



Ohio Department of Commerce
Division of Real Estate & Professional Licensing

77 South High Street • 20th Floor 615 W. Superior Ave., 12th Floor
Columbus, OH 43215-6133 Cleveland, OH 44113-1801
(614) 466-4100 Fax:(614) 644-0584 (216) 787-3100 Fax:(216) 787-4449
www.com.state.oh.us

Bob Taft
Governor

Doug White
Director

MINUTES OF THE MEETING OF THE
OHIO CEMETERY DISPUTE RESOLUTION COMMISSION

Division of Real Estate & Professional Licensing
77 S. High St., 31st Floor, Hearing Room West B and C
Columbus, Ohio 43215-6133

December 15, 2005
10:00 a.m.

PRESENT: Stephen E. Bittner, Chairman; Marilyn Brandt, Vice Chair; Gregory W. Roberts, Secretary; Richard D. Finn; Thomas A. Kayati; Tawana L. Keels; Robert R. Shenefield; James Wright; Daniel Roberts, Deputy Division Legal Counsel; and Theodore J. Hornyak, Investigator.

ABSENT: Avanelle B. Oberlin.

I. Preliminary Matters:

Roll Call: Chairman Stephen Bittner called the meeting to order with the record reflecting all members of the Ohio Cemetery Dispute Resolution Commission present except Avanelle Oberlin.

Approval of Minutes: The minutes of the September 15, 2005 meeting of the Ohio Cemetery Dispute Resolution Commission were reviewed and discussed. Richard Finn moved to approve the minutes. Robert Shenefield seconded the motion, which passed unanimously.

Superintendent's Report: In the case of Jeffrey S. Zucker vs. Oakwood Cemetery Case No. 2005-000254, the Commission referred a violation of ORC Section 4767.02 to the Sandusky County Prosecutor at its last meeting. Theodore Hornyak reported that the Division of Real Estate and Professional Licensing received the cemetery's registration application the day after the meeting and processed the registration. Because the cemetery registered with the Division according to ORC Section 4767.02, the Division did not refer a violation to the prosecutor.

The judge in the Wesleyan Cemetery civil trial in Hamilton County Common Pleas Court should be issuing a final order soon. The Ohio Attorney General filed Proposed Findings of Fact and Conclusions of Law. A copy was provided to each Commission member.

The Division submitted OCDRC complaint statistics to the International Cemetery and Funeral Home Association's Cemetery Consumer Service Council for its 2004 Annual Activity Report. A copy of the Division's submittal was provided to the Commission members.

FINANCIAL INSTITUTIONS	INDUSTRIAL COMPLIANCE	LABOR & WORKER SAFETY	LIQUOR CONTROL
REAL ESTATE & PROFESSIONAL LICENSING	SECURITIES	STATE FIRE MARSHAL	UNCLAIMED FUNDS

The Division implemented its new database system known as CAVU. Theodore Hornyak reported that it appeared all of the cemetery information successfully transferred to the new system.

II. Old Business:

Lu Ann South vs. Highland Memorial Gardens - Case No. 2005-000135 – Lawrence Co. – Registration 982945

Neither party attended the meeting. Theodore Hornyak reported that the cemetery operator responded to a subpoena that was served on the respondent at the request of the Commission at its last meeting. The cemetery operator provided the Division with a copy of the cemetery's rules and regulations. The Division mailed a copy to the complainant.

Thomas Kayati moved to close the complaint and recommend that the cemetery operator make the cemetery's rules and regulations available to anyone who asks for a copy. Richard Finn seconded the motion, which passed unanimously.

Endowment Care and Preneed Merchandise/Services Trust Audit of Royal Oak Memorial Gardens, Montgomery County, and Heritage Hills Memory Gardens, Warren County, Pursuant to ORC Section 4767.02(B)(8)

Theodore Hornyak reported that Harper & Pearson Company, P.C. had not yet completed auditing the trusts. Thomas Kayati moved to leave the matter open to the next Commission meeting. Robert Shenefield seconded the motion, which passed unanimously.

Endowment Care and Preneed Merchandise/Services Trust Audit of Highland Memory Gardens, Lucas County, Restlawn Memorial Park, Wood County, and Greenlawn Memory Gardens, Sandusky County, Pursuant to ORC Section 4767.02(B)(8)

The Commission reviewed results of the audit that was provided by The Keystone Group. The audit report reflected an under funding of endowment care funds in the amount of \$2,478.37 and preneed merchandise and services funds in the amount of \$52,155.41. The Commission considered evidence that was provided by The Keystone Group showing that the under funded amounts were deposited into the trusts.

