

CONFIDENTIAL MEMO

November 1, 2003

To: Don at Pacesetter
Divakar
Andy

Anita at OCP

From: Slivy

Subject: CBO Issues

I have forwarded a copy of the email from Foley and Lardner on how to address the CBO issues. This memo is to outline my thoughts and then to get your recommendation on how to proceed. I have enclosed a copy of the Master Plan Map, which shows the land that was designated as available for burials from the former owners. The available land is highlighted.

The Facts:

1. When cleaning the back section of the cemetery we discovered the remnants of a corner of a very old casket and some bones that we believe to be human remains. It was believed that these remains had never been buried, however, it was not possible to tell. We buried these items and made note of the location. We discontinued the clean-up efforts.
2. On several occasions we have started to open graves that had been sold Pre-Need only to discover that there were wood and bone fragments in the grave. These graves were closed without disturbing the remains. The fragments were undetectable by the probing that is routinely done before the burials. This is because all of the graves in question were probably over 50 years old when wood boxes were used for burials. More recently, concrete or metal containers have been used which are detectable by the probe.
3. The State has claimed a corner of the property in the back for the Department of Transportation under the Eminent Domain Laws. They are claiming the land for improvements in the curve cut on the newly widened highway.

Our Speculations:

1. The discovery of the casket corner and bones prompted us to ask the groundsmen if there was likely to be any other remains in that area. We interviewed the assistant Foreman and the acting Union Rep who claim to have no knowledge of any actions that are not in keeping with proper cemetery practices. "We only do what we are told to do by Management." They say that they have not been told to do anything inappropriate by Perpetua Management.
2. Before formal questioning began, one of the groundsmen said that he had heard that the former owners believed that if a grave was more than 50 years old, they could reuse it. They would often dig up any leftover fragments and dump them in the back. This statement was later recanted and replaced by the "we don't do anything unless management tells us" statement.
3. When we first began this year's cemetery clean-up efforts, we asked the groundsmen to clean the entire cemetery including the back area. They always ran out of time before they got to the back section. None of the debris was ever removed. When the Foreman quit to go work for another property we brought in a new Foreman. One of his charges was to get that area cleaned up.
4. There have been a few incidents where the digger has questioned whether there were fragments in a grave. The groundsmen contacted the Foreman for direction. Each time the groundsmen have been told to close the grave and we have found an alternate space. This has resulted in having to shift family members from family plots to totally new sections. In one case, the family had six burial plots. There had been a burial in 1996 and 1993. When we probed the remaining four spaces we found each of them to already contain human remains. It is hard to believe that the 1996 and 1993 burials were the only open lots.
5. We believe that the former owners routinely buried over or cleared out old graves for new business. We believe that they sold Pre-Need to families in sections they knew were full with the expectation that people would continue to be double buried in these old graves.
6. We believe a lot of those old remains were dumped in the back section; that the groundsmen know it; and that is why they never found time to clean up that section. When we acquired the

cemetery we got rid of the Superintendent. It is believed that the Office Manager, General Manager and the Superintendent were parties to this practice, as well as many other shady dealings, when they ran the property before we acquired it. Two of the three are now deceased, which originally prompted the sale. The third person is the person we got rid of.

7. We believe that the large section in the middle of the property was left so that they could sell the cemetery and that they double buried in the other areas to keep from depleting the remaining land. This is total speculation and not based on any input from the groundsmen.
8. The cemetery was owned by a group whose majority owners were John Johnson of Ebony Magazine, and attorney Truman Gipson. Gipson is the brother of the General Manager, who left his interest to Gipson when he died. The Cemetery was purchased "AS IS."

Foley and Lardner has chosen to deal only with the facts. I think going any further will pose a Conflict of Interest for them. In addition to working on his Senatorial Campaign, David Phelan and the Comptroller are personal friends. I am not sure he wants to bring any thing to the Comptroller that could be unpleasant. Though personal friends, Phelan could not deliver the reductions in the legal bills from the state he had assured us he could accomplish during the Cedar Park acquisition. If any attorney is to advise us then they should advise us on how to handle any follow-up questions from David Foley. If Foley doesn't "dig" into the situation, I believe we still would have to tell him that we suspect that there are other remains in the back. I suppose we could just decide not to use the land in the back, but I think we are exposed if what we suspect is true. If the Department of Transportation doesn't get our approval they will sue us to use the land they have claimed.

We have identified the Firm that rents equipment that can X-Ray the ground to determine if there are remains buried in specific locations. Our original plan was to try to rent this Sonar equipment to determine whether there were remains in either of the open sections, and to determine where the available lots were in the closed sections. We believe the cost of the equipment makes the latter use cost prohibitive. If we find human remains in the back we would report that to the state and seek their guidance. We wanted to insure that the section in the middle is totally clean before we start burying there. We also had planned to try to identify all of the Pre-Needs and try to

determine if those grave spaces are open so that we can change the sections before the time of Need when the families are already grieving. In the process we would only be able to determine if there were remains in certain spaces, but not whose remains they were.

This type of scanning apparently is not uncommon. The owners of the equipment have an entire division set up to handle cemeteries. Because of the longevity of cemeteries and the poor historical record keeping, acquirers of cemeteries frequently contact them to scan some or major sections of the cemetery they have acquired. Unfortunately, the firm also operates under court order sometimes to scan the entire cemetery when there have been complaints about missing relatives. As you will see the cost to rent this equipment is unbelievably expensive.

I have held the Department of Transportation off for a while trying to negotiate a higher price for the property they want to claim, but they will want to proceed soon.

I have attached a couple of articles that address the Florida and Georgia issues which don't describe our situation, but will increase your awareness of other issues. We still need to have a review of the laws in Illinois in relation to those in Georgia and Florida. This was my first request to F&L but it has not been completed yet. Otherwise, I think we have gathered all of the information necessary to put a strategy in place. We now need to decide how to proceed.