In The Circuit Court of Baltimore City

3-10-3-10

No. A-37485 (2) A-878

McKAMER REALTY CO.

vs

ANDERSON ENTERPRISES, INC., et al.

Sol. for Complainant

Sol. for Respondent

1957

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3-10-3-10 Box 1788

In The Circuit Court

of Baltimore City

No. A-37485 (1) A-878

19 57

McKAMER REALTY CO.

vs

ANDERSON ENTERPRISES, INC., et al.

Sol. for Complainant

Clement R. Mercaldo
Lloyd H. McAllister

Sol. for Respondent

Samuel J. Dantoni

APPEAL INDEX

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November 29, 1960

Henry J. Ripperger, Esq.
CLERK
Circuit Court of Baltimore City
Court House
Baltimore 2, Maryland

Dear Mr. Ripperger:

I am enclosing herewith copy of a "Petition to Supply Omission in Record" together with copy of an Order of Court filed thereon in the appeal of Mamie E. Kennard, et al. vs. McKamer Realty Company, et al., No. 131, September Term, 1960.

It is requested that you comply with said Order of Court promptly.

Very truly yours,

Clerk

JLY/ojr
Enclosure
cc: Archie D. Williams, Esq.
Charles C. W. Atwater, Esq.

LAW OFFICES
MYLANDER & ATWATER

WALTER C. MYLANDER, JR.
CHARLES C.W. ATWATER
THOMAS A. GARLAND

1213-14 FIDELITY BUILDING
BALTIMORE 1, MD.

TELEPHONE
PLAZA 2-6254

November 22, 1960

Mr. J. Lloyd Young, Clerk
Court of Appeals of Maryland
Court of Appeals Building
Annapolis, Maryland

In re: Kennard, et al, vs. McKamer, et al
No. 131 - September Term

Dear Sir:

Enclosed please find a petition to Supply Omission In Record which is filed by the Appellants. I have signed said petition to show our consent to it.

Very truly yours,

Charles C. W. Atwater

CCWA:vhc
Enclosure

cc: Archie D. Williams, Esquire

MAMIE E. KENNARD, ET. AL., * IN THE
JULIA JONES, ET. AL., * COURT OF APPEALS
LILLIAN WATERS, *
Appellants * OF
vs. *
MARYLAND
McKAMER REALTY COMPANY, ET AL., *
Appellees * No. 131 - Sept. T. 1960
* * * * * * *

FILED NOV 23 1960
J. LLOYD YOUNG, CLERK
COURT OF APPEALS OF MARYLAND

PETITION TO SUPPLY OMMISSION IN RECORD

Appellants, by Archie D. Williams, of Counsel for Appellants, for Petition to Supply Ommission in Record, Say:

1. That at the hearings in the above cases in the Circuit Court of Baltimore City there was introduced into the evidence by Counsel for the Defendants File # A-37485, Docket 97A, Folio 878, of the Circuit Court of Baltimore City, but such file, being an official Court record, was not marked by the stenographer, and the Clerk of the Circuit Court, in preparing the record for transmission to this Honorable Court, failed to include said file.

2. That all Counsel in this case agree that such file is necessary to the full determination of all questions in this case in this Honorable Court.

WHEREFORE, Appellants respectfully pray:

(a) That this Honorable Court issue an Order directed to the Clerk of the Circuit Court of Baltimore City requiring that such file be forwarded to this Court to be made a part of the record in this Court.

Archie D. Williams
Archie D. Williams
of Counsel for Appellants

Concurred In:

Charles C. W. Atwater
Charles C. W. Atwater
of Counsel for Appellees

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

MAMIE E. KENNARD, ET. AL.,	*	IN THE
JULIA JONES, ET. AL.,	*	
LILLINA WATERS,	*	COURT OF APPEALS
Appellants	*	OF
vs.	*	
McKamer REALTY COMPANY, ET. AL.,	*	MARYLAND
Appellees	*	No. 131 – Sept. T. 1960

* * * * * * *

ORDER OF COURT

Upon the within Petition it is this 28th day of November, 1960, ORDERED by the Court of Appeals of Maryland that File # A-37485 from the Circuit Court of Baltimore City be forwarded to this Court by the Clerk of the Circuit Court of Baltimore City, and that such file be made a part of the Record on Appeal in above case.

F. W. Armstrong
JUDGE

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

HENRY J. RIPPERGER, CLERK

CIRCUIT COURT OF BALTIMORE CITY

BALTIMORE-2, MD.

December 1, 1960

J. Lloyd Young, Clerk
Court of Appeals of Maryland
Annapolis, Maryland.

Dear Mr. Young:

I am forwarding to you case entitled, "McKamer Realty Co. vs. Anderson Enterprises, Inc., et al." File No. A-37485, to be made a part of case entitled "Mamie E. Kennard, et al. vs. McKamer Realty Company, et al." now at the Court of Appeals, and known as No. 131, September Term as per Order of Court from The Court of Appeals of Maryland, dated November 28, 1960.

Very truly yours,

Henry J. Ripperger

Clerk

HJR:HBM
Enc.

No. 131, SEPTEMBER TERM, 1960
(LEAVE BLANK)

CORRECTED

TRANSCRIPT OF RECORD

as per Order of Court from Court of Appeals of Maryland dated Nov. 28, 1960

FROM THE

CIRCUIT COURT OF BALTIMORE CITY

IN THE CASE OF

Mamie E. Kennard, et al.

Appellant s

VS.

McKamer Realty Company, et al.

Appellee s

TO THE

COURT OF APPEALS OF MARYLAND

Tucker R. Dearing
Dallas F. Nicholas
Juanita Jackson Mitchell
Archie D. Williams
Williams & Murphy
Charles P. Howard, Jr.
Paul J. Cockrell
Fred Kolodner
Julius P. Robinson

Solrs.
FOR APPELLANTS

Walter C. Mylander, Jr.

Charles C. W. Atwater

Solrs.
FOR APPELLEE S

Filed December 2, 1960
(LEAVE BLANK)

Which said appeal being by the Court here also granted, it is thereupon ordered by the Court here, that a Transcript of the Record of Proceedings in the cause aforesaid be transmitted to the Court of Appeals of Maryland, under the rules / thereof *, and the same is transmitted accordingly.*

Test:

Henry J. Ruppersu
Clerk.

In Testimony, *that the aforegoing is truly taken from the Record and Proceedings of the Circuit Court of Baltimore City, in the therein entitled cause.*

I hereunto set my hand and affix the Seal of the Circuit Court of Baltimore City aforesaid, this 1st. *day of* December *A. D., 19* 60.

Henry J. Ruppersu
Clerk of the Circuit Court of Baltimore City.

Fld. 10th December 1957

A-878
1957

McKamer Realty Company,
a corporation of the State of Maryland
Plaintiff
vs.

Anderson Enterprises, Inc.
Edward A. Anderson, President
2326 Belair Road, Baltimore, Md.

McCartney Sorrell
Jacob Owings
Robert Wilson
Durious Stokes
William T. Hopkins
Theodore B. Brown
Elizabeth B. Chambers
Warner T. McGwinn
Anna M. Dutton
Mary L. Oliver
James Diven
Mrs. George W. Bowser
(addresses unknown)

All of the lot owners in Laurel Cemetery or New Laurel Cemetery, situate in Baltimore City on the southeast side of the Belair Road, their assignees, or other persons in interest, resident or non-resident, adults, infants and other persons under any legal incapacity.

The unknown owners and their respective spouses, the unknown heirs, and devisees of any deceased former owner, and any other persons, known or unknown, their unknown heirs and devisees, whether residents of the State of Maryland or not, and actually living or not, any Executor, Administrator or next of kin of the resident and non-resident owners now vested with any title or interest whatsoever in and to the tract of land comprising the Laurel or New Laurel Cemetery or in and to any burial lots comprising a part thereof.

Defendants

IN THE

CIRCUIT COURT

OF

BALTIMORE CITY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Plaintiff, the McKamer Realty Company, by Clement R. Mercaldo and Lloyd G. McAllister, its solicitors, respectfully represent unto your Honor:

1. That there is situate within Baltimore City, on the southeast side of the Belair Road, between Cliftmont Avenue on the north, Emley Avenue on the south and Edison Highway on the east, a tract of land containing 15 acres, more or less, where at least 75 per cent of the said acreage has been dedicated, appropriated, or used for burial purposes, the tract of land being commonly known as Laurel or New Laurel Cemetery, which was established prior to the Civil War.

2. That the Plaintiff herein, the successor in title to the original developer of said tract for the sale of burial lots for burial purposes is vested with the fee simple title to the land comprising said cemetery as will more fully appear by reference to the deed to it from H. Carl Butler, Trustee,

A-37485 (1)

dated June27,1957, and recorded among the Land Records of Baltimore City in Liber J.F.C. No. 185, folio 385, the original deed being filed herewith as Plaintiff's Exhibit No. 1 and prayed to be taken as a part hereof.

3. That the title of the Plaintiff in and to said land is subject to grants of burial lots and burial rights in lots heretofore made by way of deeds of record and by way of deeds and grants not a matter of record.

4. That the tract of land was first adopted and developed as and for a cemetery by the Laurel Cemetery Company, a corporation of the State of Maryland, formed under the authority of the provisions of Chapter 221 of the Acts of the General Assembly of Maryland, 1852, for the sale of burial lots therein.

5. That under the authority of said Chapter 221, of the Acts of 1852, Articles of Incorporation were adopted, incorporating the Laurel Cemetery Company, which Articles were approved by a Judge of the Superior Court of Baltimore City on the 16th day of June, 1852, said Articles being of record in the Superior Court of Baltimore City in Charter Records in Liber E.D. No. 2, folio 420. A certified copy thereof being filed herewith, marked "Plaintiff's Exhibit No. 2," and prayed to be made a part hereof.

6. That said Act of 1852, Chapter 221, does not require or obligate a cemetery company formed under its provisions to perpetually care for and maintain the burial lots laid out and sold within a cemetery established by it. Accordingly, the obligation to maintain the burial lots in good order and condition was and is that of the owners of burial lots located within Laurel Cemetery. In fact, the deeds of record conveying the burial lots have all recited a moderate consideration which could not under any circumstances place the obligation other than on the owners of the burial lots for the maintenance of the burial lots in good condition.

7. That none of the burial lots within said cemetery have been sold or conveyed by way of deeds or other written instruments to purchasers with provisions placing the obligation for the perpetual care and maintenance of the said lots on the Laurel Cemetery Company or its successors in title.

8. That the owners of burial lots and burial rights within said cemetery with the obligation and duty to maintain them in good condition have neglected to maintain their respective lots in a good and acceptable manner. Through the

neglect of said owners, the lots have been abandoned, with weeds, underbrush and bushes covering the whole cemetery, with frequent fires occurring therein as result thereof. The whole cemetery has become a menace and is detrimental to the public health, safety, security and welfare of the citizens of Baltimore City and particularly the residents adjacent to and in the vicinity of the cemetery. The Baltimore City Health and Fire Departments consider it as a menace and a nuisance as will more fully appear by report from the Baltimore City Health Department, dated November 6, 1957, filed herewith as Plaintiff's Exhibit No. 3, and prayed to be made a part hereof.

9. That for a number of years the Baltimore City Health and Fire Departments have considered this cemetery to be a nuisance and a menace by reason of its over-growth of weeds, undergrowth of brush and bushes; burial lots fallen in, mounds obliterated, headstones and markers broken and torn down by trespassers; by children attracted to and playing therein and by tramps and other undesirables frequenting the property; a harbor for rats and mice, with frequent fires occurring therein started by trespassers and intruders.

10. That vandals have trespassed on the property destroying and removing the markers and headstones to the extent that practically none of the graves or remains of persons buried therein can be identified. Practically all of the identification markers and headstones have been pushed or knocked down, broken and scattered over the property.

11. That there are no formal paths or roads now existing in the cemetery other than improvised paths made through the underbrush and growth by children playing therein and by other trespassers going into the property.

12. That from an examination of the Land Records and from a careful inspection of the property it does not appear that any burials have been made therein within the past twenty years.

13. That none of the heirs, descendents, relatives or friends of the persons buried therein or the owners of any of the burial lots have attempted or taken any action whatsoever to maintain any of the burial lots or graves in good order and condition with the result that the owners of the lots in which persons have been buried and of those lots in which no burials

have occurred have abandoned all interest in and to the lots owned by them.

14. That there are no records of the Laurel Cemetery Company or of the New Laurel Cemetery Company or of the McKamer Realty Company, the original owner, the subsequent owner and the present owner of said cemetery property, subject to the aforesaid grants of burial lots therein from which the owners of lots in the cemetery can be determined; nor do the Land Records of Baltimore City and of Baltimore County, the cemetery property having become a part of Baltimore City under the annexation of 1888, disclose the owners of lots therein other than the following original purchasers under the following deeds to them from the Laurel Cemetery Company and subsequent owners:

Purchaser	Lot	Dated	Recorded	Recorded among Land Records of Baltimore City in Liber:
McCartney Sorrell	56 Area F	Aug. 28, 1863	Feb. 28,1866	A.M. 297, folio113
McCartney Sorrell	58 Area F	Oct. 14,1866	May 7, 1868	G.R. 375, folio 21
Jacob Owings	35 Area D	Apr. 5, 1858	March 7,1872	G.R. 555, folio 172
Robert Wilson	170 Area C	June 6,1873	Sept. 6,1888	J.B.1207,folio 203
Durious Stokes	5 & 6 Area	June 26,1856	June 2, 1930	S.C.L.5124,folio568
William T. Hopkins	61 Area	Oct. 7,1916	June 2, 1930	S.C.L.5124,folio160
Thoeodre B. Brown	7 Sec. A Area R	Feb. 19,1916	July 10,1930	S.C.L.5136,folio595
Elizabeth B. Chambers	103 Sec. A Area R	Nov.25,1899	July 10,1930	S.C.L.5136,folio384
Warner T. McGwinn	Chapel J, Sect.Chapel	Dec. 24,1921	Sept. 6,1930	S.C.L.5153,folio 352
Anna M. Dutton	185 Sec. S	Apr. 18, 1925	June 1,1931	S.C.L.5223,folio 255
Mary Louisa Oliver	145 Area D	Apr. 3, 1872	Apr. 10,1922	S.C.L.3845,folio 130
James Diven	259 Area C	Jan. 13,1858	Apr. 10,1922	S.C.L.3845,folio 129
Mrs. George W. Bowser	1 Sec. F	July 30,1921	Aug. 6, 1921	S.C.L.3765,folio 112
Anderson Enterprises,Inc.	All of lots 341 to 363, both inclusive, and portions of Lots 364 to 388, both inclusive	Nov. 18, 1957	Nov. 27,1957	J.F.C. 251,folio 292
McKamer Realty Company,	all unsold burial lots, abandoned burial lots, land not developed for burial purposes, roads, paths and all land within the Cemetery not vested in or owned by other persons or corporations	June 27,1957	Aug. 30,1957	J.F.C.185,folio 385

15. That the whereabouts and the addresses of the said Defendants McCartney Sorrell, Jacob Owings, Robert Wilson, Durious Stokes, William T. Hopkins, Theodore B. Brown, Elizabeth B. Chambers, Warner T. McGwinn, Anna M. Dutton, Mary L. Oliver, James Diven and Mrs. George W. Bowser and any other persons having an interest in said property are unknown, and it is not known whether they or any of them are living or not, nor are the names of their heirs or next of kin known if deceased, nor are the spouses of the said Defendants known.

16. That although the Plaintiff has made a diligent and exhaustive search to ascertain all persons having an interest in said property, due to the antiquity of the cemetery, having been established in 1852, and the lack of records other than the said Land Records, it is apprehensive that there may be persons unknown to your Plaintiff who may have an interest therein other than those specifically named as Defendants and whose rights in said cemetery may be affected by a sale thereof, the Plaintiff joins herein the unknown owners and the unknown heirs and next of kin of said owners.

17. That more than 75 per cent of the acreage of the said cemetery has been abandoned as a cemetery and the property has become a menace, detrimental to the public health, safety, security and welfare.

18. This Bill is filed under the authority of the provisions of Article 16, Section 124-A, Code of Public General Laws of Maryland, 1951 Edition, as amended by the provisions of Chapter 630 of the Acts of 1957, General Assembly of Maryland.

19. That it will be to the benefit of each and every owners of the lots in said cemetery, their heirs, personal representatives and assigns, and the citizens of Baltimore City and particularly the residents adjacent to and in the vicinity of the cemetery that the entire cemetery property as described in the deed, filed herewith as Plaintiff's Exhibit No. 1, including each and every lot therein and each and every interest therein be sold, in fee simple, as provided by said law upon such terms, conditions and upon such notice thereof as this Honorable Court may deem proper, and the proceeds therefrom be used, applied, distributed and paid over by the Trustee appointed for the purposes and in the manner provided in Article 16, Section 124-A, Code of Public General Laws of Maryland as amended by the provisions of Chapter 630 of the Acts of 1957, General Assembly of Maryland.

Prayer:

1-A. That a Decree may be passed by this Honorable Court that all or more than 75 per cent of the acreage of said Cemetery or said burial ground has been abandoned or has become a menace or is detrimental to the public health, safety, security or welfare.

WHEREFORE this Complainant prays:

1. That a decree may be passed by this Honorable Court for the sale in fee simple of said entire land or property described in said Bill of Complaint, including each and every burial lot within said cemetery and each and every interest therein, upon such terms, conditions and notice as this Court may deem proper.

2. That a Trustee be appointed to make said sale and to perform such orders as may be passed herein.

3. That the proceeds of sale after the payment of the costs and expenses as provided in said laws of Maryland be distributed among the persons entitled thereto according to their respective interests.

4. That the Plaintiff may have such other and further reliefs its case may require.

May it please your Honor to grant unto the Plaintiff the Writ of Subpoena directed to the following:

Anderson Enterprises, Inc.,
Edward A. Anderson, President,
2326 Belair Road,
Baltimore, Maryland,

commanding it to be and appear in this Honorable Court on or before a certain day to be named herein to answer the premises and abide by and perform such orders as may be passed herein.

May it please your Honor to grant unto the Plaintiff the Order of Publication directed to:

McCartney Sorrell
Jacob Owings
Robert Wilson
Durious Stokes
William T. Hopkins
Theodore B. Brown
Elizabeth B. Chambers
Warner T. McGwinn
Anna M. Dutton
Mary L. Oliver
James Diven
Mrs. George W. Bowser
(addresses unknown)

All of the lot owners in Laurel Cemetery or New Laurel Cemetery, situate in Baltimore City on the southeast side of the Belair Road, their assignees, or other persons in interest, resident or non-resident, adults, infants and other persons under any legal incapacity.

The unknown owners and their respective spouses, the unknown heirs, and devisees of any deceased former owner, and any other persons, known or unknown, their unknown heirs and devisees, whether residents of the State of Maryland or not, and actually living or not, any Executor, Administrator or next of kin of the resident and non-resident owners now vested with any title or interest whatsoever in and to the tract of land comprising the Laurel or New Laurel Cemetery or in and to any burial lots comprising a part thereof, situate on the southeast side of Belair Road in Baltimore City, given notice of the object and substance of this Bill and warning them to appear in this Court by Solicitor or in person on or before a certain day to be named therein, to show cause, if any they have, why a Decree of this Court may not be passed as prayed.

McKamer Realty Company,

By: Clement R. Mercaldo
Clement R. Mercaldo, President

Plaintiff

Lloyd G. McAllister
Lloyd G. McAllister
Clement R. Mercaldo
Clement R. Mercaldo

Attorneys for the Plaintiff

Fld 10th December 1957

Plaintiffs Exhibit No 1.

A-878 1957

185 PAGE 385

THIS DEED, Made this 27th day of June, 1957, by and between H. CARL BUTLER of Baltimore City, State of Maryland, Trustee as hereinafter mentioned, party of the first part; and the McKAMER REALTY COMPANY, a body corporate of the State of Maryland party of the second part.

WHEREAS, Upon a voluntary Petition in Bankruptcy filed in the United State District Court for the District of Maryland on December 31, 1952, the New Laurel Cemetery Company, a corporation of the State of Maryland was thereafter duly adjudged bankrupt, whereupon the administration of said Bankrupt's Estate was duly referred to Joseph Kaiser, Esquire, one of the referees of said Court in Bankruptcy, before whom such proceedings were thereafter had as the undersigned was duly appointed Trustee of said Bankrupt's Estate and effects and thereupon duly qualified, and has been ever since acting as such Trustee; and

WHEREAS, Upon the Petition of the undersigned Trustee, said Court, did, on the 5th day of March, 1957, duly make an Order authorizing and directing the undersigned, as such Trustee, upon ten (10) days' due notice to creditors and due advertisement as specified in said Order, to Sell, subject to the approval of the Court, certain real estate hereinafter described at private sale and

WHEREAS, Pursuant to said Order of Sale ten (10) days' notice by mail was duly given to all creditors of the time and place of said sale; and

WHEREAS, At the time and place as specified in said notices said sale was held and said real estate was sold to the McKamer Realty Company for the sum of One Hundred Dollars ($100.00); and

WHEREAS, Said sale was duly reported to the Court, which approved the same and confirmed said sale.

NOW, THEREFORE, I, the undersigned, Trustee in Bankruptcy of the said New Laurel Cemetery by virtue of the title and powers in me vested, by the provisions of the Bankruptcy Act and by said Orders of Court authorizing said sale and confirming the same, and for and in consideration of the sum of One Hundred Dollars ($100.00) to me in hand paid by the said McKamer Realty Company, the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell, set over and convey



A-37485 (2) (2)

unto the said McKamer Realty Company, its successors and assigns, therein all my right, title, interest and estate in and to the following described real estate, situate in Baltimore City, Maryland, to wit;

> A fee simple tract of land in Baltimore City, Maryland, known as Laurel Cemetery, located on the southeast side of Belair Road, beginning 140.92 feet, more or less, southwest of the southeast corner of Belair Road and Cliftmont Avenue, fronting southwesterly, on the southeast side of Belair Road 812.42 feet, more or less, with an irregular depth easterly of 1,287.25 feet, more or less, to a point 120.08 feet, more or less, west from the westernmost side of Edison Highway, containing 15.68 acres of land, more or less, subject to existing burial and grave rights.
>
> BEING AND COMPRISING the parcel of land described in a Deed from the Laurel Cemetery Company to the New Laurel Cemetery Company, dated October 11, 1939, and recorded among the Land Records of Baltimore City in Liber M.L.P. No. 5966, folio 183, saving and excepting, however, therefrom the parcel of land conveyed by the New Laurel Cemetery Company to the Frank Novak Realty Company, dated October 11, 1939, and recorded among the Land Records aforesaid in Liber M.L.P. No. 5966, folio 184.

TOGETHER with the improvements thereupon, and all the rights, alleys, ways, privileges, and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD said property to the said McKAMER REALTY COMPANY, its successors and assigns, forever, as fully and completely as I, the undersigned, Trustee in Bankruptcy, by virtue of the powers and authority as vested in me might or should convey the same.

IN WITNESS WHEREOF, I, as such Trustee, have hereunto set my hand, this 27th day of June 1957.

WITNESS:

Lloyd G McAllister

H. Carl Butler
H. CARL BUTLER,
Trustee in Bankruptcy

STATE OF MARYLAND:

TO WIT:

CITY OF BALTIMORE:

I HEREBY CERTIFY, That on this 27 day of June, 1957, before me, the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore aforesaid, personally appeared H. CARL BUTLER, Trustee, the Grantor herein, and he acknowledged the aforegoing DEED to be his act as such Trustee.

WITNESS my hand and Notarial Seal.

LLOYD G. McALLISTER NOTARY PUBLIC BALTIMORE, MD.

Lloyd G McAllister
NOTARY PUBLIC

REC'D FOR RECORD AUG 30 1957 1 30 P M. & RECORDED IN THE LAND RECORDS OF BALTIMORE CITY, LIBER J.F.C. 185 PAGE 385 JAMES F. CARNEY, CLERK

Plaintiff's Exhibit No 1

DEED

212

from

CARL H. BUTLER,
Trustee

to

McKAMER REALTY COMPANY

4182

RECEIVED FOR RECORD
AUG 30 1957 AT 1 30 CLOCK,
P M SAME DAY RECORDED IN LIBER
J. F. C. No. 185 FOLIO, 385 &c.
ONE OF THE Land RECORDS OF
BALTIMORE CITY AND EXAMINED.
PER JAMES F. CARNEY CLERK

6

Fld. 10th December 1957

Plaintiffs Exhibit No 2

A-878
1957

E D
2
420

Charter of the Laurel Cemetery Company of Baltimore

To all persons to whom these presents shall come Know ye that in pursuance of an Act of the General Assembly of the State of Maryland passed at January session one thousand eight hundred and fifty two Chapter 221 Entitled An Act to incorporate cemtery company the undersigned R C Galbraith John N McJilton Thomas Owings Fredk G Hunt Edw J Richardson S M Cochran and Geo W Ziegler all citizens of the State of Maryland and residents in the City of Baltimore being desirous of establishing themselves and their associates as a body corporate under the name and stile of the Laurel Cemtery Company with power to make by laws rules and regulations for the government and management of the interests of said body corporate have agreed upon and do hereby declare and establish the following articles for themselves and their successors as the Charter of the said Cemetery Company.

SECTION 1 The said R C Galbraith Jno N McJilton Thos Owins Fredk G Hunt Edw J. Richardson S M Cochran and Geo W Ziegler shall be a body corporate and shall be called and known in the law as and by the name title and style of the Laurel Cemetery Company and by that name shall have perpetual succession and shall be able and liable to sue and be sued in any court of law or equity and shall have and use a common seal and shall have power to receive gifts and bequests for the purpose of ornamenting and improving the grounds of said Cemetery Company. And also to purchase and hold such personal property as may be necessary to carry out the general purposes for which cemetery companies may be formed under and in compliance with the provisions of the aforesaid General Act.

SECTION II The officers of said Laurel Cemetery Company shall consist of President and two managers and until an election shall be held under and in accordance with the mode

A-37485 (3)

hereinafter prescribed the said Fredk G Hunt shall be considered and authorized to act as the President and said Edw J Richardson and S M Cochran as Managers of said Laurel Cemetery Company.

SECTION III The capital stock of said Laurel Cemetery Company shall consist of and be represented by Three thousand shares of stock of Twenty five Dollars each Said stock to be divided among the proprietors of Laurel Cemetery according to their respective interests therein and be transferred in such manner as said body corporate may by by laws direct.

SECTION IIII The said Laurel Cemetery Company shall have and hold to uses intended by cemetery companies formed under the general act of assembly aforesaid all that piece or parcel of ground containing twenty five acres more or less now laid off and known as the Laurel Cemetery lying and bounding on the south east side of the Belair Road in Baltimore County in the State aforesaid.

SECTION V The said company shall annually elect from its members by a majority of the votes of the proprietors of stock at such time and place as it shall prescribe by its by laws a board of three manager which said board shall at the time of their election as aforesaid appoint a chairman who shall ex officio be known as the President of the said Company and shall have custody of and shall affix the seal of said Company to all instruments of writing requiring the same Said Board of Managers also to have power to fill all vacancies in their body to elect a Treasurer Superintendent and other necessary officers among themselves or otherwise and fix their respective duties and compensation to lay out and ornament the Cemetery grounds erect necessary buildings sell and dispose of burial lots make such by laws rules and regulations as they may deem proper for conducting the affairs of said cemetery Company for the government of lot holders visitors and for the transfer of stock and the evidence thereof In all elections of the Board of Managers to be made as aforesaid each proprietor shall be

entitled to one vote for each share of stock held by him or her. IN WITNESS WHEREOF the said Robt C Galbraith Jno N McJilton Thomas Owings Frederick G Hunt Edw J Richardson S M Cochran and George W Ziegler have hereunto subscribed their names and affixed their seals this 26th day of June in the year one thou sand eight hundred and fifty two

Signed and sealed in presence	Robert C Galbraith	(SEAL)
of Chas W Ridgely	J N McJilton	(SEAL)
Henry Stockbridge	Thomas Owings	(SEAL)
	Frederick G Hunt	(SEAL)
	Edw J Richardson	(SEAL)
	Silas M Cochran	(SEAL)
	George W Ziegler	(SEAL)

STATE OF MARYLAND CITY OF BALTIMORE SCT Be it remembered and it is hereby certified that on this 26th day of June in the year of Our Lord one thousand eight hundred and fifty two before me the subscriber the Judge of the Superior Court of Baltimore City personally appeared Robert C Galbraith John N McJilton Thos Owings Fredk G Hunt Edw J Richardson S M Cochran and Geo W Ziegler they being known to me to be the persons described as and professing to be the parties to the foregoing instrument of writing and severally acknowledged the same to be their respective act and deed and I do hereby order and direct the said instrument of writing to be recorded in the office for recording deeds in the City aforesaid. IN TESTIMONY WHEREOF I have hereunto subscribed my name on the day and year aforesaid Received to be recorded the 14th day of July 1852 Wm Frick at one O'Clock P M same day recorded and examined per

Edward Dowling Clk

In the Superior Court of Baltimore City

State of Maryland,

City of Baltimore, Sct.

I, James F Carney ~~M. Luther Bittman~~, Clerk of the Superior Court of Baltimore City, do hereby certify that the aforegoing is a true copy of the original Charter taken from the records of the said Superior Court of Baltimore City as recorded in Liber E D No. 2 Folio 420 &c Book Page 702 one of the Charter Records of Baltimore City.

In Testimony Whereof, I hereto set my hand and affix the seal of said Court, this 25th day of November A. D. 19 57

James F Carney

Clerk of the Superior Court of Baltimore City.

This Certificate is not authentic unless the Seal of the Superior Court of Baltimore City is originally impressed here.

3000—5-56

Fold Here

Fold H

Samuel R. McCaldo

Plaintiffs Exhibit No 2.

SUPERIOR COURT

of BALTIMORE CITY

ROOM 610

JAMES F CARNEY

~~M. LUTHER PITTMAN~~,

Clerk.

CERTIFIED COPY

~~Charter~~

~~FROM~~

The Laurel Cemetery

Company of Baltimore

~~TO~~

Liber E D No. 2 Fol. 420 &c

Book Page 702

Amount $ 3.50 Exd. 12-12-

~~Recorded~~

Paid

2000—12-54

LEARN TO DO YOUR PART IN THE PREVENTION OF DISEASE

Fld. 10 December 1957

HUNTINGTON WILLIAMS, M. D., DR. P. H.
COMMISSIONER
ROSS DAVIES, M. D., M. P. H.
ASSISTANT COMMISSIONER
REED GAITHER
SECRETARY



SANITARY SECTION
WILMER H. SCHULZE
DIRECTOR

BUREAU OF ENVIRONMENTAL HYGIENE
GEORGE W. SCHUCKER, DIRECTOR

BALTIMORE CITY HEALTH DEPARTMENT

November 6, 1957

Plaintiffs Exhibit No 3.
A-878
1957

Mr. Clement R. Mercaldo
[redacted]
Room 505, Court House

Dear Mr. Mercaldo:

This is in reply to your recent telephone request for a report concerning the Laurel Cemetery located on the east side of Belair Road between Elmley Avenue and Cliftmont Avenue.

Records of the Health Department indicate that complaints concerning the cemetery were received as far back as 1935 and have continued through the present year. The complaints have primarily pertained to high weeds, rats and garbage and refuse on the property.

Our inspections of the property during the past ten years have generally shown the presence of weeds, rat infestations along the borders of the property and accumulations of trash and some garbage which had been dumped on the property. There are numerous sunken graves and other depressions on the property which might afford an opportunity for mosquito breeding, but on our inspections of the property we have not observed any water pooling in these depressions. In recent years the cemetery has been subjected to vandalism. The great majority of the tombstones have been overturned or broken. A number of medium size trees have been cut down in addition to those which apparently had been blown down.

The owners of the cemetery were found guilty in Housing Court of failure to comply with Health Department notices in 1948 and in 1952.

During the latter part of 1948 and the early part of 1949, a portion of the property along Belair Road was cleared of undergrowth by a group of interested persons known as the Laurel Cemetery Protective Association. In 1951 the cemetery was treated with a chemical weed killer by persons employed by the owners. In 1952 the owners had a section of the cemetery along Belair Road cleared of brush by hand removal and also had the cemetery sprayed with a weed killer.

Since 1952 nothing has been done by the owners of the property to abate nuisances on the property. Some small fires have occasionally cleared part of the undergrowth for temporary periods. The Bureau of Highways has cut weeds along the footway area and the Division of Rodent Control of the Health Department has serviced the property to control the rodent infestation. During the greater part of this period, the Health Department was unable to locate a proper person on whom a notice could be served, since the owning corporation was in receivership and no trustee had been appointed.

A-37485(4) (4)

15

On October 31, 1957 an inspection of the cemetery was made by Mr. John O. Long of the Health Department to determine its present condition. He found conditions essentially the same as disclosed by other inspections during the past few years. The cemetery is generally overgrown with weeds and brush, trash and garbage has been dumped on the property and rat infestation was observed. Some of the graves have sunk to a depth of approximately two feet and could present accident hazards.

The existing conditions would, in our opinion, constitute nuisances within the meaning of Sections 107 and 176 of Article 12 of the Baltimore City Code of 1950.

Very truly yours,

George O. Motry

George O. Motry
Chief, Division of Community Sanitation

GOM/js

EQUITY SUBPOENA

The State of Maryland

To Anderson Enterprises, Inc.
c/o Edward A. Anderson, President
2326 Belair Road, Baltimore, Md.

of Baltimore City, Greeting:

WE COMMAND AND ENJOIN YOU, That all excuses set aside, you do within the time limited by law, beginning on the first Monday of January next, cause an appearance to be entered for you and your answer to be filed to the complaint of

McKamer Realty Company, a corporation of the State of Maryland

against you exhibited in the Circuit Court of Baltimore City.

HEREOF fail not, as you will answer the contrary at your peril.

WITNESS, the Honorable EMORY H. NILES, Chief Judge of the Supreme Bench of Baltimore City, the 4th day of November, 19 57
Issued the 10th day of December, in the year 19 57

Henry J. Riggenger
Clerk

MEMORANDUM: You are required to file your answer or other defense in the Clerk's Office, room 410, in the Court House, Baltimore City, within fifteen days after return day, named in the above subpoena. Personal attendance in Court on the day named is not necessary, but unless you answer or make other defense within the time named, complainant (s) may obtain a decree pro confesso against you, which upon proper proof may be converted into a final decree for the relief demanded.
(General Equity Rule 11)

A-37485 (5)

(5)

17

RECEIVED
SHERIFF'S OFFICE
DEC 11 2 42 PM '57
BALTIMORE CITY, MD.

P413

CIRCUIT COURT

A-878
19 57 Docket No. .....

McKAMER REALTY CO., &C.

vs.

ANDERSON ENTERPRISES, INC.

Subpoena To Answer Bill Of Complaint

No. A-37485

Filed 3 day of January, 19 58

Lloyd G. McAllister
Clement K. Mercaldo Solicitor.

Address.

Summoned Anderson Enterprises Incorporated, a corporation, by service on Edward A. Anderson, President, and a copy of the Process with a copy of the Bill of Complaint left with said President on the 27th day of December 1957 in the presence of Albert F. Kerns. Also notice of said summons left at the principal office of said corporation.

Joseph C. Deegan
Sheriff

Fee $3.70

THE DAILY RECORD
(Certificate of Publication)

Md. January 6th, 1958

tify that the annexed advertisement

Circuit Court

Case Of

Realty Co

Enterprises Inc etal

THE DAILY RECORD, a daily

d in the City of Baltimore, once in

successive weeks before the

January, 1958

December 16th, 1957

DAILY RECORD

Per

7485 (7)

23

Clement R. Mercaldo, Solicitor,
Lloyd G. McAllister, Solicitor,
404 Munsey Building.

IN THE CIRCUIT COURT OF BALTIMORE CITY—(Docket 97A—Folio 878)—McKamer Realty Co., a Body Corporate of the State of Maryland, Plaintiff, vs. Anderson Enterprises, Inc., Baltimore, Md., and McCartney Sorrell, Jacob Owings, Robert Wilson, Durious Stokes, William T. Hopkins, Theodore B. Brown, Elizabeth B. Chambers, Warner T. McGwinn, Anna M. Dutton, Mary L. Oliver, James Diven, Mrs. George W. Bowser (addresses unknown).

All of the lot owners in Laurel Cemetery or New Laurel Cemetery, situate in Baltimore City on the southeast side of the Belair Road, their assignees, or other persons in interest, resident or non-resident, adults, infants and other persons under any legal incapacity.

The unknown owners and their respective spouses, the unknown heirs, and devisees of any deceased former owner, and any other persons, known or unknowa. their unknown heirs and devisees, whether residents of the State of Maryland or not, and actually living or not, any Executor, Administrator or next of kin of the resident and non-resident owners now vested with any title or interest whatsoever in and to the tract of land comprising the Laurel or New Laurel Cemetery or in and to any burial lots comprising a part thereof, Defendants.

ORDER OF PUBLICATION

The objects of the Bill of Complaint are:

1. That a Decree be passed by the Court declaring that all or more than 75 per cent. of the fifteen (15) acres of ground located in Baltimore City on the southeast side of Belair Road, commonly known as "Laurel Cemetery" or "New Laurel Cemetery" has been abandoned by the owners of the burial lots therein, and that the Cemetery has become a public nuisance or is detrimental to the public health, safety, security or welfare of the residents of Baltimore City.

2. That a Decree be passed by the Court ordering the sale in fee-simple of the entire land or property commonly known as "Laurel" or "New Laurel Cemetery," including each and every burial lot in said cemetery and each and every interest therein, upon such terms, and conditions as the Court may deem proper, all in accordance with the provisions of Article 16, Section 124-A, Code of Public General Laws of Maryland, 1951 Edition, as amended by the provisions of Chapter 630 of the Acts of 1957, Geaeral Assembly of Maryland.

3. That a Trustee be appointed to make said sale and to perform such orders as may be passed therein.

4. That the proceeds of said sale after payment of the costs and expenses be distributed among the persons entitled thereto in accordance with the provisions of Article 16, Section 124-A, Code of Public General Laws of Maryland, 1951 Edition, as amended by the provisions of Chapter 630 of the Acts of 1957, General Assembly of Maryland.

The Bill recites that there is situate on the southeast side of Belair Road a tract of land containing 15 acres, more or less, commonly known as "Laurel Cemetery" or "New Laurel Cemetery"; where at least 75 per cent. of the acreage has been dedicated, appropriated or used for burial purposes. That said cemetery was established sometime prior to the Civil War and that the predecessors in title of the Plaintiff, the Laurel Cemetery Company, was incorporated on the 16th day of June, 1852. That the Plaintiff herein is vested with the fee-simple title to the land comprising said cemetery, subject to the grants of burial lots and burial rights heretofore made by way of Deeds of record and deeds and grants not a matter of record. That there is no obligation on the part of the Cemetery Company to provide perpetual care in respect to the burial lots. That the owners of the burial lots and burial rights within said cemetery with the obligation upon them to maintain have, nevertheless, neglected to maintain said burial lots in a good and acceptable manner, that through said neglect of said owners, the whole of said cemetery has become a menace and is detrimental to the public health, safety, security and welfare of the citizens of Baltimore City, and particularly residents adjacent to and in the vicinity of the cemetery. That practically none of the graves or remains of persons therein can be identified. Practically all of the indentification markers and headstones have been pushed or knocked down, broken and scattered over the property. That the Baltimore City Health and Fire Departments consider said cemetery to be a menace and nuisance as will more fully appear from exhibits filed with said Bill of Complaint. That from an examination of the Land Records of Baltimore City, it does not appear that any burials have been made therein within the past 20 years and that none of the heirs, decedents, relatives or friends of the persons buried therein, or the owners of any of the burial lots have attempted or taken any action whatsoever to maintain any of the burial lots or graves in good order and condition and they have by said neglect abandoned the said burial lots and rights in said cemetery. That there are no records of the Laurel Cemetery Company or of the New Laurel Cemetery Company or of the Plaintiff herein from which the owners of the lots can be determined; nor do land records of Baltimore City and Baltimore County, the cemetery property having become a part of Baltimore City under the Annexation Act of 1888, disclose the owners of lots therein other than the parties made defendants in said Bill of Complaint. That the whereabouts and the addresses of the defendants, other than the Anderson Enterprises, Inc., are unknown, and it is not known whether they or any of them or their heirs and assigns are living or not. That although the Plaintiff has made a diligent and exhaustive search to ascertain all persons having an interest in said property, due to the antiquity of the said cemetery, having been established in 1852, and the lack of records other than the said Land Records, it is apprehensive that there may be persons unknown to the Plaintiff who have an interest therein other than those specifically named as defendants and whose rights in said cemetery may be affected by the sale thereof. That the Bill of Complaint is filed under the authority of the provisions of Article 16, Section 124-A, Code of Public General Laws of Maryland, 1951 Edition, as amended by the provisions of Chapter 630 of the Acts of 1957, General Assembly of Maryland. That it will be to the benefit of each and every owner of the lots in said cemetery, their heirs, personal representatives and assigns, and the citizens of Baltimore City, and particularly the residents adjacent to and in the vicinity of the cemetery, that the entire cemetery property as described in the Deed filed as Plaintiff's Exhibit No. 2, including each and every lot therein, and each and every interest therein be sold, in fee-simple, as provided by said Law, and upon such terms, conditions, and upon such notice thereof as this Honorable Court may deem proper, and the proceeds thereof, be used, and applied, distributed and paid over by the Trustee appointed for the purpose and in the manner provided in Article 16, Section 124-A, Code of Public General Laws of Maryland, as amended by the provisions of Chapter 630 of the Acts of 1957, General Assembly of Maryland.

It is thereupon ordered, this 14th day of December, 1957, by the Circuit Court of Baltimore City, that the Plaintiff by causing a copy of this Order to be inserted in some daily newspaper published in the City of Baltimore, once a week for four successive weeks before the 14th day of January, 1958, give notice warning all of the lot owners, their assignees or other persons in interest, residents or non-residents, adults, infants and other persons under any legal incapacity, unknown owners, their heirs, personal representatives and assigns, whether residents of the State of Maryland or not, who may have any possible right, title, claim and interest, in and to the Laurel Cemetery or New Laurel Cemetery, containing approximately 15 acres, situate in Baltimore City on the southeast side of the Belair Road, described in the said Bill of Complaint or to any lot or lots therein, to appear in Court on or before the 14th day of February, 1958, to show cause, if any there be, why a decree should not be passed as prayed.

HENRY J. RIPPERGER,
True Copy—Test: Clerk.
HENRY J. RIPPERGER,
d16,23,30,ja6 Clerk.

55 per cent. of the housewives in the mid-West do some canning or jelly making, and 20 per cent. do some freezing. The national average is 44 and 18 per cent., respectively.

OLD POTTERY

St. Paul, Dec. 28—A chunk of pottery, first molded by Indians over 4,000 years ago, may be the oldest of its kind ever found in the United States. Researchers for the St. Paul Science Museum discovered the handful of pottery on Grey Cloud Island in the Mississippi River below St. Paul during recent excavations.

SQUIRREL TEETH

Ripley, Tenn., Dec. 28—Nine-year-old Diane Tibbs took her pet

"beat the law" on the highways and boast about out-witting traffic officers.

In concluding an editorial quoting Mr. Hoover, the Portland, Oregon, Journal stated a plain fact: "There will be no safety on the roads until motorists obey the laws willingly or are made to serve sure and certain sentences in jail, if necessary. Fines and suspended sentences are a cruel hoax."

A doctor writing in Your Health magazine says that accident-prone people fall into three general groups: Those who deliberately take tremendous risks in fits of anger; those who are insecure or dissatisfied; and those who react to emergencies by flying off in all directions emotionally.

Teenagers Teach All Of Us A Lesson In Curbing Crime

By ANDREW M. KELLEY
United Press Staff Correspondent

North Arlington, N. J., Dec. 28—Some teen-aged girls in this North Jersey community set out to combat juvenile delinquency because they had nothing else to do.

The community has no movie theater and no youth center or dance hall. No place to go, nothing to do. "Boredom"—traditional excuse for juvenile delinquency—worked in reverse in this case.

Two or three girl "candy store cowboys," tired of hanging out in a neighborhood confectionery, decided last October that they would donate their time to good causes and raise money for charity.

They were motivated according to pretty, dark-haired Rose La Monica by a "definite" desire to offset headline-making juvenile

Fd. 14" December 1957

CLEMENT R. MERCALDO
LLOYD G. McALLISTER
Solicitors, 404 Munsey Bldg.
IN THE CIRCUIT COURT
OF BALTIMORE CITY
Docket ____, Folio _____
McKAMER REALTY CO., A Body
Corporate of the State of
Maryland, Plaintiff, Vs.
ANDERSON ENTERPRISES, INC.
Baltimore, Md.
and
McCartney Sorrell
Jacob Owings
Robert Wilson
Durious Stokes
William T. Hopkins
Theodore B. Brown
Elizabeth B. Chambers
Warner T. McGwinn
Anna M. Dutton
Mary L. Oliver
James Diven
Mrs. George W. Bowser
(addresses unknown)

97A
878

All of the lot owners in Laurel Cemetery or New Laurel Cemetery, situate in Baltimore City on the southeast side of the Belair Road, their assignees, or other persons in interest, resident or non-resident, adults, infants and other persons under any legal incapacity.

The unknown owners and their respective spouses, the unknown heirs, and devisees of any deceased former owner, and any other persons, known or unknown, their unknown heirs and devisees, whether residents of the State of Maryland or not, and actually living or not, any Executor, Administrator or next of kin of the resident and non-resident owners now vested with any title or interest whatsoever in and to the tract of land comprising the Laurel or New Laurel Cemetery or in and to any burial lots comprising a part thereof.

Defendants

ORDER OF PUBLICATION

The objects of the Bill of Complaint are:

1. That a Decree be passed by the Court declaring that all or more than 75 per cent of the fifteen (15) acres of ground located in Baltimore City on the southeast side of Belair Road, commonly known as "Laurel Cemetery" or New Laurel Cemetery" has been abandoned by the owners of the burial lots therein, and that the Cemetery has become a public nuisance or is detrimental to the public health, safety, security or welfare of the residents of Baltimore City.

2. That a Decree be passed by the Court ordering the sale in fee simple of the entire land or property commonly known as "Laurel" or "New Laurel Cemetery," including each and every burial lot in said cemetery and each and every interest therein, upon such terms, and conditions as the Court may deem proper, all in accordance with the provisions of Article 16, Section 124-A, Code of Public General Laws of Maryland, 1951 Edition, as amended by the provisions of Chapter 630

(6)

19 A-37485 (6)

of the Acts of 1957, General Assembly of Maryland.

3. That a Trustee be appointed to make said sale and to perform such orders as may be passed therein.

4. That the proceeds of said sale after payment of the costs and expenses be distributed among the persons entitled thereto in accordance with the provisions of Article 16, Section 124-A, Code of Public General Laws of Maryland, 1951 Edition, as amended by the provisions of Chapter 630 of the Acts of 1957, General Assembly of Maryland.

The Bill recites that there is situate on the southeast side of Belair Road a tract of land containing 15 acres, more or less, commonly known as "Laurel Cemetery" or "New Laurel Cemetery"; where at least 75 per cent of the acreage has been dedicated, appropriated or used for burial purposes. That said cemetery was established sometime prior to the Civil War and that the predecessors in title of the Plaintiff, the Laurel Cemetery Company, was incorporated on the 16th day of June, 1852. That the Plaintiff herein is vested with the fee simple title to the land comprising said cemetery, subject to the grants of burial lots and burial rights heretofore made by way of Deeds of record and deeds and grants not a matter of record. That there is no obligation on the part of the Cemetery Company to provide perpetual care in respect to the burial lots. That the owners of the burial lots and burial rights within said cemetery with the obligation upon them to maintain have, nevertheless, neglected to maintain said burial lots in a good and acceptable manner, that through said neglect of said owners, the whole of said cemetery has become a menace and is detrimental to the public health, safety, security and welfare of the citizens of Baltimore City, and particularly residents adjacent to and in the vicinity of the cemetery. That practically none of the graves or remains of persons therein can be identified. Practically all of the indentification markers and headstones have been pushed or knocked down, broken and scattered over the property. That the Baltimore City Health and Fire Departments consider said cemetery to be a menace and nuisance as will more fully appear from exhibits filed with said Bill of Complaint. That from an examination of the Land Records of Baltimore City, it does not appear that any burials have been made therein within the past 20 years and that none of the heirs, decedents,

relatives or friends of the persons buried therein, or the owners of any of the burial lots have attempted or taken any action whatsoever to maintain any of the burial lots or graves in good order and condition and they have by said neglect abandoned the said burial lots and rights in said cemetery. That there are no records of the Laurel Cemetery Company or of the New Laurel Cemetery Company or of the Plaintiff herein from which the owners of the lots can be determined; nor do land records of Baltimore City and Baltimore County, the cemetery property having become a part of Baltimore City under the Annexation Act of 1888, disclose the owners of lots therein other than the parties made defendants in said Bill of Complaint. That the whereabouts and the addresses of the defendants, other than the Anderson Enterprises, Inc., are unknown, and it is not known whether they or any of them or their heirs and assigns are living or not. That although the Plaintiff has made a diligent and exhaustive search to ascertain all persons having an interest in said property, due to the antiquity of the said cemetery, having been established in 1852, and the lack of records other than the said Land Records, it is apprehensive that there may be persons unknown to the Plaintiff who have an interest therein other than those specifically named as defendants and whose rights in said cemetery may be affected by the sale thereof. That the Bill of Complaint is filed under the authority of the provisions of Article 16, Section 124-A, Code of Public General Laws of Maryland, 1951 Edition, as amended by the provisions of Chapter 630 of the Acts of 1957, General Assembly of Maryland. That it will be to the benefit of each and every owner of the lots in said cemetery, their heirs, personal representatives and assigns, and the citizens of Baltimore City, and particularly the residents adjacent to and in the vicinity of the cemetery, that the entire cemetery property as described in the Deed filed as Plaintiff's Exhibit No. 1, including each and every lot therein, and each and every interest therein be sold, in fee simple, as provided by said Law, and upon such terms, conditions, and upon such notice thereof as this Honorable Court may deem proper, and the proceeds thereof, be used, and applied, distributed and paid over by the Trustee appointed for the purpose and in the manner provided in Article 16, Section 124-A, Code of Public General Laws of Maryland, as amended by the provisions of Chapter 630 of the Acts of 1957, General Assembly of Maryland.

It is thereupon O R D E R E D, this 14th day of December 1957, by the Circuit Court of Baltimore City, that the Plaintiff by causing a copy of this Order to be inserted in some newspaper published in the City of Baltimore once a week for four successive weeks before the 14" day of January, 1958, give notice warning all of the lot owners, their assignees or other persons in interest, residents or non-residents, adults, infants and other persons under any legal incapacity, unknown owners, their heirs, personal representatives and assigns, whether residents of the State of Maryland or not, who may have any possible right, title, claim and interest, in and to the Laurel Cemetery or New Laurel Cemetery, containing approximately 15 acres, situate in Baltimore City on the southeast side of the Belair Road, described in the said Bill of Complaint or to any lot or lots therein, to appear in Court on or before the 14" day of February, 1958, to show cause, if any there be, why a decree should not be passed as prayed.

Henry J. Lippeyer Clerk

Fd. 21 March 1958

McKamer Realty Company, A Corporation of the State of Maryland	:	IN THE
Plaintiff	:	CIRCUIT COURT
vs.	:	OF
Anderson Enterprises, Inc., et al.	:	BALTIMORE CITY
Defendant	:	97A 878

: :

ANSWER OF ANDERSON ENTERPRISES, INC.

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The answer of Anderson Enterprises, Inc., a body corporate of the state of Maryland, one of the Defendants in the above entitled case, to the Bill of Complaint against it exhibited, respectfully shows:

1. Answering Paragraph No. 1 of said Bill of Complaint, this Defendant admits the allegations therein contained.

2. Answering Paragraphs Nos. 2, 3, 4, 5 and 6 of said Bill of Complaint, this Defendant says it has no knowledge of allegations therein contained and, therefore, denies the same.

3. Answering Paragraphs Nos. 7, 8, 9, 10, 11, 12 and 13 of said Bill of Complaint, this Defendant admits the allegations therein contained.

4. Answering Paragraphs 14, 15 and 16 of said Bill of Complaint, this Defendant says it has no knowledge of allegations therein contained and, therefore, denies the same.

5. Answering Paragraphs Nos. 17, 18 and 19 of said Bill of Complaint, this Defendant admits the allegations therein contained.

(8)

A-37485 (8)

HAVING fully answered said Bill of Complaint, this Defendant prays that said Bill of Complaint be henceforth dismissed.

AND AS IN DUTY BOUND, ETC.

Samuel J. Dantoni
SAMUEL J. DANTONI

Attorney for Anderson Enterprises, Inc.

408 Munsey Building
Baltimore 2, Maryland
Sa 7-1181

I HEREBY CERTIFY that copy of the aforegoing Answer was mailed to Clement R. Mercaldo, Esq., Attorney for Plaintiff, 36-38 Equitable Building, Baltimore 2, Maryland, this 21st day of March, 1958.

Samuel J. Dantoni
SAMUEL J. DANTONI

Fd. 14 April 1958

DECREE PRO CONFESSO

McKAMER REALTY COMPANY

A Corporation of the State of Md.

vs.

ANDERSON ENTERPRISES, INC., ET AL.

IN THE

CIRCUIT COURT

— OF —

BALTIMORE CITY

9714-878

March Term, 19 58

The Defendants having been duly summoned (notified by Order of Publication) to appear to the Bill of Complaint, and having failed to appear thereto, according to the exigency of the writ (said Order)

It therefore appearing from the proceedings, this 14th day of April, 19 58 that the complainant is entitled to relief in the premises, the Bill of Complaint is hereby taken *pro confesso* against the defendant But because it does not certainly appear to what relief the plaintiff is entitled the papers are referred to one of the Examiners of this Court to take testimony to support the allegations of the Bill.

Henry J. Kuppinger

CLERK.

Baxter

A-37485 (9)

(9)

McCartney Sorrell
Jacob Owings
Robert Wilson
Durious Stokes
William T. Hopkins
Theodore B. Brown
Elizabeth B. Chambers
Warner T. McGwinn
Anna M. Dutton
Mary L. Oliver
James Diven
Mrs. George W. Bowser
(addresses unknown)

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The unknown owners and their respective spouses, the unknown heirs, and devisees of any deceased former owner, and any other persons, known or unknown, their unknown heirs and devisees, whether residents of the State of Maryland or not, and actually living or not, any Executor, Administrator or next of kin of the resident and non-resident owners now vested with any title or interest whatsoever in and to the tract of land comprising the Laurel or New Laurel Cemetery or in and to any burial lots comprising a part thereof.

Fd. 23 April 1958

97A - 878

A 37485

SUMMONS FOR WITNESS

In the Circuit Court of Baltimore City

The Sheriff will please summon the following witnesses, **

returnable Thursday, April 24, 1958 at 10 A.M.

3 to appear before William C. Baxter, Master in Chancery

Room #717 MUNSEY BUILDING, BALTIMORE 2, Md.

** Lieut. BRAYDEN O'MAILEY, Balto.City Fire Department Headquarters

Lexington & Gay Streets, Balto. 2 Md.

to testify for McKamer Realty Company, Complainant

in the case of McKamar Realty Company

vs. Anderson Enterprises, Inc. et.al.

Henry J. Ruppert

Clerk of Circuit Court of Baltimore City

A-37485 (10) 28

X

Fd. 27 May 1958

A-878
1957

McKAMER REALTY COMPANY,
~~a corporation of the~~
State of Md.

vs.

ANDERSON ENTERPRISES, INC.
EDWARD A. ANDERSON, President
McCARTNEY SORRELL,
~~JACOB OWINGS,~~
ROBERT WILSON
DURIOUS STOKES, et al

In the Circuit Court
OF BALTIMORE CITY

The above case being at issue

and notice having been given me by the Solicitor for the Plaintiff of a desire to take testimony in the same, I, WILLIAM C. BAXTER, Examiner of the Circuit Courts of Baltimore City, met on the 18th day of April in the year nineteen hundred and fifty eight, at my office, in the City of Baltimore, State of Maryland, and assigned the 24th day of April in the same year at 10:00 o'clock in the fore noon and the office of the Examiner, in the City and State aforesaid, as the time and place for such examination of witnesses in said cause; at which last mentioned time and place I attended, due notice of such meeting having been given, and proceeded in the presence of the Solicitor of the Plaintiff to take the following deposition, that is to say:

A-37485 (11) (10)

TESTIMONY taken before WILLIAM C. BAXTER, Examiner-Master, on Thursday, April 24, 1958 at 10:00 A.M.

Present: CLEMENT R. MERCALDO, ESQ. - LLOYD G. McALLISTER, ESQ.
Counsel for Plaintiff

THEREUPON -

OFFICER CARROLL DENT

a witness of lawful age, produced on behalf of the Plaintiff being first duly sworn, deposeth and saith as follows, that is to say:

BY THE EXAMINER:

Q State your name, residence and occupation.

A Officer Carroll Dent, Pine Street Station, Baltimore City Policeman - attached to the Sanitation Division.

Q Mr. Mercaldo why are these proceedings brought?

A These proceedings are brought under Section 124 of the Public General Laws of Maryland, 1951 Edition as amended by the provisions of Chapter 630 of the Acts of 1957. The purpose of this proceeding is to secure an Order of the Court for the sale of the New Laurel Cemetary for the purpose of abolishing it as a cemetary and to abolish all of the rights of the buried persons their heirs and assigns and the owners of all lots therein for the reason that it has been abandoned as a cemetary

and has become a menace to the health and welfare of the citizens of Baltimore and in particular the people living in the vicinity of New Laurel Cemetary, as will be more fully brought out by the testimony of the police officer of Baltimore City, The Fire Department of Baltimore City and the Health Department of Baltimore City.

BY MR. MERCALDO:

Q Officer where are you assigned?

A I am assigned to the Pine Street Station but I work out of the Northeast.

Q What are your duties with the Police Department?

A I am in the Sanitation Division.

Q In your duties on the Police Force with the Sanitation Division have you had an opportunity to see the area known as New Laurel Cemetary?

A Yes.

Q Where is New Laurel Cemetary located?

A In the 2300 Blk. of Belair Rd.

Q Are you familiar with that cemetary?

A Yes.

Q How long have you been familiar with it?

A Four years.

Q How long have you been with theSanitation Department?

A Four years.

Q How did you become familiar with this cemetary?

A I have had a number of complaints about rats, trash, dry weeds, grass and damaged trees.

Q Have you ever had any trouble with vandalism?

A I don't know about that because I am only with the Sanitation Division.

Q When was the last time you were out to New Laurel Cemetary?

A About two weeks ago.

Q What is the condition of the cemetary?

A It is terrible, it is horrible. It is worse now than it ever was. Graves are sunken in, tomb stones and markers are turned over and this past winter the water would get all over the sidewalk draining off the cemetary and people would have to walk in the street.

Q Did this water come from drainage into the open graves?

A Yes.

Q In your opinion is this place a menace to the health and welfare of the people of the City of Baltimore?

A Yes.

Q Is it, in particular, a menace to the health and welfare of the people in that vicinity?

A Yes.

Q Have you also had complaints of attempted attacks on youngsters walking near the grave yard?

A Yes I heard of one just three weeks ago.

Q Would this be a likely place for robbers and thieves to hide?

A It is the best spot in the world.

Q Do you consider this cemetary as it is now as having been abandoned?

A Yes.

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THEREUPON -

LT. BRAYDEN O'MAILEY

a witness of lawful age, produced on behalf of the Plaintiff, being first duly sworn, deposeth and saith as follows, that is to say:

BY THE EXAMINER:

Q State your name and address.

A Lt. Brayden O'Mailey, 3573 Juneway.

Q Are you a member of the Fire Department of Baltimore City?

A Yes.

Q How long have you been?

A Since 1943.

BY MR. MERCALDO:

Q What are your duties with the Fire Department of Baltimore City?

A I am a Lieutenant in the Fire Prevention Bureau.

Q Do you have any knowledge of New Laurel Cemetary?

A Yes.

Q How did you acquire this knowledge?

A From a complaint about a fire violation which was received at headquarters.

Q Is that the only complaint that has ever been made to the Fire Department?

A No there have been several in the past two years.

Q What did those complaints consist of primarily?

A In 1957 there were 15 calls for fire apparatus to respond to field fires. In 1956 there were six calls for the same reason.

Q Have you ever been out to the property itself?

A Yes.

Q When was the last time you were out there?

A About two weeks ago.

Q What did you observe as to the condition of the cemetary at that time?

A I saw a very large overgrowth of weeds and fallen limbs of trees and fallen trees.

Q Did you notice the condition of the ground area of the cemetary as to the condition of the graves themselves?

A Yes, numerous tomb stones and markers had fallen over, a great number were broken and sunken graves here and there and the south retaining wall had collapsed with a section of the railing.

Q In your opinion has this cemetary been abandoned?

A Yes.

Q In your opinion is this condition a menace to the health and welfare of the citizens of Baltimore City?

A Yes.

Q In particular is it a menace to the health of the people living in the vicinity of that cemetary?

A Yes.

Q Do you consider the undergrowth and overgrowth a fire hazard?

A Yes it is a constant hazard in the summer time, particularly it is a menace with respect to adjoining property.

* * * * * *

THEREUPON -

GEORGE O. MOTRY

a witness of lawful age, produced on behalf of the Plaintiff, being first duly sworn, deposeth and saith as follows, that is to say:

BY THE EXAMINER:

Q State your name, address and occupation.

A George O. Motry, 1236 E. Belvedere, Chief Division of Community Sanitation of Baltimore City.

BY MR. MERCALDO:

Q How long have you been with the Baltimore City Health Department?

A Twenty years.

Q Are you familiar with New Laurel Cemetary?

A Yes.

Q Where is it located?

A 2300 Block of Belair Rd.

Q When is the last time you have seen this cemetary?

A On April 14, 1958.

Q What did you find out there?

A The cemetary is much overgrown with brush, fallen trees. The tomb stones and markers have for the most part been knocked over, a number of the graves have sunken for a distance of 1' to 2' and at the time of my inspection water had accumulated to a

depth of 1' in a few of the sunken graves. Pooling water was present at the southeast portion of the cemetary. Along the southern edge of the cemetary there is a retaining wall supporting an alley which is at a higher elevation and a portion of this retaining wall had collapsed carrying with it a section of the guard rail protecting the side of the alley. That alley had been blocked off to prevent vehicular traffic. At the base of the retaining wall there is a large amount of trash and debris. Smaller amounts of trash and debris are present along the western edge of the cemetary. Along the southern edge of the cemetary there is evidence of rat infestation.

Q In your service of twenty years have you ever had any complaints with regard to this cemetary?

A Yes.

Q How far back to they go?

A Several complaints dating back to my service to 1937. During the last ten years since I have been more familiar with the situation I know of no less than ten complaints from neighbors and the Improvement Association dealing with rats, weeds and similar conditions.

Q In your opinion is the condition as it exists out there today a menace to the health and welfare of the citizens of Baltimore City?

A It is a definite public health nuisance. There

are a number of reasons for that. You have a fire hazard a possibility of accident hazard, and the presence of weeds could contribute to the sufferings of persons who are allergic to pollin, plus poison ivy which could cause dermatitis.

Q You say you were out there as recently as April 14. Did you notice if any of the graves had been kept up by any of the descendants of deceased buried there?

A I did not see every grave, but those I saw had been completely neglected.

Q In your opinion, from what you did see, has the cemetary been abandoned?

A Yes.

Q In your opinion, would it be to the best interest and advantage of all interested persons that this cemetary be terminated as a cemetary and all bodies and graves that could be identified removed and re-interred to a better and more suitable location?

A Yes.

* * * * * * *

THEREUPON -

C. HURLEY COX

a witness of lawful age, produced on behalf of the Plaintiff, being first duly sworn, deposeth and saith as follows, that is to say:

BY THE EXAMINER:

Q State your name, address and occupation.

A C. Hurley Cox, 424 Equitable Bldg. Attorney at Law. Member of the Baltimore Bar.

BY MR. MERCALDO:

Q Mr. Cox where do you live?

A 3007 Shannon Drive.

Q Is that in the vicinity of Belair Rd. near the New Laurel Cemetary?

A About one-half to three-quarters of a mile from it.

Q Do you represent the Belair Rd. Edison Improvement Association?

A Yes.

Q What area does this association embrace?

A We represent the people from Ravenwood Rd. on the South to Furley Ave. on the North, Belair Rd. on the West and the City Line on the East.

Q Does that area include New Laurel Cemetary?

A Yes.

Q Are you familiar with that cemetary?

A Yes.

Q How long have you been familiar with the Cemetary?

A Since 1941.

Q I would assume that the association is familiar

with the cemetary?

A They are.

Q Has your association ever had occasion to consider the conditions of the cemetary and complaints regarding it?

A Yes over the past ten to twelve years this has been a constant source of irritation and public nuisance to our members and the residents of the vicinity. Through the years I have mentioned, the association and other groups in the neighborhood have tried to clean this situation up.

Q When was that last time you saw the cemetary?

A It must have been two months ago. We heard that there was a burial took place and another officer and myself went down to inspect it.

Q What was the condition of the cemetary at the time?

A It was in a terrible state. It is being used as a dump by the public. Graves are dug up and in many cases, I would say two-thirds, monuments are broken or knocked over and the boys use it to start fires. It is a very rough play ground and there is a lot of undergrowth and it is obvious that there are rats there. Another thing we feel that it is being used to harbor delinquent juveniles.

It is also attractive to certain types of criminals.

Q In your opinion Mr. Cox is this condition a menace to the health, welfare and safety of the people in the vicinity of this cemetary?

A Yes.

Q In your opinion has this cemetary been abandoned?

A Yes.

Q Have the graves been kept up?

A None of the graves have been kept up. It is really a terrible mess.

Q In your opinion has the cemetary been abandoned by the descendants of deceased persons buried there?

A Yes.

Q In your opinion will it be to the best interest and advantage of all persons concerned that this cemetary be terminated as a cemetary and the bodies which are identifiable removed and re-interred in a location more suitable to a more well kept cemetary?

A Yes.

* * * * * * * * *

THEREUPON -

EDWARD A. ANDERSON

a witness of lawful age, produced on behalf of the Plaintiff, being first duly sworn, deposeth and saith

as follows, that is to say:

BY THE EXAMINER:

Q State your name, residence and occupation.

A Edward A. Anderson, 2406 Lake Ave., Construction and home improvement under the name of Anderson Enterprises, Inc. located at 2326 Belair Rd.

BY MR. MERCALDO:

Q Mr. Anderson your place of business, Anderson Enterprises, Inc. is located where with reference to the New Laurel Cemetary?

A Directly opposite, across the street on the other side of Belair Rd.

Q How long have you been familiar with this cemetary?

A I have owned the property at 2326 Belair Rd. eight years and prior to owning the property I rented it for two years.

Q So you have been familiar with it for a ten year period?

A Yes.

Q Mr. Anderson what is the condition of New Laurel Cemetary?

A The condition is very sad. It is completely run down and as I see it the graves are sunken, the brush has grown very high and we have had

reports from employees of ours who live in the vicinity that it is completely rat infested.

Q What are the condition of the tomb stones and markers?

A From what I can see most of the markers are lying down flat or leaning badly.

Q Are they whole or broken?

A Most of them are broken and it is hard to tell where the markers are.

Q Have you been in there recently?

A Yes, within the last week.

Q Can you say that these markers can be identified with any particular grave?

A It would be impossible to identify them as such.

Q In other words, markers are strewn throughout the cemetary?

A Yes.

Q Mr. Anderson you are one of the Defendants named in this action?

A Yes.

Q You are the owner of approximately 17 lots in New Laurel Cemetary?

A Yes.

Q Have you filed an answer in these proceedings?

A Yes.

Q From whom did you acquire the lots in the cemetary?

A I purchased them from the Federal Government through the McKamer Realty Co.

Q These lots were formerly owned by the United States Government?

A That is correct.

Q Do you know what they were used for?

A They were used for burial of soldiers in the Civil War.

Q Is it true that the Federal Government removed the bodies of the soldiers to Louden Park Cemetary?

A Yes.

Q In your opinion is New Laurel Cemetary as it exists today a menace to the health, safety and welfareof the citizens of Baltimore City?

A Yes. I might further bring out several points. I employ five girls in my office directly across from the cemetary and during the winter months when it gets dark at five, these girls refuse to wait for street cars or transportation in front of the cemetary.

Q What is the reason for that?

A Recently, within the past month I think the police records will show, that some young girl was

either robbed or attacked in the cemetary and there have been numerous complaints of not just children, but grown men being seen walking and actually staying in that cemetary.

Q In your opinion is the cemetary a menace to the health and welfare in particular to the people living in the vicinity of New Laurel Cemetary?

A Yes.

Q In your opinion would it be to the best interest and advantage of all parties interested that this cemetary be terminated as a cemetary and the identifiable bodies removed to a more suitable location?

A Yes.

Q In your opinion has New Laurel Cemetary been abandoned?

A In my opinion it has been completely abandoned.

Q In your opinion have the graves been kept up by any of the descendants of deceased buried there?

A No, in my opinion it has been completely abandoned.

* * * * * * * * *

THEREUPON -

CLEMENT R. MERCALDO

a witness, produced on behalf of the Plaintiff, being

first duly sworn, deposeth and saith as follows, that is to say:

BY THE EXAMINER:

Q State your name, address and occupation.

A Clement R. Mercaldo, 36 Equitable Bldg. Attorney at Law. Member of the Baltimore City Bar.

BY MR. McALLISTER:

Q Mr. Mercaldo what is your connection with the Plaintiff in this case, the McKamer Realty Company?

A I am president of the McKamer Realty Co.

Q Is the company the owner of the tract of land situate in Baltimore City on the south-east side of the Belair Rd., opposite Clifton Park, containing approximately fifteen acres, known as New Laurel Cemetary and more particularly shown on a Plat thereof outlined in red which is now offered in evidence as "Plaintiff's Exhibit, Examiner's No. 1").

A It is.

Q What is the source of the Plaintiff's title?

A The source of the title is by purchase from H. Carl Butler, Trustee in Bankruptcy in the United States District Court, dated June 27, 1957 and recorded among the Land Records of Baltimore City in Liber, JFC 185, folio 385. A copy of this has been filed

with the Petition as "Plaintiff's Exhibit No. 1". This is subject to grants of burial rights and of burial lots heretofore made by way of deeds of record and by way of deeds and grants not a matter of record.

Q Did you have any knowledge of the deeds or grants of record of burial rights or lots within the cemetary?

A Yes I made a search of the records of the Reccrd Office of Baltimore City as well as the Record Office of Baltimore County because this property was at one time located in Baltimore County before annexation and I found the recordations of several certificates of burial which are more particularly outlined in Paragraph 14 of the Bill of Complaint.

Q Are the grants and certificates referred to in Paragraph 14 the only ones on record?

A Yes they are.

Q The Bill in Paragraph 14 recites that the Plaintiff is the owner of all unsold burial lots, abandoned burial lots, land not developed for burial purposes, roads, paths and all land within the cemetary not vested in or owned by other persons or corporations. What is the basis of this allegation.

Q The basis for that allegation is that a good portion of New Laurel Cemetary, the area between graves

the area where bodies have been removed, which is quite prevalent, the roads and paths throughout the cemetary and undeveloped land are all owned by the McKamer Company by virtue of Deed previous referred to as "Plaintiff's Exhibit, No. 1".

Q Do you know when the original cemetary was incorporated?

A In 1852 under a special Act.

Q That Act is referred to in the Bill of Complaint?

A Yes it is.

Q Have you made an exhaustive search and examination of all pertinent records for the purpose of ascertaining if there is any obligation on the corporation or any of the previous owner of this cemetary with respect to perpetual care of the graves and the cemetary?

A Yes I have and the original articles of incorporation do not provide or require for perpetual care on the part of the corporation and a search of the Land Records indicate that the few recorded certificates of burial indicate that the price for lots was approximately $10.00 to $15.00 each. With that it would be impossible for perpetual care to have been maintained by the corporation.

Q In your opinion on whom did the obligation as to maintenance and upkeep rest?

3. A. Q If there is no perpetual care provided in a cemetary then the upkeep is the duty of the individual lot owners or the heirs and descendant of the people buried there.

Q Are you personally acquainted with the physical condition of the cemetary at this time?

A I am.

Q Will you describe the condition.

Q I have for the past two years and even prior thereto been very familiar with the New Laurel Cemetary. I have been out there as recently as two days ago. The condition of the cemetary is , as I have seen it, as follows: practically all of the stones and markers have been broken, thrown over and scattered throughout the cemetary, making it almost impossible, except in a few instances, to determine where the particular headstone belongs, that is, to what grave it belongs. The graves through the cemetary have sunken in to a depth from 3' to 4', causing water to accumulate therein. The last time I was out there the north eastern three or four acres of the cemetary was completely covered by water, forming a pond. The water which had accumulated in the graves was running out the side of the grave yard on Belair Rd. so rapidly that I reported it to the Baltimore City Bureau of Water Supply thinking there had been a broken main therein. The trees have completely

overgrown. Many of them have fallen and the brush is very high and thick. It is almost impenetrable because of the accumulation of undergrowth.

Q Mr. Mercaldo you are connected with the Baltimore City Law Dept.?

A Yes, as assistant City Solicitor.

Q Have you access to the files of that office?

A Yes.

Q During your tenure as Assistant City Solicitor have you had referred to you complaints and matters pertaining to this cemetary?

A Yes.

Q Have you had an occasion to refer to file No. 85512 of that office?

A Yes.

Q What does that pertain to?

A That file pertains to complaints to New Laurel Cemetary. I want to say there have been numerous complaints with respect to this cemetary as far back as 1920. In file 85512 I found fifteen photographs which I would like to offer in evidence as "Plaintiff's Exhibits, Examiners No. 2 through No. 16". Since these photographs speak for themself I will not go through each one of them. However I would like to call to the attention of the Court that four of these photographs were taken in July, 1937

which shows the condition of New Laurel Cemetary at that time. The other eleven were taken in July, 1951 also showing the condition of New Laurel Cemetary.

Q Did you find a press article and picture from the Baltimore Sun of June 22, 1951 in that file?

A Yes.

Q Is this it?

A Yes.

(NOTE: Counsel for Plaintiff offers above press article in evidence as "Plaintiff's Exhibit, Examiner's No. 17 ".)

Q I hand you photograph marked "Plaintiff's Exhibit, Examiner's No. 2" which is identified as "view from interior of cemetary looking toward homes on south side of cemetary (This lot is still maintained by family)". This picture shows a grave stone marker with a railing attached. From the present day inspection do you find that exists?

A No I do not find that that exists. If this existed in 1951 it does not exist today. It apparently has been vandalized and has been completely thrown over or torn down and broken. It does not exist today.

Q I hand you "Plaintiff's Exhibit, Examiner's No. 14" which is a photograph taken from the west side of Belair Rd. and shows a burial vault facing the east side of Belair Rd. Can you tell me if that vault exists

today?

A It does not.

Q Is there any semblance of any such structure?

A No.

Q Does a present day inspection show that any of the graves and plots are being maintained in good order by anyone.

A I have covered the cemetary from one end to the other and none are being maintained whatsoever.

Q In your opinion can any of the burial plots or graves be identified as to persons buried therein?

A The only way you could possibly identify the person buried in the ground is by the headstone above the grave. As I have indicated in most instances they have been scattered throughout the grave yard and you cannot place any particular stone on any particular grave. However I went through the grave yard along with Mr. McAllister and Mr. Kaufman and recorded the names off of all of the stones that were standing and we counted those and they came to between 150 and 200 graves.

Q Are there any records known to you that would permit the persons buried to be identified?

A There are no records whatsoever.

Q Have you made a thorough and full investigation to determine if there are any records?

A Yes.

Q And you state you have found none?

A That is correct.

Q Have you made an extensive and exhaustive search to determine if the named Defendants are still living and, if still living, their addresses?

A Yes, you will note the people who recorded their certificates and whose names are listed in the Bill of Complaint. The latest recording date was 1931. I checked the City Directory and other available records and whenever I would find a similar name to the one listed in the Bill there would be perhaps ten or twelve names listed in the directories, I would make several calls to these individuals. None of them however would admit that they had an interest or that they were related or that they were the person named as the Defendant. I would also like to say that it is very possible these people we have listed as Defendants at sometime in the past might have had their particular relative moved and re-interred. There is no way to determine whether the people listed as Defendants still have an interest in New Laurel Cemetary.

Q There has been testimony that there was a burial about two months ago in that cemetary. Do you have any information concerning that?

A Yes I have information which I have received from the members of the Belair Edison Improvement Association. I went over and examined the grave and I talked with Mr. Edward Hamlet who has been associated with New Laurel Cemetary for more than twenty years as a grave digger and he told me that although the person buried there had a certificate of burial that the particular burial lot could not be located. They buried him in New Laurel in any location to which they had access.

Q Do you have the name of that person?

A Yes.

Q Do you know of any other persons who might have an interest in the cemetary other than those who have been named as Defendants?

A No.

Q In your opinion has this cemetary or at least 75% of the cemetary been abandoned?

A Yes the whole thing has been abandoned.

Q In your opinion would it be to the best interest and advantage of all persons concerned or interested in this cemetary that the bodies that can be identified be removed and re-interred to another location beyond this cemetary, more desirable and fitting as a cemetary?

A Yes.

* * * * * * *

THEREUPON -

JOHN G. KAUFMAN

a witness of lawful age, produced on behalf of the Plaintiff, being first duly sworn, deposeth and saith as follows, that is to say:

BY THE EXAMINER:

Q State your name, residence and occupation.

A John G. Kaufman, 100 E. Pleasant St., Realtor.

BY MR. McAllister:

Q Mr. Kaufman are you accuainted with the New Laurel Cemetary on Belair Rd.?

A Yes, for twenty years.

Q In what capacity were you connected with the cemetary or the corporation that formerly owned the cemetary.

A At one time I owned the cemetary, by ownership of stock in the New Laurel Cemetary, a Corporation.

Q From your knowledge was there any obligation on the part of the cemetary company to maintain the graves or burial plots within the cemetary?

A There was not.

Q If there had been any obligation you would have known it?

A Yes.

Q Was there any perpetual care fund established or available for the maintenance in good order of the

cemetary?

A To the best of my knowledge there has never been a perpetual care fund. During the period of my ownership no lots were sold and no money was received in any way.

Q To your knowledge have any of the owners of burial lots, friends or relatives of the owners, or persons buried in the cemetary taken any interest or action in maintaining and keeping the graves in good order and condition?

A I was through the cemetary thoroughly with/in the past few months and there was no evidence anywhere that any lots were being maintained.

Q Didyou, Mr. Mercaldo and I go over the whole property for the purpose of identifying the persons buried therein?

A Yes we checked all stones and markers and found that there were approximately 150 to 200 with names on the stones which might be identifiable.

Q Do you know of any records that are available that might disclose the names and locations of the persons buried in the cemetary?

A No.

Q Is it your opinion that if any such records existed they have not been destroyed or lost?

A Yes.

Q Is it correct that the origin of this cemetary dates back to 1852?

A Yes.

Q From your checking of the tomb stones what would appear to be the earliest burial date?

A In the 1850's.

Q In your opinion has at least 75% of the cemetary been abandoned?

A Yes.

Q In your opinion would it be to the best interest and advantage of all persons interested in this cemetary that it be terminated and disposed of and devoted to a more desirable use, providing that the identifiable bodies are removed and re-interred to a new and more desirable location beyond the present cemetary?

A I certainly do.

BY THE EXAMINER:

Q Mr. McAllister whom do you wish to be appointed Trustee to sell this property if it is decreed that it be sold?

A Edward A. Anderson.

* * * * * * * * * * *

No other witnesses being named or produced before me, I then at the request of the Solicitor....of the.....Plaintiff..... closed the depositions taken in said cause, and now return them closed under my hand and seal on this .....16th..... day of .....May.....in the year of our Lord nineteen hundred and fifty.....eight....., at the City of Baltimore, in the State of Maryland.

Wm C Baxter [SEAL]

Examiner.

There are.....17.....Exhibits with these depositions, to wit:

Plaintiff's .....Examiner's.....Exhibits 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15 16 and 17

.....

.....

Defendant's .....Exhibit.....

.....

.....

Wm C Baxter

.....

Examiner.

I, WILLIAM C. BAXTER, Examiner before whom the foregoing depositions were taken, do hereby certify that I was employed in assigning a day and taking the said depositions upon.....two.....days....., on.....both..... of which I was employed by the plaintiff....., and on.....none..... by the defendant.....

Wm C Baxter

.....

Examiner.

Fd. 27 May 1958 A-878 1957

ADDITIONAL TESTIMONY taken before WILLIAM C. BAXTER, Examiner Master, on Friday, May 16, 1958 at 3:30 P.M.

Present: LLOYD G. McALLISTER, ESQ. - Counsel for Plaintiff

THEREUPON -

CLEMENT R. MERCALDO

a witness of lawful age, produced on behalf of the Plaintiff, beint first duly sworn, deposeth and saith as follows, that is to say:

BY THE EXAMINER:

Q Mr. Mercaldo these proceedings provide for the appointment of a Trustee and generally in sales of real estate there is testimony as to value and in consequence we have, therefore, some idea as to the amount of bond which the Trustee should furnish. There being no testimony as to value, what in your opinion would be a proper bond for the Trustee to furnish.

2 A

Q It is my opinion that the value and the bond for the Trustee should be based upon the costs involved in the removal and relocation of the bodies and the markers and the grave stones and the re-interment of these bodies in another place of burial, as well as the relocation of the grave stones and markers. We have secured figures from morticians and the latest figure we have is approximately $18,000. However we hope to cut this figure down. I would say that an appropriate bond in this case would be anywhere between $15,000. and $20,000.

A-37485 (12) (11)

Q At the time of the hearing before me on April 24, 1958 there was testimony to the effect that within the past two months a single body was interred in the cemetary and I thought evidence would have been given by the grave digger or some other person as to the identity of that person. Do you have information as to that body's identity?

A We have attempted to get Mr. Edward Hamlet, who is a grave digger and who has on occasion dug graves in New Laurel Cemetary and although he has promised on numerous occasions to meet with he he has constantly given excuses for his not being present. I do feel however that his testimony is not necessary at this time. I have information to the effect that there was a body buried out there, not within the past couple of months, but in December, 1957 and his name is James Nichols. He was buried there December 31, 1957 and we have no address on him.



VIEW FROM INTERIOR OF CEMETERY LOOKING TOWARD HOMES ON SOUTH SIDE OF CEMETERY - (THIS LOT IS STILL MAINTAINED BY FAMILY)

11-878145 7

Ft. St. Vrain 1958

11-37485 (14)

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RECEIVED
JUN 12 1951
HOUSING DIVISION
BALTIMORE CITY HEALTH DEPT.

13

B-5

PLTF. EX
EXHIBIT NO. .....
FILED
WM. C. BAXTER
EXAMINER



INTERIOR OF CEMETERY LOOKING SOUTH SHOWING UNKEPT CONDITION OF GRAVES AND HIGH GROWTH OF VEGETATION

3

E-1

PLTF. EX.
EXHIBIT NO. 3
FILED
WM. C. BAXTER
EXAMINER



VIEW FROM INTERIOR OF CEMETERY SHOWING UNKEPT CONDITION OF GRAVES.

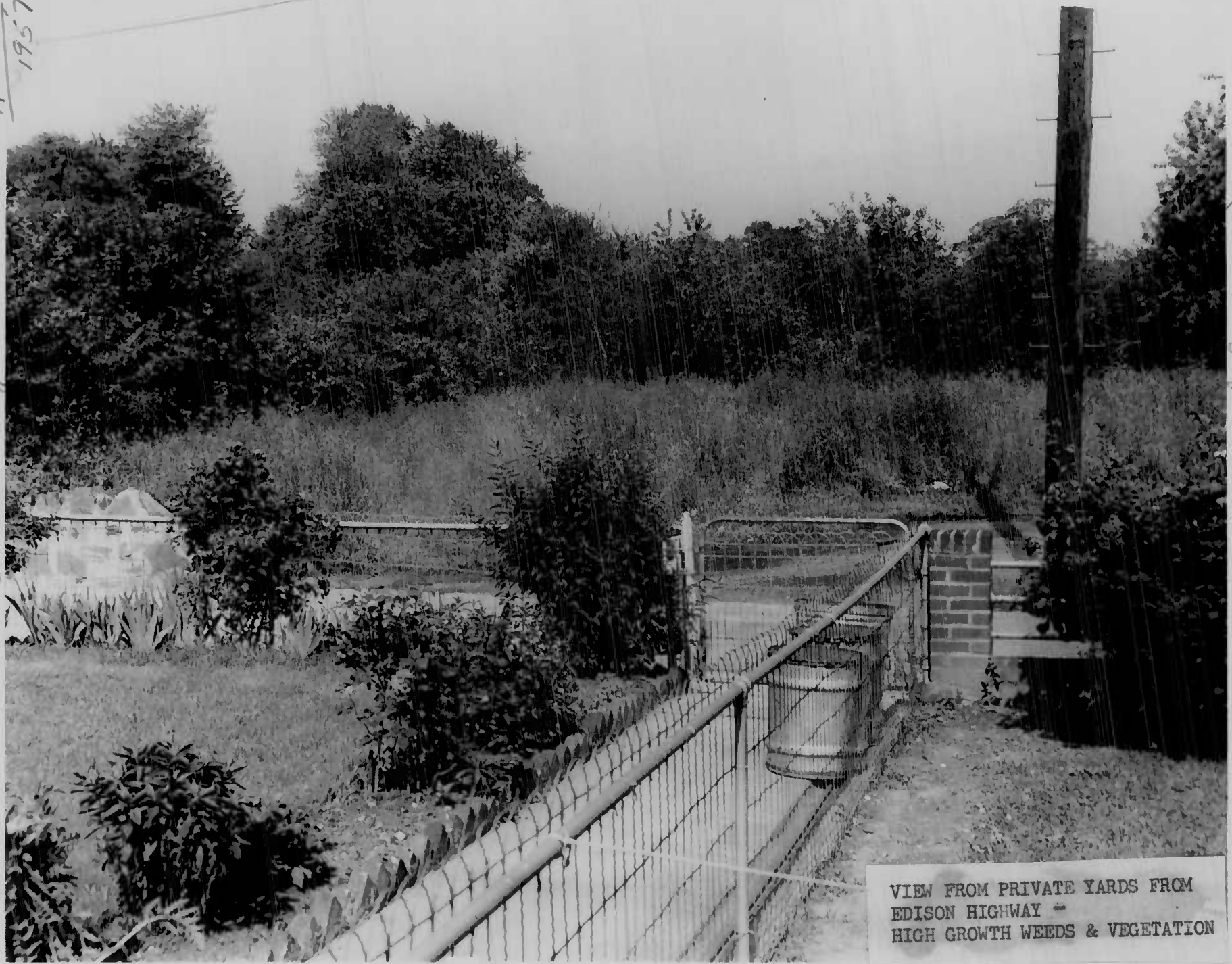
A-8781(195)

Ft. 32: May 1958.

32 A-37485 (16)

PLTF. EX. 4
EXHIBIT NO
FILED
WM. C. BAXTER
EXAMINER

A-878
1957



VIEW FROM PRIVATE YARDS FROM
EDISON HIGHWAY -
HIGH GROWTH WEEDS & VEGETATION

Ed. 27. Aug. 1958

33 11-37485(17)

5

PLTF. EX. ...
EXHIBIT NO. ...
FILED ...
WM. C. BAXTER
EXAMINER

A-12

RECEIVED
JUN 12 1951
HOUSING DIVISION
BALTIMORE CITY HEALTH DEP'T



Fig. 37 "Dept 1958 11-8-21-1957

34 11-5748-5(18)

PLTF. EX.
EXHIBIT NO. 6
FILED
WM. C. BAXTER
EXAMINER

D-278
1957



VIEW FROM SOUTH SIDE OF CEMETERY
LOOKING TOWARD EDISON HIGHWAY
SHOWING ABANDONED SECTION OF
CEMETERY HEAVY GROWTH OF UNDERBRUSH

A1.27: Gray 1958
35 11-374.85 (19)







PLTF. EX.
EXHIBIT NO. 7
FILED 7-28-72
WM. C. BAXTER
EXAMINER



INTERIOR OF CEMETERY SHOWING OPEN GRAVE AND VANDALISM

A-8281957
Sept. 27, 1958
36 A-37485 (20)

FILE EX.8
EXHIBIT NO .....
FILED
WM. C. BAXTER
EXAMINER



VIEW FROM CLIFTON PARK ACROSS BELAIR ROAD - HIGH GROWTH OF WEEDS AND UNDERBRUSH UP TO SIDEWALK

A-8181957

Fd. 21 May 1958

37 A-37485 (21)



PLTF. EX
EXHIBIT NO 9
FILED
4-28-78
WM. C. BAXTER
EXAMINER

A-878/75-7

Fd. 2.7. Stag. 12.8

A-3748 (2a)

38

EROSION OF EMBANKMENT ON
TO PUBLIC THOROUGHFARE

PLTF. EX.
EXHIBIT NO. 10
FILED
WM. C. BAXTER
EXAMINER

Ed. 27. May, 1958
D-878
1958

A-3748s (23)

39

View of interior looking from Belair Road towards Edison Highway

July 20, 1937

PLTF EX. 11
EXHIBIT NO
FILED
WM. C. BAXTER
EXAMINER

BLUE BIRD STUDIO
603½ E Idaho St. Idaho, Ida.
WE PHOTOGRAPH ANYTHING

11

A-37485 (24)

40

1957
A-878

Ft. Worth, May 1958

BLUE BIRD STUDIO
603½ E. Balto. St., Balto., Md.
WE PHOTOGRAPH ANYTHING

July 20, 1937

PLTF. EX.
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FILED
WM. C. BAXTER
EXAMINER

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A-37485 (25)

41

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1957

8581 Aug 1957 Z-d-27

BLUE BIRD STUDIO
603½ E. Balto. St., Balto., Md.
WE PHOTOGRAPH ANYTHING

July 20, 1937

PLTF. EX.
EXHIBIT NO 13
FILED
WM. C. BAXTER
EXAMINER


A-878
19ST
Fri. 27 May, 1938
A-3148
View from interior looking towards Cliftmont Avenue and Belair Road

(25)

July 20, 1937

PLTF. EX.
EXHIBIT NO. 14
FILED
WM. C. BAXTER
EXAMINER

BLUE BIRD STUDIO
603½ E. Balto. St., Balto., Md.
WE PHOTOGRAPH ANYTHING

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FROM REAR YARDS SOUTH SIDE OF CEMETERY

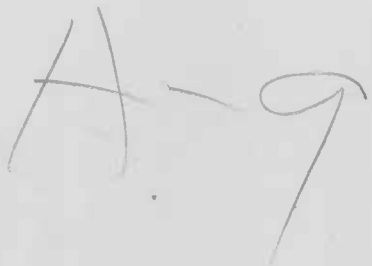
A-878/1957

Ltr. 2 May 1958

#3 A-374.85 (27)



A-9



PLTF. EX.
EXHIBIT NO. 14
FILED
WM. C. BAXTER
EXAMINER

15



Interior of Cemetery showing open grave and vandalism

PLTF. EX. 16
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WM. C. BAXTER
EXAMINER

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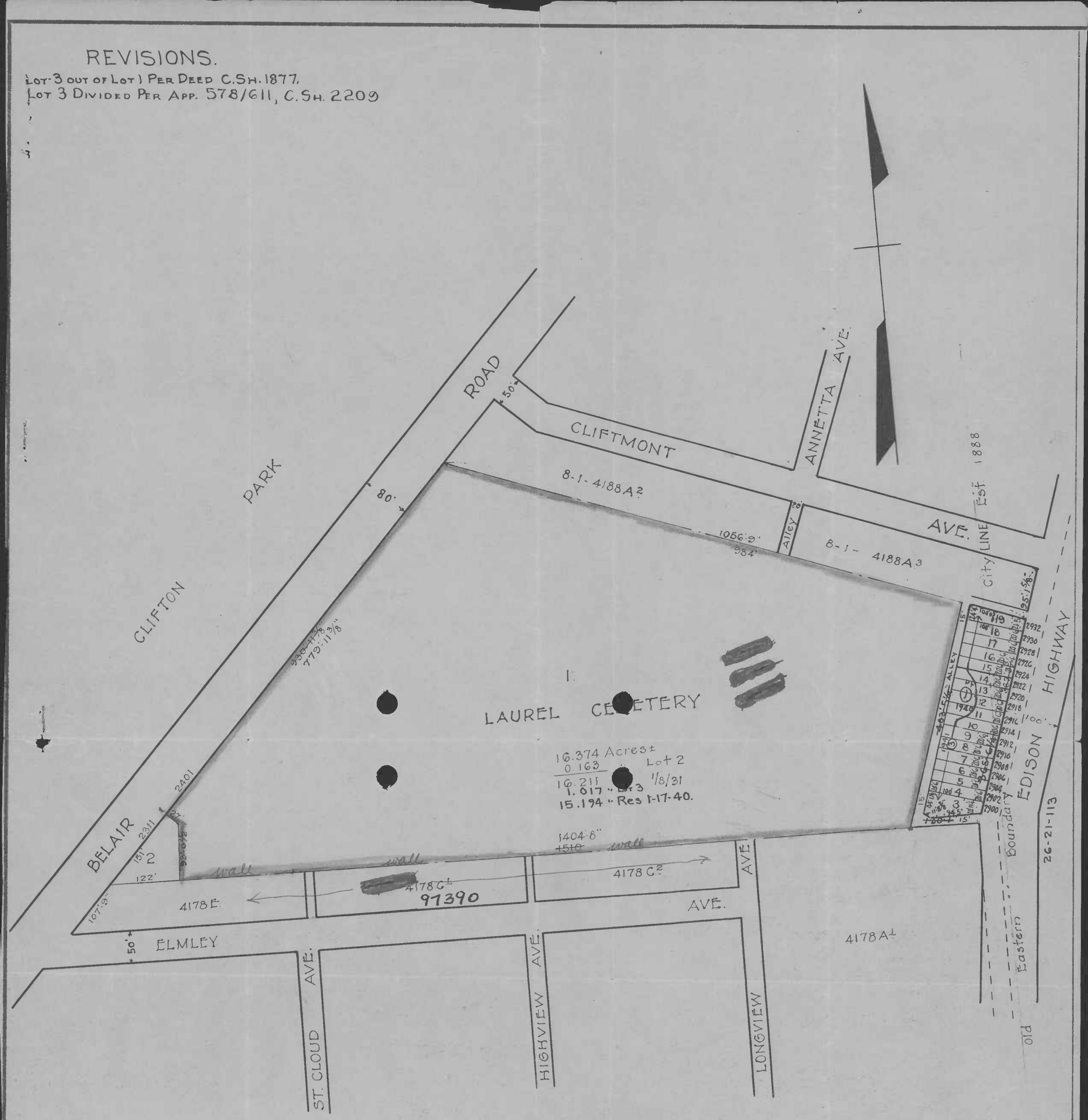
16

Ld. 27 May 1958

A-878
1957

REVISIONS.

Lot 3 out of Lot 1 Per Deed C.Sh. 1877.
Lot 3 Divided Per App. 578/611, C.Sh. 2209



NOTE ÷ BLOCK 8-1-4182 FOR 1944.

TRACED BY C.H. BAIN
LETTERED BY J.J. ROKOSKY
CHECKED BY

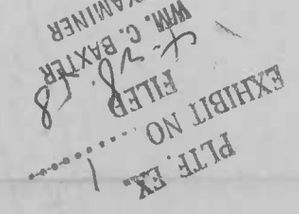
CITY OF BALTIMORE
DEPARTMENT OF PUBLIC WORKS
BUREAU OF PLANS & SURVEYS
PROPERTY LOCATION DIVISION

WARD 8 SECTION 25
BLOCK 4182
SCALE 1"=150' DATE APRIL 1938.

See original folder

Fd. 27 May 1958

A-878
1957



A-37485 (13)

(12)

11

No other witnesses being named or produced before me, I then at the request of the Solicitor....of the Plaintiff closed the depositions taken in said cause, and now return them closed under my hand and seal on this 16th day of May in the year of our Lord nineteen hundred and fifty eight, at the City of Baltimore, in the State of Maryland.

Wm C Baxter [SEAL]
Examiner.

There are no Exhibits with these depositions, to wit:

Plaintiff's Exhibit

Defendant's Exhibit

Wm C Baxter
Examiner.

I, WILLIAM C. BAXTER, Examiner before whom the foregoing depositions were taken, do hereby certify that I was employed in assigning a day and taking the said depositions upon two day[s], on both of which I was employed by the plaintiff....., and on none by the defendant.....

Wm C Baxter
Examiner.

Feb. 27, May 1958
June 22 - 1951



"OUR PLAYGROUND ALREADY"—Youngsters scamper through the weeds and around the half-visible slabs in Laurel Cemetery, which the City Council wants the Redevelopment Commission to buy and turn into a playground. Of the plan a youngster said "It's our playground already."

Overgrown Laurel Cemetery Found Playground Already

The Laurel Cemetery, which the City Council wants to see developed into a children's playground is for the most part a jungle of sunken headstones, partially obliterated graves and undergrowth.

Bounded by Belair road, Cliftmont avenue, Edison highway and Elmly avenue, the fifteen-acre tract—described as an "eyesore" by the Council resolution—presents an almost unbroken facade of riotous verdure.

Its only similarity to the conventional graveyard lies in an occasional half-visible slab and a headstone projecting here and there from the almost impenetrable network of bushes and vines.

Festoons Of Poison Ivy

The only road enters from the southwest corner behind a billboard advertising motor oil. It is of dirt, deeply rutted, winding and full of weeds.

The curious wayfarer, wending his way along this circuitous route soon loses all feeling of civilized contact. The ancient, grotesquely gnarled trees, the festoons of poison ivy, the insects buzzing in the bushes are all in the spirit of the forest primeval.

In fact the only urban touches can be found in a discarded tin can, a heel-ground wrapper or some other sort of trash, giving one a vague sense of having wandered by mistake into a city dump.

Upon this scene of desolation and decay suddenly descended yesterday afternoon the shrill, excited voices of the very young. They belonged to Pat Lorenzo, 3118 Sollers Point road; Thomas Doonan, 3312 Lyndale avenue, and Ronald Coleman, 3205 Elmley avenue.

All three of the boys were involved in a lively game of leapfrog around a majestic looking tombstone and admitted that they often used the cemetery as a place to play.

"What do you mean they're going to make this into a playground?" asked one. "It's our playground already."

"Mom Made Eight Pies"

As he spoke, another lad, very much in the character of Huckleberry Finn, meandered into view. A small blue pot dangled from one hand. He stopped from time to time to investigate a roadside bush, then passed on.

When asked what was in the pot, he replied: "Mulberries." And there were—practically a whole potful.

"I pick them here almost every afternoon," he related. "Last week I took home so many blueberries my mom made eight pies."

The young man, whose name was Mike Ogle, of 3226 Ravenwood avenue, said that mulberry bushes in the cemetery are not bushes any longer but trees. He said that sometimes as many as twenty children came to the cemetery to play and "cut down things with axes."

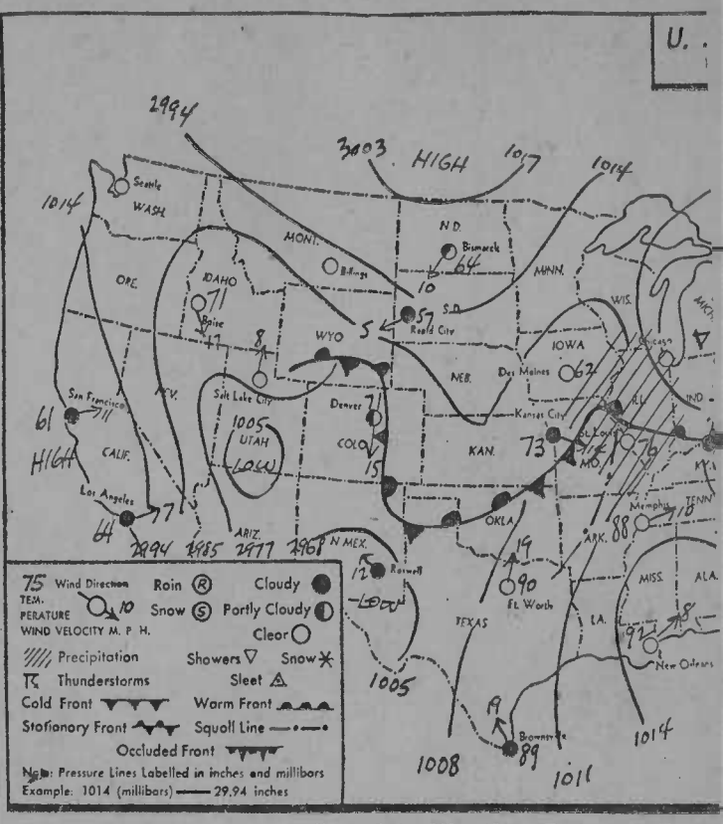
Maritime News

Arrived—June 21

)ETHORE, from Puerto de Hierro: to Steamship Service Corporation. At Sparrows Point.
JEW MARKET, from Houston: to Texas Transport and Terminal Company. At Shell Oil.
'VONNE (Swedish), from Santos: to Dichmann, Wright & Pugh, Inc. At Pier 1, Canton R.R
ERNHARD INGELSSON (Swedish), from Philadelphia: to the Cottman Company. At Pier 3, Canton P.R.R.
.NTA OLIVIA, from Boston: to the Cottmann Company. At Pier 5, Canton R.R
RGINIA (Swedish), from New York: to Robert C. Herd & Co., Inc. At Pier 10, Canton R.R.
TY OF LUCKNOW (British), from Philadelphia: to Norton, Lilly & Co. At Pier 8, Port Covington.
.VATSKA (Y.S.), from Philadelphia: to Furness, Wtihy & Co., Ltd. Docks Curtis Bay Coal Pier.
3ORGE S. BOUTWELL, from Narvik: to Ramsay, Scarlett Company, Inc. Docks Sparrows Point.
A BAKKE (Norwegian), from Norfolk: to Robert C. Herd & Co., Inc. At Pier 5, Port Covington.
RSTEN (Danish), from Philadelphia: to Penn-Maryland Steamship Corporation. At Pier 1, Canton R.R.
HAMBANE (Portuguese), from Lisbon: to Dichmann, Wright & Pugh., Inc. At Pier 3, Canton R.R
AVMANN (Norwegian), from Norfolk: to Ramsay, Scartlett Company, Inc. At Pier 6, Locust Point.
A GRANDE HERMINE (Canadian), from Wilmington, N.C.: to Ramsay, Scarlett Company, Inc At Pier 5, Pratt street.
EIRULV (Norwegian), from Savannah: to Dichmann, Wright & Pugh, Inc. Docks Curtis Bay Coal Pier.
DOLF VINNEN (German), from New York: to Dichmann, Wright & Pugh, Inc. At Pier 3, Locust Point.

Sailed—June 20

.EERDAM (Dutch), for Norfolk.
EAN (Panamanian), for Norfolk.
4ORMACPORT, for New York.
.MSTELPARK (Dutch), for Newport News.
'JORD (Swedish), for Newport News.
'RIEN MAERSK (Danish), for Philadelphia.



Complete Weather Data on Page

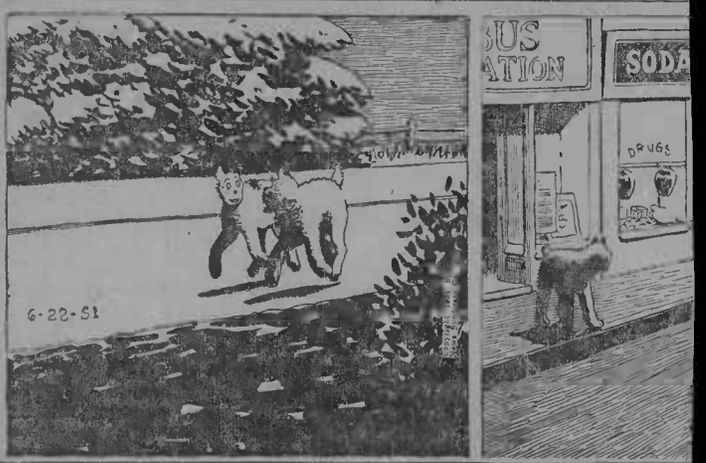
LI'L ABNER



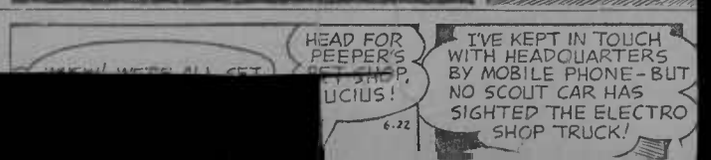
TERRY



ORPHAN ANNIE



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SUBMISSION FOR DECREE

Fd 27 May 1958

A 878
1957

McKAMER REALTY COMPANY
a corporation of the State of Md

vs.

ANDERSON ENTERPRISES, INC.
EDWARD A. ANDERSON, President
McCARTNEY SORRELL, JACOB OWINGS,
ROBERT WILSON, DURIOUS STOKES,
ET AL

IN THE

CIRCUIT COURT

OF

BALTIMORE CITY

To the Honorable

.....
Judge of said Court

The above cause is respectfully submitted for decree and the 41st General Equity Rule is hereby waived.

.....
.....
Lloyd G. Gilmor
.....
Clement K. Mercalb
Solicitor for Plaintiff,

.....
.....
.....
.....
.....
Samuel J. Canton
Solicitor for Defendant.

(19)

A-37485 (30)

Fd. 27 May 1958

McKAMER REALTY COMPANY a corporation of the State of Md.	*	IN THE
	*	CIRCUIT COURT
vs.	*	OF
ANDERSON ENTERPRISES, INC. EDWARD A. ANDERSON, President, McCARTNEY SORRELL JACOB OWINGS, ROBERT WILSON, DURIOUS STOKES, et al	*	BALTIMORE CITY
	*	(A-37485 - A878/57)
	*	

REPORT OF EXAMINER-MASTER

The Bill of Complaint filed by the McKamer Realty Company, a corporation of the State of Maryland against the Anderson Enterprises, Inc., Edward A. Anderson, President, and McCartney Sorrell, Jacob Owings, Robert Wilson, Durious Stokes, et al, for the purpose of selling a cemetery where all or more than 75% of its acreage has been abandoned and where said cemetery lies within the boundary limits of Baltimore City and for the appointment of a Trustee to carry out such sale. Art. 16, Sec. 124-A.

Proof shows that an order of Publication was directed to the following Defendants: McCartney Sorrell, Jacob Owings, Robert Wilson, Durious Stokes, William T. Hopkins, Theodore B. Brown, Elizabeth B. Chambers, Warner T. McGwinn, Anna M. Dutton, Mary L. Oliver, James Diven and Mrs. George W. Bowser, none of whose addresses was known to the Plaintiff corporation and any unknown parties in interest.

Proof shows that an Answer was filed in the proceedings on behalf of Anderson Enterprises, Inc. and Edward A. Anderson, President, and a decree pro confesso was passed as to the other Defendants on April 14, 1958 following which testimony was taken before me on April 24, 1958.

The sworn testimony produced by the Plaintiff to substantiate the allegations in the Bill of Complaint was given by Clement R. Mercaldo, Officer Carroll Dent of the Baltimore City Police Dept., Lt. Brayden O'Mailey of the Baltimore City Fire Dept., George O. Motry, Chief of the Division of Community

(30)

A-37485 (31)

Sanitation of Baltimore City, C. Hurley Cox, an attorney at law, representing the Belair Road Edison Improvement Association, wherein the cemetery lies, Edward A. Anderson, one of the Defendants, and an owner of certain lots within the cemetery and John G. Kaufman, a realtor, who at one time owned the cemetery by ownership of its stock, the New Laurel Cemetery, Inc.

Proof shows convincingly that the cemetery has been abandoned and that the owners of lots therein with the obligation to maintain said lots in good order have failed to do so, and without obligation on the part of the Plaintiff to maintain said lots in good order, that the health, safety and welfare of the citizens of Baltimore and particularly those living in the immediate vicinity of said cemetery is affected thereby. In addition to these conditions the testimony of the Baltimore City policeman was to the effect that because of high grass and underbrush, certain other fallen markers and tomb stones and other obstacles, that that section provides a haven for people with criminal intent and an incident was related as to an actual happening of an attack. The fireman witness, to particularize his testimony, said that the conditions prevailing were hazardous in that they, on the average of two or three times every summer, are called to the cemetery to put out brush fires.

Following the testimony of these witnesses I personally went to the cemetery and I agree with the witnesses and their statements in that it is in a deplorable state of condition, that it has been abandoned and that it would be for the best interest of the public and persons living within the vicinity, as well as the owners of all lots and areas of land within said cemetery that the same be sold.

Proof shows that title to this cemetery was acquired

by the Plaintiff by a Deed dated June 27, 1957 by and between H. Carl Butler of Baltimore City, State of Maryland, a Trustee in bankruptcy and the Plaintiff corporation, said Deed being recorded in the Land Records of Baltimore City, Liber, J.F.C. 185, folio 385.

The Act provides that in the sale of cemeteries under the Section of the Code above referred to, for the removal of any and all bodies with reasonable care that can be definitely located and identified in a cemetery and for the reinterment of said bodies in another cemetery or burial ground or other appropriate place of sepulcher and for the removal of any monuments or markers on the lots in the cemetery or burial ground that has been and is being maintained in good order and condition, not damaged and in good condition and relocate it on a new lot or lots purchased by the Trustee in another cemetery, burial ground or other appropriate place of sepulcher and for the removal of monuments or markers located in said cemetery or burial ground which are not damaged, but are in good condition which can be definitely identified with a body or bodies, who is or are removed from said cemetery or burial ground and for the re-erection of such monuments or markers at the new lot.

Proof shows further that while the cemetery has unquestionably been abandoned that there was on December 31, 1957 a body interred there which has since been identified as having been James R. Nicholas and that an effort was made to have the grave digger who interred this body testify in these proceedings, but all efforts have been to no avail and that body will be removed along with all other identifiable bodies which with reasonable care can be removed as provided by said Act.

Counsel for the Plaintiff has suggested and recommended that the Trustee furnish a corporate bond in the penalty of

$18,000. to be approved by the Clerk of this Court.

Proof shows that all known as well as unknown parties having any interest in this matter or in the proceedings have been made either parties Complainant or Defendant.

The allegations in the Bill of Complaint, in my opinion, are substantially proved and it is my recommendation that the relief prayed in the Bill of Complaint be granted and that a Trustee be appointed to make the sale.

Case ready for Decree 6-9-58

W. C. Baker

Examiner-Master

Fld. 10th June 1958

McKAMER REALTY COMPANY a corporation of the State of Md.	*	IN THE
vs.	*	CIRCUIT COURT
ANDERSON ENTERPRISES, INC. EDWARD A. ANDERSON, President, McCARTNEY SORRELL JACOB OWINGS, ROBERT WILSON DURIOUS STOKES, et al	*	OF BALTIMORE CITY (A-37485 - A-878/57)

D E C R E E

THE ABOVE CAUSE, standing ready for hearing and being submitted, the proceedings were, by the Court, read and considered,

IT IS THEREUPON, this 10th day of June, 1958, by the CIRCUIT COURT of BALTIMORE CITY, ADJUDGED, ORDERED and DECREED that the fee simple property situate in Baltimore City, known as the Laurel Cemetery, containing fifteen acres, more or less, mentioned and described in these proceedings, be sold, that Edward A. Anderson be and he is hereby appointed Trustee to make said sale, and the course and manner of his proceedings shall be as follows: He shall first file with the Clerk of this Court, a bond to the State of Maryland, executed by himself; and a surety or sureties to be approved by this Court in the penalty of $18,000. conditional for the faithful performance of the trust reposed in him by this decree or to be reposed in him by any future decree or order in the premises, he shall then before any sale is made hereunder enter into a binding contract, subject, however, to a sale of the property described in these proceedings and final ratification thereof, with a reliable licensed undertaker for the removal of any and all bodies with reasonable care that can be definitely located in said Cemetery or burial ground, and for the reinterment of said bodies in anothercemetery, or burial ground, or other appropriate place of sepulcher and for the removal of any monuments or markers on said lot in said cemetery or burial ground that has been and is being maintained in good order and condition, not damaged and in good condition and relocate it on a new lot or lots purchased by the Trustee in another cemetery, burial ground or other appropriate place of sepulcher, and for the removal of monuments or markers located in

A-37485 (32)

said cemetery or burial ground which are not damaged, but are in good condition which can be definitely identified with a body or bodies which is or are removed from such cemetery or burial ground as hereinabove provided and for the re-erection of such monuments or markers at the new lot, he shall then proceed to sell said property at either public or private sale, and, if at public sale, said Trustee shall give at least three weeks' notice by advertising inserted in such daily newspaper or papers published in Baltimore City as he shall think proper, of the time, place manner and terms of sale, which shall be cash upon ratification of sale by this Court, or said Trustee may report to this Court for approval any offer or offers which he may receive at private sale, which to him may seem reasonable and for not less than the combined costs of the removal and reinterment of all bodies and the removal and relocation of all monuments and markers and the costs of new lots in another cemetery or burial ground or other appropriate place of sepulcher purchased by the Trustee, including Court costs, reasonable counsel fees approved by this Court and Trustee's commissions to the Trustee as this Court shall think proper to allow in consideration of the skill, attention and fidelity wherewith he shall appear to have discharged this trust, and as soon as may be convenient after such sale, the said Trustee shall return to this Court a full and particular account of his proceedings relative to such sale, with an annexed affidavit of the truth thereof, and of the fairness of said sale; and on obtaining the Court's ratification of any such sale, and on payment of the whole purchase money (and not before), the said Trustee shall, by good and sufficient Deed, to be executed, acknowledged and recorded according to law, convey in fee simple to the purchaser or purchasers, his, her or their heirs, the property and estate to him, her or them sold, free clear and discharged from all claims of the parties hereto Complainants

and Defendants and those claiming by, from or under them or either of them, and the said Trustee shall bring into this Court the money arising from said sale, to be distributed under the direction of this Court, after deducting the costs of this suit, and such commissions to the Trustee and reasonable counsel fees as this Court shall think proper and the costs of removing said bodies and monuments and markers in another cemetery, burial ground or other appropriate place of sepulcher.

Joseph Carter
JUDGE

The above is a proper Decree
to be passed in this case

W. E. Baskerville
Examiner-Master

(CIRCUIT COURT)

FOR TRUSTEES APPROVED BOND

SEE BOND BOOK NO. 63 FOLIO 319

A No. 37485

(33)

FILED 8th July 1958

(32)

Fld. 17th July 1958

McKAMER REALTY COMPANY,	:	
Plaintiff	:	IN THE
	:	
vs.	:	CIRCUIT COURT
	:	
ANDERSON ENTERPRISES, INC., et al.	:	OF
Defendants	:	
	:	BALTIMORE CITY
	:	1957-878

REPORT OF SALE

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Report of Sale of Edward A. Anderson, Trustee appointed by the decree in the above entitled cause, to make sale of tract of land in the proceedings in said cause mentioned, respectfully shows, that after giving bond with security for the faithful discharge of the trust as prescribed by said decree, which was duly approved and after complying with the other prerequisites of said decree, including the entering into of a binding contract with a reliable licensed undertaker, as per the original thereof, filed herewith as Trustee's Exhibit No. 1, and by purchasing a parcel of land in Johnsville, Freedom District, Carroll County, Maryland, near Eldersberg, for a new burial ground, has sold at private sale to the Belair Road Enterprises, Inc. said tract of land known as the Laurel Cemetery, containing fifteen (15) acres of land, more or less, described in said proceedings in accordance with the terms of a Contract of Sale between the Trustee and said Corporation, dated July 14, 1958, the original thereof being filed herewith as Trustee's Exhibit No. 2, which sale the Trustee believes to be to the advantage, interest and benefit of all parties to said proceedings.

Edward A. Anderson, Trustee

(33)

A-37485 (34)

STATE OF MARYLAND:

to wit:

CITY OF BALTIMORE:

I HEREBY CERTIFY, That on this 17th day of July, 1958, before me, the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, personally appeared EDWARD A. ANDERSON, Trustee, and he made oath that the facts stated in the aforegoing Report of Sale are true, as therein set forth, and that the sale thereby reported was fairly made.

WITNESS my hand and Notarial Seal.

Jerome H. Levy

NOTARY PUBLIC

Trustee's Exhibit No. 1

Fd. 17 July 1958

A 878
1958

THIS CONTRACT, Made this 11th day of July, 1958, by and between ELLSWORTH ARMACOST of Baltimore City, State of Maryland, a licensed undertaker of the State of Maryland, operating the Ellsworth Armacost Funeral Chapel at 4600 Liberty Heights Avenue, Baltimore City, party of the first part; and EDWARD A. ANDERSON of Baltimore City, State of Maryland, Trustee appointed by a Decree of the Circuit Court of Baltimore City, passed on the 10th day of June, 1958, in the cause therein pending, entitled "McKamer Realty Company vs. Anderson Enterprises, Inc., et al." party of the second part.

WHEREAS, By a Decree of the Circuit Court of Baltimore City passed, as aforesaid, the said EDWARD A. ANDERSON was appointed Trustee to make sale of the fee simple property situate in Baltimore City, known as the "Laurel Cemetery," containing 15 acres of land, more or less, more particularly described in said proceedings; and

WHEREAS, The said Trustee has filed with the Clerk of said Court a bond to the State of Maryland, in the penalty of Eighteen Thousand Dollars ($18,000.00); and

WHEREAS, Said Decree further provides that the Trustee before any sale is made of the land comprising the Laurel Cemetery enter into a binding contract, subject, however, to a sale of the property described in the proceedings and final ratification thereof, with a reliable licensed undertaker to perform the work in respect to the removal and reinterment of bodies and the removal and relocation of monuments and markers as more fully set out in said Decree; and

WHEREAS, The said Trustee, after negotiations with various undertakers for the purpose of procuring the best price obtainable and for the selection of a reliable licensed undertaker has entered into this Contract with the party of the first part after being satisfied as to his reliability and the bid price as being fair and reasonable for the work to be performed.

NOW, THEREFORE, THIS CONTRACT WITNESSETH, That for and in consideration of the sum of Fifteen Thousand and Five Hundred Dollars ($15,500.00) to be paid in installments by the said Trustee to the party of the first part as the work hereinafter stated to be performed progresses and final payment made upon the satisfactory performance and completion of all of the work required to be done

(34)

57

A-37485 (35)

under the terms of said Decree, the party of the second part agrees with the Trustee to perform and fully complete within 60 days from the date of the Court's ratification of the sale of the land comprising the Laurel Cemetery to remove all bodies with reasonable care that can be definitely located in said Laurel Cemetery or burial ground, and to reinter said bodies in the burial ground purchased and established by the Trustee at Johnsville in the Freedom District of Carroll County, Maryland, adjacent to the Johnsville Public School property, situated on the north side of Barthalow Road, containing three (3) acres of land and to remove all monuments or markers on said Laurel Cemetery that have been and are being maintained in good order and condition, not damaged and in good condition and relocate on a new lot or lots in the burial ground pruchased by the Trustee aforesaid and to remove all monuments or markers located in said Laurel Cemetery which are not damaged, but are in good condition which can be definitely identified with a body or bodies who is or are removed from said Laurel Cemetery as provided by said Decree and to re-erect said monuments or markers at the new lot or lots in the burial ground purchased aforesaid.

The party of the first part agrees to perform all of the work in respect to the removal and reinterment of the aforementioned bodies and the removal and relocation of said monuments and stones in full compliance with the terms and provisions of the aforementioned Decree of the Circuit Court of Baltimore City.

The party of the second part covenants and agrees to begin the work promptly after the sale of the aforementioned property has been ratified and becomes final.

IN WITNESS WHEREOF the parties hereto have caused these presents to be executed the day and year aforesaid.

WITNESS:

Harry P. Ford

Ellsworth Armacost (SEAL)
ELLSWORTH ARMACOST

Mildred M. Bailor

Edward A. Anderson (SEAL)
EDWARD A. ANDERSON
Trustee appointed by a Decree of the
Circuit Court of Baltimore City

CONTRACT

by and between

ELLSWORTH ARMACOST

and

EDWARD A. ANDERSON,

Trustee

Trustee's Exhibit No.2

Fd. 17 July 1958

A-878
1957

THIS AGREEMENT OF SALE, Made this 14th day of July, 1958, between EDWARD A. ANDERSON, Trustee in the proceedings now pending in the Circuit Court of Baltimore City in the matter of the McKamer Realty Company vs. Anderson Enterprises, Inc., et al., Seller, and BELAIR ROAD ENTERPRISES, INC., a body corporate of the State of Maryland, Buyer.

WITNESSETH, That the said Seller doth hereby bargain and sell unto the said Buyer, and the latter does hereby purchase from the former the following described property situtate and lying in Baltimore City, Maryland, on the southeast side of the Belair Road, containing 15 acres of land, more or less, known as the Laurel Cemetery, bounded on the north by the first alley south of Cliftmont Avenue, on the east by the first alley west of Edison Highway, on the south by the first alley north of Elmley Avenue and on the west by the southeast side of Belair Road, being more particularly described in said proceedings at and for the price of Fifteen Thousand Five Hundred Dollars ($15,500.00), representing the contract price to remove the bodies, monuments and markers and reinterr the bodies and relocate the monuments and markers at the new burial ground, and in addition thereto, to pay the costs of the land for the new burial ground and the establishment of the same; and also to pay all Court Costs, counsel fees, and Trustee's commissions; of which $1,550.00 has been paid prior to the signing hereof, and the balance to be paid upon the final ratification by the Circuit Court of Baltimore City in said proceedings of said sale.

The property herein described is sold in fee simple, free, clear and discharged from all claims of the parties to said proceedings, both Complainants and Defendants, and those claiming by, from or under them or either of them, and free, clear and forever discharged from all burial rights, privileges, claims, grants, certificates of burial

(35)

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A-37485 (36)

in and to said property known as Laurel Cemetery.

IT BEING UNDERSTOOD, however, that possession is not to be given to the purchaser until all of the bodies have been removed and reinterred and all monuments and markers have been removed and relocated to and in the burial ground purchased by the Trustee at Johnsville in Freedom District, Carroll County, Maryland, in compliance with the decree by the Circuit Court of Baltimore City, passed on the 10th day of June, 1958.

AND upon payment as above provided of the unpaid purchase money, a deed for the property shall be executed by the Trustee at the Buyer's expense, which shall convey the property to the Buyer. Title to be good and merchantable, free of liens and encumbrances except as specified herein and except: publicly recorded easements for public utilities. The herein described property is to be held at the risk of the Seller until legal title has passed or possession given.

Taxes, if any, and all other public charges against the premises shall be apportioned as of date of settlement.

This Contract contains the final and entire Agreement between the parties hereto, and neither they nor their Agents shall be bound by any terms, conditions or representations not herein written. Cost of all documentary stamps required by law shall be divided equally between the parties hereto.

This Contract is entered into subject to its approval and ratification by the Circuit Court of Baltimore City.

WITNESS the hands and seals of the parties hereto theday and year first above written.

Edward A. Anderson (SEAL)
Edward A. Anderson, Trustee

Witness as to Both:

Donald L Steel

Belair Road Enterprises, Inc.

By: Benjamin J. Martin
Benjamin J. Martin, President

Fld. 17th July 1958

ORDER NISI ON REPORT OF SALES

McKAMER REALTY COMPANY

vs.

ANDERSON ENTERPRISES, INC.,
ET AL

IN THE

CIRCUIT COURT

—OF—

BALTIMORE CITY

A 878/1957

ORDERED, by the Circuit Court of Baltimore City this 17th day of July, 1958, that the Private Sale of the property mentioned in these proceedings, made and reported by Edward A. Anderson

Trustee,

be **RATIFIED AND CONFIRMED,** unless cause to the contrary thereof be shown on or before the 18th day of August, 1958. Provided, a copy of this order be inserted in some daily newspaper printed in Baltimore City, once in each of three successive weeks, before the 11th day of August, 1958.

The Report states the amount of ~~private~~ sale to be $xxxxxxxxxxx

The amount of private sale being set forth in the Contract of Sale filed herein.

True Copy.

Test *Clerk.*

A-37485 (37) (36)

Fld. 31 July 1958 Copy A 2.25

McKAMER REALTY COMPANY Plaintiff	*	IN THE
vs.	*	CIRCUIT COURT
ANDERSON ENTERPRISES, INC., et al. Defendants	*	OF
	*	BALTIMORE CITY

* * * * * * * * * * * * * * * 97-A-878

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Petition of Edward A. Anderson, Trustee, appointed by this Honorable Court in the above-entitled cause represents unto your Honor:

1. That he has complied with the pre-requisites of the decree passed in this cause on June 10, 1958, including the giving of bond with security for the faithful discharge of the trust reposed in him as prescribed by said decree.

2. That the Trustee heretofore reported to this Honorable Court on July 17, 1958 the sale of the property described in these proceedings, comprising the Laurel Cemetery, located on the southeast side of the Belair Road, said sale having been made to the Belair Road Enterprises, Inc.

3. That a nisi Order is now running on said sale which will expire on August 18, 1958.

4. That the Trustee has purchased a tract of land as set forth in the report of sale at Johnsville, Freedom District, Carroll County, Maryland, containing three acres for the reinterment of the bodies and the relocation of the monuments and stones from the Laurel Cemetery, as more fully set forth in said report of sale.

5. By the aforementioned decree of this Court, the said Laurel Cemetery was decreed to have been abandoned and a sale of the entire cemetery was authorized, and your Petitioner was appointed Trustee to make a sale of said property with the obligation upon him to enter into a contract for the removal of the aforementioned bodies and stones and monuments.

A-37485 (38)

6. That it is possible that applications will be made to the Trustee and to the Health Department of Baltimore City for new burials in the present Laurel Cemetery pending the final ratification of said sale, the removal of the bodies, stones and markers required to be removed by said decree to the end that the complete abandonment of said cemetery will be handicapped by possible applications for new burials therein, and your Petitioner believes and hereby charges that it will be to the benefit and interest of all persons concerned that no further burials be permitted in the present Laurel Cemetery, and that any and all applications received in the future by the Trustee and the Baltimore City Health Department be refused provided all future applicants holding legal certificates and privileges to bury in the Laurel Cemetery be permitted to exercise the same burial rights in the new cemetery grounds purchased by the Trustee in Carroll County for this purpose.

WHEREFORE your Petitioner prays this Honorable Court to pass its Order restricting the issuance of any further permits for burials in the present Laurel Cemetery provided all future applicants holding legal certificates and privileges to bury in the Laurel Cemetery be permitted to exercise the same burial rights in the new cemetery grounds located in Carroll County, Maryland, aforesaid.

AND, as in duty bound, etc.

Edward A. Anderson
EDWARD A. ANDERSON, Trustee

Lloyd G. McAllister
LLOYD G. McALLISTER, Attorney

Clement R. Mercaldo
CLEMENT R. MERCALDO, Attorney

STATE OF MARYLAND:

TO WIT:

CITY OF BALTIMORE:

I HEREBY CERTIFY, That on this 31st day of July, 1958, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City aforesaid, personally appeared EDWARD A. ANDERSON, TRUSTEE, and he made oath in due form of law that the matters and facts in the foregoing Petition are true to the best of his knowledge, information and belief.

WITNESS my hand and notarial seal.

Jerome H. Levy
Notary Public

McKAMER REALTY COMPANY	:	IN THE
Plaintiff	:	CIRCUIT COURT OF
vs.	:	BALTIMORE CITY
ANDERSON ENTERPRISES, INC., et al.	:	
Defendants	:	

: :

O R D E R

Upon the aforegoing Petition and Affidavit, it is, this 31st day of July, 1958, by the Circuit Court of Baltimore City, O R D E R E D, that no further permits be issued for burials in the present Laurel Cemetery provided that all future applicants holding legal certificates and privileges to bury in the Laurel Cemetery be permitted to exercise the same burial rights in the cemetery grounds purchased by the Trustee in Carroll County for this purpose.

Edwin Harlan
Judge

Fld. 18th August 1958

McKAMER REALTY COMPANY		
Plaintiff		IN THE
		CIRCUIT COURT
VS.		
		OF
ANDERSON ENTERPRISES, INC., ET AL		BALTIMORE CITY
		97A-878
Defendants		

- - - - - - - - - - - - - - -

EXCEPTION TO RATIFICATION OF SALE

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Belair Road Enterprises, Inc., the purchaser of the property in fee simple, described in these proceedings and reported to this Honorable Court on the 17th day of July, 1958, by Edward A. Anderson, Trustee, excepts to the ratification of said sale, and for causes of its exceptions says:

1. That all of the necessary parties having an interest and rights in and to the property referred to in these proceedings and described in the report of sale are not made parties to said proceedings.

2. The provisions of the Act of 1868, Chapter 211 (Art. 16 Section 124) as amended by the provisions of Chapter 630 of the Acts of 1957, General Assembly of Maryland, under which these proceedings are brought, are unconstitutional in that they violate the provisions of Article 23 of the Maryland Constitution.

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A-37485(39)

3. And for other good and sufficient reasons to be assigned and shown at the hearing on the above exceptions.

THE BELAIR ROAD ENTERPRISES, INC.

By Benjamin J. Martin President
Benjamin J. Martin
Petitioner (Exceptant)

H. Lee Allers, Jr.

H. Lee Allers, Jr., Attorney
for Petitioner (Exceptant)
38 Equitable Building
Baltimore 2, Maryland
Mulberry 5-0443

I hereby certify Copy sent this 18 Day of August 1958 to Edward A Anderson, Trustee, 2326 Belair Rd.

H. Lee Allers Jr.

THE DAILY RECORD
(Certificate of Publication)

A-878
1957

Fld 19 August 1958

Baltimore, Md., August 1, 1958

We hereby certify that the annexed advertisement of Order Nisi Circuit Court of Baltimore City,

Case Of

McKamer Realty Co.

vs. Anderson Enterprises, Inc., et al

was published in THE DAILY RECORD, a daily newspaper published in the City of Baltimore, once in each of three successive weeks before the 11th day of August, 1958.

First insertion July 18, 1958

THE DAILY RECORD

Per J. H. McGowan

Lloyd G. McAllister, Solicitor, Court House.

Clement R. Mercaldo, Solicitor, Equitable Building.

IN THE CIRCUIT COURT OF BALTIMORE CITY — (A—878—1957)—McKamer Realty Company vs. Anderson Enterprises, Inc., et al.

Ordered, by the Circuit Court of Baltimore City this 17th day of July, 1958, that the private sale of the property mentioned in these proceedings, made and reported by EDWARD A. ANDERSON, trustee, be ratified and confirmed, unless cause to the contrary thereof be shown on or before the 18th day of August, 1958; provided, a copy of this order be inserted in some daily newspaper, printed in Baltimore City, once in each of three successive weeks, before the 11th day of August, 1958.

The amount of private sale being set forth in the contract of sale filed herein.

S. RALPH WARNKEN.

True Copy—Test:
HENRY J. RIPPERGER,
Clerk.

jy18,25,au1

Aug 18

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A-37485 (40)

Fld. 2nd September 1958

MOTION FOR HEARING

McKamey Realty Company

vs.

Anderson Enterprises, Inc. et al.

IN THE

CIRCUIT COURT

—OF—

BALTIMORE CITY

9764 -878

The Complainant by C. K. Mercader

Solicitor, applies to have the above entitled cause placed on the Trial Calendar for hearing Exception to ratification of Sale.

in conformity with the First Equity Rule.

Clement K. Mercader

Solicitor for Complainant

A-37485 (41)

Sloyd G. McAllister

Clement R. Mercaldo

Samuel J. Dantoni

H. Lee Allen, Jr.

NOTICE OF HEARING

Fd. 2" Sept., 1958

McKAMER REALTY COMPANY

vs.

ANDERSON ENTERPRISES, INC., ETAL

IN THE

CIRCUIT COURT

—OF—

BALTIMORE CITY

A 878/1957

Upon application made by the Solicitor for the Complainant (by C. R. Mercaldo, Solicitor)

the above entitled cause has been placed upon the Trial Calendar in accordance with the provisions of the First Equity Rule, and the same will stand for hearing on Exceptions to ratification of sale

when reached in due course on the said calendar.

HENRY J. RIPPERGER,

Clerk Circuit Court

A-37485 (42)

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408-9 Munsey Bldg.
502 Fourth Nat'l Bldg.
1830 N. Calvert St.
38 Equitable Bldg.

SERVE ON:
Samuel J. Dantoni, Esq.
H. Lee Allers, Jr., Esq.

RECEIVED
SHERIFF'S OFFICE
SEP 2 3 52 PM '58
BALTIMORE CITY, MD.

A 878, 1957

MC

Notice
Pr

2V

Copy of the within Notice served on Samuel J. Dantoni, and H. Lee Allers, Solicitors, on the 10th day of September 1958 in the presence of Albert F. Kerns.

Joseph C. Deegan
Sheriff

Fs $2.00

Fld. 10th September 1958

Supreme Bench
of
Baltimore City

9 878/1957

JOSEPH L. CARTER
JUDGE

BALTIMORE 2, MARYLAND

September 10, 1958

Messrs:
Lloyd G. McAllister
Clement R. Mercaldo
Samuel J. Dantoni

RE: McKAMER REALTY COMPANY, etc. -VS.-
ANDERSON ENTERPRISES, INC., et al

Gentlemen:

The above case was heard on September 8, 1958, on exceptions to the ratification of sale.

I have examined the proceedings and have considered the memorandum of Messrs. McAllister and Mercaldo, filed on behalf of the Trustee. In my opinion, the exceptions must be overruled, and I shall sign an appropriate Order upon presentation dismissing the exceptions heretofore filed ratifying said sale.

I am not filing a formal opinion in this case but have filed the brief submitted by Messrs. McAllister and Mercaldo, hereby adopting the reasoning and conclusions therein set forth.

Very truly yours,

Joseph L. Carter

JLC:EJH

A-37485 (43) 39

McKAMER REALTY COMPANY a corporation of the State of Maryland	:	IN THE
	:	CIRCUIT COURT
vs.	:	OF
ANDERSON ENTERPRISES, INC., et al.	:	BALTIMORE CITY
	:	A-37485
	:	A-878/57

: : : : : : : : : : : : : :

MEMORANDUM ON BEHALF OF THE TRUSTEE IN SUPPORT OF THE VALIDITY OF THE PROCEEDINGS AND SALE OF THE PROPERTY THEREUNDER.

This case concerns the sale of an old abandoned cemetery, known as Laurel Cemetery, and the removal of bodies and stones therefrom to another burial ground, brought under the authority of Section 120, Article 16, Code of Public General Laws, Maryland, 1957 Edition.

The case was brought by the corporate owner of the land comprising the cemetery against all known and all unknown owners of burial rights and interests in and to the aforesaid cemetery land.

Personal service was had on the known owner of burial rights in several lots and service by way of publication was had on all the unknown owners of burial rights and interests in the remaining lots and land comprising the cemetery.

Testimony taken before Hon. William C. Baxter, Examiner and Master in Chancery, shows that the subject cemetery was established in the year 1852, more than one hundred years ago. The owners of burial rights have failed to maintain the graves and burial lots in a proper manner, permitting them to develop into a nuisance, with sunken graves, covered over with growths of underbrush, weeds and bushes. Head stones and markers knocked over, broken and destroyed. The burial certificates filed of record and referred to in the Bill of Complaint disclose that the burial lots were sold at a price ranging from $10.00 to $30.00. with no obligation whatsoever on the part of the cemetery corporation to maintain the burial lots within the cemetery. Testimony by the Health, Police and Fire Departments

further shows that the cemetery property was a nuisance, detrimental to the health, safety and welfare of the general public and in particular the citizens living in the immediate neighborhood of the cemetery.

Thereafter, Mr. Baxter, after personally viewing the cemetery, made his report to this Court, recommending the passage of a decree, as prayed for in the Bill of Complaint, for a sale of the land comprising the cemetery, including all burial rights and interests therein and the appointment of a trustee to make said sale.

The Court by its decree, dated June 10, 1958, approved by the said Examiner and Master in Chancery, decreed that the fee simple cemetery property be sold at either public or private sale, and Edward A. Anderson was appointed Trustee to make said sale. The decree further provided that before any sale was made by the Trustee, the Trustee enter into a binding contract with a reliable licensed undertaker for the removal of all bodies that with reasonable care can be definitely located in the cemetery, and for the reinterment of said bodies and for the removal of monuments or markers in said cemetery to another burial ground.

A binding contract, in conformity with the decree, was entered into by the Trustee, said contract being dated July 11, 1958, a copy of which is filed in these proceedings as Trustee's Exhibit No.1.

A new burial cemetery has been purchased by the said Trustee, which is located in the Johnsville Freedom District of Carroll County, Maryland, near Eldersburg, for the reinterment of the bodies removed from the present cemetery and for the relocation of the aforesaid monuments and markers.

The Trustee, after complying with all prerequisites of the decree, sold the cemetery property to the Belair Road Enterprises, Inc., the exceptant to the ratification of the aforesaid sale. A nisi order was published on the sale and the sale stood for ratification on and after August 19, 1958.

The purchaser excepts to the ratification of the sale for the following causes:

1. That all of the necessary parties having an interest and rights in and to the property referred to in the proceedings and described in the report of sale are not made parties to said proceedings.

2. The provisions of the Act of 1868, Chapter 211 (Art. 16, Section 124) as amended by the provisions of Chapter 630 of the Acts of 1957, General Assembly of Maryland, under which these proceedings are brought, are unconstitutional in that they violate the provisions of Article 23 of the Maryland Constitution.

3. And for other good and sufficient reasons to be assigned and shown at the hearing on the above exceptions.

LAW UNDER WHICH PROCEEDINGS ARE BROUGHT.

The law (Art. 16, Section 120) under which these proceedings are brought authorizes the filing of a Bill of Complaint in either one of the Circuit Courts of Baltimore City, setting forth the names of the owners of lots in such cemetery or burial ground or their assignees so far as the same may be known, and upon the filing of such Bill of Complaint, the Court shall order notice by publication warning all of the lot owners, their assignees or other persons in interest, residents or non-residents, adults, infants and other persons under any legal incapacity to appear in Court on or before the day fixed in said notice, to show cause, if any they may have, why the relief prayed for should not be granted, etc.

FIRST EXCEPTION

In answer to the first exception, the testimony shows as found and reported by the Examiner and Master in Chancery, as will more fully appear by reference to his report filed in this cause, that all known parties having an interest in the property were made parties, either Plaintiff or Defendant, and that all unknown parties having an interest were made parties Defendant; and that the proceedings have been conducted in full compliance with the requirements of the aforesaid provisions of Section 120 of Art. 16 (Acts of 1957, Chapt. 630).

THE STATE OF MARYLAND HAS THE AUTHORITY TO MAKE RULES AND REGULATIONS IN RESPECT TO OWNERSHIP AND SALE OF REAL ESTATE WITHIN ITS LIMITS.

A State has control over property within its limits, and the condition of ownership of real estate therein, whether the owner be stranger or citizen, is subject to its rules concerning the holding, the transfer, liability to obligations, private or public, and the modes of establishing titles thereto. Arndt vs. Griggs, 134 U.S. 316; Equity Procedure (Miller) page 154.

This is a proceeding in rem. The State of Maryland has the power to enact laws providing for publication as a means of process in proceedings in rem. Equity Procedure (Miller) page 153.

PROCEEDINGS IN REM.

Service by publication may answer in all actions which are substantially actions in rem. In a strict sense, a proceeding in rem is one taken directly against property, and has for its object the disposition of the property, without reference to the title of the individual claimants. Equity Procedure (Miller) page 155. This proceeding is one brought for the disposition by way of sale of land formerly devoted to cemetery use, but which use has now been abandoned.

Process by publication is a statutory mode of conferring upon the Court power to pass judgment on property, the subject matter of suit within its jurisdiction when the owner is beyond the reach of its process. Dorsey vs. Dorsey, 39 Md. 522.

PUBLICATION IS A SUBSTITUTE FOR PERSONAL SERVICE

When publication has been made in a proper case, the Court acquires jurisdiction over the property mentioned in the Bill by force of the statute as completely as if the non-resident parties were residents and duly summoned. Jenkins vs. Whyte, 62 Md. 427. Hardester vs. Sharretts, 84 Md. 146.

An Order of Publication against infants is effective, although in point of fact by reason of their tender age, the infants may be incapable at the time of knowing anything. Jenkins vs. Whyte (Supra.)

An Order of Publication is a substitute for subpoena and has all of

its efficacy; it has the effect of a notice. Savary vs. Da. Camara, 60 Md. 139, Comegys vs. State, 10 G and J, 175, Jenkins vs. Whyte, 62 Md. 427.

Its object is simply to notify parties who are properly such of the Bill and the object it seeks to accomplish, and to warn them to appear and defend. Hardester vs. Sharretts, 84 Md. 146.

When publication has been duly had, a presumption of notice arises, which the Court will not allow to be rebutted. Dorsey vs. Dorsey, 30 Md. 522.

SECOND EXCEPTION

In respect to the second exception, it is denied that the law (Sect. 120 of Art. 16) is unconstitutional in violation of the provisions of Art. 23, Maryland Constitution.

Art. 23 of the Maryland Constitution (Declaration of Rights) states, "That no man ought to be taken or imprisoned or disseised of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the law of the land."

In Art. 23, "the law of the land," means the same as due process of law. See Solvuca vs. Ryan, 131 Md. 270.

DUE PROCESS OF LAW

"Due process of law" is the general right to acquire and possess property and by necessary implication, the general right to contract concerning it, which the Constitution protects. But the protection does not make these rights absolute in every particular. If it does, what becomes of the police power, which inheres in every government. 15 L.R.A. (N.S.) 350.

Generally means requiring an orderly proceeding, adopted to the nature of the case in which the citizen has an opportunity to be heard and to defend, enforce and protect his rights. Stuart vs. Palmer, 75 N.Y. 183.

Art. 23 does not abridge the power of the State to pass laws for the safety and welfare of its people. Deems vs. Balto. 80 Md. 173; State vs. Gurry, 121 Md. 541.

The term "law of the land" within the rule that no person shall be deprived of his property, except by the law of the land, means by the judgment of a Court of competent jurisdiction in which he is a party and afforded an opportunity to defend his right. Bailey vs. City of Raleigh, 130 N.C. 209.

Orderly proceeding in which person is served with notice, actual or constructive, and has opportunity to be heard and to protect and enforce his rights before Court having power to hear and determine cause, is "due process of law," essential elements of which are notice and opportunity to be heard and to defend in orderly proceeding adapted to the nature of the case. People vs. Niesman, 356 Ill. 322.

TRIAL BY JURY

"Judgment by his peers" in Art. 23 means a trial by jury. Wright vs. Wright, 2 Md. 452, Baltimore Belt R.R. Co. vs. Baltzell, 75 Md. 99, Hurtado vs. California, 110 U.S. 516.

A proceeding in equity should undoubtedly be classed as "due process of law," and a right of trial by jury is not essential. McLane vs. Leicht, 69 Iowa, 401 (29 N.W. 327).

Trial by jury is not in all cases an essential element of "due process of law". It is only in cases in which it had been theretofore used that the constitution makes it a necessary element in such due process, and hence it follows that cases within the jurisdiction of the equity courts, though they often involve the title and final disposition of property, are notwithstanding "due process of law" within the meaning of the Constitution. In re Curry's Estate N.Y. 25 Hun, 321.

NOTICE BY PUBLICATION AMOUNTS TO "DUE PROCESS OF LAW".

Where State has jurisdiction over res, judgment of its Courts is binding in respect to interest of non-resident who is given constructive notice as prescribed by law of the State, since such notice amounts to "due process of law". Roseman vs. Fidelity and Deposit Co. of Md., 277 N.Y.S. 471.

THE ACT IS CONSTITUTIONAL AND WITHIN THE POWER OF THE LEGISLATURE TO ENACT.

There can now be no doubt of the power of the Legislature to regulate cemeteries under the police power of the State (Went vs. Methodist Protestant Church, 30 N.Y. Sup. 15; 44 N.E. 1129, Wyeth vs. Board of Health, 200 Mass. 474, 86 N.E. 925) and under general rules, so long as the exercise of the powers bears a reasonable relation to the public purpose sought to be accomplished, the legislative policy is not the subject of judicial review. While a cemetery may not be regarded as a nuisance per. se. (Hume vs. Laurel Hill Cemetery, 142 Fed. 552), it is nevertheless a subject of legislative control under the exercise of the police power because of its nature and potentialities. This principle obtains even though the cemetery has not been, and even if it may be urged that it will not become a nuisance.

That a State may in a proper case in the exercise of its legislative functions, require the removal of bodies from cemeteries is not disputed. Accordingly, when the public welfare may in reason be regarded as requiring the removal of bodies from the place where buried, the cases show no dissent from the proposition that legislation so provided is, in so far as concerns that matter, free of valid constitutional objections. And while, as will be noted from the statement of cases set out herein, it is not uncommon for statutes to provide for a substituted burial ground and the

payment of expenses of reinterment, it does not appear that, the removal of bodies being necessary, any compensation for the taking of property or contract rights is essential to valid legislation.

In Kincaid's Appeal (1870) 66 Pa. 411, it was held that a cemetery having become filled with graves, and by reason of its neglected condition, "a nuisance to the neighborhood," a special statute reciting the "necessity" of removing the bodies therefrom directing such removal by commissioners therein appointed and to sell the property to pay expenses, was not unconstitutional as involving a taking of property without compensation or as being a police measure not supported by necessity; the Court said, "As the Legislature could authorize the removal of any other thing which they may deem a nuisance by a summary proceeding without a jury trial, so they can authorize and direct the removal of dead bodies from any ground, and the consequent vacation of it as a burial ground, that to do so constituted no invasion of any right of property." That although a burial ground may originally be remote and inoffensive, the purchaser is bound to know at his peril that it may become otherwise by the residence of many people in its vicinity, and that it must yield to laws for the suppression of nuisances."

In Went vs. Methodist Protestant Church, Supra., it was held, that the cemetery having become filled and the population of the city in its vicinity having rapidly increased, a statute authorizing the corporation to remove the bodies to new grounds and sell the vacated lots to defray expenses, was not subject to constitutional objection although no hearing was provided for, nor was compensation to be made to the lot owners other than that involved in the substitution of burial grounds and the payment of expenses; the Court saying, "the abatement of the nuisance arising from the burial of great numbers of dead bodies in a thickly populated district is the question

which concerns the public, and the one over which the Legislature has power."

In Masonic Cemetery Association vs. Gamage, 38 F. (2d) 950-1930, it was held that a California statute and a local ordinance in pursuance thereof requiring the removal of bodies from a cemetery of the class in question, were valid police legislation. This statute authorized the Masonic Cemetery Association, a corporation, to sell the cemetery property free of trust because continuance thereof was held to be injurious to the health, safety, comfort and welfare of the public.

The Court held that equal protection of the law was not denied in that other cemeteries similarly circumstanced were not also abated; since nuisances may properly be abated one at a time.

In People vs. John Doe of Rosehill Cemetery Co. (166 N.E. 112), the Court held "the police power is the power of the sovereign to legislate in behalf of the public health, morals or safety by general regulations reasonably adapted to the object in view without creating arbitrary discriminations between different classes of men or things. The police power aims directly to secure and promote the public welfare and it does so by restraint and compulsion. Under that power, rights of property are impaired neither because they become useful or necessary to the public, nor because some public advantage can be gained by disregarding them, but because their free exercise is believed to be detrimental to the public interest." The Court further held "the natural right which every citizen possesses to use his property as he desires is necessarily subject to the limitations that such use shall not injure others. All uses of property or courses of conduct which are injurious to the public health, morals or safety may be prohibited by the State, although the exercise of the power may result in inconvenience or loss to individuals. In this respect, individual rights must yield to the higher rights of the public." Also look at Ritter vs. Bausman, 2 Wooden Dec. (Pa.) 248; Craig vs. First Presbyterian Church, 88 Pa. 42; Annotation - 71 A.L.R. 1040.

TITLE AND INTEREST ACQUIRED IN BURIAL LOT BY PURCHASER

Under the Maryland law, a deed or certificate of burial only grants the right of burial, conferring only a privilege or license. Partridge vs. First Independent Church, 39 Md. 631.

Under the provisions of Art. 23, Sect. 164 (Code of 1957), that every burial lot sold or conveyed in a cemetery formed under the Public General Laws, as was the Laurel Cemetery, was to be held for the sole purpose of sepulture (burial) and none other, and although the same may be devised and shall descend to the owners' heirs and sold with the consent of the cemetery company, it is, nevertheless, only a privilege or license to bury there so long as the same remains a cemetery. No title or interest in land is conveyed. See Partridge case (Supra.).

Although, under the provisions of Sect. 165 of Art. 23, a certificate under the sale of the cemetery company of the ownership of any lot or crypt sold or conveyed shall in all respects have the same effect as any conveyance for such corporation of said lot or crypt would have if executed, acknowledged or recorded as conveyances of real estate are by the laws of this State required to be, a purchaser only acquires a privilege or license of burial and not title or interest in land. This section merely means that the certificate of burial does not have to be recorded to give effect to the certificate holder's rights. See Partridge case (Supra.).

As pointed out in 10 Am. Jr. 503, Cemeteries, Sect. 22, an interest in a burial lot is of a somewhat peculiar nature, and that although the Courts usually hold that the owner of such a lot does not have a fee title thereto, they are not in agreement as to the precise nature of the interest held by him - some call it an easement, some a license, and others a privilege. It seems safe to conclude that the actual language in such a deed is of comparatively little importance in determining whether a fee or an easement or a privilege is conveyed.

While, it is true, some of the cases rely upon the wording of the instrument in finding that only a right or privilege to bury was passed, in most instances the view appears to be taken that so long as it is shown that the conveyance was for burial or cemetery purposes, only a privilege or license is conveyed, some apparently going so far as to indicate that this would be the result irrespective of the language used in the deed even though such language would clearly be sufficient to indicate an intention to pass an estate in fee simple if the instrument were not for burial purposes.

In the Partridge case, 39 Md. 631, the Court held, "We think it clear that it (the certificate of burial) conferred no title or estate in the soil, nor could it operate as a grant of an easement, because it was not under seal, nor was it acknowledged or recorded, so as to be effective to convey such an interest."

In Went vs. Methodist Protestant Church, Supra., the Court held that a deed from a cemetery association to a lot in the cemetery, although absolute in form, conveys no title to the soil, but only a right of burial, and, therefore, a statute directing a removal of the bodies without providing for compensation to the lot owners is constitutional.

The Court went on to say, "Assuming, as we must, that the use of a cemetery as a burial place may be interdicted, and the bodies of the dead removed, it cannot, I think, be seriously claimed that it was within the contemplation of the parties to a deed for a burial plot that when that contingency should arise, the individual owner should hold title to his lot for general uses, the same as he would hold other property. Individual ownership, under such circumstances, would only create confusion of title and eventually leave a large tract of land without the care or supervision of a responsible owner; a construction should not, therefore, be put upon deeds of this character that would produce such a result, unless the rules of law applicable to such instruments forbid any other conclusion.

In Masonic Cemetery Association vs. Gamage, Supra., the Plaintiff asserted that under their deed or deeds to their ancestors, as the case may be, that they had a fee simple absolute title in the lots purchased

from the cemetery association. The Court stated, "the claims advanced here are entirely inconsistent with the idea that the title to the land of a cemetery is divided up into lots separately and severally owned in fee simple. Counsel for the respondent defined the rights of a purchaser of a cemetery lot as follows: "He becomes a member of the corporation, he gains the right to bury in the lot so long as burials are not prohibited by competent authority; and he also gains the right to maintain the bodies buried in the lot so long as no lawful authority enforces the removal of them. This definition seems to accord, both with reason and with the preponderant authority, and for the purposes of this decision that we shall accept it as correct."

In Richards vs. Dutch Church, 32 Bar. 42, the plaintiff held title to his lot by deed which granted it to him, "his heirs and assigns." An injunction restraining a sale by the Church was denied. The Court held, "every owner of a cemetery lot must be deemed to have purchased and to hold it for the sole purpose of using it as a place of burial.

In Clark vs. Keating, et al. 170 N.Y. Sup. 187, it was held that a holder of a deed of a cemetery lot, however, strong may be the wording of the grant, even with a habendum using terms of inheritance, acquires only a privilege or license, exclusive of others, to make interments in the lot purchased, only so long as the lot remains a cemetery. The Court went on to say, "A lot owner in a cemetery, with the rights of a purchase for value, has a title that is deemed subordinate to the general cemetery purposes. Here, the removal of the bodies undoes the character and association which the interments conferred and leaves the land subject to sale or legal partition, as after a general disinterment, it loses its sacredness as a resting place for dead. Rayner vs. Nugent, 60 Md. 515. Even without precedent, land that has lost its sacred character should not be withheld from serving the needs of the community through a mere sentiment regarding a site in which the higher uses have ceased.

Sockel vs. Degel Yehudo Cemetery Corporation of N.J. 49, N.Y. (2d) 176, 1944.

"The purchaser of a burial plot does not acquire a title in fee simple, but ordinarily is regarded as acquiring only an easement or license in the lot purchased so long as the lot remains a cemetery."

Smith vs. Rector of Trinity Church, 252 N.Y. Sup. 53, 1931.

Angel vs. Methodist Protestant Church, Williamsborough, 62 N.Y.S. 410.

Trefry vs. Younger, 226 Mass. 5.

Brown vs. Hill, 284 Ill. 286.

Stewart vs. Garrett, 119 Ga. 386.

Partridge vs. First Independent Church, 39 Md. 631.

It follows, therefore, that the holders of the burial certificates not having any title or estate in the soil and only a license or easement for the right to make interments in the lot exclusively of others as long as the ground remains a burying ground or cemetery and by lawful authority, as in this case, the ground ceased to be a place of burial, the lot holder's rights and privileges ceased except for the purpose of removing the remains previously buried. Partridge case, 39 Md. 631.

" While the license continued he could, perhaps, bring trespass or case for any invasion or disturbance of it, whether by the grantors or by strangers. But if in the course of time it should become necessary to vacate the ground as a burying ground, all that he could claim, in law or equity, would be that he should have due notice and the opportunity afforded to him of removing the bodies and monuments to some other place of his own selection, or that, on his failing to do so, such removal should be made by others. He accepted the grant or license subject to this necessary condition." To the same effect are the cases of Windt vs. The German Reform Church, 4 Sandf. Ch. Rep., 471, and Richards vs. The Northwest Protestant Dutch Church, 32 Barb. 42.

Assuming, without admitting, that the certificate holders, in this case, acquired an interest or estate in the soil for burial

purposes, nevertheless, as stated in Masonic Cemetery Association vs. Gamage, 38 Fed. 950, such rights, no matter how defined or vested, must give way to the superior claims of the general welfare, and laws enacted to further the general welfare, although do not directly appropriate private property, even though they in effect destroy private rights, are not inhibited by the Constitution of the United States; and, as stated in Kincaid's Appeal, 66 Pa. 411, every right, from an absolute ownership down to a mere easement, is purchased and held subject to the restriction that it shall be exercised so as not to injure others. Though at the time it may be remote and inoffensive, the purchaser is bound to note at his peril that it may become otherwise, by the residence of many people in its vicinity, and that it must yield to laws for the suppression of nuisances, and, as stated in Went vs. Methodist Protestant Church of Williamsborough (Supra.), all individual rights of property, whether they rest on absolute conveyances or mere license are subject to the laws of this character; and the principle known as the "police power," upon which the legislative authority to make such laws rests, has of late years been considered by the Courts in numerous cases, many of which are on the briefs of counsel.

In these proceedings, no certificate holders or, for that matter, no one has come forth demanding or requesting the privilege to remove and/or reinter any bodies, monuments or markers. Accordingly, the Trustee has the obligation and full authority to remove to the new burial ground the bodies that with reasonable care can be definitely located in said cemetery and to remove the monuments or markers to the new burial ground as provided by the aforemention Act. When this has been accomplished, all right, title and interest of the certificate and deed holders as well as all burial rights not evidenced by certificate or deed cease and terminate.

CONCLUSION

The proceedings in this case, contrary to the purchaser's first exception, and the cases herein referred to clearly show that all of the necessary parties having an interest and rights in and to the cemetery property have been made parties, either Plaintiff or Defendant. The cases herein referred to further show that these proceedings have been conducted in full compliance with the law and that the law was enacted in conformity with the constitutional requirements and that there is no legal basis whatsoever for the exceptions filed to the sale to said purchaser, Belair Road Enterprises, Inc.

Accordingly, the exceptions should be dismissed and the purchaser required to consummate the sale in conformity with the contract of sale.

Respectfully submitted,

Lloyd G. McAllister

Lloyd G. McAllister

Clement R. Mercaldo

Clement R. Mercaldo

Counsels for the Trustee

Fld. 11th September 1958

McKAMER REALTY COMPANY	:	IN THE
	:	
vs.	:	CIRCUIT COURT
	:	
ANDERSON ENTERPRISES, INC., et al.	:	OF
	:	BALTIMORE CITY
	:	A 878/1957

: :

ORDER DISMISSING EXCEPTIONS TO RATIFICATION OF SALE AND FINAL ORDER OF RATIFICATION ON TRUSTEE'S REPORT OF SALE.

The exceptions to the ratification of sale, heretofore reported to this Court by the Trustee on the 17th day of July, 1958, having been heard, proceedings examined, and the memorandum of the attorneys, filed on behalf of the Trustee, considered, it is O R D E R E D by the Court, this 11th day of September, 1958, that the exceptions to the ratification of sale be and the same are hereby dismissed, and it is further O R D E R E D by the Court that the private sale made and reported by the Trustee, on the 17th day of July, 1958 aforesaid, be and the same is hereby finally ratified and confirmed,

AND upon payment of the full purchase price and upon full compliance with the terms and provisions of the decree passed in this cause on June 10, 1958 and the return to this Court of a report by the Trustee, certifying that all of the terms of the said decree have been performed and complied with, the Trustee, as stated in said decree, by good and sufficient deed, to be executed, acknowledged and recorded according to law, convey in fee simple to the purchaser, its successors and assigns, the property and estate to it sold, free and discharged from all claims of the parties hereto, Complainants and Defendants, and those claiming by, from or under them or either of them.

Joseph Carter
JUDGE

Heard 9/9/58 J. Carter

87 A-37485 (44) (40)

Jan. 27, January 1959

McKAMER REALTY COMPANY a corporation of the State of Md. Plaintiff vs. ANDERSON ENTERPRISES, INC., ET AL. Defendants	:	IN THE CIRCUIT COURT OF BALTIMORE CITY A-37485 A-878/57

* *

REPORT OF TRUSTEE

TO THE HONORABLE, THE JUDGE OF SAID COURT:

1. By a decree of this Court passed in the above entitled cause, dated June 10, 1958, Edward A. Anderson was appointed Trustee to make sale of the property described in these proceedings. The decree, among other things, provided that before any sale is made, the Trustee was to enter into a binding contract with a reliable licensed undertaker for removal of any and all bodies therefrom and reinterment of the same in another cemetery or burial ground and for the removal of any monuments and markers therefrom and for the re-erection of such monuments and markers at another cemetery or burial ground, as more fully provided in said decree.

2. That a contract was entered into on July 11, 1958 with Ellsworth Armacost, a licensed undertaker, for the removal and reinterment of said bodies and for the removal and relocation of said monuments and markers for a price of $15,500.00. Said contract being filed in these proceedings as Plaintiff's Exhibit 1.

3. The decree further provided that the Trustee may report to this Court for approval any offer or offers which he may receive at private sale which to him may seem reasonable and for not less than the combined costs of the removal and reinterment of all bodies and the removal and relocation of all monuments and markers and the costs

A-37485 (45) (41)

of new lots in another cemetery or burial ground purchased by the Trustee, including Court costs, reasonable counsel fees, approved by this Court, and Trustee's commissions to the Trustee as this Court shall think proper.

4. That the Trustee, in conformity with said decree, purchased for the sum of $2,000.00 a parcel of land in Johnsville, Freedom District of Carroll County, Maryland, on Hodges Road, containing 4-1/3 acres of land, more or less, and thereafter acquired fee simple title thereto by deed, dated September 23, 1958, and duly recorded among the Land Records of Carroll County, and established the same as a new cemetery known as the New Laurel Cemetery of Carroll County, Maryland, for the reinterment of the bodies removed and for the location of all monuments and markers removed, to the end that the burial rights in respect to the aforesaid bodies removed from the existing Laurel Cemetery shall continue and attach to the lot or lots in which said bodies are reinterred in the new cemetery, and for the future burial of all bodies by persons holding burial rights under deeds and certificates of burial which have not been fully exercised by them in the present Laurel Cemetery in Baltimore City, and for the general burial purposes to the extent that the same will not interfere with the burial requirements in respect to the Laurel Cemetery located in Baltimore City.

5. That said Trustee by a report of sale, filed in this Court on July 17, 1958, reported the sale of the property, referred to in these proceedings, to the Belair Road Enterprises, Inc. at and for a price of $15,500.00, and the payment of the costs of the land for the new burial ground and the establishment of the same, the payment of all Court costs, counsel fees and Trustee's commissions. The terms of the sale further provided that possession was not to be given to the purchaser until all of the bodies had been removed and reinterred and all markers and monuments had been removed and relocated to and in the burial ground purchased by the Trustee at Johnsville, Freedom District, Carroll County, Maryland, all in

compliance with the aforesaid decree, which sale was ratified by this Court on the 11th day of September, 1958.

6. The aforesaid decree of June 10, 1958 further provided that on obtaining the Court's ratification of any sale and on payment of the whole purchase money, the said Trustee shall, by good and sufficient deed, convey in fee simple to the purchaser the property and estate to him, her or them sold, free, clear and discharged from all claims of the parties to the aforesaid proceedings and those claiming by, from and under them, or either of them, and the Trustee was further directed to bring into this Court the money arising from the said sale to be distributed under the direction of this Court after deducting the costs of the suit, and such commission to the Trustee and reasonable counsel fees as the Court shall think proper, and the costs of removing said bodies, monuments and markers to another cemetery, burial ground or other appropriate place of sepulchre.

7. The Trustee has received a report from Ellsworth Armacost, Contractor, and four employees who personally worked on the job, dated January 3, 1959, reporting to this Truetee that all bodies with reasonable care that could be definitely located in said cemetery or burial ground were removed and reinterred in the New Laurel Cemetery situated on Hodges Road at Johnsville, Carroll County, Maryland, and that all monuments or markers in said cemetery or burial ground which were not damaged, but in good condition, that could be definitely identified with a body or bodies, which bodies were removed from said cemetery, and re-erected said monuments or markers at new lots in the said cemetery on Hodges Road. The contractor's report further states that all monuments or markers, except those damaged to the extent that they could not be re-erected, were moved to and re-erected in the aforesaid cemetery on Hodges Road.

8. The undertaker's report further attaches to it a record of the names and location of all bodies that could be identified and removed from Laurel Cemetery on Belair Road and reinterred in the

cemetery on Hodges Road, and all monuments and markers that could be located in said Laurel Cemetery on Belair Road and relocated in the New Laurel Cemetery on Hodges Road, and of all unknown bodies located in the Laurel Cemetery on Belair Road and removed and reinterred at the New Laurel Cemetery on Hodges Road. A copy of the undertaker's report and of the record of the names and location of all bodies and of all monuments and markers is attached hereto and made a part hereof.

9. This Trustee has supervised and followed closely the work performed by the undertaker and is of the belief that all of the terms and conditions of the contract with the undertaker have been diligently and earnestly fulfilled and executed, and that the removal and reinterment of all bodies and the removal and relocation of all monuments and markers have been carried out in full compliance with the aforesaid decree of this Court, dated June 10, 1958.

10. That the purchaser, Belair Road Enterprises, Inc., has agreed to pay unto the Trustee by way of commissions the sum of $1,000, which amount is acceptable to this Trustee, and the purchaser has further agreed to pay unto the Solicitors for the Plaintiff and the Trustee a counsel fee of $500.00, and unto the solicitor for Anderson Enterprises, Inc. a counsel fee of $50.00, which counsel fees are acceptable to said attorneys as is evidenced by their signatures hereto for that purpose, and for the purpose of acknowledging satisfaction thereof. The Trustee also acknowledges satisfaction to him of said commissions.

The Trustee reports that all of the conditions and provisions of said decree have been carried out and fully executed.

It is respectfully requested that these proceedings be referred to the Court auditor to state an account in accordance with the terms of said decree.

Respectfully submitted this 27th day of January, 1959:

Edward A. Anderson

Trustee

The counsel fees specified herein are acceptable to the attorneys and satisfaction thereof is hereby acknowledged:

A. Lee Miller, Jr.

Clement R. Mercadante

Lloyd H. McAllister

COPY

January 3, 1959

Mr. Edward A. Anderson, Trustee
2326 Belair Road,
Baltimore, Mayyland

Dear Sir:

I hereby submit to you the following report covering the removal, reinterment and relocation of the bodies, monuments and markers from the Laurel Cemetery on Belair Road, in Baltimore City, to New Laurel Cemetery on Hodges Road, Carroll County, Maryland, the subject matter of the contract with you, dated June 11, 1958:

Following the execution of the contract, work under it was begun on October 11, 1958. Because of the age of the cemetery, started in 1852, and the immense growth of weeds, underbrush, briars, vines and trees, the work was very difficult. We found that graves had not been kept up at all and that vandals had periodically gone into the Cemetery and destroyed graves, broken and damaged a great number of monuments and markers. We further found that a great number of monuments and markers had been knocked over and buried with earth. Sythes and sickles were used to cut away the undergrowth in order to locate headstones, markers and graves. The burials followed no orderly pattern. No plats or maps were available to locate any particular grave, monument or marker. In a number of cases, burials were made one on top of the other and then crosswise. In a number of cases, excavations were made to a depth of from 8 to 9 feet. Notwithstanding these adverse conditions, we proceeded diligently, digging more than three thousand holes, and did locate and remove all bodies in the Cemetery that could be definitely located.

Further, we have reintered all of said bodies, so removed, in the New Laurel Cemetery, situated on Hodges Road, containing 4-1/3 acres, at Johnsville, Carroll County, Maryland.

COPY

We also removed all monuments and markers whether the lots on which they stood were maintained in good order or not and relocated them in the Cemetery on Hodges Road.

We also removed all monuments or markers which were not damaged, but in good condition, that could be definitely identified with a body or bodies, which bodies were removed from said Cemetery and re-erected said monuments or markers at new lots in the said Cemetery on Hodges Road.

In fact, all monuments or markers, except those damaged to the extent that they could not be re-erected, were moved to and re-erected in the aforesaid Cemetery on Hodges Road.

A record of the names and the location of all bodies that could be identified and removed from the Laurel Cemetery on Belair Road and reintered in the Cemetery on Hodges Road and of all monuments or markers that could be located in said Laurel Cemetery on Belair Road and relocated in the New Laurel Cemetery on Hodges Road and of all unknown bodies located in the Laurel Cemetery on Belair Road and removed and reintered at the New Laurel Cemetery on Hodges Road is attached hereto.

We believe that all of the terms and conditions of the contract have been with due care diligently and earnestly fulfilled and executed.

Accordingly, we respectfully request you to make a final inspection of the work to the end that the same be approved and accepted and that rdlease be executed by you as Trustee to the Contractor.

This report is also concurred in by four employees who personally worked on this job.

COPY

Respectfully submitted the day and year aforesaid.

Ellsworth Armacost
Ellsworth Armacost (Contractor)

Harry P. Ford
Harry P. Ford

Donald L. Steil
Donald L. Steil

Paul R. Seeley
Paul R. Seeley

C. Neil Klingelhofer
C. Neil Klingelhofer

LIST OF BURIALS AND STONES LOCATED ON THE WEST SIDE OF THE CENTER ROAD, 30 FEET WIDE, EXTENDING THROUGH THE NEW LAUREL CEMETERY IN CARROLL COUNTY.

WEST SIDE

	ROW	POSITION
Alkorn, Rebecka	9	2
Anderson, John K.	14	1
Addir	15	6
Adeline	17	6
Anderson, Andrew	17	13
Anderson, I.	20	3
Buchanan, Elizabeth		
Simmons, Rachael	4	1
" Mary Ann		
Barnett, Eliza	4	14
Bosley (or Posley) Margaret	5	3
Bradford, Gordon	5	6
Bost, Hall F.	5	13
Bevan, Mamie	6	8
Boston, John	6	9
Boston, Doreas	6	11
Blachston, Ella H.	6	14
Brown, Jane C.	7	14
Burkett Shorter Saunders	8	1
Bradpher, Annette	9	4
Bell, Emma	9	6
Brown, Rachel	10	6
Bradford, Agnes	10	11

WEST SIDE	ROW	POSITION
Bailey, Elizabeth	10	14
Brown, David	13	5
Bennett, Elizabeth	15	12
Brown, William A. Dyett Mage " Mary A.	16	1
Bell, Mary J. Brawood, Ladelia Harris, George W.	16	7
Bairley, Mary	16	10
Berry, Samuel	16	11
Butler, Nancy Dulany	16	13
Cadwell, Charles	1	1
Cooper, William	4	10
Conway, John " Allen " Francis " Evpyti	5	12
Cromwell, Esther A.	7	10
Cooke, Susan	9	1
Conylor, Elizabeth	9	7
Colbert, Susan	9	9
Charity, C.	9	15
Calloway, Cabell	10	4
Chase, Samuel L. Jr.	13	3
Chase, Samuel L.	13	8
Clark, Emily Martha Eleanor	13	13
Cooper, Aaron	15	9
Cromwell, Harriett	15	10
Campbell, Nathaniel	17	16

WEST SIDE	ROW	POSITION
Dickson, Elizabeth	4	4
Dorsey, John Thomas	5	7
Davis, M.	13	10
Dorsey, William E.	15	5
Davis, Levi	15	8
De Coorsey, Solomon	15	13
Dyett, Magar - Sarah - Isaac M. Mary A. Brown, William A.	16	2
Dulaney, Sorrell	16	12
Davis (Flat block)	18	1
Davis, Jacob	19	12
Dec. A	20	5
Elbert	4	8
Elizabeth	14	2
Emeline	14	4
Franklin, Sara and Robert	6	1
Fisher, Samuel	10	9
Fitzhugh, Maria	10	12
Fossett, James	13	14
Fleming, Amanda R., Mary E., Isabella	16	4
Freeman, Isaac	17	2

WEST SIDE	ROW	POSITION
Griffin, Virginia	6	2
Gray, Laura	6	7
Goldsborough, Julius	7	5
Grace, Annie	7	13
Gaines, Richard	7	15
G.E.J.	10	2
Green, Thomas	10	3
Green, Fannie	12	4
Gibson, John - Matilda - Malachi	14	5
Gittings, Isaac	18	5
Gibson, N.	20	4
Henderson, Rachel and Joseph	19	3
"Hamal"	4	2
Haven, Harriett	4	7
Hill, Sarah	7	6
Hooper, James	9	3
Hutton, Henry	9	5
Hiner, Samuel	10	7
"Hughes"	11	3
Hayward, Emily	12	13
Harris, George W. Bell, Mary J. Brawood, Ladelin	16	7
Hackett, Thomas	17	5
Harris, Annie and Elias	17	14
Henry, James	17	15
Hackett, C. J. Capt.	19	9

West Side	Row	Position
Isacs, Ann Marie	5	8
Jordon, Rev. John and Elizabeth	2	1
Johnson, Daniel	3	1
Jackson, Mary Ann	9	8
Jeffries, Benjamin	9	17
"Johnson"	11	1
Johnston, Milby and Warden	12	5
Johnson, W.	12	11
Johnson, Charles W.	14	9
Johnson, William	16	3
Jones, David	16	8
Johnson, M. (Foot Stone)	18	3
Johnson, James Henry, son of James Johnson	17	15
Johnson	18	4
G.E.J.	10	2
"Key"	5	1
Keys, Herbert	10	1
Kelly, Dandridge	10	5
King, Samuel J. Thomas C. Charity Fannie B. Martin	16	2
Key, Morris H.	18	11

WEST SIDE	ROW	POSITION
Langley, Hazel M.	19	1
Lucas, Julia Ann	5	14
Lane, Albert	6	3
Lester, Virginia	7	4
Lowe, Maria	9	11
Locks, Stephen	12	15
Latimer, Adella G.	15	4
"Lewis" (Flat stone)	18	2
Loker, Maranda	18	10
Mason,	20	2
Myers, P. Rebecca	19	10
Mason, Walpert	4	5
Meads, Samuel	4	13
Mason, Gladys	4	16
Myers, Sarah	5	4
Matthews, Rebecca	5	9
Mitchell, Amelia	6	4
Murray, Rev. Levin	6	6
Mabury, Rev. John	6	15
Myers, Emma Virginia	6	17
Merritt,	7	2
Morris, Levin M.	7	3
Mitchell, Joshua	8	2

WEST SIDE	ROW	POSITION
"Morsell" (See Kennard)	12	1
Moore, Mary Ann	12	3
McHenry, Bruce	13	7
Miller, Anna H.	13	9
Moore, Joseph	14	10
Moore, Jane	15	1
Miner, Matilda (wife of George)	18	7
Murray, Charles	17	3
Morris, William H.	17	6
Nichols, Harriett	4	9
"Nancy"	12	6
"Neal"	13	1
Norris, Noah	18	6
Oliver, Thomas J.	9	13
Ockmay, Aldine (wife of Rev.Thomas Ockmay)	17	6
Peters, Letitia	4	3
Prail, Anthony	5	2
Posley, Margaret (may be Bosley)	5	3
Parker, Elizabeth	6	5
Pullman, Virginia	6	10
Pratt, John	7	8

WEST SIDE	ROW	POSITION
Pembroke, Elizabeth	12	8
Perkins, Rachel	12	14
Patterson, Pendleton or Pendleton, Patterson	13	2
Pennington, William	17	10
Piper, Fred J.	14	8
Pelton, Sarah A.	17	4
Price, George A.	17	7
Ruff, Louise	4	15
Reiston, Addie	5	17
Robinson, Rhoda	7	12
Ruff, Charles	7	17
Rogers, James R.	14	3
"Russell"	18	12
Ridgely, Lucy	19	8
Stith, James N.V.	19	5
Simmons, Rachael Mary Ann Buchanan, Elizabeth	4	1
Sanders, Louisa William Estell	4	6
Scott, Annie	4	17
Smith, Agnes	5	5

WEST SIDE	ROW	POSITION
Smith, Rev. Benjamin	5	16
Stevens, Mary J.	6	16
Spunell	7	1
Snowden, Robert	7	7
Smith, William Henry	7	11
Smith, William	9	14
Smith, Emily J.	9	16
Smith, Mary A.	10	8
Sker, Mary A.	12	2
Sparrow, Malvina	12	7
Sythe, Ed.	12	9
Sythe, Lizzie	12	10
Snowden, Martha	12	12
Sands, Helen M.	13	6
Stokes, A. Vincents A, Graves	13	11
Smith, William and Catherine Wilson, Samuel	13	12
Seney, Henrietta	14	7
"Slaughter"	15	7
Simpson, John	16	9
Sorrell, Dulaney	16	12
Scott, Harriett	17	1
Sewell, Minnie E.	17	12
Smith, Nora (foot stone)	18	14

WEST SIDE	ROW	POSITION
Thomas,	20	1
Teackle, John	4	12
Thomas, Sarah	9	12
Tabbs, Eliza	10	10
Tasker, Frank and Rebecca	15	3
Taylor, Elizabeth	16	14
Thompson, Andrew (Foot stone)	17	8
Thomas, Elizabeth	17	9
Tent, Mary Morrison	18	13
Taylor, Isaac, Elizabeth, Malinda	18	1
Thompson, Oscar G.	19	2
Toavis, Robert H.	19	6
Tuckson, Frank	3	17
Vincents, A. Graves	13	11
Webb, Rebecca	19	11
Wilfoot, Mary Jane	4	11
Waller, Addie (wife of Rev.G.R.Waller)	20	16
"Wrightson"	5	10
Whittington, Maria	5	11
White, Cornelius	5	15
Williams, Isaiah	6	13
Wilson, James	7	9
"Williams"	7	16
White, Sam	9	10

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WEST SIDE	ROW	POSITION
Wicks, Abbie	10	13
Williams, Sudin	11	2
Wilson, Samuel Smith William and Catherine	13	12
Webb, Rev. Harrison H. (son of)	19	7
Wilson, Henry	15	2
Williams, Annie E. and Nelson M.	16	6
Williams, David H.	17	11
Watts, Lilly M.	19	4
Wallett, Marcella S.	15	11
UNKNOWN		
Unknown	3	15
Unknown	3	16
"Hamal"	4	2
Laura - Jane	6	12
Spunell	7	1
G.E.J.	10	2
"Elizabeth"	14	2
Emeline	14	4
Unknown (names not legible due to age)	14	11
Memorial Stone	14	12
Addir	15	6
Adaline	17	6
Annie, wife of Elias _____	17	14
Elizabeth _____	18	8

UNKNOWN

WEST SIDE	ROW	POSITION
Unknown	21	1
Unknown	21	2
Unknown	21	3
Unknown	21	4
Unknown	21	5
Unknown	21	6
Unknown	21	7
Unknown	21	8
Unknown	21	9
Unknown	21	10
Unknown	21	11
Unknown	21	12
Unknown	22	1
Unknown	22	2
Unknown	22	3
Unknown	22	4
Unknown	22	5
Unknown	22	6
Unknown	22	7
Unknown	22	8
Unknown	22	9
Unknown	22	10
Unknown	22	11
Unknown	22	12

UNKNOWN

WEST SIDE	ROW	POSITION
Unknown	23	1
Unknown	23	2
Unknown	23	3
Unknown	23	4
Unknown	23	5
Unknown	23	6
Unknown	23	7
Unknown	23	8
Unknown	23	9
Unknown	23	10
Unknown	23	11
Unknown	23	12
Unknown	24	9
Unknown	24	10
Unknown	24	11
Unknown	24	12

NOTE: The position in the row is arrived at by counting west from the 30-foot center road.

