

BEFORE THE ARKANSAS CEMETERY BOARD

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IN THE MATTER OF  
ROBERT MCKENZIE

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Order to Conduct  
Examinations  
Pursuant to Ark. Code  
Ann. § 20-17-1006

ORDER NO. C7-009-07-OR01

ORDER

A meeting of the Arkansas Cemetery Board (“Board”) was held on March 27, 2007. Considered at the meeting was a complaint by Mr. Robert McKenzie (“complainant”) against Roselawn Cemetery in Fort Smith, Arkansas.

FINDINGS OF FACT

1. Roselawn Cemetery is a perpetual care cemetery in Fort Smith, Arkansas, within the meaning of the Cemetery Act for Perpetually Maintained Cemeteries, Act 352 of 1977, as amended (“Act”), and is subject to the Act and Board.
2. Roselawn Cemetery is owned or controlled by Mr. Cleve L. Cotner, Jr. and Mr. Boyd T. Fowler through Roselawn Cemetery Association, Inc.
3. On June 30, 2006, the Board received a letter of complaint from the complainant alleging improper care and maintenance of Roselawn Cemetery.
4. Roselawn Cemetery answered the letter of complaint on July 17, 2006, denying the allegations of improper care and maintenance.
5. On July 19, 2006, August 20, 2006, and February 23, 2007, staff examiner Jay Drake of the Arkansas Securities Department performed inspections of Roselawn Cemetery’s grounds.

6. The examiner's findings included a failure to remove excess dirt in a timely manner following interments, a failure to protect adjacent lots from dirt used for interments, deep ruts from tire tracks, and a significant number of partially buried flat markers.
7. Mr. Cleve L. Cotner, Jr. and Mr. Boyd T. Fowler also own or operate Forest Park Cemetery through Forest Park Cemetery Association, Inc.
8. Forest Park Cemetery is a perpetual care cemetery in Fort Smith, Arkansas, within the meaning of the Cemetery Act for Perpetually Maintained Cemeteries, Act 352 of 1977, as amended ("Act"), and is subject to the Act and Board.
9. On February 23, 2007, staff examiner Jay Drake of the Arkansas Securities Department performed an inspection of Forest Park Cemetery's grounds.
10. The examiner's findings included a failure to remove excess dirt in a timely manner following interments, a failure to protect adjacent lots from dirt used for interments, a significant number of partially buried flat markers, and numerous fallen limbs across the cemetery.

#### CONCLUSIONS OF LAW

11. Ark. Code Ann. § 20-17-1006 (1) authorizes the Board to conduct at any time and from time to time such reasonable periodic, special, or other examination of any cemetery or cemetery company, including, but not limited to, an examination of the physical condition or appearance of the cemetery.
12. Ark. Code Ann. § 20-17-1006 (7) authorizes the Board to require additional contributions to the permanent maintenance fund of the cemetery where provided for in this subchapter, including, but not limited to, contributions not to exceed

three thousand dollars (\$3,000) whenever any cemetery company fails to properly care for and maintain or preserve the cemetery.

OPINION

13. The Board feels it is in the public interest to require licensed perpetual care cemeteries maintain an appropriate level of care and maintenance.

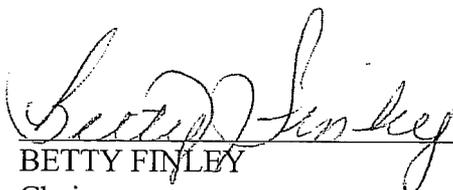
ORDER

IT IS THEREFORE ORDERED that the staff of the Arkansas Securities Department perform an inspection of the care and maintenance of Roselawn Cemetery and Forest Park Cemetery in Fort Smith prior to the second, third, and fourth quarterly meetings of the Board in 2007.

IT IS FURTHER ORDERED that if Roselawn Cemetery or Forest Park Cemetery do not show improvement in their care and maintenance, the Board shall consider whether to impose additional contributions to the permanent maintenance fund under Ark. Code Ann. § 20-17-1006 (7).

DATED THIS 12<sup>th</sup> <sup>April</sup> DAY OF MARCH, 2007.

**ARKANSAS CEMETERY BOARD**

  
BETTY FINLEY  
Chairperson

  
MICHAEL B. JOHNSON  
Secretary