



**OFFICE OF THE SECRETARY OF STATE
STATE OF GEORGIA
BOARD OF CEMETERIANS**

IN THE MATTER OF

Nancy Hart Memorial Park, Inc.,

Case Number: ENCE-0504

Respondent.

**EMERGENCY ORDER TO CEASE AND DESIST AND IMPOSITION OF CIVIL
PENALTY REGARDING CARE AND MAINTENANCE**

This matter comes before the Secretary of State of the State of Georgia (“Secretary”) by and through the Board of Cemeterians (“Board”) pursuant to the authority granted in O.C.G.A. §§10-14-14 & 10-14-15 of the Georgia Cemetery and Funeral Services Act of 2000, as amended (“Act”). Whereas, the Secretary undertook an investigation into the acts and practices of Nancy Hart Memorial Park, Inc. (“Nancy Hart” or “Respondent”).

While conducting an investigation, the Secretary concluded that Respondent may have engaged in acts or practices constituting violations of the Act. These findings are made public pursuant to O.C.G.A. § 10-14-15. The Secretary has determined it is in the public interest to issue this Emergency Order.

Based upon information obtained during the investigation, the Secretary makes the following findings of facts and conclusions of law:

FINDINGS OF FACT

1. Nancy Hart is located at 1171 Royston Hwy, Hartwell, Georgia 30643.
2. Respondent is a “cemetery” as defined by O.C.G.A. § 10-14-3(8). As such, Respondent is subject to the Act and the rules and regulations (“Rules”) promulgated thereunder.
3. Nancy Hart is registered with the Securities and Charities Division (“Division”) as a perpetual care/preneed cemetery (“PCPN”) pursuant to O.C.G.A. § 10-14-3(28) with license

number PCPN000120. Nancy Hart has been registered since August 6, 2011, and is owned by The Hurst Corporation.

4. In March 2023, the Secretary received information from a complainant regarding the condition of the Nancy Hart.

5. The complaint gave the Division reasonable cause to believe that a violation of the Act had occurred.

6. On March 20, 2023, the Division sent an inspector from the Secretary's office to inspect the cemetery and report on the condition of Nancy Hart's care and maintenance. The inspector took one hundred ninety-two (192) photographs ("Photo(s)") of the cemetery and interviewed the owner about Nancy Hart's office hours and communication procedures. The inspector's findings are described in detail below.

a. Grounds on March 20, 2023

7. The inspector reported sidewalks and steps with extensive cracking. The inspector noted a set of steps with a caving top step, creating a safety hazard. Photos taken show multiple sets of steps that appear cracked and unstable.

8. The inspector also reported the grounds have onions growing throughout the entire cemetery. Photos taken show areas of the cemetery with overgrown grass and weeds.

9. The inspector photographed large bare patches in the cemetery without grass. These bare patches do not have sod or other materials to stimulate grass growth. Further, the inspector reported the fill dirt of the graves appears to include a lot of rock instead of dirt, the industry standard.

10. The inspector photographed sod stacked in the middle of the cemetery. Photographs taken also show large tree branches scattered along a side of the cemetery.

b. Graves on March 20, 2023

11. The inspector reported many graves are bare without sod or other materials to stimulate grass growth.

12. The inspector also noted many graves have been improperly filled and are either sinking or over filled. Some graves are adjacent to holes in the ground.

13. The inspector reported several graves covered in dead grass.

c. Headstones, Markers, and Vases on March 20, 2023

14. The inspector reported many of the markers are covered with ant beds. The inspector also noted many markers are surrounded by weeds. Photos taken show many markers

with dirt covering the edges of the markers. The ant beds, weeds, and dirt are obscuring these markers.

15. The inspector reported numerous broken vases at the cemetery. Photos taken show many vases have been knocked over and some vases completely missing from graves.

