



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) 787-3100 Fax:(216) 787-4449
www.com.state.oh.us

Ted Strickland
Governor

Kimberly A. Zurz
Director

MINUTES OF THE MEETING OF THE
OHIO CEMETERY DISPUTE RESOLUTION COMMISSION

Division of Real Estate & Professional Licensing
77 S. High St., 19th Floor, Room 1948
Columbus, Ohio 43215-6133

March 15, 2007
10:00 a.m.

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

ABSENT: Gregory W. Roberts

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.

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

Superintendent’s Report: The Division’s Cemetery Section handled 266 phone calls, three email queries, and mailed eleven complaint forms since the last meeting on December 14, 2006.

Kimberly A. Zurz has replaced Doug White as Director of the Ohio Department of Commerce.

Each Commissioner was provided with a copy of Governor Strickland’s Executive Order Establishing New Ethics Requirements.

In an effort to save paper, the Division will send all future mailings to Commission members on double sided paper.

The Division added Ohio Revised Code Chapters 517, 759, 1721, and 4767 to the Division’s cemetery web page.

The Ohio Attorney General’s office argued, on behalf of the State of Ohio, the City of Cincinnati’s appeal in the Wesleyan Cemetery case in the First Appellate District Court of Appeals. The outcome is imminent.

Theodore Hornyak will be giving a presentation on cemetery regulations and the Ohio Cemetery Dispute Resolution Commission on March 20 at an event sponsored by the Funeral Consumers Alliance of Central Ohio.

Each Commission member was provided with a copy of a Cemetery Compliance Checklist that was recently drafted by the Division.

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. Theodore Hornyak reported that the complainant failed to respond to the meeting notice. The cemetery operator did not wish to send a representative to the meeting if the complainant would not appear.

Robert Shenefield moved to close the complaint. Marguerite Molk seconded the motion, which passed unanimously. Chairperson Brandt noted that the complainant could file another complaint.

James Wright rejoined the meeting.

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

Neither party attended the meeting. Richard Finn moved to leave the complaint open to the next Commission meeting at the request of the cemetery operator. Robert Shenefield seconded the motion, which passed unanimously.

III. New Business:

2006 Annual Report - ORC Section 4767.06(D)

Thomas Kayati moved to accept the 2006 Annual Report. Marguerite Molk seconded the motion, which passed unanimously.

Endowment Care and Preneed Cemetery Merchandise and Services Trust Audit of Rose Hill Burial Park, Butler County, pursuant to ORC Sections 4767.02(B)(8) and 4767.06(G) – Transfer from Service Corporation International to Gibraltar Remembrance Service (Indiana)

James Wright recused himself from the Commission meeting. Theodore Hornyak reported that Service Corporation International requested more time to review the audit results. Richard Finn moved to continue the matter to the next OCDRC meeting. Thomas Kayati seconded the motion, which passed unanimously.

James Wright rejoined the meeting.

Henry Shelvyn Gunter vs. Meigs Memory Gardens – Case No. 2006-824 – Meigs Co. – Registration 983180

The complainant presented his complaint to the Commission. The cemetery operator did not attend the meeting due to bad weather.

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 found no violation of Ohio cemetery law under the Commission's jurisdiction. The Commission recommended that all parties get together and try to resolve the matter to avoid further pain to the families and disparagement to the industry. The Commission further recommended to do this in a timely fashion because there are many family members that are having a difficult time.

Stephen Bittner moved to close the complaint. Harold Wagner seconded the motion, which passed unanimously.

Wayne O. Creque vs. Association Cemetery – Case No. 2006-868 – Lucas Co. – Registration 980868

Neither party attended the meeting. Theodore Hornyak reported that the complainant accepted the cemetery operator's offer of installing a vault now, upon the complainant's request, and waiving the opening and closing charges until the funeral.

Richard Finn moved to close the complaint. Stephen Bittner seconded the motion, which passed unanimously.

Leonard Mingus vs. Riverside Cemetery – Case No. 2006-880 – Erie Co. – Registration 981243

Neither party attended the meeting. Theodore Hornyak reported that both parties requested more time to work out a resolution.

Marguerite Molk moved to close the complaint. Robert Shenefield seconded the motion, which passed unanimously.

Lemma Crafton vs. Jeffersonview Cemetery – Case No. 2006-935 – Montgomery Co. – Registration 983065

The complainant did not attend the meeting. Theodore Hornyak presented her complaint to the Commission and reported that the complainant was satisfied with the cemetery operator's response to her complaint. Attorney Phillip Reid, Janice Rucker, Eddie Dudley and Ferman Merritt spoke on behalf of the cemetery operator.

The Commission recommended that the cemetery operator create a document for a family or customer that would show the purchase of a particular grave space. The Commission also recommended that the operator clear up the trust agreements.

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

Donna M. Gardner vs. Marengo Annex – Case No. 2006-960 – Morrow Co. – Registration 980896

The complainant, with Attorney Robert Angell, presented her complaint to the Commission. Enoch Adkins and Morrow County Prosecutor Charles Howland spoke on behalf of the cemetery operator.

Stephen Bittner moved to close the complaint with the recommendation that the cemetery operator post rules and regulations of the cemetery concerning visitation, flower decorations, etc. for all visitors. Also, the rules and regulations should become part of sales agreements for future purchasers and be available to pass out to any visitors that stop in the office. Thomas Kayati seconded the motion, which passed unanimously.

Brenda J. Gothard vs. Floral Hills Memory Gardens – Case No. 2006-993 – Ross Co. – Registration 980717

Neither party attended the meeting. Theodore Hornyak reported that the complainant was satisfied that the cemetery operator installed her father's marker.

Robert Shenefield moved to close the complaint. Richard Finn seconded the motion, which passed unanimously.

Emily Ann Dunlap vs. Heritage Memorial Gardens – Case No. 2006-994 – Stark Co. – Registration 982822

The complainant did not attend the meeting. Theodore Hornyak presented her complaint to the Commission. Pastor Tim Hawkins spoke on behalf of the cemetery operator.

After consulting with the cemetery operator, the Commission recommended that the complainant notify police or other local authorities to report her stolen vase.

Richard Finn moved to close the complaint. Stephen Bittner seconded the motion, which passed unanimously.

Thomas Carl Flynn vs. Crown Hill Cemetery – Case No. 2006-1013 – Summit Co. – Registration

Neither party attended the meeting. Theodore Hornyak presented Mr. Flynn's complaint to the Commission and reported that the complainant was satisfied that he received a refund in the amount of \$610.00.

Thomas Kayati moved to close the complaint with the recommendation that Mr. Hornyak visit the cemetery for a compliance audit, make recommendations to the cemetery operator, and report back to the Commission. Marguerite Molk seconded the motion, which passed unanimously.

IV. OTHER BUSINESS:

The next Ohio Cemetery Dispute Resolution Commission meeting is scheduled for Thursday, June 28, 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 March 15, 2007 meeting of the Ohio Cemetery Dispute Resolution Commission. Richard Finn seconded the motion, which passed unanimously.