

The Impact of Heirs' Property at the Community Level: The Case Study of the Prairie Farms Resettlement Community in Macon County, AL

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Abstract—Heirs' property, or land and other assets passed from one generation to the next without the benefit of clear title, has been described as a major impediment to individual and community development for African Americans, particularly in the rural South. While the reasons for heirs' property are many, including mistrust of the legal system and overt take-away schemes from local officials, little research has been conducted to examine the impact of heirs' property at the community level.

During the Great Depression of the 1930s, the U.S. government established, through the Resettlement Administration, racially segregated agricultural communities across the country, including approximately a dozen for African Americans in the rural South. While these Resettlement Communities provided new opportunities for the landless poor, over time, they have become part of the rural landscape, as other rural communities have, some continuing their agricultural pursuits and some disappeared, either into rural homesites or abandoned fields.

This research examines the impact of heirs' property on one of these communities, Prairie Farms, in western Macon County, AL. Results indicate that: (1) land once used for farming is now fractionated, or divided into small tracts, and used for non-agricultural and residential purposes; (2) there is an increase in the number of cases of heirs' property over time; (3) on average, heirs' property has a lower appraised tax value compared to titled property, with the major factor found in improvements to land, where land with clear title has a significant advantage; and (4) the residence of the landowner of record has an impact on the appraised tax value of the land. That is, owners and cotenants who live on or near the land tend to provide more improvements to the land that result in greater appraised value, as opposed to owners who live out-of-State who may find keeping up such improvements to be challenging. This is true for both property with clear title and heirs' property. Discernably, these results have implications for individual landowners as well as the communities where heirs' property is found.

Keywords: African Americans, Black Belt, heirs' property, resettlement community.

BLACK LAND IN HISTORICAL CONTEXT

Following the end of the Civil War, the cessation of slavery within the United States recognized the formerly enslaved as citizens, which also allowed them to pursue the rights of land ownership (U.S. Constitution Amendment XIV). Initially, the U.S. government promised freed people former Confederate lands to assist them during the transition out of slavery.

However, this promise of "40 acres and a mule" never would come to fruition (Copeland 2013). Despite this empty government promise, and discrimination during post-Reconstruction, African Americans were still able to make substantial gains towards land ownership during the post-slavery era. Strategies to acquire land not only included relationships with White planters (Higgs 1982) but also the use of their own funds and extended kin networks (Penningroth 2003), and membership

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in regional associations such as the Colored Farmers' National Alliance and Cooperative Union (Reynolds 2002). Two important African-American leaders also played an important part in the acquisition of land by Black farmers. Booker T. Washington from Tuskegee Institute in Macon County, AL, was able to get support from northern benefactors to purchase large tracts of land and then re-sell to local farmers in 20- to 80-acre units (Zabawa and Warren 1998). And Robert Lloyd Smith of Texas, a disciple of Washington's, started the Farmers' Improvement Society of Texas that also provided access to land and banking support (Zabawa and Warren 1998). It was not until the 1930s and the advent of the Resettlement Administration during the New Deal that the U.S. government attempted another concerted effort to provide access to land for African Americans in the deep South.

Following the post-Reconstruction era, nearly 60 percent of employed African Americans were farm laborers or operated their own farms on their own lands (U.S. Department of Commerce 1913). By 1910, African Americans owned >15 million acres of land (U.S. Department of Commerce 1920). Over 920,000 African-American farmers represented 14.4 percent of all farmers within the United States and operated 3.2 percent of all land in farms (U.S. Department of Commerce 1913). Land ownership allowed for increased personal and economic freedom. In addition, landowners were able to be civically engaged in their communities. Landowners also provided economic stability within their communities through contributions of property taxes and support for local business (Field 2000). Furthermore, landowners had greater political influence and were more likely to be politically active. This was evident during the Civil Rights Movement, when landowners were monumental figures in the movement or provided shelter for Civil Rights activists on their lands (Gilbert and Eli 2000).

While the ability to become a landowner allowed African Americans to have increased economic and political freedoms, it did not shield them from the vitriol from local White communities. The Associated Press' seminal three-part docu-series, "Torn from the Land," highlights methods used to forcefully strip African Americans from their properties (Lewan et al. 2001). Through testimony from former landowners and their descendants, the series underscores how Whites used violence, legal manipulation, and intimidation to steal land away from African Americans. In the most violent of cases, entire communities were destroyed as documented in the 2017 Public Broadcasting System program, "Banished: American Ethnic Cleansing" (Public Broadcasting System 2017).

Despite the alarming rate of farm ownership decline, government intervention did little to negate the problem. Instead, it further aggravated the problem by using discriminatory practices against African-American farmers (Daniel 2015). According to studies conducted by the U.S. Commission on Civil Rights (1965, 1967), the U.S. Department of Agriculture (USDA) and several of its branches (Farmers Home Administration, Soil Conservation Service, Agricultural Stabilization and Conservation Service, and Cooperative Extension Service) purposely discriminated against African-American farmers by delaying loan allotments, decreasing loan sizes, and providing inadequate technical assistance. These forms of discriminatory practices against Black farmers are well documented in several bipartisan government reports well into the late 1990s and beyond (U.S. Commission on Civil Rights 1982; U.S. Department of Agriculture 1997, 2011). Despite the settlement of the class action lawsuit by African-American farmers against the USDA for maintaining such practices in the landmark case of *Timothy Pigford et al. vs. Dan Glickman* (1999), the USDA has yet to resolve a continued lack of participation in agency programs by African-American farmers. Recent research conducted in the Black Belt counties of Georgia found that African-American farmers continue not to use USDA programs due to lack of information, the feeling that they do not qualify, and negative past experiences with USDA personnel (Asare-Baah et al. 2018). The end result is that with past and continuing discrimination, coupled with structural changes in agriculture, an increasingly older farm population, and a move away from agricultural occupations, as of 2017, African Americans currently represent only 1.61 percent of all farmers, and 0.46 percent of land ownership in agriculture (USDA NASS 2017).

Although the above historical socio-political factors contributed to the decline of African-American-owned land, two culturally driven factors also contributed to African-American land loss. These factors were the division of land into smaller and smaller parcels, usually for homesites and too small to be of agricultural value, and, more significantly, heirs' property. Heirs' property refers to land that has been passed along to family members without a clear title or will (Zabawa et al. 1990). This form of property ownership contains constraints that prevent the land from being fully utilized towards the factors of production and results in land being potentially more vulnerable to loss than property with a clear title due to the complicated nature of ownership and sometimes the conflicting goals of cotenants. In order to fully understand the circumstances surrounding Black land loss, the nature of heirs' property must be fully understood as well.

ISSUES SURROUNDING HEIRS' PROPERTY OWNERSHIP

When a landowner dies *intestate* (without a probated will), the land is automatically transferred to his or her surviving spouse and children (Dyer et al. 2009). Each heir then receives a percentage of, or undivided interest in, the land based upon the number of heirs. This means that heirs will not receive a physically demarcated acreage. They will instead receive a specified amount of ownership interest in the land—although it will not be clear which portion of the land specifically belongs to them because all heirs have equal access to the entirety of the land. Referred to as *cotenants* or *tenants-in-common*, these descendants continue to pass down a fractionalized interest of the property to succeeding generations (Deaton et al. 2009). As each generation produces more and more heirs, the land is further fractionalized (Zabawa 1991). Often, the growth of land acquisition is not proportional to the growing number of heirs. As a result, the lack of a clear title makes it unclear who exactly owns the land; consequently, the land title becomes “clouded” (Pennick 2010).

