



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) 787-5669 Fax:(614) 220-7103
www.com.ohio.gov

Ted Strickland
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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

December 4, 2008
10:00 a.m.

PRESENT: James Wright, Chairperson; Richard D. Finn, Vice Chair; Thomas A. Kayati, Secretary; Stephen Bittner; Marilyn Brandt; 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 James Wright called the meeting to order with the record reflecting all members of the Ohio Cemetery Dispute Resolution Commission present.

Approval of Minutes: The minutes of the August 28, 2008 meeting of the Ohio Cemetery Dispute Resolution Commission were reviewed and discussed. Stephen Bittner moved to approve the minutes with the changes of replacing the names under the Election of Officers heading of Richard Finn to Gregory Roberts in the second sentence and Gregory Roberts to Richard Finn in the last sentence. Marilyn Brandt seconded the motion, which passed unanimously.

Superintendent’s Report: Quarterly Report - The Division’s Cemetery Section received 7 complaints during the quarter. Eighteen complaints are open. The Division handled 268 phone calls, eight email queries, and mailed ten complaint forms. 3,484 cemeteries are currently registered with the Division.

Theodore Hornyak is scheduled to sit on a panel along with representatives of the Ohio Association of Cemetery Superintendents and Officials and speak about cemetery regulations and the Ohio Cemetery Dispute Resolution Commission for two sessions at the Winter Conference of the Ohio Township Association in Columbus on February 6.

The Division successfully hosted the North American Cemetery Regulators Association Conference in Cleveland September 15-18. Attendees toured Lake View Cemetery. Theodore Hornyak remains on the Executive Committee as Past President and was appointed Chair of NCRA’s Policy, Law Review and Consumer Affairs Committee.

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

Changes to 1301:13 of the Ohio Administrative Code went into effect on September 25, 2008.

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 township agreed to install a monument but needed time to pour a footer. The complainant's attorney requested that the Commission leave the complaint open to the next meeting. Marilyn Brandt moved to leave the complaint open to the next meeting. Marguerite Molk 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 complainant's attorney withdrew the complaint. 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

James Wright recused himself from the Commission meeting. Neither party attended the meeting. Theodore Hornyak reported that the cemetery operator installed the bench. The complainant failed to communicate with the Division. Thomas Kayati moved to close the complaint while noting that the complainant could file another complaint if she was not satisfied. Marguerite Molk seconded the motion, which passed unanimously.

James Wright rejoined the meeting.

III. New Business

Crematory Review Board Appointments

Chairperson James Wright appointed Gregory Roberts, Marilyn Brandt and himself to the Crematory Review Board.

Endowment Care and Preneed Cemetery Merchandise and Services Trust Audit of Rest Haven Memorial Park, Cincinnati, Hamilton County pursuant to ORC Sections 4767.02(B)(8) and 4767.06(G)

The Commission reviewed the trust audit results of Rest Haven Memorial Park. Theodore Hornyak reported that the cemetery operator deposited \$832.70 into the Preneed Trust. Stephen Bittner moved to accept the results of the audit and direct the Division to issue a registration certificate to the new operator after closing. Gregory Roberts seconded the motion, which passed unanimously.

Endowment Care and Preneed Cemetery Merchandise and Services Trust Audit of Kingwood Memorial Park, Lewis Center, Delaware County pursuant to ORC Sections 4767.02(B)(8) and 4767.06(G)

The Commission reviewed the trust audit results of Kingwood Memorial Park. Randy Schoedinger appeared before the Commission on behalf of Kingwood Memorial Park. Theodore Hornyak reported that the cemetery operator deposited \$1,138.00 into the Endowment Care Trust and \$680.95 into the Preneed Trust. Thomas Kayati moved to accept the results of the audit and direct the Division to issue a registration certificate to the new operator after closing. Marilyn Brandt seconded the motion, which passed unanimously.

Endowment Care and Preneed Cemetery Merchandise and Services Trust Audit of Green Lawn Cemetery, Columbus, Franklin County pursuant to ORC Sections 4767.02(B)(8) and 4767.06(G)

The Commission reviewed the trust audit results of Green Lawn Cemetery. Theodore Hornyak reported that the cemetery operator deposited \$6,119.00 into the Endowment Care Trust and \$196.50 into the Preneed Trust. Gregory Roberts moved to accept the results of the audit and direct the Division to issue a registration certificate to the new operator after closing. Stephen Bittner seconded the motion, which passed unanimously.

Stacy Shawver, Case No. 2008-647; Barbara Nichols, Case No. 2008-648; Lori Ann Mobley, Case No. 2008-651; Steven Nichols, Case No. 652; and Penny Parker, Case No. 2008-653 vs. Riverview Memory Gardens – Defiance Co. – Registration 983292

Gregory Roberts recused himself from the Commission meeting. None of the parties attended the meeting. Theodore Hornyak reported that the cemetery operator installed the marker. Richard Finn moved to close the complaint. Marguerite Molk seconded the motion, which passed unanimously.

Michael E. Daugherty vs. Sherwood Memorial Gardens – Case No. 2008-686 – Wayne County – Registration 982356

Neither party attended the meeting. Theodore Hornyak reported that the cemetery operator failed to respond to the complaint. Thomas Kayati moved to leave the complaint open and directed the Division of Real Estate and Professional Licensing to issue a subpoena to compel the attendance of the cemetery operator to the next meeting unless the operator submitted a complaint response to the Division by January 15, 2009. Harold Wagner seconded the motion, which passed unanimously.

Gregory Roberts rejoined the meeting.

Eleanor Eing, Case No. 2008-688 and Jimmy Pendleton, Case No. 2008-714 vs. Mound Cemetery – Pike County – Registration 2008003042

None of the parties attended the meeting. Theodore Hornyak reported that cemetery operator granted, assigned and retained grave spaces to the complainants. Marguerite Molk moved to close the complaint. Thomas Kayati seconded the motion, which passed unanimously.

Iva Willis vs. Highland Memorial Gardens – Case No. 2008-837 – Lawrence Co. – Registration 982945

The cemetery operator did not attend the meeting. Iva Willis presented her complaint to the Commission. Marilyn Brandt moved to close the complaint and recommend that the cemetery operator regularly update the rules and regulations in the best interest of the public while making them consumer friendly and available to customers. Robert Shenefield seconded the motion, which passed unanimously.

Norma Lee Fite vs. Greenberry – Case No. 2008-838 – Clermont Co. – Registration 981359

Neither party attended the meeting. Theodore Hornyak presented the complaint to the Commission. Stephen Bittner moved to close the complaint with the recommendation that the cemetery operator keep better records. Harold Wagner seconded the motion, which passed unanimously.

Norma T. Stauffer vs. Northlawn Memorial Gardens – Case No. 2008 – 844 – Summit Co. – Registration 982218

Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied that the cemetery operator moved her husband's remains to another location where a veteran's marker could be installed. Marguerite Molk moved to close the complaint. Stephen Bittner seconded the motion, which passed unanimously.

IV. Other Business

The next Ohio Cemetery Dispute Resolution Commission meeting is scheduled for Thursday, March 19, 2009 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 4, 2008 meeting of the Ohio Cemetery Dispute Resolution Commission. Robert Shenefield seconded the motion, which passed unanimously.