

Land and Property Descriptions and Their Uses

A discussion lead by
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Introduction

I took some time to attempt to organize this topic in such a way that it will be understandable and useful to you. There may be some in this audience who have never seen a deed or heard much about them. In times past the number of people who would be unfamiliar with land ownership would be much lower than the present. For those who are unfamiliar or who have never had occasion in their research to find and read a deed, I should spend a little time going over the basics of what a deed is and the purpose for such a document.

First we should know that land records in this country are divided into two categories. The first is the initial sale of land by the government to private persons or collaborations. This sale results in a large number of records which are nearly all complete from the time of first land sales in 1781 to the present day. The second is the sale of land from one private person or collaboration to another. These sales are the usual land records which we are going to discuss today.

Patents, Grants, Bounty Warrants, and other “first owner” records

We'll skim the surface of the first kind of land record just to know the breadth of detail available for the pioneering people of our ancestry, then we'll explore the real world of genealogical land records.

Possession of land is one of the most powerful forces in human society. It drives immigration, family stability, and communal behavior. It also is one of the most ancient causes of dispute among human beings; families, tribes, nations – no group, large or small, is exempt.

“Written evidence of people's entitlement to land and property goes back in time further than virtually any other type of record a genealogist might use. Extant land records in Denmark, for example, go back to 900 AD. The earliest tax lists of England, which name even the smallest land-holders – The Domesday Books – date back to the era of the Norman Conquest, 1066-1096 AD. Of all the historical records of interest to genealogists, land records cover the longest span of time in which a researcher may prove that a person lived in a certain place at a certain time.” [Foreword (by William Dollarhide) to *Land and Property Research in the United States*, by E. Wade Hone, p xi]

The character of land transfer recording in the North American continent in early days determined the form of those records. Essentially all land transfers were enforced by armed conquest. The victor knew that that they owned the land and personal ownership was not a part of the equation. Thus, a record of ownership was not necessary. It was only until the advent of European society in one form or another that personal land ownership was even contemplated. Thus, land records on this continent goes back only as far as European colonization. Even so, records of land ownership are extremely important.

“In America, land and property records apply to more people than any other type of written record. It is estimated that by the mid-1800s, as many as ninety percent of all adult white males owned land in the US (50% today). Therefore, before 1850, the lists of landowners that can be extracted from any county's grantee/grantor indexes are the most complete lists of residents that exist for a county.”

“There have been fewer losses of land and property records than any other type of record. The public records of land sales conducted by the US government are practically 100% complete from 1787 to today. And at the county level – unlike birth and death records and civil court records, probates, and other typical court records – courthouse-stored land records were the first to be reconstructed or at least partially reconstructed after loss from a fire, flood, or other disaster. Even in American counties where a courthouse burned to the ground, a genealogist may learn that some land records exist there from the time before the fire. Though not legally required to record the deed in earlier times, most people would not buy or sell property without

recording the deed for security purposes. Because of this, old deeds were often re-recorded after the courthouse burned. This fact makes land records more complete than other types of county-wide records.”

The researcher who never ventures into land records, either on the federal level or the county level, will find his/her job made much easier by learning more and more about what is available and waiting for them when they do venture forth. It will be a very rewarding experience. In some of these records, a lucky researcher may find the most wonderful genealogical treasures imaginable – an original marriage record torn from a family bible, or perhaps an ancestor's original naturalization certificate. Those who never learn how to access the land entry case files will never know if such treasures await.

Possession of land has produced kings and queens, soldiers, military leaders, peasants and paupers. Almost every occupation known throughout the world has developed from land and its uses. Land also dictated the need for most non-land-related early records. Probate records often resulted from the importance of property, both real and personal. Marriage records recorded the assurance of property transfers to spouse and heirs, and this is the primary reason why marriage records can be found for much earlier periods than other vital records. Most early criminal and civil court records also involved land transactions. Land has resulted in more genealogical and historical records than any other topic.

Making the federal government an owner of land created a whole new form of land record – the transfer of land from “all of us” to “one of us.”

The first land legislation of any note is the **Northwest Ordinance of 1785**. This act required that land be purchased from Indians prior to settlement, that it be surveyed and laid out in the new rectangular system (townships, ranges, sections, in grids using a prime meridian and baseline), that the first tracts be surveyed for military bounties, that all remaining tracts be offered for sale at public auction (by act of 1796 – in twp and section sized lots – 23,040 or 640 acres at \$2/acre), that there be land set aside for schools, and that buyers retained absolute (fee simple) title to all lands.

