

DIVISION OF CEMETERIES

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
TELEPHONE: (518) 474-6226
FAX: (518) 473-0876
WWW.DOS.NY.GOV

KATHY HOCHUL
GOVERNOR

CEMETERY BOARD

ROBERT J. RODRIGUEZ
SECRETARY OF STATE
CHAIR

LETITIA JAMES
ATTORNEY GENERAL

MARY T. BASSETT, M.D., M.P.H.
COMMISSIONER OF HEALTH

TO: NEW YORK STATE CEMETERY BOARD

FROM: LEWIS A. POLISHOOK, Director

CC: ROBERT VANDERBLES, Counsel

SUBJECT: VESTAL HILLS MEMORIAL PARK ASS'N, No. 04-039

RE: REPLACEMENT BUILDING, REHABILITATION OF EXISTING BUILDING, AND COLUMBARIUM

DATE: OCTOBER 24, 2022

At its June 14, 2022 meeting, the New York State Cemetery Board (the Board) unanimously approved the sale of approximately 3 acres of land by the above-referenced cemetery (the Cemetery) to a nearby church, but reserved decision on finding how much of the sale proceeds constituted "necessary expenses incurred," as defined in Not-for-Profit Corporation Law section 1506(i), and therefore could be paid from sale proceeds before the Cemetery deposited the balance into its permanent maintenance (PM) fund.

The Cemetery renews its application for approval of payment of \$38,220.60 as "necessary expenses incurred," and has provided additional supporting documentation.

As is explained in greater detail below, the Division recommends that the Board find that \$17,256.39 represents necessary expenses incurred and that the balance of sale proceeds be deposited into the Cemetery's PM Fund.

Exhibits

- A. Letter from Kristen K. Luce, Esq. (Aug. 30, 2022)
- B. Statement of sale (June 24, 2022)
- C. Bills from Coughlin & Gerhart, LLP
- D. Bills from Morgan, Lewis & Bockius, LLP
- E. Email from Robert Vanderbles, Esq. (Oct. 19, 2022)

When the Division recommended approval of the sale of the property in question, it concluded that the materials the Cemetery had presented did not give the Division adequate information to conclude that the legal fees the Cemetery claimed to have incurred were in fact "necessary expenses," so it recommended that the Board defer action on "necessary expenses" pending submission of additional information.

Based on the materials the Cemetery submitted by letter dated August 30, 2022, the Division has concluded that the \$1,742 in recording taxes and fees the Cemetery incurred are clearly "necessary expenses." The Division also believes the Cemetery has, with one exception, provided adequate support for its attorneys' legal fees being "necessary expenses incurred." The exception is that those attorneys, Coughlin & Gerhart, LLP, devoted significant time to preparing a petition to Supreme Court, Broome County, that was neither used nor required by

law. Since 2015, Article 15 of the Not-for-Profit Corporation Law has permitted cemeteries to seek Board approval to sell land without recourse to the courts (as the Cemetery in fact did here). Based on the billing records submitted, it appears that \$1,860 of Coughlin & Gerhart's bills is attributable to preparation of the unnecessary and unused petition. We have deducted that sum from the \$17,373.89 total of Coughlin & Gerhart's bills.

The Division cannot conclude that the legal work performed by Morgan, Lewis & Bockius represents "necessary expenses incurred." The reason is simple: As the bills themselves indicate, Morgan Lewis represented Park Lawn Corporation, a "publicly traded funeral, cremation and cemetery provider." The Cemetery has provided no explanation as to how or why it is responsible for the bills of an out-of-state corporation that operates, among other things, funeral homes.

As a final note, the Division's recommendation is limited to the issue of whether the Cemetery can net out expenses from the sale proceeds as "necessary expenses incurred." This recommendation does not address the issue of whether the Cemetery may pay the bills the Division has found are not "necessary expenses incurred" out of its general fund.

EXHIBIT A



BINGHAMTON
BAINBRIDGE
CORTLAND
HANCOCK
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OWEGO
WALTON

www.cglawoffices.com

99 Corporate Drive
Binghamton, New York 13904

Mailing Address:
PO Box 2039
Binghamton, NY 13902-2039
(607) 723-9511
(877) COUGHLIN
Fax: (607) 723-1530
e-mail: KLuce@cglawoffices.com

August 30, 2022

Via Email Only

Lewis Polishook, NYS Department of State, Division of Cemeteries
Robert Vanderbles, NYS Department of State

Re: Vestal Hills Memorial Park Association, Inc, sale of portion of 510 Gates Road, Vestal New York

Dear Mr. Polishook and Mr. Vanderbles;

Please accept this correspondence as a further disclosure regarding the necessary costs and expenses of Vestal Hills Memorial Park Association, Inc., (Vestal Hills) in their recent sale of the above referenced real property. As expressed, we would like the Cemetery Board to approve payment of the enclosed expenses out of the monies held in Vestal Hills' permanent maintenance fund. Please note the transaction closed on June 24, 2022 and the sum of \$346,157.24 was placed in the permanent maintenance fund.

For your review, please find enclosed the following documentation:

1. Statement of Sale;
2. Your approval letter dated June 22, 2022;
3. Statement of Services from Morgan, Lewis & Bockius LLP;
4. Redacted Statement of Services from Coughlin & Gerhart, LLP;
5. Itemization of Corporate Documents needed in transaction from New York State, as fronted by the law firm of Coughlin & Gerhart and reflected in the billing;
6. Email exchange with surveyor at Whistle Design showing survey cost \$2,500, of which Vestal Hills was contractually responsible for half the cost. Please note that the law firm of Coughlin & Gerhart, LLP fronted the cost for the survey and is detailed in their costs.

To outline the services, please note that no realtors were involved with the transaction. When legal counsel became involved, there was only a friendly agreement with the buyers to purchase 3 +/- acres. Care had to be given to subdivision rules in the Town of Vestal. My firm had interaction with the Town of Vestal to navigate how large the parcel needed to be plotted, to not be subject to subdivision rules. Further, the purchase and sales agreement had to be negotiated and agreed upon as between legal counsel. The survey did not occur until after contract, and there were ongoing negotiations regarding the placement of the actual property lines. The information for approval of the transaction had to be assembled with the pertinent information for submission. Once submitted to the Cemetery Division via correspondence dated October 27, 2021, there was a

August 31, 2022

request by the Division of Cemeteries for the Schedule A regarding , Income, Expenses and Fund Balances. This also conveyed acreage owned by Vestal Hills which was required information.

In January of 2022, Vestal Hills was asked to obtain another appraisal, have the current appraisal amended, submit a statement regarding the certificates of indebtedness, copies of conflict of interest policies and the declaration of conflicts. These issues were reviewed, obtained and submitted with the assistance of legal counsel on March 8, 2022. Legal counsel continued to communicate and work with representatives from the Cemetery Division, as well as handle inquiries from the buyer's legal counsel regarding status. Legal Counsel attended the June 14, 2022 Cemetery Board meeting to explain the details of the transaction. Typical real estate transaction documents had to be prepared and delivered. As noted, the closing occurred on June 24, 2022.

Please note on the billing statements courtesy discounts were given by both Coughlin & Gerhart (\$2,197.50) and Morgan, Lewis & Bockius, LLP (\$2,117.95).

Please note that Vestal Hills is not seeking reimbursement from the permanent maintenance fund for the two appraisals they obtained.

Please note that pursuant to New York Law, Vestal Hills had to pay \$1,742.50 to the Broome County Clerk's office for transfer tax and to record the form TP-584. A Tax Certificate also needed to be obtained from the Broome County Director of OMB for \$20.00.

Should you have any further questions, please do not hesitate to contact the undersigned.

