

***PRINCIPLES OF  
LAND RECORDS AND  
TITLE SEARCHING  
FOR CADASTRAL MAPPING***

Chapter 2

2015 Cadastral Mapping Manual

The legal basis for maintaining the maps and plats of all real property parcels in the counties of the State of Utah comes from the various statutes contained in the Utah Code Annotated, (UCA) as well as the rules as amended from time to time, contained in the Standards of Practice developed and published by the Utah State Tax Commission.

County Recorders are responsible to the County legislative body for accurate identification and portrayal of all parcel boundaries and descriptions for use in valuation and taxation of parcels for the county's portion of the annual real property taxes. Annually, the County Recorder has a statutory responsibility to transmit to the County Assessor copies of all ownership plats and descriptions, showing record owners at [as of 12:00 o'clock] noon on January 1 of each year. In addition to the transmission of plats, the Recorder must transmit the changes of ownership on appropriate forms that show the current owner's name and a full legal description of the property conveyed; and where only a part of the grantor's property is conveyed, transmit an additional form showing a full legal description of the portion retained. Much of this is accomplished by the use of computer technology. (See UCA 17-21-22)

“Cadastral” is defined by The American Heritage Dictionary, Second College Edition (ISBN 0-395-32943-4) as “a public record, survey, or map of the value, extent, and ownership of land as a basis of taxation.” Cadastral mapping is crucial to accurate reporting and portrayal of boundaries and descriptions, which in turn constitutes the basis for area calculation (square footage or acreage) upon which assessment valuation is made in this process. Cadastral mappers must be able to determine location of lawful boundaries as established and determined by the official records of the County Recorder, and have the skills necessary to be able to draw the boundaries of such parcels on an area plat for taxation purposes.

In order to accurately identify the owners of title to property, by its boundaries, the cadastral mapper must be able to search the records in the Recorder's office in order to determine who the lawful record owner of the fee simple title is, and thus who must lawfully and appropriately receive the tax notice. In addition, a cadastral mapper must also be sufficiently skilled to be able to identify any conflicts between the same, including any overlapping of parcel descriptions.

Some of the resources available to make such a search are identified under the topic of General Duties of the Recorders – Records and Indexes, found in Utah Code Annotated, Title 17-21-6. An array of indexes kept in accordance with this title allows the searcher multiple options for searching a record for ownership.

In addition to the above referenced statutorily required indexes, many counties maintain an index of parcel ownership genealogy that lists the succession of title owners for each parcel, by deeds or other conveyances, without the other extraneous entries of record. “**Deed index file**” is a common nomenclature for this particular resource.

## FUNDAMENTAL PRINCIPLES OF TITLE SEARCHING

This portion of instruction is intended to highlight certain basic fundamentals and definitions common to all searches made in the public records to determine real property ownership. There are many purposes for which one might search the records of the County Recorder. One size does not fit all occasions in this regard, but all instances of title searching have some common principles.

