

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE
20TH JUDICIAL DISTRICT
AT NASHVILLE
PART II

FILED

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CLERK & MASTER
DAVIDSON COUNTY CHANCERY COURT

STATE OF TENNESSEE,)
ex rel. JULIE MIX MCPEAK, solely in her)
 official capacity as Commissioner of)
 Commerce & Insurance,)
)
 Plaintiff,)
)
 v.)
)
 GALILEE MEMORIAL GARDENS,)
 JM&M SERVICES, INC.,)
 LAMBERT MEMORIAL CO., aka)
 LAMBERT MEMORIALS, INC.)
 LAMBERT & SONS, INC.)
 JEMAR LAMBERT, MARJE LAMBERT,)
 and MARY H. LAMBERT, and ALL)
 PERSONS ACTING IN CONCERT)
 WITH THEM,)
)
 Defendants.)

_____ J.C. & M.

No. 14-102-II

SEVENTH INTERIM REPORT OF THE SPECIAL DEPUTY RECEIVER
FOR GALILEE MEMORIAL GARDENS

Pursuant to the Order Appointing Commissioner as Receiver for Galilee Memorial Gardens Cemetery and Granting Temporary Injunction (the "Order") entered by this Court on February 21, 2014, Julie Mix McPeak, Commissioner of the Department of Commerce & Insurance, as Receiver for Galilee Memorial Gardens (the "Cemetery"), through her appointed Special Deputy Receiver, David Kustoff, hereby files this Seventh Interim Report regarding the status of the receivership, including describing progress made since the Sixth Interim Report.

Progress Made Since the Sixth Interim Report

1. As noted in the Updated Information on the Burial of Ms. Lucille Wade Talley in Galilee Memorial Gardens ("Update") filed with this court, the M.J. Edwards Funeral Home buried Ms. Talley in the Garden of Hope, Lot 9-1, Section D, Space 2 on October 31, 2015.
2. Pursuant to the Update, the Receiver is working to gather information regarding supplemental findings regarding the grave space information contained in the Sixth Interim Report.
3. In or around November 2015, Robert E. Moore, Jr. Special Deputy Receiver Receivership Management, Inc. contacted two (2) companies regarding potentially providing ground penetrating radar services at the Cemetery.
4. On or about November 10, 2015, Ground Penetrating Radar Systems, Inc. provided two separate proposals: one to scan approximately 700 grave spaces at an estimated cost of \$2,100, the other to scan the full Cemetery (approximately 9 acres) at approximately \$8,600. A true and correct copy of this estimate is attached hereto as Exhibit A. On or about November 18, 2015, the other company contacted declined to provide a bid if the contracts were to be considered on a lowest cost basis. The ground penetrating radar study will require substantial on-ground work by Robert E. Moore, Jr., on behalf of Special Deputy Receiver RMI. As such,

Mr. Moore is expecting to be on-site for substantial periods during the scanning process.

5. At this time, the full scan of the Cemetery has been authorized and scheduling is underway. The scan is anticipated to take approximately ten (10) days to complete, assuming favorable (dry) ground conditions, and is expected to provide an increased ability to determine grave space availability in the Cemetery. Upon receipt of the ground penetrating radar results, it will be compared to the probing process previously performed by RMI in order to develop a report of vacant spaces in the Cemetery.
6. Total costs for this Receivership received through January 8, 2016 total at or around \$394,966.55. Of this amount, \$21,450.00 was reimbursed for improvement care from the proceeds of the Improvement Care Trust. The remaining amounts have been paid from the Cemetery Consumer Protection Account. As of November 30, 2015, the Cemetery Consumer Protection Account has a balance of \$537,828.12.

Claims Process

7. As of January 4, 2016 RMI has received 288 responses to its request for claims for pre-need burial rights in spaces at the Cemetery. These responses claimed a total of 573 grave spaces.
8. RMI is currently validating the filed claims utilizing cemetery records along with information supplied by the claimants.

9. In early January, RMI issued 218 requests for additional information.

RMI is currently reviewing the responses received.

10. Prior to the next report, the Receiver intends to file a motion for approval of the resolution of the claims for pre-need burial rights at the Cemetery, which is expected to include providing for final publication notice of the ownership process and a process for the resolution of conflicting grave space claims, assigning those currently claiming grave spaces that are unusable a new space, and addressing those that may come forward with additional claims in the future.

Conclusion

At this time, there are two major projects ongoing at the Cemetery: (1) the resolution of grave space claims at the Cemetery and (2) the determination of remaining grave space vacancies at the Cemetery. Given the tasks being performed, the Receiver would propose a date of March 18, 2016 for the next report. As delineated above, the Receiver plans to file a process with this Court prior to that time to propose a process to address the remaining grave space claims. Further, the Receiver believes that the results of the ground penetrating radar will have been received prior to that report and the process will be underway to determine the number of location of vacant grave spaces at the Cemetery.

