



New York State
DEPARTMENT OF STATE

DIVISION OF CEMETERIES
41 State Street, Suite 1110
Albany, NY 12231-0001

July 1998
No. 1

CEMETERY BULLETIN

Welcome —

I want to welcome you to the Division of Cemeteries' inaugural edition of this *Bulletin*. For this effort to be truly successful, it needs your support. Not in a monetary way, but with your questions and concerns about your cemetery and the related issues surrounding your's or others' cemeteries.

The *Bulletin* will provide current regulatory and administrative decisions that will effect your cemetery operations. Additionally, the *Bulletin* will answer questions that have been sent to us and which have widespread applicability throughout the state.

We hope that the *Bulletin* becomes your forum for information. Please let us know how you feel about this issue and what improvements or articles you would like to see.

Richard D. Fishman
Director, Division of Cemeteries

Mutual Funds

In the past decade, as interest rates on savings accounts and certificates of deposit have plummeted from the double digit yields of the early 1980s, the division has seen many cemeteries invest their trust fund money (permanent maintenance and perpetual care) in mutual funds. This is entirely legal. However, there has been confusion regarding mutual fund capital gains.

As you know, capital gains resulting from a sale of stock held in a cemetery's trust fund must be added to the principal of the trust fund. Mutual funds, besides earning ordinary interest and dividends on its investments, also earn and pay out (or reinvest) capital gain dividends from sales of investments within the mutual funds.

While we have always held that capital gains from the sale or redemption of mutual funds must be added to trust fund principal, we have allowed the capital gains distributions to be considered as income.

After numerous inquiries from cemeteries and accountants, an informal opinion was requested and received from the Attorney General's office.

The Attorney General's opinion states that mutual fund capital gain distributions also must be added to the principal amount of the permanent maintenance or perpetual care funds.

We recognize that some cemeteries have used mutual fund capital gain distributions as spendable income. We also realize that this change in policy may cause some concerns for some cemeteries. For this reason, we will allow cemeter-

ies one year from the date of this *Bulletin* to achieve compliance with the Attorney General's opinion. This will give cemeteries an opportunity to restructure their portfolios, if necessary. However, cemeteries that are not currently using mutual fund capital gain distributions as income may not do so for this one-year transition period.

If you have any questions, please call your regional division accountant.

Consider the future when pricing graves

by Michael V. Itzo

In reviewing the audit reports prepared by the Division of Cemeteries' accountants, I always look at how much each cemetery charges for a grave or lot. The overwhelming majority of small cemeteries charge less than \$300 per grave. Is this enough? Not if your permanent maintenance allocation is 10 percent, the minimum allowed by law. Even with a \$300 grave price, this adds only \$30 to the permanent maintenance fund. If your investments are returning a 6 percent yield, you will have \$1.80 per year to maintain that grave. Obviously, that is insufficient at today's labor rates, much less future costs that will be increased by years of inflation.

Our experience shows that most of the small cemeteries that have failed, and had to be turned over to the local town, sold most of their graves before the permanent maintenance fund was established by law in 1949.

What should you do? First, consider charging more for graves. Grave

Continued on back, see GRAVES . . .

GRAVES . . .

spaces are a cemetery's inventory but most cemeteries do not have the option to "restock the shelves." When the last grave is sold, the cemetery must rely on one source of revenue — trust fund income. In a small community you may feel you are doing your neighbors a favor by keeping prices low. But, if that policy eventually leads the cemetery to financial ruin and it becomes abandoned, have you really done your neighbors a favor?

Secondly, think about allocating a higher percentage of lot and grave sales to the permanent maintenance fund. Admittedly, this is bucking the current trend. Many small cemeteries that have allocated more in the past, but are struggling to make ends meet, are requesting permission to reduce the allocation to 10 percent. Before you make that decision or dismiss the notion of increasing the allocation at your cemetery, consider this: Would it be worth it to give your cemetery a

little less care now and put the savings in the permanent maintenance fund to ensure the cemetery does not become abandoned sometime in the future?

Assessment vs. Vandalism

There appears to be some confusion about the difference between the annual assessment and the vandalism fee.

Annual Assessment — §1508(c) NPCL

An assessment form is mailed to each cemetery annually with the annual report. This assessment should be completed and returned with a check for \$3 per interment, for each interment over 15. If the cemetery has less than 15 interments in a calendar year, no money is owed, but the form must be completed and returned.

Vandalism — §1507(h)(2) NPCL

Vandalism Fee notices are mailed semiannually. Every cemetery must pay a fee of \$5 per interment for the six-month period listed on the notice. Vandalism fees collected for the period December 1 through May 31 are due June 30; for the period

June 1 through November 30, fees are due December 30. The Vandalism Fee notice must be completed and returned even if there are no interments.



State of New York
George E. Pataki, Governor
DEPARTMENT OF STATE
Alexander F. Treadwell,
Secretary of State

www.dos.state.ny.us

DIVISION OF CEMETERIES

Richard D. Fishman, Director
270 Broadway, 7th Floor
New York, NY 10007-2372
Voice: (212) 417-5713
Fax: (212) 417-2322

Michael V. Itzo, Assistant Director
41 State Street, Suite 1110
Albany, NY 12231-0001
Voice: (518) 474-6226
Fax: (518) 474-1927