1. **RECORDS ARE PUBLIC:** All documents or instruments duly recorded or filed with the County Recorder are considered public records, as defined by the statutes of the Utah Code Annotated. (UCA 17-21-3, UCA 17-21-19)
2. **INSPECTION OF RECORDS:** A record which is a public record is required by state statute to be made available for public inspection, and for which copies may be obtained, unless otherwise “protected” or “controlled” for privacy reasons by statute. These protected types of records may require certain and specific permissions or qualifications to be inspected or copied. (UCA 17-21-1)
3. **INDEXES:** The indexes to the records (Tract Indexes, Abstracts, other indexes), are statutorily required to be kept, and to be made available for public inspection. These and other resources in the office of Recorder such as tax plats are generally considered to be work product, and are not statutorily certifiable as records. Copy availability varies from county to county. Some counties may provide certification of some of these resources. (UCA 17-21-6)
4. **GENEALOGY:** All parcel titles have a genealogy, also called a “chain” of title, (pedigree), which should begin at the first instance of transfer or conveyance, from the originating government authority, likely the United States of America, or any of its agencies. The chain of title concludes with the current owner of record.
5. **ALL PROPERTY PARCELS HAVE A UNIQUE DEFINED DESCRIPTION:** The definition of the parcel of real property is called its “legal” description, as in, for use in “legal” or official documents, records, or proceedings, and for assessment and taxation purposes. The parcel’s legal description forms the basis on which real property taxes are assessed, and notices prepared. All parcel descriptions contained within the records of the County Recorder are taken from official, duly recorded documents or instruments of conveyance, or as created by dedicated and recorded subdivision, condominium or PRUD, or townsite survey plats; or, they may be created for the purposes of taxation by county personnel, as in the case of remainder parcels following a division or split of a parent parcel. Each parcel has a description unique to the parcel. No two parcels within a county will have identical parcel descriptions. They must be written so as to be traceable on the ground.
6. **ALL PARCELS HAVE A UNIQUE TAX PARCEL NUMBER:** Each parcel must also have a unique identifying designator, also referred to as a Tax Parcel Number, Tax ID Number, Tax Serial Number, Parcel ID Number, etc. which distinguishes it from any other parcel in the county records, for taxation purposes. This may be an alpha or numeric set, or a

combination of both, depending on identification numbering convention used by the individual county. (Utah State Tax Commission Standards of Practice)

7. COUNTY RECORDER: The County Recorder is a duly elected county official, and is statutorily charged to protect the records, as their custodian. He/she is also charged with making all county records available to the public for inspection and copying, with a few exceptions. The recorder has the authority to determine how copies of the record will be made available to the public, as well as how searching is to be done in his/her respective office. Opinions vary between recorders, and thus office practices and interpretations of the application of the law may vary between counties. Local conditions prevail as to how and where the public may search and copy official records. (UCA 17-21-1)

## PRACTICAL APPLICATIONS

1. RECORDS: The larger portion of records of the County Recorders in Utah will typically be found in bound volumes inside a secure and protected "vault" area, under the control and protection of the County Recorder. As technology has evolved, more recent records may be found in electronic form, in computer folders, files, and indexes. Each county differs from another in style and content.
2. USE OF PENS, ETC.: Because the records of the County Recorder are considered permanent, use of pens, markers, or other permanent annotation tools should be restricted (outlawed) around the records which are in paper form, either during the search, or during the examination. (Index or Abstract books, document images, etc.) Pencils are the recommended and preferred writing implement.
3. COPIES OF RECORDS: There is an expense to produce copies of records, and those requesting copies should be prepared to pay for them at the time they are made. Costs vary between counties. (UCA 17-21-18.5)
4. OFFICE HOURS: Business hours for the offices of County Recorders are established by each county's legislative body. They are usually defined by county ordinance in the county code. There should be no expectation of variance to the business hours by special privilege for title professionals, or other regular and frequent patrons.
5. LEGAL COUNSEL OR ADVICE: County officers and employees should refrain from offering legal advice to the public. Should such advice be required, it should be obtained from competent legal counsel.
6. SEARCHING TOOLS: County office resources are tax-dollar funded, and therefore limited, and any instruments, implements or supplies necessary for a title search should be provided by the office patron for their personal use, and not expected to come from county resources. (Note pads, pencils, scales and other drafting tools)

## METHODOLOGY

Search methods vary between title professionals and others, including county officials, who search the records, as determined by the circumstance or need. They may include:

1. **Name search** – Searches conducted using the Grantors' and Grantees' names as the search criteria. This may include Mortgagee/Mortgagor names as well.
2. **Tract or Parcel Search** – Searches conducted using property descriptions as the basis for the search
3. **Document Type Search** – Searches based on document type, i.e. Right of Way, Easement, Deed type, Court Decree, Power of Attorney, etc.
4. **Date/Time search** – Searches based on a calendar date or approximation of when a transaction may have occurred, or a span of time during which multiple transactions occurred.
5. **Deed Index File search** – Searches utilizing the Deed Index File, and confined to information contained in the Deed Index file, typically, conveyances of record.

