

In the present case, such exceptional circumstances existed. A faculty would be issued, subject to appropriate conditions, including the raising of revenue from the removed lead, the preservation of any historical markings and the obtaining of any necessary planning consents. [DW]

doi:10.1017/S0956618X19001571

Re Lambeth Cemetery

Southwark Consistory Court: Petchey Ch, 2 August 2019

[2019] ECC Swk 5

Exhumation – mistake – other faiths – burial plot lease

The petitioner sought the exhumation of the remains of his father from the consecrated area of Lambeth Cemetery. The deceased died and was buried in 1987 in a plot granted to the family by Lambeth Council under a 50-year lease for burials. The lease failed to mention that the grave space was in consecrated ground and, because it was expressed in the form of a 50-year lease, the family understood that burial there was for a limited duration, by the end of which exhumation would be expected. When the deceased's wife died in 2018, the petitioner sought to comply with his mother's wishes seeking burial alongside his father at Lambeth Cemetery. However, this was not possible as the grave was double depth but not double width. The Taoist traditions of the family meant that the mother could not be buried on top of her husband. As an alternative the petitioner bought a double-width plot at Beckenham Cemetery, planning to inter both parents there. The mother was buried at Beckenham and the petitioner then sought the exhumation of his father.

The chancellor found that the double mistake – of an unwitting burial in consecrated ground and the misunderstanding as to the duration of the burial – meant that there were circumstances sufficient to justify the exhumation of the father's remains as an exception to the general principle of permanence of burials. Accordingly, the faculty for exhumation was granted. The chancellor noted that had the mother not already been buried in Beckenham Cemetery it would have been preferable to exhume the father and re-inter him above the mother in the same grave at Lambeth. The chancellor also ordered that a copy of the judgment be sent to Lambeth Borough Council so that they could address the ambiguous meaning of the 50-year burial lease and ensure that the families understood the nature of the grant given. [Catherine Shelley]

doi:10.1017/S0956618X19001583