Because cotenants only own a percentage of the property, not the entire property itself, they cannot leverage the title of the property to financial institutions for use as collateral. Since financial institutions cannot clearly identify the owners of the land, or how much of the land they own, heirs' property owners are viewed as extremely risky investments (Alabama Cooperative Extension 2008). In addition, because each cotenant has an undivided interest in the land, each cotenant has a right to all resources located on the property (regardless of the size of their share of interest in the land) (Deaton 2012). Therefore, the property cannot be legally utilized for economic gain without the consent of each individual cotenant.

As there are many barriers to optimal land use for heirs' property in comparison to property with clear title, the land is often underutilized or becomes a wasted resource (Deaton 2007). In a survey of 80 African-American farmers from seven Alabama Black Belt counties, significant differences in the use of resources appeared between those with heirs' property and those with land in clear title. Land in clear title was: (a) in the larger size categories, (b) in the higher value categories, (c) used in multi-year, long-term activities and investments, (d) considered more productive, and (e) considered as a larger investment (Baba et al. 2018). Heirs' property causes a decrease in generational wealth for cotenants. On an individual level, heirs' property is a hindrance towards creating generational wealth due to the fact that the land is essentially “dead capital” (de Soto 2000). This refers to capital that cannot be fully utilized towards the factors of production. De Soto further explains that the persistence of dead capital within any community further

detracts from the potential of that community to improve community and economic development. Since the potential of this resource is unrealized, it aggravates existing poor economic conditions.

Persistence of heirs' property has historically been heavily concentrated where there are high levels of African-American populations and low corresponding indicators of economic development (Brooks 1983). Similar issues regarding land, title, and economic development have been found among other socially and economically disadvantaged groups including White Americans in Appalachia, Native Americans, and Hispanics/Latinos (see Johnson Gaither 2016 for a review of the literature). Pippin et al. (2017) developed a predictive methodology for locating heirs' property using Geographic Information System (GIS) technology and based on socio-demographic characteristics (including ethnicity/race, income, and education) and land-parcel characteristics.

In addition to impeding economic activity, this type of land ownership leaves landowners vulnerable to several methods of land loss. In particular, landowners are susceptible to land loss through tax sales and partition sales (Baab 2010).

In the case of heirs' property, it may not be as apparent which family member—if any—has decided to take responsibility for paying the property taxes on the land, which makes the property susceptible to tax sales. For heirs' property owners, it may be difficult to notify any of the family members if there are a large number of owners that live in various locations. Furthermore, if the family is notified, they may not have the ability to pay the taxes if members of the family do want to take collective responsibility (Deaton 2012).

Furthermore, cotenants that are disinterested in maintaining their interest in the land can sell their interest in the land, without consequence, to the remaining cotenants or an outside speculator (Mitchell et al. 2010). In particular, when a cotenant has sold his or her interest to a non-family member, the outsider can force the sale of the land through a partition sale. As previously mentioned, the difficulty of locating and contacting all cotenants influences the courts to order a partition sale rather than divide the land through partition in kind (Chandler 2005). When the land is sold by partition in kind, the property is divided equitably based upon the cotenants' fractionalized interest (Casagrande 1986). However, some portions of interest are so subdivided or exhibit topographical features that are physically impossible to divide. In addition, as heirs' property owners do not have specific acreages, it is unclear which portion of the land belongs to which cotenant. During the process of a contested partition sale, if the land cannot be equitably divided in a manner that

doesn't injure another cotenant, the entirety of land is sold at auction in a partition sale (Craig-Taylor 2000). This process is the easiest method for the courts to sift through the complicated dilemma of who owns which piece of the property. Therefore, the partition sale serves as the *default judicium* (Dagan and Heller 2001).

Cotenants can keep the land remaining in their family if they are able to either: a) successfully contest the sale through legal channels, or b) make the highest bid on the property at the auction (Thomas et al. 2004). However, the price of both legal fees and market value of land—even when it is sold below market value—is often too expensive for heirs' property owners. Coteneants, instead, share an equitable distribution of the profits from the sale. Consequently, those living on the land are displaced, and the family legacy is lost. Remaining coteneants may not have the financial capacity to contest the sale of the land or may not be informed in time that the land is up for partition sale (Thomas et al. 2004).

In addition to the restrictions and vulnerabilities of heirs' property, several myths concerning ownership and authority also exist. For instance, heirs' property owners that live on or near the land often mistakenly believe that they are more entitled to the land than heirs that live farther away. Or, they may falsely believe that their paying taxes equates to sole ownership. Yet, all coteneants are responsible for the financial obligations of the property. Taking over these financial obligations does not increase a cotenant's share in interest or authority over the land (Copeland 2015).

CULTURAL IMPACT OF HEIRS' PROPERTY

In comparison to property with clear title, heirs' property presents challenges for maximizing economic use, investment, autonomous use, and management. Even if a cotenant takes on the responsibility of managing or investing in the property, other coteneants still benefit from these investments (Dyer 2007). Similarly, heirs' property can remain idle for years without forms of property management or future plans for estate planning. As land is considered a valuable and scarce resource, the logical assumption would presume that heirs' property owners are better off selling the property for profit than continuing to hold on to dead capital. Since heirs' property impedes economic activity, is more vulnerable to land loss than titled property, and does not allow property owners to make autonomous decisions, this begs the question: Why do heirs' property owners continue to hold on to this land? What possible benefit can come from holdings of heirs' property?

Several scholars have indicated that the heirs' property holds more than economic value. It holds cultural and emotional meaning as well. In her book,

A Call to Home: African Americans Reclaim the Rural South, author Carol Stack illustrates how the heirs' property is considered a safe haven for coteneants (1996). Within the first chapter, she establishes how coteneants of heirs' property are often poor and economically marginalized within their communities. However, even if they are poor, they are still landowners. In comparison to other members within the community who are poor *and* landless, coteneants still have a slight economic advantage over their landless counterparts. In addition, the land also provides shelter for displaced family members. Family members that have moved away from the community always have a place to return to if they are ever in need.

Dyer and Bailey (2008) also illustrate the same occurrence. The authors highlight instances in which heirs' property was not primarily utilized for economic use but held emotional meaning similar to what Stack examined over a decade earlier. In addition, the land also was the tether that kept families together, preserved family tradition, and was the origin of the family history (see Schelhas et al. 2017). Falk (2004) also noted that land held an especially emotional meaning for African Americans. As enslaved Africans, they were not permitted to be in control of themselves, much less formally own land. Therefore, land represented the ability to be in control of one's future. Falk states, "working the land, especially owning it... was a reflection of self-determination and freedom" (176–177). For these landowners, even though the land wasn't producing any economic benefit, the land was not any less valuable.