NOTE: A simple Deed Index file search which does not include a search of the parcel Abstract may not identify all the complexities of title that a thorough abstract search may reveal.

## HOW TO DO “THE SEARCH”

The steps and processes for “searching” the title outlined here are generally universal for all who would search public records for information regarding individual parcels of real property, regardless of the purpose. Title professionals employ specific methods most efficient for their particular role, which typically involves ownership, risk identification, risk mitigation and/or assumption, typical of most any insurance business. They are in the business of “insuring” title for the benefit of a purchaser and/or a lender, as to lien priority and ownership limitations as claimed or identified in various public records.

In their risk assumption, title insurance companies sometimes find it acceptable to allow or “overlook” or assume the risk, and hence, the liability for certain title defects or deficiencies. In other cases, they choose to take exception to them in their insurance coverage. Under those circumstances, the title deficiency or defect may end up not being cured through a sale or loan closing process, and may remain a burden on the title indefinitely.

The county's interest is typically limited to making sure the true owner of title receives the annual tax assessment notices, and that the property he/she is taxed for is accurately identified, described, and quantified for evaluation and assessment. Also, the county needs to assure that there are no discrepancies that cause a property to be taxed more than once, to more than a single owner of record. If there are defects in the title, they may not affect the determination of ownership for taxing purposes.

## **STEP ONE: IDENTIFY THE PROPERTY**

The first step in the search process is to **identify the subject property** by its legal description. The term is interchangeable with the term “property description”. Once the description has been determined, it is helpful to locate the parcel on the current county ownership plat, which graphically displays its place and boundaries in relation to adjoining parcels. Note that the property description which is the topic of the search may circumscribe multiple smaller tracts created over time through splits from a larger parcel, or may be currently a larger parcel resulting from combination of smaller parcels which have come together under common ownership over a period of time.

## **STEP TWO: IDENTIFY THE PURPOSE**

In order to optimize efforts and maximize efficiency in the search, it’s important to determine the purpose of the search, and its scope or limits.

### **TYPICAL PURPOSES:**

1. Resolution of ownership or boundary or area disputes.
2. Discovery of easements, encroachments, or other encumbrances.
3. Determination of ownership for taxation purposes.
4. Genealogical or historical research. (Office patrons occasionally ask for this kind of assistance)

### **TYPICAL SCOPE: Ask the questions:**

1. Does the search need to be conducted from the beginning of records, usually represented by a Patent or Grant Deed, to the present, or are the time parameters for the search something shorter or more refined?

Example 1: Search all records from May 1, 1927 through January 27, 1946.

2. Is the search defined by parties?

Example 2: Search all records of this property from the time John Doe received the property, until it was received by James Roe.

3. Is the search requirement only for specific kinds of instruments during a given period of time?

Example 3: Search all records for recorded Easements and Rights of Way on the tract, from beginning to present.

4. Is the search a combination of some of the above?

Example 4: What easements in favor of Telluride Power Inc. were recorded on the tract between January 1, 1918 and December 31, 1941?

5. Does the scope of the search include an examination of those documents, and are copies required? What information contained in the documents is relevant and should be noted?

### **STEP THREE: CREATE A “CHAIN” OF TITLE**

Depending on the purpose and scope of the search, the searcher may need to create and examine a “**chain of title**”. The series of conveyance documents discovered in a search should create a “chain” that links owners together through a series of purchase and sale transactions (Grants).

Example: **Party A** grants to **Party B**. **Party B** grants to **Party C**. **Party C** grants to **Party D**, etc.

