



Ohio Department of Commerce
Division of Real Estate & Professional Licensing

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MINUTES OF THE MEETING OF THE
OHIO CEMETERY DISPUTE RESOLUTION COMMISSION

Division of Real Estate & Professional Licensing
77 S. High Street, 31st Floor, Hearing Room East B
Columbus, Ohio 43215-6133

August 28, 2008
10:00 a.m.

PRESENT: Marilyn Brandt, Chairperson; James Wright, Vice Chair; Richard D. Finn, Secretary; Stephen Bittner; Thomas A. Kayati; Marguerite Cox Molk; Gregory W. Roberts; Robert Shenefield; Harold J. Wagner; Laura Meechan, Division Legal Counsel, and Theodore J. Hornyak, Investigator.

ABSENT: None.

I. Preliminary Matters:

Roll Call: Chairperson Marilyn Brandt called the meeting to order with the record reflecting all members of the Ohio Cemetery Dispute Resolution Commission present.

Election of Officers: Stephen Bittner moved to elect James Wright as Chairperson. Gregory Roberts seconded the motion, which passed unanimously. Stephen Bittner moved to elect Richard Finn as Vice Chairperson. Robert Shenefield seconded the motion, which passed unanimously. Stephen Bittner moved to elect Thomas Kayati as Secretary. Richard Finn seconded the motion, which passed unanimously.

Approval of Minutes: The minutes of the June 26, 2008 meeting of the Ohio Cemetery Dispute Resolution Commission were reviewed and discussed. Stephen Bittner moved to approve the minutes. Marguerite Molk seconded the motion, which passed unanimously.

Superintendent's Report: Quarterly Report - The Division's Cemetery Section received 10 complaints during the quarter. Seventeen complaints are open. The Division handled 187 phone calls, eight email queries, and mailed eight complaint forms. 3,470 cemeteries are currently registered with the Division.

Theodore Hornyak spoke about cemetery regulations and the Ohio Cemetery Dispute Resolution Commission at an event sponsored by the Licking County Genealogical Society at the Newark Public Library on July 7.

The Division will be hosting the North American Cemetery Regulators Association Conference in Cleveland September 15-18.

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Theodore Hornyak relocated his office space. The new contact telephone number for the Cemetery Section is (216) 787-5669 and the new fax number is (614) 220-7103.

Division Legal Counsel Laura Meechan reported that The Joint Committee on Rule Review held their public meeting on August 25, 2008. There were no comments on the Cemetery rules. They will now move on to final finalization.

II. Old Business:

Constance Meadows vs. Silvercreek Cemetery Old - Case No. 2007-1048 - Greene Co. - Registration 980571

Neither party attended the meeting. Theodore Hornyak reported that the parties reached an agreement but the agreement had not yet been fulfilled. Richard Finn moved to leave the complaint open to the next meeting but allow the Division to close it if the complainant notifies the Division that the terms of the agreement were fulfilled prior to the next meeting. Gregory Roberts seconded the motion, which passed unanimously.

Barbara Irons vs. Miami Cemetery – Case No. 2008-300 – Warren Co. – Registration 981548

Neither party attended the meeting. Theodore Hornyak reported that the parties are negotiating a settlement and requested that the Commission leave the complaint open. Marguerite Molk moved to leave the complaint open to the next meeting. Thomas Kayati seconded the motion, which passed unanimously.

Jean A. Souter vs. Meadow Green Memorial Park – Case No. 2008-365 – Erie Co. – Registration 983177

Neither party attended the meeting. Theodore Hornyak reported that the complainant's attorney notified the Division that the parties reached an agreement and the complaint has been resolved to his client's satisfaction. Thomas Kayati moved to close the complaint. Richard Finn seconded the motion, which passed unanimously.