16. The inspector photographed some pieces of granite scattered along a side of the cemetery.

d. Mausoleums on March 20, 2023

17. The inspector reported the ceiling of one of the mausoleums is covered in dirt and debris with peeling paint. Photos taken reflect environmental staining on numerous portions of the mausoleums.

18. The inspector photographed cracks on the corners of one of the mausoleums.

e. Roadways and Entryway on March 20, 2023

19. The inspector reported there are dead plants around the sign at the entrance of the cemetery. Further the inspector photographed unruly straw around the entry sign.

20. The inspector reported there is cracking of the asphalt on the roadways.

f. Office Hours and Communication Procedures on March 20, 2023

21. A sign on the cemetery's office door read, "This office is temporarily closed. We apologize for this inconvenience. If you have any questions or concerns about a grave or marker, please call our Winder office at (770) 867-3290."

22. The inspector obtained a statement from the owner, Mr. Russell Young ("Young"), regarding the office hours at Nancy Hart, hours of operation, and communication with families.

23. Regarding the office hours at Nancy Hart, Young reported a previous employee was terminated for not performing her job duties. Young reported he was actively looking to hire someone to fill the vacant office position.

24. Regarding the hours of operation, Young stated the office at Nancy Hart was temporarily closed due to the fact he has not been able to fill the vacant position.

25. Regarding communication with families, Young stated they are taking calls regarding Nancy Hart at their home office in Winder. Young also stated there is an employee who goes to the Nancy Hart office once a week to deal with any office related issues.

26. Between April and August 2023, the Division received complaints from five (5) separate constituents against Nancy Hart.

27. The five (5) complaints regarded delays in headstone installation and care and maintenance issues. This order focuses on care and maintenance issues. The investigation into delays in headstone installation is ongoing.

28. In response to constituent complaints, the Division conducted a follow up inspection. On August 16, 2023, the Division sent an inspector from the Secretary's office to conduct the follow up inspection of Nancy Hart's care and maintenance conditions. The inspector took two hundred forty-four (244) photographs ("Photo(s)") of the cemetery and interviewed the owner about Nancy Hart's office hours, communication procedures, and mausoleum conditions. The inspector's findings are described in detail below.

g. Grounds on August 16, 2023

29. The inspector also reported there are several areas where the grass has not been maintained properly. Photos taken show numerous bare patches remain on the cemetery grounds.

30. The inspector reported a lot of overgrown grass and weeds remain throughout the cemetery, including around some markers.

31. The inspector reported the grounds crew was working during the inspection and advised they were in the process of mowing and trying to weed eat all the markers. However, upon the inspector's departure a lot of overgrown grass remained, and the grounds crew was no longer working.

32. Photos taken show one set of steps is still cracked and crumbling and the safety hazard remains. Further, some of the sidewalks are still riddled with large cracks.

h. Graves on August 16, 2023

33. The inspector reported numerous graves remain bare and noted it appeared grass never grew back on those graves. These graves still do not show signs of sod or other materials to stimulate grass growth. Further, several graves are covered with dead grass.

34. The inspector also noted overgrown grass and weeds present on several graves.

i. Headstones, Markers, Monuments, and Vases on August 16, 2023

35. The inspector reported an abundant number of markers remain overgrown with weeds, covered in grass clippings, or coated with dirt. As such, these headstones remain obscured.

36. The inspector noted many graves with vases still knocked over or completely missing.

37. The inspector also reported monuments were showing signs of weathering, including one stone structure which is completely broken.

38. Photos taken show pieces of granite scattered along a side of the cemetery.

j. Mausoleums on August 16, 2023

39. The inspector noted there are several mausoleums on this property.

40. The inspector reported all the mausoleums still showed signs of weathering and environmental staining on the outside and even on the inside of some of the mausoleums.

41. The inspector photographed peeling paint and cracks on the outside of one of the mausoleums. Another mausoleum has peeling paint and ceiling cracks inside of the mausoleum. One of the steps leading up to a mausoleum was cracked.