The cadastral mapper uses multiple resources contained in the Recorder’s office for the title search, including current ownership plats, and other maps, in conjunction with tract indexes, otherwise known as “Abstracts”, deed indexes of various styles such as card indexes, file indexes, aperture card files, or other indices. It is important to note that the terms “Plats” and “Maps” are different. Plats are usually a work product of the cadastral mapper which delineate property boundaries, area, and identify record ownership, for taxation purposes, while maps may be commercially produced graphical representations or aerial photographs of ground features that may or may not include ownership boundaries. They may also be the work product of a GIS (Geographic Information System) operation.

Title professionals annotate their findings on what some call a “**drain sheet**”, or “**chain sheet**”. A chain sheet is notation that charts the history of ownership and other interests in and of the parcel. As documents are discovered, searchers annotate the index information found in the Abstract; i.e. Book and page of instrument or its Entry Number, document and recording dates, parties to the transaction, any other pertinent information required.

**Conveyance Documents** include Quit Claim Deeds, Warranty Deeds, Special Warranty Deeds, Personal Representative Deeds, Court Decrees, (Decrees of Divorce, Partition, Distribution, Quiet Title, Final Orders of Condemnation,) Declarations of Taking Through Eminent Domain by Public entities, Trustees Deeds (not to be confused with Trust Deeds, which are loan documents like mortgages), Sheriff’s Deeds, Boundary Line Agreements and/or Adjustments, Subdivision/Condominium/PRUD Dedication Plats, and any other document that contains similar conveyance language and/or intent.

NOTE: The county recorder may find it expedient to rely on suspected intent of recorded instruments, when the document itself is silent as to specifics. This type of determination is usually subjective, and therefore may create a liability or risk on the part of the county. Caution should be taken when making assumptions based on suspected but otherwise undisclosed intent.

In the chain of title, **fee simple title** is the usual expected conveyance. However, lesser rights or “estates” can be conveyed as well, and estates can be divided by fractions or percentages. At the end of the process, however, one or more parties will have all, or 100% of the ownership. For taxation purposes, a fragmented or split title is inconsequential, so long as one of the parties in interest receives the annual tax notices. Interests or estates may also be encumbered with obligations to other parties not in title.

Interests or estates may also be encumbered with obligations to other parties not in title. Examples include unresolved mortgage interests, rights of way, easements, other surface or sub-surface or air rights. All of these “rights” may be discovered during the search, and some may impact on value for taxation.

NOTE: Deeds do not always come to the recorder’s office in a logical order or chronologically functional sequence. Searchers must account for interests conveyed “out of order” sequentially, to determine whether a lawful transfer of title has taken place. There are two “terms of art” to remember: “**After-acquired title**”, and “**Prior-acquired title**”. Each is conditional upon the type of conveyance instrument used, and the order in which it was signed and sealed, delivered, and recorded. NOTE: Delivery is an important element of a lawful conveyance, and a “shoe box deed” which has not been delivered to the Grantee may not be legally binding on parties.

CAUTION: An exchange of Quit Claim Deeds and/or Warranty Deeds does not always accomplish a lawful conveyance.

**Abstracts, or tract indexes**, are commonly arranged by property site location; i.e. in the case of **metes and bounds** descriptions, usually by Township/Range, then by Section in said Township/Range, and then further by Quarter Section, within the Section.

Example: NE ¼ Sec 4, T4NR2W

Most counties in Utah have **Townsites** which may be divided into Plats or Tracts, then further divided into Blocks, and Lots in the Blocks. Abstracts for these tracts may be organized by that same method; i.e. Townsite, then Plat or Tract, then Block, then by lot.

Example: Lot 2, Block 4, Plat A, Farmington Townsite Survey.

Abstracts may also be kept for individual dedicated **subdivisions, condominiums, PRUD’s**, etc. likely arranged alphabetically within the Abstract book(s), and indexed in the Abstract by lot or unit number, or in the case of Time Shares, by Time Period.

Example: Lot 18, Somebody Sub.

Example: Unit 2, Bldg 20, Hob Nob Condominium.