LIST OF BURIALS AND STONES LOCATED ON THE EAST SIDE OF THE CENTER ROAD, 30 FEET WIDE, EXTENDING THROUGH THE NEW LAUREL CEMETERY IN CARROLL COUNTY.

EAST SIDE	ROW	POSITION
Addison, L. W.	2	16
Allen, Jr. William	5	10
Anderson, Dianna and Jacob	7	6
Augustus, Charles	14	8
Bailey, Thomas	1	14
Banks, Burwell	3	8
Bordley, Mary Stansbury	3	14
Bailey, Elizabeth	3	16
Blake, Peter	4	2
Bordley, William P.	4	〃
Barnes, George W.	6	10
Butler, Lula and Jones Maggie	7	9
Burkett, Lewis E.	7	11
Berry, George	8	4
Blake, Sarah E.	8	6
Brown, Omo	9	15
Barrett, James H.	11	4
"Butler"	15	2
Booliry, Alfred and Annie	16	10
Bowser, Sarah	16	16
Beaver, Robert	17	4
"Bawitt"	17	10
Butler, A. E.	18	4

EAST SIDE	ROW	POSITION
Criss, Matilda	1	5
Carroll, Rev. Clayton	1	7
Carrolls, Samuel	1	10
Carrolls, Sara	1	11
Cooper, Louis A.	5	14
Coby, Amelia	6	5
Creek, Elizabeth and James	6	8
Chubbs, Mary Ann	6	11
Chase, Edna A.	6	16
Cooper, Jane and David	7	8
"Clayton"	7	15
Chase, Margaret L.	8	9
Caulk, Joseph	8	10
Creek, Dr. J.W.	8	11
Chase, Samuel and Caroline	10	3
Collett, Rev. John	12	2
Cross, Pricilly	12	11
Carter, William H.	12	13
Carlisle, James	12	14
Cook, Dr. John W.	14	3
Cummings, Enoch	14	12
"Charity"	15	14
Clark, Sam Alexander	16	5
Chinn, Mary Ann	17	3
Cully, Emma	17	6
Cook, John	17	14
Cook, John H.	18	2

EAST SIDE	ROW	POSITION
Doyle, James and Priscilla	2	1
Dorsey, Elizabeth P.	2	13
Dashield, Josephine	4	13
Dorsey, Levi	6	14
Dorsey, Charles	8	12
Dorsey, Martha	9	10
Dorhan, Horace	10	14
Draper, Charles	14	7
Dorsey, Abia	16	1
Draper, Rev. Daniel	18	9
Eugenia, Alverta	1	6
Fisher, Mary J.	3	15
Fortuna, Hagar	4	15
Ferrandes, John and Rebecca	5	8
Fortuno, Ann P.	6	12
Friend, George	8	8
Fossett, Levy and Mary	10	2
Frances, Alice	11	8
Frey, Jennie E.	12	4
"Jolly"	12	7
Fernandis	16	8
Greer, Wilson Dr.	3	5
Green, Margaret	3	7
Grant, Nancy	3	12

///

EAST SIDE	ROW	POSITION
Grant, Margaret	4	12
Giles, Charles H.	5	1
Graves, Marselino	6	4
Gale, Harriett B.	7	5
Gray, Lucy	9	14
Gibson, Emma	10	10
Goodridge, Mary E.	14	4
Green, Julia A.	14	14
Green, Eliza	15	7
Green, Cornelia	15	8
Gants, Frances	15	10
Gibbs, Rachel	16	12
Holland, Frances	1	3
Hamilton, Jane A.	1	13
Hight, Annie	3	1
Howe, Catherine	3	10
Henry, Charles E. and Laura J.	3	11
Hagar, Fortuna	4	15
Hamilton, William	5	9
Handy, S. H. Mael	6	7
Hayes, Rebecca	6	15
Hutchins, Robert	8	16
Hughes, Ellen	9	12
Henderson, John and Rose	10	11

EAST SIDE	ROW	POSITION
Hamilton, Amelia	11	13
Henson, Mary A.	12	5
Hilliard, Thomas J.	12	14
Hall, Dr. Rev. M. Smyth Edna	13	1
Hall, William H. and Emeline H.	13	2
Hutchins, Samuel and Annie	14	10
Hughes, James W.	17	8
Isaac	1	12
Ianthe	8	13
Johnson, John S.	2	17
Johnson, Charles E. and Caroline	3	9
Jones, Mary A.	4	5
Jones, William M.	4	12
Jackson, Rachael Jane	5	6
James, Mary Elizabeth	5	15
Johnson, Rev. Harvey Amelia Ellen Hall	6	1
Johnson, Wilemina	6	13
Johnson, Mary	7	7
Jones, Maggie and Butler Lula	7	9
Johnson, Isabella	8	15
James, Andrew	9	5

EAST SIDE	ROW	POSITION
Johnson, Elijah	10	1
Jehnl, Ann - Cecelia and Helen	10	8
Johnson, Jane	10	12
Jones, James - Elizabeth - Mary J. -Hanna,	11	1
Jefferson, Thomas and Margaret and Smith, Hester Pitts, Sara	14	1
Jones, Rev. James A.	15	6
Jackson, Hester	15	15
Jones, Eliza	15	16
Jackson, Whittington	16	6
Jones, T. L.	16	9
Johnson, Adam	16	11
Jackson, Henry	16	14
Jones, Julia	17	11
Jones, Mary R.	17	12
Jones, Henry	18	11
Kennard, Dr. George W.		
Kennard, Ellen B.	14	2
Lansey, William Perry	2	2
Letcher, Nicklas	2	4
Lansey, J. W.	2	6
Litzhuth, John and William	5	3
Lee, Henry and Nettie	5	7
"Lizor"	8	2

EAST SIDE	ROW	POSITION
Lane, Emily	8	13
LeCompte, Alexander	8	14
Latinico, Robert	9	8
Lang, Robert L.	12	8
Muse, Ellen	1	1
Muse, Rev. John	1	2
Meads, Anna	1	15
Martin, Joseph S.	2	8
Myers, Elizabeth	2	14
Matila, Mary	3	4
McCabe, Agnes A.	4	3
Martin, Leah	4	9
Micholson, Louis	4	14
Murray, Robert A.	5	2
Mathews, Anna Maria	5	13
Martin, Laura	7	3
McCabe, Sr. Solomon	9	2
McGinnis, Ellen and Frederick	9	4
Martin, Jane and Caroline and Peters, James	9	7
Matthews, Lilia	10	13
Mason, Laura	10	15
Matthews (Mattews) Hester A.	11	14
Morris, James - Sara - Paul	12	12
Mathews, William E. - Maria - John	15	1

EAST SIDE	ROW	POSITION
Matthews, Mary C. and Blanch	17	7
Miller, James	17	13
Moore, John	18	6
Morsell, Virginia A.	18	8
Nicholson, Eva Belle	9	1
Nichols, John and Harriett	12	6
Newbold, Henry - Robert - Annie - Loatho and Roberts, Loatho Roberts, Henry	15	17
Patrick, Louis	2	3
Pratt, Jane	3	6
Perkins, Leilia Pauline	8	17
Pembroke, Basil	9	6
Peters, James - Jane Martin - Carroll	9	7
"Perry"	11	9
Pratt, David	12	10
Paul, James - Sara - Morris	12	12
Pitts, Sara and Jefferson Thomas - Margaret and Smith Hester	14	1
Parks, Mary Jane - Priscilla	15	12
Pornell M or Greo	16	3
Pipes A C and V A	17	9
Peaco, Sarah	17	16
Peck, Eleanor	18	13

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EAST SIDE	ROW	POSITION
Robinson, Indiana	1	8
Ravdis, John	1	16
Robinson, Steven	1	17
Ridgway, Alice and Mary J.	2	10
Ridout, Osborn - Florence - Bennett and Wellington - Annie	14	13
Roberts, Lillian and Frank	16	15
Roberts, Loatho and Henry and Newbold Annie	15	17
"Roberts"	18	3
Robinson, C.	18	10
Sorrell, Doris and Elizabeth Dulaney Henson - Margaret and Nellie	2	12
Smith, Lillie V.	2	15
Shari, Henry	3	3
"Smith"	7	2
Smith, Julia Ann	7	13
Smith, Mary Page	7	14
Stanley, Elizabeth	7	16
Shomick, Martha	9	3
Smith, Julia H. and William K.	10	6
Stokes, Katie and Edward	11	2
Seléggens, Ellen	11	3
Simms, Benjamin and Emma	12	1
Smyth, Edna and Hall, Dr. Rev. M.	13	1
Smith, Hester and Jefferson Thomas - Margaret and Pitts, Sara	14	1

EAST SIDE	ROW	POSITION
Scott, Sara A.	14	9
Saunders, William	15	3
Sythe Halle	15	4
Smith, Pationa	16	4
Smith, Blanch	17	2
Smith, Stanley	17	15
"Sorrell"	18	7
Thomas, Maria	1	4
Thompson, Rev. William	3	2
Thomas, Joseph	4	1
Tyler, Amelia	5	4
Thomas, Perry	12	9
Tharman, John T.	15	9
Thomas, Adam	15	11
Taylor, Katie	17	5
Tubman, John	18	1
Vollow, Sophia and Florence	2	5
Vincents, Isaac	7	10
Vincent, Elizabeth	11	5
White, Nancy	1	9
Wilson, William	2	9

EAST SIDE	ROW	POSITION
Ward, Mollie	3	13
Washington, J. H.	4	4
Wright, Robert H.	4	8
Wilson, Robert	5	11
Williams, Susie - Abraham and George	5	16
White, Sophia	6	2
Wilson, Matilda	6	3
Weaver, Carrie	7	1
Walker, Mary E.	7	4
Watts, Addison and Susan	8	1
Wilson, Fannie D.	9	9
Williams, Emma and Grace	9	11
Williams, Mary J.	9	13
Winsey, Bertha	11	6
Williams, Rev. Frank K.	11	7
Woodsen, Cornelius	12	3
Wallace, William	14	6
Wilson, Daniel and Mary	14	11
Washington, Matthew	16	7
Williams, Henry C.	16	13
Wallace, William	17	1
"Williams"	18	5
Young, Rainy	4	16

EAST SIDE	UNKNOWN	ROW	POSITION
Harriett Ann		2	7
Unknown		2	11
Unknown		4	10
Susie - Mary P. Joseph L. _____		5	12
Unknown stone		6	9
N. G.		4	6
Unknown		7	12
Mary _____		8	5
Unknown		8	7
M. Louisa - - - -		10	5
Unknown		10	7
Unknown		10	9
M.M.H.		11	10
Unknown		11	11
Alfred - Anne C. - Richard J. and Beatrice E.		11	12
Charles Agusutus		14	8
Hezekiah, H.		14	15
"Butler"		15	2
"Estella"		15	13
"Charity"		15	14
Sophia - Minnie - Harry M. and Ella J.V.		16	2
Fernandis		16	8
Bawitt		17	10
Roberts		18	3
Williams		18	5
Sorrell		18	7
Unknown		18	12

Note; The position in the row is arrived at by counting east from the 30-foot center road.

/20

RECORDED IN LIBER.
H.J.R. No. 188 FOLIO 270

984

Auditor's Report and Account Filed
Order Nisi Ratified
9 March 1959

A-878/1957

Finally Ratified and Confirmed
20 March 1959

A-37485

RACEPASE BOND
SOUTHWORTH CO.
U.S.A.

McKAMER REALTY COMPANY	*	IN THE
	*	CIRCUIT COURT
vs	*	OF
ANDERSON ENTERPRISES, INC.	*	BALTIMORE CITY

** ** ** *** ** ** **

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Auditor reports to the Court that he has examined the proceedings in the entitled cause, and from them has stated the within Account of Receipts and Disbursements of the Trustee.

The Auditor certifies to his employment of the number of days charged, in accordance with the Rule.

Respectfully submitted,

AUDITOR

A-37485 (46)
(42 43 44)

THE TRUST ESTATE OF McKAMER REALTY COMPANY

IN ACCOUNT WITH

EDWARD A. ANDERSON, TRUSTEE

CR.

BY	sale of Laurel Cemetery, as per Decree of Court passed 6/10/58,		
	viz.		
	Sum contracted for removal of bodies	$15,500.00	
	Sum expended for new cemetery site	2,000.00	$ 17,500.00
BY	this sum overpaid by Trustee, this Account		$ 833.95
			$ 18,333.95

DR.

TO	the Trustee for his costs of suit,		
	viz.		
	Solicitor for Plaintiff	$ 10.00	
	Clerk	189.00	
	Clerk, Sheriff	6.95	
	Solicitor for Defendant	10.00	
	Auditor and notices	68.00	$ 283.95
TO	the Trustee for counsel fee to Clement Mercaldo and Lloyd G. McAllister, as agreed		$ 500.00
TO	the Trustee for counsel fee to Samuel J. Danton, as agreed		$ 50.00
TO	the Trustee for his commissions waived, per Report of Trustee filed 1/27/59--		
TO	the Trustee for the purchase of the cost of body removals and new burial ground, supra		$ 17,500.00
			$ 18,333.95

IN THE CIRCUIT COURT OF BALTIMORE CITY:

Ordered by the Court, this 9th day of March, 1959, that the aforegoing Report and Account be ratified and confirmed as stated and reported by the Auditor, unless cause to the contrary is shown within ten days of this date.

Henry J. Ripperger
Clerk

IN THE CIRCUIT COURT OF BALTIMORE CITY:

Ordered by the Court, this 20th day of March, 1959, that the aforegoing Report and Account of the Auditor be and the same is hereby finally ratified and confirmed, no cause to the contrary having been shown.

Ralph Warnken

Fld. 5 January 1960

Docket 97A
Folio 878
File 37485

PETITION, ORDER OF COURT AND
RECEIPT FOR PAPERS

CHANCERY RECORD
H.J.R. 188 FOLIO 370-
342
984
1957

McKamer Realty Company

vs.

Anderson Enterprises, Inc. et al

IN THE
CIRCUIT
~~SUPERIOR~~ COURT
OF
BALTIMORE CITY

The Petitioners, Tucker R. Dearing and J. J. Mitchell, *begs leave of the Court to withdraw papers in the above entitled cause, for* making a photostatic copy of same for trial preparation

To be returned in accordance with the Rules of the Supreme Bench of Baltimore City.

1/5/60

Tucker R. Dearing
Joanna J. Mitchell
Attorneys for

Leave granted as prayed.

Guy A. Miles

Received Papers in above case.

Joanna J. Mitchell
Attorney for

Dated 5th *day of* January, 1960

2000 1-52

A-37485 (47)

Fld. 5 January 1960

Docket 97A
Folio 878
File 37485

PETITION, ORDER OF COURT AND
RECEIPT FOR PAPERS

CHANCERY RECORD
H.J.R. 188 FOLIO 370-342-984-1957

McKamer Realty Company

vs.

Anderson Enterprises, Inc. et al

IN THE
CIRCUIT
~~SUPERIOR~~ COURT
OF
BALTIMORE CITY

The Petitioners, Tucker R. Dearing and J. J. Mitchell, *begs leave of the Court to withdraw papers in the above entitled cause, for* making a photostatic copy of same for trial preparation

To be returned in accordance with the Rules of the Supreme Bench of Baltimore City.

1/5/60

Tucker R. Dearing
Juanita J. Mitchell
Attorneys for

Leave granted as prayed.

Chas. J. Miles

Received Papers in above case.

Juanita J. Mitchell
Attorney for

Dated 5th *day of* January, 1960

2000 1-52

A-37485 (47)

In The Circuit Court of Baltimore City

No. A-39107 A-276

LILLIAN WATERS

vs

McKAMER REALTY COMPANY and
BELAIR ROAD ENTERPRISES, INC.

1019-a

19 59

APPEAL INDEX

Williams & Murphy
Archie D. Williams
Juanita Jackson Mitchell
Sol. for Complainant

Walter C. Mylander, Jr.
Charles C. W. Atwater
Sol. for Respondent

Date	Clerk's Memorandum	No.
5/6/59	Bill of Complaint for a Declaratory Decree, etc. 1-4	1
"	Subpoena 5-6	2
6/17/59	Answer and Demurrer 7-11	3
11/19/59	Test. 560th Rule 12	4
12/18/59	Decree of Court 13	5
1/18/60	Order for Appeal 14	6
2/15/60	Petition for Extension of time for transmission of re-	7
	cord and Order thereon 15-16	
2/29/60	Depositions	8
3/17/60	Petition for extension of time for transmission of	9
	record and Order thereon 17-18	
4/12/60	Order of Court re consolidation of 19-20	10
	cases, &c.	

JULIA JONES

VS.

McKAMER REALTY CO.,
ET AL.

- - - - - - - - - - - - - -

LILLIAN WATERS

VS.

McKAMER REALTY CO.,
ET AL.

IN THE

CIRCUIT COURT

OF

BALTIMORE CITY

(5)

(SECTION 2 OF 2 SECTIONS)

NO. 131

SEPTEMBER TERM, 1960

(Vol. 5 of ~~five~~ 6 vols.)

Hall of Records Commission
Department of General Services
State of Maryland

REQUEST FOR RECORDS

DESK NO. HR

1. Place completed request form in wooden tray on reference table.
2. Upon receipt of records requested, keep this slip in the record.
3. RETURN BOTH THE REQUEST FOR RECORDS AND THE RECORD TO THE REFERENCE TABLE BY 4:20 P.M.

To be filled in by researcher-please print

Type of record (wills, deeds, court minutes, etc.): 031

County (if given):

Date of Record: 1959

Volume (liber): page (folio):

Box: 1819 folder: H39107

Microfilm or record accession no. MdHR

Your Name (please print): Romaz Bordie

Today's date: 8-24-83 823-1250

To be filled in by staff only

Archivist's initials, retrieving:

Archivist's initials, returning:

Stack location: C1-5-6

No. of Vols.: No. of Items:

Volume in use (Photo Lab, Repair Rm., Desk #).

NO. 070936

JULIA JONES, ET AL.,	*	IN THE
PLAINTIFFS	*	CIRCUIT COURT
vs.		OF
McKAMER REALTY COMPANY, a body corporate of the State of Maryland, ET AL.,	*	BALTIMORE CITY
DEFENDANTS	*	Docket 1959 - Folio A-266 File No. A-39096; Folio A-276 - File No. A-39107

* * *

MEMORANDUM ON BEHALF OF THE DEFENDANTS

The above entitled cases were all filed on behalf of individual Plaintiffs who claim to be the owners of certain rights in individual lots in the Laurel Cemetery property. Each of the Bills of Complaint seeks to have this Court review the proceedings in the case entitled "McKamer Realty Company, a body corporate of the State of Maryland, Plaintiff, v. Anderson Enterprises, Inc., et al., Defendants" (1957 - A/878, File No. A37485), and to have this Court declare the Decree entered in that proceeding on June 10, 1958, which directed a sale of the real estate and the Decree entered on September 11, 1958, dismissing the Exceptions to the Ratification of the Sale made pursuant to the Decree of June 10, 1958, and the Auditor's Report and Account which was finally ratified and confirmed on March 20, 1959, all void and of no effect.

A-39107

A combination Demurrer and Answer has been filed on behalf of each Defendant to each of the Bills of Complaint. Counsel have agreed that the hearing on the Demurrer shall be held immediately prior to the hearing on the merits.

The proceedings at this stage involve two basic questions. The first question is the right of the Plaintiffs, on the basis of the Bills of Complaint filed by them, to have this Court reopen and re-examine the former proceedings. The second question to be decided by the Court, if the Court finds that grounds exist to reopen said proceedings and review them, will be the rights, if any, of the Plaintiffs which they are entitled to enforce in the previous proceedings.

I. The Plaintiffs Are Entitled To A Review Of The Proceedings In The Previous Case Only After Proof Of Fraud.

The Bill of Complaint in the Jones Case (39096) is an original Bill for Fraud, and the essential element which must be proved before the Court reviews the rights of the Plaintiff is the question of fraud on the part of these Defendants. The Bill of Complaint in the Waters Case (39107) is a Bill of Review brought under Rule 682 of the Maryland Rules, which restates Article 16, Sec. 151 (Code 1951). This section was first enacted as Chapter 7, Laws of 1773, and was re-enacted as Chapter 88 of the Laws of 1795. The effect of the statute and the distinction between an original Bill for Fraud and a Bill of Review were noted in the case of Luckett v. Jay,

12 G. & J., 69 a.p. 83.

> "The sound and proper construction of the law of 1795, chap. 88, will not warrant such a proceeding, nor is there anything in the language of this Court which was intended to give countenance to the idea, that they designed to open afresh, between the parties, the litigation in the original controversy. The language of the Act of 1795 manifestly discriminates between a proceeding before, and after, a decree has taken place against a non-resident. Before the decree has passed, the language authorizing the action of the Court is broad and comprehensive. It is, 'there shall in all respects be the same proceedings before a decree, as if the defendant or defendants had appeared regularly on the return of a subpoena.' After the decree has passed, the language is more restrictive, and clearly warrants nothing more than a review of the decree itself, according to the established principles of equity jurisprudence. The terms used, in substance are, that any person being a non-resident, against whom a decree shall be passed, may appear in the Chancery Court within a limited period, 'and require a review of the same,' and the Chancellor shall proceed to an examination of the matters in dispute, and to a final decree, in the same manner as if the defendant had originally appeared; it was therefore evidently not the intention of the Legislature to give to the party the same latitude of controversy in both cases, but to limit and confine the party, after a decree had been made against him, to such remedial justice, as a technical bill of review might be competent to afford; and to a defendant in default, such a proffered measure of relief, could, we think, afford no reasonable cause of complaint. It is moreover to be remembered, that according to the established principles of Chancery practice a bill of review is the appropriate remedy to correct or alter a decree, either for error apparent, or by reason of the discovery of new and relevant matter, after the decree has been passed; and that an original bill is never proper to be resorted to, except where the decree is to be impeached on the ground of fraud."

Numerous allegations of fact are made in the Bills of Complaint concerning alleged rights of the Plaintiffs which they allege were illegally taken away from them in the prior proceeding, but most of these allegations

are immaterial unless the Court finds that the Decree was obtained by fraud or there is error apparent on the face of the Decree and that such Decree is not binding on these Plaintiffs.

The proceedings in the Case of McKamer Realty Company vs. Anderson Enterprises, Inc. will be offered in evidence. The papers in that case and the docket entries show the following series of events:

In The U. S. District Court

December 31, 1952 - Voluntary Petition in Bankruptcy, in the U S. District Court for the District of Maryland, of New Laurel Cemetery Company. H. Carl Butler was appointed Trustee.

March 5, 1957 - Order of the U. S. District Court authorizing the Trustee to sell the real estate of the New Laurel Cemetery Company after due advertisement of the sale.

June 27, 1957 - Deed of New Laurel Cemetery Company land, recorded among the Land Records of Baltimore City in J.F.C. No. 185, folio 385, from H. Carl Butler, Trustee, to McKamer Realty Company.

In The Circuit Court of Baltimore City

December 10, 1957 - Bill of Complaint of McKamer Realty Company vs. Anderson Enterprises, Inc. and other known and unknown lot owners in Laurel Cemetery filed in the Circuit Court of Baltimore City. (97A/878 File No. A37185).

December 14, 1957 - Order of Publication.

February 2, 1958 - Certificate of Publication filed.

March 21, 1958 - Appearance of Anderson Enterprises, Inc. and its Answer filed.

April 14, 1958 - Decree Pro Confesso entered and proceedings referred to an Examiner.

May 27, 1958 - Testimony and additional testimony taken before William C. Baxter, Examiner and Master, filed together with the Report of the Examiner and Master.

June 10, 1958 - Decree directing the sale of the real estate and appointing Edward A. Anderson, Trustee to make the sale and establishing the terms and conditions of the sale.

July 17, 1958 - Trustee's Report of Sale filed. Exhibits are (1) Report of Contract with a responsible undertaker for the removal and reinterment of the bodies in Laurel Cemetery and the removal and reerection of the tombstones; (2) Proposed Contract of Sale between Edward A. Anderson, Trustee, and Belair Road Enterprises, Inc.

July 17, 1958 - Order Nisi entered on Report of Sale.

August 18, 1958 - Exceptions of Belair Road Enterprises, Inc. to Ratification of Sale.

August 19, 1958 - Certificate of Publication as to Report of Sale.

September 2, 1958 - Motion for Hearing.

September 10, 1958 - Order of Court dismissing Exceptions to Ratification of Sale and finally ratifying and confirming the sale.

January 27, 1959 - Report of Trustee filed.

March 9, 1959 - Auditor's Report and Account filed and Order Nisi entered thereon.

March 20, 1959 - Auditor's Report and Account finally ratified and confirmed.

All Decrees have been enrolled pursuant to Rule 671 of the Maryland Rules and, therefore, the Court has no authority to reopen any of said Decrees except upon the proof that such Decrees were entered by fraud, or for errors of law apparent on the face of the Decree or for newly discovered matter since the Decree. No allegations are made of newly discovered matters. Millers Equity Procedure, Sections 287 - 295; Luckett v. Jay, Supra. See also

Pugh v. Waclawski, 211 Md. 346; Herbert V. Rowles, 30 Md. 271; Richardson v. Richardson, 217 Md. 316.

The revisory power of the Court over an enrolled Decree as stated in Rule 625 of the Maryland Rules applies "only in case of fraud, mistake or irregularity". This rule merely restates in substance the rule of common law. Pumphrey v. Grapes, 215 Md. 573.

Plaintiffs state as a conclusion that the original Bill of Complaint pursuant to which the property was sold "fraudulently" alleged that an extensive search had been made to ascertain persons having an interest in the property, whereas the actions of the Defendants in that case were to conceal from the Plaintiffs in these cases, and others similarly situated, the pendency of the proceedings.

This is an allegation of actual fraud on the Court and is the only, and the essential allegation of fact to be proved before the facts of the prior proceeding should be examined.

Evidence on this point is admissible at this stage of the proceeding, but evidence on the other allegations of fact are inadmissible at this stage of the proceeding.

The other questions which these Plaintiffs endeavor to raise concerning the sufficiency of the testimony in the prior proceeding are not properly pleaded at this time and are not admitted by the Demurrer of the Defendants. Millers Equity Procedure, Section 295.

II. The Prior Proceedings Were Constitutional And In Accordance With The Statutory Authority Exercised Under The Police Power Of The State.

The Plaintiffs assert that the action of this Court in the prior proceedings was invalid because it violated their legal rights established under the following:

A. The Equal Protection clause of the Fourteenth Amendment to the Constitution of the United States.

B. The Due Process clause of the Fourteenth Amendment to the Constitution of the United States.

C. Article 3, Section 33 of the Constitution of Maryland, in that Article 16, Section 120 (Code 1957, formerly Section 124A Code of 1959, Chapter 630, Acts of 1957), is a special law.

D. The Contract clause of Article 1, Section 10 of the Constitution of the United States.

E. The Ex Post Facto law provision of Article 1, Section 10 of the Constitution of the United States.

The allegations of the Bills of Complaint which seek to raise these questions of law essentially refer to the validity of the statute itself, and not to any wrongful actions except the failure to give actual notice.

The Statutory Proceedings Comply With The Requirements Of Due Process.

It has been established in Maryland that "due process" as used in the Fourteenth Amendment to the United States Constitution, has the same meaning as "the law of the land", in Article 23, of the Maryland Constitution. Solvuca v. Ryan, 131 Md. 265, 270; Baltimore Belt R. R. Co. v. Baltzell, 75 Md. 94;

Public Service Comm. v. N. C. Rwy. Co., 122 Md. 355. Therefore, we shall discuss "due process" rather than the Maryland Constitutional phase, though cases under both are equally applicable.

This argument of the Plaintiffs' ignores the established principle that the police power of the state when not exercised arbitrarily or discriminatorily is not limited by the concept of due process.

> "All uses of property which are injurious to the health, comfort, safety and welfare of society may be prohibited under the sovereign power of the state, even though the exercise of such power results in inconvenience or loss to certain persons. In those cases, individual rights are subordinate to the higher rights of the public. The exercise of this police power is an essential attribute of sovereignty." Walker v. Co. Comm., 208 Md. 72.

This principle is thoroughly established by the decision of the Supreme Court of the United States. A leading case on the exercise of the police power of the state for the termination of an otherwise legal use of property is that of Hadacheck v. Sebastian, 239 U. S. 394. In that case a brick yard had been operating for many years in an area which was subsequently annexed to the City of Los Angeles. Clay deposits were conceded to be worth $800,000.00. The Supreme Court held valid an Ordinance forbidding the continuance of brick manufacturing in that district. The Court found this exercise of the police power was justified, stating:

> "A vested interest cannot be asserted against it (the Government) because of conditions once obtaining. To so hold would preclude development and fix a city forever in its primitive conditions. There must be progress, and if in its march private interests are in the way they must yield to the good of the community." (239 U. S. 410).

The particular application of the police power to the regulation of cemeteries has been thoroughly established. Many cases upholding this exercise of the police power were noted in the memorandum filed by the Trustee at the time of the hearing on the Exceptions to the Ratification of the Sale in the prior proceeding. (That memorandum was adopted by the Court as its opinion). The Court's attention is called to that memorandum and, particularly, the case of Masonic Cemetery Association v. Gamage, (C.C.A. 9th C.) 38 F.2d 950; 71 A.L.R. 1027; certiorari denied, 282 U. S. 852.

The note in A.L.R. to the Masonic Cemetery Association Case collects numerous cases which support the conclusion of the editors in 10 Am. Jur., Cemeteries, Sec. 20:

> "The right that land devoted to use as a cemetery be so maintained is subject to the reasonable exercise of the police power. Where land becomes no longer suitable for the use to which it was dedicated, on account of the surrounding circumstances, the discontinuance of such use may be required by the legislature or a municipality, in the promotion of the public health or welfare.
>
> "It is generally held that every owner of a cemetery lot takes subject to the contingency that it may become offensive to the residence of many people in the vicinity, that its use may be prohibited under laws for the suppression of nuisances, and that the legislation under the police power, may require the removal of all bodies and the reinterment elsewhere."

Notice By Publication Is Sufficient For Due Process

The leading case on sufficiency of notice by publication is that of Pennoyer v. Neff, 95 U. S. 714. In that case Mr. Justice Field, speaking for the Court said:

"Such service may also be sufficient in cases where the object of the action is to reach and dispose of property in the State, or of some interest therein, by enforcing a contract or a lien respecting the same, or to partition it among different owners, or, when the public is a party, to condemn and appropriate it for a public purpose. In other words, such service may answer in all actions which are substantially proceedings in rem --- . It is true that in a strict sense, a proceeding in rem is one taken directly against property and has for its object the disposition of the property, without reference to the title of individual claimants; but in a larger and more general sense, the terms are applied to actions between parties, where the direct object is to reach and dispose of property owned by them, or of some interest therein." (95 U. S. 714, 727).

Further cases on this point are noted in the Trustee's memorandum.

The conclusion is beyond question that the State has the absolute power to provide for notice by publication in any case involving the title to land within, its borders, and if such notice is duly given in accordance with the statute jurisdiction attaches regardless of whether the non-resident receives actual notice.

"When the requisites have been complied with, the Court will not listen to any evidence that the party has not, or could not actually receive the notice or make his appearance.

"The Courts act upon the presumption of notice which they will not allow to be rebutted." Miller Equity Procedure, Sec. 20; Dorsey v. Thompson, 37 Md. 24 a. p. 44/

Procedure In Prior Case Not Invalid Under Article III, Section 33 of Constitution Of The State of Maryland.

Plaintiffs allege that the prior action of the Court under Section 120 of Article 16, (Code 1957) & (Section 124-A 1951 Code, Ch. 630 Acts 1957) is invalid because the Act of the Legislature is a special law for which provision has been made by a "general" law, namely, Section 119 of Article 16 (Code 1957).

This argument ignores the settled construction of Section 33 of Article III of the Maryland Constitution that the term "special law" means "a special law for a particular case" or "what are more commonly called private Acts, for the relief of particular named parties" and not that "the framers of the Constitution intended to foreclose the sovereign the right to pass special legislation to serve a particular need, to meet some special evil, or to promote some public interest, for which the general law is inadequate." Jones v. House of Reformation, 176 Md. 43, 55-57.

Even so, the proceedings would be valid if the authority of the Court were based upon the authority of Section 119 of Article 16 or Section 120 of Article 16, because the actions are in compliance with both.

Plaintiff s Never Had A Fee Simple Title To The Burial Lots, Nor Even An Easement, But Only A Revocable License.

The interest of an "owner" of a burial lot in a cemetery was analyzed in the Trustee's memorandum previously referred to. It has been established in Maryland to be only a "revocable license" and not even an easement, much less a fee title. Partridge v. First Ind. Church, 39 Md. 631, 637. This case was cited recently in Hill Sand & Gravel Company, Inc. v. Pallotine Fathers House of Studies, Inc., 220 Md. 526, No. 30 September Term, 1959, filed October 22, 1959, Daily Record, November 17, 1959, as follows:

"There are cases holding that where a private graveyard is established and clearly marked out, and markers maintained, an implied reservation or easement is created. Hines v. State, 149 S. W. 1058 (Tenn.); Heiligman v. Chambers, 338 P. 2d 144 (Okla. 1959). But in Partridge v. First Ind. Church, 39 Md. 631, 637, it was held that a public burial ground may be abandoned, and that the right of burial and visitation is not an easement but a revocable license."

The Relief Asked by Plaintiffs Is Inappropriate To Taker's Rights.

The Plaintiffs ask that the sale be set aside, that an injunction restraining the Defendants from entering upon the "Plaintiffs' real estate" be issued, that the Defendants be restrained from using the property for any purpose other than as a burial ground, that the Defendants be required to remove any structures erected on the land.

The Defendant, Belair Road Enterprises, Inc., purchased the property at a judicial sale, from the Trustee appointed by this Court, it paid the purchase price, including the cost of the Trustee's contract with an undertaker of relocating the bodies and re-erecting the tombstones, the cost of purchasing a new location, Trustee's commission, counsel fees of Defendants and Trustee, and all court costs. These funds have been paid over and disbursed pursuant to the final order of this Court and the property has been conveyed by the Trustee to the purchaser. The Defendant, McKamer Realty Company, no longer has any interest in the property.

Neither the Plaintiffs nor the Defendant, Belair Road Enterprises, Inc.

can be restored to their former positions. The final Decrees of this Court have been fully executed and the Defendants who have acted on the faith of such Decrees may not be prejudiced by such Decrees being reversed or varied. Maryland Rules, Rule 690.

The title of the purchaser at a judicial sale is perfected upon ratification. Spindler v. Atkinson, 3 Md. 409; Bolgiano v. Cooke, 19 Md. 375.

If each of the Plaintiffs could completely prove the allegations of their Bills, to what relief are they entitled? The language of the decision in Partridge v. First Ind. Church, 39 Md. 631, states it exactly.

> "But if in the course of time it should become necessary to vacate the ground as a burying ground, all that he could claim, in law or equity, would be that he would have due notice and the opportunity afforded to him of removing the bodies and monuments to some other place of his own selection, or that, on his failing to do so, such removal should be made by others. He accepted the grant or license subject to this necessary condition." (39 Md. 637-638).

Further, if the Plaintiffs claim damages the amount of each claim in controversy is below the jurisdiction of the Court under the provisions of Article 16, Section 118. The testimony (which is uncontradicted) shows the lots were sold originally for $10 to $30, and the proceedings show the Plaintiffs have no equity in the sales proceeds in any event. Partridge v. First Ind. Church, supra.

Conclusion:

I. The only basis for the review by this Court of the Decrees and the proceedings in McKamer Realty Company vs. Anderson Enterprises, Inc. on the Bill of Julia Jones is a finding that the Decrees were obtained by fraud.

II. The only testimony admissible on this question relates to the allegations that the Defendants wilfully deceived the Court.

III. The Bill of Review brought by the Plaintiff, Lillian Waters, as a non-resident, under Rule 682 of the Maryland Rules, raises only the question of error of law apparent on the face of the record.

IV. Article 16, Section 120, of the Maryland Code , 1957, is a valid exercise of the police power of the State of Maryland.

Therefore, the Bill of Complaint of Lillian Waters, Case No. A-39107, and the Bill of Complaint of Julia Jones, Case No. A-39096, should be dismissed.

Respectfully submitted,

Walter C. Mylander, Jr.

Walter C. Mylander, Jr.

Charles C. W. Atwater

Charles C. W. Atwater
Solicitors for Defendants.

Which said appeal being by the Court here also granted, it is thereupon ordered by the Court here, that a Transcript of the Record of Proceedings in the cause aforesaid be transmitted to the Court of Appeals of Maryland, under the rules / thereof *, and the same is transmitted accordingly.*

Test:

Henry J. Rupperger
Clerk.

In Testimony, *that the aforegoing is truly taken from the Record and Proceedings of the Circuit Court of Baltimore City, in the therein entitled cause.*

I hereunto set my hand and affix the Seal of the Circuit Court of Baltimore City aforesaid, this 12" *day of* July *A. D., 19* 60

Henry J. Rupperger
Clerk of the Circuit Court of Baltimore City.

COSTS

PLAINTIFF'S COSTS	123.50
STENOGRAPHER'S COSTS	26.00
DEFENDANTS COSTS	------

NOTE: These proceedings consolidated with case entitled "Julia Jones vs. McKamer Realty Co., et al." as per Order of Court dated April 12, 1960.

Fld. 6 May 1959

A-276
1959

LILLIAN WATERS 550 W. 158th Street, Apt. 3-D New York 32, New York Complainant	*	IN THE
vs.	*	CIRCUIT COURT
McKAMER REALTY COMPANY c/o Clement R. Mercaldo, Resident Agent, 404 Munsey Building Baltimore 2, Maryland	*	OF
and	*	BALTIMORE CITY
BELAIR ROAD ENTERPRISES, INC. c/o Horold J. Kaufman, Resident Agent, 1231 Munsey Building Baltimore 2, Maryland Defendants	*	

* * * * * * *

BILL OF REVIEW

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Comes now Lillian Waters, by Juanita Jackson Mitchell, Archie D. Williams, and WILLIAMS & MURPHY, her attorneys, and complaining respectfully, says:

1. That on or about August 1, 1855 A. R. Carroll acquired fee simple title through a deed, duly recorded at the Laurel Cemetery Company's Office in Baltimore City to the following described real estate situated in Baltimore City:

Lot No. 255, Section "A" of the Laurel Cemetery

That on or about December 12, 1912 the said A. R. Carroll assigned said deed to your Complainant, and that ever since the said December 12, 1912 your Complainant has enjoyed peaceful possession of said cemetery lot, and that the bodies of your Complainants father, brother, and infant child have been burried in said lot.

2. That on the 11th day of October 1939 the New Laurel Cemetery Company, a Maryland corporation, acquired title to the aforementioned Laurel Cemetery, subject to the ownership rights of your Complainant.

3. That on or about the 31st day of December 1952 The New Laurel Cemetery Company filed its petition in Voluntary Bankruptcy in the United States Federal District Court of Maryland,

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

A-39107 (1)

and was thereafter duly adjudged a bankrupt, that on or about the 27th day of June 1957, Joseph Kaiser, Esquire, one of the referees of the said Federal Court was appointed trustee and pursuant to said Order of the Court conveyed the above described Laurel Cemetery property by a deed to the Defendant, McKamer Realty Company for and in consideration of $100.00, that the Order of Court approving said sale expressly reserved unto your complainant her rights and title to her said cemetery lot.

4. That on or about December 16, 1957 the Defendant, McKamer Realty Company filed its' Bill in this Honorable Court (Docket 97A, Folio 878) for a sale of said cemetery property under the provisions of Article 16, Section 120 of the Annotated Code of Maryland, and made Anderson Enterprises, Inc., et al, Defendants. Thereafter on or about June 10, 1958 this Honorable Court passed an Order for the sale of said cemetery property free and clear of the property rights of your Complainant.

5. That your Complainant is a non resident of the State of Maryland, and is now, and has been for many years prior to the filing of this Bill, a resident of the State of New York, and she now brings this action under authority of Rule 682 of the Maryland Rules of Procedure.

6. That your Complainant was made a party to the action hereinbefore referred to by designation as a member of a class, but she never had any notice, constructive or otherwise, of the pendancy of the suit, and was therefore precluded from making a timely defense.

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

7. That your Complainant has valid defenses to the suit heretofore brought by the Defendant, McKamer Realty Company, and that such defenses should be considered by this Honorable Court so that justice may be done, and the rights of your Complainant protected.

8. That the action of this Honorable Court in the aforementioned case should be reviewed, and the Decree set aside because such action and Decree proceeded from a Maryland Statute which is invalid and without force and effect for the following reasons:

(a) The said statute is in contravention of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution in that it permits the taking of lot owners property within Baltimore City when the cemetery is only 75% abandoned while similaryl circumstanced lot owners outside of Baltimore City may not be so deprived.

(b) The said statute is in contravention of the Due Process Clause of the Fourteenth Amendment to the United States Constitution in that it permits the taking of Complainants property without notice and opportunity to defend against such taking.

(c) The said statute is in contravention of Article III, Section 33 of the Maryland Constitution in that it is a Special Law upon a subject for which provision had been made by an existing General Law.

9. That the Defendant, Belair Road Enterprises, Inc., is the purchaser of the said cemetery property pursuant to the said Decree of this Honorable Court, and the said Belair Road Enterprises, Inc., has now entered upon the siad cemetery property and proceeded to misuse said property in derogation of the rights of this Complainant.

WHEREFORE, your Complainant respectfully prays:

(a) That this Honorable Court review the action heretofore taken in the case of McKamer Realty Company vs. Anderson Enterprises, Inc., et al, and consider the case upon its' merit in view of the defenses hereinbefore enumerated by this Complainant.

(b) That this Honorable Court set aside the Decree heretofore passed in the case of McKamer Realty Company vs. Anderson Enterprises, Inc.

(c) That this Honorable Court pass a Decree ordering and directing the Defendants herein to restore the property of this Complainant to the status it had prior to the passage of said Decree.

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

(d) That this Complainant may have appropriate damages for the injury done to her property.

(e) That she may have such other and further relief as may be appropriate.

Lillian Waters
Complainant

Juanita Jackson Mitchell
JUANITA JACKSON MITCHELL
1239 Druid Hill Avenue
Baltimore 17, Maryland

Archie D. Williams
ARCHIE D. WILLIAMS for
WILLIAMS & MURPHY
2669 Pennsylvania Avenue
Baltimore 17, Maryland
Attorneys for Complainant

STATE OF MARY LAND

CITY OF BALTIMORE

Personally appeared before me, a notary public in and for the City and State aforesaid, this 2nd day of May, 1959 was Lillian Waters and she made oath in due form of law that the matters and facts set forth in the aforegoing Bill are true and correct to the best of her knowledge and belief.

Rose A. Hill
NOTARY PUBLIC
MY COMMISSION EXPIRES May 4-59

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

EQUITY SUBPOENA

The State of Maryland

To McKamer Realty Company
c/o Clement R. Mercaldo, Resident Agent,
404 Munsey Building
Baltimore 2, Md.

and

Belair Road Ehterprises, Inc.
c/o Horold J. Kaufman, Resident Agent,
1231 Munsey Building,
Baltimore 2, Md.

of Baltimore City, Greeting:

WE COMMAND AND ENJOIN YOU, That all excuses set aside, you do within the time limited by law, beginning on the first Monday of June next, cause an appearance to be entered for you and your answer to be filed to the complaint of

Lillian Waters, 550 W. 158th Street, Apt. 3-D
New York 32, New York

against you exhibited in the Circuit Court of Baltimore City.

HEREOF fail not, as you will answer the contrary at your peril.

WITNESS, the Honorable EMORY H. NILES, Chief Judge of the Supreme Bench of Baltimore City, the 4th day of May, 1959

Issued the 6th day of May, in the year 1959

Henry J. Ritzenberg Clerk

MEMORANDUM: You are required to file your answer or other defense in the Clerk's Office, room 410, in the Court House, Baltimore City, within fifteen days after return day, named in the above subpoena. Personal attendance in Court on the day named is not necessary, but unless you answer or make other defense within the time named, complainant (s) may obtain a decree pro confesso against you, which upon proper proof may be converted into a final decree for the relief demanded.
(General Equity Rule 11)

A-39107 (2)

RECEIVED
SHERIFF'S OFFICE
MAY 7 3 03 PM '59
BALTIMORE CITY, MD.

P 93

CIRCUIT COURT

A-276
19 59 Docket No. .....

LILLIAN WATERS

vs.

McKAMER REALTY CO., ET AL

Subpoena To Answer Bill Of Complaint

No. 20,285

No. A-32107

(2)

Filed 11 day of May, 19 59

Juanita Jackson Mitchell
Archie D. Williams Solicitor.
Williams & Murphy
3
Address.

Summoned McKamer Realty Company, a corporation, by service on Clement R. Mercaldo, Resident Agent, and a Copy of the Process with a Copy of the Bill of Complaint left with said Resident Agent. Also summoned Belair Road Enterprises Incorporated, a corporation, by service on Harold J. Kaufman, Resident Agent, and a Copy of the Process with a Copy of the Bill of Complaint left with said Resident Agent on the 5th day of May 1959 in the presence of William Fowler. Also Notice of said summons left at the principal office of said corporations.

Joseph C. Deegan
Sheriff

Fees $7.40

A 276/1959

Fld. 17th June 1959

LILLIAN WATERS	*	IN THE CIRCUIT COURT
Plaintiff	*	
vs.		OF
McKAMER REALTY COMPANY, et al.	*	
		BALTIMORE CITY
Defendants	*	

* * * * * * * * * * *

ANSWER AND DEMURRER

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The answer of McKamer Realty Company and Belair Road Enterprises, Inc., both Maryland corporations, Defendants, to the Bill for Review hereinbefore exhibited against them, respectfully says:

FIRST: They deny that on August 1, 1855, A. R. Carroll acquired a fee simple title by any legally sufficient deed to the property described in said paragraph or that any such title has been assigned to the Plaintiff. The Defendants have no knowledge of any burial rights which the Plaintiff or her predecessors in title may have acquired, and, accordingly, in accordance with Maryland Rule 372 a. 2., deny the allegations of said paragraph.

SECOND: The Defendants admit that on October 11, 1939, the New Laurel Cemetery Company, a Maryland corporation, acquired title to the tract of land known as Laurel Cemetery in fee simple, subject to the burial rights of certificate holders under certificates issued by the Laurel Cemetery Company since the year 1852. The Defendants deny, however, ownership rights of the Plaintiff as alleged in said paragraph.

A-39107 (3)

THIRD: The Defendants admit the allegations of the third paragraph of the Bill for Review except that they deny that Joseph Kaiser, Esquire, one of the Referees of said Federal Court, was appointed Trustee, and they aver, on the contrary, that H. Carl Butler, Esquire, was so appointed and was the Trustee who conveyed the property by deed to the Defendant, McKamer Realty Company, subject to certain burial rights therein. Defendants again deny that Plaintiff had any title in and to said cemetery lot.

FOURTH: The Defendants admit the allegations of the fourth paragraph of said Bill.

FIFTH: The Defendants have no knowledge of the matters alleged in the fifth paragraph of said Bill.

SIXTH: The Defendants admit that the Plaintiff was made a party to the action hereinbefore referred to by designation as a member of a class. They deny the allegation of said paragraph that Plaintiff never had any constructive notice of the pendency of the suit, and they further deny that she was precluded from making a timely defense.

SEVENTH: Answering the seventh paragraph of said Bill, these Defendants deny that the Plaintiff or any other person affected had any defense to the Bill of Complaint referred to, and they state, on the contrary, that the rights of the Plaintiff and all others interested in the proceedings therein mentioned have been fully protected and provided for by the Decree of this Court in said proceedings according to the terms and tenor of valid laws of the State of Maryland, being codified as Article 16, Sections 119 and 120, of the Code of Public General Laws, 1957 Edition.

EIGHTH: Answering the eighth paragraph of said Bill, these

Defendants deny that the case referred to should be reviewed or that the Decree therein should be set aside. They deny the alleged invalidity of the enactment from which it proceeded.

NINTH: Answering the ninth paragraph of said Bill, the Defendant, Belair Road Enterprises, Inc., admits that it is the purchaser of the said cemetery property pursuant to the said Decree of this Honorable Court, and that it has, pursuant to its rights under its Deed to said property, now entered upon the said cemetery property, which, however, prior to such entry, has been cleared of all graves, stones and markers, the bodies having been disinterred and such markers having been removed by the said Trustee pursuant to the Order of this Court under its direction. Further answering said paragraph, Defendant, Belair Road Enterprises, Inc., denies that it has misused or could, under such circumstances, misuse said property in derogation of the rights of the Plaintiff or anyone else who formerly held rights therein.

D E M U R R E R

TENTH: Further answering said Bill for Review in accordance with the Maryland Rules, these Defendants demur to the said Bill and to each and every part and paragraph thereof and for reasons therefor state:

(1) That the Bill fails to state a cause of action either at law or in equity.

(2) That the Bill is bad in substance and insufficient at law.

(3) That the Bill fails to include as exhibits filed therewith the documents therein referred to.

(4) That the Bill fails to show by any sufficient allegation the

devolution of the alleged title to the Plaintiff.

(5) That the Bill fails to show any rights of the Plaintiff.

(6) That the Bill on its face fails to set forth any facts constituting fraud, mistake, surprise or any circumstances which could compel the Court to set aside the Decree in the proceedings therein referred to.

(7) That the Bill attacks the constitutionality of the Act of 1957, Chapter 630 (Annotated Code of Maryland, 1957 Edition, Article 16, Section 120), and it does not appear on the face of the Bill that notice is given to the Attorney General thereof.

(8) That the Plaintiff, on the face of the Bill, is guilty of laches.

(9) That the proceedings sought to be reviewed accomplished the removal and relocation of a cemetery as a measure for the health, safety and welfare of the public, and that said purposes have been fully accomplished, and it does not appear upon the face of the Bill for Review that the removal of said cemetery could now be reversed or corrected or that the purchaser of the property, which was formerly occupied as a cemetery, was other than a bona fide purchaser for value or that its title could be now divested.

(10) And for other reasons to be shown at the hearing hereof.

WHEREFORE, these Defendants pray that they may be hence dismissed with their proper costs.

AND, as in duty bound, etc.

Clement R. Mercaldo
President - McKamer Realty Company

Walter C. Mylander, Jr.

Lloyd G. McAllister
Vice President - Belair Road Enterprises, Inc.

Charles C. W. Atwater
Attorneys for Defendants
1213 Fidelity Building
Baltimore -1, Maryland

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of June, 1959, a copy of the foregoing Answer and Demurrer was mailed to Mrs. Juanita Jackson Mitchell, 1239 Druid Hill Avenue, Baltimore -17, Maryland, and to Archie D. Williams, Esquire, and Messrs. Williams & Murphy, 2669 Pennsylvania Avenue, Baltimore -17, Maryland, Attorneys for Plaintiff.

Walter C. Mylander

Walter C. Mylander, Jr.
Of Counsel for Defendants
1213 Fidelity Building
Baltimore -1, Maryland

//

Fd. 19 November 1959

PETITION AND ORDER TO TAKE TESTIMONY UNDER 560th RULE

LILLIAN WATERS

Plaintiff

vs.

McKAMER REALTY COMPANY, et al.

Defendants

IN THE

CIRCUIT COURT

— OF —

BALTIMORE CITY

Docket 1959 - Folio A-276
File No. A-39107

To the Honorable the Judge of the Circuit Court of Baltimore City:

The Defendants in this case respectfully shows unto your Honor:

THAT they desires to examine orally, in open Court and in the presence of your Honor, certain witnesses who can testify to the facts and matters relevant to the allegations in the Bill of Complaint filed in this case.

Your petitioners therefore prays your Honor to pass an order, according to the Statutes for such case made and provided.

And as in duty bound will ever pray.

Edward C. W. Atwater
Charles C. W. Atwater

Solicitor for Defendants

Upon the foregoing Petition and Application it is this 19th day of November, A. D. 19 59, Ordered that the petitioner have leave to take testimony as prayed and that the testimony to be offered be taken as required by the 560th Rule of this Court. ~~And it is further Ordered that a copy of this petition and order be served on the ..... or h Solicitor , on or before the ..... day of ....., 19 .....~~

Henry J. Ruppert Clerk

I HEREBY CERTIFY that a copy of the foregoing Petition and Order was mailed to each of the following, Solicitors for Plaintiffs, this 19 day of November, 1959:

Mrs. Juanita Jackson Mitchell
1239 Druid Hill Avenue
Baltimore 17, Maryland

Archie D. Williams, Esquire
Messrs. Williams & Murphy
2669 Pennsylvania Avenue
Baltimore 17, Maryland

A-39107 (4) 12

Edward C. W. Atwater
Charles C. W. Atwater

Juanita Jackson Mitchell
Archie D. Williams
Williams & Murphy

Walter C. Mylander, Jr.
Charles C. W Atwater

CCWA:bc 12/18/59 1-5

fd 18 December 1959

LILLIAN WATERS,	*	IN THE
Plaintiff		CIRCUIT COURT
	*	
vs.		OF
McKAMER REALTY COMPANY, ET AL., a body corporate of the State of Maryland,	*	BALTIMORE CITY
		Docket 1959 - Folio A-276
	*	File No. A-39107
Defendants		
	*	

DECREE OF COURT

The above entitled case having come on for hearing, testimony having been taken in open Court and Counsel having been heard for the respective parties, it is this 18th day of December, 1959, by the Circuit Court of Baltimore City:

ORDERED, ADJUDGED and DECREED that the Bill of Complaint be and it is hereby dismissed with prejudice; the costs to be paid by the Plaintiff.

Judge

A 39107 (5)

Jaf

Fld. 18th January 1960

Lillian Waters

vs.

McKamer Realty Co et al

IN THE

CIRCUIT COURT

OF

BALTIMORE CITY

1959/A-276

Mr. Clerk:

Please enter an appeal on behalf of Plaintiff

from the Decree passed on the 18th day of December 1959 to the Court of Appeals of Maryland.

Archie D. Williams

Solicitor for Appellant.

State of Maryland, Baltimore City, to wit:

I hereby certify, that on this ..... day of ..... 19..... , before me, the Subscriber, Clerk of the Circuit Court of Baltimore City, personally appeared

.....

and made oath in due form of law that this appeal is not made for the purpose of delay.

.....

Clerk of the Circuit Court of Baltimore City.

A-39107 (6)

Circuit Court

..... 19 Docket No. .....

.....

.....

vs.

.....

.....

ORDER FOR APPEAL

No. .....

Filed ..... 19 .....

Fd. 15" February 1960

LILLIAN WATERS	*	IN THE
Complainant	*	CIRCUIT COURT
vs.	*	OF
McKAMER REALTY COMPANY, ET AL	*	BALTIMORE CITY
Defendants	*	Docket 1959 A-276

* * * * * * *

PETITION FOR EXTENSION OF TIME FOR TRANSMISSION OF RECORD

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Comes now Lillian Waters, by Juanita Jackson Mitchell, Archie D. Williams, and WILLIAMS & MURPHY, her attorneys, and for Petition for Extension of Time for Transmission of Record, Says:

1. That prior to December 18, 1959 she filed her Bill of Review in this Honorable Court asking that this Honorable Court Review Its' Decree in the case of McKamer Realty Company vs. Anderson Enterprises, Inc., Et Al., and that on December 18, 1959 a hearing was held on said Bill at which time said Bill was dismissed. From this action an appeal has been taken to the Court of Appeals of Maryland.

2. That there is now pending before this Honorable Court the case of Mamie E. Kennard, Et Al vs. McKamer Realty Company, Et Al upon which a hearing has been held, but as yet no decision has been rendered. That the Kennard case and the instant case both grow out of the same transaction, and involve some of the same law and facts, and that it is anticipated that these cases should be consolidated upon appeal.

WHEREFORE, your complainant respectfully pray:

(a) That this Honorable Court issue an Order extending the time for transmitting the record to the Court of Appeals of Maryland so that an opportunity may be had to consolidate upon appeal.

(b) Such other and further relief as may be requisite.

AND, as in duty bound, etc.

Archie D. Williams

Archie D. Williams
Attorney for Petitioner

LAW OFFICES
WILLIAMS & MURPHY
2659 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

A-39107 (7)

LILLIAN WATERS	*	IN THE
Complainant	*	CIRCUIT COURT
vs.	*	OF
McKAMER REALTY COMPANY, ET AL	*	BALTIMORE CITY
Defendants	*	Docket 1959 A-276

* * * * * * *

ORDER

Upon the aforegoing Petition, it is hereby Ordered this 15th day of February 1960 by the Circuit Court of Baltimore City that the time for transmission of the record to the Court of Appeals of Maryland in the matter of Lillian Waters vs. McKamer Realty Company, Et Al be, and the same is hereby extended for 30 days.

JUDGE

I Consent to the passage of this Order

Archie D. Williams
Atty for Plaintiffs

I Consent to the passage of this Order

Edward C. Murphy
& Counsel for Defendants

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

Fld. 29th February 1960

STENOGRAPHIC RECORD

IN THE CIRCUIT COURT OF BALTIMORE CITY

IN THE MATTER OF A-276/1959

LILLIAN WATERS

vs.

McKAMER REALTY COMPANY, et al.

JULIA JONES

vs.

McKAMER REALTY COMPANY, et al.

Before Warnken, J.

December 18, 1959

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A-39107 (8)

TRANSCRIPT FROM NOTES OF

CLARENCE P. GOETZ

Official Court Reporter

EQUITABLE BUILDING
BALTIMORE, MD.

OFFICE AND HOME
TELEPHONES

IN THE CIRCUIT COURT OF BALTIMORE CITY

LILLIAN WATERS :

vs. :

McKAMER REALTY COMPANY, et al. :

JULIA JONES :

vs. :

McKAMER REALTY COMPANY, et al. :

Before Warnken, J.

December 18, 1959.

Appearances:

Mr. Archie D. Williams, Solicitor for Lillian Waters.

Mr. Paul J. Cockrell, Solicitor for Julia Jones.

Messrs. Walter C. Mylander, Jr., and Charles C. W. Atwater, Solicitors for defendants in both cases.

THE COURT: Both of these cases virtually involve the same question and that is, very briefly stated,

the rights of the Plaintiffs, as relatives or assignees or some capacity, to be undisturbed with respect to whatever interest they had in what has been referred to as the Laurel Cemetery. Particularly they challenged the validity of the proceeding in this court under which the Laurel Cemetery was sold and provision made for removing the bodies or remains of any persons buried there and the monuments moved to some other cemetery, more or less for and on account of whomever had the right in the particular grave or the particular removed bodies rested. That decree went through all of the steps in an equity proceeding and has long since become enrolled, and now these two bills as I understand it, are bills of review. I have had the impression for some years back that a bill for review primarily was usually based on some allegation of fraud in the original proceeding. I believe it is also possible to show that there was an irregularity apparent on the face of the proceeding or mistake apparent on the face of the proceeding. But, as I understand the principles relating to that subject matter, such a bill cannot be filed or maintained for the purpose of merely

relitigating matters which were involved or could have been involved under the pleadings and issues and nature of the proceeding that was settled by a decree that is now being attacked.

Is that about stating the situation, gentlemen?

MR. WILLIAMS: If your Honor please, I think that comes pretty close to stating our position. In the case of Lillian Waters we have proceeded under Rule 682, which authorizes a non-resident who had no notice to bring a bill of review within twelve months after the decree had been passed.

THE COURT: You mean to say that Rule 682 is intended to make an exception to the laws and rules and principles that are applicable to orders of publication in order to give notice to non-residents?

MR. WILLIAMS: I think, your Honor, that Rule 682 basically establishes a time limit upon which a non-resident might come in and ask that a proceeding be reviewed. But, at the same time, they would be required to show either that there was some error in law apparent on the face of a decree or that there was some irregularity or

fraud. Ordinarily for a bill of review, fraud is not necessary, as I understand it.

THE COURT: It is almost always the basis of the proceeding, a later filed proceeding though. All this rule says is that the non-resident shall have the right to file a bill of review at any time within twelve months from the date of the decree.

MR. WILLIAMS: Yes, sir.

THE COURT: That does not say that he does not have to meet the demands of law and equity or principles that relate to the right to maintain after it is filed.

MR. WILLIAMS: Yes, sir. I don't contend that that is an absolute right, that they don't need anything more than to be a non-resident, that the bill must show there is some error of law apparent in the proceedings, and we have alleged here that the statute under which the decree was passed is unconstitutional, and certainly that would be an irregularity that is apparent.

THE COURT: I suspect if it is unconstitutional, all the proceedings of this court would be void and of no effect, wouldn't they?

MR. MYLANDER: I think we can concede that, that the validity of the purchaser's title at least depends upon the constitutionality of these proceedings to give the Court basic jurisdiction.

THE COURT: We are agreed on that then.

MR. WILLIAMS: Yes, sir. Then if we will proceed from that point, of course it would not require the taking of any testimony to test the constitutionality.

THE COURT: I understand that, but I don't want to take two bites at this. In the other bill there are a good many allegations of fraud which are pretty general. If you have any testimony to support those allegations of fraud and concealment, I suggest that you put it on now.

MR. COCKRELL: If your Honor please, as to that we also contend that because of the irregularity aspects in the case of Julia Jones, we feel under the provisions of Rule 682 of the Rules of Procedure, they give the Court revisory power over judgment after the decree has been enrolled.

THE COURT: For how long?

MR. COCKRELL: It does not say, it is indefinite.

THE COURT: It does not last forever, does it? Isn't that merely declaratory of a bill of review?

MR. COCKRELL: It says after the expiration of a period of 30 days after the entry of a judgment, thereafter pursuant to motion filed within said period the Court shall have revisory power and control over such judgment. After the expiration of such period, the Court shall have revisory power and control over such judgment only in case of fraud, mistake or irregularity.

THE COURT: That is just declaratory of what is required in order to maintain a bill of review.

MR. COCKRELL: Right, but there is no limitation on the period.

THE COURT: I do not know of any specific limitation period that is applicable to a bill of review outside of the customary one in equity of laches, do you?

MR. MYLANDER: If your Honor pleases, all the older cases stated that a bill for review could only be brought within the time of appeal. At the time that this case spoke, there was an appeal of nine months and one of the later cases, after the appeal time was reduced to 60

days, then 30 days, stated that -- they did not decide that the time had been reduced by the reduction of the appeal time, but they inferentially stated that the time still remained at nine months. There has not been an expression of the Court of Appeals on that for a long time. However, the distinction between that time and the statutory limitation or the rule limitation of twelve months, which was merely declaratory or merely replaced old section 151 of Article 16, was discussed in Luckett vs. Long, 12 Gill and Johnson, and apparently that has been in effect since 1792 by statute, and since the new rules, by rule. I think it is quite clear that the intention of that rule is to enlarge the nine month rule for common law as to non-residents. That is, twelve months as to non-residents and nine months as to others by virtue of the common law precedence.

THE COURT: The final order in the case ratifying the auditor's account was in March of 1959, as I understand it. There was a decree directing the sale, of course, in June, 1958, report of sale filed in July, 1958, an order nisi, exceptions, motion for hearing, order of

court dismissing exceptions to ratification September 10th, and finally ratifying and permitting the sale. That is September 10, 1958. These proceedings were filed here, both of them, in May, 1959. I don't think there is any question of limitations involved.

MR. MYLANDER: We don't press that theory. I was merely answering the Court's question academically. I think at least the ratification of the sale and the auditor's account would be subject to review, if it falls within the Court's power, by virtue of the allegations of fraud, irregularity or mistake.

THE COURT: You are safe thus far, then, on the question of limitations, I think, unless you have something to suggest otherwise.

MR. COCKRELL: Yes, I do have something else to suggest as to limitation. I think the question of irregularity here really goes to the jurisdiction of the court. We are going on the ground of irregularity based on lack of due notice, that the notice given --

THE COURT: I understand your point in that respect. I am merely trying to get the matter straightened

out so we can have the argument on those matters and get them decided. What I am interested in now is the testimony that you have the right to produce showing fraud or concealment that has been alleged in the bill. Are you ready to produce that?

MR. MYLANDER: Or do you rely on it?

THE COURT: Are you relying on fraud and concealment?

MR. COCKRELL: Your Honor, we are relying, sir, on the irregularity aspect.

THE COURT: See if I am right in stating what your position is. Your position is that, taking the proceeding as a whole and every part thereof, done and undone, from beginning to end, it constitutes in law a fraud or concealment with respect to your clients of what was being done or proposed to be done, is that what your point is?

MR. COCKRELL: Generally.

THE COURT: Therefore, you are not producing any additional testimony other than is disclosed by the papers in the file of that case.

MR. COCKRELL: Well, I want to put the plaintiff

on the stand and introduce her testimony. Her testimony will be introduced in addition to what is already in the record.

THE COURT: All right, then, produce her.

MR. MYLANDER: Do I understand at this time that the entire record in the original case is in evidence? Are you offering it?

MR. COCKRELL: I would like to offer it in evidence.

THE COURT: Very well. Is that agreeable to you?

MR. MYLANDER: Yes.

THE COURT: Very well. That will be received in evidence.

MR. ATWATER: We will ask the clerk to bring in the papers in that case.

Thereupon--

JULIA JONES,

the Complainant, produced in that behalf, having been duly sworn according to law, was examined and testified as follows:

BY THE REPORTER:

Q What is your name?

A Julia Jones.

Q What is your address?

A 831 Fulton Avenue.

DIRECT EXAMINATION

By Mr. Cockrell:

Q Mrs. Jones, you are the Plaintiff in this case seeking relief in this case?

A Yes, sir.

Q Have you had any connection in the past with the Laurel Cemetery case?

A No, sir.

Q I will restate the question. Have you ever had any interest, by deed or in any other manner, in the Laurel Cemetery case?

A Yes, sir.

MR. MYLANDER: I object. We think she should produce the deed if she has one.

THE COURT: It is a little broad. Does she have the paper?

MR. COCKRELL: Yes, sir.

THE COURT: We might as well get it out now.

MR. COCKRELL: I would like to introduce it in evidence as Plaintiff's Exhibit 1.

MR. MYLANDER: No objection.

(Document referred to received in evidence as Plaintiff's Exhibit 1.)

Q Will you explain to the Court under what circumstances you acquired this deed and from whom?

MR. MYLANDER: I object.

THE COURT: This is dated July 9, 1921. What do you mean by "under what circumstances she got it"? She bought it and paid for it, is that what you mean?

MR. COCKRELL: That's right, your Honor, that is what I want to establish.

THE COURT: That is established by the deed, which contains "in consideration of Thirty Dollars." Of course, that in itself proves she paid $30 for it.

MR. COCKRELL: Well, it is in evidence but I want to establish by her own testimony the circumstances under which she got it and the understanding she received from

this title, things of that nature.

MR. MYLANDER: We think that is irrelevant.

THE COURT: I don't know that any understanding she got from somebody back in 1921 that is not incorporated in this paper would be very important.

MR. COCKRELL: Very well, your Honor.

Q Mrs. Jones, did you purchase the deed yourself?

A Yes, sir.

Q Has anyone been buried in that portion of that lot?

A My brother, John Wesley Johnson.

Q When was he buried in that lot?

MR. MYLANDER: If the Court please, I object to all of this as being irrelevant to the issue now before the Court.

THE COURT: I am inclined to think it is, but there isn't much to it. Let's get it. Who is buried in the lot?

THE WITNESS: My brother, John Wesley Johnson.

THE COURT: When was he buried?

THE WITNESS: He was buried in 1921, I think, or

1922 -- 1921 he was buried, the same year I bought the lot.

THE COURT: Anybody else buried there?

THE WITNESS: No, sir.

THE COURT: And his name is what?

THE WITNESS: John Wesley Johnson.

Q (By Mr. Cockrell) Did you make any provision for keeping that plot of ground -- did you make any provision for keeping that plot of ground in good condition?

(Question objected to.)

A Yes, I did.

THE COURT: He just asked whether she did and she said yes. I don't see that that is harmful. Go ahead.

Q When was the first time that you received any notice that your right in Laurel Cemetery had been damaged or infringed upon?

A I never received any --

MR. MYLANDER: If the Court pleases, we object.

THE COURT: The framing of your question is objectionable to counsel.

MR. ATWATER: Your Honor, we also object to the

substance as well.

MR. MYLANDER: I would suggest if we could have an exception to the whole line of questioning inasmuch as it does not bear on the question of fraud, we will not annoy the Court by these outbursts.

THE COURT: I will take it subject to exception and that will protect everybody.

MR. MYLANDER: Right.

Q When did you receive notice or any knowledge of anything out of the ordinary affecting your rights in Laurel Cemetery?

A I read it in the paper this year, in the spring of the year, where it had been bulldozed and bodies taken to Carroll County.

Q Had anyone contacted you prior to that time with regard to what would take place?

A No, nobody contacted me.

Q Do you read The Daily Record?

A I buy it every day but I didn't read it.

Q I mean The Daily Record, the lawyers' paper?

A No, I don't read the lawyers' paper.

Q After you found out what had taken place, did anybody in charge of the cemetery or in any way connected with the cemetery contact you with regard to your rights?

A I really doesn't think there was anybody connected with the cemetery because I went there several times, I have never seen anybody, and I have taken out scissors and cut my rose bush and pulled up grass. I have never seen anybody after Mr. Giles died, and I don't know when he died.

Q Who was Mr. Giles?

A He was the gravekeeper at one time when I first bought the lot.

Q When was the last time you were out there?

A In 1953.

Q Did you always go out yourself or have someone with you?

A No, I always went myself.

THE COURT: Did you find out what had been done with your brother's body?

THE WITNESS: No, sir, I did not.

THE COURT: You did not undertake to find out

anything about that?

THE WITNESS: I haven't been out there since I heard they had bulldozed it up and taken them away.

THE COURT: You just did not look into it at all.

THE WITNESS: No, sir.

Q (By Mr. Cockrell) You say your brother was buried in there. Was there enough ground --

A For three graves.

Q And that left two more graves?

A Two more, yes, sir.

MR. COCKRELL: No further questions.

MR. MYLANDER: No questions.

(Testimony of the witness concluded.)

MR. MYLANDER: The exception stands as to the entire testimony offered I presume.

THE COURT: Very well, I will rule on it at the end of the case. Have you any further testimony, gentlemen?

MR. WILLIAMS: If your Honor please in the Waters case -- we skipped along pretty fast -- and I don't know whether it is conceded by the Defendant that Mrs. Waters is

a non-resident and that she has an interest in the matter. If that isn't conceded, then I will put her on to establish that fact only.

THE COURT: Do you want to admit that she was and is a non-resident of Maryland?

MR. MYLANDER: We will concede that she was a non-resident of Maryland.

THE COURT: Well, you have that then.

MR. WILLIAMS: The only other thing is that she has an interest in the whole matter.

MR. MYLANDER: We don't admit that.

THE COURT: If she has a deed there, why don't you get it, show it to counsel, and they will be willing to let you put it in evidence with the same force and effect as if she had been sworn and testified.

MR. MYLANDER: We have no objection to the introduction of this paper, if they can show the devolution of it, it is all right.

Thereupon--

LILLIAN WATERS,

the Complainant, produced in that behalf, having been duly

sworn according to law, was examined and testified as follows:

BY THE REPORTER:

Q What is your name?

A Lillian Waters.

Q What is your address?

A 550 West 158th Street, New York City 32.

DIRECT EXAMINATION

By Mr. Williams:

Q Mrs. Waters, there has been introduced in evidence a deed from the Laurel Cemetery to A. R. Carroll, dated August 1, 1805, it says here, and I am sure that is an error because Laurel Cemetery was not in existence. It is very probable that this printing was made prior to the filling out of the deed and they just did not change the year. Whether it was 1855 we are not sure. Would you tell his Honor how you came into possession of this deed, what were the circumstances under which you got it?

A My father died and we had Holland's as our undertaker, and he sold us this lot.

THE COURT: When did your father die?

THE WITNESS: 1912.

THE COURT: What was his name?

THE WITNESS: James Martin. In 1916 I lost a child and she was buried there. In 1922 my brother died, James Martin, and was buried there.

Q On the occasion of all of these deaths, did you take this deed with you to the cemetery in order to bury the person?

A It was given to the undertaker, yes.

Q Did you ever experience any difficulty over using the plot?

A None whatever, no.

Q Did you know Mr. Carroll at all, A. R. Carroll?

A No, I did not. It was gotten through the undertaker.

Q Did you make any investigation to find out anything about Mr. Carroll?

MR. MYLANDER: I object.

A Well, I was young at the time and wasn't interested I guess. I knew we had a deed to the cemetery.

MR. MYLANDER: If your Honor pleases, if I may

have an exception again to all this testimony.

THE COURT: Yes, I will take it subject to exception.

Q Have you had continuous possession of this deed since that time?

A Yes, I have had.

Q Have you ever experienced any difficulty with visiting the Laurel Cemetery?

A None whatever.

Q And did you, on and after December 13, 1912, treat this particular plot as your own?

A Why sure. We had a tombstone put up there too.

MR. WILLIAMS: I have no further questions.

MR. MYLANDER: No questions. I note an exception and move to strike the whole testimony.

THE COURT: When were you last out there?

THE WITNESS: I think it was in 1925 or 1927, one of the two.

THE COURT: You are married, are you?

THE WITNESS: I am a widow.

THE COURT: Have you children?

THE WITNESS: I have one son.

THE COURT: Is he married?

THE WITNESS: Yes, living in Baltimore.

THE COURT: Has he any children?

THE WITNESS: Three children.

THE COURT: When did you learn that something had been done at the cemetery?

THE WITNESS: My son sent me cuttings out of the Afro-American.

THE COURT: When was that?

THE WITNESS: I think it was in May or April.

THE COURT: Of what year?

THE WITNESS: Of this year.

THE COURT: This year or last year?

THE WITNESS: In May of 1959.

THE COURT: 1959?

THE WITNESS: Yes.

THE COURT: What did you do then?

THE WITNESS: I contacted my lawyer in New York and he got in touch with Lawyer Williams here.

THE COURT: Do you know whether these bodies which

you say were buried in this lot have been moved to another place?

THE WITNESS: I was not notified.

THE COURT: And so far as you are concerned, you don't know whether they have been moved or not, is that right?

THE WITNESS: No, but --

THE COURT: I mean so far as you are personally concerned.

THE WITNESS: No.

THE COURT: And you personally never made any investigation to find out or try to find out.

THE WITNESS: Well, after I read what I did, that they were being hauled away like stones and mortar and dirt and bulldozers were digging up the ground, which was almost a disgrace to humans --

THE COURT: That still does not answer the question I asked. You did not do anything to personally investigate the matter to find out whether they had been put in graves in another cemetery or not.

THE WITNESS: Well, I think I would have been no-

tified if they had.

THE COURT: That isn't the point. You did not personally undertake to investigate to find out what the facts about it were, is that right or not?

THE WITNESS: That's right.

THE COURT: That is all I want to know.

(Testimony of the witness concluded.)

THE COURT: Have you any more testimony, gentlemen?

MR. WILLIAMS: No, sir, I have no other testimony, your Honor.

THE COURT: Do you?

MR. MYLANDER: No testimony on behalf of the Defendants.

THE COURT: Then I suppose we are ready for any discussion that you wish to engage in.

MR. COCKRELL: Before I start the discussion, I would like to get permission to get the previous record. If I had the bound volume from the Record Office --

THE COURT: What do you mean?

MR. COCKRELL: The record has been printed and

placed in a bound volume and it includes all the testimony that took place in the previous hearing. I would like to use that to direct the Court's attention to certain passages.

THE COURT: What do you mean it has been printed and put in a bound volume?

MR. MYLANDER: I think Mr. Cockrell refers to the Judicial Library in which proceedings are recorded through which title passes.

THE COURT: Yes, but they don't record the testimony.

MR. MYLANDER: Normally when title passes through an equity proceeding, the whole proceedings, including the testimony, are incorporated.

THE COURT: I had not the slightest idea they ever put the testimony in those books in the Clerk's offices.

MR. COCKRELL: May I get the Court's permission to obtain it?

THE COURT: Yes, or you may use this one.

MR. COCKRELL: There are certain things I want the Court to follow me on.

MR. MYLANDER: It is an archaic.

(After argument)

Warnken, J. (Orally):

I cannot see that there is any constitutional invalidity in these cases. Of course, a lot of the discussion about this matter appeared in the press and is still in people's minds, but that had no effect in the consideration of legal questions which must be decided according to the applicable legal principles. We are therefore only concerned in these cases with legal principles, and I cannot find anything here that would justify me in setting aside the decree passed in the former proceeding in which all these points were actually made before Judge Carter and ruled on by him.

Therefore I will have to sign a decree dismissing the present Bills.

Fd. 17 March 1960

LILLIAN WATERS	*	IN THE
Complainant	*	CIRCUIT COURT
vs.	*	OF
McKAMER REALTY COMPANY, ET AL	*	BALTIMORE CITY
Defendants	*	Docket 1959 A-276

* * * * * * *

PETITION FOR EXTENSION OF TIME FOR TRANSMISSION OF RECORD

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Comes now Lillian Waters, by Juanita Jackson Mitchell, Archie D. Williams, and WILLIAMS & MURPHY, her attorneys, and for Petition for Extension of Time for Transmission of Record, Says:

1. That prior to December 18, 1959 she filed her Bill of Review in this Honorable Court asking that this Honorable Court Review Its' Decree in the case of McKamer Realty Company bs. Anderson Enterprises, Inc., Et Al., and that on December 18, 1959 a hearing was held on said Bill at which time said Bill was dismissed. From this action an appeal has been taken to the Court of Appeals of Maryland.

2. That there was at that time pending before this Honorable Court the case of Mamie E. Kennard, Et Al vs. McKamer Realty Company, Et Al upon which a hearing has been held and the case dismissed. An appeal is being taken from this Decree. That the Kennard case and the instant case both grow out of the same transaction and involve some of the same law and facts, and that it is anticipated that these cases should be consolidated upon appeal.

WHEREFORE, your complainant respectfully prays:

(a) That this Honorable Court issue an Order extending the time for transmitting the record to the Court of Appeals of Maryland so that an opportunity may be had to consolidate upon appeal.

(b) Such other and further relief as may re requisite.

AND, as in duty bound, etc.

Archie D. Williams

Archie D. Williams
Attorney for Petitioner

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

A-39107 (9)

O R D E R

UPON the aforegoing Petition, it is hereby Ordered this 17 day of March 1960 by the Circuit Court of Baltimore City that the time for transmission of the record to the Court of Appeals of Maryland in the matter of Lillian Waters vs. McKamer Realty Company, Et Al. be, and the same is hereby extended for thirty days from this date.

JUDGE

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

CCWA:bc 4/12/60 1-9

Fld. 12th April 1960

MAMIE E. KENNARD, et al.	*	IN THE CIRCUIT COURT
vs.		OF
McKAMER REALTY COMPANY, et al.	*	BALTIMORE CITY
		1959/A-267

*

JULIA JONES		IN THE CIRCUIT COURT
vs.	*	OF
McKAMER REALTY COMPANY, et al.		BALTIMORE CITY
	*	1959/A-266

LILLIAN WATERS	*	IN THE CIRCUIT COURT
vs.		OF
McKAMER REALTY COMPANY, et al.	*	BALTIMORE CITY
		1959/A-276

*

ORDER OF COURT

The Motion of the Plaintiffs to Consolidate the Record on Appeal of the three above-entitled cases having come on for a hearing and the Motion and the Answer thereto whereby the Defendants consent to the Consolidation of the cases of "Julia Jones v. McKamer Realty Company, et al." and "Lillian Waters v. McKamer Realty Company, et al.", but oppose the consolidation of the record of those two cases with the record in the case of "Mamie E. Kennard, et al. v. McKamer

A-39107 (10)

Realty Company, et al." having been read and considered, and counsel having been heard, it is this 12 day of April, 1960, by the Circuit Court of Baltimore City:

ORDERED:

That the Records on Appeal in the cases of "Julia Jones v. McKamer Realty Company, et al." (Docket 1959A-266) and "Lillian Waters v. McKamer Realty Company, et al." (Docket 1959-A 276) be consolidated.

IT IS FURTHER ORDERED that the Motion to Consolidate the Record in the case of "Mamie E. Kennard, et al. v. McKamer Realty Company, et al." (Docket 1959A-267) with the records in the cases of "Julia Jones v. McKamer Realty Company, et al." (Docket 1959A-266) and "Lillian Waters v. McKamer Realty Company, et al." (Docket 1959A-276) be and it is hereby denied.

Judge

I HEREBY CERTIFY that on this 12th day of April, 1960, a copy of the foregoing Order of Court was mailed to each of W. A. C. Hughes, Jr., Esquire, 1803 Pennsylvania Avenue, Baltimore 17, Maryland, Mrs. Juanita Jackson Mitchell, 1239 Druid Hill Avenue, Baltimore 17, Maryland, Archie D. Williams, Esquire, Williams & Murphy, 2669 Pennsylvania Avenue, Baltimore 17, Maryland, Paul J. Cockrell, Esquire, and Tucker R. Dearing, Esquire, 627 North Aisquith Street, Baltimore 2, Maryland, Dallas F. Nicholas, Esquire, 14 East Pleasant Street, Baltimore 2, Maryland, and Julius P. Robinson, Esquire, 208 East Lexington Street, Baltimore 2, Maryland, Attorneys for Plaintiffs.

Of Counsel for Defendants

In The Circuit Court of Baltimore City

No. A-39096 A-266

JULIA JONES

vs

THE McKAMER REALTY CO., and BELAIR ROAD ENTERPRISES, INC.

1021-a

19 59

APPEAL INDEX

Paul J. Cockrell
Sol. for Complainant

Walter C. Mylander, Jr.
Charles C. W. Atwater
Sol. for Respondent

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JULIA JONES

VS.

McKAMER REALTY CO.,
ET AL.

IN THE

CIRCUIT COURT

OF

BALTIMORE CITY

- - - - - - - - - - - - -

LILLIAN WATERS

VS.

McKAMER REALTY CO.,
ET AL.

(4)

(SECTION 1 OF 2 SECTIONS)

NO. 131

SEPTEMBER TERM, 1960
(Vol. 4 of ~~five~~ 6 vols.)

2nd appeal in No. 131

Sept. Term - 1960

No. ..... (LEAVE BLANK), SEPTEMBER TERM, 19 .....

CONSOLIDATED

TRANSCRIPT OF RECORD

(JUDGE S. RALPH WARNKEN)

FROM THE

CIRCUIT COURT OF BALTIMORE CITY

IN THE CASE OF

Julia Jones — Lillian Waters

Appellants

VS.

McKamer Realty Co., et al. — McKamer Realty Co., et al.

(Above named cases consolidated as per Order of Court date April 12, 1960.)

Appellees

TO THE

COURT OF APPEALS OF MARYLAND

	Williams & Murphy	SOLRS. FOR APPELLANTS
Paul J. Cockrell	Archie D. Williams	
	Juanita J. Mitchell	
		SOLRS. FOR APPELLEES
Walter C. Mylander, Jr.	Walter C. Mylander, Jr.	
Charles C. W. Atwater	Charles C.W. Atwater	

Filed July 13 1960 (LEAVE BLANK)

Fld. 1st May 1959

R 266
1959

Julia Jones 821 N. Fulton Avenue Baltimore, Maryland Plaintiff vs. The McKamer Realty Co. c/o Clement R. Mercaldo Resident Agent, Equitable Building Baltimore, Maryland & Belair Road Enterprises, Inc. c/o Harold J. Kaufman, Resident Agent, Munsey Building Baltimore, Maryland	IN THE CIRCUIT COURT OF BALTIMORE CITY

Sub. (2)

JURISDICTION

The Jurisdiction of this Court is invoked under the authority contained in Rule #625 of the Maryland Rules of Procedure vesting this Court with Revisory powers over a final Judgment after the expiration of Thirty Days after the entry of a Judgment in case of Fraud, Mistake, or Irregularity.

The Jurisdiction of this Court is also invoked under the provisions of the Fourteenth Amendment to the Constitution of the United States and the Constitution and Laws of the State of Maryland to redress the deprivation under Color of State Statute of Rights, Privileges, and Immunities secured by the Constitution and Laws of the United States and the Constitution and Laws of the State of Maryland.

A-39096 (1) (3)

PETITION

Now comes Julia Jones, 821 N. Fulton Avenue, Baltimore, Md., the Plaintiff herein by her Attorney, Paul J. Cockrell, and for her cause of action against the McKamer Realty Company, c/o Clement R. Mercaldo, Resident Agent, and Belair Road Enterprises, Inc., a body Corporate of the State of Maryland, c/o Harold J. Kaufman, Resident Agent, and respectfully states to this honorable Court:

1. That your Plaintiff, Julia Jones, is a resident of the City of Baltimore, Maryland, and that her Post Office address is 821 N. Fulton Avenue, Baltimore, Maryland; that she is a member of the Negro Race; that she was born in Essex County, Virginia on the 27th day of December 1892; and that she had as a youth, an education equivalent to the fifth (5th) grade;

2. That this Petition is filed by your Plaintiff on behalf of herself and all others similarly situated whose numbers make it impracticable to bring them all before the Court but who seek common relief upon common questions of law and fact;

3. That the Defendant, McKamer Realty Company is a body Corporate, duly incorporated under the Laws of the State of Maryland; and that the individual defendant is a Director and the Resident Agent of the said McKamer Realty Company. Said Resident Agent is an individual actually residing in the State of Maryland;

4. That the Defendant, Belair Road Enterprises, Inc., is a body Corporate duly incorporated under the Laws of the State of Maryland; that the defendant, Harold J. Kaufman, is an Officer and the Resident of the said Belair Road Enterprises. Said Resident Agent is an individual actually residing in the State of Maryland.

5. That on or about July 9, 1921, the Plaintiff acquired fee simple title through a deed duly recorded at the Laurel Cemetery Company's office in Baltimore City to the following described Real Estate to be used for burial purposes, all situated in Baltimore City:

> "Lot No. 10, Section T, Deed No. 3514, dated July 9, 1921, containing approximately eighty (80) square feet of ground."

6. That during the year, 1938, Plaintiff's brother, John Wesley Johnson, was buried in a portion of said lot, and ever since July 9, 1921 when plaintiff purchased said lot, plaintiff has owned same, enjoyed quiet and peaceful possession thereof and has likewise had and enjoyed all the fruits of such ownership, and has not at any time abandoned said lot, nor has such lot at any time become a menace, nor was it detrimental to the health, safety, security, or welfare of the Public in general or the person or property of any individual, but that Plaintiff has at all times maintained the said lot in good condition, and that Plaintiff is therefore now the legal and equitable owner of said Real Estate.

7. That on or about the 10th day of December, 1957, the Defendant, McKamer Realty Company, a corporation of the State of Maryland, through its duly elected or appointed, qualified, and acting officials, filed an Action for Condemnation in the Circuit Court of Baltimore City, Maryland entitled: "McKamer Realty Company, a Corporation of the State of Maryland, Plaintiff, vs. Anderson Enterprises, Inc., Edward A. Anderson, President, 2326 Belair Road, Baltimore, Maryland, McCartney Sorrell, Jacob Owings, Robert Wilson, Durious Stokes, William T. Hopkins, Theodore B. Brown, Elizabeth B. Chambers, Warner T. McGwinn, Anna M. Dutton, Mary L. Oliver, James Diven, Mrs. George W. Bowser, (Addresses unknown), All of the lot owners in Laurel Cemetery or New Laurel

Cemetery, situate in Baltimore City on the Southwast side of the Belair Road, their assigness, or other persons in interest, resident, or non-resident, adults, infants and other persons under any legal incapacity. The unknown owners and their respective spouses, the unknown heirs, and devisees of any deceased former owner, and any other persons, known or unknown, their unknown heirs and devisees, whether residents of the State of Maryland or not, and actually living or not, any Executor, Administrator or next of kin of the resident and non-resident owners now vested with any title or interest whatsoever in and to the tract of land comprising the Laurel or New Laurel Cemetery or in and to any burial lots comprising a part thereof," defendants. The same being docketed as case Docket 97A--Folio 878, of the said Circuit Court of Baltimore City.

8. That the defendant Corporations, their officers and members had possession of the records with the names and locations of the Plaintiff and the members of the class which she represent, or by the exercise of reasonable diligence could have found and given actual notice to Plaintiff and all or some of the members of the class which Plaintiff represents, of the condemnation proceedings pending in the Circuit Court of Baltimore City; that in the aforementioned Bill of Complaint, it is fraudulently alleged that no burials have been made in the said Cemetery within the past twenty years, and that none of the heirs, decedents, relatives or friends of the persons buried therein, or the owners of any of the burial lots have attempted or taken any action whatsoever to maintain any of the burial lots or graves in good order and condition, which allegations were false and fraudulent misrepresentations of material facts designed to deceive and did deceive the Court into making its unconstitutional decree, which decree is of no effect and void in that it violates the due process clause of the Fourteenth Amendment to the Constitution of the United States.

9. That the aforementioned Bill of Complaint also fraudulently alleges having made an exhaustive Search to ascertain all persons having an interest in said property, whereas, all of defendant's actions were in fact designed to conceal from plaintiff and others similarly situated the fact that such case was pending before the Court and thereby deprive plaintiff and others similarly situated of their property and burial rights without due process of law.

10. That said action on the part of the defendants was for the sole and exclusive purpose of taking from the plaintiff and condemning all of the above-described Real Estate known as the Laurel Cemetery being used as a burial ground to the private use of the defendants to be sold at a private sale for commercial purposes along with the burial lots of other lot owners in the said Laurel Cemetery, free and discharged of all title, rights and interests which plaintiff and members of the class which plaintiff represents had to and in the said above-described tract of land in violation of the fourteenth Amendment to the Constitution of the United States.

11. That your plaintiff has never been at any time, notified in any manner that the said McKamer Realty Company coveted the bit of real estate as a Commercial location, which Real Estate has been used as a burial ground since 1852 and particularly since her purchase of said Real Estate on July 9, 1921; nor has she ever been served with any summons, nor given any other personal notice of any kind whatsoever that said defendant, the McKamer Realty Company had filed the aforesaid action for the purpose of taking her Real Estate;

12. That the pretended right of Defendant, McKamer Realty Company to the Real Estate above legally described, owned by the plaintiff, rests upon the authority, so far as this plaintiff and counsel have been able to ascertain, of Article 16, Section 124-A, Code of Public General Laws of Maryland, 1951 Edition, as amended

by the provisions of Chapter 630 of the Acts of 1957, General Assembly of Maryland, and Baltimore City Circuit Court case Docket No. 97A - Folio 878, more fully described in paragraph 7 herein, brought thereunder, which Statute or Statutes are void and of no force and effect whatsoever, because said Statute is in violation of the Constitution and Laws of the State of Maryland in that same attempts to exempt from its provisions all property in the State of Maryland except such property as is located in Baltimore City. Said Statute is also void and of no force and effect because same attempts to vest power in certain public agencies and also in anyone having a property right in certain cemeteries or burial grounds to take property without due process of law.

13. That the only notice that Article 16, Section 124-A, Code of Public General Laws of Maryland, 1951 Edition as amended by the provisions of Chapter 630 of the Acts of 1957, General Assembly of Maryland requires is by "Order of Publication," or "Posting on the Premises" in the discretion of the Court, which is not sufficient notice under the due process clauses of the Fourteenth Amendment to the Constitution of the United States and the Constitution of the State of Maryland;

14. That the defendants purported to serve notice by Order of Publication, only; that your plaintiff has at all times since her purchase of the said deed on July 9, 1921, been a resident of Baltimore City; that your plaintiff had no notice, and did not know, or have reason to know that defendants sought to condemn and take away her land and burial rights until November 25, 1958; unless an Order of Publication published on an inside page of the Baltimore Daily Record Newspaper for four successive weeks beginning December 16, 1957 can be said to have given her notice; that your plaintiff does not subscribe to the Baltimore Daily Record Newspaper and, that she had as a youth, an education equivalent to the fifth (5th) grade; that said notices so published were not sufficient to satisfy the requirements of the Due Process clauses of either the United States Constitution or the Constitution of Maryland;

15. That your plaintiff and others similarly situated have in reliance upon the devotion of the land in Baltimore City on the Southeast side of

Belair Road, between Cliftmont Avenue on the North, Emly Avenue on the South and Edison Highway on the east, of which the above-described Lot No. 10 as set forth in Paragraph 5 above, to the humane and pious purposes of burial, interred therein the remains of their ancestors for a period of more than 106 years;

16. That the defendant, McKamer Realty Company, either itself or by contractors employed by it, has in the past and at the present moment is or is threatening to enter upon said Real Estate owned by plaintiff and others similarly situated, and this for the purpose of building or causing to be built a shopping center across said Real Estate, all in utter and complete disregard of the rights of this plaintiff and of others similarly situated;

17. That the use of all or any part of the above-referred to area known as the Laurel Cemetery for purposes other than that of a cemetery and without giving notice to your plaintiff and others similarly situated as required by the due process clause of the Fourteenth Amendment to the Constitution of the United States is in derogation of the rights of your plaintiff, and others similarly situated, who have for so many years relied upon the dedication resulting from the use aforesaid; and further that the intrusion of commercial uses in this sacred ground will impair and has impaired the integrity of the Cemetery as a whole and violate the contractual rights of lot owners therein and are offensive to the natural and just sensibilities of the living heirs of persons therein interred;

18. That the actions and matters set forth above have but recently come to the attention of your petitioner as set forth in paragraph fourteen above; and that plaintiff is entitled to an order of this Court instanter, enjoining and restraining defendants, their agents, successors or assigns from entering upon or in any manner trespassing upon said real estate, for the reason, inter alia, that there is no other remedy, either at law or in equity, open to your plaintiff; and that if the said defendants are not so

restrained and enjoined, the plaintiff will suffer irreparable damage by reason thereof;

19. That your plaintiff is advised that in some orders by Courts of competent jurisdiction, in the granting of a restraining order of this type or a temporary injunction of this nature, the party seeking same, and obtaining same, is required to post certain indemnity or other type of bond or bonds; that your plaintiff hereby respectfully and humbly advises this Court that by reason of her limited financial resources, she cannot post such bond, and therefore asks, upon the above and foregoing statement of facts, that the Court does not make the giving of such a bond or bonds a condition precedent to plaintiff's obtaining an order to set aside, a restraining order, or a temporary injunction at this time;

20. That by reason of the above and foregoing facts, the plaintiff is entitled to have, and desires to have a permanent injunction against the defendants McKamer Realty Company and the Belair Road enterprises, Inc., their successors and assigns, restraining and enjoining them and their servants, agents, and all others in their employment from entering or trespassing upon plaintiff's real estate, above described, or preventing plaintiff from otherwise the quiet and peaceful enjoyment thereof.

Wherefore and by reason of the foregoing, the plaintiff prays:

(a) That the decree signed by the Court in the Case of Docket No. 97A - Folio 878 as set forth in paragraph 7 above be set aside.

(b) That an immediate order of this Court be granted restraining and enjoining defendant McKamer Realty Company and the Belair enterprises Inc., from entering or trespassing upon the plaintiff's Real Estate above described, and

(c) That this Court issue an injunction permanently enjoining and restraining the McKamer Realty Company from entering or from otherwise trespassing upon plaintiff's Real Estate, above described.

(d) That all defendants herein be enjoined by appropriate decree of this Honorable Court from using any part of the above-described Laurel Cemetery and particularly that portion of the said Laurel Cemetery as described in paragraph 5 above for any purpose other than that as a Repository for the remains of the human dead, and

(e) That the defendants, or either of them, be required to remove any structures erected or as might be erected on the said Cemetery ground, and particularly on that portion of the said Cemetery ground as described in paragraph 5 above, that are not suitable for the purpose of Sepulchre of human dead, and

(f) Plaintiff further prays for Judgment for his costs herein, and for such other and further relief as to this Court may seem just and equitable.

AND AS IN DUTY BOUND, ETC.

Julia Jones

JULIA JONES

Plaintiff

Paul J. Cockrell

PAUL J. COCKRELL

Attorney for Plaintiff

AFFIDAVIT

State of Maryland)
ss
City of Baltimore)

I, Julia Jones, being duly sworn, hereby depose and say as follows:

1. That I am plaintiff in the case of Julia Jones vs. the McKamer Realty Company and the Belair Road Enterprises, Inc., for a motion to set aside, Temporary restraining order, interlocutory injunction, permanent injunction, and a show cause order.

2. That I am over the age of 21 years and reside at 821 N. Fulton Avenue, Baltimore, Maryland.

3. That on July 9, 1921, I acquired fee simple title through a deed purchased from the Laurel Cemetery Company in Baltimore, Maryland which deed was for Lot No. 10, Section T, deed No. 3514, covering approximately 80 square feet of ground.

4. That from the time that I purchased the said lot on July 9, 1921 until I read in the newspapers of the desecration of the graves in Laurel Cemetery in November 1958, I owned the said lot and enjoyed quiet and peaceful possession thereof and had maintained said plot in a good and sanitary condition.

5. That I had no actual notice of a pending or threatened Court proceeding regarding the above-described parcel of land owned by me until I read about the matter as set forth in paragraph 4 above.

6. That my brother, the late John Wesley Johnson, was interred in said burial lot during the year 1938 and the news of the recent desecration has caused me considerable mental anguish and I have been irreparably injured in the matter.

Julia Jones
JULIA JONES

Sworn to before me this 27th day of April, 1959.

Paul J. Cockrell
NOTARY PUBLIC

AFFIDAVIT OF IMPECUNIOSITY

State of Maryland)
ss
City of Baltimore

I, Julia Jones, being duly sworn, hereby depose and say as follows:

1. That I am plaintiff in the case of Julia Jones vs. the McKamer Realty Company and the Belair Road Enterprises, Inc., for a motion to set aside, Temporary restraining Order, Interlocutory injunction, and a show cause order.

2. That I am advised that in some orders by Courts of Competent Jurisdiction, in the granting of a restraining order of this type or a temporary injunction of this nature, the party seeking same, and obtaining same, is required to post certain indemnity or other type of bond or bonds; that by reason of my limited financial resources, In this case I cannot post such bond and I hereby ask the Court not to make the giving of such bond or bonds a condition precedent to my obtaining an order to set aside, a restraining order, a temporary injunction or a show cause order.

Julia Jones
JULIA JONES

Sworn to before me this 30th day of April 1959.

Paul J. Cockrell
PAUL J. COCKRELL

Notary Public

Julia Jones 821 N. Fulton Avenue Baltimore, Maryland Plaintiff vs. The McKamer Realty Co. c/o Clement R. Mercaldo Resident Agent, Equitable Building Baltimore, Maryland & Belair Road Enterprises, Inc. c/o Harold J. Kaufman, Resident Agent, Munsey Building Baltimore, Maryland	:	IN THE CIRCUIT COURT OF BALTIMORE CITY

MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiff, Julia Jones, moves this Honorable Court, upon the verified Petition and affidavit, attached hereto and expressly incorporated herein, for a Temporary Restraining Order against the above-named defendants, their agents, servants, attorneys, and privies, pending the hearing and decision of plaintiff's motion for a preliminary injunction enjoining them forever from damaging and trespassing upon the property of Plaintiff and the Class that she represents in the above-captioned case.

Paul J. Cockrell

Julia Jones 821 N. Fulton Avenue Baltimore, Maryland Plaintiff vs. The McKamer Realty Co. c/o Clement R. Mercaldo Resident Agent, Equitable Building Baltimore, Maryland & Belair Road Enterprises, Inc. c/o Harold J. Kaufman, Resident Agent, Munsey Building Baltimore, Maryland	:	IN THE CIRCUIT COURT OF BALTIMORE CITY

MOTION FOR PRELIMINARY INJUNCTION AND
FOR SHOW CAUSE ORDER IN SUPPORT THEREOF

Motion for a Temporary Restraining Order having been denied in the above-captioned case, plaintiff moves this Honorable Court to require the Defendants to show cause by a certain day to be named by this honorable Court why plaintiff should not be granted a preliminary injunction restraining and enjoining defendants from further trespassing upon and damaging plaintiff's property and that of the Class she represents.

Paul J. Cockrell

Attorneys for the Plaintiff

Julia Jones 821 N. Fulton Avenue Baltimore, Maryland Plaintiff vs. The McKamer Realty Co. c/o Clement R. Mercaldo Resident Agent, Equitable Building Baltimore, Maryland & Belair Road Enterprises, Inc. c/o Harold J. Kaufman, Resident Agent, Munsey Building Baltimore, Maryland	:	IN THE CIRCUIT COURT OF BALTIMORE CITY

SHOW CAUSE ORDER

Upon consideration of the aforegoing Petition and Affidavit, it is this 14 day of May, 1959, by the Circuit Court of Baltimore City, In Equity, adjudged, Ordered, and Decreed that the Defendants in the within case show cause on or before the 16" day of May, 1959, if any they have why the relief prayed should not be granted; provided that a copy of the aforementioned Petition and this Order are served upon the respective defendants or their Counsel of Record prior to the 11" day of May, 1959.

Ralph Warnken

JUDGE

Copy of the within Petition and Order of Court served on McKamey Realty Company a Corporation by serving on Clement R Mercadis Resident Agent on the 1 day of May 1907 also Copy of within Petition and Order of Court served on Belair Road Enterprises Incorporated a Corporation by serving on Harold J. Kaufman Resident agent on the 1 day of May 1907 in the Presence of William Fowler

Joseph B Deegan
Sheriff

Fee $2.00

EQUITY SUBPOENA

The State of Maryland

To The McKamer Realty Co.,
c/o Clement R. Mercaldo
Resident Agent,
Equitable Bldg.,
Baltimore, Maryland

&

Belair Road Enterprises, Inc.,
c/o Harold J. Kaufman,
Resident Agent
Munsey Bldg.,
Baltimore, Maryland

of Baltimore City, Greeting:

WE COMMAND AND ENJOIN YOU, That all excuses set aside, you do within the time limited by law, beginning on the first Monday of May next, cause an appearance to be entered for you and your answer to be filed to the complaint of

Julia Jones, 821 N. Fulton Avenue, Baltimore, Maryland

against you exhibited in the Circuit Court of Baltimore City.

HEREOF fail not, as you will answer the contrary at your peril.

WITNESS, the Honorable EMORY H. NILES, Chief Judge of the Supreme Bench of Baltimore City, the 2nd day of March, 19 59

Issued the 1st day of May, in the year 19 59

Henry J. Ruppenger Clerk

MEMORANDUM: You are required to file your answer or other defense in the Clerk's Office, room 410, in the Court House, Baltimore City, within fifteen days after return day, named in the above subpoena. Personal attendance in Court on the day named is not necessary, but unless you answer or make other defense within the time named, complainant (s) may obtain a decree pro confesso against you, which upon proper proof may be converted into a final decree for the relief demanded.
(General Equity Rule 11)

A-39096 (2)

P 80

CIRCUIT COURT

A-266
19 59 Docket No. .....

JULIA JONES

.....

vs.

THE McKAMER REALTY CO., ET AL

.....

Subpoena To Answer Bill Of Complaint

205

No. A-39096

(2)

Filed 4th *day of* May, 19 59

Paul J. Cockrell
Solicitor.

3

.....
Address.

Summons McKamer Realty Company a Corporation by
serving on Clement R. Mercadis-Resident Agent and Agent of
the Queen Life with the Said Resident Agent also Notice of Said
Summons Left at the Principal Office of Said Corporation
Also Summons Left at the Principal Office of Said Corporation
Also Summons on Harold A. Kaufman Resident Agent
Corporation by Serving on Harold A. Kaufman Resident Agent Also
and Copy of the Queen Left with Said Resident Agent Also
Notice of Said Summons Left at the Principal Office of Said
Corporation

5/11/59
Process

Fee $5.40

15

Fd. 18. May 1959

JULIA JONES * IN THE CIRCUIT COURT

Plaintiff *

vs. OF

McKAMER REALTY COMPANY, * et al.

BALTIMORE CITY

Defendants *

* * * * * * * * * * *

A N S W E R

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The answer of McKamer Realty Company and Belair Road Enterprises, Inc., to the Bill of Complaint for Review, therein labeled "Petition", hereinbefore exhibited against them, and showing cause pursuant to the Show Cause Order of this Court passed May 1, 1959, respectfully shows:

FIRST: That the Defendants do not know the Plaintiff or anything about her and have no knowledge as to the matters and facts alleged in the first paragraph of said Bill.

SECOND: Answering the second paragraph of said Bill, these Defendants deny the existence of any basis for a cause of action by the Plaintiff or any one similarly situated. Defendants also deny the existence of numerous other persons who seek the relief prayed by the Bill.

THIRD: Answering the third paragraph of the Bill, the Defendant, McKamer Realty Company, admits that it is a body corporate duly incorporated under the laws of the State of Maryland and that it has been served through its resident agent. Further answering said paragraph,

A-39096 (4)

these Defendants are not advised by any paper filed herein that any individuals are named as Defendants in this action, and, accordingly, deny such allegation.

FOURTH: Answering the fourth paragraph of said Bill, the Defendant, Belair Road Enterprises, Inc., admits that it is a body corporate duly incorporated under the laws of the State of Maryland and that it has been duly served. Further answering said paragraph, these Defendants aver that they have no notice by any paper filed herein that Harold J. Kaufman is named as Defendant in these proceedings, and, accordingly, deny said allegation.

FIFTH: Answering the fifth paragraph of said Bill, these Defendants deny that the Plaintiff acquired fee simple property by any legally sufficient deed to the real estate therein mentioned. Further answering said paragraph, these Defendants have no knowledge as to whether or not the Plaintiff acquired any burial rights as a certificate holder from the Laurel Cemetery Company and, in accordance with the Maryland Rules, deny the allegations of said paragraph.

SIXTH: Answering the sixth paragraph of said Bill, these Defendants have no knowledge of the matters therein stated concerning the alleged burial of Plaintiff's brother and covering Plaintiff's alleged purchase of Lot No. 10, Section T, of Laurel Cemetery, and, in accordance with the Maryland Rules, deny the same. Defendants expressly deny that Plaintiff owns a fee simple interest in said lot, and they expressly deny all the other allegations of said paragraph. They expressly reaffirm that more than 75% of the acreage of said Cemetery has been abandoned and was overgrown, littered, in disrepair with exposed graves, and generally

was a menace to and detrimental to the public health, safety, security and welfare. They expressly aver that the proceedings in this Court entitled McKamer Realty Company vs. Anderson Enterprises, Inc., et al., Docket 97 A, Folio 878, were duly conducted in good faith, and that after compliance with all of the requisites of the Acts of 1957, Chapter 630 (Annotated Code 1957, Art. 16, Sec. 120), a final decree was entered therein on June 10, 1958. Said decree was unaffected by fraud, mistake or surprise, and was not entered under circumstances which would justify its being set aside.

SEVENTH: Answering the seventh paragraph of said Bill, the Defendants admit the filing of an action in this Court, Docket 97A, Folio 878, which action speaks for itself. Defendants deny any characterization of said action which may be inconsistent with the record thereof.

EIGHTH: Answering the eighth paragraph of said Bill, these Defendants deny that they had possession of any of the records with the names and locations of the Plaintiff and the members of the class which she represents. They deny that any such record or records were available from the Trustee in Bankruptcy of the Laurel Cemetery Company. They aver that they were informed by said Trustee that such records were not available, and that the corporate officers of McKamer Realty Company made a diligent but fruitless search for same. They deny that by the exercise of reasonable diligence they could have found and given actual notice to the Plaintiff and any or all of the members of the class which she represents of the proceedings instituted in this Court. Due notice by publication was, however, given. Further answering said paragraph, these

Defendants emphatically deny any fraudulent allegations, and they re-assert that, to the best of their knowledge and information, there have been no burials in said cemetery within the past twenty years until after the said proceedings were brought, at which time an interment of the remains of one James P. Nicholas, deceased, was made on December 31, 1957. They further reaffirm that none of the heirs, descendants, relatives or friends of the persons buried therein or the owners of any of the burial lots have attended to or taken any action whatsoever to maintain any of the burial lots or graves in good condition and order, to the best of the knowledge, information and belief of the officers, directors and employees of the Defendant, McKamer Realty Company. Further answering said paragraph, these Defendants deny any false and fraudulent misrepresentations to this Court, and they deny that they deceived the Court, or that the decree aforesaid was in any manner affected by surprise or mistake. They further deny that the Decree of this Court in the proceedings aforesaid violated any provision of the Constitution of the United States of America.

NINTH: These Defendants deny having made any fraudulent allegations and reaffirm that they made an exhaustive search to ascertain all persons having an interest in said property. Such parties as were so ascertained were named as Defendants, although their addresses were not discovered after diligent effort. These Defendants emphatically deny that their actions were designed to, or, in fact, did, conceal from the Plaintiff and others similarly situated, the fact that the aforesaid case was pending before this Court, and they affirmatively allege that an Order of Publication was duly issued by this Court and published in accordance

with the terms thereof, giving notice to the Plaintiff and all others similarly situated to appear in said proceedings.

TENTH: These Defendants deny the allegations of the tenth paragraph of said Bill. Further answering said paragraph, these Defendants say that after due process, said Cemetery was sold, the terms of the Decree of this Court having been fully complied with, and that the said property has been resold for commercial purposes after the proper, careful disinterment of the bodies formerly buried in said cemetery and reinterment thereof, pursuant to the terms of the Decree, in an attractive new cemetery located on Hodges Road, near Eldersburg, Carroll County, Maryland. Further answering said paragraph, these Defendants deny that any of the proceedings, acts or deeds of these Defendants were violative of any of the rights of the Plaintiff.

ELEVENTH: Answering the eleventh paragraph of said Bill, these Defendants deny the allegations thereof and aver, on the contrary, that due notice by publication was given of the pendency of said proceedings in strict accordance with the provisions of Article 16, Section 120, aforesaid, as is hereinbefore set forth.

TWELFTH: Answering the twelfth paragraph of said Bill, the Defendant, McKamer Realty Company, claims no current right, title or interest in and to the property described in the Bill. The Defendant, Belair Road Enterprises, Inc., admits that it claims ownership of the parcel of land containing fifteen acres, more or less, on the southeast side of Belair Road between Cliftmont Avenue on the north and Elmley Avenue on the south and Edison Highway on the east, which was formerly known as Laurel Cemetery or New Laurel Cemetery, by virtue of its purchase of said land from Edward A. Anderson, Trustee, duly appointed

in the aforesaid proceedings in this Court entitled McKamer Realty Company vs. Anderson Enterprises, Inc., Docket 97A, Folio 878, which proceedings were brought by the Defendant, McKamer Realty Company, under and pursuant to the provisions of the Acts of 1957, Chapter 630, Annotated Code of Maryland, 1957 Edition, Article 16, Section 120. Further answering said paragraph, these Defendants affirmatively allege that all the requirements of said Act were complied with. Defendant, Belair Road Enterprises, Inc., further alleges that it excepted to the Report of Sale to it on the grounds that all the necessary parties having an interest and rights in and to the property referred to in said proceedings were not made parties to said proceedings, and on the further grounds that said enactment was unconstitutional and violated the provisions of Article 23 of the Maryland Constitution, which exceptions were duly heard on September 8, 1958, and were, by the Court, overruled on September 11, 1958. Said Defendant further alleges that said Order has become finally enrolled.

THIRTEENTH: Answering the thirteenth paragraph of said Bill, these Defendants state that the same contains only statements and conclusions of law.

FOURTEENTH: Answering the fourteenth paragraph of said Bill, these Defendants admit that the only notice of the pendency of the aforesaid proceedings, being the notice required by statute, was an Order of Publication published in the Daily Record newspaper for four successive weeks beginning December 16, 1957. As to the other matters alleged by said paragraph, other than conclusions of law therein stated, these Defendants have no knowledge and, accordingly, deny the same. These

Defendants affirmatively state that the Order of Publication was conspicuously published in the Daily Record newspaper aforesaid and that the same did satisfy all constitutional requirements of notice.

FIFTEENTH: Answering the fifteenth paragraph of said Bill, these Defendants admit that the tract of land therein described was dedicated to cemetery use since the year 1852. As to the other matters in said paragraph alleged, these Defendants have no knowledge.

SIXTEENTH: Answering the sixteenth paragraph of said Bill, the Defendant, McKamer Realty Company, avers that it has no present right, title or interest in and to the tract of ground mentioned in the Bill or that it has any intent to use the same for any purpose. Further answering said paragraph, however, the Defendant, Belair Road Enterprises, Inc., avers that it owns said property which is zoned for commercial use and it intends such use thereof.

SEVENTEENTH: Answering the seventeenth paragraph of said Bill, these Defendants deny the allegations thereof. Further answering said paragraph, they deny, as aforesaid, that the proceedings for the sale of the said property, with the resulting change of use thereof, were conducted without notice to the Plaintiff and others affected, and they affirmatively state that said proceedings were regularly and properly conducted pursuant to a valid and constitutional enactment before referred to, authorizing the same in the public interest.

EIGHTEENTH: Answering the eighteenth, nineteenth and twentieth paragraphs of said Bill, these Defendants deny all the matters of fact therein set forth.

NINETEENTH: Answering the whole Bill, these Defendants

allege that the Auditor's Account in said proceedings was finally ratified and approved on March 20, 1959, and that the bodies in said cemetery have all been reinterred, and that the whole proceeds of sale of the tract of land mentioned in the Bill have been irrevocably applied and distributed, and the Plaintiff is guilty of gross laches.

D E M U R R E R

TWENTIETH: Further answering said Bill of Complaint in accordance with Maryland Rules, these Defendants demur to the Bill of Complaint and to each and every part and paragraph thereof and for reasons therefor state:

(1) That the Bill fails to state a cause of action either at law or in equity.

(2) That the Bill of Complaint is bad in substance and insufficient at law.

(3) That the Bill on its face fails to set forth any facts constituting fraud, mistake, surprise or any circumstances which could compel the Court to set aside the Decree in the proceedings therein referred to.

(4) That the Bill attacks the constitutionality of the Act of 1957, Chapter 630 (Annotated Code of Maryland, 1957 Edition, Article 16, Section 120), and it appears on the face of the Bill that no notice is given to the Attorney General thereof.

(5) That the Plaintiff, on the face of the Bill, is guilty of laches.

(6) And for other reasons to be shown at the hearing hereof.

WHEREFORE, these Defendants pray that they may be hence dismissed with their proper costs.

AND, as in duty bound, etc.

Clement R. Mercaldo
President - McKamer Realty Company

Walter C. Mylander, Jr.

Lloyd G. McAllister
Vice President - Belair Road Enterprises, Inc.

Charles C. W. Atwater
Attorneys for Defendants

I HEREBY CERTIFY that on this 18th day of May, 1959, a copy of the foregoing Answer and Demurrer was mailed to Paul J. Cockrell, Esquire, 627 Aisquith Street, Baltimore 2, Maryland, Attorney for Plaintiff.

Walter C. Mylander, Jr.
Of Counsel for Defendants

Fld. 19th November 1959

PETITION AND ORDER TO TAKE TESTIMONY UNDER 560th RULE

JULIA JONES

Plaintiff

vs.

McKAMER REALTY COMPANY, et al.

Defendants

IN THE

CIRCUIT COURT

— OF —

BALTIMORE CITY

Docket 1959 - Folio A-266
File No. A-39096

To the Honorable the Judge of the Circuit Court of Baltimore City:

The ~~plaintiffs~~ Defendants in this case respectfully shows unto your Honor:

THAT they desires to examine orally, in open Court and in the presence of your Honor, certain witnesses who can testify to the facts and matters relevant to the allegations in the Bill of Complaint filed in this case.

Your petitioners therefore pray your Honor to pass an order, according to the Statutes for such case made and provided.

And as in duty bound will ever pray.

Charles C. W. Atwater

Solicitor for ~~Plaintiff~~ Defendants

Upon the foregoing Petition and Application it is this 19th day of November, A. D. 19 59, Ordered that the petitioner have leave to take testimony as prayed and that the testimony to be offered be taken as required by the 560th Rule of this Court. ~~And it is further Ordered that a copy of this petition and order be served on the ..... or h Solicitor , on or before the ..... day of ....., 19 .....~~

Henry J. Ribbegis Clerk

I HEREBY CERTIFY that a copy of the foregoing Petition and Order was mailed to each of the following, Solicitors for Plaintiffs, this 19 day of November, 1959:

Paul J. Cockrell, Esquire
627 Aisquith Street
Baltimore 2, Maryland

Charles C. W. Atwater

A-39096(5)

27

Paul J. Cockrell

Walter C. Mylander, Jr.
Charles C. W. Atwater

CCWA:bc 12/18/59 1-5

fd 18 December 1959

JULIA JONES, ET AL. Plaintiffs vs. McKAMER REALTY COMPANY, a body corporate of the State of Maryland, ET. AL. Defendants	*	IN THE CIRCUIT COURT OF BALTIMORE CITY Docket 1959 - Folio A-266 File No. A39096

DECREE OF COURT

The above entitled case having come on for hearing, testimony having been taken in open Court and Counsel having been heard for the respective parties, it is this 18th day of December, 1959, by the Circuit Court of Baltimore City:

ORDERED, ADJUDGED and DECREED that the Bill of Complaint be and it is hereby dismissed with prejudice; the costs to be paid by the Plaintiffs.

Judge

A 39096 (6)

Fld. 14th January 1960

JULIA JONES

PLAINTIFF

vs.

MCKAMER REALTY CO,
a body Corporate of the State
of Maryland, Defendants
Et. Al.

IN THE

CIRCUIT COURT

OF

BALTIMORE CITY

Docket: 1959 - Folio A -266
File No. A 39096

Mr. Clerk:

Please enter an appeal on behalf of Julia Jones in the Above-captioned case

from the Decree passed on the 18th day of December 19 59
to the Court of Appeals of Maryland.

Paul J. Cockrell

Paul J. Cockrell, Esq.
Solicitor for Appellant.

State of Maryland, Baltimore City, to wit:

I hereby certify, that on this 14th day of January 19 60, before me, the Subscriber, Clerk of the Circuit Court of Baltimore City, personally appeared

Paul J. Cockrell, Esq.

and made oath in due form of law that this appeal is not made for the purpose of delay.

Clerk of the Circuit Court of Baltimore City.

A-39096 (7)

Circuit Court

..... 19 Docket No. .....

.....

.....

vs.

.....

.....

ORDER FOR APPEAL

No. .....

Filed ..... 19 .....

Fd. 13" February 1960

Julia Jones 821 N. Fulton Avenue Baltimore, Maryland Plaintiff Vs. The McKamer Realty Co. c/o Clement R. Mercaldo Resident Agent, Equitable Building Baltimore, Maryland & Belair Road Enterprises, Inc. c/o Harold J. Kaufman, Resident Agent, Munsey Building Baltimore, Maryland	IN THE CIRCUIT COURT OF BALTIMORE CITY Docket: 1959 Folio A266 Case No. A 39096

Petition To Extend Time

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Now comes Julia Jones, 821 N. Fulton Avenue, Baltimore, Maryland by Paul J. Cockrell, her Attorney, and prays this Honorable Court to grant a thirty-day extension for the transmitting the transcript of Records in the above Captioned case to the Court of Appeals, FOR REASONS THAT OTHER PLAINTIFFS, IN COMPANION CASES, NOW HAVE CASES, NOT CONCLUDED, IN THIS COURT, AND SUCH EXTENSION IS NEEDED TO PROPERLY DISPOSE OF ALL SUCH CASES.

MR 1101 (D)

Wherefore, your Petitioner, Julia Jones, through Paul J. Cockrell, her Attorney, prays that this Honorable Court will pass an Order authorizing and directing that the time for forwarding the transcript of Records in the above-captioned case to the Court of Appeals be extended for a period of thirty days from the date of such order.

Paul J. Cockrell

PAUL J. COCKRELL
1400 N. Patterson Park Ave.
Baltimore 13, Maryland
EA 7 4717

30

A. 39096 (8)

Julia Jones	:	
Plaintiff	:	
vs.	:	IN THE
The McKamer Realty Co., et. al.	:	CIRCUIT COURT
Defendants	:	OF
	:	BALTIMORE CITY

ORDER

Upon the foregoing Petition, it is hereby this 13th day of February, 1960, Ordered by the Circuit Court of Baltimore City that the time for forwarding the transcript of Records in the above-captioned case be extended thirty days beyond the date of this Order.

Wm Davy Foster
JUDGE

This is to certify that on this 13th day of February, 1960, a Copy of the foregoing Petition and Order were mailed to Walter G. Mylander Jr., and Mylander, Mylander, and Atwater, Esq., 1213 Fidelity Bldg., Baltimore , Maryland, Attorneys for the Defendants.

Paul J. Cockrell

Paul J. Cockrell,
1400 N. Patterson Park Ave.
Baltimore, Maryland
Ea 7 4717

Fld. 2 March 1960

IN THE CIRCUIT COURT OF BALTIMORE CITY

A-266
1959

LILLIAN WATERS :

vs. :

McKAMER REALTY COMPANY, et al. :

---- :

JULIA JONES :

vs. :

McKAMER REALTY COMPANY, et al. :

December 18, 1959.

Appearances:

Mr. Archie D. Williams, Solicitor for Lillian Waters.

Mr. Paul J. Cockrell, Solicitor for Julia Jones.

Messrs. Walter C. Mylander, Jr., and Charles C. W. Atwater, Solicitors for defendants in both cases.

(After argument)

Warnken, J. (Orally):

I cannot see that there is any constitutional invalidity in these cases. Of course, a lot of the discussion about this matter appeared in the press and is still in people's minds, but that had no effect in the consideration

A-39096 (9)

of legal questions which must be decided according to the applicable legal principles. We are therefore only concerned in these cases with legal principles, and I cannot find anything here that would justify me in setting aside the decree passed in the former proceeding in which all these points were actually made before Judge Carter and ruled on by him.

Therefore I will have to sign a decree dismissing the present Bills.

Fd. 14 March 1960

	IN THE
	CIRCUIT COURT OF
Julia Jones, et. al.	BALTIMORE CITY
vs.	Docket: 1959 Folio A266 Case No. A 39096
The McKamer Realty Co., Et. al.	

Petition to Extend Time

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Now comes Julia Jones, 821 N. Fulton Avenue, Baltimore, Maryland by Paul J. Cockrell, her Attorney, and prays this Honorable Court to grant an additional Thirty-day extension for the transmitting of the transcript of Records in the above-captioned case to the Court of Appeals of Maryland in that such time is needed in Order to coordinate this case with the Appeal of companion cases based on similar facts.

Wherefore, your Petitioner, Julia Jones, through Paul J. Cockrell, her Attorney, prays that this Honorable Court will pass an Order authorizing and directing that the time for forwarding the transcript of Records in the above-captioned case to the Court of Appeals be extended for a period of thirty days from the date of such Order.

Paul J. Cockrell

PAUL J. COCKRELL
1400 N. Patterson Park Ave
Baltimore 13, Maryland
EA 7 4717

ORDER

Upon the foregoing Petition, it is hereby this 14 day of March, 1960, ORDERED by the Circuit Court of Baltimore City that the time for forwarding the transcript of Records in the above-captioned case be extended thirty days beyond the date of this Order.

JUDGE

A 39096 (10)

CCWA:bc 4/12/60 1-9

Fld. 12th April 1960

MAMIE E. KENNARD, et al.	*	IN THE CIRCUIT COURT
vs.		OF
McKAMER REALTY COMPANY, et al.	*	BALTIMORE CITY
		1959/A-267

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	*	
JULIA JONES		IN THE CIRCUIT COURT
vs.	*	OF
McKAMER REALTY COMPANY, et al.		BALTIMORE CITY
	*	1959/A-266

LILLIAN WATERS	*	IN THE CIRCUIT COURT
vs.		OF
McKAMER REALTY COMPANY, et al.	*	BALTIMORE CITY
		1959/A-276

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*	

ORDER OF COURT

The Motion of the Plaintiffs to Consolidate the Record on Appeal of the three above-entitled cases having come on for a hearing and the Motion and the Answer thereto whereby the Defendants consent to the Consolidation of the cases of "Julia Jones v. McKamer Realty Company, et al." and "Lillian Waters v. McKamer Realty Company, et al.", but oppose the consolidation of the record of those two cases with the record in the case of "Mamie E. Kennard, et al. v. McKamer

A-39096 (11)

Realty Company, et al." having been read and considered, and counsel having been heard, it is this 12 day of April, 1960, by the Circuit Court of Baltimore City:

ORDERED:

That the Records on Appeal in the cases of "Julia Jones v. McKamer Realty Company, et al." (Docket 1959A-266) and "Lillian Waters v. McKamer Realty Company, et al." (Docket 1959A-276) be consolidated.

IT IS FURTHER ORDERED that the Motion to Consolidate the Record in the case of "Mamie E. Kennard, et al. v. McKamer Realty Company, et al." (Docket 1959A-267) with the records in the cases of "Julia Jones v. McKamer Realty Company, et al." (Docket 1959A-266) and "Lillian Waters v. McKamer Realty Company, et al." (Docket 1959A-276) be and it is hereby denied.

Judge

I HEREBY CERTIFY that on this 12th day of April, 1960, a copy of the foregoing Order of Court was mailed to each of W. A. C. Hughes, Jr., Esquire, 1803 Pennsylvania Avenue, Baltimore 17, Maryland, Mrs. Juanita Jackson Mitchell, 1239 Druid Hill Avenue, Baltimore 17, Maryland, Archie D. Williams, Esquire, Williams & Murphy, 2669 Pennsylvania Avenue, Baltimore 17, Maryland, Paul J. Cockrell, Esquire, and Tucker R. Dearing, Esquire, 627 North Aisquith Street, Baltimore 2, Maryland, Dallas F. Nicholas, Esquire, 14 East Pleasant Street, Baltimore 2, Maryland, and Julius P. Robinson, Esquire, 208 East Lexington Street, Baltimore 2, Maryland, Attorneys for Plaintiffs.

Of Counsel for Defendants

A-39097

THE COURT OF APPEALS — ANNAPOLIS, MARYLAND

May 19, 1960

Paul J. Cockrell, Esq.
Attorney at Law
1400 N. Patterson Park Avenue
Baltimore 13, Maryland

Dear Sir:

I am enclosing herewith a copy of your petition and motion, together with an Order of Court thereon, in the appeals of Julia Jones, et al. vs. McKamer Realty Co., et al. (3 appeals).

The Order, of course, is self-explanatory.

Very truly yours,

J. LLOYD YOUNG

Clerk

JLY/ojr
Enclosure
cc: Charles C. W. Atwater, Esq.
Henry J. Ripperger, Esq.,
Clerk, Circuit Court of Baltimore City

FILED MAY 13 1960
J. LLOYD YOUNG, CLERK
COURT OF APPEALS OF MARYLAND

JULIA JONES, Et. Al.

vs.

MCKAMER REALTY CO., et. al.

LILLIAN WATERS

vs.

MCKAMER REALTY CO., et. al.

MAMIE E. KENNARD, Et. Al.

vs.

MCKAMER REALTY CO., et. al.

IN THE

COURT OF APPEALS

OF

MARYLAND

PETITION AND MOTION TO EXTEND TIME FOR THE TRANSMITTING OF RECORDS TO THE COURT OF APPEALS

TO THE HONORABLE, THE JUDGES OF THE SAID COURT:

Now come Julia Jones, et. al., Lillian Waters, and Mamie E. Kennard, et. al., appellants in the above-captioned cases by Paul J. Cockrell, Esq., Archie D. Williams, Esq., W. A. C. Hughes, Jr., Esq., Mrs. Juanita J. Mitchell, Esq., and Tucker R. Dearing, Esq., their Attorneys, and respectfully moves and Petitions this Honorable Court for a further extension of Sixty days for the forwarding of the Transcript of Records in the above-captioned cases. A letter in support of such Petition and motion from Mr. Clarence P. Goetz, Official Reporter for the Circuit Court of Baltimore City is attached.

Paul J. Cockrell

PAUL J. COCKRELL
1400 N. Patterson Park Ave.
Baltimore 13, Maryland

ARCHIE WILLIAMS

JUANITA J. MITCHELL

TUCKER R. DEARING

W. A. C. HUGHES, Jr.

JULIA JONES, Et. Al. vs. MCKAMER REALTY CO. Et. Al.	:	
	:	IN THE
LILLIAN WATERS vs. MCKAMER REALTY CO. et. Al.	:	COURT OF APPEALS
	:	OF
MAMIE E. KENNARD, Et. Al. vs. MCKAMER REALTY CO. Et. Al.	:	MARYLAND

ORDER

Upon the foregoing Petition and Motion, it is hereby this _____ day of May, 1960 by the Court of Appeals of Maryland, ORDERED, that the time for transmitting the Records in the above-captioned cases to this Court be, and it is hereby extended for a period of Sixty Days from the date of this Order.

_____
JUDGE

CERTIFICATE

This is to certify that on this _____ day of May, 1960, a copy of the foregoing Petition and Order were mailed to Walter G. Mylander Jr., and Mylander, Mylander, and Atwater, Esq., 1213 Fidelity Bldg., Baltimore, Maryland, Attorneys for the Appellees.

Paul J. Cockrell

PAUL J. COCKRELL
1400 N. Patterson Park Avenue
Baltimore 13, Maryland
EA 7 4717

JULIA JONES, et al.	:	
vs.	:	
McKAMER REALTY CO., et al.	:	
	:	In the
LILLIAN WATERS	:	Court of Appeals
vs.	:	of
McKAMER REALTY CO., et al.	:	Maryland
	:	
MAMIE E. KENNARD, et al.	:	
vs.	:	
McKAMER REALTY CO., et al.	:	
	:	

ORDER OF COURT

The petition and motion of the appellants filed on April 13, 1960, the reply thereto of the appellees filed on April 20, 1960, and the further petition of the appellees filed on May 13, 1960, having been read and considered, it is this 19th day of May, 1960, ORDERED:

1. That the time for transmitting the records in the above-entitled cases be extended to July 13, 1960;

2. That the said cases be consolidated for hearing in this Court.

/s/ F. W. Brune

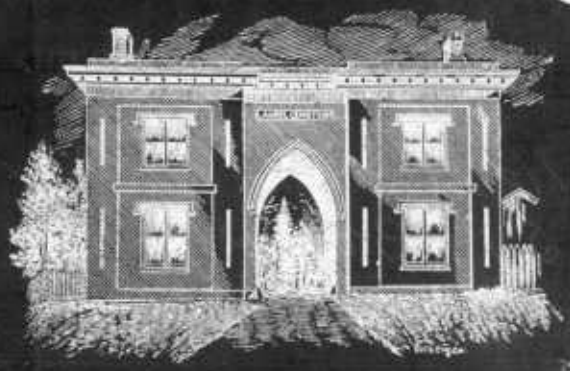
Chief Judge

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No. 3378

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Twenty five Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to Howard & Martha Williams Their heirs and assigns, One Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 44 in Section 8 on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, Their heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Howard & Martha Williams Their heirs and assigns forever, for the purposes of SEPULTURE alone and none other subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have cause their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 12 day of April

Nineteen Hundred and Nineteen

Edward Ewing President.

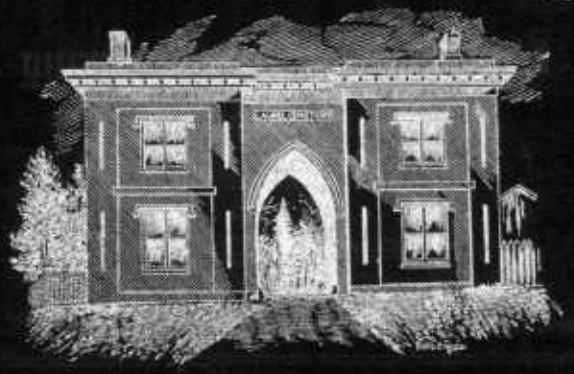
TEST: Francis Ewing Secretary.

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No. 3273

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Ten Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to George B. Kennard His heirs and assigns, One half of adjoin 23 E north side Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered adjoin lot 23 E north side in Section ____ on the PLAN of said Cemetery, containing Forty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, His heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said George B. Kennard His heirs and assigns forever, for the purposes of SEPULTURE alone and none other subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have cause their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 7 day of July Nineteen Hundred and Seventeen

Frank W Emory President.

TEST: Jno N Emory Secretary.

PLAINTIFFS' EXHIBITS

1 Deed of Plaintiff Mamie E. Kennard

2 Deed of Plaintiff Mamie E. Kennard

3 Letter dated December 18, 1958 to John G. Arthur, Director, Department of Assessments, from John G. Kaufman as Secretary - Treasurer of McKamer Realty Company in protest of notice of annual assessment of Laurel Cemetery for the years 1957 and 1958.

4 Letter, Nov. 6, 1957, from George O. Motry, Chief, Division of Community Sanitation to Clement R. Mercaldo in response to Mr. Mercaldo's request for a report on Laurel Cemetery.

5 Letter, May 3, 1956, to Mr. Wm. F. Hilgenberg, Pres., Board of Fire Commissioners, from Wilmer H. Schulze, Director, Sanitary Section, Health Department, re rat infestation in Laurel Cemetery resulting from residents feeding animals and birds and depositing trash and garbage on the cemetery grounds.

6 Letter, Sept. 16, 1948, from John G. Kaufman to Mrs. Anita C. Scott, Rec. Secretary, The Laurel Cemetery Protective and Improvement Association, giving permission to association to clear sections B and C on the right and left sides of cemetery entrance, "at the sole expense and risk of the Association."

7 Minutes of First and Second Meetings of Stockholders of Belair Road Enterprises, Inc. and the First Meeting of the Directors of Belair Road Enterprises, Inc.

7A Minutes of First Meeting of the Directors of McKamer Realty Company.

8 Checks of John G. Kaufman re expenditures to Partnership of John G. Kaufman, Clement R. Mercaldo, and Lloyd G. McAllister in behalf of McKamer Realty Company and Belair Road Enterprises, Inc.; total $11,378.00.

9 Financial Statement of Partnership of Clement R. Mercaldo, John G. Kaufman, and Lloyd G. McAllister, Advances in Behalf of McKamer Realty Company.

10A Partnership of Clement R. Mercaldo, John G. Kaufman, Lloyd G. McAllister. Advances in Behalf of Belair Road Enterprises, Inc.

10B Partnership Acct. Advances on Behalf of Belair Road Enterprises, Inc.

11 Ordinance No. 1940 to rezone Laurel Cemetery land from Residential Use District to First Commercial Use District, Introduced in City Council, March 16, 1959, at request of Belair Road Enterprises, Inc., John Gilbert Kaufman. Approved, May 12, 1959.

12 Letter, Nov. 9, 1948, to Mrs. Anita Scott from Donald H. Frye, Associate Attorney, Legal Aid Bureau, Inc.

13 Violation Notice, Nov.4, 1948, from Baltimore City Health Department to John G. Kaufman, President, New Laurel Cemetery Company.

14 Burial Permit No. 58-6883, Baltimore City Helath Department re Robert Tuckson, deceased, date of burial, July 9, 1958

15 Burial Permit No. 57-12636, James Nichols, deceased, date of burial, 1/3/58.

16 Deed of Herbert R. Frisby, president, Laurel Cemetery Lot Owners Assoc., inherited from his father, Joseph Frisby.

17 Deed, No. 41B, from Laurel Cemetery Co. to Maria Smith, April 27, 1874, mother of Plaintiff's Witness, Mr. Deaver Smith.

18 Deed No. 1901 from Laurel Cemetery Company to Blanche Smith, Aug. 31,1907.

19 Deed No. 1248 from Laurel Cemetery Company to Howard Smith, Oct.22,1896.

20 Deed from Laurel Cemetery Company to Samuel Wilson, March 16, 1866 (fee simple)

21 Deed from Laurel Cemetery Company to Frances Tasker, Nov.28,1870 (fee simple)

22 Deed No. 1426 from Laurel Cemetery Company to Wilton T. Clark, Feb.26,1900

23 Deed No. 1477 from Laurel Cemetery Company to Wilton T. Clark, Feb.23, 1901

24 Deed No. 13 from Laurel Cemetery Company to Wilton T. Clark, Nov.17, 1877.

25 Chapter 630, House Bill 594 introduced by Messrs. Mandel and Bacharach, Feb. 27, 1957 in House of Delegates. Passed both Houses, March 29,1957, signed by Governor on April 10, 1957.

26 Notes made by Miss Dashiell of call to office of Mr. McAllister and of conversation with Mr. Mercaldo, June, 1957.

26 Deed from Laurel Cemetery to Nicholas L. Deshields, January 21, 1872

27 Stipulation admitting into evidence certain deeds

28 Stipulation admitting into evidence certain deeds

29 Letter, Aug. 26, 1937 to Board of Estimates from City Solicitor and Chief Engineer that conditions of Laurel Cemetery "unsightly" but "not of any health significance

30 Letter, Sept. 2, 1937, from Donald C. Foote, president, Belair Road Imp. Association to B. L. Crozier, Chief Engineer, and R. Lee Marshall, City Solicitor

31

31 Letter, Nov. 9, 1956, from Charles E. Fitzell for Jack C. Burdett, Chief, Real Estate Division, Corps of Engineers, U. S. Army, to City Solicitor, City of Baltimore, attention: Mr. Lloyd G. Mc Allister, Assistant City Solicitor, re certain fee simple title of 67 lots conveyed to U. S. Government by deed from Laurel Cemetery Company dated June 1, 1876.

32 Letter, June 18, 1957, to Board of Estimates from Hugo A. Riccuiti, Acting City Solicitor, and Lloyd G. McAllister, Assistant City Solicitor, recommending reimbursement of U. S. Government in the amount of $1,250.00 for its burial rights including fee simple title to the land taken by the city for the widening of Belair Road in 1911.

33 Memorandum of Settlement with U. S. Government signed by Lloyd G. Mc Allister and Clement R. Mercaldo, Asst. City Solicitors

34 Letter, April 5, 1950 to Richard L. Steiner, Director, Baltimore Redevelopment Commission, from Thomas N. Biddison, City Solicitor, and Lloyd G. Mc Allister, Assistant City Solicitor, that lot owners in Laurel Cemetery owned lots as real estate and "Past experience of this office has shown that the owners of cemetery lots and the heirs of persons buried have required the City to pay to them the value of the cemetery lot being taken and to also pay the costs and expenses in removing the bodies and monuments to another comparable location."

35 Deed from Laurel Cemetery to Hezekiah Russell

36 Contract, Feb. 5, 1930, from C. M. Seubott to Hezekiah Russell to erect a monument and fonn posts on cemetery lot for the price of $180.00.

37 Laurel Cemetery Deeds to living original purchasers

37A No. 1423 to John E. and Mary Johnson, 1890
37B No. 1975 to Alverta Peele, January 30, 1909
37C No. 1959 to John E. Johnson and Mary E. Johnson, Jan.30, 1909
37D No. 3739 to Gladys Gorman, July6, 1926

38 Employment Agreement, Feb. 2, 1950, to clean up Laurel Cemetery signed by Robert B. Watts, attorney, John E. Johnson, Gertrude Tate, and Misss Estella Berry, president, Laurel Cemetery Protective and Improvement Association with Brodie Powell and John Powell.

39 Record of conversation with Edward M. Hamlet

40 Chapter 221, An Act to Incorporate Cemetery Companies, Passed May 11,1852

41 Photograph, Feb.20,1959, signposts of roads leading to new location of Laurel Cemetery in Eldersburg, Md.

42 Work Sheets of Lloyd G. McAllister re preparation for hearing before Examiner

43 Architect's Drawing of "Proposed Shopping Center for Belair Road Enterprises, Inc., J. Mauduit Berry, Architect, March 20, 1959

44 Photograph, Feb. 20, 1959, tombstones at new location of Laurel Cemetery

45 Photograph, Feb.20, 1959, of new location of Laurel Cemetery

46 Photograph, Feb. 20, 1959, new location of Laurel Cemetery

47

48 Photograph, Feb. 20, 1959, newlocation of Laurel Cemetery

49 Copy of Quit Claim Deed, JFC-251, Folio 292, November 18, 1957, from McKamer Realty Company to Anderson Enterprises, Inc. of certain lots in Laurel Cemetery, Baltimore, Maryland

50 Stipulation admitting into evidence certain deeds from Laurel Cemetery Company to Lot Owners

MAMIE E. KENNARD, ET AL	*	IN THE
PLAINTIFFS	*	CIRCUIT COURT
	*	OF
VS.	*	BALTIMORE CITY
MCKAMER REALTY CO., ET AL	*	Docket 99A
DEFENDANTS	*	Folio 267
	*	Case #39097

****

MEMORANDUM IN RE DEVOLUTION OF TITLE
AND CERTAIN LOTS IN LAUREL CEMETERY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

This Memorandum is submitted to the Court, on behalf of Laura Shelton, Selma Cole and Wellington A. Rideout, by their attorneys, Nicholas and Gosnell, Dallas F. Nicholas and Charles P. Howard, Jr.

1. That by Deed dated March 14, 1873 from the Laurel Cemetery Company one Wellington Rideout acquired title to the following described real estate and which deed was recorded in the office of the Laurel Cemetery Company as follows:

> Lots No. 192 and 193 in Section A of the Laurel Cemetery under a Deed dated the 14th of March, 1873 from the Laurel Cemetery Company.

That upon the death of Wellington Rideout on December 1, 1903, title to the said lot became vested in Annie Rideout, his Widow, who died on February 15, 1908 and then in Ervin S. Rideout, his son. That upon the death of the said Ervin S. Rideout on September 1, 1941 the title became vested in the son of Ervin S. Rideout, Wellington A. Rideout and the said Wellington A. Rideout, and his predecessors in title have owned the said lots, enjoyed quiet and peaceful possession thereof, and likewise have enjoyed all the rights of such ownership.

2. That by Deed dated April 20, 1895 from the Laurel Cemetery Company, one Florence R. Bennett acquired title to the

following described real estate, and which Deed was recorded in the office of the Laurel Cemetery Company as follows:

Lot No. 194 in Section A of the Laurel Cemetery, Deed No. 1158 of the Deed Records of the Laurel Cemetery Company.

That upon the death of the said Florence R. Bennett, Widow, on September 10, 1934, title to the said lot became vested in her nephew Ervin S. Rideout, and upon his death September 1, 1941 title became vested in his son, Wellington A. Rideout, and the said Wellington A. Rideout and his predecessors in title have owned the said lot, enjoyed quiet and peaceful possession thereof, and likewise have enjoyed all the rights of such ownership.

3. That by Deed dated September 3, 1921 from the Laurel Cemetery Company, one James W. Williams acquired title to the following described real estate, and which Deed was recorded in the office of the Laurel Cemetery Company as follows:

Lot No. 133 in Section D of the Laurel Cemetery, Deed No. 3524 of the Deed Records of the Laurel Cemetery Company.

That upon the death of James W. Williams on February 9, 1926 title to the said lot became vested in Howard Williams and Martha Williams, his wife, brother and sister-in-law to the said James W. Williams.That the said Howard Williams died on November 7, 1939 vesting title in this lot in the said Martha Williams, who died February 7, 1940. That upon the death of the said Martha Williams the title in this lot became vested in her two grandchildren, Laura Shelton and Selma Cole. That the said Laura Shelton and Selma Cole and their predecessors in title have owned the said lots, enjoyed quiet and peaceful possession thereof, and likewise have enjoyed all the rights of such ownership.

All of which is respectfully submitted,

NICHOLAS & GOSNELL

BY: Dallas F. Nicholas
DALLAS F. NICHOLAS

Chas. P. Howard, Jr.
CHARLES P. HOWARD, JR.

Docket Entries

A-267/1959

Tucker R. Dearing Dallas F. Nicholas Juanita Jackson Mitchell Archie D. Williams Williams & Murphy	:	Mamie E. Kennard, Alfred H. Redd, Clarence E. Roy, Bertha Smith, Dorothy Dyer, Ellen T. Dutton, Lillian Baker Amos, Bertina Harden Elliott, Carrie Jones, Sadie Cooper, Rosa O. Virgil and Zenobia B. Hollis
	:	
	:	UNDER ORDER OF COURT DATED SEPTEMBER 8/1959
Nicholas & Gosnell Dallas F. Nicholas Charles P. Howard, Jr.	:	Howard Williams, Martha Williams, James W. Williams, Wellington A. Rideout, and Amelia Whalen, Party Plaintiffs
	:	
	:	UNDER ORDER OF COURT DATED JANUARY 14/1960
Paul J. Cockrell	:	Charlie C. Allen, Mary J. Allen, Milton Ambry, Lillian Amos, Gladys E. Banks, Viola G. Banks, Mollie Bornen, Ella Brooks, Gladys Brown, Edith Campbell, Mary E. Campbell, Raymond T. Carpenter, Sadie Cooper, Thelma Cox, Party Plaintiffs
Paul J. Cockrell	:	Alverta Peele Craig, Lewis Dean, Flora B. Dixon, Enolia Dyer, Lester F. Fauntleroy, Beatrice Gibson, Elmer Giles, Sr., Mildred Gray, Sadie Gunther, Julia Hall, Addie Hammond, Zenobia Hollis, Edna J. Howard, Howard L. Hucles, Pauline Jackson, Sartorio Jackson, Elmira Johnson, Helen G. Johnson, John E. Johnson, Zelma Johnson

Paul J. Cockrell :
Carrie Jones,
Theresa Jones,
: Charles J. King,
Ellen L. Lee,
: Maude B. Lewis,
Natalie McG. Plummer,
: Mazie Mackey,
Alice R. Matthews,
: Francis B. Morris,
Chapelton D. Newton,
: Sylvanus D. Newton,
Gwendolyn Nichols,
: Blanche Thomas Nolan,
Donald W. Nolan,
: Carlitta Paige,
Gertrude M. Patterson,
: Emma F. Poulson,
Alfred H. Redd,
: Elaine W. Roberts,
Everett D. Saunders,
: Mildred Seaborne,
Anita Scott,
: Deaver Smith,
Estella Stepney,
: Edward Berry Stokes,
Amanda Clash Stowe,
: Gertrude Tate,
Samuel P. Taylor,
: Sterling Thomas,
Roas O. Virgil,
: Mabel Owings Walters,
Nellie Giles Watts,
: Carrie Giles Watts,
Bertye P. Williams,
: Marion Wilson,
Viola W. Wright,
: Alvin R. Young, and
Edna Young,
: Parties Plaintiff

: UNDER ORDER OF COURT DATED
JANUARY 15/1960

Fred Kolodner : Mamie Ford Toomer,
Party Plaintiff
:

: UNDER ORDER OF COURT DATED
: JANUARY 15/1960

Julius P. Robinson
Rose Freeman,
: Party Plaintiff

: A. No. 39097

Walter C. Mylander, Jr. : Mc Kamer Realty Company,
Charles C. W. Atwater : a body corporate of the State of
: Maryland, and
: Belair Road Enterprises, Inc.,
: a body corporate of the State of
Maryland
:

- - - - - - - - -

1" May 1959 Bill of Complaint for Review, to clear title, to remove cloud, for discovery, an accounting and for an Injunction (1) and Exhibits (2) and B (3) fd.

Same Day Subpoena (4) issd. (Summoned)

19" May 1959 App. of Defendants by their Solrs. Walter C. Mylander, Jr. and Charles C. W. Atwater and their Answer and Demurrer to Bill of Complaint (5) fd.

8" September 1959 Petition of Hward Williams, et al. for leave to intervene as party plaintiffs and Order of Court thereon authorizing same (6) fd.

19" November 1959 Petition of Defendants for leave to take Testimony under 560th. Rule and Order thereon authorizing same (7) fd. (Copies mailed)

13" January 1960 Summons Plaintiffs Witnesses (8) fd. copies issd. (Summoned as Marked)

14" January 1960 Summons Plaintiffs Witnesses (9) fd. copies issd. (Summoned as Marked)

Same Day Petition of Charlie C. Allen, et al. to be made party plaintiffs and Order of Court thereon authorizing same (10) fd.

Same Day Summons Plaintiffs Witnesses (11) issd. (Summoned)

15" January 1960 Petition of Mamie Ford Toomer for leave to intervene as party plaintiff and Order of Court thereon granting said leave (12) fd.

Same Day Petition of Rose Freeman for leave to intervene as party plaintiff and Order of Court thereon granting said leave (13) fd.

18" January 1960 Certification of mailing (14) fd.

18" January 1960 Summons Plaintiffs Witnesses (15) fd. copies issd. (Summoned as Marked)

Same Day Summons Plaintiffs Witnesses (16) fd. copy issd. (Summoned)

19" January 1960 App. of The State of Maryland By their Solr. C. Ferdinand Sybert and James H. Norris, Jr. and their Answer to Bill of Complaint (17) fd.

Same Day Summons Plaintiffs Witness (18) fd. copy issd. (No return)

22" January 1960 Summons Plaintiffs Witness (19) issd. (Summoned)

25" January 1960 Summons Plaintiffs Witness (20) copy issd. (Summoned)

28" January 1960 Summons Plaintiffs Witness (21) issd. (No return)

4" March 1960 Supplemental Answer of McKamer Realty Company and Belair Road Enterprises, Inc. (22) fd.

Same Day Petition of Plaintiffs for leave to amend Bill of Complaint and Order of Court thereon denying same (23) fd.

Same Day Memorandum of Court (24) fd.

7" March 1960 Decree of Court dismissing Bill of Complaint with prejudice, Complainants to pay costs (25) fd.

18" March 1960 Plaintiffs Order for Appeal (26) fd.

30" March 1960 Petition of Complainants to consolidate proceedings entitled "Julia Jones vs. McKamer Realty Company, et al" and Lillian Waters vs. McKamer Realty Company, et al." with these proceedings for record on appeal to Court of Appeals of Maryland, and Order of Court thereon directing Defendants show cause within 10 days from date of this Order why relief prayed should not be granted (27) fd. copy issd. (Served)

5" April 1960 Answer of Defendants to Motion of Complainants to consolidate (28) fd.

Same Day Motion for Hearing (29) fd.

Same Day Notice of Hearing (30) issd. (Served)

12" April 1960 Order of Court denying consolidation of these proceedings with others (31) fd.

29" June 1960 Testimony - Volume I (32) Volume II (33) Volume III (34) Volume IV (35) and Volume V (36) fd.

7" July 1960 Plaintiffs Exhibits No. 1 (37) 2 (38) 3 (39) 4 (40) 5 (41) 6 (42) 7 (43) 7-A (44) 8 (45) 9 (46) 10-A (47) 10-B (48) 11 (49) 12 (50) 13 (51) 14 (52) 15 (53) 16 (54) 17 (55) 18 (56) 19 (57) 20 (58) 21 (59) 22 (60) 23 (61) 24 (62) 25 (63) 26-A (64) 26-B (65) 27 (66) 28 (67) 29 (68) 30 (69) 31 (70) 32 (71) 33 (72) 34 (73) 35 (74) 36 (75) 37-A (76) 37-B (77) 37-C (78) 37-D (79) 38 (80) 39 (81) 40 (82) 41 (83) 42 (84) 43 (85) 44 (86) 45 (87) 46 (88) 47 (89) 48 (90) 49 (91) and 50 (92) fd.

Same Day Plaintiffs Identification Exhibits A (93) B (94) and C (95) fd.

Same Day Defendants Exhibits No. 1 (96) 2 (97) and 3 (98) fd.

Same Day Defendants Exhibit A for Identification (99) fd.

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Tucker R. Dearing Dallas F. Nicholas Juanita Jackson Mitchell Archie D. Williams Williams & Murphy	:	Mamie E. Kennard, Alfred H. Redd, Clarence E. Roy, Bertha Smith, Dorothy Dyer, Ellen T. Dutton, Lillian Baker Amos, Bertina Harden Elliott, Carrie Jones, Sadie Cooper, Rosa O. Virgil and Zenobia B. Hollis
	:	
	:	UNDER ORDER OF COURT DATED SEPTEMBER 8/1959
Nicholas & Gosnell Dallas F. Nicholas Charles P. Howard, Jr.	:	Howard Williams, Martha Williams, James W. Williams, Wellington A. Rideout, and Amelia Whalen, Party Plaintiffs
	:	
	:	UNDER ORDER OF COURT DATED JANUARY 14/1960
Paul J. Cockrell	:	Charlie C. Allen, Mary J. Allen, Milton Ambry, Lillian Amos, Gladys E. Banks, Viola G. Banks, Mollie Bornen, Ella Brooks, Gladys Brown, Edith Campbell, Mary E. Campbell, Raymond T. Carpenter, Sadie Cooper, Thelma Cox, Party Plaintiffs
Paul J. Cockrell		Alverta Peele Craig, Lewis Dean, Flora B. Dixon, Enolia Dyer, Lester F. Fauntleroy, Beatrice Gibson, Elmer Giles, Sr., Mildred Gray, Sadie Gunther, Julia Hall, Addie Hammond, Zenobia Hollis, Edna J. Howard, Howard L. Hucles, Pauline Jackson, Sartoric Jackson, Elmira Johnson, Helen G. Johnson, John E. Johnson, Zelma Johnson

Paul J. Cockrell	:	Carrie Jones, Theresa Jones, Charles J. King, Ellen L. Lee, Maude B. Lewis, Natalie McG. Plummer, Mazie Mackey, Alice R. Matthews, Francis B. Morris, Chapelton D. Newton, Sylvanus D. Newton, Gwendolyn Nichols, Blanche Thomas Nolan, Donald W. Nolan, Carlitta Paige, Gertrude M. Patterson, Emma F. Poulson, Alfred H. Redd, Elaine W. Roberts, Everett D. Saunders, Mildred Seaborne, Anita Scott, Deaver Smith, Estella Stepney, Edward Berry Stokes, Amanda Clash Stowe, Gertrude Tate, Samuel P. Taylor, Sterling Thomas, Rosa O. Virgil, Mabel Owings Walters, Nellie Giles Watts, Carrie Giles Watts, Bertye P. Williams, Marion Wilson, Viola W. Wright, Alvin R. Young, and Edna Young, Parties Plaintiff
	:	UNDER ORDER OF COURT DATED JANUARY 15/1960
Fred Kolodner	:	Mamie Ford Toomer, Party Plaintiff
	:	
	:	UNDER ORDER OF COURT DATED JANUARY 15/1960
Julius P. Robinson	:	Rose Freeman, Party Plaintiff
	:	A. No. 39097
Walter C. Mylander, Jr. Charles C. W. Atwater	:	Mc Kamer Realty Company, a body corporate of the State of Maryland, and Belair Road Enterprises, Inc., a body corporate of the State of Maryland

- - - - - - - - -

1" May 1959 Bill of Complaint for Review, to clear title, to remove cloud, for discovery, an accounting and for an Injunction (1) and Exhibits (2) and B (3) fd.

Same Day Subpoena (4) issd. (Summoned)

19" May 1959 App. of Defendants by their Solrs. Walter C. Mylander, Jr. and Charles C. W. Atwater and their Answer and Demurrer to Bill of Complaint (5) fd.

8" September 1959 Petition of Hward Williams, et al. for leave to intervene as party plaintiffs and Order of Court thereon authorizing same (6) fd.

19" November 1959 Petition of Defendants for leave to take Testimony under 560th. Rule and Order thereon authorizing same (7) fd. (Copies mailed)

13" January 1960 Summons Plaintiffs Witnesses (8) fd. copies issd. (Summoned as Marked)

14" January 1960 Summons Plaintiffs Witnesses (9) fd. copies issd. (Summoned as Marked)

Same Day Petition of Charlie C. Allen, et al. to be made party plaintiffs and Order of Court thereon authorizing same (10) fd.

Same Day Summons Plaintiffs Witnesses (11) issd. (Summoned)

15" January 1960 Petition of Mamie Ford Toomer for leave to intervene as party plaintiff and Order of Court thereon granting said leave (12) fd.

Same Day Petition of Rose Freeman for leave to intervene as party plaintiff and Order of Court thereon granting said leave (13) fd.

18" January 1960 Certification of mailing (14) fd.

18" January 1960 Summons Plaintiffs Witnesses (15) fd. copies issd. (Summoned as Marked)

Same Day Summons Plaintiffs Witnesses (16) fd. copy issd. (Summoned)

19" January 1960 App. of The State of Maryland By their Solr. C. Ferdinand Sybert and James H. Norris, Jr. and their Answer to Bill of Complaint (17) fd.

Same Day Summons Plaintiffs Witness (18) fd. copy issd. (No return)

22" January 1960 Summons Plaintiffs Witness (19) issd. (Summoned)

25" January 1960 Summons Plaintiffs Witness (20) copy issd. (Summoned)

28" January 1960 Summons Plaintiffs Witness (21) issd. (No return)

4" March 1960 Supplemental Answer of McKamer Realty Company and Belair Road Enterprises, Inc. (22) fd.

Same Day Petition of Plaintiffs for leave to amend Bill of Complaint and Order of Court thereon denying same (23) fd.

Same Day Memorandum of Court (24) fd.

7" March 1960 Decree of Court dismissing Bill of Complaint with prejudice, Complainants to pay costs (25) fd.

18" March 1960 Plaintiffs Order for Appeal (26) fd.

30" March 1960 Petition of Complainants to consolidate proceedings entitled "Julia Jones vs. McKamer Realty Company, et al" and Lillian Waters vs. McKamer Realty Company, et al." with these proceedings for record on appeal to Court of Appeals of Maryland, and Order of Court thereon directing Defendants show cause within 10 days from date of this Order why relief prayed should not be granted (27) fd. copy issd. (Served)

5" April 1960 Answer of Defendants to Motion of Complainants to consolidate (28) fd.

Same Day Motion for Hearing (29) fd.

Same Day Notice of Hearing (30) issd. (Served)

12" April 1960 Order of Court denying consolidation of these proceedings with others (31) fd.

29" June 1960 Testimony - Volume I (32) Volume II (33) Volume III (34) Volume IV (35) and Volume V (36) fd.

7" July 1960 Plaintiffs Exhibits No. 1 (37) 2 (38) 3 (39) 4 (40) 5 (41) 6 (42) 7 (43) 7-A (44) 8 (45) 9 (46) 10-A (47) 10-B (48) 11 (49) 12 (50) 13 (51) 14 (52) 15 (53) 16 (54) 17 (55) 18 (56) 19 (57) 20 (58) 21 (59) 22 (60) 23 (61) 24 (62) 25 (63) 26-A (64) 26-B (65) 27 (66) 28 (67) 29 (68) 30 (69) 31 (70) 32 (71) 33 (72) 34 (73) 35 (74) 36 (75) 37-A (76) 37-B (77) 37-C (78) 37-D (79) 38 (80) 39 (81) 40 (82) 41 (83) 42 (84) 43 (85) 44 (86) 45 (87) 46 (88) 47 (89) 48 (90) 49 (91) and 50 (92) fd.

Same Day Plaintiffs Identification Exhibits A (93) B (94) and C (95) fd.

Same Day Defendants Exhibits No. 1 (96) 2 (97) and 3 (98) fd.

Same Day Defendants Exhibit A for Identification (99) fd.

Docket Entries

A-266/1959

Paul J. Cockrell	"	Julia Jones
	:	A. No. 39096
Walter C. Mylander, Jr. Charles C. W. Atwater	:	The Mc Kamer Realty Co. and Belair Road Enterprises, Inc.
	:	

- - - - - - -

1" May 1959 Bill of Review and for an Injunction, Affidavits and Motions (1) fd.

Same Day Subpoena (2) issd. (Summoned)

Same Day Order of Court directing Defendants show cause on or before May 16/1959 why relief prayed should not be granted (3) fd. copies issd. (Served)

18" May 1959 App. of Defendants by their Solrs. Walter C. Mylander, Jr. and Charles C. W. Atwater and their Answer and Demurrer to Bill of Complaint (4) fd.

19" November 1959 Petition of Defendants for leave to take Testimony under 560th. Rule and Order thereon authorizing same (5) fd. (copy mailed)

18" December 1959 Decree of Court dismissing Bill of Complaint with prejudice, costs to be paid by Plaintiff (6) fd.

14" January 1960 Plaintiff's Order for Appeal (7) fd.

13" February 1960 Petition of Plaintiff for extension of time to transmit record to Court of Appeals and Order of Court extending said time for 30 days from this date (8) fd.

2" March 1960 Opinion of Court (9) fd.

14" March 1960 Petition of Plaintiff for extension of time to transmit record to Court of Appeals and Order of Court extending said time for 30 days from this date (10) fd.

12" April 1960 Order of Court directing that these proceedings and case entitled "Lillian Waters vs. McKamer Realty Company, et al." be consolidated, denying further consolidation (11) fd.

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Docket Entries

A-276/1959

Juanita Jackson Mitchell Archie D. Williams Williams & Murphy	:	Lillian Waters
	:	A. No. 39107
Walter C. Mylander, Jr. Charles C.W. Atwater	:	McKamer Realty Company and Belair Road Enterprises, Inc.

- - - - -

6" May 1959 Bill of Complaint for Review, to set aside Decree and for damages (1) fd.

Same Day Subpoena (2) issd. (Summoned)

17" June 1959 App. of Defendants by their Solrs. Walter C. Mylander, Jr. and Charles C. W. Atwater and their Answer and Demurrer to Bill of Complaint (3) fd.

19" November 1959 Petition of Defendants for leave to take Testimony under 560th. Rule and Order thereon authorizing same (4) fd. (copies mailed)

18" December 1959 Decree of Court dismissing Bill of Complaint with prejudice, costs to be paid by Plaintiff (5) fd.

18" January 1960 Plaintiff's Order for Appeal (6) fd.

15" February 1960 Petition of Plaintiff for extension of time to transmit record to Court of Appeals, Consent of parties and Order of Court thereon extending said time for 30 days (7) fd.

29" February 1960 Testimony (8) fd.

17" March 1960 Petition of Plaintiff for extension of time to transmit record to Court of Appeals and Order of Court thereon extending said time for 30 days from this date (9) fd.

12" April 1960 Order of Court consolidating these proceedings with case entitled "Julia Jones vs. McKamer Realty Company, et al.", denying further consolidation (10) fd.

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MAMIE E. KENNARD, ET AL	*	IN THE
PLAINTIFFS	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MCKAMER REALTY CO., ET AL	*	
DEFENDANTS	*	Docket 99A
	*	Folio 267
		Case # 39097

****

MEMORANDUM IN RE DEVOLUTION OF TITLE
AND CERTAIN LOTS IN LAUREL CEMETERY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

This Memorandum is submitted to the Court on behalf of Leonard Whalen, Grace Whalen, Carrie Whalen and Amelia Whalen, by their attorneys, Nicholas and Gosnell, Dallas F. Nicholas and Charles P. Howard, Jr.

1. That by deed dated June 6, 1903 from the Laurel Cemetery Company, one Gertrude Whalen, Widow, acquired title to the following described real estate and which deed was recorded in the office of the Laurel Cemetery Company as follows:

> Lot No. 99, Section O of the Laurel Cemetery under a deed dated June 6, 1903 and numbered 1636 of the Deed Records of the Laurel Cemetery Company.

That upon the death of Gertrude Whalen, Widow, May 27, 1910, title to the said lot became vested in Leonard Whalen, Grace Whalen and Carrie Whalen, son and daughters of Gertrude Whalen, Widow, and that the said Leonard Whalen, Grace Whalen and Carrie Whalen, and their predecessors in title have owned the said lots and have enjoyed quiet and peaceful possession thereof and likewise have enjoyed all the rights of such ownership.

2. That by deed dated August 3, 1918 from the Laurel Cemetery Company, one Amelia Whalen acquired title to the following described real estate and which deed was recorded in the office of the Laurel Cemetery Company as follows:

> Lot No. 109 in Section Laurel Park of the

Laurel Cemetery under a deed dated August 3, 1918 and numbered 3331 of the Deed Records of the Laurel Cemetery Company.

The said Amelia Whalen is still living and has enjoyed quiet and peaceful possession of the said lot and likewise has enjoyed all the rights of such ownership.

All of which is respectfully submitted,

NICHOLAS & GOSNELL

BY: Dallas F. Nicholas
DALLAS F. NICHOLAS

CHARLES P. HOWARD, JR.

This is to certify that on this ___ day of February, 1960, a copy of the foregoing Memorandum was mailed to Tucker R. Dearing, Esq., 627 N. Aisquith St,, Balto. 2, Maryland, Mrs. Juanita J. Mitchell, 1239 Druid Hill Ave., Balto. 17, Md., Messrs. Williams & Murphy, 2669 Pennsylvania Ave., Balto. 17, Maryland and Walter C. Mylander, Jr., Esq., 1213 Fidelity Bldg., Balto. 2, Md., Attorneys for Plaintiffs and Defendants.

NICHOLAS & GOSNELL

BY: Dallas F. Nicholas
DALLAS F. NICHOLAS

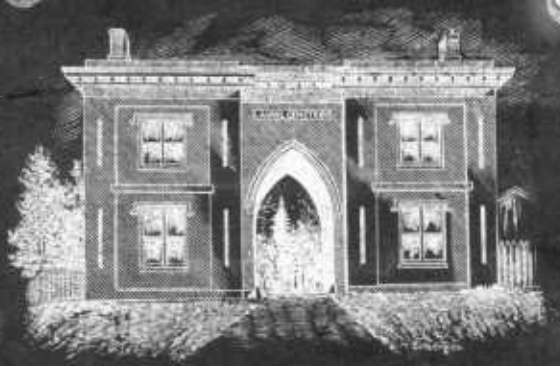
CHARLES P. HOWARD, JR.

—(INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.)—

DEED

LAUREL CEMETERY COMPANY.

No 1656



Know all Men by these presents, that **LAUREL CEMETERY COMPANY,** in consideration of Twenty —— Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell, and convey to Gertrude Cohalen her heirs and assigns, —One— Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered — 99 — in Section O on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, her heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Gertrude Cohalen her heirs and assigns forever, for the purposes of SEPULTURE alone and none other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to Incorporate Cemetery Companies and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 6 day of June Nineteen Hundred and Three

President.

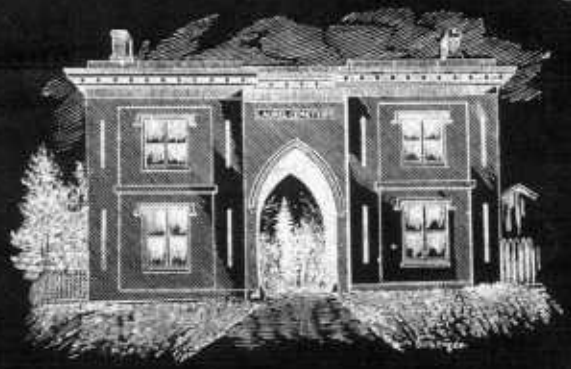
TEST: D. H. Emory Thos *Secretary.*

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No. 3

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Twenty four ——— Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to Amelia Whalen ——— Her heirs and assigns, One ——— Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 109 in Section Laurel Park on the PLAN of said Cemetery, containing Eighty ——— square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, Her ——— heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Amelia Whalen ——— Her heirs and assigns forever, for the purposes of SEPULTURE alone and none other subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have cause their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 3rd day of August Nineteen Hundred and Eighteen

Laurel W Emory Jr President.

TEST: John H Emory Jr Secretary.

LAUREL CEMETERY COMPANY.

No 13

Know all Men by these Presents,

That **THE LAUREL CEMETERY COMPANY,** for and in consideration of the sum of Thirty Six $^{00}/_{100}$ Dollars, to them in hand paid by Wellington Rideout of Baltimore City the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey to the said Wellington Rideout his heirs and assigns, Two Lots of Land in the **Laurel Cemetery,** laid down in the Plan of said Cemetery in the Office of said Company, and therein designated as **Lots**—Nos. 192 & 193 (one hundred and ninety two and one hundred and ninety three) in Area A containing each Eighty superficial feet.

To Have and to Hold the herein above granted premises to the said Wellington Rideout his heirs and assigns forever, subject, however, to the conditions and limitations, and with the privileges specified in the Act of the General Assembly of Maryland, passed January Session, 1852, chapter 221, and such rules and regulations now in force, and such other rules and regulations as may be adopted hereafter for the management of said Cemetery, made pursuant to said Act of Assembly.

And the said **The Laurel Cemetery Company,** do hereby covenant to and with the said Wellington Rideout his heirs and assigns, that they are lawfully seized of the herein granted premises in fee simple,—that they have the right to sell and convey the same for the purposes above expressed, and that they will warrant and defend the same unto the said Wellington Rideout his heirs and assigns forever.

In Testimony Whereof, the said THE LAUREL CEMETERY COMPANY have caused this Certificate of Title to be signed by their President, and their Common Seal to be affixed hereto, this Fourteenth day of March in the year of our Lord one thousand eight hundred and seventy Three

D. C. McEnery Pres

L. C.

INCORPORATED JUNE, 1852. UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No. 7158

LAUREL CEMETERY COMPANY.



Know all Men by these presents that **LAUREL CEMETERY COMPANY**, in consideration of Twenty Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell, and convey to Florence R Bennett her heirs and assigns, one Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 194 in Section A on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, her heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery. TO HAVE AND TO HOLD the said LOT and right of way aforesaid, to the said Florence R Bennett her heirs and assigns forever, for purposes of SEPULTURE alone and none other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at JANUARY Session Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to Incorporate Cemetery Companies and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 20 day of April Eighteen Hundred and Ninety five

TEST: D. H. Emory Treas Secretary.

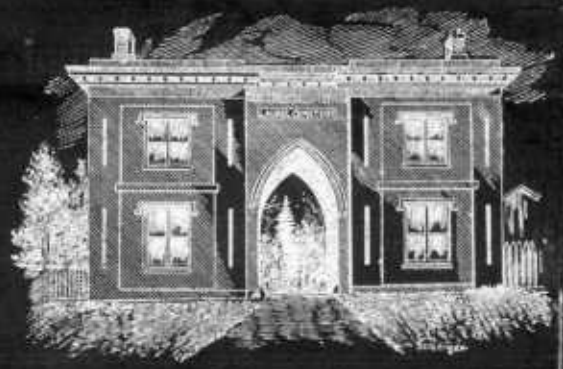
Jasper N Berry President.

INCORPORATED JUNE, 1853, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No. 34

LAUREL CEMETERY COMPANY.



Copy from Original

Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Copy from Original Deed p. 426 ~~Dollars~~, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to James W. Williams His heirs and assigns, One Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 133 in Section 10 on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, His heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said James W. Williams His heirs and assigns forever, for the purposes of SEPULTURE alone and none other subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have cause their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 3rd day of September Nineteen Hundred and Twenty One

John B. Giles acting President

TEST: Francis Tomory Jr. Secretary.

Mamie E. Kennard, et al.	:	IN THE
vs.	:	CIRCUIT COURT OF
McKamer Realty Co., et al.	:	BALTIMORE CITY

- - - - - - -

A. 39097

39,97

(1)

(SECTION 1 OF 3 SECTIONS)

NO. 131

SEPTEMBER TERM, 1960
(Vol. 1 of ~~five~~ 6 volumes)

Court of Appeals of Maryland

No. J.3}....., SEPTEMBER TERM, 19..9Q.

Mamie E Kennard et al
Julia Jones et al

vs.

McKamer Realty Co., et al .

DISPOSITION OF APPEAL IN COURT OF APPEALS:

Orders of dismissal affirmed, appellants to pay the costs.

TRANSCRIPT

RETURNED TO Clerk of the Circuit Court of Baltimore City,

court House, Baltimore., Maryland Date 4/20/61 .

BY EXPRESS (6 volumes or record)0'

REMARKS:

BLANCHE WATTS

vs.

McKAMER REALTY COMPANY, INC., EDWARD A. ANDERSON, Trustee for The New Laurel Cemetary, BELAIR ROAD ENTERPRISES, INC. and ELSWORTH ARACOST FUNERAL HOME

SUPERIOR COURT
OF BALTIMORE CITY

JAMES F. CARNEY, *Clerk.*

Docket 1959

Folio 1583

File 57958

MR. CLERK:

subpoena duces tecum

Please issue summons for the following witnesses:

Clerk
Circuit Court of Baltimore City
Court House
Baltimore, Maryland 21202

and direct that he bring with him the following records:

1) Circuit Court of Baltimore City
File A 37485 - Docket 97A - Folio 878

2) Circuit Court of Baltimore City
File A 39087 - Docket 1959 - Folio A267

ROOM 419 SUPERIOR COURT OF BALTIMORE CITY
MR. SHERIFF: PLEASE SUMMON
FOLLOWING WITNESSES.
JAMES F. CARNEY, Clerk

to testify for the Defendant, Elsworth Armacost Funeral Home

Returnable 9th *day of* May, *19* 66, *at 9:45 o'clock A. M.*

Robert E. Coughlan, Jr.
804 Munsey Building
Baltimore, Maryland 21202
Attorney for Elsworth Armacost Funeral Home

5000—9-65

No. 10\ , SEPTEMBER TERM, 19--
(LEAVE BLANK)

TRANSCRIPT OF RECORD

(JUDGE ANSELM SODARO)

(j. t OAT J

CIRCUIT COURT OF BALTIMORE CITY

IN THE CASE OF

Mamie E. Kennard, et al.

