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Has Bayside Buried Its Troubled Past?



Before and after the makeover: Above, Bayside cemetery in May before the Coalition for At-Risk Jewish Cemeteries cleanup began. Below, graves that had long been covered with weeds and branches are now coming into view. Photos courtesy of CAJAC

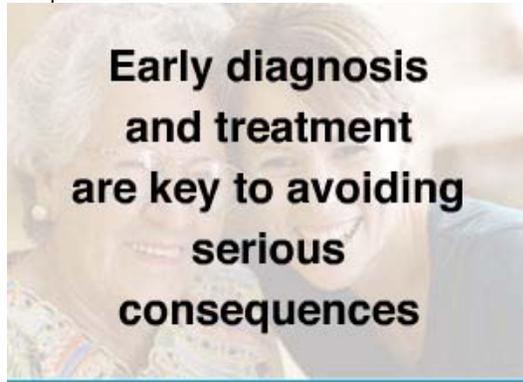
by Julie Wiener
Special To The Jewish Week

Gravestones that have, for decades, been hidden by several feet of weeds, are finally coming into view. Paths long impassable to all but the most intrepid adventurers are now clear of fallen trees, overgrowth and vines. Open mausoleums, many plundered by vandals, are being re-sealed.

Is a new age dawning for Ozone Park's Bayside Cemetery, the historic Jewish burial ground neglected for decades and currently the subject of a class-action lawsuit? Since May, 167-year-old Bayside has been undergoing a comprehensive \$140,000 makeover at the hands of a professional landscaping company and scores of volunteers. Funded by UJA-Federation of New York and overseen by a fledgling nonprofit called The Coalition for At-Risk Jewish Cemeteries, the cleanup spans the entire burial ground and is expected to

be completed by the end of December. Already, the 35,000-plot Bayside, which is nestled between two smaller cemeteries, looks dramatically better than it has in years. But will the new improvements last? Or, in the absence of a sizeable endowment and other sources of funding, will this Queens cemetery return to its previous squalor?

The answer to that question — and the explanation of how the situation at Bayside Cemetery, which is owned by the Upper West Side's Congregation Zedek, was allowed to get so bad — depends on whom you



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To those battling Shaare Zedek and Bayside Cemetery in U.S. District Court, the cleanup is little more than a temporary Band-Aid that deflects attention from Shaare Zedek's alleged violations of perpetual care contracts and raiding of restricted cemetery accounts.

But to officials at Shaare Zedek and its newly established partner CAJAC, which is working closely with UJA-Federation, the Jewish Community Relations Council and the Hebrew Free Burial Society, the cleanup is the first step toward ensuring permanent care not only for Bayside, but for countless other underfinanced Jewish cemeteries in the New York area.

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For years Shaare Zedek has argued that it lacks the financial resources to properly care for Bayside, in part because the numerous now-defunct burial societies that purchased the majority of the plots never paid enough money for their sections' long-term care. Responsibility for maintaining the cemetery, Shaare Zedek defenders say, belongs to the entire Jewish community, not a small and financially struggling synagogue that has been subsidizing the cemetery's care out of its own budget.

Critics, however, contend that Shaare Zedek, which nearly closed in the 1980s but underwent a revival as the Upper West Side gentrified in the 1990s, has long mismanaged — if not stolen from — the cemetery's coffers and bears primary responsibility for fixing the situation. Synagogue officials vigorously deny these allegations.

John Lucker, one of the plaintiffs, whose grandparents are buried at Bayside, says he has calculated that had synagogue officials set aside just the money collected for the cemetery in the early decades of the 20th century into a low-interest savings account it would have amassed an endowment worth more than \$5 million today.

And he notes that, in a letter from Shaare Zedek officials to the Charities Bureau of the New York state Attorney General's office the synagogue "admitted to the attorney general that there had been a general commingling of assets between the synagogue and cemetery before 1999." Lucker and his attorney, Michael Buchman, say they viewed the letter in a spring 2007 visit to the Attorney General's office, during which they were allowed to read documents pertaining to Shaare Zedek and Bayside, but not photocopy them. The Attorney General's office has been conducting an investigation on Shaare Zedek and Bayside Cemetery since 2004.