Sincerely,

COUGHLIN & GERHART, LLP


By Kristen K. Luce
Partner

EXHIBIT B

STATEMENT OF SALE

		Closing Date:	June 24, 2022
Sellers:	Vestal Hill Memorial Park Association, Inc.	Buyer:	Grace Point Church
No.:	p/o 510 Gates Road	Town/Village:	Vestal
County:	Broome	Tax Map #:	158.08-2-55.12

Purchase Price..... (\$115,000 per acre)	346,150.00
2022 T/C tax bill (tax apportionment notes attached) \$13.8992/365=\$.03808/day x 190 days	7.24
201/2022 School tax bill *exempt*	0.00
Total Amount Due Seller.....	346,157.24
Credits to Purchaser:	
Deposit to C&G.....	25,000.00
Balance Due Seller.....	321,157.24

Paid as follows:

<u>Expense of Buyer:</u>		<u>Expense of Seller:</u>	
Coughlin & Gerhart, LLP- Abstracting & sales tax expense (per page 9 of the contract, Section 5.05 costs, (c)(i))	1,151.10	*Record transfer tax	1732.50
Coughlin & Gerhart, LLP- Survey cost ½	1,250.00	*Record TP-584	10.00
		No realtors	
Total:		Total:	1742.50

*To be paid to the County Clerk

Checks to be cut by buyer:

Coughlin & Gerhart, LLP: \$1,151.10 + 1,250.00 = \$2,401.10

Vestal Hills Memorial Park: \$321,157.24

Checks to be cut by seller:

Broome County Clerk: \$1,742.50

Morgan, Lewis & Bockius, LLP: \$19,104.21

Coughlin & Gerhart, LLP: \$19,774.99

Checks to be cut by Coughlin & Gerhart, LLP:

Vestal Hills Memorial Park: \$25,000

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MARY T. BASSETT, M.D., M.P.H.
COMMISSIONER OF HEALTH

June 22, 2022

By Email

Kristin K. Luce, Esq.
Coughlin & Gerhart LLP
P.O. Box 2039
Binghamton, New York 13902-2039

Re: Vestal Hills Memorial Park Ass'n, Inc., No. 04-039—Land Sale

Dear Ms. Luce:

At the June 14, 2022 meeting of the New York State Cemetery Board (the Board), the Board considered the proposed sale of a 3.005 acre parcel by the above-referenced cemetery (the Cemetery) for \$346,157.24.

A motion was made, seconded, and unanimously adopted approving the Cemetery's sale of the property as described above. However, the Board deferred action on the Cemetery's request that it be allowed to net out expenses before depositing the sale proceeds into the Cemetery's permanent maintenance fund pending further review by the Division.

Very truly yours,



Lewis A. Polishook
Director

p

EXHIBIT C

April 19, 2021

Client: 057756

Matter: 000001

Invoice #: 300096047

Page: 1

RE: Subdivision approval & Petition
to sell property at 510 Gates Road, Vestal, NY

For Professional Services Rendered Through March 31, 2021

SERVICES

Date	Person	Description of Services	Hours	Amount
02/25/2021	KKL	Phone conference with Jeff Dinerstein regarding Vestal Hills project; Conferred with C. Sacco regarding the subdivision aspect of project; File set up with assistant and communications regarding file with assistant.	1.2	\$390.00
03/01/2021	CIS	Emails about project.	0.3	\$97.50
03/01/2021	KKL	Finalized correspondence; Email to client with listing of information we need.	0.5	\$162.50
03/02/2021	CIS	Emails about project.	0.3	\$97.50
03/02/2021	KKL	Emails regarding scope of project and information needed to analyze the subdivision process.	0.3	\$97.50
03/03/2021	CIS	Calls, emails and generally address subdivision, and town approvals.	2.7	\$877.50
03/03/2021	KKL	Phone conference with Jeff, Bill Passodellis, and C. Sacco; Conferred with assistant regarding Helen Evan's (prior owner in title) subdivision and pulling deeds; Email to C. Sacco regarding same.	0.7	\$227.50
03/03/2021	ALW	Review 2002 map. Research deeds at BCCO.	0.2	\$35.00
03/04/2021	CIS	Emails and call with J. Deinerstein.	0.7	\$227.50
03/08/2021	CIS	Emails and calls about subdivision.	0.8	\$260.00
03/09/2021	CIS	Emails about subdivision.	0.6	\$195.00
03/09/2021	KKL	Review of emails regarding need to contact Whistle Designs; Brief review of email from Kathleen Martin with contract.	0.3	\$97.50
03/10/2021	CIS	Received and reviewed emails on contract and survey.	0.3	\$97.50
03/10/2021	ALW	Begin preparing petition for sale of property.	0.7	\$122.50

SERVICES

Date	Person	Description of Services	Hours	Amount
03/11/2021	KKL	Review of contract; Email to Jeff and Kathleen with suggestions/edits regarding the contract.	0.5	\$162.50
03/12/2021	KKL	Review of contract; Responsive email to Kathleen Martin regarding same.	0.3	\$97.50
03/15/2021	CIS	Monitor emails.	0.1	\$32.50
03/15/2021	KKL	Email from Jeff Dinerstein regarding next steps; Detailed email regarding same.	0.2	\$65.00
03/16/2021	CIS	Emails about survey and required dimensions. Received and reviewed emails.	0.3	\$97.50
03/16/2021	KKL	Conferred with assistant regarding need to order a survey and details thereto.	0.2	\$65.00
03/19/2021	CIS	Received and reviewed emails.	0.2	\$65.00
03/22/2021	KKL	Conferred with paralegal regarding survey order; Review of email from Jeff Dinerstein with corporate information needed for the petition; Responded to same; Conferred with paralegal regarding drafting of petition.	0.5	\$162.50
03/22/2021	ALW	Phone call with Whistle Design regarding map changes. Need 240 to go to Church and remainder of frontage to stay with owner. Parcel is to be 240 x 240. Email same to Whistle Design.	0.3	\$52.50
03/31/2021	CIS	Received and reviewed emails.	0.2	\$65.00
03/31/2021	ALW	Finalize Petition. Put list together of information I need and email attorney.	0.4	\$70.00
Total Professional Services			12.8	\$3,920.00

FEE RECAP

Person	Hours	Rate	Amount
KKL Kristen K. Luce	4.7	\$325.00	\$1,527.50
CIS Cheryl I. Sacco	6.5	\$325.00	\$2,112.50
ALW Amber L. Watkins	1.6	\$175.00	\$280.00
Total Services		\$3,920.00	
Total Current Charges			\$3,920.00
Total Balance Due			\$3,920.00

Due Upon Receipt. Please include the Client-Matter & Invoice Number on all remittance. Thank you.
To pay by major credit card or eCheck, call (607) 723-9511 and ask for Accounting or go online at
<https://secure.lawpay.com/pages/coughlinandgerhartllp/operating>

June 24, 2022

Client: 057756

Matter: 000001

Invoice #: 300120140

Page: 1

RE: Subdivision approval & Petition
to sell property at 510 Gates Road, Vestal, NY

