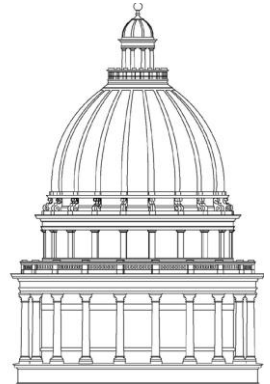


Office of the
LEGISLATIVE AUDITOR GENERAL
State of Utah

REPORT NUMBER ILR 2013-D
February 2013



A Limited Review of Cemetery Maintenance District Operations

Our office completed a limited review of cemetery maintenance districts' operations. This review was prompted by concerns about the operations and recordkeeping functions of the Plain City Cemetery Maintenance District (Plain City Cemetery). Specifically, this audit reviewed:

- Cemetery compliance with plat recording requirements found in state law
- Existence of policies and procedures for operations and whether cemeteries are maintaining accurate and current records

Our limited review found that cemeteries are violating state law by not submitting statutorily required information to their respective county recorders. We also found that, because of a general lack of standards for cemeteries, records maintenance by cemeteries and the existence of policies and procedures vary. Because maintaining records integrity is one of the vital functions of cemeteries, the Legislature may want to consider establishing minimum criteria for policies and procedures that include record maintenance, operations, and reporting requirements. Our limited review also verified that the Plain City Cemetery maintains records of empty burial lot ownership. Finally, we

Cemetery records and the adequacy of policies and procedures vary because of a lack of standards.

This audit was a limited review that consisted of visits to two cemeteries and contact with five other cemeteries.

found that the Plain City Cemetery, like the Salt Lake City Cemetery, sells burial rights on a first-come-first-served basis, with different prices for residents and nonresidents.

This limited review consisted of a visit to the Plain City Cemetery and, though not a cemetery maintenance district, a visit to the Salt Lake City Cemetery to gain a further understanding of operations, since Salt Lake City Cemetery is the largest municipal cemetery in the nation. Statutorily cemetery maintenance districts cannot be created in cities of the first (population of 100,000 or more) or second (population of 65,000 or more) class. At both cemeteries, we met with cemetery personnel and reviewed burial and lot ownership records. We also reviewed city ordinances and cemetery policies and procedures. In addition, we contacted five other cemetery maintenance districts in Utah to gain an understanding of operations and recordkeeping practices. Further, we reviewed *Utah Code* for statutory guidelines and contacted three county recorders to determine if cemeteries are in compliance with recording laws.

Information Is Not Being Submitted to County Recorders as Required by State Law

This limited review found that some cemeteries are violating state law by not reporting statutorily required information to their respective county recorders. By statute, the recording of plats and sold burial rights with county recorders is required. This statutory requirement acts as a control to ensure that burial rights are properly recorded, not double sold, and that public money is safeguarded.

Our limited review of Plain City Cemetery recordkeeping practices found that the district is not in compliance with statutory recording requirements. *Utah Code* 8-3-1 indicates that cemeteries are required to record, with the county in which they are situated, plats of burial lots and the respective owners of those lots (whether in use or empty). Also, any additions to cemetery lots require an additional plat to be recorded with the county before selling burial rights.

Further, *Utah Code* 8-3-3 states that, on the first days of January and July of each year, cemeteries are required to record with the county transcripts “. . . of any and all deeds, certificates of sale or

By statute, the recording of plats and sold burial rights with county recorders is required.

evidence of burial rights issued by them during the preceding six months.” The county recorder shall then make note of changes on the cemetery plats previously recorded by the county. The Plain City Cemetery official indicated to us that the cemetery’s plat has not been recorded with Weber County. We were informed by the cemetery official that his staff inquired about this statutory requirement, but the county was unaware of it, so nothing has been done.

We also found that Salt Lake City Cemetery is not in compliance with these same recording requirements. When asked about plat recording, the Salt Lake City Cemetery manager indicated that he was unaware of the requirement in statute but did know of a similar city ordinance. However, he stated that when he contacted the county recorder’s office about the city ordinance a number of years ago, the recorder’s office was unaware of the requirement. Therefore, the Salt Lake City Cemetery retains these records in-house unrecorded with the county.

We contacted three county recorders in Salt Lake, Weber, and Uintah counties to further determine the level of compliance with statute. County recorders reported the following:

- **Salt Lake County Recorder:** Reported that he was unaware of this statutory requirement. He did report that the county does have some cemetery plats on file, but sales of burial rights have not been reported. Further, he stated that, if cemeteries started reporting this information, it would not create a burden on the county recorder’s office because they have the resources to handle such reporting.
- **Weber County Recorder (Designated Employee):** A designated employee reported that the recorder’s staff was unaware of the law. They keep track of parcels of land for tax purposes but do not track burial rights purchases and have not received plats from cemeteries. They said they do sometimes receive a listing of burial rights purchases from some cemeteries, which they hold on file. The county indicated that the current system is set up to track parcels of land and would need to be revised in order to track subsets of parcels (such as burial lots).

Cemeteries are not recording plats or the sale of burial rights with county recorders as required by law.

Two of three county recorders were not aware of the statutory reporting requirements.

This statutory requirement acts as a control to ensure that sold burial rights are properly recorded, protected, and public funds are safeguarded.

- **Uintah County Recorder:** Reported being aware of the law and makes an effort to comply with it. When an individual purchases a burial right, the person must file it with the county, which then issues a title document. The biggest challenge the county faces is getting the cemeteries to submit the statutorily required documentation. The county recorder feels that recording the sales of burial rights provides a check on the system to ensure that burial rights are not being double sold and public funds are safeguarded.

