



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

December 6, 2007
10:00 a.m.

PRESENT: Marilyn Brandt, Chairperson; James Wright, Vice Chair; Richard D. Finn, Secretary; Stephen Bittner; Thomas A. Kayati, Marguerite Cox Molk; Harold J. Wagner; Laura Meechan, Division Legal Counsel, and Theodore J. Hornyak, Investigator.

ABSENT: Gregory W. Roberts and Robert 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 Gregory W. Roberts and Robert Shenefield.

Approval of Minutes: The minutes of the September 13, 2007 meeting of the Ohio Cemetery Dispute Resolution Commission were reviewed and discussed. Stephen Bittner moved to approve the minutes. Harold Wagner seconded the motion, which passed unanimously.

Superintendent's Report: Quarterly Report - The Division's Cemetery Section received nine complaints during the quarter. Thirteen complaints are open. The Division handled 210 phone calls, four email queries, and mailed three complaint forms. 3,442 cemeteries are currently registered with the Division.

Theodore Hornyak spoke about cemetery regulations and the OCDRC at the OFDA District 10 meeting in Chillicothe on September 25 and the annual conference of the Catholic Cemeteries of Ohio in Coshocton on October 17th. Mr. Hornyak attended the conference and meeting of the North American Cemetery Regulators Association October 30 through November 2, where he was elected President of the organization.

The Division requested, pursuant to ORC Section 4767.02(B)(9), that the Commission allow the Division to automatically issue subpoenas to cemetery operators who fail to respond to complaints more than once in order to compel their attendance at Commission meetings. Stephen Bittner moved to allow the Division to issue subpoenas as requested. Thomas Kayati seconded the motion, which passed unanimously.

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LABOR & WORKER SAFETY
STATE FIRE MARSHAL

LIQUOR CONTROL
UNCLAIMED FUNDS

Stephen Bittner stated that, due to logistics issues at the last Commission meeting, he wished to step down as Secretary of the Commission and moved to nominate Richard Finn for the position. Harold Wagner seconded the motion, which passed unanimously.

II. Old Business:

Diane Anderson vs. North Royalton Cemetery – Case No. 2007-310 - Cuyahoga Co. – Registration 980790

Neither party attended the meeting. Theodore Hornyak reported that the parties were close to reaching an agreement to resolve the complaint. Stephen Bittner moved to leave the complaint open to the next meeting. Richard Finn seconded the motion, which passed unanimously.

III. New Business:

Endowment Care and Preneed Cemetery Merchandise and Services Trust Audit of Crown Hill Memorial Park and Mausoleum, Hamilton County; Forest Hills Memorial Gardens, Miami County; Resthaven Memory Gardens, Lorain County; West Memory Gardens, Montgomery County; Highland Memorial Park, Columbiana County; Hillside Memorial Park, Summit County; and Northlawn Memorial Gardens, Summit County; pursuant to ORC Sections 4767.02(B)(8) and 4767.06(G) – Transfer from Service Corporation International to Cemetery Management Services of Ohio, LLC, Subsidiary of StoneMor Partners, LP

James Wright recused himself from the Commission meeting. Frank Milles appeared before the Commission on behalf of StoneMor Partners, LP. The Commission reviewed and discussed the audit results. Richard Finn moved that:

1. The deposit amounts identified in the “Deposit Amount” document be deposited within thirty days from today.
2. Regarding Northlawn, give SCI until the closing date to document or provide evidence that income and principal distributed in 2004 did not exceed cemetery maintenance in the approximate amount of \$35,760, otherwise this amount must be deposited within 30 days from today.
3. Direct the Division to register the cemeteries with StoneMor and issue the registration certificates to StoneMor when the Division receives evidence that deposits are made.

Stephen Bittner seconded the motion, which passed unanimously.

James Wright rejoined the meeting.

Karen Bowling vs. Graceland Memorial Gardens - Case No. 2007-703 – Clermont Co. – Registration 981573

Neither party attended the meeting. Theodore Hornyak presented the complaint to the Commission.

Stephen Bittner moved to close the complaint with no further action and recommend that the cemetery operator review the cemetery's entombment process, including casket trays and casket enclosures, as well as follow up care for the people entombed in the building. Thomas Kayati seconded the motion, which passed unanimously.

Linda Bowman vs. Pleasant Hill Cemetery - Case No. 2007-724 – Jackson Co. – Registration 2007005742

Linda Bowman presented her complaint to the Commission. Donna Wyant and Attorney William Martin spoke on behalf of the cemetery operator.

