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## Court bars developer from removing Mount Olive Cemetery

By **John Schaffner**

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A Fulton County Superior judge has barred a developer from disturbing an historic African-American cemetery in Buckhead, the Buckhead Heritage Society reported.

Since 2009, the society has opposed an application filed with the city of Atlanta by Stone Mountain developer Brandon Marshall to relocate the Mount Olive Cemetery, which is located on Pharr Road at the entrance to Frankie Allen Park. The cemetery is the last remnant of the African-American community of Macedonia Park, which was founded by freed slaves after the Civil War.

In March 2010, Atlanta City Council voted to deny the application. The developer promptly filed a lawsuit against the city.

As the application was being reviewed last year, a lawsuit was filed against the developer on behalf of Elon Butts Osby, whose ancestors are buried in Mt. Olive Cemetery. Osby was represented by Buckhead Heritage Society President Wright Mitchell and his law firm, Constangy, Brooks & Smith, LLP on a pro bono basis.

In October, the Fulton County Superior Court ruled that Mt. Olive is a public cemetery, the society said, so the cemetery's removal is prohibited by Georgia law. According to the court's final order, the developer is barred from disturbing the cemetery and is "prohibited from taking further actions to obtain a permit from the city of Atlanta government that would sanction the disturbance and/or relocation of the Mt. Olive Cemetery," the society said in a public statement.

The developer has until Nov. 29 to appeal this ruling to the Georgia Court of Appeals.

Macedonia Park developed into a thriving community in the early 20th century. The community and its residents were later systematically removed in the 1940s to make way for the present Frankie Allen Park. The .22-acre cemetery at the park entrance contains approximately 45 marked and unmarked African-American graves.

"Buckhead Heritage looks forward to working with stakeholders to develop a preservation plan for the cemetery," said Buckhead Heritage Executive Director Erica Danylchak. "We feel that Mt. Olive presents a unique opportunity to educate Buckhead about its cultural heritage and undoubtedly deserves the continued attention of the community now that the court has prohibited the developer from destroying it."

The Buckhead Heritage Society, a non-profit organization, was founded in 2006 to identify, preserve, and promote the community's historic resources. For more information about Buckhead Heritage, please visit [www.buckheadheritage.com](http://www.buckheadheritage.com).

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