Respectfully submitted,

Jef Feibelman by stipulation and by permission
JEFF FEIBELMAN (7677)
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*Special Counsel to Julie McPeak, the
Commissioner of Commerce and
Insurance in her capacity as receiver
for Memorial Gardens Cemetery*

David Kustoff by stipulation and by permission
DAVID F. KUSTOFF (15516)
Special Deputy Receiver, Galilee
Memorial Gardens
Attorney at Law
22 N. Front St., Suite 660
Memphis, TN 38103
(901) 527-0255

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Seventh Interim Report of the Special Deputy Receiver has been mailed First Class Postage prepaid to the following interested parties and attorneys requesting notice and transmitted via email this 8th day of January, 2016:

Attorney for Defendants

William J. Haynes, III
Bone McAllester Norton PLLC
511 Union Street, Suite 1600
Nashville, TN 37219
Via email to whaynes@bonelaw.com

Sarah Ann Hiestand (14217)
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Nashville, TN 37202
(615) 741-6035; fax (615) 532-8223


SARAH A. HIESTAND



**GROUND
PENETRATING
RADAR
SYSTEMS, INC.**

Tuesday, November 17, 2015

Receivership Management, Inc.

Attn: Robert E. Moore, Jr.
Phone: 615.370.0051 or 615.477.9896
Email: rmoore@receivermgmt.com

Re: GPR scanning for unmarked gravesites – Galilee Memorial Gardens

PROPOSAL

We appreciate the opportunity to provide this proposal to you for your project in Memphis, Tennessee. Please forward all communication to your assigned representative. The representative that has been assigned to your project is:

GPRS Inc.
Attn: Zach Bates, Project Manager
Phone: 501.251.4036
Email: zach.bates@gp-radar.com

SCOPE OF WORK

Based on email and phone correspondence, we understand the scope of this project to be scanning for unmarked gravesites at the Galilee Memorial Gardens located at 8283 Ellis Road in Memphis, Tennessee. The size of the cemetery is approximately 9 acres. The purpose of this scanning is to identify vacant sites on the property. Upon scanning, all of our findings will be marked directly on the surface using marking paint and/or flags. After the areas are scanned and marked, we will discuss the findings with a project manager or site contact to ensure that our results are understood.

REPORTING

GPRS, Inc. will include a detailed report after the completion of on-site scanning. This includes a written description of the scope of work, equipment used, survey process executed, survey findings and any final conclusions. The report also includes data screen shots, pictures from the site, and a Google Earth aerial image of the site.

SCHEDULING

We anticipate this work to be completed in 5 business days over a 2 week span. A project start date has not been requested at this time. Please sign and return this proposal to your GPRS representative before start of work.



EQUIPMENT

The following equipment will be used on this project:

- GSSI Ground Penetrating Radar – This device transmits an electromagnetic pulse through the ground and displays the reflection on a screen for interpretation.
 - 400 MHz antenna – This antenna allows for GPR signal penetration 3'-7' through the ground in the central Tennessee area.

GPRS, Inc. provides Ground Penetrating Radar (GPR) services. While a good percentage of our work does deal with assisting in the detection of underground utility location, we are not a utility locating company. GPRS, Inc. provides utility location services in accordance with ASCE Standard 38-02, Quality Level "B" that includes Ground Penetrating Radar (GPR) Services. GPR is a good tool for utility locating; however, it is not without its limitations. In general, our maximum depth penetration is 3-7' deep, however, this depth is completely dependent on the composition of soils in the area being surveyed. Wet or damp soil is not conducive to electromagnetic waves. *In the event of soil saturation we advise rescheduling the work to allow the soil to dry.* Customer fully understands that for every foot in depth penetration with the GPR equipment, the pipe/utility must be at least 1" in diameter to be located. For example, at 4 feet in depth, the pipe/utility must be 4" or larger to be detected. Some types of pipes are very difficult to locate, such as clay or concrete pipes, and empty pvc type pipes. Given these factors, GPRS CANNOT guarantee it will be able to locate ALL utilities on site.

EQUIPMENT LIMITATIONS

- GPR – Size of target – typically, a target (utility) must be at least 1" in diameter per 1' of depth in order for it to be located with GPR. IE, a pipe at 7' in depth will need to be at least 7" in diameter in order to be located with GPR. This limitation increases to 2" diameter per 1' depth when using the 270 MHz antenna.
- GPR – Size of target – GPR resolution criteria does not include ability for GPR to identify actual diameter of utilities.
- GPR – Soil conditions – wet soil or soil which contains high amounts of debris can limit GPR effectiveness.
- GPR – Surface conditions – uneven ground, brush, standing water, metal plating, heavily reinforced concrete, or anything which blocks direct access to the area to be scanned limits the ability to perform GPR. If any of these conditions exist please notify us so we can discuss appropriate action.