For Professional Services Rendered Through June 24, 2022

SERVICES

Date	Person	Description of Services	Hours	Amount
04/01/2021	CIS	Call and emails about particulars of subdivision dimensions.	0.7	\$227.50
04/01/2021	KKL	Review of email from Jeff Dinerstein regarding Church's preference with survey plotting; Confirmed subdivision regulations with C. Sacco; Phone conference with Jeff Dinerstein regarding same; Email to Whistle Designs.	0.6	\$195.00
04/13/2021	ALW	Phone conference with Jeff Dinerstein. Email to surveyor.	0.3	\$52.50
04/13/2021	ALW	Phone call with Rosemary at Whistle-design regarding dimensions of the map. She'll call Jeff directly and go over it with him.	0.2	\$35.00
04/14/2021	ALW	Phone conferences with Jeff and Rosemary about needing a sketch of the area, to be at least 3 acres but not more than 4 acres. Rosemary will email the final sketch to us for the agreement and once signed, he'll move on the survey.	0.3	\$52.50
04/15/2021	KKL	Emails regarding the survey plotting with Jeff Dinerstein.	0.2	\$65.00
04/16/2021	KKL	Phone conference with Jeff Dinerstein regarding survey map.	0.2	\$65.00
04/20/2021	KKL	Emails regarding client approval of survey.	0.2	\$65.00
04/21/2021	KKL	Review of letter from Xlander's office regarding the map; Responded to Jeff Dinerstein regarding same; Conferred with paralegal regarding having Whistle Designs review and adjust a plot map.	0.3	\$97.50
04/22/2021	KKL	Receipt and review of survey plot and engagement letter.	0.3	\$97.50
04/23/2021	KKL	Phone conference with Jeff D. to discuss survey plotting.	0.2	\$65.00
04/27/2021	KKL	Email on update of PSA.	0.1	\$32.50

SERVICES

Date	Person	Description of Services	Hours	Amount
05/11/2021	KKL	Receipt of PSA from Xlander's with deposit check; Email to Jeff Dinerstein regarding same; Responsive email	0.3	\$97.50
05/20/2021	KKL	Email from Xlander's with contract; Confirmed placing deposit in escrow with client.	0.2	\$65.00
05/21/2021	KKL	Review and execution of contract.	0.2	\$65.00
06/25/2021	ALW	Read/respond to email from Jeff.	0.1	\$17.50
07/28/2021	KKL	Conferred with E. Lovelass regarding finalizing petition.	0.3	\$97.50
07/28/2021	EML	Reviewed file with KKL.	0.3	\$67.50
07/28/2021	EML	Researched petitions; edited draft.	0.8	\$180.00
07/29/2021	EML	Reviewed document draft with KKL.	0.2	\$45.00
08/02/2021	EML	Prepared Petition; sent to KKL and ALW.	1.2	\$270.00
08/05/2021	KKL	Review and revision to petition; Email to Jeff Dinerstein regarding status on survey.	0.6	\$195.00
08/06/2021	KKL	Conferred with paralegal regarding checking in on survey.	0.2	\$65.00
08/06/2021	EML	Edited petition.	0.5	\$112.50
08/18/2021	EML	Review petition; notes to KKL.	0.4	\$90.00
08/25/2021	ALW	Research Clerk's Office from 1, 2003 to Vestal Hill Memorial.	0.4	\$70.00
08/25/2021	ALW	Research Clerk's Office for Helen Evans from 9/1981.	1.4	\$245.00
09/01/2021	ALW	Research Samuel Fetherolf and Robert Fetherolf from 1-16-1947 to date.	1.1	\$192.50
09/02/2021	KKL	Conferred with paralegal regarding abstracting questions.	0.3	\$97.50
09/02/2021	ALW	Create abstract.	3.1	\$542.50
09/03/2021	ALW	Prepare transfer documents.	1.0	\$175.00
09/14/2021	KKL	Phone conference with Rosemary at Whistle Design regarding status of survey.	0.4	\$130.00
09/15/2021	KKL	Phone conference with Jeff Dinerstein regarding status.	0.2	\$65.00
09/20/2021	KKL	Email from Rosemary regarding flagging; Email to Jeff regarding same; Phone conference with Jeff regarding status with survey and open questions.	0.4	\$130.00
09/21/2021	KKL	Email from Jeff regarding client's approval of survey; Email to Fred Xlander's office regarding survey and discrepancy with flagging in the field.	0.3	\$97.50
09/22/2021	KKL	Email from Whistle Designs regarding resolution with field flagging; Email to Jeff Dinerstein; Email to Xlander's request for survey specifications; Review of same.	0.3	\$97.50

SERVICES

Date	Person	Description of Services	Hours	Amount
10/05/2021	ALW	Review legal description from surveyor. Revise deed and prepare letter to buyer's attorney.	0.2	\$35.00
10/14/2021	KKL	Review and revised petition.	0.5	\$162.50
10/14/2021	ALW	Revise deed to include surveyor's description and research Clerk's office from 8/31 (last search to date).	0.2	\$35.00
10/15/2021	ALW	Prepare tax search.	0.1	\$17.50
10/19/2021	KKL	Finalized petition; Email to Jeff Dinerstein regarding status and request to confirm details of petition.	0.8	\$260.00
10/20/2021	KKL	Conference with Jeff regarding open items in petition; Research regarding . Email to Jeff Dinerstein inquiring	1.0	\$325.00
10/20/2021	EML	Research on notice requirements and land share holders.	0.5	\$112.50
10/20/2021	ALW	Work on abstract and letter to buyer's attorney with copy of Petition and Survey Maps to be included.	0.4	\$70.00
10/20/2021	ALW	Prepare Index # application and Proposed Order. Prepare Motion Note of Issue and Order to Show Cause.	0.7	\$122.50
10/20/2021	ALW	Finalize abstract specs.	1.2	\$210.00
10/21/2021	KKL	Revision to petition; Email to Jeff Dinerstein with copy of same.	0.3	\$97.50
10/22/2021	KKL	Email to Jeff Dinerstein regarding ; Received response; Revision to petition; Email to Jeff Dinerstein with revised petition.	0.5	\$162.50
10/25/2021	KKL	Conferred with assistant regarding need for a consent from Citidel (certificate of indebtedness holder).	0.2	\$65.00
10/26/2021	KKL	Email from Jeff regarding paragraph #8 of the petition; Finalized the Citadel Consent; Emails with Jeff Dinerstein regarding the consent and Operating Agreement for Vestal Hills; Receipt of signed petition and by laws from client.	1.0	\$325.00
10/26/2021	ALW	Prepare Consent to Citadel.	0.1	\$17.50
10/26/2021	ALW	Phone call with NYS Franchise tax search request line. Order tax search. Prepare request for Certificate of Good Standing, Articles of Incorporation and Biennial statement.	0.6	\$105.00
10/27/2021	KKL	Received and reviewed consent from Citadel; Conferred with paralegal regarding getting package for Cemetery Board ready to ship out; Review of correspondence enclosing proposed petition.	0.4	\$130.00
10/29/2021	KKL	Responsive email to Mark Hubal regarding satus.	0.2	\$65.00
11/17/2021	KKL	Email from W. Passodelis regarding status (contact by Cemetery Division); Conferred with paralegal regarding need for certificate of good standing from NYS.	0.1	\$32.50

SERVICES

Date	Person	Description of Services	Hours	Amount
12/13/2021	ALW	Finalize transfer documents. Phone call to NYS re; request for corporate docs/cert of good standing that was sent over a month ago.	0.7	\$122.50
12/22/2021	KKL	Received and reviewed Schedule A for Cemetery Board petition, Responsive email to J. Dinerstein, Conferred with assistant regarding submission to cemetery board and Andrew Hinkey at the Cemetery Board.	0.3	\$97.50
12/27/2021	ALW	Prepare letter to Cemetery Board. Email parties accordingly.	0.2	\$35.00
01/07/2022	ALW	Phone call with Jeff and Brandon. Discussion of issues:	0.3	\$52.50
		Phone call to Cemetery Board, left message.		
01/10/2022	KKL	Conferred with paralegal regarding contacting cemetery board.	0.1	\$32.50
01/10/2022	ALW	Phone call with Brandon from Division of Cemeteries regarding 2nd appraisal and conflict of interest policies. They always require a 2nd appraisal to compare against each other, just starting requesting the COI policies. Email to Jeff Dinerstein re; same.	0.2	\$35.00
01/11/2022	KKL	Email from Jeff Dinerstein regarding questions/objectives; Request for contact to cemetery board for a sample for acceptable appraisal; Email cemetery board regarding same; Received response; Email to client with names of appraisers.	0.7	\$227.50
01/12/2022	KKL	Review of file in preparation for call regarding the conflict of interest policy request and disclosures.	0.7	\$227.50
01/12/2022	KKL	Phone conference with Jeff Dinerstein, Jennifer Hay, William Passodellis and Brian Stanton.	0.8	\$260.00
01/18/2022	KKL	Conference with Jeff Dinerstein and Jennifer Hay regarding	0.5	\$162.50
01/18/2022	KKL	Conference with N. Van Why to discuss project--	0.8	\$260.00
01/18/2022	NDV	Discussed with K. Luce regarding	0.8	\$260.00
01/24/2022	BLB	Met with K. Luce to discuss petition and comments from NYS cemetery board.	0.4	\$130.00
01/24/2022	KKL	Meeting with Brady Begeal regarding approach for Vestal Hills.	0.5	\$162.50
01/24/2022	KKL	Meeting with Nate Van Why and Mark Gorgos regarding Vestal Hills matter.	1.5	\$487.50
01/24/2022	MSG	Conf re procedural aspects for sale of real property and Div of Cemetery approval.	0.4	\$130.00

