

NEW JERSEY  
CEMETERY BOARD

JUN 10 2003

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"CERTIFIED TRUE COPY"

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
NEW JERSEY CEMETERY BOARD

IN THE MATTER OF THE APPLICATION  
OF  
EGLINGTON CEMETERY COMPANY  
CA No. 98  
TO SELL LAND

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Administrative Action  
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CONSENT ORDER  
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This matter having been opened to the New Jersey State Cemetery Board ("the Board") upon an application for approval of the sale of land by Eglington Cemetery Company (hereinafter "Applicant"), the disposition of this matter is based upon the following facts not in dispute:

1. Applicant is a cemetery company in the State of New Jersey and has held a certificate of authority issued by the Board since August 23, 1972. Applicant was chartered by special act of the Legislature in 1869, which was amended in 1932.

2. On or about February 7, 2003, in response to an inquiry from the Board, the Applicant provided information concerning the proposed sale of Lot No. 3, Block 1404, Plate 14 on the Tax Map of East Greenwich Township, Gloucester County, New Jersey, by Applicant to Atlantic Five Development, Inc., a New Jersey corporation. The sale is for the purpose of constructing high density residential dwellings and/or units on the land.

3. Lot No. 3, as currently configured, consists of approximately 36.38 acres of land. On or about November 13, 2002, an exchange of land took place between Applicant and its wholly-owned subsidiary, Gates of Heaven Cemetery Company (CA #96), which served to increase the total size of Lot No. 3 by approximately 2.15 acres. The exchange was approved by the directors of the two cemetery companies, even though the disparity in the size of the areas of land exchanged resulted in a reduction of the operational life expectancy for Gates of Heaven Cemetery Company to approximately twenty-two (22) years.

4. On August 29, 2003, Applicant submitted additional information and documents to the Board regarding the matter, together with legal argument in opposition to the exercise of jurisdiction over the proposed sale by the Board, and in opposition to the application of any statutory requirement for mandatory contribution to the Maintenance and Preservation Trust Fund of either cemetery from the proceeds of the proposed sale.

5. On November 13, 2003, the Board, sitting as a committee due to the lack of a quorum, heard the arguments of Applicant's counsel in public session. Applicant asserted that its sale of the newly configured Lot No. 3 was not subject to the requirements of N.J.S.A. 8A:4-15 or N.J.A.C. 13:44J-13.4, because it had acquired the original Lot No. 3 in 1943 as an investment, not dedicated to cemetery purposes; and because it had paid taxes on the land so acquired. Applicant acknowledged that it had not paid taxes on the land of Gates of Heaven Cemetery Company which had been exchanged about a year earlier for a much smaller piece of the original Lot No. 3.

6. In the view of the Trustees of the two cemeteries, the exchange of 2.57 acres of land for .42 acre, together with a fence and other embellishments, was of sufficiently equivalent value to Gates of

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\*Subsequently repealed by the enactment of the New Jersey Cemetery Act, 2003, N.J.S.A. 45:27-1 et seq., effective April 13, 2004.

Heaven Cemetery to justify the exchange. However, no contribution whatsoever to the Maintenance & Preservation Trust Fund of Gates of Heaven Cemetery resulted from the exchange.

The parties wishing to resolve this matter without the need for further proceedings, and for good cause shown:

IT IS on this 10th day of June, 2004,

ORDERED AND AGREED that:

1. The proposed sale of the newly configured Lot No. 3 by Applicant to Atlantic Five Development, Inc. shall be, and hereby is approved; and
2. In recognition of the benefit which accrued to it from the exchange of land with its subsidiary, Applicant shall contribute, in addition to the fence and other embellishments, the sum of \$16,000.00 to the maintenance and preservation trust fund of Gates of Heaven Cemetery.

NEW JERSEY STATE CEMETERY BOARD

By Frank J. DeGeeter, Jr.  
Frank J. DeGeeter, Jr.  
Chairman

I have read and understand the within Consent Order and I am authorized to agree to its terms on behalf of Eglington Cemetery Company. Consent is hereby given to the Board to enter this Order.

Consent is hereby given as to the form and entry of this Order.

Jesse R. Pebley  
Jesse R. Pebley, President

Peter Platten  
Peter Platten, Esq.  
Attorney Pro Hac Vice for Eglington Cemetery Company