

COPY

IN THE CHANCERY COURT FOR SEVIER COUNTY TENNESSEE

RPD, LP

Petitioner,

**IN RE:
ELLIS CEMETERY**

CHANCERY COURT	
FILED	
HOUR	3:40 P M
APR 10 2026	
Rylee G. Manning	
CLERK & MASTER	
SEVIER COUNTY TN	

No: 24-6-085

**VERIFIED PETITION TO TERMINATE USE OF LAND AS A CEMETERY AND TO
REMOVE AND REINTER HUMAN REMAINS**

Petitioner RPD, LP ("RPD" or "Petitioner"), by and through counsel, respectfully petitions this Court pursuant to Tenn. Code Ann. §§ 46-4-101 through 104 to (i) authorize the removal and reinterment of any human remains located within the burial ground historically known as Ellis Cemetery (the "Cemetery"); (ii) terminate the use of, and all rights and easements to use, the land as a burial ground; and (iii) grant related relief. In support of this Petitioner you Petitioner would show the Court as follows:

PARTIES AND JURISDICTION:

1. RPD, LP is a Tennessee limited partnership and the owner of approximately 270 acres in Sevierville, Sevier County, Tennessee, on which the Cemetery is located. Petitioner's General Partner, Ben M. Frizzell, III, is authorized to bring this action.
2. This Court has jurisdiction and is the proper court because the Cemetery is located in Sevier County.
3. Ken Ellis is a citizen and resident of Sevier County, Tennessee, and as a direct descendant with consanguinity with some persons buried in Ellis Cemetery he is an interested person as defined by statute and a necessary party to this action. He can be served at 3408 Shagbark Road, Powell, Tennessee 37849.

FACTS AND CAUSE OF ACTION:

4. The Cemetery is commonly known as "Ellis Cemetery" and lies within Sevierville, Tennessee. Historical headstones located at the site date to primarily to the mid-1800s, and the most recent identified burial was in 1903.

5. Ken Ellis is a distant relative of persons buried in the Ellis Cemetery. There are no other known immediate or distant family of the persons interred in the Ellis Cemetery.

6. Prior to approximately 2010, the Cemetery had fallen into disrepair, as it was overgrown, unfenced, and numerous headstones were scattered, broken, or missing. With permission of Petitioner's General Partner, cleanup and stabilization efforts were attempted.

7. Petitioner is planning a commercial development on the property where the Cemetery is currently located, and due to sitewide grading and related work, the project will significantly alter the topography of the area in and around the Cemetery.

8. The Cemetery's neglected condition, together with the conditions and activities necessary to develop the property, render the burial ground unsuitable for its continued use as a resting place for the deceased and inconsistent with due and proper reverence or respect for the memory of the deceased.

9. To the extent applicable, Petitioner has caused, or will cause, notice of the proposed transfer of remains to be published in a newspaper of general circulation in Sevier County, with the content required by law and will file proof of publication.

10. All known minors or persons otherwise under disability must be represented by a Guardian ad Litem appointed by this Court as required under statute.

11. Petitioner will seek and effect service by order of publication for unknown or nonresident interested persons.

12. Petitioner proposes that all remains recovered from the Cemetery be respectfully reinterred at Atchley's Seymour Memory Gardens in Seymour, Tennessee.

13. Prior to any removal, Petitioner will obtain fee simple title to the receiving cemetery plots and will record instruments necessary to ensure perpetual access.

14. Prior to disinterment, Petitioner will delineate graves, identify unmarked burials, and prepare a map and inventory.

15. All exhumations will be performed in accordance with due care and decency, and in compliance with all applicable statutes and health regulations.

16. All headstones, footstones, and funerary objects identified with particular burials will be stabilized, conserved if feasible, and reinstalled at the receiving cemetery in association with the corresponding graves. Where association is uncertain, items will be preserved and displayed appropriately in the receiving cemetery.

17. Petitioner will prepare a comprehensive relocation report including photographs, notes, inventories, maps, and a list of known names and epitaphs.

18. Petitioner will erect suitable memorials listing the identities of those buried at Ellis Cemetery.

19. Petitioner will bear all costs of investigation, notice, disinterment, transport, reinterment, memorialization, and documentation, at no costs to families.

20. Disinterment and reinterment will occur on a schedule set to minimize disturbance, with site security and fencing as appropriate.

21. If any living relatives are identified, Petitioner will make reasonable efforts to consult regarding reinterment preferences within the approved plan, without delaying any work.

Wherefore premises considered, your Petitioner respectfully pray that the Court:

A. Find that one or more of the statutory reasons in Tenn. Code Ann. 46-4-101 exist, namely that the Cemetery is in a neglected condition and that conditions and activities associated with the development render further use of the Cemetery inconsistent with due and proper reverence or otherwise unsuitable;

B. Authorize and order the removal and reinterment of all human remains and associated markers from "Ellis Cemetery" to the receiving cemetery upon a showing that definite arrangements have been made and that Petitioner has obtained fee simple title or adequate permanent rights for reinterment and permanent access;

C. Terminate the use of, and all rights and easements to use, the Cemetery land as a burial ground upon completion of removal and reinterment;

D. Approve Petitioner's relocation plan, as it may be refined by qualified professionals and the Court;

E. Appoint a guardian ad litem for unknown, minor, or otherwise disabled interested persons as required;

F. Authorize service by publication for unknown or nonresident interested persons;

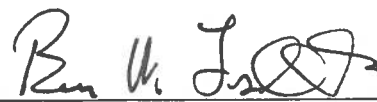
G. Direct Petitioner to file with the Court (1) proof of notice to the Tennessee Historical Commission at least thirty (30) days before hearing pursuant to Tenn. Code Ann. 46-4-101, (2) proof of newspaper publication, (3) evidence of title, easements, and access for the receiving cemetery; and

H. Grant such other, further, and general relief as may be just and proper.

Respectfully submitted this the 1st day of April, 2026.

RPD, LP

By:

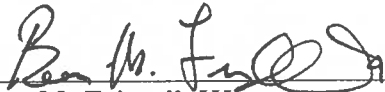


Ben M. Frizzell, III, General Partner

OATH

Comes, **Ben M. Frizzell, III, General Partner for RPD, LP**, and hereby swear that the foregoing statements in the Complaint are true and correct to the best of his knowledge, information, and belief and he is justly entitled to the relief sought therein.



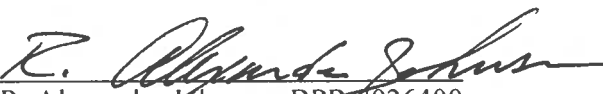

Ben M. Frizzell, III

STATE OF TENNESSEE
COUNTY OF SEVIER

Sworn to and subscribed and before me on this 1st day of April, 2026.


Notary Public
My Commission Expires: 4/12/26

Prepared By:


R. Alexander Johnson, BPR #026400
Jordan T. Whaley, BPR #038598
Johnson, Murrell & Associates, P.C.
150 Court Ave.
Sevierville, Tennessee 37862
(865) 453-1091
Attorneys for RPD, LP