SERVICES

Date	Person	Description of Services	Hours	Amount
01/24/2022	NDV	Prepared for, attended meeting with K. Luce and M. Gorgos regarding strategy, and next steps.	1.2	\$390.00
01/25/2022	EML	Research as to ownership; receipt of tax docs and	1.6	\$360.00
01/26/2022	KKL	Began drafting opinion letter.	2.0	\$650.00
01/27/2022	KKL	Finalized opinion letter.	1.7	\$552.50
01/28/2022	KKL	Finalized opinion letter and email to Jennifer Hay and Jeff Dinerstein.	0.7	\$227.50
02/01/2022	KKL	Review of file; Telephone conference with Jeff Dinerstein regarding the conflict of interest policy.	0.3	\$97.50
02/02/2022	KKL	Received and reviewed email from Jeff Dinerstein regarding drafted conflict of interest policy; Review of authorizing statute and proposed policy; Responsive email.	0.4	\$130.00
02/08/2022	KKL	Call from Xlander's office regarding status; Responded to same; Conferred with paralegal regarding getting everything lined up for finalizing sale.	0.4	\$130.00
02/08/2022	ALW	Phone call with Tess @ Fred's office, buyer is looking for update.	0.3	\$52.50
02/15/2022	KKL	Review of appraisal from Jeff Dinerstein; Responsive email.	0.5	\$162.50
03/01/2022	KKL	Conferred with paralegal regarding contact from Xlander's office; Email to Jeff Dinerstein regarding same.	0.2	\$65.00
03/03/2022	KKL	Review of last appraisal; Email to buyer's attorney regarding status; Review of items needed by Cemetery Board, assembled same.	0.7	\$227.50
03/03/2022	ALW	Review email from Brian Stanton with second appraisal. Prepare letter to Cemetery Division.	0.2	\$35.00
03/08/2022	KKL	Email from Jeff Dinerstein regarding submission to Cemetery Board; Email to Brendon Stanton regarding submission of outstanding notices; Emails with Xlander's office regarding status.	0.4	\$130.00
03/16/2022	KKL	Emails with Jeff Dinerstein regarding status; Follow up email to Cemetery Board.	0.3	\$97.50
03/18/2022	KKL	Email from Xlander's office regarding status; Responsive email showing communications with the Cemetery Board.	0.3	\$97.50
03/23/2022	KKL	Email from Brendon Stanton; Research of Cemetery Board meeting schedule, and review of closing date in contract; Email to Jeff Dinerstein.	0.4	\$130.00
03/31/2022	KKL	Conferred with paralegal regarding handling of inquiry from Michael Danaher at AG's office.	0.2	\$65.00
04/06/2022	KKL	Email from Jennifer Hay regarding whether Vestal Hills petition on cemetery board's agenda; Email to Investigator Brendon Stanton regarding same.	0.1	\$32.50

SERVICES

Date	Person	Description of Services	Hours	Amount
04/18/2022	KKL	Email with Brendon Stanton regarding agenda of Cemetery Board meeting.	0.1	\$32.50
04/20/2022	KKL	Email from Brendon Stanton regarding status in getting item placed on the agenda; Email to Jeff Dinerstein regarding same.	0.2	\$65.00
05/05/2022	KKL	Emails with Brendon Stanton at the Department of State regarding June's agenda.	0.2	\$65.00
05/11/2022	KKL	Email from Xlander's office regarding setting up a closing; Email to Jeff Dinerstein regarding same.	0.2	\$65.00
05/31/2022	KKL	Conferred with assistant regarding pulling together closing & follow up with Cemetery Board regarding June agenda.	0.1	\$32.50
06/03/2022	ALW	Prepare statement of sale and tax apportionment notes.	1.1	\$192.50
06/06/2022	KKL	Conferred with paralegal regarding communications with Brendon Stanton; Call with Jeff Dinerstein and Jennifer Hay regarding same.	0.3	\$97.50
06/06/2022	ALW	Phone call with Brendon Stanton at Cemetery Board.	0.4	\$70.00
06/08/2022	KKL	Email to Jennifer Hay and Jeff Dinerstein with proposed email to Cemetery Board regarding status.	0.2	\$65.00
06/08/2022	KKL	Email from Cemetery Board regarding the agenda; pulled agenda; Email with Jeff Dinerstein and Jennifer Hay regard the agenda; Email to Xlander's office regarding being on the agenda.	0.4	\$130.00
06/13/2022	KKL	Review of petition and supplemental information provided to cemetery board; meeting to review game plan for tomorrow regarding same.	1.5	\$487.50
06/14/2022	KKL	Attended hearing; Follow up call with Bill Passodellis; Email to client regarding meeting.	1.6	\$520.00
06/14/2022	KKL	Review of statement of sale.	0.2	\$65.00
06/15/2022	KKL	Email from buyer's attorney regarding cemetery board meeting; Responded to same; Conferred with assistant regarding details for closing.	0.3	\$97.50
06/17/2022	KKL	Review of package to go to William Passodellis for signing.	0.3	\$97.50
06/17/2022	ALW	Finalize forms and prepare letter/package to Bill Passodelis for execution.	0.3	\$52.50
06/20/2022	ALW	Review statement of sale from buyer's attorney and confirm figures. Phone call from Bill Passodelis re; checks.	0.2	\$35.00
06/22/2022	KKL	Conferred with assistant regarding contact to Cemetery Division; Received and reviewed email with Cemetery Division approval; Responsive email to Cemetery Board regarding amount to go into the Permanent maintenance fund.	0.4	\$130.00
06/22/2022	ALW	Phone call with Carrie at Cemetery Board-Albany Division re; written approval. Director Polishook will email me a copy of the written approval.	0.2	\$35.00

SERVICES

Date	Person	Description of Services	Hours	Amount
06/22/2022	ALW	Receive/review approval from Director. Email to client and buyer's attorney's office.	0.2	\$35.00
06/23/2022	ALW	Read/respond to buyer's attorney's office emails.	0.1	\$17.50
06/24/2022	ALW	Attend closing.	1.0	\$175.00
Total Professional Services			57.1	\$15,487.50
Less Courtesy Discount				(\$2,197.50)
Total Professional Services				\$13,290.00

PERSON RECAP

Person	Hours	Amount
BLB Brady L. Begeal	0.4	\$130.00
MSG Mark S. Gorgos	0.4	\$130.00
KKL Kristen K. Luce	31.3	\$10,172.50
CIS Cheryl I. Sacco	0.7	\$227.50
NDV Nathan D. VanWhy	2.0	\$650.00
EML Emily M. Lovelass	5.5	\$1,237.50
ALW Amber L. Watkins	16.8	\$2,940.00

