

**STATE OF TENNESSEE
BURIAL SERVICES PROGRAM**

IN THE MATTER OF:)
)
HIGHLAND MEMORIAL GARDENS) **CEM - 202106465**
3360 NORTH HIGHLAND AVENUE)
JACKSON, TENNESSEE 38305)
(Reg. No: 60))
)

ORDER OF CONTINUED SUMMARY SUSPENSION

An informal conference was held between the Commissioner of the Department of Commerce and Insurance through his designee, Assistant Commissioner for the Regulatory Boards Division, Alex Martin (hereafter referred to as the “Commissioner”) and Highland Memorial Gardens (hereinafter “Respondent”) on September 27, 2021, pursuant to the provisions of Tenn. Code Ann. § 4-5-320(d)(1)(B) which states, in pertinent part, as follows:

(c) . . . If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary action, including suspension of a license or other licensure restriction or action as may be appropriate to protect the public, may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

(d)(1) Notwithstanding subsection (c), in issuing an order of summary action against a license the agency shall use one (1) of the following procedures:

. . .

(B) The agency shall proceed with the summary action and notify the licensee of the opportunity for an informal hearing, review, or conference before the agency within seven (7) business days of the issuance of the order of summary action.

On September 16, 2021, the Commissioner entered an Order of Summary Suspension against Respondent’s registration. An informal conference was requested on September 17, 2021 in response to the Order. The informal conference was held for the purposes of solely determining

“whether the public health, safety, and welfare imperatively required emergency action by the agency.” Tenn. Code Ann. § 4-5-320(d)(2).

WHEREAS the Commissioner made the following findings on September 28, 2021:

1. As of the date of the informal conference there remained a strong, foul, pungent odor within the cemetery’s mausoleum.

2. As of the date of the informal conference there remained the presence of leakage of bodily fluids within the cemetery’s mausoleum and upon the flooring.

3. Respondent made repairs and replacement of air conditioning units upon the cemetery’s mausoleum beginning on or about September 16, 2021.

4. Respondent contracted with a firm to repair a hole in the ceiling of the storage room within the cemetery’s mausoleum, having provided this information after the informal conference via email. As of the date of the informal conference such hole remained unrepaired.

5. Respondent has engaged a third party to repair and/or remediate the leakage of bodily fluids within the cemetery’s mausoleum but no such work can begin until some time in October, 2021 at the earliest.

6. Respondent has engaged a third party to replace the carpeting within the cemetery’s mausoleum with a different type of flooring beginning around October 2021.

7. Respondent agreed that the current condition of the cemetery’s mausoleum was not up to a standard to allow the public to entry for visitation due to its condition.

Tennessee Code Annotated § 46-1-304(a) states:

(a) As to matters within its reasonable control, a cemetery company shall maintain its cemeteries so as to reflect respect for the memory of the dead in keeping with the reasonable sensibilities of survivors of those whose remains are interred in the cemeteries.

T.C.A. § 46-1-304.

Further, Tennessee Code Annotated § 46-1-306 states:

(a) The commissioner may refuse to issue or renew, and may revoke or suspend, the registration of any cemetery registered pursuant to this chapter or corresponding provisions of prior law for any one (1) or more of the following reasons:

...

(5) Dishonesty, fraud, or **gross negligence** on the part of a cemetery company or any cemetery operator in the performance of any services regulated by this chapter or chapter 2 of this title;

(6) Violation, on the part of a cemetery operator of any provision of this chapter or chapter 2 of this title, or rule promulgated by the commissioner under this chapter or chapter 2 of this title;

(7) Violation, on the part of a cemetery company or any cemetery operator of any rule of professional conduct promulgated by the commissioner;

...

(13) Failure on the part of a cemetery company or any cemetery operator to maintain the cemetery grounds as set forth at § 46-1-304, and in any rule promulgated for the administration or enforcement of this chapter;

T.C.A. § 46-1-306.

Pursuant to Tenn. Comp. R. & Regs., 0780-05-09.28 (Professional Conduct) states:

The Commissioner may deem a cemetery company, or any cemetery operator, to have violated the rules of professional conduct for:

...

(2) Negligently failing to protect the safety, health and welfare of the public in the performance of the registrant's professional duties;

Tenn. Comp. R. & Regs. 0780-05-09-.28

Having taken into consideration the Respondent's presentation at the informal conference including the current conditions of the cemetery's mausoleum, the repairs made to date, the planned future repairs, and the admission by Respondent that the mausoleum itself is not suitable for visitation by the public, the Commissioner has determined pursuant to Tenn. Code Annotated § 4-5-320(d)(2) that the health, safety, and welfare of the public imperatively required emergency action for the immediate summary suspension in part of Respondent's registration pursuant to the following provisions:

IT IS THEREFORE ORDERED that the Registration Number 60 for Highland Memorial Gardens shall continue to be summarily **SUSPENDED** in part, restricting the following activities effective the date this Order is entered, pending proceedings for formal suspension, revocation or other action.

IT IS FURTHER ORDERED that the mausoleum at Highland Memorial Gardens shall continue to be **CLOSED TO THE PUBLIC** during the pendency of this Order.

Respondent shall not advertise or engage in the sale of any cemetery spaces, mausoleum crypts, niches, monuments/markers or any other sales. However, as an exception, Respondent may engage in the sale of a cemetery plot including opening and closing of a grave where death has occurred and there is an immediate need. No other merchandise or services may be sold as part of this exception.

This Order shall remain in effect pending formal proceedings to be promptly instituted and determined under the Uniform Administrative Procedures Division pursuant to Tennessee Code Annotated § 4-5-301 et seq.

During the pendency of this Order and formal proceedings, if Respondent feels that the conditions of the cemetery's mausoleum have changed sufficient to warrant a review of the provisions of this Order, they may petition the agency by letter or email to the Executive Director or its undersigned Chief Counsel for such review at such time, the Commissioner may take appropriate action as necessary regarding the registration suspension.

ENTERED this 28th day of September, 2021.

Alex Martin

**Alex Martin
Assistant Commissioner
Tennessee Department of
Commerce and Insurance**

PREPARED FOR ENTRY BY:

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Order of Continued Summary Suspension has been sent to the Respondent at the addresses indicated below via email and regular mail as indicated to the following addresses on September 28, 2021:

Robert Jamison - via email and regular mail rjami@stonemor.com licensing@stonemor.com Manager Highland Memorial Gardens 200 Ridgcrest Road Jackson, TN 38505	Heath Fairfax - via email hfair@stonemor.com Area Maintenance Director Memphis, TN Jackson TN, Tupelo MS StoneMor Partners, LP
Jack W. Omer - via email jomer@stonemor.com Division President, South Division StoneMor Partners, LP	John Mothershed - via email jmoth@stonemor.com Area Vice President South Area StoneMor Partners, LP

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