The second **Northwest Ordinance of 1787**, allowed the widow of an intestate deceased land owner to inherit 1/3 of the land (fee simple), and the remainder to the children *per stirpes* (equally), wills and deeds must be proved and recorded within one year and resident and non-resident land owners are subject to taxation (not government land).

The **Harrison Land Act of 1800** reduced the tract size of land and allowed credit purchases. This opened the door to many more purchasers. The min size was ½ section (320 acres) with four payments in five years.

Bounty land was eventually awarded to soldiers serving in the Revolutionary War, War of 1812, The Indian Wars, and the Mexican War, beginning in 1818.

The first **Act of 1812** was for special districts in Arkansas, Illinois, and Missouri. Check to see if your ancestors moved into any of these areas about this time and then consider searching the federal land records for their names.

The **Act of 1847** was for service of at least 1 year in the Mexican War.

The **Act of 1850** was for War of 1812 and Indian War veterans.

The **Act of 1852** gave benefits to officers and enlisted men and was assignable to others.

The **Act of 1855** (amended in 1856) allowed land to every soldier (or his heirs) who served more than 14 days in the Revolutionary War.

All of these acts were intended to benefit prior service to the Union, and involved a quarter section of land anywhere in the public domain (160 acres).

The **Act of 1820** cancelled credit sales, reduced tract size to 80 acres, with a minimum price of \$1.25/acre and remained active until 1908.

The **Pre-emption Act of 1830** allowed any squatter who developed a tract in 1829 to buy up to 160 acres for \$1.25/acre. This act was renewed each year and by the **Act of 1841** it became a permanent pre-emption act.

Many people have heard of the **Homestead Act of 1862**. Fewer people have understood that many of the land legislation acts which we have discussed up to now were trial runs leading up to the Homestead Act. This act was intended to promote settlement in areas of the US which had been missed by the haphazard movement of people into the vast, open, and unsettled regions of the US. The 1841 permanent pre-emption act allowed

anyone who was head of a family (including widows) or over 21 (US Citizen or declared/intended) to claim up to 160 acres and then buy it from the government for \$1.25/acre. The 1854 act made public land available at 12 ½ ¢/acre if it had been on the market for 30 or more years.

Donation (free) land grants gave away 160 acres in Florida, New Mexico, Oregon, and Washington. This was done in stages beginning with the **1850 Donation Land Act** (Oregon Territory) where 320 acres were given to a single man or 640 acres to a married couple to settle by 1 Dec 1850. It required four years of continuous residence and cultivation to gain title (this was cut in half in 1853). In 1854, this act was extended to the state of Washington (19 Jul 1854) and both were to expire in 1855. If you had ancestors who moved to Oregon or Washington Territory at that time, look for land claims for them.

On 22 Jul 1854, three days after the Washington Territory extension, the law was extended to New Mexico Territory. Known as 10 Stat. 208, it provided for donation claims which could be changed to a cash purchase (if desired) at \$1.25/acre. This act expired in 1883.

All of these were trial runs for the final **Homestead Act of 1862**. There was no monetary consideration (just a small filing fee) with five-year residence, cultivation, and improvement, over 21, US citizen (or intention), to gain 160 acres. This act did not eliminate other direct cash sales or pre-emption claims. The recipient could commute this claim to cash entry for \$1.25/acre after just 6 months. Union Army/Navy vets (14 days service or more) automatically met the age requirement. Active confederate military were excluded until 1 Jan 1867.

This law was very popular and was changed many, many times. For example, in 1872, a pre-emption claim could commute to homestead and vice-versa. Pre-emption was repealed in 1891. In 1909, larger homesteads in the west (320 acres of non-irrigable lands) were permitted. In 1912, three-year homesteads were allowed. In 1916, 640 acre grazing homesteads were allowed.

Finally, in 1934, almost all of the public domain was closed to entry claims.

Local Land Records

Now, lets venture into local land records where our ancestors truly are king.

Glossary

A deed is an instrument (document) used to describe the transfer of land (or other real property) from one owner (grantor, seller) to another (grantee, buyer). The conditions of transfer can determine the type of deed being created. The various types are warranty, quit claim, trust, mortgage, gift or seizure. The legal description of the land or property being transferred is always included in a deed, regardless of type. Signatures of the grantor(s), witnesses, and the presiding official will always be present on the original deed though simply written by the recorder in any copies held by the jurisdictional authority or repository. The date of the transfer is in the original deed and that and the date of recording are both part of the recorded copy. A certificate or statement by the wife giving consent for the transfer is attached to the recorded copy depending on the legal requirement of the time and place. The original of the deed is retained by the grantee and an exact copy is created by the jurisdictional authority (county, state, or federal government).