DISBURSEMENTS

Date	Description of Disbursements	Amount
08/11/2021	Whistle Design- Survey Fee- MORGAN, LEWIS-payment of survey	\$1,250.00
10/14/2021	BC Director of OMB- Tax Certificate- MORGAN, LEWIS-tax cert-taxable	\$20.00
10/22/2021	Whistle Design- Survey Fee- MORGAN, LEWIS-final payment of survey invoice	\$1,250.00
10/25/2021	FedEx- Delivery- to Mark Hubal, Esq on 10/21/2021	\$9.99
10/26/2021	NYS DOS CORP- Filing Fee- cert of good-standing, articles of incorp and biennial stmnt	\$35.00
Total Disbursements		\$2,564.99

Coughlin & Gerhart LLP

June 24, 2022

Client: 057756

Matter: 000001

Invoice #: 300120140

Page: 8

Total Professional Services	\$15,487.50	
<i>Less Courtesy Discount</i>	<i>(\$2,197.50)</i>	
Total Professional Services Due	\$13,290.00	
Applicable Tax	\$93.19	
Total Disbursements Due	\$2,564.99	
Total Current Charges		\$15,948.18
Previous Balance		\$3,920.00
Total Balance Due		\$19,868.18

Due Upon Receipt. Please include the Client-Matter & Invoice Number on all remittance. Thank you.
To pay by major credit card or eCheck, call (607) 723-9511 and ask for Accounting or go online at
<https://secure.lawpay.com/pages/coughlinandgerhartllp/operating>



Division of Corporations,
State Records and
Uniform Commercial Code

New York State
Department of State
DIVISION OF CORPORATIONS
One Commerce Plaza
99 Washington Ave.
Albany, NY 12231-0001
www.dos.ny.gov

Credit Card/Debit Card Authorization

Attach this form to your document, certificate or other written request.

The Name of the Corporation or Business Entity to Which This Request Applies is:

Vestal Hills Memorial Park Association, Inc.

Check Box for Requested Service:

Fill in Fee or Amount:

<input type="checkbox"/> FILING OF DOCUMENT OR CERTIFICATE (Consult appropriate fee schedule for fee)	\$
Check the appropriate box: Routine Processing: <input type="checkbox"/> No additional fee	
Expedited Processing: <input type="checkbox"/> 24-Hour Additional \$25 fee <input type="checkbox"/> Same Day Additional \$75 fee <input type="checkbox"/> 2-Hour Additional \$150 fee	\$
<input checked="" type="checkbox"/> CERTIFIED COPY (The fee for each certified copy is \$10)	\$ 10.00
Check the appropriate box: Routine Processing: <input checked="" type="checkbox"/> No additional fee	
Expedited Processing: <input type="checkbox"/> 24-Hour Additional \$25 fee <input type="checkbox"/> Same Day Additional \$75 fee <input type="checkbox"/> 2-Hour Additional \$150 fee	\$
<input type="checkbox"/> PLAIN COPY (The fee for each plain copy is \$3)	\$
Check the appropriate box: Routine Processing: <input type="checkbox"/> No additional fee	
Expedited Processing: <input type="checkbox"/> 24-Hour Additional \$25 fee <input type="checkbox"/> Same Day Additional \$75 fee <input type="checkbox"/> 2-Hour Additional \$150 fee	\$
<input checked="" type="checkbox"/> CERTIFICATE OF STATUS (Certificates of Good Standing, etc. The fee for each certificate is \$25.)	\$ 25.00
Check the appropriate box: Routine Processing: <input checked="" type="checkbox"/> No additional fee	
Expedited Processing: <input type="checkbox"/> 24-Hour Additional \$25 fee <input type="checkbox"/> Same Day Additional \$75 fee <input type="checkbox"/> 2-Hour Additional \$150 fee	\$
<input type="checkbox"/> SERVICE OF PROCESS (Must be served in person at the above address)	\$
<input checked="" type="checkbox"/> BIENNIAL / FIVE YEAR STATEMENT	\$
<input type="checkbox"/> OTHER	\$
<input type="checkbox"/> DEPOSIT TO DRAWDOWN:	\$

Account Name: Account Number: \$

TOTAL (Total Amount Due) \$ 35.00

Same Day expedited service requests must be received by 12 noon on regular business days.

2-hour expedited service requests must be received by 2:30 p.m. on regular business days.

Expedited processing fees are charged even if a document, certificate or other request is rejected as deficient.

Credit/Debit Card Information: ☐ MasterCard ☒ Visa ☐ American Express

TYPE OR PRINT CLEARLY

Card Number: [REDACTED] Expiration Date (Month/Year): 04/26

Name as it Appears on Card: Coughlin & Gerhart, LLP

Cardholder's Billing Address: P.O. Box 2039

City: Binghamton State: NY Zip Code: 13904

Fax Number: 607-723-1530

Cardholder's Signature: [Signature] Date: 10/26/2021

If the name on the card is in the name of a corporation or other business entity, please print the signer's name: Kristen K. Luce, Esq.

Amber L. Watkins

From: whistledesign@stny.rr.com
Sent: Friday, June 24, 2022 2:33 PM
To: Amber L. Watkins
Subject: RE: Survey invoice for Vestal Hills (510 Gates Road, Vestal)

Hi Amber,

I did look and did not find an actual invoice. I think that the Quotation dated April 22, 2021 may have served as a contract/invoice. The payments were made by two checks/ M&T Bank: check # 171538 dated August 11, 2021 in the amount of \$1,250.00; check # 172648 dated October 22, 2021 in the amount of \$1,250.00.

*** This e-mail and any files transmitted with it are confidential. If you have received this e-mail in error, please notify the sender immediately by e-mail. Do not copy, distribute, or take any action in reliance on the information. If you are not the named addressee, you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. ***

From: "Amber L. Watkins"
To: "whistledesign@stny.rr.com"
Cc:
Sent: Friday June 24 2022 12:42:21PM
Subject: RE: Survey invoice for Vestal Hills (510 Gates Road, Vestal)

Good afternoon, we are closing today.

Any chance you found the invoice?

Thanks,

Amber L. Watkins | Paralegal
COUGHLIN & GERHART, LLP
99 Corporate Drive | Binghamton, NY 13904
P.O. Box 2039 | Binghamton, NY 13902-2039
Tel: 607.723.9511

Fax: 607.723.1530 | Toll Free: 1.877.COUGHLIN

Owego Office (Tues., Wed. & Thurs.)

27-29 Lake Street | P.O. Box 250
Owego, NY 13827
Tel: 607.687.0567

Fax: 607.687.9860 | Toll Free: 1.877.COUGHLIN

awatkins@cglawoffices.com | www.cglawoffices.com

EXHIBIT D

Morgan Lewis

Morgan, Lewis & Bockius LLP
1000 Louisiana Street, Suite 4000
Houston, TX 77002
T +1.713.890.5000
F +1.713.890.5001
www.morganlewis.com
Fed Tax ID: 23-0891050

Invoice Date: June 28, 2022
Invoice No. 4977464
Account No. 197054-0085

Park Lawn Corporation
Jennifer Hay, General Counsel
16801 Greenspoint Park Drive
Suite 376
Houston, TX 77060

Summary of Services for the period ended May 31, 2022

Re: Real Estate Sale (Vestal)

Fees	\$	21,179.50
Less 10% Discount		(2,117.95)
Total Fees	\$	19,061.55
Disbursements	\$	22.45
Total Current Period Charges	\$	19,084.00

Thank you for the privilege of working with you. Please feel welcome to visit our COVID 19 site, which has a great deal of information and resources for our clients:
<https://www.morganlewis.com/topics/coronavirus-covid-19>

Morgan Lewis

Morgan, Lewis & Bockius LLP
1000 Louisiana Street, Suite 4000
Houston, TX 77002
T +1.713.890.5000
F +1.713.890.5001
www.morganlewis.com
Fed Tax ID: 23-0891050

Invoice Date: June 28, 2022
Invoice No. 4977464
Account No. 197054-0085

REMITTANCE COPY

Park Lawn Corporation
Jennifer Hay, General Counsel
16801 Greenspoint Park Drive
Suite 376
Houston, TX 77060

Summary of Services for the period ended May 31, 2022

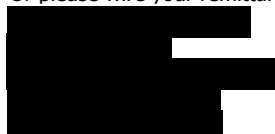
Re: Real Estate Sale (Vestal)

Fees	\$	21,179.50
Less 10% Discount		(2,117.95)
Total Fees	\$	19,061.55
Disbursements	\$	22.45
Total Current Period Charges	\$	19,084.00

Please reference account and/or invoice number(s) on your remittance.