Furthermore, the creation of heirs' property was an unintended effect of protecting family lands caused by the distrust of the legal system, superstition of inviting death through writing a will, illiteracy, misinformation, and not having enough exposure to the estate planning process (Zabawa 1991, Zabawa and Baharanyi 1992). Therefore, the practice of foregoing the creation of a will has continued to persist with African-American landowners. The lack of estate planning by current coteneants further aggravates the issue of land loss throughout the African-American community. Consequently, heirs' property has become a common form of estate ownership within the African-American community (Craig-Taylor 2000). This trend has been highlighted by various studies starting with a regional project of 10 southeastern States by the Emergency Land Fund which found that 41 percent of Black-owned land was heirs' property (Brooks 1983, ELF 1980). A three-county study in North Carolina (Schulman et al. 1985), a USDA program study of a small sample of 26 farmers (Zabawa 1991), a five-county Alabama Black Belt study (Zabawa et al. 1994), and a coastal South Carolina study (Rivers 2006) found that 88, 69, 56, and 50 percent of Black-owned land was heirs' property, respectively.

THE PRAIRIE FARMS AFRICAN-AMERICAN AGRICULTURAL COMMUNITY

The case of heirs' property within the community of Prairie Farms is of particular importance due to its unique history compared to other communities within Macon County, AL. Prairie Farms was one of the New Deal Resettlement Administration projects instituted by President Franklin Roosevelt from 1933 to 1938 and only the second effort by the Federal government to actively provide land to African-American farmers since Reconstruction. Under the New Deal Resettlement Administration, agricultural communities were created by the Federal government to foster economic development in areas where there was virtually none (Pasquill 2008). While the majority of these communities were established for European-American farmers and their families, a small number were established specifically for African Americans in the Southern United States (Zabawa 2009) and a smaller number for "Spanish-Americans" in New Mexico and Colorado (Farm Security Administration 1944).

The Prairie Farms Resettlement Project was proposed in 1935. The original goal was to move subsistence farmers and sharecroppers from submarginal lands, wooden tenant shacks, and sporadic schooling for children in the eastern part of the county (fig. 1) to more desirable land and planned farming operations in the western part of the

county. The initial plan was for the Federal government to purchase two large former plantation landholdings and create 75 farm units on 3,100 acres of land (fig. 2). Each unit would have its own farm and range from 41 to 135 acres (Zabawa and Warren 1998). These units had specified plots of land on which the residents would be able to produce commodities or animals in order to provide for their livelihoods. Due to budget cuts caused by Southern dissatisfaction with New Deal programs, reductions were made to Prairie Farms as funding dried up. In the end, there was a decrease in farm units—and sizing of units within the community—and only 34 families out of the originally 75 planned were able to relocate to Prairie Farms (see community farm plan in fig. 3). Four families, sharecroppers on the original land sold to the U.S. government, were already living on the land. When the first new families moved to Prairie Farms in 1937, all farm units had a house with electricity, a privy, a stable, pig pen, and poultry house. Also, a cooperative was formed, and the new school served the added functions as a health and community center (fig. 4) (Farm Security Administration 1941). In sum, the establishment of the Prairie Farms community provided its members with a stable agricultural economy based on land and a cooperative as well as a stable education system based on a project manager, cooperative extension outreach provided by Tuskegee Institute, and a project school with an extended school year.



Figure 1—Erosion in Macon County, AL. Photo by A. Rothstein, Library of Congress (<http://www.loc.gov/pictures/item/201775889/>)

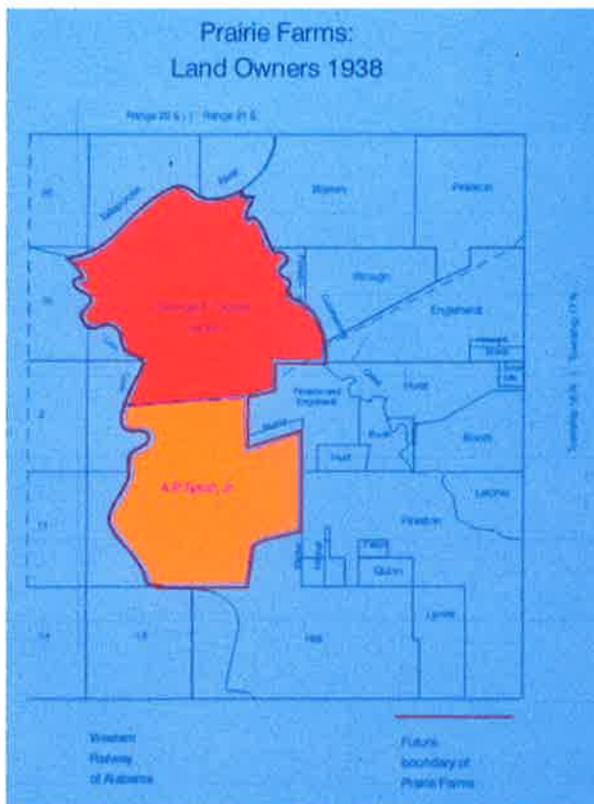


Figure 2—Map of original land converted into Prairie Farms Resettlement Community. Source: Zabawa and Warren (1998)

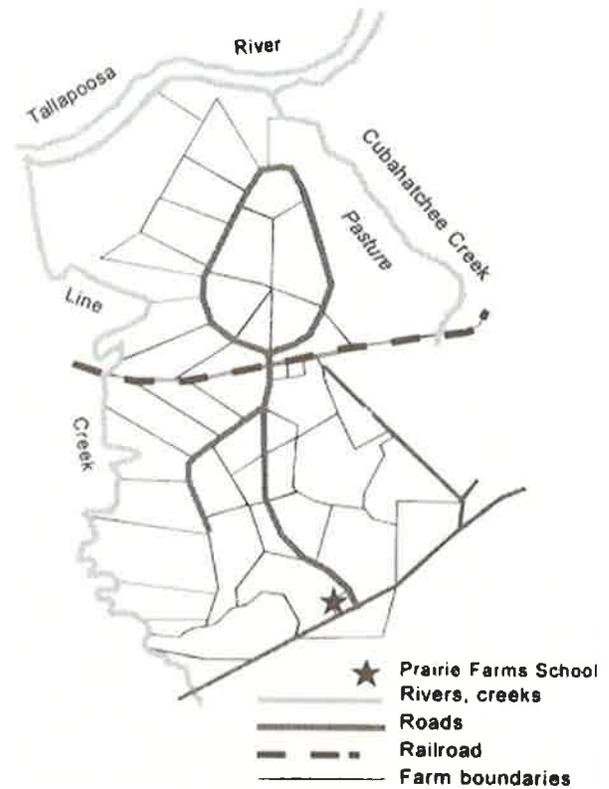


Figure 3—Map of Prairie Farms Resettlement Community. Source: Zabawa and Warren (1998)



Figure 4—New project house and other units, Prairie Farms. Photo by M.P. Wolcott, Library of Congress (<http://www.loc.gov/pictures/item/2017800975>)

