

## **DIVISION OF CEMETERIES**

STATE OF NEW YORK

### **DEPARTMENT OF STATE**

STATE OFFICE BUILDING  
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KATHY HOCHUL  
GOVERNOR

CEMETERY BOARD  
ROBERT J. RODRIGUEZ  
ACTING 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:** Brendon Stanton, Investigator

**SUBJECT:** McLean Cemetery Association, #55-026

**RE:** Application for Cemetery Renovation

**DATE:** January 24, 2022

### **Exhibits**

- a) Report from Division Associate Accountant Kerry Forezzi
- b) Application from McLean Cemetery Association
- c) Map of the project area
- d) Notice of Non-Compliance BNG-2021-00019 and response

### **Introduction**

The McLean Cemetery Association of the town of Groton, Tompkins County, has applied for Cemetery Board approval of a cemetery renovation as defined by 19 NYCRR Section 201.16. The cemetery wishes to repair a retaining wall and a receiving vault used for storage of equipment. The cemetery began work on this project without having received the required Cemetery Board approval, but has stopped work after the issuance of a Notice of Non-Compliance.

I recommend approval of this cemetery renovation.

### **The Project**

The McLean Cemetery is seeking approval to repair a retaining wall and an earthen receiving vault located near the cemetery's main entrance. The cemetery association has stated that although the vault is no longer used for its primary purpose, its removal would require the disinterment of remains and would be of a much greater cost than the current project. The cemetery wishes to repair damage to the vault and an adjacent retaining wall and install new drainage that will prevent similar damage from occurring in the future.



**Department  
of State**

## Report Pursuant to 19 NYCRR Section 201.16

Pursuant to 19 NYCRR Section 201.16, the cemetery has submitted a report regarding the proposed renovation. The report indicated the following:

- 1) whether the alteration will result in or avoid the destruction, damage to, modification or interference with existing graves and markers, crypts, mausoleums, roadways, and pathways: ***The cemetery association has stated that without completing this project, there are graves located on top of the structure that are in danger of collapse. The cemetery association has indicated that it will not disturb any graves in the performance of this work.***
- 2) the location, design and duration of the major alteration; ***The project will occur near the main entrance to the cemetery. Because of the season and the directive to stop working until the project is approved by the State Cemetery Board, it is unclear how much longer it will take.***
- 3) the financial impact on the applicant; ***The cost will be ~\$3,000, which will come entirely from the cemetery's general fund.***
- 4) whether the alteration will interfere with the lots or the interests of the lot owners; ***There will be no interference with the lots or interests of the lot owners.***
- 5) whether the alteration will be appropriate for cemetery purposes; ***This alteration will be appropriate for cemetery purposes because it will repair an existing structure and allow the cemetery to continue its regular operations.***
- 6) whether the alteration will have an adverse impact on the surrounding community; ***This alteration will not have a material impact on the surrounding community.***
- 7) whether the alteration will have the potential to adversely affect the public health and safety, the environment or natural resources; ***This alteration will have no such effect.***
- 8) the degree to which measures will be taken to minimize or eliminate these impacts. ***N/A***

The cemetery association does not anticipate needing any permits.

## Non-Compliance Issues

In June 2021, Ronald Beck, the president of the McLean Cemetery Association, contacted Division staff to discuss the repair of a receiving vault located within the cemetery. Mr. Beck was informed that the project was considered a cemetery renovation in that it involved excavation and trenching, removal of soil, demolition, and changes to drainage in the cemetery, all of which individually comprise activities requiring Cemetery Board approval under this provision. At that time, the cemetery was unable to provide precise costs, but estimated it would be approximately \$40,000.00, which would have represented nearly half of the cemetery's unrestricted funds. In connection with this, Mr. Beck also inquired about the process to receive a permanent maintenance grant or loan. Again, Mr. Beck was advised to complete the required application and schedules.

On July 15, 2021, the Division received an incomplete application from the cemetery association. This application did not include actual estimates for the cost, but the figure had now shrunk to "between \$7,000.00 and \$22,000.00." The cemetery association was informed that the application was incomplete, and the additional information was requested in both September and November 2021.

On December 14, 2021, I visited the McLean Cemetery and observed that there was an ongoing project substantially similar to the one described in the incomplete application. I called Mr. Beck and inquired and he stated that they had begun the project. I issued a Notice of Non-Compliance and instructed the cemetery to stop work immediately. To the best of my knowledge, the cemetery association has complied with this directive. Along with its response

to this Notice of Non-Compliance, the cemetery association provided written estimates for the project that appeared reasonable.

**Recommendation**

While the initial project seemed imprudent based on the financial condition of the cemetery, the revised project appears to be necessary and manageable. For this reason, I recommend approval of this cemetery renovation.

