

# Judge gives disputed cemetery back to Frankenmuth Township

By [Andy Hoag | The Saginaw News](#)

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Once a cemetery, always a cemetery.

A Wednesday ruling by Saginaw County Circuit Judge Janet M. Boes to that effect means 84-year-old June E. Finger can visit the Olive Branch Cemetery gravesites of the two babies she lost in 1953 and 1954.

It also means Frankenmuth Township can convert the disputed graveyard into a public cemetery.

Since Joseph J. Trogan Sr. gained control of the cemetery and its adjacent land in 1963 and 1964, Finger has only visited the cemetery a handful of times. Armed threats led her to sneak to the gravesides in fear for her safety. The last time Finger, a Frankenmuth resident, called on the graves was at least six years ago.

Now, she and others with relatives buried at the 108-year-old cemetery will be able to park off Dixie Highway between Townline and Curtis and visit their loved ones.

Finger, along with Frankenmuth Township, the Bridgeport Historical Society, Kathryn Schlegel and Matt Letterman sued Trogan and his son, Joseph J. Trogan Jr., who bought the land from his father for \$1, for rights to the land. Between 1901 and 1954, about 40 people were laid to rest at the cemetery. Since Trogan Sr. acquired the land, the plaintiffs said, he and his family have “refused to allow relatives of persons buried at the cemetery ... access to the burial site.”

Boes ruled that the deeds that gave the cemetery land and the land of the former church that sits between Dixie and the cemetery to Trogan Sr. are void. The voided deeds revert the land to the Trustees of Olive Branch Cemetery. Because those three trustees are dead, Boes ruled that Frankenmuth Township and the historical society each will appoint a trustee.

Those two trustees then will agree on a third trustee to join them.

Boes cited the state’s rural cemeteries act that indicates land laid out for a cemetery purpose shall operate as cemetery “forever” and remain owned by the trustees and their successors “forever.”

“(The law) is simply too clear to argue about,” Boes wrote. “... The statute means what it says.”

The judge wrote that “cemetery land is simply ‘different’ from land held and used for run-of-the-mill private purposes.”

She cited a previous court ruling that stated a cemetery can be sold “so long as lot owners are not deprived of the use of, or access to, their lots and the integrity of the cemetery is not interfered with.”

The plaintiffs claimed the cemetery was in “great disrepair.” In August, when Boes, attorneys, and

some of the parties visited the property, the Trogans “made haste to clean things up and make the property more presentable,” Boes wrote.

Boes applied the same legal principal to the old church property because it served “the purpose of, at a minimum, access to the cemetery, and possibly also for future expansion of the burial ground.” Additionally, with the original deeds for the cemetery labeling it as a “private rural cemetery,” Boes empowered the township to change the status of the cemetery to a public, township burial ground.

The judge also ordered a survey of the property, completed in the next six months, to determine precise boundaries.

“You cannot ‘buy’ a cemetery for \$1 and unilaterally ‘transform’ the land into private property,” Boes wrote. “The attempt to do so was misguided, and it is time for it to come to an end. It is time to restore Olive Branch Cemetery to its rightful status as an open, properly-maintained burial ground.”

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