

# **A Citizen's Guide to Title Searches: Who Else Has an Ownership Interest in Your Land?**

## **What do you *really* own?**

In Pennsylvania, the mineral estate may be separate from the surface (real) estate.<sup>1</sup> Ownership of minerals may also be separated from one another—for example, the mineral estate can be divided into oil, gas, coal, hard rock minerals, etc. There can be separate owners of the surface or real estate and the mineral estate(s). Separate ownership of the two estates is very common in Western Pennsylvania. Some estimate that less than 30% of surface owners in Pennsylvania own the rights to the coal beneath their property.<sup>2</sup> The Commonwealth recognizes the mineral owner's right to recover the mineral, and the surface landowner's right to protection from unreasonable encroachment or damage. The surface and mineral estates typically were split during one of several coal mining booms in late 1800's and early 1900's. Property owners literally signed a deed granting ownership of the coal underneath a particular tract of land to another party. These *coal deeds* listed all the particular rights the owner of the mineral estate had. Although these deeds dealt exclusively with coal, the Pennsylvania Supreme Court has held that the coal owner also owns the rights to the coalbed methane.<sup>3</sup> Determining the true and legal mineral estate owner is the only way to ensure new mining and coalbed methane operations are conducted in accordance with the law.

In many locations, the oil and natural gas estate is also separate from both the surface estate and the coal rights. This means there could be three or more different ownership interests in a single piece of property: surface, coal, and oil and gas.

If you own property, your deed may state ownership is “fee simple,” meaning you own the surface and mineral estates. Otherwise, someone else may own mineral properties on the tract.

It is extremely uncommon for property owners to know who owns the mineral estate beneath their surface property. Determining the mineral estate owner is not required for most land purchases and the search can be very tedious, lengthy, and costly. Still, the records for nearly all transactions involving real property (land) in the Commonwealth of Pennsylvania are public. With enough time, effort, and patience, one should be able to trace the ownership of any tract of land in Pennsylvania. Fairly accurate land records exist and are maintained in every county in Pennsylvania. They are housed in the office of the Recorder of Deeds. Be aware that the Recorder's job is to preserve records, not search them. If you want to search for the mineral estate owner for a particular tract of land, the following is a brief guide on how to conduct such a search.

A word of warning... this guide IS NOT COMPLETE and CANNOT DESCRIBE EVERY CONTINGENCY you could encounter. It is possible that you will need the services of an attorney or professional abstractor (title searcher) to complete some searches.

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<sup>1</sup> Consolidation Coal Co. v. White, 875 A.2d 318, 326 (Pa. 2005).

<sup>2</sup> <http://www.post-gazette.com/pg/07119/781909-85.stm>

<sup>3</sup> U.S. Steel Corp. v. Hoge, 468 A.2d 1380, 1384 (Pa. 1983).

## Searching the title to your property

You've decided you want to search the title to your property. One major skill you'll need to be successful is patience. Even people who search titles for a living find it tedious and frustrating at times. If you are sure you want to do the work, don't give up, don't be afraid to ask for help, and be patient with yourself and those around you.

### ONE PRELIMINARY THOUGHT

First decide what you want to know. If you want to know who owns the coal rights beneath your property, ask your tax assessor if they keep records of or tax coal rights. Some counties still keep these records, but since most coal seams have been mined out for years, the records are rarely current because there is literally nothing there to tax. If you are concerned about mining activity, you may only need to see the original coal deed to determine the limitations on the mining operation. However, deeds dealing with coalbed methane are relatively new and the only way to be sure of who owns the coal rights is to conduct a full search. If you are considering entering into litigation regarding the development of coalbed methane or natural gas on your property, you should hire an attorney to perform a deed search. This guide glosses over numerous legal issues that are contained in some deeds.

### GOING TO THE RECORDER OF DEEDS

Every county has a Recorder of Deeds—often coupled with the Register of Wills. The Recorder is responsible for recording and filing all new deeds, and storing all past deeds. Most counties in Pennsylvania keep deeds dating back to the early 1800s. This is the office you will go to for most of your research. See the list of County Offices at the end for contact information for your Recorder.

### PREPARING FOR CONDUCTING A TITLE SEARCH

Gather these items and take them with you when you search title:

1. Any information you have that identifies the property you plan to search (current deed copy, tax ID number, acreage, current owner, previous owners, previous deed copies, street address, etc. —the more the better)

NOTE: If you have access to it, the best document to have is a copy of your current deed. Much of the information mentioned here may be available on the internet. Start with your county website.