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

After meeting in Executive Session, Richard Finn moved to restore the regular meeting. Stephen Bittner seconded the motion, which passed unanimously.

Marilyn Brandt moved to recommend, after finding no conclusive evidence of the transaction, that the cemetery either issue a refund or locate space somewhere else that is agreeable to both parties, try to record all information on the old sections so that there aren't additional problems in the future, hand out certificates or deeds of purchase or donation for the spaces, create written rules and regulations, and review the Commission's Cemetery Minimum Maintenance Guidelines. Stephen Bittner seconded the motion, which passed unanimously.

Linda Canterbury vs. Wood County Memory Gardens – Case No. 2007-810 - Wood Co. – Registration 982358

Neither party attended the meeting. Theodore Hornyak presented the complaint to the Commission. Mr. Hornyak also reported that the cemetery operator failed to respond to the complaint and the meeting notice.

Richard Finn moved to close the complaint and recommend that Wood County Memory Gardens review its procedure regarding informing families in a timely manner of any damage that they do to monuments and markers and also provide repairs and installations in a timely manner. Thomas Kayati seconded the motion, which passed unanimously.

Darlene Pehanich vs. Fort Steuben Burial Estates – Case No. 2007-847 - Wayne Co. – Registration 981115

Neither party attended the meeting. Theodore Hornyak presented the complaint to the Commission. Mr. Hornyak also reported that the cemetery operator failed to respond to the complaint and the meeting notice.

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Thomas Kayati moved to close the complaint and send a letter to the cemetery representative explaining that the Commission feels that he owes the complainant a letter of apology and steps should be taken by the cemetery operator so that this doesn't happen in the future. Harold Wagner seconded the motion, which passed unanimously.

Kenneth E. Mock vs. Crown Hill Burial Park – Case No. 2007-856 - Trumbull Co. – Registration 982680

Neither party attended the meeting. Theodore Hornyak presented Mr. Mock's complaint to the Commission and reported that the complainant was satisfied that the cemetery operator agreed to replace his family monument's foundation.

Richard Finn moved to close the complaint with the recommendation that the cemetery operator have rules and regulations available to families when they come in, so they can review them, and distribute them to families as needed. Harold Wagner seconded the motion, which passed unanimously.

Montine Fedorka vs. Chestnut Grove Cemetery – Case No. 2007-872 – Cuyahoga Co. - Registration 983340

Montine Fedorka presented her complaint to the Commission. Her grandson, Jason Accord, also spoke about the complaint. Dan Hill and Beverly Smith spoke on behalf of the cemetery operator.

After discussing the complaint with the Commission, the parties agreed to a foundation installation fee of \$175.00. The Commission recommended that the cemetery operator provide new pricing sheets to monument dealers, write comprehensive rules and regulations to include who can come into the cemetery to work, and give a copy of rules and regulations to families.

Marguerite Molk moved to close the complaint and adopt the recommendations. James Wright seconded the motion, which passed unanimously.

Margaret M. Avalon vs. Mt. Hope Cemetery – Case No. 2007-897 – Cuyahoga Co. - Registration 980028

Theodore Hornyak presented Ms. Avalon's complaint to the Commission. Tom Bandiera and Attorney Mark Marong spoke on behalf of the cemetery operator.

The Commission found no evidence that the cemetery operator caused the damage to the monument. Stephen Bittner moved to close the complaint with no further action. Harold Wagner seconded the motion, which passed unanimously.

Vera Ball vs. Hicksville Union Cemetery – Case No. 2007-902 – Defiance Co. – Registration 2007006048

Neither party attended the meeting. Theodore Hornyak presented Ms. Bell's complaint to the Commission. Mr. Hornyak also reported that the cemetery operator failed provide a written response to the complaint.

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James Wright moved to close the complaint with the suggestion that the complainant pursue other avenues, since the issue is out of the Commission's jurisdiction, and recommendation that the cemetery operator get the lot owner's okay before setting a memorial or monument at the cemetery. Marguerite Molk seconded the motion, which passed unanimously.

IV. Other Business

The next Ohio Cemetery Dispute Resolution Commission meeting is scheduled for Thursday, March 13, 2008 at 10:00 a.m. in the Columbus Office of the Division of Real Estate & Professional Licensing.

V. Adjournment

Thomas Kayati moved to adjourn the December 6, 2007 meeting of the Ohio Cemetery Dispute Resolution Commission. Marguerite Molk seconded the motion, which passed unanimously.