



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 St., 31st Floor, Hearing Room East B
Columbus, Ohio 43215-6133

June 15, 2006
10:00 a.m.

PRESENT: Stephen E. Bittner, Chairman; Marilyn Brandt, Vice Chair; Richard D. Finn; Tawana Lynn Keels; Avanelle B. Oberlin; Robert R. Shenefield; James Wright; William Leber, Division Chief Legal Counsel; and Theodore J. Hornyak, Investigator.

ABSENT: Thomas A. Kayati and Gregory W. Roberts.

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 Marilyn Brandt, Thomas A. Kayati, and Gregory W. Roberts.

Approval of Minutes: The minutes of the March 23, 2006 meeting of the Ohio Cemetery Dispute Resolution Commission were reviewed and discussed. Avanelle B. Oberlin moved to approve the minutes. Robert R. Shenefield seconded the motion, which passed unanimously.

Superintendent’s Report: The Division’s Cemetery Section handled 241 phone calls, six email queries, and mailed sixteen complaint forms since the last meeting on March 23, 2006.

The City of Springfield registered Newcomers Cemetery. The OCDRC referred the ORC Section 4767.02 cemetery registration violation to the Clark County Prosecutor at its meeting on December 15, 2005.

The State of Ohio’s civil case against the City of Cincinnati, regarding the operation and registration of Wesleyan Cemetery, is still under appeal. The city has requested an extension to file a brief. The brief is due by July 7.

Service Corporation International (SCI) announced a merger with The Alderwoods Group. As a result, the assets of five Alderwoods Ohio cemeteries will be transferred to SCI. The merger is expected to close by the end of the year, pending an antitrust review by the Federal Trade Commission. SCI will provide the Division with trust audits for the OCDRC’s review sometime this year.

FINANCIAL INSTITUTIONS	INDUSTRIAL COMPLIANCE	LABOR & WORKER SAFETY	LIQUOR CONTROL
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House Bill 426 adds provisions under ORC Chapter 2108 to allow Ohio citizens the right to appoint an agent to control the disposition of their remains at death. An addition to ORC Section 1721.211(C) requires language in preneed cemetery merchandise and services contracts notifying the purchaser that the person holding the right of disposition has the right to purchase merchandise and services inconsistent with the merchandise and services set forth in the contract. Preneed cemetery merchandise and services contracts that do not contain the notice may be considered to be in violation of ORC Section 1721.211. The legislature passed HB 426 and it awaits the Governor signature. The changes would probably become effective 90 days after the Governor's signs the bill.

Theodore Hornyak gave a presentation at the OFDA District 4 meeting at Woodside Cemetery in Middletown, Butler County, on April 19. Mr. Hornyak was approved to attend the North American Cemetery Regulators Association Conference, July 22-26, in Seattle, WA, where he will give a presentation on handling cemetery complaints. He attended the 6th Annual Emerging Trends in Fraud Investigation and Prevention Conference in Columbus on May 23 and 24. Mr. Hornyak will also be attending a training conference with the Northern Ohio Elder Protection Training Council in Cleveland on July 29.

Theodore Hornyak presented outgoing Commissioners Avanelle Oberlin and Tawana Lynn Keels with certificates from the Governor and the Division of Real Estate and Professional Licensing acknowledging their service with the Ohio Cemetery Dispute Resolution Commission.

Commissioner Marilyn Brandt joined the meeting during the Superintendent's Report.

II. Old Business:

None.

III. New Business:

Hamburg Cemetery aka Hamburg Lutheran Cemetery aka Hamburg-McKinley Memorial, Fairfield County

The Commission reviewed the registration status of Hamburg Cemetery. The Commission found that the cemetery was not registered with the Division of Real Estate and Professional Licensing, in violation of ORC Section 4767.02(A).

Tawana Keels moved to refer the violation to the Fairfield County Prosecutor. Marilyn Brandt 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. James Wright recused himself from the Commission meeting. Theodore Hornyak presented Mr. Butler's complaint to the Commission. Mr. Hornyak reported that the cemetery operator alleviated the sewer backup, rebuilt a curb, reseeded an area that was addressed by the complainant, and concealed a dirt pile with trees.

Marilyn Brandt noted that the operator did the best they could to clean up the area near the complainant's family gravesite and moved to close the complaint. Tawana Keels seconded the motion, which passed unanimously.

James Wright returned to the meeting.

Gary and Norris Latteman vs. Birmingham Cemetery – Case No. 2006-61 – Erie Co. – Registration 981616

Gary and Norris Latteman presented their complaint to the Commission. Erie County Assistant Prosecutor Terry Griffith, along with Florence Township Trustees Krumwiede and Saylor, spoke on behalf of the cemetery operator.

Marilyn Brandt moved to discuss the complaint in Executive Session. Tawana Keels seconded the motion, which passed unanimously.

After meeting in Executive Session, Chairman Bittner restored the regular meeting. Mr. Bittner noted the following:

1. The township trustees are willing to uncover the tops of the four vaults with the parties present.
2. The cost of uncovering and recovering and reseeding/resodding of the tops of the four vaults will be covered by the township at no cost to the complainant's family.
3. The parties will agree that any dispute between the parties arising after the inspection of the burial vaults will be resolved in the appropriate court.

Richard Finn moved to close the complaint. Tawana Keels seconded the motion, which passed unanimously.

Aloha Goodwin vs. Mount Peace Cemetery – Case No. 2006-301 – Summit Co. – Registration 980697

Neither party attended the meeting. Theodore Hornyak presented Ms. Goodwin's complaint to the Commission. Mr. Hornyak reported that the complainant was satisfied that the cemetery operator dug out the tree roots that were encroaching on her husband's grave.

Richard Finn moved to close the complaint. James Wright seconded the motion, which passed unanimously.

Brenda Gothard vs. Floral Hills Memorial Gardens – Case No. 2006-341 – Ross Co. – Registration 980717

Neither party attended the meeting. Theodore Hornyak reported that the cemetery operator's recently retained attorney requested that this complaint be continued to the next Commission meeting due to a scheduling conflict and to provide more time to resolve the complaint.

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

Columbia J. Doan vs. Franklin Hills Memory Gardens – Case No. 2006-162 – Franklin Co. – Registration 982818

Neither party attended the meeting. Theodore Hornyak presented Ms. Doan's complaint to the Commission. Mr. Hornyak reported that the cemetery operator installed a time lock on the door of the mausoleum to the complainant's satisfaction.

Richard Finn moved to close the complaint. Marilyn Brandt seconded the motion, which passed unanimously.

Linda C. Brown vs. Mansfield Cemetery Association – Case No. 2006-370 – Richland Co. – Registration 981092

Neither party attended the meeting. Theodore Hornyak presented Ms. Brown's complaint to the Commission. Mr. Hornyak reported that the complainant was satisfied that she was able to meet with a representative of the cemetery, who was able to direct her to her sister's grave.

Marilyn Brandt moved to close the complaint. Robert Shenefield seconded the motion, which passed unanimously.

IV. OTHER BUSINESS:

The next Ohio Cemetery Dispute Resolution Commission meeting is scheduled for Thursday, September 14, 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 June 15, 2006 meeting of the Ohio Cemetery Dispute Resolution Commission. Marilyn Brandt seconded the motion, which passed unanimously.