

DEPARTMENT : ATTORNEY GENERAL - Bremer Tower

STATE OF MINNESOTA

SF-00008-05 (4/86)

Office Memorandum

DATE : May 19, 1992

TO : DENNIS FORSBERG
Director of Veterans Programs
Department of Veterans Affairs

FROM *MP* MERWIN PETERSON
Assistant Attorney General

PHONE : 296-7490

SUBJECT : Veterans Burials



In your letter of May 12, 1992, you state:

The Commissioner of Veterans Affairs, Bernie Melter has requested your assistance regarding an issue with the Brown County Veterans Service Officer and the interpretation of Minnesota Statute 375.36. The history of this issue is that for some years, Brown County has purchased grave sites in local cemeteries, to be used as "Soldier's Rest". Note that these sites are to be free. And because of the archaic language of MS 375.37 Brown County has followed burial guidelines of the VA National Cemetery's, that is burial is available to veterans and their spouses.

Apparently a cemetery in the town of Sleepy Eye has a number of "soldier's rest" plots, but also they have been charging a small fee for the plots. Charging a fee is prohibited by MS 375.38. When the County Service Officer brought this to the attention of the cemetery association, they in turn brought up the issue that the plots were being used for veterans and their spouses, which is not spelled out in MS 375.37. Therefore they would continue to charge a fee.

Therefore what is your opinion regarding the intent of the MS 375.37:

1. Is it reasonable for the county to adopt (unwritten) the guidelines of the VA National Cemeteries, and allow the burial of veterans and their spouses in plots designated as "soldier's rest".
2. Is it the intent of MS 375.37, to allow burial of veterans and their spouses in "soldier's rest" plots, even through present language does not mention veterans or spouses. (Note language does not include Air Force or Coast Guard for that matter.)

Dennis Forsberg
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At the outset, it should be noted that Minn. Stat. § 375.36 through 375.38 is to be administered by the County Board. Although the Commissioner has a general duty to cooperate in securing benefits for veterans under state statutes (Minn. Stat. § 196.05(6) (1990)), it is my view that initially this matter should be considered by the County Attorney. If the County Attorney desires an opinion from our office, we are authorized to give opinions to attorneys for governmental units.

I will, however, make the following general comments concerning the statute in question. Although, as you suggest, the statute should be updated, it is quite explicit in what it allows and does not allow. The statute does not authorize burial of anyone other than veterans in the designated cemetery and does not allow a fee to be charged for veterans burials. With respect to the burial of Air Force personnel, since the Air Force was split off from the Army after the original act, it seems reasonable to allow Air Force personnel to be buried in the cemetery.

I reemphasize however, that it is the County Board and County Attorney that have the primary responsibility for interpreting these statutes. The Commissioner could, of course, seek legislation to authorize or prohibit practices that do not seem to comport with the present statute.

MP:bl:.ai6

cc: Bernie Johnson