

Repairers of the Breach



MAKING IT RIGHT: Evanston, Ill., REALTOR® Mary Rosinski believes the industry must make amends for “a system that prevented fellow human beings from enjoying all the benefits of real estate.”

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America’s history of racist housing policies inflicted staggering losses on Black Americans. Today, REALTORS® are playing a vital role in community efforts to acknowledge and repair the harm.

BY ALEXIA SMOKLER

Homeownership is the largest single contributor to intergenerational wealth for American families. But it has not been accessible to all Americans on equal terms. More than a half-century after passage of the federal Fair Housing Act, there remains a 30-percentage-point homeownership gap between white and Black Americans—the same as in 1968, the year the act was adopted. Black Americans own one-tenth the wealth of white Americans, despite earning, on average, about 60% of white Americans' income.

There is a clear line from the overtly racist policies of the past to today's inequities. While the 1968 Fair Housing Act outlawed discrimination, it provided little remedy for the decades of harm that preceded it. Industry efforts are curtailing present-day discrimination, but they don't reverse the effects of historic practices that denied Blacks homeownership, destroyed Black wealth, and prevented the transfer of wealth through generations.

With awareness of this history growing, cities and states are exploring ways to repair past harm and protect against future loss. As community leaders, advocates for homeownership, and protectors of property rights, REALTORS® are engaged in efforts to reckon with the past and build a more equitable future. Here are three stories of progress.

BLACK LANDS MATTER: PRESERVING HEIRS' PROPERTY

In January 1865, during the last months of the Civil War, the Union army implemented Field Order 15, confiscating a strip of coastline stretching along the "rice coast" from Charleston, S.C., to the St. Johns River in Florida. The order redistributed roughly 400,000 acres of land to newly freed Black families in 40-acre settlements. For formerly enslaved families, the land represented an opportunity to begin a new life.

Later that year, after the war's end, President Andrew Johnson overturned Field Order 15 and returned most of the land along the rice coast to its former owners. The federal government never honored its promise to make restitution for slavery.

Despite this failure, by 1910 around 200,000 Black farmers owned an estimated 20 million acres of land nationwide, mostly in the South.

A century later, 90% of that land has been lost.

The reasons for Black land loss are many, including government programs that boosted white farmers while withholding assistance from Black-owned farms, private banks' discriminatory denial of loans to Black farmers, swindles by speculators, and acts of violence that forcibly removed Blacks from their land.

FIXING HEIRS' PROPERTY PROBLEMS

Seventeen states have adopted a law to address heirs' property problems, while three more have introduced legislation, as of January 2021.

Jurisdiction	Year	Status
Indiana	2021	Introduced
New Jersey	2021	Introduced
Kentucky	2021	Introduced
Virginia	2020	Enacted
Mississippi	2020	Enacted
New York	2020	Enacted
Florida	2020	Enacted
Illinois	2019	Enacted
Missouri	2019	Enacted
Iowa	2018	Enacted
New Mexico	2017	Enacted
Texas	2017	Enacted
South Carolina	2016	Enacted
Hawaii	2016	Enacted
Arkansas	2015	Enacted
Connecticut	2015	Enacted
Alabama	2014	Enacted
Montana	2013	Enacted
Georgia	2012	Enacted
Nevada	2011	Enacted

Source: Uniform Law Commission

The value of the lost land is around \$350 billion, says Thomas Mitchell, law professor at Texas A&M University. Lost opportunities to use the land as collateral to send children to college, invest in businesses, or engage in other wealth-generating activity may bring the total up to \$1 trillion in lost wealth, according to Mitchell, who is assessing the scope of the losses with a group of economists.

While some of the practices that caused Black land loss are artifacts of history, one—heirs' property, a colloquial term for inheriting land as a "tenancy in common" after the owner dies without a will—remains a threat to Blacks and others who lack access to estate planning. Owning land as tenants in common means individual descendants lack clear title—owning a fractional interest in the entire property rather than a specific piece.



