

IN THE CHANCERY COURT FOR JOHNSON COUNTY
at MOUNTAIN CITY, TENNESSEE

Yates Family Properties, LLC

Civil Action No: 2023-CV-0001

Petitioner,

vs.

Unknown Heirs of Bettie Latham,
Decedent buried at the property
on Modock Road, Trade, TN 37691
Tax Map 87 Parcel ID 77.01 in the Property
Assessor's Office for Johnson County, Tennessee,

Respondents.

Filed this 4th day of
Jan. 2023 at 10:36
o'clock A. M.
Sherrie Fenner
Clerk and Master
Chancery Court

**PETITION FOR TERMINATING USE OF LAND AS BURIAL GROUND AND FOR
DISINTERMENT AND REINTERMENT OF DECEDENT**

Yates Family Properties, LLC, a North Carolina Limited Liability Company, (hereinafter "Petitioner"), after being duly sworn according to law, would state to the Court as follows:

1. Yates Family Properties, LLC is a North Carolina Limited Liability Company doing business in Johnson County, Tennessee with an address of 5672 Modock Road, Trade, Tennessee 37691.
2. This Court has jurisdiction over the parties and of the subject matter in this petition.
3. Yates Family Properties, LLC is the current owner of record of approximately 39.17 acres more or less located on Modock Road, Trade, Tennessee (hereafter "the Property") of record in Deed Book 216, Page 828, Register's Office of Johnson County, Tennessee. Johnson County Tax Assessors Map 87, Parcel Number 77.01.
4. The Property is the subject of this action and is situate in Johnson County, Tennessee. Venue is proper in Johnson County, Tennessee
5. The vesting deed of the Property described above does not contain any reference to a cemetery or family burial site thereon and therefore Petitioner was unaware of any such site at the time of purchase.
6. On or about March 2021 Petitioner discovered a headstone located upon the property as shown on picture attached hereto as Exhibit A.

7. Based upon the name legible and internet research, Petitioner believes the following person may be buried upon the Petitioner's land:
 - a. Bettie Latham (1865-1902)
8. Upon information and belief, the burial site on the Property has been abandoned for many years.
9. Census data from 1900 and 1910 shows that, at those times, there was a Bettie Latham married to a Jerry Latham living in Gibson County, Tennessee. They had one daughter, Fannie Latham, aged 23, who was unmarried and living with her parents. Fannie Latham never married according to her gravestone.
10. Further internet research shows record of a J.H. Latham who was a Grand Officer of the Independent Order of Odd Fellows in Zionville, North Carolina in 1889.
11. Otherwise, searches of the internet and public records have revealed no further information regarding possible heirs of Bettie Latham.
12. Petitioner respectfully petitions this Court, pursuant to Tenn. Code Ann. § 46-4-101 et. seq., to terminate the use of the abandoned gravesite on the Property as a burial ground.
13. Petitioner also respectfully petitions this Court, pursuant to Tenn. Code Ann. § 46-4-101 et. seq., to authorize and approve the disinterment and relocation of the gravesite and remains thereon pursuant to the specifications set forth herein.
14. The identity and addresses of any heirs to the decedent are also unknown.
15. Tennessee Code Annotated § 46-4-101 applies to:

Any burial ground in the State of Tennessee... which the court to which jurisdiction is given by this chapter finds, for any of the reasons hereinafter stated, is unsuitable for its use as such and as a resting place for the dead whose remains are buried therein, or the further use of which for such purposes the court finds, for any of such reasons, is inconsistent with due and proper reverence or respect for the memory of the dead or otherwise unsuitable for such purposes, the reason being:

- 1) The burial ground having been abandoned; or
- 2) The burial ground being in a neglected or abandoned position; or
- 3) The existence of any conditions or activities about or near the burial ground which the court finds render the further use of same for the purposes aforementioned inconsistent with due and proper reverence or respect for

the memory of the dead, or for any other reason unsuitable for such purposes.

