

EXHIBIT A

Plaintiffs' Complaint for Declaratory and Injunctive Relief

John Peter and Annica Quakenbush, et al.,

v.

Brooks Township, Michigan, et al.

PARCEL 022
BRINKERT
DAVID A

PARCEL 036
WIGHTMAN
JASON AND
JENNIFER

40' FROM
PROPERTY LINE

PARCEL 037
JIBSON
NICHOLAS
ET UX

92' FROM
PROPERTY LINE

PARCEL 029
VANDYKE
ROBERT N ET
UX TAMMY R

N LINE SW 1/4 SE 14

N 89°42'47" W 657.98'(M)

PARCEL 057
ISAACSON JAMES &
CHARLOTTE

N 89°59'22" W

659.4'

715

720

725

730

PARCEL 013
BUMSTEAD JON C

PROPOSED BURIAL PLOT GRID

PLOT SETBACKS:

- WEST - 15'
- EAST - 23'
- SOUTH - 15' (PLUS 33' FROM RIGHT-OF-WAY)
- NORTH - 17'



**PROPERTY OWNERS,
APPLICANTS, AND
PLAN PREPARERS:**

J. PETER & ANNICA V.
QUAKENBUSH
336 VISSER PL SE
GRAND RAPIDS, MI
49506

**PARCEL
IDENTIFICATION
NUMBER:**

62-19-16-400-018

LEGAL DESCRIPTION:

THE SOUTHWEST 1/4
OF THE SOUTHEAST 1/4
EXCEPT THE WEST 1/4
THEREOF. ALSO EXCEPT
THE EAST 1/4 THEREOF.
LOCATED IN SECTION
16, TOWN 12 NORTH,
RANGE 12 WEST,
BROOKS TOWNSHIP,
NEWAYGO COUNTY,
STATE OF MICHIGAN.
(SW 1/4 SE 1/4 EXC W
1/4 ALSO EXC E 1/4.
20A M/L SEC. 16,
T12NR12W)

**ZONING OF ALL
PROPERTIES
WITHIN 300':
R2 (MEDIUM DENSITY
RESIDENTIAL)**

N 00°39'49" E 1324.94'(M)

N 09°36'11" E 1321.75'

N 00°41'41" E 1322.91'

180' FROM
PROPERTY LINE

240' FROM
PROPERTY LINE

129' FROM
PROPERTY LINE

PARCEL 033
NORBURG LARRY

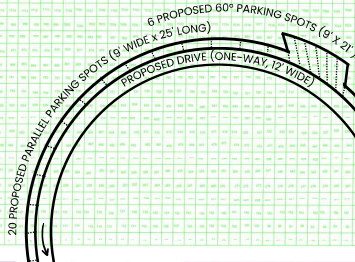
715

10' x 12' - ONE STORY SHED

PROPOSED WELL

10' x 20' - ONE STORY SHED (PROPOSED FIELD OFFICE)

SHEDS ARE 10' 4" APART
237' FROM SOUTH
243' FROM EAST
390' FROM WEST
1056' FROM NORTH



E 72ND ST 33' RIGHT-OF-WAY (66' ROAD)

N 89°53'23" W 657.28'

S LINE SECTION

PARCEL 003
CITY OF
NEWAYGO

PARCEL 005
RAINEY DOUGLAS S ET
UX JENNIFER D

PARCEL 006
GEORGE FAMILY 2005
DECLARATION TRST

PARCEL 003
CITY OF
NEWAYGO

200' FROM
PROPERTY LINE

195' FROM
PROPERTY
LINE

**REGIONAL
LOCATION SKETCH:**

MAJOR LANDMARKS
WITHIN 1/2 MILE

SKETCH A:
NORTHERN AREA

SKETCH B:
SOUTHERN AREA

GREY AREA:
PROPERTY LOCATION

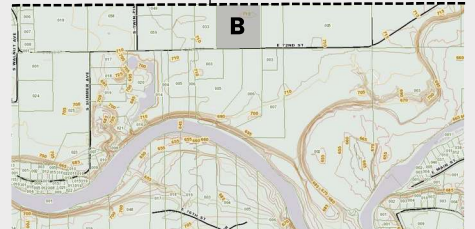
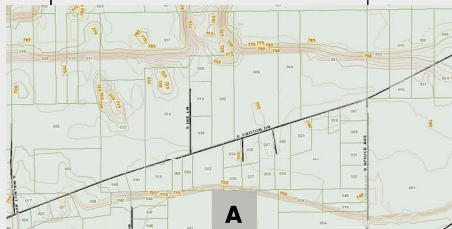


EXHIBIT B

Plaintiffs' Complaint for Declaratory and Injunctive Relief

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v.

