



Department of Commerce

Division of Real Estate
& Professional Licensing

Ted Strickland, Governor
Kimberly A. Zurz, Director

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

September 24, 2009
10:00 a.m.

PRESENT: James Wright, Chairperson; Richard D. Finn, Vice Chair; Thomas A. Kayati, Secretary; Marilyn Brandt; Joseph Kun; David Shanteau; Robert Shenefield; Harold J. Wagner; Laura Meechan, Division Legal Counsel, and Theodore J. Hornyak, Investigator.

ABSENT: Marguerite Molk

I. Preliminary Matters:

Roll Call: Chairperson James Wright called the meeting to order with the record reflecting all members of the Ohio Cemetery Dispute Resolution Commission present except Marguerite Molk.

Election of Officers: Thomas Kayati moved to elect Richard Finn as Chairperson. Marilyn Brandt seconded the motion, which passed unanimously. Richard Finn moved to elect Thomas Kayati as Vice Chairperson. Harold Wagner seconded the motion, which passed unanimously. Marilyn Brandt moved to elect Robert Shenefield as Secretary. Thomas Kayati seconded the motion, which passed unanimously.

Approval of Minutes: The minutes of the June 11, 2009, meeting of the Ohio Cemetery Dispute Resolution Commission were reviewed and discussed. Thomas Kayati moved to approve the minutes. Marilyn Brandt seconded the motion, which passed unanimously.

Superintendent's Report: Quarterly Report - The Division's Cemetery Section received 13 complaints during the quarter. 25 complaints are open. The Division handled 278 phone calls, 3 email queries, and mailed 13 complaint forms. 3,499 cemeteries are currently registered with the Division.

The Division welcomed recently appointed Commission members Joseph Kun, David Shanteau, and Marilyn Brandt.

The North American Death Care Regulators Association Conference was held September 14-17 where Theodore Hornyak was appointed to the Executive Committee as Treasurer.

Although the Green Burial Seminar at The Wilderness Center's Foxfield Preserve Cemetery was cancelled, a one day meeting was held on September 10 where Theodore Hornyak spoke about cemetery regulations and the type of complaints presented before the OCDRC. Mr. Hornyak will also be giving a presentation at a meeting of the Pittsfield Historical Society on August 8.

Theodore Hornyak participated in three days of training in Transformative Mediation at the Cleveland Mediation Center.

II. Old Business:

Clarence H. Canter vs. Canter-Wells Cemetery - Case No. 2008-889 – Scioto County - Registration 981637

Neither party attended the meeting. Theodore Hornyak presented a Judgment Entry signed by Scioto County Common Pleas Judge William T. Marshall who granted a writ of mandamus ordering the township to take care of, repair, hold, treat and manage the cemetery. James Wright moved to close the complaint. Harold Wagner seconded the motion, which passed unanimously.

Reginald D. Merwin Jr. vs. Spring Grove Cemetery & Arboretum - Case No. 2008-914 – Hamilton County – Registration 981544

Reginald Merwin presented his complaint to the Commission. Thomas Smith spoke on behalf of the cemetery operator. Marilyn Brandt moved to discuss the complaint in Executive Session. Thomas Kayati seconded the motion which passed unanimously by roll call. Thomas Kayati moved to come out of Executive Session. Robert Shenefield seconded the motion, which passed unanimously.

The Commission recommended that the cemetery operator make sure that current contracts itemize all cemetery merchandise and services and noted that not prepaying opening and closing is common. Robert Shenefield moved to close the complaint. Marilyn Brandt seconded the motion, which passed unanimously.

Helen Thomas Gortney vs. West Lawn Cemetery - Case No. 2009-253 – Stark Co. – Registration 980285

Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied that the cemetery operator moved the remains of her family members. Thomas Kayati moved to close the complaint. Harold Wagner seconded the motion, which passed unanimously.

III. New Business

Case No's 2009-325 Jolene Ruddle, 2009-331 Carolyn Reed and 2009-324 Mr. and Mrs. Thomas Shuttleworth vs. Clinton County Memory Gardens – Clinton Co. – Registration 982820

None of the parties attended the meeting. Theodore Hornyak presented the complaints to the Commission and reported that conditions at the cemetery improved. Thomas Kayati moved to close the complaint. Harold Wagner seconded the motion, which passed unanimously.