COMMUNITY CHAMPION: REALTOR® Shakeima Chatman frequently encounters heirs' property issues around Charleston, S.C., that delay real estate transactions.

After generations of inheritance, ownership may be fragmented among tens or hundreds of heirs. Any of these owners, even one with a 1% interest, can force a court-ordered partition sale, even if the other owners oppose it.

A partition sale under state law typically results in a hasty public auction, yielding a price well below market value. There is no appraisal, no inspection, and no financing—the winning bid must be paid in cash on the day of the sale.

Speculators have seized upon this legal mechanism to buy a fractional share of the property, force a partition sale, push any remaining heirs off the land—including those who have lived there for generations—and then develop and sell the land at its full market value.

By some estimates, more than 75% of Black Americans (compared to 35% of whites) die without a will, due to lack of affordable legal services or distrust of the legal system. More than 60% of Black-owned land nationwide is estimated to be heirs' property. And it's not only a rural issue. Problems can arise whenever real property is inherited by multiple heirs without a will.

Shakeima Chatman, broker-associate with Carolina Elite Real Estate and owner of the Chatman Realty Group in Charleston, S.C., has worked with buyers and sellers to confront heirs' property problems. "People want to protect their title, but if they're already in financial distress, they cannot afford to pay the legal fees to get the title cleared. And then you have someone knocking at your door saying 'Hey, I can give you X amount of dollars and this can all go away.' Not realizing that the X amount of dollars they're being offered is far from fair market value," says Chatman. "The community is being preyed upon."

Mitchell has drafted model legislation, called the Uniform Partition of Heirs' Property Act, to protect landowners from these predatory practices. The UHPA, which since 2011 has been adopted by 17 states and the Virgin Islands, "represents the most substantial reform to this law of partition ever. The partition law hadn't been changed in 100 or 125 years," he says.

The law includes a provision giving heirs the right to buy out the interest of a co-owner before a forced partition sale and the requirement that, if a property is sold, it be done on the open market. "An open market sale is trying to replicate a sale between a willing seller and a willing buyer," says Mitchell. "The court appoints a real estate broker to market and sell the property, using commercially reasonable norms and practices that they would use for a typical sale. Owners walk away having their rights to the property extinguished, but they can walk away having preserved a substantial amount of their real estate wealth," Mitchell says.

The campaign to expand UHPA adoption got a boost in the 2018 farm bill, which gives heirs' property owners eligibility for various federal loan and disaster relief programs if their states have passed the act.

South Carolina adopted the UHPA in 2016 with the support of the South Carolina Association of REALTORS®. "One of the things I love about the law is that it requires an appraisal, so that people aren't being cheated out of the land," says Chatman. "The other part that I like is that one person can't force the entire family to sell off the property. Oftentimes, when I see that happen, it's usually the family member who's no longer invested in South Carolina, who no longer lives in South Carolina, that wants to sell the land," Chatman says.

As vice chair of the Charleston Trident Area Association of REALTORS® Diversity and Inclusion Task Force, Chatman is working with the local association to develop community

outreach to educate consumers on property rights and assist clients dealing with heirs' property issues. "If you are a member of the National Association of REALTORS®, you are abiding by the Code of Ethics. The Code says that we are to protect property rights, and we are to protect the public. If we realize that there is a vulnerable population that isn't being protected, it's our responsibility to ensure that they are."

Mitchell agrees that real estate professionals have an important role to play. "Let's recognize there is still some significant wealth even in these disadvantaged communities, and let's do whatever we can to help those communities preserve that wealth. That is a substantial contribution real estate brokers can make to the goal of wealth preservation."

