. An absentee landowner should select an agent or caretaker to periodically check his land for trespassers and squatters.

If you discover someone on your land that claims, or appears to claim ownership of it, you should speak with an attorney to find out your options for removing that individual from your land. It is not wise for you to take matters into your own hands to eject someone from your property. If you try this and the individual is hurt in the process, he may have a legal claim against you.
Eminent Domain and Condemnation

Adverse Possession occurs when an individual acquires title to your land, but what happens when the state takes your land to build a school or a highway? What are your rights?

Eminent Domain is the power of the government to take private property for public use. Every year families lose their land to the government for public projects. In most instances, we all benefit from the exercise of this governmental power, however, when the land taken belongs to you, it can cause much frustration.

The process of taking private land under this power is called condemnation. The government must show that the private land is being taken for the benefit of the public NOT for the benefit of an individual or group of individuals. Often the government seeks only to condemn a portion of a landowner’s property, as in road widening projects.

The government has the power to take private land under specific guidelines; however, you have the right to be compensated for the taking. Compensation is typically based on the fair market value of your land, or portion of your land that is taken.

Under certain circumstances, landowners who are forced to move by a condemnation action may receive relocation benefits to help cover moving costs.

If you are not satisfied with the compensation offer made by the government, or you want to challenge the government’s right to take your land, you should consult an experienced attorney to discuss your options.
Tax Sales

A tax sale is a public sale of land that occurs when a landowner does not pay his annual property taxes. The purpose of a tax sale is to recoup unpaid property taxes owed by a landowner.

The deadline for paying property taxes can differ county by county. If they are not paid on time, a landowner is considered delinquent, and will receive a tax delinquency notice either by mail or personal service. If the delinquent tax amount is not paid, you will receive a tax sale notice notifying you of the date and time of sale. A tax sale notice will also be published in the local, county.

At a tax sale, land is sold at auction to the highest bidder. The highest bidder, or tax sale purchaser, receives a tax deed. The tax deed is written proof that the tax sale was valid. The tax deed is subject to a landowner's right to redeem.

If you have a dispute as to the amount of your property taxes, consult an attorney and/or speak with your local tax collector's office to find out how you can appeal your tax bill.

ALWAYS PAY YOUR PROPERTY TAXES EVEN IF YOU PLAN TO DISPUTE THE AMOUNT!
B. RIGHT TO REDEEM
Generally, if your land is sold at a tax sale, you have twelve (12) months after the date of the tax sale to redeem ownership. This is known as the redemptive period. If you do not redeem ownership of your land within this period, the individual who purchased your land at a tax sale will receive a deed to the land, and you will lose any rights you may have in it.

1. Who can redeem?
The former owner or anyone else who has some interest in the land can redeem the land. For example, a wife can redeem land owned by her husband. If a co-owner of heir property redeems the land, the other co-owners can reclaim ownership of their individual interests by paying their share of the redemption price.

2. How do I redeem my land?
The cost to redeem your land is often more than the delinquent property tax amount. Generally, to redeem land, you must pay the delinquent tax amount that initiated the tax sale; plus, any taxes owed on the property after the tax sale and the interest that accrues on the property until it is redeemed.

When the redemption payment is received by the tax collecting authority, you should receive a certificate of redemption. This certificate MUST be recorded at the local courthouse of the county where the sale occurred.

If a tax sale purchaser makes any improvements on the land before it is redeemed, he may be entitled to recover the value of those improvements. The tax sale purchaser is also entitled to be reimbursed for the cost of any repairs, maintenance, or demolition ordered by any political subdivision on immovable property (i.e. home, building) that were also sold at tax sale. The tax sale purchaser is not entitled to recover the actual value of the property.

If you are a co-owner of heir property, it is important to know who is paying the annual property taxes, and to know if those taxes are paid on time. To obtain tax information on your land, you can visit or call the tax assessor’s office in the county where your land is located.
Session D: ESTATE PLANNING

Overview of Estate Planning

Estate planning is the process of planning for how your estate will be distributed and/or managed during your lifetime and when you die. Estate planning is important because it can be used to prevent the creation of heir property (See Section I: Heir Property Ownership). There are two primary components of estate planning: Lifetime Planning and Succession Planning.

A. LIFETIME PLANNING

Lifetime planning involves planning in advance for the management of your financial affairs and medical care in the event you become unable to do so. Circumstances in life can change when least expected. Therefore, you should plan for the possibility that you may be unable to make important decisions for yourself.