42. The inspector noted one of the mausoleums was broken and one of the corner pillars had fallen. The inspector further noted that you could see the vault doors through the broken portion of the mausoleum and the vault doors did not appear to be opened. There are two areas of the mausoleum with gaps due to structural damage to the mausoleum.

43. On August 21, 2023, Young prepared a statement regarding the action plan to fix this issue. Young's statement included the following:

- a. The cemetery was notified of the latest damage the week of August 14, 2023;
- b. The cemetery has had issues with this mausoleum in the past and two or three repairs have been done in previous years;
- c. On August 18, 2023, a stone mason came to the cemetery to inspect the damage and create an estimate of the cost to repair the mausoleum and other issues in the cemetery; and
- d. The interior structure of the mausoleum sustained no damage, and Young is certain there are not any environmental or biohazard issues.

k. Roadways and Entryway on August 16, 2023

44. The inspector noted cracks in the asphalt and dirt on the roadways.

l. Office Hours and Communication Procedures on August 16, 2023

45. On August 21, 2023, the inspector obtained a statement from Young regarding the office personnel at Nancy Hart, hours of operation, and communication with families.

46. Regarding the office personnel at Nancy Hart, Young stated as of April 18, 2023, there is one (1) full-time employee managing the office at Nancy Hart.

47. Regarding the hours of operation, Young stated their normal business hours are from 9:00 a.m. until 4:00 p.m. Monday through Thursday and 9:00 a.m. until 3:00 p.m. on Friday.

Young stated the office can be open on weekends or any time outside normal business hours by appointment only.

48. Regarding communications with families, Young stated the employees in the office are handling any and all issues related to Nancy Hart whether the issues are related to the office or spaces, markers, etc.

49. On December 7, 2023, the Division received information from a complainant that the conditions of Nancy Hart continued to deteriorate.

50. On December 8, 2023, the Division sent an inspector from the Secretary's office to conduct the follow up inspection of Nancy Hart's care and maintenance conditions. The inspector took one hundred forty-three (143) photographs ("Photo(s)") of the cemetery. The inspector's findings are described in detail below.

m. Grounds on December 8, 2023

51. The inspector reported graves soiled with grass and weeds from a previous cutting.

52. The inspector noted he observed ant beds, weeds, and wild onions remain amongst the grounds.

53. The inspector reported windblown trash and flowers along the woods/property line.

54. The inspector reported damage to the grounds from equipment or vehicles in two areas of the cemetery. This damage included tire track marks.

55. The inspector noted damage to some steps on a walkway on the front area of the grounds. Photos taken show a set of steps still crumbling and cracked leaving a worsening safety hazard.

n. Graves on December 8, 2023

56. The inspector reported barren graves remain that still do not show signs of sod or other materials to promote grass growth.

57. Photos taken show some graves remain sunken from being improperly filled.

o. Headstones, Markers, Monuments, and Vases on December 8, 2023

58. The inspector reported some markers remain overgrown with dead grass and weeds. Photos taken show these markers are still obscured by dirt, grass, or weeds.

59. Photos taken show some vases remain broken and completely missing from markers. Some of the knocked over vases are strewn amongst the markers.

60. Photos taken show pieces of granite remain strewn amongst a side of the cemetery.

p. Mausoleums on December 8, 2023

61. The structural damage described in paragraph 42 remains. The inspector noted he did not observe any repairs since the August inspection despite Young's plan to repair the issue described in paragraph 44. During this inspection, the inspector noted additional damage to a second pillar. Further, one of the mausoleums has numerous small gaps between the walls of the mausoleum.

62. The inspector reported all of the mausoleums show signs of cracking. Photos taken show damage to the bottom of one of the mausoleums, including cracks in the stone and dirt staining. Another mausoleum has cracks at the top and the bottom of the structure.