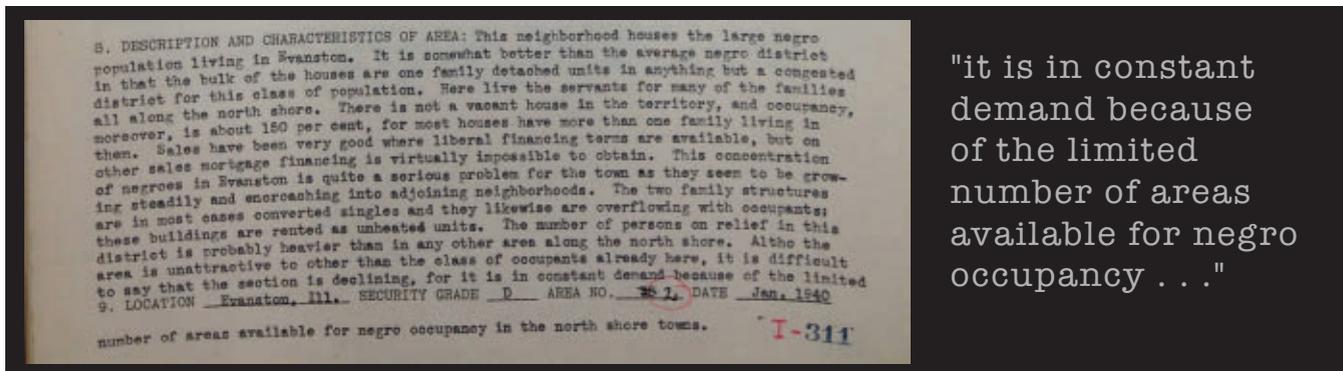
PATH TO REPARATIONS: EVANSTON, ILL.

On Nov. 25, 2019, Evanston, Ill., became the first city in the U.S. to commit public funds to reparations for Black citizens. The city council of the suburban community of 74,000, just north of Chicago, took the action following a resolution five months earlier in which it formally apologized for "the use of zoning laws that supported neighborhood redlining, municipal disinvestment in the black community, and a history of bias in government services."

To pay for the reparations program, the city earmarked \$10 million in revenue it estimates it will raise from a 3% tax on newly legalized recreational cannabis over the next 10 years. The alderman who led the initiative anticipated pushback, but the council adopted the measure 8-1.

"When I heard about it, I was really happy that someone was addressing the issue," says Allyn Rawling, associate broker with @properties in Evanston. "And then when I heard how they were going to fund it, I thought, 'What a perfect way to do so. You're dipping into a pool of money that last year did not exist.'"

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IN WRITING: The federal government reinforced Evanston's segregated neighborhoods in its 1940 redlining map. Accompanying text describes how segregation contributed to a housing shortage and overcrowding.

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PEOPLE POWER: Housing discrimination and segregation were the focus of a 1964 civil rights march in Evanston, Ill.

After a series of public meetings where Black Evanstonians shared stories of discrimination's impact and discussed where funds were most needed, the council's reparations subcommittee released an initial plan to support Black homeownership in Evanston. Future reparations initiatives will focus on economic development and entrepreneurship opportunities for Black residents.

The housing reparations plan commits an initial budget of \$400,000 to fund grants for home purchase and improvement or mortgage assistance, expected to benefit an estimated 16 Black households in Evanston. To qualify, residents must show that they suffered discrimination in housing due to a city policy, ordinance, or practice, or are direct descendants of those who suffered under city policies between 1919 and 1969.

The dates of the eligibility period are significant. In 1919, Evanston introduced its first zoning ordinance, which effectively forced the city's Black families to move to a triangular west-side area bounded by a sewage canal and the railroad tracks. The eligibility end date is 1969, the effective year of the federal Fair Housing Act.

Historian and author Andrew Wiese says Evanston's white real estate brokers helped enforce the ordinance by developing "a practice of informal racial zoning" where "they treated a section of west Evanston as open to African Americans, while excluding them from the rest of town."

The effect of these practices was stark. At the turn of the century, Black residents had lived in various neighborhoods around Evanston. By 1940, U.S. Census Bureau data shows that 84% of Black households in Evanston lived in the triangular west side neighborhood, which was 95% Black.

