

NOT-FOR-PROFIT CORPORATION LAW § 1506(b).

Section 1506(b) of the Not-For-Profit Corporation Law requires on a State-wide basis that the legislative body of a city or village consent to the proposed location of a cemetery within these municipalities. Additionally, in Suffolk County a cemetery may not be located in an area of a town outside of an incorporated village without the consent of the town board.

February 27, 1997

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Town Attorney
Town of Deer Park
P. O. Box 3139
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Informal Opinion
No. 97-7

Dear Mr. Coffill:

You have asked whether section 1506(b) of the Not-for-Profit Corporation Law, relating to the location of cemeteries, is applicable outside Suffolk County.

Section 1506(b) of the Not-for-Profit Corporation Law states:

Consent of local authorities. (1) No cemetery shall hereafter be located in any city or village without the consent of the local legislative body of such city, or the board of trustees of such village. (2) No cemetery shall hereafter be located in any town, outside of an incorporated village in Suffolk county, without the consent of the town board of such town.

You have inquired whether the provisions of subdivision 2, which require the consent of the town board of any town in Suffolk County before a cemetery may be located in the area of the town outside of any village, restricts the application of subdivision 1 to cities and villages in Suffolk County.

We see no basis for this interpretation of the statute. Under subdivision 1, before a cemetery may be located in any city or village, the consent of the local legislative body of the city or of the board of trustees of the village is required. By its terms, this provision applies on a State-wide basis.

Subdivision 2 requires the approval of the town board of any town in Suffolk County prior to the location of a cemetery in any area of that town outside of an incorporated village. It is clear that this additional requirement of town board approval only applies in Suffolk County.

There is no inconsistency between the provisions of subdivision 1 and subdivision 2 of section 1506(b). Subdivision 1 applies throughout the State, requiring approval of cemeteries in incorporated areas by the village or city where they are proposed to be located. Subdivision 2 adds a requirement that applies only in Suffolk County -- approval by the town board of a cemetery to be located in the area of the town outside any village. In that cities are legally separate from towns, there is no overlap between the two subdivisions. Subdivision 2 is an additional requirement in Suffolk County.

When the words of a statute are free from ambiguity, and express plainly and clearly the legislative intent, they must be accorded their naturally intended meaning. People ex rel. New York C & H RR Co. v Woodbury, 208 NY 421 (1913).

We conclude that section 1506(b) of the Not-For-Profit Corporation Law requires on a State-wide basis that the legislative body of a city or village consent to the proposed location of a cemetery within these municipalities. Additionally, in Suffolk County a cemetery may not be located in an area of a town outside of an incorporated village without the consent of the town board.

The Attorney General renders formal opinions only to officers and departments of State government. This perforce is an informal and unofficial expression of the views of this office.

Yours very truly,

JAMES D. COLE
Assistant Attorney General
in Charge of Opinions