

## **COMMUNITY CARE AND ASSISTED LIVING APPEAL BOARD**

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

**APPELLANT:** SH, Registrant  
  
(operating Happy Day Care)

**RESPONDENT:** Barbara Hoffman, Manager, Community Licensing

**PANEL:** Marcia McNeil, Vice-Chair

### **Interim Stay Order With Conditions**

The Appellant operates the Happy Day Care Family Child Care facility (the "Facility") in Surrey, British Columbia, a licensed community care Facility pursuant to the *Community Care and Assisted Living Act* (the "Act") and the *Child Care Licensing Regulations* (the "Regulations") thereto. The Appellant appeals from a June 30, 2009 decision made by the Respondent, cancelling the license of the Facility effective June 30, 2009. The Appellant also requests a stay of the cancellation decision pending the appeal. The Appellant has agreed to various conditions being attached to a stay order.

On June 30, 2009, the Respondent agreed to a voluntary interim stay of the license cancellation for a period ending July 31, 2009 at 7:00 p.m. That voluntary stay was consented to by the Respondent on the following conditions:

- (a) As per the agreed upon Investigation Health and Safety Plan, dated March 15, 2009, the Appellant Licensee, was required at all times to have another adult, who is not a family member, with her, when she is with the children in her care. It was a condition that the Plan remain in effect and not be modified or lifted without prior consultation with the Licensing Officer.
- (b) Licensing staff would conduct regular visits to the Facility to ensure the Health and Safety Plan was being adhered to, and the Licensee would cooperate with all continued monitoring by licensing officers.

In responding to the Appellant's application for a stay, the Respondent has asked that the stay be for a short duration, due to the need for frequent monitoring of the Facility by licensing staff. No specific date was proposed. In addition, the Respondent has requested that additional conditions be imposed, specifically:

- (a) During the stay, the Appellant will ensure that the Facility is in full compliance with the Act and the Regulations.
- (b) There will be no new or additional enrollments of children at the Facility.
- (c) If the Appellant is absent, she will have in place a fully qualified substitute in accordance with the Regulations.
- (d) The Appellant will comply with all Appeal Board case management and scheduling requirements for the hearing of this appeal.

In her reply, the Appellant has either expressly consented to the conditions requested by the Respondent or has not opposed such conditions being imposed.


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 Act to order an interim stay on terms and conditions, and to the positions of the parties as outlined above, 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. Rather than impose a specific time limitation on the stay, conditions will be imposed which are intended to ensure that the appeal is heard at the earliest opportunity and that the Respondent can seek to have the stay lifted if, at any time, the Appellant is not in compliance with the conditions. The stay is therefore granted on the following conditions:

- (a) The Appellant will at all times comply with the Investigation Health and Safety Plan dated March 15, 2009, including the requirement that she have another adult, who is not a family member, present with her, when she is with the day care children. The Plan must remain in effect and will not be modified or lifted without the prior agreement of the responsible licensing officer.
- (b) The Appellant will receive no new or additional enrollments of children into the Facility.
- (c) During the period of the stay, the Appellant will ensure that she is in full compliance with the Act and the Regulations.

- (d) If the Appellant is absent from the Facility, she will have in place a fully qualified substitute in accordance with the Regulations.
- (e) The Appellant and any substitute caregivers will fully cooperate with all continued monitoring by licensing staff.
- (f) The Appellant will accommodate the scheduling of an early hearing date of the appeal, and will co-operate with all case management and scheduling requirements of the Board.
- (g) The Appellant will comply strictly with this order and any existing conditions of the Facility's registrations or requirements of the Act.
- (h) The Respondent 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 operation of the Facility pending the disposition of the appeal puts at risk the health or safety of the children under the Appellant's care.

The Board reminds the parties that this order is limited to whether the decision to cancel the Appellant's license 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.

Dated this 24<sup>th</sup> day of July, 2009.



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Marcia McNeil  
Vice-Chair