The impact of these policies was compounded in 1940, when the federal Home Owners' Loan Corp. redlined the west-side Black community (later known as the Fifth Ward) on its advisory lending map as "hazardous" for investment. Private banks then refused to make mortgages available to Fifth Ward residents.

With few housing options for Black Evanstonians, the Fifth Ward became severely overcrowded. Residents paid higher prices for dwellings with antiquated heating and no bathing facilities, running water, or private toilets.

By 1960, Evanston was one of the most segregated cities in the United States. Black residents took to the streets in 1964 to protest the real estate brokerages that had helped segregate the city. "People marched and picketed in front of real estate agencies that practiced housing discrimination. This was a big, multiethnic, multireligion effort to bring attention to housing issues in Evanston. So, it's not by accident that Martin Luther King Jr. came here three times to address housing issues," says Morris "Dino" Robinson, founder of the Shorefront Legacy Center, which documents the African American experience in Chicago's North Shore suburbs.

Mary Rosinski, an agent with Coldwell Banker and candidate for Evanston's City Council, remembers attending one of King's speeches. "My mom made sure we were there. That was really important to her." Working alongside her mother, Cathleen O'Rourke, at J.H. Kahn Real Estate, beginning in 1967 when she was just 12, Rosinski began to see how the real estate industry enforced racial dividing lines. In listings, she recalls reading, "'No Blacks allowed,' 'No Jews allowed.'"

"I didn't even really think about it. It was just the way things were," she adds. "As an agent, my mom got grief because she kept trying to put people outside those invisible lines." Rosinski's mother got harassing phone calls after finding a home for a Black high school teacher outside of the Fifth Ward. "Agents and offices wouldn't let her make appointments. They knew she had a reputation for not caring what religion or color you were if you wanted to live in that community."

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ROLE MODEL: Agent Mary Rosinski became aware of racial dividing lines in real estate as a young girl when she helped her mother Cathleen O'Rourke, who quietly worked to circumvent them during her 40-year real estate career.

Rosinski, chair of the North Shore-Barrington Board's Diversity and Fair Housing Committee, is planning a series of podcasts and will use Robinson's exhibit, "Redlining Evanston," to educate real estate professionals on Evanston's history of housing discrimination.

She believes the industry must make amends for "a system that prevented fellow human beings from enjoying all the benefits of real estate.

"We as white people have been allowed to create generational wealth based on our real estate," says Rosinski. "I got something from my parents, and I'm trying to get something from my house and pass it on to my kids. But all these years, that couldn't happen for Black people. In fact, Black people lost their houses, through policies and scams. So, we need to make it right."

She wants the reparations fund to help create wealth for the Black community that is sustainable into the future. Robinson, the historian, agrees. "I'm not looking at the impact on my generation. I'm not looking at how I benefit. I'm looking at how our grandkids will benefit."

DESTRUCTION AND RENEWAL: ASHEVILLE, N.C.

From the 1950s through the 1970s, cities across America participated in urban renewal, a national effort to improve "blighted" urban areas. In theory, urban renewal would clear substandard housing and build roads and infrastructure for modern cityscapes. In practice, however, urban renewal flattened many vibrant neighborhoods where Blacks and immigrants lived, destroying homes and businesses.

Sandra Kilgore, broker-in-charge with Kilgore & Associates and a newly elected city council member in Asheville, N.C., remembers watching urban renewal happen in her neighborhood in the mid-1960s, starting when she was about 10 years old. "When they were taking homes, I remember asking my father, when are they going to get to ours? At that time, I didn't realize what was going on. I just knew that people were moving into the new public housing development. I just thought that was wonderful, that they could move into a new place."

As she got older, Kilgore realized that her childhood beliefs were mistaken. "People were under the impression that it was being done to help them," recalls Kilgore. "They were being told, we're going to move you into public housing, and that they were going to be able to move on to homeownership again. But for many, that didn't happen. A lot of homes were taken for next to nothing. Any equity they had built up in properties, they lost it."