In exchange for their new accommodations, African-American farm families agreed to a long-term mortgage from the U.S. government. The government expected these mortgages to be paid from the income generated from the farms on each unit. However, in the first year that Prairie Farms was established, most of the farm families were unable to provide sufficient income to sustain their livelihoods and financial obligations. According to Coleman Camp, the Community Manager of the Prairie Farms Project, "Only a small percentage of the Prairie Farms Homesteaders were able to meet their family obligations in 1938.... On Prairie Farms, we are confronted with the age-old problem, the 'one crop system' which makes for unbalanced farming, maldistribution of labor, and only one source of income; namely, cotton receipts." (Camp 1939). Yet, there was hope that, with time, Prairie Farms would eventually become a self-sustaining community. Unfortunately, by the outbreak of World War II, support for Prairie Farms and other Farm Security Administration programs diminished. By 1944, the 34 farm units in Prairie Farms were sold by the U.S. government to the resident farm families, with the last farms sold by 1951 (Farm Security Administration 1944, Zabawa 2009, Zabawa and Warren 1998). In terms of the Federal government's investment in Prairie Farms, a 1944 report indicated that the government would recoup all but \$18,000 of its over \$200,000 investment (Farm Security Administration 1944). At the same time, there was much emphasis placed on how the individual farms were obtaining deeds for the land, and the amount of farm production that went towards family needs (e.g., canning of fruits and vegetables, milk) was noted.

Despite the mixed results of this program, some notable successes were achieved. Primarily, an entire generation of sharecroppers and tenant farmers in Macon County, as well as at other Resettlement projects, were able to become landowners for the first time in their lives. Although the program may have had its failures, the ability to (a) become a landowner and access all the privileges of land ownership and (b) pass land on to future generations may have been the program's greatest, if only, success (Warren and Zabawa 1998).

METHODS

This research focused on two areas: (1) whether land that was once agricultural in nature changed through time, for example from agricultural to residential or commercial; and (2) the impact the status of heirs' property had, if any, on the market value of the land [i.e., Was heirs' property treated differently by the landowners than property with clear title (e.g., the ability to add improvements such as a house or uses that might improve the investment value), and was this difference reflected in its appraised value? It has been noted before that heirs' property has value

outside of pure economic use (see Dyer and Bailey 2008, Schelhas et al. 2017, Stack 1996)].

The case study of Prairie Farms was selected for its location within Macon County, the persistence of heirs' property within the community, and its history as a former Resettlement Community. From the community's condition today, it is clear that Prairie Farms was unable to live up to the ideal of becoming a self-sustaining agricultural community. Currently, Prairie Farms is occupied by a conglomeration of new houses, trailer homes, and lone-standing chimneys where original houses once stood (fig. 5). Some of the original farms have been consolidated into bigger farms, while others have been further fractionalized into homesites, with examples of heirs' property and clear title in both cases. While few agricultural activities persist here, the prevalence of heirs' property may be a contributing factor to the decline in agricultural activity within this area. In addition, it is possible that the pervasiveness of heirs' property may also be hindering the resurgence of economic activity. This research seeks to ascertain the potential economic impact of heirs' property on the appraised value of land. Specifically, this research analyzes the ways in which heirs' property decreases land value, and the relationship between landowner residence and land value.

In order to determine the presence of heirs' property in Macon County, tax data were accessed from the Macon County Revenue Commissioner's office. Initially, a search of the term "heirs of" within the Revenue Commissioner's taxpayer database allowed for all parcels with an heirs' property status to be identified within the county (Macon County Revenue Commissioner's Office N.d.). Gilbert et al. (2002) explain that heirs' property is not categorized in a uniform manner across tax systems for different counties. For instance, some counties may denote heirs' property within the taxpayer's name, followed by the term "heirs of," "estate of," or "et al." based on the preference of the tax assessor or county clerk (Pippin et al. 2017). Some counties may not even categorize any of the land as heirs' property within a tax database query. Bailey et al. (2019) and Dyer et al. (2009) suggest that the most complete record of heirs' property is obtained through a combination of digital records and courthouse document searches.

Figure 6 shows the location of Macon County in Alabama as well as the heirs' property in Macon County (in green) and the Prairie Farms community (as indicated within the purple borders). Once identified, the data were separated into several categories: land type (heirs' property or titled property), total number of owners or ownership entities (groups of more than one heir), total number of acres, and total value of acres. The appraised value of land was determined by the county Revenue Commissioner's office. In Macon County, land is classified according to various



Figure 5—Prairie Farms today. Pictured is a new house next to a project house. Photo by R. Zabawa, Tuskegee University

uses (e.g., agricultural, forestry, residential, commercial), and, in many cases, the appraised value is lower than the market value. Additionally, the land value is then divided into categories of improved value and total value, where total value is land value plus improved value. Average acres and values were then calculated.

A final variable that was considered to have an impact on land value was residence of the landowner. Landowner residence was categorized as: the landowner lived in the county of the land owned; the landowner lived out of the county but within the State of Alabama; or the landowner lived outside the State of Alabama. This variable was based on the hypothesis that the farther away the landowner lives from the land owned, the less likely are improvements to the land through agriculture-based production or program participation or through the building of physical structures such as fences and buildings, including barns and homes. Importantly, a contemporary study by Patterson (2018) in the Resettlement Community of Gee's Bend in Wilcox County, AL, used similar methodology and had similar results.

RESULTS AND DISCUSSION

Heirs' Property, Titled Property, and Fragmentation

Table 1 highlights land changes that have resulted over the years from the farm units created at Prairie Farms by 1940 to the present day. In terms of numbers, the original Resettlement Community was based on 37 farms on 3,000

acres. By 1996, the number of landowners had increased to 194, and currently there are 138 landowners or land-owning entities at Prairie Farms, reflecting some land consolidation. It should be noted that these numbers reflect the heirs (cotenants) of record, that is, where the tax bill is sent. The actual number of heirs is much higher. Relatedly, the land at Prairie Farms has undergone fragmentation, from 37 farm tracts in the 1940s, to 262 tracts in 1996 to 211 tracts currently, reflecting a transition from agriculture to residences or homesites, as well as a consolidation of some tracts as well. Table 1 also highlights the advent of heirs' property as original landowners die without wills. As recorded in the county Revenue Commissioner's office, heirs' property does not appear until the 1970s with two cases. This number jumps to 26 in the 1990s and it remains in the 20s currently. Finally, heirs' property is compared to titled property in table 1. While there have been more owners and tracts of titled property versus heirs' property, it is significant that the average heirs' property holding is larger (55.5 acres versus 13.8 acres). In the case of Prairie Farms, there is a higher percentage of intact farm units as heirs' property. On the other hand, there are more home sites, from divided former farm sites, that are under clear title, thus the smaller average acreage. This is not surprising given that, to obtain a mortgage for a house, the landowner most likely has a clear title to the land. Although the larger tracts have more agricultural production potential, unfortunately, the fact that they are heirs' property means that they are limited in terms of application of USDA programs or collateral value.

