SAVING OUR LAND:
A Legal Manual on Land Use and Retention

Penn Center, Inc.
THE HISTORY

Where does history really begin? Is it merely recorded history, or is history that which can be pieced together through archeological studies and the like? Daufuskie is steeped in history of yesterday, perhaps dating back to the ice age, most certainly it has evidences of habitation 4,000 to 5,000 years ago.

Even though the Spanish sailed into Port Royal Sound in 1520, it was not until around 1740 that King George II of England bestowed on David Mongin an island in the area known only as "Daufuskie"! Tradition has it that it's name is Indian, meaning "place of blood", being called this because of an Indian massacre by the white settlers in the year of 1715. Even today the spot is still called "Bloody Point"!

The name of Daufuskie is really probably of Muskhocean Indian derivation; perhaps it was even the name of the tribe. It's meaning is truly not known and it's spelling has even been uncertain in the past; Dawfuskee, Defoskey, Dawfoskie.

Colonists on Daufuskie remained "loyal" to the King during the Revolutionary War and bloody skirmishes were held with their Tory neigbors on nearby Hilton Head Island.

Daufuskie, during the anti-bellum days flourished with several large and prosperous plantations harvesting typically indigo and long staple Sea Island Cotton. These plantations, before and even after the Civil War, were scenes of much merriment and social gatherings. George Wymberly Jones De Renne, of Wormsloe, Georgia near Savannah notes in his journal dated April 12, 1878, "We left the wharf at the foot of Drayton Street, at 9:15 a.m., arrived at Daufuskie (Bloody Point) at 11:15;
visited that place, Mr. Stoddard, Mrs. Habersham, myself and my gardener going in a carriage to Melrose (plantation) for the two hours, the rest remaining at Bloody Point .... We crossed to Tybee, lunched enroute on boned turkey, sandwiched rolls, crab salad, chicken salad, orange sherbert, strawberries and ice cream, snowball pound cake, 6 bottles of Champagne, 2 bottles of Sherry, 2 bottles of Whiskey and lots of ice. Five rocking chairs (bamboo) for the ladies from my house .......

Melrose Plantation House the grandest on the island, burned in 1912 by which time its famed gardens had become overgrown and even some, including the house site washed into the Atlantic. In April 1867, Eliza Ann Summers, a visiting yankee school teacher from Hilton Head said that seldom had she seen anything "that would be a thousandth part compared to this." She wrote of 50 kinds of roses and japonicas.

In 1873 at Haig Point Plantation the United States Government constructed a lighthouse which is one of the few remaining buildings of historical significance on Daufuskie Island today. This lighthouse was actually the rear-light to mark the entrance to Calibogue Sound. Historical records indicate "two lights are attended by a keeper." The front-range light is shown from a tower 18 feet high, 1/2 mile from the dwelling. The rear-light is shown from a tower 61 feet high on the dwelling. Operation of the lighthouse stopped in 1934 and the lighthouse fell into total disrepair. It has now been totally restored and stands as evidence that history must and will be preserved.

During the years following the Civil War many black islanders were given property by the Union and remained side by side with their former owners of the large plantations. Living off the land and from the sea, these island folk, some 1,200 strong, thrived until the 1950's when pollution from the Savannah River closed not only the oyster beds, but the three oyster factories on the island. Truck farming once a vital source of the areas produce needs came to a halt with the rise in popularity of the super market! From the early fifties until now, Daufuskie has lain dormant with little mention of its name save the works of Author, Pat Conroy in his book "The Water is Wide," published in 1972. With the founding of the Daufuskie Island Land Trust and the Daufuskie Island Historical Society, life on the island will once again be filled with activity, opportunity and hope for the Daufuskie if 100 years ago.

COMMUNITY CONCEPT

The community being proposed and planned by the Daufuskie Island Land Trust is envisioned as a "community of yesterday with convenience of today"! A community that is removed but not remote. One in which a person may realize that there is still time to smell a few roses and still function in the work a day
The following is a portion of an article reprinted exactly as it appeared in the Savannah Morning News, April 30, 1895.

"The opening up of the inland passage to Beaufort, S.C., will be of great benefit to Savannah. The route is a very attractive one. Already there are two steamboat lines between Savannah and Beaufort.

There has been recently established a day line from Savannah leaving at a convenient hour in the morning, returning in the early evening. Mr. G.U. Beach, owner of the steamer "Gov. Safford," a thorough steamboat man, having had long experience in Florida waters both with passengers and freight, after making a thorough investigation of the route has come to the conclusion that it is a paying one. Heretofore people traveling from the north during the winter season, to see the coast and the long stretch of sea island, through which the island passage winds, have been unable to do so on account of the trip taking up too long a time.

The freight and passenger traffic is in itself a good business, as seen by the report of the committee from the cotton exchange appointed to investigate the importance of the inland route to Beaufort, as published in the Morning News some time ago.

A trip to Beaufort is well worth the time. Passengers have ample opportunity to view the harbor improvements, passing six or eight dredges with their attending tugs at work on the channel. A fine view of Tybee beach and lighthouse is had as the steamer swings into her course across the sound; then Daufuskie Island is approached. The water changes color, as the mouth of Savannah river is left behind, and turns to the clear sea green, and schools of porpoises begin to chase the steamer as she nears the light-house on Hague's point. A stop is made for passengers at the point, not long enough however, to see any of the beauty of this famous island, which was the summer home of the old Mongin family, the Stoddards and others. A beautiful avenue of oaks, heavily covered with Spanish moss, leads from the light-house to a point where once stood the old family mansion, the remains of which are still seen. Mr. Stoddard's home, "Melrose," is also one of the points of interest on Daufuskie. This is further around on the ocean side, and can be seen from the steamer."

Imagine arriving at the wharf on Haig Point after a short relaxing ride across Calibogue Sound, being transported to the Great House or your house via a carriage drawn by a pair of matched grey's! Traveling over narrow live oak shrouded lanes, you realize at once you're stepping back in time. Not so far back however, that modern conveniences of every kind aren't available. Everything you could possibly want on the mainland and none of the things you don't want!
Specifically planned for the community being proposed by the Daufuskie Island Trust are such amenities as: 900 acres of preservation or recreational land, 600 single family residential home sites, 2 championship golf courses, Yacht basin and Marina village, Great House Inn and Lighthouse Tennis Village both having waterfront multi-family dwellings. The Trust's Communities will make available to the members of the Daufuskie Island Historical Society virtually every type of island property, from true waterfront to unsurpassed water view properties perched on sound bluffs. Larger (up to 5 acres) will be available inland for permanent residential use. The concept is to create or recreate a residential and recreational community that is free from virtually all internal combustion engine vehicles. Horse drawn taxies, privately owned electrical cars; bicycles and jitneys for moving longer distances would be the first step in attempting to keep Daufuskie much as was years and years ago.
LOW COUNTRY SKETCHES

Albert H. Stoddard of Daufuskie Island

by Edith Inglesby

The uniqueness of Albert H. Stoddard came from environment. And this environment was the sea island of Daufuskie and the lands and waters about it. This also had been his heritage since 1740.

South Carolina's sea islands have played an important part in its history. And they have harbored a diverse lot—pirates, buccaneers, explorers, wealthy planters and eccentrics. From here, too, came the first Bishop of Georgia. It was in this region that Captain Hilton, in 1663, wished transported! "All they that want a happy settlement of our English nation."

As well he might. From the lonely beaches of the barrier islands where on moonlight nights huge sea turtles rise from the surf to lay their eggs in warm sands, from the sea islands where long staple cotton made fortunes and shaped the course of history, to the coastal regions whose shadowy lagoons long-plumed egrets made their nests, Carolina Low Country is beautiful.

But now one wonders fearfully, how long? Daufuskie Island, almost the last to bear the stolid name of modernity, is apparently to be reused from quiet beauty by the roar of bulldozers and the scream of cranes...a pity. It has had a long and interesting history.

Daufuskie was at one time known locally as "Stoddard's Island," owing to that family's large holdings. But it was David Mongin, their ancestor to whom the English King gave the grant. Mongin, a Huguenot fleeing persecution in his native France, settled in England in 1725. Later he held high rank in the Royal Navy and for his efforts in subduing pirates was, in 1740, given by George II a grant of land on Daufuskie Island. In 1775 George III bestowed on this family more lands "Situate in Saint Peter's Parish, Granville (now Beaufort) County." These lands were along the May River estuary. The Mongin coat of arms is a sunflower turning to the sun if the sun was their god they were fortunate in their new possessions.

Transfer of Daufuskie Island from Mongin to Stoddard came about through a marriage. In 1836 John Stoddard, descendant of Jonathan Edwards, noted theologian, writer and president of what is now Princeton University, married Mary Mongin, "orphan granddaughter and heiress of John David Mongin." Their wedding took place in the American Embassy at Paris where Stoddard, member of a Boston importing house, had been sent. In time they settled on their South Carolina property and his biographer notes: "Her income, already of opulent dimensions, was, by her husband's judicious management, enhanced two and a half times."

The Stoddards as well as the Mongins prospered under the magic of sea island cotton. However, it is not with this we are concerned, but with Albert Stoddard (1862-1951) whose great contribution... though he, too, successfully planted sea island cotton... was the perpetuation of the notes and language of the Gullah Negro.

That part of Daufuskie Island known
"Bloody Point," from its role in the nation's ongoing Civil War, was the home of the original Mongin house. During the lifetime of Albert Stoddard's father, the Mongin properties were divided; his uncle Henry Mongin Stoddard getting Bloody Point, his uncle John Stoddard, Ingleside, and his father, Melrose Plantation. Albert Stoddard should have been born at Melrose, but to his everlasting shame was not—a fact he kept dark. He arrived in summer when his parents, following the established custom, were seeking the business of a Northern resort. Newport, it may be said, owed its origin to South Carolina rice and cotton planters who were its greatest patrons until the Civil War.

But if Albert Stoddard was not born at Melrose he made up for it. Here from infancy he lived and indulged with every ease its scents and sounds and history, its color and atmosphere—-the very character of the island and its black people. It was a different world. Remote and seen to disappear. He would have been a lonely little boy if it not been for his black friends. His father, a widower and an extremely well-educated man, delighted at his company and, rather than part with him for his boarding school, taught him himself. Straight from his father's tutoring young Albert entered the University of Virginia, where he did well.

But the senior Stoddard, popular in Scorn, seeking the Florida sun in winter, the bailing sound of North Carolina's mountains in summer, was always away. Yet Albert was never dull. He loved his beautiful, isolated island. Fascinated by the Negro spirit, he knew them well, and knew from which plantation each had emanated. Every plantation had its crew of servants, and as the long boats passed and the wind brought him the tune by which the Negroes kept time, he could tell from the songs whose boats they were. He himself grew to be an excellent musician. When the lively finger sisters left their father's rice plantation for Bluffton's high land, the young Albert would be invited to spend the day, and went under his own care, to speak. He would leave Bluffton on the outgoing tide and return again by the incoming one. Sometimes he rode with the tide to Savannah, attended a party, and rowed home again next day on the return tide. He led, as do most island people, a life governed largely by the rhythm of water.

