



STATE OF KANSAS

Office of the Attorney General

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Attorney General

January 13, 1976

ATTORNEY GENERAL OPINION NO. 76- 9

The Honorable Elwill M. Shanahan
Secretary of State
2nd Floor - State Capitol Building
Topeka, Kansas 66612

Attn: Mr. Max G. Moses

Re: Cemeteries--Corporations--Registration

Synopsis: Cemetery corporations engaged in the sale of land for the burial of other than dead human bodies are not subject to the requirements of K.S.A. 17-1312a *et seq.*

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Dear Secretary Shanahan:

K.S.A. 17-1312a requires that all cemetery corporations shall register with the Secretary of State. K.S.A. 17-1312f defines the scope of the registration and other requirements of the act thus:

"The provisions of sections 2 through 9 of this act shall apply to and be controlling upon every individual, firm, partnership or other organization hereafter selling or conveying land for cemetery purposes, and for this purpose the term 'corporation' except where the context clearly indicates a different meaning shall mean and include such individuals, firms, partnerships or organizations. . . ."

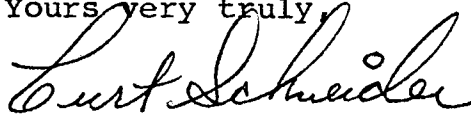
You inquire whether, in my opinion, a corporation which sets aside burial space for animals is subject to this act.

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Lexicographers and legal encyclopedists have universally defined the term "cemetery" as a place of burial of the dead. As used in virtually every reported decision as well as in the treatises, it refers to places for the burial of dead human bodies. The term is not one which has historically been troublesome either to legislative bodies or to the courts. It is relatively unambiguous and free of tradition-laden accretions of secondary meanings and elusive implications. "[W]here the language used is plain and unambiguous and also appropriate to an obvious purpose the court should follow the intent as expressed by the words used." *Underwood v. Allmon*, 215 Kan. 201, 523 P.2d 384 (1974). Descriptive references to cemeteries as places for the burial of the dead may seem unduly cryptic to the inquiring mind. However, this functional definition as an operative guide to the administration of a statutory regulatory act has not been held to be inadequate in any reported judicial decision which has come to my attention. This seeming indirectness of language may be due to delicacy, or to an assumed common understanding of the use of the term. For whatever reason, it has not been traditional in the definition and use of the term to elaborate upon it by further description of the subjects of burial. When the term is used in a statutory enactment to describe a burial ground for other than dead human bodies, it is reasonable to assume that the legislature would have found and used distinctive language to indicate that its use of the term applies to lands appropriated or set apart for the burial of other than dead human bodies.

Nothing in K.S.A. 17-1312a *et seq.* remotely suggests that the registration and other requirements of the act are intended to apply to other than corporations, as defined by K.S.A. 17-1312f, which sell or convey land for the purpose of providing burial space for dead human bodies. K.S.A. 17-1315 confers upon cemetery corporations the power of eminent domain to condemn and appropriate lands necessary for its enlargement. It is unlikely in the extreme that the power of eminent domain has thereby been conferred upon corporations operating cemeteries for the burial of other than human remains. In short, the term "cemetery corporation" as used in K.S.A. 17-1312a applies, in my opinion, only to corporations engaged in the sale of land for the burial of dead human bodies, and not to corporations engaged in the sale of land and plots for other burials.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj