DIVISION OF CEMETERIES
STATE OF NEW YORK
DEPARTMENT OF STATE
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CEMETERY BOARD
WALTER T. MOSLEY
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CHAIR

LETITIA JAMES
ATTORNEY GENERAL
JAMES V. MCDONALD, M.D., M.P.H.
COMMISSIONER OF HEALTH

TO: NEW YORK STATE CEMETERY BOARD

FROM: LEWIS A. POLISHOOK, Director

CC: ROBERT VANDERBLES, Counsel

SUBJECT: TINY REALTY 39, LLC

RE: CREMATORY APPLICATION

DATE: SEPTEMBER 24, 2026

By letter dated September 17, 2026, Tiny Realty 39, LLC (the LLC) seeks "consideration and approval for the re-establishment of City Cremations in Binghamton, New York." For the reasons described below, the Division of Cemeteries (the Division) recommends that the New York State Cemetery Board (the Board) deny this application.

Exhibits

A. Tiny Realty 39, LLC Ltr. (Sept. 17, 2026)
B. Petition for Dissolution (Sept. 9, 2025)

City Cremations

City Cremations, Inc. (the Crematory) is a cemetery corporation currently in dissolution proceedings in Supreme Court, Broome County, Index No. 2025-002861. The Crematory operated as a "grandfathered standalone" crematory under Not-for-Profit Corporation Law section 1506-a in connection with the former Fischer-Scholder Funeral Home (Fischer).

After a long history of non-compliance with Division filing requirements and denying the Division the ability to inspect the Crematory, the Division in 2020 and 2021 issued notices of non-compliance and financial penalties for failing to report to the Division. After a series of back-and-forth communications in which the Crematory repeatedly failed to respond and failed to do what it promised to do, it ceased operations on or about August 12, 2022, and its board indicated that it would seek to dissolve the Crematory. When the Crematory failed to seek voluntary dissolution for several years, the Office of the New York State Attorney General filed a petition for involuntary dissolution in Supreme Court, Broome County, on September 9, 2025. That dissolution proceeding is still ongoing.

The Letter Application

As noted above, the September 17, 2026, letter requests "consideration and approval for the re-establishment of City Cremations in Binghamton, New York." The letter is on the letterhead of the LLC, but is signed by three people:

1. Timothy A. Szczesny, Owner;
2. Tiny Realty 39, LLC; and
3. DeMunn Funeral Home and Cremation Services.

The letter does not state the proposed basis for the "re-establishment" of City Cremations.

It is unclear who is actually seeking approval here, what approval that party or parties seeks, and what authority that party or parties rely on in seeking such approval. The Division has construed the letter as an application to establish a crematory under N-PCL section 1505-a. It is clear that the application meets none of the criteria of that statute.

1. That statute says that "[a] cemetery corporation" may "seek[] the approval" of the Board "to operate a crematory": None of the people that signed the letter are a cemetery corporation.
2. There are specific things a cemetery corporation must include in its application under this statute; the letter addresses none of these:
    a. "a list of the directors, employees, and certificate holders of the cemetery corporation";
    b. "a certified survey of the site and location within the county it will be situated";
    c. "a business plan for the operation of the crematory to include, but not be limited to, number of expected cremations per year, number of cremation units, manufacture, capital costs, financing, anticipated number of employees, types of services provided, pricing thereof" (the letter <u>does</u> address the number of retorts the facility will have and their proposed replacement);
    d. "a description of the impact of the proposed crematory on other crematories within the county or whether the crematory will have an adverse impact on the surrounding community";
    e. "plans, designs, and costs of any structures to be erected or retrofitted for the crematory use"; note that, even though the letter proposes to use an existing facility, it also plans retrofitting but has included no plans, designs, and costs;
    f. "a description of any approvals or permits required by state or local law. No crematory shall be approved until such other approvals or permits have been obtained."

Because the letter application does not address any of the above, the Board should deny the application.

EXHIBIT A

Tiny 39 Realty, LLC

36 Conklin Ave
Binghamton, NY 13903
(607) 725-8769

September 17, 2026

New York State Division of Cemeteries
New York State Department of State
Albany, New York
Re: Request for Re-Establishment of City Cremations – Binghamton, New York

Dear Members of the New York State Division of Cemeteries:

We are writing to respectfully request consideration and approval for the re-establishment of City Cremations in Binghamton, New York, to provide cremation services to the residents of Broome County and the surrounding communities.