John J. Duff, Sr., et al

Appellants

vs.

McKamer Realty Co., et al.

Appellees

TO THE

COURT OF APPEALS OF MARYLAND

Tucker R. Dearing
Archie D. Williams
Paul J. Cockrell
Juanita Jackson Mitchell
Dallas F. Nicholas
Charles P. Howard, Jr.
Fred Joiner
Julius P. Robinson

SOLRS. FOR APPELLANTS

Walter C. Mylander, Jr.
Charles C. W. Atwater

SOLRS. FOR APPELLEES

Filed ..... --

Which said appeal being by the Court here also granted, it is thereupon ordered by the Court here, that a Transcript of the Record of Proceedings in the cause aforesaid be transmitted to the Court of Appeals of Maryland, under the rules / thereof *, and the same is transmitted accordingly.*

Test:

Henry J. Ruppersberger
Clerk.

Ju Wtlititttnun. *that the aforegoing is truly taken from the Record and Proceedings of the Circuit Court of Baltimore City, in the therein entitled cause.*

I hereunto set my hand and affix the Seal of the Circuit Court of Baltimore City aforesaid, this /;}..., day of **July** *A. D., 19* 60.

Henry J. Ruppersberger
Clerk of the Circuit Court of Baltimore City.

QOSTS

PLAINTIFFS COSTS	283.75
STENOGRAPHERS COSTS	874.65
DEFENDANTS COSTS	------

J. LLOYD YOUNG
CLERK

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VIRGINIA TATE SANDROCK
CHIEF" DEPUTY

OLIVE JANE RICHARDS
VIRGINIA STEHLE HUBBARD
MARY J. LINDSAY
DEPUTIES

TELEPHONES: COLONIAL ◆◆◆◆

November 29, 1960

Henry J. Ripperger, Esq.
CLERK
Circuit Court of Baltimore City
Court House
Baltimore 2, Maryland

Dear Mr. Ripperger:

I am enclosing herewith copy of a "Petition to Supply Omission in Record" together with coJy of an Order of Court filed thereon in the appeal of Mamie E. Kennard, et al. vs. McKamer Realty Company, et al., No. 131, September Term, 1960.

It is requested that you comply with said Order of Court promptly.

Very truly yours,

J. Lloyd Young

ClerW'--

JLY/ojr
Enclosure
cc: Archie D. Williams, Esq.
Charles C. W. Atwater, Esq.

/1-39097

MAMIE E. KENNARD, ET. AL., *
"f/IJA JOJ&S, ET. AL., *
'f-'ILLIAN WATERS, *
Appellants *
vs. *
'VcKAIZR RE'AEI'Y C02/PANY, E'T AL., *
Appellees *

IN THE
COURT OF APPEALS
OF
lifARYLAJID
No. 1Jt, September Term, 1960

FILED NOV 23 1960
J. LLOYD YOUNG, CLERK
COURT OF APPEALS OF MARYLAND

JJ1%JTIOll TO SUPP.Y O]LJ'JSSIONIN RECORD

Appellants, by Archie D. Williams, of Counsel for Appellants, for Petition to Supply Om.mission in Record, Say:

1. That at the hearings in the about! cases in the Circuit Court of Baltimore Oity there was introduced into the evidence by Counsel for the Defendants Jr'ile #A-]?485, Docket 9?A, JHblio 878, of the Oircutt Court of Baltimore City, but such file, 'betng an of.fie ial Cou.ft record, was not marlred by the stenographer, and the Olerk of the Circuit Oourt, in preparinf, the record for transmission. to this Honorable Oourt, failed to include said file.

2. That all Counsel in this case agree that such file ts necessary to the ful.Z determination of all questions in this base in this Honorable Court.

tllLJ,R1JPOR1t; Appellants respectfully pray:

(a) That this Honorable Court issue an Order directed to the Clerk of the Circuit Court of Baltirzore City requiring that such file be forwarded to this Court to be made a part of the 'record in thia Court.

Archie D. Williams
Arehie J. rZ1iams
of Counsel for Appellants

LAW OFFICES
WIU.IAMS"'MURPHY
2659 PENNSYLVANIA AVENUK
BALTIMORE 17, Mo.
LA. 3-5011

Concurred In:

Charles C. W. Atwater
of Counsel for Appellees

/l-3 9o9 7

11/[illegible] E J;'• KEJ!IIARD, ET. AZ., *

JULI@1 JOJIICS, ET. AL,.!) *

I.ILLINA N'ATZ1k@, *

Ap'"'e 11a,.t$_{o}$ *

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A.p_nellctts *

* * * * * * *

IN 2IIE

COVRT O^{P} APPEAJ:lJ

OP

MARYLAND

Jio. 1Jf, September Term, 1960

ORWER OF COVRP.....

Upon the i::,ithtn Petition it is this 28th day of November 1960 O:?&":?ED by the Oourt of Appea.ln of l!a1·yland that .F'ilc # A-37485from the CirctiltCourt of Baltit-•ort!City be forwardedto th.to Court by the Clerkof the ,..ircuit Court of Baltimore City, and tr...at such file be made a .Dart of the Record on Appeal in above cana.

/s/ F. W. Brune

--·CHiEF jrJij'GJ..

LAW OFFICES
WILLIAMS a MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17. Mo.
LA. 3-5011

THE COURT OF APPEALS — ANNAPOLIS, MARYLAND

7-13-60

To VSH

April 20, 1960

Charles C. W. Atwater, Esq.
Attorney at Law
1213-14 Fidelity Building
Baltimore 1, Maryland

Dear Mr. Atwater:

This will acknowledge receipt or the original and five copies of the "Answer to Petition etc." filed on April 20, 1960, in the case or Jamie E. Kerr:aro, et al. vs. McKamer Realty Company, et al.

Copies ot this answer have been distributed to the members of the Court, and you will be notified when action is taken thereon.

Veey truly yours,

Clerk

JLY/oJr
cc: Paul J. Cockrell, Esq.
W. A. C. Hughes, Esq.
Archie D. Williams, Esq.
Mrs. Juanita J. Mitchell,
Attorney at Law

5

LAW OFFICES
MYLANDER, MYLANDER & ATWATER

WALTER C. MYLANDER, JR.
HENRY A. MYLANDER
CHARLES C. W. ATWATER

1213-14 FIDELITY BUILDING
BALTIMORE 1, MD.

TELEPHONE
PLAZA 2-6254

April 19, 1960

Honorable Frederick W. Brune
Chief Judge
Court of Appeals of Maryland
Court of Appeals Building
Annapolis, Maryland

Re: Mamie E. Kennard, et al. v. McKamer Realty Company, et al.

Dear Judge Brune:

We have received a letter from the Clerk in which he informs us that an Order has been signed on the Petition of Julia Jones, Lillian Waters and Mamie E. Kennard, et al. to extend the time for filing of the records in these three cases, subject to consideration of an answer to be filed by the Defendants to the Petition.

Enclosed is an Answer, together with five copies, to the Petition for an Extension of Time and for Consolidation.

Very truly yours,

Charles C. W. Atwater

CCWA:bc

Enclosures

CCWA:bc 4/18/60 1-9

FILED APR 20 1960
J. LLOYD YOUNG, CLERK
COURT OF APPEALS OF MARYLAND

MAMIE E. KENNARD, et al. *

vs.

McKAMER REALTY COMPANY, et al. *

JULIA JONES

vs. *

McKAMER REALTY COMPANY, et al.

LILLIAN WATERS

vs. *

McKAMER REALTY COMPANY, et al.

IN THE

COURT OF APPEALS

OF

MARYLAND

*

****

ANSWER TO PETITION AND MOTION TO EXTEND TIME FOR TRANSMITTING RECORDS TO THE COURT OF APPEALS AND TO CONSOLIDATE CASES

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The Defendants, McKamer Realty Company and Belair Road Enterprises, Inc., answering the Petition and Motion of the Plaintiffs in the above entitled cases for the extension of time for filing records and to consolidate the records in the three above entitled cases, respectfully show:

1. They admit that the above entitled cases were filed as set forth in paragraphs 1, 2 and 3 of said Petition and that all of the above captioned cases grow out of the same or similar transactions and that all involve similar questions of law and fact. They affirmatively aver that said actions are all class actions.

2. In answer to paragraph 4 of said Petition, they deny that any Petition to Consolidate said cases was ever filed in the lower Court, but they admit that all three of said cases were set down for a hearing at the same time on December 17, 1959.

3. They admit that they were notified two days before the date for trial that one of the Counsel in the case of "Mamie E. Kennard, et al. v. McKamer Realty Company, et al." was ill and a postponement was requested in that case at the request of other Counsel for the Plaintiffs.

4. They admit that the remaining two cases, namely: "Julia Jones v. McKamer Realty Company, et al." and "Lillian Waters v. McKamer Realty Company, et al." were tried together on December 18, 1959, and that on December 18, 1959, after a hearing was held in open Court and testimony was taken and Counsel were heard, a Decree was entered in each of said cases that the Bill of Complaint be dismissed with prejudice.

5. They admit the allegations of paragraph 7 that an Appeal was entered to the Court of Appeals of Maryland in the Julia Jones case on January 14, 1960, and in the Lillian Waters case on January 18, 1960.

6. They admit the allegation of paragraph 8 that the case of "Mamie E. Kennard, et al. v. McKamer Realty Company, et al." was tried during the period beginning on January 19 and ending on January 28, 1960, and that a Decree was entered in said case dismissing the Bill of Complaint with

prejudice on March 7, 1960.

7. They admit the allegation of paragraph 9 that by Order of the Circuit Court of Baltimore City, the time for filing the records in this Court in the cases of Julia Jones and Lillian Waters was extended for two consecutive thirty-day periods.

8. In answer to paragraph 10 they admit that by consent of the Defendants, the Motion to Consolidate the records in the case of Julia Jones and Lillian Waters was granted. Further answering said paragraph, they say that the Motion to Consolidate the case of Mamie E. Kennard, et al., with the other two cases of Julia Jones and Lillian Waters was denied by Order of the Circuit Court of Baltimore City filed on April 12, 1960.

9. The Defendants, in answer to paragraph 11, deny that it is desirable to all parties to hear all three cases together in the Court of Appeals of Maryland, and they oppose the consolidation of the case of Mamie E. Kennard, et al. v. McKamer Realty Company, et al. with the other two mentioned cases into one record for the purpose of such appeal.

10. The cases of Julia Jones v. McKamer Realty Company, et al. and Lillian Waters v. McKamer Realty Company, et al. were tried together on the same date in the Circuit Court of Baltimore City and the records therein should properly be consolidated as was done by Decree of the Circuit Court of Baltimore City into one record for the purpose of appeal. The Decrees in those cases, if affirmed by this Court, will be a final adjudication of the subject matter of all three of the above cases, and in such event, the appeal in the case of Mamie E. Kennard, et al. v. McKamer Realty Company, et al. will become moot and will be the subject of a Motion to Dismiss the Appeal therein.

11. The records in the cases of Julia Jones v. McKamer Realty Company, et al, and Lillian Waters v. McKamer Realty Company, et al. should not be enlarged by being consolidated with the case of Mamie E. Kennard, et al. v. McKamer Realty Company, et al. The transcript of testimony in the first two cases was prepared and the records in those two cases could have been filed as early as February 18, 1960. The Motion to Consolidate the first two cases with the case of Mamie E. Kennard, et al. is apparently designed to permit the Plaintiffs to enlarge the records in those cases by adding the record in the case of Mamie E. Kennard, et al. The result of such a consolidation and enlargement of the records would be to complicate the issues in the first two cases and to delay the hearing in those two cases unnecessarily.

12, The Defendants further oppose the Motion to extend the time for filing the records in the cases of Julia Jones v. McKamer Realty Company, et al. and Lillian Waters v. McKamer Realty Company, et al. on the basis that those records are now prepared and could be transmitted to this Court by the Clerk of the Circuit Court for Baltimore City without further delay, and the sole purpose of the Motion to Extend Time is to permit the consolidation of the records in these two cases with the record in the case of Mamie E. Kennard, et al.

WHEREFORE, the Defendants pray:

(a) That the Motion to Consolidate the records on appeal be denied as to the case of Mamie E. Kennard, et al. v. McKamer Realty Company, et al., Docket 1959 - A, Folio 267.

(b) That the Motion to Extend the Time for Filing the Records in the casesof Julia Jones v. McKamer Realty Company, et al., Docket 1959-A, Folio 266, and Lillian Waters v. McKamer Realty Company, et al., Docket 1959-A, Folio 276, should be denied, except to the extent necessary to permit the immediate filing thereof, and the Order of this Court entered herein on April 14, 1960, should be modified and the time for transmitting the Records in these two cases be reduced.

AND, as and duty bound, etc.

Walter C. Mylander, Jr.
Walter C. Mylander, Jr.

Charles C. W. Atwater
Charles C. W. Atwater
Solicitors for Defendants

I HEREBY CERTIFY that on this 18th day of April, 1960, a copy of the foregoing Answer was mailed to each of the following, Attorneys for Plaintiffs:

W. A. C. Hughes, Jr., Esquire - 1803 Pennsylvania Avenue, Baltimore 17, Maryland.

Mrs. Juanita Jackson Mitchell, 1239 Druid Hill Avenue, Baltimore 17, Maryland.

Archie D. Williams, Esquire - Williams & Murphy, 2669 Pennsylvania Avenue, Baltimore 17, Maryland.

Paul J. Cockrell, Esquire, and Tucker R. Dearing, Esquire, 627 North Aisquith Street, Baltimore 2, Maryland.

Dallas F. Nicholas, Esquire - 14 East Pleasant Street, Baltimore 2, Maryland.

Julius P. Robinson, Esquire - 208 East Lexington Street, Baltimore 2, Maryland.

Charles C. W. Atwater
Of Counsel for Defendants

THE COURT OF APPEALS — ANNAPOLIS, MARYLAND

7-13-60

V. S. H.

May 19, 1960

Paul J. Cockrell, Esq.
Attorney at Law
1400 N. Patterson Park Avenue
Baltimore 13, Maryland

Dear Sir:

I am enclosing herewith a copy of your petition and motion, together with an Order of Court thereon, in the appeals of Julia Jones, et al. vs. McKamer Realty Co., et al. (3 appeals).

The Order, of course, is self-explanatory.

Very truly yours,

Clerk

JLY/ojr
Enclosure
cc: Charles C. W. Atwater, Esq.
Henry J. Ripperger, Esq.,
Clerk, Circuit Court of Baltimore City

S

THE COURT OF APPEALS — ANNAPOLIS, MARYLAND

5/14/60

April 14, 1960

Paul J. Cockrell, Esquire
Attorney at Law
627 N. Aisquith Street - 1400 N. Patterson Park Ave
Baltimore 2, Maryland Zone 13
Earlee 7-4717

Dear Sir:

This is to advise you that the Court has signed the following Order in the matter of the Petition and Motion to Extend Time, etc. in the case of Julia Jones, et al v. McKamer Realty Co., et al.

"Upon the foregoing Motion and Petition, it is hereby this 14th day of April, 1960, by the Court of Appeals of Maryland, ORDERED that the time for transmitting the Records in the case of Julia Jones, et. al., Lillian Waters, et. al., and Mamie Kennard et. al., be, and it is hereby extended for a period of thirty days from the date of this Order, subject to the further Order of this Court and consideration of such answer to said petition, if any, as the appellees may file.

s/s F. W. Brune
Judge"

Very truly yours,

Chief Deputy

VTS/vsh
cc: Archie D. Williams, Esq.
W. A. C. Hughes, Esq.
Mrs. Juanita J. Mitchell
Attorney at Law
Mylander & Atwater
Attorneys at Law

VTS

FILED APR 13 1960
J. LLOYD YOUNG, CLERK
COURT OF APPEALS OF MARYLAND

JULIA JONES, Et. Al.	
Appellants	IN THE
vs.	COURT OF APPEALS OF
McKamer Realty Co., Et. al.	MARYLAND
Appellees	

PETITION AND MOTION TO EXTEND TIME FOR TRANSMITTING RECORDS TO THE COURT OF APPEALS AND TO CONSOLIDATE CASES

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The Appellants in the cases of Julia Jones v. McKamer Realty Co. et. al. Lillian Waters v. McKamer Realty Co., et. al., and Mamie E. Kennard v. Mckamer Realty Co., et. al., respectfully moves and Petitions this Honorable Court as follows:

1. That on May 1, 1959, the Appellant Julia Jones filed a Bill of Review in the Circuit Court of Baltimore City entitled, "Julia Jones v. The McKamer Realty Co., et. al., Docket: 1959, A, Folio 266, File No. A 39096.

2. That on the same day of May 1, 1959, the Appellants Mamie E. Kennard et. al., filed a similar Bill of Review involving the same or similar subject subject matter in the same Court and entitled, Mamie E. Kennard et. al. (v) McKamer Realty Co. et. al., Docket 1959 A, Folio A 266, File No. 39097.

3. That on May 6, 1959, the Appellant, Lillian Waters filed a similar Bill of Review involving the same subject matter in the same Court and entitled, Lillian Waters v. McKamer Realty Co., et. al., Docket: 1959 , Folio 276, File No. 39107.

4. That prior to a hearing of any of the aforesaid three cases, the Appellees in each of said cases sought to have said cases consolidated and heard together in said lower Court and accordingly at the request of Counsel for the Appellees, all three of said cases were set down for hearing on December 17, 1960.

5. That the Chief Counsel in the case of Mamie Kennard et. al., Mr. Dallas Nicholas, Esq., Baltimore, Maryland suffered a severe heart attack and was unable to continue with the case shortly prior to the originally-scheduled hearing and the remaining Counsel in said case requested a postponement of said case pending the procurement of another Chief Counsel which postponement was granted by the Circuit Court for Baltimore City, which new Chief Counsel was later determined to be Mr. W.A.C. Hughes, Esq., of Baltimore, Maryland;

6. That the appellees then abandoned their request for a consolidation of the three cases and the remaining two cases of Julia Jones v. McKamer Realty Co., et. al. and Lillian Waters v. McKamer Realty Co., et. al. were tried together on December 18, 1959 at which time appellants abandoned their efforts to consolidate the three of said cases and a decree was signed in said Julia Jones and Lillian Waters cases on December 18, 1959.

7. That an appeal to the Court of Appeals in the Julia Jones case was noted on January 14, 1960; and an appeal in the Lillian Waters case was noted on January 18, 1960.

8. That the Mamie Kennard case was tried on January 19, through January 28, 1960 and a decree in said case was signed on March 7, 1960. An appeal in said case was noted on 18 March 1960;

9. That extensions in the Julia Jones case and the Lillian Waters Case were granted for two consecutive thirty-day periods.

10. That on April 11, 1960, a motion to consolidate the Julia Jones case and the Lillian Waters case was granted by the Circuit Court of Baltimore City.

11. That all appellants in the three cases of Julia Jones, Lillian Waters, and Mamie E. Kennard et. al. are desifous of having all cases consolidated in the Court of Appeals so that there can be a proper hearing, determination, and disposition of the appeals in all such cases, with a view towards avoiding multiciplicity of suits, duplications of time, effort, etc., and further with a view towards incorporating all matters that can reasonably

be ascertained, resolved, and determined between the parties involved in the instant case.

Wherefore your Petitioners by Paul J. Cockrell, Esq., Archie Williams, Esq., Juanita J. Mitchell, Esq., Tucker R. Dearing, Esq., and W.A.C. Hughes, their Attorney respectfully prays this Honorable Court to allow a consolidation of the cases of Julia Jones, Lillian Waters, and Mamie E. Kennard supra, for reasons set forth above. Appellants also request a sixty-day extension in all cases from this date for the transmitting of Records in All Cases to the Court of Appeals.

Paul J. Cockrell
PAUL J. COCKRELL

ARCHIE WILLIAMS

JUANITA J. MITCHELL

TUCKER R. DEARING

W. A. C. HUGHES

Attorneys for the Appellants

CONSENT

The Appellants request for Consolidation in the above-captioned cases and the appellants Request for extension of time for transmittal of Records in the above cases is hereby consented to by the Appellees.

Counsel for the Appellees

CERTIFICATE

I hereby certify that a copy of the aforegoing Petition and Motion was served on Counsel for the Appellees this 14th day of April, 1960.

Paul J. Cockrell

Julia Jones et. al.	:	
Appellants	:	IN THE
vs.	:	COURT OF APPEALS OF
McKamer Realty Co., et. al.	:	MARYLAND
Appellees	:	

ORDER

Upon the foregoing Motion and Petition, it is hereby this 14th day of April, 1960, by the Court of Appeals of Maryland, ORDERED, ~~that the cases of Julia Jones, et. al., Lillian Waters, and others, and the case of Mamie Kennard, et. al., be Consolidated for Purposes~~ of appeal in this ~~Court. It is further ORDERED~~ that the time for transmitting the Records in the case of Julia Jones, et. al., Lillian Waters, et. al., and Mamie Kennard et. al., be, and it is hereby extended for a period of ~~sixty~~ thirty days from the date of this Order, subject to the further Order of this Court and consideration of such answer to said petition, ~~as~~ if any, as the appellees may file.

F. W. Brune

JUDGE

CCWA:bc 4/18/60 1-9

Judge Bruce

FILED APR 20 1960
J. LLOYD YOUNG, CLERK
COURT OF APPEALS OF MARYLAND

MAMIE E. KENNARD, et al. *

vs.

McKAMER REALTY COMPANY, et al. *

JULIA JONES

vs. *

McKAMER REALTY COMPANY, et al.

LILLIAN WATERS

vs. *

McKAMER REALTY COMPANY, et al.

IN THE

COURT OF APPEALS

OF

MARYLAND

*

****

ANSWER TO PETITION AND MOTION TO EXTEND TIME FOR TRANSMITTING RECORDS TO THE COURT OF APPEALS AND TO CONSOLIDATE CASES

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The Defendants, McKamer Realty Company and Belair Road Enterprises, Inc., answering the Petition and Motion of the Plaintiffs in the above entitled cases for the extension of time for filing records and to consolidate the records in the three above entitled cases, respectfully show:

1. They admit that the above entitled cases were filed as set forth in paragraphs 1, 2 and 3 of said Petition and that all of the above captioned cases grow out of the same or similar transactions and that all involve similar questions of law and fact. They affirmatively aver that said actions are all class actions.

2. In answer to paragraph 4 of said Petition, they deny that any Petition to Consolidate said cases was ever filed in the lower Court, but they admit that all three of said cases were set down for a hearing at the same time on December 17, 1959.

3. They admit that they were notified two days before the date for trial that one of the Counsel in the case of "Mamie E. Kennard, et al. v. McKamer Realty Company, et al." was ill and a postponement was requested in that case at the request of other Counsel for the Plaintiffs.

4. They admit that the remaining two cases, namely: "Julia Jones v. McKamer Realty Company, et al." and "Lillian Waters v. McKamer Realty Company, et al." were tried together on December 18, 1959, and that on December 18, 1959, after a hearing was held in open Court and testimony was taken and Counsel were heard, a Decree was entered in each of said cases that the Bill of Complaint be dismissed with prejudice.

5. They admit the allegations of paragraph 7 that an Appeal was entered to the Court of Appeals of Maryland in the Julia Jones case on January 14, 1960, and in the Lillian Waters case on January 18, 1960.

6. They admit the allegation of paragraph 8 that the case of "Mamie E. Kennard, et al. v. McKamer Realty Company, et al." was tried during the period beginning on January 19 and ending on January 28, 1960, and that a Decree was entered in said case dismissing the Bill of Complaint with

prejudice on March 7, 1960.

7. They admit the allegation of paragraph 9 that by Order of the Circuit Court of Baltimore City, the time for filing the records in this Court in the cases of Julia Jones and Lillian Waters was extended for two consecutive thirty-day periods.

8. In answer to paragraph 10 they admit that by consent of the Defendants, the Motion to Consolidate the records in the case of Julia Jones and Lillian Waters was granted. Further answering said paragraph, they say that the Motion to Consolidate the case of Mamie E. Kennard, et al., with the other two cases of Julia Jones and Lillian Waters was denied by Order of the Circuit Court of Baltimore City filed on April 12, 1960.

9. The Defendants, in answer to paragraph 11, deny that it is desirable to all parties to hear all three cases together in the Court of Appeals of Maryland, and they oppose the consolidation of the case of Mamie E. Kennard, et al. v. McKamer Realty Company, et al. with the other two mentioned cases into one record for the purpose of such appeal.

10. The cases of Julia Jones v. McKamer Realty Company, et al. and Lillian Waters v. McKamer Realty Company, et al. were tried together on the same date in the Circuit Court of Baltimore City and the records therein should properly be consolidated as was done by Decree of the Circuit Court of Baltimore City into one record for the purpose of appeal. The Decrees in those cases, if affirmed by this Court, will be a final adjudication of the subject matter of all three of the above cases, and in such event, the appeal in the case of Mamie E. Kennard, et al. v. McKamer Realty Company, et al. will become moot and will be the subject of a Motion to Dismiss the Appeal therein.

11. The records in the cases of Julia Jones v. McKamer Realty Company, et al, and Lillian Waters v. McKamer Realty Company, et al. should not be enlarged by being consolidated with the case of Mamie E. Kennard, et al. v. McKamer Realty Company, et al. The transcript of testimony in the first two cases was prepared and the records in those two cases could have been filed as early as February 18, 1960. The Motion to Consolidate the first two cases with the case of Mamie E. Kennard, et al. is apparently designed to permit the Plaintiffs to enlarge the records in those cases by adding the record in the case of Mamie E. Kennard, et al. The result of such a consolidation and enlargement of the records would be to complicate the issues in the first two cases and to delay the hearing in those two cases unnecessarily.

12, The Defendants further oppose the Motion to extend the time for filing the records in the cases of Julia Jones v. McKamer Realty Company, et al. and Lillian Waters v. McKamer Realty Company, et al. on the basis that those records are now prepared and would be transmitted to this Court by the Clerk of the Circuit Court for Baltimore City without further delay, and the sole purpose of the Motion to Extend Time is to permit the consolidation of the records in these two cases with the record in the case of Mamie E. Kennard, et al.

WHEREFORE, the Defendants pray:

(a) That the Motion to Consolidate the records on appeal be denied as to the case of Mamie E. Kennard, et al. v. McKamer Realty Company, et al., Docket 1959 - A, Folio 267.

(b) That the Motion to Extend the Time for Filing the Records in the cases of Julia Jones v. McKamer Realty Company, et al., Docket 1959-A, Folio 266, and Lillian Waters v. McKamer Realty Company, et al., Docket 1959-A, Folio 276, should be denied, except to the extent necessary to permit the immediate filing thereof, and the Order of this Court entered herein on April 14, 1960, should be modified and the time for transmitting the Records in these two cases be reduced.

AND, as and duty bound, etc.

Walter C. Mylander, Jr.
Walter C. Mylander, Jr.

Charles C. W. Atwater
Charles C. W. Atwater
Solicitors for Defendants

I HEREBY CERTIFY that on this 18th day of April, 1960, a copy of the foregoing Answer was mailed to each of the following, Attorneys for Plaintiffs:

W. A. C. Hughes, Jr., Esquire - 1803 Pennsylvania Avenue, Baltimore 17, Maryland.

Mrs. Juanita Jackson Mitchell, 1239 Druid Hill Avenue, Baltimore 17, Maryland.

Archie D. Williams, Esquire - Williams & Murphy, 2669 Pennsylvania Avenue, Baltimore 17, Maryland.

Paul J. Cockrell, Esquire, and Tucker R. Dearing, Esquire, 627 North Aisquith Street, Baltimore 2, Maryland.

Dallas F. Nicholas, Esquire - 14 East Pleasant Street, Baltimore 2, Maryland.

Julius P. Robinson, Esquire - 208 East Lexington Street, Baltimore 2, Maryland.

Charles C. W. Atwater
Of Counsel for Defendants

FILED MAY 13 1960
J. LLOYD YOUNG, CLERK
COURT OF APPEALS OF MARYLAND

JULIA JONES, Et. Al.

vs.

MCKAMER REALTY CO., et. al.

LILLIAN WATERS

vs.

MCKAMER REALTY CO., et. al.

MAMIE E. KENNARD, Et. Al.

vs.

MCKAMER REALTY CO., et. al.

IN THE

COURT OF APPEALS

OF

MARYLAND

PETITION AND MOTION TO EXTEND TIME FOR THE TRANSMITTING OF RECORDS TO THE COURT OF APPEALS

TO THE HONORABLE, THE JUDGES OF THE SAID COURT:

Now come Julia Jones, et. al., Lillian Waters, and Mamie E. Kennard, et. al., appellants in the above-captioned cases by Paul J. Cockrell, Esq., Archie D. Williams, Esq., W. A. C. Hughes, Jr., Esq., Mrs. Juanita J. Mitchell, Esq., and Tucker R. Dearing, Esq., their Attorneys, and respectfully moves and Petitions this Honorable Court for a further extension of Sixty days for the forwarding of the Transcript of Records in the above-captioned cases. A letter in support of such Petition and motion from Mr. Clarence P. Goetz, Official Reporter for the Circuit Court of Baltimore City is attached.

Paul J. Cockrell

PAUL J. COCKRELL
1400 N. Patterson Park Ave.
Baltimore 13, Maryland

ARCHIE WILLIAMS

JUANITA J. MITCHELL

TUCKER R. DEARING

W. A. C. HUGHES, Jr.

JULIA JONES, Et. Al. vs. MCKAMER REALTY CO. Et. Al.	:	IN THE
LILLIAN WATERS vs. MCKAMER REALTY CO. et. Al.	:	COURT OF APPEALS
MAMIE E. KENNARD, Et. Al. vs. MCKAMER REALTY CO. Et. Al.	:	OF MARYLAND

ORDER

Upon the foregoing Petition and Motion, it is hereby this _____ day of May, 1960 by the Court of Appeals of Maryland, ORDERED, that the time for transmitting the Records in the above-captioned cases to this Court be, and it is hereby extended for a period of Sixty Days from the date of this Order.

_____
JUDGE

CERTIFICATE

This is to certify that on this _____ day of May, 1960, a copy of the foregoing Petition and Order were mailed to Walter G. Mylander Jr., and Mylander, Mylander, and Atwater, Esq., 1213 Fidelity Bldg., Baltimore, Maryland, Attorneys for the Appellees.

Paul J. Cockrell

PAUL J. COCKRELL
1400 N. Patterson Park Avenue
Baltimore 13, Maryland
EA 7 4717

TELEPHONE, LEXINGTON 4293

DEPOSITIONS AND GENERAL REPORTING

CLARENCE P. GOETZ
OFFICIAL SHORTHAND REPORTER
EQUITABLE BUILDING
BALTIMORE 2, MARYLAND

May 11, 1960

Mrs. Juanita Jackson Mitchell,
Attorney at Law,
1239 Druid Hill Avenue,
Baltimore 17, Md.

In re Mamie E. Kennard, et al., v. McKamer Realty Co., et al.

Dear Mrs. Mitchell:

In accordance with our telephone conversation of today in reference to stenographic record in above captioned matter, I would suggest that a further extension of 60 days be obtained in order to allow for completion of same within a reasonable period. As you know, this is an unusually voluminous record involving six trial days. This, together with other appellate records previously taken, has required a greal deal of time outside of my court hours. It is for these reasons I am suggesting a further extension of 60 days.

Very truly yours,

Clarence P. Goetz

Official Reporter
Circuit Court of Baltimore City

JULIA JONES, et al.	:	
vs.	:	
McKAMER REALTY CO., et al.	:	
_____	:	In the
LILLIAN WATERS	:	Court of Appeals
vs.	:	of
McKAMER REALTY CO., et al.	:	Maryland
_____	:	
MAMIE E. KENNARD, et al.	:	
vs.	:	
McKAMER REALTY CO., et al.	:	
_____	:	

ORDER OF COURT

The petition and motion of the appellants filed on April 13, 1960, the reply thereto of the appellees filed on April 20, 1960, and the further petition of the appellees filed on May 13, 1960, having been read and considered, it is this 19th day of May, 1960, ORDERED:

1. That the time for transmitting the records in the above-entitled cases be extended to July 13, 1960;

2. That the said cases be consolidated for hearing in this Court.

_____
Chief Judge

In The Circuit Court ● ● of Baltimore City

No. A-39097 (1) A-267

1020-A

Mamie E. Kennard, et al

vs

McKamer Realty Co., et al.

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APPEAL INDEX

Tucker R. Dearing
Dallas F. Nicholas
Juanita Jackson Mitchell
Williams & Murphy
Paul J. Cockrell
Archie D. Williams

Sol. for Complainant

Charles P. Howard, Jr.
Fred Kolodner
Julius P. Robinson

Sol. for Respondent

Walter C. Mylander, Jr.
Charles C. W. Atwater

Date	Clerk's Memorandum		No.
5/1/59	Bill of Complaint for review, to clear title	1- 16	1
	to remove cloud, discover, account, for		
	Declaratory Judgment and for an Injunction		
"	Exhibit A	17- 19	2
"	Exhibit B	20 - 23	3
"	Subpoena	24 - 25	4
5/19/59	Answer and Demurrer to Bill of Complaint	26-32	5
8/8/59	Petition of Howard Williams, et al. to be	33-35	6
	made parties plaintiff and Order of Court		
	thereon		
11/19/59	Petition and Order to take testimony under	36	7
	560th. Rule		
1/13/60	Summons for Witnesses	37-44	8
1/14/60	Summons for Witnesses	45-47	9
"	Petition of Charlie C. Allen, et al. to be	48-52	10
	made parties plaintiff and Order of Court		
	thereon		
"	Summons for Witnesses	53	11
1/15/60	Petition of Mamie F. Toomer to be made party	54-56	12
	plaintiff and Order of Court thereon		
"	Petition of Rose Freeman to be made party	57-59	13
	plaintiff and Order of Court thereon		
1/18/60	Certificate of Mailing	60	14
"	Summons for Witnesses	61-72	15
"	Summons for Witnesses	73-74	16
1/19/60	Answer of State of Maryland	75-76	17
"	Summons for Witness	77-78	18

In The Circuit Court ● ● of Baltimore City

No. A-39097 (2) A-267

Mamie E. Kennard, et al.

vs

McKamer Realty Company, et al.

1959

Sol. for Complainant

Sol. for Respondent

APPEAL INDEX

Date	Clerk's Memorandum		No.
1/22/60	Summons for Witnesses	79 - 81	19
1/25/60	Summons for Witnesses	82-83	20
1/27/60	Summons for Witnesses	84	21
3/4/60	Supplemental Answer of Defendants	85-88	22
"	Petition of Plaintiffs for leave to amend	89-91	23
	Bill of Complaint and Order of Court thereon		
	denying same		
"	Memorandum of Court	92-109	24
3/7/60	Decree of Court dismissing Bill of Complaint	110	25
3/18/60	Plaintiffs Order for Appeal	111	26
3/30/60	Motion of Plaintiffs to consolidate records	112-114	27
	on Appeal and show cause Order thereto		
4/5/60	Answer of Defendants to Plaintiffs Motion	115-117	28
"	Motion for Hearing	118	29
"	Notice of Hearing	119	30
4/12/60	Order of Court denying consolidation	120-121	31
6/29/60	Testimony - Volume I		32
"	Testimony - Volume II		33
"	Testimony - Volume III		34
"	Testimony - Volume IV		35
"	Testimony - Volume V		36
7/7/60	Plaintiffs Exhibit No. 1	122	37
"	Plaintiffs Exhibit No. 2	123	38
"	Plaintiffs Exhibit No. 3	124 - 126	39
"	Plaintiffs Exhibit No. 4	127 - 128	40
"	Plaintiffs Exhibit No. 5	129	41
"	Plaintiffs Exhibit No. 6	130	42

In The Circuit Court ● ● of Baltimore City

No. A-39097 (3) A-267

19 59

Mamie E. Kennard, et al.

vs

McKamer Realty Co., et al.

Sol. for Complainant

Sol. for Respondent

APPEAL INDEX

Date	Clerk's Memorandum		No.
7/7/60	Plaintiffs Exhibit No. 7	131- 134	43
"	Plaintiffs Exhibit No. 7-A	135 - 138	44
"	Plaintiffs Exhibit No. 8	139 - 158	45
"	Plaintiffs Exhibit No. 9	159	46
"	Plaintiffs Exhibit No. 10-A	160	47
"	Plaintiffs Exhibit No. 10-B	161	48
"	Plaintiffs Exhibit No. 11	162 - 165	49
"	Plaintiffs Exhibit No. 12	166	50
"	Plaintiffs Exhibit No. 13	167	51
"	Plaintiffs Exhibit No. 14	168 - 169	52
"	Plaintiffs Exhibit No. 15	170 - 171	53
"	Plaintiffs Exhibit No. 16	172	54
"	Plaintiffs Exhibit No. 17	173	55
"	Plaintiffs Exhibit No. 18	174	56
"	Plaintiffs Exhibit No. 19	175	57
"	Plaintiffs Exhibit No. 20	176	58
"	Plaintiffs Exhibit No. 21	177	59
"	Plaintiffs Exhibit No. 22	178	60
"	Plaintiffs Exhibit No. 23	179	61
"	Plaintiffs Exhibit No. 24	180	62
"	Plaintiffs Exhibit No. 25	181- 187	63
"	Plaintiffs Exhibit No. 26-A	188 - 189	64
"	~~Plaintiffs Exhibit No. 26-B~~	190	65
"	Plaintiffs Exhibit No. 27	191 - 205	66
"	Plaintiffs Exhibit No. 28	206 - 216	67
"	Plaintiffs Exhibit No. 29	217 - 218	68
"	Plaintiffs Exhibit No. 30	219	69

In The Circuit Court ● ● of Baltimore City

No. A-39097 (4) A-267

1959

Mamie E. Kennard, et al.

vs

McKamer Realty Co., et al.

Sol. for Complainant

Sol. for Respondent

APPEAL INDEX

Date	Clerk's Memorandum		No.
7/7/60	Plaintiffs Exhibit No. 31	220-221	70
"	Plaintiffs Exhibit No. 32	222-223	71
"	Plaintiffs Exhibit No. 33	224-225	72
"	Plaintiffs Exhibit No. 34	226-228	73
"	Plaintiffs Exhibit No. 35	229	74
"	Plaintiffs Exhibit No. 36	230	75
"	Plaintiffs Exhibit No. 37-A	231	76
"	Plaintiffs Exhibit No. 37-B	232	77
"	Plaintiffs Exhibit No. 37-C	233	78
"	Plaintiffs Exhibit No. 37-D	234	79
"	Plaintiffs Exhibit No. 38	235	80
"	Plaintiffs Exhibit No. 39	236-238	81
"	Plaintiffs Exhibit No. 40	239-241	82
"	Plaintiffs Exhibit No. 41	242	83
"	Plaintiffs Exhibit No. 42	243-244	84
"	Plaintiffs Exhibit No. 43	245	85
"	Plaintiffs Exhibit No. 44	246	86
"	Plaintiffs Exhibit No. 45	247	87
"	Plaintiffs Exhibit No. 46	248	88
"	Plaintiffs Exhibit No. 47	249	89
"	Plaintiffs Exhibit No. 48	250	90
"	Plaintiffs Exhibit No. 49	251-252	91
"	Plaintiffs Exhibit No. 50	253-260	92
"	Plaintiffs Exhibit A for Identification	261	93
"	Plaintiffs Exhibit B for Identification	262	94
"	Plaintiffs Exhibit C for Identification	263	95
"	Defendants Exhibit No. 1	264	96

In The Circuit Court ● ● of Baltimore City

No. A-39097 (5) A-267

Mamie E. Kennard, et al.

vs

McKamer Realty Co., et al.

19 59

Sol. for Complainant

Sol. for Respondent

APPEAL INDEX

Date	Clerk's Memorandum		No.
7/7/60	Defendants Exhibit No. 2	265	97
"	Defendants Exhibit No. 3	266 - 269	98
"	Defendants Exhibit A for Identification	270	99
4/24/61	Mandate - Court of Appeals of Md.		100
7/17/61	Notice of Appeal to the Supreme Court of the U.S.		101
9/15/61	Motion to extend time for filing Appeal		102
10/2/61	Stipulation		103

Jta. 2 October 1961

A-424
1959

JULIA JONES, Et Al, Appellants	*	
		IN THE
v.	*	
McKAMER REALTY CO., Et Al, Appellees	*	COURT OF APPEALS
		OF
LILLIAN WATERS, Appellant	*	
		MARYLAND
v.	*	
McKAMER REALTY CO., Et Al, Appellees	*	No. 131
MAMIE E. KENNARD, Et Al, Appellants	*	September Term
		1960
v.	*	
McKAMER REALTY CO., Et Al, Appellees	*	

****

STIPULATION

It is stipulated and agreed by and between all of the parties to the appeal hereinbefore noted to the Supreme Court of the United States from the Mandate of this Court in the above entitled cases, that said appeal be dismissed in accordance with Rule 14 of the Supreme Court Rules, Section 1, any additional costs to be paid by Appellants.

Tucker R. Dearing

Paul J. Cockrell

W.K.C. Hughes, Jr.

Top

A-39097 (103)

Juanita Jackson Mitchell
Juanita Jackson Mitchell

Julius P. Robinson
Julius P. Robinson

Archie D. Williams
Archie D. Williams

Attorneys for All Appellants

Walter C. Mylander, Jr.
Walter C. Mylander, Jr.

Charles C. W. Atwater
Charles C. W. Atwater

Attorneys for Appellees

ORDER

UPON the foregd ng Stipulation, it is, this 29th day of September, 1961, by THE COURT OF APPEALS OF MARYLAND,

ORDERED, that the appeal to the Supreme Court of the United States from the Mandate of this Court in the above entitled cases, be, and it is hereby dismissed; any additional costs to be paid by the Appellants.

William L. Henderson
Acting Chief JUDGE

October 2, 1961

Mrs. Juanita Jackson Mitchell
Attorney at Law
1239 Druid Hill Avenue
Baltimore 17, Maryland

Dear Mrs. Mitchell:

Please be advised that this office now has on file the original stipulation of counsel and the Order dated September 29, 1961, dismissing the appeal to the Supreme Court of the United States in the case of Julia Jones, et al., Lillian Waters and Mamie E. Kennard, et al. vs. McKamer Realty Co., et al., No. 131, September Term, 1960 (3 appeals in one record).

We have noted our records accordingly and have forwarded a copy of this stipulation and Court Order to the clerks of the Supreme Court of the United States and the Baltimore City Court.

Very truly yours,

J. LLOYD YOUNG

Clerk

JLY/ojr
cc: Tucker R. Dearing, Esq.
Walter C. Mylander, Jr., Esq.
Also:
cc: James R. Browning, Esq., Clerk,
Supreme Court of the United States
Henry J. Ripperger, Esq., Clerk
Circuit Court of Baltimore City
(with enclosure)

JULIA JONES, Et Al, *
Appellants

v. *

McKAMER REALTY CO., Et Al, *
Appellees

LILLIAN WATERS, *
Appellant

v. *

McKAMER REALTY CO., Et Al, *
Appellees

MAMIE E. KENNARD, Et Al, *
Appellants

v. *

McKAMER REALTY CO., Et Al, *
Appellees

IN THE

COURT OF APPEALS

OF

MARYLAND

No. 131

September Term

1960

****

STIPULATION

It is stipulated and agreed by and between all of the parties to the appeal hereinbefore noted to the Supreme Court of the United States from the Mandate of this Court in the above entitled cases, that said appeal be dismissed in accordance with Rule 14 of the Supreme Court Rules, Section 1, any additional costs to be paid by Appellants.

/s/ Tucker R. Dearing
Tucker R. Dearing

/s/ Paul J. Cockrell
Paul J. Cockrell

/s/ W. A. C. Hughes, Jr.
W.A.C. Hughes, Jr.

Juanita Jackson Mitchell

Juanita Jackson Mitchell

/s/ Julius P. Robinson

Julius P. Robinson

/s/ Archie D. Williams

Archie D. Williams

Attorneys for All Appellants

/s/ Walter C. Mylander, Jr.

Walter C. Mylander, Jr.

/s/ Charles C. W. Atwater

Charles C. W. Atwater

Attorneys for Appellees

ORDER

UPON the foregoing Stipulation, it is, this 29th day of September, 1961, by THE COURT OF APPEALS OF MARYLAND,

ORDERED, that the appeal to the Supreme Court of the United States from the Mandate of this Court in the above entitled cases, be, and it is hereby dismissed; any additional costs to be paid by the Appellants.

/s/ William L. Henderson

ACTING CHIEF JUDGE

Fd. 15 September 1961

JULIA JONES, et al Appellants	:	IN THE
v.	:	CIRCUIT COURT
MCKAMER REALTY CO.,et al. Appelles	:	OF
	:	BALTIMORE CITY
LILLIAN WATERS, Appellant	:	
v. MCKAMER REALTY CO., et al. Appellees	:	A-424 1959
MAMIE E. KENNARD, et. al. Appellants	:	
v. MCKAMER REALTY CO., et. al. Appellees	:	

MOTION TO EXTEND TIME FOR FILING AND DOCKETING APPEAL

Plaintiff-appellants move the Court pursuant to Rule 13 (1) of the Supreme Court of the United States for an enlargement of the time for filing the record and docketing the appeal in the above capioned case with said Supreme Court, and as grounds therefor show to this Court as follows:

1. The Opinion and Judgment appealed to The Supreme Court was entered on March 7,1961; and on April 19, 1961, plaintiffs appellants' motion for a rehearing was denied by The Maryland Court of Appeals.

2. Notice of appeal in the Supreme Court of the United States was filed herein by the plaintiffs-appellants on the 17th day of July, 1961.

3. Contemporaneously, on July 17, 1961 plaintiffs-appellants designated the contents of the record on appeal and notified the clerk of the Court to prepare the same for certification.

4. That plaintiff-appellants through their attorney were unable to obtain counsel to docket and prosecute this appeal

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until September-11-1961, and such recently retained counsel have not had sufficient time or opportunity to study the record in this case and prepare the necessary pleadings and papers required by the rules of the Supreme Court of the United States.

5. That Attorney W. A.C. Hughes, Jr. and Tucker R. Dearing are not members of the bar of the Supreme Court of the United States.

6. That counsel have been unable to obtain to date from the Circuit Court of Baltimore City the certified original record in this case.

WHEREFORE, plaintiffs-appellants move the Court for an order extending the time within which the record on appeal may be filed and this appeal docketed in the Supreme Court of the United States to and including September-30-1961.

Tucker R. Dearing
TUCKER R. DEARING

Juanita Jackson Mitchell
JUANITA JACKSON MITCHELL

W. A. C. Hughes, Jr.
W. A. C. HUGHES Jr.

O-R-D-E-R

Upon the aforegoing Petition being read and considered, it is hereby ORDERED this 15th day of September, 1961, that the time for filing the record and docketing the appeal in these proceedings with the Supreme Court of the United States be and it is hereby extended to and including September-30-1961.

Roszel C. Thomsen

JUDGE

I hereby Certify that a Copy of this Petition and Order was this 15th day of September 1961, Mailed to Mylander Mylander & Whorter, attorneys for Appellees to 1213 Fidelity Bldg - Baltimore 1, Maryland

Tucker R. Deaver
Attorney for Appellants

JULIA JONES, et al., Appellants.	*	IN THE
v.	*	
McKAMER REALTY CO., et al. Appellees.	*	CIRCUIT
	*	
	*	COURT
LILLIAN WATERS, Appellant,	*	
v.	*	
	*	OF
McKAMER REALTY CO., et al. Appellees.	*	
	*	BALTIMORE
	*	
MAMIE E. KENNARD, et al., Appellants	*	CITY
v.	*	
McKAMER REALTY CO., et al. Appellees.	*	No._____
	*	

* * * * * * * * * * *

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

I

Notice is hereby given that Mamie E. Kennard, et al., Julia Jones et al., and Lillian Waters, et al., Appellants in above three Causes No. 131, hereby appeal to the Supreme Court of the United States from the final Judgment of the Court of Appeals of Maryland, affirming three Judgments of the Circuit Court of Baltimore City, which affirmance was entered in aforegoing action on March 17, 1961 and a Motion for Rehearing was overruled on April 20, 1961.

This appeal is taken pursuant to 28 U.S.C.A., paragraph 1257 (2).

II

The Clerk will please prepare a transcript of the record in these causes for transmission to the Clerk of the Supreme Court of the United States, and include in the transcript the following: The Julia Jones Case, Docket Entries; Petition of Julia Jones; Affidavit of Julia Jones; Affidavit of Impecunosity; Motion for Restraining Order; Motion for Preliminary Injunction; Show Cause Order; Answer and Demurrer; The Lillian Waters Case, Docket Entries Bill of Review; Answer and Demurrer; A Transcript of proceedings of December 18, 1960; Julia Jones-Direct; Lillian Waters-Direct; Opinion of the Court and the Decree of the Court in the Jones and Waters Cases; The Kennard Case includes the following Docket Entries, Bill of Complaint; Answer and Demurrer; all Petitions and Orders of Court for Leave to Intervene in the Kennard Case; proposed Amendment to Bill of Complaint; Supplemental Answer; Memorandum In Re Devolution of Title; Decree of Court' Memorandum Opinion; Stipulation of Counsel as to certificate holders; Transcript (28-29 T-33, Testimony of Maceo Williams; all the Testimony of John G. Arthur, Director of the Department of Assessments of Baltimore City; All the Testimony of John G. Kaufman (T-111-309); All the Testimony of Anita C. Scott (T-310-336); All the Testimony of Sidney M. Norton, (T-342-346); All the Testimony of Edward Hamlet (T-347-371); All the Testimony of Herbert M. Frisby (T-394-423); All the Testimony of Deaver Smith; All the Testimony of Ella Irene Brooks (T - 439-475); All the Testimony of Lillie M. Jackson; All of the Direct Examination of Clement R. Mercaldo by Mr. Hughes; All the Testimony of Mary Lee Dashiell (E. 406-419); Plaintiff Exhibit No. 3--(Ltr. McKamer Realty to Dept. Assessments); Plaintiff Exhibit No. 6 (photo); Plaintiff Exhibit No. 14 - (Burial Permit); Plaintiff Exhibit No. 15 (Burial Permit); Plaintiffs Exhibits Nos. 16, 17, 31, 34, 38, 40; All Docket Entries in McKamer Realty Co. Case; Bill of Complainant in McKamer Realty Case; Answer fo Anderson Enterprises, Inc., Report of Examiner and Master; Decree; Agreement of Sale; Trustees

Report of Sale; Exception to Ratification of Sale; Letter of Court to Counsel; Memorandum; Order Dismissing Exceptions; and Report of Trustee.

III

The following questions are presented by this Appeal:

1. Did the Chancellor and the Court of Appeals of Maryland in the instant cases err in refusing to enter a judgment declaring that Article 16, Section 120 of the Annotated Code of Maryland is in contravention of Article 1, Section 120 of the Annotated Code of Maryland abrogates the contracts of the complainants and the members of the class represented by the complainants?

2. Did the Chancellor and the Court of Appeals of Maryland err in the instant cases in refusing to strike out the Decree Pro Confesso and the final Decrees which were entered pursuant to the provision of Article 16 Section 120 of the Annotated Code of Maryland which is in contravention of the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States in that Article 16 Section 120 of the Annotated Code fails to provide for adequate Notice to Appellants in the condemnation and taking of their property?

W. A. C. Hughes
1803 Pennsylvania Avenue
Baltimore, Maryland

Juanita Jackson Mitchell
1239 Druid Hill Avenue
Baltimore 17, Maryland

Tucker R. Dearing
627 Aisquith Street
Baltimore 2, Maryland

I, Tucker R. Dearing, one of the attorneys of Record for Appellants herein, depose and say that on the 18th day of July, 1961 I served a copy of the foregoing Notice of Appeals to the Supreme Court of the United States on Appellees herein in all three cases, by delivering the same to the Secretary in the offices of Walter C. Mylander, Jr., Esquire and Charles C. W. Atwater, Counsel of record for Appellees in all three cases, located at 1213 Fidelity Building, Baltimore 1, Maryland.

Tucker R. Dearing

Tucker R. Dearing
627 Aisquith Street
Baltimore 2, Maryland

Subscribed and sworn to before me, at Baltimore City, this 17th day of July, 1961.

John F. Kelly

Notary Public

Rd. 24 April 1961

MANDATE

Court of Appeals of Maryland

A424/1959

No. 131 **, September Term, 19** 60

Mamie E. Kennard et al
Julia Jones et al

v.

McKamer Realty Co., et al

3 Appeals in One Record from the Circuit Court of Baltimore City.
Filed: July 13, 1960.
November 23, 1960: Petition to supply omission in record filed.
November 28, 1960: Order of Court filed granting petition.
December 2, 1960: Folder known as "File No. A-37485" received from lower court per Order and made part of record.
March 17, 1961: Orders of dismissal affirmed, appellants to pay the costs. Op. Horney, J.
April 14, 1961: Motion for reargument filed.
April 19, 1961: Motion denied.

STATEMENT OF COSTS:

Steno. costs $900.65

Filing Record on Appeal	$ 20.00
Printing Brief for Appellant	295.97
Reply Brief	60.77
Portion of Record Extract — Appellant	1,447.32
Appearance Fee — Appellant	10.00
Motion for Reargument	5.00
Printing Brief for Appellee	341.96
Portion of Record Extract — Appellee	1,447.32
Appearance Fee — Appellee	10.00

STATE OF MARYLAND, Sct:

I do hereby certify that the foregoing is truly taken from the record and proceedings of the said Court of Appeals.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Appeals, this twentieth *day of* April *A. D. 19* 61.

J. Lloyd Young

Clerk of the Court of Appeals of Maryland.

Costs shown on this Mandate are to be settled between counsel and NOT THROUGH THIS OFFICE

A-39097 (100)

Fld. 1st May 1959

A-267
1959

MAMIE E. KENNARD *
1322 McCulloh Street
Baltimore 17, Maryland

and *

ALFRED H. REDD
618 North Carrollton Avenue
Baltimore 17, Maryland *

and

CLARENCE E. ROY *
1137 North Carey Street
Baltimore 17, Maryland

and *

BERTHA SMITH
130 North Aisquith Street, Apt. 6G
Baltimore 2, Maryland *

IN THE CIRCUIT COURT

and

DOROTHY DYER *
639 West Lafayette Avenue
Baltimore 17, Maryland

and * OF

ELLEN T. DUTTON
2128 Druid Hill Avenue
Baltimore 17, Maryland *

and

BALTIMORE CITY

LILLIAN BAKER AMOS *
1737 McCulloh Street
Baltimore 17, Maryland

and *

BERTINA HARDEN ELLIOTT
2508 Lauretta Avenue
Baltimore 23, Maryland *

and

CARRIE JONES *
427 West Mosher Street
Baltimore 17, Maryland

and *

SADIE COOPER
900 Stoddard Court
Baltimore 1, Maryland *

and

ROSA O. VIRGIL *
1637 North Appleton Street
Baltimore 17, Maryland

*

A-3909 (1)

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

ZENOBIA B. HALLIS
1918 North Bentalou Street
Baltimore 16, Maryland

Plaintiffs

VS.

MCKAMER REALTY COMPANY,
a body corporate of the
State of Maryland
c/o: Clement R. Mercaldo
Resident Agent
404 Munsey Building
Baltimore 2, Maryland

and

BELAIR ROAD ENTERPRISES, INC.,
a body corporate of the
State of Maryland
c/o: Harold J. Kaufman
Resident Agent
1231 Munsey Building
Baltimore 2, Maryland

Defendants

* * * * * *

BILL OF COMPLAINT FOR REVIEW, TO CLEAR TITLE, TO REMOVE CLOUD, TO DISCOVER AND ACCOUNT, FOR A DECLARATORY JUDGMENT, AND A PRELIMINARY AND PERMANENT INJUNCTION

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Now comes Mamie E. Kennard, Alfred H. Redd, Clarence E. Roy, Bertha Smith, Dorothy Dyer, Ellen T. Dutton, Lillian Baker Amos, Bertina Harden Elliott, Carrie Jones, Sadie Cooper, Rosa Virgil, and Zenobia B. Hallis, Plaintiffs herein on behalf of themselves and other similarly situated but too numerous to be named herein, by their attorneys, Tucker R. Dearing, Dallas F. Nicholas, Juanita Jackson Mitchell, and Williams and Murphy, and for their cause of action against the Defendants, McKamer Realty Company and the Belair Road Enterprises, Incorporated, respectfully state to this Honorable Court as follows:

1. That the Plaintiffs are citizens of the State of Maryland and residents residing within the corporate limits of Baltimore City.

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2. That the Defendants are both corporations of the State of Maryland, duly incorporated under and by virtue of the laws of the State of Maryland.

3. That this Bill of Complaint is filed by your Orators on behalf of themselves and all others similarly situated, whose number make it impracticable to bring them all before the Court, who seek common relief upon common questions of fact and law.

4. That on or about July 7, 1917, George B. Kennard acquired a fee simple title through a deed from the Laurel Cemetery Company, which deed was duly recorded at the office of the Laurel Cemetery Company in Baltimore City to the following described real estate, all situate in Baltimore City:

> Lot adjacent No. No. 23 in Section I, of the Laurel Cemetery Deed No. 3275 among the Lot Records of Laurel Cemetery Company.

That upon the death of George B. Kennard, Plaintiff, Mamie Kennard, acquired title by reason or being his widow and sole surviving heir; that ever since said July 7, 1917, the Plaintiff and her predecessor in title have owned said lot, enjoyed quiet and peaceful possession thereof and likewise have enjoyed all the fruits of such ownership.

5. That on or about January 16, 1915, Julia E. Bond acquired fee simple title through a deed, duly recorded at the Laurel Cemetery Company's office in Baltimore City to the following described real estate, all situated in Baltimore City:

> Lot No. 191, Section R., Deed No. 2259 among the Deed Records of Laurel Cemetery Company.

That upon the death of Julia E. Bond, Plaintiff, Alfred H. Redd, acquired title by reason of being her widower and heir; that ever since said January 16, 1915, Plaintiff, Alfred H. Redd and his predecessor in title have owned said lot, enjoyed quiet and peaceful possession thereof, and likewise have enjoyed all the fruits of such ownership.

6. That on or about December 20, 1919, Plaintiff, Clarence E. Roy, Sr., acquired fee simple title through a deed, duly recorded

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at the Laurel Cemetery Company's office in Baltimore City, to the following described real estate, all situated in Baltimore City:

> Lots Nos. 185 and 186, Section R. of the Laurel Cemetery, Deed No. 3416, among the Deed Records of the Laurel Cemetery Company.

That the Plaintiff has owned said lots, enjoyed quiet and peaceful possession thereof and likewise has enjoyed all the fruits of such ownership since said December 20, 1919.

7. That on or about August 6, 1869, Edward Bedford acquired fee simple title through a deed, duly recorded at the Laurel Cemetery Company's office in Baltimore City to the following described real estate all situated in Baltimore City:

> Lot No. 146, Section F of the Laurel Cemetery, among the Deed Records of Laurel Cemetery Company.

That upon the death of Edward Bedford, Plaintiff, Bertha Smith acquired title by reason of being the daughter of the said Edward Bedford, that every since said August 6, 1869, Plaintiff and her predecessor in title have owned said lot, enjoyed quiet and peaceful possession thereof and likewise has enjoyed all the fruits of such ownership.

8. That on or about November 17, 1877, February 26, 1900, and February 23, 1901, Wilton T. Clark acquired fee simple title, through Deeds to Lot 131, Lot 122 and Lot No. 140 respectively, said deeds being duly recorded at the Laurel Cemetery's office in Baltimore City and said real estate being all situated in Baltimore City and described as follows:

> Lot No. 131, Section B, Deed No. 13, Lot No. 122, Section B, Deed No. 1426 and Lot No. 140, Section B, Deed No. 1477, among the records of Laurel Cemetery Company.

That the Plaintiff, Dorothy Dyer is the granddaughter of the said Wilton T. Clark and has inherited the property by reason of being his heir, that every since said November 17, 1877, February 26, 1900 and February 23, 1901, Plaintiff, Dorothy Dyer and her predecessors in title have owned said lots, enjoyed quiet and peaceful possession thereof and likewise have enjoyed all the fruits of such ownership.

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9. That on or about July 15, 1911, Samuel W. Madden acquired fee simple title through Deed to Lots No. 9 and No. 19, said deed being duly recorded at the office of the Laurel Cemetery Company in Baltimore, Maryland, all of said real estate being situated in Baltimore City and described as follows:

> Lots No. 9 and No. 10, Section I, Deed No. 3002, among the records of Laurel Cemetery Company.

That the Plaintiff, Ellen T. Dutton is the granddaughter of Samuel W. Madden and has inherited the property by reason of being his heir, that every since said July 15, 1911, Plaintiff, Ellen T. Dutton and her predecessors in title have owned said lots, enjoyed quiet and peaceful possession thereof and likewise has enjoyed all the fruits of such ownership.

10. That on or about June 21, 1905, Joseph W. Nicholas acquired fee simple title through a deed, duly recorded at the Laurel Cemetery's office in Baltimore City to the following described real estate, all situated in Baltimore City:

> Lot No. 43, Section of the Laurel Cemetery, among the Deed Records of Laurel Cemetery Company.

That upon the death of Joseph W. Nichols, Plaintiff, Ellen T. Dutton acquired title by reason of being the granddaughter and surviving heir of the said Joseph W. Nichols and that ever since said June 21, 1905, Plaintiff, Ellen T. Dutton and her predecessors in title have owned said lot, enjoyed quiet and peaceful possession thereof and likewise has enjoyed all the fruits of such ownership.

11. That on or about September 27, 1884, Isaac H. Baker acquired a fee simple title through deeds to Lots. No. 239 and No. 240, said deed being duly recorded at the Laurel Cemetery Company's office in Baltimore City to the following described real estate, all situated in Baltimore City:

> Lots Nos. 239 and 240, Section A of the Laurel Cemetery, Deed No. 464, among the Deed Records of Laurel Cemetery Company.

That upon the death of Isaac H. Baker, Plaintiff, Mrs. Lillian Baker Amos acquired title by reason of being the niece of the said Isaac H. Baker and his sole surviving heir and that ever since said

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September 27, 1884, Plaintiff, Lillian Baker Amos and her predecessor in title have owned said lots, enjoyed quiet and peaceful possession thereof and likewise have enjoyed all the fruits of such ownership.

12. That on or about February 21, 1925, Raymond Elliott axquired fee simple title through a deed, duly recorded at the office of the Laurel Cemetery Company in Baltimore City to the following described real estate, all situate in Baltimore City:

> Lots Nos. 1 and 9, Section Chapel N. Side of the Laurel Cemetery among the Deed Records of Laurel Cemetery Company.

That upon the death of Edward Bedford, Plaintiff, Bertina Harden Elliott acquired title by reason of being the wife of the said Raymond Elliott and that ever since said February 21, 1925, Plaintiff Bertina Harden Elliott and her predecessor in title have owned said lots, enjoyed quiet and peaceful possession thereof and likewise have enjoyed all the fruits of such ownership.

13. That on or about June 27, 1914, Rosa Henderson acquired fee simple title to Lot. No. 66, Section R, said deed being duly recorded at the office of the Laurel Cemetery Company in Baltimore City to the following described real estate, all situate in Baltimore City:

> Lot No. 66, Section R, June 27, 1914, Deed No. 2233, among the Deed Records of Laurel Cemetery Company.

That upon the death of Rosa Henderson, Plaintiff, Carrie Jones acquired title by reason of being the daughter of Rosa Henderson, that ever since said June 27, 1914, Plaintiff Carrie Jones and her predecessor in title have owned said lot, enjoyed quiet and peaceful possession thereof and likewise have enjoyed all the fruits of such ownership.

14. That on or about May 12, 1894, Robert Mills acquired fee simple title through a deed to Lot No. 239, said deed being duly recorded at the office of the Laurel Cemetery Company in Baltimore City to the following described real estate, all situate in Baltimore City:

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Lot No. 239, May 12, 1894, Deed No. 1117, among the Deed Records of Laurel Cemetery Company.

That upon the death of Robert Mills, Plaintiff, Sadie Cooper acquired title by reason of being the niece of Robert Mills, that ever since said May 12, 1894, Plaintiff, Sadie Cooper and her predecessors in title have owned said lot, enjoyed quiet and peaceful possession thereof and likewise have enjoyed all the fruits of such ownership.

15. That on or about August 12, 1882, Mary Dickerson acquired fee simple title to Lot No. 377, Section A, said deed being duly recorded at the office of the Laurel Cemetery Company in Baltimore City to the following described real estate, all situate in Baltimore City:

Lot No. 377, Section A, Deed No. 216, among the Deed Records of Laurel Cemetery Company.

That upon the death of Mary Dickerson, Plaintiff, Rosa O. Virgil acquired title by reason of being the daughter and sole surviving heir of Mary Dickerson, that ever since said August 12, 1882, Plaintiff, Rosa O. Virgil and her predecessors in title have owned said lot, enjoyed quiet and peaceful possession thereof and likewise have enjoyed all the fruits of such ownership.

16. That on or about September 15, 1876, Edward W. Jones acquired fee simple title to Lot No. 23, Section D, said deed being duly recorded at the office of the Laurel Cemetery Company to the following described real estate, all situate in Baltimore City:

Lot No. 23, Section D, September 15, 1876, Deed No. 23, among the Deed Records of Laurel Cemetery Company.

That upon the death of Edward W. Jones, Plaintiff, Zenobia B. Hollis acquired title by reason of being the daughter and sole surviving heir of Edward W. Jones, that ever since said September 15, 1876, Plaintiff, Zenobia B. Hollis and her predecessor in title have owned said lot, enjoyed quiet and peaceful possession thereof and likewise have enjoyed all the fruits of such ownership.

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17. That the Plaintiffs and the members of the class they represent are all residents of Baltimore City, that the postoffice addresses of the individual Plaintiffs are as follows:

Mamie E. Kennard, 1322 McCulloh Street, Baltimore, Md.

Alfred H. Redd, 618 North Carrollton Avenue, Baltimore, Md.

Clarence E. Roy, 1137 North Carey Street, Baltimore, Md.

Bertha Smith, 130 North Aisquith Street, Baltimore, Md.

Doro Dorothy Dyer, 639 West Lafayette Avenue, Baltimore, Md.

Ellen T. Dutton, 2128 Druid Hill Avenue, Baltimore, Md.

Lillian Baker Amos, 1737 McCulloh Street, Baltimore, Md.

Bertina Harden Elliott, 2508 Lauretta Avenue, Baltimore, Md.

Carrie Jones, 427 Mosher Street, Baltimore, Md.

Rosa O. Virgil, 1637 Appleton Street, Baltimore, Md.

Sadie Cooper, 900 Stoddard Court, Baltimore, Md.

Zenobia B. Hollis, 1918 North Bentalou Street, Baltimore, Md.

That all of the Plaintiffs and the members of the class they represent are Negroes.

18. That the Defendants are corporations incorporated under and by virtue of the Laws of the State of Maryland and are found doing business in the State of Maryland.

19. That in 1852, the Laurel Cemetery Company was incorporated under and by virtue of the Laws of the State of Maryland as a Cemetery Company; that on or about the 9th day of September, 1852 Laurel Cemetery acquired from Frederick G. Hunt et al by deed, all that tract of land known as Laurel Cemetery located on Belair Road in Baltimore County to the Laurel Cemetery Company. Said deed is found among the Land Records of Baltimore County in Liber H.M.F. No. 3, Folio 355 and described as follows:

> "all that tract or parcel of land and improvements lying and being on the South East side of the Belair Road in Baltimore County in the State of Maryland now laid out known as Laurel Cemetery which said tract or parcel of land is particularly described in an indenture bearing date the 1st day of September 1852, made by a certain Thomas Burgan, Jr. and Jane Burgan his wife to said

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Frederick G. Hunt, Edward J. Richardson and Silas Cochran, and recorded among the Land Records of Baltimore County in Liber A.W.B. No. 465 and folio 151 & C."

That aforesaid deeds are filed herewith and prayed to be taken as a part hereof as if fully set forth herein, as Plaintiffs' Exhibits A.

20. That on the 11th day of October 1939, the New Larel Cemetery Company, a Maryland corporation organized under and by virtue of the laws of the State of Maryland acquired title to the aforesaid tract of land by a deed from the Laurel Cemetery Company, that said deed is found recorded among the Land Records of Baltimore City in Liber M.L.P. No. 5966 folio 183 & C. This deed is filed as Plaintiffs' Exhibit No. B and prayed to be taken as a part hereof as if fully set forth herein; further that the New Laurel Cemetery Company is the successor to the Laurel Cemetery Company.

21. That on or about the 31st day of December, 1952 the New Laurel Cemetery Company filed its petition in voluntary bankruptcy in the United States Federal District Court of Maryland and was thereafter duly adjudged a bankrupt; that on or about the 27th day of June, 1957, Joseph Kaizer, Esq., one of the referees of the said Federal Court was appointed trustee and pursuant to said order of the Court, conveyed the above described property by a deed to the McKamer Realty Company for and in consideration of $100.00; that under the order of the said Court approving the sale of the property to the McKamer Realty Company, one of the defendants herein, the order expressly reserved the burial rights and other rights of your Complainants and the members of the class which they represent.

22. That on or about December 16, 1957, the Defendant herein, the McKamer Realty Company, a body corporate, filed its Bill of Complaint in the Circuit Court of Baltimore City for the sale of the property under the title of "McKamer Realty Company, Plaintiff VS. Anderson Enterprises, Inc., Baltimore, Maryland and McCartney Sorrell, Jacob Owings, Robert Wilson, Durious Stokes, William T.

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Hopkins, Theodore B. Brown, Elizabeth B. Chambers, Watner T. McGwinn, Anna M. Dutton, Mary L. Oliver, James Diven, Mrs. George W. Bowser (Addresses Unknown).

All of the lot owners in Laurel Cemetery or New Laurel Cemetery, situate in Baltimore City on the South side of the Belair Road, their assignees, or other persons in interest, resident or non-resident, adults, infants and other persons under any legal incapacity.

The unknown owners and their respective spouses, the unknown heirs, and devisees, whether residents of the State of Maryland or not, and actually living or not, any executor, administrator or next of kin of the resident and non-resident owners now vested with any title or intent whatsoever in and to the tract of land comprising the Laurel or New Laurel Cemetery or in and to any burial lots comprising a part thereof, Defendants."

The same being docketed as Docket 97A, Folio 878 of the said Circuit Court.

23. That the said action was for the purpose of taking from the Plaintiffs and the members of the class which they represent all their title and interest in and to the said above described tract of land and selling it at a private sale free and discharged of all the title, rights and interests which the said Plaintiffs and the members of the class which they represent had to and in the said above described tract of land.

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24. That the Plaintiffs and the members of the class which they represent have never been at any time notified in any manner that the McKamer Realty Company and the Belair Road Enterprise Corporation coveted the bit of real estate for private use, which they have owned for so many years. Nor have any of the Plaintiffs or the members of the class which they represent ever been served

with any summons nor given any other personal notice of any kind whatsoever that said Defendants, McKamer Realty Company and Belair Road Enterprise Corporation had filed the aforesaid action for the purpose of taking all of the said real estate belonging to the plaintiffs and the members of the class which they represent.

25. That the pretended right of Defendant Corporations to the real estate above legally described, owned by the plaintiffs and the members of the class which they represent, rests upon the authority, so far as these plaintiffs and counsel have been able to ascertain, of Article 16, Section 120 of the Annotated Code of Maryland and the action brought thereunder in the Circuit Court of Baltimore, Case Docket 97A, Folio 878 of the said Court more fully described in paragraph #21 herein, which statute is void and of no force and effect whatsoever, because same attempts to vest the power in the Court to take property without due process of law for private use in violation of the due process clause of the Fourteenth Amendment to the United States Constitution.

26. That the only notice to an owner of real property, which Article 16, Section 120 of the Annotated Code of Maryland requires is by posting or publication, which is not sufficient notice under the due process clause of the Fourteenth Amendment to the United States Constitution.

27. That the plaintiffs and the members of the class which they represent had no actual notice, and did not actually know, or have any reason to know that defendants sought to condemn and take their property for private use until the last part of 1958; unless it can be said that by a peculiar quirk of the imagination, that the order of publication, published for four consecutive weeks in the Daily Record of Baltimore City beginning on the 16th day of December, 1957 gave them notice; that said notice so published in the Daily Record of Baltimore City was not sufficient notice to satisfy the requirements of the due process clause of the Fourteenth Amendment to the United States Constitution.

28. That at the present time defendants, either by themselves or contractors employed by them, have entered upon said real estate

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owned by the plaintiffs and the members of the class which they represent, and have torn up a number of the graves, exhumed the dead bodies, destroyed their bones, and moved the grave markers and stones to a two acre cornfield in Carroll County which is approximately thirty-five miles from Baltimore City, and all of this for the purpose of selling the said land for a development thereon in utter and complete disregard of the rights of the plaintiffs and the members of the class which they represent.

29. That the Defendant Corporations, their officers and members, had possession of the cemetery records which contained the names and addresses of plaintiffs and the members of the class which they represent, and could have by the use of reasonable diligence, given actual notice to the plaintiffs and the members of the class which they represent of the condemnation proceeding pending in the Circuit Court of Baltimore City. That the allegation in the Bill of Complaint that the Defendant Corporations did not know the name and address of any of the plaintiffs and the members of the class which they represent was a false and fraudelent misrepresentation of a material fact designed to, and did, deceive the Court into its unconstitutional action in violation of the due process clause of the Fourteenth Amendment to the United States Constitution.

30. That by Article 23, Section 165 of the Annotated Code of Maryland it is provided that "A certificate under the seal of the cemetery or mausoleum corporation or of any person or corporation acting as trustee therefor, of the ownership of any lot or crypt, sold or conveyed as aforesaid, shall in all respects have the same effect as any conveyance for such corporation of said lot or crypt would have if executed, acknowledged or recorded as conveyances of real estate are by the laws of this State required to be." That said section has been a part of the General Laws of the State of Maryland since 1868. That the conveyances made and executed by the Laurel and New Laurel Cemetery Companies were made pursuant to the provisions of the said Article 23, Section 165 and vested in the respective lot owners, their heirs and assigns, and the members of the class which they represent, fee simple title to the said lots

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of ground. That Article 16, Section 120 of the Annotated Code of Maryland passed in 1957 divests the substantive rights of these lot owners and the members of the class which they represent, and is in violation of Article I, Section 10 of the Constitution of the United States which provides that "No State shall - - pass any ex post facto law or law impairing the obligation of contracts".

31. That the condemnation and the taking of the property of these lot owners and the members of the class which they represent by the Decree of the Circuit Court of Baltimore City, Docket 97A, Folio 878, pursuant to the provisions of Article 16, Section 120, of the Annotated Code of Maryland, deprives these lot owners and the members of the class which they represent of their right to trial by jury to determine the fair value of their property in violation of the due process clause of the Fourteenth Amendment to the United States Constitution.

32. That the condemnation and the taking of the property of these lot owners and the members of the class which they represent by the Decree of the Circuit Court of Baltimore City, Docket 97A, Folio 878, pursuant to the provisions of Article 16, Section 120, of the Annotated Code of Maryland, is in violation of Article III, Section 40A of the Constitution of the State of Maryland in that it deprives said lot owners of their property without a trial by jury.

33. That Article 16, Section 120 of the Annotated Code of Maryland is in violation of Article III, Section 33 of the Constitution of Maryland in that it is special legislation for a case for which general legislation had already been provided under the provisions of Article 16, Section 119 of the Annotated Code of Maryland.

34. That Article 16, Section 120 of the Annotated Code of Maryland is in violation of the equal protection clause of the Fourteenth Amendment to the United States Constitution in that it deprived Plaintiff lotowners of their property rights when only 75% of the cemetery property had become abandoned in Baltimore City, while lot owners outside of Baltimore City may not be deprived of such property rights until the cemetery property is abandoned.

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LA. 3-5011

35. That even if Article 16, Section 120 of the Annotated Code of Maryland be not in contravention of the aforementioned sections of the Maryland Constitution or of the aforementioned sections of the United States Constitution, the said Decree of the Circuit Court of Baltimore City taking the property of the plaintiffs and the members of the class which they represent should be set aside because at the time of the passage of the said Decree the cemetery property was not 75% abandoned.

36. That the plaintiffs and the members of the class which they represent, believe and therefore aver upon information and belief that all of the bodies interred in the said New Laurel Cemetery were not removed from the said cemetery and reinterred in the cornfield in Carroll County, but on the contrary, many of the said bodies of the relatives of your Petitioners and the members of the class which they represent, were broken, scattered, and plowed under and more deeply into the ground by huge bulldozers under the direction and supervision of the defendants; that the plaintiffs and the members of the class which they represent have suffered great mental anguish over the disrespect accorded the remains of their deceased loved ones.

37. That the plaintiffs and the members of the class which they represent did not discover or have notice of the condemnation proceedings as mentioned hereinbefore until long after the thirty days allowed for appeal to the Court of Appeals of Maryland had expired, that without the intervention of a Court of Equity to review, set aside the Decree, restrain and enjoin the Defendants McKamer Realty Company, Belair Road Enterprises, Inc., their agents, successors and assigns, and those in privity with them, from further dissipation and arrogation to themselves of the funds and property of the plaintiffs and the members of the class which they represent, to restrain them from selling and further arrogating to themselves the property rights of the plaintiffs and the members of the class which they represent, to establish and adjudicate the relative rights and contractual rights and obligations of the parties hereto and the members of the class which they represent under

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and by virtue of the laws of the State of Maryland therefor provided; your Complainants and the members of the class which they represent have suffered and will continue to suffer irreparable injury without any complete and adequate remedy at law.

WHEREFORE, Your Complainants pray:

(a) That proper process issue and that this cause be advanced upon the docket.

(b) That this Honorable Court adjudge, decree and declare the rights and legal relations of the parties to the subject matter herein in order that such declaration shall have the force and effect of a final order or decree.

(c) That the Court review and set aside the Decree of the Circuit Court of Baltimore City, docketed at Docket 97A, folio 878 and cancel all deeds conveying the subject property to the Defendant, Belair Road Enterprises, Inc.

(d) That the Court enter a judgment and declare that Article 16, Section 120 of the Annotated Code of Maryland is in contravention of Article I, Section 10 of the Constitution of the United States in that Article 16, Section 120 of the Annotated Code of Maryland abrogates the contracts of the Complainants and the members of the class represented by the Complainants.

(e) That the Court enter a judgment and declare that Article 16, Section 120 of the Annotated Code of Maryland is in contravention of Article I, Section 10 of the Constitution of the United States for the reason that it is an ex post facto law.

(f) That the Court order and decree that the Statute under which the decree of the Circuit Court was entered is invalid for the reason that it violates the Due Process Clause of the Fourteenth Amendment of the Constitution of the United States in that it takes the property of the plaintiffs and the members of the class which they represent without the notice required by the Due Process

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Clause of the Fourteenth Amendment to the Constitution of the United States.

(g) That the Court order and decree that Article 16, Section 120 of the Annotated Code of Maryland contravenes the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

(h) That the Court Order and Decree that Article 16, Section 120 is unconstitutional for the reason that it contravenes Article III, Section 33 of the Constitution of the State of Maryland.

(i) That the Court issue a preliminary and permanent injunction, restraining and enjoining the Defendant Belair Road Enterprises, Inc., from any further action with regard to subject property until such time as the matters herein complained of shall be adjudicated.

(j) That your Complainants may have such other and further relief as the nature of their cause might require.

AND, AS IN DUTY BOUND, ETC.

Tucker R. Dearing

TUCKER R. DEARING
627 North Aisquith Street
Baltimore 2, Maryland

Dallas F. Nicholas

DALLAS F. NICHOLAS
14 E. Pleasant Street
Baltimore 2, Maryland

Juanita Jackson Mitchell

JUANITA JACKSON MITCHELL
1239 Druid Hill Avenue
Baltimore 17, Maryland

Archie D. Williams for

WILLIAMS & MURPHY
2669 Pennsylvania Avenue
Baltimore 17, Maryland

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

Fd. in Md. May 1959
Exhibit A

A-267-1959

355

Read this paper Mar 2 '61

Frederick H. Hunt & others
Deed to
Laurel Cemetery Company

This Indenture made this ninth day of september in the year eighteen hundred and fifty two between Frederick H. Hunt Edward J. Richardson and Matilda M. Richardson his wife and Silas M. Cochran and Mary E. Cochran his wife of the city of Baltimore of the first part, and the Laurel Cemetery Company of the same place of the second part, Witnesseth that for and in consideration of the sum of ten Dollars current money to the parties of the first part in hand paid by the said Laurel Cemetery Company at and before the sealing and delivery of these presents the receipt whereof is hereby acknowledged the said parties of the first part, have given granted bargained and sold and by these presents do give grant, bargain and sell unto the said Laurel Cemetery Company its successors and assigns all that tract or parcel of land and improvements lying and being on the South East side of the Belair Road in Baltimore County in the State of Maryland now laid out and known as Laurel Cemetery which said tract or parcel of land is particularly described in an Indenture bearing date the first day of September in the year eighteen hundred and fifty two made by a certain Thomas Bungan Junior and Jane Bungan his wife to said Frederick H. Hunt Edward J. Richardson and Silas M. Cochran, and recorded among the land records of Baltimore County in Liber A. W. B. No 465 folio 154 &c Together with all the rights privileges and appurtenances thereunto belonging, and all buildings thereon erected and the remainder or remainders, reversion and reversions rents issues and profits thereof, and all the right, title interest claim and demand whatsoever of the said parties hereto of the first part of in out of and unto the said piece or parcel of ground above mentioned. To Have and to Hold the said lot of ground and premises hereby intended to be conveyed with the appurtenances, unto the said Laurel Cemetery Company its successors and assigns to the use of the Laurel Cemetery Company its successors and assigns forever. In Witness whereof the said parties of the first part, hereto have hereunto subscribed their names and affixed their seals on the day & year first aforesaid —

signed sealed & delivered in presence of
B. J. Yoe Roger C. Neale

F. H. Hunt (seal)
Edw J. Richardson (seal)
Matilda M. Richardson (seal)
Silas M. Cochran (seal)
Mary E. Cochran (seal)

State of Maryland City of Baltimore set. We the subscribers two Justices of the peace of the State of Maryland in and for the city aforesaid hereby certify that on this ninth day of September in the year eighteen hundred and fifty two before us personally appeared Frederick H. Hunt Edward J. Richardson and Matilda M. Richardson his wife and

A-3907 (2)

Silas M Cochran and Mary E. Cochran his wife are being satisfied
from our own knowledge that they are the persons who are named and
described as and proposing to be the parties of the first part to the
foregoing Indenture and respectively acknowledged the same to be their
act and deed, and the said Matilda M. Richardson wife of said
Edward J. Richardson and Mary E. Cochran wife of said Silas
M. Cochran before us, out of the presence and hearing of their
respective husbands did signe and seale said Indenture and did
respectively acknowledge the same to be their ~~respective~~ act and deed, and
the said Matilda M. Richardson and Mary E. Cochran being by us
respectively and separately examined out of the presence and
hearing of their respective husbands Whether they respectively ack-
nowledged and executed the same freely and voluntarily and
without being induced to so do by fear or threats from all or
any their respective husbands and by fear of their displeasure, do so
and said that they did, In Testimony we hereunto subscribe our
names on the day and year aforesaid B. F. Ayre
Roger C Weale

State of Maryland Baltimore City Set. I hereby certify that
Benjamin F. Ayre & Roger C Weale Esquires before whom the annexed
acknowledgements were made and who have thereto subscribed their
names were at the time of so doing two Justices of the peace of the
State of Maryland in and for the City of Baltimore duly commissioned
and sworn, In Testimony whereof I hereto set my hand and affix the
Seal of the Superior Court of Baltimore City this 15th day of Nov.
place A D. 1852 Edward Dowling Clerk of the Superior Court of Baltimore
Recd November 15th 1852 of grantee one Dollar in lieu of stamp
under act 1842 Ch 61. Henry M. Fitzhugh Clk.
Recorded on the fifteenth day of November 1852 and examined
Per Henry M Fitzhugh Clk

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

STATE OF MARYLAND :
: SCT
COUNTY OF BALTIMORE :

I, WALTER J. RASMUSSEN, CLERK of the Circuit Court for Baltimore County, do hereby certify that the aforegoing is a true photostatic copy of the original Deed taken from the records of the said Circuit Court for Baltimore County as recorded in Liber HMF No. 3 , Folio 355 , one of the Land Records of Baltimore County.

IN TESTIMONY WHEREOF, I hereto set my hand and affix the Seal of s Court, this 7th day of January A.D. 19 58 .



Walter J. Rasmussen
CLERK of the Circuit Court
for Baltimore County.

IN THE CIRCUIT COURT FOR
BALTIMORE COUNTY

FREDERICK G. HUNT ET AL

TO

LAUREL CEMETERY COMPANY

D E E D

GEORGE L. BYERLY
CLERK OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY
TOWSON 4, MD.

FILED

5M—2-57

Jd. 1 May 1959 B

A-267
1959

Laurel Cemetery Co
Deed to
New Laurel Cemetery Co
4-$5 1-$2 1-$1 USS Can
3-$5 3-$2 1-$1 1-50¢
1-20¢ 1-10¢ MdS Can

THIS DEED Made this 11th day of October in the year one thousand nine hundred and thirty nine by and between The Laurel Cemetery Company a body corporate duly incorporated under the Laws of the State of Maryland party of the First Part and The New Laurel Cemetery Company a body corporate duly incorporated under the Laws of the State of Maryland party of the Second Part

WITNESSETH That in consideration of the sum of Five Dollars ($5.00) and other good and valuable considerations the receipt whereof is hereby acknowledged the said party of the First Part does hereby grant and convey unto the said party of the Second part its successors and assigns in fee simple all that lot of ground situate in the City of Baltimore in the State of Maryland and described as follows that is to say

BEGINNING for the same on the southeast side of Belair Road eighty feet wide where the same is intersected by the last line of the land which by Deed dated September 9 1852 and recorded among the Land Records of Baltimore County in Liber H M F No 3 folio 355 was conveyed by Fred G Hunt et al to Laurel Cemetery Company said place of beginning being at the distance of one hundred forty and ninety two one hundredths feet southwesterly from the southeast corner of Belair Road and Cliftmont Avenue and running thence binding on the south east side of Belair Road aforesaid the two following courses and distances vis south forty two degrees one minute west thirty nine and ninety six one hundreds feet and south forty one degrees thirty seven minutes west seven hundred seventy two and forty six one hundredths feet to land which by Deed dated February 6 1931 and recorded among the Land Recods of Baltimore City in Liber SCL No 5194 folio 344 was conveyed by The North western Land Corporation to Sun Oil Company of New Jersey thence binding on said land the two following courses and distances viz south forty eight degrees twenty three minutes east twenty seven feet and south no degrees fifty six minutes east ninety three and four one hundredths feet to intersect the

A-39097 (3)

east ninety five perches line of the land conveyed as aforesaid by Fred G Hunt et al to Laurel Cemetery Company thence binding on said line north eighty nine degrees five minutes twenty seconds east fourteen hundred and seven and thirty three one hundredths feet to the westernmost side of Edison Highway (formerly Loneys Lane) as recently opened by the Mayor and City Council of Baltimore City one hundred feet wide under Ordinance No 239 Dated January 1928 thence binding on the westernmost side of said Edison Highway aforesaid north seventeen degrees twenty nine minutes east three hundred sixty five and fifty two one hundredths feet to the last line of the land conveyed as aforesaid by Fred G Hunt et al to Laural Cemetery Company and thence binding on said last line north seventy degrees fifty minutes forty seconds west one thousand and fifty seven and forty seven one hundredths feet to the place of beginning Containing sixteen and seventy two one hundredths acres more or less Subject to existing burial and grave rights

BEING the same lot of ground which by deed dated July 21 1937 and recorded among the Land Records of Baltimore City in Liber SCL No 5743 folio 117 was granted and conveyed by The Royal Realty Corporation to the said Grantor in fee simple

TOGETHER with the buildings and improvements thereupon and the rights alleys ways waters privileges appurtenances and advantages to the same belonging or in anywise appertaining

TO HAVE AND TO HOLD the said lot of ground and premises unto and to the use of the said party of the second part its successors and assigns in fee simple

AND THE said Grantor hereby covenants that it has not done nor suffered to be done any act matter or thing whatsoever to encumber the property hereby granted that it will warrant specially the property hereby granted and conveyed and it will execute such further assurances of said land as may be requisite

WITNESS the signature of the said body corporate by the hand of E Allen Schilpp its President and its Corporate Seal hereto affixed (The Laurel Cemetery Co Inc 1937 Maryland) The Laurel Cemetery Company

Witness By E Allen Schilpp

Allen A Davis Secretary President

STATE OF MARYLAND BALTIMORE CITY to wit I HEREBY CERTIFY THAT On this 11th day of October in the year one thousand nine hundred and thirty nine before me the subscriber a Notary Public of the State of Maryland in and for Baltimore City aforesaid personally appeared E Allen Schilpp the President of The Laurel Cemetery Company the within named Grantor and he acknowledged the afore going Deed to be the act of said Body Corporate

IN TESTIMONY WHEREOF I hereunto set my hand and affix my Notarial Seal

(NOTARIAL SEAL) E Elizabeth Lacher

Notary Public

Recd for record Recorded & Exd Oct 13 1939 at 12.01 O'clk P M

M Luther Pittman Clerk

In the Superior Court of Baltimore City

State of Maryland,

City of Baltimore, Sct.

I, ~~M. Luther Pittman~~ JAMES F CARNEY, Clerk of the Superior Court of Baltimore City, do hereby certify that the aforegoing is a true copy of the original D E E D taken from the records of the said Superior Court of Baltimore City as recorded in Liber M L P No. 5966 Folio 183 &c one of the L A N D Records of Baltimore City.

In Testimony Whereof, I hereto set my hand and affix the seal of said Court, this 6th day of January A. D. 19 59

James F Carney

Clerk of the Superior Court of Baltimore City.

This Certificate is not authentic unless the Seal of the Superior Court of Baltimore City is originally impressed here.

3000—5-56

Fold Here

Fold Here

Morgan

Tuchor R. Kearing

SUPERIOR COURT

of BALTIMORE CITY

ROOM 610

JAMES F CARNEY

~~MOLUTHER PITTMAN~~

Clerk.

CERTIFIED COPY

DEED

FROM

Laural Cemetery Co

TO

New Laural Cemetery Co

Liber MLP No. 5966 Fol. 183 &c

Amount $ 3.50 Exd. D-10.

Paid

3000—1-56

EQUITY SUBPOENA

The State of Maryland

To McKamer Realty Company,
a body corporate of the
State of Maryland
c/o Clement R. Mercaldo
Resident Agent
404 Munsey Building
Baltimore 2, Md.

5/2/59 (3)

and

Belair Road Enterprises, Inc.,
a body corporate of the
State of Maryland
c/o Harold J. Kaufman
Resident Agent
1231 Munsey Building
Baltimore 2, Md.

5/1/59 (3)

of Baltimore City, Greeting:

WE COMMAND AND ENJOIN YOU, That all excuses set aside, you do within the time limited by law, beginning on the first Monday of May next, cause an appearance to be entered for you and your answer to be filed to the complaint of

Mamie E. Kennard, 1322 McCulloh Street, Baltimore 17, Maryland, et al

against you exhibited in the Circuit Court of Baltimore City.

HEREOF fail not, as you will answer the contrary at your peril.

WITNESS, the Honorable EMORY H. NILES, Chief Judge of the Supreme Bench of Baltimore City, the 2nd day of March, 19 59

Issued the 1st day of May, in the year 19 59

Henry J. Pilgenger Clerk

MEMORANDUM: You are required to file your answer or other defense in the Clerk's Office, room 410, in the Court House, Baltimore City, within fifteen days after return day, named in the above subpoena. Personal attendance in Court on the day named is not necessary, but unless you answer or make other defense within the time named, complainant (s) may obtain a decree pro confesso against you, which upon proper proof may be converted into a final decree for the relief demanded.
(General Equity Rule 11)

A-39098 (4)

P&V

CIRCUIT COURT

A-267

19 59 Docket No. .....

MAMIE E. KENNARD, ET AL

6/2/59

vs.

McKAMER REALTY CO., &C., ET AL

Subpoena To Answer Bill Of Complaint

Pltf's 2 Bill

No. A-39096

(4)

Filed 4th *day of* May, *19* 59

Tucker R. Dearing
Dallas F. Nicholas *Solicitor.* s
Juanita Jackson Mitchell
Williams & Murphy

Address.

Summoned McKamer Realty Company, acorporation, by service on Clement R. Mercaldo, Resident Agent, and a Copy of the Process with a Copy of the Bill of Complaint left with said Resident Agent on the 2nd day of May 1959. Also summoned Belair Road Enterprises Incorporated, a corporation, by service on Harold J. Kaufman, Resident Agent, and a Copy of the Process with a Copy of the Bill of Complaint left with said Resident Agent on the 4th day of May 1959 in the presence of William Fowler. Also Notice of said summons left at the principal office of said corporations.

Joseph E. Keegan
Sheriff

Fee $7.40

RECEIVED AT THE SHERIFF'S OFFICE ON THE 1ST DAY OF MAY 1959 AT 3:40 P.M.

25

Fd. 19th May 1959

A-267
1959

MAMIE E. KENNARD, et al. * IN THE CIRCUIT COURT

Plaintiffs

*

vs. OF

McKAMER REALTY COMPANY, et al. *

BALTIMORE CITY

Defendants *

* * * * * * * * * * *

ANSWER AND DEMURRER

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The answer of McKamer Realty Company and Belair Road Enterprises, Inc., both Maryland corporations, Defendants, to the Bill of Complaint hereinbefore exhibited against them, respectfully says:

FIRST: They admit the allegations of the first three paragraphs of the Bill, except that they deny the existence of numerous persons situated similarly to Plaintiffs who seek the relief prayed by the Bill.

SECOND: Answering the fourth to sixteenth paragraphs, inclusive, of the Bill, the Defendants deny that any of the parties plaintiff recited in said paragraphs acquired fee simple title to the respective lots of ground in said paragraphs referred to, by any legally sufficient deed. Further answering each of said paragraphs, these Defendants have no knowledge as to whether or not any or all of said Plaintiffs acquired any burial rights as certificate holders from the Laurel Cemetery Company, and they have no knowledge as to the devolution of title to any such rights, and, accordingly, the Defendants deny the allegations of said paragraphs in accordance with Maryland Rule 372 a. 2.

A-39097 (5)

THIRD: The Defendants admit the allegations of the seventeenth, eighteenth, nineteenth, twentieth and twenty-second paragraphs of said Bill.

FOURTH: The Defendants admit the allegations of the twenty-first paragraph of said Bill except that they deny that Joseph Kaiser, Esquire (who was Referee in Bankruptcy), was the Trustee in Bankruptcy, and they aver, on the contrary, that H. Carl Butler, Esquire, was the Trustee who conveyed the property by Deed to the Defendant, McKamer Realty Company.

FIFTH: The Defendants deny the allegations of the twenty-third paragraph of said Bill.

SIXTH: Answering the twenty-fourth paragraph of said Bill, both of these Defendants deny that they "coveted" the real estate involved. They further deny, as aforesaid, Plaintiffs' "ownership" thereof. Both Defendants affirmatively allege that due notice by publication was given to all Plaintiffs and all other interested persons of the pendency of the aforesaid proceedings in this Court, Docket 97A, Folio 878. These Defendants admit that none of the Plaintiffs were personally served with summons in said action, their interest, identity and whereabouts having been unknown to McKamer Realty Company, the Plaintiff in the aforesaid action in this Court.

SEVENTH: Answering the twenty-fifth paragraph of said Bill, the Defendant, McKamer Realty Company, denies that it claims any present interest in the property referred to. The Defendant, Belair Road Enterprises, Inc., admits that it claims fee simple title to the parcel of land lying on the southeast side of Belair Road between Cliftmont Avenue

on the north, Elmley Avenue on the south and Edison Highway on the east, containing fifteen acres more or less, by virtue of its purchase of said land from Edward A. Anderson, Trustee duly appointed in the aforesaid proceedings in this Court entitled McKamer Realty Company vs. Anderson Enterprises, Inc., Docket 97A, Folio 878, which proceedings were brought under and pursuant to the provisions of the Code, Article 16, Sections 119 and 120 (1957 Edition). These Defendants allege that said statute is a valid enactment in full force and effect at the time of said proceedings and that all of the requirements of said Act were duly complied with. Defendant, Belair Road Enterprises, Inc., further alleges that after the sale to it was reported to this Court, it excepted thereto on the grounds that all the necessary parties having an interest and rights in and to the property referred to in said proceedings were not made parties, and on the further grounds that said enactment was unconstitutional and violated the provisions of Article 23 of the Maryland Constitution, which exceptions were duly heard by this Court on September 8, 1958, and were, by the Court, overruled on September 11, 1958. Said Defendant further alleges that said Order has become finally enrolled.

EIGHTH: Answering the twenty-sixth paragraph of said Bill, these Defendants state that the same contains only statements and erroneous conclusions of law.

NINTH: Answering the twenty-seventh paragraph of said Bill, these Defendants admit that the only notice of the pendency of the aforesaid proceedings, being the notice required by the said statute, was an Order of Publication published in the Daily Record newspaper for four successive weeks beginning December 16, 1957. As to the other matters alleged by

said paragraph, other than conclusions of law therein stated, these Defendants have no knowledge and, accordingly, deny the same. These Defendants affirmatively state that the Order of Publication was conspicuously published in the Daily Record newspaper aforesaid and that the same did satisfy all constitutional requirements of notice.

TENTH: Answering the twenty-eighth paragraph of said Bill, these Defendants deny that they, either by themselves or by contractors employed by them, have entered upon the said real estate for the purpose of exhuming bodies or doing any of the acts mentioned in said paragraph. To qualify said answer, they state that Edward A. Anderson, the Trustee duly appointed and qualified in said proceedings, pursuant to the Decree of this Court therein, contracted with a licensed undertaker to exhume the bodies and to reinter them in an attractive new cemetery located on Hodges Road near Eldersburg in Carroll County, Maryland, and that such removal of bodies and removal and relocation of tombstones and markers were actually accomplished by said Trustee under the direction of this Court through the medium of a licensed undertaker in an orderly, careful and proper manner, all pursuant to the provisions of the said statute, Article 16, Section 120.

ELEVENTH: These Defendants emphatically deny all the allegations of the twenty-ninth paragraph of the Bill of Complaint. They allege, on the contrary, that the records of the Laurel Cemetery and the New Laurel Cemetery were not available to them and that no such records could be located after a diligent but fruitless search for the same.

TWELFTH: These Defendants, answering the thirtieth paragraph of said Bill and ignoring the statements of law and erroneous con-

clusions of law therein contained, deny that the Plaintiffs or any members of the class which they represent held or had fee simple title to the lots of ground referred to in the Bill.

THIRTEENTH: Answering the thirty-first, thirty-second, thirty-third and thirty-fourth paragraphs of said Bill, these Defendants state that the said paragraphs contain only statements of law and erroneous conclusions of law. All of the allegations of said paragraphs are, however, denied.

FOURTEENTH: Answering the thirty-fifth paragraph of said Bill of Complaint, these Defendants deny all of the material allegations thereof. Further answering said paragraph, these Defendants affirmatively restate that more than seventy-five per cent of the cemetery property referred to was abandoned and was overgrown, littered and in disrepair, with exposed graves, and, generally, was a menace to and was detrimental to the public health, safety, security and welfare.

FIFTEENTH: These Defendants deny the allegations of the thirty-sixth and thirty-seventh paragraphs of said Bill.

SIXTEENTH: Further answering the said Bill and each and every part and paragraph thereof, these Defendants allege that the proceedings referred to were properly and regularly conducted in strict conformance with the provisions of Article 16, Section 120, aforesaid, which is a good, valid and constitutional enactment, and that due notice by publication was given to the Plaintiffs and the members of the class which they represent in accordance with the provisions of said enactment; that the bodies in the cemetery aforesaid have all been long since exhumed and reinterred by the Trustee under the direction of this Court; that the whole

proceeds of sale of the tract of land mentioned in the Bill have been irrevocably applied and distributed, and that the Account of the Auditor of this Court was finally ratified and approved on March 20, 1959. These Defendants allege that the Plaintiffs are guilty of gross laches.

D E M U R R E R

SEVENTEENTH: Further answering said Bill of Complaint in accordance with the Maryland Rules, these Defendants demur to the Bill of Complaint and to each and every part and paragraph thereof and for reasons therefor state:

(1) That the Bill fails to state a cause of action either at law or in equity.

(2) That the Bill of Complaint is bad in substance and insufficient at law.

(3) That the Bill on its face fails to set forth any facts constituting fraud, mistake, surprise or any circumstances which could compel the Court to set aside the Decree in the proceedings therein referred to.

(4) That the Bill attacks the constitutionality of the Act of 1957, Chapter 630 (Annotated Code of Maryland, 1957 Edition, Article 16, Section 120), and it does not appear on the face of the Bill that notice is given to the Attorney General thereof.

(5) That the Plaintiffs, on the face of the Bill, are guilty of laches.

(6) And for other reasons to be shown at the hearing hereof.

WHEREFORE, these Defendants pray that they may be hence dismissed with their proper costs.

AND, as in duty bound, etc.

Clement R. Mercaldo
President - McKamer Realty Company

Walter C. Mylander, Jr.

Charles C. W. Atwater
Attorneys for Defendants
1213 Fidelity Building
Baltimore -2, Maryland

Lloyd G. McAllister
Vice President - Belair Road
Enterprises, Inc.

I HEREBY CERTIFY that on this 19th day of May, 1959, a copy of the foregoing Answer and Demurrer was mailed to Tucker R. Dearing, Esquire, 627 North Aisquith Street, Baltimore-2, Maryland, Dallas F. Nicholas, Esquire, 14 East Pleasant Street, Baltimore -2, Maryland, Mrs. Juanita Jackson Mitchell, 1239 Druid Hill Avenue, Baltimore -17, Maryland, and Messrs. Williams & Murphy, 2669 Pennsylvania Avenue, Baltimore -17, Maryland, Attorneys for Plaintiffs.

Walter C. Mylander, Jr.
Of Counsel for Defendants
1213 Fidelity Building
Baltimore -2, Maryland

Fld 8 September 1959

MAMIE E. KENNARD, ET AL	*	IN THE
PLAINTIFFS	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MCKAMER REALTY COMPANY, ET AL	*	Docket 99A
DEFENDANTS	*	Folio 267
	*	Case No. 39097

****

PETITION

Now comes Howard and Martha Williams, 548 Baker Street; James W. Williams, 548 Baker Street; Wellington A. Rideout, 2307 Ellamont Street; and Amelia Whalen, 526 N. Mount Street by their Solicitors, Nicholas and Gosnell and Charles P. Howard, Jr. and pray leaves of this Honorable Court that they be given leave to intervene in t the above-entitled proceedings and be made party Plaintiffs.

1. That your Petitioners are similarily situated as the present Plaintiffs in this proceeding, being the owners of the following lots of ground and real estate, locater in Laurel Cemetery.

2. That the Petitioners Howard Williams and Martha Williams, his wife, acquired Fee Simple title by virture of a deed dated April 12th, 1919, from the Laurel Cemetery Company, and recorded in the Laurel Cemetery Company's office describing the following real estate in Baltimore City;

> Lot No. 44, Section S, Deed No. 3378 of the Deed records of the Laurel Cemetery Company.

That the Petitioners Howard and Martha Williams, have owned the said lot, enjoyed quiet and peaceful possession thereof and likewise, have enjoyed all the rights of such ownership since April 12, 1919.

3. That by deed dated March 14th, 1903, from the Laurel Cemetery Company which Wellington Rideout acquired title to the following described real estate, and which deed is recorded in the office of Laurel Cemetery Company as follows;

> Lots No. 192 and 193 in Section A of the Laurel Cemetery, Deed No. _____of the Deed records of the Laurel Cemetery Company.

That upon the death of Wellington Rideout on December 1, 1903, title to the said lot became vested in Annie Rideout, widow, who

A-39097(6)

died on February 15th, 1908 and in Ervin S. Rideout, son. That upon the death of Ervin S. Rideout on September 1, 1941 th title became vested in the son of Ervin S. Rideout, your Petitioner herein, Wellington A. Rideout, and your Petitioner and his predecessors entitled have owned the said lots, enjoyed quiet and peaceful possession thereof; and likewise have enjoyed all the rights of such ownership.

WHEREFORE your Petitioners pray that this Honorable Court will pass an Order authorizing and directing that Howard and Martha Williams, James W. Williams, Wellington Rideout, and Amelia Whalen be made party Plaintiffs.

NICHOLAS & GOSNELL

BY: Dallas F. Nicholas

DALLAS F. NICHOLAS
Attorney for Plaintiffs
12 E. Pleasant Street
Baltimore, Maryland

and

Charles P. Howard Jr.

CHARLES P. HOWARD, JR.
Attorney for Plaintiffs
12 E. Pleasant Street
Baltimore 2, Maryland

O R D E R

Upon the foregoing Petition it is this 8th day of September, 1959, ORDERED by the Circuit Court of Baltimore City that Howard and Martha Williams, James W. Williams, Wellington A. Rideout, and Amelia Whalen be made party Plaintiffs in the above-entitled proceedings.

Paul Mason

JUDGE

This is to certify that on this 8th day of September, 1959, a copy of the foregoing Petition was mailed to Tucker R. Dearing, Esq., 627 N. Aisquith Street, Baltimore 2, Maryland, Dallas F. Nicholas, Esq., 12 E. Pleasant Street, Baltimore, Maryland, Mrs. Juanita J. Mitchell, 1239 Druid Hill Avenue, Baltimore 17, Maryland, Messrs. Williams & Murphy, 2669 Pennsylvania Avenue, Baltimore 17, Maryland and Walter C. Mylander, Jr., Esq., 1213 Fidelity Building Baltimore 2, Maryland, Attorneys for Plaintiffs and Defendants.

NICHOLAS & GOSNELL

BY: Dallas F. Nicholas
DALLAS F. NICHOLAS
Attorney for Plaintiffs

and

Chas. P. Howard, Jr.
CHARLES P. HOWARD, JR.
Attorney for Plaintiffs

Fld. 19 November 1959

PETITION AND ORDER TO TAKE TESTIMONY UNDER 560th RULE

MAMIE E. KENNARD, et al

Plaintiffs

vs.

McKAMER REALTY COMPANY, et al

Defendants

IN THE

CIRCUIT COURT

— OF —

BALTIMORE CITY

Docket 1959 - Folio A-267
File No. A-39097

To the Honorable the Judge of the Circuit Court of Baltimore City:

The Defendants in this case respectfully shows unto your Honor:

THAT they desires to examine orally, in open Court and in the presence of your Honor, certain witnesses who can testify to the facts and matters relevant to the allegations in the Bill of Complaint filed in this case.

Your petitioners therefore prays your Honor to pass an order, according to the Statutes for such case made and provided.

And as in duty bound will ever pray.

Charles C. W. Atwater

Solicitor for Defendants

Upon the foregoing Petition and Application it is this 19th day of November, A. D. 1959, Ordered that the petitioner have leave to take testimony as prayed and that the testimony to be offered be taken as required by the 560th Rule of this Court. ~~And it is further Ordered that a copy of this petition and order be served on the ..... or h Solicitor , on or before the ..... day of ....., 19 .....~~

Henry J. Pfeffinger, Clerk

I HEREBY CERTIFY that a copy of the foregoing Petition and Order was mailed to each of the following, Solicitors for Plaintiffs, this 19 day of November, 1959:

Archie D. Williams, Esquire
Messrs. Williams & Murphy
2669 Pennsylvania Avenue
Baltimore 17, Maryland

Mrs. Juanita Jackson Mitchell
1239 Druid Hill Avenue - Baltimore 17, Md.

Tucker R. Dearing, Esquire
627 Aisquith Street - Baltimore 2, Md.

Dallas F. Nicholas, Esquire
14 East Pleasant Street
Baltimore 2, Maryland

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Charles C. W. Atwater

Tucker R. Dearing
Dallas G. Nicholas
Juanita Jackson Mitchell
Archie D. Williams
Williams & Murphy

Walter C. Mylander Jr.
Charles C. W. Cetwater

Fld. 13 January 1960

SUMMONS FOR WITNESS

In the Circuit Court of Baltimore City

992-267

The Sheriff will please summon the following witnesses,

returnable Friday, January 15, 1960 Room 419-Court House **at 10 A.M.**

9 Officer Carroll Dent
Baltimore City Police Department
Pine Street Station Sd

3 C. Hurley Cox, Esquire
424 Equitable Building
Baltimore 2, Maryland Sd

2 5 Edward A. Anderson
2326 Belair Road
Baltimore 13, Maryland

3 Clement R. Mecaldo
36 Equitable Building
Baltimore 2, Maryland Sd

3 Robert B. Watts, Esquire
1520 E. Monument Street
Baltimore 5, Maryland Counter marked 1/14/60

10 Dr. H. Maceo Williams
Druid Health Center
1313 Druid Hill Avenue
Baltimore 17, Maryland Sd 11:10 A.M.

3 Dr. Huntington R. Williams
Baltimore City Health Department
Municipal Building
Baltimore 2, Maryland Sd

10 Gertrude Tate
705 W. Lanvale Street
Baltimore 1, Maryland Sd

10 ~~Edith Campbell~~
711 Dolphin Street
~~Baltimore 1, Maryland~~ Sd

13 ~~Alice R. Keys~~
822 N. Fremont Avenue
~~Baltimore 17, Maryland~~

11 ~~Edna Young~~
2025 Druid Hill Avenue
~~Baltimore 17, Maryland~~

10 ~~Mamie Kennard~~
1322 Mc Culloh Street
~~Baltimore 17, Maryland~~ Sd

Dr. Dr. Leo Eichenlaub
Travelers Rest Beach

to testify for Plaintiffs

in the case of Mamie E. Kennard Et Al

vs.

McKamer Realty Company, Et Al

Henry J. Ruppersur
Clerk of Circuit Court of Baltimore City

A-39097(8) 37

SUMMONS FOR WITNESS

In the Circuit Court of Baltimore City

The Sheriff will please summon the following witnesses,

returnable Friday, January 15, 1960 **at 10 A.M.**

14 Carlita Paige
1700 Westwood Avenue
Baltimore 17, Maryland

18 Mrs. Edward Berry Stokes
3529 Wabash Avenue
Baltimore 15, Maryland

10 John E. Johnson
604 Brune Street
Baltimore 1, Maryland

6 Alverta Peele Craig
623 N. Maderia Street
Baltimore 5, Maryland

10 Deaver Smith
1411 Pennsylvania Avenue
Baltimore 17, Maryland

6 Mrs. Estella Stephney
2203 McEldery Street
Baltimore 5, Maryland

14 ~~Mrs. Mary Roy~~
1137 N. Carey Street
~~Baltimore 17, Maryland~~

~~Mrs. Pauline Jackson~~
11 2008 Madison Avenue
~~Baltimore 17, Maryland~~

~~Mrs. Zenobia J. Hollis~~
11 1918 N. Bentalou Street
~~Baltimore 16, Maryland~~

~~Mrs. Anita Scott~~
10 624 Dolphin Street
~~Baltimore 17, Maryland~~

~~Mrs. Dorothy Dyer~~
10 639 W. Lafayette Avenue
~~Baltimore 17, Maryland~~

~~Mrs. Ella Brooks~~
10 639 W. Lafayette Avenue
~~Baltimore 17, Maryland~~

13 ~~Rev. Silas Mack~~
1826 Edmondson Avenue, Baltimore 23, Maryland

to testify for PLAINTIFFS

in the case of MAMIE E. KENNARD, ET AL

vs.

MC KAMER REALTY COMPANY, ET AL

Clerk of Circuit Court of Baltimore City

SUMMONS FOR WITNESS

In the Circuit Court of Baltimore City

The Sheriff will please summon the following witnesses,

returnable Friday, January 15, 1960 **at 10 A.M.**

25 Dorothy M. Klipper
2117 Lake Montibello Terrace
Baltimore 18, Maryland

3 Lloyd G. McAllister
City Solicitors Office
Room 505 Court House
Baltimore 2, Maryland

to testify for Plaintiffs

in the case of MAMIE E. KENNARD, ET AL

vs.

MC KAMER REALTY COMPANY, ET AL

Clerk of Circuit Court of Baltimore City

SUMMONS FOR WITNESS

In the Circuit Court of Baltimore City

The Sheriff will please summon the following witnesses,

returnable Friday, January 15, 1960 **at 10 A.M.**

Please issue Subpoena Duces Tecum to George O. Motry, Division of Community Sanitation, Baltimore City Health Department, Municipal Building, Baltimore 2, Maryland commanding and directing him to bring with him all records of his office pertaining to complaints to his office respecting the condition of Laurel Cemetery, prior to December 10, 1957, and action taken by his office respecting such complaints.

to testify for Plaintiffs

in the case of MAMIE E. KENNARD, ET AL

vs.

MC KAMER REALTY COMPANY, ET AL

Clerk of Circuit Court of Baltimore City

SUMMONS FOR WITNESS

In the Circuit Court of Baltimore City

The Sheriff will please summon the following witnesses,

returnable Friday, January 15, 1960 **at 10 A.M.**

Please issue Subpoena Duces Tecum to James M. Hepbron, Police Commissioner of Baltimore City, Central District, Baltimore 2, Maryland commanding and directing him to bring with him any records of his office of complaints made to his office prior to December 10, 1957 respecting the condition of Laurel Cemetery, and any notes or memorandums in his office dealing with any problems connected with Laurel Cemetery as a cemetery.

3

to testify for Plaintiffs

in the case of MAMIE E. KINNARD, ETAL

vs.

MC KAMER REALTY COMPANY, ET AL

Clerk of Circuit Court of Baltimore City

SUMMONS FOR WITNESS

In the Circuit Court of Baltimore City

The Sheriff will please summon the following witnesses,

returnable Friday, January 15, 1960 **at 10 A.M.**

23

Please issue Subpoena Duces Tecum to Lt. Brayden O'Mailey, 3573 Juneway, Baltimore 13, Maryland commanding and directing him to bring with him all records he has of complaints to the Fire Department of Baltimore City respecting the condition of Laurel Cemetery prior to December 10, 1957, and any notes or memorandums he has dealing with any problem connected with Laurel Cemetery.

to testify for Plaintiffs

in the case of MAMIE E. KENNARD, ET AL

vs.

MC KAMER REALTY COMPANY

Clerk of Circuit Court of Baltimore City

SUMMONS FOR WITNESS

In the Circuit Court of Baltimore City

The Sheriff will please summon the following witnesses,

returnable Friday, January 15, 1960 **at 10 A.M.**

Please issue Subpoena Duces Tecum to Harrison L. Winter, Esquire, City Solicitor for Baltimore City, Room 505, Court House, Baltimore 2, Maryland commanding and directing him to bring with him all records, books, communications, notes and memorandums in his office pertaining to or in any way dealing with; complaints to his office about the condition of Laurel Cemetery; action taken by his office respecting such complaints; advice to the City of Baltimore or the State of Maryland respecting any proposals for the disposition of Laurel Cemetery or recommendations to either of such governments dealing with any problem connected with Laurel Cemetery; participation by any member of the staff of the City Solicitor in any action designed to directly or indirectly affect the status of Laurel Cemetery as a cemetery; and any personal interest any member of the staff of the City Solicitor had in the past or now has in McKamer Realty Company, New Laurel Cemetery Company, Belair Road Enterprises, Inc., and Anderson Enterprises, Inc.

3

to testify for Plaintiffs

in the case of MAMIE E. KENNARD, ET AL

vs.

MC KAMER REALTY COMPANY

Clerk of Circuit Court of Baltimore City

SUMMONS FOR WITNESS

In the Circuit Court of Baltimore City

The Sheriff will please summon the following witnesses,

returnable Friday, January 15, 1960 **at 10 A.M.**

Please issue Subpoena Duces Tecum to John G. Kaufman, 334 St. Paul Place, Baltimore 2, Maryland commanding and directing him to bring with him all records, books, communications, notes and memorandums pertaining to, or in any way dealing with his ownership in, or his transactions with the New Laurel Cemetery Company; McKamer Realty Company; Belair Road Enterprises, Inc. and Anderson Enterprises, Inc.

3

to testify for Plaintiffs

in the case of MAMIE E. KENNARD, ET AL

vs.

MC KAMER REALTY COMPANY, ET AL

Clerk of Circuit Court of Baltimore City

Fd. 14th January 1960

SUMMONS FOR WITNESS

Countermanded

In the Circuit Court of Baltimore City

Docket 1959, Folio A ~~276~~ 267

The Sheriff will please summon the following witnesses,

returnable Friday, January 15, 1960 Room 417, Court Hs **at 10 A.M.**

Please issue Subpoena Duces Tecum to Edward A. Anderson, 2326 Belair Road, Baltimore 13, Maryland commanding and directing him to bring with him all records, books, papers, communications, minutes of Board of Directors meetings of Anderson Enterprises, Inc., which he may have or which are within his power to produce; pertaining to or in any way dealing with the purchase and ownership of lots by Anderson Enterprises, Inc., in the Laurel Cemetery, 2300 Block Belair Road, Baltimore City; pertaining to or in any way dealing with his duties as Trustee appointed by Order of the Circuit Court of Baltimore City on June 10, 1958 in the case of McKamer Realty Company vs. Anderson Enterprises, Inc., Et Al for the purpose of (1) Purchasing a new burial ground, (2) Removing and re-interring the bodies from Laurel Cemetery, (3) Sale of the real estate for the best possible price; pertaining to or in any dealing with his personal interest of whatever nature in (1) The Laurel Cemetery Company, (2) The New Laurel Cemetery Company, (3) The McKamer Realty Company, (4) The Belair Road Enterprises, Inc.,

25

to testify for Plaintiffs

in the case of MAMIE E. KENNARD, ET AL

vs.

MC KAMER REALTY COMPANY, ET AL

Henry J. Ruppiger

Clerk of Circuit Court of Baltimore City

A-39097 (9) 45

MAMIE E. KENNARD, ET AL	*	IN THE
COMPLAINANTS	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MC KAMER REALTY COMPANY, ET AL	*	1959/A-276
DEFENDANTS	*	

* * * * * * *

SUMMONS FOR WITNESS

The Sheriff will please summon the following witness, and please issue Subpoena Duces Tecum to Gilbert V. Rubin, Executive Secretary, Board of Municipal and Zoning Appeals, Municipal Building, Baltimore 2, Maryland commanding and directing him to bring with him all records and proceedings before the Board of Municipal and Zoning Appeals in Appeal #1386-59 of McKamer Realty Company and Belair Road Enterprises, Inc., heard before the Board of September 23, 1959 to testify for Plaintiffs in the case of:

MAMIE E. KINNARD, ET AL

VS.

MC KAMER REALTY COMPANY, ET AL

returnable Friday, January 15, 1960 at 10:00 A. M., Room 417, Court House

Clerk of Circuit Court of Baltimore City

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

MAMIE E. KENNARD, ET AL	*	IN THE
COMPLAINANTS	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MC KAMER REALTY COMPANY, ET AL	*	1959/A-276
DEFENDANTS	*	

* * * * * * *

SUMMONS FOR WITNESS

The Sheriff will please summon the following witness, and please issue Subpoena Duces Tecum to Ellsworth Armacost, 4600 Liberty Heights Avenue, Baltimore 15, Maryland commanding and directing him to bring with him all records, books and memorandums pertaining to or in any dealing with the removal and re-interrment of dead bodies from Laurel Cemetery, 2300 Block Belair Road, Baltimore, Maryland on and after June 10, 1958 up to and including the present time, to testify for Plaintiffs in the case of:

MAMIE E. KENNARD, ET AL

VS.

MC KAMER REALTY COMPANY, ET AL

returnable Friday, January 15, 1960 at 10:00 A. M., Room 417, Court House.

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Clerk of Circuit Court of Baltimore City

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

Fld. 14th January 1960

MAMIE E. KENNARD, ET. AL.	:	
PLAINTIFFS	:	IN THE
VS.	:	CIRCUIT COURT OF BALTIMORE CITY
MCKAMER REALTY COMPANY, ET. AL.	:	DOCKET: 99A
	:	FOLIO: 267
DEFENDANTS	:	CASE NO.: 39097

PETITION

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Now come Charlie C. Allen, 2110 W. Mulberry Street, Baltimore, Maryland; Mary J. Allen, 2315 Hunter Street, Baltimore, Maryland; Milton Ambry, 2224 Madison Avenue, Baltimore, Maryland; Lillian Amos, 1737 McCulloh Street, Baltimore, Maryland, Gladys E. Banks, 2752 Baker Street, Baltimore, Maryland; Viola G. Banks, 2637 Francis Street, Baltimore, Maryland; Mollie Bornen, 1321 Edmondson Avenue, Baltimore, Maryland; Ella Brooks, 639 W. Lafayette Avenue, Baltimore, Maryland; Gladys Brown, 3227 Presstman Street, Baltimore, Maryland; Edith Campbell, 711 Dolphin Street, Baltimore, Maryland; Mary E. Campbell, 907 S. Baylis, Baltimore, Maryland; Raymond T. Carpenter, 1229 Druid Hill Avenue, Baltimore, Maryland; Sadie Cooper, 900 Stoddard Court, Baltimore, Maryland; Thelma Cox, 1103 W. Mulberry Street, Baltimore, Maryland; Alverta Peele Craig, 623 Madeira Street, Baltimore, Maryland; Lewis Dean, 715 Ashburton Street, Baltimore, Maryland; Flora B. Dixon, 1914 Etting Street, Baltimore, Maryland; Enolia Dyer, 639 W. Lafayette Avenue, Baltimore, Maryland; Lester F. Fauntleroy, 1710 Westwood Avenue, Baltimore, Maryland; Beatrice Gibson, 130 N. Aisquith Street, Baltimore, Maryland; Elmer Giles Sr., 1019 Ashburton Street, Baltimore, Maryland; Mildred Gray, 2702 Fisk Road, Baltimore, Maryland; Sadie Gunther, 3446 Piedmont Avenue, Baltimore 16, Maryland; Julia Hall, 1112 Argyle Avenue, Baltimore, Maryland; Addie Hammond, 2137 N. Smallwood, Baltimore, Maryland; Zenobia Hollis, 1918 N. Bentalou Street, Baltimore, Maryland; Edna J. Howard, 1603 Mosher Street, Baltimore, Maryland; Howard L. Hucles,

A-39097 (10)

3506 Denison Road, Baltimore, Maryland; Pauline Jackson, 2008 Madison Ave., Baltimore, Maryland; Sartorio Jackson, 414 N. Carey Street, Baltimore, Maryland; Elmira Johnson, 419 Laurens Street, Baltimore, Maryland; Helen G. Johnson, 1235 Myrtle Avenue, Baltimore 17, Maryland; John E. Johnson, 604 Bruce Street, Baltimore, Maryland; Zelma Johnson, 2332 Reistertown Road, Baltimore, Maryland; Carrie Jones, 427 Mosher Street, Baltimore, Maryland; Theresa Jones, 3405 Barclay, Baltimore, Maryland; Charles J. King, 2216 Elsinor Avenue, Baltimore, Maryland; Ellen L. Lee, 3001 13th Street, N. W., Washington, D. C.,; Maude B. Lewis, 2218 Druid Hill Avenue, Baltimore, Md; Natalie McG. Plummer, 508 24th Street, N. E., Washington 2, D.C.; Mazie Mackey 526 N. Calhoun Street, Baltimore 23, Maryland; Alice R. Matthews, 2411 W. Mosher Street, Baltimore, Maryland; Francis B. Morris, 1124 Whatcoat Street, Baltimore, Maryland; Chapelton D. Newton, 244 Robert Street, Baltimore, Md; Sylvanus D. Newton, 2431 Woodbrook Avenue, Baltimore 17, Maryland; Gwendolyn Nichols, 1628 N. Caroline Street, Baltimore, Maryland; Blanche Thomas Nolan, 1221 W. North Avenue, Baltimore 17, Maryland; Donald W. Nolan, 2201 Clifton Avenue, Baltimore 16, Maryland; Carlitta Paige, 1700 Westwood Avenue, Baltimore, Maryland; Gertrude M. Patterson, 2826 Walbrook, Baltimore, Md; Emma F. Poulson, 2306 Druid Hill Avenue, Baltimore, Maryland; Alfred H. Redd, 618 Carrolton Avenue, Baltimore, Maryland; Elaine W. Roberts, Rt. 1, Box 97E, Marley Neck Road, Glen Burnie, Maryland; Everett D. Saunders, 407 Robert Street, Baltimore, Maryland; Mildred Seaborne, 2553 Madison Avenue, Baltimore, Maryland; Anita Scott, 624 Dolphin Street, Baltimore, Maryland; Deaver Smith, 1411 Pennsylvania Avenue, Baltimore, Maryland; Estella Stepney, 2203 McElderry Street, Baltimore, Maryland; Edward Berry Stokes, 3529 Wabash Avenue, Baltimore Maryland; Amanda Clash Stowe, 252 N. Arlington Avenue, Baltimore, Maryland; Gertrude Tate, 705 W. Lanvale Street, Baltimore, Maryland; Samuel P. Taylor, 1827 N. Spring Street, Baltimore, Maryland; Sterling Thomas, 2508 McCulloh Street, Baltimore, Maryland; Rosa O. Virgil, 1637 Appleton Street, Baltimore, Maryland; Mabel Owings Walters, 3213 Piedmont Avenue, Baltimore, Maryland;

Nellie Giles Watts, 1019 Ashburton Street, Baltimore, Maryland; Carrie Giles Watts, 1019 Ashburton, Baltimore, Maryland; Bertye P. Williams, 1600 E. Milliman, Baltimore, Maryland; Marion Wilson, 2331 Druid Hill Avenue, Baltimo. Maryland; Viola W. Wright, 1208 Whitlock Avenue, Baltimore, Maryland; Alvin R. Young, 1821 Druid Hill Avenue, Baltimore, Maryland, and Edna Young, 2025 Druid Hill Avenue, Baltimore, Maryland by Paul J. Cockrell, their Solicitor and pray this Honorable Court that they be given leave to intervene in the above-entitled proceedings and be made party plaintiffs.

WHEREFORE each of the aforegoing Petitioners through Paul J. Cockrell, their Solicitor, pray that this Honorable Court will pass an Order Authorizing and directing that each of the foregoing Petitioners be made party Plaintiffs in the above-captioned case.

Paul J. Cockrell

PAUL J. COCKRELL, ESQ.
1400 N. Patterson Park Ave.
Baltimore 13, Maryland
EA 7 4717
Attorney for Petitioners

MAMIE E. KENNARD, ET. AL.	:	
	:	IN THE
PLAINTIFFS	:	
	:	CIRCUIT COURT OF BALTIMORE CITY
VS.	:	
	:	DOCKET: 99A
MCKAMER REALTY COMPANY, ET. AL.	:	FOLIO: 267
	:	CASE NO: 39097
DEFENDANTS	:	
	:	

ORDER

UPON THE FOREGOING PETITION, it is hereby, this 14th day of January, 1960, ORDERED by the Circuit Court of Baltimore City that each of the Petitioners named in the foregoing Petition be made Party Plaintiffs in the above-captioned Proceedings.

Guy N. Miller
JUDGE

This is to certify that on this 13th day of January 1960, a Copy of the foregoing Petition was mailed to Tucker R. Dearing, Esq., 627 N. Aisquith Street, Baltimore 2, Maryland; Dallas F. Nicholas, Esq., 12 E. Pleasant Street, Baltimore 2, Maryland, Mrs. Juanita Jackson Mitchell, Esq., 1239 Druid Hill Avenue, Baltimore 17, Maryland; Messrs. Williams & Murphy, 2669 Pennsylvania Avenue, Baltimore 17, Maryland, and Walter G. Mylander Jr., and Mylander, Mylander & Atwatter, Esq., 1213 Fidelity Building, Baltimore 2, Maryland, Attorneys for Plaintiffs and Defendants.

Paul J. Cockrell

PAUL J. COCKRELL, ESQ.
1400 N. Patterson Park Ave.
Baltimore 13, Maryland
EA 7 4717
Attorney for Petitioners

Eq 14 January 1960

SUMMONS FOR WITNESS DUCES TECUM

In the Circuit Court of Baltimore City

A 267/1959

duces tecum

The Sheriff will please summon the following witnesses ~~ex~~

9.45 a.m.

returnable to Assignment Commissioner, Jan. 15, 1960 at 10 ~~A.M.~~

Room 419, Court House, commanding and directing him to bring with him all records, letters, communications, memoranda, and data of any kind whatsoever pertaining to his action and the action of his department staff in the matter of the assessment of 2401 Belair Road for municipal tax purposes on 6/12/59 and the protest of and appeal from said assessment by the McKamer Realty Company and the Belair Road Enterprises, Inc.:

Mr. John G. Arthur
Director
Bureau of Assessments
Room 216
Municipal Building
Baltimore, Maryland

to testify for the Plaintiffs

in the case of Mamie E. Kennard, et al vs. McKamer Realty Company, et al, Docket 99A, Folio 267

Henry J. Kuppinger
Clerk of Circuit Court of Baltimore City

A-39097 (11)

Fld. 15-January-1960

MAMIE KENNARD 1322 McCulloh Street Baltimore, Maryland	:	IN THE
	:	CIRCUIT COURT
PLAINTIFF	:	OF
vs.	:	BALTIMORE CITY
McKAMER REALTY COMPANY, et al	:	99A/267/39097
DEFENDANT	:	
	:	

PETITION TO INTERVENE

TO THE HONORABLE, THE JUDGE OF SAID COURT:

NOW COMES, MAMIE FORD TOOMER, 2304 Edgemont Avenue, Baltimore, Maryland, by Fred Kolodner, her attorney, and by way of Petition to Intervene, prays that this Honorable Court pass an Order authorizing and directing the aforegoing Petitioner to be made party Plaintiff in the above entitled case.

Fred Kolodner

FRED KOLODNER
Attorney for Plaintiff

LAW OFFICES OF
FRED KOLODNER
153 EQUITABLE BUILDING
BALTIMORE 2, MARYLAND

A-39097 (12)

MAMIE KENNARD	:	
		IN THE
PLAINTIFF	:	
		CIRCUIT COURT
vs.	:	
		FOR
McKAMER REALTY COMPANY, et al	:	
		BALTIMORE CITY
DEFENDANT	:	
		99A/267/39097
	:	

O R D E R

Upon the foregoing Petition, it is, this 14th day of January, 1960, by the Circuit Court of Baltimore City,

ORDERED:

That the Plaintiff named in the aforegoing Petition, be made party Plaintiff in the above entitled proceedings.

LAW OFFICES OF
FRED KOLODNER
153 EQUITABLE BUILDING
BALTIMORE 2, MARYLAND

THIS IS TO CERTIFY that on this 14th day of January, 1960, a copy of the aforegoing Petition was mailed to Tucker R. Dearing, Esq., 637 N. Aisquith Street, Baltimore 3, Maryland, Dallas F. Nicholas, Esq., 12 E. Pleasant Street, Baltimore 2, Maryland; Mrs. Juanita Mitchell, Esq., 1230 Druid Hill Avenue, Baltimore 17, Maryland; Walter G. Mylander, Jr., of Mylander, Mylander & Atwatter, 1213 Fidelity Building, Baltimore 2, Maryland, and Paul J. Cockrell, 1400 N. Patterson Park Avenue, Baltimore 13, Maryland, Attorneys for Plaintiffs and Defendant.

Fred Kolodner

FRED KOLODNER
Attorney for Plaintiff,
Mamie Ford Toomer

LAW OFFICES OF
FRED KOLODNER
153 EQUITABLE BUILDING
BALTIMORE 2, MARYLAND

Fld. 15 January 1960

MAMIE E. KENNARD, ET. AL.	:	
PLAINTIFFS	:	IN THE
VS.	:	CIRCUIT COURT OF BALTIMORE CITY
MCKAMER REALTY COMPANY, ET. AL.	:	DOCKET: 99A
	:	FOLIO: 267
DEFENDANTS	:	CASE NO: 39097

PETITION TO INTERVENE

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Now comes Rose Freeman, 843 McKim Street, Baltimore, Maryland, by Julius P. Robinson, Esq., her Solicitor, and prays this Honorable Court that she be given leave to intervene in the above-entitled proceedings and be made a Party Plaintiff.

WHEREFORE, your Petitioner, Rose Freeman, through Julius P. Robinson, Esq. her Solicitor, prays that this Honorable Court will pass an Order authorizing and directing that Rose Freeman, the foregoing Petitioner, be made a party Plaintiff in the above-captioned case.

Julius P. Robinson

JULIUS P. ROBINSON
208 E. Lexington Street
Baltimore 2, Maryland
Le 9 2564
Attorney For the Petitioner

A-39097 (13)

MAMIE E. KENNARD, ET. AL.	:	
PLAINTIFFS	:	IN THE
VS.	:	CIRCUIT COURT OF BALTIMORE CITY
MCKAMER REALTY COMPANY, ET. AL.	:	DOCKET: 99A
	:	FOLIO: 267
DEFENDANTS	:	CASE NO: 39097

ORDER

UPON THE FOREGOING PETITION, it is hereby, this 15th day of January, 1960, ORDERED by the Circuit Court of Baltimore City that Rose Freeman, the Petitioner in the foregoing Petition be made a Party Plaintiff in the above-captioned proceedings.

JUDGE

This is to certify that on this 15th day of January, 1960, a Copy of the foregoing Petition was mailed to Tucker R. Dearing, Esq., 627 N. Aisquith Street, Baltimore 2, Maryland; Dallas F. Nicholas, Esq., 12 E. Pleasant Street, Baltimore 2, Maryland, Mrs. Juanita Jackson Mitchell, Esq., 1239 Druid Hill Avenue, Baltimore 17, Maryland, Messrs. Williams & Murphy, 2669 Pennsylvania Avenue, Baltimore 17, Maryland, Walter G. Mylander Jr., Esq., and Mylander, Mylander & Atwatter, Esq., 1213 Fidelity Building, Baltimore 2, Maryland, and Paul J. Cockrell, Esq., 1400 N. Patterson Park Avenue, Baltimore 13, Maryland, Attorneys for Plaintiffs and Defendants.

JULIUS P. ROBINSON
208 E. Lexington Street
Baltimore 2, Maryland
Le 9 2564
Attorney For the Petitioner

Fd. 18 January 1960

LAW OFFICES

DEARING & TOADVINE

627 AISQUITH STREET

BALTIMORE-2, MD.

PEABODY 2-6651

TUCKER R. DEARING
WILLIAM M. TOADVINE

January 16, 1960

A. 267
1959

Clerk of the Court
Circuit Court
Court House
Baltimore 2, Maryland

Re: Mamie E. Kennard, et al
vs. McKamer Realty Company, et al

Dear Sir:

I HEREBY CERTIFY that I have mailed a copy of the Bill of Complaint to the Attorney General of Maryland, 1201 Mathieson Building, this 17th day of January 1960.

Tucker R. Dearing

TRD/gf

A. 39097 (14)

Fld. 18th January 1960

A-418
1959

SUMMONS FOR WITNESS

In the Circuit Court of Baltimore City

The Sheriff will please summon the following witnesses,

returnable Tuesday January 19 1960 at 10 A.M.
Room 497 - Court House

to testify for Plaintiffs
in the case of Kennard, et al.
vs. McKamer Realty Co., et al.

Henry J. Ripperger
Clerk of Circuit Court of Baltimore City

A-39097(15) 61

MAMIE E. KINNARD, ET AL	*	IN THE
COMPLAINANT	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MC KAMER REALTY COMPANY, ET AL	*	1959/A-~~276~~ 267
DEFENDANTS	*	

* * * * * * *

SUMMONS FOR WITNESS

The Sheriff will please summon the following witness, and please issue Subpoena Duces Tecum to John G. Kaufman, 334 St. Paul Place, Baltimore 2, Maryland commanding and directing him to bring with him all records, books, communications, notes and memorandums in his possession or within his reasonable power to produce, pertaining to, or in any way dealing with his ownership in, or his transactions with the New Laurel Cemetery Company; Laurel Cemetery Company; McKamer Realty Company; Belair Road Enterprises, Inc., and Anderson Enterprises, Inc. to testify for Plaintiffs in above case.

returnable Tuesday, January 19, 1960 at 10:00 A. M. Room 417, Court House.

Clerk of Circuit Court for
Baltimore City

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

MAMIE E. KINNARD, ET AL	*	IN THE
COMPLAINANTS	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MC KAMER REALTY COMPANY, ET AL	*	1959/A-~~276~~ 267
DEFENDANTS	*	

* * * * * * *

SUMMONS FOR WITNESS

The Sheriff will please summon the following witness, and please issue Subpoena Duces Tecum to Ellsworth Armacost, 4600 Liberty Heights Avenue, Baltimore 15, Maryland commanding and directing him to bring with him all records, books and memorandums pertaining to or in any way dealing with the removal and re-interrment of daad bodies from Laurel Cemetery, 2300 Block Belair Road, Baltimore, Maryland on and after June 10, 1958 up to and including the present time, to testify for Plaintiffs in the above case.

returnable Tuesday, January 19, 1960 at 10:00 A. M. Room 417, Court House.

Clerk of Circuit Court of
Baltimore City

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

MAMIE E. KENNARD, ET AL	*	IN THE
COMPLAINANTS	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MC KAMER REALTY COMPANY, ET AL	*	1959/A-~~276~~ 267
DEFENDANTS	*	

* * * * * * *

SUMMONS FOR WITNESS

The Sheriff will please summon the following witness, and please issue Subpoena Duces Tecum to Gilbert V. Rubin, Executive Secretary, Board of Municipal and Zoning Appeals, Municipal Building, Baltimore 2, Maryland commanding and directing him to bring with him all records and proceedings before the Board of Municipal and Zoning Appeals in Appeal #1386-59 of McKamer Realty Company and Belair Road Enterprises, Inc., heard before the Board on September 23, 1959 to testify for Plaintiffs in above case.

returnable Tuesday, January 19, 1960 at 10:00 A. M. Room 417, Court House.

Clerk of Circuit Court of
Baltimore City

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

MAMIE E. KENNARD, ET AL	*	IN THE
COMPLAINANTS	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MC KAMER REALTY COMPANY, ET AL	*	1959/A-~~276~~ 267
DEFENDANTS	*	

* * * * * * *

SUMMONS FOR WITNESS

The Sheriff will please summon the following witness, and please issue Subpoena Duces Tecum to James M. Hepbron, Police Commissioner of Baltimore City, Central District, Baltimore 2, Maryland commanding and directing him to bring with him any records of his office of complaints made to his office prior to December 10, 1957 respecting the condition of Laurel Cemetery, and any notes or memorandums in his office dealing with any problem connected with Laurel Cemetery as a cemetery to testify for the Plaintiffs in the above case.

returnable Tuesday, January 19, 1960 at 10:00 A. M. Room 417, Court House.

Clerk of the Circuit Court of Baltimore City

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

MAMIE E. KENNARD, ET AL	*	IN THE
COMPLAINANTS	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MC KAMER REALTY COMPANY, ET AL	*	
		1959/A-~~276~~ 267
DEFENDANTS	*	

* * * * * * *

SUMMONS FOR WITNESS

10

The Sheriff will please summon the following witness, and please issue Subpoena Duces Tecum to Lt. Brayden O'Mailey, 3573 Juneway, Baltimore 13, Maryland commanding and directing him to bring with him all records he has of complaints to the Fire Department of Baltimore City respecting the condition of Laurel Cemetery prior to December 10, 1957, and nay notes or memorandums he has dealing with any problem connected with Laurel Cemetery to testify for Plaintiffs in the above case.

23

returnable Tuesday, January 19, 1960 at 10:00 A. M. Room 417, Court House.

Clerk of Circuit Court of
Baltimore City

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

MAMIE E. KENNARD, ET AL	*	IN THE
COMPLAINANTS	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MC KAMEY REALTY COMPANY, ET AL	*	1959/A-~~276~~ 267
DEFENDANTS	*	

* * * * * * *

SUMMONS FOR WITNESS

The Sheriff will please summon the following witness, and please issue Subpoena Duces Tecum to George O. Motry, Division of Community Sanitation, Baltimore City Health Department, Municipal Building, Baltimore 2, Maryland commanding and directing him to bring with him all records of his office pertaining to complaints to his office respecting the condition of Laurel Cemetery prior to December 10, 1957, and action taken by his office respecting such complaints to testify for the Plaintiffs in the above entitled case.

returnable Tuesday, January 19, 1960 at 10:00 A. M. Room 417, Court House.

Clerk of the Circuit Court of Baltimore City

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

MAMIE E. KENNARD, ET AL	*	IN THE
COMPLAINANTS	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MC KAMER REALTY COMPANY, ET AL	*	1959/A ~~276~~ 267
DEFENDANTS	*	

* * * * * * *

SUMMONS FOR WITNESS

25

The Sheriff will please summon the following witness, and please issue Subpoena Duces Tecum to Edward A. Anderson, 2326 Belair Road, Baltimore 13, Maryland commanding and directing him to bring with him all records, books, papers, communications, minutes of Board of Directors meetings of Anderson Enterprises, Inc., which he has or which are within his power to produce pertaining to or in any way dealing with; the purchase and ownership of lots by Anderson Enterprises, Inc., in the Laurel Cemetery, 2300 Block Belair Road, Baltimore City; his duties as Trustee appointed by Order of the Circuit Court of Baltimore City on June 10, 1958 in the case of McKamer Realty Company vs. Anderson Enterprises, Inc., Et Al for the purpose of (1) Purchasing a new burial ground, (2) Removing and re-interring the bodies from Laurel Cemetery, (3) Sale of the real estate for the best possible price; his personal interest of whatever nature in (1) The Laurel Cemetery Company, (2) The New Laurel Cemetery Company, (3) The McKamer Realty Company, (4) The Belair Road Enterprises, Inc., to testify for the Plaintiffs in the above entitled case.

returnable Tuesday, January 19, 1960 at 10:00 A. M. Room 417, Court House.

Clerk of the Circuit Court of Baltimore City

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

MAMIE E. KENNARD, ET AL	*	IN THE
COMPLAINANTS	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MC KAMER REALTY COMPANY, ET AL	*	1959/A-~~276~~ 267
DEFENDANTS	*	

* * * * * * *

SUMMONS FOR WITNESS

The Sheriff will please summon the following witness, and please issue Supboena Duces Tecum to Harrison L. Winter, Esquire, City Solicitor for Baltimore City, Room 505, Court House, Baltimore 2, Maryland commanding and directing him to bring with him File 85512 in its entirety as referred to by Clement R. Mercaldo, Esquire, Assistant City Solicitor, in testimony before William C. Baxter, Examiner, on April 24, 1958 in the case of McKamer Realty Company vs. Anderson Enterprises, Inc., Et Al then pending in the Circuit Court of Baltimore City, and any and all other files in his office relating directly thereto to testify for the Plaintiffs in above entitled case.

returnable Tuesday, January 19, 1960 at 10:00 A. M. Room 417, Court House.

Clerk of Circuit Court of
Baltimore City

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

MAMIE E. KENNARD, ET AL	*	IN THE
COMPLAINANTS	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MC KAMER REALTY COMPANY, ET AL	*	1959/A-~~276~~ 267
DEFENDANTS	*	

* * * * * * *

SUMMONS FOR WITNESS

The Sheriff will please summon the following witnesses:

14 Carlita Paige
1700 Westwood Avenue
Baltimore 17, Maryland SP

18 Mr. Edward Berry Stokes
3529 Wabash Avenue
Baltimore 15, Maryland Sd

10 John E. Johnson
604 Brune Street
Baltimore 1, Maryland M

6 Alverta Peele Craig
623 N. Maderia Street
Baltimore 5, Maryland Sd

10 Deaver Smith
1411 Pennsylvania Avenue
Baltimore 17, Maryland M

6 Mrs. Estelle Stephney
2203 McEldery Street
Baltimore 5, Maryland Sd

14 Mrs. Mary Roy
1137 N. Carey Street
Baltimore 17, Maryland SP

11 Mrs. Pauline Jackson
2008 Madison Avenue
Baltimore 17, Maryland Sd

11 Mrs. Zenobia J. Hollis
1918 N. Bentalou Street
Baltimore 16, Maryland Sd

10 Mrs. Anita Scott
624 Dolphin Street
Baltimore 17, Maryland Sd

10 Mrs. Dorothy Dyer
639 W. Lafayette Avenue
Baltimore 17, Maryland M

10 Mrs. Ella Brooks
639 W. Lafayette Avenue
Baltimore 17, Maryland M

13 Rev. Silas Mack
1826 Edmondson Avenue
Baltimore 23, Maryland Sd

9 Officer Carroll Dent
Baltimore City Police Dept.
Pine Street Station Sd

3 C. Hurley Cox, Esquire
424 Equitable Building
Baltimore 2, Maryland M

3 Clement R. Mercaldo, Esquire
36 Equitable Building
Baltimore 2, Maryland M

3 Robert B. Watts, Esquire
1520 E. Monument Street
Baltimore 5, Maryland Sd

10 Dr. H. Maceo Williams
Druid Health Center
1313 Druid Hill Avenue
Baltimore 17, Maryland M

3 Dr. Huntington R. Williams
Baltimore City Health Department
Municipal Building
Baltimore 2, Maryland M

10 Gertrude Tate
705 W. Lanvale Street
Baltimore 1, Maryland M

10 Edith Campbell
711 Dolphin Street
Baltimore 1, Maryland M

13 Alice R. Keys
822 N. Fremont Avenue
Baltimore 17, Maryland Sd

11 Edna Young
2025 Druid Hill Avenue
Baltimore 17, Maryland M

10 Mamie Kennard
1322 McCulloh Street
Baltimore 17, Maryland M

25 Dorothy M. Klipper Sd
2117 Lake Montibello Terrace
Baltimore 18, Maryland

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

Lloyd G. McAllister, Esquire
City Solicitors Office
Room 505, Court House
Baltimore 2, Maryland

returnable Tuesday, January 19, 1960 at 10:00 A. M. Room 417, Court House.

Clerk of Circuit Court of
Baltimore City

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

MAMIE E. KENNARD, et al	*	IN THE
	*	CIRCUIT COURT
	*	OF
VS.	*	BALTIMORE CITY
	*	
McKAMER REALTY COMPANY	*	Docket 99A Folio 267
	*	
	*	

SUBPOENA DUCES TECUM

Mr. Clerk:

Please subpoena duces tecum the following named person to testify for the Plaintiffs in the above entitled case and make the same returnable to the Assignment Commissioner, Room 419 in the Court House of Baltimore City, St. Paul and Lexington Streets, 9:45 a.m. Tuesday, January 19, 1960:

3.

Mr. John G. Arthur
Director
Bureau of Assessments
Room 216
Municipal Building
Baltimore, Maryland

to bring with him all records, papers, communications and data of every kind whatsoever pertaining to his and the action of his department staff in the matter of the assessment of 2401 Belair Road for municipal tax purposes on 6/12/59 and the protest of and appeal from said assessment by the McKamer Realty Company and the Belair Road Enterprises, Inc.

Juanita Jackson Mitchell
JUANITA JACKSON MITCHELL
Solicitor for the Plaintiffs

Fld. 18th January 1960

SUMMONS FOR WITNESS

In the Circuit Court of Baltimore City

A 418/1959

The Sheriff will please summon the following witnesses,

returnable Tuesday, January 19th **at 10 A.M.**

in Room 419, Assignment Commissioner, Court House

6 Senator Joseph V. Mach
2408 E. Madison Street
Baltimore 5, Maryland

BR-6-9737

to testify for Plaintiffs

in the case of Mamie E. Kennard, et al

vs. McKamer Realty Company

Henry J. Ruppert
Clerk of Circuit Court of Baltimore City

A-39097 (16) 73

MAMIE E. KENNARD, et al	*	IN THE
	*	CIRCUIT COURT
VS.	*	OF
	*	BALTIMORE CITY
McKAMER REALTY COMPANY	*	Docket 99A Folio 26
	*	

* * * * * * *

SUBPOENA DUCES TECUM

Mr. Clerk:

Please subpoena duces tecum the following named person to testify for the Plaintiffs in the above entitled case and make the same returnable to the Assignment Commissioner, Room 419 in the Court House of Baltimore City, St. Paul and Lexington Streets, 9:45 a.m. Tuesday, January 19, 1960:

Mr. Edward Hamlett
317 East Street
Baltimore 2, Maryland

to bring with him all records, papers, of any kind whatsoever with regard to burials in Laurel Cemetery.

Juanita Jackson Mitchell

JUANITA JACKSON MITCHELL
Solicitor for the Plaintiffs

Fd. 19 January 1960

MAMIE E. KENNARD, et al. Plaintiffs vs. McKAMER REALTY COMPANY, et al. Defendants	)	IN THE CIRCUIT COURT of BALTIMORE CITY A. 418/1959

ANSWER

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The State of Maryland, by C. Ferdinand Sybert, Attorney General, and James H. Norris, Jr., Spec. Asst. Attorney General, in answer to the Bill of Complaint filed in this cause, respectfully says:

That a copy of the Bill of Complaint in the above entitled cause has been served on the Attorney General in accordance with Section 11 of Article 31A of the Annotated Code of Maryland (1957 Ed.); that we have examined said Bill of Complaint, and the State does not desire to be heard.

AND as in duty bound, etc.

C. Ferdinand Sybert
C. Ferdinand Sybert
Attorney General

James H. Norris, Jr.
James H. Norris, Jr.
Spec. Asst. Attorney General
Attorneys for State of Maryland
1201 Mathieson Building
Baltimore 2, Maryland
Lexington 9-5413

I hereby certify that on this 18th day of January, 1960, a copy of the aforegoing Answer was mailed to Tucker R. Dearing, Esq. 627 North Aisquith Street, Baltimore 2, Maryland, Dallas F. Nicholas, Esq., 14 East Pleasant Street, Baltimore 2, Maryland, Mrs. Juanita Jackson Mitchell, 1239 Druid Hill Avenue, Baltimore 17, Maryland, Messrs. Williams & Murphy, 2669 Pennsylvania Avenue, Baltimore 17, Maryland, Attorneys for Plaintiffs, and to Walter C. Mylander, Jr. Esq., and Charles C. W. Atwater, Esq., 1213

A-39097 (17)

Fidelity Building, Baltimore 2, Maryland, counsel for Defendants McKamer Realty Company and Belair Road Enterprises, Inc.

James H. Norris, Jr.
Spec. Asst. Attorney General

MAMIE E. KENNARD, et al	*	IN THE
	*	CIRCUIT COURT
VS.	*	OF
	*	BALTIMORE CITY
McKAMER REALTY COMPANY	*	Docket 99A Folio 26
	*	

* * * * * * *

IMMEDIATE SUBPOENA DUCES TECUM

Mr. Clerk:

Please subpoena duces tecum the following named person to testify for the Plaintiffs in the above entitled case and make the same returnable to the Assignment Commissioner, Room 419 in the Court House of Baltimore City, St. Paul and Lexington Streets, ~~9:45~~ 11 a.m. Tuesday, January 19, 1960:

Mr. Albert Ward
Director
State Department of Assessments
301 E. Preston Street
Baltimore 2, Maryland

to bring with him the Personal Property Reports filed by the McKamer Realty Company, 36 Equitable Building, Baltimore, Maryland, for the years 1957, 1958, and 1959.

Juanita Jackson Mitchell
JUANITA JACKSON MITCHELL
Solicitor for the Plaintiffs

Fld. 19th January 1960

SUMMONS FOR WITNESS

A-418
1959

In the Circuit Court of Baltimore City

The Sheriff will please summon the following witnesses,

returnable IMMEDIATELY at 10 A.M.
Room 419 - Court House

to testify for Plaintiffs
in the case of Kennard, et al.
vs. McKamey Realty Co. et al.

Henry J. Reppert
Clerk of Circuit Court of Baltimore City

A-39097 (18) 78

Fld-22-January 1960

SUMMONS FOR WITNESS

A-418
1959

In the Circuit Court of Baltimore City

1959/A-267

The Sheriff will please summon the following witnesses,

returnable Monday, January 25, 1960 in Room 417 Court Hous **at 10 A.M.**

Sydney Norton, Director
Bureau of Vital Records
Baltimore City Health Department
Municipal Building
Baltimore 2, Maryland

to testify for Plaintiffs

in the case of Mamie E. Kennard vs. McKamer Realty Company, Et Al

vs.

Henry J. Ruppersberger
Clerk of Circuit Court of Baltimore City

A-39097 (19) 79

MAMIE E. KENNARD, ET AL	*	IN THE
COMPLAINANTS	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MC KAMER REALTY COMPANY, ET AL	*	1959/A-276
DEFENDANTS	*	

* * * * * * *

SUMMONS FOR WITNESS

The Sheriff will please summon the following witness, and please issue Subpoena Duces Tecum to Henry J. Ripperger, Clerk of the Circuit Court of Baltimore City, Room 410, Court House, Baltimore 2, Maryland commanding and directing him to bring with him all records of said Court in the case of McKamer Realty Company vs. Anderson Enterprises, Inc., Et Al, Docket 1957, Folio A-878, to testify for Plaintiffs in the case of:

MAMIE E. KENNARD, ET AL

VS.

MC KAMER REALTY COMPANY, ET AL

returnable Friday, January 15, 1960 at 10:00 A.M., Room 417, Court House

A-37485

Clerk of Circuit Court of Baltimore City

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

MAMIE E. KENNARD, ET AL	*	IN THE
COMPLAINANTS	*	CIRCUIT COURT OF
VS.	*	BALTIMORE CITY
MC KAMER REALTY COMPANY, ET AL	*	1959/A-276
DEFENDANTS	*	

* * * * * * *

SUMMONS FOR WITNESS

The Sheriff will please summon the following witness, and please issue Subpoena Duces Tecum to Henry J. Ripperger, Clerk of the Circuit Court of Baltimore City, Room 410, Court House, Baltimore 2, Maryland commanding and directing him to bring with him all records of said Court in the case of McKamer Realty Company vs. Anderson Enterprises, Inc., Et Al, Docket 1957, Folio A-878, to testify for Plaintiffs in the case of:

MAMIE E. KENNARD, ET AL

VS.

MC KAMER REALTY COMPANY, ET AL

returnable Friday, January 15, 1960 at 10:00 A.M., Room 417, Court House

_____

Clerk of Circuit Court of Baltimore City

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

MAMIE E. KENNARD, et al	*	IN THE
	*	CIRCUIT COURT
VS.	*	OF
	*	BALTIMORE CITY
McKamer Realty Company	*	Docket 99 A
	*	Folio 26
	*	

~~Immediate~~ SUBPOENA DUCES TECUM

Mr. Clerk:

Please subpoena duces tecum the following named person to testify for the Plaintiffs in the above entitled case and make the same returnable to the Assignment Commissioner, Room 419 in the Court House of Baltimore City, St. Paul and Lexington Streets, ~~9:45 a.m. Monday~~ Tuesday, January ~~25~~ 26, 1960: 9:45 a.m.

Dr. Carl Everstine
Director
Department of Legislative Reference
Room 311
City Hall

to bring with him all communications, records, index cards, papers and data of any kind whatsoever pertaining to the legislative history and the introduction and passage of House Bill 594 into the State Legislature of 1957 (which became Chapeter 630 of the acts of 1957) and the introduction and passage of Ordinance 2745 in the City Council of Baltimore in 1959 which rezoned 1500 Belair Road and Elmsley Avenue in Baltimore City.

Juanita Jackson Mitchell
JUANITA JACKSON MITCHELL
SOLICITOR FOR THE PLAINTIFFS

Fld. 25 January 1960

A-418
1959

SUMMONS FOR WITNESS

In the Circuit Court of Baltimore City

The Sheriff will please summon the following witnesses,

returnable Tuesday January 26, 1960 at 9:45 A.M.
Room 419 - Court House

to testify for Plaintiffs

in the case of Kerkhoff, et al.

vs. McKamey Realty Co., et al.

Henry J. Ruppert
Clerk of Circuit Court of Baltimore City

A-39097 (20) 83

Fd. 27" January 1960

Summons Plaintiffs Witness

SUMMONS FOR WITNESS

NOTE: Above named/[redacted] Missing from Record.

A-39097 (21)

Fd. 4 March 1960

MAMIE E. KENNARD, et al.	*	IN THE CIRCUIT COURT
Plaintiffs	*	OF
vs.		BALTIMORE CITY
McKAMER REALTY COMPANY, et al.	*	Docket 99A, Folio 267-418
Defendants	*	No. 39097

* * * * * * * * * * *

SUPPLEMENTAL ANSWER

Pursuant to leave granted upon application in open Court, this Supplemental Answer is filed in behalf of McKamer Realty Company and Belair Road Enterprises, Inc., both Defendants in this cause, and said Defendants respectfully show:

FIRST: On May 1, 1959, the same day that the instant case was filed in this Court, there was also instituted in this Court against these same Defendants another action entitled "Julia Jones vs. The McKamer Realty Co. and Belair Road Enterprises, Inc.", Docket 1959 A, Folio 266, File No. A 39096.

SECOND: The Bill of Complaint mentioned in paragraph FIRST above (therein called "Petition") alleges:

> "2. That this Petition is filed by your Plaintiff on behalf of herself and all others similarly situated whose numbers make it impractical to bring them all before the Court but who seek common relief upon common questions of law and fact."

THIRD: Said action was filed by Paul J. Cockrell, Esquire, Attorney for the Plaintiff therein, and that the said Paul J. Cockrell also filed in the instant case herein a petition on behalf of seventy-two additional Plaintiffs to intervene in this action. Said Petition to Intervene was

A-39097 (22)

granted, and said seventy-two persons are now parties Plaintiff herein, represented by said Attorney.

FOURTH: Said action hereinabove mentioned alleged substantially the same facts as are alleged herein; attacked and sought to reopen the same former Decree of this Court which is herein attacked and sought to be reopened, namely, that passed in a proceeding entitled "McKamer Realty Company vs. Anderson Enterprises, Inc., et al.", Docket 97 A, Folio 878; and sought the same relief as is herein prayed.

FIFTH: On May 6, 1959, five days after the filing of the instant case, there was also filed in this Court, against these same Defendants, another action entitled "Lillian Waters, Plaintiff vs. McKamer Realty Company and Belair Road Enterprises, Inc., Defendants", Docket 1959 A 266, File No. 39107.

SIXTH: Said last named action, while it did not expressly so allege, was inherently a class action on behalf of the Plaintiffs herein and others and was filed by Miss Juanita Jackson Mitchell and Messrs. Williams and Murphy, all of whom are also attorneys for the Plaintiffs in the instant case.

SEVENTH: Said action mentioned in paragraph FIFTH above also alleged substantially the same facts as are alleged herein; also attacked and sought to reopen the same said former Decree of this Court which is herein attacked and sought to be reopened; and also sought the same relief as is herein prayed.

EIGHTH: Said two actions, mentioned in paragraphs FIRST and FIFTH above, and the instant case were all assigned for trial together before the Honorable S. Ralph Warnken, then the Judge sitting in this Court,

on Thursday, December 17, 1959, but were not reached for hearing on the trial assignment for that day and were held in the assignment for trial on the following day, December 18, 1959. Said two actions, mentioned in paragraphs FIRST and FIFTH were heard and decided by this Court on said date, and Decrees were then entered therein dismissing them, but the instant case was not then submitted because of the illness of Dallas Nicholas, one of counsel for the Plaintiffs herein, although two of the other attorneys for the Plaintiffs herein, namely, Archie D. Williams, Esquire, and Paul Cockrell, Esquire, participated in the hearing and argument of said cases.

NINTH: Appeals from the Decrees of this Court in both of said cases to the Court of Appeals of Maryland have been entered.

TENTH: That the subject matter hereof is res adjudicated by the Decrees of this Court in said two mentioned cases. Regardless of the action of this Court herein, if it proceeds in this action prior to the determination of said appeals, the questions of (1) the constitutionality of Article 16, Section 120, 1957 Code, and (2) the right to a review of the Decree of this Court in the case of McKamer Realty Company will be finally determined by the Court of Appeals, and, if said Court of Appeals reverses this Court, those cases will be remanded for review again, so that litigation will, in such case, be wrongly duplicated, and these Defendants will be grievously harrassed.

WHEREFORE, these Defendants pray:

1. That the questions (a) of the constitutionality of Article 16, Section 120, 1957 Code, and (b) of the Plaintiff's right to review be declared res adjudicated, and

2. That these proceedings be stayed pending the determination of the aforesaid appeals, so that this case may be consolidated with said other cases for trial in the event the Decrees of this Court in said cases should be reversed and said cases remanded for a review of the Decree of this Court in the case of McKamer Realty Company, Plaintiff vs. Anderson Enterprises, Inc.

AND, as in duty bound, etc.

Walter C. Mylander, Jr.

Walter C. Mylander, Jr.

Charles C. W. Atwater

Charles C. W. Atwater
Solicitors for Defendants

(2) Fld. 4th March 1960

MAMIE E. KENNARD, ET. AL.	:	
PLAINTIFFS	:	
VS.	:	IN THE
MCKAMER REALTY COMPANY, ET. AL.	:	CIRCUIT COURT OF BALTIMORE CITY
DEFENDANTS	:	DOCKET: 99A FOLIO: 267 - 418 CASE NO.: 39097

PETITION FOR LEAVE TO AMEND BILL OF COMPLAINT

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Pursuant to leave granted upon application in open Court, this Petition for leave to Amend the original Bill of Complaint plus granted interlineations in behalf of Plaintiffs in the above-captioned case respectfully shows:

FIRST: That at the time of the filing of suit in the above-captioned case, your Plaintiffs were not aware that Clement R. Mercaldo, Lloyd G. McAllister, and ~~H~~ John G. Kaufman had formed a Partnership prior to the incorporation of the McKamer Realty Company and the Belair Road Enterprises for purposes of acquiring for Private investment the Laurel Cemetery Land known as 2401 Belair Road, Baltimore City in the State of Maryland;

SECOND: That since the time that this suit was filed, the existence of such Partnership has been disclosed as a result of Evidence produced in this Honorable Court by way of testimony and Records brought in through Subpoenas Deuces Tecum, which Testimony and Records tend to establish that the said Partnership is a continuing one lasting from the time of its original inception, surviving the incorporation of the aforesaid McKamer Realty Co., and the Belair Road Enterprises, Inc. and is still in existence at the time of the filing of this Petition;

THIRD: That since the time that this suit was filed, the existence of certain relationships between Anderson Enterprises, Incorporated, and Edward A. Anderson, Resident Agent, individually and as Trustee for the sale of the Laurel Cemetery Land to Belair Road Enterprises has been disclosed as a result of Evidence produced in this Honorable Court by way of testimony and Records brought in through Subpoenas Deuces Tecum, which Testimony and Records tend to indicate that such parties should be made party Defendants in the instant case;

A-39097 (23)

FOURTH: That paragraph (j) of the original Bill in this case prays: "That your Complainants may have such other and further relief as the nature of their cause may require;"

FIFTH: That for a proper hearing, determination, and disposition of the matter in the instant case and with a view towards avoiding multiplicity of suits, duplications of time, effort, etc., and further, with a view towards incorporating all matters that can reasonably be ascertained, resolved, and determined between the parties involved in the instant case, it is desirous that the aforesaid Clement R. Mercaldo, Lloyd G. McAllister, and Harold J. Kaufman, individually and trading as the Partnership of Mercaldo, McAllister, and Kaufman be made parties defendant in the instant case; and further, that the Anderson Enterprises, Incorporated, and Edward A. Anderson, Resident Agent, individually and as Trustee for the sale of the Laurel Cemetery Land to Belair Road Enterprises be made parties Defendant to the instant case for like reasons.

WHEREFORE your Petitioners through W.A.C. Hughes Jr., Juanita Jackson Mitchell, Tucker R. Dearing, Paul J. Cockrell, Dallas Nicholas, Archie Williams, and Julius P. Robinson, their Attorneys respectfully move this Honorable Court that the said Clement R. Mercaldo, Lloyd G. McAllister, and Harold J. Kaufman, individually and trading as the Partnership of Mercaldo, McAllister, and Kaufman be made parties Defendants in the instant case; and, further that Anderson Enterprises, Incorporated, and Edward A. Anderson, Resident Agent, individually and as Trustee for the sale of the Laurel Cemetery Land to Belair Road Enterprises be made parties Defendant to the instant case.

W.A.C. Hughes Jr.
Paul J. Cockrell
Tucker R. Dearing
Juanita J. Mitchell
Archie D. Williams
Julius P. Robinson

Attorneys for Petitioners

MAMIE E. KENNARD, ET. AL.	:	
PLAINTIFFS	:	IN THE
VS.	:	CIRCUIT COURT OF BALTIMORE CITY
MCKAMER REALTY COMPANY, ET. AL.	:	DOCKET: 99A
	:	FOLIO: 267
DEFENDANTS	:	CASE NO.: 39097

ORDER

UPON THE FOREGOING Petition, it is hereby this _____ day of January, 1960, ORDERED by the Circuit Court of Baltimore City that the said Clement R. Mercaldo, Lloyd G. McAllister, and Harold J. Kaufman, individually and trading as the Partnership of Mercaldo, McAllister, and Kaufman be made parties Defendants in the instant case; and further, that the Anderson Enterprises, Incorporated, and Edward A. Anderson, Resident Agent, individually and as Trustee for the sale of the Laurel Cemetery Land to Belair Road Enterprises be made parties Defendant in the instant case.

_____
JUDGE

Above order denied during trial and upon presentation of this order. Charles Sodaro March 4-60

(3) Fld. 4 March 1960

A-418
1959

MAMIE E. KENNARD et al	*	IN THE
	*	
	*	CIRCUIT COURT
vs.	*	
	*	OF
McKAMER REALTY COMPANY and BELAIR ROAD ENTERPRISES, INC.	*	BALTIMORE CITY
	*	
	*	
	*	

- - - -

MEMORANDUM

This Bill of Complaint, as well as the first proceeding of McKamer Realty Company vs. Anderson Enterprises, Inc., (Docket 1957-A 878 No. 3748), concerns the sale of Laurel Cemetery, and the removal of bodies and stones therefrom to another burial ground, under the authority of Section 120 of Article 16 of the Annotated Code of Maryland.

The first proceeding was brought by the corporate owner of the land comprising the cemetery against all known and unknown owners of burial rights and interest in and to the cemetery land. Service was had by way of publication on all the unknown owners of burial rights and interests in lots comprising the cemetery. The matter was referred to William C. Baxter, Special Master, for the purpose of hearing testimony on the issues raised, and to report his findings and conclusions of law to the Court.

After the hearing before the Special Master, held on April 24, 1958, and on May 16, 1958, said Special Master submitted the following Report on May 27th, 1958:

> "The Bill of Complaint filed by the McKamer Realty Company, a corporation of the State of Maryland against the Anderson Enterprises, Inc., Edward A. Anderson, President, and McCartney Sorrell, Jacob Owings, Robert Wilson, Durious Stokes, et al, for the purpose of selling a cemetery where all or more than 75% of its acreage has been abandoned and where said cemetery lies within the boundary limits of Baltimore City and for the appointment of a Trustee to carry out such sale. Art. 16, Sec. 124-A.
>
> Proof shows that an order of Publication was directed to the following Defendants: McCartney Sorrell,

A-39097 (24)

Jacob Owings, Robert Wilson, Durious Stokes, William T. Hopkins, Theodore B. Brown, Elizabeth B. Chambers, Warner T. McGwinn, Anna M. Dutton, Mary L. Oliver, James Diven and Mrs. George W. Bowser, none of whose addresses was known to the Plaintiff corporation and any unknown parties in interest.

Proof shows that an Answer was filed in the proceedings on behalf of Anderson Enterprises, Inc., and Edward A. Anderson, President, and a decree pro confesso was passed as to the other Defendants on April 14, 1958 following which testimony was taken before me on April 24, 1958.

The sworn testimony produced by the Plaintiff to substantiate the allegations in the Bill of Complaint was given by Clement R. Mercaldo, Officer Carroll Dent of the Baltimore City Police Dept., Lt. Brayden O'Mailey of the Baltimore City Fire Dept., George O. Motry, Chief of the Division of Community Sanitation of Baltimore City, C. Hurley Cox, an attorney at law, representing the Belair Road Edison Improvement Association, wherein the cemetery lies, Edward A. Anderson, one of the Defendants, and an owner of certain lots within the cemetery and John G. Kaufman, a realtor, who at one time owned the cemetery by ownership of its stock, the New Laurel Cemetery, Inc.

Proof shows convincingly that the cemetery has been abandoned and that the owners of lots therein with the obligation to maintain said lots in good order have failed to do so, and without obligation on the part of the Plaintiff to maintain said lots in good order, that the health, safety and welfare of the citizens of Baltimore and particularly those living in the immediate vicinity of said cemetery is affected thereby. In addition to these conditions the testimony of the Baltimore City policeman was to the effect that because of high grass and underbrush, certain other fallen markers and tomb stones and other obstacles, that that section provides a haven for people with criminal intent and an incident was related as to an actual happening of an attack. The fireman witness, to particularize his testimony, said that the conditions prevailing were hazardous in that they, on the average of two or three times every summer, are called to the cemetery to put out brush fires.

Following the testimony of these witnesses I personally went to the cemetery and I agree with the witnesses and their statements in that it is in a deplorable state of condition, that it has been abandoned and that it would be for the best interest of the public and persons living within the vicinity, as well as the owners of all lots and areas of land within said cemetery that the same be sold.

Proof shows that title to this cemetery was acquired by the Plaintiff by a Deed dated June 27, 1957 by and between H. Carl Butler of Baltimore City, State of Maryland, a Trustee in bankruptcy and the Plaintiff corporation, said Deed being recorded in the Land Records of Baltimore City,

Liber, J.F.C. 185, folio 385.

The Act provides that in the sale of cemeteries under the Section of the Code above referred to, for the removal of any and all bodies with reasonable care that can be definitely located and identified in a cemetery and for the reinterment of said bodies in another cemetery or burial ground or other appropriate place of sepulcher and for the removal of any monuments or markers on the lots in the cemetery or burial ground that has been and is being maintained in good order and condition, not damaged and in good condition and re-locate it on a new lot or lots purchased by the Trustee in another cemetery, burial ground or other appropriate place of sepulcher and for the removal of monuments or markers located in said cemetery or burial ground which are not damaged, but are in good condition which can be definitely identified with a body or bodies, who is or are removed from said cemetery or burial ground and for the re-erection of such monuments or markers at the new lot.

Proof shows further that while the cemetery has unquestionably been abandoned that there was on December 31, 1957 a body interred there which has since been identified as having been James R. Nicholas and that an effort was made to have the grave digger who interred this body testify in these proceedings, but all efforts have been to no avail and that body will be removed along with all other identifiable bodies which with reasonable care can be removed as provided by said Act.

Counsel for the Plaintiff has suggested and recommended that the Trustee furnish a corporate bond in the penalty of $18,000. to be approved by the Clerk of this Court.

Proof shows that all known as well as unknown parties having any interest in this matter or in the proceedings have been made either parties Complainant or Defendant.

The allegations in the Bill of Complaint, in my opinion, are substantially proved and it is my recommendation that the relief prayed in the Bill of Complaint be granted and that a Trustee be appointed to make the sale.

Case ready for Decree 6-9-58."

Accordingly, on June 10, 1958, the Honorable Joseph L. Carter signed a Decree in conformity with the Report of the Master, directing the sale of the real estate and appointing Edward A. Anderson, Trustee, to make the sale and establishing the terms and conditions of the sale. The Auditor's Report and Account of Sale was finally ratified and confirmed on March 20, 1959.

On May 1, 1959, a Bill of Complaint was filed by one Julia Jones, a cemetery lot owner, against the McKamer Realty Company and Belair Road Enterprises, Inc., and on May 6, 1959, one Lillian Waters, another cemetery lot owner, also filed a Bill of Complaint against the McKamer Realty Company and Belair Road Enterprises, Inc. (Docket No. A-39096/1959 and No. A-39107/1959 respectively), through the same counsel in the instant proceedings, requesting that the Decree signed by the Honorable Joseph L. Carter be set aside; that the Defendants be enjoined from entering and trespassing on Laurel Cemetery, and requiring the Defendants to restore the property of the Complainants to the status it had prior to the passage of said Decree. Both of these cases came on for hearing on December 18, 1959, after which the Honorable S. Ralph Warnken ordered that the two Bills of Complaint be dismissed with prejudice, with the following comment: "I cannot see that there is any constitutional invalidity in these cases. Of course, a lot of discussion about this matter appeared in the press and is still in people's minds, but that had no effect in the consideration of legal questions which must be decided according to the applicable legal principles. We are therefore only concerned in these cases with legal principles, and I cannot find anything here that would justify me in setting aside the decree passed in the former proceeding in which all these points were actually made before Judge Carter and ruled on by him. Therefore I will have to sign a decree dismissing the present Bills".

An Appeal was noted on January 14, 1960, in the Julia Jones case, and a similar Appeal was noted in the Lillian Waters case on January 18, 1960.

On May 1, 1959, simultaneously with the filing of the Julia Jones case, the instant proceeding was filed by a large

number of cemetery lot owners in the form of a Bill of Complaint for Review, to Clear Title, To Remove Cloud, To Discover and Account, For a Declaratory Judgment, and For a Preliminary and Permanent Injunction, in which they specifically requested the Court to decree:

(1) The rights and legal relations of the party;

(2) To set aside the original Decree of Judge Joseph L. Carter in the case above mentioned, and cancel all deeds conveying the subject property to the Belair Road Enterprises, Inc.;

(3) To declare Article 16, Section 120, of the Annotated Code of Maryland, on which the sale was based, unconstitutional for reason that said Statute abrogates the contracts of the said Complainants; that it is an Ex Post Facto law; and

(4) That the Court issue an Order enjoining the Defendant, Belair Road Enterprises, Inc., from any further action with regard to the subject property.

In effect, the Court is asked to again review the first proceeding and the Decree of Judge Carter entered in this matter on June 10, 1958, as well as the ratification of the Auditor's Report and Account on March 10, 1959.

These proceedings raise two basic questions: the first question is the right of the Complainants, on the basis of the Bill of Complaint filed by them, to have this Court reopen and reexamine the proceedings in the former case; and the second question to be decided, if the Court finds that grounds exist to reopen the said proceeding and review them, will be the rights, if any, of the Complainants which they are entitled to enforce in the previous proceedings.

The Complainants are entitled to a review of the proceedings in the previous case only after proof of fraud.

In determining whether the Court should exercise its revisory power over the enrolled Decree of Judge Carter, the

Court must be satisfied that said Decree was enrolled because of fraud, mistake or irregularity, and whether in fact Judge Carter was deceived in any manner and particularly by any false and fraudulent representations by the Defendants.

All Decrees have been enrolled pursuant to Rule 671 of the Maryland Rules and, therefore, the Court has no authority to reopen any of said Decrees except upon the proof that such Decrees were entered by fraud, or for errors of law apparent on the face of the Decree or for newly discovered matter since the Decree. No allegations are made of newly discovered matters. Millers Equity Procedure, Section 287-295; Luckett v. Jay, 12 G & J 69. See also Pugh v. Waclawski, 211 Md. 346; Herbert v. Rowles, 30 Md. 271; Richardson v. Richardson, 217 Md. 316.

