



Ohio Department of Commerce
Division of Real Estate & Professional Licensing

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Governor

Kimberly A. Zurz
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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

December 14, 2006
10:00 a.m.

PRESENT: Marilyn Brandt, Chairperson; Gregory W. Roberts, Vice Chairperson; Richard D. Finn, Secretary; Stephen E. Bittner; Thomas A. Kayati, Marguerite Cox Molk; Harold J. Wagner; James Wright; Daniel Roberts, Deputy Division Legal Counsel; and Theodore J. Hornyak, Investigator.

ABSENT: Robert R. Shenefield.

I. Preliminary Matters:

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

Approval of Minutes: The minutes of the September 14, 2006 meeting of the Ohio Cemetery Dispute Resolution Commission were reviewed and discussed. Thomas Kayati moved to approve the minutes. Stephen Bittner seconded the motion, which passed unanimously.

Superintendent's Report: The Division's Cemetery Section handled 202 phone calls, five email queries, and mailed eight complaint forms since the last meeting on September 14, 2006.

Information about the amendment to ORC Section 1721.211 and a list of members of the OCDRC were added to the Division's cemetery web page.

A copy of a Holiday Seasonal Ethics Reminder memorandum from Ohio Department of Commerce Chief Legal Counsel James Turner was provided to the Commission.

II. Old Business:

Robin Hasenfratz vs. Ottawa Hills Memorial Park - Case No. 2006-408 – Lucas Co. – Registration 981250

James Wright recused himself from the Commission meeting. Neither party attended the meeting. Stephen Bittner moved to leave the complaint open to the next Commission meeting at the request of the cemetery operator. Thomas Kayati seconded the motion, which passed unanimously.

James Wright rejoined the meeting.

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

Louise Branstetter vs. Woodland Cemetery Assoc. of Dayton, Inc. – Case No. 2006-433 – Montgomery Co. – Registration 980899

Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied that the cemetery operator disinterred and transported her brother's remains to Harriman, Tennessee at no cost and provided her with a disbursement in the amount of \$1,650.00.

Stephen Bittner moved to close the complaint. Gregory Roberts seconded the motion, which passed unanimously.

Deloris Jackson vs. Evergreen Memorial Gardens – Case No. 2006-545 – Washington Co. – Registration 981016

Gregory Roberts recused himself from the Commission meeting. Neither party attended the meeting. Theodore Hornyak reported that the complainant accepted the cemetery operator's offer of a Veteran's Companion Memorial, which consists of two 24x12 bronze plaques, a bronze vase assembly, a 62x16 granite base, and two additional spaces adjoining her family's current spaces.

Marguerite Molck moved to close the complaint. Thomas Kayati seconded the motion, which passed unanimously.

Gregory Roberts rejoined the meeting.

III. New Business:

Endowment Care and Preneed Cemetery Merchandise and Services Trust Audits of Resthaven Memory Gardens, Lorain County; Crown Hill Memorial Park, Hamilton County; Forest Hill Cemetery, Stark County; Forest Hills Memorial Gardens, Miami County; and West Memory Gardens, Montgomery County, pursuant to ORC Sections 4767.02(B)(8) and 4767.06(G) – Transfer from Alderwoods Group, Inc. to Service Corporation International

James Wright recused himself from the Commission meeting. The Commission reviewed the audit reports and were satisfied that trusts appeared to be properly funded. Richard Finn moved to accept the audit results and direct the Division of Real Estate and Professional Licensing to issue cemetery registration certificates to Service Corporation International. Thomas Kayati seconded the motion, which passed unanimously.

James Wright rejoined the meeting.

Endowment Care and Preened Cemetery Merchandise and Services Trust Audits of Glen Haven Memorial Gardens, Clark County; Highland Memorial Park, Columbiana County; Miami Valley Memory Gardens, Warren County; Northlawn Memorial Gardens, Summit County; Rose Hill Burial Park, Clark County; and Valley View Memorial Gardens, Greene County, pursuant to ORC Sections 4767.02(B)(8) and 4767.06(G) – Transfer from Service Corporation International to StoneMor Partners L.P.

Theodore Hornyak reported that the parties recently decided to cancel the transaction.

Ray Asik vs. Elmwood Cemetery – Case No. 2006-591 – Lorain Co. – Registration 982917

Ray Asik presented his complaint to the Commission. City of Lorain Assistant Law Director R.J. Budway and Service Director Chuck Camera spoke on behalf of the cemetery operator.

Thomas Kayati moved to discuss the complaint in Executive Session. Richard Finn seconded the motion, which passed unanimously.

After meeting in Executive Session, Chairperson Brandt restored the regular meeting. The Commission recommended that, based on the verbal communication that was provided to Mr. Asik at the time of purchase, the cemetery operator provide one of two options:

1. Allow Mr. Asik a monument type memorial, upright, to be placed on his lot based on restrictions that were in place prior to 1990.
2. Move Mr. Asik's spaces to a section that allows the monument that he desires and provide spaces needed to do it at no additional cost.

