

**Community Care And Assisted Living Appeal Board**  
***Community Care and Assisted Living Act,***  
**SBC 2002, c. 75**

**APPELLANT:** Kids Time Childcare Ltd.

**RESPONDENT:** Clifford J. Daly, Manager of Licensing  
Interior Health Authority

**BOARD MEMBER:** Susan E. Ross, Chair

**INTERIM STAY ORDER**

[1] On September 26, 2005, the appellant, Kids Time Childcare Ltd., commenced an appeal to the Board of a reconsideration decision of the Interior Health Authority (Clifford J. Daly, Manager of Licensing) dated September 7, 2005. The decision under appeal cancelled the appellant's exemption under section 16(1) of the *Community Care and Assisted Living Act* (Act) from the definition of "child" in section 42 of the *Child Care Licensing Regulation*, which had permitted the child of NR, a principal and operator of the appellant, to attend the facility subject to certain conditions despite being under 30 months of age. The cancellation of the exemption was initially to be effective September 19 but because the appellant was not notified of the decision until September 14, the cancellation date was extended to September 30, 2005.

[2] The child who is the subject of the exemption will be eligible to attend the appellant facility without exemption after she turns 30 months of age in late January 2006.

[3] From September 26 to 30, 2005, the Board received the parties' written submissions on the appellant's request for an order of the Board staying the cancellation of the exemption pending the disposition of the appeal.

[4] The respondent Interior Health Authority opposes a temporary stay order on the ground that allowing the exemption to continue poses an increased risk to the health or safety of children in care at the appellant facility. The Interior Health Authority states:

...given the history of non-compliance and the apparent lack of understanding by the licensee of the requirement to comply with the *Community Care and Assisted Living Act* and pursuant to the *Child Care Licensing Regulation*; compliance with any conditions attached to the Licence or to the exemption is unlikely. The Licensing investigation demonstrated that the licensee did not adhere to the conditions or the intent of the exemption that was granted, and has made

previous statements relating to corrections of contraventions that were in fact not completed. Although the Licensing Authority has not completed the investigation into the most recent complaint, similar concerns were identified and confirmed during the investigation, resulting in the cancellation of the exemption. While the licensee has taken measures to correct contraventions identified in the report, the Licensing Authority is not confident of sustained compliance at this time.

[5] The appellant maintains that the continuation of the exemption does not put at risk the health or safety of children in care.

[6] Having considered the materials provided by the parties in respect of the stay application, the Board is satisfied that a conditional interim stay of the cancellation of the exemption decision under appeal would not risk the health or safety of a person in care. The Board appreciates the position of the Interior Health Authority and has carefully considered: all of the information the parties provided regarding the concerns that were under regulatory scrutiny and consideration from late May to September 2005 and as well as the new, as yet uninvestigated and possibly irrelevant, complaint; that the exemption remained in place while the appropriateness of continuing it was under regulatory scrutiny from late May to September 2005; that only a short window of time was available to bring this appeal; that the appellant has acted promptly on that opportunity.

[7] Under section 29(6) of the *Community Care and Assisted Living Act* and sections 15, 26(9) and 50(2) of the *Administrative Tribunals Act*, the Board orders that the cancellation decision under appeal is stayed until October 28, 2005, or such other date designated by the Board in order to accommodate the scheduling of an early hearing of this appeal, on the condition that the appellant and NR will comply strictly with all conditions attached to the exemption and will cooperate fully with any continued monitoring by the Interior Health Authority.

[8] The Interior Health Authority may request the Board to vary or lift this interim stay order if it has reason to believe that conditions of the stay are not being complied with or that the continuation of the exemption, on any new information, puts at risk the health or safety of a person in care at the appellant facility.

October 4, 2005

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Susan E. Ross, Chair