The revisory power of the Court over an enrolled Decree as stated in Rule 625 of the Maryland Rules applies "only in case of fraud, mistake or irregularity". This rule merely restates in substance the rule of common law. Pumphrey v. Grapes, 215 Md. 573.

Numerous allegations of fact are made in the Bill of Complaint, and much testimony was offered concerning the alleged rights of the Complainants, which they contend were illegally taken away from them in the prior proceedings. However, the allegations and testimony are immaterial unless the Court finds that the Decree was obtained by fraud.

I have carefully reviewed the exhibits, and the testimony taken before the Special Master, the findings of the Special Master after a personal inspection of Laurel Cemetery, and have reviewed the testimony of the same witnesses in the instant proceedings. I have come to the conclusion that there is no

variance between the testimony before the Special Master and that produced before this Court. In my opinion, the Report and Recommendation of the Special Master were proper and fully justified. On the testimony before me I cannot find that any fraud, mistake or irregularity was perpetrated to deceive the Court.

Notwithstanding this conclusion, and because of the desire of all the parties to have the other issues raised adjudicated, the Court will consider them at this time.

The contention is made that due process of law required that actual notice be given to the Complainants and the members of their class of the condemnation proceedings. Although it is clear that none of the Complainants or members of their class received actual notice of the condemnation proceedings, constructive service by publication is sufficient for due process.

The leading case on the sufficiency of notice by publication is that of Pennoyer v. Neff, 95 U. S. 714. In that case Mr. Justice Field, speaking for the Court, said: "Such service may also be sufficient in cases where the object of the action is to reach and dispose of property in the State, or of some interest therein, by enforcing a contract for a lien respecting the same, or to partition it among different owners, or when the public is a party, to condemn and appropriate it for a public purpose. In other words, such service may answer in all actions which are substantially proceedings in rem * * * It is true that in a strict sense, a proceeding in rem is one taken directly against property and has for its object the disposition of the property, without reference to the title of individual claimants; but in a larger and more general sense the terms are applied to actions between parties, where the direct object is to reach and

dispose of property owned by them, or of some interest therein".

The original proceeding was one brought for the disposition by way of sale of land devoted to cemetery use, but which was found to have been abandoned. Process by publication is a statutory mode of conferring upon the Court power to pass judgment on property, the subject matter of suit within its jurisdiction when the owner is beyond the reach of its process. See Dorsey v. Dorsey, 39 Md. 522.

For example, when publication has been made in a proper case, the Court acquires jurisdiction over the property mentioned in a proceeding by force of the Statute as completely as if non-resident parties were residents and duly summoned. Hardester v. Sharretts, 84 Md.146. So, too, an Order of Publication against infants is effective, although in point of fact by reason of their tender age, the infants may be incapable at the time of knowing anything. Jenkins v. White, 62 Md. 427.

An Order of Publication is a substitute for subpoena, and has all of its efficacy; it has the effect of a notice. Its object is simply to notify parties who are properly such, of the Bill, and the object it seeks to accomplish and to warn them to appear and defend. When publication has been duly had, a presumption of notice arises, which the Court will not allow to be rebutted. Dorsey v. Dorsey, supra.

There seems to be no doubt that the State has the absolute power to provide for notice by publication in any case involving the title to land within its borders, and if such notice is duly given in accordance with the Statute, jurisdiction attaches regardless of whether the party receives actual notice.

I find that notice in this proceeding was duly given in accordance with the provisions of our Statute.

The Complainants attack the constitutionality of Article 16, Section 120, of the Annotated Code of Maryland, for reason that the title to said Act is defective in violation of Article 3, Section 29, of the Constitution of the State of Maryland; that the scope of this Statute is restricted to cemeteries located in Baltimore City; that in order to come within the purview of the Statute, such cemetery must have no provision established for perpetual care or maintenance; that such cemetery must become at least 75% abandoned, or a menace or detrimental to public health, safety, security or welfare; that the right to take action under the provisions of this Section is restricted to anyone having a property right in such burial ground or any public agency having an interest in the elimination or abatement of the conditions in such cemetery.

It was argued that the title to Section 120 is defective in that there does not appear in it authority granting to individuals and corporations the right to condemn cemeteries that are only 75% abandoned.

The title to the questioned Section reads as follows:

"A BILL ENTITLED

"AN ACT to add a new section to Article 16 of the Annotated Code of Maryland (1951 Edition), title 'Chancery', sub-title 'Jurisdiction', said new section to be known as 124A and to follow immediately after Section 124 of said Article 16, providing for the sale and disposition of cemeteries or burial grounds in Baltimore City under certain conditions for which provision has not been made for the perpetual care and maintenance thereof and which have been abandoned or are a menace or detrimental to the public health, safety, security or welfare; providing for the use and distribution of funds which may be derived from the sale of any such cemeteries or burial grounds, and providing for the transfer and conveyance of title to the purchasers of any

such cemeteries or burial grounds sold under the provisions of this Act, and relating generally to the sale and disposition of certain cemeteries or burial grounds in Baltimore City under certain conditions."

A consideration of this contention compels the conclusion that the title is not defective for reasons advanced by the Complainants.

Further constitutional attacks are made on the ground that the Statute purports to abrogate the terms of existing contracts of the Complainants; that it is special legislation, in that it does not deal with all cemeteries located within the City or State; that there has been an improper delegation of police power; that it is ex post facto and retrospective law, and that it is in violation of the equal protection and due process provisions of the United States Constitution.

There can be no doubt of the power of the Legislature to regulate cemeteries under the police power of the State and under general rules, and so long as the exercise of the powers bears a reasonable relation to the public purpose sought to be accomplished, the legislative policy is not the subject of judicial review. Hume v. Laurel Hill Cemetery, 142 Fed. 552.

It seems reasonable that a cemetery is a subject of legislative control under the exercise of the police power because of its nature and potentialities. It is not disputed that a State may, in a proper case in the exercise of its legislative functions, require the removal of bodies from cemeteries. So that when the public welfare may, in reason, be regarded as requiring the removal of bodies from the place

where buried, the cases show no dissent from the proposition that legislation so provided is free of valid constitutional objections. Kincaids Appeal, 66 Pa. 411; Went v. Methodist Protestant Church, 30 N. Y. Sup. 15. In Masonic Cemetery Association v. Gamage, 38 F. 2d 950, it was held that equal protection of the law was not denied when a Statute authorized the Corporation to sell the cemetery property free of trust because continuance thereof was held to be injurious to the health, safety, comfort and welfare of the public.

In People v. John Doe of Rosehill Cemetery Company, 166 N.E. 112, the Court, in discussing the constitutional objections raised by the Complainants, said: "All uses of property * * * which are injurious to the public health * * * may be prohibited by the State, although the exercise of power may result in inconvenience or loss to individuals. In this respect, individual rights must yield to the higher rights of the public". See also Annotation 71 A.L.R. 1040.

Testimony produced by the Complainants with respect to the legislative history of this questioned Section, particularly with respect to the interest demonstrated by some of the officers of the corporate Respondents, does not convince the Court that this Section was special law for a particular case, or what are commonly called private Acts for the relief of particularly named parties. The officers of the Corporation deny that they in any way initiated the introduction of the Bill or that they were responsible for its passage.

The Constitution does not forbid a law intended to serve a particular need, to meet some special evil, or to promote some public interest for which the general law is inadequate. Jones v. House of Reformation, 176 Md. 43. In my opinion, Article

11.

16, Section 120, of the Annotated Code of Maryland, is constitutional.

The Complainants contend further that their deeds or certificates granted fee simple title to the lots, as well as easements to egress and ingress to each lot, and that their property rights could not be destroyed by the Trustees.

Under the Maryland law, a deed or certificate of burial only grants the right of burial, conferring only a privilege or license. Partridge v. First Independent Church, 39 Md. 631.

Under the provisions of Article 23, Section 164 (Code of 1957), that every burial lot sold or conveyed in a cemetery formed under the Public General Laws, as was the Laurel Cemetery, was to be held for the sole purpose of sepulture (burial) and none other, and although the same may be devised and shall descend to the owners' heirs and sold with the consent of the cemetery company, it is, nevertheless, only a privilege or license to bury there so long as the same remains a cemetery. No title or interest in land is conveyed. See Partridge case, supra.

Although, under the provisions of Section 165 of Article 23, a certificate under the sale of the cemetery company of the ownership of any lot or crypt sold or conveyed shall in all respects have the same effect as any conveyance for such corporation of said lot or crypt would have if executed, acknowledged or recorded as conveyances of real estate are by the laws of this State required to be, a purchaser only acquires a privilege or license of burial and not title or interest in land. This section merely means that the certificate of burial does not have to be recorded to give effect to the certificate holder's rights. See Partridge case, supra.

12.

As pointed out in 10 Am. Jr. 503, Cemeteries, Section 22, an interest in a burial lot is of a somewhat peculiar nature, and that although the Courts usually hold that the owner of such a lot does not have a fee title thereto, they are not in agreement as to the precise nature of the interest held by him - some call it an easement, some a license, and others a privilege. It seems safe to conclude that the actual language in such a deed is of comparatively little importance in determining whether a fee or an easement or a privilege is conveyed.

While, it is true, some of the cases rely upon the wording of the instrument in finding that only a right or privilege to bury was passed, in most instances the view appears to be taken that so long as it is shown that the conveyance was for burial or cemetery purposes, only a privilege or license is conveyed, some apparently going so far as to indicate that this would be the result irrespective of the language used in the deed even though such language would clearly be sufficient to indicate an intention to pass an estate in fee simple if the instrument were not for burial purposes.

In the Partridge case, 39 Md. 631, the Court held: "We think it clear that it (the certificate of burial) conferred no title or estate in the soil, nor could it operate as a grant of an easement, because it was not under seal, nor was it acknowledged or recorded, so as to be effective to convey such an interest".

In Went v. Methodist Protestant Church, supra, the Court held that a deed from a cemetery association to a lot in the cemetery, although absolute in form, conveys no title to the

soil, but only a right of burial, and, therefore, a statute directing a removal of the bodies without providing for compensation to the lot owners is constitutional.

The Court went on to say, "Assuming, as we must, that the use of a cemetery as a burial place may be interdicted, and the bodies of the dead removed, it cannot, I think, be seriously claimed that it was within the contemplation of the parties to a deed for a burial plot that when that contingency should arise, the individual owner should hold title to his lot for general uses, the same as he would hold other property. Individual ownership, under such circumstances, would only create confusion of title and eventually leave a large tract of land without the care or supervision of a responsible owner; a construction should not, therefore, be put upon deeds of this character that would produce such a result, unless the rules of law applicable to such instruments forbid any other conclusion".

In Masonic Cemetery Association v. Gamage, supra, the Plaintiff asserted that under their deed or deeds to their ancestors, as the case may be, they had a fee simple absolute title in the lots purchased from the cemetery association. The Court stated, "the claims advanced here are entirely inconsistent with the idea that the title to the land of a cemetery is divided up into lots separately and severally owned in fee simple. Counsel for the Respondent defined the rights of a purchaser of a cemetery lot as follows: 'He becomes a member of the corporation, he gains the right to bury in the lot so long as burials are not prohibited by competent authority; and he also gains the right to maintain the bodies buried in the lot so long as no lawful authority enforces the removal of them.' This definition seems to

accord, both with reason and with the preponderant authority, and for the purposes of this decision that we shall accept it as correct."

In Richards v. Dutch Church, 32 Bar. 42, the plaintiff held title to his lot by deed which granted it to him, "his heirs and assigns". An injunction restraining a sale by the Church was denied. The Court held, "every owner of a cemetery lot must be deemed to have purchased and to hold it for the sole purpose of using it as a place of burial".

In Clark v. Keating et al, 170 N.Y.Sup.187, it was held that a holder of a deed of a cemetery lot, however strong may be the wording of the grant, even with a habendum using terms of inheritance, acquires only a privilege or license, exclusive of others, to make interments in the lot purchased, only so long as the lot remains a cemetery. The Court went on to say, "A lot owner in a cemetery, with the rights of a purchase for value, has a title that is deemed subordinate to the general cemetery purposes. Here, the removal of the bodies undoes the character and association which the interments conferred and leaves the land subject to sale or legal partition, as after a general disinterment, it loses its sacredness as a resting place for dead. Rayner v. Nugent, 60 Md. 515. Even without precedent, land that has lost its sacred character should not be withheld from serving the needs of the community through a mere sentiment regarding a site in which the higher uses have ceased".

Sockel v. Degel Yehudo Cemetery Corporation of N. J. 49, N. Y. (2d) 176, 1944, similarly adhered to this principle as follows: "The purchaser of a burial plot does not acquire a title in fee simple, but ordinarily is regarded as acquiring

only an easement or license in the lot purchased so long as the lot remains a cemetery".

The Court, in the recently decided case of Hill Sand and Gravel Co., Inc., v. Pallottine Fathers House of Students, Inc., 220 Md. 526, said: "There are cases holding that where a private graveyard is established and clearly marked out, and markers maintained, an implied reservation or easement is created. * * * But in Partridge v. First Ind. Church, 39 Md. 631, 637, it was held that a public burial ground may be abandoned, and that the right of burial and visitation is not an easement but a revokable license".

The Respondent, Belair Road Enterprises, Inc., purchased the property at a judicial sale, from the Trustee appointed by this Court. It paid the purchase price, including the cost of the Trustee's contract with an undertaker relocating the bodies and re-erecting the tomb stones, the cost of purchasing a new location, Trustee's commission, counsel fees of Defendants' and Trustee, and all court costs. These funds have been paid over and disbursed pursuant to the final Order of this Court, and the property has been conveyed by the Trustee to the purchaser. The Respondent, McKamer Realty Company, no longer has any interest in the property. The final Decrees of this Court have been fully executed and the Respondents have acted on the faith of such Decrees.

The title of the purchaser at a judicial sale is perfected upon ratification. Spindler v. Atkinson, 3 Md. 409; Bolgiano v. Cooke, 19 Md. 375.

As was said in the Partridge case, supra: "but if in the course of time it should become necessary to vacate the ground as a burial ground, all that he could claim in law or equity, would be that he would have due notice and the opportunity

afforded to him of removing the bodies and monuments to some other place of his own selection, or that, on his failing to do so, such removal should be made by others. He accepted the grant or license subject to this necessary condition". The Complainants herein are not making claim for damages.

Testimony was offered in attempting to prove that the cemetery in question had not been abandoned and, therefore, there had been no compliance with the Statute to justify the Court to issue a Decree. Various witnesses testified to their regular visitations, to their efforts to maintain their lots, to the lack of cooperation of the corporate owner with the lot owners, to the lot owners' intentions not to abandon, and other similar testimony.

As opposed to this testimony were the clear findings of the Special Master, and again supported by the testimony of the same and additional witnesses before this Court that the corporate owner went into voluntary bankruptcy as of December 31, 1952; that for approximately four years, the title as well as the land had, for all purposes, been abandoned and were under the jurisdiction of the United States District Court; that the lots were not in fact maintained; and that the condition of the cemetery had deteriorated to a point where it constituted a hazard and a menace and was detrimental to the public health, safety, security and welfare. This evidence was further supported by photographs and by records of the Police, Fire and Health Departments of the City as well as the Housing Court of Baltimore.

Notwithstanding the testimony of some of the Complainants, it seems clear now, as it was to the Special Master and Judge Carter, that the cemetery had in fact been abandoned and that it had become a menace to the public health and welfare.

Although questions were raised with respect to the propriety of some of the officers of the Respondent corporations in their being associated with the said corporations while at the same time acting in the capacity of public officials, the Court is bound only by the legal principles involved in this proceeding.

In view of these conclusions, the Court need not consider the point vigorously pressed by the Respondents, that the decision of Judge Warnken in the Lillian Waters and Julia Jones cases (where seemingly the same issues were raised and an Appeal noted by the Complainants therein) is res adjudicata in the instant case.

For the reasons stated hereinabove, the Bill of Complaint is hereby dismissed.

Anselm Sodaro

March 4 1960

Fd. 7th March 1960

MAMIE E. KENNARD, et al.	*	IN THE CIRCUIT COURT
vs.	*	OF
McKAMER REALTY COMPANY and BELAIR ROAD ENTERPRISES, INC.	*	BALTIMORE CITY
	*	Docket 1959, Folio A-267 - 418 File No. A-39097
	*	

* * * * * * * * * * *

D E C R E E

This cause having come on for hearing on the Bill of Complaint and Answers thereto, ~~and the Bill of Complaint having been amended by motion made in open court, and the Answers to the original Bill of Complaint having been taken as Answers to the Bill of Complaint, as amended,~~ a.s. and Supplemental Answer having been filed in open court, and testimony having been taken and the papers and exhibits having been by the Court read and considered, and counsel for the respective parties having been heard, and briefs on behalf of the respective parties having been read and considered, and the Opinion of this Court having been filed, it is, this 7th day of March, 1960, by the Circuit Court of Baltimore City,

ADJUDGED, ORDERED and DECREED that the Bill of a.s Complaint, ~~amended as aforesaid,~~ be and the same is hereby dismissed with prejudice; costs to be paid by the Complainants.

Anselm Sodaro
Judge

Tax

A-39097 (25)

Fd. 18 March 1960

MAMIE E. KENNARD, ET AL

vs.

McKAMER REALTY COMPANY, ET AL

IN THE

CIRCUIT COURT

OF

BALTIMORE CITY

1959 A-267-418

Mr. Clerk:

Please enter an appeal on behalf of Plaintiffs

from the Decree passed on the 7th day of March 19 60 to the Court of Appeals of Maryland.

Archie D. Williams

ARCHIE D. WILLIAMS

of Solicitor s for Appellant.

State of Maryland, Baltimore City, to wit:

I hereby certify, that on this ..... day of ..... 19 ....., before me, the Subscriber, Clerk of the Circuit Court of Baltimore City, personally appeared

and made oath in due form of law that this appeal is not made for the purpose of delay.

Clerk of the Circuit Court of Baltimore City.

111

A-39097 (26)

Circuit Court

..... 19 Docket No. .....

.....

.....

vs.

.....

.....

ORDER FOR APPEAL

No. .....

Filed ..... 19 .....

Fd. 30 March 1960

MAMIE E. KENNARD, ET AL.,	*	IN THE CIRCUIT COURT
vs.	*	OF BALTIMORE CITY
McKAMER REALTY COMPANY, ET AL.	*	1959/A-267-418
	*	

JULIA JONES	*	IN THE CIRCUIT COURT
vs.	*	OF BALTIMORE CITY
McKAMER REALTY COMPANY, ET AL.	*	1959/A-266
	*	

LILLIAN WATERS	*	IN THE CIRCUIT COURT
vs.	*	OF BALTIMORE CITY
McKAMER REALTY COMPANY, ET AL.	*	1959/A-276
	*	

MOTION TO CONSOLIDATE RECORD ON APPEAL

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Comes now Mamie E. Kennard, Et Al., Julia Jones and Lillian Waters, by W. A. C. Hughes, Jr., Juanita Jackson Mitchell, Tucker R. Dearing, Julius P. Robinson, Paul J. Cockrell, and Archie D. Williams, their attorneys, and for Motion to Consolidate Record on Appeal, respectfully represent unto Your Honor:

1. That all of the above entitled cases have been heard before this Honorable Court, and that Decrees have been entered in all cases dismissing the respective Bills, and that appeals have been entered in all cases to the Court of Appeals of Maryland.

2. That all of these cases grow out of the same transaction, and that all involve similar questions of law and fact.

3. That it is desirable that these cases be heard together in the Court of Appeals of Maryland, and that the records be consolidated into one record for the purpose of such appeal.

WHEREFORE, your Complainants respectfully pray:

(a) That this Honorable Court issue an Order for the consolidation of the records of the above entitled cases into one record upon appeal to the Court of Appeals of Maryland.

(b) Such other and further relief as may be appropriate.

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

A-39097(27)

AND, as in duty bound, etc.

W. A. C. Hughes
W. A. C. HUGHES, JR.

Juanita Jackson Mitchell
JUANITA JACKSON MITCHELL

Tucker R. Dearing
TUCKER R. DEARING

Julius P. Robinson
JULIUS P. ROBINSON

Paul J. Cockrell
PAUL J. COCKRELL

Archie D. Williams
ARCHIE D. WILLIAMS

Attorneys for Complainants

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

ORDER TO SHOW CAUSE

ORDERED this 30th day of March 1960 by the Circuit Court of Baltimore City that the Defendants herein show cause within ten (10) days from the date hereof why the relief sought should not be granted provided a copy of this Order and Motion be served upon the Defendants or their Counsel of record on or before the 5th day of April 1960.

JUDGE

LAW OFFICES
WILLIAMS & MURPHY
2669 PENNSYLVANIA AVENUE
BALTIMORE 17, MD.
LA. 3-5011

Serve on:
Walter C. Mylander Jr.

Service of
Copy admitted
this 1st day of
April 1960
Walter C. Mylander Jr.

A-418-59

filed April 1, motion

Copy of the within Motion and Order of Court served on Walter C. Mylander Solicitor for McKamer Realty Company et al on the 1st day of April 1960 in the presence of Joseph C. Lebato

Fee $1.00

Joseph E. Keegan
Sheriff

Fd. 5 April 1960

MAMIE E. KENNARD, et al.	*	IN THE CIRCUIT COURT
vs.	*	OF
McKAMER REALTY COMPANY, et al.	*	BALTIMORE CITY
	*	1959/A-267 - 418
JULIA JONES	*	IN THE CIRCUIT COURT
vs.	*	OF
McKAMER REALTY COMPANY, et al.	*	BALTIMORE CITY
	*	1959/A-266
LILLIAN WATERS	*	IN THE CIRCUIT COURT
vs.	*	OF
McKAMER REALTY COMPANY, et al.	*	BALTIMORE CITY
	*	1959/A-276

ANSWER TO MOTION TO CONSOLIDATE

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Defendants, McKamer Realty Company and Belair Road Enterprises, Inc., showing cause pursuant to the Order of this Court of March 30, 1960, why the relief sought in the Plaintiffs' Motion to Consolidate the Respective Records on Appeal should not be granted, respectfully show:

FIRST: They admit that all of the above-entitled cases have been heard before this Honorable Court and that Decrees have

A1-39097 (28)

been entered in all of said cases dismissing the respective Bills and that appeals have been entered in all cases to the Court of Appeals of Maryland.

SECOND: They admit that all of the above-captioned cases grow out of the same transactions and that all involve similar questions of law and of fact. They affirmatively aver that said actions are concomitant class actions.

THIRD: They deny that it is desirable to, or possible to, hear all three of these cases together in the Court of Appeals of Maryland, and they resist the consolidation of the case of Mamie E. Kennard, et al. vs. McKamer Realty Company, et al., with the other two mentioned cases into one Record for the purpose of such appeal.

FOURTH: The cases of Julia Jones vs. McKamer Realty Company, et al., Docket 1959 A, Folio 266, and Lillian Waters vs. McKamer Realty Company, et al., Docket 1959 A, Folio 276, were tried together in this Court, and the Records therein should properly be consolidated into one Record for the purpose of appeal. The Decrees in those cases, if affirmed by the Court of Appeals of Maryland, will be a final adjudication of the subject matter of all three of the above-entitled cases, and, in such event, the appeal in the case of Mamie E. Kennard, et al. vs. McKamer Realty Company, et al., will become moot, and will be the subject of a Motion to Dismiss the Appeal therein.

FIFTH: The Records in the cases of Julia Jones vs. McKamer Realty Company, et al., and Lillian Waters vs. McKamer Realty Company, et al., should not be enlarged by being consolidated with the case of Mamie E. Kennard, et al. vs. McKamer Realty Company, et al.

WHEREFORE, the said Defendants pray:

(a) That the Motion to Consolidate the Records on Appeal be denied as to the case of Mamie E. Kennard, et al. vs. McKamer Realty Company, et al., Docket 1959 A, Folio 267.

(b) That the Motion to Consolidate the Records on Appeal be granted in so far as it applies to the consolidation of the case of Julia Jones vs. McKamer Realty Company, et al., Docket 1959 A, Folio 266, with the case of Lillian Waters vs. McKamer Realty Company, et al., Docket 1959 A, Folio 276.

AND, as in duty bound, etc.

Walter C. Mylander, Jr.

Charles C. W. Atwater

Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of April, 1960, a copy of the foregoing Answer to Motion to Consolidate was mailed to each of W. A. C. Hughes, Jr., Esquire, 1803 Pennsylvania Avenue, Baltimore -17, Maryland, Mrs. Juanita Jackson Mitchell, 1239 Druid Hill Avenue, Baltimore -17, Maryland, Archie D. Williams, Esquire, Williams & Murphy, 2669 Pennsylvania Avenue, Baltimore -17, Maryland, Paul J. Cockrell, Esquire, and Tucker R. Dearing, Esquire, 627 North Aisquith Street, Baltimore -2, Maryland, Dallas F. Nichols, Esquire, 14 East Pleasant Street, Baltimore -2, Maryland, and Julius P. Robinson, Esquire, 208 East Lexington Street, Baltimore -2, Maryland, Attorneys for Plaintiffs.

Walter C. Mylander, Jr.

Of Counsel for Defendants

Fd. 5 April 1960

MOTION FOR HEARING

A-418

1960

Mamie E. Kennard, et al

vs.

McKamey Realty Co. et al

IN THE

CIRCUIT COURT

—OF—

BALTIMORE CITY

The Plaintiffs by Archie D. Williams

Solicitor, applies to have the above entitled cause placed on the Trial Calendar for hearing On Motion to Consolidate Record on Appeal

in conformity with the First Equity Rule.

Archie D. Williams

Solicitor for Plaintiffs

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A-39097 (29)

Tucker R. Dearing
Dallas F. Nicholas
Juanita Jackson Mitchell
Archie D. Williams
Williams & Murphy
Paul J. Cockrell
Fred Kolodner
Julius P. Robinson
Charles P. Howard, Jr.

Walter C. Mylander, Jr.
Charles C. W. Atwater

NOTICE OF HEARING

Fd. 5" April, 1960

MAMIE E. KENNARD, ET AL

vs.

MCKAMER REALTY CO., ET AL

IN THE

CIRCUIT COURT

—OF—

BALTIMORE CITY

A 418/1960

Upon application made by the Solicitor for the Plaintiffs

(by Archie D. Williams, Solicitor)

the above entitled cause has been placed upon the Trial Calendar in accordance with the provisions of the First Equity Rule, and the same will stand for hearing on Motion to Consolidate Record on Appeal

when reached in due course on the said calendar.

HENRY J. RIPPERGER,

Clerk Circuit Court

A-39097 (30)

SERVE ON:
Walter C. Mylander, Jr., Esq.
Chas. C. W. Atwater, Esq.

A 418/1960

Notice

Copy of the within Notice of Hearing served on Walter C. Mylander and Chas. C. W. Atwater, Solicitors, on the 6th day of April 1960 in the presence of Peter Trapp.

Joseph C. Pagan
Sheriff

Fee $2.00

CCWA:bc 4/12/60 1-9

Fld. 12th April 1960

MAMIE E. KENNARD, et al.	*	IN THE CIRCUIT COURT
vs.		OF
McKAMER REALTY COMPANY, et al.	*	BALTIMORE CITY
		1959/A-267 - 418

---

	*	
JULIA JONES		IN THE CIRCUIT COURT
vs.	*	OF
McKAMER REALTY COMPANY, et al.		BALTIMORE CITY
	*	1959/A-266

LILLIAN WATERS	*	IN THE CIRCUIT COURT
vs.		OF
McKAMER REALTY COMPANY, et al.	*	BALTIMORE CITY
		1959/A-276

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*

ORDER OF COURT

The Motion of the Plaintiffs to Consolidate the Record on Appeal of the three above-entitled cases having come on for a hearing and the Motion and the Answer thereto whereby the Defendants consent to the Consolidation of the cases of "Julia Jones v. McKamer Realty Company, et al." and "Lillian Waters v. McKamer Realty Company, et al.", but oppose the consolidation of the record of those two cases with the record in the case of "Mamie E. Kennard, et al. v. McKamer

A-39097 (31)

Realty Company, et al." having been read and considered, and counsel having been heard, it is this 12 day of April, 1960, by the Circuit Court of Baltimore City:

ORDERED:

That the Records on Appeal in the cases of "Julia Jones v. McKamer Realty Company, et al." (Docket 1959A-266) and "Lillian Waters v. McKamer Realty Company, et al." (Docket 1959A-276) be consolidated.

IT IS FURTHER ORDERED that the Motion to Consolidate the Record in the case of "Mamie E. Kennard, et al. v. McKamer Realty Company, et al." (Docket 1959A-267) with the records in the cases of "Julia Jones v. McKamer Realty Company, et al." (Docket 1959A-266) and "Lillian Waters v. McKamer Realty Company, et al." (Docket 1959A-276) be and it is hereby denied.

Anselm Sodaro

Judge

I HEREBY CERTIFY that on this 12th day of April, 1960, a copy of the foregoing Order of Court was mailed to each of W. A. C. Hughes, Jr., Esquire, 1803 Pennsylvania Avenue, Baltimore 17, Maryland, Mrs. Juanita Jackson Mitchell, 1239 Druid Hill Avenue, Baltimore 17, Maryland, Archie D. Williams, Esquire, Williams & Murphy, 2669 Pennsylvania Avenue, Baltimore 17, Maryland, Paul J. Cockrell, Esquire, and Tucker R. Dearing, Esquire, 627 North Aisquith Street, Baltimore 2, Maryland, Dallas F. Nicholas, Esquire, 14 East Pleasant Street, Baltimore 2, Maryland, and Julius P. Robinson, Esquire, 208 East Lexington Street, Baltimore 2, Maryland, Attorneys for Plaintiffs.

Edward A. Mavity

Of Counsel for Defendants

Court Copy

Fld. 29 June 1960

STENOGRAPHIC RECORD

IN THE CIRCUIT COURT OF BALTIMORE CITY

Docket A-267, 1959

424

IN THE MATTER OF

MAMIE E. KENNARD, et al.,

Complainants,

vs.

McKAMER REALTY COMPANY, et al.,

Defendants.

Before SODARO, J.

VOLUME I

(INDEX INSIDE)

January 19, 1960

A-39097 (32)

TRANSCRIPT FROM NOTES OF

CLARENCE P. GOETZ

Official Court Reporter

EQUITABLE BUILDING
BALTIMORE, MD.

OFFICE AND HOME
TELEPHONES

I N D E X

WITNESS	DIRECT	CROSS
Mamie E. Kennard	22	--
Maceo Williams	35	40
Officer Carroll Dent	41	--
Brayden O'Malley	54	--
John G. Arthur	63	--
Com. James M. Hepbron	78	--
George O. Motry	85	--
John G. Kaufman	112) 146)	

EXHIBITS

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IN THE CIRCUIT COURT OF BALTIMORE CITY

Docket A-267, 1959

MAMIE E. KENNARD, et al., :

Complainants :

vs. : Before SODARO, J.

McKAMER REALTY COMPANY, et al., :

Defendants. :

January 19, 1960

The above entitled cause came on to be heard before His Honor, Judge Anselm Sodaro, on Tuesday, January 19, 1960, at 10:15 a. m.

Appearances:

Mrs. Juanita Jackson Mitchell
Mr. Archie D. Williams
Mr. Tucker R. Dearing
Mr. W. A. C. Hughes, Jr.
Mr. Paul J. Cockrell
Mr. Julius P. Robinson

Solicitors for the Complainants.

Mr. Walter C. Mylander, Jr.
Mr. Charles C. W. Atwater

Solicitors for the Defendants.

THE COURT: Very well, the Court is ready.

MR. HUGHES: May it please the Court, I would like to enter my appearance in this case. I was associated last night. I conferred with the attorneys on Friday and Saturday, but I was retained last night.

THE COURT: Very well, you may file your appearance and let the record so show that you are co-counsel. Are you representing any particular complainant?

MR. HUGHES: All complainants.

THE COURT: Does either side wish to make an opening statement or do you wish to waive one?

MRS. MITCHELL: We have an amendment to present at this time. Mr. Williams.

THE COURT: Very well.

MR. WILLIAMS: If Your Honor please, I would like to amend Paragraph 3 of the Bill of Complaint simply by adding a brief statement thereto which I will read into the record. We would request to amend by adding at the end of that paragraph the following: "And further, that Article XVI, Section 120, of the Annotated Code of Maryland is invalid in that it attempts to vest the police power of the State of Maryland in

private individuals."

THE COURT: Any objection?

MR. MYLANDER: No objection.

THE COURT: Very well, so ordered. Anything else?

MRS. MITCHELL: Your Honor, I wish to make an opening statement for the complainants. First of all, I wish to ask the privilege of the Court in amending Section I of the prayer for relief. Through inadvertence in the typing of the Bill of Complaint, the name of the defendant McKamer Realty Company was omitted from the prayer asking that the Court issue a preliminary and permanent injunction restraining and enjoining the defendant. It should be "McKamer Realty Company and the defendant the Belair Road Enterprises, Incorporated, from any further action with regard to subject property until such time as the matters herein complained of shall be adjudicated."

THE COURT: Very well. Any objection?

MR. MYLANDER: No. Of course, our position is that no preliminary injunction or permanent injunction would lie against either. But we have no objection to the amendment.

THE COURT: Very well. So ordered.

MR. ROBINSON: By interlineation.

THE COURT: Of course.

MRS. MITCHELL: We would also like in addition to state that the point was raised by the defendant, through its counsel, the State of Maryland by C. Ferdinand Sybert, Attorney General, was not notified by the complainants that they were going to attack the constitutionality of Section 120 of Article XVI. We have received a copy of the Attorney General's answer in this Court indicating that a copy of the Bill of Complaint was received and served on his office, and we wish to call it to the attention of the Court with the hope that this Court has received it and it is there a part of this record.

MR. MYLANDER: Defendants have received a copy of the answer of the Attorney General indicating that it was filed.

THE COURT: May I see it first?

MR. MYLANDER: It just indicates that the Attorney General does not wish to be heard, if the Court please.

MR. ROBINSON: The original should be sent in here I think.

THE COURT: Very well. I have not seen the original but I suppose it is around somewhere. Nevertheless, there being no objection to filing this copy in the meantime with the original records, the Court will receive it.

MR. ROBINSON: No objection to filing that copy.

MR. MYLANDER: I have no objection. It is most unusual but I have no objection. I have no objection to the case proceeding on the assumption that it will be filed.

THE COURT: Let me in on this, too, Mr. Robinson.

MR. ROBINSON: I asked if there is any objection.

THE COURT: There is no objection. I have already ruled that the copy is in the case.

MRS. MITCHELL: This is an action against the McKamer Realty Company and Anderson Enterprises, Incorporated, which was filed on December 10, 1957. That the purpose of that proceeding was to have the sale declared null and void of fifteen acres of land located in the northeastern section of Baltimore, known since 1852 as the Laurel Cemetery.

Your Honor, we propose to show that the said McKamer Realty Company, by its incorporaters and officers, perpetrated a fraud upon this Court when they wilfully and

falsely made certain statements under oath in their Bill of Complaint and in their testimony before the Examiner taken in those proceedings. We will show that they falsely stated that they had no record of the lot owners of Laurel Cemetery except those twelve deceased lot owners whose deeds to burial lots were recorded among the Land Records of Baltimore City.

We will show further that they falsely declared that they had made a thorough, diligent and exhaustive search for unknown lot owners and their heirs at law, and have no other means of discovering said lot owners and their heirs.

We propose further to show that they made a material misrepresentation of fact when they declared that they had made a careful inspection of the burial grounds and there had been no burials in twenty years. And we will further show that they falsely stated that none of the heirs or descendants of said lot owners had attempted to take any action to maintain their lots. Also it was a false representation of a material fact when it was stated it was not known whether they were living or not.

We will show through a series of circumstances, if it please the Court, that these things were done with one

purpose in view. That is, a carefully contrived scheme by the McKamer Realty Company, its incorporaters and officers, designed to wilfully deceive this Court into declaring a sale of said fifteen acres of land known as Laurel Cemetery to obtain this valuable property for the purpose of personal gain and unjust enrichment of the McKamer Realty Company and the defendant, Belair Road Enterprises.

We will show that although they had a duty to speak, the McKamer Realty Company by Clement Mercaldo, President, and Lloyd McAllister, Vice-President, fraudulently concealed from this Court in the Bill of Complaint and in their testimony before the Examiner, the relationship of John G. Kaufman, who testified before the Examiner that he was a former owner of the Laurel Cemetery, when, as a matter of fact, on December 10, 1957, when this suit was filed, said John G. Kaufman was Secretary-Treasurer of said McKamer Realty Company. That although John G. Kaufman admitted in said testimony before the Examiner that said cemetery had been sold at a bankruptcy sale for the McKamer Realty Company, he concealed the fact that said bankruptcy proceedings were voluntary, and that in that under oath he acknowledged that

he possessed eleven volumes of records of lot owners and burials in Laurel Cemetery. That in that he listed only one creditor, himself, as a debt of approximately $2400. That although he himself estimated under oath that the cemetery land was worth at least $1500, he made no objection to the private sale of these fifteen acres of land for $100 to the McKamer Realty Company, of which he was Secretary-Treasurer. Nor did he at any time reveal to the Court that he was Secretary-Treasurer of the Belair Road Enterprises, which purchased those fifteen acres of valuable land at the private sale in this Court. That the mere cost of removing the bodies, the trustee's commissions, and all Court costs, totaled an amount of approximately $18,000. That the land was assessed on June 12, 1959, by the Department of Assessments of Baltimore City at $89,000 for the year 1958 and for the year 1959, as of the time the title passed to the McKamer Realty Company. That it was not revealed until this assessment was laid open that Mr. Kaufman was Secretary-Treasurer of both the McKamer Realty Company and the Belair Road Enterprises, which is attested to by the evidence of his signature under oath in a protest of the Tax Assessment

to the Department of Assessments and to the Board of Municipal and Zoning Appeals, which upheld said assessment and which case has been appealed by said defendant to the State Tax Board.

We will show that Clement Mercaldo and Lloyd McAllister had facts peculiarly within their knowledge, as members of the staff of the City Solicitor's office, secured from the files of the Laurel Cemetery, showing that there was an estimate on or about May 1948 that some seven thousand bodies were interred in Laurel Cemetery and that the cost of removing them at that time was estimated at from $70,000 to $80,000, and in this estimate, the defendant, John G. Kaufman, concurred. That the City Solicitor's office on another occasion advised the settlement of the claim of the Federal Government for the value of 67 lots which they had purchased for the interment of Civil War veterans, colored Civil War veterans, whose bodies had been removed. The City Solicitor's office advised that the settlement of the claim should be made for $1250.

We will show further, through this series of circumstances, that after the title to the Laurel Cemetery

vested in the New Laurel Cemetery, in October 1939, of which Mr. John Kaufman was president, that during said period of eighteen years from 1939 until sold at bankruptcy sale in March 1957, Mr. Kaufman did nothing to maintain said cemetery, and although the purposes as set forth in the Charter under which the New Laurel Cemetery was incorporated set forth the maintenance of a cemetery lot as a purpose, that was not done. That although periodically lot owners organized independently to clean up the lot and spent their own funds to do so, they were unsuccessful in getting the help of the owner of the New Laurel Cemetery, Mr. John G. Kaufman, in cleaning up and maintaining said cemetery.

We will show that there was a period of watchful waiting on the part of said owner while conditions of said cemetery were allowed to deteriorate, during which time said cemetery land was proposed for a public housing project and other public purposes from which certain financial gains could be made.

We will further show a series of circumstances that beginning with the incorporation of the McKamer Realty Company on November 29, 1956, the three incorporaters of said

McKamer Realty Company were all members of the City Solicitor's staff, Mr. Clement Mercaldo, Mr. Lloyd G. McAllister, and Miss Dorothy Klipper, and that although Mr. Kaufman went into bankruptcy in 1952, nothing waa done materially in those proceedings until January of 1957, after the incorporation of the McKamer Realty Company, after the State Legislature opened, at which time House Bill No. 594 was introduced into the said Legislature and sponsored by the intervention of said Clement Mercaldo and other members of the City Solicitor's staff.

Said House Bill No. 594, introduced on February 13, 1957, at about the same time that the bankruptcy trustee had been appointed to sell the Laurel Cemetery land, in thirty days, in less than thirty days. That house bill which purported to amend Section 119 of Article XVI of the Annotated Code of Maryland to provide that a cemetery may be declared abandoned if there was a showing that there was an abandonment of 75 percent, as against the former requirements of the complete cessation to use it for burial purposes, and certain other material amendments of that law were made in this House Bill 594, which we will show affected only Balti-

more City, and which was designed to have Laurel Cemetery sold, so that these defendants might acquire said land for their own personal gain.

We will show further that said McKamer Realty Company, through Clement Mercaldo, Assistant City Solicitor, appeared before the Baltimore delegation in the House of Delegates, giving the impression that this was a City Administration Bill and that the City wanted this cemetery condemned.

We will show further that on March 25, just before the passage of this Bill in the Legislature in 1957, the sale of this land for $100 to the McKamer Realty Company in the bankruptcy proceeding was ratified, and that two days later, on March 29, 1957, the Bill which made it easier to condemn Laurel Cemetery passed both Houses and became Chapter 630 of the Acts of 1957, which is now Section 120 of Article XVI of the Annotated Code of Maryland.

We will show further that on June 1, 1957, this Bill became law, and that on June 27, 1957, pursuant to the order of the Orphan's Court -- pursuant to the order of the Federal Court, some 15 acres of Laurel Cemetery were

conveyed to the McKamer Realty Company for and in consideration of $100 subject to the existing burial rights of said lot owners.

That approximately five months later said McKamer Realty Company came into this Court to sell the cemetery free and clear of the claims of all lot owners and that they were purposely, these lot owners, deprived of notice and that said defendants purposely deceived this Court for their own unjust enrichment.

Very briefly Mr. Dearing, who has handled the unconstitutionality phase of this proceeding, will state to you the facts we will show which will be evidence to support a finding that the whole proceeding was unconstitutional, a taking of the interest of these complainants, and the members of the class which they represent, in violation of the due process clause of the constitution.

THE COURT: Mr.Dearing.

MR. DEARING: Your Honor, we will show further that the adjustment in the constitution and the naming of the defendants in the descriptive words as lot owners was not sufficient notice to satisfy the requirements of the due

process clause of the Fourteenth Amendment, inasmuch as defendants had available to them the names of at least four hundred people who were deceased, and they should have been named in the order of publication.

#2

We will show further that there were records available to them, that with diligent search they could have served some of these people with personal notice.

We will show further that that does not meet the qualifications of the equal protection clause of the Fourteenth Amendment of the Constitution of the United States. We will show further that this Act is unconstitutional for the reason of this special legislation in violation of the articles which we have alleged in the Bill of Complaint of the Constitution of Maryland, that it authorized the taking of private property without this publication.

We will show further that the proceedings in Court were not legal because they did not comply with Rule 105 of the Maryland Rules of Procedure, in that no affidavit was ever filed with the pleadings, which is required by that Rule as a prerequisite to the entry of a final judgment pro confesso or a decree by default.

So for that reason and other reasons to be shown, we will submit that this proceeding is unconstitutional, should be set aside, and all of the relief which we pray for in the Bill of Complaint should be granted.

THE COURT: Do any other gentlemen or counsel for the complainants wish to make a statement?

MR. ROBINSON: I might suggest this: It is my feeling, looking at it either way you want, the evidence will show there was not 75 percent abandonment either way to comply with the Act itself. I represent one lot owner, and this is conversant with all the other lot owners, and so forth. From what I hear here, whoever participated in it, it seems to me they were officers of the Court and have knowledge, they were charged with dereliction of duty, and if this appears I think the burden will shift to them to show to the contrary.

MR. COCKRELL: We will also show that the terms of the statute itself were not in compliance with Article XXIII, Section 29, of the Maryland Constitution, and therefore the statute is unconstitutional on that ground.

MR. MYLANDER: If the Court pleases, the Bill of

Complaint is a rather broad one. I take it that the aspect of the prayers for relief in the Bill of Complaint which make it an original Bill for fraud, is the aspect relied on and that the incidental prayer for declaratory relief is being treated by the complainants as being collateral to the issue of fraud. We filed a brief in which we set out our position. The Maryland cases, as we pointed out in our brief, make it clear that in the original billfor fraud there must be first a showing of the fraud, which we submit to the Court cannot be confused with the reopening of the testimony before the Court in the original case, until there is first a finding that there has been fraud which has misled the Court.

There are two requirements. Firstly, that there must have been fraud which misled the Court; and secondly, that the complainants have an interest. As much as we would like to answer the charges that are included in the broad and strong language that Mrs. Mitchell has used, I suggest that this proceeding must be kept orderly or we will never finish it, and that we must adhere to the procedure of limiting the testimony to testimony which bears materially on the

question of fraud on the Court and on the question -- well, really it is only that because the question of interest of the complainants is one by law for the Court to decide on the basis of the Partridge case and that line of cases. As to that, of course, it is our position that the complainants do not have a fee simple interest in these lots, they have a license to bury, and that as such, their rights in the land are simply those which are defined in the Partridge case, as the right to remove the bodies when the use as a cemetery ceases. Or, if they don't do that, to have them removed to another location.

With reference to the constitutionality, I think that question might properly be before the Court too, because if there is a complete lack of jurisdiction in the Court, then the sale would have been a nullity. As was pointed out in some of the earlier cases, if it was a nullity there would seem to be no reason for declaring it so. But this Honorable Court in the previous proceeding did consider these questions and I would imagine that the Court will be consistent with its predecessors of this Bench, and that it will consider that constitutionality is before the Court. That question,

of course, was directly ruled on by Judge Carter in the exceptions to the report of sale by the trustee to Belair Road Enterprises. It was again ruled upon by Judge Warnken in the two companion cases in which precisely these same points were raised; mainly, that Section 120 was unconstitutional because of the violation of the Fourteenth Amendment; (2) because it was special legislation.

In that connection, however, I point out that this question may be completely moot. We suggest to the Court an examination of Section 119, which has existed since 1868, Acts of 1868, Article 211.

THE COURT: Article XVI.

MR. MYLANDER: Article XVI, Section 119, and which has some half page of annotations under it. I don't think I can represent to the Court that the direct question of constitutionality of Section 119 was ever before the Court of Appeals, but the statute has been before it many times.

As I read the allegations of the Bill of Complaint in the original case and the testimony before the Court in that case, all of the requirements in Section 119 were met,

and that without the aid of Section 120, Section 119 vested the Court with full jurisdiction and authority to do what it did in the original case. However, the constitutionality of 120 was directly passed on, as I say, by Judge Carter, and again by Judge Warnken in the preceding cases.

I don't propose to make any real formal opening statement, but I do want to point out that in the interest of keeping the case on the tracks, that we will try to require that the testimony, the preliminary testimony while the Court is considering the preliminary question whether the case should be reopened, that the testimony should be confined to that which has a material bearing on the question of fraud which these people have alleged.

THE COURT: Have you served a copy of your brief upon the attorneys?

MR. MYLANDER: We served it upon the original attorneys who we were aware of. The late entries have not received copies.

MR. DEARING: I received a copy.

THE COURT: Maybe the late entries can receive a copy from the original entries in the case. Very well.

MR. ATWATER: Just one additional point. The last one of the petitions to intervene was filed in the last couple days. We don't make a technical point of it, but we would like to reserve the right to file answers, and to produce testimony later if that is required. Otherwise we will ask to have them stricken from the record.

THE COURT: Very well.

MR. ROBINSON: May I state for the record that my client does have an interest?

THE COURT: All right.

MR. ROBINSON: If you will excuse me, with respect to the very fine argument my friend made, they are probably better aware than I am that a nisi prius opinion may be persuasive but it is not binding on every nisi prius judge. As I see it, the point that Mr. Mylander makes about Section 119, that this controversy does not concern 119, if you will refer to Section 120, you will see it is very artistically drawn but did not even repeal 119. So therefore we are concerned with 119.

THE COURT: Very well. Let's get on with the testimony.

MR. MYLANDER: May they be introduced in evidence at this point and both sides will have them available.

MR. COCKRELL: Your Honor, I think in the other proceedings they were put in evidence.

THE COURT: Gentlemen, I have some papers here. When I speak of gentlemen, Mrs. Mitchell, I hope you will understand I mean you. Counsel, let me say, I have the original papers here for whatever use you may want to make of them.

MR. HUGHES: May it please the Court, I object to the introduction into evidence --

MR. MYLANDER: I withdraw the offer. I made it simply as a suggestion for convenience. I did not offer them at this point.

THE COURT: Very well.

Thereupon---

MAMIE E. KENNARD,

one of the complainants, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: What is your name and where do you

live?

THE WITNESS: Mamie E. Kennard, 1322 McCulloh Street.

DIRECT EXAMINATION

By Mr. Dearing:

Q Mrs. Kennard, you are one of the complainants in this case, is that correct?

A That's correct.

Q Did you own a lot in Laurel Cemetery Company?

A My husband did.

Q Your husband did?

A Yes.

Q Is your husband deceased?

A He is deceased.

Q When did he die?

A In 1953.

Q Where was he buried?

A He is buried at Arbutus.

Q Was his name George B. Kennard?

A That's right.

Q Your are claiming your interest by the right of

your husband who is deceased, is that correct?

A That's right.

MR. DEARING: Any objection to these deeds being entered into evidence?

MR. MYLANDER: None whatsoever.

MR. DEARING: Since there are no objections, I would like to have these two deeds entered into evidence, which show the interest of Mrs. Kennard.

MR. MYLANDER: I object only to the characterization as deeds. They are certificates of burial rights.

MR. DEARING: Your Honor will let the instruments speak for themselves.

MR. MYLANDER: Right.

(Deeds referred to received in evidence as Complainants' Exhibits 1 and 2.)

Q Mrs. Kennard, what is that paper you have in your hand?

MR. MYLANDER: I object. She can't characterize it. They are in evidence and speak for themselves.

A This is a deed.

Q Where did you get that paper from?

A It was left to me through my husband. Of course, it was gotten from Laurel Cemetery.

Q What was your husband's name?

A George B. Kennard.

Q And he is named on that deed, is that correct?

A He is named on this deed.

Q Where did you get the other deed?

A He had the other deed in his possession, his mother's deed.

Q He had it during his lifetime?

A He had it during his lifetime.

Q And his mother predeceased him, is that correct?

A Yes.

Q When did you acquire your interest in this cemetery by this paper here, do you know the date?

MR. MYLANDER: If the Court please, those things speak for themselves. I object.

THE COURT: Yes, they do. May I see the papers? I have not seen them.

(Papers handed to the Court.)

Q Did you ever dispose of the property?

A No, sir.

Q Mrs. Kennard, were you ever personally contacted with regard to the proceedings to take the Laurel Cemetery?

A No.

Q Did any sheriff ever come to your house and serve you with any papers?

A No.

MR. MYLANDER: If Your Honor please, I object. We concede and the records would show that this lady was not served and that service was by publication.

MR. DEARING: I would rather have answers to the questions.

MR. MYLANDER: I object as irrelevant and immaterial.

THE COURT: Mr. Dearing, I am going to permit both sides great latitude in this case, but where there is no issue, only in the interest of saving time, we might get down to the real meat of the case. The respondents admit that none of these complainants were personally served by any process through the sheriff, but publication was the method used to obtain service. I don't want to be restrictive and

I don't want to restrict you in your examination, but apparently this is going to be a long proceeding, so whatever anyone can do to expedite the matters, I think it will be to the interest of all of us.

Q Did you ever see any notice in the paper in reference to this proceeding?

(Question objected to; objection overruled.)

A No, I did not.

Q Do you subscribe to the Daily Record of Baltimore City?

A No, I don't.

Q Where do you live now?

A 1322 McCulloh Street.

Q How long have you lived at that address?

A I have been there thirty years or more.

Q Were you living there during the lifetime of your husband?

A Yes.

Q Do you have any relatives that were buried in Laurel Cemetery?

A Yes, I have cousins that were buried in my husband's

lot.

Q Did you ever visit the graves of them?

A Yes, we were there in 1959.

Q In nineteen fifty what?

A In 1959 -- I don't mean 1959, I mean 1949.

Q Did you ever do anything to keep up your lot?

A We did until he was taken sick, then we were not able to give it any more.

MR. MYLANDER: Your Honor, I object to the examination on that particular point as to whether a particular plaintiff has done particular things. The only purpose I can see is an endeavor to contradict the testimony in the previous case. Until this Court has ruled that the case is reopened and subject to contradiction, this is contrary to the finding of fact by the Court in the other decree. Unless that decree is upset, this Court should not now inquire into whether the previous Courts' position on it, as a matter of fact, was correct.

THE COURT: Very well. I overrule the objection. I will admit this, however, subject to exception because I cannot tell at this point the relevancy. I think I have

the issues clearly in mind. So I will overrule your objection.

MR. DEARING: Then, your Honor, that, first of all, these people had a property right --

THE COURT: Mr. Dearing, this isn't a proper time to have argument. I will give you ample time to argue the case. Let's get on with the testimony.

MR. DEARING: All right. Witness with you.

MR. MYLANDER: No questions.

(Testimony of the witness concluded.)

MR. DEARING: If Your Honor please, something has been said in the interest of saving time. We can repeat this sort of thing a hundred times to show these people here have the same interest as Mrs. Kennard. If it is the wish of counsel to do that, we will proceed with that.

THE COURT: I think it might be to everyone's advantage if counsel could enter into a stipulation with respect to the testimony of all these complainants, particularly with respect to their interests or the existence of a certificate of burial. If you can possibly stipulate, it

will save time and I will give you an opportunity to do it. Otherwise we will have to hear the testimony of all these witnesses.

MR. MYLANDER: If the Court pleases, we would be willing to stipulate that those plaintiffs who hold certificates which will be produced by counsel are certificate holders, without showing the devolution of title from their respective ancestors or predecessors, as the case may be. But I would limit my concessum to the certificates which are produced and put in evidence.

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MR. ROBINSON: That would not be broad enough. I would suggest, if we can stipulate, we should stipulate that the complainants named in this case whose certificates of burials, if there are such, the names and the dates be supplied as actual certificate holders. We call them deeds and they were issued for a consideration by the Laurel Cemetery to these respective people and to have them disposed of like this very witness testified, she did not receive personal notice. But just to say certificate holders, without devolution of title, does not help us at all. They would still have to show they got it and still

own it.

MR. MYLANDER: No, I would be willing to concede, if you can produce the certificate, I will be willing to concede that the plaintiffs holding those certificates are certificate holders entitled to whatever rights the certificate confers.

THE COURT: Gentlemen, what I will do, I am going to take a very short recess and give counsel an opportunity to attempt to get together on a stipulation. It seems to me that ought to be done without any great difficulty. Do you want to do that?

MR. COCKRELL: I think we need a little thought on that.

MR. ROBINSON: There are various complainants named here. If counsel tell you they have certificates, are you willing to assume the accuracy of the statement of the numbers and so on?

MR. MYLANDER: Mr. Robinson, I don't see that it is material to the issue before this Court whether there is one plaintiff or fifty or one hundred or two hundred plaintiffs, and I am sure that among your list there are some

who have interests.

MR. ROBINSON: We have to point out --

THE COURT: Suppose you confer with your co-counsel so there can be a united conference presented to the counsel for the respondents, then enter, if you can, into a stipulation. I think it will be a great time-saver.

MRS. MITCHELL: Your Honor, I have this to suggest; that counsel for complainants will prepare such stipulation and we will waive further testimony at this time until said stipulation has been agreed upon and produced.

MR. MYLANDER: His Honor has offered us a recess until you can arrive at that and I will be ready to consider it and give you an answer.

THE COURT: Yes, suppose you do that. There is sufficient legal talent at the trial table to work out such a stipulation.

MRS. MITCHELL: The only problem is that there are ninety deeds. Most of these people here are plaintiffs or heirs, or some even original purchasers. They were subpoenaed here with their deeds and that will take some time to prepare. Our purpose at this time is to show the

interests of the complainants. But if we can waive further hearing of such testimony as will show interest at this time, while the attorneys for both sides agree on said stipulation showing the interests of these heirs, then we can proceed on with the record. I am not ready to stipulate, to agree to a formula that will allow you to put a stipulation in without anything more being said about it.

MR. HUGHES: Your Honor, do counsel for the McKamer Realty and Anderson Enterprise challenge the question of these lots, or is it your challenge to whether or not it is a deed or lease? If it is a deed or lease that is the question before the Court, we can proceed according to the stipulation and the Court can rule on that later.

MR. MYLANDER: I agree. We don't challenge that among your many complainants there are some who hold valid certificates. That isn't the question we raise. It is the effect of those certificates that we question.

THE COURT: Gentlemen, I am still going to give you a few moments recess to try to enter into a stipulation.

(After a short recess.)

MR. MYLANDER: If the Court please, the defendants will stipulate that at any time during the proceedings the plaintiffs may offer in evidence papers such as have been offered which they characterize as deeds and which we characterize as certificates, provided they have clipped to them a little piece of note paper showing the plaintiff who claims under it, and whether by inheritance or by assignment, and if by inheritance, with or without probate. Upon such papers being received by the Court, we will concede that such persons shown on those little slips being plaintiffs, have whatever interest the certificate conferred upon the original purchaser of the certificate.

THE COURT: Very well.

MR. COCKRELL: Your Honor, counsel for the defendants referred to the intervenors previously. I would like to request at this time that an interlineation be made into the Bill to amend, to read that the parties named therein have a beneficial interest in the Laurel Cemetery to the same extent as their ancestors would have had to the extent which we will proffer to prove, and we further request that they be regarded in the same manner as the other

original complainants to the Bill of Complaint.

MR. MYLANDER: We have no objection to such interlineation.

MR. ATWATER: We are not making a technical point as to making certain intervenors plaintiffs. We feel this applies to the original plaintiffs as well as to the intervening plaintiffs.

THE COURT: Very well. It applies to all parties now.

MR. DEARING: If the Court please, we have summoned a number of public officials and I think out of courtesy to them, if Your Honor will permit, we will put them on and let them testify.

THE COURT: Very well.

Thereupon---

MACEO WILLIAMS,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Your name and office address.

THE WITNESS: I work for the Baltimore City Health Department. My office address is 1313 Druid Hill Avenue.

DIRECT EXAMINATION

By Mr. Williams:

Q Doctor Williams, what is your position with the Health Department of Baltimore City?

A I am Director of the Druid Hill Health District. That is a large district in the Northwestern and Western section of Baltimore.

Q How long have you held that position?

A For twenty years.

Q By reason of what training are you qualified for that position?

A As a graduate of the Howard Medical School in #2 Washington and as a graduate of the Harvard School of Public Health in Boston, I became eligible for this office.

MR. WILLIAMS: Are there any questions as to the doctor's qualifications?

MR. MYLANDER: None whatsoever.

Q Doctor Williams, have you ever been to the Laurel Cemetery?

A Yes, I have been to the Laurel Cemetery on many occasions.

Q Then, Doctor, do you know of any reason that Laurel Cemetery would constitute a health menace to the people of Baltimore City?

MR. MYLANDER: If the Court pleases, it would be interesting to hear Doctor Williams' observations on this, but this is the scope of inquiry in the previous case and we would point out that it must be shown that it should be reopened before we can re-examine the previous case.

THE COURT: I understand. For that reason, I will overrule the objection and take the testimony subject to exception, subject to its being shown it is relevant.

Q Doctor Williams, you may answer.

A I have seen plenty of cemeteries during my life but I cannot say that Laurel Cemetery is any different than any other cemetery I have been to, as far as health menaces are concerned.

Q Doctor, is it a fact that people buried in the ground in a cemetery are in any way related to the public

health of the people in the vicinity of the cemetery?

A There is no relationship at all.

MR. MYLANDER: If the Court please, I have a continuing objection to these questions, I suppose.

THE COURT: You have.

MR. MYLANDER: To the whole line of questions.

THE COURT: I understand.

Q Is it your opinion, Doctor, that Laurel Cemetery being located within the boundary lines of Baltimore City is of any particular significance as affects the health and welfare of the people?

A It has no significance whatsoever.

Q Are you familiar likewise,Doctor, with localities in other sections of the State of Maryland?

A Yes, I think I am familiar.

Q Are you familiar with Catonsville as a locality?

A Yes.

Q Then would the presence of Laurel Cemetery in Catonsville be any different as respects health and welfare, as it is located on Belair Road?

A No difference whatsoever.

MR. MYLANDER: My objection continues.

THE COURT: Same ruling.

Q Doctor Williams, your area in the Health Department is restricted to the Northwestern District and the Western District?

A In general that is true.

Q Is it a policy of the Health Department to brief employees in positions of that department respecting laws that have been passed by the Legislature of Maryland, dealing with the health of the people of Baltimore City?

A They give us a book containing the Health Ordinances and we are supposed to read that book and be a little familiar with it, but there is no course or any briefing about it. It is up to the individual to read the book and the Ordinances.

Q As a Health Officer of Baltimore City, have you ever been advised of the existence of this law that was passed in 1957, which would authorize your department to condemn a cemetery in Baltimore?

A Never.

MR. MYLANDER: I object to that on the additional

ground that it is an inaccurate characterization of the law. If I understand it, you are referring to Section 120.

THE COURT: Section 120?

MR. WILLIAMS: I believe the reference I made was that his department could have condemned the cemetery if it were a health menace under that law.

MR. MYLANDER: Under Section 120?

MR.WILLIAMS: Yes.

MR. MYLANDER: I don't so read it.

MR. WILLIAMS: I will read the section.

MR. MYLANDER: I think His Honor understands the objection and can rule on it.

THE COURT: I overrule the objection.

Q Doctor Williams, your immediate superior in the Department of Health is Doctor Huntington Williams, is that correct?

A That's correct.

Q Is it a policy of your department, of your particular district, to advise Doctor Williams, Doctor Huntington Williams, of health menaces existing in your district?

A That's correct.

Q Are you familiar, Doctor Williams, with the death records that are kept by the Department of Health?

A No, that is the work of another department altogether and I could not say that I was familiar with that.

Q Do you know of the existence of such a department?

A Yes, that's true.

Q Do you know whether or not that department has been in existence for the twenty years you have been a Health Officer?

A Oh, yes, considerably more than that.

MR. WILLIAMS: Witness with you.

CROSS-EXAMINATION

By Mr. Mylander:

Q Doctor Williams, the Laurel Cemetery isn't in your district, is it?

A It is not.

MR. MYLANDER: No further questions. If the Court please, I move that the entire testimony of Doctor Williams be stricken.

THE COURT: Very well. Objection is overruled and the testimony is still subject to exception.

MR. WILLIAMS: That is all.

(Testimony of the witness concluded.)

Thereupon---

OFFICER CARROLL DENT,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Give us your name and assignment.

THE WITNESS: Officer Carroll Dent, Pine Street Station.

DIRECT EXAMINATION

By Mr. Williams:

Q Officer Dent, you say you are assigned to the Pine Street Station?

A Yes, sir, Sanitation Division.

Q Would you briefly describe your duties?

A We do all kinds of sanitary work on the outside, that is, garbage cans, yards, dilapidated out-houses, any-

thing on the outside.

Q Do you cover the entire City of the City of Baltimore?

A No, sir, I cover what they call the New Eastern District but I do a part of the New Northeastern District.

Q On April 24, 1958, did the district which you cover embrace the Laurel Cemetery?

A No, sir, it was still the Old Northeastern.

Q In other words, on April 24, 1958, you did not cover the area of the Laurel Cemetery?

A Oh, yes, I did, but the districts have been changed. It is now in the Eastern District but it formerly was in the Northeastern District.

Q And you were at that time covering the Northeastern District?

A Yes, sir.

Q Do you recall having testified before Mr. Baxter at that time concerning Laurel Cemetery?

A I testified about weeds, overgrown weeds --

MR. MYLANDER: If Your Honor please, I would like to interpose the same objection to the entire testimony bear-

ing on what was said and done in the old case.

THE COURT: Very well. Same ruling. The testimony is subject to exception.

Q Officer Dent, have you had any special training in sanitation work?

A I would say I have had some.

Q Would that include formal training and high school courses?

A No, just what I learned in the department, Police Department.

Q In answer to a question at that time by Mr. Baxter, he asked this question: "In your opinion, is this place a menace to the health and welfare of the people of the City of Baltimore," and your answer was "Yes."

A That's right.

Q Upon what did you base that opinion?

A High grass, weeds, trash and paper, rats, and stuff like that.

Q Have you ever had any consultations with the Department of Health respecting these conditions?

A When I first started with it in 1954, I went

over in the United States Court and found out it was bankrupt and there was nothing I could do. We would get these complaints and just carry them along.

Q Is there a policy of the Police Department to report health menaces to the Health Department?

A Anything on the outside we generally handle ourselves. I got in touch with the Health Department different times there. There was nothing they could do, there was a bankruptcy.

Q From whom did you get the information in the Health Department there was nothing they could do?

A Different people that we called up there.

Q Do you recall their names?

A People in the Health Department like Mr. Motry.

Q How did it happen, Officer, that you testified in this case?

A I wouldn't know that, I was just summoned up there.

Q You also testified about complaints to the Department of Police about the Laurel Cemetery?

A That's right.

Q Did you have any specific reference to any particular complaint?

A Mostly all of them were from the neighbors about rats and high grass and weeds, trash and debris.

Q Were those complaints recorded in your department?

A No, we just couldn't do anything about it on account of bankruptcy. We didn't know who to turn to.

Q Did you report these complaints to your superior officers?

A My Sergeant says he knew all about it.

Q If I understood you correctly, no record was made of these complaints?

A We generally turned out a small slip and in the course of time, we destroyed them. Furthermore, if the original person owned it and I send them notice to go and remove high grass and weeds, trash and debris in ten days, after it wasn't done then I would go to work and summons them over into Housing Court.

Q You also testified in response to a question by Mr. Baxter, "Have you considered the cemetery as having been abandoned," would you define the word "abandoned" for us?

In your opinion, what does that word mean?

A Well, let's say I couldn't get a hold of any owner and that was it. I couldn't turn to anybody to clean it up or cut the weeds or anything. And I never did see anybody come in the cemetery.

Q Were any of the graves being kept as far as you could observe?

A None of them, it was a regular forest I would say.

Q Did you know that people were still being buried there?

A I never knowed of any being buried there. I never did see a funeral go in there.

Q Were there any complaints to your department about crimes being committed in this cemetery?

A They had a police detail out there, I am not sure in this here, but it was either a pocketbook snatch there or assault, I don't know which. But there was a police detail sometime back.

Q And how did you get knowledge of this?

A Well, I heard it through the men that they had a detail out in the cemetery.

MR. WILLIAMS: Witness with you.

By Mr. Hughes:

Q Officer Dent, how long were you assigned to this area?

A I first went to work in a car, in a solo car on this beat back in 1927.

Q In 1927?

A That's right.

Q You mean you had been constantly assigned to Laurel Cemetery?

A No, I worked a patrol car through there from 1927 up to 1929.

Q And you mean to tell us that the condition has been the same since that time?

A I wouldn't say back in 1929 now, I wouldn't say that there.

Q During the course of your investigation, did you learn that Health Department notices were sent to the cemetery owners in 1948 and 1952?

A I didn't know that, no.

Q You referred to Mr. Motry.

A After I couldn't get no place.

Q Well, did he tell you that during the latter part of 1948 and early part of 1949 a portion of the property along Belair Road was cleared of undergrowth?

A No.

Q By a group of interested persons?

A No, I didn't know that.

Q Known as Laurel Protective Association?

A No, I didn't know that. In fact, I wasn't working there in 1948, I didn't go back there until 1954.

Q Did you know that the place was sprayed with a chemical weed killer?

A I wouldn't know, I wasn't working around there at that time.

Q When did you start working there?

A I went back in 1954.

Q Do you know Mr. Kaufman, John G. Kaufman?

A I wouldn't know offhand.

Q Do you know Mr. Mercaldo?

A Mr. who?

Q Mr. Mercaldo, of the City Solicitor's office.

A I might have seen the man, I don't know him.

Q Do you know Lloyd McAllister?

A I don't know him but a number of times I had to contact the man on different things that I wanted to find out some information.

Q Well, Mr. Mercaldo was counsel and examined you before the Master, didn't he?

A There was some man there, I didn't know who he was.

Q How did you happen to go there?

A I don't know how I go t there. I was just summoned.

Q You never had contact with anyone before?

A No, sir.

Q Were you familiar with the laws pertaining to cemeteries?

A No, sir, I was not.

Q Then how could you testify in answer to a question that these proceedings are brought under Section 124 of the Public General Laws of Maryland, 1951 Edition. Did you testify to that?

A I didn't say anything about any section or ordinances, I just said at that time there was trash, debris, high grass and weeds.

Q Did you testify to the commission of crimes?

A No, I just went to work and stated I understood there was a police detail there at one time.

Q That is one time, isn't it?

A I wouldn't know any other times.

Q You have been called on many a hold-up and pocketbook snatch, haven't you?

A I didn't work that post in 1929.

Q How many times have you been to or in the Laurel Cemetery since you testified before the Master?

A I haven't been in there, the place is okay now, and I don't have to go there. I get no complaints.

Q Who made complaints to you before?

A Oh, in the whole neighborhood there.

Q But they never made complaints to the Police Department, did they?

A They made them to the Police Department and Sanitation Department, and of course, we would get them.

Q Did you say, "This is the best spot in the world for robbers and thieves to hide"?

A I didn't say it was the best spot, I may have said it was a good spot for them to hide or snatch a pocketbook.

Q Well, did you report that to your superiors?

A The superiors knew all about that, they had a detail out there.

MR. HUGHES: That is all.

MR. MYLANDER: If the Court please, in the interest of consistency, I move that this witness' testimony be stricken.

THE COURT: We haven't heard from Mr. Robinson.

#4

By Mr. Robinson:

Q After you received these complaints, did you make efforts to talk to officers of the cemetery?

A One time there I went up to see a man who was connected with Laurel Cemetery. I don't recall his name. But that's the one who told me it was in bankruptcy and I went right over to the United States Court and checked it.

Q Well, as I understand, before that you were

concerned with this cemetery, before the time of bankruptcy, weren't you?

A Oh, no, not before that there. I think 1954 was the first complaint I had.

Q Do you mean your testimony before the Examiner is all you learned since the date of the bankruptcy, when you say it was a menace?

A No, when I went off that post in 1954 I started to get complaints about it.

Q Back in 1954, did you communicate or attempt to contact any officer of the cemetery about these complaints?

A That is the only time I contacted him. That's when he told me it was bankruptcy. I don't know when it went bankruptcy. I know it was 1954 when the man told me it was bankruptcy.

MR. ROBINSON: When did they go bankrupt, Mr. Mylander, if you know?

MR. MYLANDER: Our brief sets out a schedule of dates.

MR. HUGHES: It was New Year's Eve 1952.

Q So that your knowledge began in 1954?

A Yes.

Q And the bankruptcy was in 1952.

A That's when I was told there was bankruptcy and I went over to the United States Court and checked it and I found out that there was.

Q You did not know that a sale was made by the Trustee in Bankruptcy?

A No, sir, I didn't know anything about that.

Q And that being true, even if you had complaints, the sale had been made and there wouldn't be anything the lot owners could do. That is all.

MR. MYLANDER: I move that the witness' testimony be stricken out.

THE COURT: Same ruling, objection is overruled. This testimony is taken subject to exception as well as the other.

(Testimony of the witness concluded.)

Thereupon---

BRADEN O'MALLEY,

a witness of lawful age, produced on behalf of the plaintiffs,

having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Your name and your position in the Fire Department?

THE WITNESS: I am a Lieutenant in the Baltimore City Fire Department, assigned to the Fire Prevention Bureau. I was assigned April 4, 1957.

MR. WILLIAMS: If Your Honor please, we called Lieutenant O'Malley and it may be that he is an adverse witness, and we should like to reserve the right to cross-examine him.

THE COURT: He is not a party to these proceedings. I will permit you to examine him like any other witness and if there is an objection, I will have to rule on it.

MR. MYLANDER: If the Court please, in order not to interrupt the witness, I would like to make a general exception to all of this testimony.

THE COURT: Very well.

DIRECT EXAMINATION

By Mr. Williams:

Q Lieutenant O'Malley, on the 24th of April 1958,

what were your duties with the Fire Department?

A I was assigned the same as I am now, Lieutenant in the Fire Prevention Bureau.

Q Was that for any particular area of Baltimore?

A I have the Northeast section, that would be bounded at the north by Pulaski Highway, to Monument Street, and on the southeast side of Broadway, going up to Harford, to Hillen Road, to the City line. That area is my whole inspection district.

Q Prior to that date, had you ever met either Mr. John G. Kaufman, Mr. Lloyd McAllister or Mr. Clement R. Mercaldo?

A I had met Mr. Mercaldo.

Q On how many occasions?

A Twice in reference -- I called him several times on the phone in reference to the conditions of Laurel Cemetery.

Q How did you find out that Mr. Mercaldo had an interest in Laurel Cemetery?

A Well, the company reports that come into us from the company has on here that the owner was the McKamer Realty Company, 404 Munsey Building, with Mr. Mercaldo's name as

the agent of that particular company. I in turn called him up and I wanted to get him to remove the accumulation of dirt and grass and debris and trash in the cemetery.

Q Were you successful in getting it removed?

A Well, I sent him the notice which I have here and at that particular time I was informed that he was not the owner of all the cemetery, that it was in the process of going to court, such as that, and I have here something else. He informed me he didn't own all the cemetery, that's what it was, come to think of it. I would say what I said before, I sent a notice and we had to dickeraround a little bit.

Q Was the debris eventually removed?

A Well, his part of it was at the time, but he said he wasn't responsible for all of it, so we just -- it just laid there I would say, more or less.

Q Were you able to find out who owned the other part that Mr. Mercaldo did not own?

A Well, I heard rumors that it was owned by the United States Government.

Q Did you ever know of any provision of the Maryland

law under which the Fire Department could have condemned and sold Laurel Cemetery?

A No, I did not.

Q In answer to a question by Mr. Baxter, "In your opinion is this condition a menace to the health and welfare of the citizens of Baltimore City," your answer to that question was, "Yes." Upon what did you base that answer?

A On the general condition of the cemetery plus the fact that the Fire Department is continuously responding to fires in the cemetery. It is a fire hazard I would say and a health hazard as well.

Q Well, would you characterize Laurel Cemetery in this particular area as being a menace different from any other piece of vacant land?

A No, I would not. I have several cemeteries in my district. One right now I would say, Holy Cross Cemetery, I have had a little bit of trouble with debris, grass and weeds and had it cleaned up. Another one, Parkwood Cemetery on Belair Road, I would say is in excellent condition.

Q How long have you been with the Fire Department?

A Since December 10, 1943.

Q Were you engaged in the same type of work prior to that time?

A Oh, no, I was appointed a fireman at that time. I had taken an examination, competitive examination, and I made Lieutenant.

Q Have you had any formal training in the field of public health?

A Only I would say in my line of work as a fire prevention officer.

By Mr. Hughes:

Q Mr. O'Malley, in 1957, you say there were fifteen calls for fire apparatus to respond to field fires?

A Did I say fifteen? I have been checking on the last several days here.

Q Do you recall making that statement to Mr. Baxter?

A I believe when I said that I said approximately.

Q Well, do you recall saying that in 1956 there were six calls for the same reason?

A Well, that's close, but in checking my records there has been an addition of three more calls in 1956.

THE COURT: Do you mean in this cemetery?

MR. HUGHES: That is what I am going to ask him now.

Q You say in the vicinity of the cemetery or were those fires in the cemetery?

#5 A They were in the cemetery, as the records here I have will prove. It says "Place of origin," "In the cemetery." This is March 13, 1957. March 31, 1957, place of origin was in the cemetery. April 12, 1957, place of origin in the cemetery. I have twenty-seven here.

Q You have no idea who started those fires?

A No.

THE COURT: You have twenty-seven you say?

THE WITNESS: Yes, sir.

THE COURT: During what period of time?

THE WITNESS: This is just 1957.

Q You have no record of fires prior to 1956?

A Yes, sir, I have some right here.

Q Do you have many of them or were they infrequent?

A Due to insufficient time to go through all the records, they are based on daily, it would take me about a week. I have them back here as far as 1953. November 5,

1953, you had an accumulation of debris, dirt, brush, tree limbs, throughout the cemetery. According to Captain Rodowski of Truck Company 26 there was a series of silent alarms of fire and the investigation showed that the property owner -- they sent the notice to Mr. Gilbert Kaufman, 100 East Pleasant Street, according to the records here, that he does not own the property, that the property was in bankruptcy proceedings.

Q Did you ever have occasion to talk with a group from the Belair Improvement Association?

A No, I have not.

Q Are you familiar with the fact that Mr. Shutz -- do you know Mr. William H. Shutz?

A No, but there is something here about the Belair Road Improvement Association in reference to the cemetery. Mr. Shutz.

Q Have you ever had occasion to confer with Mr. William F. Hilgenberg, who was President of the Board of Fire Commissioners at that time, in 1956 and 1957?

A No, I have not.

Q Then you don't know that it was investigated

and found that the infestation of rats was due to the carelessness of the residents and the disposal of garbage in connection with bird and animal feeding?

(Question objected to.)

Q You didn't know that, did you?

A No. In reading the records when I was summoned to Mr.Baxter, I just went over the records we had in hand with reference to the cemetery, but actually you spoke to this gentleman in person, I didn't.

Q Did you confer with Mr. Mercaldo, Mr. McAllister or Mr. Kaufman before going to Mr. Baxter's office?

A No, I didn't.

Q Have you conferred with them since?

A The only time --

Q About the Laurel Cemetery?

A (Continuing) -- with reference to the accumulation of trash and I have forgotten the exact date I sent the McKamer Realty Company a notice to get rid of some garbage that the neighbors were dumping over on the south side.

Q Why didn't you send notice to the neighbors?

A Well, I can't do that. You have to find out who did the work and send it to the owner of the property.

Q Are you aware of the fact that the New Laurel Cemetery was fined by Housing Court and told to improve the cemetery conditions in 1951?

A No, I was not.

Q Have you had occasion to visit the cemetery since 1957?

A On what date?

Q At any time since 1957.

A Oh, yes. I have gone there several times.

Q I did not hear you.

A Yes, sir.

MR. HUGHES: That is all.

MR. MYLANDER: Again we move that this witness' testimony be stricken out in its entirety.

THE COURT: Very well. Your motion is denied and his testimony is taken subject to exception.

(Testimony of the witness concluded.)

Thereupon---

JOHN G. ARTHUR,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Your name and your position with the City?

THE WITNESS: John G. Arthur, Director of the Department of Assessments of Baltimore City.

DIRECT EXAMINATION

By Mr. Hughes:

Q Mr. Arthur, how long have you been associated with the City in the Appraiser's Department?

A Thirty-four years.

Q And did you have occasion in your official capacity to investigate and assess what is commonly termed here as the Laurel Cemetery?

A Yes, sir.

MR. MYLANDER: I object to this as being irrelevant.

THE COURT: For the same reasons I suppose. Same

ruling.

A Yes, I did.

Q And you were acting on behalf of the City, were you not?

A Yes.

Q When did you assess this property?

A The Department of Assessments made the assessment at 2401 Belair Road, which is the official designation of this property, taxable on December 8 of 1958, for the years of 1958 and 1959, and, of course, that assessment will carry on taxably until any change of status. Before that the assessment was exempt because of the fact that the Laurel Cemetery, under the law any cemetery is entitled to exemption from taxation.

Q At the time you fixed the appraisal, what was the date?

MR. MYLANDER: Objection, particularly on additional grounds, your Honor.

THE COURT: What is the purpose of this?

MR. HUGHES: The purpose of it is, sir, it has been alleged in the Bill of Complaint that there was fraud

and known to the parties who are defendants, and in the opening statement there was an allegation that these parties have taken advantage of their official position to enrich themselves, and I propose to show the discrepancy between the tax assessment and the amount for which the property was sold in bankruptcy proceedings.

MR. MYLANDER: If the Court please, even if so alleged and if it were proffered to show that, the tax assessments are not admissible in valuation cases.

THE COURT: I will let him answer. What is your answer?

A What is the question?

THE COURT: What was the property assessed for in 1958 and 1959.

A The assessment at 2401 Belair Road was originally assessed on December 8, 1958, for $91,160. Subsequently there was a division of that property and a part of the acreage was deeded to another owner and the assessment of $91,160 was divided into $89,000, which still remained the assessment of 2401 Belair Road, and $2,160 for a piece which was deeded to the Anderson Enterprises, Incorporated, which technically

is known as a lot located at the southeast side of Belair Road, 284 feet 11 inches, and southwest of Cliftmont Avenue, but a change of both of those assessments equaled the total original assessment of $91,160.

Q Following that assessment, was there or not a protest filed and an appeal taken?

A Yes, there was --

MR. MYLANDER: Objection again on the ground of additional points of irrelevancy.

#6 THE COURT: Overruled.

A The assessment was protested in a letter which was written to the Department on December 18, 1958, within the time prescribed by law for protests.

Q And that letter was from whom?

A The letter was from John G. Kaufman, Secretary-Treasurer of the McKamer Realty Company.

Q In your records or do you recall Mr. Kaufman making the statement that bodies had been interred in the Laurel Cemetery as late as December 1957?

MR. MYLANDER: Additional objection on the ground it is leading.

THE COURT: Do you recall?

A I don't recall exactly the date but in his protest, which was against the fact that we made the assessment taxable instead of exempt, their defense to the assessment or the protest was that the property was still technically used as a cemetery and for that reason, they were entitled to the exemption for the years for which I made them taxable, 1958 and 1959.

Q May I see that letter, please?

A Your Honor, these letters are part of the record in a proceeding which is still pending on this very point at the Maryland State Tax Court. Am I free to release those?

THE COURT: I think so. You want them back, of course.

THE WITNESS: Yes.

MR. HUGHES: Your Honor, this is pretty long and it is material. If it is introduced into evidence, with Your Honor's permission and if there is no objection, perhaps we could be furnished with a copy, since this is pending in another matter.

MR. MYLANDER: There is an objection to the

admission of it. I have no objection to a copy, if His Honor rules it is admissible.

THE COURT: I overrule the objection. All of this is, of course, still subject to exception and subject to it being demonstrated that it is relevant, at some time before the close of the proceedings.

THE WITNESS: I will furnish a copy of it, Your Honor.

MR. HUGHES: Your Honor, I would offer this in evidence subject to being verified by a copy which will be filed later.

MR. MYLANDER: If the Court please, I think possibly I should make our position clear, that if we have reached a point where we are re-examining the case, I would consider this as completely relevant. But my objection is to re-examining the findings heretofore made.

THE COURT: I understand. If I rule that the proceedings ought to be re-examined, I will have these witnesses recalled. I am taking all of this subject to exception.

MR. ROBINSON: May I suggest something to you?

THE COURT: Is it a good suggestion, Mr. Robinson?

MR. ROBINSON: It is I hope. If there is an assertion in there that it is still being used as a cemetery, it mounts up to an admission and it should be admissible.

THE COURT: I am admitting it subject to exception.

MR. ROBINSON: Yes. I mean whether another case has been decided or not, if the Court finds it is an allegation here, independently of that, I think it should be admissible.

(Document referred to received in evidence as Complainants' Exhibit No. 3.)

Q You have a letter there from your Board which was filed by Mr. Kaufman, do you not?

A No, I have an appeal which is filed not with my office but an appeal from our decision, to the Board of Municipal and Zoning Appeals, and copy of that appeal contains a letter.

Q Which was signed by whom?

A The letter was signed by me,as Director of Assessments, in denying the claim for exemption.

Q And who noted the appeal?

A The appeal was noted on behalf of the McKamer Realty Company by Mr. John G. Kaufman, Secretary-Treasurer, and by the Belair Road Enterprises, Incorporated, by John G. Kaufman, Secretary-Treasurer.

Q What was that date?

A The date of the appeal was 2d of July of 1959.

Q Mr. Kaufman was Secretary-Treasurer of both companies then?

A That is what the appeal shows.

THE COURT: What is that, Belair Realty?

THE WITNESS: The Belair Road Enterprises, Incorporated.

Q And the McKamer Realty Company, is that right?

A Yes.

Q In that letter does he state that the cemetery was still being used for burial purposes?

A The letter is mine, sir.

MR. MYLANDER: Didn't you offer that in evidence?

THE WITNESS: No, this is a copy of the appeal. The next to the last paragraph in the appeal says: "That we

contend that this property is not subject to assessment for the years 1958 and 1959 for the reason that its status as a cemetery did not change until at least as of December 5, 1958, which makes the property subject to taxation beginning January 1, 1960."

THE COURT: "For the reason that the status did not change."

THE WITNESS: "The status as a cemetery did not change until at least as of December 5, 1958," which makes the property subject to taxation beginning January 1, 1960.

MR. HUGHES: Thank you.

By Mrs. Mitchell:

Q Mr. Arthur, also in that protest of tax assessment which you have there is there again a statement by Mr. John G. Kaufman, in his capacity as Secretary-Treasurer of both McKamer Realty Company and Belair Road Enterprises, that the cemetery was being used for burial purposes?

A I think the only reference I find to that is that paragraph I just read. Let me read this: "On December 10, 1957, a Bill of Complaint was filed in the Circuit Court of Baltimore City by the McKamer Realty Company against all

known and unknown owners of burial lots in the cemetery, asking the Court to authorize the sale of the cemetery property subject to the removal of all bodies and tombstones that can be located in the property."

MR. ROBINSON: Mr. Arthur, what is the date of the appeal?

THE WITNESS: The date of the appeal is July 2, 1959.

By Mr. Cockrell:

Q Mr. Arthur, you say you have been with the City thirty-four years. Is that correct?

A Yes.

Q During this time have you had occasion to place a valuation on various properties throughout the City?

A Yes, sir, of 250,000 parcels.

MR. COCKRELL: I would like to proffer him as an expert witness. I know the defendants have objected to him. I would like to get his opinion as an expert as to the valuation of that property.

Q In your opinion, what would be the value of that property, the Laurel Cemetery property?

(Question objected to; objection sustained.)

Q You say you have had occasion to examine or place a valuation on various properties throughout the City, is that correct?

A Yes.

Q What qualifications do you have, other than that of the training or experience that you have had, in the line of valuation?

MR. ROBINSON: I think they will admit his qualifications, wouldn't you?

MR. MYLANDER: No. I think Mr. Arthur is a very capable administrator of the Department of Assessments, but I don't think he purports to be a real estate expert.

MR. ROBINSON: Was that the basis of your objection a while ago?

MR. MYLANDER: That was an additional basis.

MR. ROBINSON: Would you admit his qualifications as an expert witness?

MR. MYLANDER: No, I just said I would not.

Q What other experience and background have you had in the valuation of real estate property involving land in

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the City of Baltimore?

A My activities are confined to valuation of property for assessment purposes. I believe one of my qualifications might be that for that position I have a degree of Bachelor of Laws, which I obtained in 1934, which I have found helpful in interpreting the legal aspects of the assessment work. In addition to that, I have attended schools for assessors for fourteen years at the University of Maryland, some of which time I spent on the staff as a lecturer at the school.

Q Based on all of your experience and qualifications, do you think you would be in a position to appraise property of the nature of the Laurel Cemetery?

A Yes, I would say yes.

Q Are you familiar with this particular plot of ground called Laurel Cemetery?

A Generally familiar, yes.

Q Are you in a position to give a valuation, based on all of your experience, educational qualifications and other qualifications?

A I have already done that.

Q What is that valuation?

A The valuation is $91,160.

Q That is your personal valuation. Would that be your personal valuation in addition to the official evaluation?

A That is impossible for me to answer now because I have not made an appraisal of this property for any purpose other than assessment.

Q As of the date of your notes and other data, would you state that is a reasonable valuation, would you state that is a reasonable valuation of that property?

A I have acted officially by saying so, and I still say so today.

MR. ROBINSON: I think the question should be as of the date --

THE COURT: Who are asking questions here? I don't know how to rule in the event of an objection.

MR. ROBINSON: I just wanted to clear the record. I don't think Mr. Arthur is undertaking to give a valuation as of today, the valuation that is mentioned is another date, isn't it, Mr. Arthur?

THE WITNESS: This was 12/5/58.

By Mr. Hughes:

Q Mr. Arthur, at the time you evaluated this property, was it on a 100 percent valuation or was it for a smaller percentage, which is customary in assessments, and if so, what was the differential?

(Question objected to; objection overruled.)

A As a matter of fact, Your Honor, this assessment of $91,160 was made for the year of 1941. It was carried on the property, although a number of people don't know that we have to assess property even though they are not taxable, we have to carry a valuation. So this valuation of $91,160 had prevailed as the assessment against this property since 1941. At the time when we drew the assessment taxable, after several conferences with the assessors who have jurisdiction in that district, we decided and we therefore advised that the assessment of $6,000 was a fair assessment.

Q $6,000?

A $6,000 per acre or $91,160. The law in Maryland is that all property be assessed at its full cash value, that is in Article 8. But that has been modified some by

judicial decisions which give an assessor latitude to allow for inflation and other elements not of value. As a matter of fact, the present taxable basis of the City is just about 65 percent, that is an overall percentage of current market values. That isn't a practice, that is a result. In some cases assessments are at full cash value and others less than full cash value.

Q In this particular case, it was 64 percent of the actual value?

A No, I can't say that because I have not made any actual appraisal of the property.

MR. HUGHES: Very well, that is all.

THE WITNESS: It may well be that this could be full value.

THE COURT: I think we have exhausted this witness, haven't we?

MR. MYLANDER: Except I renew my motion.

THE COURT: Same ruling, testimony subject to exception.

(Recess from 12:35 p. m. to 1:40 p.m.)

AFTER RECESS (1:40 p.m.)

MR. WILLIAMS: If Your Honor please, we would like to call Commissioner James M. Hepbron.

Thereupon---

JAMES M. HEPBRON,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Now, sir, give us your name and official position, please.

THE WITNESS: James M. Hepbron, Police Commissioner of Baltimore City.

DIRECT EXAMINATION

By Mr. Williams:

Q Commissioner Hepbron, how long have you been Commissioner of Police of Baltimore City?

A Since 1955.

Q And as the Police Commissioner of Baltimore City, are you advised of conditions existing in Baltimore City which constitute a menace to the health and welfare of the people of Baltimore City?

A If those complaints come through the department, they would come to our attention and be reduced to written report, yes.

Q You were issued a subpoena duces tecum asking you to bring with you records of some complaints concerning the Laurel Cemetery. Have you any such records?

A No, we have searched the records of the Central Bureau, the Secretary's office, where the records of my office would be, the records from the office of the Chief Inspector, and the records from the Northeastern or the Eastern District in which the cemetery is located, and we have been unable to find any records of any kind regarding written complaints or any records that had to do with the cemetery in question.

MR. MYLANDER: If the Court please, may I have an automatic objection?

THE COURT: Yes, same objection, same ruling.

Q And Commissioner Hepbron, does information come to you in your capacity as Commissioner, of new laws that have been passed respecting your powers to deal with menaces in the City of Baltimore?

MR. MYLANDER: An objection on the additional

ground with reference to Section 120.

THE COURT: Very well. Overruled.

A All the new laws, copies of all the new laws that affect us come to my attention.

Q Do you recall that Article 16, Section 120, passed by the General Assembly, authorizes you to condemn a cemetery in the City of Baltimore?

MR. MYLANDER: Objection on the ground the law does not contain any such authorization.

THE COURT: Let him answer. Do you recall any such law?

A I don't recall.

Q Did you know that from June 1, 1957, you had authority, as Police Commissioner, to condemn Laurel Cemetery, if it constituted a menace to the health and welfare of this City?

MR. MYLANDER: Again I object.

THE COURT: Are you contending it is the duty of the Police Commissioner to condemn cemeteries that for one reason or another may be a nuisance or a health hazard?

MR. WILLIAMS: I am referring, Your Honor, to

the law which specifically authorizes the head of any department of this City to enter into proceedings to condemn a cemetery where it constitutes a menace.

THE COURT: Let him answer.

A I was not aware of the authority given me under the law.

Q Is there, in your opinion, Mr. Commissioner, any difference between a cemetery and any other vacant lot in the City as respects your duties, as Police Commissioner, to maintain law and order?

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A My job is to maintain law and order and enforce law regardless of the locations of property. I must confess we consider cemeteries something a little more sacred and inviolate.

Q Is there in your experience any incident that might indicate that a cemetery presents a special policing problem from any other vacant piece of land?

A It might, depending on its location, whether it was walled in.

Q Have you prior to becoming Commissioner of Baltimore City, have you had any experience in dealing with

municipalities in the State of Maryland?

A In what capacity, just what do you mean?

THE COURT: I must confess this line of interrogation does not help me one way or the other.

MR. WILLIAMS: If Your Honor please, I think at some time before the case is concluded you will see that it is so.

THE COURT: Very well, let him answer.

Q Are you familiar, Mr. Commissioner, with the Towson area generally?

A In a very general way, yes.

Q Would you say that a cemetery in Baltimore City would present any different problem as a cemetery in Towson similarly situated?

A What do you mean by presenting a problem?

Q Well, as affects the health and welfare of the people of Towson as contrasted with the people of Baltimore City.

A I don't think there would be any difference as far as Towson and Baltimore are concerned. I always wanted to live near a cemetery because they are such quiet

and nice people there.

MR. WILLIAMS: I certainly appreciate your coming down, Commissioner. I have no other questions.

MR. MYLANDER: I renew my motion.

THE COURT: Same ruling.

(Testimony of the witness concluded.)

MRS. MITCHELL: May it please the Court, we have summoned the personal property tax reports which are annually filed with the State Tax Commission, which were under the law filed by the McKamer Realty Company. It is for the purpose of showing the names of the officers as listed in that report for 1957 and 1958.

THE COURT: You don't necessarily want Mr. Ward, if this gentleman has the record.

MRS. MITCHELL: If he has the information we can read it into the record by stipulation.

MR.MYLANDER: There is no question as to who they are. You may read them and we will accept them without the witness being sworn.

MRS. MITCHELL: I would like to read, therefore,

into the record the personal property report subpoenaed from the State Tax Commission of Maryland, now known as the State Department of Assessments and taxes, which embodied in them the names of the officers of the McKamer Realty Company for 1957 and for 1958.

They show for 1957 as president, Clement R. Mercaldo, 2803 Evergreen Avenue, Baltimore, Maryland; Vice-president, Lloyd G. McAllister, 116 Croydon Road, Baltimore, Maryland; Secretary, John G. Kaufman, 4 North Rolling Road, Baltimore County, Maryland; Treasurer, John G. Kaufman, same.

I wish to further read into the record for 1958 the personal property report of the McKamer Realty Company filed with the State Tax Commission, and showing those same names as the officers of the McKamer Realty Company.

MR. MYLANDER: I suppose you mean the Belair Road Enterprises.

MRS. MITCHELL: And that these three names also appear as the three directors of that corporation for 1957 and for 1958, as the Maryland law requires.

I would like to then return these records.

Thereupon---

GEORGE A. MOTRY,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Your name and your position with the City.

THE WITNESS: George O. Motry, Director of Bureau of Environmental Health, Baltimore City Health Department.

DIRECT EXAMINATION

By Mr. Williams:

Q Mr. Motry, how long have you held that position?

A Approximately five days.

Q And what was your position with the Health Department prior to that time?

A Before that time I was Chief of the Division of Community Sanitation of the Baltimore City Health Department.

Q Are you a doctor?

A I am not, no.

Q How long were you Chief of the Community Sanitation?

A Since about 1945 in my current period, with a

short period of service in about 1941.

Q As the Commissioner of Sanitation for the City of Baltimore, did you have occasion to investigate complaints respecting the laws as to cemeteries prior to 1958?

A Yes, we did.

Q You arrived, I believe, at the opinion that the Laurel Cemetery constituted a menace and health to the people of Baltimore City?

A I don't like that term "menace to health" --

MR. ATWATER: May we renew our objection to those questions?

THE COURT: Very well. Same objection, same ruling.

A (Continuing) I would prefer to say that it was a nuisance with public health implications rather than an actual health menace.

Q Mr. Motry, who is your immediate superior in the Department of health?

A Mr. George W. Schuchert.

Q Did the situation respecting Laurel Cemetery arrive at the point where you found it necessary to take it

up with Mr. Schuchert?

A Yes, Mr. Schuchert has been involved with Laurel Cemetery case possibly as much as I over a number of years.

Q Is that Mr. Schultz, S-c-h-u-l-t-z?

A No, I was speaking of Mr. George W. Schuchert, who until recently was Chief of the Division of Sanitation and is now Commissioner of Health for Sanitation. Doctor Wilmer H. Schultz, to whom you refer there, was Director of the Sanitary Section and later Assistant Commissioner of Health for Sanitation.

Q In your capacity as Chief of the Sanitation Division, find it necessary to deal with other departments of the City respecting this situation at all?

A Yes, we did. We were in contact to some extent with the Department of Public Works to another extent -- I personally was concerned with another division of the Health Department or Division of Rodent Control, and we were in touch with the City as well on a number of occasions concerning this property.

Q What specifically transpired between you and the City Solicitor's office, if you have a record of that?

A I have no record covering this other than a notation by Mr. Schuchert, but apparently in 1945 and continuing apparently through 1945 and 1946, there was correspondence and meetings with Mr. Crowther of the City Solicitor's #9 office. Those records have no longer been retained by our department. Let me find the time here. During the latter part of 1951, during the year 1951, we were in very close contact with Mr. Crowther of the City Solicitor's office, who was essentially at that time acting as a coordinator in regard to checking just what should be done with the cemetery, following a case in Housing Court in which he had represented the City interests. That extended over a period up until the last thing I note here is up through February of 1952. That is about the last I see up until about March of 1957, when there was apparently a conversation, I believe by Mr. Long of the Health Department, with Mr. McAllister of the City Solicitor's office, and also he spoke to Mr. Mercaldo I believe about the same time. Mr. Morton P. Friedman had a conversation with Mr. Mercaldo, in which he requested a report on the general condition of the cemetery. Our report was sent him on November 6, 1957.

There is also a letter addressed to Mr. Mercaldo on March 6, 1958, concerning a condition of erosion on to a footway, in which we inquired whether Mr. Mercaldo, whom we knew at that time was also associated with this from a private point of view, would undertake the clearing of that or whether we would ask the Bureau of Highways to do that particular type of work.

Q Mr. Motry, when you and your department receive complaint of a health condition existing with respect to a property, you investigate it and if you find that there is basis for the complaints, what action do you take pursuant to that complaint?

A The normal action taken is to address a notice to the owner of the property giving him a certain time to make corrections. If the corrections are not made by that date, usually further efforts are made through letters or telephone talks. If the situation becomes apparently no better and we don't feel we are going to get voluntary improvement, a summons is issued for the owner of the property to appear in Housing Court.

Q And once it gets into Housing Court, is your

department out of it from that point on?

A No, generally speaking the Court will make one of three types of findings. They may find that the person we have brought in is not guilty. Sometimes they will find that he is guilty and will ask us to sort of hold the case in abeyance and ask us to sort of follow it up. And sometimes a fine will be levied against the person if he is found guilty. If a person is found guilty, then usually a new notice is issued and the case reopened as a new case.

Q Would your records indicate what fines, if any, were ever imposed on the Laurel Cemetery managers or owners?

MR. MYLANDER: Objection to this again.

THE COURT: Same ruling.

A I have a record of two cases in the Housing Court. One of those cases was heard on October 7, 1948, at which time Mr. John G. Kaufman, the president of the Laurel Cemetery Association, was fined $25 and costs on a charge brought by us on weeds and trash. Let me see exactly what that was. Yes, weeds and trash.

In 1950 there was another case. That case was heard on the 17th of July 1951. At that time Mr. John G.

Kaufman, president of Laurel Cemetery Incorporated, was fined $100 and costs on a charge of failure to fill in sunken graves to prevent pooling water and remove all trash and debris, and at the same time was fined $50 and costs on a charge of failing to destroy grass and weeds.

Those are the only two things I have record of now.

Q And would your records indicate whether or not these conditions were eventually corrected?

A The conditions were never satisfactorily corrected in total. For example, after the 1948 case, after the first case, there was a considerable amount of work done, particularly in one end of the property. Generally along the Belair Road side at that time.

Q That was in 1949?

A Yes. That was following the previous case. Then in 1951 -- before I go on to that, let me check something else. There were two things happened in 1949. Mr. Kaufman started work along Belair Road, as I have mentioned. In addition there was one section along Belair Road in which a group of property owners also started to clear up that

along Belair Road. There was quite a bit cleared. Then in 1951 -- this is following the case of spraying done by the Davey Tree Expert Company that was doing work there, and they apparently did that spraying all through the complete cemetery, although the results were not in all cases completely satisfactory, some spots were missed, but the cemetery was sprayed at that time. That work was continued along through 1952.

I notice a record here in January of 1952 indicating that there were two men employed on a part-time basis to do clearing work and that they had made rather excellent progress about that time on the strip at the south end of the cemetery. However, they never did get that completed.

In July of 1952, the cemetery was again treated with a chemical weed killer. That could have been slightly after July. It was July 31st that the Davey Tree Company stated that they had not yet done it but would, and it was done shortly thereafter.

That is about the last record I have of any extensive work being done at the cemetery.

Q When did you last visit the cemetery, Mr. Motry?

A I visited the cemetery -- the last time I personally was there was immediately prior to the testimony in a previous case in which I had been called, and I wanted to review the place before testifying. That was April 14, 1958. I did not make at that time a complete inspection in that I did not go through and examine everything. I tried to cover it generally but rather hastily.

Q Do you recall at that time having seen any graves that showed any semblance of having been maintained by anybody?

A On that day I did not notice any. The condition of this cemetery had declined tremendously, oh, I would say within a period of two years, and as I say, I didn't go over the cemetery in detail but it was terribly overgrown. Where you used to see maybe flowers or cleared strips, I didn't notice them on that occasion. But I did not cover every square inch of it.

Q Did it appear to you that the roadways and paths were being maintained?

A No. As I recall, there was a lot of fallen trees

and things of that nature across the roads, and where the paths used to be, where you used to be able to drive a vehicle through them, I doubt that you could have gotten a vehicle through there without a lot of trouble the last time I was there. #10

Q Earlier I believe you said that in your opinion the condition of Laurel Cemetery constituted a nuisance with public health implications?

A Yes.

Q That is slightly different than your earlier testimony. Would you explain just what you mean by your current testimony?

A I don't know what you mean by my previous testimony.

Q Well, perhaps I can refresh your memory.

A Yes, if you will.

Q In answer to a question by Mr. Mercaldo: "In your opinion is the condition as it exists out there today a menace to the health and welfare of the citizens of Baltimore City? "Answer: It is a definite public health nuisance. There are a number of reasons for that. We have

a fire hazard, a possibility of accidents, and the presence of weeds could contribute to the suffering of persons who are allergic to pollen, plus poison ivy."

A I would give the same answer. I don't think there is any difference. When I say a public health nuisance, a nuisance with public health implications, I mean the same thing. When you say health hazard, that is purely -- it is a matter of degree really and everybody might have a different opinion as to whether at this particular time there is a hazard. It is a question of proximity. I think the term "public health nuisance" is a better term than public health hazard.

Q Perhaps you could go a little further and tell us whether or not the nuisance as it existed was a nuisance as to all of the residents of Baltimore City, the people living in the community, or the people who trespassed on property.

A I think it was a nuisance primarily to persons in the general locality. I think most of your nuisances are that way. The only way I can conceive of an effect upon people far removed from that might be an increase in pollen, which can be carried some distance. But most all your nuisances

are primarily directed to people in that area rather than to someone in a remote area.

Q Then would it be your opinion that a similar condition existing in Catonsville would produce the same result?

A Yes.

Q You further testified that on April 24, 1958, the cemetery had been abandoned. Would you tell us what your definition of "abandoned" is?

A For abandoned I would say this. That there was no evidence of any recent burials, the tombstones were almost all knocked over and damaged; weeds were growing all over the place. As I say, on previous visits you did notice certain cleared areas, there were flowers sometimes on the graves. On some occasions we would see where there had been burials. None of them seemed to be existing at this time. It looked like certainly no one had been near the place for months.

Q Well, could you tell us approximately the last time that you visited it when you saw some semblance of maintenance?

A Well, there was a long period in which I wasn't there and the last time I saw this personally prior to that time was --

Q I believe you said on April 14, 1958,that is the date you gave earlier.

A Well, that was the day when I noticed this. I mean before that time though it had been quite a while since I saw it, and I think before that April 14, 1958 date since I had actually seen it myself, it would probably go back to April 25th of 1956. In other words, it was nearly a two-year period that I had not personally seen the cemetery.

Q Do you recall whether or not in 1956, when you were there, there appeared some semblance of maintenance?

A Possibly a little, but the condition at that time was getting pretty bad too. At that time Mr. Schuchert made the actual report of the inspection at that time and he indicates there has been no improvement in the condition of Laurel Cemetery; in fact, the general unsightly condition of Laurel Cemetery is worse today than it has been before; there is hardly a tombstone left in the cemetery that vandals have not succeeded in knocking over and breaking, numerous

trees are down, the majority of which seem to have been cut although no doubt some had fallen down. He also mentioned sunken areas.

However, my general impression of the previous inspection is that it wasn't as bad as it was in 1958.

Q Will you say that your visit there in April of 1958 was specifically for the purpose of later testifying?

A Yes. I had not seen it for two years and when I was informed that I would be asked to testify, I went out there to sort of refresh my recollection of what the thing looked like now because I didn't know whether there had been any change in it from this time.

Q Do you know if the Health Department ever at any time came to a conclusion that the Laurel Cemetery should be condemned and sold for the benefit and health of the people of Baltimore City?

A When you say the Health Department, I assume you mean an official decision by the Health Department recommending condemnation of it. I don't know of any such action ever having been taken nor to whom such a thing would have been addressed, if it were.

Q Did you know, then, that on and after June 1, 1957, the Health Department could have condemned and sold that Laurel Cemetery?

MR. MYLANDER: There is an objection, Your Honor.

THE COURT: I missed the last part of the question.

MR. WILLIAMS: If he knew that on and after June 1, 1957, the Health Department could have condemned Laurel Cemetery and sold it.

THE COURT: Objection overruled. Let him answer.

A I did not know.

Q Then do you know from what organ of Baltimore City the Health Department receives its legal advice?

A From the City Solicitor's office.

Q Now, you say that it is customary for the City Solicitor's office to advise the Health Department of what action it may take under new laws?

A Yes. If we have any question at all as to what action is appropriate in a case, we will consult the City Solicitor's office.

Q Would you have an opinion, Mr. Motry, as to whether or not the Health Department might be better qualified

to determine whether or not a health hazard existed than a private individual?

(Question objected to; objection sustained.)

Q Then would you have an opinion as to whether or not the Health Department would be qualified to determine if a health menace existed within Baltimore City?

A Yes.

Q And do you have an opinion as to whether or not the Health Department is qualified to deal with such a menace?

(Question objected to.)

THE COURT: He is a member of it and I would say his answer would be yes.

Q Are you familiar with the records of the Health Department of deaths, death certificates?

A No, I am not. That is under Vital Statistics.

Q I believe you testified earlier, Mr. Motry, that in 1949 Mr. Kaufman did some cleaning up of the cemetery?

A Yes.

Q Is it your information that he, Mr. Kaufman, did this personally or that it was done with his assent?

A As I understand the situation, there were two

cleanings done. On one occasion, for example, we talked to people on the lot who stated they were employed by Mr. Kaufman. #11 There was also work done by another gentleman and he was apparently, from what he told us, employed by the Laurel Cemetery Improvement Association, which was a group of lot owners. But they both took place.

Q March 6th refers to 1948 or 1952?

A I think that is 1949. Let me check that again. That would be in 1949. About March of 1949, I believe.

Q Do you have any note as to any communication with any member of the Laurel Cemetery Protective Association?

A Yes. I don't have that here but I do have I think one reference at least.

MRS. MITCHELL: I think it is in the front of your file.

A No, what I have in front there is a notation I made that concerns two people, a Mrs. Scott, Madison 6140, to which I made a telephone call later, and Mr. Theodore Roberts of 2131 Druid Hill Avenue, call. He was the person who had made a contract with them. Mrs. Scott apparently was with the cemetery association. Mr. Roberts, as I under-

stand it, was a contractor and he had employed a Mr. John Tillman of 111 North Stricker, as a foreman. I thought there was one other reference in here somewhere but I can't seem to locate it. But that definitely was Mrs. Scott, that was on March 16, 1949, Mrs. Scott, Madison 6140, telephone Laurel Cemetery Improvement Association about contractor for cleaning a part of the cemetery. Later Mr. Theodore Roberts, 2131 Druid Hill Avenue, called at the office, stated he has a contract with the Improvement Association to clean Section C along Belair Road and Section B, 75 by 50, on the other side. I know what I was looking for now.

THE COURT: Good.

A I am sorry to take so much time. Apparently at some time prior to November 3, 1948, a Mrs. Anita C. Scott, of 611 North Caroline Street, had been in touch with us. I don't remember when, but I do know that on the occasion when we sent the notice of August 4, 1958 and subsequently a notice which was recommended in November of 1948, a copy of the notice was sent to Mrs. Anita C. Scott, Secretary Laurel Cemetery Protective and Improvement Association, 611 North Caroline Street.

Q Did there come a time in 1957, Mr. Motry, when a request came to you from the City Solicitor's office for an opinion as to the condition of Laurel Cemetery at that time?

A I mentioned that. Mr. Friedman had spoken to Mr. Clement R. Mercaldo and in connection with the present condition of Laurel Cemetery. On November 6, 1957, a letter was written to Mr. Mercaldo outlining the condition of the cemetery.

Q Was that letter written by you at that time?

A It was written by me, yes.

THE COURT: That was in November 1957?

THE WITNESS: November 6, 1957.

Q Do you have a copy of that?

A Yes.

MR. WILLIAMS: I would like to offer it into evidence.

MR. MYLANDER: No objection beyond the general objection to the whole line of testimony.

(Letter referred to received in evidence as Complainants' Exhibit 4.)

THE COURT: Very well. Same ruling.

Q Mr. Motry, are you familiar with this letter here? Can you identify it?

A Yes, that appears to be a letter which was written by Doctor Schultz, the Director of the Sanitary Section, to Mr. Hilgenberg, president of the Board of Fire Commissioners.

Q And the date is what?

A May 3, 1956.

Q Is this the first time you have seen this?

A No, I have seen this before.

Q Then you can identify it for the record?

A Yes.

MR. WILLIAMS: We would like to introduce it if you can identify it.

THE WITNESS: Yes, this copy was part of our file.

THE COURT: What is the date of that letter.

THE WITNESS: May 3, 1956.

MR. MYLANDER: No special objection to this beyond the general objection to the whole line of testimony.

(Letter referred to received in evidence as Complainants' Exhibit 5.)

MR. WILLIAMS: This is copy of letter which is

addressed to Mr. William F. Hilgenberg, President Board of Fire Commissioners, Gay and Lexington Street, Baltimore 2, Maryland, and it is signed by Mr. William H. Schultz, Director of Sanitary Section. It is dated May 3, 1956.

By Mr. Cockrell:

Q Mr. Motry, were you or anyone in your department aware of any burials being made during your tenure of office?

A I can't answer for the whole department. I have, although I don't recall dates, seen evidences of burials in Laurel Cemetery.

Q Could you give us an approximation as to what year you saw them?

A This is a pure guess. I would say it would have been as long as 1955, or something like that. But I don't have any record to verify that.

Q That is close enough. During your testimony you stated that there was communication between you and the City Solicitor's office, and you also stated that they gave you the official legal opinion. You stated that Mr. Mercaldo contacted your department, as Assistant City Solicitor, and you also alluded to the fact that you were aware of the fact

that he had some private interest. Would you elaborate on that?

A That came about as something, as I understand it, in this way; that Mr. Friedman and Mr. Long, who was handling the complaints on this case at this time, had apparently checked into the ownership of the property. That was back in probably the latter part of 1950 -- in March of 1957 he had determined apparently, I suppose from records of the property location defined by the State Tax Commission, I don't know the source of his information completely, that there had been a sale of this property and that the attorney or agent was Mr. Mercaldo because his recommendation for notice asked that it be sent to Mr. Clement R. Mercaldo, agent, McKamer Realty Company, 404 Munsey Building.

Q Did Mr. Mercaldo contact your department, to your knowledge, in an individual capacity or as a representative of any private corporation?

A The only contact that was made that I know of was a call apparently to Mr. Friedman by Mr. Mercaldo. I don't know what was stated at the time of that telephone call, but Mr. Friedman had asked that the letter be addressed to

Mr. Clement R. Mercaldo, City Solicitor's office. I don't know what was said between Mr. Mercaldo and Mr. Friedman.

Q Do you know of any communication between Mr. Kaufman and your department, in his individual capacity or as a member of a corporation?

A Well, Mr. Kaufman was President of the New Laurel Cemetery Corporation and I think that throughout the period from back in 1948 on until -- put it this way -- from the time about 1948 up until the time that the corporation went into receivership -- bankruptcy, Mr. Kaufman was in touch with us on a number of occasions.

Q You have testified to certain individual names in your files. Mr. Kaufman was in contact with you during this period, Mr. Mercaldo was in contact with you during this period, how about Mr. McAllister, was he in contact with you in his individual capacity other than his official capacity?

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A May I clear this up? Mr. Kaufman did not have any contact, I didn't have contact with Mr. Kaufman after the time that this corporation went into receivership, which would be back a couple years before that. There is a notation here on April 4, 1957, made by Mr. Long, who was one of the

sanitarians handling this case, and that is the one I alluded to before, which says, "I called Mr. Mercaldo re Laurel Cemetery, he was to speak to Mr. McAllister, City Solicitor's office. He said that they had not received title of property as yet. He said he would advise us when title is granted and the cemetery would be cleaned when title is granted." That apparently was a call from Mr. Long to Mr. McAllister. The only other notation I see here is on April 9, 1958: "Mr. McAllister called at the office and said they plan on taking testimony on Laurel Cemetery along about seven or ten days and asked if I would testify."

Q Mr. Motry, one more question I will ask you: At any time had Mr. Mercaldo, Mr. Kaufman, Mr. McAllister, or anyone else connected with the Belair Road Enterprises, contacted you and asked you for specific names of individuals who might have had an interest in that Laurel Cemetery?

A I don't recall any such calls.

MR. MYLANDER: Of course, there is an objection to that.

THE COURT: Overruled. He says he has no recollection. Same objection, same ruling.

By Mr. Robinson:

Q Mr. Motry, you say somebody was fined several times in the Housing Court. Were you present at the time?

A I don't know that I was present at both of these cases, I believe I was present at the case in the second case.

Q If you were, can you recall whether the question of responsibility to do the things that you mentioned vested in the parties who were fined?

A The question of responsibility was never raised by the personwe had notified. At that time we had notified on both of those cases or notice was sent --

Q In other words, the fines were made and the question of responsibility was not raised, whether there was neglect or appeared to be neglected or not, is that correct?

A That's correct.

Q You used the word I think "abandoned". Is that correct?

A Yes.

Q Did youhave in mind when you used the word "abandoned" just abandonment by the management?

A What I meant by abandon was the thing just looked

like it was not being used.

Q You then used the word generally, not specifically, meaning that the lot was abandoned by the lot owners.

A No, I used it in the common sense that it looked like it was deserted.

Q But you did not have in mind that the individual owners did not want to have any more interest in it,did you?

A Well, put it this way. They certainly showed no evidence of doing anything.

Q I mean you did not have daily contact with it?

A No, we had no contact with it at all in those latter days.

Q I don't know whether you recall this, that you did have communication with some lot owners with respect to the upkeep and so forth; isn't that the direct opposite of abandoned?

A At that time there was a definite interest in these properties.

MR. ROBINSON: That is all.

MR. MYLANDER: I renew my motion that the testimony be stricken in its entirety.

THE COURT: Very well. Any other questions of Mr. Motry?

MR. WILLIAMS: No, sir.

THE COURT: Same ruling, Mr. Mylander. Do you wish to examine Mr. Motry, Mr. Mylander?

MR. MYLANDER: I have reserved my objection and I cannot very well cross-examine under this situation.

THE COURT: Very well. Same ruling.

(Testimony of the witness concluded.)

(After a short recess.)

Thereupon---

JOHN G. KAUFMAN,

one of the defendants, called by counsel for the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Your name, please.

THE WITNESS: John G. Kaufman.

THE BAILIFF: Are you a member of the Bar?

THE WITNESS: No, realtor.

THE BAILIFF: Your office address.

THE WITNESS: 334 St. Paul Place.

DIRECT EXAMINATION

By Mr. Hughes:

Q Mr. Kaufman, you are a licensed real estate broker?

A I am.

Q How long have you been in the real estate business?

A 1931.

Q Do you have an office by yourself or is someone associated with you?

A I am in business for myself, sir, no one associated with me in any way.

Q You were formerly located at 100 East Pleasant Street?

A That's correct.

Q When did you first become acquainted or interested in the Laurel Cemetery?

A My guess offhand would be somewhere between 1939 and 1941. I don't remember specifically the year.

Q You signed as witness to all of the signatures, on October 4, 1939, of those who incorporated the New Laurel Cemetery, did you not?

A I wouldn't remember it. If you say you have a copy of it I would certainly acknowledge it as being correct.

Q Do you know W. H. Ziemer?

A Very well. The man is now dead but I knew him.

Q Ralph B. Simms?

A Yes, I knew him very well. He is now dead.

Q Waldon C. Odell?

A I knew Mr. Odell, not well.

Q Did you draw up papers, the articles of incorporation for them?

A I did not. I am not an attorney.

Q Were you familiar with the old Laurel Cemetery prior to the time of the incorporation of the new?

A No, sir.

Q Do you know who owned or were stockholders in the old Laurel Cemetery?

A To the best of my knowledge, it was owned by a subsidiary company of the Union Trust, Royal Realty Company.

Q Did you have occasion to search the title?

A I would have no occasion to do that.

Q You don't search titles?

A I don't.

Q Did you have occasion to have the title searched?

A Title was searched by the Maryland Title Company, through Mr. Ziemer.

Q Did you ever become the principal owner or stockholder of the new Laurel Cemetery?

A I did.

Q And when was that?

A I would hazard a date of approximately 1947 or 1948. I am not certain, but approximately.

Q Was that when you became president?

A I can't answer for a certainty.

Q Do you remember when you became the resident agent of the New Laurel Cemetery?

A Not for a certainty.

Q Do you remember when you became the resident agent of the New Laurel Cemetery approximately?

A Not for a certainty.

Q Well, approximately.

A I have given you the years 1947 and 1948, I can't give you any other than that. You asked for a recollection,

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I am giving it to you, that is the best I can give you.

Q Did you have any contacts with the New Laurel Cemetery subsequent to its incorporation in 1939, and down to the time you signed as resident agent?

A I told you in the beginning that I had an interest from approximately 1939. Now you follow a line of questioning about sole owner. Are you talking about the period when I was sole owner or are you talking about earlier? I am confused. I'm sorry.

Q From 1939 until 1948, how often did you, if you know, visit the New Laurel Cemetery?

MR. MYLANDER: I object. I don't see what that has to do with it.

THE COURT: Let him answer. Overruled.

A It would be difficult for me to say at this time how often it would occur. It might happen once a month. It may have been once every two months or may have been once in two weeks. I don't remember.

Q As resident agent, did you or not have occasion to have in your possession all the books and records of the New Laurel Cemetery?

A Those records were in the possession of Mr. S. Ziemer until such time as I became the sole proprietor and following that, they came into my possession.

Q Do you recall how many books and volumes of records you had?

A I wouldn't know exactly by count except from having heard and the testimony earlier in the receivership.

Q You mean bankruptcy, don't you?

A Bankruptcy, I'm sorry. I think it is safe to say there were eleven volumes or eleven books.

Q Those proceedings were filed and signed by you, were they not, as president of the New Laurel Cemetery Company?

A In 1952.

Q Well, you had the books and papers in your possession then, didn't you?

A No question about that.

Q And you also had the deed books and stubs, did you not?

A They were included in the volumes or books that are recorded there.

Q And you also had the loose-leaf papers constituting

the journal pertaining to the New Laurel Cemetery?

A They were, I suppose, part of the papers. I had the papers of the corporation at that time.

Q Also the ledger, right?

A I assume that's right, yes.

Q And you also had the record of burials from 1937, is that right?

A I would assume that is correct.

Q You had the plot books. You remember, don't you?

A It isn't as easy as you think.

Q Well, you swore to it, didn't you, in the bankruptcy proceedings?

A Those papers were prepared and I signed the papers. I can't tell you that I remember all of it, but I have to acknowledge that if it is there I must have had them.

Q You also had the Federal Income Tax Returns for 1946, 1947, 1948 and 1949, didn't you?

A That would be correct.

Q Do you recall in 1949 a group of lot owners having conferences with you with respect to improvement of the cemetery?

A Not groups, there was one lady who talked with me several times, the name has been brought out here as Mrs. Scott. I had forgotten the lady's name. She lived on Caroline Street. There was a meeting, I don't remember the name of the church but it seems to me it was the Methodist or Baptist Church on Monument Street, just to the east of Gay, south side of Monument just to the east of Gay, one time around about the period you are talking about.

Q Do you know whether or not anything was done by this association, this Improvement Association?

A The lady that we have spoken about supervised the cleaning up of a portion of the cemetery after talking with me about the thing. The question was raised whether or not they could do it and I said certainly they could do it.

Q And that section, as I remember, was not on the Belair Road but just alongside the Belair Road?

A Yes, the road came down to the left and it would be to the left of the lane or road that went along there, the back end of the cemetery from Belair Road. I don't know whether I am making myself clear. I don't know how to dasignate the roads other than that.

Q Was that area of the cemetery in reasonably good condition at that time?

A That one section; yes, sir. Other than that one section, no, sir.

Q What did you, as the president of the New Laurel Cemetery, ever do?

A Well, there had been numerous instances where the cemetery company did things, attempted to do things in an effort --

Q Like what?

THE COURT: Let him finish his answer.

MR. HUGHES: Excuse me.

A (Continuing) -- where the company did things and attempted to do things in trying to improve conditions out there, such as cutting the grass and the weeds, the cutting of small trees, spraying to eliminate -- there was more emphasis laid by the Health Department, Mr. Motry's department, upon rag weed which was growing there and spraying to kill the rag weed; and other underbrush, some of which was poison ivy and such. Unfortunately there was no way that you could ever keep abreast of it. You had fifteen or sixteen acres

of ground out there and you would do one thing -- well, somewhere else you had a bad proposition developing, there was trash or rats or a sunken grave.

Q Did you ever make any repairs to the fences?

A There were no fences around the place.

Q Did you ever repair or clear the roadways within the cemetery, make them accessible?

A When the men were in there cutting there were instances where they cut portions of that, I am sure. But I can't say to you that they opened up all the roadways. But they very definitely, while they were in there cutting, they did make improvements in some of those things.

Q Are you talking about prior to 1952 or are you talking about 1956, when you had your conversation with Mr. Motry?

A 1952. I had no conversation with Mr. Motry in 1956. That is an error.

Q You had no contacts at all?

A None whatever.

Q No notification?

A None whatever. Prior to 1952, to go back to your

original question, yes.

Q And you filed a voluntary petition in bankruptcy, is that right?

A The company filed it.

Q Who composed the company?

A Kaufman. It wasn't Kaufman, it was said earlier in the testimony that Kaufman went into bankruptcy, that isn't correct. Kaufman has never gone into bankruptcy and I hope he never will have to.

Q I hope not too.

A All right, it was the corporation.

Q The New Laurel Cemetery, then incorporated, went into voluntary bankruptcy?

A That's correct.

Q Of which Mr. John G. Kaufman was the owner, right?

A Sole proprieter.

Q President, Secretary-Treasurer?

A Sole proprietor.

Q Everything. At that time weren't people still being buried there and paying off lots?

A No, sir -- wait. Let me ask you a question,you

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have two questions there.

Q I will ask you the first one.

A All right.

Q Weren't deceased people still being buried in the cemetery?

A There were a few instances of some people being buried in the cemetery, yes, sir. As to the number, I can't answer.

Q Would they have to get a deed or permission from you?

A I have no recollection at any time of anyone contacting John G. Kaufman for permission to bury someone in the cemetery.

Q Well, who would they contact?

A I would assume they contacted Mr. Hamlet, who dug graves out there for years, and he had been a former employee of the earlier cemetery company. I don't know whether he was an employee or a grave digger for them.

Q Was any contract price agreed upon for burial lots?

A I have just answered you, sir, there was never any contact.

Q Did you have any contact with Mr. Hamlet?

A There were instances where -- I see Mr. Hamlet sitting back there in the courtroom, I had not seen him earlier.

Q That's right.

A Yes, I tried to arrange with Mr. Hamlet to do some cleaning up out there.

Q What would happen to the money received for an interment?

A I have answered you that the company received no money for interment at any time. The company never received any money for sale of lots at any time, at any period during which I had an interest in the company.

Q Am I to understand that you knowingly purchased a defunct corporation?

A I didn't purchase a defunct corporation in a sense. I purchased the stock of a corporation which carried with it title to 15 or 15-1/2 or 16 acres of land out on the Belair Road known as Laurel Cemetery, subject to the burial rights. That was not defunct.

Q When did you decide that the corporation was bankrupt?

A When I decided to stop advancing money for the operation of the company.

Q Do you have any records to show how much money you advanced?

A No, sir.

Q Do you have any records at all?

A Of the New Laurel Cemetery Company?

Q Either new or old.

A I do not.

Q You have no records of the people who have been interred there since 1852?

A I do not.

Q Did you ever have them?

A I had the books of the company from approximately 1947 or 1948, whatever that year was, when I acquired sole ownership, until -- here again I am going to have to hazard a date. Roughly 1955 or 1956. They were in my office during that period except for one time when they were carried down to the Referee in Bankruptcy's office at the time of the bankruptcy proceedings.

Q What happened to all of those records?

A I would like to be able to answer you definitely as to what actually happened to them. I cannot.

Q You were custodian, were you not?

A They were kept in my office, I said that.

Q Yes.

A As happens I think in most everyone's office, it is necessary from time to time to throw out old records, you just get such an accumulation. At no time did I have ordered these records thrown out or destroyed, or anything else. However, when I went to look for the records following a conversation with Mr. Mercaldo, I couldn't find them, and I have to assume that at some time during the period between say 1955 and 1956, or thereabouts, I don't remember dates, I wouldn't know -- that along with some other things they may have been thrown out. I haven't seen them.

Q Where did you keep them in your office?

A They were kept under a table in the wash room. They were tied together, all of the records that you have enumerated there, including tax returns and other papers that I had accumulated, everything was kept together, it was carried down to the office of the Referee in Bankruptcy

and I was advised at that time to take the records back to my office and leave them there and that some time someone would get in touch with me about them.

Q Let me ask you this, Mr. Kaufman. Were you interested in holding any office in any corporation which purchased the New Laurel Cemetery?

A I am interested and I am an officer in the McKamer Realty Company.

Q You are secretary-treasurer?

A That's correct.

Q You are president now?

A I am not.

Q Have you ever been?

A I have not.

Q Under court proceedings, or otherwise, did you have occasion to purchase the interest of the New Laurel Cemetery?

A The McKamer Realty Company bought it, I am a stockholder in the McKamer Realty Company.

Q So you were a stockholder in the company that sold it, you were a stockholder and principal owner, right?

MR. MYLANDER: I object to that. That is an improper characterization.

MR. HUGHES: That's what he said.

MR. MYLANDER: He was stockholder of the corporation that went into bankruptcy.

THE COURT: It is an argumentative question.

Q Then I will put it this way: You were the principal stockholder and an officer in the New Laurel Cemetery Incorporated, when a petition for voluntary bankruptcy was filed; that is true, isn't it?

A Yes, sir.

Q And you are one of the principal stockholders and the ultimate purchaser of what you voluntarily described as a bankrupt corporation, is that it?

A Well, aside from one part I would say that statement is all right and I would answer it yes. When you say I am one of the principal stockholders, I am one of the stockholders. There are three stockholders and we have equal shares.

Q That is Mr. Mercaldo and Mr. McAllister?

A In the McKamer Realty.

Q By the way, when was that incorporated?

A I think it was 1957.

Q Was that before or after the introduction of this Act of the Legislature which has been referred to as Chapter 119 and 120?

A I don't know that I can pin that down for you absolutely, but I think it was after.

Q McKamer Realty was incorporated before that Act passed, wasn't it?

A I told you that I was uncertain.

Q Very well.

A If you say that it is or was, that's correct. You said introduced before. Maybe it was introduced before or maybe before it passed. I am not certain.

Q Do you have any interest in Anderson Enterprises?

A None whatever.

Q Have you ever had?

A None whatever.

Q You hold office, do you not, in the Belair Enterprises?

A Yes, secretary-treasurer, Belair Road Enterprises.

Q What was their interest in the New Laurel Cemetery?

A The Belair Road Enterprises were the subsequent purchasers of the property.

Q At what figure?

THE COURT: You mean bought from the trustee.

THE WITNESS: From the Trustee in Bankruptcy, that's right.

Q Wasn't that bought for $100?

A Belair Road? No, sir. My recollection is that it was around $16,000.

Q It was how much?

A I think you have it twisted when you say bankruptcy proceedings. The amount of money that Belair Road Enterprises purchased it for from the McKamer Realty, I think it was $16,000.

Q That included the cost of removing bodies, did it not, that was required to be posted by the trustee?

A I think that that's correct.

Q By the way, sir, who made arrangements with the undertaker to move these bodies?

A I would assume that Mr. Anderson did, although

I'm not in a position to answer that.

MR. ATWATER: Your Honor, that contract is in the papers. I think in the interest of accuracy it might be well to refer to the contract itself and report to the trustee.

MR. HUGHES: And I would like to refer to his recollection.

MR. MYLANDER: He does not know.

MR. HUGHES: Well, he was an officer in these corporations.

THE WITNESS: I was an officer in the corporation, that's true, but practically all the details of the operation of the company were carried on by Mr. Mercaldo and Mr. McAllister, and I carried on practically none of the details of the corporation.

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Q You were subpoenaed to bring in various records here, were you not?

A Yes, sir.

Q Did you bring them?

A I have the records here.

Q Those are records of what corporation?

A These are I would be inclined to say to you more

or less personal and there is a copy which is also I think in the file, some literature that was gotten together of the companies by McKamer Realty Company before the Bureau or Department of Assessments which Mr. Arthur testified to here and I have a copy of that paper. I have copy of the letter which I wrote to Mr. Arthur in that same connection I have copies of checks where I have made advances into a partnership arrangement, and I have one stock certificate.

Q And that is all you have?

A That is all I have. Mr. Mercaldo and Mr. McAllister have all the other records.

Q Do you know or were you present at any discussion when the suggestion of offering $100 for what we term the Laurel Cemetery was made at the discussion?

MR. MYLANDER: If the Court please, I don't know whether this is directed to impeachment of the trustee in bankruptcy. It certainly has very little or no connection that I can fathom with the proceedings in this Court, and accordingly I object.

MR. HUGHES: May it please the Court, the contention of the complainants is this: That all of these trans-

actions were based upon what amounts to a conspiracy. Fraud has been charged and unjust enrichment. If fraud can be established and proved, it will go to the very essence of everything from the beginning to the end and it has not been ruled by this Court that the objections are sustained. I think they are still before the Court and I expect the Court will rule afterwards whether or not it has been established.

MR. MYLANDER: If it is pertaining to fraud, I suggest that they put on testimony in connection with fraud. So far you have talked about identity of interests with the implication that there was something wrong with that, and there is nothing wrong with that. Is this preliminary to, this identity of interest, preliminary to fraud or isn't it?

MR. HUGHES: Quite definitely so, Your Honor. Inadequacy of consideration.

MR. MYLANDER: Not in this Court.

MR. HUGHES: The sum of $100 was introduced in evidence for the sale of this property and there has also been introduced here the sum of $91,000.

THE COURT: Gentlemen, let me settle the argument by saying on representation of counsel, if it is preliminary

to something that will follow I will take this testimony again subject to exception. I may get a clearer picture later on. At this stage of the proceedings I cannot be sure. I will overrule your objection and take his testimony subject to exception.

Q Do you know who made the offer of $100 and enclosed a check for $50 for the purchase of the property formerly known as Laurel Cemetery?

A I don't actually know but I can give you an assumption, if you want that.

Q Well, you can give me the assumption.

A I think it was Mr. Mercaldo.

Q And you don't know that?

A No, sir.

Q What office did you hold at that time?

A You have said the corporation was already formed and I would have been Secretary-Treasurer.

Q And as Secretary-Treasurer, you did not know what the corporation was offering for the purchase of this property?

A I wouldn't say I wouldn't know. I have been in on some discussions concerning the matter and I understood

there was going to be an offer made, a nominal offer. But the nominal offer was on the basis of what the property was worth at that time.

MR. MYLANDER: If the Court please, again this is a proceeding of the United States District Court in a bankruptcy proceeding for the sale of 15 acres subject to burial rights, and what that has to do with this subsequent case by which the property was sold free of the burial rights by the trustee appointed by this Court, I cannot fathom. If it is to establish the same kind of interest prior to 1952, then another interest after 1957, that is conceded. That does not have to be emphasized with testimony, by misleading figures that will produce stories for the edification of the papers.

THE COURT: Very well. I will let the testimony remain subject to exception.

Q Mr. Kaufman, did you in concert with Mr. Mercaldo and Mr. McAllister have anything to do with the introduction in the Legislature of the new Act to change the law pertaining to the condemnation of cemeteries?

A I had nothing to do with it and if there was any-

thing by my associates I was not aware of it.

Q You filed your proceedings, original proceedings in the Federal Court, the voluntary bankruptcy, on New Year's Eve, did you not, of 1952?

A It was the latter part of the year.

Q And a meeting was called January 20, 1953, was there not, of the creditors?

A I have no recollection of that.

Q The day President Eisenhower was inaugurated?

A That would make no difference to me. I have no recollection of that.

THE COURT: He might be a democrat, Mr. Hughes.

Q There were no further proceedings, were there, for five years?

A The case was simply idle as far as I have learned. I wasn't aware of it. After it was filed in bankruptcy I was finished. I was a creditor of the corporation but I had no interest in it in any way, shape or form other than that.

Q From January 20, 1952, you had no further interest in Laurel Cemetery or this sale?

A I would be inclined to say to you from the time

the proceedings were filed in December of 1952, not January, because I may have gotten a notice, though I have no recollection of attending any meeting of creditors or anything else. From the time that proceeding was filed in December of 1952, I was finished with it, sir.

Q Then what made you go with the McKamer Realty Company in 1957?

A This arose through a conversation with Mr. Mercaldo and he indicated that he felt there might be some possibility of trying to do something with it, where the thing could possibly be worked out in a manner that could be -- well, I don't know how to express it other than a chance of the thing working out to the benefit of the public and anyone who would have an interest in the corporation.

Q That means the stockholders?

A That's correct.

Q The three of you?

A Well, at that time there weren't three of us.

Q Well, Miss Klipper was in it then, wasn't she?

A No, I would say that was before such time as the corporation was formed.

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Q Then you were formed for the purpose of exhausting every possibility, is that right, for exploiting Laurel Cemetery, would that be fair?

A No, I wouldn't say exploiting it.

Q Were you formed for any other purpose?

A Well, the corporation was formed with very broad powers and I suppose that that is usual in a corporation formation and it was our hope that perhaps ultimately the thing might be worked out in a successful manner.

Q Well, at that time had there been talk or discussion of perhaps establishing a shopping center there?

MR. MYLANDER: I object.

Q Or something of that sort?

A No, sir.

THE COURT: He said no.

Q You didknow that in 1948 or 1949 there was talk of condemning the cemetery, didn't you?

A By whom?

Q By the City of Baltimore.

A There was some discussion by a City Agency, the Housing Authority is my recollection.

Q And you did know that there were discussions with the representatives of the Federal Government and the City of Baltimore?

A I would not be aware of that.

Q You would not?

A No.

Q You knew it at the time you formed McKamer Realty, didn't you?

A I wouldn't say that I would know there were discussions with the Federal Government, I wouldn't know of any contact with anything like that.

Q Didn't you at one time say or did it come to your attention that there were seven thousand bodies buried there?

A I had never had any such knowledge as that and never heard such a figure mentioned.

Q Well, did you know of the Civil War Veterans who were buried there?

A I understood that there were several war veterans buried there earlier, then later disinterred but I didn't learn that until very, very much later. I had no knowledge of that at the time.

Q Now, in your proceedings of voluntary bankruptcy, at page 83 --

MR. MYLANDER: Do you propose to offer this in whole, Mr. Hughes?

MR. HUGHES: I was just going to question him on this. I understood him to testify that he did not attend the meeting of creditors on January 20th, and that he ignored the notice that he had, and I merely wanted to question him whether or not he was not the only creditor and that he alleged that the corporation owed him $2,425.94.

THE WITNESS: I was the only creditor of the corporation. Whatever the figure is there, that must have been the correct figure.

Q Then you valued the lots there at $1500, is that right?

A There was one portion of the cemetery which I had been informed had never been used for burial purposes, which would be toward what I call the northeast corner.

MR. MYLANDER: Do you intend to offer the certified copy of the bankruptcy proceedings?

MR. HUGHES: I was not, no. I don't see any

particular reason to do that. He has answered the question.

MR. MYLANDER: You are not offering it.

MR. HUGHES: I don't think so.

Q You and Mr. Mercaldo and Mr. Baxter went through the cemetery, did you not?

A No, sir, you said Mr. Baxter. Mr. Baxter never went through the cemetery while I was there. He may have but I have no knowledge of Mr. Baxter. He never went there with me.

Q I mean after the testimony was taken before the Examiner, Mr. Baxter. Do you recall appearing there?

A I recall the testimony before Mr. Baxter but Mr. Baxter and I never went out to the cemetery together, sir.

Q You did not check up stones and markers?

A Certainly. Mr. McAllister and Mr. Mercaldo and I. You said Mr. Baxter.

Q That's right, I said Mr. Baxter. Do you recall how many markers and stones you found at that time?

A I don't recall the exact number but my recollection is that somewhere between two hundred and three hundred.

Q Now, after Mr. Armacost started removing bodies

did you go to the cemetery?

A I was out to the cemetery twice.

Q Since the removal of markers and the like, is that right?

A During the period when the bodies were being removed, I thought that was your question, while they were removing bodies.

Q Did you supervise the removal of the bodies?

MR. MYLANDER: I object. There is an implication there was an obligation to do it. That was the function of the Court-appointed trustee, Mr. Anderson.

THE COURT: Can you answer the question?

A I would like to have the question asked again.

THE COURT: Did you supervise the removal of the bodies?

THE WITNESS: I had nothing whatever to do with it.

Q Did you see them removed?

THE COURT: I understand, Mr. Mylander, it was not his obligation because the Court appointed a trustee.

Q Did you see the bodies being removed or the markers?

A I was at the cemetery for roughly a half or three-quarters of an hour in each instance and the men were there working. I didn't get that close by to see where the men were working. I had no contact with it.

Q Isn't it a fact from what you saw that bulldozers in the cemetery were simply removing the markers?

A That isn't correct.

Q Did you see any bodies taken up?

MR. MYLANDER: This, again, has to do, if the Court please, with the conduct of the previous proceeding and has no bearing that I can fathom on any possible question of fraud, whether it be direct or indirect or remote or proximate. I renew my objection to the introduction of this sort of testimony, and specifically to this question.

THE COURT: Mr. Hughes, is that true or not?

MR. HUGHES: I was looking at a note, Your Honor.

THE COURT: The point has been raised in connection with the use of a bulldozer and whether or not he knew of the operation of the bulldozer, and so on, whether or not that is germane to the issue. If it is, I will permit him to answer the question.

MR. HUGHES: Yes, Your Honor, I understand from the pleadings and the statements that have been advanced, and by the opening statement, that it is germane to the issue, that there are people here who will testify that the bodies had not been removed and if it be one of the principal contentions of the defendants or respondents that has been advanced heretofore, that the bodies cannot be placed in status quo, that the bodies have been moved, and there are witnesses who know and are prepared to testify that that is not so, that markers have not been moved.

MR. ATWATER: Your Honor, if I may check the testimony on that point for this reason, the contract between Mr. Anderson, who was trustee appointed by this Court, and the licensed undertaker was filed with this Court and approved by it, the manner in which the work was to be done was all set out in the contract, and if Mr. Armacost was derelict in performing this work, that is something this proceeding has absolutely nothing to do with. That contract was approved by this Court. They are charging him with negligence in the performance of the contract so approved.

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MR. MYLANDER: At any rate, it would have no

possible bearing I can see on the question of whether or not there was any fraudulent action on the part of any officers of either of the defendant corporations.

THE COURT: I am going to overrule your objection. I cannot anticipate what the answer will be. Can you answer the question?

THE WITNESS: I would like to have the question restated, please.

THE COURT: I think you are correct in that desire.

Q I asked you did you see any bodies moved from the cemetery?

A From a distance.

Q What, boxes, bones, coffins or what?

A I didn't actually see any bodies taken from the cemetery to another cemetery.

Q Did you see them taken from the cemetery, I asked you, from the Laurel Cemetery?

A Are you referring to from graves now?

Q Yes, from graves.

A Or after they had been removed.

Q From graves.

A From a distance.

Q How far?

A Oh, three hundred feet; two hundred fifty feet, something like that. I had no connection whatever with that work and I stood by in the alleyway that I looked up and down and you could see up and down and I saw the men working there and they were not doing it with bulldozers, as you are suggesting, at all, and there were some shall I say portions of bodies apparently? I didn't see exactly what it was because I wasn't close enough.

Q That's right, three hundred feet.

A Two hundred fifty to three hundred feet, that's correct.

Q I don't know that I brought this out, Mr. Kaufman. You heard the testimony this afternoon or this morning of the appraiser, City Appraiser, with respect to the value of the property.

MR. MYLANDER: I object to this, Your Honor. He isn't a City Appraiser, he isn't an appraiser at all.

THE COURT: He is Director of the Bureau of Assessments.

MR. HUGHES: Director of the Bureau of Assessments, that's right.

Q Did you know, prior to the incorporation of the New Laurel Cemetery, that this cemetery was assessed at the same figure it is now assessed?

A I don't know if I checked it.

Q You didn't check it at all?

A No, sir.

Q You didn't buy it for an investment, didyou, or incorporate the New Laurel Cemetery for an investment?

A I don't see how you could figure it would be other than an investment.

Q You didn't do anything to make a profit?

A We didn't make any money, that's for sure.

MR. HUGHES: I think that is all.

DIRECT EXAMINATION

By Mr. Williams:

Q Mr. Kaufman, you went to testify before Mr. Baxter on April 24, 1958, did you not?

A Yes, sir.

Q And you knew before you went there that it was

the purpose of that testimony to condemn the Laurel Cemetery itself, did you not?

A I don't know whether the word "condemn" is correct.

Q Well, you knew that it was important to that proceeding to know if there were any records available of lot owners or deceased persons buried in the Laurel Cemetery, did you not?

MR. MYLANDER: I object to that. I don't think that is even a fair assumption. The statute states the kind of entries. That is a matter of argument.

THE COURT: Let him answer the question. Can you answer the question?

A Will you restate the question?

Q Did you know when you went before Mr. Baxter for the purpose of having your testimony taken that it was important to the proceedings to know if there were any records available from which lot owners might be located?

A I would answer yes.

Q You knew that was important?

A Yes.

Q And you were questioned about the existence of

records?

A That's correct.

Q And you testified that you knew of the existence of no records?

A That's correct. The records had been mislaid, lost, I don't know what happened to them, and not intentionally.

Q Following Mr. Baxter's question about the existence of records, he asked you this question: "Is it not your opinion that if any such records existed they have been lost or destroyed?" Your answer to that question was "Yes."

A I think in reviewing that question that the testimony that was before Mr. Baxter about a week ago, in other words when this thing first arose, I picked up the same thing which you have just picked up and to the best of my knowledge, that question as it is written is not correct. The word "not" I am sure was not a part of that question at the time it was asked, although it certainly shows there.

Q Did you feel the necessity of explaining what information you had by the records?

MR. MYLANDER: I object to what he felt.

THE COURT: Overruled. Let him answer.

A The question was whether the records were lost or destroyed and the question was yes, there were no other records, and that's all there was to it. The question did not go any further.

Q You say you have reviewed this testimony and you find in that question a discrepancy. Are you saying, then, that as you understood the question at the time Mr. Baxter was asking you if records had been lost or destroyed and that your intended answer to that question was that the records had been lost or destroyed?

A May I look at your copy?

Q Yes, it is right at the bottom of the page.

A The question as it shows on here is, "Is it your opinion that if any such records existed they have not been lost or destroyed." It is my recollection very definitely there that the last portion of that question is that "They have been destroyed or lost," I reversed it the first time, and the answer is "Yes."

Q Then as you think back on it now you misunderstood the question?

A I am saying I think, I think as the testimony has

been typed up that the word "not" was included there and if it was included in the question,sincerely it was a misunderstood question.

Q You were asked another question by Mr. Baxter on the same page: "To your knowledge have any of the owners of burial lots, friends or relatives of the owners or persons buried in the cemetery taken any interest or action in maintaining, in keeping the graves in good order and condition?" Your answer was: "I was through the cemetery officially within the past few months and there was no evidence anywhere that any lots were being maintained." Would you let me put to you now the question which Mr. Baxter put to you and see if you will answer it for me, please.

A To the best of my knowledge, there were no lots in that cemetery being maintained when Mr. McAllister and Mr. Mercaldo and I went through the cemetery, no evidence in any way.

Q That wasn't Mr. Baxter's question, Mr. Baxter's question was this: "To your knowledge have any of the owners of burial lots, friends or relatives of the owners or persons buried in the cemetery taken any interest or action in main-

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taining, keeping the graves in good order and condition?"

A Do you mean over the years?

Q I am asking the question he asked you.

A Certainly back in 1949 it was evident that people then took an interest in it by the action that was taken by this protective association. Following that I never saw any evidence of interest or any lots being maintained.

Q Did you always maintain the roads and paths of the cemetery in good order?

A No, sir. It was impossible to try to keep them in good order at all times.

Q Did you recognize that as your responsibility, as the owner of the cemetery?

A We attempted to do it, sir, we had men out there working. But it just seemed like you couldn't keep up with it. You had many problems, it wasn't just a question of roads, it was a question of ice on the sidewalks or snow on the sidewalks in the wintertime. It was a question of water running out of the cemetery and forming into ice on the sidewalks, and trying to keep them clear. It was a question of trash being dumped in the cemetery by I would

have to assume people residing in the neighborhood. I cannot visualize somebody coming from some distance to do it, although it did happen along Belair Road, where crab shells and such other things, where they find vacant areas they will do it. It was a question of rat infestation, a question of weeds, a question of rag weed and small trees. There was just one series of things after the other. There was no end to the problems which arose in connection with the cemetery.

Q Mr. Kaufman, would you characterize yourself as the manager of Laurel Cemetery?

A Now?

Q During the period from the time you acquired the stock up until the time of the bankruptcy?

A I would answer that yes.

Q Did you know that under the deeds, or certificates as you call them, that had been issued by the Laurel Cemetery Company, by you as manager, had authority to make rules and regulations affecting the lot owners?

A I would certainly have to assume that that would have been true.

Q Did you ever make any rules?

A There were no rules made in connection with the matter, no. The cemetery was very rarely used and it was a question of trying to satisfy the city and the people living in the neighborhood. There were very, very few burials taking place.

Q Do you think now, as you reflect on your management of the Laurel Cemetery, that you did everything in your power to maintain Laurel as a cemetery?

A I am going to say to the limit of my resources.

Q Well, you just testified that you had a resource, that of making rules and regulations that could have required the lot owners to clean it up?

A There were no lots being sold, you couldn't get in touch with people. The great majority of these lots, as you unquestionably are aware, went back for many, many years and the people who owned the lots were not alive. It would have been an extremely difficult thing to attempt to contact various lot owners and let them know that certain rules were going to be in effect and they would have to abide by those rules. No, sir, that action was never taken.

Q Do you recall having had any communications or dealings with attorney Robert Watts in his capacity as attorney for the Laurel Cemetery Protective Association?

A I don't specifically remember a communication from Mr. Watts. I do remember that at the time in 1949, there were several meetings, as I understood it, by interested parties and I attended one meeting over at the church on Monument Street. Mr. Watts may have been among those folks. I don't know. But for me to say at this minute whether there was a communication from Mr. Watts, I am unable to answer.

Q Did Mr. Mercaldo or Mr. McAllister ever solicit your aid in trying to contact lot owners about December 10, 1957?

A From the standpoint of trying to locate the records of the corporation, yes, and when I couldn't find the records of the corporation, the prime work or the great amount of work in this matter has been done by Mr. Mercaldo and Mr. McAllister and they are the gentlemen who would be able to answer your question there.

Q You knew Mr. Hamlett?

A Yes, sir.

Q Did you ever suggest to Mr. Mercaldo or Mr. McAllister that he could get from him some information that would lead to some of the lot owners?

A At one time I spoke with either or both of them concerning Mr. Hamlett and they had Mr. Hamlett come into the office and they apparently discussed it. I remember one instance I was there they talked with Mr. Hamlett concerning the matter and Mr. Hamlett indicated that he had some information he was going to bring in, but I was told after that that Mr. Hamlett didn't supply anything to them at all.

Q Do you recall who told you after that, whether it was Mr. Mercaldo or Mr. McAllister?

A I would assume that it was Mr. Mercaldo but I am not absolutely certain.

Q Did you know of or have any reason to know of any of the undertakers who had buried bodies in the Laurel Cemetery in recent years?

A I had no talk with the undertakers who had done what you are saying, buried people there. I never had any talk with the undertakers.

Q Do I understand your testimony to be that you

personally made no attempt to locate any of these lot owners at the time of this condemnation proceeding?

A Mr. Mercaldo, as I remember, or perhaps both Mr. McAllister and Mr. Mercaldo, asked me if I knew of the names of any people who had lots out there and I told them that all the records I had had in connection with New Laurel Cemetery were tied up together and that those records, I am going to have to say the word, were mislaid, I don't know what else to say, and I would have no information about anyone who was a lot owner there.

Q Do you recall having given that information to Mr. Mercaldo prior to going to Mr. Baxter to take testimony?

A I judged I had but probably hadn't at that time, although I don't remember that specifically.

Q Well, you do recall that whatever information they sought from you in an effort to locate lot owners was sought prior to the filing of the proceedings in Court?

A I would judge that that is correct.

Q Then is it your testimony now that when you, Mr. Mercaldo and Mr. McAllister were all before Mr. Baxter, that each and everyone of you knew that these records had

somewhere disappeared during 1956?

A I would feel at the time we went before Mr. Baxter that they were aware of the fact that the records had disappeared, but I don't know that it was in 1956. I don't know what year.

Q I believe you testified earlier --

A I said perhaps 1955 or 1956, but I am still hazarding that. I don't remember.

Q Well, it had not been so long in 1958, when you were testifying.

A All right.

Q Were you present when Mr. Mercaldo testified before Mr. Baxter?

A I think so. Some testimony there had been taken earlier and I don't remember whether Mr. Mercaldo was present at the time that I was there or not. I am not certain.

Q Did you hear Mr. Mercaldo testify under oath that he had made a thorough and exhaustive search to determine if there were any records?

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A I will have to answer I don't know whether I was there at the same time that Mr. Mercaldo was.

Q Are you familiar with the procedure to be followed with respect to burial permits when people are buried in the Laurel Cemetery?

A I would be inclined to say I am not, but I would assume it is necessary for a funeral director to go to the City Bureau of Vital Statistics. I don't actually know that.

Q Have you ever had occasion to see the Bureau of Vital Statistic's records of the Health Department for the purpose of securing a death certificate?

A No, sir.

Q Do you think now that all of your testimony before Mr. Baxter was completely honest and did you attempt to advise him of all you knew respecting this matter?

A Do I have to answer that? I guess I have to answer. There wasn't anything dishonest in any way, shape or form, and I resent the implication that it was dishonest.

Q I'm sorry, Mr. Kaufman, I am not implying anything.

A You certainly are by asking the question.

Q I'm sorry if you feel that way about it because I didn't intend it to be. You made a list of persons from

headstones in the cemetery prior to giving your testimony?

A Mr. McAllister, Mr. Mercaldo and I went through the cemetery thoroughly and that list was made at the time we were out there.

Q You knew, of course, that the Laurel Cemetery was a burying place for Negro residents?

A I understand there have been a few white burials out there also, it isn't exclusively Negro as far as I understand.

Q I believe I asked you, sir, I am not sure, if you recall having made any suggestions to Mr. Mercaldo or Mr. McAllister on a plan of procedure of trying to locate the lot owners.

A The only thing I suggested was that they talk to Mr. Hamlett, that Mr. Hamlett might have some information having been a grave digger out there over the course of a number of years.

Q In other words, as Secretary-Treasurer of the McKamer Realty Company, you did not actually participate actively in this litigation?

A I have already testified that practically all

of the details, the operation of the company, were carried on by Mr. McAllister and by Mr. Mercaldo. I have had practically none of the details of operation of the companies.

Q Well, you were Secretary-Treasurer of the McKamer Realty Company from the time of its incorporation?

A Yes, sir.

Q And you knew, of course, that the McKamer Realty Company had bought Laurel Cemetery subject to the grave and burial rights of lot owners?

A Right.

Q And at the same time, you knew that the records of those lot owners had disappeared. Do you recall having had any discussion with Mr. Mercaldo or Mr. McAllister at that time concerning the lack of records?

MR. MYLANDER: What time is this?

Q When the McKamer Realty purchased the cemetery subject to the burial and grave rights of the owners.

A I don't know whether the question of records was discussed at that immediate time or immediately subsequent to or immediately prior to that. But somewhere around that general time the records were discussed and when I went to

look for the records they were simply no longer in my office.

Q Am I to understand now that you did not discover that they were missing until after the McKamer Realty Company had purchased it?

A The records were not looked for until following talks with Mr. McAllister and Mr. Mercaldo. I don't remember at what stage that was. But whether this was in the very beginning or whether it was months afterwards, at any rate when I looked for the records, they were not there.

Q Well, as the owner of the Laurel Cemetery and Secretary-Treasurer of the McKamer Realty Company, the records would have gone from you to you in your separate capacities, you would have continued the custody of them, wouldn't you?

A I guess there is a technicality there that could possibly have such an inference, but the records of the New Laurel Cemetery they were carried down to the Referee in Bankruptcy but were in my office for years followint that proceeding. How long I cannot answer. And later, following discussions with Mr. Mercaldo and Mr. McAllister, when I looked for the records they were not there, so I don't know whether -- they wouldn't be from me to me, no, I don't feel

that way.

Q Are you, as Secretary-Treasurer of the McKamer Realty Company, custodian of the records of that company?

A The records of the company are primarily kept by Mr. McAllister.

Q Then, as Secretary, what are your duties?

A I have performed very little duties as Secretary-Treasurer of the corporation.

Q Mr. McAllister you say would have the records?

A Mr. McAllister has the records of the corporation.

Q Then you discussed, when the time came that there was a question about the records of the Laurel Cemetery Company, you would have had a discussion with Mr. McAllister because he would have been the one you would have turned them over to at that point, is that correct?

A Either to him or Mr. Mercaldo. It could have been one or the other. My recollection is that Mr. Mercaldo asked me to bring the records down and when I looked for them, they were not there. It could have been either of the two. I don't remember specifically.

THE COURT: May I interrupt. I am not going to

restrict either side on cross-examination or even suggest that you ought to terminate the examination of this witness or any other witnesses at any particular time, but it is half-past four and Mr. Goetz has to be considered here. He has to take all this down and he writes with only one hand, and I suspect that many of the men folks are going to have a late dinner tonight if we stay here any longer.

I suggest Mr. Kaufman will be under cross-examination for some considerable time, is that correct?

MR. MYLANDER: This is direct, Your Honor.

THE COURT: Well, I mean direct examination. Then you will have some questions to ask too, I suppose.

MR. MYLANDER: Mine will be very brief I believe, but I might want to ask him some questions.

THE COURT: May we adjourn then until tomorrow morning?

MRS. MITCHELL: Before we adjourn, a subpoena duces tecum was sent to Mr. Kaufman as Secretary-Treasurer of these corporations. May I ask the Court to order him to produce the minutes of the Board of Directors? If they are here, we would certainly like to inspect them. If they are

here, we would like to ask them to produce them here.

THE WITNESS: Mr. McAllister has the records.

MR. MYLANDER: The defendants will undertake to produce any records which exist. I don't know that there are such minutes. Anything we have will be produced without any further process.

MRS. MITCHELL: Your Honor, we subpoenaed them in Court hoping we would have the privilege of inspecting them today and we would like, if they are not here, for the Court to order these officers of the corporation to produce them.

THE COURT: Are they here?

MR. McALLISTER: They are available. In a few minutes I can get them.

THE COURT: Then maybe counsel could get together with Mr. McAllister and these other witnesses and you can go over the minutes and that might be a time-saving project for tomorrow.

MR. MYLANDER: I know that my time is limited this afternoon, I have a lot to do after Court hours.

MRS. MITCHELL: We would like to see them.

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MR. MYLANDER: I would like to be present.

THE COURT: Yes, I think you are entitled to be present.

MR. DEARING: Your Honor, we would like to see the records today.

MR. MYLANDER: How about 8:30 tomorrow morning?

MRS. MITCHELL: They should be here. It may not take us overnight. You say there aren't many.

MR. McALLISTER: There are quite a few, there are two packages of them, voluminous.

MRS. MITCHELL: Counsel for the defendant, this happens to be the day of these lot owners in Court and these records were not available until this time. We used the legal process to get them in so we might inspect them, and we are prepared to inspect them.

MR. ATWATER: You had an opportunity to see them in advance if you had asked for them.

MRS. MITCHELL: We also had the right to subpoena them into Court during this proceeding and to inspect them.

MR. MYLANDER: They would have been produced on demand at any time during the course of the trial and will

still be. If the Court orders me to spend the afternoon with you, I will do it. I won't do it otherwise.

MR. ATWATER: Would 8:30 tomorrow morning do?

MRS. MITCHELL: No, we want them this afternoon.

THE COURT: What is the urgency? Are you fearful--

MR. HUGHES: That they may disappear, yes, sir.

THE COURT: Mr. McAllister has represented himself as having them.

MR. MYLANDER: I can assure the Court they won't disappear overnight.

MR. WILLIAMS: If Your Honor would take custody of them tonight.

THE COURT: I will be glad to do that. If you will come in about 8:30 in the morning, you can examine the records. It might be an imposition to require counsel on either side to spend any more of the afternoon. If you do that, I will have the custody of the records.

(Thereupon, at 4:35 p. m., an adjournment was taken until 10 o'clock tomorrow morning.)

Mamie E. Kennard , et al.	:	IN THE
vs.	:	CIRCUIT COURT OF
McKamer Realty Co., et al.	:	BALTIMORE CITY

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4-37907

(2)

(SECTION 2 OF 3 SECTIONS)

NO. 131

SEPTEMBER TERM, 1960

(Vol. 2 of ~~five~~ 8 volumes)

No. _____ _____
19

vs

_____

Sol. for Complainant

Sol. for Respondent

No.	Clerk's Memorandum	Date

In The Circuit Court of Baltimore City

Court Copy

Fd. 29. June 1960

STENOGRAPHIC RECORD

IN THE CIRCUIT COURT OF BALTIMORE CITY

Docket A-267, 1959

424

IN THE MATTER OF

MAMIE E. KENNARD, et al.,

Complainants,

vs.

McKAMER REALTY COMPANY, et al.,

Defendants.

Before SODARO, J.

VOLUME II

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January 20, 1960

A-39097 (33)

TRANSCRIPT FROM NOTES OF

CLARENCE P. GOETZ

Official Court Reporter

EQUITABLE BUILDING
BALTIMORE, MD.

OFFICE AND HOME
TELEPHONES

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IN THE CIRCUIT COURT OF BALTIMORE CITY

Docket A-267,1959

MAMIE E. KENNARD, et al., :

Complainants, :

Before SODARO, J.

vs. :

McKAMER REALTY COMPANY, et al., :

Defendants. :

January 20, 1960.

Pursuant to adjournment, hearing in the above-entitled cause was resumed on Wednesday, January 20, 1960, at 10:00 o'clock a. m.

Present:

Counsel for the respective parties.

MR. MYLANDER: If the Court please, before resuming the testimony I should like to ask leave to file a supplemental answer on behalf of both corporations. We learned yesterday that notices of appeal have been filed

in each of the preceding cases, which Judge Warnken decided on December 18th, and the purpose of the supplemental answer will be to put that fact in the record in this case and raise the question of res adjudicata. I don't suppose that will interfere with the continuance of taking testimony because I think Your Honor has decided to reserve all of these questions for ruling at the time we close the testimony. But that question will be raised. It is being typed up now for filing and will be ready shortly, and I will file it.

THE COURT: Very well.

MR. ATWATER: Your Honor, I think the record should also show that the records of the two defendant corporations which were requested by counsel for the complainants were made available in the courtroom this morning at nine o'clock and have been inspected by counsel for the complainants.

THE COURT: Very well.

Thereupon---

JOHN G. KAUFMAN,

whose examination was suspended for the purpose of adjournment, resumed for

DIRECT EXAMINATION (Continued)

MRS. MITCHELL: I would like to ask at this time, on the question of the records, I gather from the records which have been submitted that there are no minutes of any kind of the meetings of the Board of Directors.

MR. MYLANDER: The answer to Mrs. Mitchell's question is that they are here, Mr. Goetz.

By Mr. Williams:

Q Mr. Kaufman, at the time you testified before Mr. Baxter you testified that "At one time I owned the cemetery by ownership of stock in the New Laurel Cemetery, a corporation." Did you feel that it was important to advise the Court at that time of your interest in the cemetery property?

MR. MYLANDER: Would you be specific about the time this was?

MR. WILLIAMS: At the time of his testimony before Mr. Baxter on April 24, 1958.

A The question was not raised and I did not know of any importance in presenting the statement that I had formerly had an interest in the property.

Q You don't recall having made this statement?

A Your question was did I understand it, did I say to Mr. Baxter that I had a former interest in the property?

Q Yes.

A I don't know whether it was told or not. If the question was asked me, I answered it. If it wasn't asked me, I don't know that I did. If I could see the transcript I would be glad to answer.

Q I will be glad to show you the question and answer about the middle of the page, of page 26.

A The question was asked and I answered whether I had been acquainted with it for a period of twenty years.

Q And following that, "In what capacity were you connected with the cemetery or the corporation that formerly owned the cemetery?"

A At one time I owned the cemetery by ownership of stock in the New Laurel Cemetery Corporation. Then the next question I suppose you want answered also.

Q If you think it will further clarify your position we will put it into the record. I don't think it pertains to the question of ownership so I won't ask it.

The thing I am trying to get at is, do you feel that your answer to that question might carry the implication that you at that time had no interest in the property?

A I think it was evident --

MR. MYLANDER: You presumed that he did. He did not have any interest at that time.

Q Were you at that time the owner of one-third interest in the McKamer Realty Company?

A I was a stockholder of the McKamer Realty Company, yes.

Q To the extent of one-third of its stock?

A That's right.

Q But you didnot feel called upon to reveal that information?

A The question was not asked. I didn't withhold anything, sir.

Q Did you feel it might be important to the Court to know if you were testifying as a disinterested witness?

A As a layman, I don't think I would have been aware of the importance of it; if it was important.

Q It appears from records of the minutes of the

McKamer Realty Company that on the 15th of January 1957, you, Mr. Mercaldo and Mr. McAllister owned an option to purchase the Laurel Cemetery property for $100. Could you tell us how you came to have that option at that time?

A All negotiations concerning that were carried through by I think Mr. Mercaldo. I am not familiar with the details in any way. I simply know that the company had -- I don't know whether you would refer to it as an option, I don't know whether it was an option or not, but the right to purchase the cemetery.

Q According to the minutes of your meeting, you, Mr. McAllister and Mr. Mercaldo owned this as personal property in shares of one-third each at that time.

A That's correct, and I am not acquainted with it. As I just finished saying to you, I am a layman, I am not an attorney, I am not familiar with each and all the steps that were taken. I was an interested party but I am not familiar with the various steps which had been taken. I said to you yesterday that I have been called upon to do very little work in this matter, but both Mr. Mercaldo and Mr. McAllister have done a tremendous amount of work and

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all of the work in that connection has been carried forth by them. As to the various detailed steps, I simply can't answer you intelligently. I'm sorry.

Q Well, Mr. Kaufman, you did take care of your own personal business, did you not?

A I certainly did.

Q And all of a sudden, you have an option to purchase something that will turn out to be valuable and you don't know how you got it.

A I convey to you that I was interested with them in this matter. As to the indirect details of it, I am not familiar. They handled the details. I was an interested party.

Q You know that on January 15, 1957, the New Laurel Cemetery was in bankruptcy?

A If you say that it was, I will agree that it was. I don't know that it was at that time, I have to assume that it was. I know it went into bankruptcy in the latter part of December 1952. The date it was out of bankruptcy I cannot testify to, I don't know the date. It is in the records of the corporation. Both Mr. Mercaldo

and Mr. McAllister can testify to this. I cannot. I'm sorry. It isn't that I don't want to be helpful, but I simply can't answer you.

Q It might be helpful if I would refresh your memory from the minutes of the McKamer Realty Company dated 15th day of January 1957. I read from those minutes: "The Chairman presented to the meeting a proposal submitted by Messrs. John Kaufman, Lloyd G. McAllister and Clement R. Mercaldo whereby they agreed to assign to the corporation in exchange for all of the corporation's stock, an option to purchase at and for the sum of $100 fifteen and one-half acres of land on the southeast side of Belair Road, commonly known as New Laurel Cemetery. The ownership of said operation is in the ratio of 33-1/3 percent to John Kaufman, 33-1/3 percent to Lloyd G. McAllister, and 33-1/3 percent to Clement R. Mercaldo. After due consideration of the proposal, the following resolution is unanimously adopted:

"Resolved that the corporation accept the assignment of the option offered to it by John Kaufman, Lloyd G. McAllister and Clement R. Mercaldo in exchange for all of the stock of the corporation.

"And be it further resolved that all of the stock of the corporation was issued to John Kaufman, Lloyd G. McAllister and Clement R. Mercaldo on the basis of 33-1/3 percent to each.

"And be it further resolved that the corporation exercise the option and take title to the 15-1/2 acres of land on the southeast side of Belair Road commonly known as New Laurel Cemetery and that title be taken in the name of the corporation."

And the minutes show that you were present at that meeting and that this proposal was given due consideration. Does that refresh your memory any?

A Yes, that very definitely refreshes my memory, sir and I would remember some details from having heard it. But earlier I would not be certain of it. The same thing will apply to many things you can come across there. The indirect details of these things I would not necessarily remember because I wasn't taking care of the details.

Q Wasn't that a rather unusual transaction to you?

A It was an investment by me in a corporation and it was treated by me as such.

Q Then is it your testimony that you relied on Mr. McAllister and Mr. Mercaldo to keep you familiar with these matters and that you took no active part in making arrangements, and so forth?

A No, I wouldn't say that at all. I participated in a number of things and I was consulted, I sat in on conferences concerning various matters. But, as I have previously stated, these men are attorneys, I am a layman. The details were worked out by them. I went along with practically all the arrangements that were made in that connection and in every connection in this thing. I am not familiar with the details of them.

Q On July 10, 1958, the Belair Road Corporation, had a meeting of its directors and at that meeting it was decided that the shares of stock would go to you, Mr. McAllister, Mr. Mercaldo, in shares of 37-1/2 percent to Mr. Mercaldo and Mr. McAllister, and 25 percent to you. Were you aware of that transaction?

A Yes.

Q Is that more vivid in your mind as to how that distribution came about?

A I know how the distribution came about, if that's what you mean.

MR. ATWATER: Your Honor, I don't see the materiality of this. I object to further examination of inside agreements between the parties unless there is some materiality to it.

THE COURT: I will overrule the objection.

Q Do you have any knowledge of the action taken by the McKamer Realty Company in issuing to Anderson Enterprises on the 18th of November, 1957, a quit claim deed to its interest in the lots of Anderson Enterprises in Laurel Cemetery?

A I am aware of the fact that Anderson Enterprises had given a deed to certain lots there. The specific lots I couldn't mention. My recollection is that there were 17 or 21 lots or some such number as that, but I don't remember specifically.

Q Do you know if that deed embraces all of the lots in which the Anderson Enterprises had an interest at that time?

THE COURT: You say the Anderson Enterprises

were deeded property?

MR. WILLIAMS: Yes, sir, by a quit claim deed from the McKamer Realty Company on the 18th of November 1957.

A As far as I know, the deed conveying the lots there or the certificate conveying the lots, whatever it was I don't know, was all of the lots in which Anderson Enterprises had an interest. As far as I know or can remember, they had no interest in any other lots, but I cannot be certain.

Q Did you engage in any of the negotiations leading up to this transaction?

A With Mr. McAllister and Mr. Mercaldo, but with no one else, and conferences with them.

Q Were any specific reasons advanced for this action of the Board of McKamer Realty that you recall?

A It was my recollection that it was deemed necessary to have a party in the matter who would, shall I say, be actively interested in the thing, and it is my recollection that the lots were conveyed with that in mind.

Q Are you saying, then, that it was decided that

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in order to make Anderson Enterprises a defendant in the litigation that was about to be filed in this Court, that they had to be given a deed to their property outright?

A I would have to say that is my recollection of the matter. As to whether or not that is absolutely correct, I can't answer. But that is my recollection.

Q In other words, you wanted a defendant who had no interest in the property?

A No, I wouldn't say that's correct. Mr.Anderson had a vital interest in the matter because his place of business is directly across the street and, as I recall -- I may be wrong about it -- but, as I recall, I had heard Mr. Mercaldo say different times earlier that Mr. Anderson was vitally interested in trying to have the condition which existed in Laurel Cemetery corrected and overcome.

Q Did you ever hear any discussion that he was vitally interested in getting an absolute title to his lot before its condemnation?

MR. MYLANDER: We object to the form, Your Honor.

THE COURT: Overruled. Let him answer.

A I don't know that I ever heard any such dis-

cussion as that, no.

Q Do you recall what, if any consideration, was paid other than that it was recited in the deed as five dollars?

A I wouldn't be aware of that, sir.

Q I believe you did testify yesterday that you have been in the real estate business for some time?

A That's correct.

Q How long?

A Since 1927. I have been in for myself since 1931.

Q Mr. Kaufman, I think I asked you a question yesterday about your definition of the word "abandoned".

A No, sir, you did not.

Q Well, would you tell us what your definition of the word "abandoned" is?

A As concerning Laurel Cemetery?

Q Yes.

A Well, my impression of the word "abandoned" -- and I don't know what the dictionary would say -- but my own impression of the word "abandoned" as regards Laurel Cemetery

would be that there was little or no interest taken in any way by any of the people that were interested in the property, that the physical condition of the cemetery was extremely bad, and that there were all sorts of nuisances and other things occurring through the premises, and that there were very, very few burials and very, very few, if any, that I know of visits to the cemetery.

Q Well, of course, the law under which you were testifying did not propose to define "abandoned" but the best definition that I can get: "An affirmative act on the part of the party; abandonment and leaving without intention of returning; a complete disassociation from the thing abandoned."

MR. MYLANDER: If the Court please, I object.

THE COURT: Yes, I will sustain the objection.

Q Then, when you testified, Mr. Kaufman, that the Laurel Cemetery was abandoned, did you mean to say that all of the people having an interest in it, including the Belair Road Enterprises, had left it and completely disassociated themselves from it?

MR. MYLANDER: I object. The Belair Road Enter-

prises had not bought it yet.

Q I am sorry, I mean McKamer Realty Company.

A The answer to the question was as regards the people who carried the rights of control there and the answer concerned that it was abandoned more or less by everyone having a right of control.

Q Then it was your conviction at that time that all persons having burial rights had left the cemetery without intention of returning?

A I didn't say that, you are saying that.

Q I am asking if that is your testimony.

A That isn't what I said, no.

Q Are you familiar with the participation that the Anderson Enterprises had in the prior litigation in this Court?

A I wouldn't be -- I would have very, very little knowledge of the matter. I sat in on meetings concerning the thing. But again I have to say to you that Mr. Mercaldo and Mr. McAllister did practically all the necessary details in this matter and the work, and they would be familiar with it. I am not.

Q Was the question of Mr. Anderson's being appointed trustee discussed with you before he was appointed?

A I am afraid I can't answer it yes or no. I don't know the answer whether he was or not -- whether it was discussed with me or not.

MR. WILLIAMS: I think that is all.

DIRECT EXAMINATION

By Mr. Cockrell:

Q Mr. Kaufman, you signed the original petition in bankruptcy over in the Federal Court, is that correct?

A That's correct.

Q And you were under oath when you signed it. Were you under oath?

A I am sure that I was.

Q Would you change anything in that proceeding? Would you still certify to the accuracy and validity of everything that took place in that proceeding?

A My recollection of what took place, I would have to answer that yes. But again I am a layman, I wouldn't be familiar with the details that were necessary. The work that was done in that matter was arranged for by the firm

of Pierson and Pierson. I signed the papers, they prepared them, and it would be my judgment that I would have to say that the information that was given there was correct.

Q Mr. Kaufman, let's go back to this church that you visited over on Monument Street in the early Fifties. Do you remember the name of that church?

A No, sir, I don't. I said it was either a Methodist or Baptist Church, but I don't remember for certain.

Q Do you have any idea of the general location?

A I did say to you that it was on the south side of Monument to the east of Gay Street. That's my recollection.

Q That probably would be Fountain Baptist Church. The Centennial Methodist Church would be west of Gay.

THE COURT: Can there be any disagreement about where this meeting took place?

MR. COCKRELL: I want to pinpoint the church as closely as possible because I think it has some bearing on his knowledge of how he could locate certain individuals.

THE COURT: All right, go ahead.

Q If you wanted to go there, do you think you would have any difficulty in finding it?

A I don't think I would have any difficulty going back there, no, sir.

Q Do you remember any conferences with this Cemetery Association in addition to your visit to this particular church?

A I recall, and I said yesterday, that there were some telephone calls from a lady who, as I can remember, was the secretary. The name Scott was mentioned here and I think it was said she lived on Caroline Street, and it would be my judgment that probably is the lady, although I don't remember for a certainty. There were different telephone calls from that lady, but other than that, I can remember no telephone calls from anyone concerning the association.

Q Did anyone visit your office, a delegation of these lot owners visit your office and have a conference in your office regarding this Laurel Cemetery?

A I have no recollection of a delegation coming to the office to consult with me concerning that. I will not say that it didn't occur though. Perhaps one person may have come in or two people, but a delegation I haven't the slightest recollection about a delegation ever coming to my

office.

Q Mr. Kaufman, do you remember any transactions or negotiations with attorney Robert Watts with reference to the Laurel Cemtery?

A That question was asked me yesterday and I answered I didn't remember.

Q You have no recollection of it?

A I won't say it didn't take place, but I have no recollection of it. If it did, it was ten or more years ago.