16. Upon reasonable inquiry, Petitioner is not aware of any use being made of the burial site for use as a cemetery or family burial ground and believes the burial site to be abandoned.
17. The residential construction which Petitioner has planned to occur on the Property requires that they make use of the land where the headstone is currently located, therefore the current location for the burial ground is unsuitable, and the remains should be relocated out of due and proper reverence and for the memory of the decedent(s).
18. Petitioner would remove and relocate the remains in accordance with all the applicable laws and regulations with the assistance of Mountain City Funeral Home to a gravesite located in the graveyard of Trade United Methodist Church located at 11207 U.S. Highway 421, Trade, TN 37691, which would be better protected and more easily accessed should any descendants wish to visit in the future. An appropriate memorial, plaque, or the like to commemorate the decedent will be erected at the new gravesite.
19. Tennessee Code Annotated § 46-4-101(a)(1) provides that only “interested persons” may bring an action for disinterment and relocation in the court “of the county in which any such burial ground is situated...to have the remains of all deceased persons buried in such ground removed therefrom and reburied in a suitable repository to be obtained for that purpose before their removal from such burial ground”.
20. Tennessee Code Annotated § 46-4-102 defines “interested persons” as “any and all persons who have any right or easement or other right in, or incident or appurtenant to, a burial ground as such, including the surviving spouse and children, or if no surviving spouse or children, the nearest relative or relatives by consanguinity of any (1) or more deceased persons whose remains are buried in any burial ground.”
21. Petitioner, as the owner of the Property, qualifies as an interested person under Tenn. Code Ann. § 46-4-102, and files this Petition in that capacity.
22. Tenn. Code Ann. § 46-4-103(b) provides that “in any such suit, all interested persons who are not complainants shall be made defendants...”. Based upon the age of the gravesite, the identity of the heirs of the decedent are unknown.
23. Petitioner has made a diligent search for any ascertainable descendants of the decedent whose name is legible upon the headstone. This search has included various online databases, research of public records, and phone calls and emails to persons who might have knowledge of possible descendants. However, no ascertainable descendants have been identified. Therefore, no one has been made a party to this proceeding pursuant to Tenn. Code Ann. § 46-4-103(b).

24. Tenn. Code Ann. § 46-4-103(b) provides, in relevant part, that nonresident and unknown defendants may be proceeded against by publication, in the manner provided by law. Accordingly, for unknown interested persons, Petitioner requests that the Clerk and Master cause notice to be made to all unknown interested persons by publication in a newspaper of general circulation in Johnson County, Tennessee, once a week for four (4) consecutive weeks.
25. In addition, pursuant to Tenn. Code Ann. § 46-4-103(c), contemporaneous with the filing of this Petition, the requisite notice has been provided to the Tennessee Historical Commission, along with a copy of this Petition.
26. Petitioner, upon obtaining the necessary authorization from this Court intends to relocate the decedent to the graveyard of Trade United Methodist Church. This process will include removing the decedent from the Property by Mountain City Funeral Home and relocation also handled by Mountain City Funeral Home.
27. Petitioner has contacted Mountain City Funeral Home and will make all appropriate arrangements under Tenn. Code Ann. § 46-4-104 prior to any relocation taking place and Petitioner will pay the costs of the same.
28. Petitioner shall follow all public health rules and regulations set forth under Tenn. Code Ann. § 64-4-110 regarding the disinterment of the decedent.
29. Petitioner shall cover any and all costs related to disinterment, removal, and relocation.

WHEREFORE, the Petitioner respectfully requests that this Honorable Court grant the following relief:

1. In accordance with Tenn. Code Ann. § 21-1-204 and 46-4-103, the Clerk and Master of this Court authorize and publish notice to all unknown interested parties by publication in a newspaper of general circulation in Johnson County, Tennessee, once a week for four (4) consecutive weeks;
2. That this Court terminate the use of said Property as a burial ground in its current location, including all rights and easements to use said burial ground, and all rights to ingress and egress relative to said burial ground;
3. That this Court find disinterment and relocation of the decedent appropriate under Tenn. Code Ann. § 46-4-101 et. seq. due to the residential development of the property rendering the grave unsuitable for the site and inconsistent with due and proper reverence for the decedent as well as the burial ground being in a state of abandoned condition pursuant to Tenn. Code Ann. § 46-4-101;

4. This Court approve disinterment, removal, and relocation of the decedent pursuant to Tenn. Code Ann. § 46-4-101 et. seq. and authorize Petitioner to take all necessary actions to do so; and
5. For such other relief as the Court deems the Petitioner to be justly entitled.

This is 4th date of JANUARY, 2021.

Respectfully Submitted:



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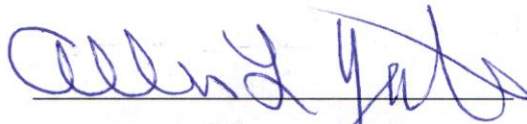
VERIFICATION

STATE OF Tennessee
COUNTY OF Johnson

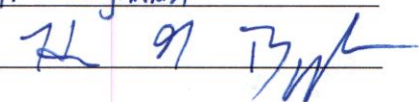
This day Allen Yates, Member/Manager of YATES FAMILY PROPERTIES, LLC personally appeared before the undersigned Notary Public, in and for said County and State, who, first being duly sworn, says:

That he has read the foregoing document and the same is true of his own knowledge and belief.

By: **YATES FAMILY PROPERTIES, LLC**


Allen Yates, Member/Manager

Subscribed and sworn to before me, this 29 day of December, 2021.

Hunter G. Baughman
Notary Public: 

My Commission Expires: 5/26/2025



EXHIBIT

A

tabbles®

filed this ^{4th} day of
Jan. 2008 at 10:24
o'clock a.m.
Sherrie Fenner
Clerk and Master
Chancery Court

CV# 2008-CV-0001

WIFE OF

J. H. LATHAM

BORN

AUG 16 1865

DIED

AUG 31 1902

Aged

37 yrs & 15 ds