

TREE TIPS

KEEPING THE FAMILY IN FAMILY FOREST

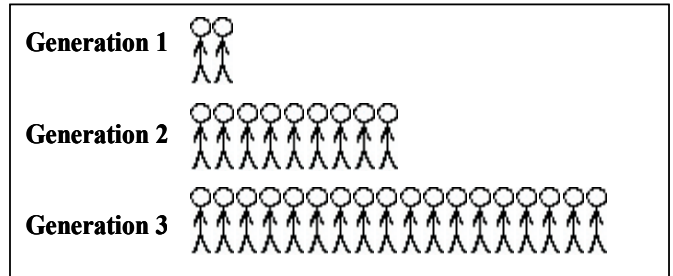
Do your family members own inherited farm and forestland together? This is called "heir property."

What is heir property?

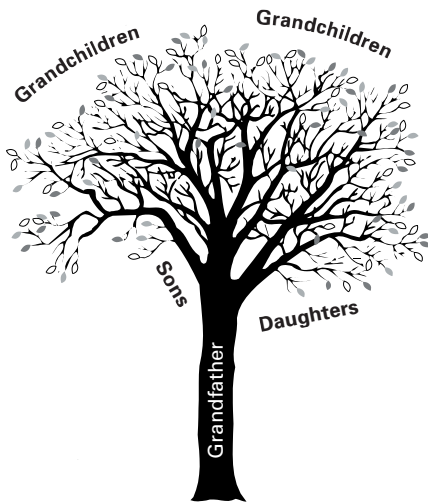
If a landowner dies without leaving a *will*, the legal *heirs* will share the estate. But no one will own a specific piece of the land. Each heir will own an *interest* in the land. Each heir will have equal rights and responsibilities.

In Cindy's family, Grandfather owned a farm. He died without leaving a will (*intestate*). Each of his nine children shared a 1/9th interest in the farm. The nine children were *tenants in common*.

What if Grandfather's children leave no wills? Each grandchild will share an interest in their parent's 1/9th interest. The land stays the same, but the *interests* will grow smaller. Managing *heir property* can be confusing and difficult.



Over several generations, the number of heirs grows.



A Family Tree

Who owns the land?

An easy way to keep track of each heir is to make and share a family tree. Note the addresses and phone numbers of all family members. Keep track of births and deaths.

Heirs who live far away should also know what is happening to the inherited land.

At least one family member should check the land frequently. Strangers should not use the land. For example, someone could build a house in your forest. If the house is used long enough, the builder could claim ownership (*adverse possession*).

Forestland income and expenses

Selling timber, renting the land for recreation, or selling hunting leases can provide income. There can also be expenses, such as property taxes.

Income and expenses should be shared equally among the heirs. All heirs need to discuss and agree on using the land. Everyone should be informed. If one heir spends more money to take care of the forest, he or she should earn a larger share of the income.

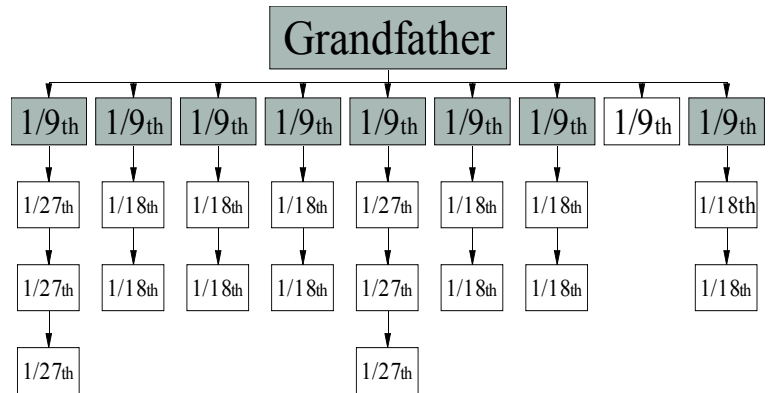
Cindy's success story

Cindy's Grandfather bought his farm in the 1930s. He had nine children.

Grandfather passed away without making a will. So each child inherited a $\frac{1}{9}$ th interest in the heir property.

None of the nine children made wills. So the grandchildren must share their parent's $\frac{1}{9}$ th interest.

Cindy lived near the farm. She had one aunt who was still living. There were many cousins. Most of them lived away from the farm.



In 1980, there were 19 heirs to the original farm, but the amount of land stayed the same.

Parts of the farm were leased out. Cindy managed the farm income and expenses for all the family. Over time, some of the land was not cropped. Scrubby trees grew up.

