

M A N I T O B A) Order No. 147/11
)
THE PUBLIC UTILITIES BOARD ACT)
)
THE CEMETERIES ACT) October 19, 2011

BEFORE: Graham Lane, CA, Chairman
Susan Proven, P.H.Ec., Member
Monica Girouard, C.G.A., Member

AN APPLICATION OF MCKENZIES PORTAGE FUNERAL CHAPEL TO
PASS ACCOUNTS DEALING WITH THE PERPETUAL CARE FUNDS OF
EVERGREEN MEMORIAL GARDENS

In Order No. 60/10 dated June 15, 2010, the Public Utilities Board (Board) passed the perpetual care account of Evergreen Memorial Gardens for the period ending September 30, 2007 pursuant to *The Cemeteries Act*. The Board, in this Order, required the McKenzies Portage Funeral Chapel (McKenzies) to file an application for the passing of accounts for the following three years for the period ending September 30, 2010.

On June 1, 2011 the owner made this application for the passing of accounts. The application included the following:

- Cover letter dated June 1, 2011
- Schedule of Evergreen Income for each year ended September 30, 2008, 2009 and 2010
- Annual transaction reports for each year in the reporting period.
- Continuity schedule of plot sales
- TD Waterhouse financial statements for the period under review

A letter dated July 28, 2011 was subsequently filed by McKenzies providing additional information and clarification, with respect to their application

Board Findings

The Board notes one discrepancy and that is with respect to the minimum amount to be placed into a perpetual care trust account for a cemetery plot where markers, monuments or memorials are permitted to be placed above ground. Regulation requires that at least 35% of the money received is to be set aside for perpetual care.

Calculated individually, and based on the 19 cemetery plots sold, the amount placed into trust was \$558 less than it should have

been. Calculated as a whole, and based on the total amount deposited into trust, the Board notes the \$558 is reduced to \$354 less than what was to have been placed into trust.

In its July 28, 2011 response to the Board regarding the amount required to be deposited into trust, McKenzies offered to rectify this discrepancy by depositing an additional \$665 into the perpetual care fund. The Board will accept McKenzies proposal and will require \$665 be placed into the trust fund for the period under review.

The Board encourages McKenzies' to clearly state in its next submission, the total amount collected for each sale, the percentage of the monies received to be set aside for perpetual care purposes, and the total amount deposited into the trust account.

Having reviewed the remainder of the application of the Passing of Accounts for Evergreen Memorial Gardens, and other than previously noted, the Board is satisfied that the perpetual care funds have been dealt with in accordance with the Act. The Board will therefore, pass the accounts.

The Board will order the owner to file an application with the Board for passing accounts for the period October 1, 2010 to September 30, 2013 by no later than March 31, 2014.

Board decisions may be appealed in accordance with the provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and

Procedure (Rules). The Board's Rules may be viewed on the Board's website at www.pub.gov.mb.ca.

It Is Therefore Ordered That:

1. McKenzies Portage Funeral Chapel deposit \$665 into the perpetual care trust account of Evergreen Memorial Gardens, for the purpose and reasons set out herein, to satisfy the requirements for the minimum amounts set aside for perpetual care.
2. An account of the owner's dealings with the perpetual care funds of Evergreen Memorial Gardens for the period from October 1, 2007 to September 30, 2010 once the deposit noted in 1 is complete, are pursuant to Section 31(2) of *The Cemeteries Act*, BE AND IS HEREBY PASSED.
3. An application is to be filed with the Public Utilities Board for the passing of accounts for the Perpetual Care Fund of Evergreen Memorial Gardens for the three-year period from October 1, 2010 to September 30, 2013 by no later than March 31, 2014.

THE PUBLIC UTILITIES BOARD

"GRAHAM F. J. LANE, C.A."
Chairman

"KRISTINE SHIELDS"
Acting Secretary

Certified a true copy of Order
No. 147/11 issued by The Public
Utilities Board

Acting Secretary