Case No. 2009-330 Deborah Magers vs. Seneca Memory Gardens – Seneca Co.- Registration 983176

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

Case No. 2009-332 Rosalie Hoffman vs. Woodland Cemetery – Montgomery Co. – Registration 980899

Neither party attended the meeting. Theodore Hornyak presented the complaint to the Commission and reported that the cemetery operator believed that the complainant has the correct grave spaces. David Shanteau moved to close the complaint. Thomas Kayati seconded the motion, which passed unanimously.

Case No. 2009-333 Deborah Lakes vs. Rose Hill Burial Park (Hamilton) – Butler Co. - Registration 981256

Neither party attended the meeting. Theodore Hornyak presented the complaint to the Commission and reported that the cemetery operator installed the marker. Thomas Kayati moved to close the complaint. Joseph Kun seconded the motion, which passed unanimously.

Case No. 2009-352 La Jane Sullivan vs. Restlawn Memorial Park – Wood Co. – Registration 982947

Theodore Hornyak presented the complaint to the Commission. Jason Bonomo spoke on behalf of the cemetery operator and reported that the operator has been working on drainage at the cemetery. Marilyn Brandt moved to close the complaint. Harold Wagner seconded the motion, which passed unanimously.

Case No. 2009-353 Venereal Sims vs. Highland Park Cemetery – Cuyahoga Co. – Registration 982791

Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied to receive compensation to repair a headstone after following the cemetery operator's procedure. Thomas Kayati moved to close the complaint. Joseph Kun seconded the motion, which passed unanimously.

Case No. 2009-404 Vivian K. Moon vs. Middletown Cemetery – Butler Co. – Registration 982484

Neither party attended the meeting. Theodore Hornyak reported that, due to a scheduling conflict, the attorney for the cemetery operator requested that the Commission leave the complaint open to the next meeting. Joseph Kun moved to leave the complaint open to the next meeting. Marilyn Brandt seconded the motion, which passed unanimously.

Case No. 2009-410 Dennis Moore vs. Hillside Memorial Park – Summit Co. – Registration 982219

David Shanteau recused himself from the meeting. Neither party attended the meeting. Theodore Hornyak reported that that the complainant was satisfied with the current conditions at the cemetery. Harold Wagner moved to close the complaint. Thomas Kayati seconded the motion, which passed unanimously.

Case No. 2009-478 Anna and JC Hipsher vs. Butler County Memorial Park – Butler Co. – Registration 982946

Neither party attended the meeting. Theodore Hornyak reported that the parties were close to reaching an agreement and requested that the Commission leave the complaint open to the next meeting. Thomas Kayati moved to leave the complaint open to the next meeting. Robert Shenefield seconded the motion, which passed unanimously.

David Shanteau rejoined the meeting.

Case No. 2009-413 Gloria Bolin vs. Athens Memory Gardens – Athens Co. – Registration 983165

Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied that the cemetery operator allowed her to make payments of \$30 per month for the \$390 crypt plate and would waive opening and closing fees. Robert Shenefield moved to close the complaint. Harold Wagner seconded the motion, which passed unanimously.

Case No. 2009-414 Natalie Di Ionno vs. Cedar Hill Cemetery – Licking Co. – Registration 982176

The complainant and her husband presented the complaint to the Commission. Attorney Jamie Kornokovich, Cemetery Superintendent Hodgkins and William Lavelle spoke on behalf of the cemetery operator. The Commission recommended that the parties consider installing a base long enough to cover three separate tablets to the satisfaction of the parties. David Shanteau moved to close the complaint. Harold Wagner seconded the motion, which passed unanimously.

Case Nos. 2009-424 Ruth Azbell and 2009-499 Juanita Paxton vs. Fairview Memorial Gardens, Inc. – Hocking Co. – Registration 983163

The complainants presented their complaints to the Commission. The cemetery operator did not attend the meeting. David Shanteau moved to close the complaint with the recommendation that the cemetery operator correct the conditions at the mausoleum and renew the cemetery's registration within 45 days of the Commission meeting. James Wright seconded the motion, which passed unanimously.

IV. Other Business

The next Ohio Cemetery Dispute Resolution Commission meeting is scheduled for Thursday, December 17, 2009 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 September 24, 2009 meeting of the Ohio Cemetery Dispute Resolution Commission. Marilyn Brandt seconded the motion, which passed unanimously.