

Question: May the township set rules and regulations regarding deed lots for the township cemetery?

Answer: Yes.

Question: At what price should the trustees sell the deeds to cemetery lots?

Answer: There is not a statutory law regarding the set price for cemetery lots. The trustees should exercise their discretion in determining a reasonable price for the cemetery lots.

Question: Can one party who has a deed to a cemetery lot execute a transfer to a second party? Is this procedure permitted?

Answer: Proper procedure would be for the original party to surrender his deed to the township and the township then issue a new deed to the third party. This can be controlled by rules and regulations

Question: What amount should a township pay when it re-purchases cemetery lots, the current price per lot or the price at which the lot was sold?

Answer: Ohio Revised Code §517.07 authorizes the board to re-purchase any cemetery lot from its owner at any time at a price that is mutually agreed upon by the board and its owner.

Question: What statutory authority allows township trustees to make rules and regulations for cemeteries?

Answer: Ohio Revised Code §517.11 provides that: "The board of trustees shall provide for the protection and preservation of cemeteries under its jurisdiction." In addition, Ohio Revised Code §517.06 specifically provides that: "Such board shall make and enforce all needful rules and regulations for the division of such cemeteries into lots." Ohio Revised Code §517.12 authorizes: "Rules specifying the times when cemeteries shall be closed to the public."

Question: Is the purchaser of a cemetery lot subject to the rules and regulations of the cemetery?

Answer: Yes.

Question: May the trustees adopt rules and regulations governing the transfer of title of a cemetery lot from a deceased party to his survivors?

Answer: Yes.

From reading the above particular questions and answers one can draw the following:

A township cemetery is governed by rules and regulations. Therefore the Blanchard Township Trustees may set policies governing the sale of their cemetery lots. Additionally the statute refers to purchasing cemetery lots back and the only statutory standard is, it be a mutually agreed upon by the board and owner. The policy of the township of Blanchard historically has been to purchase the lots back at the purchase price paid by the original owner. Since the township only authorized the sale of the lots to Richard Arn at \$150 a lot it stands to reason that policy of paying back the original cost of \$150 per lot is reasonable. This fact has been stated to this prosecutor that this has been the policy of this township for years. To permit a township employee who has imputed if not actual knowledge of this policy and for him to circumvent this long-standing policy to purchase the lots not from the township but from the original owner at 2/3 of cost amount clearly shows a contradiction of the policy and creates a conflict of interest.

Ohio Revised Code §102.03(D) prohibits a public employee or official from using or authorizing the use of his office or employment to secure anything of value or the promise of anything of value that is of such a character as to manifest a substantial improper influence upon him with respect to his duties.

Ohio Revised Code §102.03(E) prohibits a public official or employee from soliciting or accepting anything of value that is of such character as to manifest a substantial improper influence upon him with respect to his duties.

Ohio Revised Code §2921.42 prohibits a public official from (1) knowingly using his offices "to secure authorization of a contract in which he, a member of his family, or any of his business associates has an interest." (4) having an interest in the profits or benefits of a contract entered into by or for the use of the government agency, instrumentality, or political subdivision with which he is connected.

There are several other public conflicts and improper interest in public contracts sections that could be cited. However to make the point I believe what I have already stated covers the problem as it was addressed to this office. Not only does the Ohio Revised Code prohibit this conduct it also provides for criminal penalty that may be a felony or a misdemeanor in the proper case.

In summary, the board of township trustees may make policies, rules and regulations governing their cemeteries. Here this township has done so. Second for a public employee or an employee of this township to benefit by circumventing the standing policies of this township clearly creates a conflict of interest and an improper interest in a public contract.

To correct this problem Mr. Wilson should be instructed to return the money to the Arn family. The Arn family then if they wish to sell these lots should sell them directly back to Blanchard Township for the standing price of \$150 per lot. If Mr. Wilson then wishes to obtain these lots from the township, he would be like any other citizen and pay the prevailing price set for the purchase of these lots, which I understand to be \$200 per lot. This deed paper trail should be made to clear up the problem and to avoid the appearance of any conflict of interest when the records are reviewed by third parties.

Respectfully Submitted,

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Prosecuting Attorney