# Exhibit A

## DIVISION OF CEMETERIES

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

TO: New York State Cemetery Board

FROM: Kerry Forezzi, Associate Accountant

SUBJECT: McLean Cemetery Association, #55-026

DATE: January 24, 2022

### Schedules:

1. Schedule A - Income and Expenses and Fund Balances

### Summary:

McLean Cemetery Association submitted an application to repair a vault retaining wall.

### Costs:

The total cost based on an estimate provided by the cemetery is **\$3,000**. The scope of work is as follows:

- Remove existing damaged wall
- Clean and prepare wall for rebuild, includes excavation of above area
- Erect scaffold sections
- Clean salvageable wall pieces
- Reconstruct stone wall
- Reestablish grade above and behind wall
- Replace sod or seed to grass area of excavation

It is worth noting that if this repair is not approved and it later collapses, the cemetery would need to disinter and reinter 5-10 bodies which would cost triple the amount of the repair.

### Return on Investment:

There is no expected return on investment. The repair is being done for safety, accessibility, and preservation purposes. There will be no impact on the current level of operational income or spending.

### Financing:

The project is being financed through monies from a General Fund account. As of December 31, 2020, there was nearly \$39,000 in its General Fund, including \$34,000 in an investment account that can be accessed to cover all costs.

### Annual Reports:

Annual Reports are up to date. The cemetery has been operating at a small deficit that is funded from retained income from the Permanent Maintenance Fund. The deficit became significantly less in 2020 due to an increase in burials and related interment fees and donations received. There were some minor discrepancies in its year-to-year numbers reported, none of which would influence the outcome of this project.



Department  
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**Division Audit:**

The last audit was conducted on July 9, 2019 covering a review period through December 31, 2018. At that time, it was reported that the cemetery had a deficit in its Permanent Maintenance Fund of \$6,051.64, which based on more recent annual reports, has been rectified. The audit also referenced a Perpetual Care Fund with a restricted balance of \$33,590.09. Despite the reported PM deficit in 2018, the total assets of the cemetery association have steadily increased each year. The audit writer indicated the cemetery expenses were reasonable and consistent with its income, and an increased outreach effort to solicit donations and lot sales could easily close its operating gap.

**Recommendation:**

Based on the information provided by McLean Cemetery Association and Division staff, the request to repair McLean's vault retaining wall should be granted. From a financial perspective, there is little impact given the small cost and the ability to utilize its General Fund and significant cost should the wall collapse.

# Exhibit B

RONALD L. BECK

55026 ✓



July 12, 2021

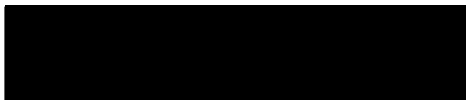
State Cemetery Board

Please find enclosed the required report for the McLean Cemetery's plan to repair our vault retaining wall. Said report also emailed to Investigator Stanton in Binghamton.

Enclosed photos show vault and wall several years ago before significant problems and one in April '21 after partial collapse.

McLean Cemetery Ossis.

Ronald L Beck, Chairman



RECEIVED  
DIV. OF CEMETERIES

JUL 15 2021

ALBANY OFFICE  
DEPARTMENT OF STATE

State Cemetery Board  
July 12, 2021  
Re: Cemetery Repairs

In April of this year, at McLean Cemetery, the retaining wall of our 1892 Receiving Vault sustained damage from weathering. The top portion collapsed forward and there was cracking and evidence of movement along other parts of the wall. This retaining wall forms the entrance to and protects the brick dome structure that is the receiving vault.

In inquiring of Investigator Stanton about possible funding and how to proceed with repairs, I was informed our project likely fell under 19 NYCRR 201.16 cemetery renovation. I indicated our local questions and disagreement with this repair as a "major alteration" in a previous correspondence.

The following is a report indicated by statute 201.16 to the best of our knowledge.

#### Scope of Repair

- Remove small amount of soil directly behind part of the retaining wall, less than 6 cu. Yd. estimated

- Straighten and repair damaged portions

- Reset the toppled top section of wall

- Install drainage to conduct rain water from behind wall down and out

- Replace soil, tamp and reseed grass

- Total length of wall is about 40', height at highest point about 11'

We have determined this repair to be a SEQR Type II action under 6 CRR-NY 617.5 part C-1,2. Therefore no EAF is required.

There will be no significant effect on the lot or lot owners, the environment, or the adjacent community.

No effect on existing graves. If demolition is required rather than repair, there will be an effect on nearby graves due to the void left by removing the complete vault!

The location of the repair is near the entrance and along side the drive but neither will be disturbed.

Financial impact will depend on cost and whether we are able to access appreciated invested funds ie; Perpetual Care and Permanent Maintenance and, or secure specific community funding.