More Glossary

A **warranty deed** is the basic instrument of transfer of ownership in fee simple with no strings, no liens, and no surprises. The grantor transfers all rights, title, and conditions to the grantee in exchange for goods, services, cash or other property, declaring that this has been received and warranting a clear and unobstructed title to the described land or property.

A **mortgage (or trust) deed** is an instrument created when land or property (say, a crop still unharvested) is used as collateral toward the purchase of something else or for a cash loan. The owner of the collateral property gives the legal description of the property and releases ownership to the creditor (mortgagor) on the condition that, if the terms of repayment are met, the instrument is null and void, otherwise, the instrument stands as a legal transfer of ownership. If paid, a certificate is attached to the registered copy of the

mortgage or trust stating the facts. If no certificate is found, a researcher must not assume that the terms were not met (it may have been registered later and not indexed). If the owner (grantor, mortgagee) and mortgagor are the only persons involved, then the instrument is a mortgage. If the mortgagor is a third person, then the instrument is a trust (with grantor, grantee, and trustee).

A **quit claim deed** is an instrument transferring all claims of whatever nature to the property from the grantor to the grantee. No warranty of clear title is made. Otherwise this instrument is the same as a warranty deed.

A **deed of gift** is an instrument created to transfer ownership without compensation or only a minimal or token payment (say, \$1), usually made between two close relatives but could be anyone.

A **forced sale** may be directed by a court for payment of debt or as a result of a probate process. In the former case, a sheriff or deputy or some other assigned officer is usually considered the grantor and the same may be the result of a public auction, sometimes held on the steps of the county court house. The grantee is often a local resident (neighbor). In a probate, the administrator (intestate) or executor (testate) is the grantor. In this case, the grantee(s) could be a close relative of the deceased.

The uses of land and property records in genealogy

Our next consideration must be to explain why land and property may be of value in pursuing genealogical considerations. Because land ownership is less now than it has been in the past, we don't usually use land records for modern research. In 1850, as many as 50% of all white males in this country owned land and upwards of 80% were mentioned in land and property records. Since slaves were considered real property, slaves and owners can be found in the land and property records for the county. Land records provide the most complete census of names within a county for specific times in the 19th century and earlier. Similarly, land records are the most complete of any document group and represent earlier times than any other group. Where other documents are missing, or have been lost for whatever reason, land records are more often re-registered than any other.

Because of the value of land in law and equity, land ownership must be carefully recorded. Family holdings are jealously guarded and used to acquire power, prestige, and favor. Even marriages were contracted as essentially property-based actions by a family in order to preserve and promote a family's economic welfare rather than anything like emotion.

To be useful in genealogy, the specific owner of land must be uniquely identified. Recognizing the identity of a specific piece of land and its particular owner can help place a person in a specific place at a specific time. Most useful for tracing the movements of a person or family.

Finding a series of land transactions in the deed record can show when a person appeared in a locality and when a move or their deceased occurred. Since both halves of a transfer are recorded, a group of associations can be established through the various transfers and divisions over time. The potential of a relationship (familial, business, religious, fraternal, or physical) between grantor and grantee is high. Recalling the FAN-club principle, land records can be used to establish or strengthen the building of these relationship groups.

Additionally, the location of the owner of the property can be established for as long as they are the owner. The conditions under which the land is sold tells its own story: 1) Transfer as deed of gift (family member); 2) transfer in preparation for a move; 3) transfer because of a forced sale (business crisis, local or regional disaster, national economic downturn); or 4) transfer as part of an estate or probate (death of the owner).

These are basic and direct conditional uses of land records. Connected to the land transactions of others in the associates grouping, other inferences can be drawn in tracing the movements of an individual, family, or associated group (like a parish).

Having laid down the principles behind the creation and development of local land records, we want to use these principles to detail several uses of land and property records.

Because land records almost never directly state lineage relationships within a family group, many genealogists ignore them. In addition, indexes are not always trustworthy for a variety of reasons, and the documents themselves are so voluminous that they haven't been digitized by the repositories and so rarely

appear online.