1. Financial Matters

*Durable Power of Attorney.* This is a document where you select someone to act on your behalf to manage your affairs. The person you select will be required to act in your best interest, so you must select someone you trust and know is capable of making financially sound decisions. You control how much decision-making authority he will have. A durable power of attorney ends when you die. A durable power of attorney typically takes effect when it is determined that you are incapacitated or lack the ability to make important financial decisions on your own behalf. This determination can be made by the court or by a licensed professional.

2. Health/Medical Care Matters

*Healthcare Power of Attorney.* Similar to the durable power of attorney, with this document, you select someone to make specific health care decisions on your behalf.

*Living Will.* A living will is not a will. This is a document where you clearly state whether or not you want to use life-prolonging medical care in the event you become terminally ill. The benefit of having a living will is that you will spare your family the agony associated with deciding whether to remove you from a life sustaining machine or other regime implemented to keep you alive (e.g. respirator).

B. SUCCESSION PLANNING

Succession Planning is the process of planning for how your estate will be distributed after you die. The most common type of estate plan is a will. A will is a document that explains
how you want your assets to be distributed at death. One advantage of a will is that you control how your estate will be distributed. In Georgia, you must be at least 18 years old and of sound mind to make a will.

It is critical that your will be legally valid. The requirements that must be met for a will to be valid are:

(1) **A will must be in writing.** An oral will is invalid unless it is made when one is on their deathbed. This is far too risky, so it is highly recommended that you have your will prepared well in advance. You can always work with an attorney to make any necessary changes to your will.

(2) **A will must be properly executed.** *Will execution* is the process required by law to make a will valid. Will execution is a formal process that must be strictly followed. To execute a will, it must be *subscribed* and *attested*. This means the testator must sign the will (*subscribe*), and witnesses must confirm (*attest*), by signing the will, that the testator understands the will, and that it accurately reflects his wishes. There must be at least two witnesses and there cannot be beneficiaries to the will. The selected witnesses must also be willing to testify as to the validity of the will if the will is challenged at *probate*.

A will is one type of estate plan; there are many other options available. Consult a lawyer to determine which estate plan is right for you.

C. COMMON MYTHS ASSOCIATED WITH ESTATE PLANNING

**Myth #1: Estate planning is just for wealthy people.**
This is not true! If you have assets, you should have a plan for who will inherit those assets and how those assets will be managed in the event you become unable to do so. As a landowner, you have a substantial asset - the land! - and it should not be taken lightly.

**Myth #2: I have to be sick or on my death bed before I make an estate plan.**
Wrong! Estate planning is not just planning for your death. It involves lifetime planning. If you have a business, such as a farm, it involves planning for the transfer of your farm operation. It may also involve debt reduction planning and financial planning if the value of your debts is greater than the value of your assets, so that you will have something to pass on to your heirs.

If you participate in a federal agriculture program, it involves planning for how participation in those programs can continue should you die before the program is over, or before any debt is satisfied.
D. OTHER ESTATE PLANNING TIPS

**TIP #1:** Because estate plans must be tailored to individual circumstances, and designed to meet a variety of unique situations, you must be sure to find the necessary professionals to counsel you as you prepare your estate plan. Therefore, your estate planning “team” should include an attorney, tax specialist, and a financial planner.

**TIP #2:** You should consider talking with your loved ones about your estate plan and how it will affect them.

African-American children playing outdoors, Eatonville, FL, June 1935
Estate Planning Questionnaire for a Simple Will, Living Will, and Power of Attorney

The purpose of this questionnaire is to prepare your attorney for drafting your estate plan. An *estate plan* is a plan for how your estate will be managed and/or distributed, and who will benefit from what is left in your estate after you pass on.

It is important that you complete this questionnaire to the best of your ability, and that the information you provide is as accurate. *All information shared on this questionnaire will be kept confidential.* If you need more space to complete the information requested below, attach additional sheets of paper to this questionnaire. If a question does not pertain to you, simply skip over it, or place "-NA-" in its place.
Date ____________________________

1. Your Full Legal Name

______________________________
First Middle Last

2. Name you use to sign documents
(print) __________________________

3. Your Address:

______________________________
Street

______________________________
City State Zip
County

4. **Date of Birth** Month________ Day_______ Year 19_________

5. **Sex**
   - [ ] Male
   - [ ] Female

6. **Telephone Number** (______)_________ - ___________
7. What is the value of your Estate?