Town of Groton code official has indicated there are no permits required. Finding a masonry contractor has been challenging. All are busy or don't have sufficient laborers. We have secured several "ball park" estimates ranging between \$7,000 and \$22,000. No bids have been accepted at this time.

It is anticipated the job would only take a week or two once started, hopefully before winter.

To reiterate, we believe this repair is necessary and desirable. The remaining wall is not stable. To remove it completely exposes the brick dome vault front and entrance. To remove the vault would leave a void adversely effecting graves that are behind and above it. Demolition is more extensive and more costly than repair.

The cemetery board and community members contacted are in agreement regarding the value of preserving this historic structure.

McLean Cemetery Assoc.  
Ronald L. Beck, chairman





Pat Lynch



#1  
DATE: 12/15/2021

**TO:**

Mclean cemetery committee  
Mclean, NY

DESCRIPTION	RATE	AMOUNT
<p>GENERAL REPAIR OF MASONRY WALL AT VAULT</p> <ol style="list-style-type: none"><li>1) Remove existing damaged wall</li><li>2) Clean and prepare wall for rebuild (this includes excavation of above area)</li><li>3) Erect scaffold sections</li><li>4) Clean salvageable wall pieces</li><li>5) Reconstruct stone wall (including but not limited to)<ol style="list-style-type: none"><li>a) Additional CMU backing</li><li>b) Bracing of CMU backing</li><li>c) Drainage system behind wall</li><li>d) Replacement stone if necessary</li></ol></li><li>6) Reestablish grade above and behind wall</li><li>7) Replace sod or seed to grass area of excavation</li></ol> <p>This is a estimate based on visual findings. Any additional changes may result in additional cost. Zoning issues or permits are the responsibility of the owner of the property</p> <p>Total job cost</p>		<p>\$3000.00</p>

			TOTAL
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**Thank you for your business!**



# Division of Cemeteries

Department of State  
**DIVISION OF CEMETERIES**  
 One Commerce Plaza  
 99 Washington Avenue  
 Albany, NY 12231-0001  
 Telephone: (518) 474-6226  
 www.dos.ny.gov

## SCHEDULE A – INCOME AND EXPENSES AND FUND BALANCES

For any income or expense category where there is a significant increase or decrease in income or expenses, please provide a brief explanation. Not all cemeteries will have income and expenses in all of these categories

Cemetery Name		New York State Cemetery Five Digit ID Number —		
<b>YEAR ENDING</b> (enter last date of year reporting for each column, i.e. 12/31/20)				
<b>SIZE AND INVENTORY</b>				
Acres-Total				
Acres-Developed				
Acres-Developed and Available				
<b>BURIALS AND LOT SALES</b>				
Burials				
Number of lots (graves, crypts, niches) sold				
<b>INCOME (RECEIPTS)</b>				
Lots and grave sales				
Interment fees				
Foundations				
Dividends and interest				
Donations				
Other-specify;				
attach additional sheet(s) as needed				
Other-specify;				
attach additional sheet(s) as needed				
Other-specify;				
attach additional sheet(s) as needed				
<b>TOTAL RECEIPTS</b>				

# SCHEDULE A – INCOME AND EXPENSES AND FUND BALANCES

Cemetery Name	New York State Cemetery Five Digit ID Number
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	<b>YEAR ENDING</b>		
<b>EXPENSES (DISBURSEMENTS)</b>			
Employee Wages			
Independent Contractor Grave Openings			
Independent Contractor Maintenance and Mowing			
Salaries of Officers			
Supplies and Repairs			
Equipment			
Insurance – General Liability			
Workers Compensation			
Commercial Crime/ Employee Dishonesty			
Vandalism and Assessment Fee			
Other – specify;			
attach additional sheet as needed			
Other – specify;			
attach additional sheet as needed			
Other – specify;			
attach additional sheet as needed			
<b>TOTAL DISBURSEMENTS</b>			
<b>OPERATING SURPLUS (LOSS)</b>			
<b>INTER-FUND TRANSFERS</b>			
<b>Transfers</b>			
<b>To Operating Account</b>			
From permanent maintenance fund (retained income from previous years)			
From other funds (i.e., perpetual care, special, bequests, pre-need, etc.)			
<b>TOTAL TRANSFERS FROM OTHER FUNDS TO OPERATING ACCOUNT</b>			
<b>Transfers</b>			
<b>From Operating Account</b>			
To permanent maintenance fund			
To other funds (i.e., perpetual care, special, bequests, pre-need, etc.)			
<b>TOTAL TRANSFERS FROM OTHER FUNDS FROM OPERATING ACCOUNT</b>			

# SCHEDULE A – INCOME AND EXPENSES AND FUND BALANCES

Cemetery Name	New York State Cemetery Five Digit ID Number
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**YEAR ENDING**

