



**Department  
of Commerce**

Division of Real Estate &  
Professional Licensing  
John R. Kasich, Governor  
David Goodman, 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**

**December 16, 2010  
10:00 a.m.**

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**PRESENT:** Thomas Kayati, Chairperson, David Shanteau, Vice Chair; Joseph Kun, Secretary; Phyllis Bayard, Marilyn Brandt, Richard Finn, James Wright; Laura Monick, Division Legal Counsel and Theodore J. Hornyak, Investigator.

**ABSENT:** Robert Shenefield

**I. Preliminary Matters:**

**Roll Call:** Chairperson Thomas Kayati called the meeting to order with the record reflecting all members of the Ohio Cemetery Dispute Resolution Commission present except Robert Shenefield.

**Approval of Minutes:** The minutes of the September 23, 2010 meeting of the Ohio Cemetery Dispute Resolution Commission were reviewed and discussed. Richard Finn moved to approve the minutes. Marilyn Brandt seconded the motion, which passed unanimously.

**Superintendent's Report:** Quarterly Report - The Division's Cemetery Section received eight complaints during the quarter - 26 during the year. 16 complaints are open. The Division handled 198 phone calls, 1 email query, and mailed 3 complaint forms. 3,522 cemeteries are currently registered with the Division.

New OCDRC public member Phyllis Bayard was introduced to the Commission.

Theodore Hornyak and Thomas Kayati will give presentations on cemetery recordkeeping, cemetery regulations and the OCDRC at the Winter Conference of the Ohio Township Association on February 11, 2011.

**II. Old Business:**

**Case No. 2010-122 Alan Oppenheim vs. Zion Memorial Park Cemetery – Cuyahoga Co. – Registration 983285**

Neither party attended the meeting. Theodore Hornyak reported that the attorneys for both parties requested more time to work out an agreement. Joseph Kun moved to leave the complaint open to the next meeting. Marilyn Brandt seconded the motion, which passed unanimously.

**Case No. 2010-461 Kimberly Baker vs. Floral Hills Memory Gardens – Ross Co. – Registration 980717**

Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied that the cemetery operator installed the complainant's monument. Richard Finn moved to close the complaint. Joseph Kun seconded the motion, which passed unanimously.

**III. New Business**

**Case No. 2010-511 Michael Hardesty vs. Fairview Cemetery - Crawford Co. – Registration 2008003473**

Neither party attended the meeting. Theodore Hornyak reported that that the complainant was satisfied that the cemetery operator relocated the headstone. Richard Finn moved to close the complaint. Marilyn Brandt seconded the motion, which passed unanimously.

**Case No. 2010-520 Larry R. Moore vs. Oak Hill Cemetery – Madison Co. - Registration 2001021577**

Larry Moore presented his complaint to the Commission. Bill Eberle spoke on behalf of the cemetery operator. The cemetery operator agreed to pour a new foundation for the complainant's brother's headstone, probe graves, keep additional graves available for any potential earlier purchaser and pin and draw the family's graves. The Commission recommended that the work be completed by June 30, 2011. David Shanteau moved to close the complaint. Joseph Kun seconded the motion, which passed unanimously.

**Case No. 2010-558 Rhonda Walden/Jeanette Vance vs. Butler Co. Memorial Park – Butler Co - Registration 982946**

David Shanteau recused himself from the meeting. Neither party attended the meeting. Theodore Hornyak presented the complaint to the Commission. The Commission stated that the purchase price was listed on the contract signed by Mrs. Vance and recommended that if the complainant felt that there was a problem with a veteran's marker, the complainant should investigate the matter by contacting the Veteran's Administration. Joseph Kun moved to close the complaint. Marilyn Brandt seconded the motion, which passed unanimously.

**Case No. 2010-589 James and Mary Lou Kroft vs. Hillside Memorial Park – Summit Co. – Registration 982219**

Neither party attended the meeting. Theodore Hornyak presented the complaint to the Commission. The Commission recommended that the cemetery operator have the current marker refinished. James Wright moved to close the complaint. Joseph Kun seconded the motion, which passed unanimously.