We have purchased the building 273 Chenango Street Binghamton, New York 13901, the old City Cremation Inc. This acquisition was purchased under the Tiny 39 Realty, LLC. Making the building and content of the building not related with DeMunn Funeral Home and Cremation Service, LLC. Broome County currently does not have a fully operational crematory available to adequately serve the needs of our community. This has created a significant and growing hardship for local families and funeral homes. We believe the re-establishment of City Cremations would address an important community need while providing families with the peace of mind that their loved ones can remain within Broome County throughout the cremation process.
The need for local cremation services is particularly evident given the changing demographics of our area. Broome County has an aging population, and cremation has become the preferred disposition for approximately 70% of families in our region. This is not a temporary trend; it is an essential service that our community increasingly depends upon. We cannot ignore this growing need or continue to send families' loved ones outside of the county when a properly operated and regulated facility can serve them locally.

The re-establishment of City Cremations would also provide a significant benefit to funeral homes throughout Broome County and surrounding areas. Local funeral establishments need reliable access to cremation services in order to continue serving families efficiently and maintaining their businesses and employment within New York State. Keeping these services local will also help ensure that the associated revenue remains within New York State rather than being directed to crematories outside the area or outside the state.

We recognize that the operation of a crematory carries significant responsibility, and we are prepared to address that responsibility with a renewed management structure and strong community oversight. Under the proposed re-establishment, new management would be responsible for day-to-day supervision and compliance, with a new Board of Directors consisting of trusted and respected members of the community overseeing the operation and ensuring accountability. Our goal is to establish an operation that is transparent, professionally managed, properly supervised, and responsive to the needs of the families and funeral professionals we serve.

Another important consideration is the physical capacity of the existing facility. City Cremations possesses oversized cremation equipment capable of accommodating larger individuals, which is an increasingly important consideration in our community. The availability of appropriately sized equipment helps ensure that every family can be served with dignity and without unnecessary delays or the need to transport their loved one to a distant facility.

We are also willing to take significant steps to simplify and strengthen the operation. Specifically, we are prepared to decommission two of the facility's three cremation chambers and operate with only one chamber. We believe this would allow for a more manageable operation, provide greater accountability and tracking of each cremation, and establish a straightforward system in which cremations can be carefully documented and monitored from the time a decedent enters the facility through completion of the cremation process.

The professionals associated with DeMunn Funeral Home and Cremation Services have been members in good standing of the Binghamton and Broome County communities and have served families in the area for decades. We have established longstanding relationships with local, county, and state authorities and understand the importance of operating within all applicable laws, regulations, and standards.

Our request is not about expanding cremation capacity simply for the sake of business. It is about providing families with a necessary local option, supporting the funeral homes that serve those families, protecting the dignity of the deceased, and ensuring that an essential service remains available within our community.
We respectfully ask the New York State Division of Cemeteries to consider the significant public benefit associated with re-establishing City Cremations in Binghamton. We are willing to work cooperatively with the Division and any other applicable regulatory agencies to satisfy all requirements necessary for the facility to operate safely, responsibly, and in full compliance with New York State regulations.

We would welcome the opportunity to meet with representatives of the Division to discuss our proposal, our management and oversight structure, the proposed decommissioning of two chambers, our procedures for tracking and documenting cremations, and the specific steps necessary to move this important project forward.

Broome County families deserve access to dependable cremation services close to home. We believe the re-establishment of City Cremations can provide that service while strengthening the local funeral profession, supporting our community, and keeping valuable revenue and employment within New York State.

Rental of buildings and equipment would be separate from the funeral home since this property is owned by Tiny 39 Realty, LLC.

Thank you for your consideration of this important request. We respectfully ask that the Division of Cemeteries give favorable consideration to the re-establishment of City Cremations and allow us the opportunity to demonstrate how this facility can once again serve the families of Broome County and the surrounding region in a safe, professional, and responsible manner.

Respectfully,

Timothy A. Szczesny
Owner

Tiny 39 Realty, LLC

and

DeMunn Funeral Home and Cremation Services
36 Conklin Avenue
Binghamton, New York 13903
(607)722-8800
tim@demunn.com

EXHIBIT B

STATE OF NEW YORK
SUPREME COURT: COUNTY OF BROOME

LETITIA JAMES, ATTORNEY GENERAL OF THE STATE OF NEW YORK,

Petitioner,

v.

CITY CREMATIONS, INC.,

Respondent.

VERIFIED PETITION

Index No.: EFCA -_____

Letitia James, Attorney General of the State of New York, (by Assistant Attorney General, Michael J. Danaher, Jr., of counsel), respectively alleges upon information and belief the following:

INTRODUCTION

1. Petitioner brings this special proceeding seeking judicial dissolution of respondent pursuant to Article 11 of the Not-for-Profit Corporation Law ("N-PCL") on the grounds that respondent has persistently acted in an illegal manner by failing to file statutory and regulatory financial reports and, upon information and belief, has ceased operations and is unable to fulfill its corporate purposes. Petitioner also seeks an Order directing the transfer of respondent's remaining assets to an authorized entity or entities.

