

Application to Subdivide a Lot, and to Reacquire the Unused Portions of the Resubdivided Lot, Pursuant to Not-for-Profit Corporation Law §1513-a(b)

NYS Department of State
Division of Cemeteries
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231
(518) 474-6226
www.dos.ny.gov

Name of Cemetery: _____

Address of Cemetery: _____

County: _____

Lot to be Reacquired: _____

Date of Application: _____

STATE OF NEW YORK)

COUNTY OF _____) SS.:

_____, being duly sworn, deposes and says:

1. I am the _____ of the cemetery corporation named above (the "Cemetery"). The Cemetery requests approval by the New York State Cemetery Board (the "Cemetery Board") of the Cemetery's plan to subdivide the lot, plot or part thereof described above (the "Lot"), and to reacquire those portions of the resubdivided Lot which do not contain the remains of any deceased person or persons, pursuant to Not-for-Profit Corporation Law ("N-PCL") §1513-a(b).

2. The records of the Cemetery demonstrate that the Lot was purchased on or about _____, _____, which date is more than seventy-five years prior to the date of this Application.

3. At least one burial has been made in the Lot, and at least one body buried in the Lot has not been lawfully removed. The last burial in the Lot was made on or about _____, _____, which date is more than seventy-five years prior to the date of this Application.

4. The Lot can be subdivided to create new graves. A sketch showing the Lot, the portion(s) of the Lot in which the remains of any deceased person or persons are now buried, the manner in which the Cemetery proposes to subdivide the Lot, and the portion(s) of the Lot the Cemetery proposes to reacquire, is annexed to this Application.

5. Check the applicable box:

The Lot was not purchased for multiple depth burials.

The Lot was purchased for multiple depth burials, but no such burial has occurred in any portion of the Lot which is to be reacquired by the Cemetery.

6. The Cemetery conducted a reasonable search for the owner or owners of the Lot, and for any person having a credible claim to ownership of the Lot who has visited, made payments in respect of or engaged in any other proprietary activities with respect to the Lot. The steps taken by the Cemetery to ascertain the identity of, and to contact, the current owner or owners of the Lot, the next-of-kin of such owner or owners, and any other persons identified in the course of the reasonable search who might have relevant information, and the results of such steps, are as follows (*check each box to indicate that the step was taken; if any step listed below was not taken, do not check that box, and attach an explanation. Describe the results of each step in the space provided; if necessary, continue on additional page[s] and attach those page[s].*):

The Cemetery searched all of its records to determine the name of the owner or owners of the Lot and the last known address or each such owner.
Results:

The Cemetery searched all of its records to determine all information available to the Cemetery relating to any person buried in the Lot.
Results:

The Cemetery searched all of its records to determine the names and last known addresses of any persons making inquiry about or visiting the Lot.

Results:

The Cemetery searched for the death certificates and the probated wills of the owner or owners of the Lot.

Results:

The Cemetery posted a notice of its intention to declare the Lot abandoned at the entrance to the Cemetery and in the Cemetery's office, if any. The notice was posted on _____, _____ and remained posted from that date to _____, _____. A copy of the notice that was posted is attached.

Results:

On _____, _____, the Cemetery mailed the notice of its intention to declare the Lot abandoned by certified mail, with return receipt requested, to the owner or owners of the Lot, and to each other person identified during the reasonable search, at their last known addresses. A list of the name(s) and address(es) of the person(s) to whom the notice was mailed, and a copy of the notice that was mailed, are attached.

Results:

Notice of the Cemetery's intention to declare the Lot abandoned was published once in each week for three successive weeks, in two newspapers designated by the County Clerk of the County where the Cemetery is located in accordance with N-PCL §1513-a(a)(5). The Affidavits of Publication from the newspapers are attached.

Results:

7. Despite conducting a reasonable search consisting of the steps indicated above, the Cemetery could identify no owner or owners of the Lot, and the Cemetery could identify no person having a credible claim to ownership of the Lot who has visited, made payments in respect of or engaged in any other proprietary activities with respect to the Lot.

8. The record owner of the Lot is not a corporation or unincorporated association or society having among its activities or its former activities the provision of burial benefits for its members.

9. No sale of the Lot (or any part thereof) by the Cemetery will violate any applicable burial requirements of any sectarian section of the Cemetery. In the event of any sale of the Lot (or any part thereof) by the Cemetery to any party, the Cemetery will require that any monument subsequently placed on the Lot (or any part thereof) shall conform to the general appearance of any existing monuments in the section of the Cemetery where the Lot is located, and shall otherwise comply with the provisions of N-PCL §1513-a(h).

10. The Cemetery is familiar with, and shall comply with, all applicable provisions of N-PCL §1513-a, including but not limited to N-PCL §1513-a(d), which requires the Cemetery to deposit 35% of the net proceeds of any sale of the Lot (or any part thereof) in the Cemetery's permanent maintenance fund, and to deposit 65% of such net proceeds in the Cemetery's current maintenance fund, and N-PCL §1513-a(d), which specifies certain obligations of the Cemetery, and certain rights of the owner of the Lot, in the event that the owner of the Lot is identified at any time after approval of this Application.

(Signature)

Name (print): _____

Sworn to before me this _____

day of _____, _____.

NOTARY PUBLIC