Although this audit’s scope was limited, we question whether other cemeteries may also be noncompliant with statute. This statutory requirement acts as a control to ensure that sold burial rights are properly recorded, protected, and public funds are safeguarded. One county recorder reported to us that they have had instances of the same burial right being sold multiple times and a cemetery manager stealing proceeds from sold burial rights. Requiring burial right ownership filings with the county may have helped deter such problems. The requirement of cemeteries to report information to their respective county recorders should be included in the cemeteries’ policies and procedures. A legislative recommendation to consider establishing minimum standards for policies and procedures is discussed in the next section of this report.

City Cemeteries Lack Guidelines for Operations and Maintenance of Records

Municipal cemetery operations and records maintenance lack minimum standards or guidelines. The absence of such guidelines sometimes results in local personnel and/or volunteers being left to operate the cemetery and maintain the records as they see fit.

With regard to policies and procedures, the Salt Lake City Cemetery manager stated that he is unaware of any widely accepted standard commonly used by cemeteries. However, the cemetery, through its city council, has established city ordinances that govern its operations. Also, Plain City Cemetery recently began establishing written operating policies and procedures through its cemetery board. Yet, we received responses from five other cemetery maintenance districts and all but one informed us that they do not have any written

It appears that a number of cemeteries lack policies and procedures.

policies or procedures (one has a pamphlet for patrons that includes prices, policies, and guidelines). Also, all five cemetery representatives indicated that cemetery operations are learned on the job.

The public entity responsible for creating a cemetery or a cemetery maintenance district should be responsible for establishing minimum policies and procedures that clearly set expectations for the cemetery and the individual lot owners. For example, prices for services, how decisions regarding the sale of burial rights will be determined (for example, first-come-first served), limitations on headstones, care for headstones, and restrictions on the planting of trees and flowers should be set in policy and readily available for public dissemination. Having policies and procedures that are available to the public helps ensure that people are treated with consistency.

The lack of guidelines for recordkeeping is concerning because personnel for both the Salt Lake City and Plain City cemeteries stated that recordkeeping is the most important function of their jobs. The Salt Lake City Cemetery keeps three forms of records, two in digital form (lot ownership and burial records as well as a computer cemetery mapping system) and a handwritten record kept in a fireproof vault. Plain City Cemetery keeps handwritten records and also enters the data on a personal computer, with periodic printed back-up being done. Until recently, all Plain City Cemetery information was maintained at the house of the individual responsible for running the cemetery. However, some paper documents such as maps do not have a back-up. Information backed-up at an alternate location or secure from disasters is important to help ensure the integrity of cemetery records.

As previously stated, we also contacted five other cemetery maintenance districts which self-reported the following:

- One keeps only a handwritten log book.
- One keeps all cemetery records on a personal computer.
- One keeps a handwritten log book and computerized records.
- One has only computerized cemetery record software.

Maintenance of records is viewed as the most important function of cemetery managers.

- One does not keep any records at all, but this cemetery also does not do any presale of lots.

We recognize that some cemetery maintenance districts are run by just a volunteer(s) and we are therefore sensitive to creating undue workloads for these individuals. However, since it appears that there is significant variation in recordkeeping by cemetery staff (including the potential to keep no records), a standard should be set.

At the minimum, if a public entity creates a cemetery or a cemetery maintenance district, the authorizing authority should establish policies and procedures for records maintenance and preservation as well as for cemetery operations. We therefore recommend that the Legislature consider establishing minimum criteria for operating policies and procedures (which should include reporting requirements to the county recorder) and for cemetery records maintenance and preservation.

Cemeteries Appear to Apply Burial Rights Fairly

Cemeteries appear to be handling burial right sales consistently. For example, Salt Lake City and Plain City cemeteries both sell burial rights on a first-come-first-served basis. Both city cemeteries also charge residents a lower rate than nonresidents. Salt Lake City Cemetery charges residents \$648 to \$1,044 and nonresidents \$1,044 to \$1,736. Plain City Cemetery charges residents \$300 to \$450 and nonresidents \$700 to \$1,000. There was a concern that Plain City Cemetery may be applying burial criteria unfairly; however, based on our discussions with cemetery officials, we found the explanation concerning the development of a new section of the cemetery reasonable.

Specifically, it was reported that the Plain City Cemetery Board determined that all burial lots in the cemetery had been used or reserved, requiring the purchase and development of a new cemetery section. The board decided that until the new section was fully developed, the sale of burial lots would be put on hold. During this time, two families were in need of burial services (within a short amount of time of each other) and both families were told by the

The entity that creates a cemetery should be required to establish written policies and procedures for operations and records maintenance.

Public cemeteries appear to allow burial on a first-come-first-served basis with different prices for residents and nonresidents.

cemetery manager that all lots in the old section were reserved and the new section would not be ready for burials for a few months. The first family opted to use a cemetery in another city while the second family petitioned the cemetery board. Ultimately, the board revisited the hold on burial lot sales and decided it could accommodate burials in the new cemetery section before development was completed without causing significant damage (along an access road). Once this determination was made, it appears that the new practice was applied consistently.

Recommendation

1. We recommend that the Legislature consider establishing minimum requirements for operations policies and procedures and the integrity of cemetery records. Included in these minimum standards should be compliance with statutory reporting requirements by the cemeteries to the county recorder.