

BEFORE THE ARKANSAS CEMETERY BOARD

IN THE MATTER OF

TRI-COUNTY FUNERAL HOME, LLC
HARDY, ARKANSAS

Order Approving Change
of Ownership Application
Pursuant to Ark. Code
Ann. § 20-17-1012

ORDER NO. C-06-029-06-OR01

ORDER

A meeting of the Arkansas Cemetery Board (“Board”) was held on August 30, 2006. Considered at the meeting was a request by Tri-County Funeral Home, LLC to ratify a proposed agreement transferring ownership interests in Oaklawn Cemetery, Cherokee Village, Arkansas, (“licensee”) to Tri-County Funeral Home, LLC (“purchaser”).

FINDINGS OF FACT

1. The licensee owns and operates a perpetual care cemetery at Cherokee Village, 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. On June 19, 2006, the licensee and purchaser filed an application with the Board for a change of ownership in the licensee. On July 12, 2006, and July 26, 2006, the purchaser filed amendments to the application.
3. The application contained information and documents required in Ark. Code Ann. § 20-17-1012 (a) (2) (A) through § 20-17-1012 (a) (2) (M) and § 20-17-1012 (c) (1). The application contained information and documents required in Rule 8.01 (A) (1) through 8.01 (A) (10) and Rule 11.05 (A) (1) through 11.05 (A) (4).

4. The application proposed replacing the three trustees of the Perpetual Care Trust Fund with Randy McComas, Phillip Pickett, and Nathan Circle.
5. Randy McComas and Renee Clay-Circle are each fifty percent owners of Tri-County Funeral Home, LLC. There are no other owners of Tri-County Funeral Home, LLC.
6. Nathan Circle is the husband of Renee Clay-Circle.
7. No protest to the application was filed.

CONCLUSIONS OF LAW

8. Ark. Code Ann. § 20-17-1012 and Rule 11 require that when any cemetery company subject to the provisions of the Act is to be sold or the ownership otherwise transferred, or a controlling interest in same is sold or so transferred, the cemetery company to whom the current permit is issued or the cemetery company proposing to purchase shall file an application for the issuance of a new permit with the Board, and the Board shall approve the application before a new permit is issued.
9. Ark. Code Ann. § 20-17-1012 and Rule 11 require that an application for change of ownership of a cemetery that is subject to the Act contain certain specific information and documents.
10. Ark. Code Ann. § 20-17-1014 (2) allows no more than one trustee to have any direct or indirect financial or pecuniary interest in the cemetery.

OPINION

11. The licensee and the purchaser have satisfactorily filed the information and documents required by the Act and Rules of the Board to be made a part of an application for a change of ownership of a perpetual care cemetery. The application for change of ownership should therefore be approved.
12. There may be an issue concerning the purchaser's compliance with Ark Code Ann. § 20-14-1014 (2). An opinion from the Board's legal counsel is requested to determine whether Randy McComas and Nathan Circle may concurrently serve as trustees of the cemetery's permanent maintenance fund.

ORDER

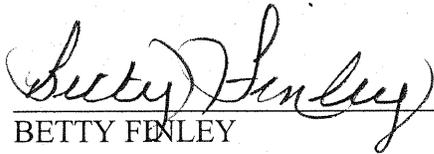
IT IS THEREFORE ORDERED that the change of ownership application shall be approved as filed.

IT IS FURTHER ORDERED that the Staff of the Arkansas Securities Department give an opinion whether Randy McComas and Nathan Circle may concurrently serve as trustees of the permanent maintenance fund. In the event the Staff determines they may not, an alternative trustee must be chosen by Tri-County Funeral Home, LLC.

IT IS FURTHER ORDERED that Tri-County Funeral Home, LLC shall continue to deposit no less than twenty percent (20%) of the gross sales price of lot sales to the Trust Fund for each such paid-in-full burial space contract sold in Oaklawn Cemetery.

DATED THIS 8th DAY OF SEPTEMBER, 2006.

ARKANSAS CEMETERY BOARD



BETTY FINLEY
Chairperson



MICHAEL B. JOHNSON
Secretary