David Shanteau rejoined the meeting.

**Case No. 2010-603 Terry Wills vs. Middletown Cemetery – Butler Co. - Registration 982484**

Neither party attended the meeting. Theodore Hornyak presented the complaint to the Commission. David Shanteau moved to leave the complaint open to the next meeting. Joseph Kun seconded the motion, which passed unanimously.

**Case No. 2010-604 John Hunter vs. Ottawa Hills Memorial Park – Lucas Co. – Registration 981250**

James Wright recused himself from the meeting. Neither party attended the meeting. Theodore Hornyak presented the complaint to the Commission. Richard Finn moved to close the complaint and issue a statement to the parties that the cemetery operator followed state law to protect all individuals. Joseph Kun seconded the motion, which passed unanimously.

James Wright rejoined the meeting.

**Case No. 2010-628 Francine Polomsky vs. Crown Hill Burial Park – Trumbull Co. –  
Registration 982680**

Neither party attended the meeting. Theodore Hornyak reported that the cemetery operator installed the marker, issued a letter of apology and provided a refund in the amount of \$1,000. David Shanteau moved to close the complaint. James Wright seconded the motion, which passed unanimously.

**Case No. 2010-642 Benjamin Sherwood vs. Collins Cemetery – Huron Co. –  
Registration 980563**

The complainant did not attend the meeting. Theodore Hornyak presented the complaint to the Commission. Assistant Huron County Prosecutor Davia Kasper and Townsend Township Trustees Tim Patrick and Dave Gangluff spoke on behalf of the cemetery operator. Marilyn Brandt moved to close the complaint with the recommendation that the cemetery operator put rules and regulations in writing along with minutes of trustee meetings and that the complainant's family has to give proof of a lineal descendent of the original owner if they wish to sell graves back to the cemetery. David Shanteau seconded the motion, which passed unanimously.

**Case No. 2010-654 Timothy Causey vs. Oak Hill Cemetery – Hamilton Co. -  
Registration 981545**

Neither party attended the meeting. Theodore Hornyak presented the complaint to the Commission. Joseph Kun moved to close the complaint with the recommendation that the cemetery operator invite the complainant to come into the cemetery office in order to explain the details of payments. Marilyn Brandt seconded the motion, which passed unanimously.

**Case No. 2010-663 Kenneth Hartley vs. Floral Hills Memory Gardens – Pickaway Co. –  
Registration 980715**

Kenneth Hartley presented his complaint to the Commission. The cemetery operator did not attend the meeting. James Wright moved to discuss the complaint in Executive Session. Marilyn Brandt seconded the motion, which passed unanimously. James Wright moved to come out of Executive Session. David Shanteau seconded the motion, which passed unanimously. The Commission recommended that the cemetery operator fulfill the terms of the contract or the complainant should seek legal counsel. The Commission also decided to refer violations of Ohio Revised Code Sections 1721.21 and 1721.211 to the Pickaway County Prosecutor. Marilyn Brandt moved to close the complaint. Richard Finn seconded the motion, which passed unanimously.

**Case No. 2010-677 Dennis Fowler vs. Floral Hills Memory Gardens – Ross Co. –  
Registration 980717**

Neither party attended the meeting. Theodore Hornyak presented the complaint to the Commission. David Shanteau moved to leave the complaint open to the next meeting and to refer violations of Ohio Revised Code Sections 1721.21 and 1721.211 to the Ross County Prosecutor. James Wright seconded the motion, which passed unanimously.

**IV. Other Business**

The next Ohio Cemetery Dispute Resolution Commission meetings for 2011 are scheduled for March 10, June 16, September 15 and December 15 at 10:00 a.m. in the Columbus Office of the Division of Real Estate & Professional Licensing.

**V. Adjournment**

Marilyn Brandt moved to adjourn the December 16, 2010 meeting of the Ohio Cemetery Dispute Resolution Commission. James Wright seconded the motion, which passed unanimously.