<table>
<thead>
<tr>
<th>ESTATE ITEM</th>
<th>VALUE</th>
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<tbody>
<tr>
<td>Bank Accounts/Certificates of Deposit (CD)</td>
<td>$</td>
</tr>
<tr>
<td>Real Estate</td>
<td>$</td>
</tr>
<tr>
<td>Life Insurance (cash surrender value only)</td>
<td>$</td>
</tr>
<tr>
<td>Retirement Accounts IRA or 401(k) (Value at your death)</td>
<td>$</td>
</tr>
<tr>
<td>Pension Benefits (that continue after your death.)</td>
<td>$</td>
</tr>
<tr>
<td>Vehicles</td>
<td>$</td>
</tr>
<tr>
<td>Boats</td>
<td>$</td>
</tr>
<tr>
<td>Money owed to you</td>
<td>$</td>
</tr>
<tr>
<td>Business Interests</td>
<td>$</td>
</tr>
<tr>
<td>Stocks/Bonds/Mutual Funds</td>
<td>$</td>
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<tr>
<td>Other (jewelry, guns, painting, collectables etc.)</td>
<td>$</td>
</tr>
<tr>
<td>TOTAL ESTATE VALUE</td>
<td>$</td>
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</tbody>
</table>

SECTION I. WILLS & ESTATE

1. DO YOU WANT A WILL?
   ☐ Yes
   ☐ No

2. BASIC WILL OPTIONS (Please select the will option that most closely reflects your wishes)
   ☐ A. My entire estate goes to my spouse if she/he survives me. If my spouse does not survive me, then it goes equally to my children, or if not to my children, then to (name)______________________________. Any assets left to someone under age 19 are to be held in trust for his or her benefit until age 19 or age _______ (age older then 19).
B. My entire estate goes to my children equally. Any assets left to someone under age 19 to be held in trust for his or her benefit until age 19 or age _______. (age older then 19)

C. My entire estate goes to a designated beneficiary or beneficiaries (friend, charity, partner, other family members). If one or more of the beneficiaries is an individual you should clearly provide what is to happen if that individual predeceases you (that is, to the other named beneficiaries, to another person or persons, gift lapses, etc.)

NOTE: If one of the above options does not accurately describe the disposition you desire to make of your assets, please consult with your attorney.

3. Marital Status
   □ Single, never married
   □ Married only once
   □ Married more than once, prior marriage ended in divorce or death of spouse
   □ Separated but not divorced
   □ Widow/ widower
   □ Divorced
   □ Other relationship. Explain relationship/ other’s name

4. Spouse's Full Name
5. Who do you want to be Personal Representative (Executor/Executrix) of your estate?

6. Who do you want to be the Secondary Personal Representative, if your primary Personal Representative is unable or unwilling to serve?

7. Would you like to exempt the Personal Representative from any bond requirement and/or exempt the Personal Representative from an inventory of your estate?

(Most people choose to exempt the Personal Representative from posting bond, and from filing an accounting or inventory in court. The bond would protect the beneficiaries should your personal representative’s actions harm the estate. Generally, if you do not trust your personal representative enough to provide exemption from bond then you should consider someone else in whom you have more confidence.)

☐ Yes
☐ No

8. Please list the names and birthdates of all your natural or adopted children. Please note if any children are stepchildren.

<table>
<thead>
<tr>
<th>CHILD'S NAME</th>
<th>DATE OF BIRTH</th>
<th>NATURAL/ADOPTED/STEP CHILD?</th>
<th>OTHER PARENT'S NAME</th>
</tr>
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57
9. Are you currently pregnant or is your spouse/partner/other currently pregnant with your child?
   ☐ Yes
   ☐ No

10. Who do you wish to be the primary guardian for your minor children should the other parent have predeceased you or had their parental rights terminated?

   ___________________________________________

11. Who do you want to be the secondary guardian if the primary guardian named above is unable or unwilling to serve?

   ___________________________________________

12. If your children are minors at the time of your death, assets they receive from your estate will be held in trust for their benefit. Who do you wish to serve as primary Trustee?

   ___________________________________________

13. If your primary Trustee named above is unable or unwilling to serve who do you wish to serve as secondary Trustee?

   ___________________________________________
14. If assets go to your child/children and they have predeceased you, you can elect that the assets that would have gone to your deceased child can go to your deceased child's children (per stirpes). Would you prefer that assets go to the children of your predeceased child or be redistributed among your living children?

☐ Per stirpes
☐ Distribute assets to living children

15. Adopted children are treated as natural children in most states. Step-children are not. A step-child will only inherit from your estate if they are named in the Will. Are there any step-children that you would like to receive any portion of your estate under this Will if as they are your natural children?