Please send your remittance to:
Morgan, Lewis & Bockius LLP
P. O. Box 8500 S-6050
Philadelphia, [REDACTED]
[REDACTED]

Or please wire your remittance to:



Reference account number

Remittance detail address
cashapplication@morganlewis.com

Morgan Lewis

June 28, 2022
Page 1

Invoice No. 4977464
Account No. 197054-0085

Detail for Fee Services Rendered

Date	Timekeeper	Description	Hours	Rate	Amount
02/12/21	Dinerstein, J. S.	Conference call with Ms. Hay regarding NY real estate sale.	0.30	750.00	225.00
02/22/21	Dinerstein, J. S.	Attention to Vestal Hills real estate sale; conference call and e-mail correspondence regarding the same.	0.50	750.00	375.00
02/22/21	Martin, K. M.	Review emails regarding Vestal, NY property sale; conference regarding same.	0.90	825.00	742.50
02/23/21	Martin, K. M.	Review email regarding form of Purchase and Sale Agreement.	0.40	825.00	330.00
02/24/21	Dinerstein, J. S.	Analysis of real estate due diligence materials; e-mail correspondence regarding the same.	0.40	750.00	300.00
02/25/21	Dinerstein, J. S.	Conference calls with Ms. Hay, Mr. Passodelis, Seller, and Seller's counsel regarding sale of real estate; conference call with local counsel; e-mail correspondence regarding the same.	1.20	750.00	900.00
02/25/21	Martin, K. M.	Review emails from regarding Vestal, NY property sale; telephone conference regarding same.	0.90	825.00	742.50
02/26/21	Dinerstein, J. S.	Conference call purchaser's counsel regarding PSA.	0.30	750.00	225.00
02/26/21	Martin, K. M.	Telephone conference with K. Luce regarding Vestal, NY property sale.	0.30	825.00	247.50
03/01/21	Dinerstein, J. S.	Attention to engagement of local counsel and preparation of PSA; conference calls and e-mail correspondence regarding the same.	0.30	750.00	225.00
03/03/21	Dinerstein, J. S.	Conference call with Mr. Passodelis and local counsel to gather information for subdivision petition; e-mail correspondence regarding the same.	0.70	750.00	525.00
03/04/21	Dinerstein, J. S.	Conference call with local counsel regarding road frontage, zoning and variance considerations; e-mail correspondence regarding the same.	0.40	750.00	300.00
03/05/21	Feeley, R.	Performed defined terms and cross-references checks, as well as a few minor edits, on a 25-page document.	1.70	50.00	85.00
03/05/21	Martin, K. M.	Prepare Purchase and Sale Agreement.	5.60	825.00	4,620.00
03/06/21	Martin, K. M.	Prepare draft of Purchase and Sale Agreement; prepare email regarding same.	0.90	825.00	742.50
03/08/21	Dinerstein, J. S.	Prepare draft PSA; e-mail correspondence regarding the same.	0.30	750.00	225.00
03/09/21	Dinerstein, J. S.	Address parcel combination and associated issues; e-mail correspondence regarding the same.	0.20	750.00	150.00

Morgan Lewis

June 28, 2022
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Invoice No. 4977464
Account No. 197054-0085

Date	Timekeeper	Description	Hours	Rate	Amount
03/09/21	Martin, K. M.	Revise Purchase and Sale Agreement incorporating comments.	1.20	825.00	990.00
03/11/21	Martin, K. M.	Review and respond to emails from local counsel regarding comments to PSA.	0.50	825.00	412.50
03/12/21	Martin, K. M.	Finalize Purchase and Sale Agreement based on local counsel comments.	1.40	825.00	1,155.00
03/16/21	Dinerstein, J. S.	Correspondence regarding and attention to petition.	0.40	750.00	300.00
03/19/21	Dinerstein, J. S.	Correspondence regarding information for petition.	0.30	750.00	225.00
03/22/21	Dinerstein, J. S.	Attention to comments to PSA; conference call with Mr. Passodelis regarding sale issues; e-mail correspondence regarding the same.	0.30	750.00	225.00
03/23/21	Martin, K. M.	Revise Buyer's counsel's comments to PSA; revise same.	0.90	825.00	742.50
03/24/21	Dinerstein, J. S.	Conference call with CBRE regarding appraisal; e-mail correspondence regarding the same.	0.30	750.00	225.00
03/25/21	Dinerstein, J. S.	Revise PSA; attention to proposed carve-out parcel; e-mail correspondence regarding the same.	0.30	750.00	225.00
04/01/21	Dinerstein, J. S.	Conference call with local counsel regarding revision to shape of tract of land to be sold; prepare comments to appraisal proposal; e-mail correspondence regarding the same.	0.30	750.00	225.00
04/13/21	Dinerstein, J. S.	Conference calls regarding and attention to shape of tract of land to be sold; e-mail correspondence regarding the same.	0.20	750.00	150.00
04/16/21	Dinerstein, J. S.	Conference call regarding updated plat to be sold; e-mail correspondence regarding the same.	0.10	750.00	75.00
04/20/21	Martin, K. M.	Review and respond to email regarding final drawing; review PSA regarding attaching same.	0.30	825.00	247.50
04/29/21	Hutton-Work, L.	Prepare written consent for sale of Vestal Hill lot; correspondence regarding the same.	1.60	435.00	696.00
05/03/21	Martin, K. M.	Revise Purchase and Sale Agreement for purchase price.	0.40	825.00	330.00
05/11/21	Dinerstein, J. S.	Revise Board consent; conference call with Mr. Passodelis; conference call with office of buyer's counsel; address execution of wrong PSA; e-mail correspondence regarding the same.	0.20	750.00	150.00
05/21/21	Dinerstein, J. S.	Attention to execution of PSA and appraisal; e-mail correspondence regarding the same.	0.20	750.00	150.00
06/25/21	Dinerstein, J. S.	Correspondence with local counsel and provide background information for regulatory petition.	0.20	750.00	150.00

Morgan Lewis

June 28, 2022
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Invoice No. 4977464
Account No. 197054-0085