PARTIES OF JURISDICTION

2. Petitioner, Letitia James, is the Attorney General of the State of New York (hereinafter "Petitioner" or "New York AG").

3. Respondent, City Cremations, Inc. (hereinafter "Respondent" or "City Cremations") is a domestic Not-for-Profit Corporation organized and existing under the laws of the State of New York with a last known office and principal place of business located 273

Chenango Street, Binghamton, New York 13901. It filed its Certificate of Incorporation with the New York State Department of State, Division of Corporations on July 28, 1998.

4. Upon information and belief, respondent's business purpose has been providing cremation services in New York.

5. N-PCL § 1101(a)(2) authorizes petitioner to bring a special proceeding for dissolution when a not-for-profit corporation has conducted its business in a persistently illegal manner.

5. Likewise, N-PCL § 112(a)(5) authorizes petitioner to bring a special proceeding to dissolve a corporation under Article 11 of the N-PCL.

6. Furthermore, pursuant to N-PCL § 112(a)(7), Petitioner has authority to enforce any rights given under the N-PCL to the members, directors or officers of charitable corporations. Petitioner, in such capacity, has the same status as such members, directors or officers to bring this petition pursuant to N-PCL § 1102(a)(1)(E) on the ground that the corporation is no longer able to carry out its purposes.

FACTS

7. On or about August 5, 2020, the Department of State, Division of Cemeteries (hereinafter "DOC") sent a letter to respondent notifying it that DOC had not received remittance payments of the Annual Vandalism and Assessment fee for the years 2012, 2016 – 2019 as required by N-PCL §§ 1507(h) & 1508(c). The letter also informed respondent that it had not filed annual reports for the years 2017 – 2019 as required by N-PCL § 1508(a), nor had it submitted CPA audited financial reports for the years 2016 – 2019 as required by 19 NYCRR § 200.4(b) & (c). It further directed respondent to submit annual reports and audits by October 5, 2020. DOC further requested respondent to provide DOC with a list of trustees, indicating those who were affiliated with, or independent from, an associated funeral home or vault company, for the purpose of determining compliance with the "related party" transaction requirements of N-

PCL § 715. See, Affirmation of Lewis A. Polishook, DOC Director, affirmed on September __, 2025 ("Polishook Aff."), ¶ 4.

8. DOC did not receive a response from respondent to the deficiencies outlined in the August 5, 2020, letter. See, Polishook Aff., ¶ 5.

9. Additionally, on or about August 6, 2020, DOC sent a Notice of Non-Compliance (#BNG-2020-00003) to respondent informing it that a field inspection revealed that respondent did not maintain original signed and completed cremation authorization forms as required by 19 NYCRR § 203.13(d). See, Polishook Aff., ¶ 6.

10. Respondent responded to the notice of non-compliance by letter dated September 16, 2020 in which respondent expressed difficulty in getting funeral home directors to supply her with the original signed cremation authorizations. However, respondent did not supply DOC with copies of the signed documents. See, Polishook Aff. ¶ 7

11. On or about April 8, 2021, DOC arrived at respondent's place of business to perform an unscheduled field inspection of the facility. The DOC investigator attempted to gain admittance, but no one was present. The inspector called respondent's telephone number and only reached an answering service. It appeared to the inspector that the cremation retorts were in operation without a certified operator present as required by law. See, Polishook Aff., ¶ 8.

12. As a result of the attempted inspection, on April 8, 2021, DOC sent a Notice of Non-Compliance to respondent demanding a written statement of compliance. See, Polishook Aff., ¶ 9.

13. By letter dated May 3, 2021, respondent replied to the Notice of Non-Compliance asserting that the cremation retorts were not in operation at the time of the DOC inspector's arrival, and what the inspector heard was the retort unit was in cool – down mode. Respondent also asserted that a family emergency caused a principal of respondent to not be at the premises and claimed the inspector should have told the answering service that it was an emergency.

Respondent also claimed that there was a trained operator on premises at the time of the inspection. See, Polishook Aff., ¶ 10.

14. On July 21, 2021, DOC sent a letter to respondent notifying it that DOC had issued three notices of non-compliance and that respondent had failed to adequately respond to them. The letter set forth various statutory penalties for the violations and explained the regulatory process for objecting directly to the Cemetery Board. See, Polishook Aff., ¶ 11.

15. Respondent replied to the DOC letter by an undated letter received on August 19, 2021, in which respondent asserted that substantive responses had been provided to DOC, disputing the assessed penalties, and claimed that it believed its accountant had been filing all necessary reports, audits and payments. The letter indicated that respondent was in the process of engaging in a new accounting firm and retain an attorney to address its oversights. See, Polishook Aff., ¶ 12.