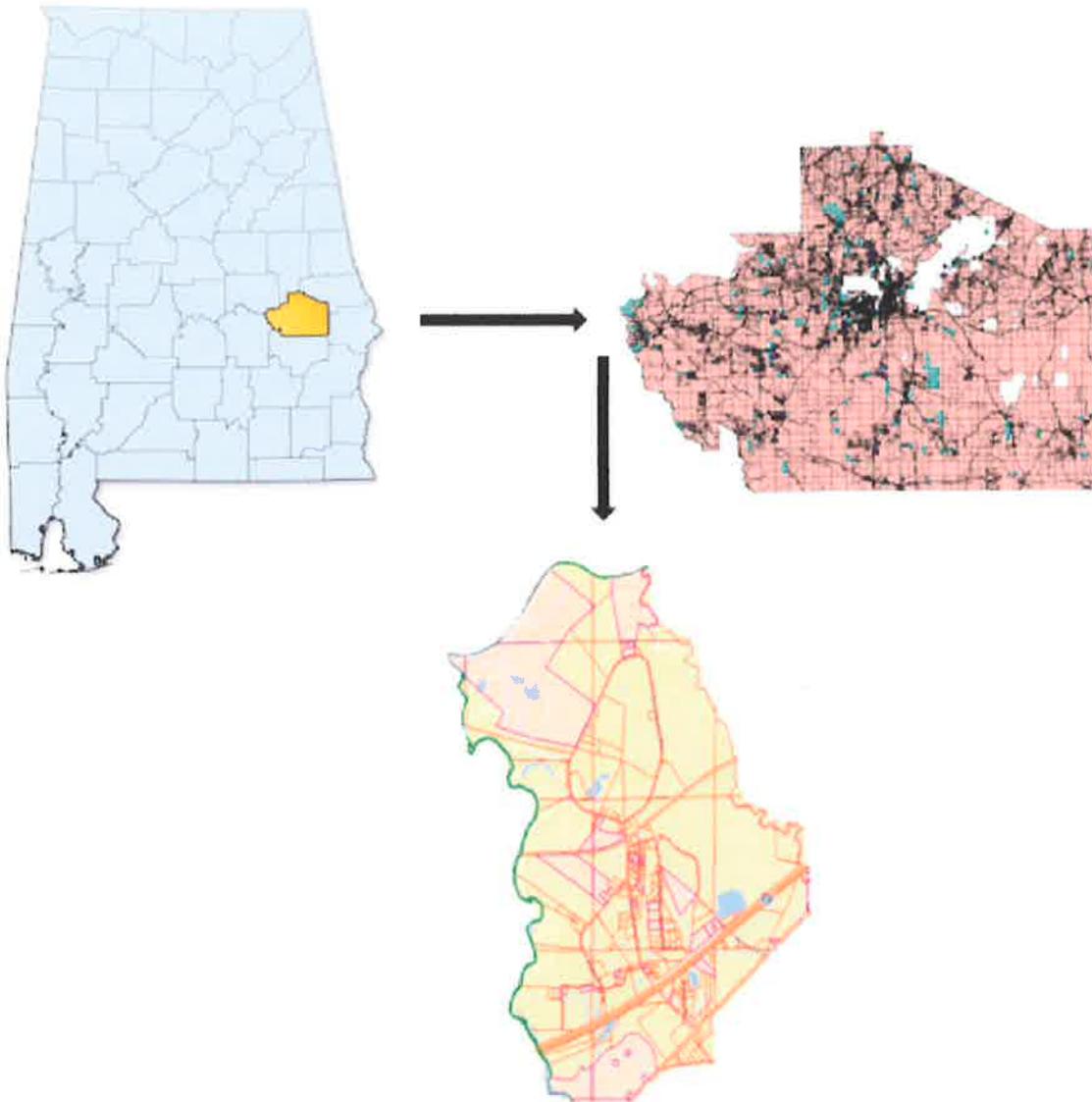


Figure 6—(A) Location of Macon County, AL; (B) heirs' property in Macon County (shown in green); (C) Prairie Farms heirs' property (shown in purple).

Table 1—Changes in land ownership at Prairie Farms, 1940–2016

	1940	1946	1976	1996	2016
TOTAL					
Owners	37	37	119	194	138
Tracts	37	87	194	262	211
Acres	2,998 ^a	3,208	3,105	3,027	2,859
Average acres per owner	63.2	86.7	26.1	15.6	20.7
HEIRS' PROPERTY					
Owners ^b	0	0	2	26	23
Tracts	0	0	8	45	50
Acres	0	0	464	1,105	1,277
Average acres per owner	0	0	232	42.5	55.5
TITLED PROPERTY					
Owners	37	37	117	168	115
Tracts	37	87	186	237	161
Acres	2,998	3,208	2,641	1,922	1,583
Average acres per owner	63.2	86.7	22.6	11.4	13.8
HEIRS' PROPERTY/TOTAL					
Owners (<i>percent</i>)	0	0	1.7	13.4	16.7
Tracts (<i>percent</i>)	0	0	4.1	17.2	23.7
Acres (<i>percent</i>)	0	0	14.9	36.5	44.6

^a This total includes two pastures of 431 and 230 acres.

^b Heirs' property "owners" represent ownership entities and not necessarily individual owners.

Landowner Residence: In-County, Out-of-County/ In-State, Out-of-State

Within the community of Prairie Farms in 2016, 161 tracts were owned as titled property, while 50 tracts were heirs' property, for a total of 211 tracts. Of those titled tracts, 106 were registered to landowners who resided within Macon County (65.8 percent), 37 were registered to landowners who resided outside of Macon County but in-State (23.0 percent), and 18 were registered to landowners who resided out-of-State (11.2 percent) (fig. 7; table 2, column 2).

Correspondingly, 33 of the 50 tracts of heirs' property were registered to landowners who resided in Macon County (66.0 percent), 5 tracts were registered to landowners who resided outside of Macon County but in-State (10.0 percent), and 12 tracts were registered to landowners who resided out-of-State (24.0 percent) (fig. 8; table 2, column 2). For titled property owners, the majority of tracts were registered to landowners who lived within Macon County, followed by those who lived outside of the

Titled property owners by landowner residence location

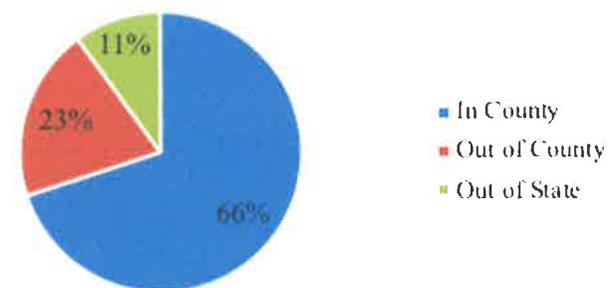


Figure 7—Titled property owners by landowner residence location, Prairie Farms, AL.