Along with court records, which are also voluminous and quite universal, land records are the largest untapped resource in genealogy. Hidden within the pages of stored land and property records are family stories waiting to be found (vital records, original bible pages, military documents, slave bills of sale, and untold other nuggets are there).

An example of the use of land records without even going into the originals:

The Baldassari Case

As a first example, a simple land transfer helps support the idea of a philandering husband.

Carlo Baldassari has now passed away as has his wife and one of his two daughters. He came to this country from his native Italy in 1914, going first to Galveston, Texas, where a cousin was living. He worked there for a few years as a bar tender and helping his cousin in his grocery store. The 1920 census shows him living in his cousin's household but there is also a listing for him in San Francisco, where he had moved. The reason for his move is not clear because there didn't seem to be any of his family there. But move, he did.

Fortunately, the Baldassari name is unusual enough that it easy to distinguish the various residents of San Francisco with that surname. There are two Carlo Baldassari men living in California. One (ours) is the husband (b 1897) of Lea Lenci (b ca 1902), married 1920. This may be part of the reason for his move from Texas.

The other is the husband (b 1907) of Ileana M Munteanu (b ca 1922), married 1957. The second Carlo moved to Marin county early while the first (ours) remained in San Francisco (living at 3348 Scott St, city directory) for all of his working life. He, too, moved to Marin county after his second daughter Gail (b 1936) married and moved there. There is no known family connection between the two Carlos.

Our Carlo was a bar tender for a few years after moving to San Francisco but eventually acquired a restaurant and went into business for himself. He married Lea Lenci, also a native of Italy and they had a daughter, Alice, very soon after their marriage. Over the years, Carlo (aka Charles) and Lea lived and worked in San Francisco but in 1928, the following newspaper article appeared:

San Francisco Chronicle, Tuesday, 3 Apr 1928, p 3, col 7:

"Wife Aids Husband In Alienation Suit

Neil J Pacini thought his divorced wife was the one most directly concerned in the events leading to his \$25,000 alienation suit against **Charles Baldassari**, so he called her to the stand in Superior Judge Cabaniss' Court yesterday and let her tell all about it. She did so with completeness and candor, testifying for the husband and against the sweetheart. He isn't her sweetie any more, according to Mrs Pacini, for after she obtained her divorce and was free to accept his offers of marriage, he turned away from her. After the completion of Mrs Pacini's testimony, the case was continued till Wednesday."

The Pacini case allowed me to find two more short notices in the SF paper:

San Francisco Chronicle, Saturday, 12 Mar 1927, p 14, col 7:

"Divorce Suits Filed ... Pacini - Neil J. vs Anna."

San Francisco Chronicle, Thursday, 31 Mar 1927, p 14, col 6:

"Divorces Granted ... Pacini - Neil J from Anna."

At about the time of the law suit against Charles Baldassari, another short notice appeared:

San Francisco Chronicle, Thursday, 21 Apr 1927, p 23, col 6:

"Real Estate Transfers C Baldassari to L Baldassari, N Irving, 45:11 1/2 E 15th ave, E 51:5 1/2 x N 33, gift."

The suggestion here is that Carlo, knowing better than anyone whether he was guilty of alienation or not, had been informed of the suit against him for \$25,000 which he was in danger of losing. So, he "hid" his property from the long reach of the law by transferring it by gift to his wife "L Baldassari."

Later another article appeared:

San Francisco Chronicle, Friday, 26 Feb 1932, p 3, col 3:

"\$6855 Tax Lien Filed **Carlo Baldassari, 3348 Scott street**, was made the object of a \$6855 tax lien filed in

the Federal Court yesterday by John P McLaughlin, Collector of Internal Revenue. The lien is for income tax for 1928."

My guess is that the law suit caused such financial distress to Carlo that he was unable to pay his income taxes for that year and that hung over him until the government took action against him. It must be noted that the transfer of land from C Baldassari to L Baldassari and the street address of the subject of the tax lien (3348 Scott St) are both indicators that the Carlo Baldassari in the alienation suit is the one born in 1897 not 1907.

Land records in and of themselves aren't generally able to prove or disprove family structure or conflicts but can be helpful and supportive in lending credence to understanding possible situations which might arise in a family from time to time.

Other Uses for Land Records

Finding associations and groups. People moved but usually not alone. To find the point of origin for a person with a common name can be a major challenge but if they moved to the new location with someone else, it may be easier to find them in their previous place. Find a pattern in the grantee/grantor indexes in the destination place and the same pattern in possible source locations. These indexes are more complete with a higher percentage of the male population than any other document group and they are more comprehensive (cover more places). If two or more moved, especially with rare names, proof can be possible.