Brooks Township, Michigan, et al.



**District Health
Department #10**
Healthy People, Healthy Communities



February 17th, 2023

Peter Quackenbush
[REDACTED]

**Re: Proposed Cemetery Located at E 72nd Street (Parcel ID #: 62-19-16-400-018),
Section 16, Brooks Township, Newaygo County**

Subject: APPROVAL REPOST FOR ESTABLISHMENT OF NEW CEMETERY

Dear Mr. Quackenbush,

This serves to inform you that our agency has received and reviewed the materials submitted by yourself, outlining the establishment and construction of a new cemetery at the above referenced location.

Based upon our review of these materials and a soil evaluation conducted by field staff of July 26th, 2022, the proposed cemetery has been hereby approved.

Please be advised that the responsibility for maintenance and operation of cemeteries rests with the board of trustees for the municipality or private corporation that owns the cemetery and not with District Health Department #10.

If you have questions concerning this correspondence, please contact our office at: (231) 355-7557.

Sincerely,

John Ringler
Environmental Health Sanitarian
District Health Department #10
306 S North Street, P.O. Box 850
White Cloud, MI 49349

CRAWFORD COUNTY
501 Norway Street
Grayling, MI 49738
(989) 348-7800

KALKASKA COUNTY
625 Courthouse Drive
Kalkaska, MI 49646
(231) 258-8669

LAKE COUNTY
5681 S. M-37
Baldwin, MI 49304
(231) 745-4663

MANISTEE COUNTY
385 Third Street
Manistee, MI 49660
(231) 723-3595

MASON COUNTY
916 Diana Street
Ludington, MI 49431
(231) 845-7381

MECOSTA COUNTY
14485 Northland Drive
Big Rapids, MI 49307
(231) 663-8888

MISSAUKEE COUNTY
5180 W. Sanborn Road
Lake City, MI 49651

NEWAYGO COUNTY
1049 Newell Street
White Cloud, MI 49349

OCEANA COUNTY
3986 N. Oceana Drive
Hart, MI 49420

WEXFORD COUNTY
521 Cobb Street
Cadillac, MI 49601



www.dhd10.org



EXHIBIT C

Plaintiffs' Complaint for Declaratory and Injunctive Relief

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v.

Brooks Township, Michigan, et al.

From: Cliff H. Bloom <cliff@bloomsfluggett.com>
Sent: Monday, February 14, 2022 10:10:46 AM
To: Joe Selzer <jselzer@brookstownship.org>
Cc: Cory Nelson <cnelson@brookstownship.org>; Jennifer Badgero <jbadgero@brookstownship.org>
Subject: FW: Brooks Township-new private cemeteries and private property burials

Joe-

It our my understanding that a citizen has asked what the regulations are of Brooks Township regarding private cemeteries and “green burials.” At the current time, neither private cemeteries nor green human burials are allowed within the Township outside of lawful government or church cemeteries under the Brooks Township Zoning Ordinance or elsewhere. And, it is our general recommendation that new private cemeteries not be allowed within the Township except under certain very limited circumstances.

For the Township, the problematic issue is not so much whether or not a burial is “green” or natural, but the creation of new private cemeteries or burials on private properties. It is difficult (and often expensive) enough to maintain government cemeteries (such as those owned by a township, city, village or county within Michigan) and religious or widely-recognized nonprofit or charitable organizations (such as the Shriners organization) cemeteries as it is. To allow new small or informal private cemeteries on private properties would likely create significant problems throughout the Township and potential property purchasers in the future.

First, to allow deceased individuals to be buried on private properties would entail the Township drafting, adopting and implementing a new regulatory framework for such burials. The Township would have to draft and enact a non-zoning police power ordinance as well as amend the Zoning Ordinance to allow such private burials. The cost to the Township to do so would likely be in the \$2,000 to \$3,000 range, at least in attorney fees, publication costs, etc.

Second, does the Township really want to enforce such ordinance provisions and police the same in the future? It is highly likely that state or health department officials would not do so, at least significantly.