Table 2—Total Prairie Farms appraised land values, titled property versus heirs' property, by landowner residence, in 2016

LAND VALUES	1 Owners (number)	2 Tracts (number)	3 Area (acres)	4 Appraised land value (dollars)	5 Appraised improved value (dollars)	6 Total appraised value (dollars)
TITLED PROPERTY						
In-county	81	106	851.38	1,843,030	3,248,560	5,091,590
Out-of-county/in-State	23	37	403.69	793,620	204,301	997,921
Out-of-State	11	18	327.41	621,340	52,380	673,720
TOTAL	115	161	1,582.48	3,257,990	3,505,241	6,763,231
HEIRS' PROPERTY						
In-county	14	33	731.64	1,350,300	355,220	1,705,520
Out-of-county/in-State	4	5	8.00	21,800	17,100	38,900
Out-of-State	5	12	536.80	926,700	2,720	929,420
TOTAL	23	50	1,276.44	2,298,800	375,040	2,673,840

Titled property owners by landowner residence location

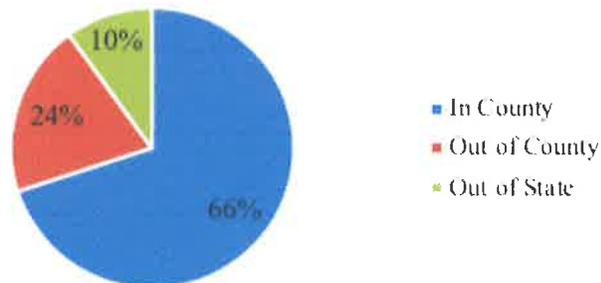


Figure 8—Heirs' property owners by landowner residence location, Prairie Farms, AL.

county but in-State, and then those who lived out-of-State. Heirs' property owners followed the same trend for tracts registered to in-county owners, though there were more tracts registered to out-of-State owners than out-of-county/in-State owners.

Table 2 also highlights the total number of acres by titled property versus heirs' property as well as the residence location of the registered landowners in 2016. The total amount of acres owned within Prairie Farms was 2,858.92 acres. Of those, titled property landowners owned 1,582.48 (55.4 percent) acres, and heirs' property owners owned 1,276.44 acres (44.6 percent). Titled property owners who resided in Macon County owned the largest amount of land, 851.38 acres (53.8 percent); those who resided outside of Macon County but in-State owned 403.69 acres (25.5 percent); and those who resided out-of-State

owned 327.41 acres (20.7 percent). Heirs' property owners who resided within Macon County owned 731.64 acres (57.3 percent); those who lived outside of Macon County but in-State owned the smallest amount, 8.00 acres of land (0.6 percent); and those who resided out-of-State owned 536.80 acres (42.1 percent).

With respect to land value, the appraised value of land within Prairie Farms was \$5,556,790 (see table 2, column 4). The land value of titled property within Prairie Farms was \$3,257,990, while total heirs' property acreage was appraised at \$2,298,800. Table 2 also highlights that the majority of titled land value is found when the owners live in-county (\$1,843,030), as opposed to living out-of-county but in-State (\$793,620) or out-of-State (\$621,340). This is also true for the value of heirs' property when owners live in-county (\$1,350,300), compared to landowners who live out-of-county but in-State (\$21,800), or out-of-State (\$926,700). The extremely small number of out-of-county/in-State owners makes this distinction less significant. The impact of titled versus heirs' property is highlighted in the category of "improved value" (table 2, column 5). In this case, improvements include houses, farm structures, and permanent changes to the landscape. For land with clear title with in-county owners, the improvement value (\$3,248,560) is 176 percent of the value of the land itself. For owners who live out-of-county but in-State, the improvement value (\$204,301) is 26 percent of the land value; for out-of-State owners, the improvement value (\$52,380) is 8 percent of the land value. Heirs' property follows the same trend with more improvement value for land with in-county ownership at \$355,200, versus out-of-county/in-State ownership at \$17,100 and in-county/out-of-State ownership at \$2,720. The percent-to-land value

of heirs' property was lower than that of land with clear title for in-county owners (26 percent) and out-of-State owners (0.3 percent) but not for the out-of-county/in-State owners (78 percent), though the small number and acreage of this group may be an influence. In sum, for owners of land with clear title, improvements to land represent 108 percent of the appraised value of land and 52 percent of the total appraised value of land (table 2, column 6), while for owners of heirs' property, improvements to land represent 16 percent of the appraised value of land and 14 percent of the total appraised value of land.

These results are further highlighted in table 3 where the data are presented in an average or per-acre format. The average appraised value per acre of titled property was \$2,059. The average appraised value per acre of heirs' property was \$1,801. For titled property owners residing within Macon County, the average appraised value of land per acre was \$2,165. For titled property owners residing out of Macon County but in-State, the average value per acre of land was \$1,966. Titled property owners who resided out-of-State had the lowest average value per acre of land at \$1,898. Heirs' property owners who resided in Macon County had the average appraised value per acre of land of \$1,846. For heirs' property owners who resided outside of Macon County but in-State, the average appraised value per acre of land was \$2,725. Heirs' property owners who lived out-of-State had the lowest average value per acre of land, with an appraised value of \$1,726. In sum, for titled property, the trend was that land owned by in-county residents was appraised higher than that owned by out-of-county/in-State residents, which was appraised higher than land owned by out-of-State residents. For heirs' property owners, again the results

are mixed, with out-of-county/in-State owners having the highest per-acre value followed by in-county and out-of-State owners.

Table 3 also highlights the average improvement value per acre by landowner residence. Again, as in average land values, the improvement values of titled property acres with in-county owners were highest at \$3,816, followed by those with out-of-county/in-State owners at \$506 and out-of-State owners at \$160. Heirs' property generally followed the same trend, with improvement values averaging \$486 per acre when heirs' property owners lived in the county and \$5 per acre for heirs' property with out-of-State owners. The relatively small number of tracts and acreage owned by out-of-county/in-State owners did not follow this trend. In general, improvements, as expressed by assessed improved value, to titled property were greater than improvements to heirs' property, regardless of the residence of the landowner. The highest assessed improved values for titled property registered to in-county residents makes sense, given that the local owners would use and invest in the improvements more readily.

SUMMARY AND CONCLUSIONS

Understanding African-American land ownership, and more specifically, land loss, is critical to understanding the lack of economic and political participation and well-being of vast sections of communities across the rural South. Whether by racially discriminatory practices at the courthouse door or probate office, or by a lack of effective Federal programs, the inability to create a land-based class of agricultural entrepreneurs impeded the economic development of the region in general and of African-American communities in particular.

Table 3—Average Prairie Farms appraised land values per acre, titled property versus heirs' property, by landowner residence, in 2016

LAND VALUES	1 Owners (number)	2 Tracts (number)	3 Area (acres)	4 Appraised land value (dollars)	5 Appraised improved value (dollars)	6 Total appraised value (dollars)
TITLED PROPERTY						
In-county	81	106	851.38	2,165	3,816	5,980
Out-of-county/in-State	23	37	403.69	1,966	506	2,471
Out-of-State	11	18	327.41	1,898	160	2,058
AVERAGE				2,059	2,215	4,274
HEIRS' PROPERTY						
In-county	14	33	731.64	1,846	486	2,331
Out-of-county/in-State	4	5	8.00	2,725	2,138	4,863
Out-of-State	5	12	536.80	1,726	5	1,731
AVERAGE				1,801	294	2,095

Prairie Farms was created during the New Deal to provide landless and tenant-farming African Americans the opportunity for independence through the acquisition of land. Over the succeeding four generations, the original farmsteads have changed to a mixture of abandoned fields, smaller tracts, residential units, and land leased for mining, with much of this land, 45 percent, held as heirs' property. This research examined how these changes influence the appraised value of the land. This is important for two main reasons. First, land status, i.e., land with a clear title versus heirs' property, impacts how the land may be used and even lost. Property with a clear title may be used as collateral for home, equipment, or other improvement loans. It is also open for USDA program participation. Heirs' property, on the other hand, may not be used for financial or other productive means without the consent of all the co-heirs, an often arduous task, if multiple generations of heirs are considered. Moreover, because the title is not clear, heirs' property may be more vulnerable to tax and partition sales.