63. All of the mausoleums still show signs of environmental staining and paint peeling. Photos taken show plants and weeds growing through cracks in the façade of the mausoleum.

q. Roadways and Entryways on December 8, 2023

64. The inspector reported excess water and mud along the side of the roadways.

65. The inspector also reported concrete gutters and ditches overgrown with grass.

CONCLUSIONS OF LAW

66. Paragraphs 1 through 65 are incorporated by reference as though fully set forth herein.

67. The Secretary has jurisdiction over this matter pursuant to the Act. *See* O.C.G.A. §§ 10-14-14 and 10-14-19.

68. Pursuant to O.C.G.A. § 10-14-19(a)(1) of the Act, if the Secretary determines:

that any person has engaged in, or is engaging in, or is about to engage in any act or practice or transaction which is prohibited by this chapter or by any rule, regulation, or order of the Secretary of State promulgated or issued pursuant to any Code section of this chapter or which is declared to be unlawful under this chapter, the Secretary of State may...[i]ssue an order, if he or she deems it to be appropriate in the public interest or for the protection of consumers, prohibiting such person from continuing such act, practice, or transaction, subject to the right of such person to a hearing as provided in Code Section 10-14-23.

69. Pursuant to O.C.G.A. § 10-14-19(f), the Secretary is authorized to impose a "civil penalty not to exceed \$10,000 for a single violation and not exceeding \$100,000 for multiple violations in a single proceeding or a series of related proceedings."

70. Nancy Hart is registered with the Division as a perpetual care cemetery pursuant to O.C.G.A. § 10-14-4. Thus, Nancy Hart is subject to discipline under the Act.

71. Pursuant to O.C.G.A. § 10-14-17(i), “[i]t shall be unlawful for any owner or operator of a perpetual care cemetery to fail to provide care and maintenance for the cemetery.”

72. Pursuant to O.C.G.A. § 10-14-3(6):

“Care and maintenance” means the perpetual process of keeping a cemetery and its lots, graves, grounds, landscaping, roads, paths, parking lots, fences, mausoleums columbaria, vaults, crypts, utilities, and other improvements, structures, and embellishments in a well cared for and dignified condition, so that the cemetery does not become a nuisance or place of reproach and desolation in the community. As specified in the rules of the Secretary of State, care and maintenance may include, but is not limited to, any or all of the following activities: mowing the grass at reasonable intervals; raking and clearing the grave spaces and adjacent areas; pruning of shrubs and trees; suppression of weeds and exotic flora; and maintenance, upkeep, and repair of drains, water lines, roads, buildings, and other improvements. Care and maintenance may include, but is not limited to, reasonable overhead expenses necessary for such purposes, including maintenance of machinery, tools, and equipment used for such purposes. Care and maintenance may also include repair or restoration of improvements necessary or desirable as a result of wear, deterioration, accident, damage, or destruction. Care and maintenance does not include expenses for the construction and development of new grave spaces or interment structures to be sold to the public.

73. Respondent has engaged in a persisting and systematic failure to provide for care and maintenance for the cemetery. Since March of 2023, Nancy Hart has not repaired structural and cosmetic damages to its mausoleums despite reporting a plan to do so in August of 2023.

74. Nancy Hart further failed to provide for care and maintenance for the cemetery by failing to cure a safety hazard created by crumbling and cracked sets of steps. Since March of 2023, Nancy Hart has failed to take the proper measures to correct these care and maintenance issues.

75. Nancy Hart further failed to provide for care and maintenance for the cemetery by failing to provide landscaping for the cemetery grounds, including failing to reasonably maintain overgrown grass and failing to properly treat the grounds for weeds and wild onions. Since March of 2023, Nancy Hart has failed to take the proper measures to correct these care and maintenance issues.

76. Nancy Hart has further failed to provide for care and maintenance for the cemetery by failing to properly maintain the grass by leaving bare patches amongst the grounds and graves with no signs of sod or other materials to stimulate grass growth.