His greatest pleasures as a child were his black friends and the stories they told which made individuals of all the plantation birds and beasts. Hearing these tales the boy learned a second language, Gullah. This is the patois spoken by Negros of the Georgia and South Carolina sea islands and coastal regions. Found in no other sections of the South, it could be said by Northerners often was taken for a foreign language. Ordinary Negro didn't have no resemblance as that in "Trade Remus"; for instance. Called Gullah by the fact that most Africans were from the Angola tribe of West Africa, it contained some words of its own language, some made English words (Charleston authority traced bits of Devon and Dorset speech) and words that were the Negro's effort to use those of his master or overseer. It is full of cadence and often extends to the point. There was a saying on the islands: "Some men are born to Gullah, some achieve Gullah, while others have Gullah thrust upon them... and are embittered." An islander's upbringing might have to enlist his aid to understand her cook.

Albert Stoddard not only could understand Gullah; he could speak it as few white men could. An anecdote might illustrate how his second language helped him in running Melrose Plantation when it became his. Once he gave a man called James "a crop." That is, be furnished land, seed, fertilizer and equipment—everything needed to plant a crop. Skillfully about the middle of the season James disappeared and was not seen for ten days. On his return his master gave him a thorough dressing down. Through it all James stood with a perfectly placid, unmoved expression. Seeing he was getting nowhere and by that time utterly exasperated, Mr. Stoddard barked into Gullah, "James," he said, "You jes' sim hit'ner (hit for nothing). At that moment James's eye fell and tears came into his eyes. "No Suh, Ih knows uh sim hit'ner, full as of hit'ner master...uh sim hit'ner master," Mr. Stoddard recalled. "The only thing he understood was the word 'sim' and he believed that, rather than stupidity, it was failure to understand that often was the trouble.

Another time a young horse out of was being taken to task and the better made excuses for her. DISLACING EXCUSE from that quarter, she made a sullen noise through her teeth and turned her back on him. Afterward the master explained: "I try full when she, but him ask eff prett me, so uh let her run. Man's a snuff and hu'll sich himself." Fortunately the master of Melrose could interpret this as I tried to defend her, but she snubbed me and I left her for Man's to quizz or catechize herself." "Spirit's insightest ableshaber" is one of the old English words that still survived among them. Fortunately, we have here the Gullah characteristic of using, he, him and it all to denote the second person familiar.

The Negroes had a saying they steadfastly believed in... as they do today. "It's a ppo man of a jin got no sense." When a hurricane twisted a Negro church at Daulphin, one of the congregations, unfortunately not a good carpenter, was asked to make repairs. When the job was almost completed, the committee made inspection. "Bredder, you done ah heavy job with there... but uh tink ah couder, sort ah sung others beds..."

"No Suh, Bredder, Da cornder ain sung obber none tall..."

"Yeh Bredder, uh tink a sung obber long beds..."

"No Suh, Bredder, Da cornder ain sung obber none tall. Uh sit on plimbs line obber show you..."

The plumb line showed the corner to be seven inches out of the perpendicular, to the deacon remarked, "Pitty oh tell you say da cornder sung obber..."

"No Suh, Bredder, dis cornder ain sung obber none tall. Dis hit one bery
ole plumb line suh, en's unrelatable."

When Albert Stoddard married Evelyn Earl Pollard of Virginia, the young couple paid his father at Melrose Plantation. This charming place, famous for its houseparties and lavish hospitality, knew well the beauty of Savannah and Charleston. A Charleston relative was Middleton of Middleton Place whose annals appeared in the May issue of the American Folklore Society. But in 1912, Melrose burned to the ground. One irreparable loss was the library, the foundations of which were said to have been made by an ancestor who brought from Europe many books in the original French and Italian. Other losses were the family plate and the old music and instruments in the Music Room.

A newspaper writing of the tragedy called the house "one of the best known and most beautiful near Savannah." During the war, the place was turned into a hospital and many buildings were destroyed. After the war, it was said to have been restored to its former glory. An article in the Savannah Morning News stated that the house was in the process of being restored.

Savannah-Beaufort steamer would be waiting at the dock and passengers would disembark through the portico. She was applied for the position of postmistress and the task room at Melrose became the island's first post office. But Melrose was at least three miles from the nearest dwelling, so eventually a stagekeeper at the landing took it over.

The fire could not destroy the house, Stoddard insisted, but the bell roused the island. With great effort, the planting of sea island cotton cane to an abrupt end in 1921, and permanent residents left the island. And Stoddard moved to Savannah. His son, another Albert and brother rather than planter, lives in a handsome house, the end of Savannah's famous "Garden Row."

Albert Stoddard may have left Daufuskie Island but his aura remained with him. Mostly for his own pleasure he wrote the animal stories he'd learned on the island and through phonics-spelling captured in a remarkable way the soul of Gaullish. When they were published, the small books' covers carried drawings by Bill Hayes, and owner of Ashley's Press near Darien, Georgia, Stoddard also did a little book of Gaullish words from which we have here quoted. In his soft, melodic voice with authentic Gaullish accent, Gaullish rhythm and inflection he used also on occasion to tell his animal stories to delighted friends. It was fortunate that others knew of his gift. For this knowledge led to a more permanent preservation of these stories of his black friends into whose dark skins he seemed to slip in the telling.

In 1919 Duncan Erich, chief of the Library of Congress and author of several books on American folklore, heard of Mr. Stoddard and the Gaullish tales he told. So he sent a man to collect Stoddard's tales to bring a Negro who could record them. Both stories in authentic Gaullish dialect. Naturally enough their strange forms at Daufuskie Island. loud and mournful, as impossible to come by and lost that took them over the island. In 1921, the last of the island's population left the island, and the island was left to the sea. But the island's history did not end with the leaving of the island. The island's history before the coming of the islanders is long, and the island's history after the coming of the islanders is even longer. The island's history is the story of the island.

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But that is exactly what happened. Stoddard, according to Mr. Erich, "spiredly seventy-seven," went to the Library of Congress and recorded some fifty tales of which thirty belong to the "Fish Rabbit," animal story cycle, while the remaining twenty are local
aufuskie stories. Twenty-eight of the
former have been issued by the Library
of Congress on long-playing records and
each is a delight. There are more rec-
ords that will be released. Stoddard,
Mr. Emrich found, was a born story-
teller, a person whose cadence, rhythm
and sense of timing in the telling of the
tales was extraordinary. "Although at
second hand, his telling of the tales is
quite authentic (there is no sense of
'outside' mimicry whatever) and is
about as close to any Gullah original
as it now seems possible to come." These
records, entitled: "Animal Tales Told
in the Gullah Dialect" by Albert H.
Stoddard of Savannah, Georgia, may be
purchased from the Recording Labora-
tory, Library of Congress, Washington,
D. C. Each is accompanied by Mr.
Stoddard's full transcription of the text
of the stories. Mr. Emrich expected to
edit the transcription but he thought
Stoddard's phonemes perfectly conveyed
the sound.

A learned writer in the Saturday Re-
view of Literature said of them: "His
'Tah' Rabbit is Leuk, or Ulysses of
most of the stories, the eternal combattant;
he is weak but clever, sly rather than
wise, the hunted turned hunter with his
wits." All of which Mr. Stoddard knew,
of course. And so did his black friends
in substance. The witty character
whose exploits they recounted with such
gusto — villain, yet hero — was to them
'Tah' Rabbit.

Circumstances forced Albert Stoddard's
separation from Daufuskie; but he
brought with him a lot of it and gave
it out for others' enjoyment and edifi-
cation. It was his contribution to a
place he knew and loved. As has been
said, "The uniqueness of Albert Stodd-
ard came from environment. And his
environment was the sea island of Dauf-
uskie and the lands and waters about
it. This also had been his heroism since
1740."
SAVING OUR LAND:
A Legal Manual on Land Use and Retention

copyright 1986 by Penn Center, Inc.
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TABLE OF CONTENTS

Preface: 40 Acres and a Mule

Introduction: How to use this manual

I. How Land is Held

Individual Ownership

Simultaneous Ownership: Cotenancy

Consecutive Ownership: Life Estate and Term of Years

Trust

II. How Land is Transferred

Deed

Will

Elective Share

Intestate Succession

Adverse Possession

III. How Land is Lost

Heirs Property and Partition

Tax Sales

Mortgages

Forced Sale to Pay Debts

Property Exempt from Sale

Eminent Domain

IV. Land Use and Retention

Permits to Improve or Alter Land

Options for Commercial Development and Leasing

Bankruptcy

Searching Title

Government Agricultural Offices

Choosing a Lawyer

Final Hints
Preface by Emory S. Campbell
Director, Penn Center, Inc.
PREFACE

The adage, "The more things change, the more they remain the same" accurately describes what has occurred in the South Carolina Sea Islands, over the last two centuries.

A little more than a century ago the Sea Islands from Charleston to Beaufort were among the most important strategic locations of Civil War Union Forces. The area was strategic to the Union because it contained some of the largest and richest plantations in the South and the waterways around the Islands provided perfect ship routes for the Southerners.

Today these Sea Islands that once harbored the most durable slaves, stately homes, mint julep sipping aristocrats and southern belles are being redesigned with hundreds of millions of dollars for golf courses, tennis courts, condominiums, ultra modern computerized homes and housekeepers, yard hands, and yes green keepers for golf courses. These islands are being invaded for the second time by large numbers of people from Northern United States—this time seeking pleasure and the relaxed life.

The first invasion came in November, 1861, when more than 12,000 soldiers and marines landed at Hilton Head Island in Beaufort County. These troops proceeded to block important waterways and eventually captured the entire area of Port Royal Island now known as greater Beaufort which includes perhaps the richest plantations in the south.

Slaves who had worked the plantations of the surrounding Islands of St. Helena, Hilton Head, Daufuskie, Lady's, Dawkaw, Fripp, Parris, and others became contrabands of war.
The same resulted from actions of union troops in the Sea Islands of Edisto, Johns, Kiawah, and others around Charleston. Plantations of cotton along with the big plantation houses were "confiscated." The former slaves although jubilant to see "The Yankees" were sometimes bewildered and generally ignored.

Lincoln's order to set aside abandoned land from the sea 30 miles inland for the benefit of freedmen was the first step toward reconstructing the lives of the freed slaves. Many slaves purchased land and began a new life in the Sea Islands.

Numerous schools were established in the area to begin to teach functional lessons including the use of newly acquired land. The department of the south was established on Hilton Head to insure an orderly transition.

The Emancipation Proclamation had established the boiler plate for a motivated people to succeed. The Sea Islands was to become the prototype for abolitionists' claim that the slaves were humans who could learn, earn, and produce for themselves.

But the assassination of Lincoln in 1865 began a new struggle for the freed slaves as Lincoln's order to distribute abandoned land was repealed. Freedmen who had acquired land were threatened with death and violence against freedmen becoming rampant. Many freedmen retained land, but some refused to officially record their deeds for fear of reprisals from whites.
Inspite of efforts throughout the south to return to the "good ole days", the Sea Islands remained isolated from most of these efforts. Blacks by and large retained possession of much of what they had acquired because of physical isolation of the Islands from the mainland and because large plantations had been acquired by northerners and remained unoccupied. Blacks were able to thrive toward self-sufficiency while re-establishing some of the customs and traditions of Africa.

Eventually, schools ranging from 3 to 12 grades were established throughout the Sea Islands. These schools emphasized the three R's and other lessons needed to function in the Islands. One of the first in the south and perhaps the most outstanding of those was Penn School. Established during the Civil War in 1862, the school stressed land ownership and land uses. It was the only high school in the area for many years.

In the late 1950's the public school system began to address the secondary education needs of the black children. Penn School, however, remained as the community owned education center continuing the effort of landownership.