Second, in terms of land value, there was a significant difference between titled property and heirs' property based on landowner residence. Titled property owned by in-county residents had a total appraised value, on average (including improvements), that was over twice the value of land owned by out-of-county/in-State residents, which was valued slightly above land owned by out-of-State residents. The same trend is hypothesized for heirs' property owners but was not found due to a small sample of landowners in this category. At the same time, land with owners residing outside of the State was appraised at the lowest value as predicted. Finally, a major contributing factor to this difference is the average improvement value of the land. More improvements were made by owners who lived in-county, followed by owners who out of lived out-of-county/in-State, followed by owners who lived out-of-State.

Our findings suggest that landowners invest in what they can control (property with clear title versus heirs' property), and they invest in assets to which they have greater access in terms of physical distance. These conclusions have both economic and political ramifications. Economically, owners of heirs' property are not able to reap the full benefits of land ownership, either as a productive resource or as an investment. Research by Dyer et al. (2009) and Baab (2010) has focused on the total value of land that is heirs' property. In Prairie Farms, this number is significant, at close to \$2.7 million, for a small agricultural community in decline. If the owners of heirs' property cannot reap similar benefits off the land as their counterparts with clear title, this also affects the community at large as well. Farms cannot be improved, declining houses are replaced by mobile homes because mortgages cannot be obtained, local

governments cannot get the benefits of increased property taxes, and local vendors cannot get the benefits of local sales from increased farm production. Finally, politically, it was noted that the second largest category of heirs' property owners lived out-of-State. This means that these owners are unable to participate in any kind of legislation, including property tax laws that might affect the land. It is through highlighting the risks involved in maintaining heirs' property versus the benefits of clearing title to property that both individual landowners and community governments may be able to act in their own best interests.

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LITERATURE CITED

- Alabama Cooperative Extension System. 2008. Heir property in Alabama. HE-0852. 31 p.
- Asare-Baah, L.; Zabawa, R.; Findlay, H. 2018. Participation in selected USDA programs by socially disadvantaged farmers in selected Black Belt counties in Georgia. *Journal of Rural Social Sciences*. 33(1): 32–55.
- Baab, C. 2010. Heirs' property ownership: an untapped asset for low-wealth Americans and local governments. *State and Local Law News*. 33(4): 1–15.
- Baba, A.; Zabawa, R.; Zekeri, A. 2018. Utilization of property among African American heir and titled landowners in Alabama's Black Belt. *Review of Black Political Economy*. 45(4): 325–338.
- Bailey, C.; Zabawa, R.; Dyer, J. [et al.]. 2019. Heirs' property and persistent poverty among African Americans in the Southeastern United States. In: Johnson Gaither, C.; Carpenter, A.; Lloyd McCarty, T.; Toering, S., eds. *Heirs' property and land fractionation: fostering stable ownership to prevent land loss and abandonment*. June 15, 2017, Atlanta, GA. e-Gen. Tech. Rep. SRS-244. Asheville, NC: U.S. Department of Agriculture Forest Service, Southern Research Station: 9-19.
- Brooks, J. 1983. Black farmers and rural heir property owners: public policy response. *Increasing Understanding of Public Problems and Policies*. 1983:76–83. <https://ageconsearch.umn.edu/record/17675?ln=en>. [Date accessed May 29, 2019].
- Camp, C. 1939. Progress report Prairie Farms Project. Correspondence to Will Alexander, Administrator, Farm Security Administration. April 20, 1939. Reproduced at the National Archives, Record Group 96, Records of the Resettlement Administration, RP, AL-28, 183-04. 9 p.
- Casagrande, J. 1986. Acquiring property through forced partitioning sales: abuses and remedies. *Boston College Law Review*. 27(4): 755–783.
- Chandler, A.B. 2005. "The loss in my bones": protecting African American heirs' property with the public use doctrine. *William & Mary Bill of Rights Journal*. 14 (1): 387–414.
- Copeland, R.W. 2013. In the beginning: origins of African American real property ownership in the United States. *Journal of Black Studies*. 44(6): 646–664.
- Copeland, R.W. 2015. Heirs' property in the African American community: from promised lands to problem lands. *Professional Agricultural Workers Journal*. 2(2): 1–9.

