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Court Bars Developer from Removing Mt. Olive Cemetery

Since 2009, Buckhead Heritage has been vigorously opposing the Application filed with the City of Atlanta by Stone Mountain developer Brandon Marshall to relocate Mt. Olive Cemetery, which stands in the heart of Buckhead adjacent to Pharr Road. In March of 2010, the Atlanta City Council voted to deny the Application. However, the developer promptly filed a lawsuit against the City of Atlanta and the fate of Mt. Olive has remained in question.

As the Application was being reviewed by the City of Atlanta last year, a lawsuit was simultaneously filed against the developer on behalf of Elon Butts Osby, whose ancestors are buried in Mt. Olive Cemetery. Ms. 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 of 2010, the Fulton County Superior Court ruled that Mt. Olive is a public cemetery. Its removal is therefore prohibited by Georgia law. According to the Court's Final Order, the developer is "barred from disturbing the Mt. Olive Cemetery or otherwise appropriating it for private use" 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 developer has until November 29, 2010 to appeal this ruling to the Georgia Court of Appeals.

Mt. Olive Cemetery is the last remnant of the African American community of Macedonia Park that was initially founded by freed slaves after the Civil War. It 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. Located at the entrance to the park, Mt. Olive is a .22 acre cemetery containing 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. In addition to restoration projects and advocacy efforts, the Society hosts educational events to foster a conscious respect within the community for its rich and diverse history. For more information about Buckhead Heritage, please visit www.buckheadheritage.com.

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