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Grave concerns: Is Mount Pleasant cemetery group Ontario's 'lost' crown corporation?



Tyler Anderson/National Post



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A dusty trail of historical documents is raising a curious question: Did the Ontario government essentially lose track of a Crown corporation that owns \$1.3-billion of prime real estate, earns millions of dollars, and has spawned two subsidiaries, all competing aggressively in the lucrative death-care business?

The Mount Pleasant Group of Cemeteries was created by an act of the provincial legislature more than 180 years ago as a public trust and “property of the citizens,” a status that apparently went unchanged in 12 other Ontario laws affecting the group, passed as recently as 1989.

Today, though, the organization styles itself as an independent non-profit corporation, its books withheld from public scrutiny and its three main directors — all pillars of the Toronto business and philanthropic establishments — accountable to neither the public nor the legislature.

Mount Pleasant has even described itself as a “commercial, privately owned” entity, which now controls 10 cemeteries, 14 mausoleums, four crematoriums and a pet memorial service. One of the spin-off companies runs the Simple Alternative funeral company. None pay taxes.

Exactly how much revenue is pulled in, precisely what happens to surplus earnings and how the proceeds of a \$5-million sale of cemetery land in 2006 were used are all considered corporate secrets.

Critics say the government must act quickly to pull the company “back” into the public fold.

“This is a stealth privatization of a public asset: I know this with every single fibre of my being,” said Margot Boyd, who has led a group of community activists concerned about the corporation’s activities. “They’re trying to take it from us. This is our land, this is our heritage, this is our history.”

The Mount Pleasant company, however, says the criticisms just do not hold water. That 19th-Century legislation may have set up a non-profit trust to oversee the new cemetery, but never indicated it was to be publicly owned, said Rick Cowan, Mount Pleasant Group’s marketing vice president.



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It is now run like any other not-for-profit corporation, and has done an exemplary job of catering to the funeral and burial needs of Ontarians, he said.

“Everything we’ve done has been above-board,” said Mr. Cowan. “Why is this being pursued? What harm has this organization caused anybody? ... We are considered

probably the pre-eminent cemetery organization in North America. We have to be doing something right.”

No one owns MPGC or profits from it, he said, adding that all income above expenses is ploughed back into the business, resulting partly in what one former employee called “the most beautiful cemeteries in Canada.”

In fact, the executive said the dispute over Mount Pleasant’s governance, percolating now for six years, seems to be the fallout of a “NIMBY” [not-in-my-back-yard] fight against a facility built on the original Mount Pleasant land in 2007. Ms. Boyd and other residents of adjacent Moore Park, one of Toronto’s toniest neighbourhoods, tried unsuccessfully to block the “visitation centre.” When that battle ended, complaints about the corporation’s status began, Mr. Cowan alleged.

The activists say they have repeatedly asked Ontario’s Liberal government to investigate the situation; a branch of the Attorney General’s Ministry acknowledged at one point that MPGC is a charitable institution — which would require it to open its books to provincial perusal on request.

Mount Pleasant denies it is charitable and has refused to make public its financial records, saying that doing so is not required by law and would undermine its competitive position.

Christine Elliott, the Conservative critic for the Attorney General’s Ministry, said the organization ought to be more transparent, and called the lack of government action on the file an abdication of responsibility.

“For them to choose to do nothing about this is very curious,” said the MPP, who plans to raise the matter in the legislature Monday. “We don’t know what this public trust’s activities are, we don’t know what money there is in it, we don’t know if any profits have been generated and, if so, where they’ve gone.”



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Government action, however, does not seem forthcoming any time soon. Brendan Crawley, a spokesman for the attorney general's department, said Friday the ministry's office of the public guardian and trustee, which oversees charitable groups in the province, is not authorized to consider complaints about how an organization is governed.

Central to the unusual dispute is a series of obscure provincial statutes, the oldest of which was passed 41 years before Confederation to address religious discrimination in the handling of Toronto's dead.

That 1826 Act set up a trust to run a new cemetery in what was then called York, principally to serve people who were neither Anglican nor Catholic and whose bodies were rejected by those churches' graveyards.

‘I’ve heard the original spiel, which is essentially that it’s a company owned by the public. Now they are trying to step away from that’

Built with \$300 raised from 300 different donors, it was known as Potter’s Field, until the remains were moved out, and urban development began on what is now the high-end Bloor-Yonge intersection.

The trust later set up the Toronto Necropolis and then Mount Pleasant cemetery, a 200-acre swath of forested parkland in the city centre that remains a magnet for joggers, cyclists and strollers.