Q Let's go forward to the time it was decided that Laurel would be turned over to McKamer Realty Company. during that period was there any negotiation with you, as an officer of the corporation, were there any negotiations, conversations or other transactions made by you or any other officers of the corporation to actually looking to pinpoint and locate some of these lot owners?

A At the time of McKamer? In the early stages of the McKamer?

Q At any time.

A I would have to assume that that's correct, that they did. But again I am vague.

Q In other words, that wasn't a project or program instituted by you or any of the other officers to actually pinpoint and locate these people?

A That is incorrect, sir. There was a definite understanding that every possible effort would be made to locate interested people.

Q To the best of your knowledge, was every possible effort made?

A I have been told that Mr. McAllister in particular -- I'm sorry -- Mr. Mercaldo, who did the bulk of the work in that connection, that every possible effort was made.

Q Did you inform them at this church on Monument Street --

A The Church had no interest in the matter to the best of my knowledge. The people met at the church.

Q Was anyone in the church contacted when you were making this diligent search to find these people?

A I can't answer that, but at the time you are speaking about when I was talking with them, it did not occur to me about the meeting having taken place at the church. All of the records which I had in connection with

this thing were all bundled together and when they were lost, everything was lost. I had taken some notes of that meeting at the church and I had some names there, but when the papers were lost everything was lost that had anything to do with it, as I can remember.

Q Let's go back to the time when your records were lost. You filed this petition in bankruptcy in 1952. You stated under oath yesterday that after this petition was filed you had nothing whatsoever to do with the New Laurel Cemetery, after that you were through with it, or words to that effect. Is that still your statement?

A From 1952, at the time of the bankruptcy proceedings, until such time as the agreement was reached with Mr. Mercaldo and Mr. McAllister and myself to re-enter the picture, I had absolutely no interest or concern or record or anything else in Laurel Cemetery. I had washed my hands of it.

Q You further testified that those volumes were originally turned over to the Trustee in Bankruptcy and subsequently he returned them to you.

A That is not correct, sir. I didn't say that.

Q What happened to those volumes?

A They were carried to the office I think it is the Referee in Bankruptcy, I think Mr. Willis Myers, or I don't remember the name, but they were carried to the office, I am going to say of the Referee in Bankruptcy in the Post Office Building, and when this matter was presented to him by Mr. Pierson on my behalf, the statement was made by whomever I am going to call him -- I don't know what the proper term would be -- but he said to take the papers back, "We have no place here for them, just keep them until called for," and the papers laid in my office from that time on.

Q Mr. Kaufman,about how many people worked in your office from time to time?

A Two people. One person generally aside from myself.

Q Yourself and one other person?

A That's correct.

Q You are in charge of the office?

A Certainly.

Q Did you personally dispose of the records or mislay them, to your knowledge?

A That didn't occur. I will repeat --

Q All during this period --

A Let me finish, sir. I will repeat for you that I did not dispose of the records intentionally. I didn't order anybody to dispose of the records. I didn't infer or suggest in any way that the records be disposed of. I have said to you in this courtroom that if the records were carried out and thrown in the trash in some manner, it was done in the fashion of disposing of excess records by someone in the office. I have absolutely no recollection of it occurring, but it must have occurred because they are no longer there.

Q Mr. Kaufman, I am just trying to get as clear a picture of it as possible. You said you did not dispose of them.

A That is correct.

Q As to the other party that was working in your office, between the time you filed your petition in bankruptcy in 1952 and the final decree was signed in 1957, did the same person work in your office?

A No, sir.

Q About how many people worked in your office?

A Perhaps two. Wait a minute -- there is one thing I should clarify here for you. Mrs. Kaufman comes down to my office two days a week and she is there. Mrs. Kaufman is generally in the office on Monday and on Thursday, so that there would be an additional person.

Q After you found that the records were not available to be turned over to the McKamer Realty Company, just what did you do with regard to ascertaining what had happened to the records?

A I checked with Mrs. Kaufman and I asked -- well, the lady who normally works in the office would have nothing to do normally with throwing out papers, so I asked Mrs. Kaufman if she knew anything about it and she said she didn't, she had not disposed of them.

Q She said definitely she had not disposed of them?

A She had not disposed of them. The only thing I can think may have occurred is something of this nature. When we were disposing of all records from time to time, they were placed in a corner of the office and they were carried down either by myself or the janitor or janitress who worked in

the building and carry them down to the basement to be put in the trash containers. In some manner or form that is the only thing I can assume occurred. That in some manner or form they were carried down along with other things.

Q Can you give us the name and address of this other party other than Mrs. Kaufman?

A I would have to check to see who it was during that period. My recollection offhand is that it would perhaps be a Mrs. Mason, but I am not sure of it.

Q What is her full name?

A Mrs. Elizabeth Mason.

Q You don't know her address, do you?

A Mrs. Mason lives in Rogers Forge, I think it is on Regester Avenue. But Mrs. Mason would have had nothing to do with throwing out of records generally.

Q Mrs. Kaufman stated she definitely did not throw them out?

A That's correct.

Q And you have no recollection of throwing them out?

#4 A I don't remember it, I am positive of that.

Q Mr. Kaufman, you heard the testimony of the wit-

nesses yesterday, I refer specifically to Mr. Motry. Would you disagree with any areas of his testimony?

A You will have to tell me what you are talking about.

Q Mr. Motry was the individual who testified --

A I know who he is but you tell me what you are talking about.

Q And I say would you agree with his testimony in its entirety? You don't know of any areas in which you would disagree with his testimony?

A I don't know what you are referring to, you will have to be more specific.

Q Mr. Kaufman, you stated yesterday that all of the transactions and major details were handled by Mr. McAllister and Mr. Mercaldo.

MR. MYLANDER: He said it again today.

Q When you accepted the position of secretary-treasurer, did you have some idea or knowledge of the duties and responsibilities of that position?

A Yes, but they were nominal. Again the duties were taken care of by my associates. They were not primarily

taken care of by me. Practically all the details and work in this whole matter have been taken care of by my associates and not by myself.

Q So you just more or less held the title and they took care of the details, is that correct?

A That is substantially correct.

Q Let's go to this petition before the Zoning Board, did they take care of the details surrounding that?

MR. MYLANDER: If the Court please, are we going to go into a Zoning application after this sale was completed? I think it is irrelevant and I object to it.

THE COURT: What would be the purpose of the interrogation?

MR. COCKRELL: The purpose of my examination is to show that his function as secretary-treasurer of the organization was sometimes more than nominal.

MR. MYLANDER: What is the materiality of that?

MR. COCKRELL: He said it was only nominal.

Q In this specific area --

MR. ATWATER: I object. As attorneys, we all know that all of us have performed the functions of the office

of secretary and we do nothing in the position except to certify the minutes.

MR. COCKRELL: I am trying to find one area where he seemed to be officially acting.

THE COURT: Go ahead. I will overrule the objection.

Q Did Mr. Mercaldo and Mr. McAllister take care of the details of that?

A They took care of practically all of the details of that matter; yes, sir.

Q What would have been your function with respect to this petition for the zoning?

A I had very little to do with it. I don't remember exactly what was done.

Q You just signed your name to it and filed it?

A I would join in with anything with my associates, I had complete confidence in every way, shape or form of whatever they were doing and I would readily join in with anything they would do and sign anything without question.

Q You testified about Mr. Hamlett yesterday. Do you see him here in Court today?

A Yes, sir.

Q Will you point him out?

A He is alongside Mr. Hughes there (pointing).

Q How long have you known Mr. Hamlett?

A I don't know as to the exact number of years but I would have to say it would be at least fifteen years, although I wouldn't have had contact with Mr. Hamlett all during that period of time.

Q Let's go back to the time when you were the owner of the New Laurel Cemetery. During that period what was your relationship with him with regard to that particular cemetery? What were your positions and what was his position and describe to us your duties.

A I was the owner and I was operating the cemetery, if you want to refer to it as that. In other words, I owned the stock of the corporation and controlled the cemetery. However, Mr. Hamlett dug graves out there, he had dug graves for years, how long I don't know, and I had no connection with Mr. Hamlett and Mr. Hamlett had no connection with me except for one thing one time. During one of the periods when we were trying to clean up portions of the cemetery, I engaged

Mr. Hamlett to do some of that and during the course of the agreement with Mr. Hamlett, which was stopped. That is the only time I ever had any real connection or contact with Mr. Hamlet and that was by way of a contract on some cleaning up.

Q You also stated there were few burials during that period. Was there ever any transaction between you and Mr. Hamlett or conversation regarding burials?

A Yes. I said to Mr. Hamlett that he should not bury people there in the cemetery or should not do it for the undertakers without bringing to me a death certificate, shall I call it, a transcript of the death certificate and he on I don't know how many instances, let's say four or five or six instances, brought to me a transcript of an interment.

Q What did you do with these certificates?

A They were all kept with the records of the corporation. That was prior to the time that the matter was placed into bankruptcy.

Q Then, to your knowledge, there were no burials after the matter was placed in bankruptcy?

A I can't answer that for you. I told you after

this thing occurred, that is the bankruptcy proceedings, I had no interest in it and I paid no attention to it and nobody ever said anything to me about burials or anything else out there. I didn't go out to see whether or not there were burials taking place. And up to the time I again became interested with my present associates in this matter, I had no concern about whether or not people were burying out there.

Q Let's go back to before you became associated with these other individuals. Let's go back to the time you had the transaction with these lot owners. When was this approximately?

A It has been testified here it was in 1947.

Q Is that your testimony?

A I would have to assume that that is correct. I don't have that good a memory I can specifically pinpoint it, but it was in 1949.

Q It may have been 1949, it may have been 1950 or it may have been 1951?

A No, I would judge it was 1948 and 1949. Mr. Motry said that the area was cleared in 1949. So that it must have

been earlier than that plus -- I would say 1948 and 1949 on the basis of Mr. Motry's records.

Q Well, if I can produce certain lot owners who would testify that they had had transactions with you or had communications with you in 1951 regarding that cemetery, what would you say to that?

A What sort of transaction?

Q Well, they had communications with you.

A Do you mean a written letter?

Q Any type of communication.

A If you mean have they written me letters or called me, certainly they could have done that. I don't say people didn't write me a letter or might not have called me on the telephone. But I say to you again, that any records which I had prior to the bankruptcy were all kept in the files and all kept together, and when this matter went down into the Federal Court for bankruptcy proceedings, everything was tied up together and carried down there and it remained there.

Q Mr. Kaufman, I am a little curious about what became of these records. If they were so neatly kept

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together, could you give us some idea of how you kept your records generally? Do you have them in various places? You say they were put together, they were bound together, and they were sitting there and somehow or other they became missing.

MR. MYLANDER: I don't see how the witness can possibly understand or answer the question.

THE COURT: What is your question?

MR. COCKRELL: I am trying to find out how he actually kept these records in his office.

THE COURT: Well, ask him.

A I answered yesterday they were kept in the washroom under a table.

Q They were kept in a washroom under a table?

A That's correct.

Q And all records pertaining to that particular cemetery were together, is that right?

A All of the records were together at that spot, that's correct.

Q You didn't dispose of them yourself?

A I have answered that.

Q Will you answer again?

THE COURT: He has answered that ten times that he has no recollection of intentionally disposing of them and he does not know how they got lost, but he surmises something in connection with disposing of other records and possibly going into the trash can. I think he has gone all over that now. I think we ought to try to make some headway.

Q Mr. Kaufman, when was the last time you had knowledge of those records being in your office after they were returned to you from the Referee's office in bankruptcy?

A I can't pinpoint that for you. My guess offhand would be in 1955 or 1956, but I can't pinpoint it. I don't know. I didn't know they were missing until I looked for them.

MR. COCKRELL: I have no further questions.

DIRECT EXAMINATION

By Mr. Robinson:

Q Mr. Kaufman, I understand in addition to being a real estate man you are -- what do we call that word?

THE COURT: Realtor.

Q In addition to being a real estate man and realtor,

you are a member of the Real Estate Board, is that correct?

A That's correct.

Q And not every real estate man is a realtor, is that correct?

A Members of the Real Estate Board are members of the National Association of Real Estate Boards and members of the National Association are realtors.

Q Let me ask you this: You have to be a member of the Real Estate Board before you are a realtor, is that correct?

A You cannot be a realtor without being a member of the Real Estate Board of Greater Baltimore.

Q And in order for you to make application to the Real Estate Board you have to be approved by the Real Estate Board before they will accept you or not, is that correct?

A That's correct.

MR. MYLANDER: If the Court please, I cannot see the remotest connection here.

MR. ROBINSON: There are many things you can't, Professor. We are going to try to help you.

Q When you became interested in the Laurel Cemetery

you no doubt made some inquiries of what it was, and so on, before you first became interested in it, is that correct?

A What period are you referring to, back in 1939 or thereabouts?

Q Before you became interested in it. You just didn't push in there without looking into what you were getting into, did you?

A I would answer that yes.

Q Did you know that the original charter of the Laurel Cemetery had been forfeited sometime in 1934?

A I wasn't aware of that. I had no connection with it in 1934.

Q Isn't it true you did, too, because you re-incorporated it?

A I didn't reincorporate it, Mr. William H. Ziemer did.

Q I want to ask you about your connection with Mr. McAllister and Mr. Mercaldo -- just Mercaldo, I don't know Mr. McAllister -- isn't it a fact, at any rate, due to your experience in handling such matters wherever you became involved you, as far as you can remember, did stay in the back-

ground and didn't appear to be a formal conductor of any proceeding?

A That isn't true.

(Objected to.)

THE COURT: I will sustain that.

Q All right. The Laurel Cemetery, the new one was incorporated do you remember when?

A Approximately 1937. New Laurel Cemetery Company, is that what you are referring to? I don't know what you are talking about.

Q The one you took over or got into, New Laurel Cemetery Company?

A The New Laurel Cemetery Company was incorporated in 1939.

Q Mr. Kaufman, according to the records, the incorporators were Mr. William H. Ziemer, Ralph B. Simms and Walter C. Odell, and those incorporaters signed this certificate; is that correct?

A That was testified to yesterday.

Q The answer is yes or no?

A The answer is yes, it was answered yesterday.

Q And you became resident agent, is that correct?

A Yes.

Q At that time who represented you?

THE COURT: Do you mean who was his lawyer?

MR. ROBINSON: Yes, sir.

THE COURT: If that is going to help the Court, I will permit him to answer.

MR. ROBINSON: The purpose is to show there was a gap here.

Q Did Mr. Pierson represent you?

A No, sir, Mr. Ziemer's attorney was there and I don't remember who Mr. Ziemer's attorney was.

Q At the time of that incorporation, did you own any stock then?

A Yes, sir. I was one of the stockholders, the names that are on there, Mr. Simms and Mr. Odell. With straw people is a normal thing, of course, in setting up a corporation.

Q Is Mr. Ziemer a lawyer?

A No, sir.

THE COURT: Mr.Robinson, let's get up to date.

Now you are back in 1939 and I cannot really see the relevancy of your interrogation. That is twenty years ago.

MR. ROBINSON: If you will indulge me a minute.

THE COURT: Go ahead, ask him a question.

Q Was Mr. Ziemer a lawyer?

A I answered that he was not.

THE COURT: Mr. Robinson, I am not going to ask you to discontinue your examination of this witness, but there is no purpose in asking about the incorporation twenty years ago.

Q Well, shortly after this Mr. Pierson did represent you, didn't he?

A He represented me in 1952.

Q He prepared your petition in bankruptcy, didn't he?

A That's correct.

Q When did you change lawyers?

(Question objected to.)

THE COURT: I will sustain the objection. I don't see any reason for this interrogation, Mr. Robinson. If this were going to clarify the issue, it might be relevant but I don't think that that is relevant whether he changed lawyers

in 1939. I will sustain the objection.

MR. ROBINSON: I don't want to fence with him but he said these gentlemen took care of everything. I want to show a gap when they were not in it at all.

THE COURT: Go ahead.

MR. ROBINSON: If Your Honor will bear with me.

Q If you knew this was going to be reincorporated and you were going to buy stock in it, was there any reason why you didn't care to have your name in it as one of the incorporators?

MR. ATWATER: We object to it on relevancy, Your Honor.

THE COURT: All right. Go ahead.

A It wouldn't have made a bit of difference, but I had nothing to do with it in the sense of writing papers, straw names were used, that's all true, and immediately following that I was made a stockholder and an officer.

Q At that time how much stock did you acquire?

A A one-third interest, 33-1/3 shares as I remember.

Q It is correct that the Referee in Bankruptcy ordered you to bring the records down to his office, is that

correct, and you did bring them there?

A I don't know whether the Referee in bankruptcy ordered me to do anything, they were carried down there voluntarily at the time the matter was presented. There were no orders from the Referee in Bankruptcy, at the time Mr. Pierson asked me to bring them in and that was done.

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Q Will you refer to this here? This is an order on somebody in the matter of the New Laurel Cemetery signed by McDonough, Referee in Bankruptcy.

MR. MYLANDER: Is this a question, Mr. Robinson? If it is I object to it.

THE COURT: Mr. Robinson, what is the question?

MR. ROBINSON: I asked whether he was ordered by the Referee to bring records down and he says no.

THE COURT: Then that is the answer to that.

MR. ROBINSON: I am showing him an authenticated copy of the order there and asking him whether that would refresh his recollection.

A (Reading) "Ordered to attend the first hearing on the 20th day of January 1953, at 2 o'clock. Further ordered that New Laurel Cemetery be and appear before the

Referee in this Court at the time and place appointed, that said first meeting of creditors provide and bring all books, and so forth." I did not attend the meeting.

Q There was an order for New Laurel Cemetery to bring them in, wasn't there?

A If I had been required to bring them in I would have brought them in, but I perhaps talked with Mr. Pierson at the time and he said it wasn't necessary at the time because I was the sole creditor and there were no obligations in this company like where you have thirty or forty or seventy-five or fifteen hundred creditors.

Q In spite of the long dissertation you have given, I understand you to say you did bring them down and then took them back; is that correct?

A That was in December of 1952, at the time the bankruptcy proceedings were instituted.

Q What I want to ask you is how would you get them down to the bankruptcy court without a written order from somebody?

A I have stated that the Referee in Bankruptcy, the Judge I will call him, said to take them back with us,

he had no place there for them to keep, to carry them back.

Q And no written order or anything?

A No, sir, it was a verbal statement to carry them back.

Q You became president of the cemetery sometime after this new incorporation, is that correct, after the incorporation of the New Laurel Cemetery; is that correct?

A Approximately 1947 or 1948 or thereabouts.

Q And you undertook the actual management head, is that correct?

A Yes, sir.

Q Did you have any rules or regulations, since you were president of that New Laurel Cemetery --

MR. MYLANDER: May it please the Court --

THE COURT: What is the question?

MR. ROBINSON: I haven't finished.

Q Did you have any rules or regulations after you became president and manager of the cemetery with respect to the lots and the upkeep of the lots?

THE COURT: He said no. He has already answered that.

Q Did it occur to you that you would have to have some regulations, did you communicate with owners that you wanted the cemetery kept up?

(Question objected to.)

THE COURT: Let him answer. It would be time-saving.

A There wasn't perpetual care there in the cemetery and it is up to the individual lot owners.

Q That isn't the question and I ask the Court to make the witness quit fencing.

A What is your question?

THE COURT: Repeat the question.

Q After you became president and managed the cemetery, were there any rules or regulations existing then or did you, as such manager, make or formulate any rules and regulations concerning the upkeep of the graves and communicate with such of the owners that request that they do something?

A I answered that yesterday that there were no rules and regulations, and I didn't prepare any.

Q As manager and president, what did you do with respect to trying to get owners to take care of the graves

before what you say is an abandonment took place?

A There was no action on my part. It went along in 1947, 1948, 1949 and 1950 or thereabouts, during that period. I don't remember the specific dates but there was no effort made by me to have specific owners take care of their own grave lots.

Q While you were president-manager of this New Laurel Cemetery, did the Cemetery Company, or whatever it may be called, have an office at the cemetery where the grave owners or visitors may communicate with somebody?

A There are no buildings in the cemetery.

Q Were you connected with this cemetery when a part of it, the old office was sold for a gasoline station?

A No, sir.

Q During your time as president-manager, did you sell or attempt to sell any individual lots in the cemetery?

A It was impossible to sell lots in the cemetery because of the physical condition of the cemetery.

Q Did you make any effort to do it?

A It was impossible. I made no effort to do it because it was physically impossible.

Q Well, you didn't make the effort, is that correct?

A I did not.

Q As a matter of fact, this was a location that would be good for some other purpose other than a cemetery?

A When this agreement was originally entered into it was on the basis of purchase of stock, it was an investment in the hope I would be able to sell the stock of the corporation to someone else at a profit.

Q Before you bought the stock, did you visit the cemetery and look it over?

A Yes, sir.

THE COURT: He said he did.

Q And it was in bad condition then?

A Yes, sir.

Q You were the only creditor, I understand, in the petition filed in bankruptcy, is that correct?

THE COURT: Yes, $2425.

Q I suppose when you filed your petition in bankruptcy you wanted to get out and quit, is that correct?

A I have already testified to that.

Q You don't undertake explanations, you just answer

me. Wasn't that the purpose, to quit and get out of the responsibility?

A I said I went into bankruptcy -- that is the corporation went into bankruptcy so I could wash my hands of the whole transaction.

Q Then, if this is correct, what prompted you to become reinterested?

A Conversation with Mr. McAllister -- Mr. Mercaldo first, I'm sorry.

THE COURT: Mr. Robinson, I don't desire to restrict any opportunity in this case to bring out evidence which is important to all sides, but can't we go into some new matter? This is merely a rehash of what has already been taken care of by way of direct examination by other counsel in the case. If there is something new I am willing to hear it, but merely to go over the same thing three or four or five or six times does not add much to it. It doesn't help.

MR. ROBINSON: If you will excuse me, maybe you have not had the opportunity to become as familiar with the inside of the situation as some of us here, and ifyou will excuse me, the idea here is to preserve this record --

THE COURT: I know, but is there any purpose in making a voluminous record with exactly the same thing that has been gone over?

MR. ROBINSON: I want to know why he became reinterested, if he wanted to get out.

THE COURT: I thought that was already answered yesterday.

MR. ROBINSON: He already owned all of the stock.

THE COURT: All right, go ahead and ask him.

Q When you went into the bankruptcy court you owned all of the stock, didn't you?

A That's correct.

Q And you and some others went in and bought it back for $100, is that correct?

A No, roughly 1956 or 1957, sometime during that period. I don't remember specifically the time. That's correct.

Q When was your attention first brought to the fact that the law had been changed so that instead of a cemetery being 100 percent abandoned, it only had to be 75 percent abandoned?

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MR. MYLANDER: I object to the characterization. Let him answer. Go ahead.

A I don't remember the date but it would have to be around about 1956 or 1957, I don't specifically remember.

Q Did you personally make any effort to contact or communicate with any lot owner or any descendants of lot owners?

A I answered already that I did not, that that work was undertaken by my associates.

Q You mean the lawyers after the bankruptcy case?

MR. MYLANDER: I object.

THE COURT: By Mr. Mercaldo and Mr. McAllister. He has already testified to that.

Q But you had the records and the evidence of the lot owners --

A That isn't correct, the records were not available at that time, they were not there. I didn't have the records.

Q What, if any, price or value has been placed upon this property now?

(Question objected to.)

A There have been no offers for the property, to

the best of my knowledge.

Q Hasn't somebody filed a petition to rezone --

MR. MYLANDER: I object.

THE COURT: I will sustain the objection.

MR. ROBINSON: If you will excuse me, sir, I want to take an exception and make this proffer of proof.

THE COURT: No, you ask him questions.

MR. ROBINSON: I will have to do it this way. Excuse me --

THE COURT: I say, you ask him another question.

MR. ROBINSON: Well, you wouldn't let in the answer whether they made application to rezone.

THE COURT: Ask him another question.

MR. ROBINSON: You mean I can't ask that at all?

THE COURT: Continue with your examination of this witness, Mr. Robinson.

MR. ROBINSON: All right, I am going to do as you say, but as I understand the rule, if you refuse a question I have to make a proffer.

THE COURT: I also under the rule don't want any argument with respect to objections unless I ask for it, and

I am not asking for it. I am asking you to continue with your examination.

MR. ROBINSON: All right.

Q Now, may I ask you this, sir? You spoke of what you thought was an error in the transcript of testimony in Mr. Baxter's office, yesterday. Had you contacted Mr. Baxter with respect to what you thought was an error in that transcription?

A No, sir, I didn't think it was necessary to do that.

Q May we assume, when you found your records missing, you did not notify the Referee in Bankruptcy or the Police Department?

A No, sir.

Q At the time the petition was filed in the Circuit Court asking the Court for permission to advertise under this new Act of the Legislature we spoke of, were your records then in your possession?

A I would have to say no. I don't know when that was done specifically, but I am sure the records were not available at that time. I don't know when that took place,

the year, that is, the time, so that I can't answer that.

Q May I ask you this: At the time that you were before Mr. Baxter, when you were asked about the records --

A There were no records available.

Q Don't you think you should have told Mr. Baxter that they had disappeared?

A I answered that the records were not available. I don't remember the specific language in the testimony but there were no records available.

Q At the time you spoke of Mr. Hamlett submitting a certificate to you before the graves were dug and people were buried --

A I didn't say that, sir.

Q Let's proceed --

THE COURT: He cannot answer your question,he cannot hear your question and neither can the Court.

Q When Mr. Hamlett had a body to bury, was he supposed to contact you as manager of the cemetery first?

A Mr. Hamlett has been burying people there for years without contacting anyone first.

Q I mean since you came into this position as manager

of this cemetery, did you give him any instructions?

A I told Mr. Hamlett that following any burial there, people had a perfect right to bury them there, but I specifically requested that he bring in a transcript of the burial.

Q I think somewhere you testified to the fact when they could not find the markings they buried them where there was an empty grave?

A I didn't say that.

THE COURT: No, I didn't hear any such testimony.

Q Well, is that correct?

A I can't say whether it is correct or not. Mr. Hamlett did the burying, I didn't.

Q At no time did Mr. Hamlett bring you these certificates to check with your records as to whether they went in the right section or not?

A No, sir, because I don't think I would have been able to pick it up. There is onefact that hasn't been told here and I think it bears saying that the records that there were -- you make again the impression that there were records such as the one lying on your table there. That isn't correct. The papers were extremely old. They had been wet and mildewed.

At one time there was a vault on the property, a brick building, I understand, and there was a basement in the same thirty feet deep where, if the ground were frozen and they were not able to bury them, they kept the bodies there in the vault. Apparently the records were kept in that vault. I don't mean down thirty feet but somewhere in that building. I have seen foundations of the building but I have never seen the building itself, but I would judge that that building was cold and damp and the records were badly mildewed, they had been wet, the great majority of them, to my recollection, were illegible. One book would have a hole in it, that it had deteriorated to a point where it had a hole in it big enough to put my fist through it. So the records were not as something you would think of as good records. There were records that went back certainly to the 1800's. In fact, because of the age they had deteriorated badly, and most of those were deteriorated.

Q You were connected there some twenty odd years, weren't you?

A Yes, sir.

Q Did you make any effort to put in some filing

system or new system while you were in office?

A I kept records, yes, I answered that.

Q Records of what?

A I kept records of my interest in the thing from that time. I didn't attempt to keep records in the books that had been handed to me by Mr. Ziemer.

Q This is the final question. Since you became president and manager, did you do anything by way of communicating with what lot owners you could find to let them know there was a change and where the new office was so they might communicate with you, if they wished?

A I wouldn't have known where to find but very, very few lot owners, and those people knew that I was interested in the thing. They were communicating with me and they had knowledge of where I was.

Q The question was, did you communicate with them and inform them there was a change in ownership?

A I wouldn't have known to whom to communicate, there is no record.

Q Well, if you had a record you could find some names, couldn't you?

A I doubt it very much. The records were in very, very poor shape that were handed to me.

Q Did you put an advertisement in the paper that there had been a change in management and where the office was?

A I did not.

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Q When you speak of abandonment, isn't it correct that you just abandoned it?

A Are you referring to the bankruptcy proceeding?

Q No, the word "abandonment", you made no effort to organize, advertise, made no efforts to solicit their help, you did nothing yourself, I understand, until the Health Department got behind you --

A That is your statement, that isn't correct. I made inspections periodically, I was out there periodically, there were many things that were necessary to be done and I attempted to do them. But from the standpoint of making rules and attempting to communicate with owners, no, sir. I testified it was an impossibility practically to bury in the cemetery and it was certainly impossible to sell land. I had not abandoned it. I worked with it continuously from

the time when I had sole proprietorship of the thing up until December 1953.

Q It is a very simple question. When you bought your stock in the New Laurel Cemetery, did you then have intentions to carry the cemetery on, improve it, continue it and sell lots in it?

A I answered a little earlier to a question of yours that I had bought the stock of the cemetery in the hope that I would be able to sell the stock to someone else for a profit. In other words, I tried to turn the thing over.

Q At the time you got control your interest was to sell your stock and make a gain on your investment and not to maintain and keep up the cemetery?

A I have answered that.

MR. ATWATER: Your Honor, I object to any further questions that are purely harrassing. That is all this is.

THE COURT: Very well. Any other questions?

MRS. MITCHELL: I have some questions, sir.

THE COURT: Very well.

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Mr. Kaufman --

MR. ATWATER: Your Honor, this is direct examination, this witness was called by these lawyers, they have had one crack, I think there ought to be an end of the examination.

THE COURT: They each represent different complainants.

MR. ROBINSON: There are about two hundred involved.

MR. ATWATER: Your Honor, Mr. Hughes stated he represented all plaintiffs and he was the first lawyer to examine this witness. I think a limit of one lawyer to a side at one time ought to be enough.

THE COURT: All right, let's get on.

MR. ROBINSON: When you wanted a postponement you didn't apply that rule.

THE COURT: Oh, Mr. Robinson, let's proceed orderly.

MR. ROBINSON: I'm sorry.

Q (By Mrs. Mitchell) Mr. Kaufman, from the records of the State Tax Commission, on August 5, 1948, you filed a

paper in the State Tax Commission Office showing that the principal office, the name and address of the resident agent was at your office of the New Laurel Cemetery Corporation to be 100 East Pleasant Street, your office, and that you were the resident agent and that you were also president; is that correct?

A Yes.

Q As of that time you took over the active management of this corporation, is that correct?

A Yes.

Q At any time after you took over the management of the corporation did you seek counsel for advice as to what your duties were in the matter?

MR. MYLANDER: If the Court please, I object.

THE COURT: Overruled. Let him answer.

MR. MYLANDER: This is the third counsel to ask what his duties were.

A I didn't talk with any attorneys as to what my duties were in that connection, no, I have no recollection of that.

Q Did you know that there was a duty upon you, as

the owner of a cemetery corporation, to preserve the roads and paths and byways through the cemetery so as to provide adequate egress and ingress from and to the burial lots, on the part of lot owners in that cemetery?

(Question objected to.)

THE COURT: Overruled. I think he has answered. He has said he tried and couldn't until it went broke, and that is the reason he went into bankruptcy.

THE WITNESS: I only want to change one thing. I did not go into bankruptcy, the corporation did.

THE COURT: I understand.

Q At any time did you know or did you attempt to inform yourself as to the responsibility of a cemetery corporation to preserve the cemetery for the burial rights of the lot owners?

A Mrs. Mitchell, I testified as to that. As the Judge said, we did make an attempt to do these things, it was next to impossible to do them all because there was a constant series of one thing after another. You would start on one thing and then there would be something else. There were times when nothing was being done.

Q Tell me specifically, at any time did you contract to have the roads in the cemetery maintained to have adequate ingress and egress provided for the lot owners?

A There were times when the roads were clear or portions of the roads were clear, yes.

MR. MYLANDER: May it please the Court, I object. This is now apparently an inquiry directed to the propriety of the conduct of the New Laurel Cemetery prior to 1952. It has no relationship to the questions in this case.

THE COURT: I would have to sustain the objection, but I think we have gone all over that.

MRS. MITCHELL: Your Honor, may I explain it is from the standpoint of equitable estoppel, if the owner of this cemetery corporation from the time he became owner, conducted the affairs of the corporation in such way that he had abandoned it, and he did nothing to contribute to the maintenance of it, then he must be estopped from coming back here in this Court on April 24, 1958, before the Examiner and testifying as to the neglected condition of the cemetery. He maintained a fiduciary relationship to the owners of those burial lots and in this case, under our allegations of

fraud, it is essential to show through a series of circumstances, going back to the ownership of this gentleman, the failure to exercise the duties that were incumbent upon the cemetery corporation from the time he became owner.

THE COURT: Very well. I will permit you to ask it. Overrule the objection.

Q Mr. Kaufman, specifically when and with what companies did you contract with to maintain the roads in the cemetery?

A It wasn't with companies, they were with individuals, and I can't tell you the names of those men at the minute, although I remember -- I know specifically that one is dead and I understand that the other one is dead also. One man lived on East Biddle Street, in the 1300 block, and the other one lived on Harford I think in the 1100 block.

Q Approximately how much did you pay them over what period of time, if you recollect --

MR. MYLANDER: I object.

Q (Continuing) -- and what specifically did you ask them with respect to maintaining the roads and paths in the cemetery?

THE COURT: Overruled. Let him answer.

A I can't answer as to dates at all, but it was during my period of ownership and they worked out there I know off and on for better than two years and they would cut weeds, they would cut along the roads, they would clear out the trash. I would do various things, anything that I could, and there were other instances, when you speak of contracts, there was a contract with the Davey Tree Company, as I remember, and there was work done by the Insecticide -- I don't remember the name of the corporation, Insecticide and Research Control, or some such name, they were out in the Catonsville area. But there were numerous things done.

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Q As a matter of fact, whenever you did anything it was under order of the Sanitation Division of the Health Department, who testified here yesterday?

A That isn't correct, it wasn't under the order of Sanitation. There were times when it was, yes, very specifically, but there was a number of instances when that wasn't true. I did attempt to keep up with these things and I testified it was next to impossible to try to take care of fifteen or sixteen acres and satisfy the demands of everyone.

Q Sometime during the time you became owner of this corporation -- and you examined your articles of incorporation, did you not?

A I don't know as I looked at those.

Q As a matter of fact, you yourself went on the original articles of incorporation in 1939, didn't you?

A That's correct, but I didn't know I would have to look at every article or remember them.

Q In those articles of incorporation it was specifically provided that the lot owners held the lots subject to the regulations and rules of the corporation, is that not your understanding?

MR. MYLANDER: Did the corporation understand this?

Q Did you understand that youhad the power, as the owner of the cemetery corporation, to make certain rules and regulations --

MR. ATWATER: Objection. That is about the fifteenth time.

Q (Continuing) -- which would be incumbent upon the lot owners to obey?

THE COURT: I think he has answered this before.

MRS. MITCHELL: May I say this is the basis for something?

THE COURT: Let him answer.

A There were no rules made and I have no recollection in any way, shape or form of the item in the minutes or the charter of the corporation that you refer to.

Q This cemetery was known as a Negro Cemetery, was it not?

A Yes, I would say that it was generally known as a Negro Cemetery.

Q That would mean that the overwhelming majority of lot owners and the persons who were buried there were of the Negro race?

A Yes.

Q Do you in your regular business sell properties to colored citizens?

(Question objected to; objection sustained.)

Q Are you familiar with the Afro-American newspaper?

(Question objected to; objection overruled.)

A Yes.

Q Are you familiar with the sources of information

available to the colored citizens and which concerns matters in which they are interested?

(Question objected to; objection overruled.)

A If you are referring to the Afro-American, I would answer yes.

Q Have you ever had occasion to advertise in the Afro-American?

A Yes, indeed, I deal with colored folks. I have no racial bias in any way, shape or form. I have never had any.

Q If I said that the circulation of the Afro-American consisted of 60,000, would you feel that that was correct?

(Question objected to.)

THE COURT: I think you want to ask him why he did not advertise.

MRS. MITCHELL: That is my point.

THE COURT: Well, ask him. Let's get down to it.

Q When you became owner there and you saw the condition of the cemetery was neglected, and as you say, there was no interest on the part of lot owners, why did you not advertise in the Afro-American calling a meeting of the lot

owners to help maintain this cemetery?

A It strikes me that Mr. Ziemer, during the period of time that he was president of the corporation, had attempted to do something and he told me he had no response to speak of from the people, and I did nothing about it as far as advertising in the Afro.

Q As a matter of fact, in the Evening Sun of May 31, 1948, under the title "Belair Road Group asks removal of a 100-year old Negro Cemetery." May 31, 1948, which was prior to August 5, 1948, when, according to the State Tax Commission records, you became the record agent and president of the corporation. In that article you are quoted as saying that you would welcome any feasible plan for replacing the cemetery. Do you remember that?

A No, and I would be inclined to say to you that there have been many instances in which newspaper reports have been terribly distorted and I would not necessarily agree with any statement out of the paper.

Q Did you visit the offices of the newspaper to deny that?

A No. May I see the article?

Q I will have it here, I have ordered a photostatic copy of it and I will have it here. In that same article it is stated that there were 7,000 bodies and the cost of removal would be between $70,000 and $100,000. From your experience with Laurel Cemetery, the size of that acreage, your knowledge of the records, would you conclude that that was a correct estimation at that time?

MR. MYLANDER: I object to that. We are going into the accuracy of the press now. It is irrelevant and I object.

THE COURT: Let him answer.

A I wouldn't feel that it was accurate, I wouldn't know what would be accurate but I wouldn't feel that that would be accurate.

Q Well, eleven volumes of records of lot owners would certainly entail a large number of them, wouldn't they?

A It isn't a question of eleven certificate books, if that's what you mean. There were different types of books, it wasn't just a single type of book.

MR. MYLANDER: I object again.

THE COURT: I will sustain the objection and strike

out the answer.

Q Mr. Kaufman, in your duties as cemetery corporation president and other cemetery corporations from time to time, you know that there are a number of owners whose deeds have been lost. What provision did you make to establish records which would be intelligible so that you could duplicate deeds or certificates?

(Question objected to; objection overruled.)

A Mrs. Mitchell, no one ever came to me and said they had lost a deed and they wanted a duplicate. It never happened.

Q Well, in 1948, then, there were those protests by the Belair-Edison Improvement Association about the condition of the cemetery. If the cemetery was in such bad condition, why did you take personal title to it and if it were not a fruitful investment?

A Do you want me to tell you a long story? That's what it would be.

Q I would like to know why.

THE COURT: I think he has answered. He said he bought the stock for investment, he hoped to turn it over

and get rid of it. I think that is what he said.

THE WITNESS: That's what I said.

Q How much did you pay for the stock, Mr. Kaufman?

(Question objected to; objection sustained.)

Q At that time the Improvement Association and the City had had contacts about condemnation and purchase for municipal purposes, is that not correct?

#10 A There may have been. I can't answer that yes because I am not the City and I don't know whether there had been or not.

Q But the protests and the requests for action to improve the condition of the cemetery were in all of the newspapers of the City.

A Listen, I didn't write these things for the Belair-Edison or anybody. They were against me, they were fighting me vigorously. I don't know what you are driving at. I wasn't connected with them and I had nothing to do with the thing, with the cemetery, yes, but everybody was down on Kaufman.

Q Was it your purpose to buy this cemetery at a time when the City and other --

A I am going to answer your question for you.

Q Just a minute, I haven't finished.

A Go ahead.

Q Wasn't it your purpose then to buy all of the stock of the corporation as principal owner, to hold it simply until such time as it would be condemned and you could then make a large return on your investment?

MR. MYLANDER: If the Court please, I object.

THE COURT: Your client wants to answer it.

THE WITNESS: I have to listen to my attorney.

THE COURT: Go ahead and answer the question.

MR. MYLANDER: I don't want this thing dragged out any further than it has to be.

THE COURT: All right, let him answer.

A Mr. William H. Ziemer was the president of the New Laurel Cemetery, and Mr. W. H. Ziemer and I each had an interest in it. Mr. Ziemer traveled to Florida one year, I don't remember the year but let's say 1945 or thereabouts, and he drove all the way through to Florida without stopping. He suffered a heart attack and after he got back to Baltimore, while the New Laurel Cemetery -- after getting back, having

suffered a heart attack, he was very highly worried about this situation and the constant problems and harrassment that there was, and he asked me to dispose of the place, try to get rid of it for him, and I made every possible effort to sell the stock for anything to anybody, and it wasn't possible to do it. And in order to relieve Mr. Ziemer of the problems which he had in this matter, I took it over.

Q Were you aware that during that same period when Mr. Ziemer, as you say, asked you to take it over, that Mr. Ziemer called certain lot owners into his office in the 1100 block of West Lanvale Street and had certain conversations with them about it?

A I wouldn't have been aware of that.

Q Did he report that to you?

A I have no recollection that he did. I don't know whether he did or not. You mean to dispose of it to those people?

Q You say he wanted to dispose of it to those people?

A I don't know whether he did or not. But he was most anxious to dispose of it and I took it over only in the

hope that it would help him to live longer, that he could get rid of a problem.

Q Are you acquainted with Mr. Deever Smith, a lot owner?

A I am not.

Q At any time during your conversations with Mr. Ziemer regarding the purchase of his share of the stock in the corporation by yourself, did you refuse that purchase?

A I told him earlier that I felt as long as we were both interested the proper thing to do was to attempt to dispose of it to an outside person and after perhaps a year's stay in Miami, every possible effort to dispose of it was made and not being successful, he requested me to take over his interest and I agreed to do it.

Q What year did he die?

A It was in the early 1950's, I don't remember exactly.

Q Approximately what date did you purchase his interest?

A My guess would be sometime in 1947, but again I don't remember exactly.

Q As part of the pleadings in this case by McKamer Realty Company, an allegation was made in Paragraph 16 of the Bill of Complaint that a thorough and exhaustive and diligent search was made to locate lot owners.

MR. MYLANDER: I object, Your Honor.

Q Mr. Kaufman, during 1948 and 1949 there was in existence an organization of lot owners known as the Laurel Cemetery Protective and Improvement Association, was there not?

A There was. I assume there was. They were in contact with me.

Q They retained counsel, Baltimore Traffic Court Magistrate and attorney Robert Watts, is that not correct?

(Question objected to.)

A If you tell me that, that's correct.

Q Attorney Watts had some conversations with you during that time in his representative capacity, did he not?

(Question objected to.)

THE COURT: Mrs. Mitchell, I think we have really gone all over this. If I thought there might be new evidence, honestly I would permit him to answer the question. I hope

you feel I am sincere in what I am telling you, but if we are going all over this again and again by each attorney --

MRS. MITCHELL: My intention is to pinpoint his memory, his memory has been so vague in so many instances and it is to pinpoint his memory as to why these persons were not contacted at the time these proceedings were instituted in this Court.

THE COURT: Then ask him that, just ask him the direct question, why were they not contacted.

MRS. MITCHELL: I would like first to show him this letter.

Q Mr.Kaufman, will you look at this paper, is this on your stationery?

A Yes, it is.

Q Is that your signature?

A That's correct.

(After a short recess.)

MRS. MITCHELL: Your Honor, I wish to offer in evidence at this time as Plaintiffs' Exhibit 6 a paper which is on the stationery of John G. Kaufman, Realtor, 100 East Pleasant Street, Baltimore, Maryland, dated September 16,

1948.

Q Mr. Kaufman, would you read to the Court what you saidin that letter and to whom it was written?

A This is addressed to Mrs. Anita C. Scott, Recording Secretary of the New Laurel Cemetery Protective and Improvement Association, care of Centennial Methodist Church, Monument and Stirling Streets. "Dear Mrs. Scott: Pursuant to our conversation and in accordance with your letter of the 16th instant, I hereby grant permission to your organization, the Laurel Cemetery Protective and Improvement Association, to arrange to clear Sections B and C of New Laurel Cemetery in order that those sections of the cemetery may present a better appearance. This work is to be done at the sole expense and risk of the Association. Sections B and C are on the right and left-hand side respectively of the entrance into the cemetery."

(Letter referred to received in evidence as Plaintiffs' Exhibit 6.)

Q At any time did Mrs. Scott or any member of her association come to your office for conferences?

A It is possible that she may have, but as I

remember, in most instances in talking with Mrs. Scott, and that wasn't a lot of times, but there were times I was on the telephone.

Q You know Mrs. Scott?

A I wouldn't know the lady today, no, I'm sorry.

MRS. MITCHELL: Mrs. Scott, would you stand?

Q Would you recognize her now?

A No, I wouldn't. I'm sorry.

#11 Q Mrs. Brooks, would you stand?

Do you recognize this lady?

A No, I don't.

Q You don't recognize any of those persons?

A There is only one lady here that appears to be familiar. It is the lady on the first bench on the left-hand side here, with the brown hat. I don't know her name but there seems to be something familiar that brings back recollection. But I can't tell you the lady's name or anything else. But, nevertheless, I remember that. I'm sorry, I don't remember the others. Primarily it is a question of meeting these people once.

MR. ATWATER: May the record show that the lady

he refers to is Mrs. Jackson, the mother of Mrs. Mitchell.

MRS. MITCHELL: Mrs. Lillie M. Jackson, President of the Baltimore Branch of the National Association for the Advancement of Colored People.

THE WITNESS: I don't know who the lady is.

Q You see she is there. Did you ever contact her to try to contact any of the lot owners?

A No.

Q Did you ever contact the Centennial Methodist Church where you met?

A I have already answered that no.

Q Are you familiar with the numbers of colored citizens as to their attendance in the churches?

MR. MYLANDER: I object. I think that is incapable of an answer.

A I would not know.

Q Did you ever contact any of the ministers of the colored churches?

A Mr. Ziemer did.

Q Did you?

A No, I did not.

Q Because you took over in 1948 I understand?

A That's correct.

Q Did you ever try a colored YWCA?

A I did not.

Q Or the colored YMCA?

A I did not.

Q At any time did you place an advertisement in the Sunpapers, the Daily Press?

MR. MYLANDER: I object.

(Objection overruled.)

Q To ascertain the existence or the whereabouts of these lot owners?

A In 1948 or thereabouts, I did not.

Q At any time. Mr. Kaufman, you testified on April 24, 1958, that you and Mr. Mercaldo and Mr. McAllisterhad gone over the cemetery and that you had seen approximately 150 headstones and markers. At that time did you make any notes of the names and dates of deaths which were inscribed on those headstones?

A Mr. McAllister and Mr. Mercaldo did.

Q At the time that you went to the cemetery,

before you testified?

A I think it is my recollection we went through the cemetery before the testimony before the Examiner.

Q Approximately how long before the testimony did you visit the cemetery to look at these monuments and markers?

A I don't remember specific dates there, Mrs.Mitchell. I wouldn't be able to answer you.

Q Would it be approximately a month or two months? Was it cold weather or warm weather?

A It was not warm weather I can tell you that.

Q This testimony was taken in April.

A It was cold weather so it must have been several months earlier, within several months earlier. It might have been a shorter period, I don't remember exactly.

Q Was any attempt made to advertise in the papers about the names and dates of death which were inscribed on those tombstones and markers, to ascertain the whereabouts of the descendants of those decedents?

MR. MYLANDER: If the Court please, may I have a running objection?

THE COURT: Yes. He said no, he never advertised.

Q Mr. Kaufman, you say you know Mr. Hamlett, you knew him well?

A I didn't say I knew him well. I know Mr. Hamlett.

Q Did you make any arrangements with him at any time for the upkeep of the cemetery?

A I answered at one period, yes.

Q When was that period, Mr. Kaufman?

A I don't know if I can pinpoint that.

Q Was it before you took over ownership or after?

A Are you referring to the period from 1948 to 1952?

Q Was it before 1948 or after 1948?

A I would say it was between 1948 and 1952.

Q What arrangements did you make with him for the upkeep of the roads or the appearance of the cemetery, the entrances or anything?

(Question objected to.)

THE COURT: He has already answered only on one occasion. That he would deal with the lot owners and the conversation he had with him was in connection with a number of burials and then he wanted a transcript of the death

certificate, and it was only on one occasion when he asked him to take care of it at the expense of the lot owners. I think he said.

THE WITNESS: Oh, no, I paid for it. It was at my expense.

THE COURT: At any rate, I thought he had gone all over that.

MRS. MITCHELL: Your Honor, it was very vague. We want to try to pinpoint his recollection --

THE COURT: Mrs. Mitchell, you may not be satisfied with his answers, but I am sure he has gone all over this again and again. I don't know that you would be satisfied with the answers but I think that is what he said.

Q At any time did you pay Mr. Hamlett any wages or any money whatsoever to care for the roads or the entrances or the sides of the cemetery that adjoin the street?

A I did.

Q Approximately how much did you pay him and when?

A He was paid -- this has to be approximately because it is background and the records are all gone in that connection. The arrangements that I made with Mr. Hamlet was that

he would clear the cemetery, starting let's say along Belair Road side, then swing back toward the northeast side, and just gradually swing around. The exact price at which Mr. Hamlett was to be paid under the contract I don't remember, but I wrote out a contract with him and I paid a book of payments in that connection, and my recollection offhand is that Mr. Hamlett was to be paid a sum somewhere in the general neighborhood of $400 or $500 for the work, and that he was paid approximately $250 or thereabouts in sums each week. In other words, as he went along under his contract, but that Mr. Hamlett was running ahead and drawing rather than performing in accordance with his contract and before it was finished, the contract was cancelled because he wouldn't be able to perform, he said he wouldn't be able to eat the contract for the sum of money which he had agreed under the contract and it was ended at that point.

Q Did you contract any other person to do a job which he could not finish?

A At that time?

Q Yes.

A I can't answer whether these other men came there

immediately after that or whether they were in there later. I have already answered I had several men in there working. It just occurred to me the home of one of the men, the name of the man on Biddle Street is Randall, in the 1300 block. He is now dead but I think his wife lives over there. It is three or four doors from the corner. It is between Central Avenue and Bond Street.

Q Is he buried in Laurel Cemetery?

A I haven't the slightest idea. He died maybe five years or so ago.

Q At any time did you ask Mr. Hamlett to bring you the burial permits?

MR. MYLANDER: I have a running objection I know.

THE COURT: Yes.

A Yes, he did.

Q Approximately how many did he bring to you and over what period?

A I would say it would be between the period between

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1948 and 1952. I don't know the exact period. But my recollection is that during that period he gave to me the burial permits, if that is the proper name to call it, some-

thing like that.

Q Yes, those burial permits were supposed to be turned into the Bureau of Vital Statistics. At any time, did you turn them in when he turned them over to you?

A No. I think I may have conveyed the wrong impression. What he brought to me was a photostatic copy of the burial permit that had been turned in to Vital Statistics.

Q Are you saying that Mr. Hamlett secured photostatic copies of the burial permits?

A I don't know where he got them. He brought to me a copy of the burial permit -- wait a minute. I don't know whether it is a burial permit. I may be twisting this by following your words when I don't mean to. It may have been a record of the burial, let's call it that. It was a photostatic copy of a record of burial.

Q Mr. Kaufman, I show you minutes of a meeting -- I first show you from the records brought into Court by Mr. McAllister of the minutes of the corporation Belair Enterprises and the McKamer Realty Company, and I show you these papers entitled "First Meeting of the Directors of the Belair Road Enterprises Incorporated," and your name is

at the bottom as John G. Kaufman, Secretary. Are you familiar with those?

A To a degree. The records as I have testified, were all kept by Mr. McAllister and Mr. Mercaldo, who were doing the work in the thing and it would have been my job to sign them as secretary. Yes.

Q At that meeting the secretary states, if you will read with me: "The Secretary presented to the meeting the resignation of Clement R. Mercaldo as president of the company, and upon motion duly made and seconded it was unanimously decided that the resignation be accepted. Upon motion of John G. Kaufman, the name of Benjamin J. Martin was submitted to act as president for the ensuing year. Upon motion duly made and seconded Mr. Martin was unanimously elected to act as president of the corporation for the balance of the year."

This was under date of the 25th day of July 1958, the first meeting of the stockholders of the Belair Enterprises, who were the purchasers of this property in this Court by the same decree in this Court. Do you remember that?

MR. MYLANDER: I renew my objection.

THE COURT: Overruled.

Q Do you remember that?

A I remember that Mr. Mercaldo asked to be relieved temporarily for his personal reasons, I don't know exactly what the reason was but he asked to be relieved for a personal reason, and it was done and Mr. Martin was elected there and it was to be more or less on a temporary basis.

Q That was dated July 25, 1958. What was Mr. Benjamin Martin's relationship to the company?

A He was then the new president of the company, he replaced Mr. Mercaldo as president of the company.

Q Who is Mr. Martin?

A Mr. Martin I think is the brother-in-law of Mr. Mercaldo. You can ask him, he will be able to tell you.

Q Subsequent to that meeting there was a second meeting of the stockholders of the Belair Road Enterprises Incorporated, which was held at 2 p. m. on the 16th day of October 1958, which was approximately three months after the first meeting. Now this is entitled the second meeting of the stockholders of the Belair Road Enterprises which was held at No. 36 Equitable Building at 2 p. m., on the 16th day of October 1958. "The meeting was called to order by Benjamin J.

Martin, President of the corporation. The secretary -- referring to you again, Mr. Kaufman -- then submitted the resignation of Benjamin J. Martin as president of the corporation and upon motion duly made and seconded, it was unanimously voted that the resignation be accepted. Upon motion duly made and seconded by Lloyd G. McAllister, the name of Clement R. Mercaldo was submitted to be nominated as president and upon motion duly made and seconded, Mr. Mercaldo was unanimously elected to serve for the ensuing year or until his successor is duly elected and qualified." What was the purpose of that?

A I would have to answer you that I don't know. It was a personal matter as far as Mr. Mercaldo was concerned and Mr. Mercaldo, in the earlier stages, asked to be relieved temporarily, then when he was prepared to act or to be active again, he was returned to the presidency of the corporation.

Q Was there not a discussion that for the purposes of completing the sale in the Circuit Court of Baltimore City the name of Clement R. Mercaldo should not appear as president of the Belair Road Enterprises until that sale had been ratified and consummated?

A I have no recollection of any such discussion.

Q There was no discussion?

A I have no recollection of any such discussion. No.

Q Mr. Kaufman, do you recognize this book as a true record of the minutes of the McKamer Realty and the Belair Road Enterprises, of which you were secretary-treasurer?

A This is what Mr. McAllister brought into the office, this is the record of the corporation, yes. I don't have to look at the book.

MR. MYLANDER: If the Court please, I object again and move all this line of testimony be stricken. The records themselves show, the exhibits before the Court show, that Mr. Mercaldo signed the Bill of Complaint in the original case as president, and this is an attempt to raise an inference that he was hiding or disguising his office. This is a rather remote way to show it.

THE COURT: Overruled.

MRS. MITCHELL: I offer then the book in evidence as Plaintiffs' Exhibit 7, the minutes of the Belair Road Enterprises Incorporated and the minutes of the McKamer Realty Company Incorporated, from July 9, 1958 through October 16,

1958.

THE COURT: Very well, have them marked.

MRS. MITCHELL: And the minutes of the Board of Directors of the McKamer Realty Company on January 15, 1957.

(Documents referred to received in evidence as Plaintiffs' Exhibit 7.)

Q With regards to McKamer Realty Company, were there any further meetings of the Board of Directors of the McKamer Realty Company after January 15, 1957?

A I don't remember specifically whether there were. We had meetings. They may have been of the different corporations. And again I have to say to you that these details were all taken care of by my associates and not by myself, and under the circumstances I can't answer you accurately.

Q Did you take any minutes of any further meeting?

A The minutes were not kept by me as such.

Q Did you take any notes at any of the meetings?

A I didn't take any notes of any meetings.

Q Was this also true of the Belair Road Enterprises Incorporated?

A I didn't take notes of any meetings. The minutes

were written up and they were presented to me for signature.

Q The minutes of the first meeting of the directors of the McKamer Realty Company on January 15, 1957, show

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there were four people present; Lloyd G. McAllister; Clement R. Mercaldo; John Kaufman and Dorothy M. Klipper. Those minutes show that among the resolutions adopted, and I quote from the minutes: "After due consideration of the proposal the following resolutions were unanimously adopted:

"Resolved that the corporation accept the refinement of the option being offered by John Kaufman, Lloyd G. McAllister and Clement R. Mercaldo in exchange for all of the stock of the corporation.

"Be It Further Resolved that all of the stock of the corporation be issued to John Kaufman, Lloyd G. McAllister and Clement R. Mercaldo on the basis of 33-1/3 percent to each.

"Be It Further Resolved that the corporation exercise the option and take title to the 15-1/2 acres of land on the southeast side of Belair Road commonly known as New Laurel Cemetery and that title be taken in the name of the corporation."

Would you say that that is --

THE COURT: What is the date of that?

MRS. MITCHELL: January 15, 1957, before the offer of sale was made in the bankruptcy proceedings.

Q Would you say that that is true and accurate of what transpired at that meeting?

MR. MYLANDER: I object to the characterization.

THE COURT: Let him answer. Is that true or not?

A As far as I remember.

Q Was there any discussion of the amount of $100 as the purchase price?

A I don't remember, I wouldn't remember that, whether it took place at that meeting or some other time.

MRS. MITCHELL: I am offering this book in evidence.

MR. MYLANDER: I object to the record being cluttered with the entire record book of two corporations, without any specific designation.

MRS. MITCHELL: Well, the minutes are very brief in there. I would assent to their being lifted out of the book per se and they be offered individually as Plaintiffs' exhibits according to the numbers.

THE COURT: Very well. You can make copies of the pertinent parts of the minutes you desire so that the entire binder need not be introduced in evidence.

MRS. MITCHELL: Thank you.

MR. MYLANDER: What is going to be marked?

THE COURT: Mrs. Mitchell said the minutes from July 9, 1958 through October 16, 1958, with respect to Belair Road Enterprises, and the minutes of the McKamer Realty Company of January 15, 1957. So that they may be lifted from the original records and offered in evidence as Plaintiffs' Exhibit No. 7-A, B, C, D, whatever the alphabetical designations are under that exhibit.

MRS. MITCHELL: I have the financial records of the McKamer Realty Company and the Belair Road Enterprises as were brought into this Court this morning under subpoena by Mr. Lloyd G. McAllister. Under the title "Partnership of Clement R. Mercaldo, John G. Kaufman and Lloyd G. McAllister," there is a sub title which states the finances on behalf of McKamer Realty Company. The date is June 1957, for the purchase of Laurel Cemetery $100.

Q Did you advance that money?

A I would advance my proportionate share of any money for the operation of the company that was required. I have advanced my proportionate share only.

Q Earlier in February or I believe on January 16, 1957, and that date is subject to correction just as soon as I have a photostatic copy of that letter, Mr. Mercaldo sent a letter to the Trustee in Bankruptcy, Mr. H. Carl Butler, making an offer of $100 for the purchase of the cemetery by the McKamer Realty Company and enclosed a check for $50.

At that time had you contributed to any funds for this purchase after 15th of January?

THE COURT: Did you say to the Referee in Bankruptcy or Trustee?

MRS. MITCHELL: To the Trustee who had been appointed by the Court to sell this property.

A I wouldn't be able to answer that for you. I don't know whether there was any call upon me for funds at that time. It may be something that Mr. Mercaldo advanced.

Q Mr. Kaufman, there are other entries regarding deeds, revenue stamps, incorporation State Tax Commission $30,

corporate seal $8.67. The McKamer Realty Company had actually been incorporated back on November 26, 1956. Corporate seal $8.67. Was the money advanced in June 1957 for all of the past advances or were funds contributed at each meeting for the expenses of the corporation?

MR. MYLANDER: If the Court please, I object again and I don't see how this could be understood by anyone.

THE COURT: May I have you tell me the relevancy of this line of interrogation?

MRS. MITCHELL: Your Honor, I would think it is relevant to the question of fraud upon the Court, wilfully deceiving the Court, and the whole question for the purposes of personal gain and unjust enrichment. I would think it is relevant to find out who actually furnished the money to purchase the cemetery from the trustee in bankruptcy and who advanced the money for this corporation, McKamer Realty Company, from the time of its incorporation on November 29, 1956, until June 1957, when the advances placed in this financial sheet were registered.

THE COURT: Well, ask him the question as to who advanced the money.

A I didn't. I don't know who advanced it.

MR. ATWATER: Your Honor, I think we could stipulate that the money was put up by the three stockholders and that they all put up in equal shares. Whether one at one time may have put up more than the other one did before he got contributions from the others, we don't have records to show. But the money was put up by the three stockholders and it is stipulated, it is so stipulated.

MRS. MITCHELL: Your Honor, I am not satisfied with that explanation.

THE COURT: All right. I think it is time to take a recess. I hope we can exhaust Mr. Kaufman. Let's take a recess until a quarter of two.

(Recess from 12:40 p. m. to 1:45 p. m.)

AFTER RECESS (1:45 p. m.)

Thereupon---

JOHN G. KAUFMAN,

whose examination was suspended for the purpose of taking the noon recess, resumed for

DIRECT EXAMINATION (Continued)

MR. MYLANDER: If the Court please, will the Court at this time entertain our request for leave to file the supplemental answer to which I alluded this morning?

THE COURT: Very well. I have the original file here, so I will get the Clerk to detach it.

MR. HUGHES: May it please the Court, at this time I would like to make a correction. At the time I entered this case, which I explained to the Court I was retained late, I made the mistake of saying I am representing everybody in here. I wish to correct that. As to this supplemental paper which has been filed, of which I had no knowledge at the time, but I would like the record to show I am retained in the case by Mamie E. Kennard, et al, vs. McKamer Realty Company.

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THE COURT: In other words, you are representing Mrs. Kennard?

MR. HUGHES: Mrs. Kennard and the other plaintiffs.

MR. MYLANDER: Including the intervenors?

MR. HUGHES: Well,the intervenors have their own counsel.

MR. MYLANDER: You represent all the original plaintiffs?

MR. HUGHES: I understand that Mr. Cockrell is intervening, Mr. Robinson is intervening on behalf of someone else.

MR. COCKRELL: Insofar as these additional plaintiffs are concerned, why don't you enter your appearance on behalf of these intervenors?

MR. HUGHES: I don't think I should do that because I had no knowledge of the 71 additional complainants. In any event, so long as I am entered on behalf of one, I think that is enough.

THE COURT: All right.

MR. ATWATER: It is just a question of whose appearance is in the case now for the intervenor complainants.

MR. COCKRELL: Insofar as the intervening complainants are concerned, I was representing 74 and Mr. Dearing was

also representing 71 who came in. As additional ones who will come in about four or five additional plaintiffs have filed, Mr. Dearing and I will be representing.

THE COURT: Will be coming in?

MR. MYLANDER: We will consent to their coming in. We represent that this is a class action, if the Court please.

THE COURT: All right.

MR. MYLANDER: They can bring in anyone who has an interest. I think the action is clearly on behalf of everyone who is in the same position.

MR. ATWATER: Your Honor, there is one counsel in the case for one of the plaintiffs who intervened by Fred Kolodner as her counsel. Mr. Klitch was here yesterday and said he was tied up, he had two or three cases on foot.

MR. MYLANDER: In other words, he was leaving the case in the hands of his co-counsel.

MRS. MITCHELL: No, he reserved the right to come back.

MR. MYLANDER: Well, he was leaving the intervening proceedings until he did get back in the hands of his co-counsel.

MR. COCKRELL: That is correct. Mr. Fred Kolodner entered his appearance in the case, he intervened in the Mamie Kennard case, and counsel from his office was here yesterday and he has entered his appearance in these particular proceedings.

THE COURT: I might say about counsel who are not here, Mr. Williams spoke to me about being excused today and I excused him. But the other lawyers who were here yesterday and are not here today, I have no recollection of their having spoken to me about being excused in today's proceedings. However, be that as it may, let's get on with the testimony.

THE WITNESS: Before you start, sir, I would like to inform Your Honor I have an important building association meeting at 4:30. I don't know whether I am going to be finished by that time, but I would like, if possible, to be excused around 4:15.

THE COURT: All right. I hope so too.

MRS. MITCHELL: Mr. Goetz, will you read the last question and answer?

(Question and Answer read by the Reporter.)

Q Prior to this last statement, Mr. Kaufman, you

said that at each meeting of the Board of Directors of the McKamer Realty Company, each member of the Board of Directors contributed his proportionate share for the expenses of the corporation. Do you remember when you first made a contribution?

A I didn't say it as you have said it, it wasn't brought up at each meeting that we had. When there was a call for money by either Mr. Mercaldo or Mr. McAllister, the money was advanced.

Q Was it advanced in cash or by check?

A By check.

Q Would you have a record of the advances which you made?

A May I get it?

Q Yes.

Note: Witness leaves witness-stand and procures checks.

MR. MYLANDER: If the Court please, in order to do this orderly, may it be understood I have a continuing objection?

THE COURT: You have a running objection. Indeed,

all of this testimony is subject to exception.

A The earliest money which I put up was $425 and I remember in that particular instance that my share of that was one-third. I mean it should have been one-third but this was advanced by me, then they each reimbursed me. Other than that, these advances represent approximately one-third.

Q That was October 23d?

A October 23, 1957.

Q And it was a check made payable to whom?

A It was made payable to me, endorsed by me, and as I remember, this was -- oh, I remember now what happened. I think we had to have a certified check for the land which was purchased from the Government. Then I wrote a check, endorsed it, and had to make a cashier's check on the Maryland Trust Company.

Q When is the next one?

A May 6, 1958, in the amount of $164.

Q To whom was that made payable?

A That was made payable to Clement R. Mercaldo.

Q And that check was drawn on what bank?

A Maryland Trust Company. All of my checks would

have been on Maryland Trust Company.

Q Then the next date?

A September 23, 1958.

Q And that was inthe amount of how much?

A $300. It was drawn to cash, then it was deposited. This shows deposited to Mr. McAllister but I think that is all the partnership account. That is the partnership account.

Q Then the next date.

A There is one check which, as I remember, I couldn't put my hands on immediately, for $1,000 but it would have gone into the partnership account. That was, I think, dated September 24th.

Q 1958?

A 1958.

Q And the next check?

A Next check $1,000, October 9, 1958, which was deposited in the partnership account.

Q Lloyd G. McAllister?

A Lloyd G. McAllister, Clement R. Mercaldo and John G. Kaufman.

Q What is the next date?

A Next date October 24, 1958, $1,000 deposited in the partnership account.

Q And the final one? Is that the final one?

A I don't think so.

Q Will you state which date?

A November 21, 1958, $500 deposited in the partnership account; November 28, 1958, $800 deposited in the partnership account; December 15, 1958, $400 deposited in the partnership account; June 2, 1959, $500 deposited in the partnership account. November 12, 1959, this check was made to Clement R. Mercaldo in the amount of $100, endorsed by Mr. Mercaldo. That is the total.

MRS. MITCHELL: I would like to just offer these checks in evidence as Complainants' Exhibit 8.

MR. MYLANDER: We have a general objection.

MRS. MITCHELL: Which would be Plaintiffs' Exhibit 8 and Plaintiffs' Exhibit 9, A, B, C, D, E, F, G, H, I and J.

(Documents received in evidence as Plaintiffs' Exhibit 8 and Plaintiffs' Exhibit 9, A, B, C, D, E, F, G, H, I and J.

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Q Mr. Kaufman, I show you what purports to be a

statement of account of the partnership of Clement R. Mercaldo, John G. Kaufman and Lloyd G. McAllister, advances on behalf of the McKamer Realty Company beginning with June 1957 through 8/11/58, in the amount of $674.47 for the McKamer Realty Company. Would that be an accurate statement of the account of said partnership which made advances on behalf of the McKamer Realty Company?

A To the best of my knowledge, it would be.

Q Do you recognize this handwriting?

A That is Mr. McAllister's handwriting. Mr.McAllister kept the records.

MRS. MITCHELL: I would like, then, to offer into evidence Plaintiffs' Exhibit No. 10.

MR. MYLANDER: If the Court please, I think, in addition to my general objection, I object in addition on the ground it isn't established what it is, who it is an accounting to, or what its purpose was.

THE COURT: Can't you read it into the record, Mrs. Mitchell, or is it of such a nature that you cannot read it into the record?

MRS. MITCHELL: Yes, I can read it into the record.

I think the Clerk has the title. Partnership of Clement R. Mercaldo, John G. Kaufman and Lloyd G. McAllister, subtitle "Advances on behalf of McKamer Realty Company, June 1957 for purchase of Laurel Cemetery Butler Trustee $100," and under that same date the following items: Recording deed $5; Revenue Stamps $1.10; Incorporation State Tax Commission $30, Corporate Seal $8.67; Purchase of 17 lots U. S. Government $425; Recording Deed $5, Revenue Stamps $1.10.

December 17, 1958. Franchise Tax, State Tax Commission $23.60. Under this there is in pencil the notation $178.72. Again in pencil under that notation is $421.75.

On 9/12/58, J. Harry -- is that Kohler?

THE WITNESS: Either Kohler or Keller.

MRS. MITCHELL: Kohler, surveyor, $32. 8/11/58, J. Harry Kohler, surveyor, $42. Now, then, there is an additional notation in ink 4/11/59, Harry B. Malden $50, but there is a line drawn through that entire item. Under this is a pencil notation of the sum of $74.

In the margin there are the following items in pencil: $178.72, $421.75, $74, a line is drawn underneath, the notation $252.72. Under that the notation $421.75. Under

that a line and then the notation in pencil $674.47.

MR. MYLANDER: May the record note that that is simply a longhand memorandum in a looseleaf notebook.

MRS. MITCHELL: In answer to that, may the record show that this was brought into the Court under subpoena duces tecum by Mr. Lloyd G. McAllister this day, under a request to produce all records pertaining to the transactions of the McKamer Realty Company and the Belair Road Enterprises.

THE COURT: Very well.

Q Now, Mr. Kaufman, I show you a statement, what purports to be a statement of account of the partnership of Clement R. Mercaldo, John G. Kaufman, Lloyd G. McAllister, "Advances on Behalf of Belair Road Enterprises, Incorporated." Do you recognize the handwriting?

A That is Mr. McAllister's handwriting.

Q As you look through this statement, would you say this statement in the handwriting of Mr. McAllister is an accurate statement of the account of the advances made on behalf of Belair Road Enterprises Incorporated?

A I would assume that it be so. It was prepared by Mr. McAllister, who has kept the records.

MR. ATWATER: Your Honor, I object. I think the proper way to prove this is to prove it by Mr. McAllister.

THE COURT: We will have to go all through this again with Mr. McAllister.

MRS. MITCHELL: I would like to say Mr. Kaufman is the secretary-treasurer. Mr. McAllister must have been acting as his agent.

THE COURT: I am so fearful we will have to go through this again with Mr. McAllister, who apparently kept the books, and the minutes were signed by the secretary-treasurer, Mr. Kaufman. But actually, according to the testimony in this case, all the detail work was left either to Mr. McAllister or Mr. Mercaldo or both. I don't know that it is helping me very much for him to say yes, they appear to be the records and they look to be accurate, when we will have to go all through this again with Mr. McAllister.

MRS. MITCHELL: May I introduce the records into evidence and then further complete the testimony on that when Mr. McAllister goes on the stand?

THE COURT: All right. Because his answers don't sway me one way or another by his answering he did not keep

the books but if that is what the books say, that's what they are, the books were kept by Mr. McAllister. Only in the interest of saving time.

MRS. MITCHELL: All right. May I then introduce these in evidence as Plaintiffs' Exhibit 10.

THE COURT: All right.

MRS. MITCHELL: Consisting of two looseleaf pages from the looseleaf notebook brought into this Court under subpoena duces tecum by Mr. Lloyd G. McAllister this day.

THE COURT: Very well.

MRS. MITCHELL: Purporting to be the statement of the partnership of Clement R. Mercaldo, John G. Kaufman, Lloyd G. McAllister, of the advances on behalf of Belair Road Enterprises, Incorporated.

THE COURT: Very well.

MRS. MITCHELL: This will be Plaintiffs' Exhibit 10-A and 10-B.

MR. MYLANDER: We have our general objection.

THE COURT: Same ruling.

(Documents referred to received in evidence as Plaintiffs' Exhibits 10-A and 10-B.)

Q Mr. Kaufman, would you explain what the partnership arrangement is as portrayed in that financial account?

A That would reflect the interests of the three associates in these corporations.

Q When did you form the partnership of Clement R. Mercaldo, John G. Kaufman and Lloyd G. McAllister, prior to the incorporation of both McKamer Realty Company and the Belair Road Enterprises?

A I would have to answer again I don't remember for certain when it was, but it is my recollection it was the time of the McKamer Realty Company and in the early beginning of the McKamer Realty Company.

Q You are not sure that it was before the incorporation. The incorporation was on November 29, 1956, so you had to have some funds to get started with.

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A They were probably advanced by one member. They were not advanced by me. They may have been advanced by one of the members and later that member may have been reimbursed for expenditures or that was proportioned for the two-thirds proportion. But who did it, I can't answer. I don't know.

Q What was the purpose of the partnership if a

corporation was formed, two corporations, McKamer Realty Company on November 29, 1956, and the Belair Road Enterprises on July 10, 1958?

A Mrs. Mitchell, I can't answer you honestly other than by saying that I am not aware of the reason for it. I am a layman, they are attorneys. They deemed it best to handle it that way, so it was done in the fashion that the attorneys decided. I can't tell you why. I don't know.

Q Then is it your testimony that the partnership advanced the funds to both of these corporations for the purposes of the corporations?

A That there was need for money by the corporations.

Q Is that partnership still in existence?

A Yes, sir.

Q It is a continuing partnership?

A It would be a continuing thing and as there was need for money, the money would be turned into the partnership account and disbursed; advanced to the corporations.

Q Mr. Kaufman, House Bill 594, which purported to amend Section 119 of Article 16 of the Annotated Code of Maryland, to provide for proceedings in the Circuit Court of

Baltimore City to decree a sale of the cemetery if it were 75 percent abandoned, was introduced on February 27, 1957, and it passed, it had passed both Houses on March 29, 1957. Who introduced that Bill, do you know? At whose request was that Bill introduced?

A I can't answer you, I don't know.

Q Did you have any conversations with Mr. Mandel or Mr. Bachrach pertaining to its introduction?

A I did not.

MRS. MITCHELL: The record will show that after its introduction on February 27, 1957, and its first reading, it was referred to the Judiciary Committee on February 27, 1957, and thereafter, on March 5, 1957, it was referred to the Baltimore City delegation, and on March 7, 1957, there was a favorable report by that delegation, then it went over into the Senate. It went over into the Senate on March 12, 1957, and after first reading was referred to the Judiciary Proceedings Committee.

THE COURT: Is that a question?

MRS. MITCHELL: I simply want to refresh his recollection preliminarily to asking a question if at any

time he appeared before the Legislature.

THE COURT: All right, ask him. Did you at any time appear before the Legislature in connection with this House Bill?

THE WITNESS: The answer is no, at no time.

Q Or any committee of the Legislature?

A At no time.

Q Did you have any conversations with any members of the State Legislature?

A At no time.

Q With regard to the introduction and passage of this legislation?

A At no time.

Q Was there any discussion by any of the members of the McKamer Realty Company or during the meetings of the partnership of which you were a member, pertaining to the introduction of such legislation?

MR. MYLANDER: I object, if the Court please. I think it is highly unbecoming in a proceeding of this kind collaterally to impeach the integrity of the Legislature. That seems to be the only possible purpose of it. If this

bears on the validity of the Act, this isn't the kind of a proceeding to test the integrity of the Legislature.

THE COURT: Let him answer the question. Overrule the objection.

MRS. MITCHELL: It is for the purpose not of impeaching the integrity of the Legislature but to show a continuing scheme and plan.

THE COURT: What is your answer, did you do any of this legislation?

A No, I did not.

Q Did you discuss with your partners the introduction of this legislation?

A I did not. There may have been discussions after the Bill was passed by the Legislature, I remember discussing the thing, but --

Q When?

A I think after it was all over. I don't think it was at the time.

Q Do you know who requested its introduction?

A I don't. I had nothing to do with it.

Q Mr. Kaufman, I show you what purports to be a

printed reproduction of Ordinance No. 1940, introduced in the City Council on March 16, 1959, which is an Ordinance to amend sheets No. 37 and 38 of the Use District Map of Article 40 of the Baltimore City Code, 1950 Edition, as revised by Ordinance No. 711, approved May 21, 1953, by changing from Residential Use District to First Commercial Use District the property on the southeast side of Belair Road, and ultimately as outlined in red on the four plats accompanying this Ordinance introduced by Messrs. Byrd, Hergenroeder and Peacock, by request of Belair Road Enterprises, 334 St. Paul Street, John Gilbert Kaufman Realty Company.

MR. MYLANDER: If the Court please, if this has any pertinency, request for a rezoning ordinance at a later date, after the closing of the proceedings which are the subject matter of this inquiry, if that has any pertinency -- I think it does not -- if it does, we certainly concede we requested the introduction and passage of this rezoning ordinance.

MRS. MITCHELL: Our answer to that is again it is an effort to show through a series of circumstances a scheme and a plan.

THE COURT: Do they admit they were instrumental in having the Ordinance introduced?

MRS. MITCHELL: My purpose is to show that this witness requested its introduction as it appears on the printed copy.

MR. MYLANDER: If the Court please, with reference to these constant references to a continuing scheme, the constant reference to fraud, if fraud were proved the showing of these things might be properly considered as corroborating circumstances. But there has been no far no suggestion of fraud, and I want the record to show that I strenuously object, on behalf of these defendants and the principals interested in these defendants, to the constant reference unchecked, for the sole purpose of the press.

MRS. MITCHELL: Your Honor, I would just like to say that the Court of Appeals ruled --

THE COURT: Mrs. Mitchell, I am going to overrule the objection. This testimony is still subject to exception, so you may go on with the examination. But get right to the question.

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MRS. MITCHELL: All right.

Q Mr. Kaufman, did you introduce this Ordinance?

A I did not.

Q Did you visit the Department of Legislative Reference at the City Hall to have it introduced at any time?

A I did not.

MR. MYLANDER: We will concede that the organization did do such things.

Q Was there any discussion among your partners or in your corporate meetings of the Belair Road Enterprises relating to the introduction of such an Ordinance?

A Yes.

Q Do you know when and where those discussions took place?

A I can't tell you dates, but it is my recollection that they took place in Mr. Mercaldo's office in the Equitable Building.

Q And subsequent to this the Ordinance was introduced?

A Yes.

Q At any time did you attend any of the sessions of the committee on zoning of the City Council or of the City Council itself, while this Ordinance was introduced?

A I attended one meeting I think it was of a committee, when the matter was before a committee. I attended only one meeting.

Q Did you have anything to say at that time?

A I did not.

THE COURT: Mrs. Mitchell, may I interrupt? You are attacking the constitutionality of House Bill No. 594. With respect to this Ordinance calculated to rezone the cemetery for commercial purposes, it has been conceded that the corporation had that done and it is conceded that Mr. Kaufman had an interest in having it rezoned. Is it necessary to go much further than that?

MRS. MITCHELL: The purpose is to show a bigger value of the cemetery and a plan that was conceived early in 1956 towards this objective.

THE COURT: But isn't that argumentative? Isn't that something you should argue at the conclusion of the case? Counsel have conceded that the Ordinance was introduced. I don't know what the outcome of the Ordinance was.

MRS. MITCHELL: I would like to offer, then, for introduction into evidence as Complainants' Exhibit 11 the

Ordinance.

MR. MYLANDER: We object.

THE COURT: Very well. Have it marked. Same objection, same ruling.

(Document referred to received in evidence as Plaintiffs' Exhibit 11.)

Q Mr. Kaufman, are you now or have you ever previously been interested in any type of bankruptcy proceedings other than the one which you filed in the United States District Court in 1952?

(Question objected to.)

THE COURT: Objection overruled, still subject to exception.

A Never.

Q Never?

A That's it.

Q Do you have records pertaining to what were the debts owed by the New Laurel Cemetery to you in the amount of $2,425, which you stated in your bankruptcy petition as the sole creditor of the New Laurel Cemetery Company.

A This perhaps was all lost at the same time.

Q And that would be after you took the volumes down to the trustee, Mr. H. Carl Butler, for examination in early 1952?

A They were never taken to Mr. Butler.

Q To the Referee, I beg your pardon.

A They were taken down to him in December of 1952.

Q And the Referee was Mr. --

A I don't know whether it was Willis Myers then or just who it was.

THE COURT: Mr. Kaiser, I think.

THE WITNESS: Mr. Kaiser, that's correct.

THE COURT: Was it?

MR. MYLANDER: Joe Kaiser was Referee later, I don't know whether it was Kaiser or not. It was Kaiser at the time of the sale.

Q How long were they kept in the office of the Referee, Mr. Kaiser?

A Only during the period of the hearing.

Q And how long was that?

A Roughly an hour or maybe a half hour, I don't know how long it took. That is, I don't remember. But let's say

an hour.

Q Are you in the custom of losing records?

THE COURT: Oh, he is going to say no to that.

Q Mr. Kaufman, are you in the habit of losing records from your office?

A I am not, and this is very embarrassing to me. Much more so than you have any idea.

Q How did you expect to prove your debts further in proceedings in bankruptcy?

A Mrs. Mitchell, I was willing to wipe out every debt they owed to me at the time that occurred. I was washing my hands of the transaction.

Q Mr. Kaufman, you also estimated in your bankruptcy petition under oath that the value of the 15 acres of land known as Laurel Cemetery to be in the amount of $1500. How did you arrive at that estimation?

A Purely an estimate. Mr. Pierson asked me what in my judgment would be the worth of the unused land, that is the only thing he felt could possibly have a value, and I told him I didn't know whether it could ever be used for anything other than for burial purposes, it was back off an

alley, I didn't think it could be sold for burial purposes because of the condition of the cemetery, but that I would estimate it was worth approximately $1500. It was purely an estimate.

Q How much did you pay for the stock which you bought in 1948, by which you became sole owner and president?

MR. MYLANDER: If the Court please, even if this were an evaluation case and the issue was the value of the lots, that would not be admissible.

MRS.MITCHELL: It is relative to the allegation of unjust enrichment.

THE COURT: But he bought this stock in 1939 --

MRS. MITCHELL: 1948.

THE WITNESS: Some of it in 1939 and some in 1948.

THE COURT: And these proceedings took place in 1952.

MRS. MITCHELL: Your Honor, we still feel there are a number of spokes in the wheel and in order to show a scheme or plan, and with all due respect to Mr. Mylander, my opponent, the reason we are in this Court, as he so puts it in his brief, is on the allegation of fraud, and therefore

it is definitely pertinent and relevant to establish this as a part of the continuing scheme to keep this cemetery.

THE COURT: I understand.

MRS. MITCHELL: For personal enrichment.

THE COURT: I will let him answer it. I don't quite see the relevancy but I am going to rule in your favor. What did you pay for the stock?

A $4500.

Q What year was that?

A It is on the basis of the 1939 and 1948 purchases, in other words, the total of the two.

Q The total of the two?

A That's correct.

Q How much did you pay in 1939?

A I don't know that I can answer for you accurately, Mrs. Mitchell. My guess offhand would be in 1939, when it was acquired, that the cost, my proportionate cost at that time was perhaps $1,000 and Mr. Ziemer's proportionate cost would be approximately $1,000 or so. Then I experienced afterward continuing advances to the corporation in an effort to try to keep the thing going, it was never a money-maker,

I was continually making advances to the corporation, and what happened when I took over Mr. Ziemer's interest was that I paid to him -- there is a lot of rumbling back here, Your Honor.

#18 THE COURT: Try to restrain yourselves a little bit. Go ahead.

A (Continuing) I paid to Mr. Ziemer every dollar that he had invested in the company, in other words I took him out of the thing on the basis of his cost. And I did it for the man's health, honestly.

THE COURT: We have gone all over that.

Q At any time did any of the lot owners come to you asking for duplicate deed?

THE COURT: He said they never had. He has answered that. Is that correct?

A That's correct.

Q At no time?

A I have no recollection of anyone asking for a duplicate deed.

Q In 1948, didn't a committee of some fifteen or sixteen people come to your office asking for duplicate deeds?

A Absolutely not. There was never a delegation of fifteen or sixteen in my office at 100 East Pleasant Street. I told you before there may have been a couple people visited my office at 100 East Pleasant Street, but there was never a delegation. The largest group I ever saw regarding this was at the Centennial Church and there were probably fifteen to twenty, let's say twenty people there roughly.

Q At any time did you have any conversation with members of the Housing Authority of Baltimore City or any other City Agency pertaining to purchase of the 15-1/2 acres of land known as Laurel Cemetery, for public purposes?

A Yes, I did.

Q When and what were those conversations, if you recall?

A I can't tell you dates. But I do recall the Housing Authority was considering it one time and whether they had the Real Estate Department of the City look into the matter for them, I am not able to answer. But I do remember that I talked with Mr. Leo McDonough several times about it and after they went into it, my recollection is that this was done at the time of the Housing Development along Harford Avenue that was in process. As I remember, they

had to build houses to take people out of the Harford Avenue area over there. But, at any rate, after going into the matter thoroughly, the City decided that it wasn't feasible for them to do it. And also I can say that I talked with the Housing Authority and I talked with Mr. McDonough and I talked with the Church on Belair Road, and I talked with others before December 1952. Let's say during the year 1952, I offered to give them this place for free. The only thing Iwanted to do was to sell my interest for a nominal sum so that I would be able to take it as a tax deduction for the loss which I would sustain. I offered to give it to them for nothing at all as long as I am shut of it, as long as I could show a loss for tax deduction.

Q Did you consider the interests and rights and property rights, whatever they might be, of the lot owners and their descendants in this cemetery which you bought?

A Yes, I considered them. But, Mrs. Mitchell, you tell me what I could have done.

Q Just answer my question.

A I considered it.

Q May I refresh your recollection again as to

various proposals of the City which began on May 31, 1948, through 1949 and into '50, as late as 1951, the land shown as Laurel Cemetery was being considered for another municipal purpose and that is for a playground. Do you have any knowledge of that?

A If Mr. McDonough spoke with me on behalf of the City with the thought in mind of that being used as a playground, I have no knowledge of it; no. The only use I had in mind was perhaps for the benefit of the Housing Authority.

Q Which would have been shortly after you acquired ownership or before?

A Oh, no, Mrs. Mitchell. The beginning of this thing was many years ago, in 1939. I didn't go into this thing with the idea of selling it to the housing authority, you are misinterpreting or twisting the facts. I didn't take this thing over in 1948 to try to get, if you want to call it conspiracy, to get the whole profit from Mr. Ziemer. I did it for a generous reason.

Q Mr. Kaufman, you have previously testified that several years before you purchased Mr. Ziemer's interest, Mr. Ziemer had been wanting to sell and he had talked -- he

told you that he had talked with some of the colored lot owners as to whether they might buy it.

A You said that, I didn't say that.

Q Did you in your response to that advise him not to sell to anyone who had an interest in the cemetery as a lot owner?

THE COURT: There is no such testimony.

A I didn't testify to that.

THE COURT: I don't think he testified to that.

MRS. MITCHELL: Your Honor, he testified he advised against selling. I asked him about Mr. Deever Smith.

THE COURT: I have no note of it.

A You asked me about Mr. Deever Smith and I said no.

MR. MYLANDER: He said he refused to purchase from Mr. Ziemer until he explored the possibility of selling to an outsider.

MRS. MITCHELL: My recollection is that he testified he advised against selling.

A If you want to ask me the question, I will answer it for you now. I did not.

Q I would rather go back to your testimony. I would

rather use your testimony as has been given prior.

A Very well.

THE COURT: You said something about the last question but I will permit you to go on. You said one final question.

Q Mr. Kaufman, assuming that a lot owner lost his deed and you say, you have testified there have been burials, there were burials between 1948 and 1952, and Mr. Hamlett brought you burial certificates, assuming a lot owner had lost his deed and got a certificate in order to buy in his lot and came to you for a duplicate deed, what would you as president and general manager have done about it?

A I would have to say that I could only make a diligent search. At the time they had the records, what records there were, and if you could show me that would be true, I would certainly try to be helpful to the person. But after the records were lost -- and, of course, this is much later than the time I assume you are talking about -- then it wouldn't have been possible. But during the period I had records I would certainly have made an effort to do so. But no one asked me for a deed, I have absolutely no

recollection of anyone asking for a duplicate deed.

Q Mr. Kaufman, you had the records then at the time you carried them to the Referee in Bankruptcy in 1952?

A I have answered that.

Q And they were in your office?

A Yes.

Q Yes. So if a lot owner had asked you for a duplicate --

A I would have attempted to cooperate, yes indeed, with an individual. I just answered that.

Q You have seen Mrs. Anita Scott, to whom you wrote a letter. At any time did Mrs. Anita Scott ask you for a duplicate deed?

A I have no recollection of Mrs. Scott asking for a duplicate deed. I would have had no reason to refuse to try to be helpful to Mrs. Scott or to anyone else.

#19

Q You say that when you went into the cemetery before the testimony, several months before the testimony before the Examiner on April 24, 1958, inthis Court, you saw about 150 headstones or monuments; is that correct?

A Before we went before Mr. Baxter, that's correct,

the three of us went out there and we made a very diligent search.

Q Are you familiar with the records which the undertaker, Mr. Ellsworth Armacost, has filed in this proceeding of approximately 480 names which were taken from headstones or markers or monuments in the cemetery, plus other unknown lots?

A If you are talking about the discrepancy between the number which we found and the number which Mr. Armacost found, I can answer in this fashion. When we went through the cemetery it was so done that it was almost impassible in spots and there were certain places that we had to bypass, not large spaces but areas. We came out of there with our clothes torn, our pants torn from the briars and things like that, I would say the clothes we had on were ruined by simply forcing our way through the briars and underbrush that was there.

So, when Mr. Armacost or anyone else was working with machines and that in cutting down trees or weeds in order to get to it, I would say they would be bound to find a small headstone or something of that nature which we might not have

seen because they were covered over. I don't think that is a large discrepancy when you consider what the physical condition of the cemetery was.

Q From the standpoint of ascertaining, through diligent and exhaustive search, the names of lot owners or descendants --

A Do you mean we didn't make a diligent search for them, is that your question?

Q That is why I am in this Court.

A You are very much mistaken. The answer is that we did.

Q Who made the search for these people, these lot owners and their descendants?

A We were out in the cemetery, Mr. McAllister, Mr. Mercaldo and Mr. Kaufman.

Q Who took the names?

A Mr. Mercaldo and Mr. McAllister wrote down the names.

Q Yet no publishing was evermade of those names in the Daily Record or any other daily newspaper in Baltimore City?

A Mrs. Mitchell, the details were taken care of by Mr. McAllister and Mr. Mercaldo. If they were not published, I don't know about it. I am not certain.

Q Do you know any colored ministers in Baltimore City?

A I know Bishop Love.

Q Do you know any others?

A No, I am sorry I don't.

Q Did you at any time ever ask Bishop Love in what manner you might ascertain or find the lot owners and their descendants?

A No, that matter was entirely, as far as I was concerned, in the hands of Mr. McAllister and Mr. Mercaldo. They are attorneys and I am sure that the process which they used was that which they considered to be best.

Q At any time did Mr. Mercaldo or Mr. McAllister ask you for the names of any persons in the colored community, ministers, or otherwise, who might know other lot owners and their descendants in Laurel Cemetery?

MR. MYLANDER: If the Court please, this is about the end of the ninth inning on this, isn't it?

THE COURT: We have been all through the cemetery now twice or three times.

A They asked me and I have already answered that I referred that to Mr. Hamlett who, as far as I would know, would have as good contact as anyone with the names of people out there, having worked in the cemetery and with the undertakers.

Q At any time, to your knowledge, was a subpoena sent to Mr. Hamlett to come in?

THE COURT: Oh, I guess not. This is done by an order of publication. That is the substance of it.

MRS. MITCHELL: Your Honor, even if the area had been bombed, there was a duty on the owner of the cemetery --

THE COURT: I am not ready for argument now but I will let you ask the question.

MR. MYLANDER: This wasn't counsel in the case, you know, Mrs.Mitchell.

Q At any time, according to your knowledge, was a subpoena or summons sent to Mr. Edward Hamlett asking him to bring in his record, any records he might have concerning the names and whereabouts of lot owners or their descendants in

this prior proceeding in this Court?

A I would not know.

MRS. MITCHELL: Witness with you.

CROSS-EXAMINATION

By Mr. Mylander:

Q Mr. Kaufman, you may have answered this and you may not. If you did I missed it. In the whole period since you have had any custody or control of the books of the New Laurel Cemetery, was any certificate transferred on the books of that company at the request of any lot owner?

A Never.

Q Were you ever notified of the devolution of any lot by virtue of the death of a certificate holder?

A At no time.

Q I think you did testify that there were no sales of lots during that company's ownership of the property?

A That's correct.

Q So that no new certificates of any kind were issued since what date?

A To the best of my knowledge, there were no certificates issued by New Laurel Cemetery since 1939.

Q So that if the books had been located they would have only shown names and addresses as of 1939, is that correct? Or prior to 1939, is that correct?

A That would be correct.

Q Did I correctly understand from the discussion of the schedules filed in the bankruptcy proceeding that the only assets of the New Laurel Cemetery, at the time of its bankruptcy in 1952, was this interest in the 15 acres of land subject to burial rights and the tools and equipment which were on the premises?

A That's correct, there were no other assets.

Q Did the New Laurel Cemetery Company have any income of any kind, although it had a signboard on the place?

A I was going to say to you that it had no income from lots or anything of that nature, but at the northwest corner on Belair Road down adjoining the Lutheran Church, there was a signboard for which I am going to say Morton Advertising and I think later the Outdoor Advertising Company paid $200 per year and the income from that sign was spent with other funds in maintaining the cemetery.

Q Did the Cemetery Company reimburse you for those

advances that were testified to yesterday?

A No, indeed.

Q This will be the final question, Mr. Kaufman. You have testified that at the time of the bankruptcy in 1952 that you washed your hands of the enterprise and had no further interest in it at that time, until the interest was redeveloped by either Mr. Mercaldo or Mr. McAllister looking to your joining with them in the McKamer Realty Company. Could you pinpoint that date for us as to when any interest of any kind after the bankruptcy proceeding in 1952 was first developed?

A I would have, if you asked me to try to pinpoint it, I would have to say perhaps about the latter part of 1956 or the early part of 1957. I can't say for certain.

#20

Q Well, you were interested at the time of the incorporation of McKamer in November of 1956?

A Yes, that's right. All right, that would be correct.

Q But was it immediately prior to that or was it sometime prior to that?

A If your point is has this been a continuing thing from 1952 on, absolutely no. I had done exactly what I said, I washed my hands of this in 1952 and I forgot it roughly --

I was going to say four years but it was in 1956 or 1957, whenever it was, but there was absolutely no contact with anyone concerning Laurel Cemetery. I wanted no parts of it in any way. As a matter of fact, when it was first broached, I was very apprehensive about going back into the thing because of my experience. I am aware here the plaintiffs here in this case filed --

Q Don't make a speech, answer the question.

A All right. I had no interest in it for at least three years.

Q You were apparently successful in convincing the Health Department and Fire Department Inspectors that you had no responsibility for it?

A There is no question about it.

MR. MYLANDER: No further questions.

THE COURT: Anything else?

MR. DEARING: I would like to ask a couple questions.

THE COURT: Go ahead.

REDIRECT EXAMINATION

By Mr. Dearing:

Q Mr. Kaufman, you said you had washed your hands

free of this from 1952 to about 1956, is that correct?

A That is approximately correct.

Q You became interested in it in 1956 or the early part of 1957. You also testified that you kept these records from 1952 to 1956, is that correct?

A No, I said if I had to try to pinpoint the time it was around about 1955 or 1956, and I may have even said 1957. I don't remember the dates. But I judge -- well, it had to be earlier than this whole thing began.

Q Was it about the time you became interested in McKamer Realty Company that these records disappeared from your office?

A There was no connection between the two, let me give you my unqualified answer to that, there was no connection in any way between the two, and when it occurred I am not in position to say.

MR. DEARING: That is all.

MR. COCKRELL: I reserve the right to question him later.

THE COURT: Oh, no, let's finish. Do you want to finish with him now?

MR. COCKRELL: No, after some other witnesses have been put on.

THE COURT: Of course you will have a chance to put him back on the stand, but do you want to ask him any questions now?

MR. COCKRELL: Not now.

MR. WILLIAMS: I have one questions, Your Honor.

REDIRECT EXAMINATION

By Mr. Williams:

Q Mr. Kaufman, this bankruptcy turned out to be rather fortunate, didn't it? In other words, you were the sole owner of a corporation which had about $850 and the proceedings in bankruptcy took up about half of that, your claim was eventually settled for about half of what you had gotten by not going into bankruptcy?

A I don't know where you are getting your figures, it could be they are correct. The only thing I can say to you is that I had a headache and I had to get rid of it.

REDIRECT EXAMINATION

By Mr. Hughes:

Q Mr. Kaufman, as an experienced realtor since 1931

and being in the real estate business since 1927, do you now have any idea or could you express what you consider to be the present value of the Baltimore Laurel Cemetery?

MR. MYLANDER: I object. Do you want to know what I think it is worth?

MR. HUGHES: No, I didn't ask you. You are not experienced.

MR. ATWATER: Your Honor, they are pointing up something completely new, it isn't proper redirect.

MR. HUGHES: The question of appraisal was raised here, objected to, and a distinction made between assessment and appraisal.

MR. MYLANDER: But it was not touched on on cross-examination. That is one rule I would like to invoke.

THE COURT: I will sustain the objection.

MR. HUGHES: Very well.

MR. MYLANDER: May Mr. Kaufman be excused for the afternoon with the understanding he will be back at the next session of court?

THE COURT: Very well.

(Testimony of the witness concluded.)

MR. ATWATER: Your Honor, there is one question I would like to ask counsel for the record. A Mrs. Anita Scott has been referred to and identified as being in court. She was identified I believe as a woman who formerly lived 611 North Caroline Street. I would like to know whether she is an intervening plaintiff, whose address is 624 Dolphin Street.

MR. COCKRELL: She is one of the plaintiffs that I referred to that I would like to ask the Court to intervene at a later date. She is not a plaintiff of record in the case.

MR. ATWATER: Who is Mrs. Anita Scott, who lives 624 Dolphin Street?

MR. COCKRELL: There she is, she is a plaintiff. We have 93 plaintiffs and I couldn't remember them all. She will testify in the case and you will have opportunity to cross-examine her.

MRS. MITCHELL: Mrs. Anita Scott.

THE COURT: That ought to settle it.

Thereupon---

ANITA C. SCOTT,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: What is your name and where do you live?

THE WITNESS: Anita C. Scott, 1034 Edmondson Avenue.

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Mrs. Scott, you have been referred to previously in the testimony here as the secretary, recording secretary of the New Laurel Cemetery Protective and Improvement Association. Is that correct?

A I was for several years.

Q Are you a lot owner in New Laurel -- were you a lot owner in New Laurel Cemetery?

A I feel I am by the right of inheritance of the lot, my grandfather purchased the lot and my brother.

Q What was the name of your grandfather who purchased the lot?

A Thomas H. Smith.

Q Approximately when did he purchase that lot?

A I am not exactly sure. I know that burial was made in there previous to my mother's death in 1915. But I can't tell you the date of the death or the baby's interment.

MR. MYLANDER: Just to keep the record straight, I want to reserve an objection to any testimony except bearing directly on the question of fraud.

THE COURT: I will overrule the objection and this testimony is in subject to exception.

MR. MYLANDER: I have a continuing exception to the entire line of questioning.

THE COURT: Very well.

MRS. MITCHELL: Your Honor, we have never said we were limited in this case to fraud, we have some constitutional allegations in here.

THE COURT: Well, the testimony is in. I am sure that at the end of the proceedings there will be motions to strike out all or portions of it, at which time I will have to finally rule and I will give you the opportunity to argue the point.

Q Have you ever visited that lot in Laurel Cemetery?

A I have visited that lot let's say up to and

including this year of 1959.

Q What was the first occasion on which you had visited that lot?

A I imagine it was my mother's funeral.

Q What date was that?

A May 15, 1917.

Q Have you continuously visited your lot in that cemetery?

A I have.

Q Aside from your father's and your mother's burial in said lot, what other members of your family are interred there?

A My father isn't interred in that lot. It is the purchaser, my grandfather, my mother and my brother, that's all of my family on that side.

#21 Q Your mother's name was what?

A Viola Cooper Smith.

Q And your brother's name?

A Samuel Cooper.

Q Do you remember approximately when your brother was interred in said lot?

A The child was deceased before my birth, so I don't know, only that he is in there.

Q What effort did you make to maintain and care for the burial lot of your deceased grandfather and your mother and brother?

A Well, at least once a year my husband and I contacted Mr. Hamlett, and previous to my marriage, from the time I was employed, I myself got Mr. Hamlett to do the work and paid him whenever it was done. After that, when we could not afford to pay him, my husband did the work.

Q How often did you visit the cemetery in the years since the burial of your loved ones?

A Well, since I was seventeen -- before I became seventeen I missed about seven years. After that, from the time I was seventeen until after this occasion I visited it almost I will say twice a year or every year once.

Q When was the last time you were in Laurel Cemetery?

A I think the last time I was in there was in the beginning of 1959. I was in there in 1958 with someone to try and locate the grave and the stone because it had not been taken to the other cemetery. After that I went back

to see if anything had been done in the space that I designated.

Q Were you accustomed to visiting your burial lot on Decoration Day?

A Always, and the last visit I couldn't get in because of a tree with heavy branches and leaves on which I was afraid snakes could be hiding in it, and I carried the plant back and put it in the cellar.

Q When was that?

A In 1959.

Q Did you at any time attempt to get a duplicate deed to your lot?

A I tried several times. I can't tell you the first time but the first time was from Mr. Ziemer and he said that -- I was told that they were in print and I tried on several occasions to contact that office and couldn't get anything --

Q They were in print?

A He said they were in print but they were never delivered to me.

Q Where was Mr. Ziemer's office?

A I know it was on Lanvale Street and it was near to the square. I can't tell you the exact number.

Q On what other occasion did you attempt to get a duplicate deed to your lot?

A After this thing came up about the housing maybe taking over the cemetery and the group was called together, there was an advertisement in the newspaper and the hand bills, and I went to that meeting.

Q Where was that?

A That was at the Centennial Church, at which Mr. Kaufman attended.

Q That was in what year?

A I think it was 1948.

Q Do you remember approximately what month?

A No, but it was late in the year.

Q Well, in 1948?

A I think it was.

Q What happened as a result of your efforts to get a duplicate deed to your lot?

A Well, the group actually continued in an effort --

Q When you say the group you are referring to what?

A On the night that I attended this meeting, there was officially formed the Laurel Cemetery Protective and Improvement Association.

Q Where was that meeting held?

A At Centennial Methodist Church.

Q Pursuant to that, what happened?

A There were several of us there without deeds and many of them came to try to find out how to go about getting them. Well, too, they wanted to prevent the cemetery from being condemned because there were so many -- well, they did not feel that they were able to move them. So that we continued the work and called on Mr. Kaufman in a group.

Q Approximately when was that?

A It was during the year 1948 but I couldn't tell you the date. It was during mild weather, I know that it must have been in the summer or the early fall.

Q Where did you call upon Mr. Kaufman?

A At his Pleasant Street address.

Q Would that be 100 East Pleasant Street?

A I think that's the number.

Q Approximately how many of you went down to his

office?

A I think there wrre eight of us.

Q Had you made an appointment for that visit?

A Yes, we had.

Q Through whom?

A We called Mr. Kaufman's office, I don't know who spoke to us but we were granted permission to come there, and we met as a body.

Q What, if anything, happened at that time during that meeting?

A Well, during that meeting we had several of the ministers and an attorney with us.

Q Who was that?

A To my recollection, one was Reverend S. J. Mack of Centennial.

Q Pastor of Centennial Methodist Church?

A Yes. I think one was Reverend Matthews of Union Baptist Church. I am not completely sure, but I think that was the meeting at which Reverend Yerby was there. I think he is with Perkins Square, if I am not mistaken.

Q Who was the attorney?

A I think it was Mr. Donald Murray. I might be a little confused. We had two separate ones to work with us as well as the Legal Aid.

Q Tell us what, if anything, happened at that meeting.

A That meeting was simply to try to establish what we could get done for the cemetery to prevent its being condemned and also to prevent the vandalism. We asked about fences being put up, we asked about some repairs, getting work done, so that people coming back and forth would always have someone to deal with instead of trying to catch Mr. Hamlett in the cemetery to get him to do the work. Mr. Kaufman told us that he was not taking anything out of the cemetery and that he was not prepared to put anything into it at that time, and he also said he had no records and showed us some yellow sheets which were called plats of sections but they didn't show any burials.

Q Did you specifically ask him for a duplicate deed to your lot?

A At that time I didn't ask for a deed for mine but we asked for the members because we represented several of them, we were all banded together, and we spoke to them to

try and find out how they could get duplicate deeds.

Q What was his answer to your question?

A He had no records except those plats or the yellow pieces of paper.

Q Did he say that?

A Yes, he did.

Q That he had no records?

A He said he had no records.

Q Did you ever get a duplicate deed to your lot?

A I never did.

Q What further did Mr. Kaufman say to you during that meeting as to the maintenance, repair and improvement of the grounds of the Laurel Cemetery?

A Mr. Kaufman said that he was in sympathy with our work and he said that anything he could do to help us he would do, in fact he would grant us permission to do the things we wanted to do whenever he was asked, and he did.

Q In response to your question about would he put fences around the cemetery, what did he say?

A That it was a great expense and he wasn't taking any monies out of the cemetery and he wasn't prepared to

put in any at that time.

Q At any time did you suggest that he help your organization find the other lot owners to organize to raise funds to improve the cemetery?

#232

A Mr. Kaufman seemed interested in knowing how many we could contact and nothing was said about his finding anyone that I can remember.

Q At any time did he offer to help you to find the other lot owners in the cemetery?

A We have never been offered any assistance by anyone.

Q Were you ever offered any assistance by Mr. Kaufman in the matter of obtaining the whereabouts of lot owners?

A No, we were not.

Q Subsequent to that meeting with Mr. Kaufman, did you have occasion to visit his office again?

A I don't remember of having visited his office again. We may have but that does not stick out in my mind.

Q You have heard testimony today concerning a letter which Mr. Kaufman directed to you on September 16, 1948, in which he granted your association permission to enter and clear Sections B and C of New Laurel Cemetery, which is

already an exhibit. Do you remember this letter?

A Yes, I do.

Q Now, pursuant to that permission, did you go in and clean up Sections B and C of the cemetery? What did your association do?

A Our association approached the Legal Aid Bureau to find out whether they could tell us of some law that would compel the owners to do something towards preserving the cemetery, and we also --

Q Just a moment. I show you this piece of paper purporting to be a letter from the Legal Aid Bureau at 7 St. Paul Street, addressed to you under date of November 9, 1948. Do you recognize this?

A Yes, I do.

MR. MYLANDER: No objection beyond our general objection to the entire testimony.

THE COURT: Very well.

MRS. MITCHELL: This letter is signed by Donald H. Frye, Associate Attorney of Legal Aid Bureau, Incorporated, and it is File No. 94830.

Q Mrs. Scott, would you read to the Court what

Mr. Frye informed you in this letter?

A (Reading) "Dear Mrs. Scott: As to having the law looked up, I can report to you that there was nothing found specifically on cemeteries except matters of no interest to you and your organization. However, under the general statute concerning nuisances, Maryland Code, Article 43, Sections 49 and 50, it appears that upon the complaint of a medical practitioner or any two or more persons affected thereby of an accumulation dangerous to human health, upon the complaint of such to the Local Health Department, said department can order an abatement thereof. The City Statute carries a fine of from $1 to $10 for first offense and subsequent offense to $25. But I reiterate there was nothing found in the law regarding any particular complaint as to ordering the upkeep of the cemetery."

MRS. MITCHELL: I wish to offer in evidence this letter as Plaintiff's Exhibit.

THE COURT: Very well. Same objection, same ruling.

MR. MYLANDER: Again there is no objection beyond our general objection. Would you give us the date of the letter?

THE COURT: This letter is dated November 9, 1948.

(Letter referred to received in evidence as Plaintiff's Exhibit 12.)

Q I show you piece of paper purporting to be notice from the Baltimore City Health Department under date of November 4, 1948, addressed to Mr. John G. Kaufman, President New Laurel Cemetery Company, 100 East Pleasant Street, Baltimore 2, Maryland, and indicating at the bottom of the page that copies were sent by Registered Mail to Mr. Schuckert and Mrs. Anita C.Scott, Secretary, signed by George O. Motry, Chief of the Division of Community Sanitation. Do you recognize this?

A Yes, I do.

Q And you received it on or about November 1948?

A Yes.

MR. MYLANDER: Subsequent to the Legal Aid's letter.

Q It is under date of November 4, 1948. Would you read to the Court what this notice says?

A (Reading) "Dear Mr. Kaufman: As owner of property at 2301 Belair Road, Baltimore, Maryland, you are hereby

notified, in accordance with the provisions of Ordinance 384, approved March 6, 1941, as amended by Ordinance No. 902, approved March 29, 1943, and by Section 148 of Article 16 of the Baltimore City Code of 1927, that this property has been inspected and has been found to be dangerous or detrimental to life or health.

"You are hereby ordered, in accordance with the City Ordinance above referred to, to correct these conditions in accordance with the following specifications: Clean cemetery of all trash and garbage, to cut and remove tall grass and weeds, to destroy poison-ivy, fill in sunken areas.

"You are hereby notified to comply with the provisions of the City Ordinance above referred to by December 31st of 1948. Failure on your part to comply with this notice will make it necessary to take action in accordance with provisions of the law.

"Signed Mr. Motry."

MRS. MITCHELL: I wish to offer in evidence as Plaintiff's Exhibit 13 this letter from the Baltimore City Health Department.

THE COURT: Same objection, same ruling.

(Letter referred to received in evidence as Plaintiff's Exhibit 13.)

Q Mrs. Scott, do you know Mr. Stevens?

A Mr. Stevens was the man who first got up the hand bills to my knowledge to get the original people to appear for eventually forming into the Laurel Cemetery Protective and Improvement Association.

Q Your actions you say were motivated by protests about the condition of the cemetery and to keep from having it condemned?

A That's true.

Q At any time, to your knowledge, did the Belair-Edison Improvement Association communicate with your association about their interest in your efforts?

A I understand that previously something had been going on previous to the actual formation of this group and that they had contacted them, and I am not too sure but I do know that there was a meeting in which someone representing them attended, but I am hazy on that.

Q But they were glad to know you were interested in

helping to preserve the cemetery?

A Well, originally I didn't think they were, but when it seemed there was going to be a housing project instead of a playground, I think they were glad we were part of it.

Q What do you mean by that?

A Well, the association, from the things we gathered in our meetings, was in accord with a playground, that that would help to preserve their neighborhood but that a housing

#23 project would break down the niceties and the fact they had built up that neighborhood, it would deteriorate their property they felt.

Q So they were interested in helping you to keep it from being condemned?

A I don't know that they were interested in helping us, but we were working to the same goal then.

Q What, if anything, did your association do as to cleaning up the cemetery after you received permission from Mr. Kaufman to enter on the grounds for that purpose?

A There were two occasions. On one occasion the Veterans Tree Company, I think it is called, was retained

to clean I think at the time two of the sections and it was done. And a little later we found we could get men by the hour to work more reasonably and get more work done, and the men were hired for them to work in another section. I think it was Section A.

Q You heard the testimony of Mr. Motry yesterday that a Mr. Theodore Roberts called him and said he did not get the contract to do some cleaning of the cemetery. Did your association contract with him for that purpose?

A We did contract with Mr. Roberts and the occasion for getting in touch with Mr. Motry that he mentioned yesterday, having my name and phone number, was in an effort to find out if we could be assisted by the City in removing the trash. So we had the men to get together and also spoke that we would not have to pay the bills and have more money to spend on the actual work in the cemetery.

THE COURT: What is your business, Mrs. Scott?

THE WITNESS: I have a beauty shop.

Q How long have you had a beauty shop?

A Almost four years.

Q And your beauty shop is located 624 Dolphin Street?

A That's true.

Q Subsequent to your contract with Mr. Roberts, were Sections B and C of the Cemetery cleaned up?

A I think Mr. Roberts was one of the individuals that we hired and if I am right in that, then the other sections had been cleaned when he was employed.

Q What do you mean, he helped clean up Sections B and C?

A No. If Mr. Roberts wasn't part of the Veterans Tree Company, then it was additional work that was done by Mr. Roberts.

Q Approximately how much did your organization spend altogether, raise and spend for this purpose?

A As my memory serves me, I think all told it was in the neighborhood of $1000.

Q You say you visited the cemetery every Memorial Day?

A That's true.

Q When you visited the cemetery, did you see other lot owners there?

A Always on Memorial Day. At other times during the year you occasionally could see maybe somebody, but it

was almost impossible to go on Memorial Day without meeting someone else.

Q When you visited the Laurel Cemetery on Memorial Day in 1956 and in 1957, were any graves being maintained and kept up by individual lot owners?

A There were several that were always kept up. I don't especially know this but I know in each section you would find someone had done something to the lot or where someone had been there in order to cut weeds or someone had laid flowers in between the trees and the bushes, just like myself.

MRS. MITCHELL: Witness with you.

MR. MYLANDER: If the Court please, I renew my motion to strike the entire testimony of the witness and, of course, consistently with that, I won't cross-examine.

THE COURT: Same ruling.

MR. COCKRELL: May I say before it goes over there, I would like to ask Mrs. Scott some questions.

DIRECT EXAMINATION

By Mr. Cockrell:

Q Mrs. Scott, going back to this meeting you had

at the Centennial Church on Monument Street, what actually took place at that meeting?

A Well, at the first meeting at Centennial there wasn't too much that took place because all of the lot owners possibly thought there was contemplation of getting rid of the cemetery and they all came to protest, and some of them came to find out about getting deeds so they would have a voice to protest. But, as I remember, too much wasn't accomplished. That's why they formed to try to be stronger in order to get the information.

Q You mentioned for one Mr. Edward Hamlett, do you see him in Court today?

A Yes, I do.

Q Will you point him out?

A He is the gentleman sitting next to the wall.

MR. COCKRELL: For the record, she pointed out Edward Hamlett.

Q You also mentioned that you made an effort to gain duplicate deeds, is that correct?

A That's true, I did that on several occasions.

Q You also said you were never successful in getting

duplicate deeds, is that true?

A This is true.

Q If someone were to ask you to establish by official records the fact that some of your ancestors or relatives were buried in this cemetery, how would you go about it?

A Well, I feel there would be one of two provisions. I know at present by looking at some of the transcripts of deaths held by some of the members that there is printed in a small space the section of the cemetery where the body was interred and the undertaker. If that was the case in those years, I could produce that. Failing that, my grandfather was an ordained Baptist and I imagine there should be something in the papers, since he was ordained.

Q You stated that your organization made efforts to clean up the cemetery around 1948; and around in that period. Did Mr. Kaufman himself do anything whatsoever, insofar as you and your organization, to the best of your knowledge, was concerned, did Mr. Kaufman himself do anything independent of your organization?

A At one time I remember it was mentioned in the meeting that Mr. Kaufman planned to spray. He thought that

was the better way to get rid of the weeds and the growth there. But I can't say that I know of any actual work that was done there.

Q You may be hazy about the date, but around 1951 or 1952 did your organization do anything toward the upkeep of that cemetery or around that period?

A I can't say, I don't remember years because there was a time I had to leave the group because of personal reasons. But I can't actually say I know what was done at that time.

Q You also testified you would go out to the cemetery on Decoration Day and you did that all the way through until now?

A That's true.

Q About how many people were out there at various times?

A I couldn't give you the number of people because they drift in, they didn't come in as a body, and you would see maybe one putting flowers in the section by the grave or you would see them going out. I would see some people in my section but I couldn't say how many.

Q From 1948 until you heard of the fact that the cemetery had been you said disturbed, about how many times were you out there on Decoration Day?

THE COURT: She said every Decoration Day she went there. She would see people walking in and walking out, some would put flowers on the graves. That is the best she can do about that.

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Q You said that your organization was also in contact with this Belair-Edison Improvement Association at one time, is that correct?

A At one time there was something, I don't remember exactly what happened but I know there was some form of contact. I don't know if it was by letter. I think there was some one who appeared but I can be wrong about that. I do know that some mail was received at one time or another.

Q Mrs. Scott, at any time did Mr. Kaufman or Mr. McAllister of Mr. Mercaldo, or anyone else, contact you prior to the fact that this cemetery itself had been disturbed, with reference to making an attempt to locate people who might have an interest in that?

THE COURT: The answer is no. It is conceded that

none of these folks were contacted personally and she was not.

Q How did you find out it had been disturbed?

A Someone called me and asked me if I knew bulldozers were in the cemetery and someone I had talked to right after Decoration Day about seeing there was a plan to move the bodies as soon as Mr. Hamlett could locate the spot. I immediately called Miss Byer and she and I went out to the cemetery, and sure enough, the bulldozers had really been through there and they were still there.

MR. COCKRELL: No further questions.

THE COURT: Very well. May she be excused?

By Mr. Robinson:

Q Did you or anyone you know of ever abandon the graves out there?

A I don't know of anyone abandoning graves.

MR. ROBINSON: That is all.

(Testimony of the witness concluded.)

THE COURT: I think we went on a little late yesterday and perhaps some of us are feeling it today. So

tomorrow and Friday have been set aside for the Judicial Conference which I have to attend, so we will have to adjourn until Monday morning at 10 o'clock.

MR. MYLANDER: If the Court pleases, before the session is closed, may I formally introduce in evidence the records of the previous cases of Julia Jones versus McKamer Realty Company and Belair Road Enterprises, File No. A-39096, and the case of Lillian Waters versus McKamer Realty Company and Belair Road Enterprises, File No. A-39107, both in this Court.

MR. DEARING: For the record, Your Honor, we will object. It has no bearing on this case.

MR. COCKRELL: We enter a strong objection.

MR. ROBINSON: To preserve the record, I also object, Your Honor.

THE COURT: You make a strong offer and you make a strong objection, and I will overrule the objection.

(Records referred to received in evidence as Defendants' Exhibits 1 and 2.)

(Not concluded, to be resumed on Monday, January 25, 1960, at 10 a. m.)

Court copy

Fd. 29 June 1960

STENOGRAPHIC RECORD

IN THE CIRCUIT COURT OF BALTIMORE CITY
Docket A-267, 1959

424

IN THE MATTER OF

MAMIE E. KENNARD, et al.,

Complainants,

vs.

McKAMER REALTY COMPANY, et al.,

Defendants.

Before SODARO, J.

VOLUME III

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January 25, 1960

A-39097 (34)

TRANSCRIPT FROM NOTES OF
CLARENCE P. GOETZ
Official Court Reporter

EQUITABLE BUILDING
BALTIMORE, MD.

OFFICE AND HOME
TELEPHONES

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IN THE CIRCUIT COURT OF BALTIMORE CITY

Docket A-267, 1959

MAMIE E. KENNARD, et al., :

Complainants, :

Before SODARO, J.

vs. :

McKAMER REALTY COMPANY, et al., :

Defendants. :

January 25, 1960

Pursuant to adjournment, hearing in the above-entitled cause was resumed on Monday, January 25, 1960, at 10:10 a. m.

Appearances:

Mrs. Juanita Jackson Mitchell
Mr. Archie D. Williams
Mr. Tucker R. Dearing
Mr. W. A. C. Hughes, Jr.
Mr. Paul J. Cockrell
Mr. Julius P. Robinson

Solicitors for the Complainants.

Mr. Walter C. Mylander, Jr.
Mr. Charles C. W. Atwater

Solicitors for the Defendants.

THE COURT: The Court is ready.

MR. WILLIAMS: If Your Honor please, we would like to call Miss Dorothy Klipper.

Thereupon---

DOROTHY M. KLIPPER,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Give us your name and your home address.

THE WITNESS: Dorothy M. Klipper, 2117 Lake Montebello Terrace.

DIRECT EXAMINATION

By Mr. Williams:

Q Is that Miss or Mrs.?

A Miss.

Q Miss Klipper, you were one of the incorporators of the McKamer Realty Company on the 29th of November, 1956; is that correct?

A That's true.

Q And subsequent to that date you and the other

incorporators authorized Mr. Mercaldo to make an offer of $100 to the trustee in bankruptcy for the Laurel Cemetery property; is that correct?

A Yes, sir.

Q Could you tell us about any discussions that were had between yourself and Mr. Mercaldo or Mr. McAllister as to what you proposed to do with the cemetery?

A I did not take part in any discussions.

MR. MYLANDER: If the Court please, I would like to renew my general objection.

THE COURT: Very well. All this testimony is subject to exception. What was your answer?

THE WITNESS: I did not take part in any of the discussions.

Q Did you specifically authorize and offer to purchase the property?

A Not to my knowledge. Not in writing.

Q I think there has been introduced in evidence a letter from Mr. Mercaldo to Mr. H. Carl Butler, Trustee in Bankruptcy, stating he had been authorized by the incorporators of the McKamer Realty Company to make an offer. You don't

recall having had any part in that?

A No, sir.

Q Do you recall having been present at the first meeting of the directors of the McKamer Realty Company?

A I was not present at any meetings.

Q There has been introduced into evidence here minutes of a meeting of the directors which was held on January 15, 1957. I would like to show you these to see if they will refresh your memory.

MR. MYLANDER: May I see these, please?

(Document handed to Mr. Mylander and returned to Mr. Williams.)

MR. ATWATER: I assume, Your Honor, this is a photostatic copy. We make no objection, we would rather have the copy in than the original.

Q Miss Klipper, would you just have a look at this record here of the minutes of the first meeting of the directors of the McKamer Realty Company and tell us if you recognize any of this at all?

A No, I never saw this book before.

Q Do you recall ever having gone to 404 Munsey

Building on any business of the McKamer Realty Company?

A No.

Q According to these minutes, Miss Klipper, you acted as secretary at that meeting. The minutes are not signed, however, but your name is affixed here.

A I did not type these minutes and I wasn't at any meeting.

Q Tell us, would you please, very briefly, Miss Klipper, just what your interest was in the McKamer Realty Company?

A No interest whatever.

Q You did participate in the incorporation?

A Well, that was just a formality.

Q Just how did this formality come about, will you tell us that?

A Well, I was assigned to Mr. Mercaldo at the time, as his secretary and I typed the Articles of Incorporation and he asked me to put my name on them.

Q And that is all the connection you had with McKamer Realty Company?

A That's true.

MR. WILLIAMS: Then I have no further questions.

THE COURT: Any questions from anyone else?

MR. MYLANDER: No questions, and I move that the entire testimony of this witness be stricken.

THE COURT: Very well. Same ruling. Step down, Miss Klipper.

THE WITNESS: Thank you.

(Testimony of the witness concluded.)

Thereupon---

SIDNEY M. NORTON,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Your name and your home address.

THE WITNESS: My name is Sidney M. Norton. My home address is 3406 Calloway Avenue.

DIRECT EXAMINATION

By Mr. Williams:

Q Mr. Norton, would you tell us what your present job is?

A I am Director of the Bureau of Records of the Baltimore City Health Department.

Q And how long have you been Director of the Bureau of Records?

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A I have been with the Baltimore Health Department since May of 1948.

Q And as the Director of the Bureau of Vital Records, do you maintain records of deaths of people who die in Baltimore City?

A The law requires that we register all deaths of persons dying within the corporate limits of Baltimore City.

Q Could you tell us briefly what information is included on the death records which your office maintains?

A A death certificate consists of the name of the deceased, the date and place of death, his race, age, color, occupation, names of parents, birthplace of the individual, names of both his parents, including the maiden name of the mother, and also the name of the informant, with social security number, whether the deceased was a veteran and of which war.

It also contains the medical certification signed

by a physician to certify the cause of death. It contains his signature and address. It also contains the name and address of the funeral director authorized to dispose of the final remains of the individual. It shows date of burial and date of receipt by us of that death certificate.

Q Would it also show the place of burial?

A Yes, it shows the place of burial by name and location.

Q Would it show the last address of the deceased?

A There is an item for the residence of the deceased which appears on the death certificate.

Q Are these records generally available to the members of the public?

A We restrict the issuance of a copy of a death certificate, where we feel it is necessary, and only to be used for a proper purpose.

Q Do you cooperate with other departments of the City government in dispensing this information?

A We do so.

Q Then what information is needed by persons coming in to request a copy of a death certificate, what information

would they have to have in order to get that?

A The application form calls for the name of the deceased, date and place of death, the name of the deceased, race, color, age in years,the purpose for which the certificate is required and the signature of the individual making application for it.

Q Would it be possible for you to locate a death certificate for a person who had died in Baltimore City where you only had the name of the person, the date of death and the place of burial?

A Actually all we would need would be that the death occurred in Baltimore City, all we would actually need would be the name of the deceased and the date of death.

Q How far back do your records go?

A Our records go back to January 1, 1875.

Q Any deaths in Baltimore City since that time would be recorded in your office?

A So required by law.

Q Is it possible to locate a death certificate where the exact place of death might not be known?

A Sure, as long as we know the period through which

we are asked to search, we will go ahead and search for the death certificate of that person.

MR.WILLIAMS: No further questions.

DIRECT EXAMINATION

By Mr. Cockrell:

Q You mentioned you would be sure this information would be used for a proper purpose.

A That's right.

Q Would this requirement extend to a private organization, private corporation, if they showed good reasons why they needed the certificate?

A Certainly. In other words, the only time we would disallow the issuance of a transcript is somebody is just curious, wanting to find out what somebody died of. Other than that, we will issue a copy.

DIRECT EXAMINATION

By Mr. Robinson:

Q Mr. Norton, may I ask you this: If the management and president of the Laurel Cemetery had come to you and stated his reasons for the information requested that they were about to do away with Laurel Cemetery, and could they

trouble you for a death certificate, would they be in a position to get help from your department?

A Sure, that's a proper purpose.

Q Would you explain how that would be done?

A In order for us to issue any death certificate we must know the name of the individual and we must know when the person died, so if there is any uncertainty about the date they would give us a period during the time this person might have died.

Q And you have in the office there required information of the dates of death of the deceased?

A Yes, it is arranged on a chronological basis.

Q From your knowledge or recollection, has anyone applied to you, that is anyone from Laurel Cemetery, within the past year or two, come to your department and asked for such information?

A Not for that type of information. Something else.

MR. ROBINSON: That is all.

MR. MYLANDER: I move the entire testimony of this witness be stricken.

THE COURT: Very well, same ruling.

(Testimony of the witness concluded.)

Thereupon---

EDWARD HAMLET,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: What is your name and where do you live?

THE WITNESS: My name is Edward Hamlet, I live 317 East Street.

MRS. MITCHELL: Your Honor, just before this witness begins I would like to request the Court to have the Bailiff call Mr. Edward Armacost, the undertaker who handled the removal of the bodies from the cemetery.

THE COURT: Has he been summoned?

MRS. MITCHELL: He has been summoned.

THE COURT: Do you want to call him this morning?

MRS. MITCHELL: We want to call him today at what time he could come in. He told us to let him know.

DIRECT EXAMINATION

By Mr. Dearing:

Q Mr. Hamlet, what is your occupation?

A I am not working.

Q You are unemployed at the present time,is that correct?

A I have been unemployed for four years.

Q Before becoming unemployed, what was your occupation?

A Grave digger.

Q Prior to becoming unemployed, what was your occupation?

A Grave digger.

Q When did you become employed, when was the last grave you dug?

A I have dug graves since I become unemployed. I wasn't unemployed at the time I was a grave digger. I didn't have any job anywhere at that time, that was the last of my working, digging graves out there.

Q Where did you dig these graves?

A Oh, I couldn't tell you that, different lots in the cemetery, Laurel Cemetery.

Q What cemetery?

A Laurel Cemetery.

Q Where is Laurel Cemetery Located?

A In the 2300 and 2400 block Belair Road.

Q How long did you dig graves in the Laurel Cemetery?

A What do you want to know, when I started to work in Laurel Cemetery?

Q That's right.

A 1920.

Q You worked there continuously until what date or approximately what date?

#26 A Let's see. About 1945, maybe 1946.

Q Did you dig any graves there after that time?

A Yes, I dug graves after that time.

Q How long after that time?

A I couldn't tell you how long it was, maybe a year or maybe two years. You see, after the end of the 1940's our work come to drop off a whole lot in Laurel Cemetery.

THE COURT: I did not hear you.

A We didn't have much work, it dropped off a whole lot so far as burials. Sometimes it would go as much as a

year we didn't have a grave.

Q Did you dig any graves there in the 1950's?

A Only two.

Q What date, approximately what date was that?

A I couldn't tell you just the dates but it was in the late 1950's.

Q In the late 1950's?

A In the late 1950's.

Q Would it have been 1954, 1955, 1956?

A Oh, it was later than that. I would say 1957 or 1958.

Q Was that when you had the last two burials there?

A That was the last two burials.

Q In 1957 or 1958?

A 1957, I think one was in 1957.

Q Sir?

A One was in 1957 and either 1958 or 1959.

Q You said the burials dropped off there from the late 1940's continuously on say into the 1950's?

A That's right.

Q Do you know approximately how many graves you dug

there in the 1950's?

A In the 1950's.

Q Just on an average.

A On the average I would say not over three or four, something like that, in the 1950's.

Q Do you have any kind of records?

A Well, I have some records but not in the 1950's. At that time I got into some kind of a tangle there that I couldn't find out just who the cemetery belonged to and I didn't know who to go to see about anything, and I just kept a small record in some cases there. That was for myself so I could seek them all out and locate lots for people when they come in there.

Q Mr. Ziemer was president of the cemetery it has been testified to here from about 1939 until approximately 1948. Did you know Mr. Ziemer?

A Yes, sir, I did.

Q What procedure would you use when you buried in this cemetery on these lots?

A Well, after I had no salary for being in the cemetery, then I had to make my arrangements and make my

charges to the undertakers and the family, that's the only way I could get any money for digging graves in the cemetery.

Q Was there any requirement that you make any kind of report of the burialsto Mr. Ziemer during the time he had the cemetery?

A No more than the burial permits mostly to the owner of the cemetery just for them to keep a record of it, because I didn't keep any records myself.

Q Do you know Mr. Kaufman?

A I do.

Q Have you ever been in Mr. Kaufman's office?

A I was there three or four different times.

Q Did you ever turn in any records of burials that you made in the cemetery?

A Yes, I had to do it; yes.

Q Did he request you to turn in the records of burials that you made in the cemetery to him?

A I know at one time me and Mr. Kaufman had kind of a slight misunderstanding out there and on the same day I had a funeral coming into the cemetery on that day, and he spoke real rough out there about the cemetery and about the

funeral that was coming in. I asked him, I said, "Mr. Kaufman, what do you want, do you want more money from these people I am burying here?" He said, "No," he said he didn't want any money from the graves, all he wanted was something he could keep a record from, that's all he wanted.

Q It has been testified to here previously that there were eleven volumes of records of burials in the cemetery. Did you ever have occasion to see those records?

A No, I did not; no.

Q Did Mr. Kaufman ever tell you to stop burying in the cemetery?

A No, he did not.

Q When you buried did you require the people to present any kind of a certificate or anything of ownership, any evidence of ownership?

A I wasn't allowed to bury unless I seen the deed to the lot.

Q You were not allowed to bury --

A I wasn't allowed to bury unless I seen the deed to the lot.

Q Then you had to find the particular lot that that

deed called for, is that correct?

A That's correct.

Q Did you ever bury anybody in the cemetery and could not find the lots?

A No.

Q You buried everybody in the lot, in other words, that the deed called for, is that correct?

A That's right. Sometimes I had a lot of trouble finding the lot and sometimes I had to go back to the family maybe the second time because the deed they give me didn't correspond with the book I had in the cemetery.

Q You have stated that the burials began to fall off in the late 1940's, sometime around 1946, had there been a lot of burials there previous to that time?

A Well, there hadn't been so many. After Arbutus was started, they had people going around in the City selling lots at Arbutus and they would say more or less they don't have lots in Laurel, let me sell you a lot in Arbutus because you sooner or later will have to move out of Laurel, in the course of years that place is going to be condemned. That's when our work started to fall off in Laurel.

Q During the course of your activity with Laurel Cemetery, did you ever have occasion to keep up anybody's lot there, clean it off or anything?

A Oh, yes, several.

Q Do you remember the names of any of those people whose lots you kept up?

A Well, some of them I can remember the name. I kept Mrs. Tate's lot, Mrs. Campbell's lot, Mrs. Emerson's lot.

Q Do you know their first names?

A No, I don't know their first names.

Q Do you know where they lived?

A I knew where they lived at.

Q Approximately how many of these people's lots did you keep up?

A Well, I would say maybe 150 or maybe it wasn't that many, or it might have been more than that.

Q What was your procedure, to go to their houses and collect your money for keeping them up?

A Sometimes, and sometimes they brought the money to the cemetery.

Q Do you recognize any of the people here today whose

lots you kept up?

A I seen a couple of them here today, people I kept their lots up.

Q Do you recognize Mr. Kaufman?

A Oh, yes.

Q Will you point him out to me, please?

A Oh, yes, right over there (pointing).

Q Will you point him out?

A The last man on the end down here (pointing).

MR. DEARING: I would like to have the record show the witness pointed out Mr. Kaufman.

Q During the time that this cemetery was in Court proceedings, did you have occasion around or during the 1950's to talk to Mr. Kaufman?

A I only had one occasion to talk with Mr. Kaufman, that was when I was notified by an undertaker who wanted to know the conditions of the cemetery, that he had two people in Philadelphia that he wanted to bury and he wanted to know the conditions of things before he brought them in here, or when they died he wanted to bring them here to bury them. I went down to see Mr. Kaufman, I don't know just what date it

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was, in the 1950's, and I asked Mr. Kaufman about it and he said to me, "Hamlet, if I were in your place I would just notify that man that the cemetery is closed so far as burials, you see I unloaded the place."

Q When was that?

A I don't know, it was in the late 1950's. That was I would say maybe 1954, 1955, something like that. It may have been as far as 1956. Mr. Kaufman told me at the time, in fact he told me when I first went in there that he had unloaded the place, he had no more to do with it. I said,"What do you mean, do you mean you sold the place?" He said, "Yes, I got out of it, the City stayed on my back all the time about the place not being kept clean and it is a constant loss of money, spending money on things coming in." So he said, "I unloaded it and I don't have anything more to do with it." I always wanted to know ever since in Laurel Cemetery, since 1920 I always wanted to know who owned the Laurel Cemetery, so if there was any trouble I would know who to go to.

Q Were there any other men who worked in the cemetery, who buried people in that cemetery?

A I don't understand that.

Q During the time you were there was there anybody else who dug graves there besides yourself?

A Yes, because all the time you always had to have some help.

Q Did anybody work there independently of you?

A That's right, Mr. Giles when he was there. That was in the 1920's.

Q Then after that was there anybody else who dug graves there?

A The Laurel Realty Company had other men there besides me.

Q That would have been during the 1930's, is that correct?

A Yes, that was during the 1930's.

Q After the Laurel Realty Company was in there, did anybody else have any men who dug graves in there besides yourself?

A No, because there was nobody else paid the salary after Laurel Realty Company.

Q Did they ever dig graves in there then?

A No.

Q Did anybody ever try to get in touch with you to try to locate any of the lot owners of the cemetery within the last two or three years?

A No.

Q If you had been approached, could you have found these people?

A I could have found some of them, I could have found maybe I might have found a hundred of them if I had been paid a small amount, enough to take care of my wages. I wasn't going around to find these people without wages.

Q Did you ever have any discussion in Mr. Kaufman's office in reference to finding these people for a small amount of money?

A No.

Q Were you ever subpoenaed or called to testify by Mr. Kaufman and Mr. Mercaldo and Mr. McAllister, or anybody?

A No.

Q In any court proceeding pertaining to the Laurel Cemetery?

A No.

Q Did you ever tell any of them that you buried some-

body in there recently?

A No, I don't know as I did. I am almost sure I didn't.

Q Did you have any talk with Mr. Mercaldo at any time? Do you know Mr. Mercaldo?

A I have seen Mr. Mercaldo.

Q Can you point Mr. Mercaldo out?

A Yes.

Q Which one?

A There he is sitting next to Mr. Kaufman (pointing).

Q Indicating for the record he has pointed out Mr. Mercaldo. Did you ever go in Mr. Mercaldo's office?

A I was at one time. At one time I was in his office.

Q Did you discuss anything with him pertaining to the location of the lots in Laurel Cemetery?

A No.

Q Did Mr.McAllister discuss with you, did you ever have occasion to see Mr. McAllister?

A No, I don't know him.

Q Did you see Mr. Mercaldo on more than one occasion?

A No.

Q If they had gotten in touch with you, would you have come down and testified for them as to where the people were located in the cemetery or where the lot owners could be found?

A Well, that means a little money, that means I would want to be paid, all of them kind of things because all of them takes up my time.

Q You are here today because a subpoena was sent after you, is that correct?

A That's correct.

Q Why did you go to Mr. Mercaldo's office?

A Well, at the time I was down to his office, as well as I can recollect, he had been to my house and left a card for me to come to his office.

THE COURT: A little louder, please.

Q Speak up so His Honor can hear you.

A The talk with him concerned the cemetery. At that time he explained to me that he was going to make an attempt to move the place and whether I thought it could be moved or not, if I had any knowledge or could tell him anything what it would cost to move them, to get him any count of the cost

it would be to move them. The main thing he wanted to know was what it would cost to move each body, open each grave.

Q Did you give him any estimate on it?

A No, I couldn't.

Q What did you tell him, if anything?

A I told him this way. I said, "No, I can't give you any cost of opening graves because opening graves in a cemetery is according to the ground that they are buried in." You will open one grave perhaps and open it in a day or maybe less than a day, then you will go to open another and the ground will be a different kind and it may take you four hours longer than any other ground. I didn't see any way I could give him any price on that.

Q Did you give him any estimate as to how many people were in the cemetery?

A No, I couldn't do that.

Q Could you make any estimate of how many graves you had dug there in your twenty or thirty years there?

A No, I am afraid not.

Q Did Mr. Mercaldo ask you how you could locate any of the people?

A No.

Q Did he ask you anything about any records you might have of burials in the cemetery?

A No, he seemed like he wasn't interested in that.

Q Approximately when did Mr. Kaufman ask you for records?

A When did Mr. Kaufman ask me for records?

Q Yes.

A Well, Mr. Kaufman, I always turned my bill into Mr. Kaufman as long as I knowed he was the owner of the place. I always done it to anybody there I knew was the owner of the place.

Q Do you know how many burial permits you turned in to Mr. Kaufman?

A No, I don't.

Q Do you have any records now of any kind pertaining to the cemetery, a list of addresses of the lot owners or otherwise? Burial permits that you did not turn in?

A I have only two that I didn't turn in.

Q Do you know the dates of those burials?

A Well, it was in the late 1950's. In fact, one was

1959. If I am not mistaken, one was 1957.

Q Do you have the certificates with you that would show the dates, Mr.Hamlet?

A Of the lots to burials I had?

Q Yes.

A I do.

Q Do you have those certificates there now?

A I do. Find them in this book (handing book to counsel).

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MR. MYLANDER: Our general objection stands.

MR. DEARING: I would like to have these identified at this time, I offer them in evidence.

Q Can you identify this, Mr. Hamlet? What are those papers you have in your hand?

A These are burial permits.

Q Burial permits?

A Yes.

Q How did you acquire these burial permits?

A From the undertaker.

Q Did you bury the bodies?

A I did.

Q The date on this death certificate is 7/6/58, which is July 6, 1958, on one. Deceased, Robert Tuckson, 28 North Brune Street, Baltimore, Maryland. The undertaker was Miss Katie Williams?

A That's right.

Q And the burial took place about July 9, 1958, is that correct?

A That's right.

MR. DEARING: I would like to have that identified.

(Certificate referred to received in evidence as Plaintiff's Exhibit 14.)

Q The other one shows the full name of the deceased as being James Nichols; place of death, Johns Hopkins Hospital, Baltimore, Maryland; Date of Death December 31, 1957; Age 82 years old. Do you know who the funeral director was for this one, Mr. Hamlet?

A What is that name again?

Q It is Samuel W. Sullivan, Jr. Do you remember him burying him?

A Yes, I do.

Q And the date that he buried the body there was

January 3, 1958, is that correct?

A That's correct.

MR. DEARING: I would like to offer this in evidence as Plaintiff's Exhibit 15.

MR. MYLANDER: Same objection.

THE COURT: Same ruling.

(Certificate referred to received in evidence as Plaintiff's Exhibit 15.)

Q Can you point out any of the people in here whose lots you cleaned up?

A Yes. There is Miss Tate sitting over there.

Q How long did you keep up her lot, Mr. Hamlet?

A Oh, I would say maybe ten years, something like that.

Q When was the last time you cleaned her lot, do you remember?

A I don't remember the last time I cleaned her lot.

Q Would it have been in the 1940's or 1950's?

A Oh, it was in the 1940's, in the late 1940's.

Q Is there anybody else here whose lot you cleaned?

A Mrs. Campbell sitting over there.

Q Is that Mrs. Edith Campbell?

A That's right.

Q When was the last time you kept her lot up?

A She kept her lot up right along until what I call the fireworks.

Q What do you mean by "the fireworks"?

A That's when they put in the grave digger and the bulldozer and several trucks they had in the cemetery. It got in such shape, they had so much stuff there, you couldn't get in the place. People didn't go into their lots because they couldn't get in the cemetery.

Q Would that have been in 1958?

A Somewheres along that time.

Q Did you see them removing the bodies from the cemetery?

A I did not because I was working at the time, I didn't have a chance to see them removing the bodies.

Q Were you ever there at any time while this operation was going on?

A I was. If I hadn't been, I wouldn't have known what was in there.

Q Where were you working?

A I was working with James B. House, a monument man, a man that set monuments in the cemetery.

Q Where were you working?

A 1900 block Belair Road.

Q Is that on the same side of the street that the Laurel Cemetery is located or on the opposite side?

A That is on the same side of the street but I would say two or three blocks away from Laurel Cemetery.

Q Did you see them removing bodies from the cemetery?

A I didn't see them remove no bodies from the cemetery.

Q Did you see them remove stones away from there?

A I didn't see them when they were removing the stones.

Q What did they do?

A All I can say was that they seemed to be digging in there when I seen them. Mr. House passed by there several times and two or three different times I got off the truck and looked in the cemetery. I never saw them.

Q In which cemetery?

A In Laurel Cemetery because they had a sign up there at the entrance of the cemetery where you were not supposed

to go in there. At one time the police had a gate there to keep anybody from going in. I didn't bother with going in there.

Q Was that during the time they were digging in there?

A That was during the time they were digging in there.

Q Were they digging with picks and shovels?

A Oh, no, they had a bulldozer in there and this grave digger there, they had a grave digger there. I didn't see any picks and shovels, anybody digging with picks and shovels.

Q Was this grave digger a machine?

A Machine, that's right.

Q How many bulldozers did they have in there?

A I only seen one.

DIRECT EXAMINATION

By Mr. Cockrell:

Q Mr. Hamlet, you said that in 1954, approximately 1954, Mr. Kaufman told you that in the course of time the cemetery would be condemned?

A He didn't tell me it would be condemned.

Q What were his words?

A Mr. Kaufman told me in his office that he had unloaded it, he didn't have anything to do with it any more, and this letter came where this undertaker in Philadelphia wanted to bury these people and he told me I could go right back there and tell him the cemetery was closed as far as burials.

Q On whose orders was this? He didn't elaborate on that further as to who directed that it be closed?

A No, no, he did not.

Q I want you to be as accurate as possible about this date. Will you give me as close as you can remember what date or year that this took place?

A That took place in the late 1950's, I would say maybe 1957 or 1958, somewhere along there. Maybe it was earlier than that.

Q Mr. Hamlet, do you know Mrs. Anita Scott?

A I do.

Q Will you point her out?

A There she is (pointing).

THE COURT: Stand up, Mrs. Scott. Is that the

lady?

THE WITNESS: That's her.

MR. COCKRELL: Let the record show that the witness identified Mrs. Anita Scott.

Q What has been your communication with Mrs. Scott say within the last twenty years with regard to Laurel Cemetery?

A Well, I cleaned up her lot several times and I buried her grandfather in there. I opened his grave and buried him in her lot. That's the only one I buried in her lot.

Q Did she come out to the cemetery on Decoration Day?

A She did.

Q What day of the year is Decoration Day?

A 30th of May.

Q Was she alone or was she the only lot holder that came out there?

A Oh, no, no, sir.

Q When was the last time you saw her out there on Decoration Day, you personally saw her out there?

A Oh, about 1957 or 1958, something like that.

Q You saw her as late as 1957 or 1958?

A Yes.

Q Was she a regular attendant on Decoration Day?

A She would come every year to see about her lot, to have it cleaned up.

Q You have identified Mrs. Tate and Mrs. Campbell.

A Yes.

Q Did they come out there on Decoration Day?

A They did.

Q Do you see any other lot owners here that came out on Decoration Day? Look over the courtroom. Do you see any lot owners here that you recognize as having been out there on Decoration Day?

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A There is Mrs. Martha Bowen. She used to come out there. For the last four or five years I understood she was sick, she got so she didn't come out on Decoration Day.

MR. COCKRELL: What is your address, Mrs. Bowen?

MRS. BOWEN: 1321 Edmondson Avenue.

MR. COCKRELL: How old are you?

MRS. BOWEN: I am 77 years old.

Q Mr. Hamlet, will you point out some other lot owners?

A I see Mrs. Chase sitting there, Mrs. Lottie Chase.

Q You saw her out there on Decoration Day?

A Yes.

Q Was she a regular attender?

A She was a regular attender.

Q Do you see any others in the courtroom that you can identify? Whether you have seen them out there or not, so long as you can identify them.

A Mrs. Dyer.

MR. COCKRELL: Mrs. Dorothy Dyer, let the record show Mrs. Dorothy Dyer.

Q Do you recognize some others? Would you point out some others?

MR. MYLANDER: For the record note that these people are volunteering from the audience.

THE COURT: Yes, let's proceed orderly.

Q Mr. Hamlet, you used the term "fireworks" and you said that referred to the time the bulldozer came in. How long did you say you had been a grave digger?

THE COURT: Since 1920.

A Since 1920.

Q In your opinion as a grave digger, were all the bodies that could have been removed from Laurel Cemetery actually removed?

(Question objected to; objection sustained.)

Q Mr. Hamlet, do you know also Reverend Baxter Matthews?

A No, I couldn't say I do.

Q Do you know of any preacher or group of individuals that made an annual visit to a grave out there at Laurel known as Bishop Morrison Brooks' grave? Did you know of that ceremony?

A No, I only know one Reverend out there, that was Reverend Harvey Johnson, Union Baptist Church.

Q Of what church?

A Union Baptist Church.

Q What was the nature of that ceremony?

A They had ceremonies every 30th of May.

Q How late did this ceremony extend, what was the latest year that this ceremony took place?

A Well, after the late 1950's, it got to happening, something got wrong, there didn't anybody come out there much

on Decoration Day, only a few people came out there.

Q Mr. Hamlet, coming back to the time you went down to Mr. Mercaldo's office, where was that office located, was it in a private office downtown or just where did that meeting take place?

A Where I met Mr. Mercaldo?

Q Yes, in what building was it located?

A In this building right here upstairs.

Q What floor?

A I think it was the fifth floor.

Q Were you ever asked by Mr. Mercaldo, Mr. McAllister, Mr. Kaufman, or anyone else, as to how these lot owners that you have identified, or any other lot owners, were located?

THE COURT: He has already answered that nobody talked with him about that. I think that is clear.

MR. COCKRELL: Witness with you.

MR. ROBINSON: Your Honor, I would like the record, with all due respect, to show that all the people mentioned by the witness here are colored people, members of the colored race, and that the witness himself is a colored gentleman. What is the gentleman's name?

THE COURT: Does that make any difference?

MR. ROBINSON: Well, it is the purpose of the case, Your Honor, yes, sir.

DIRECT EXAMINATION

By Mr. Robinson:

Q Mr. Hamlet, do you subscribe to a paper called The Daily Record?

A Of course not.

Q You spoke of someone, that there was somebody trying to sell lots and somebody there directing their attention to Arbutus, who was that?

A I don't just know that. These people out there were selling lots for Arbutus naturally and did not come to Laurel Cemetery. They were only selling lots among the lot holders here in the City. Nobody ever contacted me or anything, or said anything to me about selling lots in Arbutus.

Q You apparently don't know who it was, is that correct?

A That's correct.

Q Are you in a position to state whether all the graves have been removed from the Laurel Cemetery, that is,

the bodies?

THE COURT: I did not hear the question.

Q Are you in a position to state whether all of the bodies have been removed from Laurel Cemetery?

A No,sir.

Q When you say "No, sir", what do you mean?

A I mean I can't.

THE COURT: He has no way of telling.

THE WITNESS: I have no way of telling about that.

Q I thought I understood you to say you saw the bulldozers and various things out there.

A I seen them in there but I didn't see the bodies being removed.

Q Is it correct that some of those bodies were buried in vaults in Laurel Cemetery?

A Yes, a number of them were buried in vaults.

Q Have you, during your experience there, any idea where those vaults were located?

A Oh, some of them, I think I could go out there and locate some of them. I could have done so very handy before this bulldozer was in there.

Q Could you tell where the bulldozers could come up into the ground there?

A No, sir.

Q When you say "No, sir", what do you mean?

A I mean no bulldozer could move a vault out of the ground.

Q If I heard you correctly, the process used in removing the bodies from the graves was by machinery and the bulldozers, is that right?

A That's right.

THE COURT: And a grave digger I think he said.

MR. MYLANDER: That isn't what he said, but I object to the whole line.

THE COURT: Yes. Same ruling. Go ahead, ask him another question.

MR. ROBINSON: I am finished.

By Mr.Cockrell:

Q How many graves are there to the best of your knowledge?

THE COURT: Do you know, Mr. Hamlet?

A Do you mean in the whole entire cemetery?

THE COURT: Yes, the whole cemetery.

A Ever since the cemetery was started? No, I couldn't. I know Mr. Giles, Mr. Charles Giles was buried somewhere around there when 3800 people were in that place. He had been dead then for some time, and Mr. John Giles, he took charge of the place in 1907. I think that was about the time his father died. Well, his records I never could come up with him after he left the place, I never could come up with his record to see how many people he buried. I couldn't give you any idea how many people are buried in Laurel Cemetery.

#30 THE COURT: The answer is no, he cannot give you the number of people buried there.

Q You identified Mrs. Anita Scott. Did you give Mrs. Scott or her organization any records whereby she could locate lot owners around about 1948?

A I may have done so so far as lot holders I knowed, I might have given her some addresses.

MR. COCKRELL: Witness with you.

MR. MYLANDER: If the Court please, I move to strike this witness' entire testimony and I presume your ruling will be the same. Is that correct?

THE COURT: Same ruling, all subject to exception.

MR. MYLANDER: I understand, then, that I may not cross-examine this witness consistently with that position.

THE COURT: No, I don't think that is correct. You may still cross-examine him if you care to, without waiving your objection.

MR. MYLANDER: Without waving my objection to the testimony?

THE COURT: Yes.

MR. MYLANDER: Or my right to renew the motion to strike?

THE COURT: Yes. That is my ruling. That it is all subject to exception.

MR. MYLANDER: If the Court please, may we have a short recess at this time?

THE COURT: I think so. The Court will take a short recess.

(After a short recess.)

Thereupon---

EDWARD HAMLET,

resumed for --

CROSS-EXAMINATION

By Mr. Mylander:

Q Mr. Hamlet, I understood you to say you don't know Mr. McAllister, the gentleman sitting on the right-hand side here against this far wall?

A I don't know him so good. The only man I know good is Mr. Kaufman. That's the man I met down to his office.

Q You say now you don't know him so good, what do you mean by that?

A I mean everything I talked down there I talked with this man here sitting next to Mr. Kaufman.

Q Wasn't Mr. McAllister present when you talked?

A He was present, this man was present, but I never knowed his name.

Q But since you saw him here do you recognize him definitely as the man who was present?

A I recognize him as the man who was present.

Q You were asked some questions on that occasion and there was a lady writing down the questions and answers, wasn't there?

A At one time there was a lady there.

Q Do you recall that during that time you were asked this question: "During that time you were the one who gave permits for burials there," and you answered "Yes." That is correct, isn't it?

A What do you mean, from the undertaker do you mean?

Q No, that you gave permission to the undertakers to bury bodies in Laurel Cemetery.

A No, I didn't give it to them, no, indeed.

Q You don't recall having made that answer then?

A No, I don't recall any answer like that.

Q Do you remember being asked the question: "Do you have any records that would help identify those burials there?" Did Mr. McAllister or Mr. Mercaldo ask you that question?

A Did I have any records?

Q Yes.

MR. COCKRELL: May it please the Court, we subpoenaed or asked them to bring in all records.

MR. MYLANDER: Records of what?

MR. COCKRELL: That McKamer had pertaining to Laurel Cemetery. I don't recall the defense having produced any such records. He is quoting from those records. If

there are such records that exist I would like to have an opportunity to examine them.

THE COURT: I will do that later. This is so far proper cross-examination.

Q Do you, Mr.Hamlet, recall having been asked the question: "Do you have any records that would help identify those burials there?"

A No, no.

Q You don't recall being asked that question?

A No, I don't recall them asking me that question.

MR. MYLANDER: All right, no further questions.

THE COURT: Anything else of Mr. Hamlet? Step down.

(Testimony of the witness concluded.)

MRS.MITCHELL: Your Honor, I wish to renew my request that both Mr. McAllister and Mr. Mercaldo bring into the Court all records whatsoever pertaining to the bylaws of Belair Road Enterprises and the McKamer Realty Company. Mr. Kaufman has testified that he did not keep any records, that these two attorneys kept all of the records. As is

evidenced by the line of questioning of the last witness, there are still records in existence.

In addition, Your Honor, I wish to request that the City Solicitor's office be asked again to bring all records we subpoenaed them to bring, we still requested in our subpoena that they bring all records in the file pertaining to Laurel Cemetery. There has been testimony by Mr. Motry, of the Department of Sanitation, that this matter was referred to the City Solicitor's office, to Arlene Marshall and to Mr. Crozier. Mr. Mercaldo himself testified in the Circuit Court on April 24, 1958, on page 21 of Exhibit 10 in the trial proceedings of the McKamer Realty vs. Anderson Enterprises Incorporated, Docket A-78/1957, which purports to be the testimony taken before the Examiner, William C. Baxter, on the 18th of April 1958.

On page 21 Mr. Mercaldo testified, in answer to these questions: "During your tenure as Assistant City Solicitor have you had referred to you complaints and matters pertaining to this cemetery?" The answer is "Yes." "Have you had an occasion to refer to File No. 85512 of that office?" The answer is "Yes." "What does that pertain to?" Answer:

"That file pertains to complaints of New Laurel Cemetery. I want to say there have been numerous complaints with respect to the cemetery as far back as 1920. In File 85512 I found 15 photographs which I would like to offer in evidence as Complainants' Exhibits."

Then he goes on to introduce those photographs.

Then on page 22: "Question: Did you find a press article and picture from The Baltimore Sun of June 22, 1951, in that file?" "Answer: Yes." "Question: Is this it?" "Answer: Yes."

When File 85512 was brought into this Court it was a very small file that does not go beyond 1950, and we have reason to believe that -- maybe a proper search hasn't been made, but because this is for these plaintiffs a very serious case, we would like to respectfully request that the proper search be made of the files of the City Solicitor's Office for the records, data, whatever material is there, pertaining to activities of the Law Department on Laurel Cemetery. We have not received that information to date.

THE COURT: Well, the photographs are in the original file.

MRS. MITCHELL: They are in evidence, but we have reason to believe both from the testimony of Doctor Motry and the statement of Mr. Mercaldo himself, that there is an #31 extensive, there are extensive records of communications, letters, investigations.

As late as 1958, Mr. Hugo Ricciuti was settling a claim of the United States Government for lots which the City had taken over in Laurel Cemetery, at which time it was settled I believe for $1250, and at that time Mr. Ricciuti stated that the Government was contending that it had a fee simple title to these lots. None of that material has as yet been produced, and it is relevant, material and pertinent to the issues in this case.

MR. MYLANDER: The defendants have no objection whatsoever to Mrs. Mitchell getting any information she wants. We have made no effort and will make no effort to conceal anything from her.

MRS. MITCHELL: My only reason for it, Mr. Mylander, is that we first subpoenaed the records and it wasn't until this Court requested Mr. Mercaldo and Mr. McAllister to get the records of McKamer Realty Company and Belair Road Enter-

prises that we got these minutes of the meetings of the Board of Directors and financial statements.

MR. ATWATER: I object to that characterization.

THE COURT: Let me say this. Have the subpoenas been complied with? Are there in the records in the City Solicitor's office any records pertaining to the matters that Mrs. Mitchell is speaking about?

MR. ATWATER: Your Honor, if I may say something at this point, I understand there was a conference between counsel for the plaintiffs and the City Solicitor, Mr. Harrison Winter, at which time they determined the scope of their subpoena. I know nothing about that conference except I heard there was such a conference, we took no part in it, and this is between the City Solicitor's office, not us.

MRS. MITCHELL: My point is that Mr. McAllister and Mr. Mercaldo are still members of the City Solicitor's staff.

MR. MYLANDER: Mr. Mercaldo isn't.

MRS. MITCHELL: Well, Mr. McAllister then would know where these files were. Mr.Hartman has just gone into the City Solicitor's office, he represented Mr. Winter at

our conference.

THE COURT: May I suggest during the noon recess you communicate with Mr. Hartman? I think we did have a discussion in Chambers prior to the trial of this case about the comparative depth of the subpoena and then it was narrowed down or it was stated more specifically. I don't know just what conclusions you did come to. I had thought that matter was taken care of when we started the trial of this case. But I would suggest that you contact Mr. Hartman. You are entitled to have all public records and if there are public records, which I assume there are, you are entitled to have them. It is difficult for me to say the defendants have or have not complied with the subpoena. So I would suggest that you contact Mr. Hartman and let me know just what success you have had after conference. I see photographs here and I also see a newspaper clipping apparently under date of June 22, 1951. It shows a photograph of the cemetery together with the news article.

MRS. MITCHELL: Yes, Your Honor, but other than the references which have already been made in the testimony to the former City Solicitor's activities in this matter,

there is none in the file that has been brought here.

THE COURT: I still suggest that you contact Mr. Hartman, confer with counsel for the defendants, and I am sure it will be worked out satisfactorily.

MRS. MITCHELL: My other question is, it is obvious that counsel for the defendants have information in their files --

MR. MYLANDER: We have quite an extensive file --

MRS. MITCHELL: -- pertaining to the McKamer Realty Company, which records were made prior to the time that counsel were retained in this matter, and which they ought to be prepared to produce.

THE COURT: What records are you talking about?

MRS. MITCHELL: I am talking, for example, about the records on which Mr. Mylander questioned Mr. Hamlet of a recorded conversation made in the City Solicitor's office before the original case was filed in this Court.

THE COURT: That would not be a record of the case, would it?

MR. MYLANDER: If you want this, you may have it.

MRS. MITCHELL: Excuse me, sir. Then, Your Honor,

if you please, our subpoena directed Mr. McAllister and Mr. Mercaldo to bring in all records, communications, data, material whatsoever relating to the affairs of the McKamer Realty Company and the Belair Road Enterprises Incorporated.

THE COURT: That is the same subpoena that is outstanding now.

MRS. MITCHELL: I simply want to request counsel for the defendants, then, if they know of other records in this matter which have not yet been disclosed, we would certainly request at this time that they be made available, so that we can have what is our right, the opportunity to inspect them.

THE COURT: Has the subpoena been complied with, Mr. Mylander?

MR. MYLANDER: I believe it has, if the Court please. There are files -- counsel for the McKamer handed me copy of a transcript that was taken of a conversation with Mr. Hamlet. That is available. I understand also there is yet another Laurel file concerning a tax bill case, a zoning bill case, and there is an action at law against the corporation for alleged negligence in removing bodies, by other

plaintiffs. Now, undoubtedly counsel for the corporation in those cases would have some records pertaining to those actions. I am not counsel for McKamer with reference to the action at law in the law court nor am I counsel in the tax bill case or the zoning bill. If the Court desires the files -- I cannot see the possible pertinency, I think it is an imposition on this counsel -- but certainly we will undertake to get them if the Court directs us to.

THE COURT: All right, let's get them.

MRS. MITCHELL: Your Honor, we are not requesting the files of other counsel. Our subpoena went both to Mr. Mercaldo and Mr. McAllister for all of the records which were within their reasonable power to produce. If they were records which were made during the course of business of these corporations, they have the power to get those records from the attorneys not the particular work product of the attorneys, and bring them into this Court.

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MR. MYLANDER: We stand willing, of course, referring to the transcripts of questions and answers, to produce it. But the work product of the counsel who were conducting the proceedings here was not in any way a record

of the McKamer Realty Company. But we certainly make that available to Mrs. Mitchell and I would think this be put in evidence.

MR. ATWATER: She has demanded it be produced, so we think it should be in evidence.

MR. MYLANDER: We will confer with counsel during the noon recess and we will report our results.

MR. ATWATER: We offer this in evidence.

MR. HUGHES: If we examine this as being part of the evidence --

THE COURT: Gentlemen, it is not in evidence.

MR. ROBINSON: Your Honor asked what the return on this subpoena is. It shows here it is served.

THE COURT: I understand that.

MR. ROBINSON: Now, may it please the Court, I am not as familiar with these circumstances as others, but I believe if they have the subpoena and it has been served, it is a matter for the Court.

MR. MYLANDER: May this be marked for identification?

MR. HUGHES: We have not examined it.

THE COURT: It isn't in evidence, it is only for identification because apparently it may be referred to later on in the proceedings, so it may be properly identified.

(Document referred to marked Exhibit A for identification.)

MR. WILLIAMS: I hope it will not carry with it the implication there has been some spurious meeting between counsel for plaintiffs and counsel for the defendants --

THE COURT: No, if it were spurious, then the Court was part of the spuriousness because I attended it.

MR. MYLANDER: There is no such implication or suggestion.

MR. HUGHES: May I report to the Court that during the recess Mr. Armacost called and said he has two funerals this afternoon, but if it would be possible he would like to be put on ten o'clock tomorrow morning.

THE COURT: You mean we are not going to finish this case today? Very well, ten o'clock tomorrow morning.

Thereupon---

HERBERT M. FRISBY,

a witness of lawful age, produced on behalf of the plaintiffs,

having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Your name and your home address.

THE WITNESS: My name is Herbert M. Frisby. My home address 3403 Bateman Avenue.

DIRECT EXAMINATION

By Mr. Hughes:

Q Mr. Frisby, what is your occupation?

A My occupation up until six weeks ago was head of the Science Department of Douglass High School, that was my regular occupation; and my avocation a staff correspondent of the Afro-American.

Q In connection therewith have you had occasion to be quite well-known -- you have had occasion to be quite well-known as an explorer I believe?

A So many people have been kind enough to say so.

THE COURT: I have read about it with a great deal of pleasure.

THE WITNESS: Thank you, Your Honor.

Q How long have you lived in Baltimore City?

A All my life.

Q Do you have any objection to stating your age?

A May I say sixty or more years?

Q And you are a member of a large family?

A I am a member of a large family.

Q How many in the family?

A There were seven, there are now four.

Q Were any of the members of your family at any time buried at Laurel Cemetery?

A Yes; a father and three brothers.

Q Did you make it a practice to visit Laurel Cemetery?

A Ever since the demise of my father, whom I revered to the highest, on the same level as I revered my deceased mother, I have paid frequent visits to Laurel Cemetery not at any specific time but at any time.

Q Not necessarily at stated times?

A Not necessarily Memorial Day.

Q What efforts did you make to care for their lots?

A As I say, I visited the cemetery following my father's death. I carried a scythe, something like a grass cutter, in my car so that at any time I was in the vicinity I would just drop off and cut the lot.

Q You did that until when?

A I did that until about 1957 or 1958 -- well, no, I want to qualify that. I still visit the cemetery and I was able to reach the grave until about late 1957 or 1958. In that case when I could not reach the grave, I used to drive out the Belair Road, look over in the direction of the cemetery, say a prayer and throw a wreath or flower over as far as I could to reach the grave.

Q Was there any particular reason you could not reach the grave?

A I couldn't reach the grave because the driveway was inaccessible. It was grown up with bushes and shrubbery. The path to the grave was grown up. I was out there yesterday and I could locate that spot, there is a famous tree that always led me to the spot, and there was a path from the main roadway, when it was accessible, that would lead me to the spot where my father is buried.

Q Then your reason for not visiting the cemetery wasn't because you abandoned the grave, it was because you couldn't get in the cemetery, is that correct?

MR. MYLANDER: There is a special objection to

that question.

MR. HUGHES: I realize it is leading.

THE COURT: I will sustain the objection. You may rephrase the question or ask him another one.

Q Let me ask you this: Have you taken any special interest in trying to organize a group to alleviate the situation at the Laurel Cemetery?

A I did not.

MR. MYLANDER: Your Honor, we don't think that is important.

THE COURT: He said he did not.

Q Are you acquainted with and know the addresses, names and addresses of many of the people who had lots in the Laurel Cemetery?

A I know the addresses and names of several people who had lots in Laurel Cemetery.

Q Did your wife have a lot there too?

A My wife is a member of the Russell family that had a lot shall I say -- had a lot, a sizeable lot near the entrance.

Q Do you have your deeds with you?

A Yes.

Q May I see them?

(Papers handed by witness to counsel.)

Q Mr. Frisby, I show you what purports to be deed to a lot in the Laurel Cemetery. Will you identify that?

A Yes, I do.

Q How did it come into your possession?

A My father purchased it.

MR. HUGHES: Any objection to this?

MR. MYLANDER: None other than our general objection.

(Paper referred to received in evidence as Plaintiffs' Exhibit 16.)

Q Go ahead.

A My father purchased the ground.

Q Your father's name was what?

A Joseph S. Frisby. And upon his passing, the deed passed to my mother, Mrs. Ida H. Frisby. And upon her passing, it passed to me.

Q What was the date of the original purchase?

A It is shown on the deed.

MR. MYLANDER: It shows May 14, 1898.

THE COURT: May 14, 1898, for a consideration of $16.

Q How long, Mr. Frisby, have you lived at your present address?

A At my present address I have lived approximately five years.

Q Where did you live prior to that?

A 1806 Druid Hill Avenue.

Q How long did you live there?

A I lived there about thirty years.

#33 Q How long has that property been in the family?

A The Druid Hill Avenue property?

Q Yes.

A It had been in the family thirty years.

Q How long have you been a special reporter for the Afro-American?

A Since 1943.

MR. HUGHES: Witness with you.

MR. MYLANDER: No cross-examination. I move the testimony of this witness be stricken.

DIRECT EXAMINATION

By Mr. Robinson:

Q Mr. Frisby, have you abandoned your graves out there, you and your family?

A No, never abandoned the graves. We always visited them, as I said, frequently.

MR. ROBINSON: That is all.

MRS. MITCHELL: Just one question.

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Mr. Frisby, I take it then, you read the Afro-American?

A Definitely.

Q You read both editions, Tuesday and Friday editions?

A The Tuesday and Friday editions and the National edition.

Q If at any time there had been inserted in that paper any notice of the original proceeding in this Circuit Court of Baltimore City to declare a sale of the cemetery, you would have seen it?

MR. ATWATER: Objected to specially as well as

generally, Your Honor.

THE COURT: Overruled. Let him answer. I guess he would have seen it.

A I would have seen it if it had been in the Afro-American, Baltimore News-Post or the Sun. I follow them closely,particularly local affairs. Occasionally I get the Daily Record.

Q When did you first learn of this action that has taken place?

A I think I first learned of it back in I think it was 1958, when I happened to see a news account in the Evening Sun along with pictures, and after seeing it I got busy, my brother and I got busy, and we took steps to do something about it, whatever we could.

Q And you are now president of the Laurel Cemetery Lot Owners Association?

A I am now president of the Laurel Cemetery Association, Lot Owners Association. We organized it and I was elected president.

MRS. MITCHELL: No further questions.

THE COURT: You may step down.

MR. MYLANDER: I move that the testimony be stricken.

THE COURT: Same ruling.

(Testimony of the witness concluded.)

Thereupon---

DEAVER SMITH,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Give us your name and where do you live?

THE WITNESS: Deaver Smith, I live on the corner of Cold Spring Lane and St. George's Avenue. I say that for the reason the number isn't there, the number would actually be 2527.

THE COURT: That is in my neighborhood.

THE WITNESS: Right around the corner from Your Honor.

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Mr. Smith, you are also a business man, are you

not?

A Yes.

Q And you have a business that goes back in your family some years?

A Fifty-three years.

Q What precisely is that business?

A Teas-Coffee business.

Q Where are you located?

A 1411 Pennsylvania Avenue.

Q How long have you been in that location?

A Fifty-three years.

Q Mr. Smith, are any of your people buried in Laurel Cemetery?

A We started back in Laurel about 1852, when it was first started, as I understand it from my grandfather, who was a Methodist Minister here. We didn't seem to have him but I did have my grandmother.

Q You have with you deed to the lot which your family has owned in this cemetery?

A Yes.

MRS. MITCHELL: Can we mark them for identification?

Q How many are there?

A There are two or three there.

MR. MYLANDER: If the Court please, I don't want to belabor these objections, but I gather they can find many hundreds of members of families of deceased persons, and this might go on for months.

MRS. MITCHELL: We will be brief. This is a special purpose in presenting this witness with his deeds.

THE COURT: Overrule the objection. Very frankly, I thought counsel were going to get together on this phase of it.

MRS. MITCHELL: We have a number of them and they are all available, but this is a special purpose for a few of these lot owners.

(Deeds referred to received in evidence as Plaintiffs' Exhibits 17, 18 and 19.)

Q Mr. Smith, the first of these deeds is dated the 27th of April, 1874. Deed No. 41B and it purports to grant and convey from the Laurel Cemetery to said Maria Smith, her heirs and assigns, one lot of land in Laurel Cemetery, laid

down in the plan of the cemetery Lot No. 49 in area D, containing 80 superficial feet. It further goes on to say that this grant has been made subject, however, to the conditions and limitations and with privileges specified in the Act of the General Assembly of Maryland passed 1852, Chapter 221, and such other rules and regulations as may be adopted hereafter for the management of said cemetery made pursuant to said Act of Assembly. And finally it says, "The Laurel Cemetery Company do hereby covenant to and with the said Maria Smith, her heirs and assigns, that they are lawfully seized of the herein granted premises in fee simple, that they have the right to sell and convey the same for the purposes above expressed and that they will warrant and defend the same unto the said Maria Smith, her heirs and assigns, forever."

Who was Maria Smith?

A An aunt.

Q Approximately when did she die?

A Oh, it was around the turn of the century.

Q And it has descended from her deceased descendants?

A Yes.

Q That is Plaintiffs' Exhibit No. 17. Now Plaintiffs'

Exhibit No. 18, which purports to be a deed from the Laurel Cemetery Company to Blanche Smith, under date of the 31st day of August, 1907, and it grants one lot in Section D numbered 172. What relationship was Blanche Smith to you?

A My sister.

Q When did she die?

A Around 1920 I think.

Q And this has descended since her death through her relatives to you?

A That's right.

Q Now I have a deed marked for identification as Plaintiffs' Exhibit 19, which purports to be a deed from the Laurel Cemetery Company to Howard E. Smith of a lot numbered 85, in Section I, on the 22d day of October 1896. What relationship was Howard E. Smith to you?

A First cousin.

Q And when did he die?

A Around about 1920 or 1922 or 1925.

Q And this deed has descended through his deceased relatives to you?

A Right.

Q All of these deeds have been in your possession?

A Quite a little while.

Q And you bring them now to this Court. Now, Mr. Smith, the deed specifies that these lots are granted subject to the reasonable regulations of the cemetery owner. At any time have you been approached by the New Laurel Cemetery Company, through its representatives --

MR. MYLANDER: I have a special objection to these questions.

THE COURT: Overruled.

#34 Q -- through its representative Mr. Kaufman?

A No.

Q Do you recognize Mr. Kaufman?

A No, I don't.

Q At any time have you, as a lot owner, been approached with a plan to clean up the cemetery?

MR. MYLANDER: Special objection in addition to the general objection.

THE COURT: Overruled.

A No. As you doubtless know, there was some organization that started to do some work in the cemetery as a whole,

and through that medium I was asked.

Q That is, the owners of the cemetery?

A No, no.

Q In this instance, the New Laurel Cemetery has never notified you, or as far as you know, any of the lot owners whom you know?

A No.

Q About a plan to maintain and keep up the cemetery?

A No.

Q Mr. Smith, what have you done to maintain your lot in the cemetery?

A We kept our lots right up to the moment. In 1958 I think was the last year. We had six posts, a name-plate and a monument.

Q What was on the monument?

A Those who had been buried. Probably five or six. It was a rather large lot.

Q Whose names were on the monument?

A On the monument.

Q Anything else?

A The dates were given also.

Q Approximately how large was that monument?

A Oh, a good size. It stood in the center. A good size, it would be noticeable from anywhere.

Q Which lot was that?

A That is my own immediate family, Blanche Smith, my aunt, and my sisters and brothers and father.

Q This is the lot in Plaintiff's Exhibit 18. Mr. Smith, you say there were four posts --

A There were six posts, and a name-plate at the head of it. It was a large lot with a monument in the center of the graves.

Q You say December 1958 was the last time you were there, approximately when in December?

A I went every year since 1922 myself and cleaned it, cut it, and kept it right up to 1958, the last year the cemetery was open.

Q What time was it, Decoration Day?

A Always around Decoration Day. Nearby Decoration Day. It was always ready for Decoration Day.

Q Are you saying you kept these three lots?

A No, I kept the one, the particular one of my

immediate family. The other two lots had been there for some years, ever since when the cemetery started.

Q Mr. Smith, were you at any time employed to keep up the lot of any other lot owner in Laurel Cemetery?

A Our church buried its pastor --

Q When you say "our church" --

A Union Baptist Church.

Q Where is it located?

A 1217 Druid Hill Avenue.

Q Continue.

A Ever since the death of the pastor, who had been pastor there for 50 years, the church set aside a regular sum for the upkeep of his grave and we kept that up to 1958.

Q Now tell me, Mr. Smith, what was the name of that pastor?

A Doctor Harvey Johnson.

Q I think his name has been referred to. On occasion Memorial Services were held at his grave?

A Up until about we will say 1940.

Q Did you then, in pursuance of your duties, maintain that lot through 1958?

A Right through to the last day, 1958.

Q Was there a monument on the lot?

A A very large monument.

Q What was engraved on that monument?

A Those who were buried there. To the best of my memory it was he, his wife, and his wife's mother.

Q Were the dates on?

A The dates were given and the names.

Q The names and the dates were inscribed?

A That's correct.

Q Where was that lot located?

A It was towards the wall that was on the south side of the cemetery.

Q Now, Mr. Smith, did you at any time know one of the owners of Laurel Cemetery by the name of William Ziemer?

A Yes, I was sent to Mr. Ziemer in the interest of buying the cemetery.

Q You said you were sent to Mr. Ziemer. Will you explain the circumstances?

A I can't recall just how we got knowledge of this sale, it has been some time ago, but we went to his office

on Lanvale Street.

Q Was it 13 West Lanvale Street?

A That's correct, number 13.

Q What took place?

A There were some offers made but we understand --

Q Tell me what happened.