The Commission also recommended that the cemetery operator rewrite the rules and regulations and that a copy be handed out prior to the signing of all agreements. The Commission highlighted two areas in the rules and regulations that needed to be addressed:

1. Define monument and marker or memorial.
2. Define what the grandfathered rules and regulations are for customers that purchase in those sections.

Stephen Bittner moved to close the complaint and direct the Division to provide the recommendations to the parties in a letter. Harold Wagner seconded the motion, which passed unanimously.

Melvin and Connie Young vs. West Union Cemetery – Case No. 2006-633 – Adams Co. – Registration 981457

Melvin and Connie Young presented their complaint to the Commission. The cemetery operator did not attend the meeting.

Stephen Bittner moved to discuss the complaint in Executive Session. Harold Wagner seconded the motion, which passed unanimously.

After meeting in Executive Session, Chairperson Brandt restored the regular meeting. The Commission recommended that West Union Cemetery, the township trustees, and/or the contractors repair or replace and install the monument to the satisfaction of the complainants. The said recommendation is based on the fact that West Union Cemetery has given exclusive rights for burial services to the contractor.

The Commission also recommended that West Union Cemetery and its trustees consult legal counsel to review the implications of their rules and regulations and the confusion that exists with future burials and the moving of the monuments. Regarding specific areas of concern, the Commission further recommended that the rules and regulations be posted for the public and that the trustees review the structuring of outside contractor requirements.

Richard Finn moved to close the complaint. Harold Wagner seconded the motion, which passed unanimously.

Leslie Schottenheimer vs. East Akron Cemetery – Case No. 2006-646 – Summit Co. – Registration 980711

Neither party attended the meeting. Stephen Bittner moved to leave the complaint open to the next Commission meeting at the request of the cemetery operator. Thomas Kayati seconded the motion, which passed unanimously.

Wilmer Swope vs. Midway Mennonite Cemetery – Case No. 2006-669 – Mahoning Co. – Registration 982876

Neither party attended the meeting. Theodore Hornyak presented the complaint to the Commission. Stephen Bittner moved to close the complaint after finding no violations of the Ohio Revised Code concerning the rules and regulations of the cemetery. Richard Finn seconded the motion, which passed unanimously.

Clarence S. Bowen vs. Elk Cemetery – Case No. 2006-675 – Vinton Co. – Registration 982847

Neither party attended the meeting. Theodore Hornyak reported that the complainant accepted four graves in Section Seven, resolving his complaint.

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

Gwendolyn Castlin vs. Franklin Hills Memory Gardens – Case No. 2006-709 – Franklin Co. – Registration 982818

Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied that the cemetery operator agreed to provide her with a check in the amount of \$495.00 for her father's vault, pending the signatures of her siblings. The cemetery operator also agreed to provide a granite base to be picked up by the complainant.

Thomas Kayati moved to close the complaint. Gregory Roberts seconded the motion, which passed unanimously.

Becky Lee Delaney vs. Sunset Hills Burial Park – Case No. 2006-735 – Stark Co. – Registration 980460

James Wright recused himself from the Commission meeting. Neither party attended the meeting. Both parties participated in the meeting via conference call. Becky Delaney presented her complaint. J. Christopher Couch spoke on behalf of the cemetery operator.

Gregory Roberts moved to discuss the complaint in Executive Session. Stephen Bittner seconded the motion, which passed unanimously.

After meeting in Executive Session, Chairperson Brandt restored the regular meeting. The Commission recommended that the complainant accept the offer in the letter dated December 5, 2006 from SCI Management. The Commission felt that the offer was a fair and reasonable resolution to the complaint.

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

Joyce McFadden-Newsome vs. Hillside Memorial Park – Case No. 2006-801 – Summit Co. – Registration 982219

James Wright recused himself from the Commission meeting. Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied that she was able to bury her sister's cremated remains in the proper burial space.

Marguerite Molk moved to close the complaint. Thomas Kayati seconded the motion, which passed unanimously. James Wright rejoined the meeting.

Janet K. Steadman vs. Restlawn Memorial Park – Case No. 2006-821 – Wood Co. – Registration 982947

Neither party attended the meeting. Theodore Hornyak reported that that the complainant was satisfied with the response from the cemetery operator about improved conditions at the mausoleum.

Gregory Roberts moved to close the complaint. Harold Wagner seconded the motion, which passed unanimously.

Juanita Thieken vs. Rushtown Cemetery – Case No. 2006-887 – Scioto Co. – Not Registered

Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied that the township's insurance company contacted her and advised that they would pay \$3,728.00 to replace her family's monument.

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Thomas Kayati moved to close the complaint with the recommendation that the Division of Real Estate and Professional Licensing bring back the issue of non registration if the cemetery is not registered by the next Commission meeting. Stephen Bittner seconded the motion, which passed unanimously.

IV. OTHER BUSINESS:

The next Ohio Cemetery Dispute Resolution Commission meeting is scheduled for Thursday, March 15, 2007 at 10:00 a.m. in the Columbus Office of the Division of Real Estate & Professional Licensing.

V. ADJOURNMENT

Stephen Bittner moved to adjourn the December 14, 2006 meeting of the Ohio Cemetery Dispute Resolution Commission. Thomas Kayati seconded the motion, which passed unanimously.