



Funeral Consumers

ALLIANCE

Protecting a consumer's right to choose meaningful, dignified, and affordable funerals since 1963

OPPOSITION—LRB 3490 AFFECTING CEMETERY OWNERSHIP OF FUNERAL HOMES

January 18, 2012

To the Honorable Members of the Wisconsin Legislature

Ladies and gentlemen,

I write to you as the executive director of Funeral Consumers Alliance, a national nonprofit consumer education and watchdog organization. Among our 87 chapters are two in Wisconsin, the FCA of Greater Milwaukee and the FCA of the Fox Valley. I am also the author of a recent book on the funeral industry and its laws and regulations titled *Final Rights: Reclaiming the American Way of Death* (2011, Upper Access Publishers).

Funeral Consumers Alliance has often advocated vigorously for the repeal of laws that unfairly restrict competition in the funeral business because such laws often harm consumers. Wisconsin's current prohibition on cemeteries owning funeral homes, however, is an important component of shielding consumers from monopolistic and unfair practices (not to mention excessively high prices) in the funeral transaction.

The death business is unique. Consumers are largely unaware of their options and legal rights, and those who arrange funerals when the death occurs are not often thinking clearly and rationally. There's simply too much potential for abuse. Please consider:

- Many people believe they're obligated to use the funeral home located on the cemetery's grounds. A surprising number of consumers who've contacted FCA believed this, whether the cemetery implied it or not. Combination businesses know this, and it insulates them from having to compete on price or service since they have a market that thinks its captive.
- Combination businesses owned by large chains are well-known to aggressively steer consumers toward spending all their funeral money on-site. Given that these chains are usually among the highest-priced in a region it's easy to see how grieving families can be persuaded to overspend. One California family told FCA the chain-owned cemetery where they intended to bury their mother refused to let them use the on-site chapel—even though the family was willing to pay for it—unless they used the funeral home for all services. The family refused, noting the prices were sky high, and found a family-owned funeral home that accommodated them for less.
- Then there's the matter of regulation. The Federal Trade Commission's Funeral Rule compels funeral homes to give consumers printed, itemized prices, the option to buy services a la carte, and the right to bring in outside merchandise such as a casket without financial penalty. The Rule does not apply to

cemeteries, and the results have been appalling. To read FCA's congressional testimony on this issue, please see <http://www.funerals.org/download-document/136-fca-congressional-testimony-on-cemetery-oversight-july-27-2009>.

The cemetery interests' newly formed Wisconsin Organization for Responsible Consumerism cagily evades the issue in a statement to Wisconsin legislators:

“All existing federal and state consumer protections and licensing requirements would apply to any funeral home jointly owned with a cemetery.”

Yes, but **not to any cemetery**. We've seen too many instances where a funeral home employee puts on his cemetery's hat and brings the family out to tour the grounds. Suddenly there is no price list, consumers lose the right to purchase merchandise elsewhere, and the salesperson misrepresents legal requirements (“vaults are required by law, ma'am”) in order to pad the sale. All of this behavior is prohibited by the FTC at funeral homes, but cemeteries escape these minimum standards.

Finally, undoing the ban would give combination businesses an unfair economic advantage. Why? Because cemeteries in Wisconsin don't pay taxes. What a great deal for the parent company. Once again, WORC avoids the issue by claiming the cemetery owners would pay taxes “for the land that the funeral home would occupy.” In other words, the company would pay taxes on only the tiniest portion of the property. Meanwhile the for-profit company would have far lower operating costs because those are **shifted onto taxpayers**. It's doubly outrageous when we remember the original reason states exempted cemeteries from taxation was that they were viewed as a public good that should be run without profit motivation. For a cemetery/funeral business to exploit this historical circumstance is offensive, contrary to sound public policy, and unfair to taxpayers as well as to stand-alone funeral home competitors.

Please vote against LRB 3490.

Respectfully submitted,



Josh Slocum
Executive Director