A Well, he was interested in selling it, he made it known that he had an interest, but he was governed by Mr. Kaufman and he told us to come back and he would present what we had said at that time. But it was turned down for the reason that Mr. Kaufman objected.

Q Would you explain a little more fully what, if anything, he did say with regard to his interest in the cemetery and Mr. Kaufman's interest?

MR. MYLANDER: If the Court please, I have been refraining from objecting but this is testimony of conversations with an outside person.

MRS. MITCHELL: All right, I will withdraw the question.

THE COURT: The question has been withdrawn.

Q But you say the offer of the colored lot owners

were later withdrawn because of Mr. Kaufman's objections?

A Yes, primarily because of his objections, but Mr. Ziemer said --

Q You cannot say what the deceased man told Mr. Smith, so I withdraw any further questions about what Mr. Ziemer said. On the monument which was erected to the memory of Doctor Harvey Johnson, was there any inscription about the church at all?

A No. It was the Memorial of Doctor Johnson himself.

Q There were no words about the church on the monument?

A No, the only thing the church has provided regularly the upkeep for it up to 1958.

Q Mr. Smith, Mr. Kaufman, the former owner who succeeded to Mr. Ziemer's interest, has previously testified that he bought out Mr. Ziemer's interest on or about the year 1948, or a year and a half prior to that time. According to your recollection, you had conversations with the deceased, Mr. Ziemer, before he sold his interest?

A Yes.

MRS. MITCHELL: Witness with you.

MR. MYLANDER: No questions. I move the entire testimony of this witness be stricken.

THE COURT: Very well. Same ruling.

(Testimony of the witness concluded.)

MRS. MITCHELL: Now I am going to move the Court at this time if we might substitute as a plaintiff in the case of Kennard, et al, vs. McKamer Realty Company, the widow of Mr. Clarence Roy. Since this suit was instituted he is deceased. He is the third plaintiff listed as of the address of 1137 North Carey Street and his widow, Mrs. Roy, will take the stand, and I move the Court that her name be substituted in the place of her deceased husband as a party plaintiff.

THE COURT: Any objection?

MR. ATWATER: No objection.

THE COURT: All right, so ordered. Let the record show there is no objection.

Thereupon---

MARY E. ROY,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: What is your name and where do you live?

THE WITNESS: Mary E. Roy, 1137 North Carey Street.

DIRECT EXAMINATION

By Mrs. Mitchell:

#35 Q Mrs. Roy, your deed along with a number of others, pursuant to stipulation and with the consent of the Court, be introduced in this proceeding, and it will be introduced. Your husband was Clarence Roy, who is listed here as a plaintiff in this proceeding, and who resided at 1137 North Carey Street with you?

A Yes.

Q When did he die?

A April 10, 1959.

Q According to his allegation in the Bill of Complaint, on or about December 20, 1919, he acquired a deed, fee simple title through a deed which is duly recorded at the Laurel Cemetery Company's office in Baltimore City, to lots Nos. 185

and 186, Section R of the Laurel Cemetery, Deed No. 3416. Have you seen those deeds?

A Yes, I gave you the deeds the other day.

Q They will be introduced into evidence. Now, then, your husband was, until his death, an original purchaser who had not died at the time this cemetery was condemned. Is that correct?

A Yes.

Q He bought the lot?

A Yes.

Q So that that lot did not come to him by descent through relatives?

A No.

Q What, if anything, did your husband do to maintain his lot there, Mrs. Roy?

A Well, from the time my mother was buried we went to the cemetery every year, we had no specific time, we would go just when we felt like going, but we always seen that our lot was clean. We had four posts and a centerpiece with CER on it, and in that lot are three bodies. My sister-in-law died in March of 1920 I think, and my child died in 1925, and

my mother died in 1927, and those are the three bodies in the lot.

Q At any time did the owner of Laurel Cemetery contact you or your husband, if you know?

A No.

Q To arrange for perpetual care or some type of maintenance of the cemetery generally?

A Well, when Mr. Giles lived, Mr. Giles and I went to take care of our lots because my husband and Mr. Giles belonged to the same lodge and he would pay him whenever he saw him there. When Mr. Hamlet came we always paid Mr. Hamlet to keep our lot in good condition.

Q When you speak of Mr. Giles, he wasn't an owner of the cemetery, was he?

A No.

Q What did he do in the cemetery?

A Well, a grave digger. I would say Mr. Giles was all of the cemetery because there was never anyone there but him.

Q At any time did you see an office on the cemetery property?

A Yes, there was a small office in the cemetery.

Q And approximately at what time was that office there?

A Way back in 1920, and I may say about 1927, I can't definitely say I know it was when we first began going to the cemetery.

Q Do you know of any lot owners who lost deeds?

A Well, no, I don't.

Q How long have you lived at your present address?

A Forty-three years.

Q Do you read the Afro-American newspaper?

A I read threepapers a day every day.

Q And what are they?

A Morning Sun, Evening Sun and the News and Tuesdays and Fridays I get the Afro.

Q Are you familiar with the Daily Record?

A Well, no, I am not familiar with the Daily Record.

Q When did you first learn that this cemetery had been condemned and the bodies were to be removed?

A When I saw the piece in the daily paper with a picture of the cemetery.

Q Do you remember approximately when that was?

A I couldn't exactly say when it was.

Q About how long?

A I judge -- I guess around about 1957, or something like that.

Q In 1957 no action had been started in this Court, Mrs. Roy, I say that for your information. Can you think approximately how many months ago from the time you are sitting here?

MR. MYLANDER: Why don't you tell her what answer you want, Mrs. Mitchell?

A How many months it has been?

Q Yes.

A Since the cemetery was condemned?

Q Since you learned of it.

A I told you it was around about 1957.

MR. MYLANDER: She doesn't understand. You can straighten it out, if you wish.

Q The article appeared in the press after the condemnation had taken place and the bodies were being removed or were about to be removed, and that would have

been in the latter part of 1958 and this is now 1960. Was that time the time when you first got notice that the cemetery had been condemned?

A Well, when we got notice that the cemetery was condemned one of the members of Union, I don't know his name, was talking to my husband and he told him that the cemetery had been condemned. Well, now, every year my husband used to go out with a committee that went to Laurel to put a wreath on Doctor Harvey Johnson's grave. The last time he was out there I think it was 1958 because shortly after that, he was taken very sick, and from time to time the men came to see him and all, they talked about the cemetery being condemned. One gentleman said -- I don't know whether it was 1958 or 1959 -- that a bulldozer was in the cemetery digging the bodies up, as he thought. He didn't know exactly what it was there for.

MRS. MITCHELL: No further questions.

DIRECT EXAMINATION

By Mr. Cockrell:

Q Mrs. Roy, your husband's name was Clarence E. Roy?

A That's right.

Q Your address is 1137 North Carey Street?

A That's right.

Q Is your telephone number Madison 3-0241?

A That's right.

Q How long have you had a telephone?

A I guess we have had a telephone around about thirty years.

Q How long did you say you have lived at that address?

A Forty-three years.

Q In whose name is that telephone listed?

A In my husband's.

Q Has it been listed in his name and he lived at that address with you all the time?

A That's correct.

MR. COCKRELL: That is all.

MR. MYLANDER: If the Court please, I renew my motion, and may I ask this witness one question without waiving my objection?

THE COURT: Yes.

CROSS-EXAMINATION

By Mr. Mylander:

Q Mrs. Roy, did you see the sign that was on the

cemetery wall at one time that the cemetery was closed and no further burials would be permitted?

A No, I didn't see it.

Q Did you hear from anyone that it was there?

A Yes, I heard a gentleman say it.

Q When did you hear this?

A I couldn't say exactly when he said it.

Q Was it about the time you understood that the bull-dozer was there?

A About that time.

Q You knew at that time that there was a sign there that it was condemned under Court order, didn't you?

MR. ROBINSON: Objected to.

A No, I couldn't say that. I didn't see it.

MR. ROBINSON: I move whatever it is be stricken out.

THE COURT: She says she never saw the sign.

THE WITNESS: No, I didn't see the sign.

Q But you heard from a gentleman that there was such a sign?

A That's right.

MR. MYLANDER: No further questions.

REDIRECT EXAMINATION

By Mr. Robinson:

Q May I ask you this, please, Mrs. Roy. Did you ever receive from Mr. Kaufman or anybody else connected with the New Laurel Cemetery Inc., a condition of deeds or regulations for this cemetery?

A No, not any.

Q Did you ever know of any meetings that the Laurel Cemetery management had?

#36

A No.

Q That is in the last ten to twelve years?

A No.

REDIRECT EXAMINATION

By Mr. Cockrell:

Q One more question. Did anyone ever call you, to your knowledge, you or your husband, and talk with you or ask you did you have ownership and did he identify himself as being connected with the McKamer Realty Company or New Laurel Cemetery?

A No.

Q And so far as you knew, neither you nor your husband had such knowledge?

A No.

(Testimony of the witness concluded.)

(Recess from 12:45 p. m. until 1:45 p. m.)

AFTER RECESS 1:45 p. m.

Thereupon ---

MRS. AUDRA STEVENSON,

a witness of lawful age, produced on behalfof the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: What is your name and where do you live?

THE WITNESS: Mrs. Audra Stevenson, 3429 Piedmont Avenue.

DIRECT EXAMINATION

By Mrs. Mitchell:

Q You are the daughter of Mrs.Clarence Roy?

A I am.

Q Who testified just before we adjourned for lunch?

A I am.

Q Did you have occasion to accompany your mother to the Laurel Cemetery, the land known as Laurel Cemetery at 2401 Belair Road?

A I did.

Q When was that?

A That was on Saturday.

Q Will you tell His Honor what you found?

THE COURT: This past Saturday?

THE WITNESS: This past Saturday.

Q Will you tell His Honor what you found?

MR. MYLANDER: Objection, if the Court please.

THE COURT: Overruled.

A We found whole stones, we found broken stones --

THE COURT: This is all subject to exception.

A (Continuing) -- a lot of the trees were torn down and where they had been torn down, we could see where they had been torn down. We also copied the names off of the whole stones that we saw. Some of the stones were in a hole and we could see pieces of other stones and we copied the names because they were legible. The hole wasn't as deep

as I am tall. Of course we were afraid to step into the hole. We could walk along the road. My mother could find her lot. That is because she knew exactly where it was.

Q I show you this paper, is this a memorandum which you made?

A It certainly is.

Q Will you tell His Honor what this memorandum contains?

A Well, this memorandum contains the names that we copied off of the whole stones and the pieces of stones.

Q And where were they located?

A They were located in different sections of the cemetery.

Q And what are those names?

A The first whole stone we found, which is a head-stone, is about 14 by 18 inches and on it was Julia A. Warden, wife of Robert Warden, born May 5, 1850, died September 5, 1885.

The next two pieces we discovered had Caroline M. Barnes on it and another piece we saw had M. L. Johnson. These were broken stones.

We also found other whole stones. John B. Lewis,

September 17, 1880 born, died February 16, 1923; wife Sophia.

The next broken stone was Lawson D. Matthews, died January 6, 1901, age 62.

The next whole stone we saw was Olive J. Meyers, died April 18, 1890, and Charlotte Meyers, age 97.

MR. MYLANDER: If the Court please, I don't see what relevancy this could have to this action any way you figure it. The undertaker here was bonded. If this is supposed to be an objection as to the manner in which the work was done, there would have to be an action against the undertaker. Certainly it would not reflect on the procedure in this Court in the previous case. So I object specifically on this ground in addition to my general objection as to the relevancy of the whole scope of inquiry.

MRS. MITCHELL: I would like to say in answer to that we respectfully submit we conceive it to be material in that it goes to the whole core of what we feel was a deception on this Court, when the defendants stated under oath in their pleadings and in the examination before the Master that they had made a thorough, diligent and exhaustive search. If after the undertaker has been out to the cemetery and there are

still stones there which contain names, dates of death, it is our purpose to show that the names of deceased lot owners and their descendants, the lot owners and their descendants could have been ascertained if a diligent and exhaustive search had been made and that there is still evidence on the ground at Laurel Cemetery of some of those lot owners.

THE COURT: Very well, I will accept this testimony subject to exception. I will overrule the objection. Same ruling for the same reason.

Q Were you able to go over the entire cemetery?

A We went over the entire cemetery.

MRS. MITCHELL: No further questions.

MR. MYLANDER: No questions. I move the entire testimony be stricken.

THE COURT: Overruled. Same ruling, same ruling.

(Testimony of the witness concluded.)

Thereupon---

MRS. MABEL WALTER,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and

testified as follows:

THE BAILIFF: What is your name and where do you live?

THE WITNESS: Mrs. Mabel Walter, I live 3213 Piedmont Avenue.

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Mrs. Walter, I believe you are employed by the City School System?

A Yes.

Q What position do you have?

A I am an Elementary school teacher.

Q You have with you papers purporting to be deeds from the Laurel Cemetery Company, do you not?

A Yes, I have.

MRS. MITCHELL: I wish to have them marked for identification.

(Papers referred to designated Plaintiffs' Exhibits 20 and 21 for identification.)

Q Mrs. Walter, will you tell the Court how these papers came in your possession?

A They belonged originally to my grandmother's father and she being the last survivor of the immediate family, of course received these and they passed right down through the family. She specified at her death I would receive them because I am her next of kin and that is how I received these.

Q When did your grandmother die?

A She died December 15, 1957, and from that time I have had them in my possession.

MRS. MITCHELL: First paper purports to be a deed from the Laurel Cemetery Company to Frances Tasker, dated 27th day of November 1890, and there is a seal on the instrument and it purports to grant, bargain, sell and convey to the said Frances Tasker, her heirs and assigns, one lot of land in Laurel Cemetery designated as Lot No. 193, in Area B, containing 80 superficial feet.

It further in the closing paragraph covenants to and as such Frances Tasker, her heirs and assigns that they are lawful heirs of the herein granted premises in fee simple, that they have the right to sell and convey the same for the purpose above expressed and that they will warrant and defend the same unto the said Frances Tasker, her heirs and assigns,

forever.

The second paper purports to be a deed from Laurel Cemetery Company to Samuel Wilson of Baltimore City of Lot known as 64, in Area B, containing 80 feet. It further covenants with the said Samuel Wilson, his heirs and assigns, that they are lawful heirs of the herein granted premises in fee simple, that they have the right to sell and convey the same for the purposes above expressed and that they will warrant and defend the same unto the said Samuel Wilson.

That is under date of March 16, 1886. The seal here seems to have been lost.

Q Who was Francis Tasker?

A Francis Tasker was my grandmother's father. In other words, he would be my great grandfather.

Q Who was Samuel Wilson?

A Samuel Wilson was her mother's brother, which would be my great, great uncle.

Q These, then, are the deeds which have descended to you as an heir of Samuel Wilson and as an heir of Francis Tasker to lots in the Laurel Cemetery Company?

A Yes, they are.

MRS. MITCHELL: I would like now to offer these into evidence as Plaintiffs' Exhibits 20 and 21.

THE COURT: I thought this kind of testimony was to be stipulated so that we would not have to inconvenience these witnesses.

(Documents referred to received in evidence as Plaintiffs' Exhibits 20 and 21.)

MRS. MITCHELL: Your Honor, a material question has been raised in the pleadings and throughout the case that the Laurel Cemetery Company did not convey at any time a fee simple title to the lots, that at most the lot owners and their descendants had merely a burial certificate which gave them a mere license to go to the land for burial purposes. We have some of the original deeds and they are few. The original deeds which were granted by the Cemetery Corporation, after its incorporation in 1852, show the intent of the Cemetery Company to have been to convey a fee simple interest in said land, and again to digress just a bit, we were advised by the City Solicitor's office, when it was advised that the City settled with the United States Government for the lots which they had owned in Laurel Cemetery, which opinion we

desire to have.

MR. MYLANDER: Don't those deeds speak for themselves? Can this witness help us in that respect?

MRS. MITCHELL: It is simply we have a large number of deeds here printed after the year 1866, when the State Legislature enacted a statute which provided that these deeds need not be recorded. So that we feel that that is material and that has been our purpose, to distinguish and emphasize the interest that was conveyed by the company.

THE COURT: Very well.

Q Just a brief question, Mrs. Walter. According to your knowledge, did your grandmother visit Laurel Cemetery?

A According to my knowledge, she visited Laurel Cemetery regularly until she became disabled, which was approximately three or four years ago.

Q Did she, according to your knowledge, maintain and keep up the lots?

A She most certainly did.

Q At any time did she pay anyone to do that?

A I have no knowledge of her having paid anyone. She went herself and had others with her to see that the lot

was kept in good condition. She carried flowers out there regularly.

Q You say she died in 1957?

A That's right.

Q Was there any monument, according to your knowledge, on that lot?

A There was, and that was the purpose for my going out there recently to see if the monument were still there.

Q There was a monument?

A Yes, there was.

Q And according to your knowledge, were the names of the deceased engraved thereon?

A They were.

Q If at any time the names of those deceased had been listed in any advertisement in the Daily Record, would you have been informed of this prior action that was pending in this Court?

A The Daily Record is familiar to me, I am not a regular reader, I do buy it at times. I make myself available to copies of it if there is something I want to particularly see in it. I am not a regular purchaser of the Record.

Q What, if any, newspaper do you read or subscribe to regularly?

A The New York Times, the Philadelphia Enquirer, the Baltimore Morning and Evening Sun and the News-Post I get regularly.

Q Are you familiar with the Afro-American?

A Yes, I am familiar with the Afro-American.

Q Do you read it regularly also?

A Yes, I do.

Q So that if these names of your deceased ancestors had appeared at any time in either of the Baltimore papers you have mentioned, you would have known it, it would have come to your attention?

MR. MYLANDER: I object to that, Your Honor.

THE COURT: Sustained. It is argumentative. I will sustain the objection.

Q If notice of condemnation had been inserted or brought to your attention after having been inserted in such papers, would you have seen that?

(Question objected to; objection sustained.)

Q I think you have previously stated that you did

visit the New Laurel Cemetery on Belair Road this week, this past week?

A Yes, I did.

Q When and what are the circumstances?

A I visited the New Laurel Cemetery on Saturday. As a matter of fact, I spent just about two hours going over the cemetery in search of tombstones which I had hoped would be there with the inscriptions of the relatives which I have mentioned, and the cemetery itself was in a deplorable condition. It was likened unto a city dump I would say because of the trash strewn over it, discarded furniture and other debris. It was very difficult to find a tombstone, if you were searching the ordinary cemetery with tombstones, there they were lying on the ground.

Q At this time you understand the bodies are purported to have been removed from that cemetery. So that as of this time on Saturday when you went out to visit those lots, did you see any tombstones remaining?

A When you say "remaining" you mean there?

Q What, if anything, did you see?

A There were many whole tombstones lying on the ground,

partially buried in the soil and it just took a matter of brushing the soil aside to read the inscriptions thereon. There were others in a hole about three feet deep and it took very little effort to stand on the edge of the hole and look down and read the inscriptions thereon. There were many broken tombstones and posts also lying on the ground.

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Q Tell us what, if any,whole tombstones you saw and if there were any names of deceased upon them.

A There was a whole tombstone which read in the memory of Julia A. Warden, wife of Robert Warden, born May 5, 1850, died September 5, 1885. This was a tombstone about the size of 14 by 18 inches and about 3-1/2 inches thick.

There was another which read Olive J. Meyers, died April 18, 1890, and Charlotte Meyers, also 1890, aged 97 years.

There was a small head post which read Caroline M. Barnes. There was another partial stone which read John B. Lewis, September 17, 1880, February 16, 1923, from Sophia Watty.

MRS. MITCHELL: No further questions.

MR. MYLANDER: No questions. I renew our motion.

THE COURT: Overruled. Same ruling.

(Testimony of the witness concluded.)

Thereupon---

ELLA IRENE BROOKS,

a witness of lawful age,produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: What is your name and where do you live?

THE WITNESS: My name is Ella Irene Brooks. This is for the identification of Mr. McAllister. 1004 Hammonds Ferry Road, Glen Burnie, Maryland.

THE COURT: She said this is for the identification of Mr. McAllister.

THE WITNESS: This is for the identification of Mr. McAllister.

THE COURT: Mr. Lloyd McAllister.

THE WITNESS: Mr. Lloyd McAllister, yes.

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Mrs. Brooks, you have heard testimony in this

Court concerning the activities of the Laurel Cemetery Improvement and Protective Association. Are you familiar with that organization?

A I am very well familiar with that organization.

Q Will you tell us the circumstances under which you became active in it, if you were?

A I became active with an advertisement in the Afro-American in the year 1948, of any interested persons that had persons that owned lots in Laurel Cemetery to attend a meeting at Centennial Methodist Church. My sister and I attended the third meeting. The first meeting we were not there. The previous minutes were read and it was understood that Mr. John Kaufman was in contact with Mrs. Isabelle Berry, who was then voted as the president of this organization. The purpose of this organization was to clean Laurel Cemetery.

Q What, if anything, did you do, did your association do?

A The association, the Laurel Cemetery Protective and Improvement Association started to raise money and I have cancelled checks and bank deposits. On the third meeting I was elected treasurer of the organization. The first deposit

was made --

Q Approximately how much did you raise?

A From 11/48 through February of 1950, we raised -- well, I only have records of $1016.54 altogether.

Q At any time were you present when your association contacted with any person, if you know, to clean up and make repairs of said cemetery?

A Yes. As I said, we started raising funds, according to the deposit slip of 11/48, a deposit of $248. When I took over the books there was a deposit from November 1948 to April 1949, there was $331.31 in the deposit in the Maryland Trust Company. I was working and am still working for the Social Security Administration. I was working then at the Maryland Trust Building, the Maryland Trust in one of its offices so that's why they elected me treasurer so I could deposit the money for them. When I took over this --

Q Just to make it a little brief, who did your association contract with to do the work?

A In April of 1949 the association contracted with the Veterans' Tree Company. A Mr. Theodore Roberts, Jr., was the manager. We contracted to clean up Sections B and C. I

don't remember exactly the measurements of that section. Our purpose was to clean up Sections B and C, Your Honor, because B, as you enter the cemetery, is on the right, Section C on the left running along Belair Road. So we paid the Veterans' Tree Company $423 approximately. Then I made a deposit after we paid the Veterans' Tree Company the $423, then we decided we would not further contract with them, so that we could go on an individual basis. We hired two men and their names were John Powell and Brody Powell at 90 cents an hour. We paid them the difference of $1016 and the $423 that we paid the Veterans' Tree Company. Here are cancelled checks of the Veterans' Tree Company.

THE COURT: I don't think anybody is questioning your account.

THE WITNESS: You see, I work for Social Security and I believe in keeping accurate records.

Q Mrs. Brooks, did you have occasion, as a member of this association, to visit Mr. Kaufman's office?

A Yes, I went to Mr. Kaufman.

Q Approximately when?

A August of 1948. I don't know the exact date.

But the president, Miss Isabelle Berry, now deceased, the Reverend Baxter Matthews, Reverend Matts, and another Reverend Yurby, that was three ministers, Miss Isabelle Berry, Mrs. Anita Scott, who has testified already, and I would say about seven or eight other persons, including myself, were there.

Q All of these persons were lot owners?

A They were lot owners, but I don't think Reverend Matthews or Reverend Matts were lot owners. Reverend Matthews represented Union Baptist Church.

Q I believe it has been previously testified the Centennial Methodist Church is where the meeting was held.

A That's correct.

Q And the Reverend Matthews was the pastor of the Union Baptist Church. He maintained the lot owned by the late pastor Harvey Johnson in Laurel Cemetery.

#39 A We went to Mr. John Kaufman's office, I remember very distinctly it was on Pleasant Street, I think the number is 100, but I know it was on the second floor, and is a very small office, there wasn't enough room there so some had to be out in the hall. We made an appointment and he was present.

Q Was that the first meeting?

A No, I went to the second meeting.

Q Was that the first meeting you went to?

A Yes, in Mr. Kaufman's office.

Q Had there been a prior meeting by your association in Mr. Kaufman's office?

A No, not that I now of. I have been to Mr. Kaufman's office two times. The second time he wasn't there. We had made the appointment but he didn't show up. The purpose of the first meeting -- I did not attend Centennial Methodist until the third meeting. The purpose of this organization of being formed was that they were about to condemn the cemetery and we went to ask Mr. Kaufman what he intended to do in assisting us in cleaning the cemetery.

Q When you say "condemn the cemetery" what do you mean?

A Not to condemn it but to probably take it over, not to condemn it. Our purpose was when we went to Mr.Kaufman's office to see what assistance he would render us in helping us to clean the cemetery and there was a lot of lot owners who had met at this church who did not have deeds and they went to see whether Mr. Kaufman would issue them duplicate

deeds.

Q Did anyone receive duplicate deeds?

A No one received duplicate deeds.

Q According to your knowledge --

A Do you want me to tell what transpired?

Q Yes.

A We asked him what assistance would he give us. He said that there was no money coming into the cemetery and he was in no position to help us but that we could clean it up at our own expense.

Q What about duplicate deeds?

A Well, from the conversation he said that he would look the records up and probably issue duplicate deeds, and that was about, I think it was about ten or twelve that we had at that meeting.

Q Subsequent to that what happened?

A Subsequent to that?

Q After that meeting you had occasion to go back to Mr. Kaufman's office, did you not?

A Oh, yes. On the same situation.

Q Was that during the same year?

A Yes, while we were cleaning up in 1949.

Q I believe you said the first meeting was in 1948, August?

A Yes, the first meeting was in 1948. The receipt here says March 10, 1949,to the Veterans' Tree Company. I imagine that was the exact date the cleaning had been completed.

Q When did you go back to Mr. Kaufman's office, if you remember?

A It was in the year 1949. We went to see whether he could --

Q To see what?

A We had received, the president had received a communication, I don't know whether by letter or by telephone call, that Mr. Kaufman wanted us to give him $100 to help defray the expenses of spraying the cemetery. You see, we had cleaned the front part of it and he wanted us to give $100 and we voted no, we were not going to give him any $100 to help him spray theback part of that cemetery because it was his responsibility to see that the roads and the paths were maintained.

Q That second meeting at which you went back --

A He was not there.

Q Did you make an appointment?

A We had made the previous appointment. I would never have gotten off from work if the appointment had not been made.

Q Approximately how many people went?

A It was a good crowd. I remember those steep steps. Mrs. Mollie Bowen was present at that meeting and I think Mrs. Anita Scott was there. But he did not show up.

Q You proceeded then with your cleaning operation?

A We proceeded with our cleaning until our money became exhausted and the balance was 62 cents in the Maryland Trust Company.

Q Mrs. Brooks, you have relatives who are buried in the cemetery?

A Yes. My dear mother was buried in that cemetery August 3, 1950. I have been in constant contact with Mr. McAllister, been to his office twice, andhe has called me --

Q Proceed.

A He has called me on the phone at my home at South 6-8717. I went to Mr. McAllister's office on the 5th floor

of this Court House, I think 507. My first visit was after the cemetery had been bulldozed and I was on the bus --

Q Approximately when was that?

A I was on the bus November 14, 1958. There was a lady in front of me that had an Afro and the headlines said "Laurel Cemetery being bulldozed" or something like that, with a picture and I screamed. The people in the bus turned around and said, "What on earth is wrong with that lady?" So I tapped her on the shoulder. I said, "Will you please give me that Afro?" That was the first notification, Your Honor, that I had known that bulldozers had come in and had started. I didn't know when they actually started but by this article being in the Afro, my attention was called to Laurel Cemetery being bulldozed.

Q That was when?

A November 14th issue of the Afro 1958.

Q Thereafter you contacted Mr. McAllister?

A Yes. First I tried to locate the cemetery from the description that was in the Afro. I went up to Eldersburg that following Sunday, November 14th was Friday, that was the 16th of November, I had my brother with me and we traveled

up to Eldersburg but we could not find the cemetery. We were not too far from it. For that reason I called the Armacost Funeral Home and they gave me Mr. McAllister's telephone number.

Q Thereafter you did call him?

A I called him.

Q How long after you saw that article dated November 14th?

A Well, this is still in November that I made my first visit to Mr. McAllister's office and I pleaded with him. I asked him, I said, "What have you done with my mother's body?" So he went on to say that this cemetery had been condemned. I said, "If you had properly notified people that read the Afro," and he said "We published in the Daily Record." I said, "Listen, the Daily Record isn't a layman's paper, it is for lawyers and real estate dealers and people interested in that kind of business." So in the first meeting with him Mr. McAllister said -- in the meantime, before I went to his office, I found the cemetery up there in Eldersburg. There were only a few rows of stones up there.

Q Approximately how many?

A Well, then it was only -- there were stones on both sides, I would say about ten to thirteen rows of stones on both sides of the cemetery in Eldersburg. Well, I searched for the stone. There was no part of the stones that my grandfather purchased, my sister has the deeds there. Wait a minute. I have the dates here. He purchased one November 17, 1877, he purchased one February 26, 1900, and the third one was February 23, 1901.

MR. MYLANDER: Gracious, how old is this lady?

A I am talking about my grandfather. I copied these papers from these deeds here where he purchased these stones. Then I have in my possession, Your Honor, this memorandum. In the center -- that was 80 square feet in the center, 240 square feet which comprised three lots, there was a monument, six posts and two markers. One marker had "Mother", the other one "Father". The monument in the center had a square base, a smaller square base, then a taller monument that had the names inscribed on it of the deceased persons, when they died. But my mother, who was buried in that lot in August 1950, we hadn't her name inscribed on the stone. This is the receipt that my grandfather purchased that monument, markers

#40

and posts, October 24, 1901, for $198. After we found the cemetery in Eldersburg and I had looked at the entire thirteen rows -- I say thirteen, it was not much more than thirteen rows, we looked at every stone and there was no part of the monument or markers there.

Q When was the last time you saw that stone in the Laurel Cemetery on Belair Road?

A Another part, the bottom part, I don't know whether it is the smaller part or square that sits on top of the -- it was two squares. It is still in the ground at Laurel Cemetery.

Q When you say Laurel Cemetery, you mean Laurel Cemetery on Belair Road?

A I don't even consider that anything up there in Eldersburg. I am talking about Laurel Cemetery on Belair Road. The base of that stone is still there because after we had looked at the Eldersburg Cemetery, which they purchased from Mr. Collins in Eldersburg, I went with my brother and Mrs. Scott was with me. This was still in November of 1958, and I said, "Oh, they have not disturbed my lot at all," I said to my brother, and then my brother took his foot and

kicked and there was still the ivy that was planted on my mother's and grandfather's graves, I said, Oh, well, there is still the base stone." So when I went to Mr. McAllister I explained all this to him. The weather was then beginning to get very, very cold. I remember very definitely it was an extremely cold Saturday and it was around dinner time, around six o'clock, I got this call from Mr. McAllister personally, but he had been up to Eldersburg and he gave these names. Walden T. Clark. These are the names that were on these stones,and this is from the telephone conversation. Eleanor Clark and Martha Clark, that is my grandmother. Then he called some more names on the stones that were inscribed. He said, "Mrs. Brooks, I have looked at your stone, it is on the end of Row 13." That very next day my husband took me up to Eldersburg and the top part of that stone is stuck in the ground with these names I related are inscribed on and the dates of their deaths, dates of births and dates of deaths. That stone is still up there in Eldersburg, but the other part of the stone and the posts and the markers are gone.

Q Approximately how many of your relatives were

buried in the old Laurel Cemetery, if you can remember, just generally?

A My grandfather, my mother, my brother, the little baby who was buried in 1952, that is five. I would say around nine anyhow.

Q Altogether approximately how many lots did your family have in the cemetery?

A Three lots, the deeds to three lots.

Q Did you ever visit those graves in the Laurel Cemetery?

A In Laurel Cemetery?

Q Yes.

A Yes, we visited them all the time.

Q How often?

A Three to four times a year.

Q When was the last time before the time you went looking for your tombstones, when was the last time you went to visit the graves?

A The last time I visited was July 1958, that I visited.

Q Did you maintain and keep up your family lots?

A My sister maintained them and we always paid Mr. Hamlet, as he has testified already, to keep up those lots.

Q Did you observe any other lots that were being maintained in the cemetery?

A Oh, yes. As you go to the left there was the Russell lot and the Lewises, relatives of mine. Of course, after the removal some of those, they removed some of those, and the huge stone that was just in front of my lot, Mrs. Thomas. That is a huge stone that towers so many feet in the air. Then from our lot we could see the Reverend Harvey Johnson lot, his big tombstone. Then another tombstone --

THE COURT: She isn't going to mention all ofthem, is she?

Q There are a number of lots which were still being maintained?

A Oh, yes.

Q As late as July 1958?

A As late as July 1958.

MRS. MITCHELL: I will ask the Clerk to mark these for identification as Exhibits 22, 23 and 24.

(Papers designated as Plaintiffs' Exhibits 22, 23

and 24 for identification.)

Q Mrs. Brooks, these papers purport to be deeds from the Laurel Cemetery of your deceased ancestors who were interred there?

A Yes, sir.

Q On all of those deeds there appears the cemetery seal, does it not?

A Yes.

Q And I believe you have had occasion to see other deeds, the cemetery seal appears on all of the deeds, does it not?

A Yes, I believe it does.

Q One other question while we are waiting for these deeds. If at any time Mr. Kaufman or the New Laurel Cemetery Company had offered a program of perpetual care of your burial lots, would you have cooperated?

A Definitely.

MR. MYLANDER: Objection, Your Honor, in addition to the running objection.

THE COURT: I will sustain the objection. I don't think that adds anything to the issue involved here.

Q Mrs. Brooks, I show you these papers identified as Plaintiffs' Exhibits 22, 23 and 24, purporting to be deeds from the Laurel Cemetery Company; Plaintiffs' Exhibit 22 showing a grant from the Laurel Cemetery Company to Waldon P. Clark, one lot of ground numbered 122, in Section B, containing 80 square feet, under date of 26th of February, 1900; and Plaintiffs' Exhibit No. 23 purporting to be a deed from the Laurel Cemetery Company to Waldon Clark, his heirs and assigns, one lot of ground in Laurel Cemetery numbered 140, in Section B, containing 80 square feet, dated 23d of February 1901; and a deed which is Plaintiffs' Exhibit 24, deed numbered 13 from the Laurel Cemetery Company to Waldon Clark, number 131, in Section B, under date of November 17, 1877. Are those the deeds to which you have referred?

#41 A Yes.

MRS. MITCHELL: I would like to offer them in evidence as Plaintiffs' Exhibits 22, 23 and 24.

MR. MYLANDER: Same objection.

THE COURT: Same ruling.

(Deeds referred to received in evidence as Plaintiffs' Exhibits 22, 23 and 24.)

Q At any time have you abandoned your lots in the Laurel Cemetery on Belair Road?

(Question objected to.)

THE COURT: Same ruling for the same reason.

Q Did you at any time abandon your lots?

A I have never abandoned those lots.

Q Have you had any intention of abandoning them?

A No, and my mother's bones are still interred in that lot at Laurel Cemetery plus the others. I contacted Mr. McAllister the second time and told him --

Q When was this?

A This was very cold weather. Let's say December of 1958. And I told him, that is when I told him there wasn't any stone up there in Eldersburg, thinking he made an arrangement. I said, "Would you give me permission to go into Laurel Cemetery and dig into that ground and remove my mother's and my other deceased family's bones from the cemetery?" He says, "No, Mrs. Brooks, I can't give you that permission but I will tell you this, I will make arrangements with the gentleman -- I can't think of his name now -- but hemade an appointment and we met him, my sister, Mrs. Dyer and Mrs. Scott and I, and

my husband drove me out to Laurel Cemetery. Mrs. Scott was already out there. We had an eleven o'clock appointment. I remember very definitely that he was an hour late. He apologized and he had the gentleman hired by the Armacost Funeral Home to remove the bodies.

Mrs. Scott took him to her lot and we showed him there were still under the brush and debris, there were still parts of stones sticking up from the ground. That was in the back section. And Mr. Hamlet was with us at the time and we showed him. We said, "There are stones there that you haven't even attempted to remove," and Mrs. Scott said, "Well -- Mr. Hamlet told Mrs. Scott, that's where your mother's body is buried."

I said, "Well, probably," I said, "Maybe one of those stones is there," but being such bad weather, I mean so extremely cold and it had started to snow --

Q Who were present at that time?

A Mrs. Scott, my sister, Mr. Hamlet and the gentleman who Mr. McAllister had contacted to meet me at the cemetery at eleven o'clock but he was one hour late. So then I said, "Well, you come and I'll show you exactly where my mother's

body is buried." We took him to the exact piece of ground and what they had done, they had just taken some soil and piled it on top of the lot, I guess it made the pile of dirt that high or maybe that high (indicating) and I told him, we stood right on my mother's grave, I said, "That's where my mother is buried." He said, "Well, I'll see." I said, "I want to be present when you dig into this ground, I want to make sure you are digging the right place," because my mother had very thick hair, she could sit on her hair, I said "Since she was buried in 1950 I understand hair does not deteriorate too fast and I want to be sure you are getting the right grave."

So then we went home because it had begun to snow and I came back about a week later. That place looked like Noman's Land. They had dug every place but where our lot was located. We could see handles of coffins and parts of wood. It seems like he had attempted to go to her lot but he had just missed it by about two feet. So I still contend my mother's bones are still in Laurel Cemetery.

MR. MYLANDER: If the Court please, I wish to renew my objection. As horrible as these things are this lady is talking about, it has nothing to do with the issue.

THE COURT: I will sustain the objection as to her conclusions.

Q Have you in any way been reimbursed for your interest in those lots?

A I haven't been reimbursed in any way.

Q Briefly will you describe to the Court the new cemetery now located in Eldersburg, Maryland?

A Yes.

Q Approximately how far is that from Baltimore?

A Eldersburg I would say is around twenty to twenty-two miles from Baltimore City. It would be an additional ten miles from where I live.

Q Have you ever been given a deed to a new lot?

A No, I haven't been given a deed to a new lot.

Q You made some disparaging remarks about the new cemetery; briefly would you describe to His Honor the new burial ground that has been selected for the interment of the bodies that were in Laurel Cemetery?

MR. MYLANDER: I wish to interpose an objection.

THE COURT: Is this germane to the issue?

MR. WILLIAMS: I would suggest, Your Honor, that

it is because I believe the decree of the Court ordering the removal of the bodies says the bodies are to be removed to a suitable place. I think this would be germane if it is unsuitable and we would like to have testimony on that issue.

MR. COCKRELL: Also on the ground we are attacking the previous decree too. By the statement that the decree directed certain things does not mean we are yielding anything.

THE COURT: Very well.

MR. HUGHES: This is an additional reason, Your Honor. It seems to me we are under a condemnation proceeding, their very duty is to remove the bodies to a suitable place -- it is our contention that these people had a fee simple lot and now they have nothing.

THE COURT: I will accept this testimony subject to exception also.

Q Now would you describe to His Honor the new Laurel Cemetery now located in Eldersburg, Maryland?

A On November 16, 1958, I believe we did not locate the cemetery. We went the following week, in the middle of the week. Mrs. Scott --

THE COURT: Will you describe it first?

Q Just generally.

A Well, we saw these few stones, they were set up in a corn field, it had previously been a corn field, and the stalks still remained, because we tried to pull up a few of the corn stalks and we were not able to do so.

Q Did you have a hard time finding it?

A No, not the second time, after I had gotten instructions as to how to go out there.

Q Was there any fence around it?

A No fence at all. There was a road and the road down to a certain distance had the white stones about so large (indicating).

THE COURT: Gravel?

A Yes, gravel stones about so large (indicating) in the center, then there were these about rows of stones. Then there was a young fellow and he had some sort of a crane-like thing that helped him to lift those heavy stones up, he was in the process of erecting those stones then. In the back of the cemetery, I would say about a hundred yards or so, there was a pile of stones. So we looked through them to see if

we could identify Mrs. Scott's mother's stone but we were not able to, there were just a few broken stones but no posts, just a few monuments.

Q At any time in your conversations with Mr.McAllister were you asked for help in locating the lot owners?

A No, indeed. In his conversation to me Mr. McAllister said he tried to get -- he said "We" -- I guess he meant Mr. Kaufman and Mr. Mercaldo and himself -- "We tried to get Hamlet to remove the bodies."

Q But no mention was made about the lot owners?

A No.

Q Were you ready, willing and able to assist him, if you had been called on at that time in early December 1958, to find other lot owners?

A I would have.

MR. MYLANDER: In December of 1958?

THE WITNESS: In December.

MRS. MITCHELL: I would like to point out these preliminary proceedings in this Court were not closed until the filing of the auditor's report on March 20, 1959. Indeed the report of the trustee wasn't filed until January 27, 1959,

and it is our purpose to show that before those proceedings were closed out information about the lot owners did come to the attention, information as to the whereabouts of lot owners did come to the attention of the McKamer Realty Company.

MR. ATWATER: I think your dates are wrong. The report of the trustee was filed on July 17, 1958.

MRS. MITCHELL: This was a report of the trustee but that was the first report of sale, a copy of the contract of sale and the contract with Mr. Armacost. However, on January 27, 1959, report of trustee was filed, Exhibit No. 65.

MR. ATWATER: That is a report of what had been done in accordance with the prior orders of this Court, is that what you mean?

MRS. MITCHELL: That is correct.

Q Mrs. Brooks, if you had been contacted by any member of the McKamer Realty Company before this action commenced, would you have been ready, willing and able to assist in locating other lot owners?

A I would have because, as I say, being the treasurer, we have on our list over three hundred names and their addresses of lot owners.

Q Now, this final question. During the course of the activities of your association, did you retain counsel to represent you?

A We did. We had to pay, just as I said --

Q What are their names?

A Mr. Donald Murray and Mr. Robert Watts.

MRS. MITCHELL: No further questions.

MR. MYLANDER: If the Court please, I move that this testimony be stricken out, and if I might ask one question without abandoning my exception, I would like to do so.

THE COURT: You may proceed.

CROSS-EXAMINATION

By Mr. Mylander:

Q Mrs. Brooks, you knew that this work was being done under a Court proceeding in November 1958?

MR. ROBINSON: Objected to. There is nothing to that.

THE COURT: Overruled.

MR. ROBINSON: Exception, sir.

Q Did you or did you not?

A I told you that I saw in the Afro, the November 14,

1958, which was a Friday issue I was on the bus. May I relate the dream I had that morning?

THE COURT: Oh, no.

A It is very short. November 14, 1958 okay. Forget about it.

THE COURT: Mrs. Brooks, I have considerable difficulty ruling on the evidence without having to rule on the meaning of dreams.

THE WITNESS: This is pertinent to the case.

THE COURT: No, I can't let you tell me about that.

A Okay. I had no knowledge of any excavating until November 14, 1958 issue.

Q On that date you learned then that it was being done under Court order, did you not?

A I didn't read that about any Court order.

Q When did you find out it was being done under Court proceedings?

A I never found out about it being done under Court proceedings.

Q How did you get Mr. McAllister's name?

A The Armacost Funeral Home was mentioned in the

Afro-American and I called them and they referred Mr.McAllister's name to me.

Q Didn't you then learn that it was being done under Court proceeding?

A I don't understand your question.

Q I am asking you if in the course of your talks with Mr. McAllister --

A Well, he had removed the bodies then in November 1958.

Q Mrs. Brooks, don't argue with me, I don't want to argue with you. I asked you if you learned then that it was being done under a Court proceeding?

A I had no knowledge of any Court proceeding.

Q You did not learn in the course of your talks with Mr. McAllister that it was being done under an order of Court?

A No.

Q That is your answer, is it?

A Yes.

Q That is your answer?

A That is my answer.

Q Did you subsequently learn?

A Yes, of course.

Q When did you subsequently learn this?

A Since I have been attending meetings here.

Q Will you repeat that answer?

A Since I have been attending Court hearings.

Q You didn't know it until you got in Court here?

A That's right.

Q Are you a party to any of these petitions to intervene? Are you a party to this case?

A Yes.

Q Who is your attorney?

A My attorneys are these attorneys sitting right here.

Q And you first learned about this previous proceeding since you have been sitting in Court?

A I mean the legality part of it.

MR. MYLANDER: No further questions.

(Testimony of the witness concluded.)

Thereupon---

AMBROSE T. HARTMAN,

a witness called by counsel for the plaintiffs, having been

duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Your name and your official position.

THE WITNESS: Ambrose T. Hartman, Deputy City Solicitor for Baltimore.

DIRECT EXAMINATION

By Mr. Williams:

Q Mr. Hartman, how long have you been Deputy City Solicitor for the City of Baltimore?

A Since July of 1959.

Q Are you here as the Deputy City Solicitor representing Mr. Harrison Winter, who is the City Solicitor?

A I have been designated by Mr. Winter to bring in the papers you subpoenaed.

Q In other words, you are here in response to a subpoena to bring in certain records that were requested?

A That's right.

Q Do you have those records with you?

A Yes, I have.

Q Would you briefly check them to see what you do have there?

A The subpoena referred to File No. 85512 and I had the woman who is in charge of our files pull No. 85512 and I have that complete file in my hands. You asked me what it is about. Mainly it involves an opinion or request for an opinion, rather, from the Planning Commission of the City to the City Solicitor back in the spring of 1950, and in response to that opinion, rather, in response to that request for an opinion, one went out of the office under the signature of Thomas N. Biddison, then City Solicitor, and also under the signature of Lloyd G. McAllister, Assistant City Solicitor.

The request was mainly if the City decided to go ahead and acquire Laurel Cemetery, what procedure would be necessary to follow in any condemnation proceeding.

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Q What was the date of that opinion?

A April 5, 1950.

Q To your knowledge, Mr. Hartman, have any papers at any time been removed from that file?

A To my knowledge, no. I might say on the outside of the file I see this note "Photos come this file." But there aren't any photographs in this file.

Q Are there any complaints in that file regarding

the condition of Laurel Cemetery going back to 1920?

A I don't recall that there are any complaints in this file, no.

Q Do you know of any other records that are in the City Solicitor's office that might pertain specifically to the condition of Laurel Cemetery, the City's interest in it, or the interest of any particular member of the City Solicitor's staff, in the Laurel Cemetery?

A I do know there are other files in the office, I have gone through two of them because this subpoena of yours was so worded I wanted to satisfy myself it was not within the terms of it. These other files were not within the terms of it.

With respect to complaints, there is one file which contains nothing but complaints and that file relates to a period back in the 1930's. I believe it was the late 1930's.

Q Did you find any file that had in it an opinion by the former City Solicitor regarding the claim of the Federal Government against the City of Baltimore for reimbursement for lots taken when Belair Road was widened?

A No, sir; if there is such a file in the office, I have not seen it.

Q And about thisfile that deals with complaints, is that a separate file that deals exclusively with complaints?

A As I recall it, that is the only subject of that file. I am not positive of it. There may be some collateral things in the file. But that is mainly what the file is comprised of.

Q Of course, you have testified you have only been in the City Solicitor's office for a short time, but could you tell us if it is the practice or if it is the duty of the office of the City Solicitor to receive complaints about the condition of properties around the City, is that part of your function?

A Of course, a lot of taxpayers have a different concept of duties of the City Solicitor's office than I have, and we get letters all the time from persons we don't think are of any concern to the office, but we can't prevent people from sending them in.

Q Would those complaints in due course be forwarded to the appropriate department of the City that might deal with

that situation?

A That is hard to say.

Q In this particular situation, for example, what would be the appropriate City Agency?

A I don't know offhand. I don't believe there is one.

Q If a complaint came to your office about a sanitary situation, would you report it to the Department of Sanitation?

A Would probably refer it to the Health Department, yes.

Q And if a complaint came about the Police Department, would you refer that to the Commissioner?

A Yes, I think I probably would.

Q Do you know what the policy of the City Solicitor's office is with respect to getting new legislation passed that would apply to Baltimore City?

A I can say it is one of the functions of the City Solicitor's office that if the administration, that is the Board of Estimates or the City Council is interested in particular legislation being enacted in Annapolis, that we would prepare the legislation and appear in Annapolis before committees in support of it.

Q Do you conceive it as a function of the City Solicitor's Office to advise the various City Departments on laws that have been passed that relate particularly to the function of that particular department?

A Oh, yes, I think that is one of our biggest functions.

Q Then would you know of any reason why a City Department might not be advised of a new law that would apply to that Department, where it had been passed by the State Legislature?

A I don't know as I can answer that. If you could be a little more specific.

Q Let's go to two specific cases. I think the record will show that on June 1st, 1957, a law was passed by the General Assembly of Maryland authorizing, among others, any department of the City interested in the condemnation of cemeteries, to proceed with the condemnation under certain conditions. The Police Commissioner testified that he knew nothing about that law until he came into Court I believe. If such a law were passed, would you conceive it as a duty of your department to notify department heads of the existence

of that law?

A That's hard for me to conceive of, not knowing of its existence. I suppose I would assume that they did. I can't say I would feel any particular obligation to call it to anyone's attention; no.

Q Isn't the Law Department of the City of Baltimore generally charged with the responsibility of advising the various departments of the City on legal questions?

A Yes, if they ask us for such advice, but I don't go around volunteering.

MR. MYLANDER: If the Court please, this is consuming an awful lot of time. If he wants to ask the witness if they concealed this act from other departments or whether Mr. McAllister or Mr. Mercaldo conspired with anybody in the City Government, I think he should get it out.

MR. WILLIAMS: I wasn't, Your Honor, trying to cast aspersions on anyone. I want to find out what the policy is and if it has been followed.

A I would say that the policy is this; upon request, we render legal advice to departments and officers of the City Government.

Q What is the policy in your office with regard to the files of that office? Are they under the custody of any particular individuals?

A We have a woman, Mrs. Greenstreet, who is in charge of the files physically. I think like any law office a particular file assigned to an assistant is to be handled pretty much in his discretion as to who would be allowed to see what is in a particular file. I think that is a matter of professional discretion you might say.

Q Are the files of that office available to the assistants for their own personal use?

A Again that is an awfully difficult question to answer without something more specific.

Q I don't know how I can make it more specific. Is a file that is being handled by a particular assistant to be used by that assistant for his personal use?

A Let me give you an example. If I were working on a case in the City Solicitor's office and I had to draft a particular kind of pleading and I needed a prior case with a similar pleading, I would feel perfectly free in using that form in a private case. That is why I say the question

is awfully difficult to answer in the abstract.

Q Are the files available to be taken out of the office by whoever is working on them and used for purposes of testifying in non-City litigation?

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A May it please Your Honor, I am trying to answer these questions but I don't see how I can possibly answer a question like that.

MR. ATWATER: The obvious answer is that they were turned over to the attorneys in this case for our inspection.

THE COURT: The answer is that he cannot answer the question as put to him.

Q Mr. Hartman, I have a great deal of sympathy for you, I know you haven't been in the office very long and you are not familiar with the background of this situation, so that I believe you are being perfectly honest with us. I will return this file to you and I would hope that before the effect of this subpoena is terminated Your Honor might find it necessary to request that any other records that are in the office that Mr. Hartman can easily put his hand on that might pertain to this whole question, might be brought in.

THE COURT: Very well. Anything else you might find within the scope of this matter you might bring in.

THE WITNESS: So far as I know, this is everything in the office relating to this file number.

DIRECT EXAMINATION

By Mr. Cockrell:

Q May I ask you this? You mentioned there were other files that you closely examined --

A I don't know as I said closely examined.

Q After you examined the terms of the subpoena, there was a determination that those other files would not come within the scope of the subpoena?

A Yes, sir.

Q Could you identify some of the other files that might have some bearing on the Laurel Cemetery issue, some that would be most outstanding?

A There are only two which I have examined. There was the one containing the complaints and there was one file made up by a former City Solicitor, Hugo Ricciuti, in which he investigated the conduct of certain members of the office with respect to this Laurel Cemetery transaction.

Q And you determined that was not within the scope of the subpoena?

A Yes, sir, I did.

Q Could you identify that file?

A I don't know offhand the number of it, no.

DIRECT EXAMINATION

By Mr. Robinson:

Q Mr. Hartman, have you had occasion to become familiar with Section 120 that counsel was speaking about concerning the condemnation in this case?

A No, sir, I have not.

Q Well, I understand from the previous City Solicitor the bases of the contentions among which the Court was asked to permit condemnation was that it was a nuisance and a public menace, and prior to that this certain Bill that Mr. Williams spoke about was enacted in the legislature, and I would like to know, and I am satisfied that what was in his mind was how would the Health Department, Police Commissioner or anyone else know that Bill was passed if the Law Department did not advise them as to their prerogatives under that?

A Of course, this is a matter of personal opinion

in that respect. I tried to indicate before I don't feel any obligation to call the laws of the General Assembly to the attention of every City Department as to how it may be affected by a particular piece of legislation. If they call on us for advice, that is something different.

Q Assuming there were bad conditions in a cemetery and there was no legislation in the department to remedy it, then some laws were passed, what would take place then, would the City Solicitor pick it up and tell them, here is your chance to clean up or something of that order?

A Yes, that throws a different light on it. If the City Solicitor was actively interested in a particular situation and some legislation were passed affording the City a remedy, certainly I would feel obliged to do something about it.

Q Now that you have had the opportunity to observe, do you see anything in the file to indicate anything of the City Solicitor's advice to the Health Department or Police Commissioner in such legislation as Mr. Williams mentioned was passed?

A I don't recall. As I say, this file related back

to the 1930's. I don't recall any reference to this legislation in the file.

DIRECT EXAMINATION

By Mr. Cockrell:

Q Mr. Hartman, in your opinion, is it possible that some material in the other files you have identified could at one time have been in the files we have subpoenaed?

A I don't see how I can answer that other than there is this written indication on the outside of this file "Photos come with this file," which indicates there might have been photos in this file.

DIRECT EXAMINATION

By Mr. Hughes:

Q Mr. Hartman, are you aware of any other condemnation proceedings against any other cemetery anywhere in the City pending?

A I know there has been some talk of a possibility of condemning a cemetery -- I forget the name of it offhand -- for highway purposes and there has been some question about the City's right to do it.

Q That is with respect to road building, isn't it?

A That is road building, yes.

Q I am asking you have any condemnation proceedings come to your attention against any other cemetery in the City of Baltimore under this new law?

A No, sir.

MR. MYLANDER: I think the characterization of it as a condemnation proceeding is in error, if the Court please.

MR. HUGHES: Well, that's what we are here on.

THE COURT: Let's get on, counsel, it is getting late.

Q Your answer is not to your knowledge, is that correct?

A That's correct.

MR. MYLANDER: We move the entire testimony of this witness be stricken.

THE COURT: Very well. Same ruling.

(Testimony of the witness concluded.)

Thereupon---

LILLIE M. JACKSON,

a witness of lawful age, produced on behalf of the plaintiffs,

having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Your name and your home address?

THE WITNESS: Mrs. Lillie M. Jackson, 1320 Eutaw Place.

DIRECT EXAMINATION

By Mr. Hughes:

Q Mrs. Jackson, I believe you are President of the Baltimore Branch of the National Association for the Advancement of Colored People, is that right?

A I am.

Q And there is a membership of how many people in that branch?

A 15,000.

MR. MYLANDER: I object. I don't see any relevancy whatsoever.

THE COURT: Overruled, still subject to exception.

Q In your official position as president of the N.A.A.C.P., have you had occasion to take any action or do anything with respect to the Laurel Cemetery?

MR. ATWATER: Object.

THE COURT: Will that really be germane to the issue as to whether or not the Court before was deceived?

MR. HUGHES: I think it will, Your Honor, with respect to the testimony that has been adduced here that as far back as 1948, 1949 and 1950 groups have been formed to improve the conditions at the cemetery, and there is testimony that in later years the cemetery was inaccessible to lot owners to get in, that no care was taken of the roadway and they were practically barred. But at that time the cemetery was owned and operated by another corporation.

THE COURT: All right, I will accept this testimony again subject to exception.

Q What, if anything, did you do, Mrs. Jackson, to try to aid in improving the situation?

A Mrs. Isabelle Berry, a woman member of our church, sought me to see about helping them to get in touch with a Mr. Kaufman and to improve the condition of Laurel Cemetery and we assigned Attorney Robert Watts to help Mrs. Isabelle Berry, a member of our church, to help them to clear up and straighten out this cemetery with a Mr. Kaufman. I personally tried to get in touch with Mr. Kaufman over the phone to appeal

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to his conscience, as being trustee of the Sharp Street Methodist Church and Mt. Auburn, which is a cemetery of which we have been trustee for thirty years. We thought we would get in touch with Mr. Kaufman and tell him, as cemetery owners, they were obligated to keep the roads up and to keep the cemetery in good condition at all times so that the lot owners could get to their respective lots.

I thought if I could get in touch with Mr. Kaufman as being an official of another cemetery, I could appeal to him to help these women who were so interested in their dead at Laurel.

Q Were you able to get in touch with him?

A Never able to get in touch with him.

Q Did you leave word to get in touch with you?

A I called and left my phone number but I phoned Mr. Watts, attorney of the N.A.A.C.P., to work with Mrs. Berry.

Q As trustee of the Mt. Auburn Cemetery, has your Board or corporation ever been approached by anyone from the Laurel Cemetery to permit reinterment in the Mt. Auburn Cemetery?

A No.

Q Is the Mt.Auburn Cemetery located in Baltimore City?

A It is.

MR. MYLANDER: That is one of our objections specially.

THE COURT: Yes, I will sustain the objection and strike out the last answer.

Q Mrs. Jackson, how long have you lived in Baltimore?

A All my life. I will be 71 on May 25th, 1961.

Q Were you personally acquainted with many of the lot owners and holders at the Laurel Cemetery?

A Laurel Cemetery had some of the finest Baltimoreans and Marylanders as ever put into being. Some of the finest ministers, finest doctors, finest lawyers, finest school teachers, men and women, who we honor in the City of Baltimore; men who walked the streets of Baltimore, women who walked the streets of Baltimore with dignity and helped to make Baltimore a better place for us to live today.

Q By the way, Warner T. McGuinn is named in their petition which was filed as one of the lot owners. Do you remember Warner T. McGuinn?

A I certainly do.

Q How long has he been dead?

A I don't know. He has been dead a long time. But he was a representative of the colored race and also our City Councilman.

MR. HUGHES: Witness with you.

MR. MYLANDER: No questions.

THE WITNESS: I would like to make this statement. Doctor Harvey Johnson, whose big monument was out there, who was Pastor of Union Baptist Church, who came from the north and built their church on Druid Hill Avenue, erected a wonderful building. He was our leader of N.A.A.C.P. in Baltimore, he opened up the schools for colored teachers, he opened up the practice of law for colored lawyers, he was a man of character, a Christian gentleman, and certainly it hurts the Baltimore people to feel that his body was bulldozed, because he was a man of character and a man whose assets to the City of Baltimore were respected by the Court, by the people of Baltimore, and who walked the streets with dignity. A Christian, a minister of the gospel, and certainly interested in the welfare of his people.

MR. MYLANDER: We move the testimony be stricken.

THE COURT: Overruled. Same ruling.

DIRECT EXAMINATION

By Mr. Cockrell:

Q Mrs. Jackson, when was it, if you recall, you had Attorney Watts to look into this matter for you, approximately?

A Well, it was in the late 1940's, 1949, or 1950.

Q You were asked about Warner T. McGuinn, does he have relations living?

A I'm not his relation.

Q Does he, to your knowledge, have relations or descendants living?

A Oh, yes, some of his children. I didn't know anything about those lots until I read it in the Afro that they went out there and bulldozed those fine colored people who bought lots out there, the type of beautiful cemetery, well-kept, until Mr. Kaufman got it and Mr. Kaufman neglected to keep it up. They complained to us over and over again about the refuse --

MR. MYLANDER: If the Court please, this isn't responsive to a question.

A (Continuing) When I saw Mr. Kaufman, when he bought that cemetery he was obligated to see that those lot

owners could get to their lots and the roads so that the undertakers could get to them. That's what we have paid for.

MR. MYLANDER: If the Court please, I object and move this last tirade be stricken from the record.

A I never had a chance to talk to Mr. Kaufman --

THE COURT: Very well, you may step down. Strike out the last answer.

(Testimony of the witness concluded.)

(Thereupon, at 3:30 p. m., an adjournment was taken until tomorrow morning.)

Court Copy

Fld. 29 June 1960

STENOGRAPHIC RECORD

IN THE CIRCUIT COURT OF BALTIMORE CITY

Docket A-267, 1959

424

IN THE MATTER OF

MAMIE E. KENNARD, et al.,

Complainants,

vs.

McKAMER REALTY COMPANY, et al.,

Defendants.

Before SODARO, J.

VOLUME IV

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January 26, 1960

A-39097 (35)

TRANSCRIPT FROM NOTES OF

CLARENCE P. GOETZ

Official Court Reporter

EQUITABLE BUILDING
BALTIMORE, MD.

OFFICE AND HOME
TELEPHONES

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IN THE CIRCUIT COURT OF BALTIMORE CITY

Docket A-267, 1959

MAMIE E. KENNARD, et al., :

Complainants, :

Before SODARO, J.

vs. :

McKAMER REALTY COMPANY, et al., :

Defendants. :

January 26, 1960

Pursuant to adjournment, hearing in the above-entitled cause was resumed on Tuesday, January 26, 1960, at 10:00 o'clock a. m.

Appearances:

Mrs. Juanita Jackson Mitchell
Mr. Archie D. Williams
Mr. Tucker R. Dearing
Mr. W. A. C. Hughes, Jr.
Mr. Paul J. Cockrell
Mr. Julius P. Robinson

Solicitors for the Complainants.

Mr. Walter C. Mylander, Jr.
Mr. Charles C. W. Atwater

Solicitors for the Defendants.

Thereupon---

ELLSWORTH ARMACOST,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Give us your name and business address.

THE WITNESS: Ellsworth Armacost, 4600 Liberty Heights Avenue, Funeral Director.

MR. MYLANDER: If the Court please, in order that I won't unnecessarily interrupt, I would like to reserve again a running objection to all the testimony.

THE COURT: Very well. All subject to exception and the same ruling.

DIRECT EXAMINATION

By Mr. Williams:

Q Mr. Armacost, you are Ellsworth Armacost?

A Yes.

Q Funeral Director?

A Yes, sir.

Q And around about the latter part of 1958 you were employed to remove bodies from the Laurel Cemetery?

A Yes, sir.

Q I believe, according to the papers filed in this Court, the fee for that work was about $15,500?

A Yes, sir.

Q Did you select the cemetery up in Carroll County or was that done by someone else?

A That was done by someone else.

Q It was your duty, then, to move the bodies from Laurel Cemetery up to the New Laurel Cemetery?

A Yes, sir.

Q The report shows that you removed some 480 headstones?

A That's right.

Q Does that mean you also removed the bodies?

A Whatever was left in those particular graves were moved to the New Laurel Cemetery.

Q Was it your opinion that you had removed all of the bodies from the cemetery?

A Yes, sir.

Q In making your removal, Mr. Armacost, did it appear to you that some of the bodies removed had recently been

interred?

A Only about three.

Q Those were situations where the caskets had not materially deteriorated?

A Yes, sir.

Q Did you remove, as far as you know, all of the headstones from the cemetery?

A Yes, sir.

Q How long a period of time did this work take?

A I think you have it in your records there. I don't know exactly. I submitted a final report on January 3d of 1959.

Q I believe I have that.

A I think you have that in your records; yes.

Q There has been testimony, Mr. Armacost, that there were a number of vaults in the Laurel Cemetery, did you remove any vaults at all?

A We removed one vault.

Q One vault?

A Yes, sir.

#46 Q And you entered into this contract with Mr. Edward

Anderson?

A Yes, sir.

Q All of your dealings were with Mr. Anderson exclusively?

A No, with Mr. Anderson and three other men that were doing the actual work. Put it that way.

Q The men who worked for you?

A No, they were employed by me to take care of the removal.

Q Yes, that is what I am saying.

A Yes, that's right. But the original contract was between Mr. Anderson and myself.

Q And you had no dealings with anyone else pertaining to the removal except Mr. Anderson?

A That's right.

MR. HUGHES: I would like to ask a few questions if I may.

DIRECT EXAMINATION

By Mr. Hughes:

Q Mr. Armacost, had you known Mr. Anderson prior to this transaction?

A No, sir.

Q Did you know anything about the McKamer Realty?

A No, sir.

Q And you knew nothing about Laurel Cemetery before this?

A No, sir.

Q Did you, before the removal, study a plat or map of the Laurel Cemetery?

A No, I did not.

Q Well, now, did you have a plat drawn of the New Laurel Cemetery in Eldersburg?

A Yes, sir.

Q Is it your contention that the bodies you removed were reinterred in single plots or double plots or triple plots, according to their removal from the cemetery?

A Whenever we had a stone that was legible they were put in single graves.

Q They were all put in single graves?

A Yes, individual graves.

Q So that if there were eight or ten people buried in the old Laurel Cemetery in two or three plots, all of

the remains were commingled in a single grave in Eldersburg?

A If there were eight or ten in one grave and there was only one stone, yes, sir.

Q Do you have any double plots at Eldersburg?

MR. MYLANDER: What do you mean by double plots?

A I don't understand.

Q I understand you have a single plot for single graves and sometimes you have double plots and maybe with larger families, have triple plots, isn't that true? When you say double or triple, do you mean the number of graves in a lot?

A Side by side, yes, sir. They are individual.

Q Side by side irrespective of size?

A Yes, side by side irrespective of size. They are all individual.

Q Have those markers which had been removed been re-erected?

A Yes, sir.

Q Do you have pictures of them?

A No, I have a list of every one that we installed there.

Q And that totaled how many?

A That totaled I would say 480 some all told.

Q You had no trouble establishing the names of the particular people you relocated according to monuments, is that true?

A Yes, sir.

Q The same way you did it anybody else could have done it?

A That's right.

Q Now, in your conversation with Mr. Anderson were you asked to enter into competitive bidding?

A No, sir.

Q You were simply asked to give a price?

A Yes, sir.

Q You know nothing about who owned the property in Eldersburg?

A No, sir.

Q Were you to do anything at the old Laurel Cemetery other than to remove the bodies and the markers?

A No, sir.

Q How were the bodies transported to Eldersburg?

A By automobile.

Q Sir?

A By automobile.

Q By truck?

A Yes, sir.

Q Did you supervise or sublet the work at the old Laurel Cemetery?

A Well, let's say I did both.

Q You did both?

A Yes, sir.

Q In cases of a marker or monument, I believe you called them, which had a substantial concrete base, were both removed or just the monument?

A In some cases both were moved. Other cases you had to put in new foundations.

Q Do you recall receiving a telephone message or call from a Mrs. Brooks?

A No, I don't recall that name but I did receive quite a number of calls.

Q You received quite a number of calls?

A Yes, sir.

Q And in these calls did the people ask for an opportunity to move their own bodies?

A No, sir.

Q You say no?

A No, sir.

Q None of them did?

A You are asking me something that is a little time ago. I couldn't swear to that.

Q Was it your practice to refer these calls to Mr. Mercaldo or Mr. McAllister?

A Yes, sir.

Q Of course, you don't know what happened then?

A No, sir.

Q All of these calls were about the bodies of the deceased people and reburials?

A Yes, sir.

Q And you don't recall any of them saying they wanted the privilege of moving their own?

A No, sir, I don't. I won't say it wasn't said but I don't recall because every call I had I referred.

Q Did you know where they called?

A No, sir.

Q Would you have any estimate of the number of calls you received?

A I would say about ten or fifteen.

Q How many trucks were engaged in this operation?

A I guess about fifteen from time to time.

Q And the bodies were placed in these trucks?

A Yes, sir.

Q So that really what it amounts to, Mr. Armacost, is this, isn't it, that every body in Eldersburg is mixed with everybody else's body?

A No, sir, I wouldn't say that. If we opened a grave and found three or four bodies in it that you or nobody else could distinguish, if you only had one stone, so I can't answer that.

Q Would those bones be boxed?

A We found evidence of three or four bodies being put in one grave with only one stone.

Q If you found bones in any grave --

A Yes, sir.

Q -- did you make any attempt to cradle or box them

and keep them distinguished from other bones?

A We have some that were marked unknown, if that's what you mean.

Q You had some marked unknown?

A Yes, sir.

Q How many out of the 450 odd did you have that you know of so marked?

A You are asking me something offhand. I would say approximately fifty.

Q So that all of the approximately 450 buried people who were removed from the old Laurel Cemetery to the new and whom you were able to identify according to markers, not according to bones?

A That's right.

Q According to markers, there are only about fifty which have been reinterred in Eldersburg that families could visit and know they are visiting their own, is that right?

A Yes, sir.

MR. HUGHES: That is all.

MR. ATWATER: Do I understand that question to be that only fifty are known?

MR. HUGHES: That's what you understood.

THE WITNESS: In other words, you mean 400 people can visit their relatives out there and know they are going to the right grave?

Q Fifty.

A Oh, no, there are only fifty that can't do it. You phrased that thing wrong.

THE COURT: That is what I understood him to say, fifty unknown.

THE WITNESS: I said fifty unknown, I didn't say four hundred unknown.

Q And you have the names of them?

A Yes, sir.

Q And the locations of those burials?

A Yes, sir.

#47 Q Have you made any effort whatsoever to notify the families of those people where they can find their lost deceased?

A No, sir, I have not.

Q Is there any caretaker on the place?

A Yes, sir.

Q You say yes, sir?

A Yes, sir.

Q He is permanently employed?

A Yes, sir.

Q By you?

A Not by me.

Q How do you know he is employed there?

A Because I was up there just a week ago.

Q On what date?

A I would say a week from today.

Q He was to meet you, wasn't he?

A No, sir.

Q Well, if I were to go there tomorrow and ask to be shown the grave of the late Reverend Harvey Johnson, there would be someone to direct me to that?

A I don't know whether he would be there permanently, no, sir, not unless they started to make new burials there now.

Q Incidentally, Mr.Armacost, after you had reinterred these bones, how much ground was left?

A I don't know offhand. I know there is plenty of room for other burials in there.

Q Do you recall the number of acres in this new burial ground?

A I would have to check that. You might have that in your records too.

Q Well, it is less than three, isn't it?

A Four and one-third acres.

Q And the bodies were transferred from between fifty and sixty acres?

A Yes, sir.

Q Has there, to your knowledge, been a single burial at the New Eldersburg Cemetery?

A No, sir.

Q Will you describe it to us?

A Well, it is, as I say, four and one-third acres of ground down near the Johnsville Road --

Q How far from the main road?

A I would say maybe three miles, four, not from the main highway. You go up towards Eldersburg Road and make a right-hand turn, but probably Johnsville Road is maybe quarter of a mile or half a mile. I am not a good judge of distance but it doesn't take you long to get there.

Q Do you know how far it is from Baltimore?

A How far is Eldersburg from Baltimore?

Q That's what I don't know.

A I don't know either, to be honest with you.

Q Would you term it accessible or inaccessible?

A Accessible.

Q On what sort of road, dirt road?

A You go off of the main highway onto a dirt road,yes.

Q And in rainy, inclement weather it is inaccessible, isn't it?

A Well, that would be true of many cemeteries.

Q But I am talking about Eldersburg.

A Yes, sir.

Q Is there any fence around it?

A No, sir.

Q Is it an open field?

A It is an open field, yes, sir.

Q How is it marked off or bounded?

A They have different rows, we have a west side and east side and we have a pathway down between them.

Q Do you have a plat?

A No, I don't have a plat brought here with me.

Q Do you have one anywhere?

A No, sir, I don't.

Q How many bulldozers did you engage?

A Two to fill in the holes.

Q How many did you engage to remove?

A Remove what?

Q Weren't the bulldozers sent out to remove --

A No, just a backloader.

Q What is that, a lift?

A That digs.

Q It digs?

A Yes, the same as all cemeteries use today.

MR. HUGHES: I think that is all.

THE COURT: Any other questions?

MR. MYLANDER: I move that the entire testimony of this witness be stricken.

THE COURT: There is one more examiner.

DIRECT EXAMINATION

By Mr. Dearing:

Q Mr. Armacost, you say you located these bodies in

individual graves?

A Yes, sir.

Q In Carroll County?

A Yes, sir.

Q Then why did you have so many open ditches there in April? What was the purpose of those long trenches you had across there in April of 1959?

A When you are making disinterments like that you will find that is true in every cemetery, you don't dig an individual grave but the bodies are put in individual graves. In other words, if you are moving fifty bodies you don't stand there and dig fifty holes.

Q What was the purpose in leaving so many open trenches that day in April of 1959, if you had finished the reinterment as of that time?

A I don't quite understand.

Q First I will ask you this question: When did you finish the reinterment in the Carroll County Cemetery?

A I think I answered that before. As far as I am concerned, the work was finished -- I believe you have it in your records there, I don't remember exactly the date -- but

it was in January when I filed a complete report with Mr. Anderson.

Q Why did you leave these ditches open then?

A I don't know what ditches you are referring to.

Q The ditches alongside of the tombstones that you had, you had deep ditches there about four feet deep --

A For foundations for stones? Do you mean for the interments to be made?

Q No, they were open ditches.

THE COURT: Do you know anything about open ditches?

A No, I don't.

Q And there were no open ditches up there?

A Not to my knowledge, no, sir.

DIRECT EXAMINATION

By Mr. Cockrell:

Q Mr. Armacost, did I understand you to say that you personally supervised the removal of these bodies?

A I wasn't there every day.

THE COURT: He said he did both, he supervised and he had other people to handle it.

THE WITNESS: That's right.

Q What would be your reaction to a statement that some of the bodies were not removed, actually removed?

A I would disagree with that.

Q You would disagree with that?

A Yes, sir.

Q I think you also testified that you only removed one vault, is that correct?

A Yes, sir.

Q Was that the only vault?

A That was the only vault that we found in the cemetery; yes, sir.

THE COURT: Anything else?

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Mr. Armacost, from whom did you receive your check in payment of services?

A From Mr. Anderson.

Q All of them were received from Mr. Anderson?

A That's right.

Q At any time were you shown the decree of the Court?

A Yes.

Q What did that decree provide?

A I think this is what you mean. An order signed by the Judge for the disinterment, is that what you mean?

Q No, the decree under which Mr. Anderson, the trustee, was to arrange with an undertaker for the removal of the bodies.

A Well, I have the contract here that was drawn between Mr. Anderson and myself. Is that what you mean?

Q No, the decree of the Court signed the 10th day of June 1958, under which Mr. Anderson made arrangements with you.

A No, I have a statement signed by J. Harold Grady, State's Attorney, an agreement to allow the bodies to be disinterred which were found in or about Laurel Cemetery located on the southeast side of Belair Road. That was dated September 18, 1958.

Q And what is that, a procedural release?

A You know more about this than I do. It says: "In pursuance of Article 27, Sections 265 and 267 of the Annotated Code of Maryland, you are hereby authorized, as requested in your letter of September 18, 1958, to disinter any remains.

You are also authorized to remove all gravestones and monuments located in said cemetery and to relocate said graves and monuments in the New Laurel Cemetery at Eldersburg, Carroll County, Maryland."

Q Was that addressed to you?

A Yes, ma'am.

Q In response to your letter?

A Yes, ma'am.

Q Why did you make such request?

A Because Mr. Anderson and I went into an agreement to remove the remains that were there.

Q And you had to have that permission of the State's Attorney?

A Yes.

Q Are you familiar with the Westview Memorial Cemetery in Baltimore?

MR. MYLANDER: I object.

A No, I am not.

Q Or the Mt. Auburn Cemetery in Baltimore City?

A There is a colored cemetery down off the Annapolis Road somewhere, is that where you mean?

Q Yes.

A I know of it. Yes, ma'am.

Q Could you describe the New Laurel Cemetery now at Eldersburg?

THE COURT: He has already done that.

Q Is that an appropriate place for a cemetery?

A Yes, ma'am, I think so.

MRS. MITCHELL: No further questions.

MR. MYLANDER: We renew our motion.

THE COURT: Same ruling. You may be excused.

THE WITNESS: Thank you.

(Testimony of the witness concluded.)

Thereupon---

R. LEE BENSON,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Your name and your position and your home address.

THE WITNESS: R. Lee Benson, Assistant Director

Legislative Council of Maryland, Room 317 City Hall, Baltimore 2.

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Mr. Benson, you are here today in response to a subpoena duces tecum?

A Yes, ma'am.

Q Did you bring with you all records and data pertaining to the legislative history of House Bill 594?

A Yes.

Q And Ordinance 2745?

A Yes, ma'am.

Q Mr. Benson, beginning with House Bill 594, what do your records show as to who made the request for the legislation, by whom the legislation was drafted?

A From the records of the Bureau of Legislative Reference I have here in my hand a typed copy of the introductory Bill, House Bill 594 of the 1957 Session. Attached to the bottom of it is a work sheet which is used by our department in Annapolis.

MR. MYLANDER: Of course, our general objection

goes to this.

THE COURT: Same ruling.

A (Continuing) -- that this work sheet would indicate that this Bill was requested to be drawn for Messrs. Mandel and Bachrach, members of the House of Delegates. Mr. Leonard Ormand, who was employed by our department at that time, was requested to prepare the Bill for the two sponsors whose names I have mentioned.

Q Did the employee of the department draft the entire Bill?

A From the copy of the typed, the typed copy of the introductory Bill which I have in front of me, I would say we in the department of Legislative Reference did not prepare this Bill. This isn't the type of paper that we use, for one thing. I don't recognize it as being a paper that we use. It is marked in red as copy paper at the top. We don't have any paper of that type. The form of typewriting does not indicate to me that it was done by the typewriters that we have in the department. I would therefore assume -- and also from the notation, further notation contained on the work sheet it is marked "Prepare Backs and Titles," which indicates

that someone handed Mr. Ormand enough copies of this Bill already typed in order that he had only then to prepare a back and some extra copies of the title which are required under the rules for introductory copies of Bills.

Q Now, then, would you from the day of the introduction of this Bill into the House, and give us the subsequent dates of the first, second, third reading, with reference to the Baltimore City delegation, et cetera, through to its passage by both houses?

A Well, I have two sorts of records for that. One is a card that is maintained for each Bill by the Department of Legislative Reference. I would prefer to supply those dates from the Journal of the Proceedings of the House of Delegates for the 1957 Session, which I have marked; which would indicate that House Bill 594 was introduced on February 27th, read the first time and referred to the Committee on Judiciary. It is the 1957 Session. That is page 600 of the 1957 House Journal; page 707 indicates that House Bill 594 was reported by the Chairman of the Baltimore City Delegation -- no, I beg your pardon. The Bill was reported on page 707 by the Committee on Judiciary and re-committed to the Baltimore

City Delegation. On page 827, the last date, which was on March 5th. On page 827, under date of March 7th, Mr. Mandell for the Baltimore City delegation, reported favorably House Bill 594, the favorable report was adopted, the Bill was read the second time, and ordered printed for its third reading.

On March 12th, on page 951, House Bill 594 was read the third time, passed by vote of 99 to 1, and sent to the Senate.

From the Senate Journal for the 1957 Session, on page 771, under date of March 12th, House Bill 594 was read the first time and referred to Committee on Judicial Proceedings. On March 26th, page 1253, the Committee on Judicial Proceedings re-referred the Bill to the City Senators Committee. On March 28th, page 1429, Senator Dempsey, for the City Senators' Committee, reported House Bill 594 favorable, the favorable report was adopted, the Bill was read the second time, and ordered passed to its third reading. Rules were suspended by vote of 28 to 1. The Bill was placed on third reading and passed as follows: 28 to 0. Returned to the House of Delegates.

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Referring again to the House Journal for the 1957 Session, on page 1796, on March 29th, House Bill 594 was returned to the House with endorsement "Read the third time, passed by yeas and nays."

I also have a note which appears on our card "Not from the Journals," which would indicate this Bill was signed by the Governor on April 10, 1957, as chapter 630 of the Acts of 1957.

Q Do you have a copy of that?

A Yes, I have a copy of the House Bill 594, Chapter 630 of the Acts of 1957.

MRS. MITCHELL: Would you mark this for identification?

(Document referred to designated Plaintiffs' Exhibit 25 for identification.)

Q Mr. Benson, this is a printed copy of Chapter 630, House Bill 594, which was approved by the Governor on April 10, 1957?

A Yes, ma'am.

MRS. MITCHELL: I would like to offer this into evidence as Plaintiffs' Exhibit 25.

(Document referred to received in evidence as Plaintiffs' Exhibit 25.

Q Tell us, if you know, what specific changes House Bill 594 made in the previous legislation.

MR. MYLANDER: I object. This gentleman does not purport to be an interpreter of legislation.

THE COURT: Sustained.

Q Mr. Benson, you have with you the records pertaining to the introduction and passage of Ordinance 2745?

A Yes, ma'am.

Q Would you tell us what your records show with reference to that?

A We also have a card with the number of the Ordinance on it which indicates the dates. I also have copies of the Journal of the City Council of Baltimore which I would prefer to read from. On page 1372 of the Journal of the City Council for the fourth councilmanic year, Session 1955-1959. March 15th Ordinance No. 2745, sponsored by Messrs. Byrd, Hergenroeder and Pica, and at request of Belair Road Enterprises Incorporated, 334 St. Paul Street, to John Gilbert Kaufman, with a phone number. The Ordinance was read the first time

and referred to the Board of Municipal and Zoning Appeals, the Planning Commission and the Zoning Committee.

On page 1591 of the City Council Journal, Ordinance 2745 was recommended favorably by the Planning Commission, and there is a printed report of that session beginning at that page. There is also a report from the Board of Municipal and Zoning Appeals, in which the Board recommends that the Ordinance be passed.

On April 27th, page 1677, Ordinance 2745 is reported favorably by Mr. Edelman for the Zoning Committee, favorable report adopted, the Ordinance was read the second time and ordered printed for third reading.

On May 4th, page 1707 -- correction, please. On May 4th, page 1708, Ordinance 2745 was read for the third time and declared passed by vote of 20 to 0.

On page 1784, under date of May 13th. A communication from the Mayor's office dated May 13th indicates that he has signed Ordinance No. 2745 on May 12, 1959, with the signature of Thomas D'Alesandro, Jr., Mayor.

Q Do you have any other records or data pertaining to this preparation of the Ordinance -- request for the

introduction of the Ordinance?

A No, I don't on the Ordinance. Those requests are frequently made to Doctor Everstine, who is Director of the department. He usually keeps no records of those requests.

MRS. MITCHELL: I believe, Your Honor, copy of the printed Ordinance has already been introduced into evidence through Mr. Kaufman. Your Honor, I would like to request, in order to save time, that House Bill 594 be incorporated into the testimony by reference.

THE COURT: Very well.

DIRECT EXAMINATION

By Mr. Cockrell:

Q Mr. Benson, how long have you been working in the department you are in?

A About six and a half years.

Q I think you stated in your testimony it is your opinion that that particular Bill was not -- the evidence indicates that that Bill was not drafted in your department?

A Yes.

Q Have you had considerable experience in drafting such Bills?

A Yes, sir. I have been present at every session of the Legislature since 1954.

MR. COCKRELL: Your Honor, I wondered why they objected. Mr. Benson is recognized as being an expert in his particular field --

THE COURT: I think he is an expert, everybody thinks he is and I do too. What is your question?

MR. COCKRELL: I am going to the Act itself. We will refer to that later.

MR. MYLANDER: If the Court please, I am sure Mr. Benson is expert enough to draft the legislation, but I don't see what this has to do with the issues in this case.

THE COURT: I don't either, but let's have the question.

Q This Bill itself has been introduced or incorporated into your particular testimony. Will you read the title to the Bill?

MR. MYLANDER: I object.

THE COURT: Sustained. Is that necessary really? The Bill speaks for itself, but if you want to read it, go ahead.

A (Reading) "An Act to add a new section to Article 16 of the Annotated Code of Maryland 1951 Edition, title Chancery, subtitle Jurisdiction, said new section to be known as 124(a) and to follow immediately after Section 124 of said Article 16, providing for the sale and disposition of cemeteries or burial grounds in Baltimore City under certain conditions for which provision has been made for the perpetual care and maintenance thereof, and which have been abandoned or are a menace or detrimental to the public health, safety, security or welfare, providing for the use and distribution of funds which may be derived from the sale of any such cemeteries or burial grounds and providing for the transfer and conveyance of title to the purchasers of any such cemeteries or burial grounds sold under the provisions of this Act and relating generally to the sale and disposition of certain cemeteries or burial grounds in Baltimore City under certain conditions."

Q Mr. Benson, is this the Act as it was eventually passed?

A That was the Act that was signed by the Governor.

MRS. MITCHELL: I think you will notice, Your Honor,

this Bill as read contains "For which provision has been made for the perpetual care and maintenance thereof." If my recollection serves me correctly, that isn't in the other Bill.

Your Honor, may I have an opportunity to check -- you say this is the Bill?

THE WITNESS: That is copy of the Bill signed by the Governor or similar to it.

Q As I remember the Act, in each case no provision for perpetual care has been made. That isn't the situation involved here.

A That is the title of the Bill I was reading from.

MRS. MITCHELL: I don't want to take any more time but we will comment on that later.

DIRECT EXAMINATION

By Mr. Robinson:

Q Mr. Benson, is it customary in your department to be requested to draw legislation for the members of the House of Delegates and Senate?

A Yes, sir.

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Q You don't remember anyone talking to you personally about this, do you?

A No, I have no recollection of it at all.

MR. ROBINSON: That is all.

THE COURT: You may be excused.

MR. MYLANDER: I renew my motion.

THE COURT: Same ruling.

(Testimony of the witness concluded.)

Thereupon---

CLEMENT R. MERCALDO,

a witness called by counsel for the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Your name and your office address?

THE WITNESS: Clement R. Mercaldo, 36 Equitable Building.

DIRECT EXAMINATION

By Mr. Hughes:

Q Mr. Mercaldo, you are a member of the Bar?

A I am.

Q Where did you receive your training?

A University of Maryland Law School.

Q And what college?

A Loyola College.

Q How long have you been a member of the Bar?

A Since 1947.

Q Did you start private practice at that time or go in the City Solicitor's office?

A I started into private practice.

Q You were formerly identified or are you still identified with the City Solicitor's office?

A I am no longer in the City Solicitor's office. I resigned as of August 1959.

Q Do I understand you to say you resigned --

A As of August 1959.

Q How long were youin the City Solicitor's office?

A From October 1955 until August 1959.

Q What were your duties there?

A Originally I was assigned to the Real Estate Division under Mr. McAllister and then I was subsequently assigned to the Trial Division and primarily handled condemnation cases.

Q Do you have any idea of approximately how many

condemnation cases you have handled for the City?

A No, I can't give an accurate estimate.

MR. MYLANDER: We object to this, Your Honor.

THE COURT: I suppose this is the foundation.

MR. HUGHES: That's right.

THE COURT: Overruled.

A How many condemnation cases I handled for the City? I can't say but this would probably give you a fair idea. At the time I left the City I turned in approximately 40 pending cases.

Q 40 pending cases?

A Yes, at the time that I left and over a period of perhaps two years, two and one-half years, I would say perhaps I handled another twenty or thirty. The latter part built up because we were going into the County then to handle cases on the Susquehanna pipeline. Although there might be twenty cases, actually it was one and the same condemnation.

Q Would it be fair to describe you as an expert on condemnation cases?

A I wish you could put it another way if you can.

Q You were the Senior Assistant City Solicitor and

trial lawyer who handled condemnation proceedings during your incumbency, weren't you?

A I tried some condemnation cases. As far as being a Senior Assistant City Solicitor, I don't know where you have gotten that information. Certainly my salary up there wouldn't have indicated that I was a senior.

Q For your information, I got it from the Baltimore Sun.

A Maybe you ought to ask the Baltimore Sun then.

MR. MYLANDER: If the Court pleases, this is going rather far afield. Mr. Hughes is referring to condemnation in the sense of condemnation under eminent domain and he is apparently referring to some connection between that and the instant proceedings which are not condemnation proceedings. I renew my objection on separate grounds.

THE COURT: Overruled. Go ahead, Mr.Hughes.

Q How long were you associated with Mr. Lloyd G. McAllister, also an Assistant City Solicitor?

A I would hazard a guess at approximately one year.

Q What is his official position?

A Mr. McAllister is Chief Attorney of the Real Estate

Division. I imagine that's what they call it. He is Chief Attorney in the Real Estate Division of the Law Department.

Q And you were directly under him, is that right?

A Yes, myself and several other attorneys.

Q When was that?

A That was in October of 1955 until approximately a year later.

Q Until approximately October 1956?

A Yes, somewhere around there.

Q You were both in the same department at the time you incorporated the McKamer Realty Company, weren't you?

A If you would give me the date of the incorporation, which I don't seem to recall, I can tell you.

Q I believe that was November 29, 1956.

A Yes, I think I was still in the Real Estate Division.

Q And Miss Dorothy Klipper was your legal secretary, was she not?

A That's right. She was my secretary as well as three other gentlemen's.

Q Then the three of you who incorporated the McKamer

Realty Company were employees of the City of Baltimore and in the City Solicitor's office?

A That's true.

Q Did Miss Klipper prepare all of the papers under your direction?

A Miss Klipper prepared the Articles of Incorporation under my direction, yes.

Q What, if anything, did Mr. McAllister have to do with it?

A Well, Mr. McAllister and I had discussed it and we had decided we would draw up these papers, and I told Dorothy to draw them up.

Q When did you decide to incorporate?

A I can't tell you that exactly, perhaps a week or month before.

Q What made you decide to incorporate?

A What made us decide to incorporate was for the purpose of taking over the Laurel Cemetery.

Q You incorporated for the particular purpose of acquiring title to the Laurel Cemetery?

A That's right.

Q At that time, what knowledge did you have of Laurel Cemetery?

A I had knowledge of the Laurel Cemetery dating back to 1952.

Q Did you not say at one time that you had knowledge of it dating back for more than twenty years?

A Yes, I might have said that I had knowledge of it in a vague way, but my knowledge really dates as of 1950 -- I have a client immediately across the street from there and he acquired title to that property immediately across the street in 1950, but I think he had leased it for two years prior thereto, which would have been around 1948.

Q Do you refer to Mr. Anderson?

A Yes, Anderson and Amrein.

Q And he had acquired interest, you say in the Laurel Cemetery?

A No, you have misinterpreted. I said he acquired interest in a piece of real estate immediately across from the Laurel Cemetery.

Q Where he operates his business?

A That's right.

Q In 1952 your client had no interest in the Laurel Cemetery, had he?

A That's true, other than an interested neighbor.

Q How long have you known Mr. Kaufman?

A I met Mr. Kaufman sometime in 1956.

Q Before or after you decided to incorporate the McKamer Realty Company?

A I met Mr. Kaufman before.

Q Did you call on him or did he call on you?

A I originally called on him but I didn't meet right at that time. I originally called on him. My having called him by phone means prior to my having met him. I did not meet him at that time, however.

Q And the purpose of your call was to discuss Laurel Cemetery?

A The purpose of my call was to ask him to clean up Laurel Cemetery, that's right.

Q Did you at that time know that a petition had been filed in Bankruptcy on behalf of the Laurel Cemetery, voluntary bankruptcy by Mr. Kaufman?

A No, I didn't know it. I very shortly thereafter

found out that he was in bankruptcy. The reason I called Mr. Kaufman was I thought he still owned it.

Q But you learned then that nothing had been done with respect to bankruptcy proceedings other than the appointment of a trustee?

A I don't think I understood your question. I'm sorry.

Q Did you look up what had been done in the bankruptcy proceedings?

A No, at that time I did not.

Q Can you tell us just about when this was you had the conference with Mr. Kaufman?

THE COURT: Do you mean the month?

Q Approximately. Maybe you can fix it better. I will say with respect to the formation of the McKamer Realty Company, about how long was it before that?

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A Perhaps a month or two months. I can't say for sure. It might have been longer.

Q But you did contact and have a conference with Mr. Kaufman and you sent for him or you called him --

A No, I didn't send for him.

Q But you contacted him?

A I didn't contact him at the time this discussion arose.

Q Well, you made the first contact?

A I called him, I didn't talk to him. I subsequently ran into Leon Pierson, who was the Attorney in the Bankruptcy proceeding, I ran into him on Calvert and Fayette Streets and I inquired of him of the New Laurel Cemetery.

Q That is when you learned of the bankruptcy proceedings?

A I knew it before that, that's why I knew Mr. Pierson was the attorney in the bankruptcy proceedings.

Q Mr. Mercaldo, you have frankly said that you contacted Mr. Kaufman.

A I did.

Q For the purpose of discussing Laurel Cemetery?

A Right. I called him. I didn't contact him, I called him. I subsequently ran into Mr. Kaufman.

Q And I assume I heard correctly when you said for the purpose of forming the McKamer Realty Company or to acquire title to the Laurel Cemetery?

A That's true.

Q Then it becomes material to ascertain approximately when you and Mr. Kaufman first negotiated these discussions?

A It would seem to me in 1956. To pinpoint as of a specific date would be impossible. But I would say it was perhaps a month, two months, maybe three months prior to the incorporation time.

Q Prior to incorporation of the McKamer Realty, did you ascertain that the Laurel Cemetery had been sold to the New Laurel Cemetery, of which Mr. Kaufman was president?

A Prior to the incorporation did I determine? You are speaking about the transfer back in 1937, I think.

Q In 1937?

A Yes, I did.

Q You were fully acquainted with those facts?

A Yes.

Q You knew Mr. Kaufman and Mr. Ziemer were the principal owners of the New Laurel Cemetery?

A I might have at that time. I can't say today that I knew that.

Q Did you know that from 1937 to 1948 or 1949 that

little was done to improve the New Laurel Cemetery?

A I know it from sources outside of my personal knowledge. I know it has been -- and this of course is well established from neighbors -- that it has been in awful condition for a long period of time.

Q While you were in the City Solicitor's office did you or not acquire knowledge as to negotiations through the City or agencies of the City with the owners of the Laurel Cemetery in approximately 1949 -- 1950?

A Did I acquire knowledge of negotiations between the City and owners?

Q Yes.

A No, I recall in one of the files there was an indication that the City had contemplated using this property.

Q For a housing project I believe was mentioned, wasn't it?

A I can't recall.

Q Or playground?

A For a playground, yes, sir.

Q You knew the City was interested in acquiring it?

A From what I understand, the City was interested in

acquiring it.

Q You knew then also ten or twelve neighborhood associations had petitioned the City to acquire it, didn't you?

A No, I didn't know that.

Q When was the first knowledge you had that any group was interested in this site for business purposes?

A I don't know that I know of any group that was interested in it for business purposes.

Q Well, do you mean that you haven't heard or seen that it was sought to be developed for a shopping center?

A You are referring to my statement, sir. That we had hopes of developing it for a shopping center.

Q I see. That is why you bought it?

A I certainly bought it with the intention of attempting to do something with it.

Q How many meetings did you have of the McKamer Realty Company?

A Are you talking about formal meetings?

MR. MYLANDER: May we renew our objection? This is going so far afield of anything involved in this case.

THE COURT: Let him answer. Overruled.

A Are you speaking of formal meetings?

Q Yes.

A We had no formal meetings.

Q What are all these minutes, do you call those informal?

A Yes, they were informal meetings where we would discuss things and subsequently, it might have been a week or maybe three weeks when they were set down in writing.

Q There were only three of you had an interest, isn't that true?

A That is true, that is the only reason we had any formal meetings.

Q Well, when you met to discuss business of the McKamer Realty it was a business meeting, was it not?

A Yes, you could call it that.

Q When did you get Miss Klipper out of interest or acquire her interest?

A Miss Klipper never had an interest in this other than the fact she was asked to be the incorporator. That is done all the time, as you know, Mr. Hughes. Frequently we use our secretaries for incorporators.

Q Did you draft all of the minutes of the corporation?

A Yes, I did.

Q Tell me, Mr. Mercaldo, how did the partnership come into being?

A Well, actually, we realized there would be two corporations and we wanted to keep the funds separate from setting up two separate corporate accounts. We spoke of it with Mr. Davis I think over at the Equitable Trust Company and he suggested the best way to set it up would be as a partnership account, and that is what we did.

Q Is the partnership still operating?

A Well, if you mean a partnership as such, there was never any partnership as such, but there is still a partnership account still operating.

Q Now, it has been testified on November 29, 1956, you applied, that is you incorporated McKamer Realty?

A Yes.

Q At that time was it decided to make or shortly thereafter was it decided to make an offer of purchase?

A No. I am sure that prior to the incorporation I had discussed this with Mr. Kaiser, who indicated that it

was there for anyone who wanted it. I certainly wouldn't have incorporated if we thought we couldn't get it. Mr. Kaiser indicated to us anyone who wanted it he would be glad to give it to them. He wanted it taken out of his office.

Q You say he would be glad to give it to anyone?

A Yes, he would have given it to us for nothing.

Q Nobody ever considered advertising and asking for competitive bids?

A Why don't you ask Mr. Kaiser that?

Q I am asking you.

A I am not the Referee.

Q Was it ever discussed with you?

A By Mr. Kaiser?

Q By anyone.

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A No, I discussed it with Mr. Kaiser.

Q And that is how you determined to offer $100?

A That's true.

Q Well, you didn't discuss competitive bidding. Did you discuss what the possible cost would be for removing bodies and complying with the decree?

A Mr. Kaiser had no concern about that.

Q I say did you discuss it?

A With Mr. Kaiser?

Q No, with anyone.

A Definitely I discussed it, yes.

Q You made plans for financing it?

A Yes, we did.

Q Mr. Kaufman has testified and introduced into evidence checks that he contributed to the expenses of the McKamer Realty. Do you know how much you contributed?

A I contributed the exact amount that Mr. Kaufman contributed.

Q And Mr. McAllister did the same?

A Mr. McAllister did the same, that's right.

Q It is true, then, on February 11, 1957, you offered $100 for the purchase of Laurel Cemetery on behalf of the McKamer Realty?

A Yes, sir.

Q At that time what was Mr. Kaufman's position with the McKamer Realty?

A Mr. Kaufman's position at that time? I imagine he was secretary-treasurer, sir.

Q And what was his position with the New Laurel Cemetery?

A With the old Laurel Cemetery?

Q He was president, wasn't he?

A He was no longer interested in the New Laurel Cemetery.

Q Didn't you hear him testify that he had had an interest in the New Laurel Cemetery?

A Before it was in bankruptcy, yes, sir. You are speaking of 1957, aren't you?

Q Yes.

A In 1957 he was no longer interested in it whatsoever. It was in the jurisdiction of the Bankruptcy Court.

Q Yes, but it hadn't been sold and it hadn't been approved, had it?

MR. MYLANDER: Do you want to indulge in a legal argument? I object.

MR. HUGHES: The foundation of the case is based upon the allegations of unjust enrichment, to put it mildly.

MR. MYLANDER: You are arguing with the witness.

MR. HUGHES: We have to call adverse witnesses, you

aren't calling any.

THE COURT: Go ahead and ask questions. I understood the testimony to be that the Laurel Cemetery Corporation went into bankruptcy in 1952 and it remained under the jurisdiction of the Bankruptcy Court until purchase by McKamer for $100.

THE WITNESS: That's true, sir.

THE COURT: You asked the question, as I understood it, what was Mr. Kaufman's position with the Cemetery Company and the confusion came whether prior to 1952 or after that time.

MR. HUGHES: My understanding of it would be that Mr. Kaufman was still owner until the bankruptcy proceedings had been terminated.

THE COURT: That is correct.

MR. HUGHES: Mr. Kaufman testified he was the principal creditor and also the principal debtor.

THE COURT: That is correct.

MR. MYLANDER: Then why do you have to argue with the witness about it?

THE COURT: Let's get right on now.

(Question read by the Reporter.)

A I guess I have to answer that no.

Q And I asked you, too, what was Mr. Kaufman's position with the New Laurel Cemetery at that time?

MR. MYLANDER: If the Court please, I object.

THE COURT: At what time?

MR. HUGHES: On February 11, 1957.

THE COURT: Do you know what his position was?

A In my opinion, his position was that he had no interest in it at that time.

Q Well, do you know who was the owner at the time Mr.Albert J.Curran was appointed to appraise the land by the Referee? Do you know who was the owner at that time, 1957?

A What's that name? I would assume from the date you are giving me that it was in the jurisdiction of the United States Bankruptcy Court and that there was no owner.

Q Am I to understand, Mr. Mercaldo, it is your contention that the trustee owned it? The trustee was appointed for the purpose of sale, wasn't he?

MR. ATWATER: Your Honor, I object to his arguing. If he wants to discuss the bankruptcy law, I think he ought to

go right to the bankruptcy law and not ask the witness his opinion of it.

THE COURT: All right. Go ahead. Let him answer. If you can answer, answer. But if you cannot, don't answer. If you don't understand the question, have it repeated.

Q Let's put it this way: The $100 which you offered and paid on behalf of the McKamer Realty Company was for the benefit of the creditors of the New Laurel Cemetery, isn't that true?

A I don't know that to be true.

Q Do you know it to be true that Mr. Kaufman was the only creditor?

A Yes, I think that is my recollection, that he was the only creditor.

Q You know that to be a fact, you looked at the proceedings?

A I did not look at all the proceedings but I know for a fact that he was at that time.

Q Did you know that the offer you were making from one of the stockholders of your company was going to another stockholder in another company which was in bankruptcy proceed-

ings?

MR. MYLANDER: Argumentative question.

THE COURT: Yes, it is argumentative.

A My answer is no, I did not. Your Honor, I would like to ask Mr. Robinson to stop making comments back here.

THE COURT: Yes, Mr. Robinson. I have heard some comments here on the Bench. We want to be fair to everyone.

MR. ROBINSON: I haven't said one word. I have been very patient myself.

THE COURT: I am trying to proceed at this trial as fairly as I can and it is disturbing to the Court to hear comments of counsel with respect to answers made by witnesses. It isn't right.

MR. ROBINSON: I apologize.

THE COURT: All right, then, let's forget about it.

MR. ROBINSON: I didn't say a word.

THE COURT: Let's forget about it.

Q Mr. Mercaldo, it is true, is it not, that on March 5, 1957, the Referee in Bankruptcy authorized a sale of the Laurel Cemetery to the McKamer Realty Company for $100?

MR. MYLANDER: If the Court please, he is talking

about the bankruptcy proceeding. This is certainly not the way to ask for testimony concerning the bankruptcy proceedings.

MR. HUGHES: I'm not asking for that, I am asking for the result of the sale or his offer of sale.

MR. MYLANDER: I understood your question to be what happened in the bankruptcy proceedings.

THE COURT: Let him answer the question. The proceedings actually speak for themselves. If you want to ask him about his knowledge of the proceedings, I will permit it.

MR.HUGHES: I understand it is pending before the Court and has not yet been disposed of, whether those prior proceedings are part of this case and I don't know that that is before the Court.

THE COURT: All right, ask him.

MR. MYLANDER: The prior proceedings in bankruptcy?

MR. HUGHES: No, the papers you filed here, the two cases.

THE COURT: Gentlemen, let me in on this conversation. Suppose you ask questions, and if there is an objection I will rule, and we might proceed in an orderly fashion.

Q Maybe we can get away from that, Mr. Mercaldo.

A Mr. Hughes, I will be glad to answer.

Q At the time you offered on behalf of the McKamer Realty Company $100 for the purchase of the New Laurel Cemetery through bankruptcy proceedings, it was the plan and conceived purpose of the McKamer Realty Company to invest for a profit?

#53 A Yes -- I don't like the wording of it, but it certainly was an offer to buy a piece of property with the eventuality of moving it up; yes, sir.

Q To your knowledge, was there ever any advertisement for open bids?

A By the Bankruptcy Court?

Q Yes.

A I don't know.

Q To your knowledge, were any other bids made?

A To my knowledge, I would say no.

Q Very well. Now, on March 26, 1957 a Bill was introduced in the Legislature through Mandel and Bachrach, as has been testified. What, if anything, did you have to do with the introduction of that Bill?

A Nothing whatsoever, sir.

Q Do you know whether or not Mr. McAllister had anything to do with it?

A I would say definitely not, sir.

Q Do you know who prepared the Bill?

A I don't know.

Q Do you know who requested it?

A I don't know, sir.

Q Had you ever discussed with Mr. Bachrach or Mr. Mandel this Bill?

A Yes, I had.

Q Did you discuss it with them prior to its introduction?

A I didn't discuss this particular Bill, sir, I discussed legislation of this sort much prior to the introduction of this Bill.

Q What was the purpose of that discussion?

A That discussion was Laurel Cemetery.

Q Then it was Laurel Cemetery which was being discussed and the methods by which it might be acquired rather than a question of 75 percent abandonment of any property in Baltimore City, wasn't it?

A No. The question at the time of the discussion was the question of having the City clean this up. At that time, this was back in 1955, it was still my impression that the City owned Laurel Cemetery.

Q Did you appear at the Legislature to aid in the passage of this Bill?

A I did not.

Q Did you appear before the City Committee?

A On this Bill?

Q Yes.

A I did not.

Q Did you discuss it in the City Committee?

A I did not.

Q Did you talk with any members of the City Committee about this Bill?

A After its introduction?

Q Yes, sir.

A Yes, I did, I talked with Mr. Mandel, who discussed it with me on a couple occasions, and also Mr. Bachrach, who discussed it with me I think on one occasion; after its introduction.

Q Did you appear at any meetings of the Legislature where this was discussed, this Bill?

A Did I appear at any meeting where this was discussed? I was on the floor of the House the day it was discussed and I think that is the only place I heard it discussed.

Q Were you, Mr. Mercaldo, or did you at any time lobby for the passage of this Bill?

A I did not.

Q Do you know of anyone who did?

A I do not.

Q Did you know at the time you acquired title to the cemetery -- when I say you, I am speaking of the corporation --

A I understand.

Q Did you know that there was pending a claim by the United States Government for burial lots there?

A Yes, I did.

Q Did you know the extent of that claim?

A Do you mean the basis for the claim?

Q The amount.

A The amount of the claim was what was in dispute.

Q I didn't hear that.

A The amount of the claim was what was in dispute.

Q Do you know what the amount was?

A The amount of what?

Q The amount that the Government was claiming from the Laurel Cemetery.

A Actually they were claiming they wanted payment for certain lots which had been taken from them in condemnation and the City made an offer. I think our first offer was a dollar a lot, and it was eventually settled I think on the basis of $1100.

Q The claim of the Government had been pending since 1911 and was for $2500, wasn't it?

A It may have been $2500. I'm sorry. It may be $2500. I don't know whether I said $2500 or $1100.

Q You knew Mr. Ricciuti?

A Yes, I do.

Q I mean you knew he had recommended to the City that the United States Government be paid off for the lot which formerly they had purchased for the burial of Civil War veterans?

A Yes, I did.

Q And you knew that $1250 was paid for it?

A Now you confuse me. That's what I thought it was and you said $2500.

Q No, I said the claim.

A Yes, I think you are right on that. They might have been claiming $2500 and we finally settled for $1250 or $1100.

Q Was there any distinction made in your office under your supervision on whether or not the Government had a fee simple interest and other lot owners did not have a fee simple interest?

A No, I don't ever remember the Government's position was that they had a fee simple interest.

Q No distinction was ever made between United States Government and other lot owners who had the same type deed, is that right?

A I know of none.

Q On October 16, 1957, it is alleged that you paid $425 to the United States Government, that is, the McKamer Realty, for quit claim deed to several lots.

MR. MYLANDER: Where is this alleged?

MR. HUGHES: I am going to ask him.

MR. MYLANDER: I object to the question.

MR. HUGHES: I am going to ask him if he has any knowledge of it.

MR. MYLANDER: You prefaced it with "It is alleged." I would like to know what you are referring to.

Q Mr. Mercaldo, your minutes ought to show whether it is true or not.

THE COURT: Mr. Hughes, apparently you are reading from a news article.

MR. HUGHES: I am, sir. I have to go on the best information I can.

MR. MYLANDER: Is that what you are referring to when you say "alleged"?

Q Did you or not, on behalf of the McKamer Realty Company, pay the United States Government $425 for quit claim deed?

A Yes, sir.

Q And was thatOctober 16, 1957?

A I can't say for a fact. If the records show that, and I am sure there is a recorded deed upstairs, it would show the exact date.

Q Did you one month later, on behalf of the McKamer

Realty Company, sell these same lots to Anderson Enterprises, Incorporated?

A They were transferred to Anderson Enterprises, and I don't know whether it was a month.

Q You mean transferred for a consideration?

A Yes.

Q What was the purpose of that, you knew the Anderson Enterprises did not intend to operate there?

A That's right, the purpose, our purpose in filing said deed was to have someone named as a live defendant.

Q It was to have someone to name in the action which you proposed to file, is that right?

A That's right.

Q Did I understand you to say to have a live person?

A A defendant against whom to proceed.

Q Had you up to that time made any effort whatsoever to ascertain whether or not there were live owners of other lots?

A Up to this time?

Q Yes.

A Up to this time, sir, our investigation of the

property would indicate that there was no one who was interested in the property whatsoever.

Q Of what did your investigation consist?

A Of going through the property, sir.

Q You mean walking through?

A Trying to walk through it.

Q Accompanied by whom?

A Well, I know Mr. McAllister and I were out there at least twice, three times, four times, and on another occasion Mr. Kaufman was with us.

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Q Did any of the owners ever call you?

A After the break in the paper or the publicity of approximately a year ago yes, there were approximately maybe ten or fifteen people called me, who I then referred to Mr. McAllister.

Q Did you have a discussion around June of 1957 with a lady who told you she was a white owner?

MR. MYLANDER: I don't understand the question.

Q Well, of the white race as distinguished from the colored race or Negro race.

A I don't recall it, sir.

Q Would it refresh your memory if I recall the name of Mrs. Dashiell on Roland Avenue?

A Yes, that name is familiar.

Q What was the tenor of that conversation?

A I don't recall what it was, I think it was in reference to the removal of these graves in Laurel Cemetery.

Q That was before any were moved, wasn't it?

A No, I think it was after.

Q You prepared the papers and/or as attorney, on behalf of the McKamer Realty Company, did you not, when action was filed in the Circuit Court?

A Mr. McAllister and myself prepared those, yes, sir.

Q And you named, in addition to Anderson Enterprises you named a number of defendants. Where did you acquire that information?

A From the land records of Baltimore City and Baltimore County, sir.

Q And you searched them for possible recorded lot owners, is that correct?

A Yes, sir.

Q Are they the only ones you had?

A Yes, sir, plus the United States Government lots were recorded also.

Q Did you list the people who were recorded on the monuments?

A No, we did not.

Q You made no effort to locate the families of any lot owners?

A We made an effort to locate the heirs, or whatever you call them, of the people whose names were recorded upstairs.

Q All the time you were in the City Solicitor's office you had colored City Solicitors, didn't you?

(Question objected to; objection overruled.)

A We certainly did.

Q Did you ask any of them about any of these people and how they might be located?

A No, I didn't.

Q Did it occur to you to call the YMCA or YWCA?

A No, it did not.

Q Is it true to say you made no effort to locate any of the people who were buried in the cemetery or their families?

A That is not true, sir.

Q Then after you ascertained the names of those who had recorded deeds, what did you do?

A We checked the City Directory for 1956 and any name we found that was even close to it, we would then check in the telephone book to see if they had a telephone number. We would also consult the cross index.

Q You know there are very few Frisbys in the telephone book or in the City Directory, don't you?

A I don't know.

Q Well, you checked it?

A It has been sometime ago.

Q And it did not occur to you to call the name of Frisby, who is in that book, both the telephone directory and in the City Directory?

A Yes, if it was one similar to the one that was listed.

Q I didn't hear that.

A Yes, if it was similar to the one that was listed on the land records of Baltimore City.

Q You heard it testified that Joseph Frisby was heir to a monument in his name?

A I am not talking about monuments, I am talking about the recorded deeds in Baltimore City.

Q Well, the recorded deeds, then, of Warner T. McGuinn were in there, weren't they?

A I think it was, sir.

Q And you named him as a party?

A I think so.

Q Did it occur to you to call anybody by the name of McGuinn to ascertain if he had relatives?

A At the time we checked the City Directory if we found a name similar to the name McGuinn, we would call him and if we couldn't find it in the telephone directory, we would check the criss-cross index and call the closest name to it in the block.

Q Do you know who Warner T. McGuinn was?

A No, I didn't know him.

Q You never heard of him?

A No, I can't say I have.

Q You never discussed that with Mr. McAllister when he looked it up?

A No, I can't say I did.

(After a short recess.)

Q Mr. Mercaldo, Mr. Mandel, who introduced the Bill in the legislature or co-sponsored it is a law partner of yours, isn't he?

A He is a law partner of mine?

Q Or associate?

A No, he is not.

Q Was he?

A Yes, he was.

Q He was a law associate at that time?

A He was not at that time.

Q Was he before or after?

A Before.

Q You were associated together in the practice of law for how long?

A Approximately two years, three years, I can't say exactly.

Q And Mr. Bachrach, a co-sponsor, was in the City Solicitor's office at the time, one of your co-workers in that office at the time it was introduced, wasn't he?

A He was in the City Solicitor's office, he wasn't

a co-worker of mine.

Q But he was an Assistant City Solicitor?

A Yes, he was.

Q Do you know David S. Rubens?

A Yes, I do. I don't know what you would classify him. He wasn't an Assistant City Solicitor. I don't think he is an attorney. But he was in the City Solicitor's office.

Q Is he still in the City Solicitor's office?

A No, he isn't. I think he left immediately prior to my leaving or immediately subsequent to my leaving.

Q Do you know Jerome H. Levy?

A Yes, he is also in the City Solicitor's office, not an Assistant City Solicitor.

Q And I understand that seven or eight members of the City Solicitor's office were involved in this sale and purchase of the Laurel Cemetery?

A No, the men that you have just mentioned, Mr. Levy and Mr. Kaufman were incorporators in the same position that Dorothy Klipper was an incorporator of the McKamer Realty Company.

Q They were just acting at your request?

A That's true.

Q It has been stated I believe in the examination, probably by Mr. Kaufman, that approximately 150 or more markers were identifiable in the cemetery by names and dates.

A Yes.

Q Do you have knowledge of them?

A Yes, I do. Mr. Kaufman, Mr. McAllister and myself on one occasion, I know it was cold, and we went through the cemetery and took the names down. I think Mr. Kaufman and I would climb through the underbrush and weeds and call out the name and Mr. McAllister would be standing on the side and he would write them down. I also lost a pair of trousers on that day.

Q Did you or anyone to your knowledge make any effort to contact the descendants of those people?

A You mean the deceased persons, the names we took off the stones?

Q Yes.

A No.

Q Do you know how recently bodies were buried in the cemetery?

A I know that prior to the burial of I think 1957, there was one sometime around the first of the year. After the filing of the bill of complaint.

Q I did not hear that.

#55 A That was after the filing of the bill of complaint.

Q That they were still burying, you mean?

A That there were two burials after the filing of the bill of complaint and subsequently the property was posted under order of Court that no further burials were to be allowed therein.

Q Did you appear before the City Council or any committee of the City Council in protest against the assessment of this property?

A No, I never did.

Q You know that Mr. Kaufman did?

Q Mr. Kaufman did not. There was no protest as to the assessment of this property, as to valuation. There was a protest as to assessing it at all at the time they assessed it, and I appeared before the Zoning Board on a hearing on it.

Q What was the nature of your protest?

A The nature of the protest was that it was a cemetery

until the removal occurred and therefore it could not be taxable for the years 1957 and 1958.

Q And an appeal is pending on that?

A An appeal is presently pending before the State Tax Commission.

Q Are there any further appeals with respect to this property pending?

A In reference to taxes?

Q With reference to anything.

A I understand there was an appeal filed at the proceeding that was held three or four weeks ago.

Q Were you present at those proceedings before the Referee in Bankruptcy?

A Yes, I was.

Q Did you testify?

A Yes, I did.

Q You also testified before Mr. Baxter, the Examiner?

A Oh, I'm sorry. Your first question was for a proceeding in bankruptcy.

Q Maybe you misunderstood me. My first question was whether or not you appeared before Mr. Albert J. Curran at

any time?

A No, I did not.

Q Did you appear before Mr. Kaiser?

THE COURT: Who is Mr. Curran?

MR. HUGHES: Mr. Curran was appointed to appraise the land in bankruptcy.

A No, I don't know the gentleman, never saw him in my life. Didn't you ask another question whether I appeared before Mr. Kaiser at a hearing?

Q Yes.

A No, I never appeared before Mr. Kaiser at any hearing in bankruptcy.

Q You appeared before the Examiner, Mr. Baxter?

A Yes, I did.

Q At that time you testified there were no records available?

A That's true.

Q What, if anything, do you know about the records of Laurel Cemetery?

A I know nothing other than that I asked Mr. Kaufman to send down any records to me and subsequently he informed

me he had no records.

Q Do you recall when you asked him to send those records?

A I can't give the exact date, it was either before or after the incorporation.

Q He told you he had no records whatsoever?

A He told me that he could not find the records.

Q Were you referred to Mr. Hamlet?

A Yes, I was.

Q And what efforts did you make to get information from Mr.Hamlet with respect to families buried there?

A I saw Mr. Hamlet on three or four occasions, and all but one occasion Mr. McAllister was present with me.

Mr. Hamlet said he had no records and to the best of his knowledge, that the only way you could identify anyone buried out there would be by the headstones.

Q Are you sure he told you he had no records?

A He told me he had no records.

Q Well, did he tell you that he had information relative to approximately one hundred people who could be located?

A No, he did not.

Q He testified to that?

A He didn't tell me that.

Q Did he tell you he knew where some of them could be located?

A No, he did not.

Q You were the attorney in the proceedings in which testimony was taken before Mr. Baxter, were you not?

A Mr. McAllister and I were both attorneys, yes.

Q Did you tell Mr. Baxter you didn't think it necessary to call Mr. Hamlet?

A I told Mr. Baxter that I was going to try to get Mr. Hamlet in. I tried on several occasions. I went to Mr. Hamlet's home. Sometimes I did talk to him, other times I couldn't locate him. I had talked to his daughter, who said she would have him at the office several times. He never appeared. On several occasions he said he would come up but he never did.

Q Why didn't you subpoena him?

A I don't know why I didn't subpoena him.

THE COURT: You mean before Mr. Baxter.

MR. HUGHES: Before Mr. Baxter I am talking about, yes, sir.

Q What is the present financial interest of the stockholders in the McKamer Realty Company?

A In McKamer Realty Company 33-1/3 percent to Mr. Kaufman, same to Mr. McAllister and the same to Mr. Mercaldo.

Q What is the interest of any or all of them in the Belair Road Enterprises? I mean Anderson Enterprises or Belair Road Enterprises?

A Belair Road is what you mean. 37-1/2 percent to Mr. McAllister, 37-1/2 percent to myself, and 25 percent to Mr. Kaufman.

Q Then all of the interests of the McKamer Realty Company and of the Belair Road Enterprises are owned by the three of you gentlemen?

A Yes, that's correct.

Q Did you, on behalf of either corporation or yourself, at any time negotiate with the Commissioner of Motor Vehicles for the location upon this site of the new building for the Commissioner?

A I never negotiated with the Commissioner of Motor

Vehicles. They approached me at one time on it.

Q It was discussed?

A It was discussed.

Q The question of value or amount?

A The question was they wanted to go into this place as Commissioner of Motor Vehicles. I told them they would have a tremendous fight on their hands from the neighbors if they attempted to locate it in this neighborhood.

Q Did you tell them they might have a fight on behalf of the lot owners too?

A No. As far as I was concerned at that time, the lot owners had no further interest.

Q Then it is your understanding and contention that all of the interests of any of the heirs to the lot owners were extinguished by the condemnation proceeding?

MR. MYLANDER:
You are asking for a conclusion of law, Mr. Hughes. I object to the question. He isn't required to discuss law as a witness.

THE COURT: Can you answer it?

A The decree in this Court says so, Your Honor.

Q Who prepared the decree of the Court?

A Who prepared the decree?

Q Yes. You prepared it, didn't you?

A No, I did not. I think Mr. McAllister prepared it. I am not sure.

MR. MYLANDER: What difference does it make? The Court signed it.

MR. HUGHES: It could also be in contempt and unconstitutional in that the Court was deceived.

Q You, I understand, Mr. Mercaldo, never had any conversation or conference with anyone having a burial interest in the Laurel Cemetery with the exception of maybe a few who called you on the telephone?

A Yes, sir, there were fifteen or twenty people I think called me on the telephone and I referred those to Mr. McAllister, who subsequently I think contacted those people.

Q Did I understand you to say you wrote down the names from the headstones?

A No, Mr. McAllister wrote them down. Kaufman and I would climb through -- perhaps we were a little bit younger and we did the climbing through and Mr. McAllister would write them down.

Q Do you recall hearing the name of Joseph Frisby?

A No, I don't recall any particular name. This was a very cold day and it was a job in itself just going through the underbrush and the briars and avoiding stepping into holes. I don't recall any particular name.

Q You do know that Russell Frisby works in this same building, do you not, for the Probation Department?

A No, I don't.

Q You never did contact him?

A I never had contact with Mr. Frisby; no, sir.

Q You made no effort to contact him through the chief of the Domestic Relations Bureau?

#56 A No, I can't say I ever had any personal contact with him.

MR. HUGHES: I think, Your Honor, that concludes my examination.

MR. WILLIAMS: I have one or two questions.

DIRECT EXAMINATION

By Mr. Williams:

Q Mr. Mercaldo, when did you go through the cemetery with reference to the time you filed your action in this Court

on the 10th of December 1957?

A It was prior thereto.

Q And what was the purpose of that?

A The purpose of the visit was to determine what headstones were over what particular grave because there were so many that were broken and strewn throughout the cemetery and we wanted to find out exactly how many were actually standing at a particular lot or anywhere near a particular lot.

Q That had no reference at all, then, to the actual location of interested parties in the cemetery?

A No, it did not because a look at the lot would show you there was no one interested in that.

Q You said I believe that no graves were being kept?

A Not one, sir.

Q You are familiar with the Health Department of Baltimore City?

A Yes.

Q You know that they maintain an office of Vital Records?

A Yes, and I went down there and I thought they would list them under cemeteries, I thought they would have Holy

Redeemer Cemetery, of burials therein, Laurel Cemetery of burials therein, and they told me they never keep any such records.

Q Did you attempt to get information as to specific names you had procured from the cemetery?

A No, from the names we had upstairs, I discussed it with a gentleman down there, I think he is Deputy to the man who was here yesterday, and he told me even applying for those names wouldn't let you know who the person, the heirs of those people would be, because they might have died or they might have transferred them, and I think you had an example of that in this Court.

Yesterday where one woman testified it was handed down to her by her great grandfather.

Q Mr. Mercaldo, on the stones that you had there did they indicate the persons had died in comparatively recent years?

A I think the latest stone I can recall was somewhere around 1933 or 1934.

Q I would like a little more information about this transaction between you and the Anderson Enterprises. You

say you gave them a quit claim deed so you would have a live defendant.

A Someone to sue, yes.

Q Well, you knew when you gave a quit claim deed he had no interest in the cemetery after that, didn't you?

A I don't understand your question.

Q Well, you owned the cemetery and you owned the lots that the Government had owned, so that the title was merged, wasn't it, and when you transferred by quit claim deeds to Anderson, he had no further interest in the cemetery, he owned a piece of land.

A I don't understand your question. I'm sorry.

Q Did you know when you transferred by quit claim deed to Anderson Enterprises on the 18th of November 1957, that that gave Anderson no interest in the Laurel Cemetery?

A I don't know why you say that. We conveyed whatever it was, fifteen or twenty lots to Anderson Enterprises.

Q By quit claim deed?

A By quit claim deed.

Q What interest did Anderson have as the result of that deed in the cemetery?

A The same interest the United States Government had had at one time and which they had conveyed to McKamer Realty Company and which we in turn conveyed to Anderson.

Q I understand you purchased by quit claim deed from the Government the title to the United States Government, is that correct?

A Yes.

Q So that at that point you owned not only the cemetery company but you owned whatever the Government owned in those lots?

A That's right.

Q And when you transferred them to Anderson Enterprises by quit claim deed you no longer owned anything in those lots?

A In those particular lots?

Q Yes.

A That's true.

Q How could Mr. Anderson thereafter have an interest in the cemetery by reason of that deed?

A Maybe I am not following you.

Q Well, let's approach it from this angle. Mr. Anderson

took charge of the Laurel Cemetery as Trustee for the purpose of selling it?

A That's right.

Q Did he sell the lot you had transferred to him?

A No.

Q Then you knew when you went into Court that he was the owner of those lots, didn't you?

A That's right.

Q What interest did he have in the cemetery, that's what I want to know, when you came into Court?

A He had the interest in seventeen lots from the Federal Government.

Q Which he owned absolutely?

A That is a determination for the Court. I don't know whether he owned it fee simple, absolutely or what interest.

Q Do you know of any other persons having an interest in the lots other than McKamer Realty Company and the lot owners?

A No, other than Anderson.

Q And Mr. Anderson testified before Mr. Baxter, you

had discussed his testimony with him before he went to Mr. Baxter, had you not?

A I don't recall whether we did.

Q You recall his testifying before Mr. Baxter that he owned lots in the cemetery, don't you?

A Yes.

Q You asked him a question?

A Yes, I did.

Q And you knew when he gave his answer that he did not own any lots in the cemetery, didn't you?

A He did have lots, he owned seventeen lots conveyed by us to him from the United States Government.

Q Did you have any jurisdiction over those lots at that time?

A By jurisdiction, what do you mean?

Q Did you have any interest in them whatsoever?

A We conveyed whatever interest the Government conveyed to us.

Q Did you convey more than the Government conveyed to you?

MR. ATWATER: Your Honor, I object to this. I think

all he is asking is the effect of the deeds. If he wants to put the deeds in evidence, let the Court construe them. But I don't know how he can testify to the legal effect of the conveyance.

MR. WILLIAMS: I am not saying what interest it was, I am asking him questions.

THE COURT: Well, let's get on.

MR. MYLANDER: I object on the additional ground I can see no possible relation between the subject matter of this questioning and the issues in this case.

THE COURT: Overruled.

Q Mr. Mercaldo, was there any reason that Mr. Anderson did not sell the lots that had been transferred to him as trustee? When he was appointed trustee, was there any reason he didn't sell these lots along with the other parts of the cemetery?

A Is there any reason Mr. Anderson didn't sell the lots conveyed to him?

Q Yes.

THE COURT: As trustee?

MR. WILLIAMS: Yes, sir.

Q He was appointed trustee for the purpose of selling --

A All these lots were sold, the whole cemetery was sold, including the lots owned by Mr. Anderson, his seventeen.

Q Am I to understand Anderson does not own any lots in the cemetery?

A He has no interest in anything.

Q Do you know they are assessed to the Anderson Enterprises?

A I know they are assessed to them but that is a matter for the Tax Court to decide, and that is our argument, that they had no right to tax them.

Q Don't they assess property to the owner of record?

A They can assess a piece of property to you even if you don't own it, until you let them know it isn't owned by you.

Q Has there been any deed from Mr. Anderson to the Belair Road Enterprises?

A There was a deed by Mr. Anderson, as trustee, to Belair Road Enterprises of the entire fifteen acres comprising Laurel Cemetery, which wiped out his interest.

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Q Mr. Mercaldo, am I to understand that the deed from Mr. Anderson, as trustee, to the Belair Road Enterprises, embraced the seventeen lots that he had previously transferred to the cemetery?

A Yes.

Q Who negotiated the contract for the purchase of the cemetery with Mr. Anderson?

A Who negotiated the contract?

Q Yes.

A I think Mr. McAllister might have drawn the papers.

Q Weren't there discussions held between representatives of Belair Road Enterprises and Mr. Anderson as to this purchase?

A Yes.

Q Did you engage in any of those discussions?

A Yes, I did.

Q Was that before or after Mr. Anderson was appointed trustee?

A It was after Mr. Anderson was appointed trustee.

Q Did you know that Mr. Anderson, as trustee, had filed in this Court a contract for the purchase by the Belair

Road Enterprises, purporting to be signed by the president of Belair Road Enterprises on the 14th of July 1958?

A Yes.

Q Were you familiar with the contents of that contract?

A Yes, I was.

Q Do you know of any reason why that should have been signed by Mr. Benjamin J. Martin as president?

A Yes, because he was president at that time.

THE COURT: Do you mean of Anderson Enterprises?

THE WITNESS: Belair Road Enterprises.

Q Who is Mr. Benjamin J. Martin?

A My brother-in-law.

Q Do you know where he lives?

A He lives on Arabia Avenue. I don't know the exact address. I go there every morning to pick up my sister.

Q You had been elected president of Belair at the first meeting of the stockholders on the 10th of July?

A That's right.

Q Is it your testimony that four days later you were not the president?

A Is that what the record shows?

Q These minutes have been introduced into evidence, I believe, Mr. Mercaldo.

A Well, if that's what they show, it is correct.

Q It is your testimony that four days later, after the 10th of July when you were elected, you were no longer president of Belair?

A That's right.

Q Then at the second meeting, at the meeting of directors of Belair, or stockholders I believe it is, minutes of the stockholders meeting on the 25th day of July 1958, the minutes show that you resigned at that meeting.

A That's correct.

Q Did you resign retroactively?

A Retroactively?

Q Yes.

A Why do you ask that?

Q Did you resign on the 25th of July at the meeting or did you resign at some other time, that is my question.

A I can't tell you the exact date but I remember I was president and I resigned then.

Q Here is a copy of the minutes, Mr. Mercaldo. Will

you look at them and let us know if they are accurate in your estimation?

A On July 25, 1958, Mr. Martin was elected as president and I resigned on that date.

Q Now, was Mr. Martin president before that time?

A No, he was not.

Q Then I ask you how come it happened on the 14th of July 1958, that Mr. Martin filed in this Court a contract showing himself as president and signing the papers as such? Do you know the circumstances of that?

A No. The reason for it probably was a question of my getting dates wrong on the minutes, that's all.

Q Did Mr. Martin ever take any active interest in the management of the affairs of the Belair?

A No, he did not.

Q Then he wasn't in fact president, was he?

A He was a figure head president, yes.

Q Then the purpose of his being a figure head was specifically for the benefit of the proceedings in this Court, wasn't it?

A It was for the purpose of entering into the contract

with the trustee in this Court, yes, sir.

Q Did you ever discuss with Mr. Anderson, trustee, the fact that the buyer and seller of this property happened to be the same?

A Yes, I did.

Q Mr. Anderson was familiar with that?

A He was familiar with that.

Q Did you ever discuss with him the right that lot owners of record had under the law to share in the proceeds of the sale of the cemetery?

A Not according to the decree of this Court.

Q Well, the decree was passed in accordance with the law, I presume, and the law gave to the lot owners who had deeds recorded in the Land Records of Baltimore City some semblance of a claim for the proceeds, I believe. Are you familiar with that?

A I am not in a position to discuss what the result of that law is.

Q Was it your position that Mr. Anderson, as trustee, was trustee for the benefit of the McKamer Realty Company only?

A No.

MR. MYLANDER: If the Court please, I object specifically because it is argumentative.

THE COURT: Overruled. Let him answer.

A Mr. Anderson was trustee of this Court for the purpose of seeing particularly that the bodies were removed and relocated.

Q And for the sale of the property?

A And for the sale of the property.

Q Do you know whether or not Mr. Anderson felt it incumbent upon him to sell for the fair value of the property?

(Question objected to.)

THE COURT: He would not know that.

Q How did the sales price of the property become arrived at, if you know?

(Question objected to.)

THE COURT: If he knows, he may answer.

A I think it was more or less determined on the question of what it would cost to make the removal.

Q I believe you testified sometime ago, Mr. Mercaldo, that when you first became interested in the Laurel Cemetery you didn't know that Mr. Kaufman had an interest in it.

A That's right. I didn't know Mr. Kaufman. I didn't know Mr. Kaufman until sometime either in the middle or latter part of 1956.

Q And you also did not know that the Laurel Cemetery Company was in bankruptcy?

A Yes, I knew it was in bankruptcy in 1955, I believe, or latter part of 1954.

Q You then learned about the bankruptcy before you met Mr. Kaufman?

A Before I met Mr. Kaufman, yes.

Q And your first contact or attempted contact with Mr. Kaufman was for the purpose of having him clean up the cemetery?

A The first call I made to his office was in reference to that. I didn't get him. As I told you, I ran into Leon Pierson later and he told me it was in bankruptcy and that it was over there for anyone who wanted it.

Q In other words, you learned from Mr.Pierson about the bankruptcy?

A No, I learned from Mr. McAllister. Actually I called the City Solicitor's office before I was in the City

Solicitor's office. I didn't know Mr. McAllister at that time. I had not seen him -- I probably had seen him but I didn't know him. I called him in reference to a complaint made to Anderson Enterprises about the condition of the cemetery, I called Mr. McAllister and he said, "We don't own it, it is owned by John Kaufman," and I think he said then, "It is in bankruptcy."

Q In other words, Mr. Anderson at that time was a client of yours?

A Mr. Anderson has been a client of mine ever since I started practicing law. We grew up together.

Q You wrote a letter to the Trustee in Bankruptcy on the 11th of February 1957, offering $100 on behalf of the incorporators of the McKamer Realty Company. Do you recollect now why you specifically said incorporators at that time?

A No, I don't recollect the exact reason for it. I imagine at that time we had not had a transfer on the books from the incorporators to stockholders.

Q I think one of the incorporators has testified previously that she knew nothing about that offer.

A That's true.

Q Then your offer wasn't on behalf of the incorporators,

was it?

A It was in behalf of the corporation.

Q And not the incorporators?

A No, not exactly as such, but on behalf of the corporation.

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DIRECT EXAMINATION

By Mr. Cockrell:

Q Mr. Mercaldo, I want to clear this up. Mr. Anderson was trustee for the removal of these bodies and also to contract to sell the cemetery, is that correct?

A Yes, he was appointed by the Court as trustee to carry out the sale, the terms of the decree.

Q He was also an individual lot owner by virtue of his purchase from the United States Government?

A That is the reason he was appointed trustee.

Q When he sold this land as trustee to McKamer, what remuneration did he receive for his individual interest in the lots?

A To McKamer?

Q When he sold as trustee to Belair.

A He got nothing for his lots.

Q So it is your testimony that he bought these lots from the United States Government for about $1100 or $1250?

A You have misinterpreted it.

Q How did he acquire these lots?

A By a quit claim deed from the McKamer Realty Company for no consideration.

Q In other words, it was just a formality to get him into the litigation?

A That's right. It was a conveyance to him for no consideration so that we could file suit against the Andersons.

Q And that is how he became a defendant in the original proceeding?

A That's right.

Q Did you ever appear before the Legislature or any Legislature committee and discuss particularly the Laurel Cemetery and the possibility of the City taking it over, while you were in the City Solicitor's office?

A No, I never did.

Q Did you ever appear in those places and discuss the Laurel Cemetery at all?

A I told you before I didn't.

Q You stated that you asked Mr. Edward Hamlet about several lot owners and that he told you he didn't know where any of them were?

A That's right.

Q Did you ask Mr. Kaufman?

A Mr. John Kaufman?

Q Yes.

A Sure we asked Mr. Kaufman.

Q Did you ask him did he know of any means whereby these lot owners could be located? In other words, what brought up your inquiry of Mr. Kaufman?

A Our inquiry was as to the records which he could not locate. In fact, he told us prior to my even asking for the records that he had records up to his place of business but they were deteriorated, that they were not legible, that they had been soaked on several occasions and the records were falling apart. I said, "Let's have those records anyhow." It might have been two or three months later when I requested them, and he told me he couldn't find them.

Q Did your inquiry proceed in any extraneous way to get information from Mr. Kaufman?

A Yes, I am sure it did but I can't recall the exact questioning of Mr. Kaufman.

Q You don't remember what he told you when you asked him did he have any other means?

A You mean could I pick up Mr. Kaufman's files? When I had Mr. McAllister first approach Mr. Kaufman on this thing, Mr. Kaufman's attitude was, "I am out of that thing, good riddance, I don't want any parts of it."

Q That was his original position?

A Yes.

Q Therefore it would be your statement that he was cooperative?

A No, my statement is that Mr. Kaufman was very reluctant to even get into this situation.

Q I want to know just how vigorously you all tried to procure from Mr. Kaufman information regarding these lot owners and how well he cooperated?

A Mr. Kaufman cooperated to the extent that he could cooperate. He had no information. He had all the information he had in the records that had all been lost.

Q And he didn't have any churches or opinions, or

anything, ministers?

A I don't know whether we discussed ministers of churches. I knew he didn't have any information because he told me so.

Q You heard testimony yesterday from the gentleman from the Bureau of Records?

A Yes, I did.

Q With regard to finding things out about deceased persons. I think he stated if you could give him just the name and give him the period within ten years of the date of death, he could locate that person.

A I think that's what he said.

Q You also stated you went to this Bureau and talked to this Deputy?

A That's right.

Q Did you give him the specific names of the individuals that were procured from these tombstones or monuments?

A No, I did not. I told you the reason. Because he told me even if he located them, there would be no indication that that person whose name was on there would still be alive today. What was I to do, take the name from there and search

the records for them?

Q You made no attempt to search for any specific name, is that your testimony?

A That's right, with the Department.

DIRECT EXAMINATION

By Mr. Robinson:

Q Mr. Mercaldo, may I ask you this? I think you appeared before Mr. Baxter. I note here one question was asked you: "In your opinion, has the cemetery, seventy-five percent of the cemetery been abandoned," and the answer, according to this photostatic copy was, "Yes, the whole thing has been abandoned. From your experience and knowledge and information, I suppose you received from your client, Mr. Anderson, I think you said he lived across from the cemetery, is that correct?

A Yes.

Q How long would you say that that cemetery had been abandoned, totally abandoned?

A From the information I got from some of the neighbors and the Belair Road-Edison Association, was that the condition had existed for twenty years but that it had become

very, very bad in the last eight or ten years, to the point where it had become a detriment to the health of the neighbors, when they were constantly harrassed with fires, children had gone in there, dug up graves, walking around with skulls in their hands, bones washing out on the sidewalk when it rained, serious accidents in there, and one child was burned to death in there.

Q All of this you say constituted abandonment of the cemetery. I will ask you if, in your opinion, the cemetery was already wholly abandoned, what advantage would there be in going to the Legislature and getting a Bill through the Legislature for reducing the amount from one hundred percent to seventy-five percent?

A You are asking me what advantage there would be in going to the Legislature?

Q Yes.

A I don't know whether I can answer that.

Q I understood you had an interest in the Bill.

A I had no interest in the Bill. I didn't introduce the Bill. Mr. Mandel and Mr. Bachrach introduced the Bill.

Q I may be mistaken but it was my understanding you

said you appeared down there and discussed it with someone, is that correct?

A I appeared down there because I was assigned down there by the City Solicitor's office. I wasn't down there on this Bill.

Q Don't get angry with me, I'm not angry with you. You went down in your official capacity --

A I didn't know that.

Q (Continuing) -- as an official of the City Solicitor's office and a Bill came up to reduce the amount from one hundred percent to seventy-five percent, and you already knew and felt that the cemetery was already one hundred percent abandoned, might you not have disclosed that to the memeers of the committee and maybe saved them some trouble?

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A I didn't discuss it with members of the committee. My assignment at the Legislature wasn't to get up before committees and discuss Bills. My assignment down there was purely as an assistant to Ed Colgan, who was more or less the lobbyist for the City, and my job down there was to check index cards to see where certain Bills the City had an interest in were filed and reported out by Mr. Colgan.

Q I probably was mislead. May I ask you this? If you were not interested, how did it happen that you got interested in buying when you knew it was in such bad condition and abandoned?

A Your question again, sir?

THE COURT: I did not get the question, either. Repeat your question.

Q You stated you knew for twenty some odd years the cemetery had been totally abandoned and you knew the conditions out there and the complaints which had been made to the City, I would like to know how you became interested enough as to make the offer to buy it from the trustee?

A You had a situation here which had become very, very bad and I had decided, along with Mr.McAllister, that we would see if we could take it over, clean it up, and eventually do something with it. We had a two-fold purpose. The first purpose was to clean up this mess. My client across the street was vitally interested in it. He had a piece of property he had spent $45,000 for, his girls were afraid to walk across the street for a streetcar or bus. People had been attacked out of this place. It was dark in

there. That was the reason we got into the thing.

Q That led on to your interest to make the offer to buy it on behalf of the corporation?

A Yes.

Q I will ask you to see if my recollection is correct. In October of 1957 the McKamer Corporation paid the United States Government some money for a quit claim to certain lots in the cemetery.

A Yes.

Q Well, now, wasn't that after the date of the bankruptcy proceedings?

A Yes.

Q Did you expect it to make any difference if you made the sale after the corporation was declared a bankrupt?

THE COURT: I don't understand the question.

Q Did it make any difference to the Government to receive money from you after the corporation was declared a bankrupt and sold by the trustee?

A I don't know whether it would make any difference; I can't answer that.

Q In other words, the trustee sale extinguished his

rights in the cemetery?

A No, the trustee in bankruptcy sale was subject to the Trustee's rights.

Q When the discussion came up with the Government for which you say you paid money to get the quit claim deed, and you say at present there that lot owners only had, so to speak, leasehold rights and no fee simple rights, how do you reconcile that?

A I don't know what -- I wasn't trying to convince the Government to sell to me. I think they had to get the authority to sell and all that.

Q Did you participate in the adjustment with the Government?

A Yes, I participated in it.

Q I don't want to confuse, but I think at the time those negotiations went on was the subject to the effect that the lot owners only held a leasehold, so to speak, for burial rights and nothing else, and that would mitigate any claim the Government would have of the ownership of the lots?

A I think it probably was. I can't say for sure. I don't know. I wasn't trying to convince the Government of

what interest they had or did not have.

Q I assume you had occasion to go into the title up there, did you not, to the cemetery?

A Fairly so.

Q And did you have occasion to render an opinion on that phase of the title?

MR. MYLANDER: I object.

A Opinion to whom?

Q As to the type of ownership, the alleged lot owners or the defendants may have in this cemetery.

THE COURT: Do you mean as Assistant City Solicitor?

MR. ROBINSON: I don't know which capacity he was acting in.

MR. MYLANDER: I object.

THE COURT: I don't think the question would mean too much or the answer would mean too much to me. In any event, I will permit you to continue the examination after we take a recess until quarter of two.

(Recess from 12:50 p. m. to 1:45 p. m.)

AFTER RECESS (1:45 p. m.)

Thereupon---

CLEMENT R. MERCALDO,

whose examination was suspended for the purpose of the noon recess, resumed for

DIRECT EXAMINATION (Continued)

MR. MYLANDER: If the Court please, before we resume the taking of testimony I would like to call the Court's attention to the fact that the witness, Mr. Benson, in reading from the titling of Chapter 630 was reading from the cover sheet and not from the titling of the Act, that there is a discrepancy between the language of the cover and the language in the Act, in the title to the Act itself. Inasmuch as the words "under certain conditions for which provision has not been made for the perpetual care and maintenance thereof," referring of course to the cemeteries, in the titling of the Act itself the word "not" appears. In the cover the word "not" does not appear. In the laws the word "not" does appear as reproduced in the session laws.

THE COURT: Yes, I was going to ask how that compares with the session laws.

MR. COCKRELL: Your Honor, maybe I can clear this up. I checked with Mr. Benson this morning, we want to be completely fair and honest with the Court on this, and I have a copy of the original Bill, the first reading of the Bill, and Mr. Benson states that this was a typographical error. Although we do feel it is misleading, this is the Bill that was circulated among the actual members of the House of Delegates.

THE COURT: You are saying that they read it before it had been circulated, I suppose.

MR. COCKRELL: This title says "for which provision has been made for the perpetual care".

MR. MYLANDER: You are referring now to the cover of Chapter 630.

MR. COCKRELL: I am referring to the cover here. The word "not" is absent. The difference between the word "not" not being in some is the difference as to whether or not Laurel Cemetery is included within the purview of this Act.

MR. MYLANDER: We are in agreement on that. We know that there is a discrepancy between the cover of the third print or reading copy of House Bill 594, and the titling of

that same print which appears on the next page. There is also a discrepancy between the cover and the drafts of the Bill which were printed for first and second readings.

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MR. COCKRELL: And we also contend there is an apparent error between the titling and the Act itself.

MR. ROBINSON: Let me ask which is the official one that was approved by the Governor? That is the one that counts.

MR. MYLANDER: I would suggest we put in evidence the session laws. I offer them in evidence.

MR. ROBINSON: This is important --

THE COURT: If it were not important I wouldn't be listening to it, but the stenographer can only take one person's statement at a time. Go ahead.

MR. MYLANDER: I offer in evidence official session laws, the laws of Maryland of 1957, particularly pages 1030, 1031, 1032 and 1033, containing the official transcript of Chapter 630, which was House Bill 594.

THE COURT: Very well.

MR. COCKRELL: Your Honor, during the interim I contacted Mr. Benson, who testified this morning, and he says he will be glad to come back a little later and verify this.

There is no use going into an extended discussion about it.

THE COURT: All right.

MR. MYLANDER: Is there an agreement on that?

MR. COCKRELL: We have certain things in the record and everything will be subject to investigation.

(Documents referred to received in evidence as Defendant's Exhibit 3.)

THE COURT: Now, Mr. Robinson.

MR. ROBINSON: I don't know where this colloquy between counsel backward and forward is leading us, but I understand the offic-ial Act of the Legislature that was approved by the Governor has been introduced in evidence. Something came up and somebody said the Act speaks for itself as well as the Ordinance. I have no authority myself to question anything that has been officially passed and officially approved by the Governor of the State of Maryland, and being it is in evidence, I take it we must take it as it is.

THE COURT: This is no time to argue it.

MR. ROBINSON: I know, but there are now -- I say this in good nature, quietly, politely. I repeat, sir, the official Act of the Legislature that was officially approved

by the Governor, the blue one was in there. I don't know, I am not that much of a legislator --

THE COURT: What is your point, Mr. Robinson? We want to get on with this case.

MR. ROBINSON: He has been talking about a half-hour and I have been talking about a half minute. I object to anything being interpolated that is not contained in that official Act of the Legislature, officially approved by the Governor, and which was introduced in evidence.

THE COURT: Your objection is overruled.

MR. ROBINSON: Exception. May I ask a question? Do you have authority to change something that has passed by the Legislature and been approved by the Governor?

THE COURT: Mr. Robinson, have you a witness to examine? Who was examining you?

THE WITNESS: Mr. Robinson.

THE COURT: Mr. Robinson, you may continue with your examination of Mr. Mercaldo.

By Mr. Robinson:

Q Mr. Mercaldo, I think we had gotten to the point where you spoke of having paid the Govern ment $400 in October

1957 for some quit claim deeds to certain lots in the Laurel Cemetery. Who paid that fee to the Government?

A I think I paid it.

Q You paid it personally?

A I think so.

Q What was the claim of the Government upon the strength of which you made the payment?

A That they were the owner of the lots.

Q And they contended that they were owners in fee simple of the lots?

A I didn't hear anyone from the Government say they had a fee simple interest in the lots.

Q At the time that the negotiations and purchase by the Government, as you indicate took place, did you consider or raise the point or use it as an act of mitigation of the price, the theory that all lot owners were merely lessees and merely had the right of burial in the New Laurel Cemetery?

A I don't know whether I did/not.
or

Q Mr. Mercaldo, I understand, if my recollection is correct, that sometime before this the City of Baltimore had paid the United States Government some money on account of

some lots in the same cemetery?

A That's right.

Q How much was that?

A As I stated before, I don't know. It was $1100 or $1200.

Q At that time were you interested in your official capacity as Assistant City Solicitor?

A Yes, I was.

Q Were you called upon then to give an opinion upon the title?

A No, I was not.

Q And to what extent did you officiate in that transaction?

A Officiate?

Q Or act as the representative of the City?

A I was the one who was handling it for the City and I turned it over to a higher authority, and upon recommendation it was settled.

Q No question was raised as to the claim of the United States Government of the fee in the lots you had paid for?

A No, I don't think there was any question or interpretation by the Federal Government.

Q No, I mean by the City Solicitor's office.

A That it was a fee simple title?

Q Yes, sir.

A No.

Q There was no opinion from your or anyone else in the City Solicitor's office that the title to the lots in the cemetery were other than in fee simple?

A No, I don't know whether there was.

Q Would you know if you were Assistant City Solicitor participating in that transaction?

A I think the City's position was that they had no fee simple title in the property.

Q Was there a written opinion given on that?

A By me?

Q By you or by anyone else in the City Solicitor's office.

A I don't know. There might have been an opinion given by someone.

Q Do I understand, then, that that point was raised

by the United States Government at the time the transaction took place?

A I don't know whether it was brought up but I would say that our position was that the City -- that the United States Government had no fee simple interest in it.

Q May I ask you this? Why did the City pay for it if the Laurel Cemetery was a private organization?

A Because they must have thought they had some interest.

Q I mean wouldn't you recall it in your official position?

A Would I recall?

Q Yes.

A No, I can't recall offhand. But the Government had a claim pending, as you stated, since 1911.

Q Who was the claim against?

A Against the City.

Q Well, would the claim of the Government in that respect be any different from the claim of these lot owners who had lots there, do you know?

A I don't know whether I am in position to answer that.

THE COURT: I think that is for me to decide,

Mr. Robinson, that is one of the points raised in this case.

MR. ROBINSON: I admit that. I just thought this, being a member of the City Solicitor's office he should know what the opinion was.

THE COURT: He just does not know. The Governor did not appoint him judge. So it is for me to decide that legal point.

Q Do you have any data or information on that point that may be of assistance to the Court in determining the question?

A Do I have any such?

Q Yes.

A No, I don't.

Q With your indulgence, Judge, I would like to ask this: Would you know from your experience in the City Solicitor's office, having been associated with the transaction with the Government that you spoke of, would you know anything that would differentiate the claim, the manner in which the Government's claim of ownership in these lots was different from these other lot owners?

A I would have to say no, I can't see any difference

as of that time.

MR. ROBINSON: I think that is all.

MRS. MITCHELL: Your Honor, I would like to ask some questions.

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Mr. Mercaldo, in your position as Assistant City Solicitor, I believe you have already testified that you were assigned to advise the Baltimore City delegation in the State Legislature.

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(Question objected to.)

A That is not true.

Q What was your official position?

A My official capacity in the Legislature was nothing more than righthand man to Edward Colgan, who is the City's official liaison officer between the City and the Legislature and the City and the City Council. My duty was nothing more than that of a chauffeur, and also to check cards in the public records at the Legislature, to check cards as to certain legislation that the City was interested in, and to tell Ed Colgan, "Ed, this Bill is in a particular committee,

this Bill is now at the Senate, this Bill is now before the House." In turn Mr. Colgan would check that information from the Bills and refer it to a particular officer.

Q Wasn't the City administration interested in this Bill?

A No, and the City never indicated that it was.

Q You read this Bill, did you not?

A I read this Bill immediately after its introduction.

Q Was that the first time you had seen it?

A No, I had seen a draft of it, I had not seen the completed Bill.

Q When was that?

A Perhaps a month before.

Q Who showed you that?

A Mr. Mandel.

Q You discussed the provisions of this Bill, did you not?

A With Mr. Mandel?

Q Yes.

A Yes, I did.

Q Mr. Mercaldo, this action of the McKamer Realty

Company in the Circuit Court of Baltimore City was taken pursuant to the provisions of Section 120 of Article 16. In that section, 124(a), this Bill provides, and may I read it to you to refresh your memory: "In no case within the boundary lines of Baltimore City where all or more than 75 percent of the acreage of a cemetery or burial ground in which the land or property located therein has been dedicated to or appropriated or used for burial purposes and lots have been sold therein and deeds or other written instruments have been executed or issued to the purchasers of such lots, without provision having been made for the perpetual care and maintenance of said lot, has been abandoned or is or becomes a menace or detriment to the public health, safety, security or welfare, anyone having a property right in such cemetery or burial ground or any public agency having an interest in the elimination or abatement of the conditions in such cemetery or burial ground which are or become a public nuisance, shall have the right to file a Bill of Complaint in either one of the Equity Courts of Baltimore City setting forth the aforegoing fact and setting forth the name of the owners of lots in such cemetery or burial ground

as far as the same may be known. And upon the filing of such Bill of Complaint, the Court shall order notice by publication in one or more daily newspapers published in the City of Baltimore, or the Court may in its discretion order notice to be given by posting the premises at the point thereon and in such form as may be designated by the Court, for such period of time as the Court may direct."

I want to stop there, I am not going to read the rest because I want to question you on this section. Proceeding under that section you, as the president and counsel for McKamer Realty Company, had certain duties. This section provides or gives the right to advertise in one or more daily newspapers in Baltimore City, published in the City of Baltimore. Could you tell me if there was any reason why your company did not advertise also in the Evening Sun, the Sunpapers, or the Baltimore News-Post, which are daily newspapers in Baltimore City?

(Question objected to.)

THE COURT: Can you answer it?

A Yes, we used the paper that is commonly used by attorneys in legal proceedings.

Q What was the purpose of this proceeding, Mr.Mercaldo, if not to advise lot owners?

MR. MYLANDER: Objection. She is asking for a construction of the statute.

THE COURT: I don't understand the question.

MRS. MITCHELL: Let me rephrase it.

Q Why did you select the Daily Record?

(Question objected to.)

THE COURT: He has already answered that.

Q How many lawyers are buried in Laurel Cemetery --

(Question objected to; objection sustained.)

Q To your knowledge, Mr. Mercaldo?

THE COURT: Objection sustained.

Q Mr. Mercaldo, in your Bill of Complaint for the sale of the cemetery you state in paragraph 16 "That although the plaintiff has made a diligent and exhaustive search, a diligent and exhaustive search to ascertain all persons having an interest in said property, due to the antiquity of the cemetery, having been established in 1852." What do you mean by "diligent and exhaustive search"?

MR. MYLANDER: If the Court please, this area has

been gone over before. It has been the rule of this Court that one counsel on one side may examine one witness. That has been varied from in the interest of allowing these people to be heard from and we have not objected to the deviation from that rule. But I think it is now being abused, that is, some grounds are being gone over repeatedly, and I object on that specific ground.

THE COURT: I will sustain the objection on another ground, not the one that has been assigned. I will sustain the objection.

Q Mr. Mercaldo, in your testimony before the Examiner on April 24, 1958, in this Court, you stated that there were files in the City Solicitor's office going back to the 1920's?

A That's true.

Q You further testified that the conditions in Laurel Cemetery were a public nuisance, is that correct?

A That's right.

Q Could you tell me, if you know, if any official action was taken even under this Section 120 by your office or any other agency of the City of Baltimore to abate that nuisance?

MR. MYLANDER: I object.

THE COURT: Overruled. Do you know?

A No, I don't know, your Honor.

Q In the files that you examined in your duties while in the City Solicitor's office, did that office at any time consider such an action to abate the nuisance at Laurel Cemetery?

A I think back in 1948 or 1949 the City had contemplated taking it over as either a housing project or I think there was some testimony here, for a playground.

Q You say that Edward Anderson, the trustee, who has a place of business across the street from the cemetery, you have known him a long time and he is familiar with that location. During 1948, when the City was considering taking over the cemetery, did you know or was there communicated to you by Mr. Anderson, or any of the residents in the immediate vicinity of Laurel Cemetery, that burials were taking place there at one or two a month?

(Question objected to.)

A No, and I don't think that's true that burials were taking place there at the rate of one or two a month.

In 1948 the only knowledge I have of it in 1948 is that I #62 had seen it across the street --

THE COURT: You see, he did not become a member of the City Solicitor's staff until October 1955.

MRS. MITCHELL: Your Honor, my purpose is that he said he has grown up with Mr. Anderson, Mr. Anderson must have discussed the situation, he was familiar with that.

THE COURT: Why don't you ask him that?

Q At any time did Mr. Anderson tell you that burials were taking place out there at the rate of one or two per month?

A No. In fact, Mr. Anderson indicated to me the only thing he saw take place were removals of people who had relatives out there.

Q I believe, Mr. Mercaldo, you introduced into evidence in your testimony before the Examiner a photograph and a clipping from The Baltimore Sun newspaper, did you not?

A Yes, I did.

THE COURT: I have the original right here.

Q Yes. At any time did you see the clipping also from The Baltimore Sun dated May 31, 1948, the Evening Sun

edition, which said that some of the residents have complained to the association that burials are still taking place in the cemetery despite this menace to public health?

A No, I can't say that I did see that article.

Q It further states that every resident of the neighborhood declared --

MR. MYLANDER: What is the use asking him? He didn't see the article.

Q (Continuing) --"every resident of the neighborhood declared that at least one or two burials take place each month."

THE COURT: Did you see the article, Mr. Mercaldo?

THE WITNESS: No, I did not.

Q There is another change, Mr. Mercaldo, which Section 120 makes in the old law, Section 119, and I read this original provision in Section 119 and the changed provision in Section 120.

MR. MYLANDER: I object.

THE COURT: What is it you want?

MRS. MITCHELL: Your Honor, this is basic and relevant from the standpoint --

THE COURT: If you are going to ask him an argumentative question or something that you might put to me, if there is any discrepancy or change or additions or amendments, go right ahead.

MRS. MITCHELL: I will ask him, Your Honor.

THE COURT: Well, get right to it. I think I know what you want to ask him.

Q Mr. Mercaldo, under the Section 119, after the sale of the burial grounds, it provides that the Court shall distribute the proceeds of the sale among the parties interested according to their several interests as the same shall be shown to the Court. It further provides that out of the proceeds the cost of removing the dead shall be taken out,in Section 120 the provision is made that the proceeds derived from the sale shall be paid over by the trustee for certain purposes, including removal, reinterment of the bodies, et cetera, and then the balance of the proceeds of sale remaining in the hands of the trustee shall be paid over to the legal entity who has record title to such cemetery or burial grounds in its entirety.

Why, if you know, was that change made?

(Question objected to.)

THE COURT: He doesn't know.

Q Mr. Mercaldo, I show you a paper which purports to be on the City Solicitor's stationery, a carbon copy of the letter which was sent to Mr. Ziemer by your associate, Mr. McAllister, under date of April 5, 1950, relative to the City declaring sale of this property. Are you familiar with that?

A Yes, I am familiar with it. It is dated April 5, 1950, but I was not an associate of Mr.McAllister at that time.

Q But in your duties you did examine it?

A Yes, I did, every part of it.

Q In the next to the last paragraph he goes into the question of the responsibility and the expense of the removal of the bodies --

MR. MYLANDER: If the Court please, may we be spared a question which asks him to interpret Mr. McAllister's letter? Mr. McAllister is going to be on the stand to testify himself, and obviously he cannot testify, within the rules of evidence, as to what Mr. McAllister meant in a given paragraph.

MRS. MITCHELL: Your Honor, we have alleged a scheme --

THE COURT: I know. I have been here for four days and I think I know what the issues are. Ask your question, you did not complete your question. Have you finished your question?

(Question read by the Reporter.)

Q (Continuing) At that time was that an obstacle to the City's taking over the cemetery, if you know?

A Was this an obstacle?

Q The expense of the removal of the bodies.

A I cannot make a determination from this letter whether it was an obstacle. I don't know why the City did not purchase the property. I was not in the office at the time. This was six years before I was in the office.

Q But you examined these files and you were cognizant of them?

A Yes, I was cognizant of that letter, yes.

Q At any time, if you know, was the sum of $70,000 or $80,000 given as the cost of the removal of the bodies from the cemetery?

A Unless it is mentioned in that letter, Mrs. Mitchell, I wouldn't know.

Q Mr. Mercaldo, you are an attorney and when you took over or when you purchased, as an incorporator, as president and as counsel for the McKamer Realty Company, the New Laurel Cemetery, did you know your responsibility still as owners of the cemetery corporation?

MR. MYLANDER: I object.

THE COURT: I will sustain an objection to that.

Q Mr. Mercaldo, did you know that you held the land in parts?

MR. MYLANDER: I object.

Q Subject to the burial rights of the lot owners?

MR. MYLANDER: I object to the characterization as being inaccurate.

THE COURT: Sustained.

Q What did you conceive to be your duties, Mr. Mercaldo, when you bought New Laurel Cemetery?

(Question objected to.)

THE COURT: When he bought it?

Q When the McKamer Realty Company bought the New Laurel Cemetery in 1957, what did you consider your duties to be as owner?

(Question objected to; objection sustained.)

MR. MYLANDER: They did not buy the cemetery, they bought the land.

Q As owners of the land, what were your duties?

(Question objected to; objection sustained.)

Q Mr. Mercaldo, you say you did talk to a deputy in the Health Department?

A Yes, I think the deputy, I am not sure, he is a short man and I think he is balding.

Q Do you know Mr. Norton, the Director of the Bureau of Vital Statistics?

A Is he the one who was here earlier?

Q Yes.

A No, I don't know him personally. I did talk to him on one occasion. That's when we delivered the order to him that no further burials, or copy of the order that no further burials are to take place in Laurel Cemetery. At that time I spoke to Mr. Norton. That is the gentleman who was on the stand here.

Q Now, in additional testimony taken before the Examiner filed his report before this Court, and the Examiner

filed his report on May 27th, additional testimony was taken in this proceeding on May 16th and I believe that you were the sole witness, were you not?

A Yes.

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Q You and Mr. McAllister were the two witnesses. Now, at that time you stated that there was a recent burial which had come to your attention of James Nichols. "He was buried there December 31, 1957 and we have no address on him." Did you approach the Health Department with that name and the date to find out the address of any relatives of Mr. Nichols or who might have owned the lot in which he was buried?

A No, I did not. This was approximately three or four months after the filing of the Bill and also the order of publication had expired.

Q You did not consider it your duty at any time during these proceedings to bring to the attention of the Court the whereabouts of any lot owner, if you should have so found?

A If we could find him, yes, we would.

Q Mr. Mercaldo, I am not clear as to whether you stated that you took the minutes of the Board of Directors

of the Belair Road Enterprises and the McKamer Realty Company, or Mr. McAllister, which one?

A Are you talking about actually getting down the minutes as the meeting was going on?

Q I am talking about minutes which have been introduced in evidence.

A They were typed up by my secretary at my dictation.

Q May I ask in the minutes of the first meeting of the Board of Directors of the McKamer Corporation, why was the name of Miss Klipper given as among those present, when she was not in fact present?

A Actually it is a matter of form more than meeting. The incorporators met and they turned over whatever they have to the corporation in exchange of its stock. It was a matter of form, that's all.

Q What was the specific reason for Mr. Martin being asked to serve as president? You said he was a nominal party, but what was the reason for having a nominal party?

A I answered that question earlier.

THE COURT: Mrs. Mitchell, you have been all through that.

MRS. MITCHELL: I don't remember his reason, what was his reason. He said he was a nominal party, but why?

THE COURT: I will permit you to ask him again. I thought he did answer it quite completely this morning.

A The purpose of Mr. Martin was for the purpose of having a name, other than my own, or anyone else on the papers.

Q And why, if in fact you were an owner, incorporator, president of the McKamer Realty Company and Belair Road Enterprises, Mr. Mercaldo, why was it important not to have your name appear on the papers?

A Because at that time Mr. McAllister and myself were counsel for the trustee.

Q You were counsel for the trustee?

A That's right, at that time.

Q But if in fact you were an owner, why was that concealment made from the Court?

A There was no concealment, there was no purpose or intent to make concealment. This was a friendly suit, Mrs. Mitchell.

Q Was your interest in the Belair Road Enterprises

at any time made known to this Court?

A Was my interest in Belair Road Enterprises made known to this Court?

Q At any time.

A I don't think the question was ever asked of me. I think when we took testimony I think it was known by the Examiner that it was a friendly suit.

Q Did the Examiner know of your interest in Belair Road Enterprises and McKamer Realty Company?

MR. MYLANDER: I object. The only one who could answer that would be Mr. Baxter, I think.

THE COURT: I would think so.

MRS. MITCHELL: He just made the statement he thought the Examiner knew it.

MR. MYLANDER: He said he thought he was and now you are asking if Mr. Baxter knew it.

Q Did you ever tell him, Mr. Mercaldo?

MR. MYLANDER: He said he didn't.

MRS. MITCHELL: You are putting words in his mouth.

THE COURT: Mrs. Mitchell, I think I can be accused of anything in this proceeding in the last four days

except not being patient. I think I have given everyone full opportunity, but there must come a time when a witness must be exhausted at some place some time. He went all over that, I think he has answered it. I think he has been cross-examined on it, but if you want to ask again, you may do so. It is half past-two and I propose to adjourn at half-past three today, and if we cannot finish today we will have to continue tomorrow.

Q Mr. Mercaldo, in the testimony before Mr. Baxter, before the Examiner, Mr. Baxter, on April 24, 1958, I believe you also questioned Mr. Kaufman at one point but when the question was asked of Mr. Kaufman as to the record which he had --

A Mrs. Mitchell, I will stop you before you go on. Mr. McAllister asked Mr. Kaufman questions I believe. Is that true?

THE COURT: I have the original transcript before me.

A Who asked that question?

Q It is on page 23.

THE COURT: Mr. McAllister, according to the record before me, did the interrogating of Mr. Kaufman before

Mr. Baxter.

Q Yes. Mr. McAllister asked the question: "Are there any records known to you that would permit the persons buried to be identified?" Mr. Kaufman answered: "There are no records whatsoever." Did you conceive it your duty to inform the Examiner that those records had been lost so that he might inquire into the circumstances?

(Question objected to; objection sustained.)

Q One other question. At the first meeting of the Board of Directors of the Belair Road Enterprises, Incorporated, on the 10th day of July 1958, the following names were given as present: David G. Kaufman, Cora G. Kaufman and Jerome H. Levy. Were they present?

A No, I don't think there was any meeting where they were present.

Q You say that Mr. Levy acted as Chairman of the meeting and Mr. Kaufman as secretary?

A No, there was no formal meeting.

Q And you say Mr. Benjamin Martin was never present at any meeting?

A That's right.

MRS. MITCHELL: No further questions.

MR. HUGHES: May I ask one or two more questions, Your Honor? Some things came out and I will be very brief.

THE COURT: All right.

MR. MYLANDER: Is this redirect or what?

MR. HUGHES: I guess that is what it would be, we called him.

DIRECT EXAMINATION (Resumed)

By Mr. Hughes:

Q Mr. Mercaldo, as president of the Belair Road Enterprises, Incorporated, why did you except to the purchase, to your own purchase?

A To test the sale.

Q I did not hear you.

A To test the sale.

Q You were counsel for the McKamer Realty Company?

A That's right.

Q And McKamer Realty made the offer to sell?

A No, the trustee made the offer to sell.

Q You made it through the trustee, didn't you?

A No, we didn't make it through the trustee. The

trustee, under Order of Court, made an offer to sell.

Q How did it happen that you and Mr. McAllister became counsel for the trustee?

MR. MYLANDER: I can answer that the Court appointed him.

MR. HUGHES: I didn't ask you, I asked him.

THE COURT: Go ahead, answer the question.

A He was appointed trustee and we were appointed counsel.

Q You were appointed counsel for the trustee. You were sole owners of the Belair Road Enterprises?

A That's right, three of us.

Q And you were sole owners of the McKamer Realty Company?

A That's right.

Q It didn't occur to you that there was any possible conflict of interests there?

(Question objected to; objection sustained.)

MR. HUGHES: That is all.

DIRECT EXAMINATION

By Mr. Cockrell:

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Q Mr. Mercaldo, you mentioned during the previous

questioning here that there was no formal meeting held when, in fact, the records do show it. Could you give me your opinion as to how much factual bases there are in these records of the corporation, how much we are to believe and how much we are not to believe?

(Question objected to.)

THE COURT: Sustained. That is not a proper question.

Q I have another one. You say at the Legislature you were just the right-hand man of another individual there?

A Mr. Colgan asked -- I don't know whether Mr. Colgan asked for me to be assigned there or not. I understand he always has someone to come down there and more or less do the bull work where the legislation is concerned, and report back to him.

Q All right. I won't pursue that. You were a member of the City Law Department, do you have any idea as to whether or not this Bill that was introduced in the Legislature was sponsored or backed by the administration?

THE COURT: He has answered that.

A It was not.

THE COURT: He said it was not. He answered that before.

Q In your opinion, was that impression given, in your presence was that impression given?

A To any members of the House of Delegates, of any committee, I would not know whether that impression was given because I wasn't there for everything that took place, I'm sure, in reference to this Bill. But I can say this, that I never gave that impression.

THE COURT: Mr. Mylander, have you any questions?

MR. MYLANDER: No, I have no questions and I move the entire testimony of this witness be stricken out.

THE COURT: I will overrule the motion.

MR. DEARING: Just one question, Your Honor.

THE COURT: All right, go ahead, Mr. Dearing.

DIRECT EXAMINATION

By Mr. Dearing:

Q Mr. Mercaldo, did anyone in your presence ever disclose to the Examiner whether or not the records of burials and lot owners had been lost?

A I thought Mr. Kaufman had indicated that to Mr.

Baxter by his questioning of Mr. McAllister.

MR. DEARING: That is all.

MR. MYLANDER: I renew my motion.

THE COURT: Same ruling, overruled.

(Testimony of the witness concluded.)

Thereupon---

JOSEPH B. MACH,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Suppose you give us your name and office address.

THE WITNESS: My name is Joseph B. Mach. My office address is Second District, City of Baltimore. I reside 2408 East Madison Street.

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Senator Mach, I believe you are a member of the State Legislature.

A Yes, ma'am, I have been for the past ten years.

Q And you represent the Second District?

A I represent the Second District of Baltimore.

Q On or about February 27, 1957, it has been previously testified that House Bill 594 to amend the law providing for sale of cemeteries which have been abandoned was introduced into the State Legislature. At any time did that Bill come to your attention?

A Yes, ma'am. I remember when the Bill was in the City Delegation, there were several questions came up --

Q When you say when the Bill was in the City Delegation, it has been previously testified that on March 5th the Bill was referred to the Baltimore City Delegation and that on March 7th a favorable report was made by that delegation.

A Our procedure in the Legislature is when a Bill is assigned to a committee it usually stays there a week or ten days for the members to read it and discuss it. However, this particular Bill -- questions were raised at the hearing, I recall the Bill was assigned one day and the next day a hearing was held on it, and the question arose why the speed, why didn't it go through the usual procedure, and testimony

was given that the City Administration wanted this Bill passed immediately so it would not get caught in the closing legislative shuffle.

Q Would that be on or about March 5th to March 7, 1957?

A It was a certain amount of time before the closing where it would not get caught in the closing rush.

Q But as to this discussion about the Bill in the City Delegation, would that date be correct as has been testified to this morning?

A As near as I can ascertain. I am not familiar with the exact date. However, I do remember the question arose why the Bill was taken up in hearing one day after it was assigned to the City Delegation.

Q Was this in a regular meeting of the City Delegation?

A A regular meeting. And the reason I was interested in the Bill, we have an abandoned cemetery in the Second District called St. Alphonse Cemetery, corner Edison Highway and Biddle Street, and for many years we have been trying to put a playground there or public park, and the usual answer we got from the City Administration was that it was a long

drawn out procedure to take over abandoned cemeteries, and when the Bill was up for discussion the Chairman, Mr. Mandel, emphasized this Bill would simplify the procedure for Baltimore City to take over an abandoned cemetery for public use, and they cited an example of an abandoned cemetery at Friendship Airport, and it was on that basis that I voted for the Bill because I felt it was to the best interest of the general public. At no time was it ever mentioned that the Bill was for private enterprise to make a profit on an abandoned cemetery.

Q Was Mr. Mercaldo present during that discussion which you have referred to in the City Delegation?

A The usual procedure was for the City to have a representative from the Law Department to answer any questions or to give the City Delegation advice whether the City was for the Bill, against the Bill, or had no opposition. Mr. Mercaldo was at that meeting. However, he did not testify either way.

Q Was any other member of the City Solicitor's Department present?

A Mr. Bachrach, a member from the Fifth District,

was a member of the House of Delegates at that time and still is, and he testified to the effect -- rather, he made remarks to the effect that what Mr. Mandel, Chairman of the City Delegation, had said was correct. The normal procedure has been in the Legislature for any City Bill to be introduced by the Chairman of the City Delegation.

DIRECT EXAMINATION

By Mr. Cockrell:

Q Senator Mach, was it your impression that the Bill was wanted by the City Administration?

A Yes, it was testified by the Chairman of the City Delegation.

MR. MYLANDER: I object and move the answer be stricken out. Impression has to be based on fact.

THE COURT: I think he answered it was represented to him it was a City Administration Bill. Is that correct?

THE WITNESS: Yes, sir, and the impression was given that they wanted it.

#65

Q Senator Mach, if it had been explained to you that when the cemeteries were abandoned they would not be taken over for public use, would you have voted for that Bill?

(Question objected to; objection sustained.)

Q Senator Mandel was Chairman of the City Delegation?

A Senator Mandel was Chairman of the City Delegation.

Q He was not in the City Law Department, is that correct?

A No, sir, I don't think so.

Q Was he a law associate of any of the other members of the City Delegation, to your knowledge?

A That I don't know.

Q After he had represented, after / he had made the statement that the City wanted this Bill, is it your testimony -- that Mr. Bacharach represented to the delegation that what Mandel said was correct, is that your testimony?

A In the discussion Mr. Bacharach made the statement verifying the statement of Mr. Mandel that the City Administration wanted this Bill in order to simplify procedure for the City to take over abandoned cemeteries.

Q At that time was Mr. Bacharach a member of the City Law Department?

A I think he was and still is.

THE COURT: He has gone all over this.

Q I believe you are now a City Senator?

A Yes.

Q You were in the Legislature, in the House at the time?

A I was in the House of Delegates at that time.

DIRECT EXAMINATION

By Mr. Hughes:

Q Senator, was there any particular reason, to your knowledge, why this law was not made applicable to the whole state and not just Baltimore City?

A Well, that was in my opinion probably a legal problem and the usual procedure is to refer it to the local delegation for action.

Q Well, did it come up on the course of discussion that Baltimore City was being discriminated against or in favor of it.

A Not as I can recall.

Q Because you knew that 75 percent abandonment and other provisions would apply only to Baltimore City?

MR. MYLANDER: I object.

THE COURT: I did not get that out of the question

or the answer that is being elicited.

Q Well, on the floor was the question ever raised by any of the other representatives or the Senators why doesn't this Bill apply to the whole State?

A No, sir, it was not.

MR. HUGHES: That is all.

(Testimony of the witness concluded.)

MR. MYLANDER: I move the Senator's testimony be stricken out.

THE COURT: I will overrule your motion.

Thereupon---

MARY LEE DASHIELL,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Give us your name and home address.

THE WITNESS: Mary Lee Dashiell, 4202 Roland Avenue.

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Miss Dashiell, do you have any deeds --

A Yes, I have.

Q --to lots in Laurel Cemetery with you?

A Yes, I have one with me. I know there are more but I have a lot of papers of my mother's to go through and I haven't found the other two, but we had three lots.

Q To whom was that deed given and the date?

A It was made out to my grandfather and it was dated 1872.

Q And was your grandfather Nicholas Dashiell?

A That's right.

Q Of Baltimore City?

A That's right.

MRS. MITCHELL: And this paper purports to be a deed to a lot in Laurel Cemetery, Lot No. 167, Area F, containing 80 feet, granted to Nicholas L. Dashiell, to his heirs and assigns, subject however to the conditions and limitations, with the privileges specified in the Act of the General Assembly of Maryland. And again, this was granted to Nicholas Dashiell, his heirs and assigns, in fee simple. I will offer it for identification.

MR. MYLANDER: I would like to see it and I object

to the question.

THE WITNESS: I have the original here, if you want to see it, but I prefer to keep it.

MR. MYLANDER: I have no objection to the copy being substituted for the original, but I object to the introduction of the paper on general grounds and I object to the question because I don't understand it to be a question.