- Craig-Taylor, P. 2000. Through a colored looking glass: a view of judicial partition, family landloss, and rule setting. *Washington University Law Review*. 78(3): 737–788.
- Dagan, H.; Heller, M. 2001. The liberal commons. *The Yale Law Journal*. 110(4): 549–623.
- Daniel, P. 2015. *Dispossession: discrimination against African American farmers in the age of civil rights*. Chapel Hill: University of North Carolina Press. 352 p.
- de Soto, H. 2000. The five mysteries of capital. In: *The mystery of capital: why capitalism triumphs in the West and fails everywhere else*. New York, NY: Basic Books: 6–7.
- Deaton, B.J. 2007. Intestate succession and heirs' property: implications for future research on the persistence of poverty in Central Appalachia. *Journal of Economic Issues*. 41(4): 927–942.
- Deaton, B.J. 2012. A review and assessment of the heirs' property issue in the United States. *Journal of Economic Issues*. 46(3): 615–632.
- Deaton, B.J.; Baxter, J.; Bratt, C. 2009. Examining the consequences and character of "heirs' property". *Ecological Economics*. 68(8): 2344–2346.
- Dyer, J.F. 2007. Heirs' property: legal and cultural dimensions of collective landownership. *Bulletin 667*, May 2007. Auburn, AL: Alabama Agricultural Experiment Station. 38 p.
- Dyer, J.F.; Bailey, C. 2008. A place to call home: cultural understandings of heirs' property among rural African Americans. *Rural Sociology*. 73(3): 317–338.
- Dyer, J.F.; Bailey, C.; Van Tran, N. 2009. Ownership characteristics of heirs' property in a Black Belt county: a quantitative approach. *Southern Rural Sociology*. 24(2): 192–217.
- Emergency Land Fund [ELF]. 1980. *The impact of heirs' property on Black rural land tenure in the Southeastern region of the United States*. [Place of publication unknown]: The Fund. 569 p.
- Falk, W.W. 2004. *Rooted in place: family and belonging in a southern Black community*. New Brunswick, NJ: Rutgers University Press. 232 p.
- Farm Security Administration. 1941. Report, "Prairie Farms". Washington, DC: U.S. Government Printing Office. [Number of pages unknown].
- Farm Security Administration. 1944. Hearings, "Select committee of the House Committee on Agriculture, to investigate the activities of the Farm Security Administration". Washington, DC: U.S. Government Printing Office. 1182 p.
- Field, E. 2000. *The decline of Black-operated farms in North Carolina: toward a clearer understanding of the problem*. Durham, NC: Duke University. [Number of pages unknown]. M.S. thesis.
- Gilbert, C.; Eli, Q. 2000. *Homecoming: the story of African-American farmers*. Boston, MA: Beacon Press. 193 p.
- Gilbert, J.; Sharp, G.; Felin, M. 2002. The loss and persistence of Black-owned farms and farmland: a review of the research literature and its implications. *Southern Rural Sociology*. 18(2): 2–3.
- Higgs, R. 1982. *Accumulation of property by southern Blacks before World War I*. The American Economic Review. 72(4): 725–737.
- Johnson Gaither, C. 2016. "Have not our weary feet come to the place for which our fathers sighed?": heirs' property in the Southern United States. e-Gen. Tech. Rep. SRS-216. Asheville, NC: U.S. Department of Agriculture Forest Service, Southern Research Station. 31 p.
- Lewan, T.; Barclay, D.; DeSilva, B. 2001. *Torn from the land*. Associated Press. <http://www.hartford-hwp.com/archives/45a/390.html>; <http://www.hartford-hwp.com/archives/45a/393.html>; <http://www.hartford-hwp.com/archives/45a/393.html>. [Accessed May 29, 2019].
- Macon County Revenue Commissioner's Office. [N.d.]. Heirs' property within Prairie Farms, Alabama. http://isv.kcsgis.com/al.macon_revenue/. [Date accessed: November 15, 2016].
- Mitchell, T.; Malpezzi, S.; Green, R. 2010. Forced sale risk: class, race and the "double discount". *Florida State Law Review*. 37: 589–658.
- Pasquill, R., Jr. 2008. *Planting hope on worn-out land: history of the Tuskegee Land Utilization Project, Macon County, Alabama, 1935–1959*. Montgomery, AL: New South Books. 152 p.
- Patterson, III, J. 2018. *Heirs' property in the South: a case study of a resettlement community*. Auburn, AL: Auburn University. 99 p. M.S. thesis.
- Pennick, E. 2010. *African-American land retention, acquisition and sustainable development: eradicating poverty and building intergenerational wealth in the Black Belt region*. WWW.eAssets.org: Federation of Southern Cooperatives Land Assistance Fund and Tuskegee University. 41 p.
- Penningroth, D. 2003. *The claims of kinfolk: African American property and community in the nineteenth-century South*. Chapel Hill: University of North Carolina Press. 320 p.
- Pigford, Timothy et al. v. Dan Glickman, Secretary, United States Department of Agriculture, Civil Action No. 97-1978. Washington, DC: United States District Court for the District of Columbia, 1999.
- Pippin, S.; Jones, S.; Johnson-Gaither, C. 2017. Identifying potential heirs properties in the Southeastern United States: a new GIS methodology utilizing mass appraisal data. e-Gen. Tech. Rep. SRS-225. Asheville, NC: U.S. Department of Agriculture Forest Service, Southern Research Station. 58 p.
- Public Broadcasting System. 2017. *Banished: American ethnic cleansings*. Independent Lens. www.pbs.org/independentlens/banished/film.html. [Date accessed: October 10, 2018].
- Reynolds, B. 2002. *Black farmers in America, 1865–2000: the pursuit of independent farming and the role of cooperatives*. RBS Research Report 194. U.S. Department of Agriculture Rural Business-Cooperative Service. 24 p.
- Rivers, F. 2006. *Restoring the bundle of rights: preserving heirs' property in coastal South Carolina*. Article presented at the American Bar Association's 17th annual estate planning symposium, San Diego, CA.
- Schelhas, J.; Hitchner, S.; Johnson Gaither, C.; Jennings, V. 2017. "Sunshine, sweat, and tears": African-American ties to land and forests in the South. e-Gen. Tech. Rep. SRS-220. Asheville, NC: U.S. Department of Agriculture Forest Service, Southern Research Station. 154 p.
- Schulman, M.D.; Garrett, P.; Luginbuhl, R.; Greene, J. 1985. Problems of landownership and inheritance among Black smallholders. *Agriculture and Human Values*. 2(3): 40–44.
- Stack, C. 1996. *Call to home: African Americans reclaim the rural South*. New York: Basic Books. 245 p.
- Thomas, M.; Pennick, J.; Gray, H. 2004. *What is African-American land ownership? Federation of Southern Cooperatives Land Assistance Fund*. <http://www.federationsoutherncoop.com/aalandown04.htm>. [Date accessed: August 19, 2016].
- U.S. Commission on Civil Rights. 1965. *Equal opportunity in farm programs: an appraisal of services rendered by agencies of the United States Department of Agriculture*. Washington, DC: U.S. Government Printing Office. 136 p.

- U.S. Commission on Civil Rights. 1967. Equal opportunity in federally assisted agricultural programs in Georgia. The Georgia State Advisory Committee to the United States Commission on Civil Rights. 45 p.
- U.S. Commission on Civil Rights. 1982. The decline of Black farming in America. Washington, DC: U.S. Government Printing Office. 196 p.
- U.S. Constitution Amendment XIV, § 2.
- U.S. Department of Agriculture. 1997. Civil rights at the United States Department of Agriculture: a report by the Civil Rights Action Team. Washington, DC. 95 p.
- U.S. Department of Agriculture. 2011. Independent assessment of the delivery of technical and financial assistance. Civil rights assessment. Final report. Contract AG-3142-C-09-0049. Prepared by Jackson Lewis LLP, Corporate Diversity Counseling Group. 52 p.
- U.S. Department of Agriculture (USDA) National Agricultural Statistics Service (NASS). 2017. Census of Agriculture: selected farm characteristics by race: 2017. www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1_Chapter_1_US/st99_1_0061_0061.pdf. [Date last accessed: May 28, 2019].
- U.S. Department of Commerce. 1913. Census of Agriculture, 1910, volume 6, part 1: reports by States: Alabama – Montana, Alabama. Washington, DC: U.S. Government Printing Office. 111 p.
- U.S. Department of Commerce. 1920. Census of Agriculture, 1910, chapter IV: farm statistics by color and tenure of farmer, Alabama. Washington, DC: U.S. Government Printing Office. 155 p.
- Warren, S.; Zabawa, R. 1998. The origins of the Tuskegee National Forest: nineteenth-and twentieth-century resettlement and land development programs in the Black Belt region of Alabama. *Agricultural History*. 72(2): 494–508.
- Zabawa, R. 1991. The Black farmer and land in south-central Alabama: strategies to preserve a scarce resource. *Human Ecology*. 19(1): 61–81.
- Zabawa, R. 2009. Prairie Farms resettlement community. In: *Encyclopediaofalabama.org*. <http://www.encyclopediaofalabama.org/article/h-2148>. [Date accessed: October 23, 2015].
- Zabawa, R.; Baharanyi, N. 1992. Estate planning strategies and the continuing phenomenon of Black-owned land loss. *The Rural Sociologist*. 12(3): 13–23.
- Zabawa, R.; Baharanyi, N.; Amougou, M. 1994. Factors associated with Black-owned land loss. *Journal of Agricultural and Food Information*. 2(4): 23–41.
- Zabawa, R.; Siaway, A.; Baharanyi, N. 1990. The decline of Black farmers and strategies for survival. *Southern Rural Sociology*. 7: 106–121.
- Zabawa, R.; Warren, S. 1998. From company to community: agricultural community development in Macon County, Alabama, 1881 to the New Deal. *Agricultural History*. 72(2): 459–486.