From the mid 1860's to the 1960's the Sea Islands population remained predominantly black. These proud residents were employed by their own farm, built their own boats to fish and transport their goods to market, grew abundance of peas, cotton, beans, and watermelon. During the winter, while the men left to find seasonal work on the mainland, the women made quilts and clothes. They and their children maintained the farm and boats until the next season.
The community of the Sea Islands were self-sufficient. The Gullah dialect and culture prevailed and families supported one another.

In the mid 1950's re-designing of the plantation system began. Because of the decline in income from the farm many Blacks had moved to the large cities such as Savannah, New York City, and Philadelphia. During this same period, funding for new highway systems became available to connect the Sea Islands to the mainland. Developers began buying large plantations which had been owned by northerners and had returned to their original landscape. These lands were undisturbed except for occasional wild life hunting by private clubs.

The first real impact on the indigenous population came when two men, Fred Hack and Joseph Fraser who owned a timber company in Georgia bought large tracts of land on Hilton Head Island that had been cotton plantations before the Civil war. They had previously bought the timber and barged the timber and lumber to Georgia. In 1953 Charles Fraser, a son of Joseph Fraser, began developing a 5200 acre resort private community and named it Sea Pines Plantation. Its potential success and plans for further development of the Islands must have motivated state fathers at the time to build a bridge in 1956 connecting Hilton Head with the rest of the world. Sea Pines has since become one of the premier resort communities in the nation.

The market value of farm land owned by blacks, which comprised of about 1/3 of Hilton Head Island's 27,000 acres before the completion of Sea Pines was valued no more than $100 an acre.
Because of Fraser's success, the remaining large plantations were similarly developed leaving black owned land, traditionally used for subsistence farming, vulnerable to increased tax assessment and land speculators. By 1980, market value of these parcels increased to as much as $100,000 an acre. Although some parcels may remain farmland or lie dormant, they are assessed on the basis of the highest and best potential use.

Land owned by blacks are being transferred to white developers at a steady rate. Families who can no longer afford to pay the taxes or cannot resist the offered price per acre soon sell. Perhaps the most common cause of land loss among Black landownership is heirs property where as many as fifty people may hold interest in a single parcel. Typically, speculators convince one or more of the heirs to sell leaving the others no other choice. Some members of these families who otherwise would live on land left by their foreparents must now relocate to rental units either on the island or somewhere off the island. A typical example is recently a native family of Hilton Head with some 40 members that sold 50 acres that is bordered by the ocean and the highway to one of the developers. Later members of that same family who had residences on the property frantically searched for land on Hilton Head to buy. Most of them did not receive enough money from the sale to purchase another parcel on Hilton Head.

Incorporated as a town in 1983, Hilton Head has nearly 10 private communities with guarded gates requiring passes and fees to enter if a person is considered a desired visitor.
Sensing that the Hilton Head Island scenario was likely to repeat itself on all Sea Islands, Penn Center and local organizations including the Hilton Head NAACP have made efforts to retard land loss among blacks with an education and title clearance program. The Hilton Head NAACP's effort was interrupted when a grant award of $36,000 from the Sea Pines Company in 1973 was repealed because the company became financially unable to award the remaining funds after about $10,000 was spent. Penn Center's current program is the only program of its kind in the Sea Island Community.

Some low income landowners are forced to depend on the private sector for land related legal assistance. Most families cannot afford to retain attorneys to clear titles so that they can subdivide the land even for their own residential use. Those who can afford legal fees are often frustrated by the slow pace at which lawyers attend their case. Some lawyers advise them to sell although the opposite may be in their best interest.

The struggle of the indigenous population to retain ownership to land is compounded by land use planning efforts of the county government which often include restrictive provisions that require one to have a degree of sophistication as a property owner. Unfortunately, most Black landowners in the Sea Islands are ordinary rural folk.

In 1983, Penn Center conducted a survey sampling 150 landowners in the various neighborhoods in the St. Helena Island area to determine the extent to which the average low income family may be at risk to the rapid development activities.
The most pertinent questions asked and the result of the answers follow:

1. Do you own land? Yes: 93% No: 7%
2. Do you share ownership with other heirs? Yes: 23% No: 71%
3. Do you use your land for residence? Yes: 100%
4. Is your land located near either of these: River and/or Marsh: 44% Highway: 80%
5. Future plans for the land: Would like to develop: 13%
   Other plans: 17% No specific plans: 70%
6. Household income below $6,000/year: 48%
7. Would you like to sell your land: Yes: 7.5% No: 86.5% No answer: 5.2%
8. Do you know the most common ways by which people lose land? Yes: 58% No: 42%
9. Have you made a will? Yes 25% No: 75%
10. Do you know the purpose of the Planning Commission for Beaufort County? Yes: 23% No: 77%
11. Have you ever attended a meeting of your county government? Yes: 19% No: 81%

It is highly likely that the scenario of Hilton Head will repeated throughout the Sea Islands unless an aggressive education program related to landownership among the indigenous population is undertaken.

Master plans have already been approved for the islands of Dataw, Daufuskie, Gibb, Cat, and Harbour. Daufuskie has an indigenous population of 100 dwindled form more than 1,000 a decade ago thanks to pollution of the oysters. Other landowners have since moved to large urban
centers, but retain ownership of land on the Island. Virtually all the Sea Islands are heavily populated with low income families with small farms.

Further north in the Charleston area, the same situation exists.

Development of the Sea Islands into plush communities brings problems other than land loss to the indigenous population. More regulations produce higher living costs. For an example, housing cost is prohibitive for most indigenous landowners who earn meager income as maids, maintenance workers, waiters and carpenter helpers. Shopping must be done at resort shopping centers where prices are aimed at tourists and are therefore marked relatively high.

Improved schools like other improvements is also mixed blessing. While the education system is improving, the children who are native to the area are having difficulty adjusting to the new pace and new culture. Most educators are resisting the need to address the problems of native children brought on by social isolation. To compound their learning process, some native children are forced to work until late at night after school to help with the family income which must now meet greater expense.

The use of drugs and alcohol have increased to an alarming rate, destroying once very stable families and changing the values of area youth.

The disparity in culture and economics between Black and White students are somewhat manifested in achievement at school. In 1984, only 25% of all Black students tested, while 71% of all White students met the State Educational standards in Beaufort County. A similar disparity prevailed in mathematic and reading
Unless there is intervention, the current trend will lead to the ultimate displacement of those who Lincoln intended to launch into the main stream of American life with land and a means to use it. Aside from displacement, the percentage of the black population in Beaufort County is dwindling. Although Blacks still make up about 30% of the total county population, this percentage is steadily decreasing from more than 50% in 1960. This is mainly due to the rebirthing of plantations.

Since in a democracy such as ours, the majority controls the decision making process, special provision is needed now to protect the indigenous population from becoming displaced. The alternative is to ignore the current trend and face the social consequences in the 21st Century.

Following the reconstruction era volunteer programs were established to teach the newly freed slaves how to cope with a system which was new to them. Lessons were taught in land ownership and increased production and fool producing crops.

Today, a Comprehensive Program is needed to teach descendants of those same freed slaves how to make the transition in land use from farming to resort development. Such a program must provide hands-on guidance in specific appropriate land use in order to avert social, economic and cultural annihilation of the indigenous population. This manual is but the first step. But "the journey of a thousand mile begins with a first step."

This manual is designed to assist Local Landowners according to regulations and laws of Beaufort County. Many of the county's regulations are based on State Laws, consequently, the manual can be used on a statewide level.
Introduction: HOW TO USE THIS MANUAL

This manual was written to explain land laws so that landowners can act to protect their property. It describes the legal processes landowners are most commonly involved in, and emphasizes the actions a landowner can take to secure and improve his or her property, as well as what to do if land is threatened. It suggests what a landowner can do him or herself and when to consult a lawyer. By detailing each legal process, the manual gives the landowner the knowledge to question a lawyer about the steps they will need to take, and to evaluate the lawyer's answers.

The manual is written for people with little or no legal knowledge. Where possible, non-legal terms are used. Where legal terms are unavoidable or will be helpful to the landowner, they are defined first, then given between parentheses.

The manual is organized in sections, and each section is written so that it may be consulted alone, without reading the ones before it. Where it is necessary to refer to information in another part of the manual, the reader is directed to the other section, and the section heading is printed in boldface type.

Our hope is that this manual will not just be used when a landowner has a legal problem, but will be an impetus for families to think about the land: how we can best use it now and how we can preserve it for our children and grandchildren. This requires legal and financial planning. More important, it requires us to teach those who will use the land after us to appreciate it, and to pass this commitment to the land to yet another generation.
HOW LAND IS HELD

Land can be owned by one person or divided among many. When one person owns land, he or she can do anything with the property, including rent, deed or will it. When more than one person owns land, each has an interest in it. An interest is like a share -- by combining their interests into a whole, the owners of the property can do anything with it. When the owners act as less than a whole, they must so so in a way that does not interfere with others' interest in the land.

INDIVIDUAL OWNERSHIP

When a person owns property individually, he or she may do anything with it -- including lease, will or sell it. To transfer land to one person, deed or will it "to (name of the person) and his or her heirs."

SIMULTANEOUS OWNERSHIP: COTENANCY

A contenancy is when two or more people own land together at the same time. Each is entitled to use of the whole property, and each may end the contenancy by asking the court to divide the land into separate lots (see Partition). There is no limit to the number of contenants who can share a property.

There are two types of contenancies: tenancies in common and joint tenancies, and they are defined according to whether the contenants can deed or will their shares in the property.

In a tenancy in common each contenant can deed or will his or her share in the property as if he or she owned it individually. These shares do not have to be equal; for example, one person can own a 1/3 interest in the property, and another a 2/3 interest.

A tenancy in common is created by deeding or willing land "to (name or persons) as tenants in common." When a person dies without a will (intestate) property is divided among relatives who then become tenants in common. This is known as Heirs Property.

In a joint tenancy, contenants can not deed or will their shares in the land. When one joint tenant dies, his or her share is divided among the other contenants. This is known as the right of survivorship. For example, if Mr. Adams deeded land to his four children as joint tenants and one died, the other four would divide that child's share. When another child died, the remaining three would divide that share, and so forth. The last child, the "survior" would own the land individually, and could deed or will it.
A joint tenancy is created by deeding or willing land "to (name of person) and (name of person) as joint tenants with the right of survivorship."

CONSECUTIVE OWNERSHIP: LIFE ESTATE and TERM OF YEARS

Two or more people can also own land so that one uses it for a number of years and then it goes to the other. The most common way of doing this is through a legal arrangement called a life estate. A life estate allows someone to live on and use land for as long as he or she lives. This person is called the life tenant. At the life tenant's death the property either returns to the person who created the life estate (or his or her heirs) or goes to others, called remaindermen. The life tenant may not do anything to decrease the value of the property.

Advantages

This ensures that the life tenant will always have a place to live and that the land will return to the owner or go to the remaindermen. Life Estates are usually created for a spouse or children, with the property going after their death(s) to children or grandchildren.

Disadvantages

There are two major problems with the life estate. First, there may be disputes between the life tenant and the people the land goes to next about who should maintain the property, pay taxes or mortgages on it, etc. There may also be arguments about whether the life tenant is using the land in a way that decreases its value. Although a life estate is usually created in an attempt to provide for family members, it may end up provoking conflict among them.