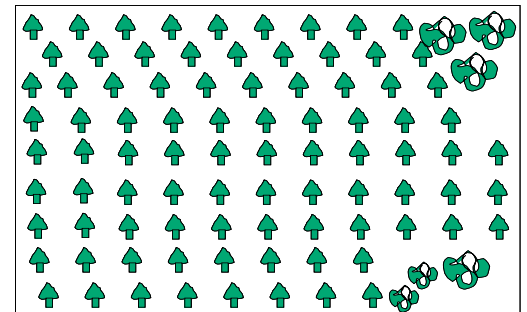
Cindy worried that some of her cousins would want to divide the land into small pieces and sell them.

One year, she learned about a government program for planting trees on farmland. This program is called the *Conservation Reserve Program (CRP)*. It is a cost-share program to plant trees or grass on poor farmland. Each year the landowner is paid a rental payment.

Cindy thought if they planted Grandfather's original farm in trees, each heir would receive a share of the annual rental payment. When the trees matured, each heir would receive extra money from the harvest.

Cindy found all the heirs. She wrote letters to all of them. She also visited them and phoned them. She persuaded her large family to enter the CRP and plant trees.

Now, each heir gets an annual income from the land. The family plans to cut the trees in 2015. They will earn even more money. After the harvest, they will replant the land with more trees. Thanks to Cindy, each heir receives money every year from the family land, and the land remains in the family.



What if you want to plan for the future?

Everyone should plan for the future. An *estate plan* contains directions for the transfer of property. Estate plans can include wills, trusts, gifts, powers of attorney, etc.

Everyone should write a will. A will is a document that describes what should happen to property after the writer dies.

For example, Cindy's grandfather could have written a will. He could have divided the farm or kept it whole. He could have chosen which children or grandchildren should inherit the farm.



What if you want to give your interest to someone?

Sometimes an heir wants to sell or give away his or her interest in the land (*conveyance*). However, heirs can only give or sell the interest they own.

They cannot give or sell the entire heir property. For example, Cindy's Aunt Lucy, who had no children, conveyed her 1/9th interest to Cindy.

What if you need a mortgage?

An heir can also *mortgage* his or her interest in the property or use it for *loan collateral*. The mortgage or collateral is only for the heir's interest in the property, unless all other heirs sign the agreement.

Mortgages or loan collateral based on an interest in heir property can cause problems. What if the heir misses some payments? Then the lender could get a court judgment against the entire heir property. This means that the court could sell ALL the heir property to pay the lender. The other heirs would receive money for their shares. But the family would lose the land.

What if you don't pay your property taxes?

Property taxes must be paid every year. If taxes are not paid, the county can *foreclose* and sell the property. This is called a *tax sale*. This is the most frequent way heir property owners lose their land.

Heirs should share equally in tax payments. If one heir manages the tax bills, he or she should be repaid by the other family members.



What if a court divides the land?

Heir property can be divided by court order. If possible, it is physically divided. Deeds are written. Each heir then owns his or her own piece of the land. Sometimes the court orders the land to be sold (*partition by sale*). Then each heir receives a portion of the money from the sale. Shares are divided according to the interest each heir owns.

Conclusion

When there are many heirs, preserving the "home place" can be difficult. Converting family land into family forest could help generate income and keep land in the family. As trees grow into valuable timber, a family forest can support all the heirs.

There are many ways to manage healthy and profitable family forests. Ask your county extension agent, your county forest ranger, or your county natural resource conservation agent about cost-share and incentive programs. This is what Cindy did.

What do these terms mean?

Adverse possession: A claim by a nonowner on real estate that the nonowner has used for some period of time.

Conservation Reserve Program: A government cost-share program to plant trees or grass on poor farmland. The landowner receives an annual rental payment for 10 years or more. See your county Extension agent or county forest ranger for information.

Conveyance: Transfer of title to land.

Estate plan: Directions for the transfer of property following a person's death; it may include a will, trusts, gifts, powers of attorney, etc.

Foreclose: The legal process that begins if a mortgage or debt cannot be repaid on time. This usually concludes with a public auction.

Heir property: Inherited land owned by a group of family members.

Heirs: Spouse, children, grandchildren, great-grandchildren, siblings, parents of a deceased person.

Interest: The proportion of the heir property that an heir inherits.

Intestate: Situation in which a person dies without leaving a will.

Loan collateral: Property that is pledged to a lender as security for a loan.

Mortgage: A legal document that pledges a property to a lender as security for debt payment.

Partition: The division of property into separate pieces.

Tax sale: Public sale of property at auction because of nonpayment of property taxes.

Tenants in common: Relatives who inherit property as a group; also known as co-owners.

Will: Document describing what should happen to land and other possessions after the writer dies.

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