☐ Yes

If yes, then whom:


☐ No

16. Are there any children (natural, adopted or step) that you do not want included to share in your estate under your Will as any others?


17. If you are unmarried and/or have no children, to whom would you want your estate to go to?

☐ Parent(s)

☐ Sibling(s)

☐ Partner
Friend(s)

Charity(s)

Other

18. If the above person or persons predecease you to whom do you want your estate to go?

19. Do you want to leave any specific personal property to someone?

Yes

No

Please Note: Specific bequests of personal property may be included in your will or you can write such items down to be included in a memorandum. Such a memorandum is recognized in some states as part of the Will. However, if you specifically want a certain piece of personal property to go to a specific person, then that item should be specifically mentioned in the Will, and you may need to seek further legal counsel. Of course, the downside of naming something specifically in the Will is that you may change your mind and the Will would have to be redone and re-executed. If there is a memorandum, the memorandum can be torn up and a new one prepared.

Based upon the above explanation, are there any specific assets you
wish to leave to someone in a memorandum (i.e. cash, antiques, heirlooms, collectibles, guns, etc.)? What and to whom? Please indicate the % of cash assets you wish the beneficiary to receive when possible. (Beneficiaries in insurance policies, stocks, bonds, mutual funds, etc. are not named in your Will. Also real property (or other assets) owned jointly with right of survivorship pass(es) to the joint owner(s) instead of any beneficiary named in your will.)

<table>
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<tr>
<th>BENEFICIARY</th>
<th>RELATIONSHIP</th>
<th>ITEM/SHARE (%)</th>
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SECTION II. POWER OF ATTORNEY

1. DO YOU WANT A POWER OF ATTORNEY?  
   □ Yes  
   □ No

2. Who would you want to name as your Power of Attorney Agent (attorney-in-fact)?  

   (Full Name)
Is attorney-in-fact:
☐ Male
☐ Female

3. Who would you want to name as your successor Power of Attorney Agent should the primary be unable or unwilling to act?

__________________________________________
(Full Name)

Is the successor attorney-in-fact:
☐ Male
☐ Female

5. Should proceedings in any court be commenced requiring the naming of a conservator, guardian or other fiduciary to act on your behalf, who would you desire as primary and whom as successor (if needed)? (You can select the same people as you selected as your attorney in fact and successor)

Primary

__________________________________________
(Full Name)

Successor

__________________________________________
(Full Name)

SECTION III. LIVING WILL

1. DO YOU WANT AN ADVANCE DIRECTIVE FOR HEALTH CARE?

(Living Will)
☐ Yes
☐ No
An Advance Health Care Directive (Living Will) allows you to make your wishes known about what medical treatment or other care you would or would not want if you become too sick to speak for yourself. It generally covers two situations: if you become **terminally ill or injured**, OR, if you become **permanently unconscious**.

You are **terminally ill or injured** when your doctor and another doctor decide that you have a condition that cannot be cured and that you will likely die in the near future from this condition.

You are **permanently unconsciousness** when your doctor and another doctor agree that within a reasonable degree of medical certainty you can no longer think, feel anything, knowingly move, or be aware of being alive. They believe this condition will last indefinitely without hope for improvement and have watched you long enough to make that decision.

2. **Life sustaining treatment** – Life sustaining treatment includes drugs, machines, or medical procedures that would keep you alive but would not cure you. If you choose not to have life sustaining treatment, you will still get medicines and treatments that ease your pain and keep you comfortable.

   **Do you want life sustaining treatment if you are terminally ill or injured?**

   □ Yes
   □ No

   **Do you want life sustaining treatment if you are permanently unconsciousness?**

   □ Yes
   □ No

3. **Artificially provided food and hydration** (Food and water through a tube or an IV). If you are terminally ill or injured you may need to be given food and water through a tube or an IV to keep you alive if you can no longer chew or swallow on your own or with someone helping you.

   **Do you want to have food and water provided through a tube or an IV if you are terminally ill or injured?**

   □ Yes
   □ No

   **Do you want to have food and water provided through a tube or an IV if you are permanently unconsciousness?**
4. Do you wish to name a health care proxy?
   □ Yes
   □ No

5. If yes, who is your first choice to serve as your health care proxy?
   Name:

   Relationship to you:

   Address:

   Day-time phone number:

   Night-time phone number:

6. If your first choice as health care proxy is unable or unwilling to serve, who do you wish to be your secondary proxy?
   Name:

   Relationship to you:

   Address:
Day-time phone number:

Night-time phone number:

7. Do you want your Health Care Proxy to:

☐ Follow only the directions as listed in the Advanced Health Care Directive.