A more serious problem is that the life tenant may be "land rich but cash poor". Although the life tenant may have no other source of income; he or she can not mortgage or sell the land. The life tenant probably can not rent it either, since any lease would end at his or her death. The life tenant in this situation has two alternatives. First, the life tenant can try to find all the people who will own the land after he or she dies and get them to agree to cosign a mortgage, lease or deed. This can be difficult if they are living far away or have different ideas about what should be done with the property. If this fails the life tenant can ask the court to sell part of the land and give him or her the income. This can be hard on the life tenant, who may be asked by the court to justify expenses and come back to the court every few months for more money. It defeats the usual reason for creating a life estate -- to preserve land intact.
A life estate is created by deeding or willing land "to (name of person) for life, remainder to (name of person)." There may be any number of life tenants or remaindermen, and they do not have to be related to each other or to the person establishing the life estate.

A term of years is similar to a life estate, except that the period of time that each person lives on and uses the property is measured not by that person's life, as in a life estate, but by a period of years. A person may, for example, establish a term of years for a niece, allowing her to live on the land for the number of years it will take for her children to grow up, and then have the land go to someone else. Any transfer of land for more than three years must be in writing. To create a term of years, deed or will land "to (name of person) for (number of years), then to (name of next person)."

TRUST

A trust is property that one person (the trustee) owns and manages for the benefit of another person (the beneficiary). A trust may be created to benefit more than one person, either at the same time or one after another. The trust relieves the beneficiary of the responsibilities of managing the property. This can be important where, for example, the beneficiary is inexperienced with money or land or is ill.

A trust provides many of the benefits of a contenancy or life estate and avoids some of their problems. Like a contenancy, more than one person can benefit from the property at the same time. As in a life estate, the property can be used by one person and at his or her death go to another. Unlike a contenancy of life estate, however, the land has only one owner -- the trust -- and can be leased, mortgaged or sold without the permission of everyone who has an interest in it. While some may consider this a disadvantage, the greater flexibility of a trust usually works in everyone's favor. The trustee has a legal obligation to manage the property wisely for the gain of all the beneficiaries, and if he or she does not do this the beneficiaries can take the trustee to court.

Although most people think of trusts as only for the rich, anyone with property can establish one. A lawyer should be consulted. A trust must be created in writing and signed by the property owner. It can be contained in a will. It must include the names of the beneficiaries and at least one trustee, and a complete description of the property. The selection of the trustee is crucial to the success of the trust. A lawyer may be helpful in choosing someone, and also in explaining the trustee's responsibilities.
HOW LAND IS TRANSFERRED

DEED

A deed is a document that transfers land from one person to another. To be valid it must clearly show the intent to transfer, be signed by two witnesses, include a complete description of the property and a notary's seal (although if the seal is omitted unintentionally, the deed is still good). While no special legal words are required to deed land, if the deed is not made out to the new owner and his or her "heirs and assigns", it will be interpreted as conveying only a life estate.

A person can deed only as much land as he or she owns. For instance, if a man owns 1/2 interest in a property, he can not deed 3/4 of the land to another. Similarly, if a woman has a life estate in a property, she can deed it to someone else only for as long as she lives.

Types of Deeds

There are two types of deeds: Warranty and Quitclaim. A Warranty Deed guarantees that title to the property is good and that no one else will claim to own the land. If this happens, the seller agrees to defend the new owner in court, and promises that his or her heirs will do the same. A sample warranty deed is reproduced below.

Illustration A

A Quitclaim Deed simply transfers property from the seller to the buyer, and is used when the seller does not have clear title. It releases the seller's interest in the land, but does not say that he or she is the only owner -- or even legally owns it at all. Any one purchasing land under a quitclaim deed should question the seller about why title is not clear and, more importantly, do a title search to ensure that there are no other land owners and no mortgages or liens against the property. See Searching Title for information on how to do this.

All deeds should be immediately registered at the courthouse. This protects the new owner in case the seller tries to make out a second deed to someone else. If two people have a deed to the same property, the one who registers first is favored by the law as the owner. In Beaufort County, deeds are registered in the Assessor's Office. There is a small fee.

Keep your deed in a safe place, like a safe deposit box at the bank, or with a lawyer.

In Beaufort County there are many old deeds which have become hard to read or do not describe land specifically enough to identify it. Anyone with a poor deed should see a lawyer about getting a new one or bringing a legal action to establish ownership of the land.
A. Sample Warranty Deed

Know all men by these presents that I (name of seller), in the State of South Carolina, in consideration of the sum of (_______) dollars, to me in hand paid by (name of buyer), the receipt of which is hereby acknowledged, have granted, bargained, sold and released and by these presents do grant, bargain, sell and release unto the said (name of buyer) all that (description of land), together with all and singular the rights, members hereditaments and appurtenances to said premises belonging or in any wise incident or appertaining; to have and to hold all and singular the premises before mentioned unto said (name of buyer) his heirs and assigns, forever. And I do hereby bind myself, my heirs, executors, and administrators, to warrant and forever defend all and singular said premises unto said (name of buyer), his heirs and assigns, against myself and my heirs and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

Witness my hand and seal this ______ day of ________ in the year of our Lord _______ and in the ________ year of the independence of the United States of America.

______________________________
(signature of seller)

______________________________
(signature of Witnesses)
B. Sample Description of Land for Deeds and Wills

ALL that certain piece of land or lot of land lying and being on Edisto Island containing ten (10) acres, more or less, being bounded on the West by U.S. Highway 278 and having a frontage of said Highway 278 of 330 feet and extending in depth 1,080 feet, more or less, and bounded on the lands now or formerly held by Joe Mungin, on the East by lands formerly held by Joe Mungin, and on the South by lands now held or formerly held by Dillons and Drysdale.
MAKING A WILL

A will is a legal document stating who you want your property to go to after you die. Both land (real property) and personal property may be included in a will; this section deals primarily with real property.

There are several benefits to making a will. It ensures as much as possible that the property is divided the way the person making the will (the testator) wants. If a person dies without a will, land is divided among relatives who may have no personal ties to the land and may try to sell it. A will can also prevent family squabbling after the landowner dies by deciding beforehand exactly who should get what. Often families write wills together, leaving land to the members who can use it best.

Anyone 18 years of age or older (or under 18 if the person is married) and of "sound mind" can make a will. A will must be written and signed by the testator or someone he or she directs to sign it. A will must also be signed by two witnesses, although three should be used for safety's sake. South Carolina law recognizes and recommends what is known as a self-providing will. This is a will into which a signed and legally sealed statement (an affidavit) has been incorporated, in which the testator, witnesses and a notary public declare that the will was properly signed, that the testator was capable of making it, and that the testator's act was free and voluntary. A self-proving will significantly reduces the possibility that it will be questioned. It can be made at the same time that the will is signed or any time after.

A will can be changed at any time either by replacing it or intentionally destroying it.

A will should say as specifically as possible what property should go to whom. First the land itself must be accurately described. A lawyer can find the exact recorded description of the land, or the testator or someone else can look this up at the county courthouse. (see Searching Title) The description should include the size of the tract and its boundaries, as in this example:

Illustration B

Second, if the land is being left to more than one person the will should state how it should be divided and in what form it should be owned. If land is being left to two children, for example, does the person making the will intend that they share the entire lot equally? Is each to
get a certain section? If there is a house or other building, how should it be divided?

The person making the will should also appoint a personal representative (executor) who will be responsible for carrying out the provisions of the will. The personal representative may be an individual 18 years of age or older, or an institution like a bank. If a corporation is chosen, it must have a place of business in South Carolina. Most people prefer to appoint someone who they know well -- a friend or family member who they know will devote time, energy and care to settling the estate. If the testator does not choose a personal representative, the court will appoint one, usually a spouse or someone left property under the will. A will should be kept in a safe place like a safe deposit box known to others or with a lawyer.

Below is an example of a will:

Probating the Will

The probate court is a special court that deals with a deceased person's property. After someone dies, the person who is holding the will or who knows where it is has 30 days to bring it to the probate court, where the judge will declare it valid in one of three proceedings:

Informal probate. When there is a will and its validity is not contested, the personal representative or one of the people who will receive property under it will seek an order of probate to make it operative. This is the preferred procedure for most wills.

Formal probate. This procedure is required when someone dies without a will that includes all of his or her property; the validity of a will is questioned; someone wants to block or overturn an informal probate proceeding; or a will has been lost, destroyed or is otherwise unavailable. The probate judge formally decides the case. This is a more complex, expensive and time-consuming method than informal probate and a lawyer probably will be needed.

Affidavit. There is also an affidavit procedure for settling estates worth less than $7500. It can not be used where land or creditors are involved.

Before the property can be distributed under a will, the law requires that certain payments be made. These payments are not automatic. Anyone who thinks that he or she fits into one of these categories should consult with a lawyer or the probate judge.
Last Will and Testament

I,__________________________, being of sound
and disposing mind and memory and desiring to make such
disposition of my worldly estate as I deem best, DO HEREBY MAKE,
PUBLISH AND DECLARE THIS TO BE MY LAST WILL AND TESTAMENT, hereby
revoking any and all former wills and codicils whatever by me
made.

First, I direct that all my just debts and funeral expenses
be paid out of my estate as soon after my decease as conveniently
may be and to that end charge my whole estate, real and personal,
with the same.

Second: I give, devise and bequeath to

I nominate and appoint

to be the executor _____ of this my Last Will and Testament.

IN WITNESS WHEREOF, I have hereunto set my hand and seal to
this my Last Will and Testament at__________________________
this __________ day of
__________________________, in the year of our Lord One
Thousand Nine Hundred and ____________________

Signed, sealed, published and declared by the said
___ as and for ___ last will
and testament in the presence of us, who in
presence, at ______ request and in the presence of one
another, all present together, have hereunto subscribed our names
as witnesses.

__________________________________
These payments fall into three categories -- exemptions, debts, and rights of a spouse or child -- and must be paid in this order:

Exemptions reserve part of the property for the family of the deceased. Up to $5000 worth of personal property (everything but land) is set aside for the husband or the wife of the person who died or, if the spouse is not living for any minor or dependant children.

If land must be sold to pay debts, the head of the family may also be able to claim a homestead exemption of up to $1000, reserving a section of the property for the family's use, as well as an exemption of up to $5000 on a residence.

Debts are what is owed. Creditors must be paid in an order set by law and the costs of probating the estate deducted. Where necessary, the court may order the sale of as much land as is needed to pay the debts, but it must first notify all heirs and anyone left property under the will. They will have 20 days to pay the debts or give reasons why the land should not be sold.

Provisions for a spouse or children may give them a greater share of the deceased's money or property than they were left in the will. If the person leaving the will did not provide for a spouse married or a child born after the will was made, and the omission does not seem intentional to the court, the spouse or child will get the same share as it would have if there had been no will. See Intestate Succession.

A spouse is also entitled to claim 1/3 of the estate after debts, taxes and other expenses listed above have been paid. This is discussed in more detail under Elective Share.

**ELECTIVE SHARE**

If a married person living in South Carolina dies, the surviving spouse is entitled to 1/3 of the estate (after taxes, debts and other expenses have been paid), even if this is more than the husband or wife was left under the will. The spouse must file a request with the probate court and mail or deliver a copy to the personal representative (if there is one) within 9 months after the testator's death or 6 months after the will is probated, whichever is later. Property reserved for a spouse under an exemption is in addition to the elective share, but property that passes to the spouse under the will is included as part of the elective share.
INTESTATE SUCCESSION

Intestate Succession is the legal formula for dividing among relatives any property of a deceased person not included in a will. If there are no close relatives living, or if the land has been passed in this manner for several generations, ownership may be splintered among many heirs. This is the problem of Heirs Property.

