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September 29, 2014

FAX COVER PAGE

INSTITUTION: Erie County Legislators Office

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Lynne M. Dixon;
Joseph C. Lorigo;
John J. Mills

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ATTENTION: Barbara Miller-Williams

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ATTENTION: Thomas A. Loughran

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ATTENTION: Michael A. Siragusa

FAX NO. 858-2281

FROM: Robert E. Knoer

RE: Sheridan Park, Inc.

OUR FILE #: 11-2289

NUMBER OF PAGES INCLUDING THE COVER PAGE: 6

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September 29, 2014

VIA HAND DELIVERY AND E-MAIL

Hon. Kevin Hardwick
92 Franklin Street
Fourth Floor
Buffalo, NY 14202

Re: Sheridan Park, Inc.
Our File No. 11-2289

Hon. Hardwick:

Sheridan Park, Inc. and Amigone Funeral Home appreciate the opportunity extended to speak at the Government Affairs Committee meeting on September 25, 2014. Sheridan Park had expressed their position in the letter submitted to all legislators prior to the meeting. It was expected that there would be a discussion at the hearing of what authority the Erie County Legislature was exercising in "withdrawing" the designation. I am not aware of any avenue in the Not-for-Profit Law to "withdraw" a cemetery land's designation. As stated previously, Amigone will consider any such action as an exercise of inverse condemnation for which compensation is due.

Copies of the letter outlining Sheridan Park's position were hand delivered to each of the legislators on Monday, September 22, 2014 in advance of the Thursday hearing. It was clear that some of the legislators present had not reviewed Sheridan Park's position prior to your hearing. In fact, one legislator noted on the record that she was unaware that a vote would be taken until she arrived at the chamber on the afternoon of the hearing. As such I want to follow up on a few comments made at the hearing.

The Prior System Will Not Be Re-Started

The New York State Department of Environmental Conservation (NYSDEC), the regulatory body charged with protecting health and the environment, has monitored the Amigone facility since it began operations in 1990. Despite that constant monitoring the NYSDEC found only one potential violation of the facility permit. Amigone was advised of that potential violation just months before it voluntarily discontinued the operations temporarily. Sheridan Park agreed with the Attorney General that they would seek to move the crematory operations. If that

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request was opposed by the Cemetery Board then Sheridan Park agreed to propose technical solutions to address any concerns that the neighbors raised with the old facility. That is where the issue stands as of now.

Sheridan Park has proposed an abatement/filtration system that will eliminate any unacceptable discharge from the facility. The new proposal now being considered by the NYSDEC includes moving the emission point away from the neighbors. The information presented by the neighbors as to the possibility of contamination, pollution, soot, smoke, or noise all were in reference to the former facility and location.

The Supreme Court denied the application by Attorney General Schneiderman for a determination that the crematory is a "nuisance" under law. The court recognized that until Amigone made a proposal of what it intended to do to address the neighbors' concerns, it is impossible to know whether any future operations could cause similar complaints or be a nuisance.

Sheridan Park informed the Clean Air Coalition on September 15, 2014 by email that a proposal was being made for NYSDEC review. This notice was provided as a matter of courtesy even though such notice was not required by the Stipulation with the Attorney General. However instead of an inquiry as to the components of the new system the response was your call for a hearing on the resolution to revoke the twenty plus year old cemetery land designation.

In order for Amigone to restart the crematory it must receive permission from the New York State Department of Environmental Conservation. As I advised in my letter of September 22, 2014, Amigone has *"submitted a proposal for an abatement system to be added to the crematory. The abatement system is beyond any regulatory requirement and beyond anything currently in operation in the State of New York. Amigone's commitment to finding an appropriate resolution to the neighbors' complaints is without precedent."*

Legislators referenced the health issues expressed by the neighbors and emphatically advised they would support the resolution on that basis. Again, the new proposed facility has a state of the art abatement/filtration system. To vote in support to a resolution based on outdated facts seems inappropriate.