LOST LIVELIHOODS:

Asheville, N.C.'s thriving African American community, including the East End neighborhood, was destroyed by urban renewal.



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Asheville's urban renewal program was cited by its city council when, in July 2020, it became the first city in the American South to acknowledge and call for repair of the harms resulting from slavery, Jim Crow laws, and discriminatory city policies.

The city, with a population of 93,000, nestled in the Blue Ridge Mountains and known for its eclectic cultural scene and George Vanderbilt's Biltmore Estate, unanimously passed a measure authorizing reparations.

The city council acknowledged that "Black people have been denied housing through racist practices in the private realty market, including redlining, steering, blockbusting, denial of mortgages, and gentrification," and apologized for "carrying out an urban renewal program that destroyed multiple, successful black communities."

The resolution directs the city to develop recommendations to "address the creation of generational wealth and to boost economic mobility and opportunity in the Black community." It does not authorize any funding for the measure.

Patrick Bahls, professor of mathematics and director of University of North Carolina-Asheville's undergraduate honors program, works with students in the archives at UNCA to uncover the human stories behind urban renewal and to attempt to quantify the losses.

Bahls and his students have documented the stories of homes that the city took, typically paying a pittance to the owners. The land on which these properties sat has since greatly appreciated. An upscale brewery and restaurant now stand on land once occupied by six homes and a Black church. The land is appraised at \$4.5 million, according to Bahls. Records he uncovered revealed that the city acquired it from the Black owners in the late 1970s for \$58,000, including \$20,000 for the church alone.

"Imagine the loss of wealth to the Black community for that one little property. And I think that's indicative of the whole city. We're talking about tens of millions, or hundreds of millions, of dollars in value lost to the Black community," says Bahls.

In addition to taking Black people's homes, urban renewal also destroyed Asheville's Black business district. "There were thriving businesses in downtown Asheville when I was growing



BUILDING SUPPORT: In the wake of Asheville, N.C.s, recently passed reparations measure, City Council Member and REALTOR® Sandra Kilgore is eager to address ways to boost economic opportunities in the Black community.

up, Black businesses,” says Kilgore. “Doctors, lawyers, grocery stores, retail shops. And most of them were wiped out. And then people were forced to go to the white neighborhoods for groceries or other services they needed.”

While the city develops the details of the reparations plan, Bahls and Asheville’s Racial Justice Coalition are focused on ensuring that proceeds from sales of city-owned properties acquired through urban renewal go to a reparations fund. The group has twice pushed the council to delay votes on resolutions that would have sold such property and diverted monies elsewhere. The council also has adopted a resolution to suspend the sale or rezoning of most city property acquired through urban renewal until it can provide further policy direction informed by the city’s reparations commission.

“We’re hoping, through our lobbying efforts, to say: These lands were acquired through urban renewal, and any sale of these lands needs to benefit reparations. Or it needs to benefit the Black community in some way,” Bahls says.

Kilgore believes reparations are necessary. She decided to go into real estate after an agent tried to discourage her purchase of a home in an all-white neighborhood in the early 1980s. Then, a lender assumed she was not qualified for a mortgage, even though she had a good income from her job as a flight attendant. “I wanted to learn how badly I was treated, because I knew I

was not treated right,” she said. “I decided, I’m going to get my license, and I’m going to help people in the community.”

Together with the Asheville Board of REALTORS®, Kilgore has created an apprenticeship program to recruit Black residents into the industry and conducted homeownership workshops and foreclosure prevention counseling.

Although there has been opposition to Asheville’s reparations resolution from other parts of the state, Kilgore believes the reparations effort holds promise for the city’s future because of its support among a broad cross-section of Asheville residents.

“I can’t tell you the support I’ve gotten from a lot of white people in the community who have asked, what can I do to help the Black community? I think the climate is changing. People actually realize the damage that has been done, and people want to do something to help. And for that reason, I’m very hopeful that moving forward, we can see some change that can impact people’s lives.”

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