There are two steps to determining ownership through intestate succession. The first is deciding who owns the land. The formula for intestate succession sets this out. The second step is determining what share each owner is entitled to. This depends on how closely related each owner was to the deceased (degree of kinship).

Formula for Intestate Succession:

A. If a married person dies leaving a spouse (husband or wife) and no children, grandchildren, greatgrandchildren, etc., either natural or legally adopted (issue), the spouse takes the entire estate. If there are issue, the spouse takes ½ and the issue divide the other half.

b. If no spouse is alive the property is divided among the first of the following groups to have a living member:
   1. Issue;
   2. Parents;
   3. Siblings or, if there are none, half brothers and sisters, with the issue of the half siblings and whole siblings getting equal shares;
   4. Grandparents or, if they are not alive, their issue.
      If there are both maternal and paternal relations living, half of the estate goes to each side of the family;
   5. Great-grandparents and their issue in the same way as for grandparents.

C. If none of the above relations are living, the property goes to the government.

Degree of Kinship

Degree of kinship determines how an estate (real and personal property) will be divided when the heirs are not all related to the deceased in the same way.

Where property is divided between kin of the same degree, each receives an equal share. For example, if property were to be divided among three children, each would receive one-third.
Where kin are of different degree, they share by another legal formula called "representation." If Mr. Adams died and his property were to be divided among three children and two grandchildren by a fourth child who died before Mr. Adams, the settlement would look like this (The circled people are deceased):

Each living child would take $\frac{1}{4}$, and the child who died would be represented by his or her children, who would divide their parent's share equally.

The division begins among the nearest degree of kin who have surviving members counting both those who survive and those who died leaving issue surviving. So if when Mrs. Baker dies her children are already dead but she has grandchildren living, the division would be based on the number of grandchildren who are either alive or have issue living. In the example below, the circled people -- Mrs. Baker, her two children, and one grandchild -- are dead. Her property is divided between her grandchildren and any great-grandchildren whose parents are dead.

Note: The laws on intestate succession were thoroughly revised in 1986. If a person died without a will after July 1, 1987, the property was divided as described above. If you are unraveling a piece of heirs property and some of the owners died before this date, you will want to refer to the provisions in codes (1976: 21-3-20 and 1962: 19-52) to determine the appropriate shares.
Insert D.

Mr. Adams

\( x \ X \ X \ X \ X \)  - Children
\( \frac{1}{3} \) each

\( X \ X \)  - Grandchildren
\( \frac{1}{8} \) each

Insert E.

Mrs. Baker

\( :X \ X \)  - Children

\( X \ X \ X \ X \)  - Grandchildren
\( \frac{1}{3} \) each

\( X \ X \)  - Great Grandchildren
\( \frac{1}{6} \) each
ADVERSE POSSESSION

Another way a person can acquire or lose land is by Adverse Possession. Adverse Possession is where, if someone remains on another's land for ten years without the owner objecting, the occupant or adverse possessor gains ownership of the property. Usually adverse possession is against a stranger. Though harder to prove, it may be claimed against a former cotenant or landlord. Except in rare cases, it cannot be claimed against the government.

Land is considered in "possession" when it has been fenced off or cultivated or improved in the manner usual for that area. The possession must satisfy all of the following criteria:

- Hostile. The possession is without the permission of the owner and the intent of the occupier is to gain title to other's land.
- Open and Notorious. The adverse possessor's actions are so obvious that the owner knows about the occupancy, or should have known if he or she had been taking proper care of the property.
- Continuous. The adverse possessor has used the land without interruption. Occasional entry to cut timber, for example, is not sufficient.
- Exclusive. Other people, especially the owner, have not gone on to and used the land during the ten year period for which the occupant is claiming possession.

Adverse Possession claims are decided by a jury. The jury looks first to the person's intent -- was it sufficiently "hostile" -- and then determines whether the adverse possessor's actions satisfy the other criteria and make it obvious to ordinary people that he or she is claiming ownership. The jury takes into consideration the nature, character and location of the property and the way similar property in the area is used. The person claiming title through adverse possession has the burden of proof. Evidence may include a deed or mortgage and tax receipts; these cannot by themselves confer ownership, but can be used to support the adverse possessor's claim of ownership.

It is difficult to prove a case of adverse possession against cotenants since by law each is entitled to complete use of common property. The cotenant asserting exclusive title must oust the others. While a physical "turning out by the heels" is not necessary, the ouster must be actual and unmistakable. Some courts have held that exclusive possession for 20 years by one cotenant gives rise to a presumption of ouster.

Adverse possession against a landlord begins from the time the lease ceases or the last rent is paid, whichever is later.
The courts at present are interpreting the requirement of "hostility" very strictly and it is becoming increasingly difficult to gain or lose ownership through adverse possession. Anyone thinking of asserting ownership this way, and anyone who owns land and thinks that someone else may be trying to claim it through adverse possession, should see a lawyer as soon as possible.
HEIRS PROPERTY AND PARTITION

Heirs is the name given to the land that is divided among relatives after the original owner dies without a will. The relatives or heirs own the land as tenants in common. If ownership is transferred this way for several generations, it becomes splintered among many people, most of whom have very small shares in the property. There are estimates that more than half of all Black-owned land in coastal counties, such as Beaufort is owned as heirs property.

People concerned with retaining Black-owned land disagree about whether heirs property is more of a benefit or a disadvantage to its owners and whether it has helped people retain land or has contributed to its loss.

On one hand are those who believe that heirs property is beneficial because it gives all the owners a place to come home to. Because there are frequently many owners, it is unlikely that they will all agree to sell the land. It is also doubtful that any of the cotenants can mortgage the property, and this prevents its loss through foreclosure.

On the other hand are those who say that heirs property makes life difficult for the owners living on the land. They may be the only small share of it. They cannot mortgage the land to finance improvements, and have little incentive to make them since the other cotenants have an equal right to any improvements and, more important, since they cannot be sure that another cotenant will not sue for partition.

Partition means division. Any cotenant can ask the court to divide the heirs property, which almost always results in its sale -- usually for less than its worth and to someone outside the family.

Keeping heirs property

There are several ways that an owner of heirs property can work with the other cotenants to keep the land from being sold. Among the things an owner can do are:

Obtain cotenants' interests. A cotenant who is living on the property and wants to own it individually can ask the other owners to deed him or her their shares. Some of the owners may ask for payment. Others may do this for free, especially if they have not been using the land and the cotenant who wants it presents them with convincing arguments. A cotenant can deed with reservations. The deed can say, for example, "to (name of person) so long as he or she reserves a part of it for me to live on when I visit" or "to (name of person) so long as he or she does not sell the land". Cotenants who want to put this type of reservation in a deed should consult a lawyer.

Divide the property among the cotenants. Property owners can agree to partition the land themselves. This works best when there are only a few owners. Partition can also
be combined with purchase; those who want to keep the land can negotiate with those who want to sell it. Once it has been established what percent of the land each of the resulting cotenants owns, they can with the help of a lawyer write up a partition it agreement.

Claim the land by adverse possession. See Adverse Possession. This option is difficult and, unlike the others, may deprive cotenants of their shares without compensation or agreement.

Lease the property. This is an alternative to sale which can provide the cotenants with a steady source of income. The cotenants must all agree to lease land, and may want to form a corporation to do so. They may decide to lease part of the land, and partition the rest among themselves. A lawyer should be consulted.

Partition

Every cotenant is entitled to ask the court to divide the property. The court has three options: to divide the land among the owners, assign the land to one if he or she pays the others for their interests, or order the land sold and the money divided among the owners. The court almost always chooses the third option.

A cotenant who does not want the land to be sold in a partition action has rights. He or she should contact a lawyer immediately.

The cotenant requesting the partition action (plaintiff) must notify the other cotenants about it. The plaintiff must make a reasonably diligent effort to find out where the other cotenants live and notify them by mail. If the plaintiff is unable to find the address of any cotenant, he or she must say this in a sworn statement (affidavit) to the court, which will then order the plaintiff to publish notice of the partition action for three weeks in a newspaper printed in the county where the land is located.

If a cotenant thinks that he or she was not notified properly, the cotenant can protest to the court.

The procedure in a partition action is for a commission of five people to determine whether the land should be divided, assigned to one person, or sold, and to work out the details of whichever option it chooses. The cotenant requesting the partition (plaintiff) chooses two commissioners, the court appoints one, and the other cotenants (defendants) can select the remaining two.
The cotenants should take advantage of the opportunity to select commissioners who they think will agree with them about what should be done with the land. If the cotenants do not get together and select two commissioners, the plaintiff chooses three and the court appoints the other two.

The commissioners have one month to decide what should happen to the land. Cotenants who want to keep the land should get together, with a lawyer if possible, to prove that the land can be divided fairly and does not have to be sold. The cotenants should make a map, or hire a surveyor to make one, showing how the land can be divided without prejudicing anyone. The cotenants should present this information to the commissioners.

If the commissioners decide that the land should be sold, cotenants who made improvements to it are intitled to receive their value so long as it does not decrease the value of common property.
TAX SALES

All landowners must pay taxes on their property. If taxes are not paid, the government has the right to take the land and sell enough to cover the taxes. Many people lose their land this way.

How Taxes are Set

Taxes are based on the value of the land. The board of Assessors in each county determines (assesses) the value of individuals lots based on how much the land would be worth if sold. This called its "market value". The Board compares the lots to be assessed with similiar pieces of property nearby that have been sold recently. In Beaufort County property is reassessed every five years.

Assessments must be uniform and equitable. The Board must inform property owners of any increase by the fourth Monday in March of the year the taxes are due (or as soon after as possible). A landowner who thinks that his or her property is valued unfairly can appeal to the Board of Assessors for review. This must be done within thirty days of receiving the assessment.

A tax break entitles certain landowners to pay a reduced amount of taxes. A landowner is eligible to file for a tax break if he or she is:

- 65 years of age or older or classified as disabled by a state or federal agency. The elderly or disabled person is entitled to have the first $20,000 of his or her home exempted from taxes. This is known as a homestead exemption. The landowner must apply in person to the County Auditor between January 1 and May 1 of the year for which he or she is claiming exemptions.

A landowner applying for the 65 and over exemption must bring proof that he or she turned 65 before the start of that year and has lived in Beaufort County for more than one year. A landowner applying for the disability exemption must bring proof of disability, which can be obtained from the State Agency of Rehabilitation.

Once this exemption is approved, it continues until the landowner's death so long as taxes are paid by March 15 of every year. If the landowner moves, he or she can transfer it to another property.

If a person eligible for a homestead exemption dies and the surviving spouse is at least 50 years and owns the property individually or has a life estate on it, the exemption continues so long as the spouse remains unmarried and uses the property as a permanent home and legal residence.

An elderly or disabled person who lives in a mobil home on property leased from another is exempt from
personal taxes to the same extent that a landowner is exempt from property taxes.

A veteran totally disabled by a service related injury. The veteran is exempt from paying taxes on a house and one acre of land. Veterans apply for this exemption through the South Carolina Tax Commission in Columbia. Applications are available in the County Assessor's office.

