

ALACHUA COUNTY PROPERTY APPRAISER'S OFFICE PRESENTS PROBATE AND ESTATE PLANNING SUMMIT



AYSHA SOLOMON
ALACHUA COUNTY
PROPERTY APPRAISER
KNOWLEDGEABLE • COMMUNITY FOCUSED • COMMITTED



**THIS EVENT WILL BE
PHOTOGRAPHED/RECORDED**

These photos and/or videos may be used for publications, news releases, online, and in all other forms of communication both digitally and in print, as our offices see fit.

You can't take your stuff with you

What do you do?

1. Give it away during life
2. Do nothing – which means that the law will identify who your legal heirs are and will divide your property among them regardless of your preferences
3. Write a will or create an estate plan that identifies who you want to have get your stuff



You can't take your stuff with you

Risks:

- Give up control too soon and don't have enough for your senior years
- You have to rely on your heirs to probate the property, divide it among themselves, and maintain it
 - **very expensive!**
- Low risk if you do the right estate plan to ensure that the property passes with minimal trouble
 - but there is a cost now



Heirs Property arises when a landowner dies, and the title records are not updated to reflect the new owner(s)

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**What is
Heirs Property?**

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Why is it bad?

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How do we avoid it?

Why is this bad?

1. It creates what is called **cloudy title** which means the official records don't reflect the true ownership.
2. Figuring out who the true owners are becomes more and more difficult and expensive the longer we wait to clear it up through legal proceedings called **probate**.
3. And the longer we wait, the more likely it is that the ownership shares will be **fractionated** as owners die and their shares of the property pass to their heirs.
4. So how do we avoid it? Through modest **estate planning**

Cloudy title is when the official title records at the tax collector's or property appraiser's or clerk of court's offices don't reflect the true ownership of the land.

People who own land with cloudy title cannot:

- Get homeowner's insurance to protect the property
- Get homestead exemption to reduce taxes and protect against creditors
- Get a mortgage or a permit to fix the roof
- Get FEMA funds if the property is damaged in a hurricane
- Lease the property
- Sell the property
- Risk losing the property at tax sale if they don't get the tax bills and pay them



What is Cloudy Title?

How do you clear up cloudy title?

It depends

1. If the prior landowner did some **estate planning** and put the land in trust, or executed a joint-tenancy deed or ladybird deed, then clearing up cloudy title is fairly easy. If the owner has died, the surviving joint tenant or beneficiary of the ladybird deed can go down to the Property Appraiser's Office with a copy of the death certificate and get that deceased person's name removed. Less money!
2. If the prior landowner died with a will, or without a will, the new owners will need to go through court-supervised **probate** proceedings. These are not scary or difficult, but they do require a lawyer and you have to follow through. Once you prove to the judge who the new owners are supposed to be, the judge will issue an order to allow the title records to be changed. More money!

What is Fractionation and why is it so bad?

Inherited property is usually inherited in a form that is called **tenancy in common** in which different people hold different-sized, inheritable shares. So, unless the property is being inherited by one person, then the new owners are going to have fractional shares. The sofa, the box of cheerios, and the house are all going to pass in fractional shares to the heirs if there is no will, or a will gives everything equally to all the kids.