Third, the burial of deceased individuals on private properties would create a significant “cloud on title” for the properties in the future. Almost certainly, at some time in the future (whether in a few decades or the distance future), the family members of the deceased individuals will no longer own the parcel involved. What happens to the burials then? In all likelihood, it would devalue the property and make it unmarketable or difficult to sell. If the burial area was able to be created as a separate parcel of its own (with no buildings thereon), someday, it would likely become an “orphan parcel” that goes up for sale, no one wants the parcel or some other unusual or undesirable situation.

Even some municipalities are encountering similar problems in city, township and village cemeteries. For example, an expensive large family mausoleum may have been constructed a century ago but is now in disrepair. It could cost hundreds of thousands of dollars (or even more) to repair the mausoleum or to remove it and re-inter the bodies elsewhere. Simply letting the mausoleum collapse (potentially with the dead bodies spilling out) would be intolerable. However, in many cases, there are no living family members left to foot the bill or, if they are alive, they

may not want to spend the money. Municipalities do not have the funds available and, in any event, it would likely be a poor use of public funds.

Some might point out that there are private burials and private cemeteries throughout Michigan. That is true. However, most of them are quite old, many of them are dormant and some have become “orphan cemeteries” (there are no new burials, the grounds are becoming run down and no one wants to own the property where the private cemetery is located).

If the Township desires to allow “green” burials in an existing Township or church cemetery, that is a different issue. Even in that case, however, there likely would have to be a regulatory ordinance adopted to comply with state and county health department codes, requirements and suggestions.

Based on all the above, it is our strong recommendation that the Township not allow any new private cemeteries or the burial of deceased persons on private properties. If the Township is inclined to allow the same, then the Township may desire to collect the necessary funds from the proponents of a new private cemetery or the burial of deceased persons on private property in order to create the necessary Township ordinance framework. -Cliff Bloom

Bloom Sluggett, PC
Counselors & Attorneys

Our firm has moved! Effective August 1, 2020, our offices are now located in Suite 400 of the Waters Center Building in downtown Grand Rapids.

161 Ottawa Ave. NW, Suite 400

Grand Rapids, MI 49503

cliff@bloomsluggett.com

O (616) 965-9342

F (616) 965-9352

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EXHIBIT D

Plaintiffs' Complaint for Declaratory and Injunctive Relief

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Township Cemetery Ordinance

**BROOKS TOWNSHIP
NEWAYGO COUNTY, MICHIGAN
(Ordinance No. 2023-100)**

AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE BY PROHIBITING CEMETERIES; TO PROVIDE PENALTIES FOR THE VIOLATION OF SAID ORDINANCE; AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

THE TOWNSHIP OF BROOKS (“Township”), COUNTY OF NEWAYGO, MICHIGAN, ORDAINS:

Section 1. Title.

This Ordinance shall be known and may be cited as the “Brooks Township Cemetery Ordinance.”

Section 2. Purpose and Intent.

The Township Board finds that this Ordinance is essential for the health, safety and welfare of Brooks Township property owners, residents and visitors. In the past, cemeteries elsewhere have taken up large amounts of sometimes otherwise productive land. Cemetery landscaping, grass cutting, monument repair and upkeep costs have increased dramatically over time. The problems associated with abandoned or “orphan” cemeteries has increased throughout Michigan, and citizens look to the local municipal government (townships, cities or villages) to take over abandoned or orphan cemeteries. There currently are no known cemeteries in Brooks Township. The Township Board also finds that there is sufficient space and vacant plots available in existing cemeteries within a 50-mile radius of Brooks Township to satisfy any demand for burials.

Section 3. Definition.

For purposes of this Ordinance, the following word shall mean as follows:

Cemetery – Shall mean a burial ground or graveyard for dead people or pets, or a place where dead people or cremains are buried or interred. A cemetery can also be a designated place or area where the remains of people or pets who have died are buried or laid to rest. A cemetery shall include, but not necessarily be limited to, any conventional cemetery, green cemetery, conservation cemetery, burial forest or forest cemetery. This definition shall not include the noncommercial burial of a dead pet animal owned by the owner(s) of the property involved.

Section 4. Prohibition on New Cemeteries.

Cemeteries are expressly prohibited and banned within Brooks Township. No person shall construct, create or promote any cemetery within Brooks Township. No cemetery shall be created or utilized within Brooks Township.

Section 5. Penalties.