Find a pattern in land owners in an area where one of your ancestors is known to have lived. An example is the Milton family in Nebraska.

- Abraham Milton from John Wilkins
- Jeremiah Milton from Peter Towland
- Peter Milton from Greenbury Adams
- Jacob Milton from Samuel Secord
- Jeremiah Milton from Francis Grosberg
- Abraham Milton from Wm Smith
- John Milton from Peter Towland
- Jacob Milton from John Wilkins
- Jeremiah Milton from Greenbury Adams
- Peter Milton from John Wilkins
- Peter Milton from Samuel Secord
- Abraham Milton from James Brubaker
- Isaac Milton from John Wilkins
- Jacob Milton from Henry Chauncey

There are actually four patterns in this set of transfers taken from the index.

John Wilkins sold land to four Miltons (Abraham, Jacob, Peter, and Isaac)

Peter Towland sold land to two Miltons (Jeremiah and John)

Greenbury Adams sold land to two Miltons (Peter and Jeremiah)

Samuel Secord sold land to two Miltons (Jacob and Peter)

The sale by John Wilkins involving four Miltons has possibilities. This means that John Wilkins is indirectly associated with these four men. Perhaps other county records may connect these men as well. Probate records show John Wilkins had a deceased daughter named Lucretia Milton, wife of Jacob Milton. John left personal and real property to his grandchildren. This means that Abraham, Peter, and Isaac are all children of Lucretia.

Who would have guessed to look at the will of John Wilkins to find the father of Abraham Milton?

Compare property descriptions to follow the land from one owner to the next and so on. Spelling or

handwriting errors may arise but following the land can help outline major events in the life of the owner.

Use the grantor/grantee indexes to make a census of a county. The names of witnesses, neighbors (in land descriptions), and others can be recovered too, even if they didn't own land. Such a census created for a date prior to 1850 can be useful in conjunction with other records and information.

Determine the sale price for land to find possible relatives. In connection with same name individuals, a network of family and associates can be created. Deeds of gift and for ridiculously low prices can point to relatives.

Names of wives are in the dower releases. These individuals can be added to the census and can be used to distinguish individuals of the same name in the same county.

The date of sale and registration could be important. Land transfers (deeds) don't need to be registered until sold out of the family. Land may have been informally given or even sold among family members for generations without actually registering the deed with the county. Search at least 20-50 years beyond death or removal of an ancestor. The longest time period I've ever seen was a bit over 100 years.

Aliens can buy and sell land in the US (for sale between individuals). They didn't even need to file a declaration of intent. So, just because an immigrant ancestor was never naturalized, that doesn't mean he couldn't be in the deed record.

Compare the acreage bought with that which is sold. A difference may signal an inheritance or bequest. If more is sold than bought, perhaps some of it belonged to a parent or wife through previous marriage or inheritance.

If a courthouse burned, re-registrations of deeds may not have been done for years after the fire. Look longer than you think would be necessary.

Indexes of grantors and grantees may list only the first name in a group of sellers or buyers. Also, corporations, businesses, states, towns, and others can be buyers and sellers.

Watch out for the abbreviations *et al.* (for et alia, and others) or *et ux.* (for et uxor, and wife). Reading the deed may open up more names or distinguish one person from another of the same name.

Powers of attorney may be given to a friend or friend of a friend who may not be a lawyer. This can be an associate, not a professional. This is a hard one because a lot of work must be usually done previous to finding your ancestor in this situation.

Most states require a person to be at least 18 or 21 years of age to be named in a deed. This varies by state. Minors who sell or buy do so through a guardian. The index may only give the guardian's name. The connection

between an ancestor and their guardian can usually be found in the probate records.

Some deeds give the occupation or social status of the grantor or grantee. The term “gentleman,” “yoeman,” and others can be used. This can distinguish among men of the same name.

Be sure of the county of residence or location of the land. These may not be the same. If residence is close to a county line, the land may be in the next county. Some states are more likely to show land ownership in several counties, depending on how land was made available in early days.

There are many reference sources for information on land ownership and transfer depending on location of the land and the reason for ownership. Bounty land, auctions, drawings, grants, and other means of obtaining land must all be considered.

Don't let too much time elapse before you check out how land records are organized in the areas of your interest. To begin, you might go downtown to the City/County building, go upstairs to the county clerk's office, and look up the deed for the place where you live.