

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3970
FACSIMILE: 803-253-6283

April 9, 1991

The Honorable C. D. Chamblee
Member, House of Representatives
436-B Blatt Building
Columbia, South Carolina 29211

Dear Representative Chamblee:

As you were advised by Attorney General Medlock, your letter of March 29, 1991, with enclosure from one of your constituents, was referred to me for research and response. Your constituent is concerned about perpetual care cemeteries charging fees for their care and maintenance funds higher than state law allows.

This Office issued an exhaustive opinion on February 26, 1987, concerning the various issues about which your constituent is concerned. State law provides that a minimum of eight cents per square inch (of the memorial's or the marker's base) be placed in a perpetual care cemetery's care and maintenance trust fund. § 39-55-155, S.C. Code Ann. (1976). Other than that statute, we are unable to locate any which otherwise regulates the specific fees which may be charged by a cemetery. A copy of the previous opinion is enclosed.

We have reviewed the law and statutes discussed in the previously-issued opinion and have found that the prior opinion still represents the law as is currently in effect. There is thus no reason to revisit the conclusions reached therein. The opinion of February 26, 1987 is therefore still the opinion of this Office as to those issues.

As noted in the prior opinion, this Office cannot investigate facts, nor can we determine conclusively that tying arrangements or violations of the Sherman Antitrust Act or the Clayton Act have occurred. We continue to suggest that the judicial system or the Cemetery Board would be more appropriate fora in which your constituent's concerns could be resolved.

The Honorable C. D. Chamblee
Page 2
April 9, 1991

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Executive Assistant for Opinions

cc: Mr. Mike Haley