The original act created a board of trustees who were to be elected by a majority of Toronto residents. An 1849 amendment modified the system so trustees themselves would select replacements and publish the names in the official government “Gazette,” with the public allowed to nominate and elect alternate candidates if they wanted. That provision appears to have gone unchanged through 10 other bills — most approving the purchase or sale of land — that followed over the next 118 years.

The Toronto General Burying Grounds trust was folded into a new corporation by a special act of the legislature in 1871.

So, what does it all mean?

An 1876 document issued by the corporation notes that the cemetery was “the property of the citizens,” managed by trustees “who have no private interest whatsoever in the trust.” A brochure published by the company in 1920s refers to the “public cemeteries” and “Toronto’s first public-ownership trust.”

Mr. Cowan, though, said those early pieces of legislation were just a way for a community-minded group to set up what would now be called a non-profit corporation — but never established a publicly owned organization.

He also argued that the Ontario Corporations Act, which governs non-profits, supersedes those early laws and reinforces MPGC's private status.

That is hogwash, countered Pam Taylor, a Moore Park activist and lawyer who once represented TVOntario, itself a Crown corporation. It is clear in law that a general statute like the Corporations Act never applies in areas covered by more specific legislation, like those 1800s Toronto cemetery acts, she said.

In fact, names of new board members were published in the Gazette until at least the late 1970s — as stipulated by the 1849 act — before the practice was quietly abandoned.

Mr. Cowan said the three current outside directors of MPGC now have authority under the Corporations Act to fill any future board vacancies, and the Gazetting of names is no longer considered necessary. They are paid \$25,000-30,000 a year, he said.

The board members — Tom Di Giacomo, a former CEO of Manulife insurance; Wendy Cecil, chancellor of a University of Toronto college and federally designated “volunteer of the year” in 2010; and Marilyn Field-Marsham, a prominent Toronto lawyer — all declined comment.

‘Why is this being pursued? What harm has this organization caused anybody?’

What is certainly beyond debate is that Mount Pleasant, though non-profit, has operated in recent years like an entrepreneurial, growth-minded company, paying bonuses to its sales people and tapping into all corners of a growing market. Ms. Boyd

said a company insider told her it grosses close to \$100-million a year, something Mr. Cowan would not confirm.

He did say the organization has no choice but to compete aggressively to ensure it continues to operate “into perpetuity,” safeguarding the final resting places of so many people.

“There’s a landscape out there that we have to hold our own in — call it maintaining our share of the market.”

As well as building several new cemeteries, it has added cremation facilities, mausoleums, and even areas where relatives can purchase plaques to remember relatives buried in other places. Provincial law has for decades barred cemeteries from operating funeral homes, and vice versa. But 20 years ago MPGC set up Simple Alternative, which was able to delve into the funeral market as a parallel corporation,.

Then Mount Pleasant began building “visitation centres” on some of its actual cemetery properties, working around the cross-ownership law to operate facilities that are, in most respects, funeral homes. The centres still cannot embalm bodies on site, but MPGC farms out that work to Simple Alternative. Many customers appreciate the one-stop shopping, said Mr. Cowan.

To the funeral-home industry, though, it was unfair competition that violated at least the spirit of the cross-ownership law, said Bruce Humphreys, owner of Toronto’s Humphreys Funeral Home.

“Fifty years ago, 30 years ago, they were a wonderful company to work with. They played by rules,” he said. “Then their board and their staff decided they wanted to go after the funeral-service market ... Mount Pleasant has been very aggressive.”

Two former employees, who asked not to be named, called it a “very ethical” and professional organization dedicated to its non-profit status, with “a very good reputation

within the industry.” MPGC is also eager, they said, to locate add-on businesses within its extensive real estate.

“They push the private-property thing like crazy: they’re adamant it’s not public land,” said a current worker, who also spoke on condition of anonymity. “I’ve been here long enough that I’ve heard the original spiel, which is essentially that it’s a company owned by the public. Now they are trying to step away from that.”

Valuations by MPAC, the agency whose assessments help determine property tax in Ontario, indicate that Mount Pleasant’s entire 1,200 acres is worth more than \$1.3-billion. At the heart of it is the company’s namesake cemetery, an “amazingly beautiful” Toronto landmark that rightfully belongs to the people, not a private corporation, Ms. Taylor contends.

“Imagine Central Park or Hyde Park in London; imagine someone suggesting ‘Nobody owns it, so we might as well do it, we’ll take it over,’ ” said the former Conservative candidate for the Ontario legislature. “There’s clearly something very wrong here.”

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