Q Well, under this paper which purports to be a deed from Laurel Cemetery Company to Nicholas Dashiell, whom you say was your grandfather?

A My grandfather.

Q Granting a fee simple interest in that lot to him?

(Question objected to.)

THE COURT: Sustained. It speaks for itself.

MRS. MITCHELL: If there is no objection to the photostatic copy --

THE COURT: There is none.

MRS. MITCHELL: I would like to offer it into evidence, Plaintiffs' Exhibit No. 26, deed from Laurel Cemetery Company to Nicholas L. Dashiell.

MR.MYLANDER: I make the general objection.

THE COURT: Same ruling.

(Document referred to received in evidence as Plaintiffs' Exhibit 26.)

Q For what purpose was that lot bought?

(Question objected to.)

THE COURT: It was bought only for one reason. It was bought for burial purposes.

A It was to bury my grandfather's family's help.

Q You say you have the deed to one other lot?

A I have the deed and I have the references my mother made out in a notebook she kept from the records of the family of two other deeds, and I know there is another deed but I haven't been able to find it yet.

Q Do you know the location of your lot in Laurel Cemetery on the Belair Road?

A I knew the exact location of the other two lots. I didn't know about this lot which this particular deed represents because I just found it two months ago. I didn't know where that lot was, but I did know where the other two were.

Q Where was the location of these two lots?

A They were in the southwestern section of the cemetery near the Belair Road.

Q Have you had occasion to visit that land?

A Yes, we visited every two months, we went to check on it to see that things were in order.

Q When did your grandfather, Nicholas Dashiell, die?

A It was before 1904 but the exact date I would have to look up.

Q And when did your grandmother die?

A She died around 1920.

Q Now, then, the ownership descended to your mother?

A No, to my father.

Q And his name is what?

A He is Nicholas Dashiell also.

Q When did he die?

A He died in January 1943.

Q And it came into the possession of your mother?

A My mother.

Q And her name?

A Eleanor Marie Dashiell, and she died on July 30, 1957.

Q Pursuant to the care of those lots, the condition of the cemetery, what, if anything, did you do?

A We went out frequently to see that it was in order, if there was anything needed to be done my mother would take out anyone that was on one of our farms to cut the grass, but the ground was pretty bare and didn't need much attention.

Q At any time did you have any conversation with any member of the City Solicitor's staff?

A Yes, I talked to Mr. Mercaldo in June of 1957.

Q What was that conversation?

A He called me in response to a call my mother had made at that time and I took some notes down so I would remember exactly what to tell her he said.

Q Why didn't your mother talk with him?

A She was very ill, she went to a hospital just a few days after that call, she wasn't able, she had a heart condition and wasn't able to talk on the phone, so I talked to him and told her what he said.

Q What was that conversation?

#66 A Well, he told me that a law had been passed to remove the graves of the people that were buried in Laurel

Cemetery and he said they were not going to attempt to move everything, that they couldn't, there wasn't enough there left of some of them, they were only going to remove the ones that were recently buried and that there was something enough intact that they could move. Then he went on to explain in great detail about the government, conversations and agreements and claims that the City had against the Federal Government for feeding Civil War soldiers, and how they had abandoned that claim.

Then he went on to tell me that although it belonged to the McKamer Corporation, and that they had no provision for perpetual care at that time, so that that is the way it had not been kept up, that there were no records, that they had been burned. I told him I was sure in my mother's books she had, had some references to people, we had been to some meetings in a church I think around McElderry and Caroline Streets, and mother had the names of some of the people who were at that meeting some years before, and I offered to try to find those for him.

He said he would be very glad to have them and he said he had quite a few deeds turned over to him and he

asked me if I would turn my deeds over to him, and I didn't answer him. I thought at the time, well, I am not turning them over to anybody. But I said I would look up whatever names and I would help him in any way I could. So mother was going through her books when she went to the hospital a few days later, to try to find what information she could to give to Mr.Mercaldo.

Q At any time did Mr. Mercaldo follow through on your offer to help him find other lot owners?

A No, I never heard from him any more.

Q You say you did meet with other lot owners in a church on Caroline and McElderry Street?

A Yes, a number of years before that.

Q And you did assist them in their efforts?

A Yes, we offered to help them in any way we could. We also went to some meetings of the Belair Road Improvement Association. We offered to help them in any way we could if we could bring the two groups together.

Q What was the purpose?

A To help solve this whole situation.

Q When did you first learn that the action had

been taken in the Circuit Court of Baltimore City to have the cemetery sold?

A To have the cemetery sold? I first read it in the papers. I think it was November of 1958. I didn't even then realize that it was a Circuit Court action, I didn't realize that until yesterday.

Q Since that time or at that time did you contact Mr. Mercaldo?

A I haven't talked to him since June of 1957. I guess I thought he would contact me. I had no idea that anything had been going on.

Q And you say he did call your home?

A He called me in June of 1957 but not since.

Q In response to a call?

A In response to a call my mother made to the City Solicitor's office.

Q Had you or your mother ever had any other contacts with the City Solicitor's office prior to that date?

A I don't believe so. But she had contacted -- I know she had contacted the Health Department and the Housing Authority, I have letters from both of them. That was in

1949 and 1950, and anytime there was anything in the paper at all she watched it carefully relative to Laurel Cemetery, she always contacted anyone that was mentioned that she could get hold of.

Q Approximately how many of your family's help are buried in these lots?

A On the two lots we know there were two in one lot and three in the other. I don't know how many are in this other lot.

DIRECT EXAMINATION

By Mr. Hughes:

Q May I ask you this? Did I understand you correctly to say Mr. Mercaldo told you the records had been burned?

A That is what I have written down on this paper that I wrote at the time. "All records burned."

Q And you made that notation at the time you talked with Mr. Mercaldo?

A At the time I talked with him, yes.

Q Did I further understand you to say that he said a number of deeds had been turned over to him?

A That's what he said.

Q And were in his possession?

A He said a number of people had turned over their deeds to him and he would like to have ours.

Q This was in June of 1957?

A That's right.

MR. ATWATER: May I see the notes you have been reading from?

(Paper handed to counsel by the witness.)

Q (By Mr. Hughes) Mrs. Dashiell, do you know where the bodies of those five employees are?

A Now?

Q Yes.

A No, I don't.

Q Have they been moved or do you know?

A That I couldn't answer.

Q Have you ever been notified?

A No.

Q Would you know now where to go to place a flower on their graves?

A No, I would not.

Q Have you in any way been compensated for the lots

you owned?

A Oh, no.

MR. MYLANDER: I object.

THE COURT: If she had, she would be the first one that has been.

MR. HUGHES: That is all.

MR. MYLANDER: If the Court please, we first move to strike out the witness' testimony.

THE COURT: Same ruling.

MR. MYLANDER: We would ask leave to ask a few questions, then, without prejudice to our motion.

THE COURT: Very well.

CROSS-EXAMINATION

By Mr. Mylander:

Q Mrs. Dashiell, when were you last out to Laurel Cemetery?

A This morning.

MR. HUGHES: May I interrupt this, Your Honor? When you examine the witness from those records and after she testified to them and she refreshed her memory, if you are using those records, I think they should be admitted in

evidence.

THE COURT: I don't know whether he is using them now or not. Go ahead.

Q You were out there this morning?

A Yes.

Q What was the occasion for that?

A I was curious to see how it looked like. I was there this fall and it didn't look too disturbed and I wanted to see what the present condition was between last fall and now, after hearing testimony yesterday.

Q Last fall, what month was that?

A I think it was around November.

Q Of 1959?

A Yes.

Q You talked with both Mr. McAllister and Mr. Mercaldo on two different occasions, did you not?

A That's right.

Q This was in about June of 1957?

A Yes.

Q You knew at that time that there was a Court proceeding?

A No, I didn't.

Q Didn't Mr. McAllister tell you there was a proceeding in Court?

A No. I thought I was talking to someone representing the City, I didn't have any idea that there was any such turn of affairs as this. Mother had called the City Solicitor's office and I thought I was getting a return call from a City official purely on City matters.

Q When were you last out to the cemetery prior to that call?

A I can't remember exactly but we regularly went every three or four months at the most.

Q Who is "we"?

A My mother and I. I took her out, she couldn't drive and I always took her.

Q Were you there in the period between July 1958 and January 1959?

A Between July 1958 and January 1959?

Q Yes.

A Yes,I was out there I think it was in the fall. I can't remember now, I can't remember what month it was.

Q Did you see any sign on the Belair Road front of the cemetery?

A No, I didn't go in the front. Our lot was in the southwest corner and we went in from Belair Road not far from that filling station.

Q You did not look in the front?

A I never went down -- to tell you the truth, I don't know where the front is, the main gate, I wouldn't know where it was. We went up the bank and entered from the Belair Road.

Q Do you know where the filling station is?

A Yes.

#67

Q Did you ever look at the area on Belair Road, north of the filling station?

A Yes, that's where our lot was.

Q Wasn't there a sign there?

A There was this fall, there was a little sign I think in the middle of the roadway.

Q What did it say?

A I can't remember, I wasn't feeling well, and I went in the far side and I didn't walk very far down, and

things didn't look to be too disturbed there.

Q Didn't the sign indicate there was a Court order --

A No, it was a little thing about that big (indicating) and I think it said "Cemetery Closed", but I wouldn't want to swear to it because I don't remember it that well.

Q You didn't have sufficient interest to read it?

A Yes, I had sufficient interest but I wasn't well and it was cold and my sister was waiting in the car and I couldn't go down that far. It was a very small sign.

Q I hand you a copy of The Evening Sun of November 14, 1958. I ask you to look at that and see if that is the sign you remember or you saw.

A No, it was not. It only had two words on it, it was right in the middle of the road.

Q You didn't see this sign?

A No, I did not.

MR. MYLANDER: I ask this be marked for identification.

(Picture referred to designated as Defendant's Exhibit A for identification.)

THE COURT: Is there any objection? If there is,

I will rule on it.

MR. WILLIAMS: No, we have no objection.

MR. HUGHES: Are you offering the picture or offering the story?

MR. MYLANDER: I am offering the picture.

MR. HUGHES: I have no objection providing the story be accepted too.

MR. ROBINSON: I think the objection would be unless he can establish when it was put up.

THE COURT: I will sustain the objection. It is objectionable, so if there is an objection I will sustain it.

MR. MYLANDER: No further questions.

REDIRECT EXAMINATION

By Mrs. Mitchell:

Q Miss Dashiell, are these papers which you have testified from a memorandum made at the time of your conversation with Mr. Mercaldo?

A That's right.

Q And that would be June, about June1957?

A That's right.

Q And these were made in your own handwriting?

A Yes.

Q At that time?

A That's right.

Q Will you identify these (addressing the Reporter)?

MR. ATWATER: We object.

MRS. MITCHELL: I would like to offer them as Plaintiffs' exhibits.

MR. ATWATER: A memorandum may be used to refresh memory.

THE COURT: Mr. Atwater, the memorandum has been referred to, she has practically read it word for word. If there is any real objection, I will overrule the objection. However, this testimony is still subject to exception under the general objection.

Q Miss Dashiell, you came here voluntarily yourself?

A Oh, yes.

Q I believe your attorney is Mr. Frank Gray of Piper and Marbury, who brought you in here?

A Yes, that's right.

RECROSS-EXAMINATION

By Mr. Mylander:

Q Miss Dashiell, at the time you went out there and

noticed that little sign in the driveway, did you consult your attorney, Mr. Gray, then?

A I'm sorry you asked me that because Mr. Gray wasn't my attorney then. I had another attorney who I don't have now.

Q Did you consult him?

A I consulted him.

Q Did he look up the records for you?

A I don't know what he did. I would rather not go into that because I don't any longer have him and I don't like to discuss him.

Q Miss Dashiell, did you intervene in the proceedings in this Court at that time?

A I didn't know there were any proceedings until I saw the article in last week's newspapers, that is the first time I knew there were any procedings and this case had been going on two days then. That is what brought me to contact Mr. Gray and Mr. Gray contacted Mrs. Mitchell.

Q But you did consult your attorney about this matter at that time?

A Last week.

Q No, I am talking about at that time back in June of 1957.

A Yes, I consulted an attorney then but not Mr. Gray.

Q You consulted an attorney.

A Yes.

Q A member of theBaltimore City Bar?

A Yes, but not Mr. Gray.

REDIRECT EXAMINATION

By Mr. Hughes:

Q But you did not consult him with reference to any legal proceedings, did you?

MR. MYLANDER: Oh, I object to that.

MR. HUGHES: Well, you left it up in the air.

A I haven't gone into any legal proceedings, I have no case.

MR.ATWATER: May we have the name of that attorney?

THE WITNESS: I'm sorry, but I would rather not give it.

MR. HUGHES: The witness has testified she would rather not disclose it.

MR. COCKRELL: I object to the question.

THE COURT: All right.

MR. ATWATER: I would like the Court's ruling on my question.

MR. HUGHES: I object unless --

THE COURT: Conversation with an attorney would not be admissible in evidence anyway, if it is important, but I don't see the importance of it at all. I suppose it isn't any of counsel at the trial table.

THE WITNESS: Well, it isn't that, I can tell you that, Judge.

THE COURT: Then that disposes of that.

REDIRECT EXAMINATION

By Mr. Cockrell:

Q When you talked to Mr. Mercaldo you didn't talk to him with reference to any particular proceedings, he mentioned to you this new law that had been passed; is that correct?

A That's correct.

Q And he didn't mention to you any proceeding under that law?

MR. MYLANDER: We object to that question.

A No, he did not.

THE COURT: Overruled.

REDIRECT EXAMINATION

By Mr. Robinson:

Q Miss Dashiell, is it correct you did not know anything about any legal proceedings pending in any Court in the City of Baltimore until when?

THE COURT: Until last week.

A This one, but I saw in the paper about a year ago someone had entered suit. But not in respect to this.

Q I mean any suit brought by the Cemetery Company itself.

A No, no.

Q (By Mr. Dearing) Miss Dashiell, when Mr. Mercaldo told you of these records, you have testified he told you these records had been burned, did he tell you when these records had been burned?

A No, he just said they were burned, that they had none.

(Testimony of the witness concluded.)

(Thereupon, at 3:25 p.m., an adjournment was taken until 10 o'clock tomorrow morning.)

Mamie E. Kennard, et al.	:	IN THE
vs.	:	CIRCUIT COURT OF
McKamer Realty Co., et al.	:	BALTIMORE CITY

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A-39097

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(SECTION 3 OF 3 SECTIONS)

NO. 131

SEPTEMBER TERM, 1960

(Vol. 3 of ~~five~~ 6 volumes)

Hall of Records Commission
Department of General Services
State of Maryland

REQUEST FOR RECORDS

DESK NO. HR

1. Place completed request form in wooden tray on reference table.
2. Upon receipt of records requested, keep this slip in the record.
3. RETURN BOTH THE REQUEST FOR RECORDS AND THE RECORD TO THE REFERENCE TABLE BY 4:20 P.M.

To be filled in by researcher-please print

Type of record (wills, deeds, court minutes, etc.): 031

County (if given):

Date of Record: 1959

Volume (liber): page (folio):

Box: 1819 folder: A39 097

Microfilm or record accession no. MdHR

Your Name (please print): Rose Berlin

Today's date: 823-1250 8-24-83

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Archivist's initials, retrieving:

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No. of Vols.: No. of Items: 4

Volume in use (Photo Lab, Repair Rm., Desk #).

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Court copy

Fd. 29 June 1960

STENOGRAPHIC RECORD

IN THE CIRCUIT COURT OF BALTIMORE CITY

Docket A-267, 1959

424

IN THE MATTER OF

MAMIE E. KENNARD, et al.,

Complainants,

vs.

McKAMER REALTY COMPANY, et al.,

Defendants.

Before SODARO, J.

VOLUME V.

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TRANSCRIPT FROM NOTES OF

CLARENCE P. GOETZ

Official Court Reporter

EQUITABLE BUILDING
BALTIMORE, MD.

OFFICE AND HOME
TELEPHONES

874.65

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IN THE CIRCUIT COURT OF BALTIMORE CITY

Docket A-267, 1959

MAMIE E. KENNARD, et al., :

Complainants, :

Before SODARO, J.

vs. :

McKAMER REALTY COMPANY, et al., :

Defendants. :

January 27, 1960

Pursuant to adjournment, hearing in the above-entitled cause was resumed on Wednesday, January 27, 1960, at 10:10 a. m.

Appearances:

Mrs. Juanita Jackson Mitchell
Mr. Archie D. Williams
Mr. Tucker R. Dearing
Mr. W. A. C. Hughes, Jr.
Mr. Paul J. Cockrell
Mr. Julius P. Robinson

Solicitors for the Complainants.

Mr. Walter C. Mylander, Jr.
Mr. Charles C. W. Atwater

Solicitors for the Defendants.

MRS. MITCHELL: Your Honor, we have a stipulation to present to the Court in the matter of the deeds which Your Honor permitted us to introduce by stipulation. We have prepared the devolution of title of a number of them. More will be presented for argument.

Just a moment, please.

MR. MYLANDER: I think we can do that by reading it into the record. It would be shorter. If the Court please, these stipulations set out, in accordance with our understanding, the certificates and persons who claim under them, and they are perfectly agreeable except that I want it understood that by the use of the words "deeds and title" in the stipulations that we are not stipulating as to the legal effect of the instruments which is a matter for the Court's determination.

THE COURT: I understand.

MR. MYLANDER: With that understanding, Mrs. Mitchell, I will be glad to sign these other stipulations or have them read into the record, whichever you please. Sign them and file them I suggest.

MRS. MITCHELL: Your Honor, I wish to offer into

evidence at this time two stipulations, Plaintiffs' Exhibits 27 and 28, which are descriptions of deeds and of the title to those deeds of the plaintiffs and petitioners in this proceeding.

(Documents referred to received in evidence as Plaintiffs' Exhibits 27 and 28.)

MR. MYLANDER: We understand Mrs. Mitchell is going to have these photostated and substituted for the originals.

MRS. MITCHELL: Yes, I will do that on all of these.

MR. COCKRELL: Your Honor, counsel for plaintiffs have drafted a petition for leave to amend the Bill of Complaint. The petition is self-explanatory. I will pass a copy up to the Court.

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Briefly, this petition refers to the new parties defendant that we are requesting to be brought in based on new evidence obtained since these proceedings began; the evidence particularly of the partnership.

(Papers handed to the Court.)

MR. MYLANDER: If the Court please, we have no

objection to Mr. Mercaldo, Mr. Kaufman and Mr. McAllister being made parties as a partnership provided the answer in the previous cases be deemed as their answer, so that the proceedings are not delayed. We do, however, strenuously object to the naming of Anderson Enterprises Inc., as a defendant. There are two reasons for the objection. Firstly, there is no evidence, and it is the fact that Anderson Enterprises, Inc. has no interest in this case and claim no interest, and at this late date the substitution of additional parties which may delay the termination of these proceedings is objectionable.

THE COURT: What is the purpose of bringing in the Anderson Enterprises as an additional defendant?

MR. COCKRELL: Mr. Edward A. Anderson, I understand, was a member of that corporation. Also, as I understand it, Anderson was an original party to the proceedings, the proceedings we are attempting to set aside.

MR. MYLANDER: There is no evidence or indication in the whole record that Anderson Enterprises has any interest or that Mr. Anderson has any interest in the defendant corporations. It is true that he was a party -- that it was

a defendant in the original proceeding, but there is no current interest.

MR. COCKRELL: To the extent of whatever interest we have.

THE COURT: Let me understand. There is no objection to having the partnership of Mr. Kaufman, Mr. Mercaldo and Mr. McAllister made party defendants.

MR. MYLANDER: That's right.

THE COURT: Providing the answers which you have filed for the other defendants apply to them now as a partnership defendant.

MR. MYLANDER: Right.

THE COURT: You are objecting, however, to the Anderson Enterprises Corporation and Mr. Edward A. Anderson, Resident Agent, being named as defendants.

MR. MYLANDER: That's right.

THE COURT: How can I permit a defendant, Mr. Anderson, coming in as a defendant? He is not here, he is not represented by counsel. The attorneys for the present defendants do not represent Mr. Anderson. To make Mr. Anderson and the Anderson Enterprises defendants in these pro-

ceedings at this late date, without an opportunity for Mr. Anderson to secure counsel, to file an answer, seems to me to be unreasonable.

MR. COCKRELL: As I understand it, Your Honor --

THE COURT: Particularly in the light of the testimony that the Anderson Enterprises and Mr. Anderson, was merely a figurehead although he was appointed Trustee, isn't that correct?

MR. MYLANDER: I understand so.

THE COURT: I cannot just bring in defendants in the middle of a trial, when the defendant whom you want to be made party to the proceedings is not here, is not represented by counsel, there is no opportunity to defend himself or file an answer.

MR. COCKRELL: Your Honor, as I understand it, Mr. Mercaldo and Mr. McAllister were counsel for Mr. Anderson.

THE COURT: That is true two years ago but not today.

MR. MYLANDER: That was for Mr. Anderson, Trustee, not for Anderson Enterprises.

MR. COCKRELL: Well, could he be brought in as

Trustee?

THE COURT: Then shouldn't he be here to defend himself? He ought to be represented by counsel. And actually in the long run it does not make any difference, in any event.

MR. COCKRELL: Your Honor, if they would consent to them being brought in as partners with the exception of Mr. Anderson, could we get leave of Court to amend the petition, to redraft and exclude Mr. Anderson?

THE COURT: Wouldn't this petition suffice if I grant the motion? If I grant your motion to have Mercaldo, Kaufman and McAllister made party defendants as partners and deny your motion with respect to Anderson Enterprises Incorporated and Mr. Edward A. Anderson made defendants?

MR. COCKRELL: Yes. One other thing. This has to do with an error made in the typing of the name of Harold J. Kaufman when it should have been John G. Kaufman.

THE COURT: Well, we can make that change.

MR. COCKRELL: The name John G. Kaufman will be substituted for Harold J. Kaufman.

THE COURT: Very well.

Thereupon---

AMBROSE T. HARTMAN,

a witness heretofore produced, sworn and examined, being recalled on behalf of the plaintiffs, was examined and testified as follows:

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Mr. Hartman, what is your position?

A Deputy City Solicitor, City of Baltimore.

Q Are you here in response to a subpoena duces tecum to the City Solicitor of Baltimore City?

A Yes, ma'am.

Q To bring with you certain records pertaining to Laurel Cemetery?

A Yes, ma'am.

Q Do you have those records with you?

A All I have are records in addition to those which were in response to the subpoena. If you recall, yesterday you came to the phone and talked to Mr. Winter and myself and asked for a certain specific file, which after spending a couple hours searching, we did find. This file here, bearing

the office number 96816, and it has to do with the widening of Belair Road by the City which happened I believe back in 1911. At that time the Federal Government claimed that it owned part of Laurel Cemetery. The City had to acquire that for widening.

After many years, the Federal Government claim was finally settled in 1957, which was settled after the City Solicitor's office had determined that the Federal Government actually owned a fee simple interest in that portion of Laurel Cemetery which it claimed, and on that basis the City had to pay the Federal Government.

MR. MYLANDER: Is Mr. Hartman reading from an office memorandum?

THE WITNESS: No. Maybe I was out of turn. I was just going over the file and giving a summary of it.

MRS. MITCHELL: That is all. I will ask the Stenographer to mark these for identification.

THE WITNESS: May I say this, Your Honor? I don't think it would be proper to have any of the correspondence given out of this file. I will go to the trouble of having them reproduced. But, after all, it is a law office and these

records are our permanent records.

MRS. MITCHELL: We agree to that. Mr. Hartman has agreed to make copies available to us, but we would like to have these identified.

MR. ATWATER: May we see them?

(Documents referred to identified as Plaintiff's Exhibits A, B and C for identification,and handed to counsel for defendants.)

MR. MYLANDER: If the Court please, the apparent intent in offering these is to show the status of the title. Now I have no objection to offering these if the deed itself that is referred to in the City Solicitor's letter of June 16, 1957, is also offered, so that the Court can pass upon the construction of it. But I do object to secondary evidence of title, which isn't the best evidence of title.

THE COURT: Do you have the deed, Mr.Hartman?

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THE WITNESS: Yes. I am looking for it, Judge.

MR. MYLANDER: This is the deed to the Government to indicate that the Government had fee simple title.

THE WITNESS: Here is a deed quit claiming the Government's deed to the City of Baltimore.

MR. MYLANDER: No, I am talking about the deed in Laurel Cemetery to the United States Government.

THE WITNESS: No, it isn't in the file.

MR. MYLANDER: That can be offered from the Land Records by having the book brought down, as far as I am concerned.

THE WITNESS: I might say this in all fairness. My summary of this file, of course, was only intended to be that the City Solicitor's office did an investigation and it was the opinion of the person who searched the title that the Government had a fee simple interest.

THE COURT: Before we go on, Mr. Mylander suggests that the deed in question be produced in Court, either the original deed or from the Land Records to come in as an exhibit.

MR. MYLANDER: I refer to the deed of 1 June 1876, from the Laurel Cemetery to the United States of America.

MRS. MITCHELL: Your Honor, is it proper to request the Court to have the Land Records brought down?

THE COURT: I don't think we would have any difficulty.

MR. ROBINSON: I think, if you will excuse me, that the suggestion made here is sort of in the reverse. I don't think it is a question of what the Government sold, I think it is a question of what the Government intended and on the basis of that payment was made. Suppose there would be a defective deed from the Government, it still would not destroy the opinion of the City Solicitor's office that it was fee simple and based upon that, they made the settlement.

THE COURT: I know, but even the City Solicitor's office can be overruled by the Court, just like the Court of Appeals. So I still think we ought to have the deed. You say that was in 1879?

MR. MYLANDER: 1876.

MRS. MITCHELL: Your Honor, it appears by the correspondence that Mr. McAllister prepared the report which was presented by Mr. Riccuiti to the Board of Estimates. In fact, the letter that is addressed to the District Engineer, which is one of our exhibits, was written by Mr. McAllister himself. It may be that Mr. McAllister can give us some help on this by telling us where that deed may be found.

THE COURT: Well, it has to be on record. That

would be the very best evidence I suppose.

MRS. MITCHELL: Do we have anything further on this? Can Mr. McAllister tell us where that deed of June 1st -- unfortunately, Your Honor, I have just seen these records and I haven't had a chance to examine them.

THE COURT: I understand.

MR. MYLANDER: If the Court please, that being in the same form as the certificates of the plaintiffs, we think it is not admissible as indicating an intention or interpretation by the defendant.

THE WITNESS: This may help. In referring to what is being conveyed, this deed from the Government to the City states it is the same land conveyed by Laurel Cemetery Company to United States of America dated June 1, 1876, and recorded among the Land Records of Baltimore City in Liber GR No. 769, Folio 127.

THE COURT: Well, we can bring that liber down. Do you have the reference of the deed from the United States to the City?

THE WITNESS: Yes, sir.

THE COURT: You might as well bring that one down,

too.

THE WITNESS: This is reported in Liber J.F.C. No. 192, Folio 1.

THE COURT: We might as well bring that one down.

THE WITNESS: The deed is dated August 12, 1957.

MRS. MITCHELL: In the meantime, while we are waiting for those deeds, I would like to examine the second file and get some exhibits marked for identification, if I may.

THE WITNESS: May I ask whether I will have all of these papers returned to me?

Q Mr. Hartman, you also have another file with you, do you not?

A Yes. That is File No. 66704, and it is entitled "Request of the Belair Road Improvement Association for the Improvement of Laurel Cemetery." I also have 85512 which was used in my previous testimony.

Q Now, Mr. Hartman, I show you records taken from File No. 66704 and these records were made during the ordinary course of business in your office.

A I assume that they were. I called for all the

files in connection with this Laurel Cemetery and the woman who has charge of the files and, of course, is under me, turned the file over to me. I can't say I have any personal knowledge as to whether these papers were made in the ordinary course of business.

THE COURT: Well, where do we go from here?

MRS. MITCHELL: I'm sorry, Your Honor, but they were not produced in time for us to examine this morning.

Q Mr. Hartman, I show you this paper purporting to be letter from the Belair Road Improvement Association, under date of September 2, 1937. Will you tell us what that is?

A It is a letter which came out of the City Solicitor's file 66704, which is on the stationery of the Belair Road Improvement Association, addressed to a Mr. D. F. Crozier, Chief Engineer, and Mr. R. E. Lee Marshall, City Solicitor, and it is signed by a Mr. D. C. Foote as president of the Association, with copies to Honorable Howard W. Jackson.

Q What is the purport of the letter?

MR. MYLANDER: I object on the ground that isn't the proper way to prove the letter; and secondly, I cannot see any possible relevancy.

THE COURT: I have not seen it. It is a letter about 23 years old. Can you demonstrate the relevancy of it, Mrs. Mitchell?

MRS. MITCHELL: Your Honor, the purpose here is to prove, we think it is material in line with our contention, that there were certain facts peculiarly within the knowledge of the defendants, which were available to them in their capacities, all members of the City Solicitor's staff, which show that the condition of Laurel Cemetery had been from time to time determined by the Health Department and proper City authorities, as not constituting a health menace in Baltimore City, with recommendations that the proper City Department take action to abate a nuisance. That is what we propose to prove.

THE COURT: This is a letter by the Belair Road Improvement Association in 1937 to Mr. Crozier and City Solicitor, I suppose, concerning some complaints in connection with the Laurel Cemetery?

MRS. MITCHELL: Yes, I believe Mr. Motry from the Health Department, in reviewing his files referred to certain correspondence with Mr. Crozier and with Mr. R. E. Lee Marshall.

THE COURT: I will admit it subject to exception also. Have it marked. Have you seen the letter?

MR. MYLANDER: I have not seen it,but I object also to proving it by having Mr. Hartman interpret it. If it comes in, I would like the letter itself to come in.

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THE COURT: Yes, I understand. Have them marked. They are all being received in evidence subject to exception.

(Letters referred to received in evidence as Plaintiffs' Exhibits 29 and 30.)

MRS. MITCHELL: I then wish to offer these letters in evidence.

THE COURT: One has been marked Exhibit 29, which is a letter by the City Solicitor and Chief Engineer to the Board of Estimates, and Exhibit 30 is the letter addressed to the Chief Engineer and the City Solicitor by the Belair Road Improvement Association. Both have been marked.

THE WITNESS: Is it agreeable to everyone that I have copies of these made and have the copies substituted?

MR. ATWATER: It is agreeable to us.

MRS. MITCHELL: Mr. Mylander asked for the production of the original deeds. I wish then to offer into

evidence -- Mr. Hartman, these records were made during the ordinary course of business.

MR. MYLANDER: We don't question the authenticity of these, Mrs. Mitchell.

Q Just to be sure, Mr. Hartman.

A Yes, they came from one of our files.

MRS. MITCHELL: I would like to offer them into evidence as Plaintiffs' Exhibits 31, 32 and 33.

No. 31 is addressed to the City Solicitor under date of November 9, 1956, to the attention of Mr. Lloyd G. McAllister, Assistant City Solicitor, signed by Jack C. Burdette, Chief of the Real Estate Division of the Corps of Engineers of the U. S. Army.

Plaintiffs' Exhibit No. 32, under date June 18, 1957, on the stationery of the City Solicitor's office, marked "Copy to the Honorable President and Members of the Board of Estimates, City Hall, Baltimore 2, Maryland," signed by Hugo A. Riccuiti, Acting City Solicitor, and Lloyd G. McAllister, Assistant City Solicitor.

Plaintiffs' Exhibit No. 33, is memorandum of settlement with the United States Government for the strip of

land 260 feet frontage, which had 16 feet taken from it for the widening of Belair Road to 80 feet wide in 1911, signed by Lloyd G. McAllister, Clement R. Mercaldo, Assistant City Solicitors.

MR. MYLANDER: Those were the ones to which we interposed objection and I understand Your Honor has taken our objection under consideration.

THE COURT: What is the date of the memorandum of settlement?

MRS. MITCHELL: There is no date, Your Honor.

MR. MYLANDER: I understand we have an exception to the ruling as to Exhibits 31, 32, and 33, Your Honor having admitted them subject to exception?

THE COURT: Yes.

MRS. MITCHELL: Now, Mr. Mylander, I believe you have a copy of this letter which Mr. Hartman photostated.

Q Mr. Hartman, I show you a paper purporting to be a copy of a letter made on the stationery of the City Solicitor's office, marked copy, under date of April 5, 1950, addressed to Mr. Richard L. Steiner, Director of the Baltimore Redevelopment Commission, 407-A Municipal Office Building,

Baltimore 2, Maryland, signed by Mr. Thomas G. Biddison, City Solicitor, and Lloyd G. McAllister, Assistant City Solicitor.

A That came from the City Solicitor's file No. 85512.

Q This paper was also made during the ordinary course of business of your office?

A I assume so.

MRS. MITCHELL: I would like to offer this as Plaintiffs' Exhibit 34.

MR. ATWATER: Same objection.

THE COURT: Same ruling.

(Letter referred to received in evidence as Plaintiffs' Exhibit 34.)

MRS. MITCHELL: I wish to have it agreed to by counsel for the defendants that photostatic copies of these exhibits --

THE COURT: They have already agreed to that.

MRS. MITCHELL: I just want the record to show that they will be made by Mr. Hartman from the file.

MR. MYLANDER: Let the record show there is a private conversation going on between counsel and the witness on the stand.

THE COURT: All right, now, let's get on.

CROSS-EXAMINATION

By Mr. Mylander:

Q Mr. Hartman, do you have any previous opinions in the file concerning the interpretation of the Government's title to the lots in Laurel Cemetery?

A Let me check.

MR. ROBINSON: Wouldn't the same objection he raised to our letter go to this?

THE COURT: Are you objecting?

MR. ROBINSON: Well, I want to be courteous about it. That would permit us to settle this thing about the letter Mrs. Mitchell asked him as to the opinion of the Attorney General's office and his office.

THE COURT: I say are you objecting?

MR. ROBINSON: I suppose I would on general principles.

THE COURT: Overruled.

MR. MYLANDER: I did not realize this would hold up the Court so long. I will withdraw the objection, and if I may have an opportunity at recess, I will go over the file.

THE WITNESS: I think you will find at one time the City Solicitor's office was at one time of the opinion the Federal Government had no interest in the property and later there was a reconsideration and they changed their mind.

Q And they later changed their mind in order to justify settlement?

A That's correct.

MR. ROBINSON: He does not know anything about why they changed their opinion.

THE COURT: Any other questions?

MR. MYLANDER: No other questions. I reserve the right to go over the file.

MR. ROBINSON: In order to preserve this record, I object to the form of the question, the final words of his question, "In order to justify settlement."

THE COURT: Overruled, the objection is overruled.

MR. ROBINSON: I note an exception.

(Testimony of the witness concluded.)

Thereupon---

WILLIAM CONNOR,

was called to the stand and not being sworn, testified as follows:

MR. MYLANDER: If the Court please, we will stipulate they may copy into the record without interrupting the proceedings at this time, the Land Record.

MR. HUGHES: I think perhaps we should identify officially for the record the folio and the liber number.

DIRECT EXAMINATION

By Mr. Hughes:

Q Sir, your name?

A William Connor.

Q You are the official custodian of the Land Records of Baltimore City?

A I am one of the deputies, yes, sir.

Q Do you have in your possession Liber GR No. 769?

A Yes.

Q That is one of the official Land Records of Baltimore City?

THE COURT: Folio 127.

Q For the record, will you state what that purports to be?

A Laurel Cemetery Company deed to United States of America.

Q And the date?

THE COURT: I think Mr. Mylander's suggestion is well taken to have the Stenographer copy it some other time.

MR. HUGHES: May I make a stipulation for the record? That the Land Records of Baltimore City produced in this Court shall be -- those referred to shall be copied and be admissible in evidence as originals?

MR. MYLANDER: I have indicated before I stipulated that these are admitted in evidence and should be copied into the record by the Stenographer.

MR. ATWATER: If they are admissible at all.

MR. HUGHES: If they are admissible at all.

Note the following deed was copied by the Official Reporter from Liber GR No. 769, Folio 127, of the Land Records of Baltimore City:

THE LAUREL CEMETERY CO.

Deed To

#71 THE UNITED STATES OF AMERICA

Know All Men By These Presents that whereas The

United States of Amerca have heretofore caused to be buried in the Laurel Cemetery ground the bodies of colored soldiers to the number of - or about that number, and have paid in full for such burials. And whereas the said United States is desirous of having a deed or certificate of title to the lots occupied by such burials in the same manner as if the said lots had been purchased by it, and whereas the said Laurel Cemetery Company is willing to accede to its wishes, therefore this deed or certificate is executed.

Now, Therefore, in consideration of the premises and of one dollar, the said Laurel Cemetery Company do hereby grant, bargain, sell and convey to the said The United States of America, its representatives and assigns, forever. Subject, however, to the conditions and limitations and with the privileges specified in the Act of the General Assembly of Maryland passed January Session 1852, Chapter 221, and such rules and regulations now in force and such other rules and regulations as may be adopted hereafter by the management of said cemetery made pursuant to said Act of Assembly, all those lots of land in the Laurel Cemetery laid down in the plan of said cemetery in the office of said company, and

therein designated as lots numbers 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 354, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369; 341, 342, 343 and 344. All in Area 1, containing each 80 superficial feet.

To Have and To Hold the hereinabove granted premises to the said The United States of America, its representatives and assigns, subject however to the above conditions and limitations. And the said Laurel Cemetery Company do hereby covenant to and with the said The United States of America, its representatives and assigns, that they are lawfully seized of the herein granted premises in fee simple, that they have the right to sell and convey the same for the purposes in them expressed and that they will warrant and defend the same unto the said The United States of America, its representatives and assigns, forever.

In Testimony Whereof, the said Laurel Cemetery Company have caused this certificate of title to be signed

by their president, John H. Emory, and their common seal to be affixed hereto, this first day of June, in the year of our Lord, One Thousand Eight Hundred and Seventy-Six.

John H. Emory, President

Laurel Cemetery Company (Seal)

Received for Record 20/77 at 3-1/2 P. M., same day recorded.

Q Now, sir, you have in your possession Liber 192, Folio 1, JFC 192, Folio 1?

A That's right.

Q What does that purport to be?

A That is a quit-claim deed dated 12th day of August 1957, between United States of America and the Mayor and City Council of Baltimore.

Note the following deed was copied by the Official Reporter from Liber JFC 192, Folio 1:

QUIT-CLAIM DEED

This Deed Made the 12th day of August 1957, between The United States of America, acting by and through the Secretary of the Army, under and pursuant to the powers and authority contained in Public Law 250, 75th Congress, approved

10 August 1937, party of the first part, and The Mayor and City Council of Baltimore, a Maryland municipal corporation, party of the second part;

WITNESSETH: That the said party of the first part, for and in consideration of the sum of One Thousand Two Hundred and Fifty ($1250) Dollars, to it duly paid by the party of the second part, the receipt whereof is hereby acknowledged,by these presents does remise, release, and forever quit-claim, unto the party of the second part, its successors and assigns, forever, all the right, title and interest whatsoever, of the party of the first part in and to certain burial lots and portions of lots in Area 1 of the Laurel Cemetery, in the City of Baltimore, State of Maryland, lying to the northwest of the southeast building line of Belair Road as widened, 80 feet wide, under Ordinance No. 679, of the Mayor and City Council of Baltimore, approved April 25, 1911, and situate within the boundaries of a parcel of land more particularly described as follows:

Beginning for the same at the point formed by the intersection of the Southeast side of Belair Road, as condemned and widened, eighty feet wide, under Ordinance 679,

Mayor and City Council of Baltimore, approved April 25, 1911, and the Northeast side of Lot 370, Area 1, of the Laurel Cemetery, said point being distant 285.0 feet, more or less, southwest of the point formed by the intersection of the southeast side of said Belair Road and the southwest side of Cliftmont Avenue, 50 feet wide, and said point of beginning being also distant 244 feet, more or less, northwesterly from the easternmost corner of said Lot 370, and running thence binding on the southeast side of Belair Road south 41 degrees 49 minutes 48 seconds, west 260.03 feet more or less, to intersect the southwest side of Lot 369, Area 1 of said Laurel Cemetery, said point of intersection being distant 7.27 feet, more or less, northwesterly from the

#72 southernmost corner of said Lot 369; thence binding on part of the southwest side of said Lot 369; and on the southwest side of Lots 394 and 419, Area 1 of said cemetery, north 47 degrees 28 minutes 10 seconds west 16.73 feet, more or less, to the westernmost corner of said Lot 419, thence north 42 degrees 31 minutes 50 seconds east 260.0 feet, more or less, to the northernmost corner of Lot 395, Area 1 of said cemetery, and thence binding on the northeast side of said

lot 395 and on part of the northeast side of said Lot 370 south 47 degrees 28 minutes 10 seconds east 13.56 feet, more or less, to the place of beginning, and containing 3937.7 square feet of land, more or less, and including within its boundaries all of Lots 389 through 419, major portions of lots 370 through 388, and minor portions of lots 364 through 369; all as shown on plat dated December 14, 1956, numbered 265-B-72A, attached hereto, and in all respects a part hereof.

The courses in the above-described description are all referred to the true meridian as adopted by the Baltimore Survey Control System.

Being a portion of the land conveyed by the Laurel Cemetery Company to the United States of America by deed dated June 1, 1876, and recorded among the Land Records of Baltimore City in Liber GR No. 769, Folio 127.

In Witness Whereof, the party of the first part has caused these presents to be executed in its name by Wilber M. Brucker, Secretary of the Army, and the Seal of the Department of the Army to be hereunto affixed this day and year first above written.

United States of America
Wilber M. Brucker
Secretary of the Army

This deed is not subject to title 10, United States Code, Section 2662.

DIRECT EXAMINATION

By Mr. Dearing:

Q Mr. Connor, how long have you been custodian of the Land Records of Baltimore City?

MR. MYLANDER: If the Court please, I will concede that Mr. Connor is the Deputy Custodian of the records, that these are the authentic records and they are properly produced and they are properly recorded. What else can he testify to?

MR. DEARING: Your Honor, I have a purpose in asking the question. It is in reference to the custom of recording deeds to cemetery lots whether they are recorded in the Land Office or whether they are kept by the Cemetery Company.

THE COURT: All right, go ahead and ask the question.

Q Mr. Connor, how long have you been custodian of the records?

A How long have I been employed upstairs?

Q That's correct.

A About thirty-two years.

Q Is there a custom whereby owners of cemetery lots record their deeds in the Land Records Office?

(Question objected to; objection overruled.)

THE COURT: Do you know?

THE WITNESS: No, I don't, Your Honor.

Q In your official duties, has your experience been that many people record cemetery lot deeds in the Land Record Office?

(Question objected to.)

THE COURT: He has answered that. Haven't you? Can you answer it?

THE WITNESS: No, I cannot.

(Testimony of the witness concluded.)

Thereupon---

ANNIE FRISBY,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and

testified as follows:

THE BAILIFF: What is your name and where do you live?

THE WITNESS: My name is Annie Russell Frisby. My present address is 3403 Bateman Avenue.

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Mrs. Frisby, do you have with you deeds to lots in Laurel Cemetery as it was located on Belair Road?

A Yes, I do.

MR. MYLANDER: I thought those had all been stipulated to.

THE COURT: Apparently this is a new matter. Go ahead.

A Yes, I do.

Q Where is that lot situated in Laurel Cemetery? I show you this paper purporting to be deed from Laurel Cemetery Company to Hezekiah Russell, deed No. 756, Lot No. 147, in Section C; under the date of April 8, 1889, in Baltimore City.

A That is the deed.

MRS. MITCHELL: I wish to offer this in evidence as Plaintiffs' Exhibit 35.

MR. MYLANDER: Same general objection.

THE COURT: Same ruling.

(Document referred to received in evidence as Plaintiffs' Exhibit 35.)

Q Mrs. Frisby, who was Hezekiah Russell?

A Hezekiah Russell was my father.

Q Was he buried in that lot in Laurel Cemetery?

A He is buried in that lot.

Q How many of your relatives are buried there?

A My mother and my father are buried there.

Q I show you this paper. Will you tell me what it is?

A After my mother died in 1928,we had Mr. Subbot of 2002 Frederick Avenue, to design a monument and this monument was placed at Laurel Cemetery at the grave of my mother. My father passed in 1936 --

MR. MYLANDER: I interpose a special objection.

THE COURT: Overruled. All subject to exception.

Q Was that monument placed on the grave in the

cemetery?

A Yes. Our lot was right at the entrance, there was no trouble in finding it, the monument was placed on the grave right at the entrance of the cemetery.

MRS. MITCHELL: I wish to offer into evidence this piece of paper, a contract for the erection of a monument under date of February 5, 1930, from C. M. Subbot, 2002 Frederick Avenue, Baltimore, Maryland.

(Objected to.)

THE COURT: Same ruling. She has testified to it. She wants to take it back with her. Objection overruled. Same ruling.

(Document referred to received in evidence as Plaintiffs' Exhibit 36.)

Q Mrs. Frisby, did you maintain and keep up your lot in the cemetery?

A We definitely did.

(Objected to; objection overruled.)

A (Continuing) Every Decoration Day, it was a family ritual and off and on during the year we would go out and see to it. That idea was carried on by my sister, Mrs. Keys

and Mr. Hamlet. The whole family would go out there and take care of the lot because we revered our parents. They were outstanding citizens of Baltimore and reared a lovely family, and we thought it was our duty.

Q When was the last time you were at the cemetery?

A May 1957.

Q It is your testimony you went every year and frequently during the year?

A And during the year the family did.

Q When did you first learn of the proceedings in Court regarding the sale of the cemetery?

A Through my husband, who saw it in the paper, I learned it from my husband.

Q Was that after the sale of the cemetery had been made?

A That was along about 1958.

Q After the sale had been made?

A Yes.

Q Do you subscribe to The Daily Record?

A We don't.

Q What papers in Baltimore City, daily papers, do

you read?

A Morning and Evening Sun, the Evening News, and all copies of the Afro.

Q Mrs. Frisby, if you had been notified of this sale, what steps would you have taken?

(Question objected to; objection sustained.)

Q I believe you are the mother of Mr. Russell Frisby, who is the Chief Domestic Relations Analyst in the Domestic Relations Department of the State's Attorney's Office?

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A I am very proud to say that I am, and I am also proud to say that he holds his job as a sacred duty, which makes us all very happy.

Q You are also the aunt of Magistrate-At-Large George Russell, are you not?

A I am; Brother George's son.

MR. MYLANDER: We move her testimony be stricken.

THE COURT: Same ruling.

(Testimony of the witness concluded.)

MRS. MITCHELL: There are three original lot purchasers in the audience of the Court who have been here all

day, who wanted to tell Your Honor personally -- they are elderly people -- that they were original purchasers. One man has lived at the same location for more than fifty years, he is living at the same place he was living at the time he purchased his deed, and these purchasers would like to tell you personally about it. But I believe we can stipulate, if counsel will agree to it, as to the fact that they are original purchasers and they are still living and they have their deeds with them.

MR. MYLANDER: We object on the ground that the testimony is irrelevant, but the matter of bringing their testimony on the record, if the Court overrules the objection, is not material.

THE COURT: Very well. Then you have a running objection and I am following the regular rule of overruling your objection and permitting the testimony subject to exception. So the matter of stipulation I think is very simple.

MRS. MITCHELL: Then I would like to read these deeds orally into the record and stipulate that these are original purchasers.

Mrs. Gladys Gorman Banks was here yesterday and has been at each day of the trial, she had to go to work today, and if counsel for the defendants will agree to the introduction of this without her presence, she need not be here.

MR. MYLANDER: Indeed we will, subject to the same general exception.

THE COURT: Same ruling. Subject to exception.

MRS. MITCHELL: We have two deeds. One Lot No. 1959 from Laurel Cemetery Company to John E. Johnson and Mary E. Johnson, their heirs and assigns, two lots of ground Nos. 159 and 167, each 80 square feet, under date of January 30, 1909. Another deed, duplicate deed No. 1423, to John E. and Mary E. Johnson, Nos. 159 and 167 in Section R of said cemetery, under date of December 7, 1899.

We would like to further state that Mr. Johnson is 81 years of age, that he resides 604 Brune Street, and has lived there fifty years.

Next is Alberta Piel Creig, who lives 623 North Madeira Street. Deed No. 1975, under date of April 17, 1909 -- all of these deeds are under the seal of the cemetery. The deed is in the name of Alberta Piel, which was her maiden

name, and it is to one Lot No. 133 in Section R. That was her name by her first marriage. That was the name of her first husband, Alberta Piel, when she bought this deed. Mrs. Piel lived at 243 South Madeira Street when she purchased the deed in 1909. She lives at 623 North Madeira Street now, and since the time of the purchase of the deed, she has lived on Madeira Street.

Now we have the deed of Mrs. Gladys Gorman Banks, an original purchaser also, Deed No. 3739 from the Laurel Cemetery Company to Gladys Gorman, one Lot No. 269 in Section F, under date of July 6, 1926. Miss Gorman is now Mrs. Gladys Gorman Banks. She lives 2752 Baker Street.

There is just one other I see. Mr. William E. Phillips, who was here a few days of the trial but he is not here today. He is an original purchaser.

MR. MYLANDER: We are not objecting to that exhibit as to our general objection.

MRS. MITCHELL: Then I would like to read into the record by stipulation the deed of William E. Phillips, which is from the Laurel Cemetery Company, No. 2018, under date of December 31, 1909, one Lot No. 109 in Area R.

Mr. Phillips at that time lived at 1201 West Lanvale Street and now resides at 1009 Providence Street.

MR. MYLANDER: Excuse me. Mr. Phillips in 1909 lived at 1201 West Lanvale Street?

MRS. MITCHELL: Well, we stipulate that.

MR. MYLANDER: That is wrong because I was born at 1211 Lanvale Street on June 3, 1910, and there were no colored people living in that block at that time.

MRS. MITCHELL: Then we will stipulate his present address. He is an original purchaser and is still living and has had a number of burials in the lot; his mother, his wife and his son. He could not be present today.

THE COURT: Very well.

(Documents referred to received in evidence as Plaintiffs' Exhibit 37-A, B, C, and D.)

Thereupon---

ROBERT WATTS,

a witness of lawful age, produced on behalf of the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Mr. Watts, you are a member of the Bar and you were also formerly a Traffic Court Magistrate?

A Yes.

Q And you have been practicing law in the City of Baltimore since when?

A 1949.

Q There has been testimony here, previous testimony by Mrs. Anita Scott and by Mrs. Brooks, president and treasurer respectively of the Laurel Cemetery Lot Owners Association, that you represented them. Will you tell us what, if anything, you did with respect to their efforts in the Laurel Cemetery at that time?

MR. MYLANDER: I object.

THE COURT: Same ruling. Overruled. Subject to exception.

A I think my first contact was sometime in the early part of 1949. When I first went there they had several meetings. I think the first meeting I attended was the meeting in Chuck Webb Center. At that time there was

a condemnation proceeding that the City was planning to make to put a recreation area, condemn the property and put a track there, some kind of recreation area. There were about 200 or 300 people there at the first meeting, and there was a two-fold aim. A lot of them were there to see what would happen if the City condemned the property and a lot of others came there in the interest of cleaning up the property.

I looked up the statutory law, there was little law I could find, and I advised them on different questions. I think, if I recall, I checked with the City officials and it was somewhere in the planning stage, but there was nothing definite. I also made contact through my connections with the City and with the president of the Improvement Association #75 went to the cemetery. If I recall, we met in a doctor's office out on Belair Road with the president and several officers and myself, and our interests were the same as they were against the condemnation proceeding and their acquiring the area. They were stressing that we could go on cleaning up the cemetery and they would cooperate with us. While there, I looked around at the condition of the cemetery. Just prior to that I had made a perfunctory contact with Mr. Kaufman.

I say that because when I came into the matter several people had met with him, and if I recall, Mr. Daniel Murray, who had been the attorney in some connection, had also been to him. So I just made -- I am not sure about this -- whether I went to his office or talked to him on the phone. My recollection is that it was a phone conversation. I asked Mr. Kaufman what we could expect of him in the interest of cleaning up the cemetery. I don't remember the conversation, but generally he said that because of financial reasons he was not in a position to invest any money in the cemetery and he could give us no financial assistance.

It was at that time, at the next meeting, I think, we had started a fund, fund-raising campaign. I met with the members of the group at different times and we finally got a little money together and the question came up about cleaning up the cemetery, and I remember some tree company wanted a contract, they wanted to make an independent contract, and also we had very little funds available. We drew up an agreement in which we agreed to pay for cleaning up the cemetery.

Other than that, I cannot recall anything else.

Q Is this the contract you refer to?

A Yes, I drew that.

MR. MYLANDER: This is a contract for the doing of work in the cemetery?

THE WITNESS: This is a contract for doing work in the cemetery, yes.

THE COURT: It is certainly not necessary to crowd the record with that. He has already testified about it. If you insist on it, I will admit it subject to exception. Did you get paid for all those services you rendered?

THE WITNESS: About $50. I probably met with the group about twenty-five times. I do that often.

MRS. MITCHELL: I would like to offer this in evidence because it contains the name of Mrs. Isabelle Powell, the deceased president. Reference has been made to her by Mrs. Jackson.

THE COURT: Very well, I will admit it subject to exception.

MRS. MITCHELL: This is contract dated February 2, 1950, between the Laurel Cemetery Protective and Improvement Association and Brodie Powell and John Powell for cleaning up operations in Laurel Cemetery. It is signed by

Mrs. Isabelle Powell, President of the Laurel Cemetery Protective and Improvement Association, and Mildred, Kate and Robert B. Watts and John Johnson, who just introduced his original deed, and also the contract with Brodie Powell and John Powell.

(Document referred to received in evidence as Plaintiffs' Exhibit 38.)

Q Did any question ever come up about duplicate deeds for lot owners who had lots there?

A That was one of our big problems, a lot of people wanted to know how they could get deeds. If I recall, I think there was a man who was the caretaker, I think Mr. Kaufman had said he had some kind of records of them. My memory is hazy on that point, but it seems to me there was a caretaker who boasted to me he knew where every cemetery lot was. I think, if I am correct, there was some legal objection to issuing duplicate deeds. I don't recall the details. I know my efforts in that direction were fruitless.

Q Did Mr. Kaufman ever disclose to you that he had any records of lot owners at that time?

A Through this man he did, yes. Also the records

the caretaker had.

Q To your knowledge, were any duplicate deeds ever issued to lot owners?

A Not as I recall.

MRS. MITCHELL: No further questions.

THE WITNESS: I remember it was a very complicated legal problem. A lot of the people had had them and we could not find them, and it was a very complicated situation. That was when I got the $50, that is what I was originally employed to find.

Then after the City's efforts to condemn the property began to fade out and it looked as if they were not going ahead with it, we had a big meeting out on the Belair Road, I think all the community were there, and I think that concerted effort made the City change its mind. Then we made efforts to clean it up, but a lot of the people had moved away.

Q Are you saying then that the residents of the immediate area of the Laurel Cemetery preferred having the cemetery there to a housing project?

A No question about it. But, of course, they wanted

it cleaned up, they got the people to put up money and they would help clean it up. But they were against having a recreation area. They were told I believe that it would be good for their kids and all, but they were against it. They were with us against the City. I remember that very definitely.

MR. MYLANDER: I move that his entire testimony be stricken.

THE COURT: Overruled.

(Testimony of the witness concluded.)

Thereupon---

REVEREND BAXTER MATTHEWS,

a witness called by counsel for the plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Give us your name, your official position and your address.

THE WITNESS: Reverend Baxter Matthews, Pastor of the Union Baptist Church, 1219 Druid Hill Avenue. I have been there since 1940, March.

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Reverend Matthews, in your ministerial capacity have you had occasion to visit Laurel Cemetery and if so, for what purpose?

A For the purpose of holding a service. Prior to that there was someone to take care of the cemetery I may mention. But we would go there annually for a service, and in order to do that the cemetery was in good condition. I mean the particular grave of Doctor Harvey Johnson.

Q You say this particular grave of Doctor Harvey Johnson, and who was he?

A He was the former minister of the Union Baptist Church. He was there for fifty years.

Q Was there a monument on his grave?

A Yes, Mount and Monument.

Q With the date of his death inscribed thereon?

A Yes.

Q Did your church maintain and keep up that burial lot in Laurel Cemetery?

A We did.

Q There has been previous testimony by Mr. Dever Smith.

A That's right.

Q Do you know him, and if so, in what capacity?

A Chairman of our Deacon Board.

Q He has testified he was paid by your church to maintain that burial lot and he did it until the bulldozers came?

A That's right.

Q Reverend Matthews, further, as Pastor of the Church, which has an interest in the Laurel Cemetery through the grave of Doctor Harvey Johnson, did you participate in any way in the activities of the Laurel Cemetery Protective and Improvement Association?

A I did, I attended some meetings.

Q It has been testified that you on one occasion accompanied a committee to the office of Mr. Kaufman?

A That's correct.

Q If you recall, do you know what happened as a result of that meeting as to the cleaning up of the Laurel Cemetery? Was there any cooperation from Mr. Kaufman?

A I don't recall any cooperation from Mr. Kaufman.

Q Do you recall what, if anything, was done by any of the owners of Laurel Cemetery to assist the Lot owners?

A Do I recall anything that they did?

Q Yes.

A No. I don't.

MRS. MITCHELL: No further questions.

MR. MYLANDER: No questions. I move that the entire #76 testimony of this witness be stricken out. If the Court please, I suggest some rule of operation be established or we will be keeping this thing up for weeks.

MRS. MITCHELL: Those are all the witnesses, Your Honor, who have an interest in the cemetery. I might say though that, as you can see, when Mr. Hamlet testified, there are a number of the lot owners who maintained their graves and some paid for the maintenance of their graves and others cleaned them up themselves regularly.

THE COURT: I am not prepared to hear argument now.

MRS. MITCHELL: No. This is my point. One of the allegations in the Bill of Complaint is that the lot owners had abandoned their graves and that they had not

maintained them, so that it is material to show the interest and efforts of a lot of lot owners in the maintenance and upkeep of their graves. Before we are finished, at this time, if Mr. Mylander is objecting to the stringing out of the testimony, we will be glad to have a stipulation.

THE COURT: He isn't objecting exactly --

MRS. MITCHELL: For the rights of the people who maintained their graves.

MR. MYLANDER: I will concede it is material to the issues in this case.

THE COURT: Let us get on and take testimony.

MRS. MITCHELL: I just wish to call the attention of the Court at this point to the fact that there are a number of lot owners whose deeds are being admitted into evidence by stipulation and who have maintained their graves --

MR. ATWATER: We object to this and suggest that is a matter of argument.

THE COURT: All right, call your next witness.

(Testimony of the witness concluded.)

THE COURT: Suppose we take a short recess.

(After a short recess.)

Thereupon---

LLOYD G. McALLISTER,

a witness called by counsel for plaintiffs, having been duly sworn according to law, was examined and testified as follows:

THE BAILIFF: Your name.

THE WITNESS: Lloyd G. McAllister.

THE BAILIFF: Your official position and your office address?

THE WITNESS: Chief Assistant and Assistant City Solicitor, Real Estate Division, and the address is 507 Court House.

DIRECT EXAMINATION

By Mr. Hughes:

Q Mr. McAllister, where did you receive your legal training?

A University of Maryland.

Q And when did you graduate?

A I did not graduate, I finished there in 1925.

Q When did you become a member of the Bar?

A Member of the Bar I think it was in 1927.

Q And you practiced privately for a while?

A No, I went to Washington College at Chestertown prior to that, after I finished I took a pre-law course. After finishing in Washington College I came to Baltimore and worked for the Maryland Title Guaranty Company.

Q For how many years did you work for Maryland Title Guaranty Company?

A I worked for the Maryland Title until November of 1943.

Q What were your duties there?

A I was title attorney, examined titles to real estate, and drew legal papers having to do with real estate.

Q And when did you affiliate with the City Solicitor's office?

A November of 1943, under Mr. Simon Sobeloff.

Q Then all of your legal work, or should I say the majority of it, has been dealing with real property?

A That's correct.

Q Then I can say, can I not, that you are a title expert, considered so?

A I don't know whether I am or not, sir.

MR. MYLANDER: Mr. Sobeloff thought so.

MR. HUGHES: And evidently the rest of the City Solicitors.

Q When were you associated with the Real Estate Division of the City Solicitor's Office?

A Will you repeat that?

(Question read by the Reporter.)

A I came into the office in November of 1943 and took charge of it.

Q And since 1943 to the present time you are what is termed head of that division, is that correct?

A That's correct, yes.

Q And you supervise all titles and condemnation proceedings on behalf of the City?

A Well, my division handles all real estate matters on behalf of the City and has charge of the condemnation cases.

Q How long have you known Mr. Kaufman?

A Well, Mr. Kaufman is in the real estate business. I probably met Mr. Kaufman when I was with the Maryland Title. I don't have any idea of the time. I have known him for

quite a while.

Q When, to your first knowledge, or when did you first obtain knowledge that he was associated with the Laurel Cemetery?

A Well, my first knowledge, I don't know the exact date, but matters came to the law department about complaints, and so forth, about the Laurel Cemetery that required an investigation as to the status of the Laurel Cemetery and the ownership, and that I believe is when I found that out.

Q Did you know Mr. Ziemer?

A Yes, I did.

Q And you knew he was the owner of the New Laurel Cemetery?

A I did not know that he was the owner but I learned that when I was with the Maryland Title. There would be discussions or conversations at different times about his ownership of it and the bad condition and difficulty he was having with it at that time.

Q Did you have occasion to search title of the Laurel Cemetery when you were with the Maryland Title?

A No, I did not; not to my knowledge.

Q When for the first time did you search the title to the Laurel Cemetery?

A The first time would have been when the McKamer Realty Company or the three owners of it became interested in it, to check the records at that time.

Q Then you did not search the title when any of these complaints came to your attention?

A I did not personally. I may have -- I recall we had, I had calls from the Police Department, Health Department, and various City Departments on the status of the cemetery. I recall that a check mas made and it was determined that the corporation was in bankruptcy, and I have about eight attorneys in my division. One of them I am sure made a check in the Federal Court or had information that the corporation was in bankruptcy.

Q Prior to the corporation going into bankruptcy, did the claim of the United States Government come to your attention?

A I don't recall that it did. I don't recall that it did.

Q Well, when did Mr. Mercaldo and Mr. Kaufman

conceive the idea of forming -- or buying the Laurel Cemetery?

A When did we conceive of the idea of buying the Laurel Cemetery?

Q Yes.

A Mr. Mercaldo has testified --

Q Just a minute now.

A I can't tell you the exact date. I am trying to refresh my memory.

Q Well, approximately.

A Mr. Mercaldo talked to me about it, I believe he called me or someone in my office about the ownership of the cemetery and it was sometime after that, maybe in 1956, I don't recall exactly.

Q And you, Mr. Mercaldo and Mr. Kaufman had conferences then concerning the Laurel Cemetery?

A Yes, we did.

Q And it had come to your attention that proceedings in voluntary bankruptcy were pending in the Federal Court at that time, is that true?

A Yes, that's correct. The proceedings had been filed, they were lying dormant. No trustee had been appointed.

I recall going with Mr. Mercaldo and talking to Mr. Kaiser, the Referee, and Mr. Kaiser whom I know very well, said, "I want to get rid of this thing, we can't do anything with it." I will reiterate what Mr. Mercaldo said. He said, "I will give it away" --

Q Who said that?

A May I finish?

Q Yes, sir.

A He said this, if I recall correctly, that he would be willing to give it away or get rid of it provided there was enough offered to pay the Court costs and a commission for the trustee.

Q In your examination or your questioning you ascertained that Mr. Kaufman was the only creditor of the corporation, did you not?

A I don't recall. I did not check the proceedings very carefully, I made a few scratch notes on yellow paper. I can't say definitely whether he was or was not.

#77 Q When you started to discuss this among you three, the three of you, did you go to visit the Laurel Cemetery?

A Yes, I have visited the Laurel Cemetery several

times.

Q Would you recall the first time?

A No, I don't recall the first time.

Q Was it before or after bankruptcy proceedings?

A It was after bankruptcy.

Q Would you have any idea about how long it may have been before you incorporated, that is incorporated McKamer?

A How long after my visit to the cemetery?

Q How long before your incorporation?

A I don't understand the question.

Q How long before the McKamer Corporation was incorporated did you make visits to the Laurel Cemetery?

A I don't know what date McKamer was incorporated.

THE COURT: I think it was November 1956.

A How long before that?

Q Yes.

A I don't know exactly, but I know I visited there, naturally I visited there.

Q You were fully aware of the conditions of the cemetery then, were you not?

A I had a pretty good view of it. Yes.

Q Did you go into it?

A Yes. I tried to go into it but it was very tough to get in there.

Q Is that the time you allude or what has been alluded to that it was so overgrown that trousers were torn?

A No, I was out there prior to that. That was in the fall I believe, it was very cold because I remember damaging my clothes. That was in the fall. I don't know what time in the fall of 1956, and I was out there previous to that.

Q When you say you damaged your clothes, was it in walking over the cemetery lots or was it trying to walk around the roads?

A No, sir, it was walking over the lots and over the roads also. The roads in fact were the best part of the cemetery, if I recall correctly, because it was some kind of crushed stone or cinders.

Q Would you say they were passable?

A The roads?

Q Yes.

A That was the only way I could get in there. I

recall going from Belair Road along two or three roads into the various alleys that surround the cemetery.

Q Maybe I better put it this way, Mr. McAllister: Could a funeral, with the usual cars, get to the Laurel Cemetery for a burial?

A Get to the cemetery?

MR. MYLANDER: Your Honor, I have my general objection and I object specially to this.

A I can't tell that, Your Honor, I don't know.

THE COURT: He says he does not know.

Q When did Mr. Mercaldo come into your division of the City Solicitor's office?

A I checked on our assignment book and it shows the first assignment Mr. Mercaldo got was in October of 1955, so I take it it was around that time, first part of October 1955.

Q Did you know him before that time?

A No, sir, I didn't know him at all. First time I ever met Mr. Mercaldo.

Q Up to October of 1955, you and he had never discussed the Laurel Cemetery?

A No, sir. I did not know Mr. Mercaldo. Somebody pointed him out to me on a boat trip that the City employees had. I never met him until he came into the office.

Q But after the day you have just mentioned in 1955, he was under your direct supervision and control, wasn't he?

A I wouldn't say he was under my direct supervision and control. The work that was assigned to him was under my control.

Q And he was responsible to you?

A In the first instance, and thereafter to the Deputy and to the City Solicitor. All actions of mine are confirmed or approved by the Deputy or the City Solicitor. I don't have complete autonomy.

Q Did you form the partnership which has been alluded to here?

A I would like to clear that up. The partnership isn't a formal partnership. When a bank account was opened to cover --

Q Excuse me. Will you fix that date or can you?

A I think it was --

MR. MYLANDER: You may refer to your records, if

you have them available.

A Yes. If I recall correctly, it was in September of 1958.

Q Well, then, it was after the formation of the corporation, is that correct?

A Yes, that's true.

Q It wasn't for the purpose of putting up the expenses for the incorporation?

A Well, we would do this. Whenever there was any needfor funds Mr. Kaufman and Mr. Mercaldo and I would each contribute equally and two of us would turn our checks over to one and he in turn would send his check.

Q The three of you were the owners of the McKamer Corporation and you were the only ones having an interest in it, were you not?

A That's right.

Q Then why was it necessary to form a partnership?

A We didn't form a partnership. When we went to the bank, if I recall correctly, the head teller at the Equitable Trust Company suggested we set it up with the three names and enter the three names of our suggested partnership.

bank account so that two of us at least could write checks on it without all of the difficulty of assembling the money for each transaction. It was a matter of convenience.

Q Couldn't that have been done under the name of the McKamer Corporation by the president and secretary?

MR. MYLANDER: If the Court pleases, this is argument, has no significance that I can fathom, and I object to it.

MR. HUGHES: Well, I can't fathom it either, Your Honor. That's why I am asking him.

THE COURT: I think he has given the best answer he can but you can continue to examine him. As I understood it, it was done on the recommendation of the head teller of the Equitable Trust Company for purposes of convenience. I have yet to see any real significance one way or another with respect to the existence or non-existence of the partnership.

MR. HUGHES: I can't understand it either, Your Honor, that's why I am asking the witness.

THE WITNESS: Well, I tried to explain it.

MR. MYLANDER: We object to it as being a fishing

expedition.

MR. HUGHES: We are calling this gentleman as an adverse witness, Mr. Mylander.

THE WITNESS: I have tried my best to explain it to you and have tried to in the past.

Q Now, Mr. McAllister, at the formation of the McAllister Corporation, Miss Klipper was listed as one of the incorporators, is that right?

A Yes, that's correct.

Q Did she draw the papers or type them?

A What papers?

Q The articles of incorporation to be filed.

A Of the McKamer?

Q Yes, sir.

A Mr. Mercaldo stated yesterday that he dicated them to Miss Klipper and she wrote them. I don't personally know. I personally don't know.

Q Did she ever attend any of the meetings of the corporation?

A May I say this? In a corporation at its formation, it is a natural thing to take in employees and secretaries,

employees in the office. You don't have formal meetings --

#78 Q Mr. McAllister, I asked you one question. I asked you did she attend any meetings?

A Could I answer it in this manner truthfully?

Q You were sworn to tell the truth.

A You are in an office. We are situated on the fifth floor with about ten offices which are contiguous to each other. There is contact and communication one to the other. We may have gone to Miss Klipper and told her we are electing so and so president. Mr. Mercaldo would be in my office. There was no formal meeting of sitting down at a table --

Q I asked you did she ever attend any meetings of the McKamer Corporation?

A I would say she did not attend nor did I attend any formal meeting.

Q You brought into this Court under subpoena what purports to be minutes or records of the McKamer Corporation, is that right?

A That's correct, yes, sir.

Q Who wrote up those minutes?

A Mr. Mercaldo had charge of the minutes. I don't

know who wrote them or typed them.

Q You were here yesterday, I believe, when Mr. Mercaldo said that Miss Klipper wrote them?

A Yes.

Q Were you in here when Miss Klipper said she never wrote them?

A I didn't hear Miss Klipper say she didn't write them.

MR. MYLANDER: I object, Your Honor.

THE COURT: The word "wrote" or "written" is somewhat confusing.

MR. HUGHES: Or typed.

THE COURT: As I understand it, Mr. Mercaldo would dictate to Miss Klipper the notes and she would type them, and that was about the extent of her interest in the corporation.

MR. HUGHES: I think she said that the original papers, Your Honor -- she was particularly asked about these minutes.

MR. ATWATER: I don't think he said as to who typed them. I think he said he dictated them to his secretary.

MR. MYLANDER: I object to the line of questioning anyway. How can it be material to the issues in this case, whether he dictated them to Miss Klipper or somebody else, when it is conceded that Miss Klipper was a straw incorporator and had no interest.

THE COURT: I don't see Miss Klipper in this case at all.

MR. HUGHES: Very well, sir.

Q How about Mr. Martin, did you vote to make him an officer of the corporation in place of Mr. Mercaldo?

A Yes, I did.

Q When was that?

A The minutes will speak for themselves. I don't know the date.

Q Was it approximately the 25th of July 1958?

A If the records show that.

Q How long was he president? That was the Belair Road Enterprises, wasn't it?

A That's correct.

How long was he president?

Q Yes.

A Whatever the records show. I don't know.

Q What was the purpose of electing him president?

A Well, the purpose -- there were exceptions filed to the sale and we wanted independent people or Mr. Martin to select an outside attorney to prosecute the exceptions.

Q And Mr. Martin is Mr. Mercaldo's brother-in-law?

A I understand so; yes, sir.

Q Who, by the way, was Mr. Dantoni?

A He is a lawyer.

Q He was a lawyer for what particular interest?

A He was a layer, I believe, for one of the parties. I don't recall frankly.

Q Did you engage his services, or pay for them?

A No, sir.

Q Did either of the corporations, while you were affiliated, do that?

A Not to my knowledge.

Q Did your corporation pay a fee to you and Mr. Mercaldo of $500?

A No, sir. That was waived in the report made by the trustee. I have not received one penny from either

corporation.

Q It was reported, however, that you received a fee of $500?

A No, sir, it was not. If you will look at the proceedings you will find that the final report of the trustee says that Mr. Mercaldo and I waived our attorneys' fee.

Q You and Mr. Mercaldo represented the trustee?

A That's correct.

Q And you were counsel at the proceedings before the Master, is that right?

A Yes, that's correct.

Q And you examined Mr. Mercaldo, you put him on the stand?

A I examined, I believe, almost all of the witnesses, including Mr. Mercaldo.

Q Is it a fact that you, Mr. Mercaldo, and Mr. Kaufman own all of the interest in the McKamer Corporation?

MR. MYLANDER: I think that is very clear. I object to it as repetition.

THE COURT: I am sorry to say I have a luncheon engagement I must keep. I tried to postpone it and I find

it to be embarrassing not to go. So we will have to take a luncheon recess until half past one.

(Recess from 12:20 p. m. to 1:30 p. m.)

(After recess.) (1:45 p.m.)

Thereupon---

LLOYD G. McALLISTER,

whose examination was suspended for the purpose of taking the noon recess, resumed for

DIRECT EXAMINATION (Continued)

By Mr. Hughes:

Q Mr. McAllister, it is true that the McKamer Realty offered and paid $100 for the Laurel Cemetery, is that right?

A To the trustee in bankruptcy.

Q Did you have anything to do with the introduction in the Legislature of the Bill which has been referred to here, changing condemnation proceedings with reference to a cemetery?

A Nothing whatsoever.

Q You had nothing to do with the drafting of the Bill?

A No, sir.

Q Did you request Mr. Bacharach to introduce that Bill?

A No, sir, I talked to no one about the introduction of that Bill. In fact, I didn't know when it was introduced.

Q Did you ever appear before any committee of the Legislature?

A I did not.

Q Did you ask any of the members of the City delegation to support that Bill?

A No, sir, I did not. I talked to no one about that Bill other than Mr. Mercaldo, and I discussed it I think once or twice.

Q How many members or employees, I will say, of the City Solicitor participated in the sale or purchase of the Laurel Cemetery?

A I don't know exactly what you mean by that, sir.

Q Well, it is true that Mr. Bacharach is employed in the City Solicitor's office, isn't he?

A He is not.

Q He is not?

A He is not, no, sir.

Q He was at the time this Bill was introduced?

A What was the date the Bill was introduced? I believe he was. Yes.

Q And Miss Klipper was secretary to Mr. Mercaldo?

A Miss Klipper was a law stenographer in the office and handled Mr. Mercaldo's work as well as others' work.

Q Then who incorporated Belair Enterprises, were they members of the City Solicitor's office?

A Belair Enterprises? I believe Mr. Levy, Mr. Kaufman and Mr. Rubins, they were members of the office.

Q After the sale and purchase of the Laurel Cemetery by the McKamer Realty Company, did the McKamer Realty Company pay to the Federal Government, on or about October 16, 1957, $425?

A The question is that about the time McKamer purchased the property from the trustee in bankruptcy, McKamer also purchased from the Government certain interests or rights in a cemetery? I don't know the exact dates, but the McKamer purchased from the Referee in Bankruptcy and also from the Federal Government, I know that.

Q I asked you did the McKamer Realty Company pay

the Federal Government $425?

A It did. That is the Army Corps or whatever division of the Government was handling it.

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Q Was this for lots separate and distinct from the lots referred to provision for which the Federal Government was reimbursed?

A I don't know exactly what you mean by that question.

Q Well, you were in the City Solicitor's office, didn't you conduct the negotiations with the Government for the settlement of a claim which was pending?

A For the Belair Road? Yes, I did. The Belair Road was condemned and widened in 1911.

Q That's right.

A The Federal Government had early rights or certificates to certain lots that were numbers of the lots taken. Some cases maybe I and the Government were not a party to those proceedings. The condemnation was through the Department of Assessments, not in a law court.

Q Well, the Government was paid $10,000, wasn't it, for the purchase of those lots?

A No, sir. The Laurel Cemetery Company I believe

was paid $10,000.

Q I mean by the Federal Government, is that right, or by the Laurel Cemetery, which?

A The City condemned the land for Belair Road, the City was obligated to pay the persons that had an interest in the land taken. Laurel Cemetery Corporation was the owner in fee subject to burial rights. It was a long strip of land taken from the Laurel Cemetery Company, including the house that used to exist there at the entrance. My recollection is that the City paid for the Laurel Cemetery Corporation shortly after 1911. I don't know exactly. The authority to condemn was in 1911. The Federal Government records show did not receive anything at that time for those burial rights in the lots.

Q Well, did the Laurel Cemetery receive $10,000 for it?

A The books will show that $10,000 was awarded. If they received it, I don't know.

THE COURT: When was that, back in 1911?

THE WITNESS: Your Honor, the authority for the condemnation was in 1911. The actual, that is, the Ordinance

passed, but I do not recollect the date that the City started to buy or take the land. It was subsequent to that.

Q (By Mr. Hughes) The City acquired fee simple title you say, is that right, from the old Laurel Cemetery?

A Subject to burial rights, yes.

Q Was there in any manner or in any way in which the citizens who had a fee in those lots, property owners or lot owners, did it differ in any way from the deed to the Government for the burial of Civil War soldiers?

MR. MYLANDER: I don't understand the question.

A I don't understand you.

Q In other words, did you distinguish a fee simple by which the City acquired title and under which you settled with the Federal Government for damages, do you distinguish between their claims for damages and the claims of other lot owners?

MR. MYLANDER: If the Court please, that question is so confused that I object to it.

THE COURT: I think he is attempting to get from him a conclusion of law, which I think is at issue in this case, or at least, it is collateral in any event. I will

sustain the objection. I think the deeds are in evidence and the certificates are in evidence, and I think that will be a matter for counsel to argue.

Q When you ultimately purchased the Laurel Cemetery, that is, when you and your associates ultimately purchased it, did you recognize any distinction between a fee simple title of the lot holders or the burial rights?

MR. MYLANDER: I object. I cannot see where it matters what they would recognize or what they thought to be the case.

THE COURT: Can you answer that?

A As a matter of fact, there wasn't awhole lot of consideration given to what type of title they had, if I recollect.

Q On April 5, 1950, while you were holding office as Assistant City Solicitor, did you give as your opinion to Richard L. Steiner, Director of the Baltimore Redevelopment Commission, did you give your opinion that the property rights were held by the cemetery owners in fee simple?

A You are reading from a letter. I have not seen the letter.

Q This letter is in evidence.

A But I have not seen it. I think it is only proper I should be given an opportunity to look at it.

(Letter handed witness.)

A That is my letter, yes.

Q And did you dictate that letter?

A It has my initials on it, yes.

Q Did you do that in your official capacity, as head of the Property Division of the City Solicitor's Office?

A I did it in my official capacity. I have not seen this letter. I would like to read it.

THE COURT: Go ahead.

A Your Honor, this makes reference to a letter from Mr. Steiner and all that concerned the cemetery, Mr. Steiner in his letter poses certain questions and this letter here is supposed to be in answer to it. In all fairness, I haven't seen these papers, this is 1950, but I haven't seen them since then. I don't know what the inquiry about the letter is. This is my letter, I will admit that now.

Q And that is your opinion, at least that was your opinion --

A Can I say this? My opinion with Mr. Biddison, who was City Solicitor then -- an opinion is never written in that office by an assistant without first submitting it in the rough or some preliminary draft to the City Solicitor. All opinions have to be signed or approved by the City Solicitor.

Q They are only submitted to the City Solicitor for approval?

A It isn't my opinion entirely, it is Mr. Biddison's and my opinion. I may have dictated a rough draft, submitted it to Mr. Biddison for approval and discussed it with him, and that was the official draft determined upon.

Q Did you or not state "That the interest of the so-called cemetery owners in and to the property is fee simple subject to burial rights?

A Just a minute. That is a question for Mr. Steiner.

MR. MYLANDER: If Your Honor please, I believe that is our contention, that it is fee simple.

THE COURT: The letter speaks for itself and I can understand Mr. McAllister not having seen the letter or the accompanying inquiry letter for ten years, I don't know

that it would help the Court very much for him to express any opinion now. But it does speak for itself and it is in for whatever it may be worth.

MR. HUGHES: This has been introduced and Your Honor has read this letter.

THE COURT: I read it in the past few days.

MR. HUGHES: Then it can come up for argument.

THE COURT: Very well.

Q (By Mr. Hughes) For whatever reason the bodies were removed from the Laurel Cemetery on behalf of the Government, you did concede, then, did you not, that the Government had a claim for damages for those lots?

A For the lots the City took along Belair Road. This had been pending, the claim of the Government, for a number of years.

Q Mr. McAllister, did you not recommend settlement of that claim?

A On the recommendation of Mr. Biddison.

THE COURT: The City did actually pay I think $1250.

THE WITNESS: $1250.

Q That had nothing to do with the lots purchased by the McKamer Realty Company?

A Nothing whatsoever, no, sir. I wanted to say that the settlement with the Government as to the land along Belair Road, when it was widened, was done at the instance of Mr. Biddison. The case had been pending for a number of years and the Government, Army Officials, would periodically contact the City Solicitor or somebody for the City. Mr. Biddison said to me, let's get rid of it, if you can settle it for half, well and good.

Q But that had nothing to do with the land that the McKamer Corporation bought?

A No, sir, absolutely nothing. It was just as far apart as from here to Brazil.

Q Now, Mr. McAllister, who are the present owners of this Belair Cemetery?

MR. MYLANDER: If the Court please --

THE COURT: You mean Belair Enterprises.

MR. HUGHES: Belair Enterprises. Who are the stockholders?

A Of the Belair Road Enterprises?

Q Yes.

A Mr. Kaufman, Mr. Mercaldo and Lloyd McAllister.

THE COURT: I think it was 37-1/2, 37-1/2 and 25.

THE WITNESS: That's correct.

Q Have you ever, on behalf of either Belair Road Enterprises or the McKamer Corporation, discussed the sale of the cemetery?

MR. MYLANDER: I object.

Q With any development company?

MR. MYLANDER: I object.

THE COURT: Let him answer. Overruled, but subject to exception.

A Discussed the sale of this cemetery?

Q Yes.

A Do you mean the Laurel Cemetery?

Q Yes, sir, price.

A No, sir, I have not. People have contacted me and asked me what is to be done, that they might be interested in it. I have not discussed any price.

Q Have you received any offer?

A No, sir.

Q Did you conduct any of the negotiations with Mr. Armacost?

A Yes -- well, now, wait. I was asked to appear at Mr. Armacost's office and explain the duties and the like, the matters pertaining to his work, the legal part of it.

Q Do you know how the property in Eldersburg was acquired?

A Yes, sir, I do, because I represented --

MR. MYLANDER: If the Court please, this is entirely collateral matter, another step removed from the issues, and I make a special objection in addition to the general objection.

THE COURT: Overruled.

Q What was your answer?

THE COURT: Do you know anything about the purchase of the Eldersburg property?

A Yes, I do.

Q Do you know the former owners of that property?

A I did not know them until talks were had with them in the matter of the purchase of the property. I did not know them previously.

Q Then you conducted the negotiations, is that right?

A On behalf of the trustee, with the trustee's request.

Q And as counsel for the trustee?

A That's right.

Q How did you happen to decide on that location?

A In Carroll County?

Q Yes.

A One of the main reasons is just the very reason you had trouble with the Laurel Cemetery, it was desired to have it out in the outlying areas or country because of the growth in the urban population --

Q Who decided that?

A Well, it was the thought of the trustee, it was the thought of everybody concerned. It was the trustee's obligation and it was his thinking on it.

Q Did the trustee ever consult any of the lot owners or you, as counsel for the trustee?

A Consult any of the lot owners?

Q Yes.

A In Carroll County or Belair Road?

THE COURT: Carroll County.

Q The relocation of the bodies in Carroll County.

A Did I consult any of the lot owners about locating it there?

Q You said a while ago it was the feeling it should be removed from Baltimore. I say, did you consult any of the lot owners?

A No, of course I didn't. I didn't know who they were, I couldn't consult anybody.

Q Did the trustee or counsel for the trustee make any effort to acquire lots in Mount Auburn Cemetery in Baltimore City?

A Yes, sir --

Q You say you did?

A Wait a minute. There was an effort made to purchase lots in a cemetery in Westport. I don't know the name of it. I have been to that cemetery with Mr. Mercaldo and with Hamlet one Saturday afternoon. The trustee was interested in finding a desirable place in which to put the remains. Mr. Hamlet was contacted because Mr. Kaufman had told me that he was familiar with the Laurel Cemetery. We

went to see a man that was the sexton of this cemetery at Westport. He was deaf and dumb and his wife was too.

Q You say he was dumb?

A Deaf and dumb. He could not talk or hear. We went to this small place in West Baltimore and I recall Mr. Hamlet was with us. It was his suggestion that we use a little patience and tact because neither the man nor his wife could talk or hear. #81

Q Did you talk with anybody else about that cemetery?

A About what cemetery?

Q The one you are referring to in Westport.

A Yes, there was a sexton, someone met us there to open the steel gates and let us in and we talked to him. There seemed to be some vacant land in the rear that might be usable for this. We walked all over it.

Q Mr. McAllister, are you talking about Mount Auburn Cemetery?

A I don't recall the name of it at all.

Q You said in Westport.

A It was in the western section of the City and I think it was Westport.

Q Did you ever contact the owners of Arbutus Memorial Cemetery for the relocation of these bodies?

MR. MYLANDER: If the Court please, we have a special objection. I am sure there must be a dozen cemeteries they did not contact.

A No, we did not.

Q Did you contact the owners of the new cemetery in Catonsville?

A I did not contact any other cemetery owners or operators.

Q Did you ever talk with the owners of Carvel Memorial Cemetery?

A I don't recall.

MR. MYLANDER: He told you he did not.

MR. HUGHES: He didn't tell me, you did.

A I don't recall that I contacted them.

Q Did you contactany undertakers?

A I may have talked to one or two after the publicity occurred and the proceedings were completed. I may have. I am not sure about it.

Q Coming back to Eldersburg, who suggested that

site to you?

MR. MYLANDER: If the Court please, another special objection.

THE COURT: Overruled.

A I don't know who suggested it. The trustee was interested in finding a suitable place.

THE COURT: Of course, the trustee was Mr. Anderson.

THE WITNESS: Yes, sir.

THE COURT: How did you all decide on Eldersburg, Carroll County, and not Howard County?

THE WITNESS: Your Honor, it was just a little colored settlement in Carroll County around Eldersburg I believe. There was a colored school and there was a colored church not too far from there and it was felt this would be a nice place for it. There was an inquiry made of several places and this was finally selected.

Q You heard Mr. Armacost testify yesterday, did you not?

A Yes, I did.

Q Do you agree with his testimony that it was undeveloped and was on a dirt road?

A I will say the road, Hodges Road on which the cemetery fronts, is a little hilly, but it is a concrete road, if I remember, or pressed stone road. It is very passable in my judgment.

Q At the time you purchased this plot out there were you aware of the fact that most of the lot owners in Laurel Cemetery were very aged people?

A I was not.

Q Did you ever have in your possession or did you ever see any of the records of the Laurel Cemetery, old or new?

A I never have, no, sir.

Q Did you ever ask for them?

A I did. I asked Mr. Kaufman after it was decided to take the proceeding on this cemetery. Mr. Kaufman was asked about the records; yes, sir.

Q Did you make any effort to locate any of the lot owners?

A Yes. An effort was made, a diligent effort was made.

Q I asked if you did.

A Yes, sir.

Q What do you call a diligent effort?

A I met with Mr. Hamlet two or three times and he was a man that had been connected with the cemetery for over twenty years. I met with him at the suggestion of Mr. Kaufman because if anyone would have a real personal knowledge, Mr. Hamlet should have had. Mr.Hamlet came to my office in the City Solicitor's office and in the presence of Mr. Mercaldo, I asked Mr. Hamlet certain questions, I had asked him questions previously, and here is a list of the questions and answers that Mr. Hamlet gave at that meeting. It was taken down by Miss Ruth Rubin of my office. I was vitally interested in finding anybody that had an interest in it and I made every diligent effort to do so; land records and otherwise.

Q Incidentally, why did you consider it necessary to have a stenographer take this down by question and answer?

A Because we were preparing the case and I wanted information that was reliable, that would be in existence to cover this point.

Q Did you ask Mr. Hamlet the question, "How many

graves would you say could be identified today?" Did that question come from you?

A If it is on there, it came from me.

Q And the answer, "Not more than 200," did that come from Mr. Hamlet?

A If it is on there, it came from him.

Q What effort did you make to locate those two hundred?

A May I look at that again?

(Document handed witness.)

A We tried to get Mr. Hamlet to go there with us several times, we tried to get him to appear before the Master and testify as to what he knew about the case, and he was not very cooperative.

Q Why didn't you subpoena him?

A I don't know why. I know this, the testimony was left open by Mr. Baxter for two or three days at least. Mr. Mercaldo would go to Mr. Hamlet's house --

Q How do you know, did you go with him?

A No, I didn't, but he testified here yesterday that he did.

Q All right. Did Mr. Hamlet tell you that he would go with you but that he wanted to be paid for his time?

A No, sir, I don't recall that he ever said that. If he had said that, we would have paid him.

Q How did you determine the names of those whom you named party defendants other than Anderson Enterprises?

A From the land records. The certificates that were reported in the Land Office, the owners were made parties defendant. That was from the title examination.

Q The testimony given by Mr. Mercaldo after the purchase -- incorporation of Anderson Enterprises is correct?

A Will you repeat that?

Q Mr. Mercaldo testified that Anderson Enterprises was incorporated and given quit claim deed in order to be made a party defendant, is that true?

A No, that is not true. Anderson Enterprises has been in existence for a number of years. Mr. Anderson's interest in this was only as trustee, he was interested in cleaning the property up. Anderson Enterprises haven't one iota of interest in this at all.

Q Why were they given a quit claim deed?

A Mr. Anderson, having his place of business across the street, was vitally interested in doing something about it, to clean it up, and the purpose of making the deed was to have a defendant that was available for service, and that was the reason.

Q Mr. McAllister, how did you determine which undertaker would move the bodies?

A Well, three or four undertakers were cnntacted; not Mr. Armacost alone but others were contacted.

Q As to the price for removal?

A Well, some price was talked and the ones contacted did not want to have anything to do with it. Mr. Brooks Bradley, I believe down at Dundalk, they moved the bodies from the Airport, Friendship International Airport. He had that contract, he lost money. He said, Don't approach me on a job like that.

Q Have you been to the cemetery in Carroll County since you arranged for the purchase?

A Oh, yes; yes.

Q Have you been there since the bodies and monuments have been moved there?

A Yes, I have.

Q Did you plan that or did the undertaker, the location of the bodies and the monuments?

A They were some men working for the undertaker.

Q Do you have a plat to that particular cemetery at all?

A No, I don't.

MR. MYLANDER: If the Court please, I want to object specially again. I think we are getting further and further away.

THE COURT: Overruled.

Q Do you know where any particular body is buried there?

A Yes, I think I do. From taking the list, there are stones that mark the beginning of the cemetery and the roads. I think I can do that, yes.

Q If someone came to you, one of the lot owners, and asked how they could locate a deceased relative, would you be in position to tell them?

A I think so, I think so.

Q You have heard testimony here of the Reverend

Harvey Johnson, do you know where he is buried?

A Offhand I don't without looking at the record.

Q You say looking at the record --

A The list of burials and location.

Q Do they have numbers, these different lots?

A No, but it is stated, the counting is from the -- there is a 30-foot lane or driveway that has been treated with crushed stone and a heavy stone post that separates the section. There is a west section and there is an east section, and it states on the report the row number and the burial place number.

Q How many rows are there?

A Offhand I don't know.

THE COURT: Is there a plat available?

THE WITNESS: A plat was being made up, Your Honor. There isn't one available now.

THE COURT: Do they propose to have a plat so these people can tell where they are going?

THE WITNESS: Yes.

THE COURT: And upon whose grave they are using a permit? Isn't that important?

THE WITNESS: That is proposed to be done and it will be done promptly.

Q (By Mr. Hughes) Now you say there is no plat?

A Not at this time.

Q Are there any roads or streets?

A There are openings between the rows for passage you mean?

Q Yes.

A Yes.

Q How much land is still available for burial?

A Well, I don't know exactly in acreage but the assurance was made to me that there would be ample land of three acres and something.

Q Assurances by whom?

A By the undertaker that there would be ample land to take care of all certificate holders that had not made burials there now to get into the cemetery.

Q Has anyone, to your knowledge, been issued a certificate or a deed to any burial lot?

A No, sir, because I believe only two or three have made requests for it and they are -- the certificates are in

the course of being printed, the form is being made up.

Q The form is being made up?

A Yes.

THE COURT: In whose name was the cemetery at Eldersburg purchased?

THE WITNESS: It was purchased originally by the McKamer Realty Company and assigned then to the -- the option was procured by the McKamer Realty Company, that option was assigned to the trustee, Mr. Anderson. The deed,final deed was made by Norman Collins to Edward A. Anderson, Trustee. In that deed it dedicates this land as a cemetery for all burials, for all holders of any certificates in the present Laurel Cemetery.

THE COURT: Who will be the final title holder?

THE WITNESS: As it is now, the trustee --

MR. ATWATER: Your Honor, we have a copy of that deed in our file. We will be glad to give it to Mr. McAllister so he can be more specific.

MR. MYLANDER: May I say, with reference to some of these questions, the trustee's report filed in this case states on page 3, paragraph 8: "The undertaker's report

further attaches to it a record of the names and locations of all bodies that could be identified and removed from the Laurel Cemetery on Belair Road and reinterred in the cemetery on Hodges Road and all monuments and markers that could be located inside Laurel Cemetery on Belair Road relocated in the new cemetery and all unknown bodies located in the Laurel Cemetery on Belair Road were moved to the new Laurel Cemetery on Hodges Road, and copy of the undertaker's report and of the record of the names and locations of all bodies and all monuments and markers is attached hereto and made part hereof."

MR. HUGHES: I am fully aware of that report, Your Honor.

MR. MYLANDER: That is the report of the trustee filed on January 27, 1959.

MR. HUGHES: Does that report say who is the present owner?

Q In whose name is this property?

A Actually the legal title of it is in the trustee, with the benefit and rights in any certificate holder from Laurel Cemetery on Belair Road.

Q By trustee, you mean Anderson Enterprises, is that right?

MR. MYLANDER: No, Anderson.

A Edward A. Anderson.

MR. MYLANDER: May I point out that this is the trustee under this Court and that that would be a provisional trust to which this Court can always appoint a substitute or successor for the trustee.

THE COURT: Was any thought given to the maintenance of this cemetery other than the lot holders?

THE WITNESS: Yes, sir. With all the publicity, the trouble, the case being filed, and all that, the thing has been handicapped, hindered in the completion of the beautification of the place in Carroll County, and a lot of things of that nature that have been caused because of all the trouble that has been developed here.

Q You mean these pending proceedings have prevented engaging a contractor or someone to do whatever is to be done in that cemetery?

A Oh, no, a contractor was engaged during the summer to mow the grass and to do work there to keep the cemetery

in proper condition.

Q Mr. McAllister, if between fifteen and sixteen acres of land were required in Baltimore City for the burial of these deceased, what made you think that three acres would take care of them up in the country?

MR. MYLANDER: I object to the question.

THE COURT: Overruled. Let him answer.

A Laurel Cemetery on Belair Road, there were any number of bodies or burials made there without any certificates. They would come in at night and bury them. During the flu epidemic they had a certain section where they buried any number of bodies --

Q Are you speaking from personal knowledge?

A Of course I did not have this knowledge in 1918 --

Q Did you have knowledge in 1937 that it was approved by the Health Department and scheduled for cleaning up?

A I have no knowledge of that, no, sir, but I was going to say burials were found three deep and buried cross-wise, in every way, there was no formal way of doing it, Your Honor. There was absolutely no way of identifying bodies.

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I was told, and I don't know if Mr. Hamlett will verify it or not, that during the flu they took bodies out there by the hundreds.

Q They had that at every cemetery, didn't they?

A Well, with no direction. They would come out at night and bury them, they would come at any time.

MR. MYLANDER: I don't think that answers the question.

THE COURT: I suppose not all of the Laurel Cemetery ground had been used. I understood land was available for sale but had not been sold for some time.

THE WITNESS: We were told, Your Honor, that three acres would be sufficient for any burials in Laurel Cemetery.

Q Who told you that?

A The undertaker.

Q Did he tell you he was going to take them out in trucks and not in boxes?

A They were taken and put in wooden boxes, the remains.

Q Mr. Armacost didn't say that.

A Well, I saw them absolutely put in wooden boxes. No question about it.

Q When did you see that?

A I was vitally interested in the matter of a good job being done and that is one reason I went to Mr. Armacost. That is the reason I asked Mr. Armacost to refer plans to me after the lot holders called and after the publicity.

Q Did you hear me ask Mr. Armacost yesterday whether there was any effort made to separate the bones and keep them distinct, and ask him if there were any boxes or anything of that nature?

(Question objected to.)

A The boxes were bought, I don't know, but there were several thousand boxes bought.

Q What kind of boxes?

A Wooden boxes. That is because I was out to the cemetery any number of times and saw the work going on, I was vitally interested.

Q Where did you buy those boxes?

A Bought some from a group -- there was a church up in Carroll County had this Men's Club and one of the men

had very good machinery, saws and things, and they wanted to earn some money for their operations, the church operations, and we were asked to let them make some of them, which we did.

Q And you are telling us that approximately one thousand boxes were bought from this church group?

A No, I don't know how many were bought from them. Then Mr. Anderson, who has a Home Improvement business there, with equipment of saws, and so forth, -- I think the Lubers were called but didn't have many on hand, and he was asked to have his men make up some. They made up some, I think around nine hundred boxes at the Anderson place.

Q Do you know that? You say you think? Do you know that?

A I know that, yes, from Mr. Anderson's statement.

Q Have you seen nine hundred boxes out there at the Laurel Cemetery?

A Not at one time; not at one time.

Q How many have you ever seen at one time?

A Well, I have seen in the hundreds because they had a truck there that was filled with boxes and I saw -- I know there were two or three hundred in that truck.

Q What size were those boxes?

A I forget exactly. They were eighteen inches by twenty-four inches, something like that. I have forgotten.

Q Eighteen by twenty-four inches to hold the bones of these people?

A Let me say this to you. In the removal of the remains from this cemetery, one hundred years old, and over, when the workers would dig into the graves, explore them for remains, in a lot of cases you wouldn't find any remains. In some cases you would find one or two bones. And it was impossible to tell whether those bones belonged to this stone or not. Boys had gotten in there and children from the neighborhood have vandalized the place. They made caves out of the stones. And even when the stones and remains were being removed we had to get the police out there. The boys would get in and break the stones. It was very difficult.

Q I am still asking you, Mr. McAllister, about the bodies you found that were more recently buried. How did you get them into 18 by 24 inch boxes?

A There were several, I don't recall where, where it was necessary to get the full boxes and Mr. Armacost used

the full boxes for those. I don't know how many. But when the body was there, which I don't know whether it was two or three or the number, whole boxes or regular sized boxes were used.

Q You referred to those notes which you took from Mr. Hamlet?

A Yes.

Q You referred to a number of vaults being there?

A Yes.

Q Did you see those vaults?

A No, sir, I haven't seen any vaults. I wasn't there when any vault was moved.

Q Mr. Hamlet told you there were vaults there, didn't he?

A Mr. Hamlet told me a lot that did not turn out to be correctly stated.

Q Did you try to investigate to see for yourself?

A Yes. In the matter of -- getting back to how many graves could be identified,to wit, more than two hundred, Mr. Hamlet would never -- and we were willing to pay him -- go there with us to identify them. I heard some of the lot

owners complain about this publicity in the paper, that they had paid Mr. Hamlet to take care of the lots but he failed to do it. A lot of criticism.

Q Mr. McAllister, you and Mr. Mercaldo made a list of over 150, didn't you?

A Yes. While Mr. Kaufman and Mr. Mercaldo read the names from stones I would write them down. But at that time there were stones which had been covered, had been covered by earth. They had been used by kids to make caves.

Q Why didn't you ask Mr. Hamlet where those families could be located of the 150 or so?

A I asked Mr. Hamlet that, if he knew of any certificate holders.

Q Did you ever show him the list you and Mr. Mercaldo made?

A I may have. I wouldn't say definitely.

Q You mean you won't say yes and you won't say no?

A No, I won't say whether I showed it to him or not. But he was asked about them, he did not have to see the list.

MR. HUGHES: Your Honor, I think that concludes

my examination.

DIRECT EXAMINATION

By Mr. Cockrell:

Q Mr. McAllister, you referred to the widening of the Belair Road, you said that that was done by the Board of Assessments or under its authority.

A No, it is now the Department of Assessments. It was the Commissioner for Opening Streets at that time.

Q That was done by ordinance?

A Yes.

Q Is it your understanding that that could be done now by the same department? In other words, would there be any special reason why you would have to go to the Legislature to have a statute made to condemn a cemetery? Could it be done by some department of the city, even if the statute had not been enacted?

A Your question, I don't quite understand your question.

THE COURT: I think what he means is instead of proceeding under a statute, could the Health Department of the City of Baltimore have condemned a cemetery without

the necessity of resorting to the statute. Is that what you mean?

MR. COCKRELL: That's what I am trying to ask him.

A Your Honor, without specifically checking on it, my opinion is that the Health Department could go in and condemn it as a health nuisance, not to acquire title. I understand then you would have to proceed under the statute, to acquire the land, that the Health Department could not, being an agent of the City, condemn it to acquire the land. That would have to be done by the Maycr and City Council of Baltimore.

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Q Mr. McAllister, there seems to be some conflict between your testimony and the testimony of Mr.Hamlet and also Mr. Armacost yesterday. You were here when Mr. Armacost was examined yesterday?

A Yes, I was.

Q During the course of his testimony he stated that Mr. Anderson was the only party he had any communication with in regard to that. You tell us today that you did visit his office and explained to him his duties and things of that

nature. Would you like to revise your statement or do you think he should revise his statement?

A Well, I don't know whether --

THE COURT: I don't think this is proper. I think he said when Mr.Armacost was employed to do the work he went to see Mr. Armacost and told him what his duties were as far as work was concerned, and so on. I think that was your testimony, wasn't it?

THE WITNESS: Yes, that's right.

MR. COCKRELL: I specifically asked Mr. Armacost or someone asked whether or not he had any contact with anybody else regarding it and he said no, his only contact was Mr. Anderson, then he qualified it and said two other people who were employees.

THE COURT: I don't think Mr. McAllister meant that he was going to tell Mr. Armacost how to do his work. Is that it?

THE WITNESS: That's right, sir.

THE COURT: That is my impression.

THE WITNESS: Naturally there was a serious obligation and I thought it was fair to point out what they

were.

Q You say you have this statement that was taken, may I see that?

(Paper handed counsel.)

Q After this statement was taken did you ask Mr. Hamlet to initial it or sign it?

A No, because it was taken in shorthand and typed after he left. I could never get Mr. Hamlet to come to my office after this.

Q I understand also that you questioned him individually as to the previous proceedings?

A What previous proceedings?

Q I think that was your statement. Was any mention made -- why wasn't any mention made of the statement that he had made at that proceeding, was there any particular reason?

A We were primarily interested in that case in the matter of showing a nuisance and abandonment, and it was held up for several days -- I don't know how many, but Mr. Baxter did permit time to have Mr. Hamlet come in.

Q Also, Mr. McAllister, did you ask Mr. Hamlet for

any undertakers?

A I don't know specifically other than what is down here, that we were not in possession of any information that would permit us to find out any of the certificate holders, and absolutely we were unable to get it from Mr. Hamlet.

Q So you did not ask him specifically for the names of undertakers, did you?

A I don't know whether I did or not, but certainly the questions asked Mr.Hamlet would embrace an undertaker, or anybody for that matter.

Q What about Mr. Kaufman, did you question him regarding his knowledge of anyone that might be contacted?

A Certainly I did. Yes.

Q What was his reaction towards helping you to discover these lot owners?

A He was very cooperative and wanted to help and he couldn't give us any information in the preparation of the papers. Mr. Kaufman's records had been lost or destroyed--

Q He couldn't give you the name of any undertakers or any individuals. Did you question him specifically along

those lines?

A Suppose we had been given the name of an undertaker for somebody that had been buried years ago, with the change shift in population about that time, it would have still in my judgment not helped us, not to give the name of an undertaker to go there because -- Mr. Hamlet, if I recall correctly, had said no burials had been made here in twenty years.

MRS. MITCHELL: Objection.

MR. COCKRELL: I don't think Mr. Hamlet said that.

MR. MYLANDER: I think, in view of the reference to this paper, I should request that it be put in evidence by the other side.

MR. COCKRELL: Your Honor, they are bringing in a paper unsigned --

MR. MYLANDER: It has been referred to to such an extent I think the record should be in evidence.

THE COURT: Yes, I suppose that is correct. I don't think there is any real objection to it. He has testified to what is in the paper. Have it marked as a defendants' exhibit.

MR. MYLANDER: No, not as a defendants' exhibit. The defendant isn't putting on a case.

MR. HUGHES: I think it should be asked whether or not he has ever shown that paper to Mr. Hamlet.

THE WITNESS: No, I have not.

MR. COCKRELL: Your Honor, we are not interested in having that paper in evidence.

MR. ATWATER: Your Honor, the rule says when a paper is demanded and it is produced at the trial table, they are required to put it into evidence.

THE COURT: Yes, the paper is in evidence. It has been referred to and he has been examined on it, so it does become part of the evidence. I think the paper should be marked as an exhibit.

MR. ROBINSON: We didn't see it, may I see it?

(Paper handed counsel.)

MR. ROBINSON: I think the rule is if counsel uses it, but none of us has used it.

MR. HUGHES: I read some portions of it.

THE COURT: I think it is in evidence. Mr.Hughes used it for cross-examination.

(Document referred to received in evidence as Plaintiffs' Exhibit 39.)

Q Mr. McAllister, after the bulldozers went to the cemetery for the purposes of changing the character of it, it has been testified that several lot owners got in touch with you. Has any effort been made by you or the McKamer Realty Company, or anyone else associated, to get these lot owners together and to compile a list of their names so that this matter could be straightened out?

A As a group?

Q Well, individually or collectively.

A I would like to say this; that after the publicity occurred in this matter the undertaker, at my request, referred the complaints to me. I made a list of all complaints I received. I have received some letters, three or four or five letters, making inquiry, which had been answered. I have called up persons on the telephone and tried to identify the location of their ancestors. Mrs.Scott testified that she thought her mother or one of her ancestors was still in the cemetery. I contacted one of the men that worked there and asked him to meet Mrs. Scott

out there. I would say I have tried to cooperate and help in the location. As I say, it has not been completed. With the proceedings and other things that have occurred here, it is deterred temporarily, and this is the completion of it.

Q You heard the testimony of Mrs. Brooks, who said she called you up after she had contacted Hamlet and told you she could find three hundred people. Would that be a correct statement?

A Mrs. Brooks?

Q That she had been connected with an organization --

A Three hundred certificate holders? No, I don't recall that she told me that.

Q Do you remember a conversation with a woman who said she was connected with an organization that could locate them?

A They could locate the holders of three hundred certificate holders?

Q That she was connected with an organization interested in Laurel Cemetery.

MR. MYLANDER: As of what time?

Q As of any time since the matter has changed the

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character of Laurel Cemetery, since that matter took place.

THE COURT: Do you recall any such conversation?

THE WITNESS: No, Your Honor, I do not.

THE COURT: Anything else?

MR. COCKRELL: No further questions.

DIRECT EXAMINATION

By Mr. Robinson:

Q Mr. McAllister, I was interested in a question the Judge asked you. If I am correct you said a deed was passed by the Trustee, Mr. Anderson, who then did something with it. May I ask you wasn't one of the purposes of filing that petition in the Circuit Court to have a trustee appointed to convey the property and actually the Trustee conveyed it?

A Mr. Robinson, I don't understand your question. I will try to answer it if I understand it.

Q I was trying to say if I understood you, I thought in answer to a question Judge Sodaro asked you about ownership --

A Ownership of what?

Q Of this property.

A What property?

THE COURT: Eldersburg.

MR. ROBINSON: Oh, Eldersburg. I thought you referred to Laurel.

THE COURT: Oh, no, no.

MR. ROBINSON: Oh, then I was mistaken about that.

Q May I ask you this? You say that ownership of the Laurel Cemetery was willing to take whatever expense is involved and get out.

THE COURT: I think he was talking about the Referee, who told him he wanted to get rid of it and just take care of his commissions and court costs.

MR. ROBINSON: I was wondering if that offer still stands.

THE COURT: Oh, we have enough trouble now.

Q Is it, Mr. Mac?

MR. ATWATER: I object to that.

A It has nothing to do with this case.

Q Certainly not. Mr. McAllister, you referred to a letter here of April 1, 1960, Plaintiffs' Exhibit 34, in which it states -- letter was signed by you -- it states: "In order to ascertain the names of all persons in interest

it would necessitate a checking, in addition to the books and records of the cemetery, the names and all the monuments and markers, and interviewing the heirs of the various owners of the lots and the heirs of the persons buried there."

A Yes, sir.

Q Wouldn't it seem to you that the same procedure should take place with respect to the effort of whoever the purchasers were to dispose of that cemetery before they came into this Court to sell?

A I don't know. They are entirely different things. I don't know.

THE COURT: Are you referring to the letter of 1950?

MR. ROBINSON: It has a piece of advice as to what they would have to do.

MRS. MITCHELL: Plaintiffs' exhibit number what?

MR. ROBINSON: Plaintiffs' Exhibit 34.

MR. ROBINSON: I wondered if there would be any different procedure under the statute that you had filed suit in and what would be the procedure if the urban renewal, or whatever it is, wanted to take the property.

THE COURT: Exhibit 34 is a letter that was signed by Thomas N. Biddison and Mr. McAllister addressed to Mr. Steiner.

MR. ROBINSON: Yes, sir. He is giving advice as to what it must do if they want to take the property and part of it is what I just recited.

THE COURT: All right, what is the question?

Q The question is shouldn't the procedure have been the same with respect to the petition that was filed in this Court to get the names from the markers and monuments and the names of heirs --

MR. MYLANDER: If the Court please, I think he is asking for something that is essentially a provision of law.

THE COURT: I think he wants to ask him did you follow the procedure in this case that you recommended to Mr. Steiner in 1950.

THE WITNESS: Your Honor, I want to answer your question but I really don't know exactly what was said in that letter at this time. I will say this, that this letter came from the City Solicitor in answer to Mr.Steiner and

was based on certain facts presented as to the speculation of the number of burials and other various things had fitted in with the urban renewal. In my opinion, you have a different situation in that than we have in this case.

Q If I may, with respect to the effort to contact owners or descendants of the owners, don't you think the procedure should be the same to contact those owners or descendants and compare them with the names on Monuments?

A I think in every case there should be a diligent effort to find the persons in interest. I agree with that.

Q Now, Mr. Mac, in Plaintiffs' Exhibit 32, letter of June 18, 1957, to the President of the Board of Estimates, letter signed by you and Mr. Riccuiti, Acting City Solicitor. In it it says: "The records show fee simple title to the land taken by the City from Laurel Cemetery was owned by the Federal Government under deed to it from the cemetery following condemnation. When the title was examined at that time the title man evidently overlooked on the records the title deed to the Government." That was correct then, wasn't it?

THE COURT: Yes, he saw the two deeds there.

A Yes.

Q I mean this letter was written before those deeds were executed, wasn't it?

A What deeds?

Q The deeds we brought from the Record Office here.

They were brought down from the Record Office, deed from the cemetery to the Government and quit claim deed to the cemetery.

A Mr. Robinson, the deeds brought down from the Record Office were copies that were made of the --

Q I mean this was written before the Government executed a quit claim deed.

THE COURT: Oh, yes, that letter was June 18, 1957, and the deed was dated August 12, 1957, so it was before.

Q Anyway, in here is when the City decided the Government had a fee simple claim and as a result of the recommendation, the Board of Estimates authorized payment, is that correct?

A Mr. Biddison said, get rid of the case, settle it, and there was a difference in the title, whether it was fee simple or whether it was leasehold, and they are right, as I see the word "fee" there, and that's it. I might say there

is other information I believe somewhere in this file that Mr. Walecky had ruled there were only burial rights in these Government lots.

Q Then your title man overlooked this thing --

A No, that was after it came to the attention of the Government and the Government had been pressing for settlement.

Q I wonder how the Government first contacted the City?

A Have you ever had any contact with the Government or matters with them?

Q Did you see the deed that was brought down from the Laurel Cemetery to the Government, being 60 lots in one and 344 in the other?

A Do you mean originally?

Q Yes.

A I glanced at one of the copies.

Q As part of the duties of your office, you did use the words "conveyance in fee simple" from the Government to the Laurel Cemetery, didn't you?

A I didn't read it carefully, I glanced at it here.

I don't know whether it said fee simple or not.

Q It said that and assuming the deed just read from the Laurel Cemetery to the Government, "Fee simple with the right" --

MR. ATWATER: I would like to have the deed read, Your Honor. I object to the question.

A I think I can explain it.

MR. MYLANDER: I think the deed speaks for itself and this is improper cross-examination.

THE COURT: Go ahead.

Q Assuming that the deed referred to from the Laurel Cemetery to the United States Government read: "In fee simple with the right to sell and dispose," and so on, and that actually the Laurel Cemetery covenanted to defend the title --

MR. MYLANDER: If the Court pleases, I object. Certainly no sensible answer can respond to that question.

THE COURT: He hasn't finished his question.

MR. ROBINSON: I don't know. You sort of took charge, didn't you?

THE COURT: Go ahead, Mr. Robinson.

Q That said deed actually was worded to that effect, that a conveyance in fee simple to the Government was given, would you now contend that the Federal Government did not have a fee simple right in that property?

THE COURT: Do you object?

MR. MYLANDER: I object.

THE COURT: Sustained.

MR. ROBINSON: Do we have one of those deeds here?

THE COURT: There is no dispute about the deeds, Mr. Robinson. They speak for themselves. You are asking Mr. McAllister to decide a question I have to decide.

MR. ROBINSON: No, it isn't that, Judge. Here is a man that has vastly more experience than I expect to have. I am using him as a witness in order to be of service to the Court on the question of title. He is a very experienced man and I have respect for his knowledge of it.

MRS. MITCHELL: May I ask the indulgence of the Court to get this deed, because this is pertinent to our case?

Q While she is looking for the deed, I will ask you this: In your answer --

MRS. MITCHELL: Here is one, Mr. Robinson.

MR. MYLANDER: What is this you are referring to?

MRS. MITCHELL: These are exhibits and the exhibit number is at the top. It is Plaintiffs' Exhibit No. 21.

Q Mr. Mac, down here, whatever clause you call this, and the said Laurel Cemetery Company does hereby covenant to and with the said Francis -- I can't make out the name -- his heirs and assigns, of the granted premises in fee simple forever and they have the right to convey the same for purposes covered and it will warrant and defend the same. From your experience as -- what is the title -- a man experienced in conveyancing, what interpretation would you give to that?

MR. MYLANDER: I object to that.

THE COURT: Sustained. Mr.Robinson, if you are going to use an expert you cannot accept him as an expert and not be bound by his answers. You might get an answer that you don't like. You are asking him to give me his expert opinion of his interpretation of that instrument, which is something I have to do.

MR. ROBINSON: Well, I know that, sir.

Q May I ask you this? As an experienced real estate conveyancer, if you were to convey property in fee simple, would you word it differently than it is there?

THE COURT: Are you objecting?

MR. MYLANDER: Yes, sir.

THE COURT: Sustained.

A I would word it differently, yes, sir.

Q I notice in the answer here or part of it says you are proceeding under Article 16, Sections 119 and 120 of the 1957 Edition of the Code, is that correct?

A Yes, sir.

Q You went under both?

A Both.

Q One section refers to approximately 100 percent -- what do you call it -- deserted, doesn't it, and the other only 75. May I ask you this? Do you know who drew the Act that was presented to the Legislature?

A No, sir. I was asked that and I don't know.

Q Weren't the new owners interested in some way of disposing of this cemetery other than what was stated in Section 119?

THE COURT: That is a hard question to answer, Mr. Robinson.

Q I mean you all actually had conferences to consider what you could do with the property you bought, didn't you?

A We had conferences before we bought it, as you call it.

Q You knew you could not do anything with it as it was, with bodies out there, didn't you? Being neighbors objected to public projects what did you expect to do with it?

THE COURT: Everybody agrees they bought the property for an investment, to make a profit. They did not buy it for charity.

MR. ROBINSON: May it please the Court, they had to have something in mind because it was useless as it was and the Bankruptcy Court said it was of no value.

Q Did you all know anything about a Bill that was introduced that changed the right of the City, to to speak, from 100 percent abandoned to 75 percent?

A Of course, I knew there was a Bill in the Legislature but I didn't have any participation in any part of its

introduction or drafting of it.

MR. ROBINSON: All right, that is all. Your Honor, I have the record here which says the Court of Appeals will take judicial notice. If it reaches the United States Supreme Court, I understand they don't take judicial notice of the State laws and you have to introduce them. That being so, for the record, as best we can we are getting into the record here Section 119 of Article 16 of the Maryland Code, which is headed here "Sale of Burial Grounds".

In addition to that, Section 165 of Article 23 entitled "Certificates of Title to Land", which refers to cemetery lots. Also, sir, I think we ought, in order to preserve the record, to have in or some part of the original charter of the Laurel Cemetery, and we are particularly interested -- we have a photostatic copy. I have never seen the original.

THE COURT: What is it, Mr. Robinson?

MR. ROBINSON: It is the original apparently incorporation of the old Laurel Cemetery itself, the first one under which some of them had bought lots.

MR. MYLANDER: I object to it because of its

lack of relevancy.

MR. ROBINSON: We contend it does have relevancy. May I have it marked as an exhibit?

(Document referred to received in evidence as Plaintiffs' Exhibit 40.)

THE COURT: Anything else, Mr.Robinson?

MR. ROBINSON: Nothing else, Your Honor.

DIRECT EXAMINATION

By Mr. Dearing:

Q Mr. McAllister, just when did you find these records were missing?

A These burial records of the lot owners of Laurel Cemetery, the records that were in the possession of Mr. Kaufman?

Q That's correct.

A I don't recall exactly what date. It was when we were getting ready to prepare the proceedings. It was sometime before that.

Q That would have been in 1957?

A Let's see. It could have been in 1957. The Bill was filed on the 10th of December.

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Q When you were preparing for the proceeding you found out that these records had been misplaced?

A Yes.

Q What effort did you make to locate these records?

A Well, they were in the possession of Mr. Kaufman. We asked Mr. Kaufman to make a diligent search, which he did, and said they could not be located.

Q Didn't these records strike you as being rather important since Mr. Kaufman has testified that the names and addresses of these people are on these records?

A I don't think he testified to that effect. Mr. Kaufman testified, if I recall correctly, that the records were in very bad condition; deteriorated, stained from moisture and condensation. One had a big hole that you could put your fist in.

Q Don't you remember, to refresh your recollection, under cross-examination by Mr. Mylander he testified that the names and addresses of the original grantees or purchasers of this property in these certificates or deeds that we have here, were on those records?

A I don't recall that, I don't recall that.

Q You had available to you at that time about 150 or possibly 400 names, isn't that correct?

A At what time?

Q At the time you were preparing for these proceedings under Section 120 of Article 16 of the Annotated Code of Maryland of 1957.

MR. MYLANDER: You are referring to names of deceased persons who have been buried there.

MR. DEARING: That's correct.

A But that wouldn't have accomplished anything because these persons were dead, and certainly in my judgment, we wouldn't have accomplished anything by making them parties because actually they could not be parties.

Q Doesn't the statute provide where the person is not known to be dead he can be sued in his name and the heirs of this person placed there?

A We knew they were dead by going through the cemetery. The only records we could find were of the stones.

Q How about those 150 names you had, did you know they were all dead?

A The 150 names were gotten from the stones in the

cemetery when Mr. Kaufman,Mr. Mercaldo and I walked through there. Certainly there was a stone there with a name on it and it was assumed that they were dead.

Q As I understand it, is it correct that the McKamer Realty Company was owned by Mr. Mercaldo, Mr. McAllister and Mr. Kaufman?

MR. MYLANDER: Yes, we say that it was.

Q This is for the record.

A Yes.

Q It is also in the record that Belair Enterprises Incorporated was owned by the same three individuals.

A That's correct.

Q It is also in the testimony that Mr. Mercaldo was the attorney for the Anderson Enterprises, isn't that correct?

A I think he said that Mr. Anderson and the corporation were a client of his. Yes, I think that is correct.

Q Didn't it occur to you that this suit was a most unusual suit, where the same parties were being sued?

MR. MYLANDER: I object. It is not unusual at all.

THE COURT: Let him answer.

MR. DEARING: Your Honor, I think he should let the witness answer.

THE COURT: Let him answer.

A Well, I thought it was perfectly proper because it is customary.

Q You felt it was in complete compliance with Section 120, is that correct?

A That what was in the Bill that was drawn?

Q No, this friendly suit I am talking about. That is, all these folks of interest were the defendants and the claimants.

A That it was in full compliance with the statute?

Q Yes, sir.

A Yes, I did.

MRS. MITCHELL: I have some questions, Your Honor.

DIRECT EXAMINATION

By Mrs. Mitchell:

Q Mr. McAllister, I will talk a little louder so Mr. Mylander won't have to move. Mr. McAllister, why didn't you list the names of those deceased which you found engraved

on monuments and headstones in the cemetery and their heirs in your Bill of Complaint or in the Order of Publication?

A Mrs. Mitchell, we felt it would accomplish nothing by putting the names of the persons on the stones and their heirs in the Bill. I believe there is a statement in the Bill or notification to unknown persons of heirs and so forth.

Q So you did not list them?

A We did not list them, no.

Q But you had those names?

A We had about 150 to 200 names we had gotten from the stones when we went through the cemetery that one time.

Q And dates of deaths in many instances?

A Well, the year at least I would say.

Q Now, Mr. McAllister, it has been testified here and there are exhibits in the record that you had considerable investigation of the cemetery law in order to make the official recommendation you did to Mr. Ricciuti, upon which the City settled the claim of the United States Government against it?

A Yes.

Q Then you were familiar with the trust responsibilities of cemetery owners, weren't you?

MR. MYLANDER: Objection. That presumes that there are trust obligations.

THE COURT: Overruled. Let him answer.

A Could you repeat that? That I was familiar with the trust responsibilities of the owners of a cemetery?

Q Well, you know under the general law that the owner of a cemetery corporation holds the land as a trust subject to the perpetual burial right of the lot owners, you know that, don't you?

MR. MYLANDER: I object to the question.

THE COURT: Overruled.

A I know this, that the owner of a cemetery --

Q Just answer yes or no.

THE COURT: Give him a chance.

A You said it in such way I would like to make some changes in it. I understand that the owner of the underlying fee in the land of a cemetery holds it subject to certain burial rights. Certainly.

Q And you know further according to the general cemetery law as outlined in corpus juris secundum that a cemetery is not necessarily abandoned because there are no more burials there, do you not?

MR. MYLANDER: I object to the question.

MRS. MITCHELL: Your Honor, this is material.

THE COURT: You are asking him to make a comment on some statement in corpus juris secundum.

Q Well, do you know, Mr. McAllister, that a cemetery is not abandoned when burials have ceased to be made there?

MR. MYLANDER: I object.

A I would say this; there are factors that enter into it.

Q But you do know this factor I have just given, just because there are no burials taking place in a given cemetery does not mean as a matter of fact that it is abandoned?

A I would say it is a factor in the matter of abandonment.

Q But it is not the only factor?

A It could be in certain instances in my opinion. The failure to bury in a certain cemetery for a number of years would be a strong indication that it had been abandoned or could be. I am not saying that it is.

Q If a cemetery is filled, would you consider it abandonment, Mr. McAllister?

MR. MYLANDER: I object.

MRS. MITCHELL: Your Honor, I think this is material because we are alleging that these defendants had knowledge of their responsibilities, or should have had knowledge in this matter, both as City officers as well as in their private capacities as lawyers.

THE COURT: Go ahead and ask him now. I hoped we could finish the case today.

A Will you repeat the question?

(Question read by the Reporter.)

A Well, it is filled and what else?

Q That is all I want to know, when a cemetery is filled --

A Would I consider a cemetery filled? Yes, it is possible under certain circumstances.

Q There are many cemeteries which are filled which are not abandoned, is that not correct?

A Some under certain conditions.

#88 Q Now, Mr. McAllister, I show you this photostatic copy of Exhibit No. 10, McKamer Realty Company versus Anderson Enterprises, in the Circuit Court of Baltimore City, filed May 27, 1958, Docket A-878, 1957. I would like to ask you to examine it and will you tell me if that is a record of the proceedings as you know them that were taken before Mr. William C. Baxter, testimony on the 24th day of April?

MR. MYLANDER: If the Court please, I object.

A I don't know what this is.

THE COURT: It is in the original file.

MRS. MITCHELL: It has been referred to again and again.

THE COURT: I don't think there is any disagreement.

MRS. MITCHELL: I would like to offer this in evidence at this time as Plaintiffs' Exhibit 41.

MR. MYLANDER: I object to the offer of a copy when the originals are in the file of this Court.

THE COURT: They are in the file.

MR. MYLANDER: There isn't any use cluttering up the record that way.

MRS. MITCHELL: I would like to know whether they are.

THE COURT: I will permit you to examine them. I have them right here.

MRS. MITCHELL: My purpose is only to make sure they are in the record. If Your Honor tells me they are in the record, I will not introduce the photostats.

THE COURT: Yes, they are in the record. They are, as a matter of fact, part of the original proceedings that were filed and we will consider them as being part of this case.

MRS. MITCHELL: Thank you.

Q Mr. McAllister, from the files which you have brought into the Court, and I show you them, you see that is a worksheet and it consists of two pages stapled together?

A Yes.

Q On the first page are certain notations with the names of undertakers and cemeteries and the like.

A Yes.

Q On the second page there are stapled together, on the second page under the title of "Witnesses" are a list of witnesses.

A Yes.

Q Beginning with Edward Hamlet, Mr. Motry, Mr. Molar and others. Is that in your handwriting?

A Yes, it is.

Q Are those notations which you made prior to the testimony before Mr. Baxter?

A I don't know. Is there any date on here?

Q I am asking you. Those two are clipped together by you and they have been stapled together.

A I don't know. I don't know when they were made or at what time.

Q Under the names of the witnesses it looks almost like they are proportionate there with the names of the witnesses attached on the second page, the witnesses who presumably were called before Mr. Baxter. Would it be correct to assume that the first page notations were also made at that time?

A Absolutely not. That was not stapled, as far as I know, when I brought this in here. There were two separate papers. The first paper was when I was interested in finding for the trustee some suitable place for reinterment of the bodies. Here are notes of where I went to. Stockton Street about finding a cemetery. It was entirely different.

Q I wish to assure you that these files have only been brought to trial --

A This was made up at a different time, I am positive of that.

Q I wish to assure you that in no way have I or any of the counsel stapled or clipped anything in your files. They have only been brought into Court finally after request made to the Court for their production.

THE COURT: Can I get in on this? You have kept me dangling and I am anxious to know the purpose of it.

(Papers handed to the Court.)

THE COURT: Did you want to ask him any other questions about this, Mrs. Mitchell?

MRS. MITCHELL: Yes, I do.

THE COURT: All right.

Q You have examined these papers?

A Yes.

Q And that is in your handwriting?

A Yes.

Q Would you tell me what this notation "Madison and Laurens A.M.E. Church, Reverend Mitchell" means in the corner of that paper?

A Yes, if I remember, Mr. Hamlet was going there, I think he was connected with some cemetery company. I think that was the purpose of it.

Q Do you know that?

A My recollection is that was the purpose of this note, that Mr. Hamlet was to go and contact the minister. I think the minister at Madison and Laurens Street A.M.E. Church was in some way connected with a cemetery and the purpose of it was for reinterment, to try to locate some place for reinterment.

Q It has been testified that Mr. Hamlet was in your office prior to the testimony before Mr. Baxter?

A Yes.

Q So if that note appeared on that paper then,

it must have been made prior to your testimony before Mr. Baxter.

A When was the testimony before Mr. Baxter?

Q Well, it has already been testified by Mr. Hamlet and Mr. Mercaldo that he was in the office, in your office before the testimony before Mr. Baxter, and I believe the testimony before Mr. Baxter also evidences that he had been in your office and you had been in touch with him.

A Mrs. Mitchell, may I say this --

Q Just answer my question.

A Can't I explain this, Your Honor?

THE COURT: What is the question?

Q The question is, if that appears there with regard to the church and minister, then it was in connection with Mr. Hamlet's interest in contacting some minister and it has been previously testified that Mr. Hamlet was in your office before the proceedings and you said you could not get him to come back?

A Yes.

Q Before the testimony in Mr. Baxter's office?

A Yes.

Q Therefore it is proper to assume that these notations were made prior to the time testimony was taken before Mr. Baxter?

A Not necessarily. Your Honor, what I do, I have a habit of doing, is to have a pad of paper. I may have written this part here down two weeks ago. I try to have -- this bottom part a week ago or two weeks ago, at various times. That does not necessarily show that I did this all at one time. I have a lot of information and I jot it down. I draw squares. I have "Minister 417 Laurens Street corner Madison." Then I have down Samuel W. Sullivan and Kate R. Williams, Undertaker.

Q And what else do you have there?

A I have Mrs. Samuel Hemsley.

Q Who is Mrs. Samuel Hemsley?

A Undertaker, I guess. Now, I got calls and when people would call me in reference to where their ancestor was buried, I would make certain notes. I made all kinds of notes like this. I don't know whether it was made at the same time.

THE COURT: Mrs. Mitchell, may I ask a question?

I still do not get the significance of this line of questioning.

MRS. MITCHELL: The purpose is to show that there was knowledge, that there were conferences from which names of lot owners, that contacts could have been made to secure the names and addresses of the lot owners, descendants, if a proper and diligent and exhaustive and thorough search had been made. That is the purpose.

THE COURT: All right.

MRS. MITCHELL: I would like to offer this in evidence as Plaintiffs' Exhibit 42.

(Document referred to received in evidence as Plaintiffs' Exhibit 42.)

THE WITNESS: Your Honor, I would like to make an explanation.

THE COURT: Let him explain.

THE WITNESS: I want it clearly shown that the notes on that paper were made at different times. If you will go upstairs with me now I will show you a similar note on yellow paper, where I made a note today. They were made at different times. I did not have the names of these under-

takers here until after the trial of the case. The matter of the reference to churches and the minister, Mt. Zion was the name of a cemetery in Westport. I put here to go with Mr. Hamlet and the sexton lives on Stockton Street, and it is a note here.

Q As a matter of fact, Mr. McAllister, when this #89 action was filed on December 10th of 1957, this case moved right along with dispatch, it certainly did not lag like Mr. Kaufman's bankruptcy proceedings for five or six years.

THE COURT: That is argumentative.

Q As a matter of fact --

MR. MYLANDER: Your Honor, this is very harrassing. I will object.

Q As a matter of fact, Mr. McAllister, after the suit was filed on December 10, 1957 --

MR. MYLANDER: Are you showing him something to look at?

MRS. MITCHELL: No, I am not showing this, it is to refresh my own recollection of the dates of the filing of these proceedings.

Q But, as a matter of fact, on December 10, 1957,

this suit was filed, was it not?

A It is admitted from the record.

Q After the order of publication was issued and the certificate of publication was filed and the decree proconfesso was filed, which took in the normal course of procedure how many weeks? Approximately how many weeks did that take?

A I don't know, it is in the record.

Q Well, it was twelve, fourteen or sixteen weeks, was it not?

A It is in the record, whatever the record says is it.

Q So, as a matter of fact, on April 23, 1958, after the decree proconfesso was filed on April 14, 1958, you proceeded to go into Court to take testimony before the Examiner, Mr. Baxter, on April 24th. Now, you have previously testified -- is that not true?

THE COURT: I guess it is, it is in the record. I wish you would try to bring in new material and I will be glad to permit the examination. But simply to rehash what is already in the record is not necessary.

MRS. MITCHELL: I will try to be brief, Your Honor.

Q As a matter of fact, you had conferences and Mr. Mercaldo had had conferences with Mr. Anderson, who was to be the trustee, prior to the time the suit was filed, had you not?

A That has been testified to,yes.

Q And you knew what his duties would be, did you not, the duties of the trustee?

A What his duties would be?

Q As a trustee.

THE COURT: Did you tell Mr. Anderson what his duties would be as trustee?

A Yes, sir, they were explained to him.

Q Mr. McAllister, this is another file which you have brought into Court.

A Yes.

Q A list of persons who have made inquiry either in person or by attorney.

A Yes.

Q And I call attention to this pencil note as to

Mr. Adams, 1429 Madison, with the telephone number. Do you know approximately when that person was called?

A It was after the publicity. Every record that is in here was after November 14, 1958.

Q Then a Mrs. Mary Allen, 2315 Hunter Street. I think there is a date there November 25th.

A Yes, all of them were after the publicity.

Q Then a Mr. George Anderson.

A Yes. And a Mr. William L. Fitzgerald.

Q And Mrs. Edith Campbell on November 19, 1958, 711 Dolphin Street?

A Yes, they were all after the publicity.

Q Mr. S. R. Sacker, this is your pencil notation?

A That's my writing.

Q And he called about his lot. Mrs. Grace Young, teacher.

A I will admit they all called, yes.

Q Mr. William L. Fitzgerald?

A Yes, he called me and wanted to know if there was anything he could do to help me or assist me in this matter.

Q And Henry Evans, 2544 Terra Firma Road.

THE COURT: He said all of those names called after the matter got into the papers.

A All of them.

Q There are approximately thirty altogether, are there not?

A Between twenty-five and thirty, which I thought was a very good record.

Q The undertaker testified that he did not finish removing the bodies until Monday of December 1958, is that correct?

A Whatever he did is on the file, his report.

Q As a matter of fact, the trustee's report was not filed until January 27, 1959, is that correct?

A Whatever it shows, Mrs. Mitchell. I don't know offhand.

Q Did you at any time disclose to the Court or to anyone in these proceedings the existence of these lot owners and their descendants?

MR. ATWATER: I object, Your Honor.

A No --

MR. ATWATER: I object, Your Honor. She is saying that as if there was some reason he should at that time.

THE COURT: The answer is no.

Q Mrs. Brooks testified she arranged to meet you at the cemetery early in November 1958, on the removal of her mother's body.

A She claimed that it was still there. I am assuming that it was, but Mrs. Brooks thought it was there.

Q And she had called you?

A She did. I talked to Mrs. Brooks several times.

Q Now, Mr. McAllister, you heard Mrs. Brooks refer to the cemetery in the new burial site in Eldersburg as a cornfield. Did you consider that an apt description?

A I certainly would not. If you will look in one of the papers of the corporation you will find some pictures that were taken. Naturally, it had been planted with corn and it being new land, the corn had all been cut down to the ground, naturally there were some stubbles and things of that sort, and when some of the remains were being reinterred there were some stubble and cornstalks, naturally. However, the cemetery land there was graded as soon as it could be

done. It was during the winter when they were finishing up there, December 5th or thereabouts, and it was very difficult to do anything. But as soon as anything could be done in the spring, it was done.

Q Mr. McAllister, Mr. Clement Mercaldo testified before Mr. Baxter on May 16, 1958, in addition to the testimony to which you have also referred.

A Yes.

Q That there was a James Nichols who was a recent burial, who was buried there in December of 1957, December 31, 1957.

A I would like to say this --

Q Did you make any attempt to secure the address of the lot owner of the lot in which he was buried or from the Health Department, Bureau of Vital Statistics?

A No, we did not, and the reason for that is this; we were told by the neighbors that a body had been put there in the back around Christmas and it was pointed out to us it was put in a very shallow grave. There was about two or three or four inches or six inches of earth over it, a very small amount. We could not get the name so fast and I think

it was finally determined, Mr. Mercaldo got this name from some of the neighbors and we did not contact with the Health Department. But that body was taken and is located at Carroll County.

Q As a City Officer, you are familiar with all the #90 facilities of the various City Departments, are you not?

THE COURT: That is a broad question.

A I can't say I am, no, not all of them.

Q Mr. McAllister, you are a lawyer of some years standing, did you know Warner T. McGuinn?

A No, I did not. I have heard of him. But I did not know him.

Q You knew that he was a lawyer in Baltimore City?

A I heard that he was a lawyer but I did not know him.

Q Did you make any attempt or ask any of the colored lawyers whom you may know as to the whereabouts of his descendants?

A No, I did not. It did not occur to me at that time.

Q I believe you list him as one of the deceased

lot owners whose deed was of record?

A That's correct.

Q Did you know that Mr. Hughes was a junior partner of Mr. McGuinn?

A No, I did not know it.

Q For many years?

A No, I did not know that.

Q Mr. McAllister, I show you this plat and this architect's drawing, have you seen it before?

A It has been in the matter of zoning, I think I have seen it.

Q And what is the date? What is the title of it?

A Proposed Shopping Center for Belair Road Enterprises, Inc.

Q It shows on here, on this architect's drawing, that the architect was J. M. Berry.

A Mrs. Mitchell, could I point this out to you? I had nothing to do --

Q You are an officer of the Belair Road Enterprises?

A I had nothing to do with this. We had counsel and you have some of the copies of the letters there.

Mr. Nathan Posner handled this. I think I saw it, I am not sure, but he handled the matter of the zoning and I did not participate in it personally at all. Being with the City of Baltimore, I did not participate in this rezoning.

Q You were with the City of Baltimore when you participated in the McKamer Realty Company's buying the cemetery?

A Yes, that's true, but this is a different thing, where there had to be a City action.

Q At the time you incorporated McKamer Realty Company and before Belair Road Enterprises was incorporated, which was during the time of the original proceeding in this Court, you had a plan for the development of this land?

A That wasn't my plan. The Planning Commission has tried for years --

Q Just answer the question, Mr. McAllister. You had a plan -- you say you bought this land for investment.

A Not necessarily, it was to clean up an unholy situation and, of course, the monetary factor entered into it too.

Q But you had a plan for the development of those

15-1/2 acres of land, did you not?

A As I understood it, the Planning Commission now has the practice before they will rezone a piece of land for commercial use, they want you to submit a proposed plan as to the development. In accordance with that procedure, that is the purpose of that, as I understand it.

Q Mr. McAllister, when I asked you --

MR. MYLANDER: May I ask that it be marked and identified?

MRS. MITCHELL: I subpoenaed these records from the City Planning Commission, Your Honor.

MR. MYLANDER: You referred to it.

THE COURT: Have it marked.

(Document referred to received in evidence as Plaintiff's Exhibit 43.)

THE COURT: Mrs. Mitchell, doubtless we won't be able to complete this case today. Have you any other witnesses?

MRS. MITCHELL: There are just two others. May it please the Court, the representative of the City Planning Commission is here. With the permission of the

Court, could I put him on the stand to introduce exhibits?

THE COURT: There is no objection to it.

MR. MYLANDER: I am insisting that it be put in as an exhibit. It has been referred to and the witness examined about it.

MRS. MITCHELL: Let it be stipulated at the time there is another document in the file which we subpoenaed from the City Planning Commission, which I would like to put in evidence. And, Mr. Mylander, if you will stipulate that tomorrow morning, when we resume, you will permit this being introduced into evidence without laying the foundation for it --

MR. MYLANDER: No, I object to all of this as being irrelevant. I ask that it be put in through this witness because it has been referred to by you and the testimony of the witness is unintelligible without it.

THE COURT: I presume we will have to resume tomorrow morning.

(Thereupon, at 3:55 o'clock p. m., an adjournment was taken until 10 o'clock tomorrow morning.)

IN THE CIRCUIT COURT OF BALTIMORE CITY

Docket A-267, 1959

MAMIE E. KENNARD, et al., :

Complainants, :

Before SODARO, J.

vs. :

McKAMER REALTY COMPANY, et al., :

Defendants. :

January 28, 1960

Pursuant to adjournment, hearing in the above-entitled cause was resumed on Thursday, January 28, 1960, at 10:10 a. m.

Appearances:

Mrs. Juanita Jackson Mitchell
Mr. Archie D. Williams
Mr. Tucker R. Dearing
Mr. W. A. C. Hughes, Jr.
Mr. Paul J. Cockrell
Mr. Julius P. Robinson

Solicitors for the Complainants.

Mr. Walter C. Mylander, Jr.
Mr. Charles C. W. Atwater

Solicitors for the Defendants.

MR. HUGHES: May it please the Court, it is my understanding that Plaintiffs' Exhibit 43, the plat which was introduced by Mrs. Mitchell yesterday, is in evidence and Mr. Mylander insists upon it being in evidence, as well as both sides. Am I right in that Mr. Mylander?

MR. MYLANDER: Yes, I asked that it be put in evidence under the rule because it has been referred to. The whole line of testimony, however, comes under my general exception as to relevancy.

THE COURT: Very well.

MR. HUGHES: May it please the Court, it is, as I understand it, stipulated by and between counsel that these are pictures which were taken at the new Eldersburg Cemetery, Carroll County, on February 20, 1959, which I propose to introduce into evidence if there is no objection.

MR. MYLANDER: I would like to state that a little differently. I have no objection to these on the ground they are not proven by the photographer and I don't question the date, but I would still like to reserve my general objection as to their relevancy.

MR. HUGHES: With respect to that, that wasn't

my understanding because we have subpoenaed the photographer.

THE COURT: He is not objecting on that ground. This is under the general objection and under the general ruling that each of these exhibits are in subject to exception.

MR. MYLANDER: That is correct.

MR. HUGHES: Very well. Then I offer as Plaintiffs' Exhibits 44, 45, 46, 47 and 48.

(Photographs referred to received in evidence as Plaintiffs' Exhibits 44, 45, 46, 47 and 48.)

MR. WILLIAMS: May it please Your Honor, there has been reference in the testimony here to deed from the McKamer Realty Company dated 18th of November 1957, to the Belair Road Enterprises, a quit claim deed of certain lots in the Laurel Cemetery. I have discussed it with Mr. Mylander and he has no objection to that copy which he has as being introduced into evidence as the original and the notations.

MR. MYLANDER: I have no objection to the copy being introduced in lieu of the original. I have my general objection.

THE COURT: Very well.

MR. WILLIAMS: Then I would like to offer this

as Plaintiffs' Exhibit 49.

(Document referred to received in evidence as Plaintiff's Exhibit 49.)

MR. HUGHES: May it please the Court, rightly or wrongly, I have been accused or abused or it has been said that I am chief counsel in this case. I pointed out to the Court at the outset I was retained the night before this case was heard. I had been in consultation before that time. Now I would like to make this brief statement, if I might, Your Honor.

#91 All of these people, and many of them aged, have come to this Court day in and day out and some of them may have been under the impression, or many or all of them may have been under the impression that they would be called to the stand to testify as to their interests. The Court knows and counsel know that in a question such as this, those people's feelings are apt to supersede their -- well, what might be admissible in evidence.

I want to thank the Court for its patience and also counsel on the other side. Whatever I may have said, whatever they say or may have said, I am sure we understand

it. I am in one case, as I pointed out to the Court. I am not in control or I do not decide what should be done by counsel in the other cases. But on behalf of counsel in the pending case, the Kennard case, I rest.

THE COURT: Very well, Mr.Hughes. Mrs. Mitchell.

MRS. MITCHELL: May it please the Court, I wish to move the Court at this time to strike from the admission into evidence in this proceeding the files of the Circuit Court of Baltimore City in the cases of Julia Jones versus McKamer Realty Company, 1959-A, Folio 266, File No. 39096, and Lillian Waters versus McKamer Realty Company, et al, 1959-A, Folio 8276, file No. A-39107, which were tried in the Circuit Court of Baltimore City on December 17, 1959, for the following reasons:

That the admission into evidence of these two cases in this proceeding is prejudicial to a fair and impartial trial of the instant proceeding.

THE COURT: Isn't this a Bill of Review?

MRS. MITCHELL: Your Honor, as I understand, at a previous session of this trial counsel for the defendants moved the Court for the introduction of those files in this

proceeding. They were admitted subject to exception. Therefore, I wish the record to show the basis of our objection to its introduction and at this time to cite to the Court the reasons for our request to the Court to strike their admission into evidence.

The second reason, Your Honor, is that these two cases contain judgments which are nisi prius rulings and not final judgments, which have been appealed to the Court of Appeals and should not be binding on this proceeding.

And, further, that counsel for the defendants in this proceeding were also counsel for the defendants, who were the same party defendants in the other two proceedings.

THE COURT: May I interrupt at this point, Mrs. Mitchell? You have filed an appeal or you did file an appeal after these proceedings commenced, that is correct, isn't it?

MRS. MITCHELL: That is correct.

THE COURT: I was just wondering whether it would not have been better for you to have pursued your appeal because apparently some of the same questions were raised in the other proceedings that are being raised in this one. But

I will hear you out.

MR. HUGHES: I think, Your Honor, what Mrs. Mitchell is saying is that this matter is lis pendens and is still undecided and it cannot be ruled upon at this time. Of course, I cannot speak for Mrs. Mitchell.

MRS. MITCHELL: Further, that the counsel for defendants in this proceeding were counsel for defendants in the prior proceeding, that the cases of Julia Jones and Lillian Waters were filed on or about the first of May 1959, when this instant proceeding was filed. That further in each of those cases there was only one party plaintiff. In this case there were twelve party plaintiffs, and the pleadings specifically state that it was a class proceeding. That Attorney Dallas Nicholas was Chief Counsel in this proceeding and had a heart attack in the late fall of 1959. That at the time that counsel were proceeding to trial of these cases they knew that all of these cases involved the same transaction. They elected to try them separately, and on December 17, 1959, in spite of the request of plaintiffs' counsel for a postponement until it could be ascertained if Mr. Nicholas would be able to try these cases within a

reasonable time after December 17, 1959. Whereupon defendants still refused to consolidate these cases for trial and elected to try them separately on December 17, 1959, and should be thereafter estopped from coming into this proceeding asking that the judgment in those two cases should be binding on this proceeding.

When it was ascertained that Mr. Nicholas would be not in position to try this case, Mamie Kennard comes within a reasonable time after December 17th and new chief counsel was secured and the admission of Mr. Hughes, the appearance of Mr. Hughes was entered into this case.

Therefore, for those reasons, may it please the Court, I move you, sir, at this time to strike the admission into evidence of those proceedings from this proceeding.

THE COURT: Your motion is denied. Let's go on with the testimony then.

MR. ATWATER: Your Honor, if that statement is made for the record, there are a couple items which I want to contradict.

THE COURT: Yes, I will permit you to state your side.

MR. ATWATER: These three cases were set for trial on the same day. On the day before the trial, in telephoning counsel I was informed that Mr. Nicholas was ill. I said of course we will agree to postpone the cases that Mr. Nicholas is in; that there are three separate cases with counsel in the other two, I should like to go ahead with the cases which are ready.

To the best of my recollection, there was never a petition for consolidation filed by the plaintiffs in this case and I was not requested to consolidate them. I have stated previously that I was not opposed to consolidating them but it could not be done as of the day of the trial. At that time I requested that this Court proceed with the trial of the other two cases.

MR. HUGHES: May I say to the Court that the request for consolidation comes from the defendants, not from the plaintiffs, and it is admitted by counsel that there was no request for consolidation of the cases, there was no order. So that the case in which my appearance is entered is separate and distinct from the other two cases.

MR. COCKRELL: Your Honor, may I interpose here,

since I was in the other trial? Counsel for the defense contacted Mr. Griffith and had the cases set down for hearing. It was the desire of counsel for the plaintiffs, all counsel for the plaintiffs, that all of the cases be tried together, that they be consolidated. There was a general agreement, no formal request was so made.

When the case of Julia Jones and Lillian Waters came on for hearing, the understanding that I received from other counsel was that the other case, which was the major case and had more plaintiffs, would be tried later, that counsel for the defense had consented to have them tried later. On the day of the trial itself, counsel for the defense, well knowing that the Julia Jones case and the instant case were filed in this Court on the same date, same docket, and alleged in some instances the same facts, were pending before this Court, did not mention to the Court that the other case was pending.

MR. ATWATER: I object. The three cases --

#92

MR. COCKRELL: One moment. They did file answers to each case, they filed answers separately. I concurred in the decision taken by Mr. Nicholas and Mrs. Mitchell that

those two cases should be excluded from these proceedings and that the case at bar be tried on its own merits and placed before the Court.

THE COURT: Very well. Not hearing any more arguments, the motion is denied.

MR. ROBINSON: If the Court please, will you indulge me --

THE COURT: No, no, I have denied the motion. Let's go on and try to complete this case before Easter, if we can. It seems to me I have been most patient and I think I have conducted this trial as fairly as is possible. So let's try to bring it to a conclusion. Motion is denied. Let's go on with the next witness.

MRS. MITCHELL: Exception.

THE COURT: You may have an exception to all adverse rulings. Everybody has rested and the plaintiffs' case is closed?

MRS. MITCHELL: Yes, sir.

MR. MYLANDER: The defendants will have no evidence to present.

THE COURT: Very well. The case has been closed,

and may I confer with counsel in Chambers?

(Conference in Chambers followed between Court and counsel, and the following proceedings were had:

MR. MYLANDER: Of course, I will now renew my motion that the testimony of each of the witnesses, the entire testimony and evidence in the case be stricken as irrelevant.

THE COURT: I will reserve my decision on your motion.

MRS. MITCHELL: Your Honor, by an inadvertence the stipulation for additional deeds which was signed by counsel for the defendants this morning, we neglected to get them in at the opening of Court this morning and they will be Plaintiffs' Exhibit 50.

(Documents referred to received in evidence as Plaintiffs' Exhibit 50.)

(Argument followed.)

March 4, 1960

RULING ON MOTION TO STRIKE

The Respondents' motions to strike out testimony which was admitted subject to exception are hereby denied.

Fd. 7" July 1960

PLAINTIFFS EXHIBIT NO. 1

NOTE: Above named Exhibit is missing from record.

Fd. 7" July 1960

PLAINTIFFS EXHIBIT NO. 2

A-424/1959

NOTE: Above named Exhibit is missing from record.

December 16, 1958

Mr. John G. Arthur,
Director, Department of Assessments,
Municipal Office Bldg.,
Baltimore, 2, Maryland

Dear Mr. Arthur:

The McKamer Realty Company, 14 Equitable Building, has just received from you notice of assessment for the years 1958 and 1959 of the Laurael Cemetery, located at 5401 Belair Road, and the tax bill for the year 1958 covering this cemetery. As Secretary and Treasurer of the McKamer Realty Company, I hereby object to and protest the assessment of this property for the years 1958 and 1959 on the reason that the property was used as a cemetery for burial purposes subsequent to October 1, 1958, and as late as December 5, 1958.

The records will show that the subject property was purchased by the McKamer Realty Company from H. Carl Butler, Trustee in Bankruptcy, and title to the McKamer Realty Company by deed, dated June 27, 1957 was recorded among the Land Records of Baltimore City in Liber [illegible], folio 385. This deed expressly states that the property conveyed is subject to existing burial rights.

On December 10, 1957, a Bill of Complaint was filed in the Circuit Court of Baltimore City by the McKamer Realty Company against all known and unknown owners of burial lots in the cemetery, asking the Court to authorize the sale of the cemetery property, subject to the removal of all bodies and tombstones that would be located in the property.

On June 10, 1958, the Court passed its decree, authorizing the sale of the property and appointing Edward A. Anderson, Trustee. The decree provided that no sale should be made until a binding contract was entered into with a reliable, licensed undertaker for the removal of all bodies and graves from the present cemetery to another cemetery.

Subsequently, the Trustee entered into a contract on July 11, 1958 with Ellsworth Trust Co., a licensed undertaker, for the removal of the aforementioned bodies and stones.

On July 14, 1958, Edward A. Anderson, Trustee, reported a sale of this property to the Belair Road Enterprises, Inc. The contract of sale and the report of sale, filed in the Circuit Court, state that possession and title are not to be given to the purchaser

2r

[redacted]

Fd. 7- July 1960
Plaintiff's Exhibit No. 3

A-424
1959

A-39097 (39)

HUNTINGTON WILLIAMS, M.D., DR.P.H.
COMMISSIONER

ROSS DAVIES, M.D., M.P.H.
ASSISTANT COMMISSIONER

REED GAITHER
SECRETARY



SANITARY SECTION
WILMER H. SCHULZE, PHAR. D.
DIRECTOR

BUREAU OF ENVIRONMENTAL HYGIENE
GEORGE W. SCHUCKER
DIRECTOR

BALTIMORE CITY HEALTH DEPARTMENT

November 6, 1957

Copy: Dr. Schulze
Mr. Schucker
Mr. Friedmann

Mr. Clement R. Mercaldo
City Solicitor's Office
Room 505, Court House

Dear Mr. Mercaldo:

This is in reply to your recent telephone request for a report concerning the Laurel Cemetery located on the east side of Belair Road between Elmley Avenue and Cliftmont Avenue.

Records of the Health Department indicate that complaints concerning the cemetery were received as far back as 1935 and have continued through the present year. The complaints have primarily pertained to high weeds, rats and garbage and refuse on the property.

Our inspections of the property during the past ten years have generally shown the presence of weeds, rat infestations along the borders of the property and accumulations of trash and some garbage which had been dumped on the property. There are numerous sunken graves and other depressions on the property which might afford an opportunity for mosquito breeding, but on our inspections of the property we have not observed any water pooling in these depressions. In recent years the cemetery has been subjected to vandalism. The great majority of the tombstones have been overturned or broken. A number of medium size trees have been cut down in addition to those which apparently had been blown down.

The owners of the cemetery were found guilty in Housing Court of failure to comply with Health Department notices in 1948 and in 1952.

During the latter part of 1948 and the early part of 1949, a portion of the property along Belair Road was cleared of undergrowth by a group of interested persons known as the Laurel Cemetery Protective Association. In 1951 the cemetery was treated with a chemical weed killer by persons employed by the owners. In 1952 the owners had a section of the cemetery along Belair Road cleared of brush by hand removal and also had the cemetery sprayed with a weed killer.

Since 1952 nothing has been done by the owners of the property to abate nuisances on the property. Some small fires have occasionally cleared part of the undergrowth for temporary periods. The Bureau of Highways has cut weeds along the footway area and the Division of Rodent Control of the Health Department has serviced the property to control the rodent infestation. During the greater part of this period, the Health Department was unable to locate a proper person on whom a notice could be served, since the owning corporation was in receivership and no trustee had been appointed.

On October 31, 1957 an inspection of the cemetery was made by Mr. John O. Long of the Health Department to determine its present condition. He found conditions essentially the same as disclosed by other inspections during the past few years. The cemetery is generally overgrown with weeds and brush, trash and garbage has been dumped on the property and rat infestation was observed. Some of the graves have sunk to a depth of approximately two feet and could present accident hazards.

The existing conditions would, in our opinion, constitute nuisances within the meaning of Sections 107 and 176 of Article 12 of the Baltimore City Code of 1950.

Very truly yours,

George O. Motry

George O. Motry
Chief, Division of Community Sanitation

GOM/js

Id. 7th July 1960
Plaintiffs Exhibit No. 4

A-424
1959

A-39097 (40)

Copy to:

Mr. Schucker
Mr. Sallow

May 3, 1956

Mr. William F. Hilgenberg, President
Board of Fire Commissioners
Gay and Lexington Streets
Baltimore 2, Maryland

Dear Mr. Hilgenberg:

Just recently you telephoned me regarding the situation at the Laurel Cemetery. In this connection and for your information I am enclosing a copy of the memorandum from Mr. George W. Schucker, Director of the Bureau of Environmental Hygiene, in the City Health Department, which covers a recent inspection made of the Laurel Cemetery.

Mr. William Sallow, Chief of the Division of Rodent Control, is planning to take some action in connection with the rat infestation that exists along the edges of the cemetery. This infestation is apparently due to carelessness on the part of residents in the disposal of garbage and in connection with bird and animal feeding.

In view of your interest in this matter I thought you would like to have a copy of this report.

Very truly yours,

Wilmer H. Schulze

Director, Sanitary Section

WHS:MM



BUR.
ENV. HYGIENE
MAY 4 1956 A.M. P.M.
BALTIMORE CITY HEALTH DEPARTMENT

Fd. 7th July 1960
Plaintiffs Exhibit No. 5

A-424
1959

A-39097 (41)

INSURANCE MANAGEMENT MORTGAGE LOANS SALES RENTALS

JOHN G. KAUFMAN
REALTOR
100 E. PLEASANT STREET
BALTIMORE, MARYLAND
—
MULBERRY 8110

September 16, 1948.

Mrs. Anita C. Scott, Recording Secretary,
The Laurel Cemetery Protective and Improvement Assoc.,
c/o Centennial Methodist Church,
Monument & Sterling Sts., Baltimore, Md.

Dear Mrs. Scott:

Pursuant to our conversation and in accordance with your letter of the sixteenth instant, I hereby grant permission to your organization, the Laurel Cemetery Protective and Improvement Association, to arrange to clear Sections B and C of New Laurel Cemetery, in order that those sections of the cemetery may present a better appearance. This work is to be done at the sole expense and risk of the Association.

Sections B and C are on the right- and left-hand side, respectively, of the entrance into the cemetery.

Very truly yours,

JOHN G. KAUFMAN
President of the New Laurel Cemetery Company

JGK/g

Fd. 7 July 1960
Plaintiffs Exhibit No. 6

A-424
1959

A. 39097 (42)

FIRST MEETING OF THE
DIRECTORS OF THE
BELAIR ROAD ENTERPRISES, INC.

The first meeting of the Directors named in the Certificate of Incorporation of Belair Road Enterprises, Inc., was held at No. 36 Equitable Building, Baltimore 2, Maryland, at 2:00 o'clock p.m. on the 10th day of July, 1958.

Present were the following:

David G. Rubens, Harold G. Kaufman and Jerome H. Levy. Mr. Levy acted as Chairman of the meeting and Mr. Kaufman acted as Secretary.

The Chairman presented the Certificate of Incorporation and notification by the State Tax Commission of the approval of the Charter. The Secretary was ordered to cause a copy of the Certificate of Incorporation to be inserted in the first portion of the minute book of the Corporation and to attach to these minutes the approval of the State Tax Commission.

Upon motion by the Secretary, the stockbook was opened to subscriptions to stock of the Corporation.

The Chairman presented to the meeting a proposal submitted by Messrs. Clement R. Mercaldo, Lloyd G. McAllister and John Kaufman, whereby they agree to purchase all of the stock of the Corporation at and for the price of Eighteen Thousand Dollars, and if the proposal is accepted, the stock is to be issued as follows:

37½% of all the shares to Clement R. Mercaldo;
37½% of all the shares to Lloyd G. McAllister
25% of all the shares to John G. Kaufman.

After due consideration of the proposal, the following resolutions were unanimously adopted:

RESOLVED: That the Corporation accept the offer of purchase made to it by Clement R. Mercaldo, Lloyd G. McAllister and John G. Kaufman, and transfer to them all of the stock of the Corporation at and for the price of Eighteen Thousand Dollars ($18,000.00); and

BE IT FURTHER RESOLVED: That all of the stock of the Corporation be issued to Clement R. Mercaldo, Lloyd G. McAllister and John G. Kaufman in the following proportions: 37½% to Clement R. Mercaldo; 37½% to Lloyd G. McAllister and 25% to John G. Kaufman.

The Chairman then called for nominations for officers of the Corporation, whereupon the following were nominated and unanimously elected to serve for the ensuing year and until their successors are duly elected and qualify:

President . . . . . .Clement R. Mercaldo

Vi Vice-President. . . . . .Lloyd G. McAllister

Secretary & Treasurer . . . . . .John G. Kaufman

The Chairman then submitted a form of stock certificate for adoption by the Corporation. Upon motion duly made and carried, the following resolutions were passed:

RESOLVED: That the form of stock certificate exhibited be and the same is hereby adopted as the certificate to be used by this Corporation; and

BE IT FURTHER RESOLVED: That the Secretary cause a certificate marked "Sample" to be inserted in the minute book following these minutes.

The Chairman then submitted a form of seal, circular in design with the name of the Corporation and the State of incorporation inscribed around the outer edge, and the year of incorporation in the center, whereupon the following resolution was passed:

RESOLVED: That the form of seal submitted be and the same is hereby adopted as the seal of the Corporation, and

BE IT FURTHER RESOLVED: That the Secretary is ordered to affix the same to the last page of these minutes.

There being no further business, the Meeting was adjourned.

_____

John G. Kaufman, Secretary

FIRST MEETING OF
STOCKHOLDERS OF
BELAIR ROAD ENTERPRISES, INC.

The first meeting of the Stockholders of Belair Road Enterprises, Inc., was held at No. 36 Equitable Building, Baltimore 2, Maryland on the 25th day of July, 1958 at 2:00 o'clock p.m.

Present were the following:

Clement R. Mercaldo, Lloyd G.McAllister and John G. Kaufman.

The Secretary presented to the meeting the resignation of Clement R. Mercaldo as President of the Company and upon motion duly made and seconded it was unanimously decided that the resignation be accepted.

Upon motion of John G. Kaufman the name of Benjamin J. Martin was submitted to act as President for the ensuing year. Upon motion duly made and seconded Mr. Martin was unanimously elected to act as President of the Corporation for the balance of the year.

There being no further business the meeting was adjourned.

John G. Kaufman, Secretary

SECOND MEETING OF
THE STOCKHOLDERS OF THE
BELAIR ROAD ENTERPRISES, INC.

The Second meeting of the Stockholders of the Belair Road Enterprises, Inc., was held at No. 36 Equitable Building, Baltimore 2, Maryland, at 2:00 o'clock p.m. on the 16th day of October, 1958.

The meeting was called to order by Benjamin J. Martin, President of the Corporation. The secretary then submitted the resignation of Benjamin J. Martin as President of the Corporation and upon motion duly made and seconded it was unanimously voted that the resignation be accepted.

Upon motion duly made and seconded by Lloyd G. McAllister, the name of Clement R. Mercaldo was submitted to be nominated as President, and upon motion duly made and seconded, Mr. Mercaldo was unanimously elected to serve for the ensuing year, or until his successor is duly elected and qualified.

There being no further business, the meeting was adjourned.

John G. Kaufman, Secretary

Fd. 7 July 1960
Plaintiffs Exhibit No. 7

A-424
1959

A-39097 (43)

FIRST MEETING OF THE

DIRECTORS OF
McKAMER REALTY COMPANY

The firstmmeeting of the Directors named in the certificate of incorporation of the McKamer RealtyhCompany was held at 404 Munsey Building, Baltimore, Maryland, at 2:00 o'clock P.M. on the 15th day of January, 1957. Present were the following:

Lloyd G. McAllister
Clement R. Mercaldo
John Kaufman
Dorothy M. Klipper

Mr. McAllister acted as Chairman of the meeting and Dorothy M. Klipper acted as Secretary.

The Chairman produced the certificate of incorporation and notification by the State Tax Commission of the approval of the Charter. The Secretary was ordered to cause a copy of the certificate of incorporation to be inserted in the first portion of the minute book of the corporation and to attach to these minutes the approval of the State Tax Commission.

Upon motion by the Secretary, the stock book was opened to subscriptions to stock of the corporation.

The Chairman presented to the meeting a proposal submitted by Messrs. John Kaufman, Lloyd G. McAllister and Clement R. Mercaldo, whereby they agreed to assign to the corporation in exchange for all of the corporation's stock an option to purchase at and for the sum of One Hundred

Dollars ($100.00), fifteen and one-half (15½) acres of land on the southeast side of Belair Road, and commonly known as "New Laurel Cemetery". The ownership of said option is in the ratio of 33-1/3% to John Kaufman, 33-1/3% to Lloyd G. McAllister, and 33-1/3% to Clement R. Mercaldo.

After due consideration of the proposal, the following resolutions were unanimously adopted:

RESOLVED: That the corporation accept the assignment of the option offered to it by John Kaufman, Lloyd G. McAllister and Clement R. Mercaldo, in exchange for all of the stock of the corporation; and

BE IT FURTHER RESOLVED: that all of the stock of the corporation be issued to John Kaufman, Lloyd G. McAllister and Clement R. Mercaldo on the basis of 33-1/3% to each; and

BE IT FURTHER RESOLVED, That the corporation exercise the option and take title to the 15½ acres of land on the southeast side of Belair Road, commonly known as "New Laurel Cemetery", and that title be taken in the name of the corporation.

The chairman then called for nominations for officers of the corporation, whereupon the following were nominated and unanimously elected to serve for the ensuing year and until their successors are duly elected and qualify.

President	Clement R. Mercaldo
Vice-President	Lloyd G. McAllister
Secretary	John Kaufman
Treasurer	John Kaufman

The Chairman then submitted a form of stock certificate for adoption by the corporation. Upon motion duly made and carried, the following resolutions were passed:

RESOLVED, that the form of stock certificate exhibited be and the same is hereby adopted as the certificate to be used by this corporation; and

BE IT FURTHER RESOLVED, that the secretary cause a certificate marked "sample" to be inserted in the minute book following these minutes.

The Chairman then submitted a form of seal, circular in design with the name of the corporation and state of incorporation inscribed around the outer edge and the year of incorporation in the center, whereupon the following resolution was passed:

RESOLVED, that the form of seal submitted be and the same is adopted as the seal of this corporation; and

BE IT FURTHER RESOLVED, that the secretary is ordered to affix the same to the last page of these minutes.

The Chairman then stated that it would be advisable to authorize an officer or officers of the corporation to act for it in any and all matters permitted by law, whereupon, upon motion duly made and carried, the following resolution was adopted:

RESOLVED: that the president be and he is hereby authorized and directed to act for and on behalf of the corporation in all matters pertaining to the corporation's business including the right to execute any and all deeds, conveyances, releases or other instrumen mentswhich may be required from time to time.

The Chairman states that the corporation must select a depository for its funds and suggested the Equitable Trust Compant as such a depository. Upon motion duly made and seconded, the following resolutions were passed:

RESOLVED, that The Equitable Trust Company be and it is hereby designated as a depository of this corporation, and that funds of this Corporation deposited with said Trust Company be subject to withdrawal upon checks or other instruments of whatsoever nature for the withdrawal of funds when signed or drawn, on behalf of this corporation, by the signature of any two of the following officers:

President-Vice President and Secretary, and

further,

RESOLVED, that said Trust Company is hereby authorized without inquiry to pay and honor any and all such checks or other instruments whether drawn to the order of any officer or officers signing the same or tendered in payment of the individual obligation or deposited to the

individual credit of any such officer or officers of otherwise, in any manner for any purpose whatsoever, andkfurther

RESOLVED, that any two of the following officers of the corporation, to wit:

President-Vice President and Secretary are hereby authorized to borrow money and to obtain credit for this corporation from The Equitable Trust Company on such terms as may seem to them advisable, and to make and deliver to said Trust Company any instrument or instruments evidencing the indebtedness of this corporation therefore, and as security therefor to pledge and hypothecate with said Trust Company any property of whatsoever nature of this corporation including, but without in any way limiting the aforegoin going, securities and evidencies of indebtedness negotiable or otherwise with full authority to endorse or guarantee the same in the name of this corporation, and also in connection with any loan or pledge, to execute and deliver to said Trust Company any and all instruments of assignment and transfer, contracts, trust receipts and other documents of whatsoever nature which may be required by it with or without the corporate seal;

AND ALSO, to discount with said Trust Company any bills receivable or negotiable papers belonging tonthisscorporation with full authority to endorse or guarantee the same in the name of this trust corporation, and further

RESOLVED, that the secretary of this corporation be and he is hereby directed to deliver to said Trust Company a certified copy of this resolution, together with a certificate setting the names and certifying to the signatures of the respective officers of this corporation, and that said Trust Company may recognize and deal with the officers whose names are set forth in said certificate and otherwise act upon the authority of these resolutions until the receipt by said Trust Company of a written notice to the contrary purporting to be signed by the President or Secretary of said Corporation.

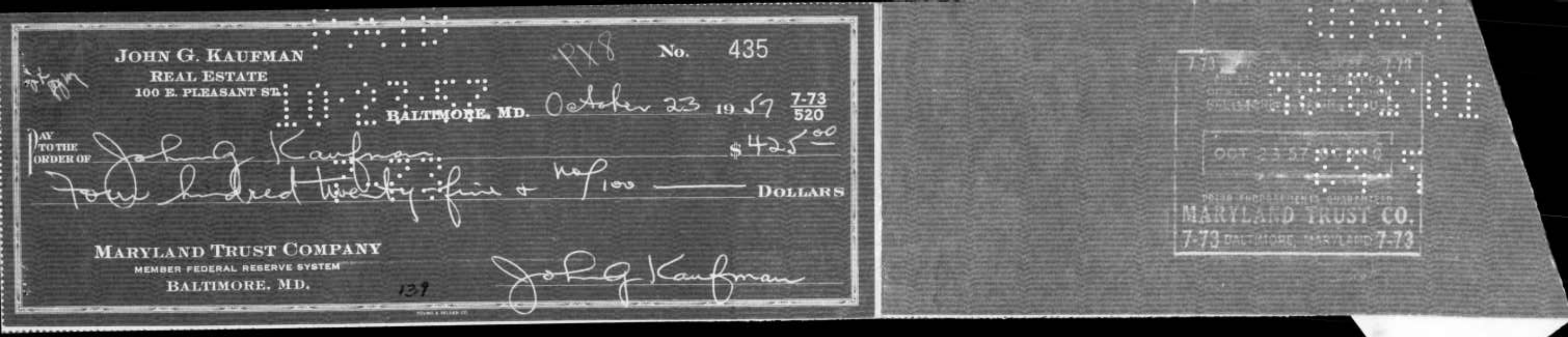
There being no further business, the meeting was adjourned.

Dorothy Klipper
Secretary

Fd. 7-July 1960
Plaintiffs Exhibit No. 7A

A-424
1959

A-39097 (44)



JOHN G. KAUFMAN
REAL ESTATE
100 E. PLEASANT ST.

PX8 No. 435

BALTIMORE, MD. October 23 19 57 7-73 / 520

PAY TO THE ORDER OF John G. Kaufman

$ 425.00

Four hundred twenty-five & no/100 DOLLARS

MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

139

John G. Kaufman

OCT 23 57

MARYLAND TRUST CO.
7-73 BALTIMORE, MARYLAND 7-73

JOHN G. KAUFMAN
REAL ESTATE
100 E. PLEASANT ST.

PX8 No. 435

BALTIMORE, MD. October 23 19 57 7-73/520

PAY TO THE ORDER OF John G. Kaufman $425.00

Four hundred twenty-five & no/100 ——— DOLLARS

MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

137

John G. Kaufman

MARYLAND TRUST CO.
773

JOHN G. KAUFMAN
REAL ESTATE
100 E. PLEASANT ST.

No. 435

BALTIMORE, MD. October 23 19 57 7-73 / 520

PAY TO THE ORDER OF John G. Kaufman

$ 425 00

four hundred twenty-five & no/100 ——— DOLLARS

MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

140

John G. Kaufman


OCT 23 57
MARYLAND TRUST CO.
7-73 BALTIMORE, MARYLAND 7-73

JOHN G. KAUFMAN
REAL ESTATE
100 E. PLEASANT ST.

No. 812

BALTIMORE, MD. May 16, 1958

7-73
520

PAY TO THE ORDER OF Clement K. Hendricks $164 00/100

One Hundred Sixty-Four 00/100 DOLLARS

MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

JOHN G. KAUFMAN

John G. Kaufman

141


7-89
PAY TO THE ORDER OF
7-89
ANY BANK, BANKER OR TRUST CO.
OR RECEIVED PAYMENT THROUGH
BALTIMORE CLEARING HOUSE
MAY 1 '58
PRIOR ENDORSEMENTS GUARANTEED
THE EQUITABLE TRUST CO.
7-89
BALTIMORE, MARYLAND
7-89

Fd. 7- July 1960
Plaintiffs Exhibit No-8

A-424
1959

A-39097(45)

JOHN G. KAUFMAN
REAL ESTATE
100 E. PLEASANT ST.

No. 812

BALTIMORE, MD. May 16, 1958

7-73
520

PAY TO THE ORDER OF Clemens K. Herrmann $164 00/100

One Hundred Sixty-Four 00/100 DOLLARS

MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

JOHN G. KAUFMAN

John G. Kaufman

1431


7-89
PAY TO THE ORDER OF
ANY BANK, BANKER OR TRUST CO.
OR RECEIVING PAYMENT THEREFOR
BALTIMORE CLEARING HOUSE
7-89
MAY 1 - '58
PRIOR ENDORSEMENTS GUARANTEED
THE EQUITABLE TRUST CO.
7-89
BALTIMORE, MARYLAND
7-89

JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL STREET

No. 1020

BALTIMORE 2, MD. Sept 23 1958

7-73
520

PAY TO THE ORDER OF Cash $300.00

Three hundred & no/100 DOLLARS

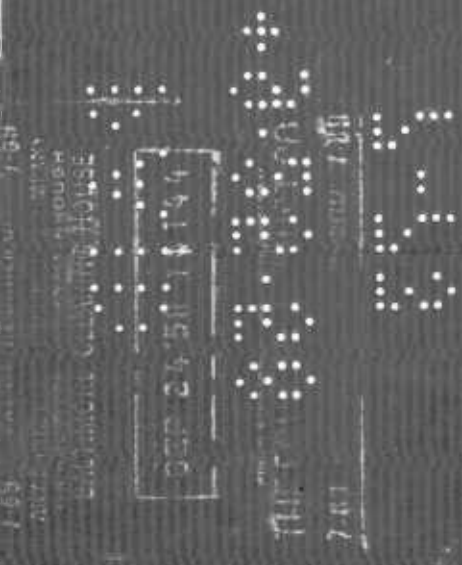
MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

143

JOHN G. KAUFMAN

John G Kaufman

For deposit
Lloyd G McAllister
Credit of [redacted]
17-4-471-856



JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL STREET

BALTIMORE 2, MD.