Since March of 2023, Nancy Hart has failed to take the proper measures to correct these care and maintenance issues.

77. Nancy Hart has further failed to provide for care and maintenance for the cemetery by failing to properly fill graves leaving some graves either sunken or overfilled. Since March of 2023, Nancy Hart has failed to take the proper measures to correct these care and maintenance issues.

78. Nancy Hart has further failed to provide for care and maintenance for the cemetery by failing to maintain markers by leaving numerous markers obscured by weeds, overgrown grass, leaves, grass clippings, ant beds, or dirt. Vases previously connected to some markers have been broken, knocked over, or are completely missing. Since March of 2023, Nancy Hart has failed to take the proper measures to correct these care and maintenance issues.

79. Nancy Hart has further failed to provide for care and maintenance for the cemetery by failing to keep the cemetery free from debris by leaving granite markers, large branches, sticks, or trash along the side of the grounds. Since March of 2023, Nancy Hart has failed to take the proper measures to correct these care and maintenance issues.

80. These activities described in paragraphs 73 through 79 are violations of O.C.G.A. § 10-14-17(i). As a result of the violations, Respondent is subject to penalties under O.C.G.A. § 10-14-19.

ORDER

WHEREFORE, by the authority vested in me as the Secretary of State for the State of Georgia, **IT IS HEREBY ORDERED**:

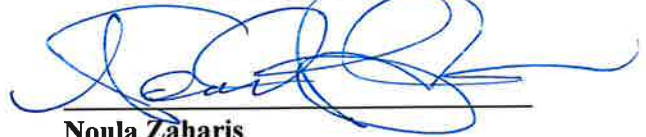
1. That **NANCY HART MEMORIAL PARK** immediately **CEASE AND DESIST** all violations of the Georgia Cemetery and Funeral Services Act of 2000, as amended.
2. That **NANCY HART MEMORIAL PARK** pay a **CIVIL PENALTY** in the amount of one hundred thousand dollars (\$100,000.00).
3. That **NANCY HART MEMORIAL PARK** remit payment of the Secretary's cost of investigation in the amount of ten thousand dollars (\$10,000.00) to the Secretary due within thirty (30) days of the entry of a final order by the Secretary of State.

The entry of the Emergency Order is deemed to be in the public interest and shall not be deemed to constitute findings or conclusions relating to other persons unrelated to Respondent and shall not be deemed to be a waiver or estoppel on the part of the Secretary from proceeding in individual

actions against any person who may have violated the Act or any transactions not specifically referred to herein or not known to the Secretary at the time this Emergency Order was issued.

SO ORDERED this 16th day of January 2024.

**GEORGIA SECRETARY OF STATE
BRAD RAFFENSPERGER**



By:

**Noula Zaharis
Assistant Commissioner of Securities
Division Director
Securities and Charities Division**



**OFFICE OF THE SECRETARY OF STATE
STATE OF GEORGIA
BOARD OF CEMETERIANS**

IN THE MATTER OF

Nancy Hart Memorial Park, Inc.,

Respondent.

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Case Number: ENCE-0504

NOTICE OF OPPORTUNITY FOR HEARING

**TO: Nancy Hart Memorial Park, Inc.
1171 Royston Hwy
Hartwell, GA 30643**

PLEASE TAKE NOTICE that the Secretary of State of the State of Georgia (“Secretary”) by and through the State Board of Cemeterians (“Board”) has issued the Order (“Order”) attached hereto to **Nancy Hart Memorial Park, Inc.** (“Respondent” or “Nancy Hart”) pursuant to the Georgia Cemetery and Funeral Services Act of 2000, O.C.G.A. § 10-14-1, *et seq.* (“Act”). The Order is based on information known to the Secretary at the time this Notice of Opportunity for Hearing is issued..