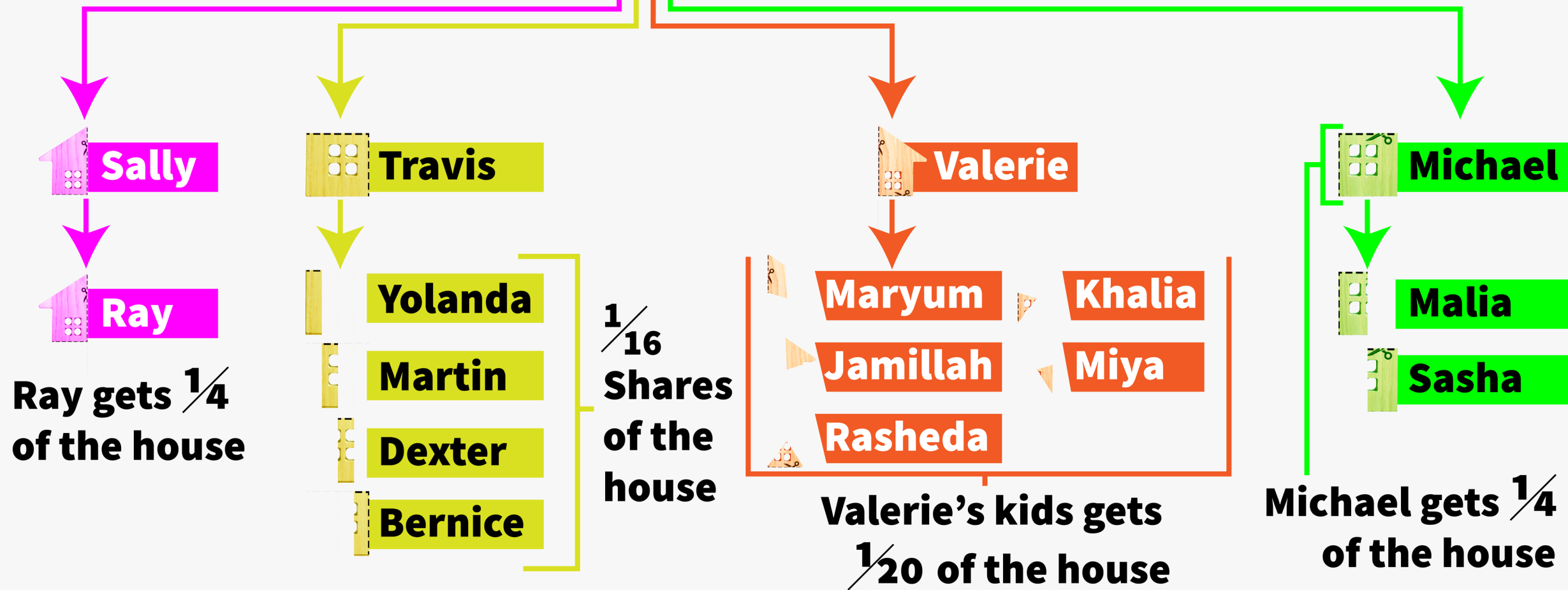


And why are fractional shares so bad?
Because **all** the owners have to agree to:

- sell the property
- lease the property
- mortgage the property
- decide who is going to live on the property
- insure the property
- get a permit



Grandma and Grandpa



So now the house is divided into **11 (maybe more)** different shares and you may have to probate 3 additional estates besides grandma's, and let's hope none of those grandkids die before all the lawyers do their work

OH NO!

HEIRS

PROPERTY



**How Do We Fix It Once We
Are In Heirs' Property?**

PROBATE



PROBATE

“Probate is the judicial process whereby a will is ‘proved’ in a court of law and accepted as a valid public document that is the true last testament of the decedent, or whereby the estate is settled according to the laws of intestacy in the state of residence of the deceased at the time of death in the absence of a legal will.”

TYPES OF PROCEDURES

FORMAL ADMINISTRATION:

- Lengthy process – generally takes 6 to 8 months
- Used when the decedent has been dead for less than two years

SUMMARY ADMINISTRATION:

- Shorter period to complete
- Don't need to deal with creditors
- Decedent has been dead for more than two years.



ALACHUA COUNTY CLERK OF COURT



HOW TO FILE

- An estate gets started by filing a petition with the Clerk of Court.
- Petitions can be filed by mail, in person, or through the Florida Court's e-filing portal
- Depending on the type of estate filed, filing fees vary from \$231 to \$400

WHERE TO FILE?

The place to file a probate petition (venue) is the county where the decedent resided, or if the decedent is not a Florida resident, where the real property is located.

FORMAL ADMINISTRATION

- ▶ For assets over \$75,000 or appointing a personal representative.
- ▶ An attorney is required.
- ▶ The filing fee is \$400

SUMMARY ADMINISTRATION

- ▶ Estate value less than \$75,000, excluding homestead value –OR–
- ▶ Deceased more than two years.
- ▶ Filing fees are \$235/\$345
- ▶ Petition form is online at www.circuit8.org/self-help/forms-and-checklists

WILLS

- ▶ Deposit wills with Clerk, within 10 days after death, per F.S. 732.901.
- ▶ File with proof of death.

Clerk of Court Online Resources

- The Alachua County Clerk offers easy to use interactive forms through DIY (Do-It-Yourself) Florida, which uses interview style questions to lead you through the steps and prepare official court forms.

<https://www.alachuacounty.us/Depts/Clerk/Pages/SelfHelp.aspx>

- Standard forms are available online at www.alachuaclerk.org at Forms/Probate

STEPS IN FORMAL ADMINISTRATION

- Identify all of the heirs having an interest in the property
- File Petition for Administration and serve all of the interested parties
- Personal Representative appointed
- Three Month creditors' period
- File Inventory
- File Petition to Determine Homestead Status (this petition is not heard until after the creditors' period expires)
- Distribute the property to the heirs or as the parties agree
- Waive all filed claims (if homestead is the only asset)
- Close the estate



Steps in Summary Administration

- Identify all of the heirs having an interest in the property
- File Petition for Summary Administration AND Petition to Determine Homestead Status and serve all of the heirs
- Distribute the property to the heirs or as the parties agree
- Close the estate



Order Determining Homestead Status of Real Property

- ORDER transfers title out of the decedent's name – you don't get a deed (Deeds are signed by owners/Order signed by a judge)
- ORDER is recorded in the public records



What Happens After This Gets Filed?