But Shaare Zedek President Richard Friedman, who describes the investigation as a cooperative one "helping us to reach a good final answer to the cemetery problem," told The Jewish Week he "has never heard of a letter to that effect."

The synagogue "has always maintained separate accounts and financial statements, at least for the last 40 years," Friedman said, adding that there's "no indication of commingling."

Lucker is skeptical not only about the cleanup effort, but about CAJAC itself, which he suspects is "an attempt by Congregation Shaare Zedek to separate and transfer the liability and ownership for Bayside Cemetery to an entity with limited or zero assets."

Writing in a recent post on his blog, baysidecemeterylitigation.com, Lucker referred to CAJAC as "an offshoot of Congregation Shaare Zedek" and noted that "the Congregation seems to be looking for a way to wipe the slate clean and have this new organization called CAJAC take responsibility for the entire situation."

Although filed almost two years ago, Lucker's suit is still in early stages, due to questions over jurisdiction, Shaare Zedek's efforts to have the case dismissed, a six-month "tolling agreement" in which plaintiffs agreed to temporarily put it on hold and various other delays.

However, at a court hearing on June 29, Judge Raymond Dearie did not rule on the defendants' motions to dismiss, and when Buchman announced that he intends to file class-certification briefs on July 24, the next step in bringing forth a class-action lawsuit, the judge told the attorney that he should go ahead and do so assuming he does not hear otherwise from Dearie before that. At press time, Buchman said he had not heard from Dearie and that Dearie has made no further rulings or announcements.

Buchman, who has several relatives buried at Bayside, is working on a pro bono basis. (Shaare Zedek's attorneys, including Russell Steinthal, a board member, are also working pro bono.)

Buchman and Lucker insist that they seek no personal gain from the lawsuit.

"We want the cemetery restored and maintained in perpetuity as social norms mandate," Lucker explained in a phone interview.

Officials at Shaare Zedek and CAJAC say they share the plaintiffs' stated goals, but they argue that the lawsuit has actually delayed cleanup and hindered efforts to raise money for Bayside and for other neglected cemeteries.

"When we were sued, CAJAC had interviewed 25 potential candidates" to be its executive director, Shaare Zedek Rabbi Julia Andelman told The Jewish Week. "But who wants to join an organization that's being sued? The top candidate bolted, the second candidate bolted."

Of the lawsuit, Rabbi Andelman said, "It's been an awful waste, very counterproductive. If they were to win the case it would make no meaningful difference for the cemetery."

In an e-mail to The Jewish Week, Shaare Zedek's lead counsel Stephen Axinn called the suit "an unwarranted and unsupported distraction from the task at hand" and said that should the case continue, "we intend to vigorously contest any motion for class certification, as well as the merits."

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Despite initial setbacks, CAJAC last fall hired Howard Feinberg, a longtime professional in the Jewish federation world, for a 10-month contract as interim consulting executive director. Although officially only a part-time employee, Feinberg has devoted several extra days per week to getting the new organization off the ground and has invested his own money in producing a promotional video documenting the beginnings of the cleanup effort. While his contract is almost up, and CAJAC's lay leaders are searching for a permanent executive director, Feinberg said he hopes to continue in some capacity, either as a consultant or board member. UJA-Federation has committed to contribute \$80,000 a year for two years to cover CAJAC's start-up costs.

Like Lucker and Buchman, Feinberg has personal ties to the cemetery: his great-grandparents and other relatives are buried there. He recalls being horrified in 1988

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when he was living in another city and had a friend help track down the graves for him, only to be told he "needed a machete" to get to them.

While then angry at Shaare Zedek over the conditions at Bayside, Feinberg says he has been impressed with the level of cooperation, support and what he feels is genuine concern from the synagogue's current leadership and is optimistic that CAJAC will be able to solve the cemetery's problems once and for all.

