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Court case ongoing in cemetery dispute

by Bryan Yurcan , Assistant Editor

Litigation concerning the state of Bayside Cemetery in Ozone Park may not be ending anytime soon.

John Lucker of Connecticut and his attorney, Michael Buchman, brought a lawsuit in federal court in 2007 against Congregation Shaare Zedek, which owns the cemetery, for not maintaining its grounds and the graves.

That lawsuit was dismissed in 2009 for lack of federal jurisdiction, but shortly thereafter was refiled in state Supreme Court.

Now, Buchman is planning on filing another suit with a different plaintiff against the congregation, in conjunction with the ongoing suit, in the latest legal battle over the state of Bayside.

Lucker and Buchman have argued that the congregation committed a breach of contract for failing to maintain perpetual care of the plots. Located off Liberty Avenue, Bayside has been dogged by years of neglect, with overgrown weeds and vines covering cracked headstones that had fallen into disrepair.

Lucker's grandmother purchased a perpetual care plot, and upon visiting the cemetery several years ago and seeing the state of the grounds, he was prompted to take legal action.

"It's a very simple case involving breach of contract," said Buchman.

The attorney also says the Congregation publicly admitted to co-mingling the cemetery's funds with those of the synagogue.

Congregation Shaare Zedek declined to comment for this article due to the ongoing litigation, but attorneys for the synagogue have argued that the suit should be dismissed on the grounds that the plaintiffs cannot legally act in a representative capacity to their deceased relatives.

Buchman disagrees with that premise, and also noted that the plaintiff in the new suit he plans on filing is someone who purchased a perpetual care contract at the cemetery directly from the synagogue, not a relative of one.

Also named in the current suit as a defendant is the Community Association for Jewish At-Risk Cemeteries, a group formed in 2006 as Friends of Bayside Cemetery.

CAJAC is currently engaged in a clean-up effort at the cemetery, in part due to a grant from the United Jewish Appeal-Federation of New York, which was used to hire a landscaper to help refurbish the cemetery grounds, and volunteer efforts.

Buchman, however, contends that CAJAC was created by Congregation Shaare Zedek as a way to divest responsibility for the cemetery, and that it is not the legal owner of Bayside and doesn't have the means to maintain it.

"The cemetery needs to be maintained in perpetuity, and CAJAC doesn't have money to do that," he said.

A CAJAC official previously told the Chronicle the group believes it can ensure the long-term maintenance of the cemetery.



Bayside Cemetery in Ozone Park has seen years of neglect and degrading conditions. PHOTO BY BRYAN YURCAN

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