What happens after the probate documents are filed in Official Records:

- Property Appraiser receives copies of the Order of Summary Administration and/or Order Determining Homestead Status. Our office is generally 2 weeks behind recording.
- Verify legal description of parcel
- Verify deceased owners' percentage of ownership
- Update our records to show new owners with percentage of ownership.





What is Homestead Exemption?

- The tax exemption for homestead property is a valuable property tax benefit that can save homeowners up to \$50,000 on their taxable value.
 - When someone owns a property and makes it his or her permanent residence or the permanent residence of his or her dependent, the property owner may be eligible to receive a homestead exemption. An initial application is necessary for most situations.
-

WHAT HAPPENS TO THE TAX BENEFIT WHEN YOUR LOVED ONES PASS AWAY AND WHAT IS THE RESPONSIBILITY OF THE HEIRS?

Homestead tax exemption is an individual benefit or overlapping benefit between spouses, the main responsibility for those family members that manage the legal or financial affairs for the decedent are to notify the office regarding possible changes to the claim of that exemption.

WHAT HAPPENS WITH THE EXEMPTION(S) WHILE PROBATE IS ONGOING?

Property taxes will be issued without any tax breaks until probate determines the title of the home and exemption can be granted accordingly.

Alachua County Tax Collector

John Power | TAX
COLLECTOR

Tax Deeds Sold



Frequently Asked Questions



Can I see if taxes are paid or unpaid on a property?

Yes, property tax information is public information.

How many Heirs' properties in Alachua County have delinquent taxes?

There are approximately 1676 heirs' properties in Alachua County. There are currently 368 heirs' properties with delinquent taxes.

How long can taxes be unpaid before the property is in danger of being sold?

2 years from the date of delinquency the tax deed sale process can begin.

Frequently Asked Questions



If I pay the taxes, can I own the property?

You cannot own the property by just paying the taxes. You will have to purchase the property at a tax deed sale (be the high bidder).

How can I purchase the tax certificate (tax lien) on a property?

Tax certificates are sold online during the month of May each year (www.lienhub.com). The certificates are awarded June 1st to the bidder who bids the lowest interest rate.

If I purchase a tax certificate, how can I become the owner of the property?

After your certificate is 22 months old, you can apply for the tax deed and force the property to Public Auction. It cost approximately \$1,000.00 in fees plus all the delinquent taxes. If you are outbid at the auction, you get all your money back with interest.

Delinquent Tax Timeline



NOVEMBER 1: Taxes are due and payable

APRIL 1: Unpaid taxes become delinquent

JUNE 1: A tax certificate is sold online

(www.Lienhub.com)

Two years later, the property can be sold at a tax deed sale

(www.alachua.realtaxdeed.com)

For any additional questions, please contact the Alachua County Tax Collectors Office

(352) 264-6968 or visit us online at AlachuaCollector.com

WHAT HAPPENS WITH THE EXEMPTION AFTER PROBATE IS FINALIZED?

1. New owner contacts our office
2. We revisit the original application submitted to ensure it is still a good standing claim
3. We process current year and submit previous year(s) to be reviewed for a correction (statutory limitation to 4yrs).

WHAT HAPPENS IF A TAX EXEMPTION CHANGE GOES UNREPORTED?

If an heir(s) realizes the property tax exemption(s) stayed claimed improperly, they must contact the county Property Appraiser's Office, the claim changes must be notified as soon as identified to ensure benefit is removed for current year.

EXEMPTION TAX LIEN VS. CURRENT YEAR DELINQUENT TAX CERTIFICATES



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DELINQUENT TAXES

Generate a tax certificate that as previously mentioned by the county tax collector can be sold to a third party who can ultimately force the property into a tax deed sale if these taxes go unpaid for 2 years.



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EXEMPTION TAX LIEN(S)

Identified by the Property Appraiser. Unlike a tax certificate, this type of lien(s) is what we call dormant, the unpaid taxes cannot be sold and will not result in a tax deed sale.

- The lien(s) will stay on the property until the payment arrangement is satisfied by the heir(s) or paid in full before the property is sold.
- Heirs will be notified that an exemption-derived tax lien will be filed after 30 days of the notice.
- We will only send a notification to the mailing address on record for the property.



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**CAN ALL OF THIS BE
AVOIDED?**

MAYBE...



BE PROACTIVE

Estate Planning:

- Last Will and Testament
- Advanced Directives
- Ladybird Deed



Living Will

- As indicated previously, this is an end-of-life document that makes known your wishes about being kept alive artificially when you have
- a terminal condition, or
- an end-stage condition, or
- are in a persistent vegetative state

AND

- Your doctor and another doctor have determined there is no reasonable medical probability of your recovery from the condition.