A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100) for the first offense and not less than two hundred dollars (\$200) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense. A violation of this Ordinance is also a nuisance *per se*. In addition to or in lieu of issuing a municipal civil infraction, the Township may pursue a declaratory judgment, nuisance or abatement lawsuit regarding or to abate any violation of this Ordinance in the Newaygo County Circuit Court or successor court.

Section 6. Township Officials Who Can Enforce this Ordinance.

Unless otherwise specified by the Township Board by Resolution, the following officials or officers shall have the authority to enforce this Ordinance and to issue municipal civil infraction citations/tickets pursuant to this Ordinance:

- Township Supervisor
- Township Clerk
- Township Zoning Administrator
- Township Ordinance Enforcement Officer
- Any deputy of the Newaygo County Sheriff's department
- Any State Police officer

Section 7. Severability.

The provisions of this Ordinance are hereby declared to be severable and should any provision, section or part thereof be declared to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall only affect the particular provision, section or part thereof involved in such decision and shall not affect or invalidate the remainder of this Ordinance, which shall continue in full force and effect.

Section 8. Effective Date; Conflicts.

This Ordinance shall become effective upon the expiration of thirty (30) days after a copy of this Ordinance (or a summary thereof) appears in the newspaper. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

The above Ordinance was offered for adoption by Township Board Member Nelson and was seconded by Township Board Member Schultz, the vote being as follows:

YEAS: Nelson, Badgero, Miller, Schultz, Hummel _____

NAYS: _____

ABSENT/ABSTAIN: _____

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby declare that the above is a true copy of an ordinance adopted by the Brooks Township Board at a regular meeting held on June 20, 2023, at the Brooks Township Hall, pursuant to the required statutory procedures.

Respectfully submitted,

By:  _____
Jennifer Badgero
Brooks Township Clerk

EXHIBIT E

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Brooks Township, Michigan, et al.

Bloom Sluggett, PC

COUNSELORS & ATTORNEYS

Clifford H. Bloom
Direct Dial (616) 965-9342
Direct Fax (616) 965-9350
cliff@bloomsluggett.com

June 22, 2023

Annica and Peter Quackenbush



**Re: Brooks Township
Prohibition on Cemeteries
West Michigan Burial Forest & Preserve**

Dear Mr. and Mrs. Quackenbush:

As you know from our earlier opinion email of February 14, 2022 regarding your private cemetery or “burial forest” questions, we are legal counsel for Brooks Township (the “Township”) in Newaygo County, Michigan. This letter pertains to the parcel that you or your family owns within the Township on 72nd Street (between Twin Pine Road and Spruce Avenue) and commonly known as Permanent Parcel No. 62-19-16-400-018 (the “Parcel”). As you know from our earlier email of February 14, 2022 and the Brooks Township Planning Commission meeting during that same month, the private or “green” cemetery, “conservation cemetery,” burial forest or burial arrangement that you have proposed would be unlawful under the Brooks Township Zoning Ordinance (the “Zoning Ordinance”).

Recently, Township officials saw both the news reports (wherein both of you were interviewed) as well as your website at www.miburial.com. Unfortunately, it appears that both the news report and your website contain some false or erroneous statements or assumptions. First, you have long known that your proposed green cemetery, “conservation cemetery,” or “burial forest” would be unlawful under the Zoning Ordinance. Nothing has changed since February of 2022. Second, the Township has not given you any encouragement since February of 2022 regarding this matter. You certainly have not been “working with” the Planning Commission or Township officials for well over a year.

To the extent that you have been making representations to third parties that the green cemetery, conservation cemetery or burial forest could lawfully be created or you have taken any subscriptions, entered into any burial contracts, etc. regarding the proposed green cemetery in the Township, that would be unfortunate.

Should you attempt to proceed with the green cemetery or burial forest, Brooks Township will take appropriate legal action. Township officials hope that will not be necessary.

Finally, when you inquired about installing a shed on the Parcel last year, you were expressly informed by the Township that you could not use the shed for habitation or even

Annica and Peter Quackenbush

Page 2

June 22, 2023

overnight sleeping. There appear to be indications that you or your family may be sleeping overnight within the shed, which would be unlawful.

Very truly,



Clifford H. Bloom
Township Attorney

cc: Township Supervisor
Township Clerk
Zoning Administrator
Chair of the Township Planning Commission
Newaygo County Health Department