



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 South A
Columbus, Ohio 43215-6133

March 23, 2006
10:00 a.m.

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

ABSENT: Tawana Lynn Keels.

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 Tawana Lynn Keels.

Approval of Minutes: The minutes of the December 15, 2005 meeting of the Ohio Cemetery Dispute Resolution Commission were reviewed and discussed. Robert Shenefield moved to add Avanelle Oberlin and remove Tawana Keels from Roll Call, change “subpoena that was served on the complainant” to “subpoena that was served on the respondent” at Lu Ann South vs. Highland Memorial Gardens, and approve the minutes. Richard Finn seconded the motion, which passed unanimously.

Superintendent’s Report: The Division’s Cemetery Section handled 178 phone calls, three email queries, and mailed six complaint forms since January 1.

The OCDRC’s Cemetery Minimum Maintenance Guidelines are posted on the Division’s website.

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

The Division added the question “What would you consider a reasonable resolution to your complaint?” to the cemetery complaint form.

The Cincinnati Enquirer published a story that implied that cemetery complaints to the OCDRC are confidential. Daniel Roberts and the Division’s spokesperson Dennis Ginty worked to address the misstatement. Dennis Ginty emailed a response to the reporter. Daniel Roberts advised the Commission that if a complainant states that making the complaint a public record would cause severe emotional harm to him or her, or someone else not including the respondent, and the Commission agrees, the Commission may make the complaint a confidential record.

The City of Cincinnati appealed the judge’s decision in the Wesleyan Cemetery civil case.

Theodore Hornyak gave a presentation based on the cemetery consumer brochure at a meeting of OFDA District 2 in Ashland. Mr. Hornyak, along with Daniel Roberts, gave a presentation at the Ohio Township Association’s conference on February 2. Mr. Hornyak is also scheduled to give a presentation at a meeting of OFDA District 4 at Woodside Cemetery in Middletown on April 19. He will also be giving a presentation and leading a discussion on handling cemetery complaints at the North American Cemetery Regulators Association Conference in Seattle, Washington in July.

II. Old Business:

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)

The Commission reviewed the results of the audit of Royal Oak Memorial Gardens and Heritage Hills Memorial Gardens Endowment Care and Preneed Merchandise and Services Trusts. The cemeteries are operated by Memory Gardens Management Corporation. The assets of the cemeteries transferred when parent corporation Ansure Mortuaries was created, thereby triggering the audit requirement. The Commission found that the Preneed Merchandise and Services Trust of Royal Oak was under funded by \$2,958.00 and the Preneed Merchandise and Services Trust of Heritage Hills was under funded by \$112.00.

Avanelle Oberlin moved to direct the Division of Real Estate and Professional Licensing to issue cemetery registration certificates after the under funded amounts have been deposited into the respective Preneed Merchandise and Services Trusts. Gregory Roberts seconded the motion, which passed unanimously.

III. New Business:

2005 Annual Report - ORC Section 4767.06(D)

The Commission reviewed the 2005 Annual Report that is prescribed by ORC Section 4767.06(D) and prepared by the Division. Richard Finn moved to approve the annual report. Marilyn Brandt seconded the motion, which passed unanimously.

Endowment Care Trust Audit of Amaranth Cemetery Association, Franklin County, Pursuant to ORC Section 4767.06(G)

The Commission reviewed the audit results of Amaranth Cemetery's Endowment Care Trust. Theodore Hornyak reported that Amaranth Cemetery consists of a mausoleum and is adjacent to Union Cemetery. The Board of Directors of Amaranth Cemetery Association decided to transfer the cemetery and its assets to Union Cemetery, thereby triggering the audit requirement. Marilyn Brandt moved to accept the audit results. Thomas Kayati 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) and 4767.06(G)

The Commission reviewed the results of the audit of the Endowment Care and Preneed Merchandise and Services Trusts of Highland Memory Gardens, Restlawn Memorial Park, and Greenlawn Memory Gardens. The audit was required because the cemetery operator, The Keystone Group, sold the cemeteries to Bronze Stone, LLC. Theodore Hornyak reported that the Endowment Care Trust of Restlawn Memorial Park was under funded by \$612.06 and Restlawn's Preneed Merchandise and Services Trust was under funded by \$596. The Commission considered evidence that showed the under funded amounts were deposited into the accounts.

Richard Finn moved to accept the audit and direct the Division to register the cemeteries to the new operator. James Wright 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 the complainant requested that this matter be continued to the next Commission meeting. The respondent did not want the complaint to be continued because it has been open since last May. Mr. Hornyak added that the cemetery operator is arranging a meeting with the complainant, her brother, and his attorney to work out a resolution.