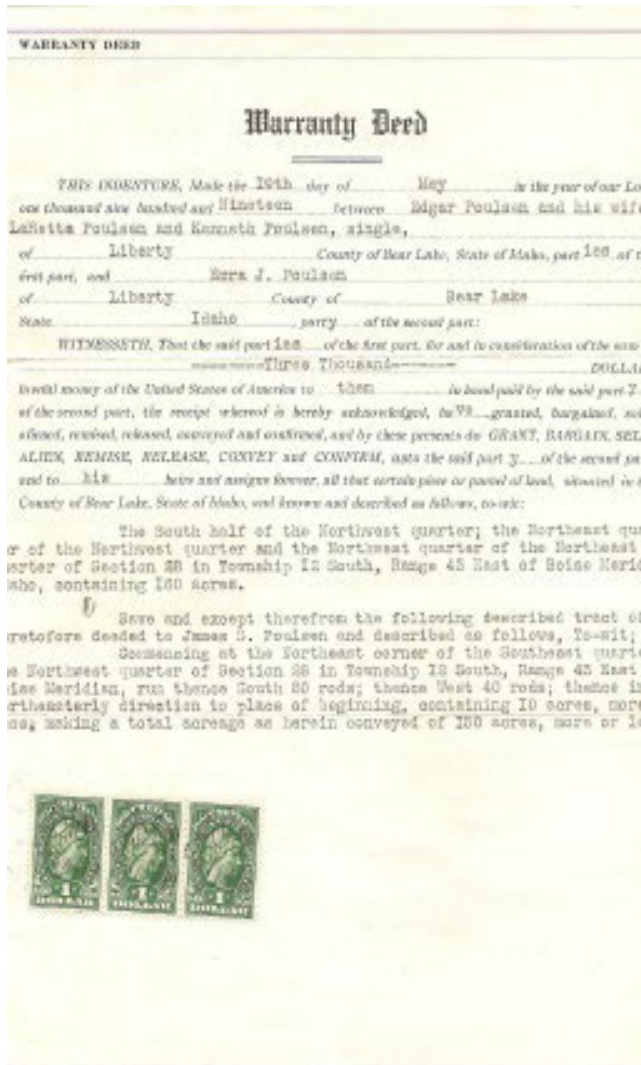
What to think about when writing a will?

- The fewer the beneficiaries the better to avoid fractionation of real property
- Who is best able to maintain and pass on the home or other real property?
- Can you give different beneficiaries different property to show you love them equally?
- Write down instructions regarding what you want to have happen to your real estate (it may not be legally enforceable but it will help the survivors)
- Can you incentivize your beneficiaries to follow through with probate to clear title quickly?
- Do you know someone who can be appointed personal representative of your estate who you trust to quickly and efficiently administer and probate your property?



Enhanced Life Estate Deeds

- Sometimes referred to as a “Ladybird Deed”
- The Grantor (owner of the property) maintains ownership of the property during their lifetime
- Can sell the property; mortgage the property; or give it away
- It only takes effect upon the Grantor’s death
- No probate action (court case) is necessary to transfer the property to the remainderman
- Owner can change his/her mind and do a new deed naming a different remainderman



DEEDS

- THERE ARE WAYS TO DEED PROPERTY TO YOUR HEIRS.
- DO NOT DO THESE YOURSELF!!
- YOU DON'T KNOW WHAT YOU DON'T KNOW.

Designation of Health Care Surrogate

- A legal document that names who you want to make medical decisions for you if you are unable to make these decisions
- Incapacity
- Dementia
- Recovering from surgery
- Long-term illness and you no longer want to make health decisions any longer
- Job of the Agent is to make health decisions on behalf of the Principal
Pick a person who will honor your wishes

Community Resources

- **Eighth Circuit Self-Help Program**

The Eighth Judicial Circuit has a Self-Help Program located on the Fourth Floor of the Eighth Judicial Circuit's Civil and Family Law Justice Center, 201 E University Ave, Gainesville Florida. Self-Help Program staff will explain procedures; additional court requirements; review the file before scheduling a court event to insure the correct forms were filed; and help with setting a hearing with the Judge. Additional information about the Self-Help Program is on their webpage at <https://circuit8.org/self-help/>

- **University of Florida law students** are available on Fridays from 11 a.m.- 1 p.m. to assist
- **Three Rivers Legal Services, Inc.**, 1000 NE 16th Ave, Building I, Gainesville, FL 32601. See their webpage at <https://www.trls.org/>
- **GRCA - Gainesville Community Reinvestment Area** <https://gainesvillecra.com/about-gcra-team/>
- **Many Local Lawyers** will provide low-cost or no-cost services if the cases are not too complex

Coming Soon

- **University of Florida Heirs Property and Community Preservation Legal Clinic**