Example: Unit 38, My Space PRUD, a Planned Residential Unit Development

All tract indexes contain references to where the document or its copy or transcription may be found in the Recorder’s office for examination. In conformance with UCA 17-21-6, the index will also show for each document indexed, its type of instrument, parties’ names, execution dates of instruments, recording date and time, and a chronological or sequential “entry number”, showing the document’s place among all documents recorded, the recording fee, any consideration and its amount, and a brief description of, or reference to the property which is the subject of the document.

The Tract Index or Abstract books contain the list of recorded documents in the chronological order in which they are received, indexed according to their location. Hence, they will not be in a more specific order, such as a pure alphabetical order of parties' names. Once the search reaches the computer era, that order can be rearranged for convenience in searching, depending on the computer program the county is using.

Historically, the Tract Index entries begin with documents filed at the date of beginning of official record keeping in each county, (in the 19th century in Utah), and they run chronologically to the point, in most counties, when the book form of index ends and a computerized indexing system begins. Typically, there is a nominal overlap between tract index books and the county computerized index system. Depending on the scope of the search, both books and computer systems may need to be searched.

NOTE: Current Utah law (2012 A.D.) denotes that a document indexed in any one (but fewer than all) of a number of different statutorily required indexes constitutes "legal notice". Hence, a prudent title searcher would examine all the indexes available, understanding that a document may have been omitted from one or another particular index. (See UCA 17-21-6(3)(g))

At times the information on the recorders computer program does not contain all the information one needs to resolve vesting questions or other issues on a property. One may, however, find the information one needs in the "**Deed index file**" on the property index cards.

These cards may contain:

- Deed references to vesting documents from the current date backwards in time to the patent.
- Deed references that created breakdowns (splits) on the original parcel.
- Deed references for easements or right of ways.
- Deed references for annexations, road dedications or special taxing districts.
- Recorder's office employee comments about gaps, overlaps, remaining interest of owners, or other information the employees may have kept about owners of the property or issues that have been addressed in the past. (Sometimes, such information is best kept confidential)

These cards may be the original card created by the recorder's office for the parent parcel. Depending on the procedures of the office, the original card and any successive cards may have been retired to an inactive file when the corresponding parcel number was deleted. In that instance, the searcher may have to investigate these other cards.

## COMPUTER INDEXES AND SEARCHING

Most if not all of Utah's county recorder offices have deployed computers for abstracting and indexing. Following the search from the Abstract, or "books", as has been outlined, the searcher typically is able to continue the search using the information on the computer through a present verified abstract date.

Computer systems vary from county to county, and so the process to find information may also vary, county to county. Generally, indexes on the computers include most or all of the following: Abstract, Document, Party Names, Document by Location, Situs address (site or location) and Owner Mailing Address, Water Claims, Mining Claims and Subdivision and Township Indexes.

Access to these individual indexes may require knowledge of access codes or some other form of access control feature that has been installed to minimize security risks and preclude unlawful practices or searches. For instance in some counties, access to information on the county land systems computer requires using the parcel's Land Serial Number, comparable to other counties' Parcel number, APN, Sidwell No., Tax Serial Number, or Account Number. Since each county operates independently of others, and each system has individual characteristics, suffice it to say here that familiarity with the county system is essential for optimum efficiency in title searching.

Proceeding through the on-screen computer abstract, the procedure is much the same as has been outlined previously; annotating each document, being aware of any changes in the description, ownership changes that may take place on some or all of the original platted description.

It is typical among the counties, by practice and by adherence to the Utah State Tax Administration Standards of Practice, that each parcel of land within a given county is identified and recognized by an identifier unique to each parcel, usually in the form of a tax serial number which is applicable ONLY to a single parcel description and distinct footprint. When that footprint (description) changes, and the acreage or configuration changes in ANY way, (See Footnote 1) one can expect to see a NEW tax serial number assigned, and the former tax serial number deactivated, disabled, or deleted from the inventory of parcel identifiers. This method varies between counties, and may or may not be the practice in some counties. Bear in mind, it is the "dirt" you're investigating, not the tax serial number.

