

Notice of Proposed Disciplinary Action
BEFORE THE MORTUARY AND CEMETERY BOARD
OF THE STATE OF OREGON

In the Matter of the Cemetery Authority
license of **ROSE CITY CEMETERY**
ASSOCIATION,

LICENSEE

Notice of Proposed Disciplinary Action
and
Opportunity for Hearing

CASE NO. 08-1039

Pursuant to ORS 692.180, the Oregon Mortuary & Cemetery Board proposes to take disciplinary action against your cemetery authority license on the grounds noted below. For statutory and rule violations the Board may impose one or more of the following sanctions: Reprimand; license suspension or revocation; civil penalty of up to \$1000 for each violation; or other sanctions as authorized by law.

Grounds for Disciplinary Action

1. At all times mentioned herein, Rose City Cemetery Association (“Licensee”) was licensed by the Board as a cemetery (OMCB License No. CE-0116).
2. At all times mentioned herein, Licensee was a registered endowment care cemetery and maintained an endowment care fund in an irrevocable trust fund. ORS 97.810, ORS 97.010(16)
3. Each endowment care cemetery is required to file, with the Director of the Department of Consumer and Business Services (DCBS), within 75 days of the end of its fiscal or calendar year, a statement (hereafter the “Endowment Care Fund Report” or “Report”), that contains the following information pertaining to the endowment care fund:
 - (a) The total amount invested in bonds, securities, mortgages and other investments;
 - (b) The total amount of cash on hand not invested at the close of the previous calendar or fiscal year;
 - (c) The income earned by investments in the preceding calendar or fiscal year;
 - (d) The amounts of such income expended for maintenance in the preceding

calendar or fiscal year;

(e) The amount paid into the fund in the preceding calendar or fiscal year; and

(f) Such other items as the director may from time to time require to show accurately the complete financial condition of the trust on the date of the statement. within 75 days of the end of its fiscal year,

4. Respondent cemetery's fiscal year ends on December 31st of each year. Therefore, Respondent's 2007 Endowment Care Fund Report was due no later than March 15, 2008. However, DCBS did not receive Respondent's 2007 Report until on or about August 1, 2008.

5. Respondent also filed, with the DCBS, a delinquent Endowment Care Fund Report for the 2006 calendar/fiscal year. The 2006 Report was due no later than March 16, 2007, however, DCBS did not receive Respondent's 2006 Report until on or about July 11, 2007.

6. Failure to file the annual endowment care report with DCBS within 75 days of the cemetery's fiscal year is a violation of ORS 97.810(3), OAR 830-030-0090(1)(a) and OAR 830-040-0000(1) and cause for disciplinary action under ORS 692.180(1)(j) and ORS 692.180(1)(g).

7. Definitions that may be relevant to this notice may be found in ORS 692.010(1), ORS 97.010 and OAR 830-011-0000.

Rights and Procedures

You are entitled to a hearing as provided by the Administrative Procedures Act (ORS Chapter 183) and ORS 692.265(1). If you want a hearing, you must file a written request for hearing with the State Mortuary & Cemetery Board (the "Board") within 21 days from the date this notice was mailed. If a request for hearing is not received within this 21-day period, your right to a hearing shall be considered waived. Hearing requests may be mailed to State Office Building, 800 NE Oregon St., Suite 430, Portland, Oregon 97232-2195.

If you request a hearing, you will be notified of the time and place of the hearing. You must be represented by legal counsel at a hearing. A Notice of Contested Case Hearing Rights and Procedures is enclosed with this Notice of Proposed Disciplinary Action. If you do not request a hearing within 21 days, or if you withdraw a hearing request, notify the Board or hearing officer that you will not appear or fail to appear at a scheduled hearing, the Board may issue a final order by default imposing discipline as imposed by the Board. If the Board issues a final order by default, it designates its file on this matter as the record for purposes of establishing a prima facie case.

DATED this 2nd day of December, 2008.

STATE MORTUARY AND CEMETERY BOARD

___<s> Lynne Nelson_____

Lynne Nelson

Designee: OMCB Compliance Manager