2. A tablet or legal pad for making notes
3. A binder or clipboard to keep organized and provide a reliable writing surface

### FIRST, FIND YOUR CURRENT TITLE

Your first goal is to view a copy of the current deed to the property you want to research. If you have a copy with you, skip to the next section.

If you were only able to bring identifying information, how you proceed will depend on the county. Your best bet will be to find an employee, explain what information you have, and ask how you can obtain a copy of your current deed. It could be as easy as punching a name into a computer or as difficult as paying a visit to the county assessor's office. If you have to go to the assessor, someone in that office should be able to tell you the recording information for the deed you are looking for. Take that information back to the Recorder's office to view the deed.

### KEEP GOOD RECORDS

All deeds transferring property are recorded in the county where the property is located. For years, deeds were bound in books and given consecutive page numbers. This book-page designation is permanent and does not change. Many counties still give deeds a book-page designation, though few counties bind deeds in actual books anymore. Other counties have gotten rid of the book-page

designation entirely and use a Document # or Instrument #. Some use both. Just be aware that a Document #, Instrument #, DBV(deed book volume), and Book-Page all refer to a document's permanent recording information.

Once you have recording information for any document, books matching the book-page designation will be available in the office or a computer system will allow you to view a digital copy. Computers are more common with newer deeds and books may be your only option for older deeds. There will probably be some sort of sign telling you the cut-off dates for both. If you are unsure, ask.

## **WHAT IS IMPORTANT AND WHAT ISN'T**

Now that you are looking at your deed, figuring out what is important may be difficult. Most deeds in Pennsylvania follow a standard format. The legal aspects of the deed are not necessarily relevant here. The most important features of a deed are:

1. The seller, usually called the 'grantor'
2. The buyer, usually called the 'grantee'
3. The date of the deed
4. The date the deed was recorded
5. The recording information for the deed
6. The physical description of the property, called the 'legal description' (acreage and municipality are most important; in more complicated searches, the particular shape of the lot (how it would be drawn) may matter)
7. Exceptions to the sale and reservations of various interests
8. The source of title or prior deed

These factors are set out in a form at the end of this handout. You can copy this form and take it with you to the Recorder's office. Writing all this information down on a tablet will save you copy costs for deeds and the form. If you are worried about forgetting something, using the form until you feel comfortable may be best.

The best way to find each feature is to read the entire deed. Deeds tell a small story. It will explain who the parties to the sale were, what they were selling, and the terms of that sale. It is important that you get comfortable reading this story for every deed you look at. Items 1 – 5 should be pretty clear. There will usually be some marking or bold type to draw your attention to them. Item 6 could be very complicated. Don't worry about the metes and bounds (ex. N 56° 40' E 230 feet). Just note the municipality and acreage. Items 7 & 8 can be the most difficult to locate and possibly the most important when searching for mineral rights. They will be located in their own sections.

## **FORMING A CHAIN**

In most recent deeds, there will be a section or clause immediately following the legal description that reads something like this: "Being the same property conveyed to the grantors..." Somewhere in this paragraph, it will mention a prior deed. The deed mentioned in this clause is the 'source of title' because it is deed for the sale where the current sellers bought the property. This is the first step in making your deed chain.

Searching title requires that you have an airtight chain of all owners of the property. You accomplish this by looking at the source of title deed, finding that deed's source of title, and so on. For each deed, write down the relevant information. Each step back in time will reveal a past owner of the property. Here are a few important notes when making the deed chain:

1. You may need to continue to do this until you get back to 1859, perhaps even earlier in some instances. Read the next section for tips on how to avoid tracing back so far.

2. The buyers on an old deed **MUST** match the sellers on the newer deed. This is how a chain is airtight. If there is a discrepancy – an extra party or a missing party – read the deed to see if it explains the issue. These typically involve death or marriage. If there is not an easy answer, you may have a problem. Continue your search, but note your ‘break’ in the chain of title.
3. Especially with older deeds, Latin shorthand notations are very common. Here are a few you may find and their definitions:
  - et ux* – Latin for ‘and wife’
  - et vir* – Latin for ‘and husband’
  - et al* – Latin for ‘and others’

## **EXCEPTIONS & RESERVATIONS**

When reading the story in the deed, there will be some language suggesting that there are limitations on the sale. In most modern deeds, this may be worded similarly to “less and except all reservations of record.” This language means that the deed is only legally selling what the prior owner had a right to own. The problem is that these ‘out-sales’, reservations, and exceptions could have happened decades ago. Any time there is language like this in a deed, it is important to note because it probably refer to a limitation on your property including coal or oil or gas rights.