There seemed to be some confusion as to why anyone would designate a "parking space" as a "cemetery." I am also baffled by many of the laws of the State of New York and the seemingly irrational connection between those laws and the protection of the public's interest. However it was determined long ago that crematories could only be operated on land designated as "cemetery land". A designation of cemetery land requires the approval of the county legislature in certain counties, including Erie. Over 20 years ago Sheridan Park received that unconditional designation for a portion of the Amigone Funeral Home building.

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The County Legislature Should Wait Determinations by the Regulatory Bodies Charged with These Regulating Issues

I am not clear as to the authority that the County Legislature is looking to exercise in "withdrawing" a 20 year old designation. The New York State Department of State, Division of Cemeteries has authority to regulate the business operations of cemetery corporations like Sheridan Park, Inc.

The New York State Department of Environmental Conservation has the ability and duty to protect public health and the environment. To do that they administer the Clean Air Act permit requirements under a State Implementation Plan accepted by the Environmental Protection Agency. Sheridan Park cannot operate without DEC approval. They are in the process of reviewing the new proposed facility.

It would seem prudent and appropriate to await their review and expert determination as to any adverse health impacts the new facility may pose prior to taking any action on your resolution.

I am happy to meet with you or any of the County Legislators individually to answer any questions they may have. I would welcome Erin Heaney as head of the Clean Air Coalition to meet with us at the same time. It would be helpful to hear the same information at the same time so that everyone is having the same conversation.

Sheridan Park, Inc. is grateful for the rational process that the legislature took in reaching a determination that it is best to have full information on these issues prior to taking a position.

Very Truly Yours,

THE KNOER GROUP, PLLC



Robert E. Knoer

REK/cmk

CC: Hon. Barbara Miller-Williams
Hon. Patrick B. Burke
Hon. Betty Jean Grant
Hon. Ted B. Morton
Hon. Peter J. Savage, III

(via mail and e-mail)
(via hand delivery and e-mail)
(via mail and e-mail)
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Hon. Thomas A. Loughran	(via mail and e-mail)
Hon. John J. Mills	(via hand delivery and e-mail)
Hon. Edward A. Rath, III	(via hand delivery and e-mail)
Michael Siragusa, Erie County Attorney	(via hand delivery and e-mail)
Sheridan Park, Inc.	(via e-mail)

21-14

RECEIVED
ERIE COUNTY
LEGISLATURE

RESOLUTION TO BE SUBMITTED BY LEGISLATOR

OCT 16 10 55 AM '90

RE: CEMETERY LAND

WHEREAS, that in accordance with the provision of Section 1506 (C) of the Not for Profit Corporation Law, this Honorable Body will consider the application of the Sheridan Park, Inc., for the consent to construct a crematory on the fourth day of October, 1990, at two o'clock in the afternoon of said day at its chambers on the 7th floor of 25 Delaware Avenue, Buffalo, New York, and

WHEREAS, the required notice of application for such consent shall be published, once a week for six (6) weeks, in a newspaper designated to publish the session laws, and

WHEREAS, at the public hearing the Sheridan Park, Inc., presented to the Clerk of this body, the duly executed affidavits of publication attesting to the required publication set forth above, and

WHEREAS, any and all persons interested in being heard on this matter were afforded the opportunity to do so, and

WHEREAS, it is the determination of this body that the application of the Sheridan Park, Inc., should be granted and that such application does not adversely affect the public health and welfare,

NOW, THEREFORE, BE IT

RESOLVED, that the application of the Sheridan Park, Inc., for legislative consent to acquire cemetery land is granted and the corporation may take and hold the lands designed in their application, and be it further

RESOLVED, that copies of this resolution are to be forwarded to the Erie County Attorney and to the Sheridan Park, Inc., c/o Casey, Sanchez, Jones, Amigone & Kelleher, Buffalo, New York 14202.

LEONARD R. LENIHAN

FISCAL IMPACT: To Be Determined