Thomas Kayati noted that it appeared that the cemetery operator responded to the complaint appropriately and moved to close the complaint. Gregory Roberts 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 reported that both parties requested that this matter be continued to the next meeting. A resolution to the complaint is imminent.

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

James Wright returned to the meeting.

**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 that the complainant was satisfied that the cemetery operator expected to enter into a contract to repave a number of existing roadways at a cost of \$135,000.00. The cemetery operator expected to complete the work before Memorial Day, weather permitting.

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

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

The complainant did not attend the meeting. Theodore Hornyak presented Mr. Tucker's complaint to the Commission. The cemetery operator, Thor Triplett, reported that a sewer project that was scheduled to begin in the spring is already underway. Once completed, the project should help eliminate some of the water from the cemetery.

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

**Drew W. Griffin vs. Highland Memorial Gardens – Case No. 2005-840 – Lawrence Co. –
Registration 982945**

**Schneider – Griffin Funeral Home vs. Highland Memorial Gardens – Case No. 2005-842 –
Lawrence Co. – Registration 982945**

Complainant Drew Griffin also filed Case No. 2005-842 on behalf of Schneider – Griffin Funeral Home. Neither party attended the meeting. Theodore Hornyak presented both complaints to the Commission. Mr. Hornyak reported that Mr. Griffin received a copy of the cemetery's rules and regulations. The relationship between the complainant and the cemetery operator had improved. The cemetery operator installed new carpet in the mausoleum and planned to replace the outside carpeting in the spring.

Avanelle Oberlin moved to close both complaints. Marilyn Brandt seconded the motion, which passed unanimously.

Myrtle Hampton vs. Crown Hill Memorial Park – Case No. 2005-853 – Hamilton Co. – Registration 981570

Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied that the cemetery operator provided her with a refund in the amount of \$3,505.

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

Rosemary Steil vs. Baltimore Pike Cemetery Association – Case No. 2005-860 – Hamilton Co. – Registration 981269

Neither party attended the meeting. Chairman Bittner recused himself from the meeting. Theodore Hornyak reported that the complainant was satisfied that the cemetery operator provided her with a letter of apology, found and fixed a missing vase, and placed a memorial cap on her brother's grave.

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

Chairman Bittner returned to the meeting.

Catrina E. Neumann vs. Pleasant Hill – Case No. 2005-943 – Madison Co. – Registration 980325

Neither party attended the meeting. Theodore Hornyak reported that the cemetery operator only opened and closed the grave. The complainant wanted her experience that she described in her complaint to be a matter of record.

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

Kenneth F. Hines vs. Manchester IOOF Cemetery – Case No. 2006-12 – Adams Co. – Registration 981706

Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied that the cemetery operator provided him with a letter, a copy of township meeting minutes, and a resolution acknowledging that the township would disinter the unknown remains on the complainant's family plot and disinter his late brother Mack and bury him in his proper burial space. The unknown remains would be placed in a single grave owned by the township and identified by a stone purchased by the township. The remains would be moved on Friday, March 24, 2006, weather permitting.

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

William J. Stiers vs. Center Cemetery – Case No. 2006-30 – Washington Co. – Registration 980019

Neither party attended the meeting. Theodore Hornyak reported that the farmer who owns property next to the cemetery has an agreement with the township allowing him to drive his tractor through the cemetery.

Gregory Roberts moved to close the complaint. Robert Shenefield seconded the motion, which passed unanimously.

Sabrina Ann Furlow vs. Dayton Memorial Park Cemetery – Case No. 2006-60 – Montgomery Co – Registration 982798

Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied that the cemetery operator turned two markers around to face the appropriate direction.

Richard Finn moved to close the complaint. Avanelle Oberlin seconded the motion, which passed unanimously.

IV. OTHER BUSINESS:

Marilyn Brandt asked the Division if there was any updated information concerning Newcomers and Hillgrove Cemeteries. Theodore Hornyak reported that the city of Springfield appeared to be willing operate and maintain Newcomers Cemetery. The Board of Trustees at Hillgrove Cemetery are considering turning the cemetery over to the local township or municipality. The criminal investigation of the former cemetery operator is still open.

The next Ohio Cemetery Dispute Resolution Commission meeting is scheduled for Thursday, June 15, 2006 at 10:00 a.m. in the Columbus Office of the Division of Real Estate & Professional Licensing.

V. ADJOURNMENT

Gregory Roberts moved to adjourn the March 23, 2006 meeting of the Ohio Cemetery Dispute Resolution Commission. Avanelle Oberlin seconded the motion, which passed unanimously.