Richard Finn moved to accept the audit results and direct the Division of Real Estate and Professional Licensing to issue cemetery registration certificates to the new operator, The Keystone Group. Marilyn Brandt seconded the motion, which passed unanimously.

III. New Business:

Newcomers Cemetery, Clark County

The Commission reviewed evidence that Newcomers Cemetery was operating in violation of Ohio Revised Code Section 4767.02(A). Richard Finn moved to refer the violation to the Clark County Prosecutor and the Ohio Attorney General for further review. Robert Shenefield seconded the motion, which passed unanimously.

Miamisburg Cemetery Association aka Hillgrove Cemetery, Montgomery County

Theodore Hornyak reported that, since at least 2002, the former operator of Hillgrove Cemetery failed to deposit funds into an Endowment Care Trust in violation of ORC Section 1721.21. Gregory Roberts moved to refer the violation of ORC Section 1721.21 to the Montgomery County Prosecutor. Tawana Keels seconded the motion, which passed unanimously.

Jenny Di Domenico vs. Evergreen Cemetery – Case No. 2005-325 – Lake Co. – Registration 980554

Neither party attended the meeting. Theodore Hornyak reported that both parties requested that the complaint be continued to the next Commission meeting.

Thomas Kayati moved to continue this case to the next Commission meeting. Tawana Keels seconded the motion, which passed unanimously.

Sandra Sheve vs. Woodland Cemetery Association of Dayton - Case No. 2005-526 – Montgomery Co. – Registration 980899

Neither party attended the meeting. Theodore Hornyak reported that the parties reached an agreement concerning the mausoleum's decoration policy.

Richard Finn moved to close the complaint. Gregory Roberts seconded the motion, which passed unanimously.

Jeannie Hopkins vs. Franklin Hills Memorial Gardens – Case No. 2005-532 – Franklin Co. – Registration 982818

Neither party attended the meeting. Theodore Hornyak reported that the parties agreed to move to another crypt.

Marilyn Brandt moved to close the complaint. Thomas Kayati seconded the motion, which passed unanimously.

Victoria Ann Bowling vs. Oakwood Cemetery – Case No. 2005-565 – Sandusky Co. – Registration 2005015213

Neither party attended the meeting. Theodore Hornyak reported that the cemetery operator poured the foundation and properly placed the monument of the complainant's sister.

Marilyn Brandt moved to close the complaint. Thomas Kayati seconded the motion, which passed unanimously.

Richard Brauer vs. Ottawa Hills Memorial Park – Case No. 2005-584 – Lucas Co. – Registration 981250

Neither party attended the meeting. Theodore Hornyak reported that both parties requested that this matter be continued to the next meeting.

Tawana Keels moved to continue this matter to the next Commission meeting. Marilyn Brandt seconded the motion, which passed unanimously. James Wright recused himself from the vote.

Donald B. Ferfolia vs. Crown Hill Memorial Park – Case No. 2005-633 – Summit Co. – Registration 980454

Donald Ferfolia and his son presented the complaint to the Commission. The cemetery operator did not attend the meeting. Mr. Ferfolia expressed his concern over the cemetery operator's practice of mailing a letter and an irrevocable agreement to consumers allowing them to choose to have a vault installed now rather than at the time of need or stored in a warehouse or on cemetery property.

The Commission reviewed and discussed the issues raised in the practice. Gregory Roberts moved to close the complaint. Robert Shenefield seconded the motion, which passed unanimously.

Terry and Joy Lay vs. Butler County Memorial Park – Case No. 2005-745 – Butler Co. – Registration 982946

Neither party attended the meeting. Theodore Hornyak reported that the complainants requested that this matter be continued to the next meeting.

Tawana Keels moved to continue this matter to the next Commission meeting. Richard Finn seconded the motion, which passed unanimously.

Victor Tucker vs. Evergreen Burial Park – Case No. 2005-753 – Franklin Co. – Registration 983126

Neither party attended the meeting. Theodore Hornyak reported that the complainant requested that this matter be continued to the next meeting.

Richard Finn moved to continue this matter to the next Commission meeting. Thomas Kayati seconded the motion, which passed unanimously.

IV. OTHER BUSINESS:

The next Ohio Cemetery Dispute Resolution Commission meeting is scheduled for Thursday, March 23, 2006 at 10:00 a.m. in the Columbus Office of the Division of Real Estate & Professional Licensing.

V. ADJOURNMENT

Robert Shenefield moved to adjourn the December 15, 2005 meeting of the Ohio Cemetery Dispute Resolution Commission. Marilyn Brandt seconded the motion, which passed unanimously.