Pursuant to O.C.G.A. § 10-14-23, Respondent is hereby notified that within ten (10) days after receipt of a request for a hearing in a record from Respondent, this matter will be scheduled for a hearing unless another date and time is otherwise agreed to by the parties. If Respondent does not request a hearing and none is ordered by the Secretary within ten (10) days after the date of service of this Order, this Order will become final as to Respondent by operation of law. If a hearing is requested or ordered, the Secretary, after notice of opportunity for hearing to Respondent, may modify or vacate this Order or extend it until final determination.

1. GROUNDS. The grounds for the issuance of this Order are that Respondent engaged in

conduct in violation of O.C.G.A. § 10-14-17.

2. REQUEST FOR HEARING. Pursuant to O.C.G.A. § 10-14-23, this Order may become final by the Secretary unless Respondent requests a hearing within ten (10) days of receipt of this notice. A request for hearing may be delivered to the attention of Noula Zaharis, Assistant Commissioner of Securities, Director, Office of the Secretary of State, Securities and Charities Division, 2 Martin Luther King Jr. Dr., SE, Suite 317 West Tower, Atlanta, GA 30334 or by electronic mail at nzaharis@sos.ga.gov.

3. PROCEDURE FOR REQUESTING A HEARING. If the Respondent requests a hearing, the request for hearing must be in writing and contain the following information as required by Rule 590-3-1-.05 of the Rules of Office of Secretary of State (hereinafter, the “Rule” or “Rules”):

- a title which indicates the nature of the proceedings;
- the complete name and address of the person or persons on whose behalf the request is filed;
- the name and address of all other persons known to have a legal interest in the proceedings;
- if the person or persons on whose behalf the request is filed are represented by counsel, the name and address of counsel;
- a clear and concise statement of the facts upon which the contested case arises;
- a prayer setting forth the relief sought; and
- a statement of the grounds upon which the person contends he is entitled to the relief sought.

4. SCHEDULING OF HEARING. If requested, a hearing will be scheduled before a Hearing Officer appointed by the Secretary, the ultimate decision maker in this matter, in no less than fifteen (15) days but not earlier than five (5) days after the request is made, unless otherwise agreed to by the parties.

5. ISSUES TO BE ADDRESSED. If a hearing is requested, the issues to be addressed are set forth in the attached Order that is incorporated herein by reference and made a part of this Notice of Opportunity for Hearing.

6. CONTESTED CASES. This is a contested case proceeding and pursuant to the Rules it shall be conducted as expeditiously as possible, with regard to the rights of the parties, and in a manner to enable the parties to obtain relevant information needed for preparation of the case to the extent that such disclosure is authorized or required by law.

7. LEGAL AUTHORITY AND JURISDICTION. This Notice of Opportunity for Hearing

is issued pursuant to O.C.G.A. § 10-17-23, Rule 590-3-1-.05, and O.C.G.A. § 50-13-1 *et seq.* (The Georgia Administrative Procedure Act).

8. INFORMAL CONFERENCE. Respondent may request an informal conference with the Division Director pursuant to Rule 590-3-1-.05. The receipt of a written request for an informal conference will toll, until the date that such conference is scheduled, the running of the time for requesting and setting a hearing. A request for hearing that does not contain the required information as outlined above will be treated as a request for an informal conference. Further information regarding an informal conference may be obtained by contacting Noula Zaharis at (470) 312-2787 or nzaharis@sos.ga.gov.

9. RIGHTS OF PARTIES. The parties to this matter shall have all of the rights provided for in the Act, the Rules and the Georgia Administrative Procedure Act, including but not limited to the following:

- To subpoena witnesses and documentary evidence;
- To secure testimony by deposition or interrogatories if authorized or directed by the Hearing Officer;
- To be represented by legal counsel; and
- To respond and present evidence on all issues involved.

SO ORDERED this 16th day of January 2024.

By:

**GEORGIA SECRETARY OF STATE
BRAD RAFFENSPERGER**



**Noula Zaharis
Assistant Commissioner of Securities
Division Director
Securities and Charities Division**