No. 1020

Sept 23 1958

7-73
520

PAY TO THE ORDER OF Cash

$300 00

Three hundred & no/100 DOLLARS

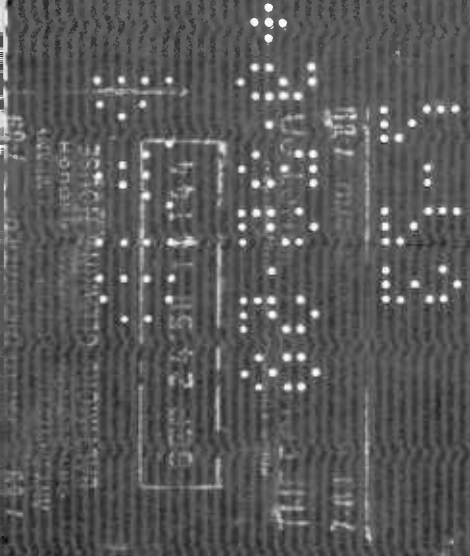
MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

146

JOHN G. KAUFMAN

John G Kaufman

For deposit
Lloyd G McAllister
Credit of [redacted]
M-4-471+866



JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL STREET,

No. 1050

BALTIMORE 2, MD. October 9, 1958

7-73
520

PAY TO THE ORDER OF Cash

$1,000.00

One Thousand 00/100 DOLLARS

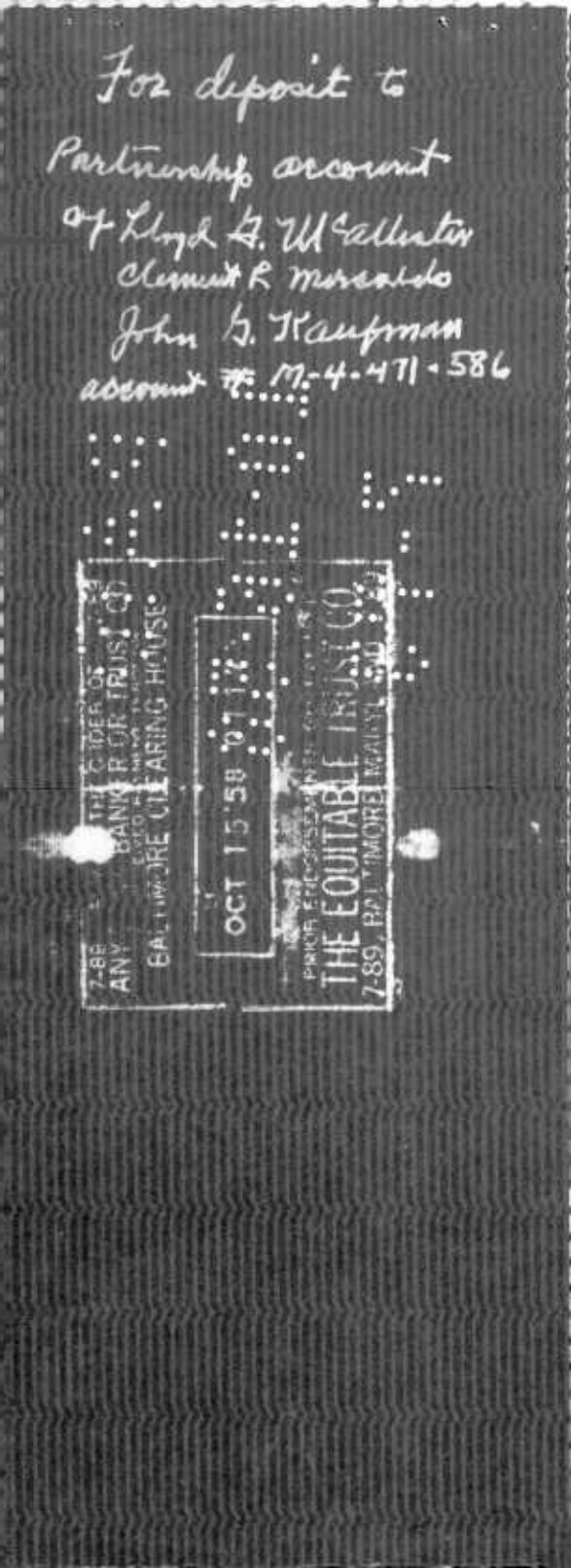
MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

145

JOHN G. KAUFMAN

John G Kaufman

For deposit to
Partnership account
of Lloyd G. McCallister
Clement R. Marsaldo
John G. Kaufman
account #: M-4-471-586



JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL STREET

No. 1050

BALTIMORE 2, MD. October 9, 1958

7-73
520

PAY TO THE ORDER OF Cash

$1,000.00

One Thousand and 00/100 DOLLARS

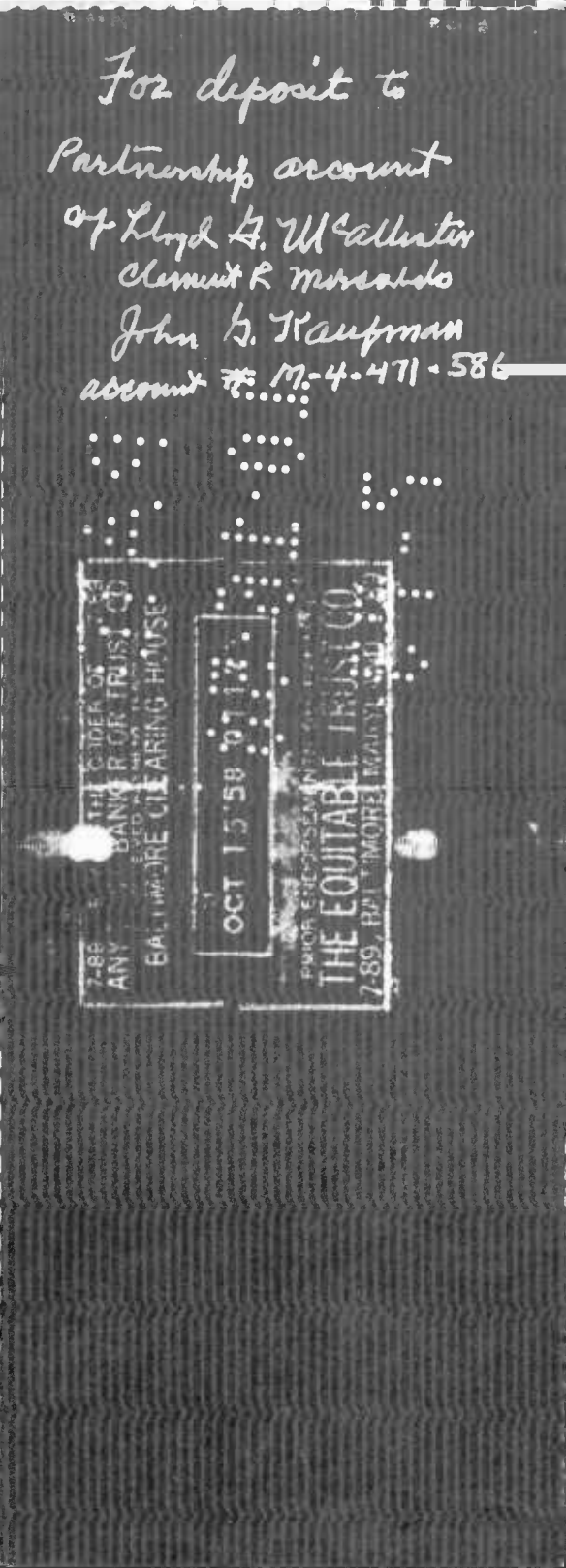
MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

JOHN G. KAUFMAN

John G. Kaufman

146

For deposit to
Partnership account
of Lloyd G. McCallister
Clement R Moscatello
John L. Kaufman
account #: M-4-471-586



JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL STREET
BALTIMORE 2, MD.

No. 1083

October 24, 1958

7-73
520

PAY TO THE ORDER OF Cash

$1,000.00

One Thousand

DOLLARS

MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

JOHN G. KAUFMAN

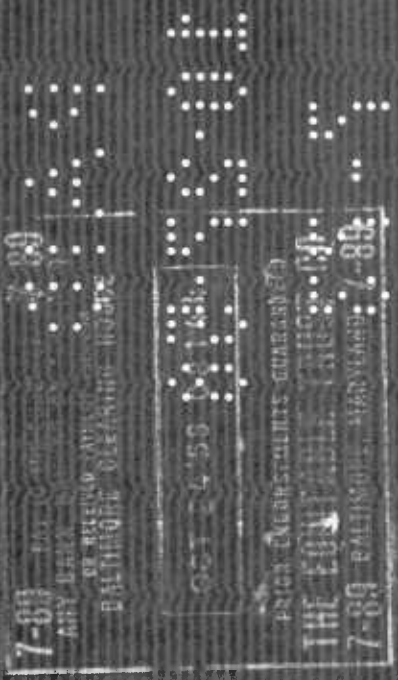
John G. Kaufman

167

For Deposit To The Account Of

Lloyd G. McAllister
Clement R. Mercaldo
John G. Kaufman
Partnership

Account No. M-4-471-856



JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL STREET
BALTIMORE 2, MD.

No. 1083

October 24, 1958

7-73
520

PAY TO THE ORDER OF Cash $1,000.00

One Thousand 00/100 DOLLARS

MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

148

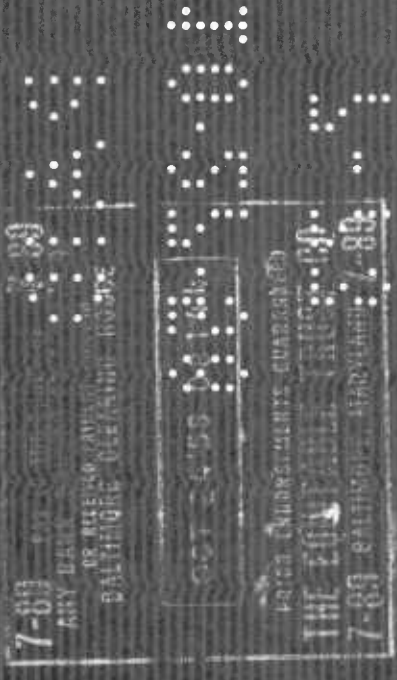
JOHN G. KAUFMAN

John G. Kaufman

For Deposit To The Account Of

Lloyd G. McAllister
Clement R. Mercaldo
John G. Kaufman
Partnership

Account No. M-4-471-856



JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL STREET

No. 1134

BALTIMORE 2, MD. November 21 19 58

7-73
520

PAY TO THE ORDER OF Cash

$500.00

Five hundred & no/100

DOLLARS

MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

JOHN G. KAUFMAN

John G. Kaufman

149

In dispose to
Floyd J. McCollister
Clerk of Mercado
for a Lecture,
Polymorphy

Accession # M 4-471-852

JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL STREET

No. 1134

BALTIMORE 2, MD. November 21 19 58

7-73
520

PAY TO THE ORDER OF Cash

$500.00

Five hundred & no/100 DOLLARS

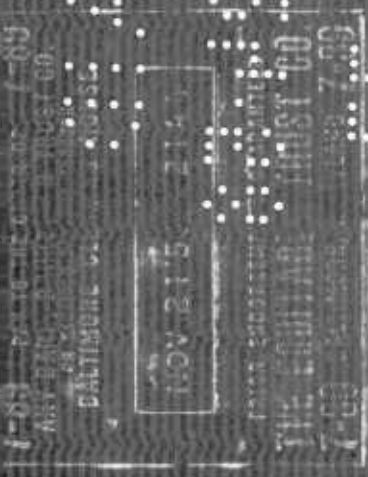
MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

JOHN G. KAUFMAN

John G. Kaufman

150

For deposit to
Lloyd G McAllister
Clement R Mercaldo
John G Kaufman,
Partnership
Account # M 4-471-856



JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL PLACE

No. 1512

BALTIMORE 2, MD. June 2 19 59

7-73
520

PAY TO THE ORDER OF Lloyd G McAllister, Clement R Mccaddon & John G Kaufman $500 00

Five hundred & no/100 DOLLARS

MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

JOHN G. KAUFMAN

John G Kaufman

151

Thy dearest mother
Hand & heart
Clement R. Macedo
Beloved husband
Passed away
Oct. 4th 1856

JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL PLACE

No. 1512

BALTIMORE 2, MD. June 2 19 59

7-73
520

PAY TO THE ORDER OF Lloyd G McAllister, Clement R Mercado & John G Kaufman $500 00

Five hundred & no/100 DOLLARS

MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

JOHN G. KAUFMAN

John G Kaufman

152

For deposit only

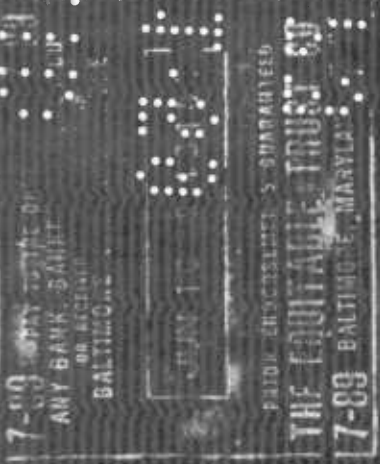
Lloyd g McAllister

Clement R. Mercaldo

John g Kaufman

Partnership

a/c # 1114 71 856



JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL STREET
BALTIMORE 2, MD.

No. 1176

Dec 15 1958

7-73
520

PAY TO THE ORDER OF Cash

$400 00

four hundred & 00/100

DOLLARS

MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

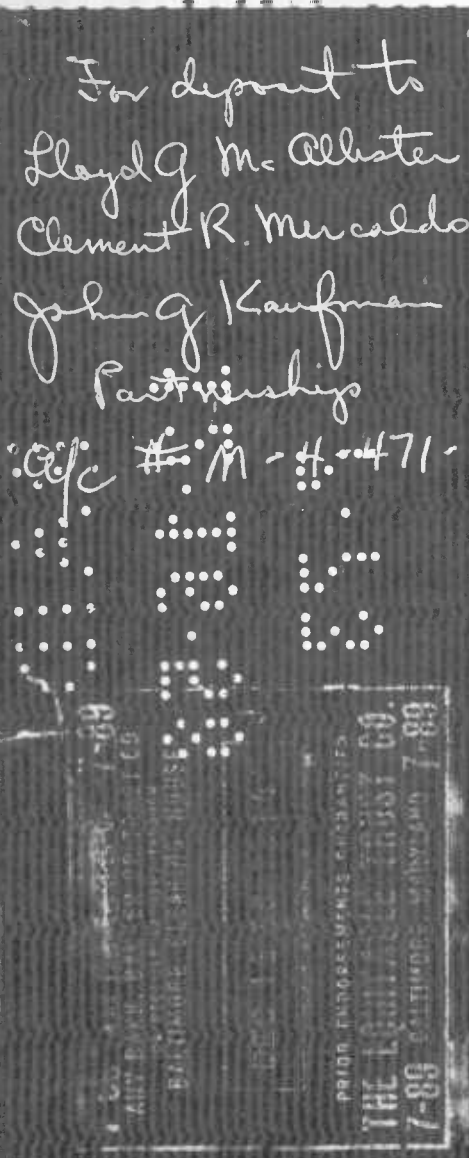
JOHN G. KAUFMAN

John G Kaufman

153 87-2316

For deposit to
Lloyd G. McAllister
Clement R. Mercaldo
John G. Kaufman
Partnerships

G/C #: M-H-471-856



JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL STREET
BALTIMORE 2, MD.

No. 1176

Dec 15 1958

7-73
520

PAY TO THE ORDER OF Cash

$400.00

four hundred & 00/100

DOLLARS

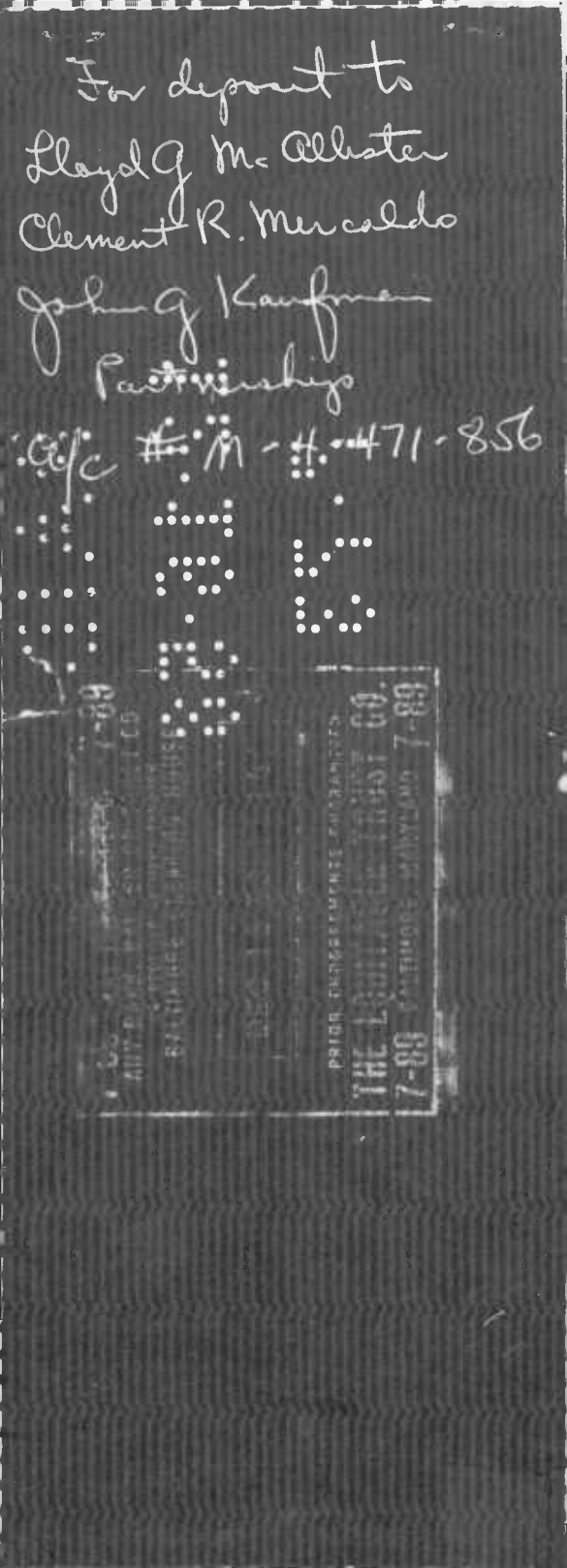
MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

JOHN G. KAUFMAN

John G. Kaufman

154 897 2016

For deposit to
Lloyd G. McAlister
Clement R. Mercaldo
John G. Kaufman
Partnerships
G/C #: M-#: 471-856



JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL PLACE

No. 1820

BALTIMORE 2, MD. November 12, 1957

7-73
520

PAY TO THE ORDER OF Clement R. Hinkley $100 00/100

One Hundred 00/100 DOLLARS

MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

155

JOHN G. KAUFMAN

John G. Kaufman


NOV
TRUST CO.

JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL PLACE

No. 1820

BALTIMORE 2, MD. November 12, 1959

7-73
520

PAY TO THE ORDER OF Clemon L. Hinkle $100 00/100

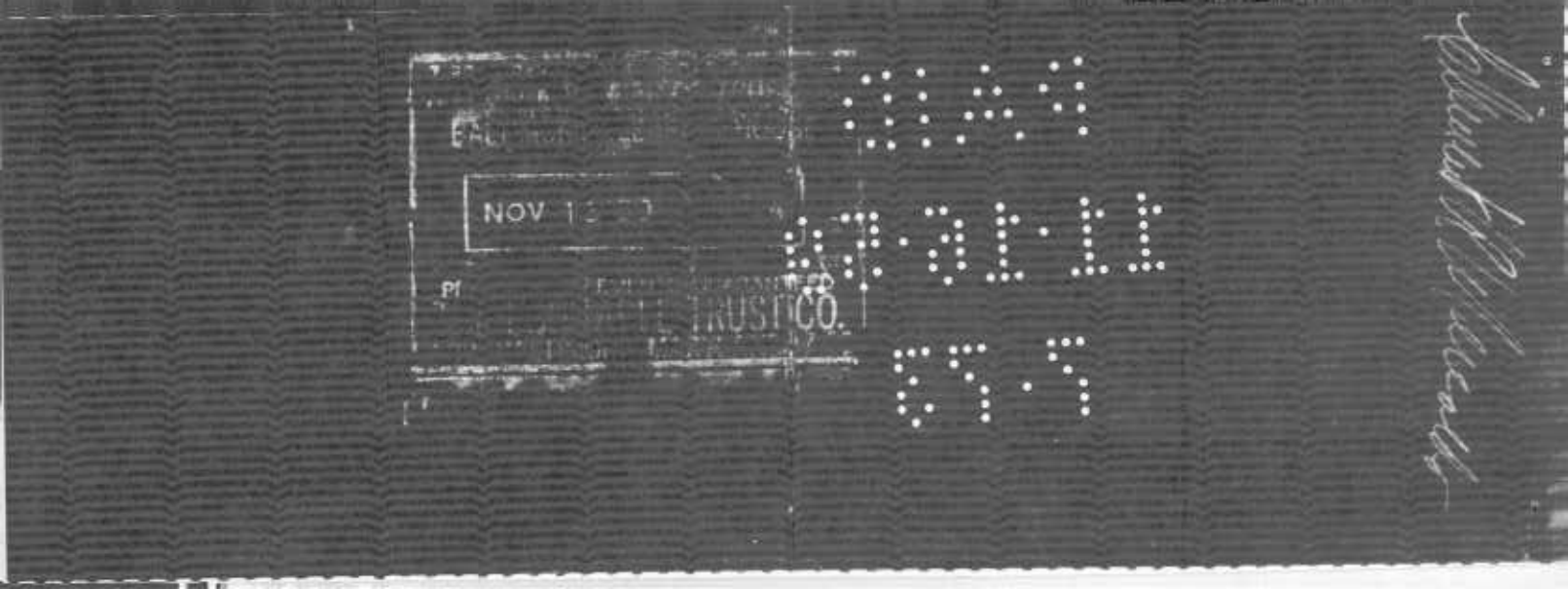
One Hundred 00/100 DOLLARS

MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

156

JOHN G. KAUFMAN

John G. Kaufman


NOV
TRUST CO.

JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL STREET

No. 1145

BALTIMORE 2, MD. November 28 19 58

7-73
520

PAY TO THE ORDER OF Cash

$ 800 00

Eight hundred & no/100 DOLLARS

MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

JOHN G. KAUFMAN

John G. Kaufman

157

In deposit
Thank you Mr. collector
Please Remember
Depository Bank
Acc # M4-471-856

JOHN G. KAUFMAN
REAL ESTATE
334 ST. PAUL STREET

No. 1145

BALTIMORE 2, MD. November 28 19 58

7-73
520

PAY TO THE ORDER OF Cash

$ 800 00

Eight hundred & no/100 DOLLARS

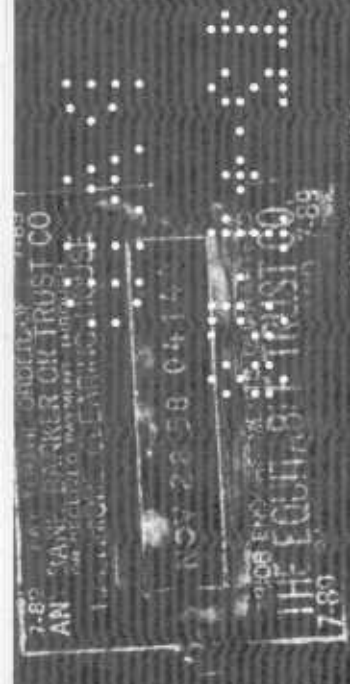
MARYLAND TRUST COMPANY
MEMBER FEDERAL RESERVE SYSTEM
BALTIMORE, MD.

JOHN G. KAUFMAN

John G. Kaufman

158

For deposit
Lloyd G McAllister
Clement R Mercaldo
John G Kaufman
Partnership
a/c # M 4-471-856



Partnership of Clement R. Mercaldo, John L. Kaufman and Lloyd L. McCallister

Advances on behalf of McKamo Realty Co:

June 1957	for purchase of Laurel Cemetery — Butler Township	100.00		
	Recording deed	5.00		
	Revenue stamps	1.10		
	Incorporating — State Tax Comm.	30.00		
	Corp. seal	8.67		
	Purchase of 17 lots - U.S. Gov	425.00		
	Recording deed	5.00		
	Revenue stamps	1.10		
12/17/58	Franchise Tax - state Tax Comm	23.60		
		178.72		178.72
		421.75		421.75
9/12/58	J. Harry Keller Surveyor	32.00		
8/11/58	" " " "	42.00		
4/11/59	~~Harry B. Mauldin Sign Painting~~	~~50.00~~		
		74.00		74.00
				252.72
				421.75
				674.47

Id. 7 July 1960
Plaintiffs Exhibit No. 9

A-424
1959

159

A-39097 (46)

Partnership of Clement R. Mercaldo
John G. Kaufman
Lloyd H McCallister

Advances on behalf of Belair Road Enterprises, Inc. :-

Incorporation – State Tax comm.	30.00
Corp. seal	8.67
Purchase price – Laurel Cemetery :-	15,500.00
A – removal costs of Contract to remove Remains & stones –	
b – Costs of new cemetery – Carroll Co	2,097.40
C – Record deed & stamps, Anderson to Corp.	47.00
Court costs: – Bond – New Amsterdam Casual.	90.00
Daily Record – publication	191.00
W.C. Baxter – Master	300.00
Daily Record Nisi order	11.00
A.J. O'Ferrall – final acct & Court Costs	283.95
	$18,558.12

H. Lee Allers atty, legal work	100.00
Hartford Art Service – no trespassing signs (4)	73.44

Fd. 7th July 1960
Plaintiffs Exhibit 10A

A. 424
1959

A-39097 (47)

Partnership acct.
Advances on behalf of Belair Rd Enterprises, Inc.

12/5/58	Balto City - paving charge	133.61
3/9/59	ace photo - prints	4.90
3/20/59	" " "	5.00
4/27/59	Mrs Edwin Busch - petitions	100.00
5/26/59	Frank Lancelotta - Liability Ins.	39.75
6/9/59	HB Mauldin - Signs Zoning	50.00
~~6/7/58~~ 7/20/59	Harford Coach Co - Bus	22.00
12/8/58	Mrs. Edwin Busch - Clerical work	25.00
"	Mary F. Fitzsimmons " "	25.00
6/24/58	Mrs Edwin Busch (Incidental exp. lunches	22.00
summer 1959 -	Grass cutting - weeds old Laurel (pd by personal check)	____
7/20/59	Neil Klingelhoffer - Contract work Carroll Co -	245.00
11/12/59	" " "	260.00
1/5/60	Allen T. Collins "	90.00
		$1,022.26
4/11/59	Mauldin - 4 Signs - Zoning	50.00

7% amt

Pay to B

Fd. 7-July 1960
Plaintiffs Exhibit 10 B

A-424
1959

A-39097 (48)

Examined and approved by Committee.

.....
Reading Clerk.

.....
Chief Committee Clerk.

By the CITY COUNCIL OF BALTIMORE

.....195.....

Read the third time and passed by yeas and nays.

By order,

.....
Chief Clerk.

Journal Pages

First Reading ....

Second Reading ....

Third Reading ....

Vote on final passage: Yeas..... Nays.....

Introduced by Messrs. Byrd, Hergenroeder and Pica, by request of Belair Rd. Enterprises Inc., 334 St. Paul St. (2); John Gilbert Kaufman, Sa. 7-2216.

City Council 2745

APPROVED
By the Mayor
MAY 12 1959

ORDINANCE NO. 1940

An ordinance to amend Sheets Nos. 37 and 38 of the Use District Map of Article 40 of the Baltimore City Code (1950 Edition), title "Zoning", as revised by Ordinance No. 711, approved May 21, 1953, by changing from the "Residential Use District" to the "First Commercial Use District", the property on the southeast side of Belair Road, northeast of Elmley Avenue, as outlined in red on the four plats accompanying this ordinance.

By the City Council of Baltimore, March 16, 1959.

Introduced, read first time and referred to the Board of Municipal & Zoning Appeals, City Planning Commission and Zoning Committee.

By Order, JAMES W. MULLEN, Chief Clerk.

By the City Council of Baltimore, April 20, 1959.

Re-referred to the Committee on Zoning.

By order, JAMES W. MULLEN, Chief Clerk

REPORT OF COMMITTEE

Favorable.

JACOB J. EDELMAN, Chairman.

By the City Council of Baltimore, April 27, 1959.

Reported favorably by the Committee on Zoning, read second time and ordered printed for third reading.

By order, JAMES W. MULLEN, Chief Clerk.

ORDINANCE

No. .....

An ordinance to amend Sheets Nos. 37 and 38 of the Use District Map of Article 40 of the Baltimore City Code (1950 Edition), title "Zoning", as revised by Ordinance No. 711, approved May 21, 1953, by changing from the "Residential Use District" to the "First Commercial Use District", the property on the southeast side of Belair Road, northeast of Elmley Avenue, as outlined in red on the four plats accompanying this ordinance.

SECTION 1. *Be it ordained by the Mayor and City Council of Baltimore,* That Sheets Nos. 37 and 38 of the Use District Map of Article 40 of the Baltimore City Code (1950 Edition), title "Zoning", as revised by Ordinance No. 711, approved May 21, 1953, be and they are hereby amended by changing from the "Residential Use District" to the "First Commercial Use District", the property on the southeast side of Belair Road, northeast of Elmley Avenue, as outlined in red on the four plats accompanying this ordinance.

SEC. 2. *And be it further ordained,* That upon the passage of this ordinance by the City Council, as evidence of the authenticity of the plat which is a part hereof, and in order to give notice to the departments which are administering the Zoning Ordinance, the said plats shall be signed by the President of the City Council, and upon approval of the ordinance by the Mayor, said plats shall be signed by the Mayor of the City of Baltimore, and the City Treasurer shall transmit a copy of the ordinance and one of the plats to the Board of Municipal and Zoning Appeals, a copy of the ordinance and one of the plats

to the Planning Commission, and a copy of the ordinance and one of the plats to the Building Inspection Engineer.

SEC. 3. *And be it further ordained,* That this ordinance shall take effect from the date of its passage.

Approved.....

.....
Mayor of Baltimore City.

.....
President of the City Council of Baltimore.

Presented to His Honor, the Mayor, this.....

day of ..... 195.....

By order, JAMES W. MULLEN, Chief Clerk.

ORDINANCE

No. .....

An ordinance to amend Sheets Nos. 37 and 38 of the Use District Map of Article 40 of the Baltimore City Code (1950 Edition), title "Zoning", as revised by Ordinance No. 711, approved May 21, 1953, by changing from the "Residential Use District" to the "First Commercial Use District", the property on the southeast side of Belair Road, northeast of Elmley Avenue, as outlined in red on the four plats accompanying this ordinance.

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to the Planning Commission, and a copy of the ordinance and one of the plats to the Building Inspection Engineer.

SEC. 3. *And be it further ordained,* That this ordinance shall take effect from the date of its passage.

Approved.....

.....
Mayor of Baltimore City.

.....
President of the City Council of Baltimore.

Presented to His Honor, the Mayor, this.....

day of ..... 195.....

By order, JAMES W. MULLEN, Chief Clerk.

Fd. 7 July 1960

Plaintiffs Exhibit No. 11

A-424
1959

A-39097 (49)

LEGAL STAFF

GERALD MONSMAN
COUNSEL
JOHN B. FOX
D. J. MUSACCHIO
ASSISTANT COUNSEL
DONALD H. FRYE
CONSTANCE K. PUTZEL
CYRIL R. MURPHY, JR.
LOUIS SALZMAN

LEGAL AID CLINIC OF THE SCHOOL OF LAW OF THE UNIVERSITY OF MARYLAND

LEGAL AID BUREAU, INC.
7 ST. PAUL STREET
BALTIMORE 2, MD.
MEMBER OF THE COMMUNITY CHEST

TELEPHONE LEXINGTON 5340

BOARD OF DIRECTORS

J. MARTIN McDONOUGH
CHAIRMAN
JUDGE W. CONWELL SMITH
VICE-CHAIRMAN
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GEORGE W. CONSTABLE
MONSIGNOR JOHN J. DALY
L. EDWIN GOLDMAN
DR. MANFRED S. GUTTMACHER
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DEAN ROGER HOWELL
PAUL R. KACH
WILLIAM R. McCLAYTON
JUDGE CHARLES E. MOYLAN
JACOB S. NEW
H. LARUE PARKE
J. GILBERT PRENDERGABT
DOUGLAS H. ROSE, II
CARLETON R. SHARRETTS, JR.
MARGARET S. WRIGHT

IN REPLY REFER TO NO. 94830

November 9, 1948

Mrs. Anita Scott
611 N. Caroline Street
Baltimore-5, Maryland

Dear Mrs. Scott:

After having the law looked up, I can report to you that there was nothing found specifically on cemeteries except matters of no interest to you and your organization.

However, under the general statutes concerning nuisances (Md. Code, Art. 43, Sec. 49 & 50), it appears that upon the complaint of a medical practictioner or any two or more persons affected thereby of an accumulation dangerous to human health, upon a complaint of such to the local health department, said department can order an abatement thereof. Said statute also carries a fine of from $1.00 to $10.00 for first offenses and subsequent fines to $25.00.

But to iterate, there was nothing found in the law requiring any particular plan to perpetuate the upkeep of cemeteries.

Very truly yours,

LEGAL AID BUREAU, INC.

Donald H. Frye

Donald H. Frye

Associate Attorney

DHF:VS

Id. 7. July 1960
Plaintiffs Exhibit No. 12

A-424
1959

A-39097(50)

HUNTINGTON WILLIAMS, M.D., DR.P.H.
COMMISSIONER
ROSS DAVIES, M. D., M. P. H.
ASSISTANT COMMISSIONER
REED GAITHER
SECRETARY

SANITARY SECTION
WILMER H. SCHULZE
DIRECTOR

BALTIMORE CITY HEALTH DEPARTMENT

November 4, 1948 Insp:Friedmann

Mr. John G. Kaufman, Pres.
New Laurel Cemetery Company
100 E. Pleasant Street
Baltimore 2, Maryland

Dear Mr. Kaufman:

As owner of the property 2301 blk. Belair Road Baltimore, Maryland, you are hereby notified, in accordance with the provisions of Ordinance No. 384, Approved March 6, 1941, as amended by Ordinance No. 902, Approved March 29, 1943, and of Section 148 of Article 16 of the Baltimore City Code of 1927, that this property has been inspected and has been found to be dangerous or detrimental to life or health.

You are hereby ordered, in accordance with the city ordinances above referred to, to correct these conditions in accordance with the following specifications:

1. To cut and remove tall grass and weeds, destroy poison ivy.
2. Clean cemetery of all trash and garbage.
3. Fill in sunken areas created by tombstones sinking in New Laurel Cemetery.

You are hereby notified to comply with the provisions of the city ordinances above referred to by December 31, 1948. Failure on your part to comply with this notice will make it necessary to take action in accordance with the provisions of the law.

GOM:MAL
Reg. Mail
Copies: Mr. Schucker
Mrs Anita C. Scott, Sec.

Very truly yours,

George O. Motry
Chief, Division of Community Sanitation

EH 102

Fd. 7 July 1960
Plaintiffs Exhibit No. 13

A-424
1959

A-39097 (51)

BALTIMORE CITY HEALTH DEPARTMENT
BUREAU OF VITAL RECORDS

58 6883

PERMIT NO.

PERMIT FOR
BURIAL OR OTHER DISPOSITION OF A DEAD HUMAN BODY

FULL NAME OF DECEASED Robert Tuckson

PLACE OF DEATH 728 N. Bruce St BALTIMORE, MARYLAND

DATE OF DEATH 7/6/58 19 COLOR OR RACE Col. SEX M AGE 71 (YEARS, MONTHS, DAYS)

METHOD OF DISPOSITION:

- ☑ BURIAL
- ☐ CREMATION
- ☐ TRANSIT
- ☐ STORAGE
- ☐ DISINTERMENT
- ☐ REINTERMENT

PLACE OF DISPOSITION (NAME OF CEMETERY OR CREMATORY) Laurel, (LOCATION) Md.

PLACE OF REINTERMENT (NAME OF CEMETERY OR CREMATORY) (LOCATION)

THE REQUIREMENTS OF THE BALTIMORE CITY HEALTH DEPARTMENT HAVING BEEN COMPLIED WITH, PERMISSION IS HEREBY

GIVEN TO Mrs Katie R. Williams ADDRESS Beltsville Md
(FUNERAL DIRECTOR OR PERSON ACTING AS SUCH)

TO DISPOSE OF THE BODY OF THE DECEASED NAMED ABOVE.

Huntington Williams, M.D.
COMMISSIONER OF HEALTH AND REGISTRAR OF VITAL STATISTICS

DATE JUL 9 - 1958 19

PER

CEMETERY OR CREMATORY AUTHORITY SHALL FILL OUT SPACE BELOW

BODY WAS (STATE WHETHER BURIED, CREMATED, ETC.) ON 19 IN (CEMETERY OR CREMATORY)

LOCATION SIGNATURE (SEXTON OR PERSON IN CHARGE)

SEE OTHER SIDE

THIS PERMIT MUST BE ENDORSED BY THE SEXTON (OR BY THE FUNERAL DIRECTOR WHERE THERE IS NO SEXTON) AND RETURNED WITHIN 10 DAYS TO THE REGISTRAR OF THE DISTRICT IN WHICH FINAL DISPOSITION TAKES PLACE.

VS 152

168

THIS PERMIT MUST ACCOMPANY THE REMAINS TO DESTINATION

P.X.14

READ CAREFULLY

FUNERAL DIRECTORS: A PERMIT IS REQUIRED FOR ANY MANNER OF DISPOSITION OF A DEAD HUMAN BODY INCLUDING INTERMENT, CREMATION, STORAGE, TRANSPORTATION, DISINTERMENT AND REINTERMENT.

WHEN USED AS A TRANSIT PERMIT FOR TRANSPORTATION BY COMMON CARRIER, THIS PERMIT SHOULD BE ENCLOSED IN A STRONG ENVELOPE ATTACHED TO THE SHIPPING CASE. NO SEPARATE TRANSIT PERMIT IS REQUIRED.

BEFORE SHIPMENT BY TRAIN OR EXPRESS, THE BODY MUST BE EMBALMED. IF THAT IS NOT PRACTICABLE, THE BODY MUST BE ENCLOSED IN A TIGHTLY SEALED CASKET OR OUTER CASE.

SEXTONS: IT IS UNLAWFUL FOR ANY SEXTON, OR OTHER PERSON IN CHARGE OF A BURIAL PLACE, TO PERMIT BURIAL OR OTHER DISPOSITION OF A DEAD HUMAN BODY BEFORE A PROPER PERMIT IS DEPOSITED WITH HIM. THE SEXTON MAY ACCEPT THE PERMIT OF ANY STATE OR THE DISTRICT OF COLUMBIA AS AUTHORIZATION FOR BURIAL PROVIDED THE NAME AND LOCATION OF THE CEMETERY OR CREMATORY ARE WRITTEN THEREON. IN ALL OTHER CASES, THE PERMIT OF SUCH JURISDICTIONS WILL HAVE TO BE EXCHANGED FOR A NON-RESIDENT BURIAL PERMIT ISSUED BY THE BALTIMORE CITY HEALTH DEPARTMENT.

ALL PERMITS MUST BE ENDORSED, RECORDED IN YOUR SEXTON'S REGISTER, AND FORWARDED WITHIN TEN DAYS TO THE REGISTRAR OF YOUR DISTRICT.

PENALTY FOR VIOLATIONS IS FROM $20 TO $100 FOR EACH OFFENSE.

P.X.14

Page 0-148

Fd. 7-- July 1960
Plaintiffs Exhibit No. 14

A-424
1959

A-39097 (52)

THIS PERMIT MUST ACCOMPANY THE REMAINS TO DESTINATION

BALTIMORE CITY HEALTH DEPARTMENT
BUREAU OF VITAL RECORDS

PERMIT NO. 57 12636

PERMIT FOR
BURIAL OR OTHER DISPOSITION OF A DEAD HUMAN BODY

FULL NAME OF DECEASED James MacLeish

PLACE OF DEATH Johns Hopkins Hosp BALTIMORE, MARYLAND

DATE OF DEATH 12/31/57 19 COLOR OR RACE W SEX M AGE 82 yrs (YEARS, MONTHS, DAYS)

METHOD OF DISPOSITION:

- ☑ BURIAL
- ☐ CREMATION
- ☐ TRANSIT
- ☐ STORAGE
- ☐ DISINTERMENT
- ☐ REINTERMENT

PLACE OF DISPOSITION (NAME OF CEMETERY OR CREMATORY) (LOCATION)

Laurel

PLACE OF REINTERMENT (NAME OF CEMETERY OR CREMATORY) (LOCATION)

THE REQUIREMENTS OF THE BALTIMORE CITY HEALTH DEPARTMENT HAVING BEEN COMPLIED WITH, PERMISSION IS HEREBY

GIVEN TO Samuel W. Lattimer Jr. ADDRESS 1011 N. Arlington Ave
(FUNERAL DIRECTOR OR PERSON ACTING AS SUCH)

TO DISPOSE OF THE BODY OF THE DECEASED NAMED ABOVE.

Huntington Williams, M.D.
COMMISSIONER OF HEALTH AND
REGISTRAR OF VITAL STATISTICS

DATE 1/3/58 19

PER [illegible]

CEMETERY OR CREMATORY AUTHORITY SHALL FILL OUT SPACE BELOW

BODY WAS _____ ON _____ 19 ____ IN _____
(STATE WHETHER BURIED, CREMATED, ETC.) (CEMETERY OR CREMATORY)

LOCATION _____ SIGNATURE _____
(SEXTON OR PERSON IN CHARGE)

SEE OTHER SIDE

THIS PERMIT MUST BE ENDORSED BY THE SEXTON (OR BY THE FUNERAL DIRECTOR WHERE THERE IS NO SEXTON) AND RETURNED WITHIN 10 DAYS TO THE REGISTRAR OF THE DISTRICT IN WHICH FINAL DISPOSITION TAKES PLACE.

VS 152

170

READ CAREFULLY

FUNERAL DIRECTORS: A PERMIT IS REQUIRED FOR ANY MANNER OF DISPOSITION OF A DEAD HUMAN BODY INCLUDING INTERMENT, CREMATION, STORAGE, TRANSPORTATION, DISINTERMENT AND REINTERMENT.

WHEN USED AS A TRANSIT PERMIT FOR TRANSPORTATION BY COMMON CARRIER, THIS PERMIT SHOULD BE ENCLOSED IN A STRONG ENVELOPE ATTACHED TO THE SHIPPING CASE. NO SEPARATE TRANSIT PERMIT IS REQUIRED.

BEFORE SHIPMENT BY TRAIN OR EXPRESS, THE BODY MUST BE EMBALMED. IF THAT IS NOT PRACTICABLE, THE BODY MUST BE ENCLOSED IN A TIGHTLY SEALED CASKET OR OUTER CASE.

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ALL PERMITS MUST BE ENDORSED, RECORDED IN YOUR SEXTON'S REGISTER, AND FORWARDED WITHIN TEN DAYS TO THE REGISTRAR OF YOUR DISTRICT.

PENALTY FOR VIOLATIONS IS FROM $20 TO $100 FOR EACH OFFENSE.

area R lot 29

SIXA Edward Hamlett

171

Fd. 7-July 1960

Plaintiffs Exhibit No. 15

A-424
1959

A-39097 (53)

INCORPORATED JUNE, 1853. UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No. 1340

LAUREL CEMETERY COMPANY.



Know all Men by these presents that LAUREL CEMETERY COMPANY, in consideration of Sixteen Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell, and convey to Joseph Frisby his heirs and assigns, One Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 25 in Section K on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery. TO HAVE AND TO HOLD the said LOT and right of way aforesaid, to the said Joseph Frisby his heirs and assigns forever, for purposes of SEPULTURE alone and none other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at JANUARY Session Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to Incorporate Cemetery Companies and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 14 day of May Eighteen Hundred and Ninety Eight

President.

TEST:

D. H. Emory Treas Secretary.

Id. 7- July 1960
Plaintiffs Exhibit No. 16

A-424
1959

A-39097 (54)

172

LAUREL CEMETERY COMPANY.

No. 41.

Know all Men by these Presents,

That *THE LAUREL CEMETERY COMPANY,* for and in consideration of the sum of Twenty Dollars, to them in hand paid by Maria Smith

the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey to the said Maria Smith her heirs and assigns, *one Lot of Land* in the *Laurel Cemetery,* laid down in the Plan of said Cemetery in the Office of said Company, and therein designated as *Lot* No. Forty Nine (49) in Area D. containing Eighty superficial feet.

To Have and to Hold the herein above granted premises to the said Maria Smith her heirs and assigns forever, subject, however, to the conditions and limitations, and with the privileges specified in the Act of the General Assembly of Maryland, passed January Session, 1852, chapter 221, and such rules and regulations now in force, and such other rules and regulations as may be adopted hereafter for the management of said Cemetery, made pursuant to said Act of Assembly.

And the said *The Laurel Cemetery Company,* do hereby covenant to and with the said Maria Smith her heirs and assigns, that they are lawfully seized of the herein granted premises in fee simple,—that they have the right to sell and convey the same for the purposes above expressed, and that they will warrant and defend the same unto the said Maria Smith her heirs and assigns forever.

In Testimony Whereof, the said The Laurel Cemetery Company have caused this Certificate of Title to be signed by their President, _____ and their Common Seal to be affixed hereto, this Twenty Seventh day of April in the year of our Lord one thousand eight hundred and seventy Four

D. C. H. Emory Pres

Id. 7- July 1960
Plaintiff's Exhibit No. 17

A-424
1959

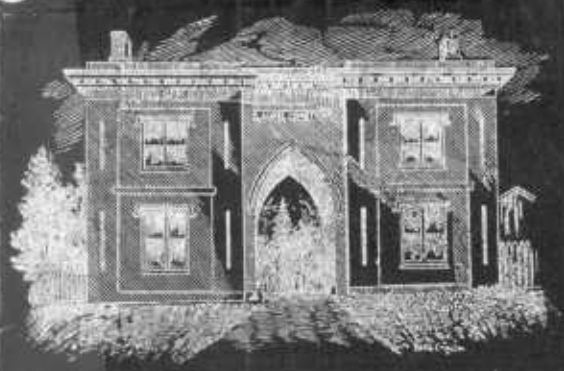
A-39097 (55)

—INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.—

DEED

No. 1901

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Twenty Four Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to Blanche Smith her heirs and assigns, One Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 172 in Section D on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, her heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Blanche Smith her heirs and assigns forever, for the purposes of SEPULTURE alone and none other, subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 31st day of August Nineteen Hundred and Seven

Jasper M. Berry Jr. President.

TEST: D. H. Emory Jones Secretary.

Fd. 7- July 1960
Plaintiff's Exhibit No. 18

A-424
1959

A-39097 (56)

INCORPORATED JUNE, 1852. UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No 1248

LAUREL CEMETERY COMPANY.



Know all Men by these presents that LAUREL CEMETERY COMPANY, in consideration of Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant bargain, and sell, and convey to Howard & Smith his heirs and assigns, that Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numered 85 (not being a full lot) in Section I on the PLAN of said Cemetery, containing square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery. TO HAVE AND TO HOLD the said LOT and right of way aforesaid, to the said Howard & Smith his heirs and assigns forever, for purposes of SEPULTURE alone and none other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at JANUARY Session Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to Incorporate Cemetery Companies and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 22 day of October Eighteen Hundred and Ninety one

Jas. McCurley President.

TEST: D. H. Emory Treas Secretary.

Fd. 7-July 1960
Plaintiffs Exhibit No. 19

A. 424
1959

A-39097 (57)

PX20

LAUREL CEMETERY COMPANY.

Know all Men by these Presents,

That *THE LAUREL CEMETERY COMPANY,* for and in consideration of the sum of Eight Dollars, to them in hand paid by Samuel Wilson of Baltimore the receipt whereof is hereby acknowledged, do hereby grant, bargain sell and convey to the said Samuel Wilson his heirs and assigns, One *Lot of Land* in the *Laurel Cemetery,* laid down in the Plan of said Cemetery, in the Office of said Company, and therein designated as *Lot* No. 64 in Area B containing Eighty superficial feet.

To Have and to Hold the herein above granted premises to the said Samuel Wilson his heirs and assigns forever, subject, however, to the conditions and limitations, and with the privileges specified in the Act of the General Assembly of Maryland, passed January Session, 1852, chapter 221, and such rules and regulations now in force, and such other rules and regulations as may be adopted hereafter for the management of said Cemetery, made pursuant to said Act of Assembly.

And the said *The Laurel Cemetery Company,* do hereby covenant to and with the said Samuel Wilson his heirs and assigns, that they are lawfully seized of the herein granted premises in fee simple,—that they have the right to sell and convey the same for the purposes above expressed,—and that they will warrant and defend the same unto the said Samuel Wilson his heirs and assigns forever

This Lot was Sold 1852

In Testimony Whereof, the said THE LAUREL CEMETERY COMPANY have caused this Certificate of Title to be signed by their President and their Common Seal to be affixed hereto, this 16 day of March in the year of our Lord one thousand eight hundred and sixty Six

D C Henry Pres
L. S.

Fd. 7-July 1960
Plaintiffs Exhibit No. 20

A-424
1959

A-39097 (58)

P&21

LAUREL CEMETERY COMPANY.

Know all Men by these Presents,

That *THE LAUREL CEMETERY COMPANY,* for and in consideration of the sum of Fifteen Dollars, to them in hand paid by Frances Tasker of Baltimore the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey to the said Frances Tasker his heirs and assigns, One *Lot of Land* in the *Laurel Cemetery,* laid down in the Plan of said Cemetery in the Office of said Company, and therein designated as *Lot* No. 193 in Area B containing 20 superficial feet.

To Have and to Hold the herein above granted premises to the said Frances Tasker his heirs and assigns forever, subject, however, to the conditions and limitations, and with the privileges specified in the Act of the General Assembly of Maryland, passed January Session, 1852, chapter 221, and such rules and regulations now in force, and such other rules and regulations as may be adopted hereafter for the management of said Cemetery, made pursuant to said Act of Assembly.

And the said *The Laurel Cemetery Company,* do hereby covenant to and with the said Frances Tasker his heirs and assigns, that they are lawfully seized of the herein granted premises in fee simple,—that they have the right to sell and convey the same for the purposes above expressed,—and that they will warrant and defend the same unto the said Frances Tasker his heirs and assigns forever.

In Testimony Whereof, the said THE LAUREL CEMETERY COMPANY have caused this Certificate of Title to be signed by their President, and their Common Seal to be affixed hereto, this 27th day of November in the year of our Lord one thousand eight hundred and seventy

W. H. Emory Pres

L. C.

Plaintiffs Exhibit No. 21
Id. 7th July 1960

A-424
1959

A. 39097 (59)

—INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.—

DEED

No 1426

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that **LAUREL CEMETERY COMPANY,** in consideration of Twenty —— 00/100 Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell, and convey to Willm T Clark his —— heirs and assigns, one —— Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered —— 122 —— in Section B on the PLAN of said Cemetery, containing Eighty —— square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, — his — heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Willm T Clark his —— heirs and assigns forever, for the purposes of SEPULTURE alone and none other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to Incorporate Cemetery Companies and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 26th day of February Nineteen Hundred ~~and~~

Jasper W Berry *President.*

TEST: D N Emory Feeds *Secretary.*

Id. 7th July 1960
Plaintiffs Exhibit No. 22

A-426
1959

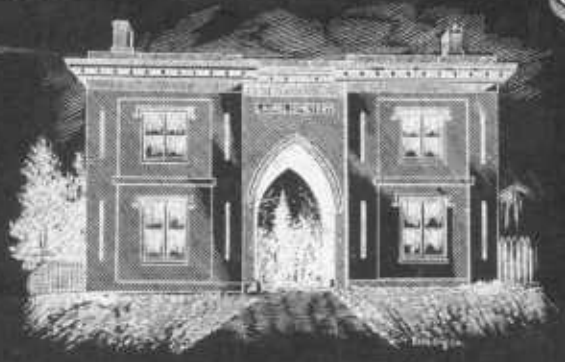
A-39097 (60)

—INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.—

DEED

No 1477

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that **LAUREL CEMETERY COMPANY,** in consideration of Twenty ($20.) Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell, and convey to Wilton Clark his heirs and assigns, One Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 140 in Section B on the PLAN of said Cemetery, containing Eight square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Wilton Clark his heirs and assigns forever, for the purposes of SEPULTURE alone and none other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to Incorporate Cemetery Companies and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 23d day of February Nineteen Hundred and One

President.

TEST: D. H. Emory Jr. *Secretary.*

Fd. 7.. July 1960
Plaintiffs Exhibit No. 23

A-424
1959

A-39097 (61)

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

No. 13

DEED

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Twenty Five ²⁵/₁₀₀ Dollars, paid by Wilton J. Clarke at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell and convey to the said Wilton J. Clarke his heirs and assigns, all that Lot of Ground in LAUREL CEMETERY, in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered One hundred & thirty one (131) in Section B. on the PLAN of said Cemetery, containing Eighty square feet, more or less, which Plan is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times; with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said Lot and right of way aforesaid, to the said Wilton J. Clarke his heirs and assigns forever, for purposes of Sepulture alone and none other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at January Session Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to encorporate Cemetery Companies and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed, and the President of said Corporation hath hereto subscribed his name, this Seventeenth (17th) of November Eighteen Hundred and Seventy Seven (1877).

W. H. Emory President.

TEST:

D. C. H. Emory Secretary.

KELLY, PIET & Co., Printers and Stationers.

Fd. 7th July 1960
Plaintiffs Exhibit No. 24

A-424
1959

A-39097 (62)

House Calendar No.....

Senate Calendar No.....

Introduced by Messrs. Mandel and Bacharach.

PX 25

CHAPTER 630.....

APPROVED
By the Governor
APR 10 1957

House Bill 594

AN ACT to add a new section to Article 16 of the Annotated Code of Maryland (1951 Edition), title "Chancery", sub-title "Jurisdiction", said new section to be known as 124A and to follow immediately after Section 124 of said Article 16, providing for the sale and disposition of cemeteries or burial grounds in Baltimore City under certain conditions for which provision has been made for the perpetual care and maintenance thereof and which have been abandoned or are a menace or detrimental to the public health, safety, security or welfare; providing for the use and distribution of funds which may be derived from the sale of any such cemeteries or burial grounds, and providing for the transfer and conveyance of title to the purchasers of any such cemeteries or burial grounds sold under the provisions of this Act, and relating generally to the sale and disposition of certain cemeteries or burial grounds in Baltimore City under certain conditions.

By the HOUSE OF DELEGATES, February 27, 1957.

Introduced, read first time and referred to the Committee on Judiciary.

By order, ELIZABETH M. REESE, Asst. Chief Clerk.

By the HOUSE OF DELEGATES, March 5, 1957.

Re-referred to the Baltimore City Delegation for further consideration.

By order, ELIZABETH M. REESE, Asst. Chief Clerk.

REPORT OF COMMITTEE

Favorable.

MARVIN MANDEL, Chairman.

By the HOUSE OF DELEGATES, March 7, 1957.

Reported favorably by the Baltimore City Delegation, read second time and ordered printed for third reading.

By order, ELIZABETH M. REESE, Asst. Chief Clerk.

House Bill No. 594—By Messrs. Mandel and Bacharach.

CHAPTER.....

A BILL ENTITLED

AN ACT to add a new section to Article 16 of the Annotated Code of Maryland (1951 Edition), title "Chancery", sub-title "Jurisdiction", said new section to be known as 124A and to follow immediately after Section 124 of said Article 16, providing for the sale and disposition of cemeteries or burial grounds in Baltimore City under certain conditions for which provision has not been made for the perpetual care and maintenance thereof and which have been abandoned or are a menace or detrimental to the public health, safety, security or welfare; providing for the use and distribution of funds which may be derived from the sale of any such cemeteries or burial grounds, and providing for the transfer and conveyance of title to the purchasers of any such cemeteries or burial grounds sold under the provisions of this Act, and relating generally to the sale and disposition of certain cemeteries or burial grounds in Baltimore City under certain conditions.

SECTION 1. *Be it enacted by the General Assembly of Maryland,* That a new section be and it is hereby added to Article 16 of the Annotated Code of Maryland (1951 Edition), title "Chancery", sub-title "Jurisdiction", said new section to be known as 124A, to follow immediately after Section 124 of said Article 16, and to read as follows:

124A. In any case within the boundary lines of Baltimore City where all or more than 75% of the acreage of a cemetery or burial ground, in which the land or property located therein has been dedicated to or appropriated or used for burial purposes and lots have been sold therein and deeds or other written instruments have been executed or issued to the purchasers of such lots without provision having been made for the perpetual care and maintenance of such lots, has been abandoned or is or becomes a menace or detrimental to the public health, safety, security or welfare, anyone having a property right in such cemetery or burial ground or any public agency having an interest in the elimination or abatement of the conditions in such cemetery or burial ground which are or become a public

EXPLANATION: *Italics indicate new matter added to existing law.*
[Brackets] indicate matter stricken from existing law.
CAPITALS indicate amendments to bill.
~~Strike out~~ indicates matter stricken out of bill.

nuisance shall have the right to file a bill of complaint in either one of the equity courts of Baltimore City setting forth the aforegoing facts, and setting forth the names of the owners of lots in such cemetery or burial ground or their assignees so far as the same may be known, and upon the filing of such bill of complaint the court shall order notice by publication in one or more daily newspapers published in the City of Baltimore, or the court may, in its discretion, order notice to be given by posting the premises at the points thereon and in such form as may be designated by the court for such period of time as the court may direct but such posting shall not be less than twelve (12) weeks before the day fixed for the appearance of the parties, and if notice is given by publication, it shall be in such form as may be designated by the court and shall be published for such number of times as the court may direct but such notice shall not be published less than once each week for four (4) successive weeks prior to a date at least eight (8) weeks before the day fixed for the appearance of thc parties, warning all of the lot owners, their assignees or other persons in interest, residents or non-residents, adults, infants and other persons under any legal incapacity, to appear in court on or before the day fixed in said notice, to show cause, if any they may have, why the relief prayed for should not be granted. Upon a failure of appearance by any of said lot owners, or any other party having an interest in any of said lots, by the time limited in said notice, the court may order testimony to be taken ex parte, in accordance with the usual practice in equity in cases of default for non-appearance. Upon testimony being taken in the cause ex parte, or otherwise, if it is made to appear to the satisfaction of the court that all or more than 75% of the acreage of the particular cemetery or burial ground involved has been abandoned or has become a menace or is detrimental to the public health, safety, security or welfare, the court may forthwith pass a decree ordering the sale of the entire land or property and each and every burial lot contained in such cemetery or burial ground and each and every interest therein upon such terms, conditions and notice as the court may deem proper and appoint a trustee to so do. The proceeds derived from such sale shall be collected by the said trustee and shall be used, distributed and paid over by the trustee in the order, for the purposes, in the manner, to the extent and to the persons hereinafter mentioned, as follows: 1st, for the removal and reinterment of any and all bodies that with reasonable care can bc definitely located in such cemetery or burial ground, and for the purchase of a lot in any other cemetery, burial ground or other appropriate place of sepulture in which to reinter such bodies, and to pay any and all expenses incurred for or in connection with the disinterment and reinterment of such bodies; 2nd, in the event any lot in such cemetery or burial ground has been and is being maintained in good order and condition, and any monument or marker situate on such lot that has been and is being maintained in good order are not damaged but are in good condition, then a lot shall be purchased in any other cemetery, burial ground or other appropriate place of sepulture and the monument or marker situate on the old lot shall be removed and relocated on the new lot so purchased, and the title to the new lot shall be taken in the name of the owner or parties in interest in the old lot; 3rd, for the removal of monuments or markers located in such cemetery or burial ground which are not damaged but are in good condition which can be definitely identified with a body or bodies who is or arc removed from such cemetery or burial ground and reinterred as provided for in item 1st hereof and for the re-erection of such monuments or markers at the new lot; 4th, for the elimination and removal of any and all existing conditions that are a menace or detrimental to the public health, safety, security or welfare, unless the contract covering the sale of such cemetery or burial ground provides for the abatement of such conditions within a reasonable period of time after such sale has been fully consummated; and 5th,

after any and all expenses incurred for or in connection with doing any and all of the things mentioned in or contemplated by the first four items hereof, and the costs of conducting the necessary legal proceedings, including court costs, trustee's commissions and legal fees, and all taxes, if any, have been paid in full, then the balance of the proceeds of sale remaining in the hands of the trustee shall be paid over to the legal entity who had record title to such cemetery or burial ground in its entirety, subject to the burial rights which had been granted therein, as disclosed by the Land Records of Baltimore City, immediately prior to the sale of such cemetery or burial ground by the said trustee as hereinbefore provided, free, clear and discharged of, and from, any and all claims of any lot owners or other persons in interest in such cemetery or burial ground or the land or property contained therein, regardless of whether they may be entitled as original lot owners or heirs or assignees and regardless of whether they are residents, non-residents, adults, infants or other persons under any legal incapacity. Any decree or order passed in a legal proceeding and any deed or other conveyancing instrument executed by a trustee under the provisions of this section shall be valid to pass to the purchaser or purchasers of any such cemetery or burial ground the title to all land and property contained therein, free, clear and discharged of, and from, any and all claims of the legal entity who owned such cemetery or burial ground in its entirety immediately prior to the sale of such cemetery or burial ground by a trustee as hereinbefore provided, its, his or their heirs, personal representatives, successors or assigns, and of, and from, any and all claims of any lot owners or other persons in interest in such cemetery or burial ground or the land or property contained therein, regardless of whether they may be entitled as original lot owners or heirs or assignees and regardless of whether they are residents, non-residents, adults, infants or other persons under any legal incapacity, and free, clear and discharged of any proclaimed or actual use or appropriation or dedication of any land or property contained in such cemetery or burial ground for burial purposes.

SEC. 2. *And be it further enacted,* That any and all laws and any and all parts of laws which are inconsistent with the provisions of this Act are hereby repealed to the extent of any such inconsistency and are hereby declared not to be applicable to the provisions of this Act.

SEC. 3. *And be it further enacted,* That in case it be judicially determined that any word, phrase, clause, item, sentence or paragraph of this Act, or the application thereof to any person or circumstance, is invalid, the remaining provisions and the application of such provisions to other persons or circumstances shall not be affected thereby, the legislative branch of the State of Maryland hereby declaring that they would have enacted the remaining provisions of this Act without the word, phrase, clause, item, sentence or paragraph, or the application thereof, so held invalid.

SEC. 4. *And be it further enactcd,* That this Act shall take effect June 1, 1957.

Approved:

.....
Governor.

.....
Speaker of the House of Delegates.

.....
President of the Senate.

Sealed with the Great Seal and presented to the Governor, for his approval this.....day of.....

at.....o'clock, ...M.

.....
Chief Clerk.

BY THE SENATE

.....1957.

Reported favorably from the.....and read the second time.

By order,

Secretary.

BY THE SENATE

.....1957.

Reported favorably from the.....with amendment; amendment adopted, read the second time.

By order,

Secretary.

BY THE SENATE

.....1957.

Read third time and passed by.....Yeas and.....Nays.

By order,

Secretary.

BY THE HOUSE OF DELEGATES

.....1957.

Senate amendment concurred in and bill passed by Yeas and Nays as amended.

By order,

Chief Clerk.

Read and Examined by Proof Reader:

.....
Proof Reader.

.....
Proof Reader.

BY THE HOUSE OF DELEGATES

.....1957.

Read third time and passed by yeas and nays.

By order,

Chief Clerk.

BY THE SENATE

.....1957.

Read the first time and referred to.....

By order,

Secretary.

REPORT OF COMMITTEE

.....Chairman.

Fd. 7th July 1960
Plaintiffs Exhibit No. 25

A. 424
1959

A-39097 (63)

PX 26

Wm. McClester

Pl. 2-2000

Ext. 494

City Solicitors Office

re: Laurel Cemetery

Trying to dispose

of it as a cemetary

June 1957

188

June 1957

Laurel Cem -

Mr. Mercaldo

Pla. 2-2000 -

Ext. 2349

City Sollicitors office

Law passed-remove graves kept up.

Fed gov. gave quit claim deed. Fed lots - in settlement us. claim city had us. Gov. for feeding Civil War Soldiers -

Now belongs to McKamer Corp. who bought from Laurel Cem. Co. 1925 ago in bankruptcy proceedings - They had no provision perpetual care so no one kept it up - all records burned

Wants names any people connected - Have no records - people at city, not attended -

189 D-Reds

PX 26

Id. 7th July 1960

Plaintiffs Exhibit No. 26-A

A-424

1959

A. 39097 (64)

Pltf's Exhibit No. 26-B Fd. 7th July 1960 (P X 26)

A-424
1969

LAUREL CEMETERY COMPANY.

Know all Men by these Presents,

That *THE LAUREL CEMETERY COMPANY,* for and in consideration of the sum of Sixteen Dollars, to them in hand paid by Nicholas L Deshields of Baltimore the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey to the said Nicholas L Deshields his heirs and assigns, One *Lot of Land* in the *Laurel Cemetery,* laid down in the Plan of said Cemetery in the Office of said Company, and therein designated as *Lot* No. 167 in Area H containing Eighty superficial feet.

To Have and to Hold the herein above granted premises to the said Nicholas L Deshields his heirs and assigns forever, subject, however, to the conditions and limitations, and with the privileges specified in the Act of the General Assembly of Maryland, passed January Session, 1852, chapter 221, and such rules and regulations now in force, and such other rules and regulations as may be adopted hereafter for the management of said Cemetery, made pursuant to said Act of Assembly.

And the said *The Laurel Cemetery Company,* do hereby covenant to and with the said Nicholas L Deshields his heirs and assigns, that they are lawfully seized of the herein granted premises in fee simple,—that they have the right to sell and convey the same for the purposes above expressed,—and that they will warrant and defend the same unto the said Nicholas L Deshields his heirs and assigns forever.

In Testimony Whereof, the said THE LAUREL CEMETERY COMPANY have caused this Certificate of Title to be signed by their President, and their Common Seal to be affixed hereto, this 2nd day of January in the year of our Lord one thousand eight hundred and seventy 3

D. L. H. Emory Pres't
L. S.

A-39097 (65)

190

Plaintiff's Exhibit No. 27
Fd. 7-July 1960

MAMIE E. KENNARD, ET AL * IN THE

VS. * CIRCUIT COURT

MC KAMER REALTY COMPANY, ET AL * OF

* BALTIMORE CITY

* 1959/A-267 - 424

* * * * * *

STIPULATION

TO THE HONORABLE, THE JUDGE OF SAID COURT:

It is agreed and stipulated by and between the parties that the following described and attached deeds be admitted into the evidence in this case and that the source of the parties' titles is as indicated herein:

Present Owner: Mrs. Carlitta J. Page
1700 Westwood Avenue

(1) Deed to Charles L. J. Lee of two lots containing 80 feet each, Nos. 321 and 322 in Area F, dated May 29, 1855, which Mrs. Page inherited from Mr. Lee, who was her grandfather on her father's side, without probate.

(2) Deed No. 347 to Pleasant Roane of one lot containing 80 feet, No. 312 in Section A, dated July 21, 1883, which Mrs. Page inherited without probate from Mr. Roane who was her grandfather on her mother's side.

Present Owner: Mr. Robert R. Young
1821 Druid Hill Avenue

(1) Duplicate Deed No. 2039 to Thomas J. Cooper, May 5, 1910, of one lot no. 261 in Section G containing 80 feet, which Mr. Young inherited without probate from Mr. Cooper who was his maternal grandfather.

(2) Deed No. 3602 to Ida E. Walker and Annie Scott, June 22, 1923, of one lot no. 244 in Section I containing 80 feet, which Mr. Young inherited without probate as first cousin to aforesaid deceased lot owners.

Present Owner: Mr. Alfred H. Redd
618 Carrollton Avenue

Deed No. 2259 to Julia E. Bond, January 16, 1915, of one lot no. 191 in Section R containing 80 feet, which Mr. Redd inherited without probate as widower of said Julia E. Bond.

Present Owner: Mrs. Gwendolyn L. Nichols
1628 N. Caroline Street

Deed to Indiana Young, February 17, 1857, of one lot no. 228 in Area H containing 80 feet, which Mrs. Nichols inherited without probate from her maternal great grandmother, the deceased Indiana Young.

Present Owner: Mrs. Addie Hammond
2137 Smallwood Street

Deed No. 816 to Indiana Robinson, March 29, 1890, of one lot no. 281 in Section 1, containing 80 feet, which Mrs. Hammond inherited without probate from the deceased lot owner who was her aunt.

191 A-39097 (66)

Present Owner: Mrs. Gladys Gorman Banks
2752 Baker Street

(1) Deed no. 3739 to Gladys Gorman, July 6, 1926, of one lot containing 80 feet no. 269 in Section F.

(2) Deed No. 1001 to Abraham Williams, August 13, 1892, of one lot containing 80 feet no. 468 in Section C, which Mrs. Banks inherited from Mr. Williams, her deceased maternal uncle, without probate.

(3) Deed No. 3498 to Lizzie Crane, February 19,1921, of one lot no. 173 in Section O, which Mrs. Banks inherited from the deceased Lizzie Crane, who was her mother, without probate.

Present Owner: Mrs. Mary T. Stokes
3529 Wabash Avenue

(1) Deed No. 653 to Henry Thomas, July 1, 1887, of one lot, 80 square feet, no. 80 in Section D, which Mrs. Stokes inherited from the deceased lot owner, her father, without probate.

(2) Deed No. 553 to Henry Thomas, November 16,1885, of one lot, 80 square feet, no. 79 in Section D, which Mrs. Stokes inherited from the deceased lot owner, her father, without probate.

(3) Deed No. 3010 to Edward V. Stokes, Secptember 23,1911, of one lot , 80 square feet, no. 168 in Section P, which Mrs. Stokes inherited as widower, without probate.

(4) Deed No. 467 to Anne E. Collins, October 4, 1884, of one lot, 80 square feet, no. 345 in Section D, which Mrs. Stokes inherited without probate from the deceased lot owner who was her paternal cousin.

(5) Deed No. 1958 to Henry Thomas, January 16, 1909, of one lot no. 98 in Area D, 80 square feet, which Mrs. Stokes inherited from the deceased lot owner, her father, without probate.

Juanita Jackson Mitchell

Attorney for the Plaintiffs

Walter C. Maylander, Jr.

Attorney for the Defendants

LAUREL CEMETERY COMPANY.

Know all Men by these Presents,

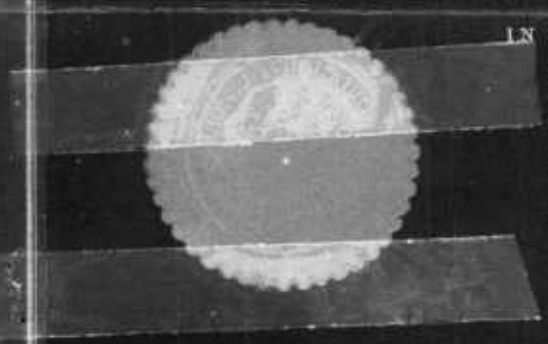
That THE LAUREL CEMETERY COMPANY, for and in consideration of the sum of Fifteen Dollars, to them in hand paid by Chas L Lee of Baltimore city the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey to the said Chas L Lee his heirs and assigns, One Lot of Land in the Laurel Cemetery, laid down in the Plan of said Cemetery, in the Office of said Company, and therein designated as Lot No 321, 322 in Area N containing Each Eighty superficial feet.

TO HAVE AND TO HOLD the herein above granted premises to the said Chas L Lee his heirs and assigns forever, subject however, to the conditions and limitations, and with the privileges specified in the Act of the General Assembly of Maryland, passed January Session, 1853, chapter 221, and such rules and regulations now in force, and such other rules and regulations as may be adopted hereafter for the management of said Cemetery, made pursuant to said Act of Assembly.

And the said The Laurel Cemetery Company, do hereby covenant to and with the said Chas L Lee his heirs and assigns, that they are lawfully seized of the herein granted premises in fee simple,—that they have the right to sell and convey the same for the purposes above expressed,—and that they will warrant and defend the same unto the said Chas L Lee his heirs and assigns forever.

IN TESTIMONY WHEREOF, the said The Laurel Cemetery Company have caused this Certificate of Title to be signed by their President, and their Common Seal to be affixed hereto, this Twenty ninth day of May in the year of our Lord one thousand eight hundred and fifty five

Edw S Richardson Pres't



SOUER, PRINT.

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

No 347

DEED

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Twenty Dollars, paid by Pleasant Roare at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell and convey to the said Pleasant Roare his heirs and assigns, One Lot of Ground in LAUREL CEMETERY, in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 312 in Section N on the PLAN of said Cemetery, containing Eighty square feet, more or less, which Plan is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said Lot and right of way aforesaid, to the said Pleasant Roare his heirs and assigns forever, for purposes of Sepulture alone and none other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at January Session Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to encorporate Cemetery Companies and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed, and the President of said Corporation hath hereto subscribed his name, this 21st day of July Eighteen Hundred and Eighty Three

Henry Stockbridge President.

TEST:

Jno H Emory Secretary.

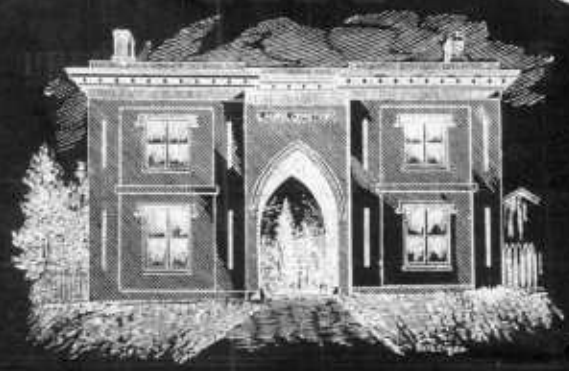
KELLY, PIET & Co., Printers and Stationers.

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No. 36

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Forty-two ($42.00) Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to Ida E. Walker and Annie Scott their heirs and assigns, as tenants in common Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 244 in Section I on the PLAN of said Cemetery, containing 80 square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, their heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Ida E. Walker & Annie Scott their heirs and assigns forever, for the purposes of SEPULTURE alone and none other subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have cause their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 22" day of June, Nineteen Hundred and twenty-three.

Thomas [illegible] President.

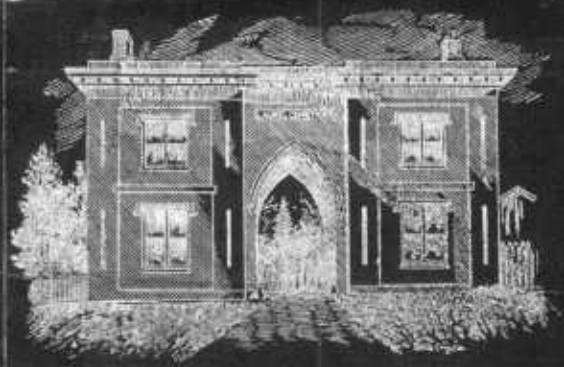
TEST: J. Milton Lyell Secretary.

INCORPORATED JUNE, 1852.

DEED

No. 2259

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Twenty Four Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to Julia E Bond her heirs and assigns, — one — Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 191 in Section R on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, her heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Julia E Bond her heirs and assigns forever, for the purposes of SEPULTURE alone and none other, subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the Presidents and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 16 day of January Nineteen Hundred and Fifteen

Charles M. Perry Jr. *President.*

TEST: D. H. Emory Fries Jr *Secretary.*

F. ALBERT KURTZ, PRINTER, BALTIMORE.

LAUREL CEMETERY COMPANY.

Know all Men by these Presents,

That THE LAUREL CEMETERY COMPANY, for and in consideration of [illegible] dollars to them in hand paid by Indiana Young of Baltimore City the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey to the said Indiana Young her heirs and assigns, One Lot of Land in the Laurel Cemetery, laid down in the Plan of said Cemetery, in the Office of said Company, and therein designated as Lot No. 228 in Area H containing Eighty superficial feet.

TO HAVE AND TO HOLD the herein above granted premises to the said Indiana Young her heirs and assigns forever, subject however, to the conditions and limitations, and with the privileges specified in the Act of the General Assembly of Maryland, passed January Session 1852, chapter 221, and such rules and regulations now in force, and such other rules and regulations as may be adopted hereafter for the management of said Cemetery, made pursuant to said Act of Assembly.

And the said THE LAUREL CEMETERY COMPANY, do hereby covenant to and with the said Indiana Young her heirs and assigns, that they are lawfully seized of the herein granted premises in fee simple,—that they have the right to sell and convey the same for the purposes above expressed,—and that they will warrant and defend the same unto the said Indiana Young her heirs and assigns forever.

IN TESTIMONY WHEREOF, the said THE LAUREL CEMETERY COMPANY have caused this Certificate of Title to be signed by their President, and their Corporate Seal to be affixed hereto, this Seventeenth day of February in the year of our Lord one thousand eight hundred and fifty Seven

Wm G. Knowles Pres

INCORPORATED JUNE, 1852 UNDER A GE[NERAL] LAW OF THE STATE OF MARYLAND

DEED

816

LAUREL CEMETERY COMPANY.



Know all Men by these presents that LAUREL CEMETERY COMPANY, for the consideration of Eighty Dollars, paid by Judeanna Robeuson at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the said Judeanna Robeuson, Her heirs and assigns, all that LOT of ground situate in the CITY OF BALTIMORE, STATE OF MARYLAND, and numbered 2811 in Section [illegible] on the Plat of said Cemetery, containing Eighty square feet, more or less, which PLAT is in possession of said Corporation, and is the property of the grantee, her heirs and assigns at all seasonable times, with the right of way to and from the said Lot, over the roads, walks, paths and avenues of said Cemetery, TO HAVE AND TO HOLD the said LOT and right of way aforesaid unto the said Judeanna Robeuson Her heirs and assigns forever for purposes of SEPULTURE, and subject to the provisions of a general Act of the General Assembly of Maryland passed at January Session, 1872, and Chapter 221, entitled: "An Act to Incorporate Cemetery Companies" and subject also to conditions, restrictions and regulations adopted or to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfer made without the consent of the Managers of LAUREL CEMETERY COMPANY, endorsed on this Deed, and the President of said Corporation.

In Testimony Whereof, the President and Secretary of said Corporation have caused their Corporate Seal to be affixed to this Deed, and the President hath hereto subscribed his name this 29 day of March Eighteen Hundred and Ninety

TEST:

D. H. Emerson Sec'y.

Secretary.

President.

INC[illegible]TED JUNE, 1852. UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No 1001

LAUREL CEMETERY COMPANY.



Know all Men by these presents that LAUREL CEMETERY COMPANY, in consideration of — Twenty five — Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell, and convey to Abraham Williams his heirs and assigns, — one — Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered — 468 — in Section — C — on the PLAN of said Cemetery, containing — Eighty — square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery. TO HAVE AND TO HOLD the said LOT and right of way aforesaid, to the said Abraham Williams his heirs and assigns forever, for purposes of SEPULTURE alone and none other, subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 13th day of August Eighteen Hundred and Ninety two

James McBerry President.

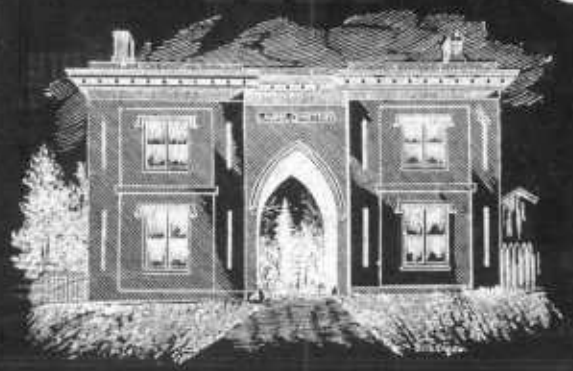
TEST: D. H. Emery Treas, Secretary.

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No. 3[illegible]

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Thirty Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to Lizzie Crane Her heirs and assigns, One Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 173 in Section O on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, Her heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Lizzie Crane heirs and assigns forever, for the purposes of SEPULTURE alone and none other subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 19th day of February Nineteen Hundred and Twenty One

Edward Crane President.

TEST: Edward Crane Secretary.

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

assigned to Julia Wood Beverly Archer

No. 653

LAUREL CEMETERY COMPANY.



Know all Men by these presents that LAUREL CEMETERY COMPANY, in consideration of Twenty Dollars, paid by Henry Thomas at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell and convey to the said Henry Thomas his heirs and assigns one Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 80 in Section D. on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery. TO HAVE AND TO HOLD the said LOT and right of way aforesaid, to the said Henry Johnson his heirs and assigns forever, for purposes of SEPULTURE alone and none other, subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session Eighteen Hundred and Fifty-two, Chapters 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed, and the President of said Corporation hath hereto subscribed his name, this 1st day of July Eighteen Hundred and Eighty Seven

TEST: D. H. Emory Jno. Lee Secretary.

Jas. W. Berry President.

No. 653

DEED

Laurel Cemetery Company.

Henry Thomas

Area D No. 80

Morling & Co., Steam Power Printers, 8 North St., Baltimore.

assigned to Julia Wood & Beirly Archer

July 28, 1890 Jno A. Bishop

March 28, 1900. Jno A. Bishop

Oct 21, 1927 Jno A. Bishop

Joseph Archer 3/3/1929
Hemsley Undertaker

1/25/37 Jas Hemsley

1-28-1937 by
James A Hemsley

MRS. MARY T. STOKES
3529 Wabash Avenue
Baltimore 15, Maryland

The consideration of Twenty Dollars the receipt whereof is hereby acknowledged I hereby assign Sell transfer and set over unto Julia Wood and Beirly Archer as tenants in common their heirs and assigns the within lot of ground subject to the conditions and restrictions mentioned in the within deed. Witness my hand and seal this 28 day of July 1887

Henry Thomas (Seal)

Test
W.H. Emory

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No 353

LAUREL CEMETERY COMPANY.



Know all Men by these presents that LAUREL CEMETERY COMPANY, in consideration of Twenty Dollars, paid by Henry Thomas at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell and convey to the said Henry Thomas his heirs and assigns one Lot of Ground in LAUREL CEMETERY, in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 79 in Section D on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and right of way aforesaid, to the said Henry Thomas his heirs and assigns forever, for purposes of SEPULTURE alone and none other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at JANUARY Session Eighteen Hundred and Fifty-two, Chapters 221, entitled: "An Act to Incorporate Cemetery Companies and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed, and the President of said Corporation hath hereto subscribed his name, this 16 day of November Eighteen Hundred and Eighty five

Justice M. Berry President.

TEST: Jno H. Emery Secretary.

No. 2

No. 553

DEED

Laurel Cemetery Company.

TO

Henry Oh...

Area 2 No. 19

Morling & Co., Steam Power Printers, 18 North St., Baltimore

Novem[illegible] 17, 1855 A. D. 36.

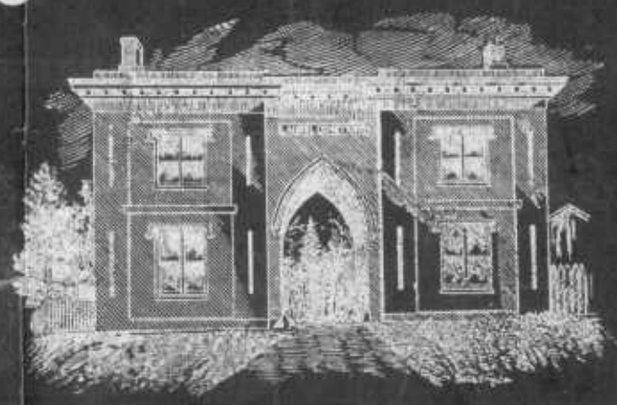
MRS. MARY T...
3529 Wabash Avenue
Baltimore 15, Maryland

—INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.—

DEED

No. 3016

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY. in consideration of Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to Edward V. Stokes his heirs and assigns, — one — Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered Shirley Opening No 168 in Section 1st on the PLAN of said Cemetery, containing Space for 1 grave square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Edward V. Stokes his heirs and assigns forever, for the purposes of SEPULTURE alone and none other, subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 23 day of Sept Cembe, Nineteen Hundred and Eleven

Dustin M Dennis President.

TEST: W. H. Emory Freas Secretary.

F. ALBERT KURTZ, PRINTER, BALTIMORE.

No. 3010

DEED

Laurel Cemetery Company

—TO—

Edward T Stokes

1016 Druid Hill Ave.

Skunk adjoining

No. 168 Area

INTERMENTS.

May 20-1932 by S-T Lemsley

for Edw T Stokes.

MRS. MARY T. STOKES
3529 Wabash Avenue
Baltimore 15, Maryland

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

No 4672

DEED

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of — One — Dollars, paid by Anne E Collins at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell and convey to the said Anne E Collins her heirs and assigns, North half of Lot of Ground in LAUREL CEMETERY, in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered —345— in Section — A — on the PLAN of said Cemetery, containing — Forty — square feet, more or less, which Plan is in possession of said Corporation for inspection by the grantee, her heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said Lot and right of way aforesaid, to the said Anne E. Collins hers heirs and assigns forever, for purposes of Sepulture alone and not other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at January Session Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to enable private Cemetery Companies to subject to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed, and the President of said Corporation hath hereto subscribed his name, this 4th Day of October Eighteen Hundred and Eighty four

Jasper M Berry President.

TEST: Jno H. Emory Secretary.
D.T.E

KELLY, PIET & Co., Printers and Stationers.

In consideration of the sum of Eight Dollars the payment whereof is hereby acknowledged I do hereby give grant assign and transfer unto Abraham Lane and his assigns all my interest and claim in the certain Certificate to right to the within named portion of Lot No 345 Sec A in Laurel Cemetery

Witness my hand & seal this 14th day of June 1886

Witness F. Ba

Mrs. Tenney Reese

Mrs. Annie E. [illegible] Collins

(Seal)

Deed 467

Laurel Cemetery

to

Anne E Collins

North half of

Lot 345. Sec A

MRS. MARY T. STOKES
3529 Wabash Avenue
Baltimore 15, Maryland

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

No 467

DEED

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of One Dollars, paid by Anne E Collins at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell and convey to the said Anne E Collins her heirs and assigns, North half of Lot of Ground in LAUREL CEMETERY, in **BALTIMORE COUNTY**, in the **STATE OF MARYLAND**, and numbered 345, in Section A on the **PLAN** of said Cemetery, containing Forty square feet, more or less, which Plan is in possession of said Corporation for inspection by the grantee, her heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said Lot and right of way aforesaid, to the said Anne E. Collins hers heirs and assigns forever, for purposes of Sepulture alone and not other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at January Session Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to incorporate Cemetery Companies and further also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed, and the President of said Corporation hath hereto subscribed his name, this 4th Day of October Eighteen Hundred and Eighty four

Jasper M Berry **President.**

TEST: Jno H. Emory Secretary.
D.H.E

KELLY, PIET & Co., Printers and Stationers.

In consideration of the sum of Eight Dollars the payment whereof is hereby acknowledged I do hereby give grant assign and transfer unto Abraham Lane and his assigns all my interest and estate in the certain Certificate to right to the within named portion of Lot No 345 Sec A in Lane Cemetery

Witness my hand & seal this 14th day of June 1886

(Seal)

Witness T. Ba

Mrs. Tenney Davis

Mrs. Annie E. Collins

Deed 467

Lane Cemetery

to

Anne E Collins

North half of

Lot 345 Sec A

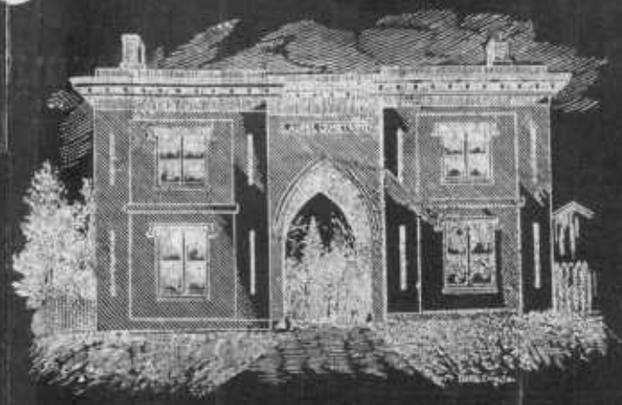
MRS. MARY T. STOKES
3529 Wabash Avenue
Baltimore 15, Maryland

—INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.—

DEED

No. 1458

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY. in consideration of Seventy —— Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to Henry Thomas his heirs and assigns, — one — Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered — 98 — in Section D on the PLAN of said Cemetery, containing — Eighty — square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Henry Thomas his heirs and assigns forever, for the purposes of SEPULTURE alone and none other, subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 16" day of January Nineteen Hundred and Nine

Joseph M. Berry Jr. *President.*

TEST: W. H. Emory Jr. *Secretary.*

F. ALBERT KURTZ, PRINTER, BALTIMORE.

No. 1958

DEED

Laurel Cemetery Company

—TO—

Henry Thomas
Druid Hill Ave

No. 98 Area D

INTERMENTS.

Used by Thomas E. Nelson 8/30/33
for Bessie Thomas

MRS. [illegible] T. STOKES
3529 Wabash Avenue
Baltimore 15, Maryland

Fd. 7- July 1960
Plaintiffs Exhibit No. 28

PX 28

MAMIE E. KENNARD, ET AL	*	IN THE
	*	CIRCUIT COURT
VS.	*	OF
	*	BALTIMORE CITY
MC KAMER REALTY COMPANY, ET AL	*	1959/A-267

A-424
1959

* * * * * * *

STIPULATION

TO THE HONORABLE, THE JUDGE OF SAID COURT:

It is agreed and stipulated by and between the parties that the following described and attached deeds be admitted into the evidence in this case and that the source of the parties title is as indicated herein:

Present Owner: Mrs. Blanche Reeder Thomas
1221 W. North Avenue
Deed No. 1660 to William H. Thomas, dated September 26, 1903. Mrs. Thomas inherited deed, without probate, from Mr. Thomas who was her first cousin.

Present Owner: Mrs. Sadie Cooper
900 Stoddard Court
Deed No. 2005 to Charles Cooper, dated October 19, 1909, Mrs. Cooper inherited deed, without probate, from her husband, Thomas Cooper, who was son of Charles Cooper.

Present Owner: Mrs. Sadie Cooper
900 Stoddard Court
Deed No. 1117 to Robert Mills, dated May 12, 1894, Mrs. Cooper inherited deed, without probate, from her uncle, Robert Mills.

Present Owner: Mrs. Estelle Gibson Stepney
2203 McEldery Street
Deed No. 3544 to Annie B. Gibson, dated February 24, 1924, Mrs. Stepney inherited deed, without probate, from her mother, Mrs. Gibson.

Present Owner: Mrs. Estelle Gibson Stepney
2203 McEldery Street
Deed No. 3310 to Annie B. Gibson, dated February 26, 1916, Mrs. Stepney inherited deed, without probate, from her mother, Mrs. Gibson.

Present Owner: Mrs. Carrie Giles Pinkett
1813 N. Bentalou Street
Deed No. 3421 to Sarah Giles, dated January 10, 1920, Mrs. Pinkett inherited deed, without probate, from her mother, Mrs. Giles.

Present Owner: Mrs. Helen G. Johnson
1235 Myrtle Avenue
Deed No. 1528 to William H. Johnson, dated October 25, 1901, Mrs. Johnson inherited deed, without probate, from her father, Mr. Johnson.

A-39097 (67)

Present Owner: Mary E. Roy
1137 N. Carey Street
Deed No. 3416 to Clarence E. Roy, dated December 20, 1919, Mrs. Roy inherited deed, without probate from her husband, Mr. Roy.

Present Owner: Mrs. Edith B. Campbell
711 Dolphin Street
Deed No. 1071 to Peter James, dated September 16, 1893, Mrs. Campbell inherited deed, without probate, from her great-grandfather Peter James.

Archie D. Williams
Attorney for Plaintiffs

Walter C. Lylander Jr
Attorneys for Defendants

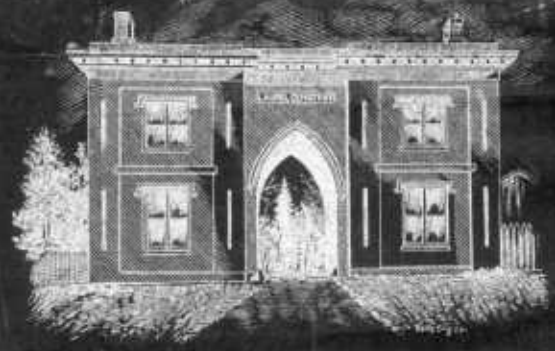
MACADAM BOND
50% RAG CONTENT
MADE IN U.S.A.

—(INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.)—

DEED

No 1660

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that **LAUREL CEMETERY COMPANY,** in consideration of Forty Eight Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell, and convey to William H Thomas his heirs and assigns, Two Lots of Ground in LAUREL CEMETERY in BALTIMOR, COUNTY, in the STATE OF MARYLAND, and numbered 90 and 100 in Section O on the PLAN of said Cemetery, containing Each Eighty — square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said William H Thomas his heirs and assigns forever, for the purposes of SEPULTURE alone and none other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to Incorporate Cemetery Companies and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 26th day of September 1902

Nineteen Hundred and three

President.

TEST: D. H. Emory Jr. *Secretary*

Wm. J. C. Dulany Co., Printers, Baltimore.

Duplicate

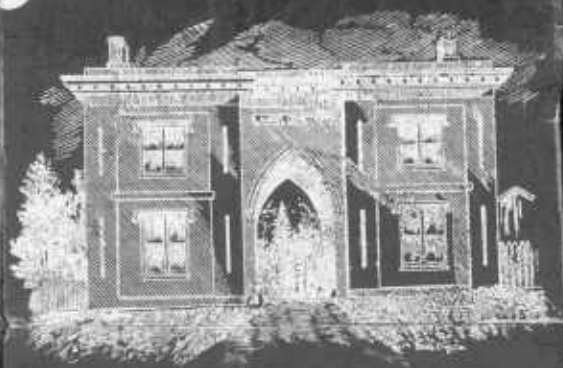
INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No. 2005

LAUREL CEMETERY COMPANY.

Issued in Faith of Affidavit of Loss of Original Deed



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of affidavit of loss forgiven Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to Charles Cooper his heirs and assigns, the Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 71 in Section I on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery; TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Charles Cooper his heirs and assigns forever, for the purposes of SEPULTURE alone and none other, subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 19 day of October Nineteen Hundred and Nine

Joshua W. Bemis President.

TEST: D. H. Emory Fred Secretary.

DEED

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLA

No 1117

LAUREL CEMETERY COMPANY.



Duplicate sold
Cemetery on production
of original

Know all Men by these presents that LAUREL CEMETERY COMPANY, in consideration of
afforsaid of Five Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and
conveyed, and by these presents doth grant, bargain, and sell, and convey to Robert Mills
his heirs and assigns, one Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the
STATE OF MARYLAND, and numbered 239 and 240 adjoining in Section K on the PLAN of said Cemetery,
containing square feet, more or less, which PLAN is in possession of said Corporation for inspection by
the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues,
walks, paths and ways of said Cemetery. TO HAVE AND TO HOLD the said LOT and right of way aforesaid, to the said
Robert Mills his heirs and assigns forever,
for purposes of SEPULTURE alone and none other, subject to the provisions of a general Act of the General Assembly of Maryland,
passed at JANUARY Session Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to Incorporate Cemetery Companies and
subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY.
No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY
have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation
hath hereto subscribed his name, this 12th day of May
Eighteen Hundred and Ninety four

President.

TEST:

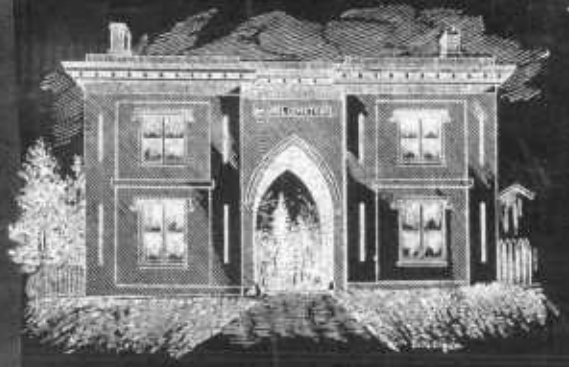
D. H. Emory Jr. Secretary

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No. _____

LAUREL CEMETERY COMPANY.

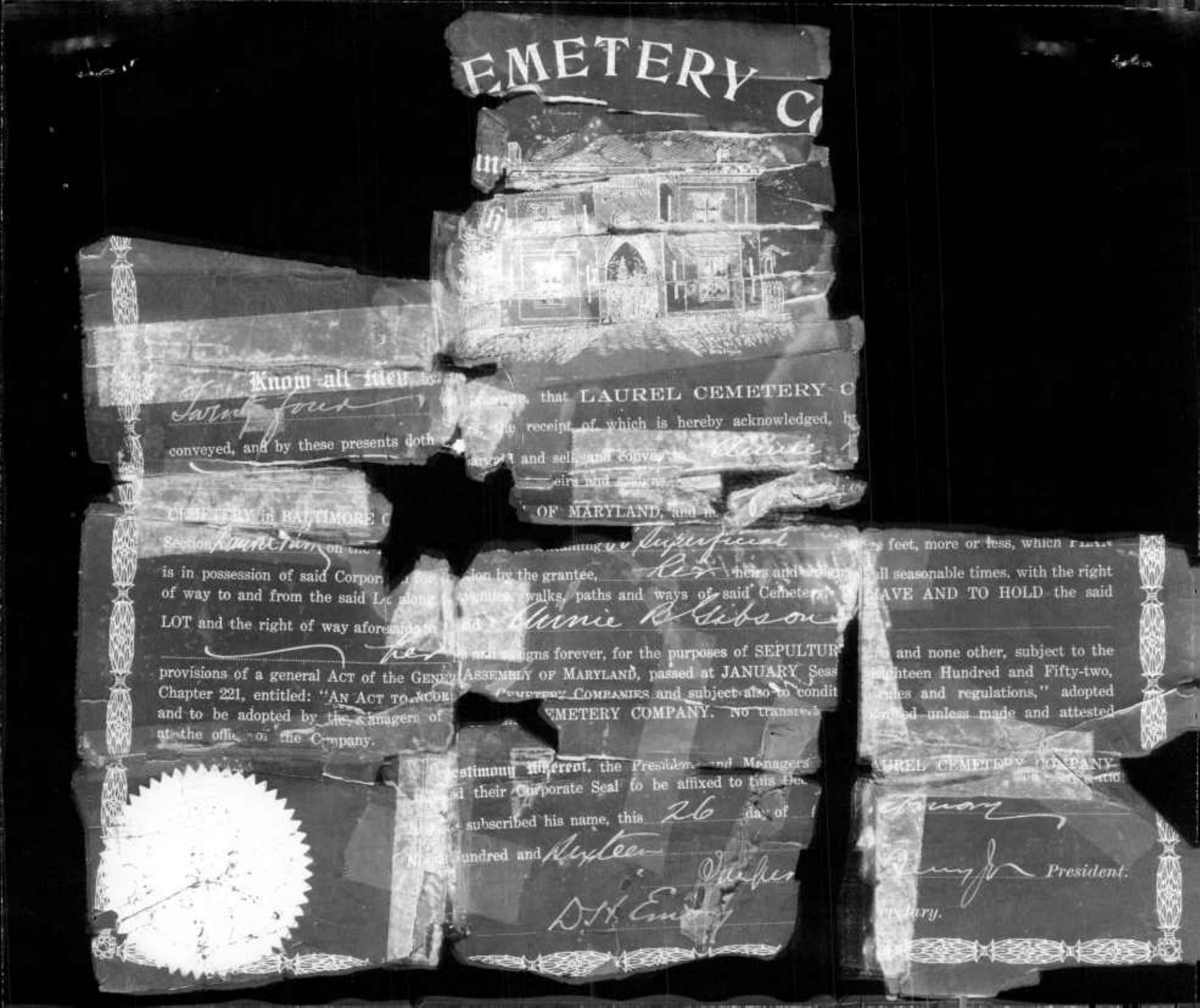


Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Thirty Dollars, the receipt of which is hereby ackno... granted, bargained and sold, conveyed, and by these presents doth grant, bargain and sell, and convey to Annie B. Gibson Her heirs and assigns, One Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 96 in Section I on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, Her heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Annie B. Gibson Her heirs and assigns forever, for the purposes of SEPULTURE alone and none other subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 4th day of February Nineteen Hundred and Twenty Two

John B. Giles Acting President.

TEST: Samuel Emory Secretary.



EMETERY C

Know all Men

that LAUREL CEMETERY C

conveyed, and by these presents doth

receipt of which is hereby acknowledged, h

and sell, and convey

heirs and

OF MARYLAND, and

feet, more or less, which

is in possession of said Corpor

ion by the grantee,

heirs and

all seasonable times, with the right

of way to and from the said L

walks, paths and ways of said Cemeter

HAVE AND TO HOLD the said

LOT and the right of way aforesaid

Annie R Gibson

and none other, subject to the

provisions of a general ACT of the GENE

ASSEMBLY OF MARYLAND, passed at JANUARY Sess

Chapter 221, entitled: "AN ACT TO

CEMETERY COMPANIES and subject also to condit

and to be adopted by the Managers of

EMETERY COMPANY. No transfe

at the offi

of the Company.

AUREL CEMETERY COMPANY

President.

ary.

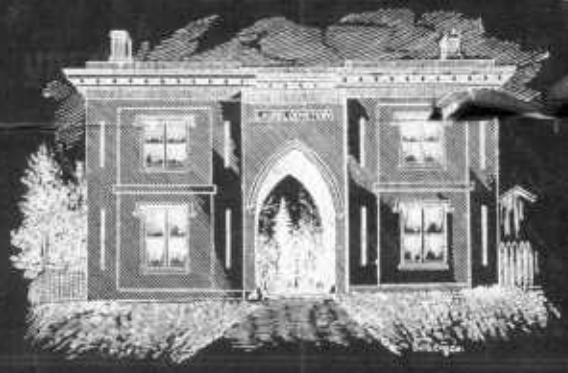
Duplicate

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW [illegible] LAND.

DEED

No. 34

LAUREL CEMETERY COMPANY.



Duplicate

Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Voidon production of unsigned Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to Sarah Giles Her heirs and assigns, One Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY in the STATE OF MARYLAND, and numbered 198 in Section O on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, Her heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Sarah Giles Her heirs and assigns forever, for the purposes of SEPULTURE alone and none other subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 10th day of January Nineteen Hundred and Twenty

John W Ewen President.

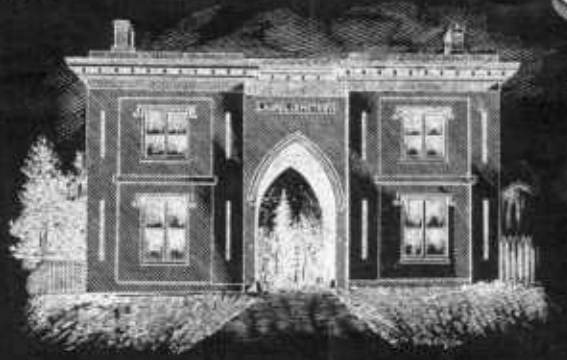
TEST: [illegible] Secretary.

—(INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.)—

DEED

No 1528

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that **LAUREL CEMETERY COMPANY,** in consideration of Eighteen Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell, and convey to William H Johnson his heirs and assigns, One Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 289 in Section C on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said William H Johnson his heirs and assigns forever, for the purposes of SEPULTURE alone and none other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to Incorporate Cemetery Companies and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 25th day of October Nineteen Hundred and One

Ralph Morsey *President.*

TEST: D H Emory Jr *Secretary.*

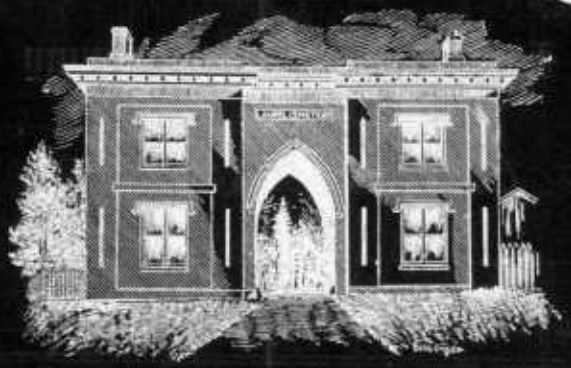
Wm. J. C. Dulany Co., Printers, Baltimore.

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No. 341

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Sixty Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to Clarence E. Roy His heirs and assigns, One Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered Lot 186 in Section R on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, His heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Clarence E. Roy His heirs and assigns forever, for the purposes of SEPULTURE alone and none other subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 20th day of December Nineteen Hundred and Nineteen

Robert [illegible] President.

TEST: [illegible] Secretary.

DEED

INCORPORATED JUNE, 1852. UNDER A GENERAL LAW OF THE TATE OF MARYLAND.

No 1071

LAUREL CEMETERY COMPANY.

Duplicate to be void on production of the original



Know all Men by these presents that LAUREL CEMETERY COMPANY, in consideration of Approximately Two Hundred Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell, and convey to the heirs at law of Peter James their heirs and assigns, ~~one~~ ~~lot~~ or parcel of ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 24 & 25 in Section F on the PLAN of said Cemetery, containing Eighty ~~lots~~ square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantees their heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery. TO HAVE AND TO HOLD the said LOT and right of way aforesaid, to the said heirs at law of Peter James their ~~heirs~~ ~~and assigns~~ heirs and assigns forever, for purposes of SEPULTURE alone and none other, subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 16th day of September Eighteen Hundred and Ninety three

President.

TEST: D. H. Ducony Sec'y Secretary.

CITY SOLICITOR'S OFFICE

File No. 66704

PK 29

August 26, 1937

To the Honorable, The Board of Estimates
City Hall
Baltimore, Maryland

Dear Sirs:-

On July 27, 1937 this Board referred to us for report certain complaints of persons residing in the vicinity of the Belair Road and the Laurel Cemetery regarding the condition of the Laurel Cemetery.

We have conferred with the Highways Engineer and with the Health Commissioner for the purpose of ascertaining what, if anything, might be done with reference to the correction of the conditions complained of.

The Highways Engineer has advised that there is only one location where there is a possibility of a monument falling on the sidewalk adjacent to the cemetery. At this point a guard rail has been erected on the sidewalk area and the bank along the sidewalk has been braced by the Bureau of Highways in order to stop soil erosion. The Bureau of Highways is also grading the area between the sidewalk and the curb to allow storm water to drain into the gutter without running down the cement footway and washing out gullys adjacent to the footway. The broken blocks in the cement footway will be replaced by the Bureau of Highways.

The Commissioner of Health has examined the Laurel Cemetery and has advised us that, "while the existing conditions in the cemetery are very unsightly and detract from the appearance of the neighborhood, it is our opinion that they are not of any health significance."

CITY SOLICITOR'S OFFICE

To the Honorable, The Board of Estimates 8/25/37

We have communicated with a representative of the Cemetery Company and have been advised that the Cemetery Company will, to the best of its ability, endeavor to correct the unsightly appearance of the cemetery and that the Company is considering the possibility of removing the cemetery to some other place.

Very truly yours,

City Solicitor

RMLM-L

Chief Engineer

Fd. 7- July 1960
Plaintiffs Exhibit No. 29

A-424
1959

A-39097 (68)

BELAIR ROAD IMPROVEMENT ASSOCIATION
OF BALTIMORE CITY, INC.

MEETS EVERY FOURTH TUESDAY OF EACH MONTH

BELAIR ROAD AND FURLEY AVENUE

HARRY E. THURSBY
SECRETARY

BALTIMORE, MD. September 2nd, 1937.

Mr. D. L. Crozier,
Chief Engineer, and
Mr. [illegible] Lee Marshall,
City Solicitor.

Gentlemen:

May I ask you for a report concerning action taken to abate or remove the Laurel Cemetery nuisance. The matter was referred to you under date of July 27th, for submission of a report in thirty days.

The civic leaders present at the July 27th hearing are asking what has been done about this nuisance.

Appreciating your cooperation, I am

Very truly yours,

Copy to: Honorable Howard W. Jackson
Messrs: Sellmayer,
Graham,
Dell.

Id. 7 July 1960
Plaintiffs Exhibit No. 30

A-424
1959

A-39097 (69)

CORPS OF ENGINEERS, U. S. ARMY
OFFICE OF THE DISTRICT ENGINEER
WASHINGTON DISTRICT
FIRST AND DOUGLAS STREETS, N. W.
WASHINGTON 25, D. C.

ADDRESS REPLY TO:
DISTRICT ENGINEER
WASHINGTON DISTRICT
CORPS OF ENGINEERS, U.S. ARMY
FIRST AND DOUGLAS STS., N.W.
WASHINGTON 25, D. C.

RECEIVED
NOV 13 1956
CITY SOLICITOR'S OFFICE

REFER TO FILE NO. 602 (Laurel Cemetery, Baltimore, Md.) NAWRM

9 NOV 1956

PXB for Identification

PX 31

City Solicitor
City of Baltimore
Courthouse
Baltimore 2, Maryland

Attention: Mr. Lloyd G. McAllister
Assistant City Solicitor

Dear Sir:

Reference is made to recent discussion between Mr. Mercaldo of your office and Mr. Tregoe of this office regarding Government-owned lots in the Laurel Cemetery, Baltimore, Maryland. Information is furnished that the only lots in the Laurel Cemetery owned by the Government are those which were acquired by deed dated 1 June 1876. By this deed, the Laurel Cemetery Company conveyed to the United States of America fee simple title to 67 lots numbered 341 to 344 inclusive and lots numbered 357 to 419 inclusive, all located in Area I. Records of this office also indicate that in 1884 the remains of 240 colored Union soldiers were removed from the Government-owned lots and reinterred in the Loudon Park National Cemetery, Baltimore, Maryland.

Based on data contained in the files of this office, it appears that some of the Government-owned lots and portions of others were located within the parcel of land identified as CC, which parcel was acquired by the City of Baltimore from the Laurel Cemetery Company under condemnation proceedings, Ordnance 679 of the Mayor and City Council, Baltimore, Maryland, dated 25 April 1911, in connection with the widening of Belair Road.

Receipt is acknowledged of your letter of 5 November 1956 wherein you advised that your office will proceed with a survey to determine the specific Government-owned lots or portions thereof which were involved in the condemnation proceedings referred to above. It is believed that the files of this office contain maps and other data which may be of some help in the making of the survey and this information will be made available upon request. It is requested that, when the survey has been completed, this office be advised of the findings. This office will then make a report to higher authority with recommendations in connection with the proposal contained in your letter for the release or quitclaim by the Government of any

220

602 (Laurel Cemetery, Baltimore, Md.) NAWRM
City Solicitor, Courthouse, Baltimore 2, Md.

interest it may have in and to the lots or portions thereof taken by the City for the widening of Belair Road.

Your cooperation in this matter is greatly appreciated by this office.

FOR THE DISTRICT ENGINEER:

Sincerely yours,

Charles E. Fitzell

JACK C. BURDETT
Chief, Real Estate Division

U.S. ARMY
CORPS OF ENGINEERS
WASHINGTON DISTRICT
NOV 8 10 12 2 4 6 8 10 12 MAR '52

221

Id. 7th July 1960
Plaintiffs Exhibit No. 31

A-424
1959

A-39097 (70)

COPY

CITY SOLICITOR'S OFFICE

File 96816 June 18, 1957

Honorable President and Members
of the Board of Estimates,
City Hall,
Baltimore, 2, Maryland

Dear Sirs:

The City in widening Belair Road from North Avenue to the new 1933 annexation line in 1911 along the Laurel Cemetery property took a strip of land of 977 feet in length and varying in width from 25 feet to 45 feet and awarded damages to the Old Laurel Cemetery Company of $10,000. The damages included the partial destruction of one building located within the area widened.

There formerly existed within the area taken by the City several burial lots of ground in which the Federal government had buried colored soldiers from the Civil War. These bodies, however, were removed by the Government prior to the widening.

Since the condemnation proceedings for the aforementioned widening, the Government has at various times through the Real Estate Division of the District Engineer's Office, Corps of Engineers, Washington, D.C. made demand upon the City to reimburse the Government for its burial rights including fee simple title to the land taken by the City for the widening. The records show that the fee simple title to the land taken by the City from the Laurel Cemetery was owned by the Federal government under a Deed to it from the Cemetery Company prior to the condemnation. When the title was examined at that time, the title man evidently overlooked on the records the title deed to the Government.

Up until a recent date, the Government representatives have claimed damages for the property taken in the amount of $2,500. Now, however, the Government through Mr. Jack C. Bartlett, Chief, Real Estate Division, Corps of Engineers, United States Army, has made a firm commitment to settle its claim for the sum of $1,250., and upon the payment of this sum, to execute a Deed to the City of Baltimore of all of its interest to the land in question.

COPY

CITY SOLICITOR'S OFFICE

To: Honorable President and Members
of the Board of Estimates, 6/10/57 - p.2.

This office has investigated this claim and we feel that there is a cloud on the City's title to the aforementioned land taken for the widening of said Road, and we further feel that the City should procure a Deed from the Government to perfect its title to the road.

Accordingly, your Honorable Board is respectfully requested to approve of the settlement of the Government's claim against the City in the amount of $1,250. and the procuring from the Government of a quit-claim Deed to the City, removing the cloud on the title now held by the City.

Very truly yours,

HUGO A. RICCIUTI,
Acting City Solicitor

LLOYD G. McALLISTER,
Assistant City Solicitor

LGMcA:H

Fd. 7- July 1960
Plaintiffs Exhibit No. 32

A-424
1959

A-39097 (71)

MEMORANDUM OF SETTLEMENT WITH THE
UNITED STATES GOVERNMENT FOR THE STRIP OF LAND
260 feet frontage by 15 feet taken from it in
the widening of Belair Road to 80 feet wide in 1911

The United States Corps of Engineers representative from Washington, Mr. Paul T. Tregoe visited the City Law Department in October, 1956, and discussed with Mr. Mercaldo the Government's claim for the land owned by it and taken by the City of Baltimore for the widening of the road to 80 feet. I was not available at the time of the visit of Mr. Tregoe and Mr. Mercaldo, who was then in the Real Estate Division, talked with him.

Mr. Mercaldo later took up with me the matter of Mr. Trego's visit. It developed that the Land Division of Corps of Engineers had received orders to clear up all open matters.

Mr. Tregoe visited the office one or two times after his first visit to further discuss the claim. I had a file made and referred it to Mr. Mercaldo for handling.

Investigation by Mr. Mercaldo disclosed that the Title Examiner at the time (1911) had overlooked the Government's ownership and deed to it from the Laurel Cemetery Company of the property taken by the City for for the widening and accordingly no award or damages were paid to the Government.in the condemnation proceedings taken for the widening of the road.

Mr. Tregoe,in his discussions,placed a figure of $2,500.00 as the market value at that time but also stated that some reasonable compromise figure might be agreed upon.

Corrrespondence will show that the office attempted to get the Government to give the City a deed of the strip for a figure of $10.00 and that this offer was turned down by the Government. After further negotiations by the Law Department the Government agreed to settle with the City for a compromise figure of $1,250.00.

224

The claim of the Government was discussed with/City Solicitor Biddison, former and when the compromise figure ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ suggested by the Government of $1,250.00 was made it was again discussed with Mr. Biddison and he approved of settlement with the Government at this figure.

The matter was submitted to the Board of Estimates of Baltimore City by the Law Department for its approval and duly approved by it as per letter in the file.

Following the Board's approval settlement was made with the Government and deed duly executed and delivered to the City of the strip of land in question.

Lloyd G. McAllister

Clement R. Mercaldo

Asst. City Solicitors

NOTE: The City took possession of the strip of land at the time of the widening of the road without paying the Government for its value. This created a cloud on the City's title to the bed of the Belair Road.

Fld. 7th July 1960
Plaintiff's Exhibit No. 33

A-424
1959

A-39097 (72)

COPY

CITY SOLICITOR'S OFFICE

April 5, 1950

PX 34

Mr. Richard L. Steiner,
Director, Baltimore Redevelopment Commission,
407-A Municipal Office Bldg.,
Baltimore-2, Maryland

Dear Mr. Steiner:

Reference is made to your letter of March 30, 1950 requesting this office to investigate and advise the Commission as to the points referred to therein concerning the old Laurel Cemetery on Belair Road.

(1) The interest of the so-called cemetery owner in and to the property is fee simple, subject, however, to the title and interest therein of the holders of certificates covering burial lots.

(2) Under the Maryland law, Sections 176 and 177 of Article 23, Code of 1939, the estate of the owner or owners of burial lots descends as real estate to heirs and it may be devised by Will or disposed of by the owner by sale with the approval of the president and members of the cemetery corporation or of any person or corporation acting as trustee therefor. A certificate (under seal of the cemetery) of a burial lot sold or conveyed as aforesaid shall in all respects have the same effect as a conveyance of said lot by such corporation would have if it were executed, acknowledged or recorded as conveyances of real estate by the laws of this State.

(3) The extent it would be necessary to legally remove all or any graves or compensate lot owners and heirs in the event the graves were not moved is covered by the provisions of Section 9-A of Article 33-A (General Condemnation Statute) wherein it is provided that "whenever the State, county or city authorities shall for any public purposes have the right to acquire by the power of eminent domain property that is used as a cemetery, the jury shall, in assessing damages for said land and improvements, take into consideration in addition to the damages for said land and improvements the cost of removal of bodies, markers and monuments and the placing of the same at some other suitable or comparable location within the State of Maryland to be provided by the authorities of the cemetery discontinued." The City would be required to remove all bodies

COPY

CITY SOLICITOR'S OFFICE

To: Mr. Richard L. Steiner, 4/8/50 - p.m.

unless the heirs of the persons buried and lot owners waived this requirement.

(4) In the event the property is acquired for housing and the graves had to be moved, the lot owners would be entitled to payment to them of the fair market value of the lot plus the costs of moving the bodies and markers.

The City in acquiring the land in Anne Arundel County necessary for the Friendship International Airport encountered several cemeteries within the area. In each of the cases, condemnation proceedings were filed against the cemetery corporation and the owners or the heirs of the owners of the cemetery lot and the heirs of the person buried. Notice by publication was given in every instance so as to bind the interests of any person in the cemetery property not disclosed by the Land Records and the records of the cemetery corporation. It is our opinion that in order to acquire a clear legal title with the right of absolute possession, it will be necessary, as to the subject property, to institute condemnation proceedings in the manner previously set out.

(5) The condemnation statute requires that negotiations be conducted with the owners for the purpose of purchasing their interests before condemnation action can be taken. In view of the fact that you have advised us that there are approximately three thousand burials within the cemetery, the matter of negotiating with all parties in interest would be a tremendous undertaking.

In order to ascertain the names of all persons in interest, it would necessitate a checking, in addition to the books and records of the cemetery, the names on all monuments and markers and interviewing the heirs of the various owners of the lots and the heirs of the persons buried there.

Answering paragraph numbered 6 of your letter as to whether the proceeds of the bond issue authorized by Ordinance No. 556 can be used for this project (a) if it is predominately residential; (b) if it is entirely a playground, may we point out that said proceeds could be used for this project only if it is determined that the area involved is classified as an "arrested area". Sub-section C of Section 4 of the ordinance classifies arrested areas as any area which because of its location is suitable for development but which has not been developed to an appreciable extent because of obsolete platting, diversity of ownership, deterioration of structures or site improvements, a high rate of tax delinquency or mortgage foreclosures, or spoiling of the land as a result of excavation or usage, or any combination of these factors.

It appears to us that the subject property can be classified

COPY

CITY SOLICITOR'S OFFICE

as an "arrested area" and that the proceeds from the loans may be used to assemble and prepare the property for either residential or recreational purposes. If, however, the property is to be developed entirely as a playground, it is our opinion that the operation of the property as a playground should not be by your Commission but should be turned over to the Department of Recreation and Parks. If, however, the City and your Commission feel that the property should be developed as a redevelopment project, it could be turned over to private interests for operation as such; the City, of course, would be reimbursed by the private interests for the fair re-use value. Further, if it is decided that the property should be developed for playground purposes and operated by the Department of Recreation and Parks, your Commission probably should be reimbursed by that Department in an amount satisfactory to both the Commission and the said Department.

Answering your question, If you could legally leave the graves where they are and bury or otherwise dispose of the monuments rather than purchase lots in other cemeteries and move the bodies and monuments?, we would say that this could be legally done provided the owners of the cemetery lots and the heirs of the persons buried would enter into an agreement and release consenting to this and relieving the City of any responsibility in respect thereto. The matter of whether you might advertise and move only those bodies where such action is required by heirs or relatives will not be sufficient. It will be necessary, as pointed out above, that the consent of the owners of the cemetery lots and the heirs of the persons buried there be procured. Past experience of this office has shown that the owners of cemetery lots and the heirs of the persons buried have required the City to pay to them the value of the cemetery lot being taken and to also pay the costs and expenses in removing the bodies and monuments to another comparable location. In some instances, the City has had to also purchase the burial lots in the cemetery to where the bodies had been moved.

As heretofore stated, the most satisfactory method in clearing and acquiring title to cemetery property is to bring condemnation proceedings against the parties in interest and to have the court or jury assess the damages suffered by the owners of the cemetery lots and the costs of removing the bodies and monuments. In this way, the City will acquire an absolute title to the property without conditions so that it could be developed in any manner desired by the City.

Very truly yours,

THOMAS D. McBRIDE,
City Solicitor

LLOYD G. McALLISTER,
Assistant City Solicitor

LMcA:R

Fd. 7th July 1960
Plaintiff's Exhibit No. 34

A-424
1959

A-39097 (73)

Fd. 7" July 1960

PLAINTIFFS EXHIBIT NO. 35

NOTE: Above named Exhibit is missing from record.

CONTRACT

PHONE, GILMOR 22

C. M. SEUBOTT

2002-4-6-8 FREDERICK AVENUE — BALTIMORE, MD.

Sold by	Date	No.
Beaumont	Feb. 5, 1930	

Name H. L. Russell

Address 726 Dolphin St

Price $180.00 Complete

Terms $50.00 Rd 3-12-30 C.M.S. Beaumont
$30.00 Cash Balance

Cemetery Laurel

Section

No. of Lot

Permit

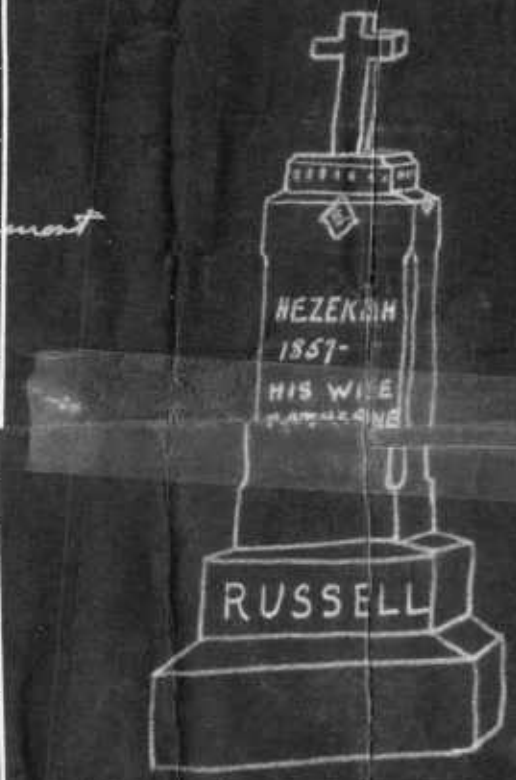
Inscription Letters — V Sunk / ~~Sq. Sunk~~ / ~~Sq. Raised~~ / ~~Round Raised~~

Location in Lot

Signature of Firm C M Seubott

Signature of Purchaser Hezekiah Russell

Approved C M Beaumont





4 Posts Marble

One Monument and Four Posts lettered and erected in Cemetery for the sum of One Hundred and Eighty Dollars ($180.00) Complete

Id. 7th July 1960

Plaintiffs Exhibit No. 36

A-424

1959

A-39097 (75)

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No 1423

LAUREL CEMETERY COMPANY.



Duplicate Deed

2 671

Know all Men by these presents that LAUREL CEMETERY COMPANY, in consideration of [illegible] Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell, and convey to John E. & Mary E. Johnson his heirs and assigns, ~~the~~ Lot of Ground in LAUREL CEMETERY, BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 159 167 in Section R on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery. TO HAVE AND TO HOLD the said LOT and right of way aforesaid, to the said John E. & Mary E. Johnson his heirs and assigns forever, for purposes of burial only and subject to the provisions of a general Act of the General Assembly of Maryland, passed at JANUARY Session Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to Incorporate Cemetery Companies and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this [illegible] day of [illegible] Eighteen Hundred and Ninety [illegible]

[illegible] President.

TEST:

W. H. Emory Jr. Secretary.

Fd. 7th July 1960
Plaintiffs Exhibit No. 37-A

A-424
1959

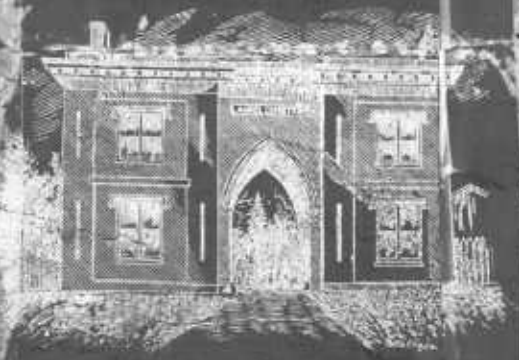
A-39097 (76)

—INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.—

DEED

No. 1975

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and

heirs and assigns, Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 133 in section R on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, her heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Alberta Peed her heirs and assigns forever, for the purposes of SEPULTURE alone and none other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at January Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "An Act to Incorporate Cemetery Companies and subject to such rules and regulations," adopted and to be adopted by the Managers of the LAUREL CEMETERY COMPANY. Not recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of the LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed, and the President of said Corporation hath hereto subscribed his name, this 17 day of April Nineteen Hundred and Nine

Wesley M. Oler Jr. President.

D. H. Emory Treas. Secretary.

F. ALBERT KURTZ, PRINTER, BALTIMORE

Id. 7- July 1960
Plaintiffs Exhibit No. 37-B

A-424
1959

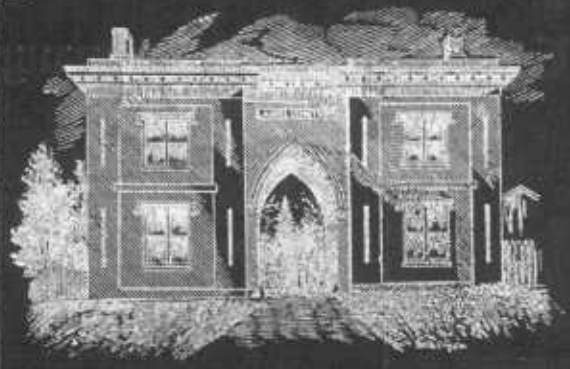
A-39097 (77)

—INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.—

DEED

LAUREL CEMETERY COMPANY.

No. 1959



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Forty Two — Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to John E Johnson and Mary E Johnson Their heirs and assigns, Those Two — Lots of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 159 and 167 — in Section R on the PLAN of said Cemetery, containing Each Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, S Their heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said John E Johnson and Mary E Johnson Their heirs and assigns forever, for the purposes of SEPULTURE alone and none other, subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfer recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 30" day of January Nineteen Hundred and Nine

Charles M. Benzing *President.*

TEST: W. H. Emory Jr. as *Secretary.*

F. ALBERT KURTZ PRINTER BALTIMORE

Fd. 7 July 1960

Plaintiffs Exhibit No. 37-C

A-424
1959

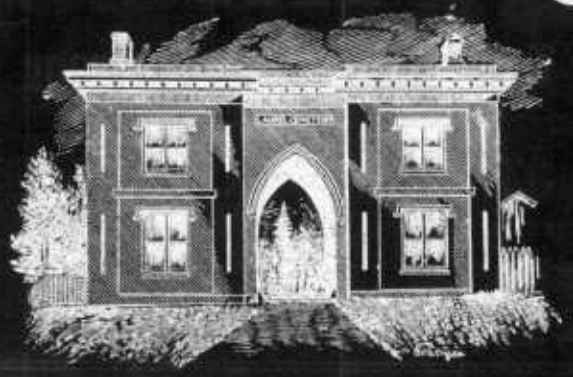
A-39097 (78)

INCORPORATED JUNE, 1853, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No. _____

LAUREL CEMETERY COMPANY.



Duplicate

Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Forty four _____ Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to Gladys Gorman _____ her heirs and assigns, One (1) _____ Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered Two hundred and sixty nine (269) in Section F on the PLAN of said Cemetery, containing Eighty (80) _____ square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, her heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Gladys Gorman _____ her heirs and assigns forever, for the purposes of SEPULTURE alone and none other subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have cause their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 6th day of July

Nineteen Hundred and Twenty six

_____ President.

TEST: J. M. Lyell _____ Secretary.

Fd. 7th July 1960

Plaintiffs Exhibit No. 37-D

A-424
1959

A-39097 (79)

Fd. 7 July 1960
Plaintiffs Exhibit No. 38

A-424
1969

EMPLOYMENT AGREEMENT

This contract for services, made and entered into this 2nd day of February, 1950, by and between the LAUREL CEMETERY PROTECTIVE and IMPROVEMENT ASSOCIATION, of the first part, and BRODIE POWELL and John Powell, parties of the second part, independent contractors, Witnesseth:

The said parties of the second part agrees to give their undivided time and service in the employ of the Cemetery Association as independent contractors in the capacity of clearing and beautifying the Laurel Cemetery in Baltimore City, at such times as directed by the Cemetery Association for the sum of ninety ($.90) cents per hour, it being understood that the party of the second part will be hired only when and so long as the party of the first part has funds, and that this contract can be terminated at any time of either party hereto without written advanced notice.

It is further understood and agreed that the party of the first part shall be free from any and all liability for injuries or death to the parties of the second part, or loss or damage to their property, however, the same shall occur or be caused, or to third persons while working for the party of the first part.

WITNESS:

John E Johnson — Miss Estella Berry
PRES-Laurel Cemetery Protective and Improvement Association

Gertrude Tate — Brodie Powell

Robert B Watts — John Powell

A-39097 (80)

Pltf 39
Fld. 7 July 1960
Plaintiff's Exhibit No. 39

March 13, 1958

A-F24
1959

Q. What is your name?

A. Edward M. Hamlet

Q. Where do you live?

A. 805 N. Eden Street.

Q. What is your occupation?

A. Stonesetter - for the last five year; previous to that grave digger.

Q. How long have you been connected with the Laurel Cemetery?

A. Since 1920.

Q. Are you personally acquainted with the physical and existing conditions in the cemetery?

A. I am.

Q. You have been very close to the cemetery operations since about 1920?

A. Yes.

Q. During that time were you the one who gave the permits for burials there?

A. Yes.

Q. Do all of the burials there also have headstones?

A. No.

Q. Were only Negro persons buried in the cemetery?

A. No, but it was principally colored. About three white persons were buried there in about 20 years.

Q. Can the bodies of the persons buried there be located on the ground other than those where there are headstones?

A. It is impossible.

Q. Do you have any records that would help identify those burials there?

A. I do not.

Q. So, can you say that other than the graves where there are headstones with the names on them, it would be impossible to identify the persons who are buried there.

A. That is correct.

Q. During your association with the cemetery, have the friends, relatives or descendents of persons buried there taken any real interest in preserving or maintaining the burial lots?

A. No. You did not see anyone there but on Memorial Day. On that day, some would say that something must be done and then nothing would be done.

A-39097(81)

Q. Has the Cemetery Company ever taken it on its own to maintain the graves in good order?

A. No - not for the last 20 years; they did before that.

Q. Do they have any money set aside to take care of the graves?

A. Not that I know of.

Q. Were the lots sold at a very reasonable or low price?

A. Some were sold years ago as cheap as $16.00.

Q. What prices generally did they sell for?

A. Some lots were sold for as high as $60.00 or $70.00.

Q. What do you mean by a "grave lot"?

A. A lot is more than one grave - there are three graves to a lot. A lot or plot would include three burial places and sometimes they would include more - put two in one grave.

Q. You say that the relatives or persons interested in the ones buried there would only come out to visit once a year and at that time they would probably bring just flowers, and although they talked about cleaning the graves and improving them, this was never done?

A. That is right.

Q. From your knowledge of the cemetery over the past 38 years, would you say that it has ever been kept up as one would expect a cemetery to be.

A. No.

Q. In your opinion, would you say that the persons buried in the cemetery could be identified only by the headstones?

A. Yes, I would say that.

Q. Would you consider the cemetery as having been abandoned? I mean that it has not been cared for by the corporation nor by the friends and relatives of the persons buried there.

A. It has been abandoned as a cemetery.

Q. Would you say that the abandonment has been for 20 years?

A. No, I wouldn't say that - The Union Trust had it cleaned one year - I couldn't say which year - maybe it was 1932.

Q. Cleaning it one time, wouldn't you say that it had been abandoned?

A. It has been abandoned for at least 20 years by reason of the failure of upkeep.

Q. How many graves would you say could be identified today?

A. Not more than 200.

Q. Do you think it would be to the advantage of the relatives and friends of the persons who are buried there that the bodies be removed to another cemetery or location?

A. Some of them would be.

Q. How many concrete vaults would you say are located in the cemetery?

A. About three.

Q. Would there be any steel vaults?

A. About four or five.

Q. Would you say that the remains of the persons buried there would now be decayed to the point that it is very possible that nothing physical remained?

A. In some cases, yes. Sometimes after 15 years, there is nothing there - sometimes the bones are still there.

Fd. 7 July 1960
Plaintiffs Exhibit No. 40

A-424
1959

before some justice of the peace of the county in which such collector or collectors, or trustees, (as the case may be,) reside, that he hath not received, or any person for him, any part, parcel of, or security for such claim, other than credits given; *Provided, always*, that the aforesaid collectors or trustees, shall not be entitled to collect any bill of taxes as aforesaid, from any person or persons, under the provisions of this act, who shall make oath that he, she or they do not owe said taxes, or where the person is dead, the heir, executor, administrator or assign, will make oath, as aforesaid, that he or she believes said taxes have been paid; *And provided further*, that nothing in this act shall be construed to extend the time of the aforesaid collectors or trustees, to pay into the State Treasury any amount that may be due by them, or to entitle them to collect or demand any taxes that may remain due after the end of the year eighteen hundred and fifty-three.

SEC. 2. *And be it enacted*, That this act shall take effect from its passage, and remain in force until the end of the year eighteen hundred and fifty-three, and no longer. In force.

CHAPTER 221.

AN ACT to Incorporate Cemetery Companies. Passed May 11, 1852.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That when any seven or more free white persons, citizens of the United States, and a majority of them citizens of this State, shall associate themselves for the purpose of forming a cemetery company, and shall be desirous to acquire and enjoy the powers and immunities of a corporation, or body politic, in law, they shall prepare and execute, under their hands and seals, an instrument of writing specifying therein the name, style, or title, by which they shall be known in law, the number and names of the managers of said company, the amount of capital stock thereof, the number of acres of land to be held by said company, and where situated, which instrument of writing shall be exhibited and presented to the Judge for the Circuit Court for the county, or the Judge of the Superior Court of Baltimore city, as the case may be, in which said corporation is intended to be situated, or its principal business transacted; and the Seven or more persons may form cemetery companies.

A-39097 (82)

said instrument of writing shall be acknowledged before, and certified by said Judges, in the same manner as conveyances of real estate are required by law to be, and the said Judge shall direct that said charter of incorporation shall be recorded in the office for recording deeds in said county or city, and on said instrument being recorded, the persons so associated shall become and be a body politic and corporate, by the name stated in said instrument of writing; and by that name, they and their successors shall and may have perpetual succession, and shall be able and liable to sue and be sued in any court of law or equity, and may have and use a common seal, and the same may alter and change at pleasure, and shall have power to purchase and hold, not exceeding one hundred acres of land, and to receive gifts and bequests for the purpose of ornamenting and improving such cemetery, and to hold such personal property, as may be requisite to carry out the purposes for which cemetery companies are formed; *Provided*, that no company, to be formed under the provisions of this act, shall be authorized or empowered to purchase, or hold, or use for purposes of burial, any ground that shall be comprised within the limits of any city or town of this State, unless the corporate authorities of said city or town shall authorize the same.

Proviso.

Managers—their powers and duties.

SEC. 2. *And be it enacted*, That the company so incorporated may annually elect from its members, by a majority of the votes of the proprietors, at such time and place as its by-laws may specify, its managers; said managers to have power to fill all vacancies in their body, to lay out and ornament the cemetery grounds, erect necessary buildings, sell and dispose of burial lots, appoint all necessary officers and agents, fix their respective duties and compensation, make such by-laws, rules and regulations as they may deem proper for conducting the affairs of the corporation for the government of lot holders, visitors to the cemetery, and for the transfer of stock, and the evidence thereof; and in all elections, each proprietor, or holder of stock, shall be entitled to one vote for each share of stock held by him or her.

No lanes, &c. to be opened through property of said corporation.

Proviso.

SEC. 3. *And be it enacted*, That no lanes, alleys, or streets, roads, canals, or public thoroughfares of any sort, shall be opened through the property of said corporation, used or appropriated for the purpose of burial; *Provided*, that nothing herein contained shall authorise said corporation to obstruct any public road, street or lane, now actually opened and used as such, or laid

down in any plat, made by authority of any city or town, to be opened as a street or road.

Misdemeanors.

SEC. 4. *And be it enacted*, That any person who shall wilfully destroy, mutilate, deface, injure or remove any tomb, monument, grave-stone, or other structure, placed in said cemetery, or any fence, railing or other work, for the protection or ornament of said cemetery, or shall wilfully destroy, cut, break, or remove any tree, plant or shrub within its limits, or who shall shoot or discharge any fire-arms within said limits, shall be considered guilty of a misdemeanor, and upon conviction thereof, before any justice of the peace, shall be punished by fine, in the discretion of the justice, according to the aggravation of the offence, of not less than five, nor more than fifty dollars.

Burial lots not to be subject to attachment or execution for debt.

SEC. 5. *And be it enacted*, That every burial lot sold or conveyed in such cemetery, shall be held by the proprietors thereof, for the sole purpose of sepulture, and for none other, and shall not in any manner be subject to attachment or execution for debt, or effected by the insolvent laws of the State of Maryland, but the estate of the owner or owners, in their respective lots, shall descend as real estate to heirs; may be devised by will, or may be disposed of by the owner by sale, with the approval of the president and managers of the corporation.

Certificate of ownership.

SEC. 6. *And be it enacted*, That a certificate under seal of the corporation of the ownership of any lot, sold and conveyed as aforesaid, shall, in all respects, have the same effect as any conveyance from such corporation of said lot would have, if executed, acknowledged and recorded, as conveyances of real estate, are, by the laws of this State, required to be.

Managers jointly liable for all debts.

SEC. 7. *And be it enacted*, That the managers of any company or corporation, organized under the provisions of this act, shall be jointly and severally liable for all debts due from said company or corporation contracted while they are managers; *Provided*, said debts are payable within one year from the time they shall have been contracted; *And, provided*, a suit for the collection of the same shall be brought within one year after the debt shall become due and payable.

Provisoes.

Reservation.

SEC. 8. *And be it enacted*, That the Legislature may, at any time, amend, repeal, or annul any incorporation, formed or created under this act.

In force.

SEC. 9. *And be it enacted*, That this act shall be in force from and after its passage.

PX 40


HODGES RD
BARTHOLOW RD

PV47

Feb. 20 1959

PHOTOGRAPHY BY
GEORGE W. EVANS, JR.
3110 NORMOUNT AVE.
BALTIMORE 16, MD.
PHONE WILKENS 5-5995

Fd. 7- July 1960

Plaintiffs Exhibit No. 41

A-424

1959

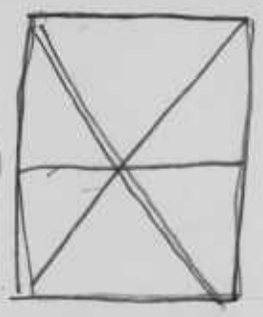
A-39097 (83)

Box — 4'x3'

2381

Laurens at Cor Madison

PX42



Brooks Bradley

Mark + Laurens
A M E church
Rev. Mitchell
Norman Mills Expressman

~~38" x 7"~~

30" wide x 6 to 7"

Plot in recent years 6 graves to plot
Elders was 12 graves to plot

Rice
Chas W
661 Amsterdam Ave
PE-2-7920

1929 Lahmuller Owned ~~it then~~
bought about 1926

Named brook by Ed.

Frank Emery had it at one time

Mt. Albans — west ~~west~~ → turn left at church

deaf + dumb
612½
Stretcher

Mt Zion (East Mt Albans
go east Hollins Ferry Rd
turn Right at end of Hollins Ferry Rd

moved → may have some lots

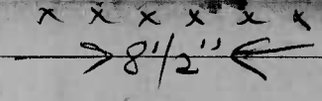
Ed + Harlem sold two grave lots @ 30.00 (2 burials

Cary + Carmelita Ave
back of
6-9 pm evening

W
Samuel Sullivan Jr (undertaker)
1011 Arlington ave Mad-3-5215

Mrs Katie R Williams (undertaker)
3221 N. Schroeder St

Mrs Samuel T. ~~Hemsley~~ (undertaker)
Hemsley
578 Biddle St



Reduce to
8 1/2 x 11

PX42

Sax 10 9 30



Witnesses

1- Edward M. Hamlet.

2- Geo O. Matry (Health Dept)

3- O'Mailey Fire Department

4- Palice Department

Trustee lined up. ⇒
Edward Anderson.

Ed. 7-July 1960
Plaintiff's Exhibit No. 42

A-424
1959



Feb 20, 1959

PHOTOGRAPHY BY
GEORGE W. EVANS, JR.
3110 NORMOUNT AVE.
BALTIMORE 16, MD.
PHONE WILKENS 5-5995

8x44

Fd. 7th July 1960
Plaintiffs Exhibit No. 44

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1959

A-39097 (86)



Fd. 7th July 1960
Plaintiffs Exhibit No. 45

A-424
1959

A-39097 (87)



Id. 7th July 1960
Plaintiff's Exhibit No. 46

A-424
1959

A-39097 (88)

Fd. 7" July 1960

PLAINTIFFS EXHIBIT NO. 47

A-424/1959

NOTE: Above named Exhibit missing from record.


NEAL
MORSELL
JOHNSON
JOHNSON
JOSHUA MITCHELL
DIED AUG. 10 1896
AGE 69 YRS
ANNIE G. MITCHELL
JAN. 17 1859
FEB. 24 1923

Ld. 7 July 1960
Plaintiffs Exhibit No. 48

A-424
1959

A-39097 (90)

Fd. 7 July 1960
Plaintiff's Exhibit No. 49

COPY

A-424
1959

CITY SOLICITOR'S OFFICE Recorded
J.F.C. - 251 folio 292

QUITCLAIM DEED

THIS DEED, made the 18th day of November, 1957, between the McKAMER REALTY COMPANY, a Maryland Corporation, party of the first part, and ANDERSON ENTERPRISES, INC., a body corporate, party of the second part;

WITNESSETH: That the said party of the first part, for and in consideration of the sum of Five Dollars ($5.00), to it duly paid by the party of the second part, the receipt whereof is hereby acknowledged, by these presents does remise, release, and forever quitclaim, unto the party of the second part, its successors and assigns forever, all the right, title and interest whatsoever, of the party of the first part in and to certain burial lots and portions of lots in Area 1 of the Laurel Cemetery, in the City of Baltimore, State of Maryland, lying to the southeast of the southeast building line of Belair Road, as condemned and widened, 80 feet wide, under Ordinance No. 679 of the Mayor and City Council of Baltimore, Maryland, approved April 25, 1911, and situate within the boundaries of a parcel of land more particularly described as follows:

BEGINNING for the same at the point formed by the intersection of the southeast side of Belair Road, as condemned and widened, 80 feet wide, under Ordinance No. 679, Mayor and City Council of Baltimore, approved April 25, 1911, and the northeast side of Lot 370, Area 1 of the Laurel Cemetery, said point being distant 285.0 feet, more or less, southwest of the point formed by the intersection of the southeast side of said Belair Road and the southwest side of Cliftmont Avenue, 50 feet wide, and said point of beginning being also distant 2.44 feet, more or less, northwesterly from the easternmost corner of said lot 370, and running thence binding on the northeast side of said Lot 370 S 47 degrees 28' 10" E 2.44 feet to the easternmost corner thereof; thence binding on the southeast sides of Lots 370 through 381 S 42 degrees 31' 50" W 132 feet to the northernmost corner of Lot 357; thence binding on the northeast side of Lot 357 S 47 degrees 28' 10" E 8 feet to the easternmost corner thereof; thence binding on the southeast sides of Lots 357 through 365 S 42 degrees 31' 50" W 88 feet to the northernmost corner of Lot 341; thence binding on the northeast side of Lot 341 S 47 degrees 28' 10" E 8 feet to the easternmost corner of Lot 341; thence binding on the southeast sides of Lots 341 through 344 S 42 degrees 31' 50" W 40 feet to the southernmost corner of Lot 344; thence binding on the southwest sides of Lots 344 and 369 N 47 degrees 28' 10" W 15.27 feet to the point formed by the intersection of the southwest side of Lot 369 and

H-39097 (91)

COPY

CITY SOLICITOR'S OFFICE

the southeasterly side of said Belair Road; thence binding on the southeast side of Belair Road N 41 degrees 49' 48" E 260.03 feet to the place of beginning; containing 1566.3 square feet of land, more or less; and including within its boundaries all of Lots 341 through 344, and 357 through 363, major portions of Lots 364 through 369, and minor portions of Lots 370 through 388; all as shown on plat dated December 14, 1956, numbered 265-B-72A, attached hereto and in all respects a part hereof.

The courses in the above description are all referred to the true meridian as adopted by the Baltimore Survey Control System.

BEING the same lots or parcels of ground described in a Deed dated October 16, 1957, and recorded among the Land Records of Baltimore City in Liber J.F.C. 225, Folio 178 from the United States of America to the within named grantor.

TO HAVE AND TO HOLD unto and to the use of the said Anderson Enterprises, Inc., a body corporate, in fee simple forever.

WITNESS the hand and seal of McKamer Realty Company by Clement R. Mercaldo, President.

MCKAMER REALTY COMPANY

TEST:

_____

By Clement R. Mercaldo
CLEMENT R. MERCALDO
President

State of Maryland)
) TO WIT:
City of Baltimore)

I HEREBY CERTIFY That on this 18th day of November, 1957, before me the subscriber, a Notary Public of the State and City aforesaid, personally appeared CLEMENT R. MERCALDO, President of McKamer Realty Company, and acknowledged the aforegoing Deed to be the act of said corporation.

AS WITNESS, My hand and Notarial Seal.

_____
NOTARY PUBLIC

Fd. 7- July 1960
Plaintiffs Exhibit No 50
PX50

Mamie E. Kennard, Et Al * In The

Circuit Court

vs.

of

*

Mc Kamer Realty Company Baltimore City

1959/ A-267 -424

*

* * * * * *

STIPULATION

TO THE HONORABLE, THE JUDGE OF SAID COURT:

It is agreed and stipulated by and between the parties that the following described and attached deeds be admitted into the evidence in this case and that the source of the parties' titles is as indicated herein:

Present Owner: Mrs. Annie Anderson
210 Melvin Avenue

(1) Deed to Nelson Jones, June 2, 1862,of lot no. 263 in area N containing 80 square feet, which Mrs. Anderson inherited with out probate from her grandfather, the deceased lot owner.

(2) Deed No. 1037 to Mary T. Jones, April 29, 1893, of lot no. 248 in area G containing 80 square feet, which Mrs. Anderson inherited without probate from her grandmother, the deceased lot owner.

Present Owner: Mrs. Pauline Jackson
2008 Madison Avenue
Deed no. 57 B to Roxana Weaver, May 23, 1874, of lot no. 241 in area C containing 80 square feet, which Mrs. Jackson inherited without probate from her maternal grandmother, the deceased lot owner.

Present Owner: Mrs. Mollie Bowen
1321 Edmondson Avenue
Deed no. 2289 which Mrs. Bowen purchased herself on August 14, 1915, lot no. 69 in area R containing 80 square feet.

Present Owner: Mrs. Alice Matthews
2411 Mosher Street

(1) Deed no. 3404 to Henry and Bettie Redd, October 18, 1919, of lot no. 44 in Section Chapel containing 80 square feet which Mrs. Matthews inherited without probate from her mother and father, the deceased lot purchasers.

(2) Deed no. 3370 to Henry and Bettie Redd, May 29, 1919, of lot no. 56 in Section Chapel containing 80 square feet, which Mrs. Matthews inherited from her mother and father, the deceased lot purchasers, without probate.

Present Owner: Mrs. Lillian Amos
1737 Mc Culloh Street
Deed no. 464 to Isaac Baker, September 27, 1884, of one lot no. 239 and one lot no. 240 in Section A containing 80 square feet each, which Mrs. Amos inherited from her uncle, the deceased lot purchaser, without probate.

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Present Owner: Mrs. Elmira Harris
708 Dolphin Street
Deed no. 1924 to Lozier Jackson, lot no. 190 in area K containing 80 square feet, which Mrs. Harris inherited without probate from her grandfather, the deceased lot purchaser.

Present Owner: Mr. Lewis Dean
715 Ashbutron Street
Deed no. 1229 to Mary A. Dean, 1893, of lot no. 21 in section K containing 80 square feet, which Mr. Dean inherited without probate from his mother, the deceased lot purchaser.

Present Owner: Miss Lottie O. Chase
3414 Gwynns Falls Parkway
Deed no. 950 from Laurel Cemetery Company to Lucy A. Chase, October 10, 1908, of lot no. 181 and lot no. 182, in section R containing 80 square feet each, which Miss Chase inherited from her mother, without probate, the deceased lot purchaser.

It is not intended by the use of the words "deed" and "title" to stipulate as to the legal effect of said instruments.

Juanita Jackson Mitchell
Attorney for the Plaintiffs

Walter C. Meyland, Jr.
Attorney for the Defendants

LAUREL CEMETERY COMPANY.

Know all Men by these Presents,

That THE LAUREL CEMETERY COMPANY, for and in consideration of the sum of Seven Dollars, to them in hand paid by Nelson Jones of Baltimore the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey to the said N. Jones his heirs and assigns, One Lot of Land in the Laurel Cemetery, laid down in the Plan of said Cemetery, in the Office of said Company, and therein designated as Lot No. 263 in Area N containing Eighty superficial feet.

TO HAVE AND TO HOLD the herein above granted premises to the said Nelson Jones his heirs and assigns forever, subject however, to the conditions and limitations, and with the privileges specified in the Act of the General Assembly of Maryland, passed January Session, 1852, chapter 221, and such rules and regulations now in force, and such other rules and regulations as may be adopted hereafter for the management of said Cemetery, made pursuant to said Act of Assembly.

And the said THE LAUREL CEMETERY COMPANY, do hereby covenant to and with the said N. Jones his heirs and assigns, that they are lawfully seized of the herein granted premises in fee simple,—that they have the right to sell and convey the same for the purposes above expressed,—and that they will warrant and defend the same unto the said Nelson Jones his heirs and assigns forever.

IN TESTIMONY WHEREOF, the said THE LAUREL CEMETERY COMPANY have caused this Certificate of Title to be signed by their President, and their Common Seal to be affixed hereto, this 2nd day of June in the year of our Lord one thousand eight hundred and sixty 62

W. C. Kinney Pres't

TIMES, PRINT.

INCORPORATED JUNE, 1852. UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No 1037

LAUREL CEMETERY COMPANY.



Know all Men by these presents that **LAUREL CEMETERY COMPANY**, in consideration of Seventeen Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell, and convey to Mary J. Jones her heirs and assigns, One Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 248 in Section - 29 - on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, her heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery. TO HAVE AND TO HOLD the said LOT and right of way aforesaid, to the said Mary J. Jones her heirs and assigns forever, for purposes of SEPULTURE alone and none other, subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 29th day of April Eighteen Hundred and Ninety Three

Joseph N. Bussy President.

TEST: D. H. Emory Jones Secretary.

900

LAUREL CEMETERY COMPANY.

5718

Know all Men by these Presents,

That *THE LAUREL CEMETERY COMPANY*, for and in consideration of the sum of Twenty [illegible] Dollars, to them in hand paid by [illegible], the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell and convey to the said Roxana Weaver her heirs and assigns, all that *Lot — of Land* in the *Laurel Cemetery*, laid down in the Plan of said Cemetery in the Office of said Company, and therein designated as *Lot* — No. 241 Two hundred forty one in Area 6 — containing Eighty [illegible] superficial feet.

To Have and to Hold the herein above granted premises to the said Roxana Weaver her heirs and assigns forever, subject, however, to the conditions and limitations, and with the privileges specified in the Act of the General Assembly of Pennsylvania, passed January [illegible], 1852, chapter 221, and such rules and regulations as [illegible] and such rules and regulations as may be adopted hereafter for the management of said Cemetery, made pursuant to said Act of Assembly.

And the said *The Laurel Cemetery Company*, do hereby covenant to and with the said Roxana Weaver her heirs and assigns, that they are lawfully seized of the herein granted premises in fee simple,—that they have the right to sell and convey the same for the purposes above expressed, and that they will warrant and defend the same unto the said Roxana Weaver her heirs and assigns forever.

In Testimony Whereof [illegible] have caused this Certificate of Title to be signed by their President, [illegible] C. H. Emory and their Common Seal to be affixed hereto, this Twenty Third day of May in the year of our Lord one thousand eight hundred and seventy four

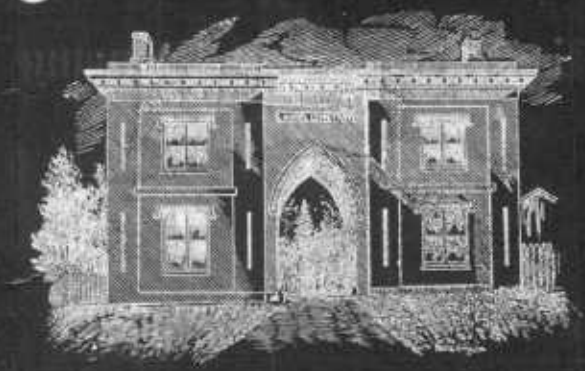
C. H. Emory Pres.

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

DEED

No. 2289

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Twenty four Dollars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain and sell, and convey to Mollie Bowen her heirs and assigns, one Lot of Ground in LAUREL CEMETERY in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 69 in Section R on the PLAN of said Cemetery, containing Eighty square feet, more or less, which PLAN is in possession of said Corporation for inspection by the grantee, her heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, TO HAVE AND TO HOLD the said LOT and the right of way aforesaid, to the said Mollie Bowen her heirs and assigns forever, for the purposes of SEPULTURE alone and none other, subject to the provisions of a general ACT of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY Session, Eighteen Hundred and Fifty-two, Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to conditions, rules and regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY. No transfers recognized unless made and attested at the office of the Company.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation hath hereto subscribed his name, this 14th day of August Nineteen Hundred and Fifteen

Stephen M. Bunn Jr. *President.*

TEST: A. H. Emory Treas. *Secretary.*

F. ALBERT KURTZ, PRINTER, BALTIMORE.

INCORPORATED JUNE, 1852, UNDER A GENERAL LAW OF THE STATE OF MARYLAND.

No 464

DEED

LAUREL CEMETERY COMPANY.



Know all Men by these presents, that LAUREL CEMETERY COMPANY, in consideration of Forty Dollars, paid by Isaac H. Baker at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and conveyed, and by these presents doth grant, bargain, and sell and convey to the said Isaac H. Baker his heirs and assigns, Two Lots of Ground in LAUREL CEMETERY, in BALTIMORE COUNTY, in the STATE OF MARYLAND, and numbered 239 & 240 in Section A on the PLAN of said Cemetery, containing Each Eighty square feet, more or less, which Plan is in possession of said Corporation for inspection by the grantee, his heirs and assigns at all seasonable times, with the right of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery. TO HAVE AND TO HOLD the said Lot and right of way aforesaid, to the said Isaac H Baker his heirs and assigns forever, for purposes of Sepulture alone and none other, subject to the provisions of a general Act of the General Assembly of Maryland, passed at January Session Eighteen Hundred and Fifty-two, Chapter [illegible] entitled "An Act to empower [illegible]" and to the regulations," adopted and to be adopted by the Managers of said LAUREL CEMETERY COMPANY.

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY have caused their Corporate Seal to be affixed to this Deed, and the President of said Corporation hath hereto subscribed his name, this 27th day of September in the year Eighteen Hundred and Eighty four

Casper W. Berry President.

TEST:

Jno H. Emory Secretary.

D.H.E.

KELLY, PUET & Co., Printers and Stationers.

ENERAL LAW OF THE STATE OF MA

DEED

ETERY

No. 1950

LAUREL

MPANY.



Know all Men

Forty four

presents, that LAUREL CEMETERY COMPANY, in consideration of

llars, the receipt of which is hereby acknowledged, has granted, bargained and sold, and

bargain and sell, and convey to Lucy Chase

her heirs and assigns

CEMETERY in BALTIMORE COUNTY, the STATE OF MARYLAND, and numbered 181 and 182

Section R on the PLAN of said Cemetery, containing Four Eighty

is in possession of said Corporation for protection by the grantee, her heirs and

of way to and from the said Lot along the avenues, walks, paths and ways of said Cemetery, AT ALL REASONABLE TIMES, WITH THE RIGHT

LOT and the right of way aforesaid unto the said Lucy Chase

her heirs and assigns forever, for the purposes of SEPULTURE and none other, subject to the

provisions of a general Act of the GENERAL ASSEMBLY OF MARYLAND, passed at JANUARY SESSION, Eighteen Hundred and Fifty-two,

Chapter 221, entitled: "AN ACT TO INCORPORATE CEMETERY COMPANIES and subject also to such rules and regulations as may be adopted

and to be adopted by the Managers of the LAUREL CEMETERY COMPANY. No transfer recognized unless made and attested

at the office of the

In Testimony Whereof, the President and Managers of LAUREL CEMETERY COMPANY

have caused their Corporate Seal to be affixed to this Deed and the President of said Corporation

hereunto subscribed his name, this 10th day of October

Nineteen Hundred and Eight

President.

Secretary.

F. ALBERT KURTZ, PRINTER, BALTIMORE

Fd. 7 July 1960

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1959

PLAINTIFFS EXHIBIT A FOR IDENTIFICATION

NOTE: Above named Exhibit is filed in these proceedings as Plaintiffs Exhibit No. 32.

A-39097 (93)

Fd. 7- July 1960

PLAINTIFFS EXHIBIT B FOR IDENTIFICATION

A-424
1959

NOTE: Above named Exhibit is filed in these proceedings as Plaintiffs Exhibit No. 31.

A-39097 (94)

Fd. 7 July 1960

PLAINTIFFS EXHIBIT C FOR IDENTIFICATION

A-424
1959

NOTE: Above named Exhibit is filed in these proceedings as Plaintiffs Exhibit No. 33.

A-39097 (95)

Fd. 7- July 1960

DEFENDANTS EXHIBIT NO. 1

A-424

1959

NOTE: Above named Exhibit is case entitled "Julia Jones vs. McKamer Realty Co., et al.", file No. A-39096, which has been appealed and is arriving simultaneously at Court of Appeals with these proceedings.

A-39097 (96)

Fd. 7th July 1960

DEFENDANTS EXHIBIT NO. 2

A-424
1959

NOTE: Above named Exhibit is case entitled "Lillian Waters vs. McKamer Realty Co., et al.", file No. A-39107, which has been appealed and is arriving simultaneously at Court of Appeals with these proceedings.

A-39097 (97)

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That Section 11 of Article 63 of the Annotated Code of Maryland (1951 Edition), title "Mechanic's Lien", be and the same is hereby repealed and re-enacted, with amendments, to read as follows:

11. If the contract for furnishing such work or materials, or both, shall have been made with any architect or builder or any other person except the owner of the lot on which the building may be erected, or his agent, the person so doing work or furnishing materials, or both, shall not be entitled to a lien unless, within **[**sixty**]** *ninety* days after furnishing the same, he or his agent shall give notice in writing to such owner or agent, if resident within the city or county, of his intention to claim such lien.

SEC. 2. *And be it further enacted*, That this Act shall take effect June 1, 1957.

Approved April 10, 1957.

CHAPTER 630

(House Bill 594)

AN ACT to add a new section to Article 16 of the Annotated Code of Maryland (1951 Edition), title "Chancery", sub-title "Jurisdiction", said new section to be known as 124A and to follow immediately after Section 124 of said Article 16, providing for the sale and disposition of cemeteries or burial grounds in Baltimore City under certain conditions for which provision has not been made for the perpetual care and maintenance thereof and which have been abandoned or are a menace or detrimental to the public health, safety, security or welfare; providing for the use and distribution of funds which may be derived from the sale of any such cemeteries or burial grounds, and providing for the transfer and conveyance of title to the purchasers of any such cemeteries or burial grounds sold under the provisions of this Act, and relating generally to the sale and disposition of certain cemeteries or burial grounds in Baltimore City under certain conditions.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That a new section be and it is hereby added to Article 16 of the Annotated Code of Maryland (1951 Edition), title "Chancery", sub-title "Jurisdiction", said new section to be known as 124A, to follow immediately after Section 124 of said Article 16, and to read as follows:

124A. In any case within the boundary lines of Baltimore City where all or more than 75% of the acreage of a cemetery or burial ground, in which the land or property located therein has been dedicated to or appropriated or used for burial purposes and lots have

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EXPLANATION: *Italics indicate new matter added to existing law.*
[Brackets] indicate matter stricken from existing law.
CAPITALS indicate amendments to bill.
~~Strike~~ ~~out~~ indicates matter stricken out of bill.

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been sold therein and deeds or other written evidences have been executed or issued to the purchasers of such lots without provision having been made for the perpetual care and maintenance of such lots, has been abandoned or is or becomes a menace or detrimental to the public health, safety, security or welfare, any one having a property right in such cemetery or burial ground or any public agency having an interest in the elimination or abatement of the conditions in such cemetery or burial ground which are or become a public nuisance shall have the right to file a bill of complaint in either one of the equity courts of Baltimore City setting forth the aforegoing facts, and setting forth the names of the owners of lots in such cemetery or burial ground or their assignees so far as the same may be known, and upon the filing of such bill of complaint the court shall order notice by publication in one or more daily newspapers published in the City of Baltimore, or the court may, in its discretion, order notice to be given by posting the premises at the points thereon and in such form as may be designated by the court for such period of time as the court may direct but such posting shall not be less than twelve (12) weeks before the day fixed for the appearance of the parties, and if notice is given by publication, it shall be in such form as may be designated by the court and shall be published for such number of times as the court may direct but such notice shall not be published less than once each week for four (4) successive weeks prior to a date at least eight (8) weeks before the day fixed for the appearance of the parties, warning all of the lot owners, their assignees and other persons in interest, residents or non-residents, adults, infants and other persons under any legal incapacity, to appear in court on or before the day fixed in said notice, to show cause, if any they may have, why the relief prayed for should not be granted. Upon a failure of appearance by any of said lot owners, or any other party having an interest in any of said lots, by the time limited in said notice, the court may order testimony to be taken ex parte, in accordance with the usual practice in equity in cases of default for non-appearance. Upon testimony being taken in the cause ex parte, or otherwise, if it is made to appear to the satisfaction of the court that all or more than 75% of the acreage of the particular cemetery or burial ground involved has been abandoned or has become a menace or is detrimental to the public health, safety, security or welfare, the court may forthwith pass a decree ordering the sale of the entire land or property and each and every burial lot contained in such cemetery or burial ground and each and every interest therein upon such terms, conditions and notice as the court may deem proper and appoint a trustee to so do. The proceeds derived from such sale shall be collected by the said trustee and shall be used, distributed and paid over by the trustee in the order, for the purposes, in the manner, to the extent and to the persons hereinafter mentioned, as follows: 1st, for the removal and reinterment of any and all bodies that with reasonable care can be definitely located in such cemetery or burial ground, and for the purchase of a lot in any other cemetery, burial ground or other appropriate place of sepulture in which to reinter such bodies, and to pay any and all expenses incurred for or in connection with the disinterment and reinterment of such bodies; 2nd, in the event any lot in such cemetery or burial ground has been and is being maintained in good order and condition, and any monument or marker situate on such lot that has been and is being maintained in good order are not damaged but

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cemetery, burial ground or other appropriate place of sepulture and the monument or marker situate on the old lot shall be removed and relocated on the new lot so purchased, and the title to the new lot shall be taken in the name of the owner or parties in interest in the old lot; 3rd, for the removal of monuments or markers located in such cemetery or burial ground which are not damaged but are in good condition which can be definitely identified with a body or bodies who is or are removed from such cemetery or burial ground and reinterred as provided for in item 1st hereof and for the re-erection of such monuments or markers at the new lot; 4th, for the elimination and removal of any and all existing conditions that are a menace or detrimental to the public health, safety, security or welfare, unless the contract covering the sale of such cemetery or burial ground provides for the abatement of such conditions within a reasonable period of time after such sale has been fully consummated; and 5th, after any and all expenses incurred for or in connection with doing any and all of the things mentioned in or contemplated by the first four items hereof, and the costs of conducting the necessary legal proceedings, including court costs, trustee's commissions and legal fees, and all taxes, if any, have been paid in full, then the balance of the proceeds of sale remaining in the hands of the trustee shall be paid over to the legal entity who had record title to such cemetery or burial ground in its entirety, subject to the burial rights which had been granted therein, as disclosed by the Land Records of Baltimore City, immediately prior to the sale of such cemetery or burial ground by the said trustee as hereinbefore provided, free, clear and discharged of, and from, any and all claims of any lot owners or other persons in interest in such cemetery or burial ground or the land or property contained therein, regardless of whether they may be entitled as original lot owners or heirs or assignees and regardless of whether they are residents, non-residents, adults, infants or other persons under any legal incapacity. Any decree or order passed in a legal proceeding and any deed or other conveyancing instrument executed by a trustee under the provisions of this section shall be valid to pass to the purchaser or purchasers of any such cemetery or burial ground the title to all land and property contained therein, free, clear and discharged of, and from, any and all claims of the legal entity who owned such cemetery or burial ground in its entirety immediately prior to the sale of such cemetery or burial ground by a trustee as hereinbefore provided, its, his or their heirs, personal representatives, successors or assigns, and of, and from, any and all claims of any lot owners or other persons in interest in such cemetery or burial ground or the land or property contained therein, regardless of whether they may be entitled as original lot owners or heirs or assignees and regardless of whether they are residents, non-residents, adults, infants or other persons under any legal incapacity, and free, clear and discharged of any proclaimed or actual use or appropriation or dedication of any land or property contained in such cemetery or burial ground for burial purposes.

SEC. 2. *And be it further enacted,* That any and all laws and any and all parts of laws which are inconsistent with the provisions of this Act are hereby repealed to the extent of any such inconsistency and are hereby declared not to be applicable to the provisions of this Act.

SEC. 3. *And be it further enacted,* That in case it be judicially determined that any word, phrase, clause, item, sentence or para-

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graph of this Act, or the application thereof to any person or circumstance, is invalid, the remaining provisions and the application of such provisions to other persons or circumstances shall not be affected thereby, the legislative branch of the State of Maryland hereby declaring that they would have enacted the remaining provisions of this Act without the word, phrase, clause, item, sentence or paragraph, or the application thereof, so held invalid.

SEC. 4. *And be it further enacted*, That this Act shall take effect June 1, 1957.

Approved April 10, 1957.

CHAPTER 631

(House Bill 608)

AN ACT to repeal and re-enact, with amendments, Section 550 of Title 32 of the Code of Public Local Laws of Baltimore County (1955 Edition), title "Revenue Authority", sub-title "Trust Indenture", to permit the Baltimore County Revenue Authority to mortgage parking facilities constructed, owned and operated by it.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That Section 550 of Title 32 of the Code of Public Local Laws of Baltimore County (1955 Edition), title "Revenue Authority", sub-title "Trust Indenture" be and the same is hereby repealed and re-enacted, with amendments, to read as follows:

550. (Trust Indenture). The Authority is hereby authorized, in its discretion, to secure any revenue bonds, certificates or other evidence of indebtedness issued to provide funds for the purchase, acquisition, construction or improvement of any project or projects by a trust indenture by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the State. At any one time, the Authority may, in its discretion, be a party to one or more of such trust indentures, if revenue bonds have been issued to finance more than a single project as defined in this sub-title. Such trust indenture or indentures may pledge or assign all revenues to be received from any project or projects but shall not convey or mortgage the project or any part thereof, *except that the Authority may mortgage any parking facilities, as such facilities are defined in Sub-section 14 of Section 543 of this Title, or any part thereof to further secure any revenue bonds, certificates or other evidences of indebtedness issued to provide funds for the purchase, acquisition, construction or improvement of any such parking facilities.* Either the resolution providing for the issuance of revenue bonds or such trust indenture or indentures may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and

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EXPLANATION: *Italics indicate new matter added to existing law.*
[Brackets] indicate matter stricken from existing law.
CAPITALS indicate amendments to bill.

Fd. 7-July 1960
Defendants Exhibit No. 3

A. 421
1959

A. 39097 (98)

A-424
1959

Fd. 7-July 1960

DEFENDANTS EXHIBIT A FOR IDENTIFICATION

PHOTOGRAPH

NOTE: Above named Exhibit missing from record.

A-39097 (99)

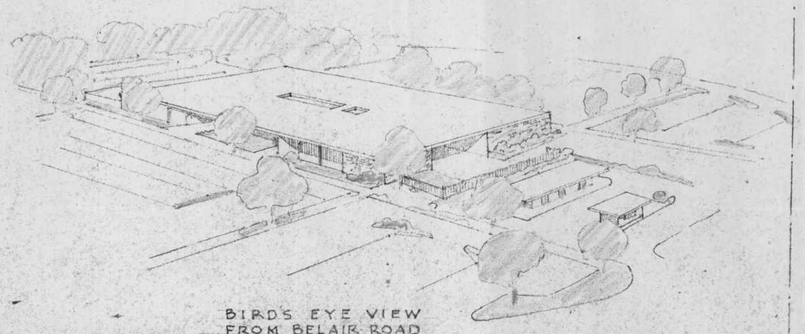
Id. 7 July 1960
Plaintiffs Exhibit No. 43

A-424
1959

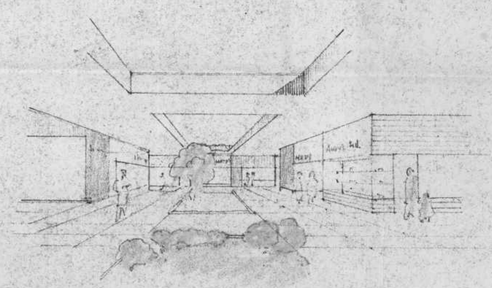


A-39097 (85)

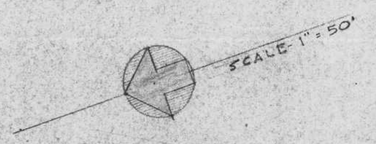
Ord. 7 - July 1960
Plaintiffs Exhibit No. 43
A-424
1959

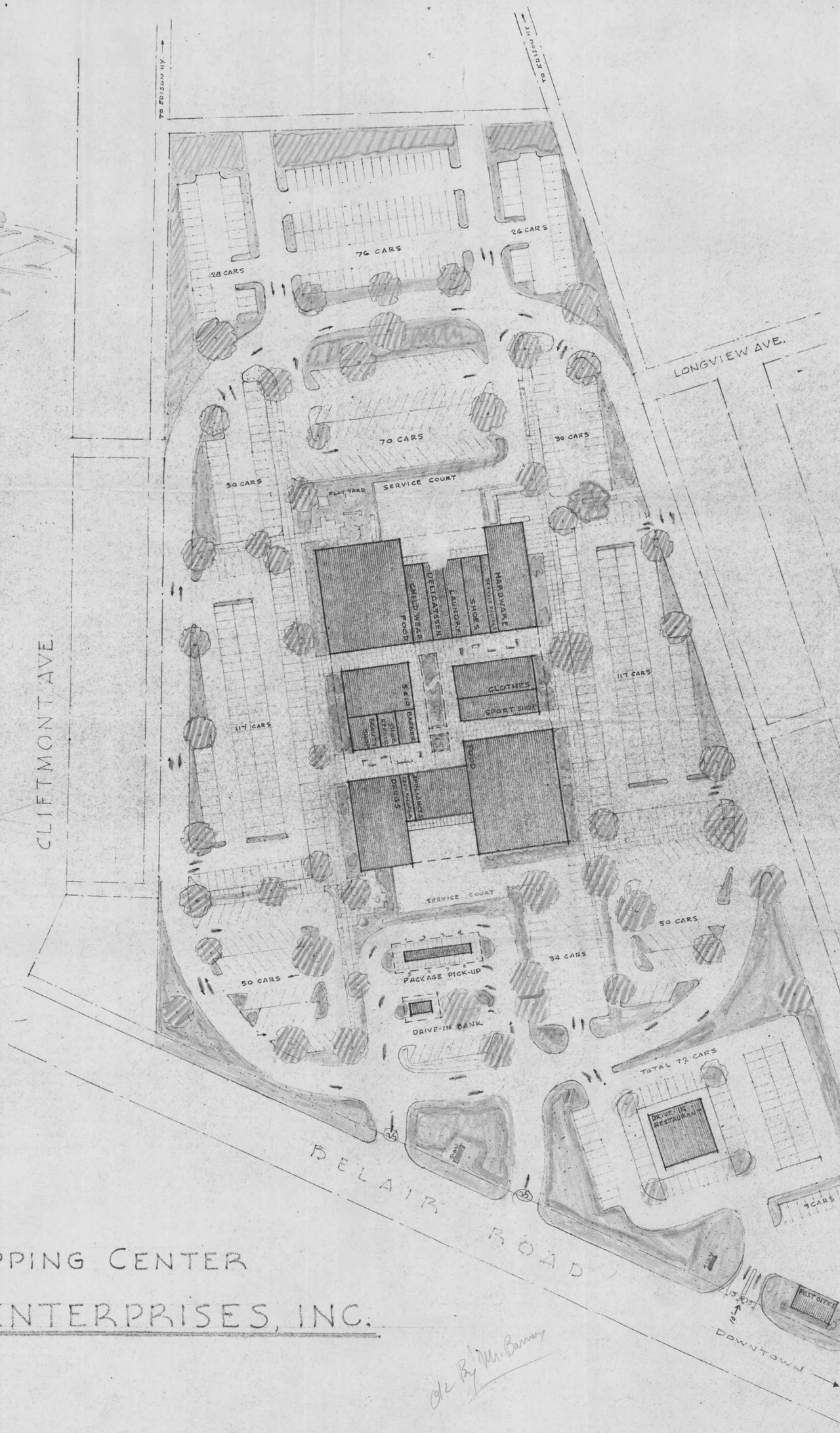


BIRDS EYE VIEW
FROM BELAIR ROAD



CENTER COURT LOOKING EAST





PROPOSED STORES

	SIZE	AREA
FOOD STORE	90 x 110	9900
CHILDREN'S WEAR	20 x 80	1600
DELICATESSEN	20 x 80	1600
LAUNDRY	20 x 80	1600
SHOES	20 x 80	1600
HARDWARE	40 x 110	4400
5 & 10	50 x 70	3500
CLOTHES	35 x 85	2975
BEAUTY SHOP	30 x 35	1050
SHOE REPAIR	20 x 35	700
BARBER	20 x 35	700
SPORT GOODS	25 x 85	2125
DRUGS	55 x 95	5225
APPLIANCE	50 x 60	3000
FOOD STORE	95 x 120	11400
TOTAL - MAIN STORE		51,375
DRIVE-IN REST.	60 x 60	3600
DRIVE-IN BANK	12 x 22	265
POST OFFICE (SITE)	130 x 150	19500

PARKING RATIO - 4:1

PROPOSED SHOPPING CENTER
FOR
BELAIR ROAD ENTERPRISES, INC.

J. MAUDUIT BERRY
ARCHITECT
MARCH 20, 1959

PLEASE RETURN
TO
Department of Planning
400 Municipal Building
Baltimore 2, Maryland

Ord. By Mr. Barney