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*Footnote 1: Metes and bounds descriptions may be improved upon by survey descriptions, which may alter the description, but not change its footprint or acreage. In such cases, the parcel described MATCHES the description of record in substance, and no new tax serial number is required.*

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There are certain terms that need to be understood by their definition:

1. Parent Parcel – The original parcel described as it existed before the split, division, subdivision, or combination that created the change in parcel boundaries.
2. Child Parcel – A parcel created when the original or “parent” parcel is split, divided, or otherwise changed resulting in a different number of parcels than there were previously.
3. Remainder Parcel – The left over portion of an original parcel that was not included in or described as part of the split, division, or subdivision of that parcel. Also known as that parcel remaining in the Grantor’s name after the original parcel is split and part is conveyed to another party.

NOTE: The descriptions for these remainders may be generated by deeds of record, or commonly, they are created by the County Recorder or Surveyor, for the purpose of identifying “left over” property for taxing purposes.

It is recommended that a new tax serial number be assigned to a “child” parcel (offspring from the “parent” parcel), and the remainder parcel also be assigned a new tax serial number. Old numbers undergoing any of the above processes are/should be deleted from the inventory (sometimes termed “killed”). The implication of that term is that the number is no longer a viable taxing number, and should not be reassigned to a different parcel. It will always refer to a specific parcel which no longer exists.

Deleted numbers and their legal descriptions and abstracts are often kept available for research on the computer in counties. But the searcher needs to be aware that changes in tax serial numbers do occur. And when that happens, the searcher must follow the parcel, (the dirt) regardless of its assigned tax serial number, new or old. (This issue becomes a concern during the reconveyance process for trust deeds, when the property originally encumbered changes its configuration and is re-numbered among county parcels)

#### **STEP FOUR: WRITE DOWN DOCUMENT REFERENCES**

Document, annotate and write down the results of the search in clear and understandable order and terms. This may be as simple as an annotated list of documents found, in the order in which they are recorded.

#### **STEP FIVE: EXAMINE THE DOCUMENTS**

Each document discovered and annotated in the search must be **examined** to assure that it meets the lawful purposes for which it was intended, and also to determine that it conforms to the law in its construction and execution. For example, one should ask the question, “is it properly executed, acknowledged, and notarized, and does it properly convey the interest or right as expected? Or, is it something less?”

**NOTE: The act of recordation in the Recorder's office is for the purpose of giving public notice of an action. It does not automatically accord validation or effectiveness to the document or its stated purpose. ALSO: If a document is not duly recorded in the Recorder's office in the course of a transaction, the omission of recordation does not invalidate or nullify the transaction. It merely omits public notice in the Recorder's office that such a transaction transpired.**

ADDITIONALLY, there are some lawful presumptions regarding title to real property that are allowed by statute in the Utah State Code because of otherwise duly recorded documents, and the searcher should acquaint himself/herself with those presumptions. (UCA 57-4a-4)

### **STEP SIX: SUMMARIZE THE RESULTS OF THE SEARCH**

Summarize the search results, boil off all the fat, (claims made in the record that have also been resolved and released in the record) and determine the net results of the search. Does it meet expectations, resolve the question or dispute, or clarify the issue? Are the goals for the search met? It is at this point, title insurance professionals would produce a written "title report", or "preliminary report", sometimes called a "Commitment for Title Insurance", or "Binder", in preparation for an escrow closing, sale, or refinance, of the subject property.

### **SUMMATION**

After thoroughly examining the documents, the searcher should be able to ascertain the current legal description of record, its bounds and area, the current owner(s) of record and any other encumbrances on the property affecting boundaries; i.e. easements, encroachments, over-laps, gaps, and any other interests in the property which are made apparent by a thorough search.

The searcher needs to be aware that there may be Judgments which may be filed in various courts or other jurisdictions that may bear on the ownership of the property. The searcher may need to pursue a name search in those localities to identify any such encumbrances.