

HB1354 - Requirements for Sale or Transfer or Government Acquisition

I'm David Zinner, the coordinator for the Maryland Cemetery Legislative Advocates. You can read more about our group in the accompanying fact sheet.

I have extensive experience with cemeteries in Maryland. I've been a Religious and Consumer Representative at Maryland's State Advisory Council for Cemetery Operation but I am not representing the Advisory Council or the Office of Cemetery Oversight.

We are fortunate in Maryland that our residents have so many cemetery choices. We have religious cemeteries, veteran's cemeteries, commercial cemeteries, pet cemeteries and natural burial cemeteries. We have for profit and non-profit cemeteries. We have family cemeteries and cemeteries of those who were enslaved and never freed in their lifetime.

Regardless of their ownership, or their nature, cemeteries reflect the history of our people. Cemeteries are a sacred space, a space to honor those who have died. A place for contemplation and remembrance for friends and relatives. Cemeteries are our visible inheritance of the past and our future obligation to protect.

HB1354 addresses two of the critical problems facing Maryland cemeteries.

The first problem is the prevalence of abandoned cemeteries in the state. Our quick informal survey has identified at least one abandoned cemetery in every county. And let me be clear, we're not just talking about neglected cemeteries that are unsightly, although this is a major issue with abandoned cemeteries. We're talking about cemeteries where we can't find an owner, where the owner is deceased and there is no one in charge, or

where there is no record of an owner on the SDAT (Maryland's Real Property Database.)

Aside from maintenance of the grounds, when a cemetery is abandoned, current law does not offer a way for a municipality, county or the State to take over the cemetery. There is currently no legal way to do so.

In addition, those that want to care for the cemetery, whether it be work crews from prison or dedicated volunteers, cannot obtain owner permission to work at the cemetery.

This bill addresses this problem by giving counties, municipalities and the State the power, but not the obligation, to legally acquire these abandoned cemeteries and to turn them over to a non-profit that will maintain them. This addresses both the current situation with abandoned cemeteries, as well as the probability that there will be more abandoned cemeteries in the future.

The second part of the bill deals with a sale of a cemetery for another purpose. Here we are talking about a cemetery where the owner is known, but the owner no longer wants to keep the cemetery for its intended purpose – to honor and respect those buried in the cemetery. Instead the owner wants to sell the cemetery to build a commercial establishment, such as a condo, or a shopping center. Those cemeteries look so tempting – big tracts of open land – they are hard to resist.

But selling a cemetery is not like selling a house. Generally, when a house with rental tenants is sold, the tenants have to leave. But if you want to sell a cemetery, you can't ask the residents to leave. They cannot walk away or be evicted.

In addition, when there is a burial at a cemetery, there is usually an understanding, sometimes oral, sometimes written, between the deceased person's loved ones and the cemetery owner that, once buried, the deceased will not be disturbed. So even though the relatives do not "own" the land, they have a critical stake and it is important for them to be consulted, to become part of the process for deciding the fate of the cemetery.

The current law 5-505 leaves approval up to the court, which may, or may not intervene. The current process does not specifically recognize the rights of the families whose loved ones are buried in that cemetery.

Under our bill, the descendants may decide they want to try to purchase the cemetery to preserve it. Or they might agree to have their loved ones disinterred and moved to a new location. What is important is that they have a "seat at the table" and become an integral part of the process.

This bill establishes a fair process for all parties when a cemetery owner wants to sell a cemetery for another purpose.

Please support HB1354