

Determining who owns or has oversight over a cemetery can sometimes be difficult, but it is a necessary first step in any preservation plan. THC offers the following tips to guide your search, but understand that in some cases you may need the assistance of legal counsel.

To look for the current or last-known owner of record, start with the local county appraisal district. You'll need to know the exact location of the cemetery in order for them to assist you in identifying the owner using their parcel maps. You'll discover one of two things: either the cemetery is its own separate parcel or it is not and is just included within a much larger parcel.

Just because a cemetery has its own parcel record, that doesn't mean it will include an owner. Many times, the owner will simply be listed as the name of the cemetery. No person, organization or other contact info will be included. While disappointing, this is actually a clue that at some point in the past, the cemetery was probably set aside in a deed record. Locating that deed will assist you in determining the last owner of record. You might also discover that the owner listed is no longer living or operational (if an organization), in which case you'll need to track down the deed records.

If a cemetery does not have its own parcel record and is just included within a larger parcel, it might mean that the current owner of that larger parcel actually owns the cemetery, too. There are plenty of examples of family, church or community cemeteries being sold right along with a larger tract of surrounding land. Just as common, however, is that the cemetery actually was set aside (via a "save and except" clause or similar) at some point in its history and, for whatever reason, was added back into the larger acreage in error at a later date. This is another example of why deed research will be important.

The effort spent finding deeds can be time-consuming and sometimes difficult; however, exhausting this line of research is worth the effort because it can provide valuable clues for how to plan for the cemetery's future.

Property deeds are typically located at the county clerk's office. Depending on how much you already know about the cemetery's history, including who originally gave the land and when, you might be able to easily locate the original deed and search forward from there. In other instances, you may need to start with the current property owner (or surrounding or adjacent owners) and work backward.

At the county clerk's office, you'll find indexes to deed records. These records are generally kept in two formats – direct and reverse. Direct record information is from the grantor (seller) to grantee (buyer). Reverse records list information from grantee (buyer) to grantor (seller). Check for transactions within a specific abstract for pertinent names, then the dates, book and page of related deeds. Also note what type of deed (warranty deed, deed of trust, court order) as they may be filed in different offices of the courthouse.

Sometimes there is a deed specifically for the cemetery. Often, though, the cemetery is referenced in a deed for a larger, surrounding piece of property. Be thorough in your search. Trace the deed records from at least the date of the first known burial through to the current owner. It's common to discover that the reference to a cemetery was dropped off a property's description when it changed ownership at some point in the past.

There are some aspects of deed record research that can be tricky. The earliest deeds for your county may have been originally filed at a different county seat before the county was subdivided. Also, it is not uncommon for cemeteries to have multiple names or different spellings, so check multiple variants. Another thing to remember is that property doesn't always transfer title via a deed, so make sure to consult wills, probate records, and other legal records.

Your deed search may reveal that an early owner excepted the cemetery from a larger, surrounding land sale many years ago. In this case, the owner of the cemetery may be that person's heir (or potentially a large group of heirs). You may discover that the cemetery was once owned by a church that ceased to exist many years ago. In that case, you might need to look for the successor church within the community or consult with the governing body of the religion (like the local Catholic diocese, Methodist conference, etc.). A real estate attorney or other legal specialist may need to assist you in determining current ownership in these cases.

Some things to keep in mind:

- The person or entity who owns the property may not be the same person or entity that provides care for the cemetery – there could be 2 (or more) parties involved.
- There are provisions with the Health and Safety Code that allow for nonprofit organizations and local governments to assume control of an abandoned or neglected cemetery. See Sections 711, 713 and 715.

For more information, please visit www.thc.texas.gov/cemetery.