16. Despite respondent's claim it was attempting to resolve its oversights in failing to submit required reports, audited financial statements, or payments, it failed to correct those deficiencies. See, Polishook Aff., ¶ 13.

17. On August 9, 2022, DOC investigators attended a meeting of respondent's Board of Directors at which time the Board indicated that it was ceasing cremation operations on August 13, 2022, and would begin the process of dissolving the corporation. See, Polishook Aff., 14.

18. On August 23 2022, DOC sent a letter to respondent confirming the August 9, 2022, meeting and requesting a verified report regarding the steps that were being taken to dissolve and pay the amounts owed for vandalism and assessment, a list of all respondent's assets, information regarding total cremations from 2012 – 2022, and the date that the last cremation was performed. See, Polishook Aff., ¶ 15.

19. On or about September 15, 2022, respondent replied to DOC's August 23, 2022,

letter confirming, among other things, that respondent ceased cremation operations on August 12, 2022, and intended to dissolve. See. Polishook Aff., ¶ 16.

20. On or about August 26, 2022, respondent sent a letter to DOC indicating that there was a delay in following through with the dissolution but confirmed that it was proceeding with a dissolution. See, Polishook Aff., ¶ 17.

21. On or about April 13, 2023, DOC inquired about the status of respondent's plan of dissolution but has not received a response to its inquiry, nor has it received respondent's dissolution papers. See, Polishook Aff., ¶¶ 20 – 21.

22. Since on or about August 12, 2022, respondent has ceased cremation operations and has been delinquent in filing annual reports, audited financial reports and paying mandated annual vandalism and assessment fees to DOC. Consequently, it is in the public interest for the corporation to be dissolved.

FIRST CAUSE OF ACTION
DISSOLUTION PURSUANT TO
N-PCL § 1102(a)(2)

23. Petitioner repeats and realleges the allegation contained in paragraphs 1 – 22 as if fully set forth again herein.

24. Based on the foregoing, respondent has engaged in persistent illegal conduct in failing to file statutorily required annual financial reports for the years 2017 to present, submit regulatory required audited financial reports for the years 2016 to present, and failed to remit statutorily required annual vandalism and assessment fees for the years 2012 and 2016 to present.

25. As a result, respondent has persistently engaged in illegal conduct and must be dissolved pursuant to N-PCL § 1101(a)(2).

SECOND CAUSE OF ACTION
DISSOLUTION PURSUANT TO
N-PCL § 1102(a)(1)(E)

26. Petitioner repeats and realleges the allegation contained in paragraphs 1 – 22 as if fully set forth again herein.

27. Petitioner ceased operations on or about August 12, 2022, and has repeatedly confirmed its intent to dissolve, but has failed to do so.

28. As a result of the foregoing, respondent is no longer able to carry out its purposes and must be dissolved pursuant to N-PCL § 1102(a)(1)(E).

WHEREEFORE, petitioner requests an Order and Judgment against respondent for the following:

1. Judicial dissolution pursuant to N-PCL § 1109;

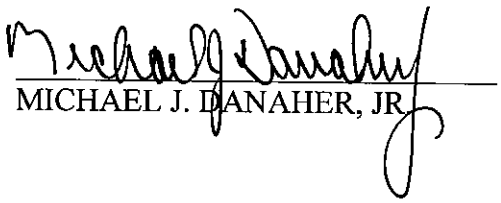
2. Appointment of a receiver pursuant to N-PCL § 1111 to preserve assets pending the filing of a plan of dissolution and distribution of assets;

3. An injunction against respondent from distributing any and all assets until further order of this Court;

4. Granting petitioner such other and further relief as this Court may deem just and proper.

DATED: Binghamton, New York
September 9, 2025

LETITIA JAMES
Attorney General of the
State of New York
44 Hawley St., 17th Floor
Binghamton, NY 13901
Tel. (607) 251-2749

By: 
MICHAEL J. DANAHER, JR.

VERIFICATION

MICHAEL J. DANAHER, JR., an attorney duly admitted to practice in the State of New York, affirms, under penalty of perjury, the following:

1. I am an Assistant Attorney General in the Office of Letitia James, Attorney General of the State of New York, petitioner in this action.

2. I have been assigned to prepare the petition herein, and I am acquainted with the facts and circumstances thereof. I have prepared and read the annexed verified petition, and know the contents thereof; that the same is true of my knowledge, except as to those matters therein stated to be alleged on information and belief, and that as to those matters, I believe them to be true.

2. The source of my information and the grounds of my belief of the allegations contained in the petition herein are derived from my investigation of the facts in this action, along with an examination of the file herein.

3. This verification is made by me, pursuant to CPLR §3020(d)(2), because the Attorney General is a public officer and I am acquainted with the facts of this action.

DATED: Binghamton, New York
September 9, 2025

MICHAEL J. DANAHER, JR.