As you go back in the deed chain, if you ever see a reference to a specific sale of coal or oil or gas rights you have made a major discovery. This is the point at which the mineral estate was separated from the surface estate. At some point in the chain, you will probably see such a reference.

If you do not see the sale, you must be careful to note what is included on all deeds. You may see a deed in 1923 that does not mention coal and a deed in 1909 that states coal was included. This may indicate that a sale occurred and the owner listed on the 1909 deed sold the coal rights. This is less common and at some point, some reference to who owns the coal rights will probably show up.

Just as the current deed to the property is important, the original deed detailing what rights were severed is important. When you find this deed, it may be worth making a copy of it for your records.

**NOTE:** if the rights to the oil and gas were severed beneath your property you will also have to carry out a similar search for the oil and gas rights.

## **BRINGING THE CHAIN FORWARD**

So far, your search may have been relatively straightforward. Each deed you discovered probably led you to the next deed back in history. Now that you have found the coal deed, you will no longer be able to rely on easily finding the next important deed. This next step is often the most difficult. You now have the original deed for the coal under your property. It will list the rights any future coal owner will have. If you stop here, you have made a great step in understanding your rights. Now, you will have to bring the chain of title forward to determine who the current owner of the coal, or other mineral, rights is.

Bringing the chain forward will require introduction to a whole new set of books: grantor’s indices. Unless your county’s computer searching goes back to the date of the coal deed, you will need to learn how to use these books to proceed.

When each deed was recorded, the deed was given a unique way to identify it in the form of a book and page number. The sellers and buyers were also indexed by name. Each time a party sold or bought a piece of property, their name was entered in these indices. Since you have the original coal deed, you know the first owner. The grantor’s index under that owner’s name will list all the times that owner sold any piece of property. That sounds simple enough, but using the indices can be difficult.

Usually, the indices only list a deed’s recording information and maybe a few small facts to identify the property. The only way to be sure any particular deed is the deed that conveyed the coal

rights is to read every deed. If that wasn't difficult enough, finding the name in the index can be tricky. Most indices use the Russell soundex system or a version of it. The indexing system used will be shown (and possibly explained) inside the front or back cover of most indices. The following explanation of how the Russell system works was taken from York County, Pennsylvania's website:<sup>4</sup>

The Russell system is based on the key letters "L-M-N-R-T". To find the section you need, take the last name you are searching, drop the first letter and all vowels. Next find the key letters in the name – only the first two count, don't worry if there is only one, and ignore duplicate key letters. If there are no key letters in the name, scroll down to the section marked "no key letters". For example:

Smith – key letters "m,t"  
Sternner – key letters "t,r"  
Deardorff – key letters "r"  
Bear- key letter "r"  
Boyd – no key letter

If the name is that of a corporation or organization, scroll down to the section labeled miscellaneous. This is located at the very end of the surname letter.

Once you have the key letters, scan across that row until you find the column corresponding to the first letter of the party's first name. All row-column combinations give a page number where you must continue searching. Look at the top of the first page to be sure your party does not have a special page all to him or herself. Once you are this far, each entry will list the names of the Grantor and Grantee, the volume and page where the deed is recorded, date recorded, and location of property.

The same way you built a chain of title going back, now you must build a new one going forward. Follow all the same steps with regard to what you should look for and how to record relevant data. Eventually, you should find the current owner. GOOD LUCK!

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<sup>4</sup> The full version is available at: <http://ycwebserver.york-county.org/archives/Deeds/deed%20instructions.htm>

## GLOSSARY

**Abstractor** – Someone who searches title professionally.

**Assessor, Tax** – County office that will have information on taxable property—sometimes a good starting point for finding the title holder for mineral rights.

**Deed** – The actual document that records a sale and ownership of land conveys title to land.

**Exception** – A notation in a deed of title to real property which states that certain interests, such as easements, mineral rights, or a life estate, are not included in the transfer.

**Fee simple** – The entire estate in land; this includes the surface and mineral estates.

**Grantee** – Person or party who bought/received real property.

**Grantor** – Person or party who sold real property.

**Real property** – Land or real estate.

**Recorder of Deeds** – County office that records and stores deeds for real property transfers. This is where you will be able to trace the history of ownership of your land and the associated mineral rights.

