



South Carolina
Department of Labor, Licensing and Regulation



Nikki R. Haley
Governor

Emily H. Farr
Interim Director

110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329
(803) 896-4390
FAX: (803) 896-4393

December 6, 2016

The Honorable Nikki R. Haley
Office of the Governor
1205 Pendleton Street
Columbia, South Carolina 29201

Dear Governor Haley:

You requested information on the problems occurring with Bamberg County Memory Gardens and the Barnwell County Memory Gardens. We, too, are sympathetic with the plight of those who have loved ones in these cemeteries.

The South Carolina Perpetual Care Cemetery Board (the "Board") licenses business operations, not the owner or the actual cemetery. In November 2010 the Board suspended the licenses to operate these cemeteries for non-compliance. The Board revoked these licenses in November 2012 due to continued non-compliance. Revocation of the licenses did not relieve the cemeteries of their contractual obligations to maintain cemetery grounds, honor prior contracts, and open and close graves, but did end the ability to enter into any new sales or contracts. The Board attempted to enforce its sanctions in the Administrative Law Court (ALC) when the cemeteries continued to operate despite the Board orders. After numerous appearances before the ALC, fines totaling \$50,000 were issued. None of these fines have been paid.

While the Board can stop a licensee from future actions, it has no authority to take over operations of the cemeteries. However, the public has other remedies. Governmental, nonprofit, and church cemeteries are exempt from regulation. Thus, a municipality, for example, may take over the operation of a cemetery that is abandoned or not being maintained including the ability to use public funds and labor (see S.C. Code 6-1-35). While a municipality could not operate a cemetery under this provision (i.e., sell new grave spaces), it could exercise its authority and resources to maintain the appearance of the existing cemetery. This would allow for a city or county government to assume the operation of the cemeteries for the benefit of its citizens.

As for the harm that has occurred, a party to a perpetual care contract may pursue breach of contract and other causes of action in circuit court. Also, a local government may have the ability to pass anti-blight ordinances that would give them the authority to take action against the cemetery owner for failure to comply with expected maintenance.

Please let me know if I can provide you further information about this public concern.

Sincerely yours,

Emily H. Farr
Interim Director