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May 26, 2021

VIA ELECTRONIC MAIL DELIVERY

Lewis Polishook, Esq., Director
New York State Division of Cemeteries
Department of State
99 Washington Avenue
Albany, New York 12210

**Re: Request for Waiver
Pursuant to Section 1506-d (b)(1) of the Not-for-Profit Corporation Law**

**Freedom Cemetery Society
Freedom Rural Cemetery Society
Griffin Mills Cemetery
Lancaster Rural Cemetery
Oakwood Cemetery
Attica Cemetery Association/Forest Hill Cemetery
Quaker Town Settlement Cemetery**

Dear Director Polishook:

As you are aware, new statutory language in Section 1506-d(b)(1) of the New York Not-for-Profit Corporation Law (NPCL), relating to the merger of regulated not-for-profit cemeteries, generally requires that constituent corporations that will not survive the merger contemplated by the section are generally not permitted to send notice of a lot owner's meeting by publication. As such, mailed notice of the meeting to the lot owners (or other written notice that complies with Section 605 of the NPCL) will be required **unless there is a demonstration that notice by means other than publication would cause undue hardship.**

The struggling cemeteries that are seeking to merge their operations with Buffalo City Cemetery/Forest Lawn are located within the general proximity of the Forest Lawn Group of cemeteries and are as follows:

- Freedom Cemetery Society, and Freedom Rural Society Cemetery, both of Cattaraugus County
- Griffins Mills Cemetery, Lancaster Rural Cemetery, and Oakwood Cemetery, all three of Erie County
- Attica Cemetery Association/Forest Hill Cemetery, and Quaker Town Settlement Cemetery, both of Wyoming County

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To be clear, the cemeteries are not requesting a Board decision on their application to merge. They only request a waiver of the direct mailing provisions of this merger process, which they are entitled to request before essential funds are expended to begin this process.

In the case of the above-referenced cemeteries, such direct mail notice will cause undue hardship and it is respectfully requested that this direct mail notice be waived based on the following information:

Freedom Cemetery Society

Total number burials and lot owners: 1,500 interments
6 graves sold in 2020/2021
3 graves sold year to date (2021/2022)

Freedom Rural Cemetery Society

Total number burials and lot owners: 530 interments
0 graves sold in 2020/2021 and 2021/2022

Griffins Mills Cemetery

Total number burials and lot owners: estimated: 3,000
7 graves sold in 2020/2021
2 graves sold year to date (2021/2022)

Lancaster Rural Cemetery

Total number burials and lot owners: 8,500 interments
21 graves sold in 2020/2021
12 graves sold year to date (2021/2022)

Oakwood Cemetery

Total number burials and lot owners: 9,885 interments
10 graves sold in 2020/2021
6 graves sold year to date (2021/2022)

Attica Cemetery Association/ Forest Hill Cemetery

Total number burials and lot owners: 8,800 interments
11 graves sold in 2020/2021
8 graves sold year to date (2021/2022)

Quaker Town Settlement Cemetery

Total number burials and lot owners: 270 interments
3 graves sold in 2020/2021
1 grave sold year to date (2021/2022)

Table: Mailing Costs By Cemetery

	Per record		Total		
	Digitizing,		Digitizing,		Cost as %
	Data Capture	Number of	Data Capture	2020 Net	of 2020
<u>Cemetery</u>	<u>& Mailing Cost</u>	<u>Interments</u>	<u>& Mailing Cost</u>	<u>Margin *</u>	<u>Net Margin</u>
Freedom Cemetery Society	\$ 1.40	1,500	\$ 2,100	\$ 313	671%
Freedom Rural Cemetery Society	\$ 1.40	530	\$ 742	\$ (1,253)	-59%
Griffins Mills Cemetery	\$ 1.40	3,000	\$ 4,200	\$ (2,701)	-155%
Lancaster Rural Cemetery	\$ 1.40	8,500	\$ 11,900	\$ (3,929)	-303%
Oakwood Cemetery	\$ 1.40	9,885	\$ 13,839	\$ 2,461	562%
Attica Cemetery Assn/Forest Hill Cemetery	\$ 1.40	8,800	\$ 12,320	\$ 10,963	112%
Quaker Town Settlement Cemetery	\$ 1.40	270	\$ 378	\$ 916	41%

The preceding table demonstrates the direct and negative financial impact that ineffective and generally undeliverable mailing will have on these struggling cemeteries. The annual interment information further outlines the age of most interments based on average number of burials which makes deliverable mail a mere fraction of those letters sent out.

As you are aware, most of these cemetery records have been managed over the decades by volunteers and have been passed from private home to private home. Therefore, the management, clarity of the hard writing, and/or occasionally, typing of the information is not clear and often marred by age, wear, and “shoebox” storage. When the cemetery scans these documents and sends them for data capture, the deliverable is the best that can be determined, is not complete, nor accurate and thus assuring a “return by mail” status.

Prohibitive costs as outlined above, for first class mail to assure a large percentage of non-deliverable mail is returned to names and addresses from the 19th cemetery is a waste of the lot owners operating dollars that could be used for operating, cutting, and trimming, and saving these cemeteries.

Therefore, it is the request of the constituent cemeteries that a waiver of the mailing notice provisions be granted and in its place, the cemeteries will execute the following far more effective actions to reach lot owners:

- Notice of the meeting will be conspicuously posted at the cemetery at either the office or main entrance or both, if applicable, at least sixty days prior to the meeting.
- Notice of the meeting will be posted on the cemetery’s website, if any, along with statutory required documents.
- Notice of the meeting will be published in a newspaper located in each county in which the cemeteries are located each week for three consecutive weeks preceding the proposed merger meeting.
- A request will be made of each municipality where the constituent cemetery is located to post the notice of the meeting on their web page and notice board.
- Mail notices to each lot owner that has purchased a grave at the constituent cemetery in the last two years will be made.

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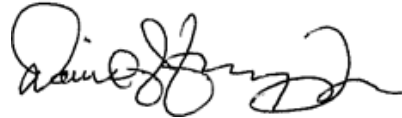
- Mail notices to each lot owner that is on record for having requested such notices will be made.
- Mail to each lot owner that has a current standing proxy filed with the cemetery will be mailed notice.

It is clear from the evidence presented that the provisions of NPCL §1506-d(b)(1) will cause undue hardship to the operations of the applicants. For these reasons, it is requested that the Board waive this requirement in favor of the significant outreach that is proposed above.

Our firm stands ready to answer any questions you might have in order to secure approval of this waiver by the State Cemetery Board as soon as possible.

Very truly yours,

Featherstonhaugh, Wiley & Clyne, LLP

A handwritten signature in black ink, appearing to read "David F. Fleming, Jr.", written in a cursive style.

David F. Fleming, Jr.