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Cemeteries may provide a number of different types of final resting places, such as a grave where remains (bodies or cremated remains) are buried in the ground, a mausoleum for above-ground entombment of full-body remains, and a columbarium for above-ground inurnment of cremated remains. A cemetery might also have a scattering garden where cremated remains of unrelated people can be scattered or an ossuary which is structure in which cremated remains are poured and commingled. This discussion does not address scattering gardens or ossuaries.

When a cemetery sells a final resting place, it is not selling real estate. Instead, it is selling the right of interment (which refers here to either below-ground or above-ground placement of remains) as well as the right to have a memorial.

Public cemeteries must make their price list available and file it with the New York State Department of State, Division of Cemeteries. Different final resting places can have different prices and may hold different numbers and types of remains. When you purchase a final resting place, the cemetery must provide you with a receipt, a deed and a copy of the cemetery's rules and regulations (sometimes contained in a signed contract). The "rules and regulations" of the cemetery describe the rights of lot owners, including rules about memorials, decorations and embellishments. Public cemeteries must sell a final resting place to any person but are not required to sell more than one final resting place to any one person. Certain public cemeteries restrict burial to persons of a particular religious faith.

The person who pays for the final resting place does not have to be the lot owner. Also, there can be more than one lot owner. The buyer(s) of the grave should decide who the owners will be and clearly communicate that to the cemetery. The lot owner can put in writing whose remains can be placed in the final resting place. For this to be effective, it must either be filed with the cemetery or included in the lot owner's will. The writing must meet certain legal requirements; check with your attorney or the cemetery before signing such a document. Spouses, children and parents of a lot owner often have burial rights regardless of whether they are named in a written designation.

If a final resting place is owned by multiple people, the group of lot owners may file a sworn affidavit with the cemetery listing the names and addresses of all the lot owners. When the group of lot owners inherits the final resting place, this is called an Affidavit of Heirship. All of the lot owners must sign the affidavit. If the affidavit appears to be proper and complete, the cemetery is permitted to rely on it. Also, a group of lot owners can file a written designation with cemetery designating a single person who may represent all the lot owners and be responsible for decisions about and control over the final resting place. If the lot owners do not designate someone in writing, the cemetery can choose who it will treat as the representative of the group. Finally, all of the owners can file a written designation reserving specific graves for specific individuals.

The issues of who owns a final resting place, whose remains get placed in it, and who gets to make that decision may become very complicated. This is only a very brief outline of the basic rules and should not be viewed as a complete discussion of these issues. The cemetery and the Division of Cemeteries can provide some additional assistance, but sometimes retaining an attorney is needed to be sure that you understand all your rights and the rights of others.