



Season 1 Episode 5 — Mapping the Future of Heirs Property: Part 1

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Jamie Mardis

Your live with “On the Heir” where the airwaves are buzzing with stories of land, legacy and lineage. I'm your host, Jamie, and today we're talking about the power of data, maps and community driven research in the world of heirs property. My guest is Dr. Ryan Thomson, a researcher using cutting edge tools to help families understand their land, navigate access challenges, and preserve their property for future generations.

Jamie Mardis

We'll break down how technology and local knowledge come together to shape the future of landownership. So, get ready to groove with us as we explore how research meets reality and the fight to keep family land in the family. Now, we've talked a lot on this show about the importance of keeping land in the family, but understanding the how is just as important as the why.

Jamie Mardis

That's where research comes in. Dr. Ryan Thomson has been working closely with communities to map out the challenges and opportunities surrounding heirs property. His work connects technology, policy and local knowledge to help families make informed decisions about their land. Ryan, welcome to "On the Heir". I'm excited to have you.

Ryan Thomson

Good to be here. Thanks.

Jamie Mardis

So, let's jump right into it. Can you give our listeners a quick overview of your research and what led you to focus on Heirs Property?

Ryan Thomson

So, nine years ago, I was working with the Gullah Geechee Nation, an Afro indigenous, community based in the low country of South Carolina, Georgia and Florida. And they kept talking about heirs property and over time, they taught me that it was essentially the biggest problem most people have never heard of. And so after hearing it from 12 different people over five different islands and up and down the coast, I started to dive in a little bit deeper.

Ryan Thomson

And so at the local level, I study heirs property problems, how it affects families, how that echoes across a family tree. And how to work with families to solve those solutions at the aggregate, more regional and national levels. I use national mortgage databases to explore property nuances, locate heirs property and work with lawyers to get resources to those needed areas.

Jamie Mardis

Now your work looks at the relationship between land and community well-being. How do you see land ownership shaping the future for families?

Ryan Thomson

So land is the only thing they'll never make more of. It has historically been the key to the American dream. Family land is not just a homeland. It also provides the means to self-sufficiency and kind of a self-authored freedom. If the title to your land becomes clouded in probate and by extension, your family legacy then becomes trapped.

Ryan Thomson

The Deep South is ground zero for clouded legacies, no matter how you measure it. So rather than being frozen by this like mountainous, huge problem currently facing Alabama, the situation could be better improved by us thinking we have a grant opportunity to start tackling these things. Okay.

Jamie Mardis

You use geospatial and network analysis in your research. Can you break that down for us? How do these tools help families understand their land situation better?

Ryan Thomson

So that's a really fancy way to just say that as a rural sociologist, I'm both a data geek and a visual learner. To better understand a problem, I want to map its relations. I want to see it physically. And so geospatial information systems, also called GIS, simply gives a way of examining data and mapping it across geographic space.

Ryan Thomson

This helps us see spatial nuances, patterns, and county tax records and even everything like distance to the nearest grocery store. By using GIS mapping, I can see and analyze things many data scientists would not be able to see because they omitted distance as a variable. For me, space is the central organizing principle for life. And similarly, social network analysis is a very similar to GIS.

Ryan Thomson

It's only difference is that instead of mapping spatial relationships, we use graph math to map social relationships. So this is really important when I start working with a family, I'm looking to map their family tree.

That's a social network analysis. And so I like to begin with who originally bought the land. How many descendants did they have? Who did they marry?

Ryan Thomson

Who did they divorce? Who becomes an heir to that deceased person? And by mapping these different types of relationships, we can then take that same model and use it for things like who are you going to refer for attorneys. Who are you going to reach out to? If you have a research question or a probate question?

Ryan Thomson

Communication structures, preferences in land surveyors. All social relationships can be mapped in the same way. They can be mapped spatially.

Jamie Mardis

Okay. Now, the GIS map that you're speaking of, is that available to the public, or is there just some super-secret spyware that you have?

Ryan Thomson

That's a good question. There are definitely super-secret versions, that I don't let anyone see because I'm paranoid, but there's a double-edged sword of knowledge. Anything that can be used for good to help families, help county commission start to work through the problem could also be used by developers to target said vulnerable families.

Ryan Thomson

So, by me putting out a dot map of every single property in a county, I'm telling developers where to go, where to target, which families to go after. So, I don't no longer release maps at a micro, granular level.

Jamie Mardis

You definitely don't want that.

Ryan Thomson

I like to release it at the county level. I like to come up with large scale aggregated totals. There are two studies I have out that put it at the county level. One being at the Journal of Rural Social Science out in 2023 with my colleague Connor Bailey. And then another one coming out later this year that that same model applied to the national level.

Ryan Thomson

And in that study, we find that there's roughly \$450 billion worth of trapped land in the United States.

Jamie Mardis

Wow. That is a lot of land and a lot of money going into that, I'm sure. So participatory action research is a key part of your research and work. So why is it important to have a community directly involved in the research process?

