

MANITOBA) Order No. 68/03
)
THE PUBLIC UTILITIES BOARD ACT)
)
THE CEMETERIES ACT) April 1, 2003

BEFORE: G. D. Forrest, Chairman
S. Proven, Member
M. Girouard, Member

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

1.0 Background

Recent amendments to The Cemeteries Act ("the Act") have resulted in The Public Utilities Board ("the Board") assuming responsibility for "passing accounts" with respect to the handling of perpetual care funds. Passing of accounts was previously the responsibility of the Court of Queen's Bench.

McKenzies Portage Funeral Chapel, ("the Applicant") made an application to the Board for the passing of accounts for the Perpetual Care Fund of Evergreen Memorial Gardens ("the Cemetery") in accordance with The Cemeteries Act C.C.M.C.C.30 ("the Act") for the four-year period from October 1, 1997 to September 30, 2001. In support of this application, the Applicant filed the following information:

- Evergreen Memorial Gardens Sales Summary from October 1, 1997 to September 30, 2001;
- Evergreen Memorial Gardens Cemetery Charges (for the years 1998, 1999, and 2001);
- Evergreen Memorial Gardens Income Statements for the years ended September 30, 1998 to 2001;
- Evergreen Memorial Gardens EVG Plots Summary;
- Evergreen Memorial Gardens detailed trial balance (for expense accounts) for the period October 1, 1997 to September 30, 2001;
- Statement of Account, TD Trust Company January 1, 1997 to February 28, 2001; and
- Sample of contracts.

2.0 Board Findings

Having reviewed the information provided by the applicant for the period October 1, 1997 to September 30, 2001, the Board notes that the Cemetery contravened Section 28(2) of the Act and did not submit perpetual care allotments to the trust annually, rather perpetual care allotments were paid to the trust once during the period under review. The Board will require the Cemetery to adhere to Section 28(2) of the Act and not less frequently than once a year, pay over to the Trustee all perpetual care allotments for that year.

With the exception of the above-noted issue, 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 is also of the view that the passage of time between passing of accounts should not exceed three years. The Board will therefore order that the owner file an application with the Board for passing accounts for the period October 1, 2001 to September 30, 2004 by no later than March 31, 2005.

3.0 It Is Therefore Ordered That:

1. The Board will require that the Cemetery comply with Section 28(2) of the Act, and submit perpetual care allotments to the trust annually.