**Recording information** – The designation used by the county recorder to identify each deed for real property. This can be called a document no., instrument no., DBV (deed book volume), or book-page.

**Reservation** – A notation in a deed of title to real property which states that the grantor is retaining certain rights or interests in the property; these can be mineral rights.

**Title** – Ownership right in land.

## COUNTY OFFICES

### Allegheny

#### Office of Property Assessments

County Office Building  
542 Forbes Avenue  
Third Floor  
Pittsburgh, PA 15219  
Phone: (412) 350-4600  
Email: OPA@allegheycounty.us  
Hours: M-F, 8:30-4:30

#### Department of Real Estate (Recorder of Deeds)

County Office Building  
542 Forbes Avenue  
Room 101  
Pittsburgh, PA 15219  
Phone: (412) 350-4226  
Email: deptrealestate@allegheycounty.us  
Hours: M-F, 8:30-4:30

## Bedford

### Board of Assessment and Revision of Taxes

200 South Juliana Street  
Suite 104  
Bedford, PA 15522  
Phone: (814) 623-4842  
Fax: (814) 623-4834  
Hours: M-F, 8:30-4:30

### Recorder of Deeds

Bedford County Courthouse  
South Juliana Street  
Bedford, PA 15522  
Phone: (814) 623-4836  
Fax: (814) 623-0488  
Email: regrec@bedford.net

## Cambria

### Assessment Office

Cambria County Courthouse  
200 South Center Street  
Ebensburg, PA 15931  
Phone: (814) 472-1451  
Fax: (814) 472-6573  
Email : tforgan@co.cambria.pa.us  
Hours: M-F, 9:00-4:00

### Recorder of Deeds

Cambria County Courthouse  
200 South Center Street  
Ebensburg, PA 15931  
Phone: (814) 472-1473  
Fax: (814) 472-1412  
Hours: M-F, 9:00-4:00

## Fayette

### Tax Assessment

Fayette County Courthouse  
61 East Main Street  
Uniontown, PA 15401  
Phone: (724) 430-1350  
Fax: (724) 430-1356  
Email: assessment@fayettec.rba.com  
Hours : M-F, 8 :00-4 :30

### Recorder of Deeds

Fayette County Courthouse  
61 East Main Street  
Uniontown, PA 15401  
Phone: (724) 430-1238  
Fax: (724) 430-1458  
Hours: M-F, 8:00-4:30 (closed 12:00-1:00)

## Greene

### Assessment Office

County Office Building  
2<sup>nd</sup> Floor  
93 East High Street  
Waynesburg, PA 15370  
Phone: (724) 852-5211  
Fax: (724) 852-5383  
Email: assessment@co.greene.pa.us  
Hours : M-F, 8 :00-4 :30

### Recorder of Deeds

Greene County Courthouse  
Room 100  
10 East High Street  
Waynesburg, PA 15370  
Phone: (724) 852-5283

## Somerset

### County Assessor

300 North Center Avenue  
Suite 440  
Somerset, PA 15501  
Phone: (814) 445-1536  
Fax: (814) 445-1592

### Recorder of Deeds

300 N. Center Ave.  
Suite 400  
Somerset, PA 15501  
Phone : (814) 445-1547  
Fax: (814) 445-1563

## **Washington**

### **Assessments**

100 West Beau Street  
Suite 205  
Washington, PA 15301  
Phone: (724) 228-6850, (724) 228-6852  
Fax: (724) 250-4675

### **Recorder of Deeds**

100 West Beau Street  
Room 204  
Washington, PA 15301  
Phone: (724) 228-6806  
Fax: (724) 228-6737

## **Westmoreland**

### **Tax Assessment**

2 North Main Street  
Suite 403  
Greensburg, PA 15601  
Phone: (800) 442-6926, (724) 830-3409  
Fax: (724) 830-3852

### **Recorder of Deeds**

2 North Main Street  
Suite 503  
Greensburg, PA 15601  
Phone: (724) 830-3518  
Fax: (724) 853-4647  
Hours: M-F, 8:30-4:00

Deed #

Grantee / Buyer:

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Grantor / Seller:

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Recording Information

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Book:

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Page:

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Date of Deed

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Date Recorded

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Land Description (including exceptions)

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Prior Deed:

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Deed #

Grantee / Buyer:

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Grantor / Seller:

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Recording Information

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Date of Deed

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Date Recorded

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Land Description (including exceptions)

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