Ryan Thomson

I really enjoy this part of my work. Whether it be research or an outreach effort, I find that projects are better when they are community based. That said, it can get very messy very quickly. It's oftentimes more time consuming, but at the end of the day, I find the final product of a research project or an outreach effort.

Ryan Thomson

If it is done in partnership with a community to meet their needs, to meet their challenges, the things they don't understand, to answer on unseen questions thereby, and makes the project, by its very nature better. And so, whether it's looking at the way the tax office is doing this weird thing, or why does this side of the county never seem to be able to get access to legal support?

Ryan Thomson

Those types of questions have informed not only the way I do my work, but it informs the way I try and deliver my findings and conclusions to just write up an academic article and like big jargon, dead Latin legal terms is great and probably going to give me a bunch of citations. But is it going to create any real-world change or help somebody?

Ryan Thomson

Probably not. So, I'm trying to bridge that gap between actual on the ground need and being an academic.

Jamie Mardis

Gotcha, gotcha. So, you just spoke about bridging gaps. What are some of the biggest challenges that families face when it comes to land retention and access?

Ryan Thomson

Oh man, what a question. So, there's quite a few different challenges. The first, I think, is learning about the problem. Advanced probate law was not written to be understood by normal people in the public. Right. I have a PhD, and I'm sitting here trying to learn Latin, so I understand what they're even talking about. It's like learning another language.

Ryan Thomson

It's really only accessible to lawyers who have a specialization in this area. And since there's so many horror stories going around, there's two full documentaries out right now, both of which are amazing, but they have a tragic ending at the end of them. And so a lot of people jump to the conclusion that they have stage four heirs property and need to hurry and liquidate before something bad happens to them.

Ryan Thomson

Nine times out of ten, I think we can actually save the family property, the farm, the homestead, the house in a city and use it to generate intergenerational wealth that got stuck. I don't think we need to be rushing to fire sale the things that everyone's been fighting to save. So, I think we first need to overcome that mentality that there's nothing that can be done.

Ryan Thomson

So that education part not only learning about it, but how it can be addressed effectively to maximize the benefit to the family is key. Second, convening the family and getting the family on the same page. My brother and I can't agree on what we're going to have for Thanksgiving dinner, trying to get 82 of my extended family members to agree on how we're going to manage a property that was left by our great grandpa.

Ryan Thomson

That's going to be even though that's going to be 80 times more difficult. And so I think communication is key. Finding a family mediator that is trusted and not viewed as being self-interested. In my experience, this is normally been the matriarch who's maintained the property. Other times it's the younger generation, Gen Z, millennials stepping up and saying, hey, we can do something.

Ryan Thomson

This isn't all lost. And from that, I think it's it takes time to establish a clear vision and plan of how the family wants to clear the title, not clear the title, how they want to proceed. What is the ultimate legacy they want to pass on, say, two generations from now? It takes time. We notice here in Alabama and really throughout the South, the words "heirs property" get researched three times a year, more than any other time of the year.

Ryan Thomson

The first is right after Juneteenth. The second is right after the 4th of July and the third is right after Christmas. It seems like people get in this family spirit around those get.

Jamie Mardis

Around each other.

Ryan Thomson

And so if they can, if we can be ready with the right talking points to make it clear and accessible, this advanced probate law, I think that families can make better informed decisions. The last two is finding the necessary resources, and that's easier said than done, because a lot of Alabama, a lot of Mississippi, Georgia, Arkansas, Louisiana are legal.

Ryan Thomson

Deserts are rural areas really have been underserved in this sense. And so not only do we have a dearth of lawyers, but how do we know to trust the one lawyer for counties over. Building that rapport takes time rather than just walking in and throwing down a big stack of cash. That's your whole family savings to get the farm saved.

Ryan Thomson

How do we develop the resources and the legal supports needed in an accessible way and develop that trust? That's going to take time. And the very last one is follow through. As I see a lot of families get 95% of the way there, and then they kind of get tired. And so to overcome a lot of these challenges, I think we need education.

Ryan Thomson

We need inner-family communication. We need resources available that are trusted. I like to ask people, word of mouth, who do you trust? And then initiative that energy, just keep going because we can get 95% of the way there. That last 5% is what makes it.

Jamie Mardis

Now this is in no way an endorsement. Again, in no way in an endorsement. But for our listeners that are interested in those two documentaries that you mentioned, would you mind sharing the titles?

Ryan Thomson

Sure. So the first is Silver Dollar Road, which is available on Amazon. Tragic ending again. And it only gets more tragic. There's now whole podcasts based on that. The Reelz family, they lost a beautiful piece of waterfront property where the whole family lived in North Carolina. And then the other is gaining ground. It was put together by Al Roker, John Deere and the Federation of Southern Cooperatives Land Assistance Fund.

Ryan Thomson

Really good documentaries. Several of the families in it. Do a beautiful job articulating the problem. Problem is their victories that were won that following year were left out of that documentary. So I want to watch it with caution because it does present a very dire situation, which it was. But they won. And I think that's what's important.

Jamie Mardis

That is. So based on your findings, what role do public policies play in either protecting or complicating heirs property ownership?

Ryan Thomson

Oh, man, there are books on this.

