

PUBLIC COMMENTS

HB 1591

HOUSE COMMITTEE ON LAND & RESOURCE MANAGEMENT

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Hearing Date: March 16, 2021 10:30 AM - or upon final adjourn./recess or bill referral if permission granted

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James Kennerly, Sec/Treasurer

Texas Cemeteries & Crematories Association

Fort Worth, TX

HB 1591 - would essentially allow a licensed funeral home in Texas to “establish or operate a cemetery” or “use any land for the interment of remains.” A funeral home could establish, maintain and operate a cemetery, a mausoleum, a columbarium and burial plots on its land, wherever the facility is located.

Hundreds of funeral homes will be able to inter human remains in their facilities and on their property without the prudent restrictions that are placed on traditional cemeteries, such as compliance requirements and regulation by the Department of Banking for perpetual care cemeteries, geographic (location) restrictions and record-keeping requirements; or the protections that cemeteries have been given by statute, such as protection from seizure under eminent domain, from disruption by condemnation, and from obligations and burdens of property tax assessments.

There is nothing inherent in a commercial funeral home establishment that lends itself to be a permanent place of rest. The Texas Health & Safety Code, Chapter 711.008(a) was intended to provide for the perpetual protection and the dignified handling and interment of human remains. HB 1591 will circumvent that intent. The limited exceptions to Chapter 711.008(a) (such as the installation of columbaria in churches and institutions of higher learning), are facilities of a more permanent character than a funeral home.

Funeral homes are very often sold and/or go out of business. Once a burial is made in a cemetery, the intent is for the person to be buried there forever. What happens to the burials when the funeral home either goes into receivership or sells to a developer? How will a sale be managed? Who will want to buy property for commercial uses with a cemetery on it? What will happen to the deceased’s remains?

Arlie Davenport, Mr.

Texas Cemeteries and Cremation Assoc. (TCCFA) and Greenwood and Mount Olivet Funeral Homes, Fort Worth

Fort Worth, TX

OBJECTION TO HB 1591

March 16, 2021

My name is Arlie Davenport. I am the President of the Greenwood-Mount Olivet Funeral Home Company in Fort Worth and CEO of Mount Olivet Cemetery Association.

I am also a past president of the Texas Cemeteries and Crematories Association and the International Cemetery Cremation and Funeral Association, in Washington, DC.

In Texas, and across the United States, the decades old business model of the funeral industry has collapsed. (There are reasons for this, but time does not permit me to digress.)

Today fewer families are buying expensive caskets and concrete vaults. Fewer limousines are being rented. More and more visitation rooms and funeral home chapels stand empty. Funeral home revenue streams have dried up.

I understand this sea change: My funeral home company’s “once successful” Arlington Funeral Home closed in 2019. We opened it in 1987. Fortunately no cremated remains or ground burials were made on the property. We did not have to move remains to another location. The funeral home had been unprofitable for years. Today the land is worth more than the business.

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It should be clear to everyone that HB 1591 is intended to have the Texas Legislature rescue a “dying” business model.

Texas Funeral Directors are asking you to equate a for-profit, retail establishment with our great Texas universities and churches, simply by slipping a phrase into Chapter 711.008 of the Health and Safety Code, which was enacted to prevent the establishment of cemeteries, burial grounds, mausoleums or columbaria from popping up in random populated areas. There are a few, limited exceptions. For Example: church columbarium, mausoleum beneath the church for ordained clergy and the establishment of a columbarium on the campus of a religious institution of higher learning. Funeral homes don’t equate.

- Religious Universities serve their alumni
- Churches serve congregants and clergy
- Cemeteries serve present and future generations of families,

There is nothing inherent or compelling about a retail establishment creating a cemetery out of thin air. Why would you allow that? Why stop with funeral homes? Why not flower shops?

For decades your legislative predecessors have understood the special function of cemeteries in Texas. That is why cemeteries must be located on land specifically dedicated for cemetery needs.

Dedicated Property:

- Is not affected by dissolution of the owner, by encumbrances, alienation or forced sale
- Is exempt from public improvement assessments and public taxation
- May not be sold on execution or applied in payment of debts due from individual owners of plots
- Is not subject to the placement of railroad, street, pipeline, electric line, cellular

Arthur Simon

self, artist

Austin, TX

I oppose this bill because cemetery locations have a substantial environmental impact that require study and approval by the community.