☐ Follow my directions as listed in the Advanced Health Care Directive and to make any decisions about things I have not covered in the form.

☐ Make the final decision, even though it could mean doing something different from what I have listed in the Advanced Health Care Directive.

SECTION IV. SIGNATURE

I acknowledge that the statements and information are true, accurate and offered with my consent.

Printed Name

Signature Date
Presentation Notes and Next Steps
WORDS TO KNOW

GLOSSARY

Heirs Property

1. **Co-owner:** A person who shares ownership of land with at least one other person.

2. **Descendant:** A person who is related to someone who has died. There are two types of descendants:
   a) **Lineal descendant:** A direct descendant of the deceased (e.g. child, grandchild)
   b) **Collateral descendant:** Someone who is not a direct descendant, but has some common ancestry (e.g. aunts, uncles, cousins)

3. **Heir:** A person who inherits, or who is entitled to possess property – real property or personal property, after the death of its owner

4. **Intestacy:** When a person dies without a will.

5. **Intestate Succession:** When assets in an estate are distributed according to state law. This occurs when the deceased does not have a will.

6. **Personal Property:** Property that can be moved. This does not include crops or other resources still attached to land. Examples: car, jewelry, furniture.

7. **Real Property:** Property consisting of land, buildings, crops, or other resources still attached to land, or fixtures permanently attached to the land, or a structure on land. Examples: farmland, house.

Tax Sales

1. **Delinquent:** Being overdue in payment. For example, if you are a delinquent taxpayer, you have neglected to pay your property taxes on time.
2. **Title:** An individual’s right to own or possesses property

3. **Tax Sale:** A forced sale of property resulting from nonpayment of taxes by the owner
4. **Tax Deed:** A deed that shows that title to property has been transferred and acquired by the purchaser of property at a tax sale.

5. **Redemptive Period:** The period of time in which one can regain ownership of property following a tax sale.

6. **Redemption Cost:** The amount of money that must be paid to redeem.

**Adverse Possession**

1. **Adverse possessor:** A person who claims ownership of another’s land without his/her consent.

2. **Claim of Right:** When an individual asserts ownership of another’s land by possessing the land. Some ways possession can be demonstrated include placing a fence around the land’s borders, and placing “No Trespassing” signs on the land.

3. **Color of Title:** When an individual claims ownership of another’s land based on a deed or other written document appearing to convey title or some right to the land to him/her.

**Estate Planning: General Information**

1. **Decedent:** A person who has died.

2. **Estate:** All assets – real property and personal property – owned by a decedent at his/her time of death. An estate also includes any debts left by a decedent.

3. **Executor:** A person selected by a testator to carry out the instructions in a will.
4. **Incapacity:** When someone is unable to make, communicate, understand, and/or remember their decisions. A person who is incapacitated cannot make legally binding agreements or decisions.

5. **Personal Property:** Property that can be moved (i.e. jewelry, money, clothes, furniture, car, etc.)

6. **Probate:** The process of proving in court that a document is the valid last will and testament of a deceased person.

7. **Real Property:** Land, buildings, crops, or other resources that are attached to the land. It also includes improvements or fixtures that are permanently attached to land or a structure on it (i.e. home, trees, building, minerals, etc.)

8. **Testator:** The maker of a will.
Finding your POWER FORWARD......

10 Inspirational Quotes for Your Heirs Property Journey

If you cannot fly, drive; if you cannot drive, run; if you cannot run, walk; if you cannot walk, crawl. But keep moving forward.

Reverend Dr. Martin Luther King, Jr.

The fight to save black owned land has to be a calling, not a job

Edward “Jerry” Pennick

A good man leaves an inheritance to his children’s children

Proverbs 13:22

Revolution is based on land. Land is the basis of all independence. Land is the basis of freedom, justice and equality.

Malcolm X

If there is no struggle, there is no progress.

Frederick Douglass

Spend your money on things that make money, Spend your time on things that make a difference, Spend your life doing things that create transformative changes

Monica A. Rainge

There is in this world no such force as the force of a person determined to rise. The human soul cannot be permanently chained.

W.E.B. DuBois
Change will not come if we wait for some other person, or if we wait for some other time. We are the ones we've been waiting for. We are the change that we seek.

President Barack Obama

I have learned over the years that when one's mind is made up, this diminishes fear; knowing what must be done does away with fear.

Rosa Parks.

Faith is taking the first step even when you don't see the whole staircase

Reverend Dr. Martin Luther King, Jr.