Jamie Mardis

That's another loaded question for you.

Ryan Thomson

I'll do my best not to go on a whole lecture here. I'll begin from the abstract in the grand and try and work my way down. The U.S. legal system is based on 17th and 18th century English common law. We're working off a system that was inherited for essentially landed elites coming over to the United States, on how they wanted to manage land back when people owned entire counties.

Ryan Thomson

From this outdated operating system, the United States has developed distinct frameworks, but that primary basis is still intact. And so with regards to heirs property, we see two of the biggest key definitions coming out of that common law, the first being inherited essentially intestate succession, meaning that the law that governs how deceased property is distributed after they pass without a valid will is still in effect.

Ryan Thomson

That general piece of it, in definition, is what all the changes have happened to over the last 400, 500 years. The second part is tenancy in common. Which heirs property is a version of tenancy in common is really just a flexible definition that allows co-owners to own property collectively with unequal shares and transfer their interest independently of one another.

Ryan Thomson

These two pieces, I think, are really where we start to find the root of why the problem exists in the manner it does. Now, state laws have thoroughly revised this process to fit their own models. What goes on in Louisiana with their French traditions and their approach is going to be very different than what you're going to find in Vermont.

Ryan Thomson

And so these state differences do make it more difficult because someone who is, say, reside in North Carolina but then comes home to Alabama, is realizing that the rules of the game are being played differently down here. And so one of the biggest complicating factors is actually that not everyone has, like we're just talking about, access to a trustworthy lawyer to transfer property.

Ryan Thomson

Many people in the black belt are going to prefer a certain lawyer that has a trusted reputation. So to have a lawyer coming from a big city, driving four hours out to file your will doesn't feel right for a lot of them. We see this in Appalachia as well. My hillbilly grandparents don't trust anyone in the tax office because they assume they're all coming for that coal money.

Ryan Thomson

And so out of Alabama's 48 rural counties, most all of them are legal deserts, legal services Alabama is doing some amazing things to try and fill that gap. But they're just one organization. And so when we look across the South, there are whole centers of lawyers, foresters, researchers who have been doing this type of work at the state level.

Ryan Thomson

My favorite being center for Heirs Property Preservation out of South Carolina. The Mississippi Center for justice over in Mississippi are both working to fill gaps in their state. Thing that blows me away is that Alabama is the only state in the South that doesn't have such a center. So when you talk about complicating factors, the Texas stacked against us here, we don't have a group of people willing to take it on in that way, or at least we don't right now.

Jamie Mardis

Sounds like we got some work to do.

Ryan Thomson

We do. And I've been wanting, hoping a center would pop up. And yet there's always talks about it, and we've been back and forth of it for a few years. Alabama Appleseed took it on for a few years, got overwhelmed once they realized how much there was.

Jamie Mardis

Yeah.

Ryan Thomson

And then the final piece of this whole thing is there's been some very successful reforms to support family property rights over the last 15 years. The most successful, in my opinion, to bring this outdated system to a more current operating system. Imagine like a really hard reinstall from, like, windows 95 to Windows 8. Like, that's a pretty big jump.

Ryan Thomson

The law is called the uniform Partition of Heirs Property Act, the UHPA. It gives some uniformity to this process. The law was drafted by Professor Thomas Mitchell in conjunction with the Uniform Law Commission, which means that there is a standard that has to be met if you're going to do this because you can't just revise it all.

Ryan Thomson

We're going to run into that same problem 50 states, 50 problems. And so but while it's no means perfect and there are definitely some changes to be made within it, it has significantly slowed the courthouse fire auction sales, where the family loses their family land for pennies on the dollar, slowing that, it also gives preference for partition in kind meaning rather than liquidate the property and everyone gets a little money, cut off a piece and give it to that family member and just get them.

Ryan Thomson

Get their part taken care of if they're so dire to sell. This physical division of land and preference for giving families the chance to buy out the people who want to leave, is key, because a lot of developers nefariously buy their way in by finding a third cousin who didn't know they were an heir. They buy up some pieces of it.

Ryan Thomson

These heir hunters, they accrue enough interest, and then they try and force the sale and push the family off the land, even though they're living there and using the land. It's, essentially a form, in my view, of as legal land theft. Yeah. And this law has slowed that greatly. So much so that that type of aggressive legal action to take land from families is no longer the main way.

Ryan Thomson

It's lost the main way heirs property is lost now in Alabama is back taxes when someone passes away. Oh, Uncle Johnny was paying taxes. We completely forgot he passed away three years ago. Three years of back taxes and it goes to auction. So communication between family members to keep the taxes paid and keep the property up is the bigger problem.

Ryan Thomson

Now, as the baby boomer generation, the great generation starts to pass on. We need the younger generation to step up and start making sure that the family's accounts are kept in order.

Jamie Mardis

We've covered some great insights today, but there's still more grounds to explore. And rather than rushing through it, we're going to continue this conversation on our next episode. So stay tuned for part two, where we'll dig even deeper into how communities are taking action to preserve their land.

Jamie Mardis

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Jamie Mardis

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