Date	Timekeeper	Description	Hours	Rate	Amount
09/20/21	Dinerstein, J. S.	Analysis of survey update; e-mail correspondence regarding the same.	0.30	750.00	225.00
09/21/21	Dinerstein, J. S.	Attention to approval of survey and other real estate sale issues; e-mail correspondence regarding the same.	0.30	750.00	225.00
09/22/21	Dinerstein, J. S.	Correspondence with local counsel regarding survey.	0.20	750.00	150.00
10/19/21	Dinerstein, J. S.	Address approval requirements for sale and items for sale petition; e-mail correspondence regarding the same.	0.40	750.00	300.00
10/20/21	Dinerstein, J. S.	Conference call with local counsel regarding sale approval requirements.	0.20	750.00	150.00
10/21/21	Dinerstein, J. S.	Conference call with Ms. Hay regarding petition; follow-up with local counsel; e-mail correspondence regarding the same.	0.30	750.00	225.00
10/25/21	Dinerstein, J. S.	Attention to revisions to petition; e-mail correspondence regarding the same.	0.30	750.00	225.00
10/26/21	Dinerstein, J. S.	Attention to revised petition and waiver agreement; e-mail correspondence regarding the same.	0.50	750.00	375.00
11/23/21	Dinerstein, J. S.	Attention to information gathering for land sale regulatory approval; e-mail correspondence regarding the same.	0.20	750.00	150.00
12/22/21	Dinerstein, J. S.	Attention to information gathered for regulatory submission; e-mail correspondence regarding the same.	0.20	750.00	150.00
12/27/21	Dinerstein, J. S.	Attention to local counsel correspondence to NY regulators; e-mail correspondence regarding the same.	0.10	750.00	75.00
01/03/22	Dinerstein, J. S.	Conference call and e-mail correspondence regarding comments from regulator.	0.30	810.00	243.00
01/07/22	Dinerstein, J. S.	Conference call with local counsel regarding regulatory approval issues;.	0.30	810.00	243.00
02/15/22	Dinerstein, J. S.	Attention to updates to NY appraisal; e-mail correspondence regarding the same.	0.10	810.00	81.00
02/22/22	Dinerstein, J. S.	Attention to final appraisal; e-mail correspondence regarding the same.	0.10	810.00	81.00
02/24/22	Dinerstein, J. S.	Review of second appraisal.	0.20	810.00	162.00
03/01/22	Dinerstein, J. S.	Attention to appraisal updates; attention to updated appraisal proposal; email correspondence regarding same.	0.10	810.00	81.00
03/24/22	Dinerstein, J. S.	Conference call with Ms. Hay and buyer's counsel regarding regulatory status and process; conference call with Buyer's counsel regarding the same; e-mail correspondence regarding the same.	0.30	810.00	243.00

Morgan Lewis

June 28, 2022
Page 4

Invoice No. 4977464
Account No. 197054-0085

Date	Timekeeper	Description	Hours	Rate	Amount
05/11/22	Dinerstein, J. S.	Attention to sale and scheduling closing date; e-mail correspondence regarding the same.	0.20	810.00	162.00
Matter Total			29.00		\$ 21,179.50

Disbursements and Other Related Charges Incurred on Your Behalf

Date	Name	Description	Amount
03/06/21	Martin, Kathleen M.	Word Processing Charges 2 TASK NO. 1003 - FIX FO FORMATTING	10.00
03/16/21	Dinerstein, Jeff S.	Overnight Courier Service KRISTEN K LUCE COUGHLIN, & GERHART LLP 99 CORPORATE Tracking#: 784794796700	12.45
Total Disbursements			\$ 22.45

Summary of Disbursements and Other Related Charges
Incurred on Your Behalf

Description	Amount
Overnight Courier Service	12.45
Word Processing Charges	10.00
Total Disbursements	\$ 22.45

EXHIBIT E

From: [Vanderbles, Robert \(DOS\)](#)
To: [Kristen K. Luce](#)
Cc: [Polishook, Lewis \(DOS\)](#)
Subject: RE: Vestal Hills Memorial Park Association
Date: Wednesday, October 19, 2022 2:12:59 PM

Dear Kristen,

Thank you for the additional information. We would like to have this matter on the agenda for the November meeting. Of the \$38,220.60 in expenses proposed as necessary, we intend to recommend that the Cemetery Board find that \$17,256.38 are necessary expenses. \$1,860.00 in expenses in Coughlin and Gerhart's invoices, as set forth in the table below, relate to preparation of the Petition to Supreme Court which was not utilized. The \$19,104.21 invoiced from Morgan Lewis is addressed to Park Lawn Corporation. From its website, it is the largest Canadian owned publicly traded corporation providing funeral, crematory, and cemetery services in North America. Because the invoice is to Park Lawn Corporation it is not a necessary expense of the cemetery for the transaction. N-PCL § 1506-a(7) generally prohibits a management agreement between a not-for-profit cemetery and any entity that isn't a not-for-profit cemetery.

Date	Person	Description of Service	Hours	Amount
3/31/21	ALW	Finalize Petition. Put List Together of information I need and email attorney	.4	\$70.00
7/28/21	KKL	Conferred w/ E. Lovelass regarding finalizing petition	.3	\$97.50
7/28/21	EML	Researched Petitions; edited draft	.8	\$180.00
8/2/21	EML	Prepared Petition; sent to KKL and ALW	1.2	\$270.00
8/5/21	KKL	Review and revision to Petition; Email to Jeff Dinerstein regarding status on survey	.6	\$195.00
8/6/21	EML	Edited Petition.	.5	\$112.50
8/18/21	EML	Review petition; notes to KKL	.4	\$90.00
10/14/21	KKL	Review and revise petition.	.5	\$162.50
10/19/21	KKL	Finalize Petition; Email to Jeff Dinerstein regarding status and request to confirm details of petition.	.8	\$260.00
10/20/21	KKL	Conference with Jeff regarding open items in petition; Research regarding [redacted]. Email to Jeff Dinnerstein inquiring [redacted]	1.0	\$325.00
10/21/21	KKL	Revision to petition; Email to Jeff Dinnerstein with copy of same.	.3	\$97.50
				Total: \$1,860.00

Take Care,

Robert Vanderbles, Esq.
Senior Attorney, Office of General Counsel

New York Department of State

One Commerce Plaza
99 Washington Avenue, Suite 1120
Albany, New York 12231-0001
T: 518-486-7055
F: 518-473-9211

Robert.Vanderbles@dos.ny.gov

www.dos.ny.gov

He/Him/His

The information contained in this communication is confidential, constitutes attorney work product, and may be attorney-client communication. It is intended for use by the addressee only. Please notify the sender at Robert.Vanderbles@dos.ny.gov immediately if you have received this in error.

From: Kristen K. Luce <KLuce@cglawoffices.com>

Sent: Monday, October 17, 2022 8:59 AM

To: Vanderbles, Robert (DOS) <Robert.Vanderbles@dos.ny.gov>; Polishhook, Lewis (DOS) <Lewis.Polishhook@dos.ny.gov>

Subject: RE: Vestal Hills Memorial Park Association

You don't often get email from kluce@cglawoffices.com. [Learn why this is important](#)

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Good morning;

May I receive confirmation that we are all set to go on an agenda?

Kristen K. Luce | Partner

COUGHLIN & GERHART, LLP

99 Corporate Drive | Binghamton, NY 13904
P.O. Box 2039 | Binghamton, NY 13902-2039
Tel: 607.723.9511
Fax: 607.723.1530 | Toll Free: 1.877.COUGHLIN

Owego Office (Tues. & Wed.)

27-29 Lake Street | P.O. Box 250

Owego, NY 13827

Tel: 607.687.0567

Fax: 607.687.9860 | Toll Free: 1.877.COUGHLIN

kluce@cglawoffices.com | www.cglawoffices.com

From: Kristen K. Luce

Sent: Tuesday, October 4, 2022 10:27 AM

To: 'Vanderbles, Robert (DOS)' <Robert.Vanderbles@dos.ny.gov>; Polishhook, Lewis (DOS) <Lewis.Polishhook@dos.ny.gov>

Subject: RE: Vestal Hills Memorial Park Association

Mr. Vanderbles & Mr. Polishook;

Vestal Hills Memorial Park Association is seeking \$38,220.60 from its permanent maintenance fund for the following necessary expenses in this transaction: \$38,220.60

- Coughlin & Gerhart \$19,774.99- \$2,401.10 (Abstracting & survey paid for by buyer)= \$17,373.89
- Morgan, Lewis & Bockius, LLP = \$19,104.21
- Broome County Clerk \$1742.50 (transfer tax & payment to record the TP-584)

The email below seems misplaced, in that we are not responding to a FOIL request. My client understands that your department must publish what was given to you, and you do not have the ability to redact the billing further.