Using the land for agriculture. Land is normally assessed based on its market value. If land is used for agriculture, the owner can have it assessed based on its "use value", which is almost always much less than its "market value". The rate of the assessment is also less -- 4% instead of the usual 6% of the value.

The landowner must file an application with the County Assessor. The filing period is January 1 through May 1 of each tax year. Once the initial application is filed, it will be automatically renewed each year until the next reapplication is required. The reapplications are required in years ending in the numbers "2" or "7", and are mailed to the landowner at his or her last known address.

It is the owner's responsibility to make sure the initial application and future reapplications are filed on time. The County Council is the final review authority for any application received after the May 1 filing deadline. A late application must include a statement on why it was not filed on time.

Using the land as an actual or primary residence. The property will be assessed at a 4% rather than a 6% rate. The owner must have title to the property or a contract to purchase it, and must be living on the land by January 1 of the tax year. The application procedure is the same as for an agricultural tax break.

The Tax Calendar

October 1 -- A notice is sent to all landowners telling them how much their property tax will be for that year. (This date is approximate.)

September 30 - January 15 -- Taxes are due for the year ending December 31. Pay on time! If taxes are not paid by January 15 (or 30 days after the tax notice is mailed, whichever is later), a 3% penalty is added. If they are not paid by February 2, another 7% is added, and if they are not paid by March 17, another 5% is added to the amount due.

April 1 -- If the taxes are not paid by this date, the landowner is notified by certified mail of the amount due and is told that if it is not paid, the land will be sold. If the letter is returned
unopened, a notice is posted on the property saying that it has been taken by the government because the taxes were not paid. Sometimes the notice is posted where it can not be seen and warn the owner. If the taxes are not paid within 30 days after the letter is mailed, the government can take possession of the land.

September 1 -- A list of properties to be sold is printed and the land is advertised in the local paper. Land must be advertised for a 3 consecutive weeks prior to the sale. The ad must specify the property, time and place of sale, name of the owner, and party requesting the sale (the government). The cost of these ads is added to the amount due.

1st Monday in October -- If the amount of taxes due is not paid by 10:00 a.m., the land is sold at the county courthouse.

By law, the government can sell only as much land as is necessary to cover the amount of taxes and penalties due. This is often not enforced. In Beaufort County, for example, the Assessor's Office has no surveyor on staff to determine how much land needs to be sold. Consequently, the entire property is put up for sale. A landowner whose property is going to be sold for unpaid taxes should contact a lawyer immediately to challenge this practice.

After the land is sold, the purchaser can not take immediate possession of the property. The defaulting landowner has 12 months from the date of sale to get the land back by paying all the taxes and costs due plus an additional 8% interest charge. This time is called the Redemption Period. Between 45 and 20 days before the end of this period, the defaulting landowner is sent a notice by certified mail saying that if the amount due is not paid by the end of the 12 months, the land will be lost and ownership officially transferred to the purchaser.

If the land was sold for more than the amount of taxes due (which happens when the bids are competitive or the amount owed is so small that there is money left over when the government sells the minimum amount of acreage feasible), the defaulting landowner has five years from the date of sale to claim the excess from the County Treasurer.
MORTGAGES

A mortgage is a right to or interest in land that is created to make sure a debt is paid. A person may mortgage land to a bank, credit union or government agency like the Farmers Home Administration (FMHA) in return for a loan. If the loan is not repaid, the lending institution has a right to the property.

Before mortgaging land, the owner should think carefully about his or her ability to repay the loan, and should "shop around" to see what types of loans are available. The landowner should try to mortgage as little property as possible. He or she may be able to mortgage only a section of the land, or deed part of it to relatives before taking out a mortgage on the remainder. Some lenders will agree to decrease the amount of land subject to the mortgage as the landowner pays off the debt. The landowner should consult with a lawyer before signing the mortgage.

There are no legal words or forms needed to create a mortgage, just a writing signed by the person taking out the mortgage saying that he or she intends to give the lender an interest in the property. Both the property to be mortgaged and the amount of the debt should be carefully specified. The lender will require that the person applying for the mortgage own the property individually or get the other owners to agree to the mortgage. The lender will also charge interest on the loan, and the landowner should check that this is not higher than the state allows. A mortgage should be recorded at the courthouse.

When the mortgage debt is paid, the landowner should ask the lender to enter this in the courthouse records. If the lender has agreed to release a portion of the land from the mortgage when an agreed upon number of payments have been made, any releases should be put in writing, witnessed, and attached to the mortgage paper at the courthouse. If, after all payments have been made, the landowner asks the lender does not do this within three months of the request, the landowner can sue the lender and get back up to one-half of the amount of the loan.

Foreclosure

A landowner who cannot pay all the money owed on time should contact a lawyer and the lender immediately. If approached when the landowner first begins to have problems, the lender may be able to reschedule payments, especially if the landowner's problems are beyond his or her control, like a poor harvest or family illness. The longer the landowner waits before contacting the lender, the less likely they will be able to work out something.

If the FMHA is the lender, it is legally obligated to consider other choices before selling the land. It may
consolidate the loan, which means adding a new loan; reschedule payments; or put payments off for a "breathing period" of up to three years.

If the debt is not paid, the lender can foreclose on the property. To "foreclose" is to shut out or bar the owner from keeping the land by making further payments on the loan. To foreclose, the lender must prove in court that a specific amount is owed. The landowner will be required to agree in court to this amount, unless he or she has done so in writing within the last 12 months. The landowner should be sure to attend all court and administrative hearings, and should bring with him or her a copy of the mortgage agreement, receipts for payments made, and any letters to or from the lender.

Before the land is sold it must be advertised in the local paper for three consecutive weeks. The ad must specify the property to be sold, the time and place of sale, and the names of the owner and of the party requesting sale (the lender). Land is sold at the county courthouse on the first Monday of the month. The defaulting landowner can bid at the sale. Bidding will remain open for 30 days after the sale, so that the land will bring as much money as possible. The landowner is not allowed to bid during these 30 days.

If the land is not sold for as much money as the lender is owed, the defaulting landowner is personally responsible for the difference. This is called a deficiency judgement.

Example: amount owed $500.00
amount of sale -200.00
amount due from the defaulting landowner 300.00

If the defaulting landowner thinks that the land was sold for less than it was worth, he or she can ask the court to determine the true value of the property. This is called an appraisal, and must be requested within 90 days of the sale.
SALE OF LAND TO PAY DEBTS

Land can be sold if the owner does not pay his or her debts. The person or company owed money (creditor) can ask the court for a judgment stating that the landowner owes a certain amount of money. The creditor then has 10 years to record this judgment in the county courthouse where the land is located. A judgment against land is called a "lien". If the landowner does not pay the amount due, the creditor can ask the court to sell the land. It is illegal for the owner to sell the land when there is a lien on it.

A landowner can also agree to have a lien placed on his or her property -- often without realizing it. Contracts to repair or improve a home often include a clause in small print saying that if the owner does not pay for the repairs on time, the person who furnished the labor or materials is entitled to have the property sold to pay the debt. This is known as a "mechanic's lien". The creditor must still get a court judgment before the property can be sold.

If the landowner does not pay the debt and the land is sold, the sale must take place in the county where the land is located. The land must be advertised for three consecutive weeks prior to sale, and the notice includes a description of the property, the time and place of sale, and the name of the owner and of the person who wants to collect on the judgment. Sales by the court are usually held the first Monday of each month between 11:00 a.m. and 5:00 p.m. The bidding is held open for 30 days after the date of sale so that the land will bring as high a price as possible. The landowner may bid at the sale, but not during the 30 day period.
PROPERTY EXEMPT FROM SALE

Not all of a person's land or personal property may be sold to pay debts. The law allows to debtor to keep (exempt) certain things. These exemptions are not automatic and do not apply in every circumstance. A person whose property is going to be sold should consult a lawyer immediately upon receiving notice of the sale to determine what property is exempt.

Among the property that may be exempt from sale is:

* $1000 worth of land and the present harvest. This is called a homestead exemption and is available to the head of the family. It does not apply against mortgages, mechanic's liens, or taxes, and can not be used by cotenants. The landowner may give up (waive), this exemption, often by mistake, if he or she signs contracts without reading the small print.
  * $5000 worth of a home;
  * $1500 worth of a car;
  * Household goods and clothes worth up to $2000;
  * Jewelry worth up to $500;
  * Cash or other "liquid assets" worth up to $1000 if a homestead exemption is not claimed;
  * Professional tools and books, up to $750 in value;
  * Unmatured life insurance, if it is not under a credit life insurance contract;
  * Certain interest earned on a loan, stock dividend or life insurance contract;
  * Prescription health aids;
  * Certain benefits including health, unemployment and veterans benefits; alimony, and some life insurance payments.
EMINENT DOMAIN

Eminent domain or condemnation is the power of the government to take private land for public use. Federal, state, and municipal governments can condemn land for a public purpose, and may delegate this power to private corporations. This is how the government acquires land to widen highways, build new facilities, etc.

Anyone who receives a notice that the government is going to condemn land should contact a lawyer immediately. Condemnation proceedings are tricky. There are several ways the government can take land, and the requirements for notifying the landowner, providing him or her a hearing, determining the value of the property, and transferring ownership to the government vary. What they have in common is the requirement that the landowner act quickly or risk losing the land and the right of appeal. Unlike other legal procedures which may drag on for years, condemnation actions can happen very fast. Less than two months may pass between the time the landowner is notified and the final court decision setting compensation for the property.

Each stage of the condemnation process has its own deadlines, and missing one may have serious consequences. The landowner may lose the right to appoint someone sympathetic to the commission that will set the value of his or her land, or to appeal from an adverse ruling.

The landowner is entitled to receive the fair market value of any property taken. The government may try to avoid this requirement by saying that by condemning part of a property for public use, the value of the rest increases. The landowner should not be lulled or overcome by arguments like this, but should have his or her lawyer insist on proper payment. If the land is being taken for a federally-funded project, the owner may be entitled to additional expenses, including relocation costs. Money the landowner receives in payment is tax free and may not be used to calculate or change eligibility for public assistance programs.

A landowner may ask the court to consider mineral and timber rights to the property separate from the value of the land itself if it appears that this will increase the compensation.
PERMITS TO IMPROVE OR ALTER LAND IN BEAUFORT COUNTY

Permission from government agencies is frequently required before you can alter your land. Below is a chart of common activities that require permits, the agencies to contact, and the things you will need to do. The addresses and phone numbers of the agencies mentioned are listed after the chart. This chart is valid for the unincorporated parts of Beaufort County only; within the municipalities the roles of the Joint Planning Council and Building Codes Department are replaced by municipal agencies. A list of who to contact for permits in the municipalities is included after the chart.

