

HEIRS' PROPERTY  
&  
RELATED  
ISSUES

**HEIRS' PROPERTY LAW FIRM, LLC**

*Real Estate Attorneys*



## **THE “PRICKLY PROBLEM” OF HEIRS PROPERTY:**

- **Definition:** The term “Heirs’ Property” is generally used to describe interests in real property created by successive intestate deaths of owners and part owners whose estates are never probated. Heirs Property may be occupied by a group of people who maintain the premises and pay the annual property taxes on behalf of the heirs of a former owner who has passed away long ago. Some Heirs Property claims derive from English Crown Grants while others date back to the period just after the Civil War when the large plantations in the Old South were subdivided among former slaves.
- **Subdivision:** Unique and often complicated problems emerge when occupants want to share heirs’ property among themselves or among their children. Property shared over many generations may present modern day problems in the areas of legal ownership, density, relative value, zoning, health, and environmental concerns.
- **Development:** Obtaining building permits usually requires a legal description and other proof of legal ownership which can be a problem for heirs’ property owners who are seeking to borrow, sell, buy, or merely establish ownership for any purpose.
- **Taxation:** Some heirs’ properties are becoming very desirable and are therefore increasing in value because of their potential use as residential developments, waterfront sites, timberland and farmland. Increased property values bring increased property assessments which may be followed by tax liens and eventually forced sales.
- **Conservation:** Retaining or protecting natural, scenic, or open-space aspects of real property, ensuring the availability of real property for agricultural, forest, recreational, educational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, and historical preservation are among the purposes of the South Carolina Conservation Easement Act, (SC Code Section 27-8-10 et seq.).

## **BEST PRACTICES & SOLUTIONS ARE VERY OFTEN STEP-BY-STEP:**

1. **Identify** the names and addresses of all family members having an interest in the property;
2. **Determine** the relative value, quality, and quantity of each heir’s respective ownership rights and interests;
3. **Develop** an individual or family plan for continued ownership, taxation, and control of the property;
4. **Contact** heirs and family members to establish a holding entity or prepare pleadings to quiet title in a responsible owner’s name or in the name of a group of owners;
5. **File** with the Master in Equity to hear the matter and issue final court orders and Master’s deeds;
6. **Resolve** all lingering property rights, divisions of ownership, and boundary issues;
7. **Produce** insurable titles and render appropriate legal title opinions;
8. **Impose** covenants, restrictions, and conditions;
9. **Establish** easements and common areas;
10. **Develop** a master land use plan and program for intelligent and informed division or development;
11. **Preserve** undeveloped properties with conservation and environmental easements;
12. **Obtain** zoning variances in accordance with federal, state, and local land management ordinances, which further enhance land values.

## **HEIRS PROPERTY OWNERS NEED PROFESSIONALS TO:**

- **Initiate the Legal Process:** Experienced attorneys and paralegals can initiate a special type of legal action through the Master in Equity Courts of South Carolina, known as “quiet title actions,” so that heirs property becomes owned and controlled by individuals or a small group of family members rather than merely “all of the known and unknown heirs;”
- **Provide Expert Advice:** Consultants who are familiar with the land planning process and who have proven professional ability are almost always required to properly address the numerous and complex issues posed by heirs property cases, such as subdividing, planning, and assigning relative parcel values according their highest and best use.
- **Explore Alternatives:** Owners who become frustrated when attempting to legally subdivide heirs property under our modern state law and local zoning ordinances and guidelines will benefit from a professional team which is dedicated to working with owners of heirs properties and focusing on their unique issues, needs, and desires:

**Zoning Variances**

**Permit Applications**

**Adverse Title Claims**

**Property Tax Appeals**

- **Take Action:** An experienced professional team can help you protect your property rights before further family complications transpire causing the whole legal and planning process to become more complex and expensive, and further reducing the value of your property. You may contact John J. Pinckney at The Law Office of Dean B. Bell, LLC, at (843) 785-9772 and use our address listed on the reverse side of this brochure.

## **FIND A PROFESSIONAL TEAM FOR YOUR HEIRS' PROPERTY ISSUES:**

**Professionals & Consultants:** Highly qualified professionals may be found by contacting the Heirs' Property Law Firm, LLC. With client approval, a team of professionals can be joined together as needed. Such professionals might include other attorneys, estate planners, accountants, financial planners, insurance agents, appraisers, and surveyors.

**This material was prepared by John J. Pinckney, Attorney at Law**, who was born in Anderson, South Carolina, in 1964, and moved with his family from Clemson to Hilton Head Island in 1972. John is a three-time graduate of the University of South Carolina: Bachelor of Science in Business Administration (Finance & Real Estate), Master of Business Administration (MBA), and Juris Doctor, (JD). He was admitted to practice law in South Carolina in 1991, served as Assistant Prosecutor for the City of Charleston, (1991-1993), and has since been in private practice, primarily handling real estate matters in the South Carolina Lowcountry. John recently returned to South Carolina from San Diego, California, with a Masters of Laws (LL.M.) Degree in Taxation from the University of San Diego School of Law. John's practice now focuses on Taxation, Estate Planning, Probate Administration, and related matters throughout the South Carolina Lowcountry.

*Please feel free to contact John at the Pinckney Law Firm, LLC, with your Heirs' Property, Taxation, Estate Planning, Probate Administration, and related matters at the following address:*

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