



Andrew M. Cuomo
GOVERNOR

STATE OF NEW YORK
DEPARTMENT OF STATE
DIVISION OF CEMETERIES

Cesar A. Perales
SECRETARY OF STATE

Lewis A. Polishook
DIRECTOR

123 William Street
New York, NY 10038
(212) 417-5713

One Commerce Plaza
99 Washington Avenue
Albany, NY 12231-0001
(518) 474-6226

Chester Butkiewicz
ASSISTANT DIRECTOR

Dear Cemeterian:

Enclosed please find the forms for filing your cemetery's annual financial report and remitting any fees due. Please be advised of the following:

Due Date for the Annual Financial Report: If the cemetery's fiscal year ends December 31st, then this form must be filed by March 15, 2014. For all other cemeteries, the annual report is due within 75 days after the close of the fiscal year. *All submitted financial reports must be signed by at least two trustees.*

Note: While extensions for the filing of the annual report may be granted, non-compliance may result in a \$100 per day fine for every day the report is not received by the Division.

Due Date for Payment of Vandalism/Assessment Fees: All vandalism and assessment fees must be received on or before March 15, 2014, regardless of when the cemetery's fiscal year ends. Please note that vandalism and assessment fees are calculated for the period January – December, even if the cemetery operates on a different fiscal year.

Audited/Reviewed Financial Statements: In accordance with Rule of Procedure 200.4, cemeteries with funds totaling \$400,000 - \$1,000,000 must submit reviewed financial statements, while cemeteries with funds totaling in excess of \$1,000,000 must submit audited financial statements.

Trustee List: Please make any necessary corrections to the enclosed trustee list. If changes occur during the year, contact the Albany office as soon as possible.

Calculation of Assessment and Vandalism Fees Due:

Please refer to the enclosed "Notice of Assessment and Vandalism" form:

Step One: Line (1) - Vandalism:

1. Calculate the total number of regular interments plus burials of cremains where the body was cremated outside NYS. Enter this figure on the blank line under the heading "Number" and then again on the blank line to the right under "Balance."
2. Multiply this number by \$5 and enter the result on the blank line under "Amount Due."

Step Two: Line (2) - Assessment:

1. Enter the number calculated in Line 1 above on the blank line under the heading "Number."
2. Subtract 15 from this number and enter the result on the blank line under "Balance."
3. Multiply this number by \$3 and enter the result on the blank line under "Amount Due."

Step Three: Add Lines 1 and Line 2 under the heading "Amount Due" to arrive at the total fees due. Please make checks payable to the Division of Cemeteries.

Note: Cemeteries that also operate crematories are required to fill out an additional assessment form for cremations.

Address: All forms (annual report form, trustee list, assessment/vandalism fee notice and checks) should be mailed to: New York State Division of Cemeteries, One Commerce Plaza, Suite 510, Albany, NY 12231.

Making Ends Meet

The Division is charged with routinely reviewing the annual reports submitted by not for profit Cemeteries. In recent years we have noticed an increasing number of small to medium sized cemeteries that are operating at a loss. This is due in part to current economic difficulties, unprecedented low interest rates and rising fuel costs. Although occasional deficits are part of every business, recurring losses can jeopardize the cemetery's ability to continue as a going concern. Many cemeteries survive on volunteer work which is admirable but not always sustainable. *What can be done to turn things around?* There are a few other measures Trustees can take to turn the tide. Representatives of the Division are happy to meet with cemetery boards and representatives to assist them in complying with our regulations and suggest ways of improving their financial positions. Informational seminars can also be provided by Division staff when requested. Please contact the Division to set up a meeting with our staff.

- 1) **Creating a yearly budget.** A budget does not have to be a complicated process. Take each item on your annual report and make an educated guess as to what your receipts and expenses will be in the following year. Because your expense side will be larger if you anticipate operating at a loss, look for ways to reduce each item until you have a balanced budget. Get multiple bids for maintenance, insurance and other major items. As a last resort, cut back on the number of times you mow to a level that will provide adequate care.
- 2) **Fundraisers.** Because cemeteries are not-for-profit corporations, they are allowed to accept donations. Many trustees use bake sales, chicken dinners, or a mailing asking lot owners for donations. Some fund raising projects may trigger a taxable event for your cemetery. Consult with your accountant to be sure this does not apply to you.
- 3) **General Municipal Law § 165-a.** This statute allows towns to aid local cemeteries with funds and/or services on a voluntary basis. Contact your local town to see if this is practicable. The town may be able to provide just enough resources to get you back on your feet.

By employing the above recommendations, you may be able to reduce operating losses. Again, it is imperative to remember that the cemetery is obliged to operate within the constraints of available income, *i.e.* lot sales, service fees and investment income. If this requires a reduced maintenance schedule, that is just a reality of the economic times. In no circumstances may trust fund principal be expended for any purpose.

Other Points of Interest

Welcoming a New Director: The New York State Cemetery Board appointed Lewis Polishook Director of the Division of Cemeteries effective November 12, 2013. From January 2003 through November 2013, Mr. Polishook worked at the Office of the Attorney General of the State of New York in New York City, most recently as Chief Counsel for Real Estate Finance. Before joining the Office of the Attorney General, he was associated with Associate at Kornstein Veisz Wexler & Pollard, LLP, and the firm then known as Winthrop, Stimson, Putnam & Roberts. He served as Law Clerk to the Hon. Bruce M. Selya, United States Court of Appeals for the First Circuit, from 1995-96. Mr. Polishook received his undergraduate degree in history from Brown University and has a J.D. from Harvard Law School.

Mr. Polishook's email is Lewis.Polishook@dos.ny.gov, and he can be reached by phone at 212-417-5708. Please feel free to call or email with any questions or comments.

Restoration of Dangerous Monuments: To all Cemeterians interested in submitting an application for funds for the repair of dangerous monuments or damage caused by vandalism. Contact with the Division of Cemeteries is required prior to filling out the application, obtaining estimates, etc. as there are requirements that need to be met, particularly regarding repair estimates. In order to save time and effort, contact the Division of Cemeteries regional investigator for assistance with this process.

Notice of Signs: **19 NYCRR § 201.7** requires that every cemetery display, in its office, a sign, in no less than 20 point type, stating its name, that it is regulated by the New York State Cemetery Board and the telephone number of the regional office of the Division of Cemeteries. If the cemetery does not have an office, the sign must be in at least 40 point type, be displayed at the main entrance and include the name of the person in charge and his/her telephone number.

Lot Purchase Contract: **Not-for-Profit Corporation Law § 1513(b)** states that a cemetery must provide the purchaser with a copy of the cemetery's Rules and Regulations before any part of the purchase price is paid.