<table>
<thead>
<tr>
<th>If you want to:</th>
<th>Contact (in this order):</th>
<th>And do the following:</th>
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<tbody>
<tr>
<td>Build on your property</td>
<td>Joint Planning Commission</td>
<td>You will need to apply for a development permit from the JPC unless:</td>
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<td></td>
<td>a. Only the interior of a structure or the decoration of the exterior is affected; or</td>
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<td>b. You own the land and use it as your single-family residence; or</td>
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<td></td>
<td>c. You use the land for agricultural purposes.</td>
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<td>A sample development permit application is included after the chart.</td>
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<td></td>
<td>Army Corps of Engineers</td>
<td>Determine whether the construction is located on or could affect freshwater wetlands. If so, a permit from the Corps is required.</td>
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<td>Wetlands are not always obvious. While they include swamps, marshes and bogs, some appear to be &quot;dry&quot; most of the year. If you are in doubt about whether</td>
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<tr>
<td>If you want to:</td>
<td>Contact (in this order):</td>
<td>And do the following:</td>
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<tr>
<td>Build on your property, continued</td>
<td>Army Corps of Engineers</td>
<td>your property includes freshwater wetlands, ask the Corps for a determination. You will need to provide them with a location map and plat and, if possible, an aerial photograph of the property from the county assessor's office.</td>
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<td>When you submit a request for freshwater wetlands determination, you grant the Corps permission to enter your property to make this assessment.</td>
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<td></td>
<td>Coastal Council</td>
<td>The CC can also make an informal determination, usually in less time than the Corps.</td>
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<td></td>
<td>Building Codes Department</td>
<td>Determine whether you are in a flood zone.</td>
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<tr>
<td></td>
<td></td>
<td>If you know your tax district and parcel number, you can call the BCD; if not, you will have to go to the office. Any property located in a flood zone must elevated so that the lowest floor is at or above flood level.</td>
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<td>If you are building a house in a velocity zone, the foundation must be designed by an engineer or architect registered in South Carolina.</td>
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<td>You may also want to have the land.</td>
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</tbody>
</table>
If you want to:  
Build on your property, continued

Contact (in this order):  
Building Codes Department
County Health Dept.
Building Codes Dept.

And do the following:  
surveyed to determine whether it can be rezoned. If the surveyor finds that the elevation is higher than the present map says, submit a map amendment to the BCD, which will forward it to the federal government for review. This may take several months.

Obtain a septic tank permit, if necessary. Any building which is to be occupied for more than two hours per day must be provided with adequate sewage disposal facilities. If public sewer is not available and a septic tank system is needed, construction may not begin until and unless a septic tank permit is issued by the CHD. Contact the CHD well in advance of construction so that they can perform the necessary site and soil evaluation to determine septic tank feasibility.

Request a building permit application. The BCD issues permits for all building projects except marine construction, which is authorized by the Coastal Council. Projects may require approval from both agencies: for example, the Coastal Council permits docks while permission to run electrical wiring
If you want to: | Contact (in this order): | And do the following: |
---|---|---|
Build on your property, continued | Building Codes Dept. | under them or build a boathouse on the shore end comes from the BCD. In addition to the completed application you will be required to submit: |

| a. Site plans indicating the location of the property, boundaries, and where the building will be situated; |
| b. A complete set of blueprints; |
| c. A septic tank permit from the CHD, if applicable; |
| d. The license numbers of any contractors; |
| e. Estimates of the total cost of construction. Your permit fee will be based on this cost. |

If the BCD finds that your project costs less than $500, it will issue an exemption from the permitting process.

Joint Planning Commission | All construction must meet the standards listed in the Development Standards Ordinance, section 4, which is available from the Joint Planning Commission. One requirement is that all utility lines be located underground. |

County Engineer | Contact the County Engineer to inspect the building. |
If you want to: Contact (in this order): Build on Building Codes Department your property, continued

And do the following:

The BCD will make a final inspection and issue a Certificate of Occupancy. The utility companies cannot begin service until after this inspection. You should contact them beforehand, however, so that it can start immediately afterwards. You may be required to pay a deposit.

Determine whether you are in a flood zone. If you know your tax district and parcel number, you can do this by phone.

If you are in a flood zone, you will need a flood certificate from the surveyor showing that the floor of the mobile home will be above flood level.

You may also want to have the land resurveyed to determine whether it can be rezoned. If the surveyor determines that the elevation is higher than the present map says, submit a map amendment to the BCD, which will forward it to the federal government for review. This may take several months.

Apply to the BCD for a moving permit, if applicable.
If you want to:

- Bring a mobile home onto your property or move it from one site to another, continued

Contact (in this order):

Joint Planning Commission

Building Codes Dept.

And do the following:

A permit from the JPC is required if there is a house or mobile home already on the lot, and the new mobile home is not going to be used by immediate family members of the owner of the original dwelling. A sample development permit is attached.

To apply for a mobile home permit you will need to bring with you:

a. A bill of sale or proof of title;

b. The name of the owner of the property and of the mobile home, if different from yourself;

c. A septic tank permit from the CHD if sewer service is not available;

d. The fee for registration and an electrical permit (in 1986 this was $15);

e. If you are moving the mobile home from one lot to another, you will need a tax receipt to show that your taxes are paid.

BCD will inspect your mobile home before issuing an electrical permit. Either someone must be home, or you must leave the mobile home open. The utility companies can not turn on your services until after this inspection has been made and a certificate of occupancy issued. Contact them before the inspection, however, so that service can begin immediately afterwards. You may be required to pay a deposit to the utilities.

You do not need permission from the JPC if:

a. You are selling or giving land to a member of your immediate family; or

b. Each new lot will be 5 acres or larger and no new roads will be cut;

c. The subdivision is part of a will or intestacy settlement.
<table>
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<tr>
<th>If you want to:</th>
<th>Contact (in this order):</th>
<th>And do the following:</th>
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<tbody>
<tr>
<td>Subdivide or sell a portion of your land, continued</td>
<td>Joint Planning Commission</td>
<td>Obtain an exemption stamp from the JPC.</td>
</tr>
<tr>
<td></td>
<td>County Health Dept.</td>
<td>If you do not fall under one of these categories you must file for a site development permit. A sample application is attached after the chart. Among the documents you will be required to include are:</td>
</tr>
<tr>
<td></td>
<td>S.C. Coastal Council</td>
<td>a. Proof from the CHD that sewer service is available or that each lot can support a septic tank;</td>
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<tr>
<td></td>
<td>Move a building</td>
<td>b. A &quot;critical line determination&quot; if the land is on a marsh. This states how high the property is and whether further certification from the CC will be necessary.</td>
</tr>
<tr>
<td></td>
<td>Building Codes Dept.</td>
<td>Contact the BCD for a moving permit application. You will also need to submit a foundation plan for the new site and have a termite inspection before the structure can be moved, and a final inspection before a Certificate of Occupancy can be issued.</td>
</tr>
<tr>
<td>Dig a well</td>
<td>Beaufort-Jasper Water Authority</td>
<td>Find out whether there is a public water supply that you can hook into.</td>
</tr>
<tr>
<td></td>
<td>County Health Dept.</td>
<td>The CHD must determine that the proper distance exists between your well and any private septic tank.</td>
</tr>
</tbody>
</table>
If you want to:  | Contact (in this order):  | And do the following:
--- | --- | ---
Put up a sign to advertise your business | Building Codes Department | Request a permit application. You are only allowed to advertise on the site and must meet setback and size requirements (the maximum dimensions of the sign depend on the size of the property). The BCD will physically inspect the site before issuing a permit.

Cut down trees | Joint Planning Commission | You do not need to contact the JPC if you own and live on a single-family lot or use your land for agricultural purposes.

Test your water for bacteria (and chemicals optional) | County Health Dept. | If you don't meet one of these exceptions and want to cut down a tree whose trunk is 8 inches or more in diameter as measured 3 feet from the base, you must:

  a. If the tree is diseased: this must be verified to the JPC by a forester with the Clemson Extension Service; or
  b. If the tree is not diseased: get permission from the JPC.

Install a septic tank | County Health Dept. | Clear-cutting of trees -- cutting them for the sole purpose of clearing the land in anticipation of selling it -- is prohibited.

To have your water tested for bacteria, pick up a bottle from the CHD, fill it with water and return it to the CHD, which will send it to Columbia for testing.

To determine the level of different chemicals in your water, bring a quart of it to the CHD.

Both tests are free.

Any building occupied more than two hours a day is required to have approved sewage disposal facilities. In areas where sewer is not available, septic tanks are needed. The CHD must evaluate the site before any system is installed. Contact the CHD for an application. You will be required to submit a plat or deed or other legal document that specifies the size of the property.
If you want to:

Install a drainage system

Use 100,000 gallons or more of water per day

Contact (in this order):

Corps of Engineers

South Carolina Water Resources Commission

And do the following:

Request a permit application from the Corps. You can not do anything that would appreciably alter the surface runoff to or from adjoining property. Nor can you develop a site or erect a structure -- including a dike, dam or levee -- that will result in an increased flood hazard to nearby properties.

Individuals and corporations must apply to the SCWRC for a permit application.

Applications are processed in the following manner:

a. SCWRC staff review the application;

b. Staff meet with the person requesting the permit to discuss well-construction specifications, water-use reporting, and ground-water monitoring requirements (if applicable);

c. SCWRC issues 15-day Public Notices, which it sends to permitted water users within a one-mile radius of the proposed well(s) and various state agencies, including the Coastal Council. The Coastal Council must certify the project before the SCWRC can issue a permit.

d. The SCWRC sends Letter(s) of Concurrence which specify the conditions for well construction. The well must be constructed within one year after the date on the letter(s).

e. The final permit is processed after the well is completed according to the terms agreed upon.
If you want to:

- Use 100,000 gallons or more of water per day,
- Build a dock, boat ramp, or erosion control structure or put up a sign in the water

Contact (in this order):

South Carolina Water Resources Commission

Army Corps of Engineers and Coastal Council

And do the following:

The SCWRC must reply to an application within 60 days. It usually takes 30-45 days from the time the SCWRC receives an application for it to send the Letter of Concurrence.

Permits are required from the Corps and the CC. The Corps regulates certain types of work done in the waters of the United States. The CC has authority over projects that would alter a critical area of the South Carolina coast, which includes the tidelands, beaches, primary oceanfront sand dunes and coastal waters.

You will only be required to fill out one application, from the Corps. It will in turn notify the CC about your project, and when your application is complete will send a copy to the CC for review. The CC also requires information that is not included in the Corps permit application. It will contact you about this, a will also ask you to submit an administrative fee of $50 or non-commercial use, and $200 if it is for commercial use.

The Corps will also require a fee -- $10 for non-commercial use and $100 for commercial use. This should not be submitted with the application: if and when the Corps approves your project, it will ask you to send it in.

Among the items the application will require are:

a. Proof of land ownership -- a certified copy of the deed, lease or other instrument under which you claim title, possession or permission from the owner to build:
If you want to:

Build a dock, boat ramp, or erosion control structure or put up a sign in the water, continued

Contact (in this order):

Army Corps of Engineers and Coastal Council

And do the following:

b. A plat or copy of a plat of the site;
c. A detailed drawing of the proposed structure and description of the purpose of the project, the method of construction and materials and equipment to be used;
d. A list of adjoining landowners and their addresses;
e. Proof that you have met the requirements, detailed in the application, of publishing notice of the proposed construction in a newspaper.

The permit request will be approved, denied or conditionally approved (meaning that the work can be done only if certain conditions are met). There is an appeals procedure.

Each agency exempts certain activities from the permitting process. The exceptions are not necessarily the same; if the Corps says you do not need a permit, you must still contact the CC, and visa versa.

Contact the Corps to determine whether your project fits under one of its exemptions. The Corps may also authorize you project under a general permit or through a procedure called "Letters of Permission". A general permit authorizes types of minor activities without the need for individual processing. A project may qualify for a Letter of Permission if the work is minor or routine with minimum impact and objections are unlikely. A Letter of Permission can be issued much more quickly than a standard permit since an individual
If you want to:  
Build a dock, 
boat ramp, or 
erosion control 
structure or put 
up a sign in the 
water, 
continued  

Contact (in this order):  
Army Corps of Engineers 
and 
Coastal Council  

And do the following:  
public notice is not 
required.

