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Wednesday, August 27, 2008

Kin sues Jewish cemetery

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Wednesday, August 27, 2008 7:03 PM EDT

A management consultant from Connecticut has gone back to federal court in Brooklyn, to sue a congregation in Manhattan over their management of a Jewish cemetery in Queens.

John Lucker, 47, had brought a lawsuit against Congregation Shaare Zedek, a synagogue on West 93rd Street in Manhattan. He charged that they breached their contract to provide "perpetual care" for the graves of his grandparents, Harry and Ruth Lucker, who are buried in Bayside Cemetery in Ozone Park, along with some 35,000 other Jews.



THE COURIER/PHOTO BY NICK BENEDEUCE
The management of Bayside Cemetery in Ozone Park is being sued by the grandson of a couple interred there, claiming they used "perpetual care" monies to repair their building./b>

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Bayside is the middle of three Jewish burial grounds, located between Liberty and Pitkin Avenues, between 80th and 84th Streets, just blocks from the Brooklyn border.

In 1842 the congregation, then on the lower East Side, bought the land, between Acacia and Mokom Sholom cemeteries, not far from the margins of Jamaica Bay.

Over time, most of the plots were sold to individuals and "burial societies," private groups that cared for the interment of members and their families.

Though some of the area nearest to the entrance at 81st Street and Pitkin Avenue is recognizable as a burial ground, a large portion near the rear of the cemetery, bordering Liberty Avenue, is a jumble of unpruned trees, weeds and tilted headstones.

Stephen Axinn, the synagogue's lawyer, contends that the congregation owns only a fraction of the 12-acre site.

"The synagogue doesn't own 90 percent of the land in the cemetery," Axinn reportedly said. "The property that's inside that cemetery was sold off from 50 to 125 years ago to burial societies," he explained.

"But those burial societies, which came from various towns and villages, are now kaput," Axinn insisted.

Lucker disagrees; the suit accuses the synagogue of using money intended for the perpetual care of the graves to make structural repairs to its building. "The fees for perpetual care were set by the synagogue and should have been properly accounted to arrive at enough income to provide for the cemetery," he reportedly said, after going to court last September.

In May, his attorney, Michael Buchman, accepted a suggestion by Judge Raymond Dearie that the suit be postponed, in view of an offer by unidentified benefactor to perform a "one-time cleanup" of the overgrowth.

In court, Axinn had claimed that "One of the leading owners" of the city's Jewish cemeteries volunteered to put his personnel and his equipment to work on the cleanup.

"But he would not set foot in the cemetery or take any steps to assist us so long as this litigation is pending because he feared that he would somehow be brought into the case," Axinn said, before agreeing to contract for the cleanup by August 15.

"No physical dent to improve the cemetery's condition has been made at all," Buchman told the court in a letter requesting the lawsuit go back on the court docket.

According to Buchman, Lukin toured the cemetery and found bags of rotting garbage among the headstones, before going back to court.

"Despite various indications by defendants that corrective action would be taken, nothing of any significance has been done to rectify the squalid conditions at the cemetery," Buchman wrote the court. "It is now time to act and achieve results, he reportedly said.

In 2003, six funeral directors and several hundred volunteers, mostly Mormons, spent four days hacking away at the overgrowth and debris covering many of the graves.

Though the funeral directors reportedly "continued to work on the grounds for months after," the volunteers left, many reportedly saying "they sensed a lack of interest from Congregation Shaare Zedek."

Neil Leventhal, a 34-year-old filmmaker from Los Angeles, who recorded the 2003 cleanup reportedly returned to the cemetery last month.

According to a published report, he found the grave of his grandmother, Ethel Leventhal and great-grandmother, Emma Stoloff, barely visible amid the weeds and the gate to the family plot missing.

The cemetery's groundskeeper, Bob Martorano, was reportedly at the cemetery when Leventhal visited and is said to have declared that the cemetery had no equipment, not even a lawn mower, to clean up the property.

The congregation reportedly secured a \$145,000 grant from the United Jewish Appeal for cleanup costs, and has created a nonprofit corporation to raise funds to maintain the cemetery in the future.

Axinn reportedly acknowledged that the cleanup has not begun, but insisted that progress is being made to improve the cemetery for the long term, claiming in a published report that the grant, "Would merely cover weeding, mowing and minor repairs - and in six months, the cemetery would look like there had been no cleanup at all."

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