

**NEW YORK STATE - DIVISION OF CEMETERIES
MEMORANDUM**

To: Cemetery Board
Richard Fishman, Director

From: Chet Butkiewicz, Asst. Director

Subject: Evergreen Memorial Park
#01-008, Albany County

Re: Land Sale

Date: April 20, 2012

Subject cemetery submitted application to sell a portion of land and was visited on April 19, 2012. I met there with D. Kirk Hulbert, President and Superintendent of the cemetery association to discuss the proposed land sale. The cemetery intends to sell approximately seven (7) acres of land that is situated to the west of cemetery property. Road frontage exists on three boundaries, the north, south and west. The east boundary connects to the cemetery.

During the inspection, I observed the parcel to be heavily wooded with a large creek or stream. The land is unsuitable for burial purposes without extensive clearing, diversion of stream and relocation of wetlands. The possibility of ever developing the land for lot sales is remote given the difficult terrain and cost. Further, the cemetery has ample land developed (15 acres/4 available) and undeveloped (18 acres - of better terrain), remaining for future lot sales. Using a five year average of lot sales (65) indicates there is over 300 years of sales left.

Financial review indicates lot prices and certain services fees are undervalued. The cemetery annual reports indicate surpluses and deficits alternate, when adjusted for transfer to PM. As discussed with Mr. Hulbert, the cemetery will review lot prices and services fees, to better reflect cost of operations, overhead and replacement of equipment when obsolete. As such, with respect to the request for a PM loan additional analysis is required.

Regarding the Land Sale portion of the application, attached to this report are the following:

1. Petition to sell cemetery property with exhibits -
 - Ex. A - Map of cemetery and parcel to be sold.
 - Ex. B - Purchase/Sales contract
 - Ex. C - Topology map
 - Ex. D - Appraisal by TL Metzger for \$525,000
 - Ex. E - Appraisal by Coldwell Banker for \$534,314
2. Minutes of Special Meeting of trustees held on June 8, 2011, when resolution to sell undeveloped cemetery land was unanimously approved.

The purchaser 1769 Central LLC, plans to establish a car dealership and is not a funeral entity.

The selling price of the land is \$525,000.

Petition submitted indicates that proceeds from the sale will be deposited into the Permanent Maintenance (PM) fund as per N-PCL 1506(i). As this parcel of land has a difficult terrain and is considered to be in excess of future needs of the cemetery, the land sale portion of this application is present to the Board for review.

DuCharme, Harp & Clark, LLP

A REGISTERED LIMITED LIABILITY PARTNERSHIP

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DIV. OF CEMETERIES

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JOHN W. CLARK, Maj Gen, USAF (Ret)
JOHN B. DUCHARME
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CHERYL L. SOVERN

March 1, 2012

Daniel Shapiro, Chair
NYS Cemetery Board
c/o NYS Department of State
One Commerce Plaza
99 Washington Avenue
Albany, New York 12231

In re: Evergreen Memorial Park Association, Inc.; Application for Leave to Seller
Certain Property Pursuant to § 1506 of the N.Y. Not for Profit Corporation Law;
Albany County, Supreme Court; Index No.: 11099649

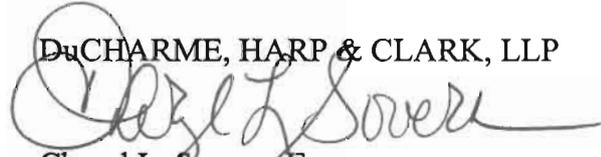
Dear Mr. Shapiro:

Please be advised that this firm represents Evergreen Memorial Park Association, Inc., with respect to its proposed sale of another portion of unuseable cemetery property. Pursuant to N.Y. Not-For-Profit Corporation Law Section 1506(i), enclosed you will find a copy of the Notice of Petition and Petition which seeks court approval for the sale of the cemetery property.

If you have any questions, please feel free to contact me.

Very truly yours,

DuCHARME, HARP & CLARK, LLP



Cheryl L. Sovern, Esq.

CLS/

Encl.

cc: D. Kirk Hulbert