**FINANCIAL ASSETS  
(FUND BALANCES)**

General Fund				
Permanent Maintenance Fund				
Perpetual Care				
Special Trust				
Other				
<b>TOTAL FINANCIAL ASSETS</b>				

**PER ACRE ANALYSIS`**

Total Income Per Developed Acre				
Total Expense Per Developed Acre				
Net Income (Loss) Per Developed Acre				
Funds Per Developed Acre				

**Permanent Maintenance Loan**

Approved Date	
Original Loan Amount	
<b>Current Balance</b>	

**NOTES:**

# Exhibit C



Lafayette Rd

180

Lafayette Rd

180

Cemetery Ln

Cemetery Ln

Cemetery Ln

Google

Layers



# Exhibit D

**DIVISION OF CEMETERIES**

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**DEPARTMENT OF STATE**  
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DR. MARY T. BASSETT  
COMMISSIONER OF HEALTH

# NOTICE OF NON-COMPLIANCE

## Non-Compliance Number: BNG-2021-00019

Cemetery Name: **McLean Cemetery**  
Cemetery Number: #55-026  
Notice Date: December 15, 2021

Served on: **Ron Beck, president**



A written statement of compliance is required by **December 31, 2021**. Failure to respond will result in formal notification to the New York State Cemetery Board.

You are hereby ordered to correct such non-compliance and to show proof that violations have been corrected. Your notice of compliance is to be sent to the Albany office at the following address:

Division of Cemeteries  
99 Washington Avenue  
Albany, NY 12231

The above captioned cemetery was found to be out of compliance with the laws and regulations of New York State as follows:

**19 NYCRR § 201.16. Cemetery renovation**

(a) A major alteration to a cemetery shall not be commenced without the approval of the Cemetery Board. Such approval shall be conditioned upon the submission of a report by the cemetery in accord with this section. Such report shall be submitted to the Cemetery Board at least three months prior to the anticipated commencement date of any work on the period. The report shall describe the method and purpose of such alteration, the proposed cost thereof, and include further information as required by this section.

(b) Definitions.

(1) Major alteration means: a project for which an environmental assessment form (EAF) is prepared or required; an activity which can reasonably be expected to have a substantial and adverse impact on the adjacent community, the lots or the lot owners of the cemetery, including: demolition; stockpiling materials; grading and other forms of earthwork; dumping, filling or depositing of any material; excavation or trenching; dredging; removal of soil; flooding or draining; or paving or construction of buildings, structures or facilities. The term major alteration shall not include those activities commenced with respect to the construction of a mausoleum or lawn crypt. Such activities are subject to the requirements of sections 201.10 and 210.11 or 201.17 of this Part.

**Specific Information:** The McLean Cemetery Association of the town of Groton, Tompkins County, has commenced a project to rehabilitate a disused receiving vault that has fallen into disrepair. This project qualifies as a cemetery renovation, as defined by 19 NYCRR section 201.16(b)(1) because it involves excavation and trenching, removal of soil, demolition, and changes to drainage in the cemetery. This project is additionally in close proximity to several graves with existing burials. I informed the cemetery on June 24, 2021, that this project was a cemetery renovation that would require approval by the New York State Cemetery Board (the Board). The Division has been in contact with the cemetery association multiple times since, including by email July 19, 2021 and August 16, 2021, and by telephone September 20, 2021, reiterating the need for approval on each contact. Senior Accountant Andrew Hickey contacted the cemetery as recently as November 22, 2021 to request additional information before the application could be considered complete and ready for presentation to the State Cemetery Board. Despite this, on December 14, 2021, I visited the McLean Cemetery and discovered that the cemetery association had begun this cemetery renovation without having received approval from the Board. I spoke to Mr. Beck by telephone while at the cemetery, and he was still unable to provide a definite cost figure for the entire project at that time.

The cemetery association must immediately discontinue work on this project until such time the application has been completed, reviewed, and approved by the Board. Furthermore, the cemetery association must develop and provide the Division with a plan for how it will avoid willful non-compliance with Division and Board directives in the future.

I affirm that I identified this non-compliance with the Not for Profit Corporation Law on December 14, 2021.



Brendon Stanton  
Investigator, NYS Department of State  
Division of Cemeteries

By authority of Lewis A. Polishook, director



Department  
of State

I affirm that I represent the above captioned cemetery corporation, and that we have resolved the above offenses in the following manner:

RE: Non Compliance BNG -2021-00019

1. Work on project has been discontinued
2. Requested cost estimates included herewith

RE: Willful non-compliance???

1. Install shallow trench behind wall to prevent further damage
2. Cover damaged area with tarp
3. Most recent activity was early September
4. Failure to provide timely cost estimates from any reliable contractor due to their unavailability or unwillingness to perform work
5. Hopefully above actions meet your requirements and won't happen again

Ronald L. Beck, President

December 17, 2021

*Ronald L Beck*