BEFORE THE ARKANSAS CEMETERY BOARD

Case No. C-08-054

IN THE MATTER OF:

CARNEY FUNERAL HOME
AND CEMETERY, LLC;
BLYTHEVILLE, ARKANSAS **Order No. C-08-054-08-OR01**

ORDER

The Arkansas Cemetery Board ("Board") held its quarterly meeting on June 25, 2008, pursuant to Ark. Code Ann. § 20-17-1005 and Rule 4 of the Rules of the Arkansas Cemetery Board. At the meeting, the Board considered a request by Carney Funeral Home and Cemetery, LLC ("Applicant"), to approve an application for the establishment of a perpetual care cemetery to be located in Blytheville, Arkansas, and to be known as Carney Funeral Home and Cemetery, LLC. Randall L. Carney appeared on behalf of the Applicant. Upon consideration of the testimony of the witnesses, the exhibits, and all other matters presented, the Board hereby finds and concludes:

FINDING OF FACT

1. The Applicant proposes the establishment of a new cemetery under the jurisdiction of the Cemetery Act for Perpetually Maintained Cemeteries, ("Act"), Ark. Code Ann. §§ 20-17-1001—20-17-1029. The proposed location of the cemetery is in Blytheville, Arkansas, under the name of the Applicant.

2. The Applicant will be operated for profit and will have a permanent maintenance fund.

3. The Applicant is owned and operated by Randall L. Carney, Mabelee L. Carney, and Tommy J. Carney.

4. The Applicant is a limited liability company organized under the laws of the State of Arkansas.

5. The Applicant filed an application for a perpetual care permit on June 4, 2008.

6. The Applicant supplemented the application with additional materials on June 20, 2008.

7. The Application contains the required information and documentation as set forth in Ark. Code Ann. § 20-17-1008, and Rules 7 and 8 of the Rules of the Arkansas Cemetery Board, except as noted in Paragraphs 9 and 10, below.

8. Notice of the application was published in the Blytheville Courier News on April 20, 2008, April 27, 2008, and May 4, 2008. The last date of publication occurred fifty-four (54) days prior to the Board meeting.

9. An inspection of the proposed location has been conducted by the Arkansas Department of Health. Written approval of the proposed location by the Department of Health had not been received as of the date of the hearing.

10. The Applicant has not submitted proof of an initial deposit of five thousand dollars ($5,000.00) into the permanent maintenance fund.

11. No protest to the application was filed.

12. Upon receipt of written approval of the proposed location by the Arkansas Department of Health, and proof that an initial deposit of five thousand dollars ($5,000.00) has been made into the permanent maintenance fund, the Applicant will meet all of the requirements for the establishment of a perpetual care cemetery as set forth by

Ark. Code Ann. § 20-17-1008, and Rules 7 and 8 of the Rules of the Arkansas Cemetery Board.

CONCLUSIONS OF LAW

13. A cemetery company proposing to create a new cemetery under the Act shall file an application for the issuance of a permit with the Board. Ark. Code Ann. § 20-17-1008(b)(1).

14. The application for a permit submitted by the proposed cemetery company must contain various statements, documents, and other information necessary to provide justification for the permit. Ark. Code Ann. § 20-17-1008 and Rule 8 of the Arkansas Cemetery Board Rules.

15. Prior to making application to the Board for a permit to establish and operate a new cemetery, the entity proposing to make application shall cause to be published weekly for three (3) weeks in a newspaper of general circulation in the county in which the proposed cemetery is located a notice that an application will be filed with the Board to establish a cemetery in the county. Ark. Code Ann. § 20-17-1008(a)(1).

16. A permit to establish and operate a perpetual care cemetery must be filed no less than twenty (20) days prior to the Board meeting at which the application is to be considered. Ark. Code Ann. § 20-17-1008(c).

17. The Act requires that an initial deposit of at least five thousand dollars ($5,000.00) be made into the permanent maintenance fund by the Applicant prior to issuance of a permit. Ark. Code Ann. § 20-17-1010(c)(1).

18. Prior to the issuance by the Board of a permit for establishment of a new cemetery, approval of the proposed location must be obtained from the Arkansas Department of Health. Ark. Code Ann. § 20-17-1009(c).

19. Rule 8.01(C) of the Rules of the Arkansas Cemetery Board requires a cemetery company to place a minimum of twenty percent (20%) of the gross sales price of each lot into the permanent maintenance fund.

ORDER

The Board hereby orders that the Applicant shall be issued a permit to establish and operate a perpetual care cemetery in Blytheville, Arkansas under the name of Carney Funeral Home and Cemetery, LLC. Issuance of the permit shall be conditioned upon the production of proof to the Board that an initial principal deposit of at least five thousand dollars ($5,000.00) has been made to the permanent maintenance fund, and receipt of written approval of the proposed location by the Arkansas Department of Health. Upon submission of the proof of the required deposit into the permanent maintenance fund, and receipt of written approval of the proposed location by the Arkansas Department of Health, the Staff shall be authorized to issue a permit to the Applicant for the establishment of the proposed perpetual care cemetery.

IT IS FURTHER ORDERED that the Applicant shall be required to place into its permanent maintenance fund that amount which is required by the Act and Rules of the Arkansas Cemetery Board, currently a minimum of twenty percent (20%) of the gross sales price for each lot sold in the Applicant's perpetual care cemetery.

Dated: July 21, 2008

ARKANSAS CEMETERY BOARD

BETTY FINLEY
Chairperson

A. HEATH ABSHURE
Secretary