Lastly, we maintain that the billing we gave you for Coughlin & Gerhart, LLP was redacted due to attorney-client privilege. I point out that the first basis for denial in the Freedom of Information Law, §87(2)(a), pertains to records that are "specifically exempted from disclosure by state or federal statute." For nearly a century, the courts have found that legal advice given by an attorney to his or her clients, is privileged when it is prepared in conjunction with an attorney-client relationship [see e.d., *People ex rel. Updyke v. Gilon*, 9 NYS 243, 244 (1989); *Pennock v. Lane*, 231 NYS 2d 897, 898, (1962); *Bernkrant v. City Rent and Rehabilitation Administration*, 242 NYS 2d 752 (1963), *aff'd* 17 App. Div. 2d 392]. As such, an attorney may engage in a privileged relationship with her client and that records prepared in conjunction with an attorney-client relationship are considered privileged under §4503 of the Civil Practice Law and Rules. Further, since the enactment of the Freedom of Information Law, it has also been found that records may be withheld when the privilege can appropriately be asserted when the attorney-client privilege is read in conjunction with §87(2)(a) of the Law [see e.g., *Mid-Boro Medical Group v. New York City Department of Finance*, Sup. Ct., Bronx Cty., NYLJ, December 7, 1979; *Steele v. NYS Department of Health*, 464 NY 2d 925 (1983)].

The redactions on the Coughlin & Gerhart billing omit the precise topic of some conversations had between our client and my firm. Not that we are required to, but these discussions are privileged attorney client communications concerning the cemetery's trade secrets and competitive advantage. I would further describe them as key strategical decision making points concerning the disposition of land and ongoing operations of the cemetery, as well as strategy concerning ongoing interactions with the New York Cemetery Board.

Sincerely,

Kristen K. Luce | Partner

COUGHLIN & GERHART, LLP

99 Corporate Drive | Binghamton, NY 13904

P.O. Box 2039 | Binghamton, NY 13902-2039

Tel: 607.723.9511

Fax: 607.723.1530 | Toll Free: 1.877.COUGHLIN

Owego Office (Tues. & Wed.)

27-29 Lake Street | P.O. Box 250

Owego, NY 13827

Tel: 607.687.0567

Fax: 607.687.9860 | Toll Free: 1.877.COUGHLIN

From: Vanderbles, Robert (DOS) <Robert.Vanderbles@dos.ny.gov>

Sent: Wednesday, September 28, 2022 4:35 PM

To: Kristen K. Luce <KLuce@cglawoffices.com>

Cc: Polishook, Lewis (DOS) <Lewis.Polishook@dos.ny.gov>

Subject: RE: Vestal Hills Memorial Park Association

Dear Kristen,

Thank you again for providing the correspondence and attachments. Am I correct that the fees from the firms include, by way of disbursements, any other necessary expenses sought? If so, the cemetery is seeking a determination that the necessary expenses totaling \$38,952.18?

Also, Public Officers Law section 103(e) requires that documents that would be available pursuant to the Freedom of Information Law that will be discussed at the meeting be posted on an agency's website before the meeting. So, DOS plans to post these documents on its website prior to the Cemetery Board's meeting. I see that you redacted for privilege. I don't know if you've redacted for trade secrets or information that would substantially harm the firm's competitive advantage.

Pursuant to Public Officers Law section 87(5), I am now requesting that you submit a detailed justification for the portions of your documents that you designate as critical infrastructure or trade secret information, or information that would cause substantial injury to the competitive position of your entity if disclosed.

Please note that the Department cannot withhold entire documents from disclosure if those documents contain any information that can be disclosed under FOIL. Only those portions of documents containing information that the Department determines to constitute critical infrastructure or trade secret information, or information that would cause substantial injury to the competitive position of your entity if disclosed, will be granted an exception from disclosure.

Your written justification for a POL § 89(5) exception from disclosure must be as detailed and specific as possible. The mere overall claim that material is trade secret, confidential, proprietary, or constitutes critical infrastructure is not sufficient enough to allow us to grant the material an exception from disclosure. Relevant information might include commercial value of the requested information to competitors and the cost of acquiring it through other means. Your submission should identify the specific material for which the exception is being sought. Please refer to the specific page numbers, letters, titles, and sections of your documents to identify information for which you are requesting an exception. It is suggested that you include a separate justification for each section when appropriate.

Please limit your request for an exception from disclosure to the justifications already set forth above (i.e., critical infrastructure or trade secret information, or information that would cause substantial injury to the competitive position of your entity if disclosed). Any other requests for exceptions from disclosure based on other Public Officers Law exemptions (e.g., personal privacy,

law enforcement purposes, etc.) will be denied as inappropriate requests under the POL § 89(5) process.

Pursuant to the Public Officers Law, Section 89(5)(b)(2), you have 10 business days to submit a written justification for a POL § 89(5) exception from disclosure. Please note that we prefer you submit a response back to the Department via email. Thank you again. I'm happy to discuss if you wish.

Take Care,

Robert Vanderbles, Esq.

Senior Attorney, Office of General Counsel

New York Department of State

One Commerce Plaza

99 Washington Avenue, Suite 1120

Albany, New York 12231-0001

T: 518-486-7055

F: 518-473-9211

Robert.Vanderbles@dos.ny.gov

www.dos.ny.gov

He/Him/His

****The information contained in this communication is confidential, constitutes attorney work product, and may be attorney-client communication. It is intended for use by the addressee only. Please notify the sender at Robert.Vanderbles@dos.ny.gov immediately if you have received this in error.****

From: Polishook, Lewis (DOS) <Lewis.Polishook@dos.ny.gov>

Sent: Friday, September 16, 2022 1:48 PM

To: Kristen K. Luce <KLuce@cglawoffices.com>; Vanderbles, Robert (DOS) <Robert.Vanderbles@dos.ny.gov>

Subject: RE: Vestal Hills Memorial Park Association

Could you please provide us with a summary of exactly what you're looking for by way of reimbursement and the source of the expense?

This seems to have changed a bit since the original application but I'm having trouble piecing together everything but the legal fees.

Thx

LP

From: Kristen K. Luce <KLuce@cglawoffices.com>

Sent: Friday, September 16, 2022 12:02 PM

To: Polishook, Lewis (DOS) <Lewis.Polishook@dos.ny.gov>; Vanderbles, Robert (DOS) <Robert.Vanderbles@dos.ny.gov>

Subject: FW: Vestal Hills Memorial Park Association

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Good afternoon;

Would either of you be able to confirm if we are on this month's cemetery board meeting agenda?

Thank you very much,

Kristen K. Luce | Partner

COUGHLIN & GERHART, LLP

99 Corporate Drive | Binghamton, NY 13904

P.O. Box 2039 | Binghamton, NY 13902-2039

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Fax: 607.687.9860 | Toll Free: 1.877.COUGHLIN

kluce@cglawoffices.com | www.cglawoffices.com

From: Kristen K. Luce

Sent: Wednesday, August 31, 2022 10:26 AM

To: 'Polishook, Lewis (DOS)' <Lewis.Polishook@dos.ny.gov>; Vanderbles, Robert (DOS) <Robert.Vanderbles@dos.ny.gov>

Subject: Vestal Hills Memorial Park Association

Good morning;

Attached please find correspondence and attachments relating to the request for legal fees and costs to come out of the permanent maintenance fund of Vestal Hills.

Would you kindly confirm receipt and advise when this can be put on the agenda for the Cemetery Board?

Should you need any more information, please do not hesitate to contact me.

Sincerely,

Kristen K. Luce | Partner

COUGHLIN & GERHART, LLP

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