GPR works by identifying changes in physical properties such as density and conductivity. In cemetery/grave scanning, the actual bodies are very close in properties to the soil, and do not generally appear very clearly. The best readings come from the air pocket (void) within an intact coffin, or sometimes from burial vaults or metallic objects which may be part of the coffin or burial. Older burials (before ~ 1950) can often be difficult to see, most likely because the coffins have collapsed and the void is no longer present. *Please be aware that older burials have an increased likelihood of being effectively undetectable to the GPR.*

Note: Please make sure the subject area is free from all obstructions and standing water. Obstacles may interfere with GPR results and accuracy.

COMPANY INFORMATION

Corporate Headquarters:

Ground Penetrating Radar Systems, Inc.
7540 New West Road
Toledo, OH 43617
Phone: (419)843-9804

Fed ID: ██████████

All W9 and Insurance information can be found at gp-radar.com/forms.html

COST TO CONDUCT INSPECTION

Please have the areas to be scanned CLEARLY MARKED AND IDENTIFIED on the surface prior to our arrival. Failure to do so may incur additional costs.

Receivership Management, Inc.	
GPR Unmarked Grave Locating 9 acres:	\$8,000
Detailed Report with Google Earth Map:	\$600
Estimated Total*	\$8,600
*(price includes mobilization, scanning with 400MHz GPR, marking onsite, and detailed report)	

OPTIONAL SERVICES – Contact your local GPRS, Inc. representative about the following services. We will need notification/request of these services 1 week prior to the start of work.

Written Report Services: **Starting Price \$200**
 GPRS, Inc. offers a Basic Report service. This includes a written description of the scope of work, equipment used, survey process executed, survey findings and any final conclusions. The Basic Report also includes up to 3 data screen shots and 3 pictures from the site. Please discuss your needs with your local GPRS, Inc. representative to get a customized report price for your project.

GPS – Google Earth Mapping of Located Utilities/Items: **Starting Price \$400**
 GPRS, Inc. offers a GPS recording and mapping service for the utilities/items located. This service includes handheld Trimble GPS coordinates of located items inserted into a Google Earth Image Overlay.

GPS – CAD Mapping of Located Utilities/Items **Starting Price \$800**
 GPRS, Inc. offers a GPS recording and mapping service for the utilities locate. This service includes handheld Trimble GPS coordinates of located items and reference items inserted into a CAD drawing provided by the client.

3D Laser Scanning Services: **Starting Price: TBD**
 Ask your local GPRS, Inc. representative about the different 3D laser scanning services that can be offered. Some of the services include: information for support analysis, design, and prefabrication; clash detection; BIM (building information modelling); telecommunications mapping, troubleshooting, and maintenance; survey of roads and intersections.

TERMS & CONDITIONS

- GPRS provides Ground Penetrating Radar (GPR) services. While a good percentage of our work does deal with assisting in the detection of underground utility location, we are not a utility locating company. GPRS, Inc. provides utility location services in accordance with ASCE Standard 38-02, Quality Level "B" that includes Ground Penetrating Radar (GPR) Services. GPR is a GREAT tool for utility locating; however, it is not without its limitations. In general, our maximum depth penetration is 3-7' deep, however, this depth is completely dependent on the composition of soils in the area being surveyed. Customer fully understands that for every foot in depth penetration with the GPR equipment, the pipe/utility must be at least 1" in diameter to be located. For example, at 4 feet in depth, the pipe/utility must be 4" or larger to be detected. Some types of pipes are very difficult to locate, such as clay or concrete pipes, and empty pvc type pipes. Given these factors, GPRS, Inc. CANNOT guarantee we will be able to locate ALL utilities on site. This same principal applies with concrete, in terms of its composition, reinforcement and age.
- Our goal is to provide you with the answers to your questions regarding what lies below the surface, and where it is located. Customer acknowledges it understands that our answers are based upon an interpretation of retrieved data and are what GPRS believes lies below the surface. The decision to proceed with cutting, coring, drilling, boring, or excavation is left entirely up to the customer.
- GPRS does not accept liability for an inaccurate interpretation or any other reason, and customer agrees to release and indemnify GPRS and its owners and agents from all losses and damages from all alleged negligence and/or contract claims by customer or any third party. These terms and conditions supersede any other terms and conditions either oral or written.
- If for some reason the technician arrives on site and the work is canceled, there will be a charge of \$500.00.
- Payment is due upon receipt of project invoice.

By signing below you agree to the terms and conditions as mentioned above,

Print Name _____ Signature _____

Date _____ PO # _____ Job # _____