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October 10, 2011

VIA ELECTRONIC FILING

The Honorable Debra A. James, J.S.C.
Supreme Court of the State of New York, New York County
Part 59
71 Thomas Street
New York, NY 10013

Re: Leventhal v. Bayside Cemetery et al., Index No. 100530/2011

Dear Justice James:

I write as counsel to defendants Congregation Shaare Zedek and Bayside Cemetery in the above-referenced action.

It has recently come to my attention that a statement made in the memorandum of law in support of our clients' motion to dismiss could be read to suggest that the Attorney General's office has taken a position on the merits of this action. Specifically, at the end of our Preliminary Statement in that brief, we wrote that:

As the Defendants and the Attorney General long ago realized, the origins of the Bayside Cemetery problem lie in long-term cyclic changes in the makeup of the Jewish community in and around New York City.

(Memorandum of Law in Support of Defendants' Motion to Dismiss the Action in its Entirety Pursuant to CPLR 3211(a), NYSCEF Doc. No. 5-1, at 5.)

Of course, Shaare Zedek does not have the right to speak on the Attorney General's behalf and, to the extent that the quoted language above or any other statement in our briefs could be construed as representing the Attorney General's views, we withdraw the statement. Although Shaare Zedek has consistently cooperated with the Attorney General's investigation of

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and efforts to find a solution to the situation at Bayside Cemetery, we understand that the Attorney General's inquiry is ongoing and that the office has not reached any firm conclusions.

While we wanted to promptly correct the record once this issue was called to our attention, we do not believe that the correction is material to any of the legal issues presented on the motion to dismiss that the Court currently has *sub judice*. We nonetheless apologize to the Court and to the Attorney General for any inconvenience or confusion our choice of language inadvertently engendered.

Respectfully submitted,



Russell M. Steinthal

*Counsel for Defendants Congregation
Shaare Zedek and Bayside Cemetery*

cc: All Counsel (by NYSCEF)
Office of the New York State Attorney General (by overnight delivery)