III. New Business

Endowment Care and Preneed Cemetery Merchandise and Services Trust Audit of Highland Memorial Cemetery, West Liberty, Logan County pursuant to ORC Sections 4767.02(B)(8) and 4767.06(G)

The Commission reviewed the trust audit results of Highland Memorial Cemetery. Harold Wagner moved to accept the results of the audit and direct the Division to issue a registration certificate to the new operator. Stephen Bittner seconded the motion, which passed unanimously.

Endowment Care and Preneed Merchandise/Services Trusting Status of Royal Oak Memorial Gardens (Reg. 983258), Montgomery County, and Heritage Hills Memory Gardens, (Reg. 983193) Warren County – (Operator - Memory Gardens Management Corporation)

The Commission reviewed the Endowment Care and Preneed Merchandise and Services trusting status of Royal Oak Memorial Gardens and Heritage Hills Memory Gardens.

Thomas Kayati moved to refer violations of Ohio Revised Code Sections 1721.21 and 1721.211 at Royal Oak Memorial Gardens to the Montgomery County Prosecutor. Marilyn Brandt seconded the motion, which passed unanimously.

Stephen Bittner moved to refer violations of Ohio Revised Code Sections 1721.21 and 1721.211 at Heritage Hills Memory Gardens to the Warren County Prosecutor. Marguerite Molk seconded the motion, which passed unanimously.

David L. Bingham vs. Crown Hill Memorial Park - Case No. 2008-382 – Hamilton Co. – Registration 981570

Neither party attended the meeting. Theodore Hornyak reported that the Division received a letter from the complainant's attorney stating that his client "intends to proceed to litigation." Richard Finn moved to close the complaint. Robert Shenefield seconded the motion, which passed unanimously.

Anita Collins vs. Sunset Cemetery - Case No. 2008-468 – Franklin Co. – Registration 983204

Neither party attended the meeting. Theodore Hornyak reported that the cemetery operator agreed to provide a bench and a vase. However, the bench could not be installed for another two weeks. Marguerite Molk moved to leave the complaint open to the next meeting but allow the Division to close it if the complainant notifies the Division that she is satisfied that the terms of the agreement are fulfilled prior to the next scheduled Commission meeting. Stephen Bittner seconded the motion, which passed unanimously.

Paulette Boley vs. Spring Grove Cemetery - Case No. 2008-506 – Columbiana Co. – Not Registered

Neither party attended the meeting. Theodore Hornyak reported that the cemetery was not registered with the Division and did not have an endowment care trust. Stephen Bittner moved to refer violations of Ohio Revised Code Sections 4767.02(A) and 1721.21 to the Columbiana County Prosecutor. Thomas Kayati moved to second the motion, which passed unanimously.

Mindy Ritzhaupt vs. Crawford County Memory Gardens - Case No. 2008-540 – Crawford Co. – Registration 983208

Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied with the cemetery operator's response. Marguerite Molk moved to close the complaint. Marilyn Brandt seconded the motion, which passed unanimously.

Rhonda Stowell vs. Crown Hill Burial Park - Case No. 2008-551 – Trumbull Co. – Registration 982680

Neither party attended the meeting. Theodore Hornyak reported that the work was completed and the complainant was satisfied with the cemetery operator's response. Richard Finn moved to close the complaint. Stephen Bittner seconded the motion, which passed unanimously.

Ralph Teets vs. Pineview Memorial Park - Case No. 2008-577 – Trumbull Co. – Registration 983182

Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied that the cemetery operator provided him with a refund in the amount of one hundred dollars. Marilyn Brandt moved to close the complaint. Thomas Kayati seconded the motion, which passed unanimously.

IV. Other Business

The next Ohio Cemetery Dispute Resolution Commission meeting is scheduled for Thursday, December 4, 2008 at 10:00 a.m. in the Columbus Office of the Division of Real Estate & Professional Licensing.

V. Adjournment

Harold Wagner moved to adjourn the August 28, 2008 meeting of the Ohio Cemetery Dispute Resolution Commission. Thomas Kayati seconded the motion, which passed unanimously.