With CAJAC's tax-exempt status recently secured and the cleanup well under way, the group's next step is to develop partnerships with potential allies and "go out and do some heavy-duty fundraising," Feinberg said.

Millions of dollars are necessary to endow Bayside in perpetuity.

According to Shaare Zedek's Friedman, the cemetery currently has just over \$560,000 in its bank accounts, of which \$552,346 is in a restricted perpetual care fund, meaning that its principal cannot be touched. The cemetery brought in \$28,000 in revenues this year, mostly from annual-care payments and burial fees.

While plaintiffs in the class-action lawsuit accuse the synagogue of raiding the cemetery's accounts, the relationship is actually the opposite, say Shaare Zedek officials.

In the past fiscal year, according to Friedman, of the \$85,000 that Bayside Cemetery spent, \$57,000 came from the synagogue's operating budget.

The cemetery's two full-time caretakers are supposed to be paid for out of the cemetery's bank account, but "because Bayside doesn't have the money to pay them, Shaare Zedek does," Friedman said.

Asked whether in the six years he has served on the synagogue's board the congregation has ever borrowed or taken money from Bayside's accounts, Friedman said "not a cent."

Both Friedman and Rabbi Andelman also emphasized that, while no current synagogue members have relatives buried at Bayside, the congregation cares greatly about the cemetery.

Rabbi Andelman said that Shaare Zedek's leaders "want this to be fixed. No one's trying to sweep things under the rug or thwart efforts to fix it. It's not appropriate to think we don't care. We care and have been working very hard nonstop for the past few years."

Friedman and Rabbi Andelman note that although Shaare Zedek has been pouring money into Bayside, the synagogue is far from affluent. Many of its members are students or fixed-income seniors.

Membership, currently at 140 households, is in decline, which synagogue leaders attribute to the "transient" nature of the neighborhood; many of the young people who helped revive the synagogue in the 1990s have moved to the suburbs and outer boroughs.

In fact, in the coming year Rabbi Andelman will be working part time, rather than full time, because the synagogue can no longer afford a full-time rabbi.

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Regardless of who or what is to blame for Bayside's current situation, the cemetery is far from unique, notes CAJAC's Feinberg.

Indeed, once Bayside, which Feinberg describes as CAJAC's "role model" project, is restored and endowed, the group hopes to expand its purview to other local Jewish cemeteries, many of which lack adequate endowments and are at risk of becoming like Bayside.

Many have been built on faulty business models, with operators putting too little money aside and instead relying too heavily on revenues from the sale of new plots. When the plots run out, the money dries up, and the cemeteries languish.

On a recent walk around Bayside, Feinberg proudly showed off the progress made so far by the professional landscapers and volunteers. While much of the cemetery continues to look like a rainforest or horror movie set, with toppled headstones, litter and dense shrubbery, growing numbers of sections are relatively attractive, shaded by tall trees and dotted with dandelions, tiger lilies and other brightly colored wildflowers.

As CAJAC's volunteer coordinator, Dr. Ronny Herskovits, a dermatologist from Jamaica Estates, Queens, has brought in volunteers from a variety of Jewish institutions, including two busloads of students from the Hebrew Academy of Long Beach. Sutton Place Synagogue is also discussing bringing regular groups of volunteers to work in the cemetery. Himself a volunteer, Herskovits became interested in Bayside a few months ago, when his brother's Jewish motorcycle club, Chai Riders, did a one-day cleanup project there. He comes to the heavily wooded cemetery every Wednesday and Sunday, and is eager to see it restored to a state that is respectful to the dead, as well as aesthetically pleasing and relatively low-maintenance.

Why, when his own parents are buried in the well-maintained Mount Hebron Cemetery, in Kew Gardens Hills, much closer to his home, does Herskovits make the twice-weekly trek to Ozone Park?

"It's a blight on the Jewish community for one of its cemeteries to look like this and for families to see their relatives ignored," he explained in May, before the CAJAC cleanup began.

By late June, Bayside was starting to show signs of its potential. Gesturing around the northeast section where he was working, Herskovits said, "Look at this, how beautiful it is the way the sun filters through the trees."

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