

COMMUNITY CARE AND ASSISTED LIVING APPEAL BOARD

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

APPELLANT: GS and CAS, Registrants
(operating Saint Francis Manor by the Sea)

RESPONDENT: Susan Adams, Assisted Living Registrar
(represented by J. Penner, Counsel)

PANEL: Susan E. Ross, Chair

Interim Stay Order With Conditions

[1] The appellants operate Saint Francis Manor by the Sea ("Facility") in Victoria, British Columbia. On December 24, 2008, they filed an appeal to this Board under section 29 of the *Community Care and Assisted Living Act* ("CCALA") from the decision of the Assisted Living Registrar dated November 28, 2008, canceling the assisted living registration for the Facility effective immediately. The appellants also requested a stay of the cancellation decision pending the appeal. That request included conditions of a stay order that the appellants were willing to accept.

[2] On January 6, 2008, the Assisted Registrar Living Registrar consented to an interim stay of the cancellation decision on the conditions proposed by the appellants; specifically, that the Facility would not accept any new residents requiring personal care services. The Appellants have today again confirmed their agreement with that condition.

[3] Having regard to the Board's authority pursuant to sections 15, 26(9) and 50(2) of the *Administrative Tribunals Act* and section 29(6) of the CCALA to order an interim stay on terms or conditions, and to the Assisted Living Registrar's consent position, the Board grants an interim order staying the cancellation decision under appeal until the hearing and disposition of this appeal or further order of the Board, whichever comes sooner, on the following conditions:

- a) The Facility currently has two assisted living residents (residents receiving housing, hospitality services and at least one prescribed service).
- b) The Facility will receive no new or additional assisted living residents.

- c) The Facility's two current assisted living residents will receive prescribed services only through a duly qualified home care agency (presently ElderSafe Support Service).
- d) The appellants will accommodate the scheduling of an early hearing date of the appeal.
- e) The appellants will comply strictly with this order and any existing conditions of the Facility's registration or requirements of the CCALA.
- f) The appellants will fully cooperate with any continued monitoring by the Assisted Living Registrar.

[4] The Assisted Living Registrar may request the Board to vary or lift this interim stay order if she has reason to believe that its conditions are not being complied with in a material respect or that, on any new information, the continued registration of the Facility pending the disposition of the appeal puts at risk the health or safety of a resident.

[5] The Board reminds the parties that this order is limited to whether the decision to cancel the assisted living registration of the Facility should be stayed on conditions pending the hearing and disposition of the appeal. It is not a determination or reflection on the merits of the appeal.

January 9, 2009

Susan E. Ross, Chair