Among the exceptions to the 
CC permit requirements are:  

a. Hunting, erecting 
duckblinds, fishing 
shellfishing and trapping 
when and where permitted 
by law;  
b. The discharge of effluent 
(waste) as permitted by 
law;  
c. Construction of walkways 
over sand dunes in 
accordance with criteria 
available from the CC;  
d. Emergency repairs to an 
extisting dike or bank;  
e. Maintenance or repair of 
drainage and sewer 
facilities;  
f. Normal maintenance or 
repair to a pier or 
walkway so long as this 
does not involve dredge or 
fill.
COUNTY OF BEAUFORT, SOUTH CAROLINA
- DEVELOPMENT PERMIT APPLICATION -
- COMMERCIAL/INDUSTRIAL/INSTITUTIONAL -

<table>
<thead>
<tr>
<th>PERMIT #</th>
<th>DATE APPLICATION COMPLETED</th>
<th>RECEIVED BY</th>
<th>FILING FEE</th>
<th>RCPT #</th>
<th>☐ STAFF REVIEW</th>
<th>☐ FULL BODY REV</th>
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<td>PROJECT NAME</td>
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<tr>
<td>APPLICANT (DEVELOPER) NAME, ADDRESS</td>
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<tr>
<td>PROPERTY OWNER (NAME, ADDRESS)</td>
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<td>PROJECT LOCATION</td>
<td>TAX MAP NO.</td>
<td>LAND AREA</td>
<td>PARCEL NO.</td>
<td>BLDG. AREA</td>
<td>BLDG. HEIGHT</td>
<td>FIRE DIST.</td>
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</table>

**PRELIMINARY APPLICATION INFORMATION REQUIRED**

☐ SIX COPIES OF SITE PLAN
☐ EXISTING AND PROPOSED BLDGS., STRUCTURES, FACILITIES
☐ EXISTING AND PROPOSED ROADS, PARKING AREAS, OPEN SPACE
☐ EXISTING AND PROPOSED LAKES, PONDS, LAGOONS, DITCHES
☐ PROPERTY LINES, BEARINGS AND DISTANCES
☐ NORTH ARROW, GRAPHIC SCALE
☐ SEAL OF REGISTERED SURVEYOR OR REFERENCE
☐ VICINITY MAP
☐ ADJACENT LAND OWNERS AND LAND USE
☐ ADJACENT ROADS, HIGHWAYS (NAME, NUMBER, RIGHT OF WAY WIDTH, PUBLIC OR PRIVATE)
☐ EXISTING AND PROPOSED EASEMENTS (TYPE, SIZE, HOLDER)
☐ EXISTING RIVERS, CREEKS, MARSHES, AND OTHER WETLANDS
☐ PROPOSED BLDG. SETBACKS AND BUFFERS
☐ TREE SURVEY AND PROPOSED TREE REMOVAL
☐ EXISTING COVENANTS OR RESTRICTIONS
☐ EXISTING WATER, SEWER LINES ON OR ADJACENT TO PROPERTY

**FINAL APPLICATION INFORMATION REQUIRED**

☐ PRIMARY SAND DUNE SURVEYED LINE (BEACH DEVELOPMENT DISTRICT ONLY)
☐ DHEC CONSTRUCTION PERMITS WATER/SEWER SYSTEMS
☐ OTHER APPLICABLE AGENCY PERMITS/APPROVALS
☐ FIRE OFFICIAL APPROVAL
☐ COUNTY ENGINEER APPROVAL

<table>
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<tr>
<th>APPLICANT'S SIGNATURE</th>
<th>DATE</th>
<th>DATE PUBLIC NOTICE</th>
<th>DATE SHOULD REV</th>
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<tr>
<td>LANDOWNER'S SIGNATURE</td>
<td>DATE</td>
<td>DATE PRELIMINARY APPVL</td>
<td>DATE FINAL APPVL</td>
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</table>
Agency Addresses and Phone Numbers

Beaufort
Joint Planning Commission
P.O. Drawer 1228
Beaufort, S.C. 29902
(803) 525-7138

Building Codes Department
Beaufort County Department of Inspections
Ribaut Road, P.O. Box 1228
Beaufort, S.C. 29901
525-7110

150-Hwy. 278
Hilton Head Island, S.C. 29928
681-7704

S.C. Coastal Council
P.O. Box 587
Beaufort, S.C. 29901
524-0755

Beaufort County Health Dept.
P.O. Box 459
Beaufort, S.C. 29901-0459
525-7215

S.C. Electric & Gas Co.
P.O. Box 1168
Beaufort, S.C. 29901
524-4161

Beaufort Jasper County Water Authority
P.O. Box 2115
Beaufort, S.C. 29901
524-7322

S.C. Water Resources Commission
143-A Ribaut Square
Beaufort, S.C. 29902
524-1995

Dept. of The Army
Corps of Engineers
P.O. Box 919
Charleston, S.C. 29402-0919
724-4330
Permits within the municipalities of Beaufort County

To apply for a permit to improve or alter land within one of the incorporated sections (municipalities) of Beaufort County, contact the appropriate agency listed below:

**WITHIN THE CITY OF BEAUFORT**

--subdivide land - contact JPC (525-7138)
--find out zoning classification of land - Planning Division 524-3831
--build any structure or sign - Code Enforcement 524-1694
--conduct any activity in Historic District - Planning Division 524-3831

**Within Town of Port Royal**

--subdivide land - JPC 525-7138
--find out zoning classification
  Public Works Department 524-0846
--build any type improvement
  Public Works Department 524-0846

**Within Town of Bluffton**

--subdivision, zoning, building
  Contact Town Council 757-2642

**Within Town of Hilton Head**

--subdivision, zoning, building
  Dept. of Planning & Inspections 681-9440
Bankruptcy is a declaration that a person can not pay his or her debts. The majority of a person's possessions are taken by the court and sold, and the proceeds distributed among creditors. Bankruptcy should be considered by a landowner as a last resort because in some situations it may allow him or her to keep the land.

A person who declares bankruptcy gets relief from all debts at once and can make a new start. In the process, he or she loses most property. A person who declares bankruptcy may find it difficult to get credit in the future.

Sometimes a person declaring bankruptcy can negotiate with creditors to pay them money to keep (redeem) property. A wage earner's plan allows an employed person declaring bankruptcy to keep property that he or she can pay the debt on within three to five years. A person declaring bankruptcy may also negotiate with creditors to keep property if the money the creditor would get through its sale would be less than the amount owed. This is most often the case where there are many creditors and little property, or if the property is not worth very much.

Bankruptcy is a legal procedure and anyone considering it should consult a lawyer. The person asking for bankruptcy is required by law to seek credit counseling. A counselor will weigh the person's debts against what he or she owns and can pay and will recommend to the court that the request for bankruptcy be granted or denied. The nearest credit counselors to Beaufort County are in Savannah and Charleston.
SEARCHING TITLE

Title is ownership. Searching title is looking through Court records to establish who owns a property and to ensure that there are no liens against it. This is most commonly done before purchasing a property.

Most title searches cover a period of forty years. The records needed to do the search are public. A lawyer is not needed to do a search, although one should be contacted if the researcher finds that ownership is unclear or there are liens on the property.

The following steps are necessary to search title:

Locate an accurate description of the property. It should include the size of the tract and list its boundaries. An old deed may be helpful. Check it against the county tax maps to make sure that the names of streets or the description itself have not changed over time.

Establish who has owned the property (chain of title).
When property is transferred by deed, the new owner is supposed to register it at the county courthouse. The transaction is noted under the names of the old owner (grantor) and the new owner (grantee) in the grantor and grantee indexes. These are located in the Register of Mesne Conveyances office.

The person searching title should look up the present owner in the grantee index and find out from whom he or she received the property. The name of this person should in turn be looked up in the grantee index until the researcher has a list of all grantors and grantees over the past 40 years. The researcher should then look up the same names in the grantor index to make sure that each grantor deeded the property only once - to the the grantee in the researcher's list - and placed no restrictions on the property.

If there are no deeds to the property listed in the grantee and grantor indexes, the owner may have received the property by a will or through intestate succession. This information should be recorded in the probate court. Look up the name of the owner in the Estates Index, which is organized alphabetically. It will refer to a box and package number (or a book and page number) where information about the will or intestacy settlement can be found. If there was a will, check to see that it gave the property to the person anticipated and that there are no conditions on the ownership.

If the property was transferred through intestate succession, make sure that the property being transferred is equal to or less than the owner's share.
If there is no record of the owner in the Estate Index, but the researcher thinks that he or she got title through a will or intestate succession, the researcher should contact the family or neighbors of the owner for information about how the land was transferred. If there is no information on this, the researcher should contact a lawyer about starting a court action to clear title.

Check for mortgages or other liens on the property, including liens for failure to pay taxes. These give the owner of the mortgage or lien the right to ask the court to sell the land to pay the landowner's debts. All mortgages and liens are recorded in the office of the Register of Mesne Conveyances, except those for county taxes. These are listed in the county assessor's office.

Liens against the land last for 10 years. This means that a lien can affect title to property even after the debtor has sold it.

Ensure that no one has filed a lawsuit involving the property. This information is listed in a Lis Pendens index in the office of the Register of Mesne Conveyances.
GOVERNMENT AGRICULTURAL OFFICES

Below is a list of county, state and federal agricultural offices, their addresses and phone numbers. These offices have been established with your tax dollars to serve you. It is important that you contact them and let them know what your concerns are and what needs to be done. They may be able to help you with farm problems.

The agencies are listed by categories according to whether they will be able to help you with 1) Financing (loans, crop budget, debt, etc.); Marketing (consumer demand, vendors, price outlook, etc.); or Production (soil sampling, pest and disease control, fertigation, etc.)

FINANCING:

1. Farmers Home Administration (FmHA)
   3012 Harding Street
   Burton, SC  29902
   Phone # 524-3882

2. Agriculture Stabilization Conservation Service (ASCS)
   Highway 280
   Burton, SC  29902
   Phone # 524-2721

3. Clemson Extension Service
   Arthur Horne Building
   Post Office Drawer 189
   Beaufort, SC  29901
   Phone # 525-7117

4. Production Credit Association
   317 Bells Highway
   Walterboro, SC
   Phone # 594-2513
5. South Carolina Department of Agriculture
Small Farms Division
Post Office Box 11280
Columbia, SC 29211
Phone # 758-3531

6. South Carolina Family Farms
Post Office Box 11735
Columbia, SC 29201
Phone # 758-5956

PRODUCTION:

1. Clemson Extension Service
Arthur Horne Building
Post Office Box 189
Beaufort, SC 29902
Phone # 525-7117

2. South Carolina Department of Agriculture
Small Farms Division
Post Office Box 11280
Columbia, SC 29211
Phone # 758-3531

3. Coastal Research and Development Center
2865 Savannah Highway
Charleston, SC
Phone # 766-3761

MARKETING:

1. South Carolina Farmer's Market Bulletin
(Crop Price Quotation)
Phone # 758-3761

2. South Carolina Farmer's Market
1001 Bluff Road
Columbia, SC
Phone # 758-3325

3. South Carolina Department of Agriculture
Small Farms Division
Post Office Box 11280
Phone # 758-3531