Community Care and Assisted Living Appeal Board

Citation: *John Volken Academy v Ross Hayward, Assisted Living Registrar*, 2025 BCCCALAB 1

Decision No.: CCALB-CCA-24-A003(a)

Decision Date: 2025-01-02

Method of Hearing: Conducted by way of written submissions concluding on December 13, 2024.

Decision Type: Preliminary Decision

Panel: Lynn McBride, Panel Chair

Appealed Under: Section 29 of the *Community Care and Assisted Living Act*, SBC 2002, c 75

Between:

John Volken Academy

Appellant

And:

Ross Hayward, Assisted Living Registrar

Respondent

Appearing on Behalf of the Parties:

For the Appellant: Peter J. Reardon, Kayla K. Strong

For the Respondent: June Ling, Julie Gibson

DECISION ON APPLICATION FOR STAY

INTRODUCTION

[1] The Appellant, John Volken Academy ("JVA"), has applied for an order staying the Assisted Living Registrar's September 19, 2024 reconsideration decision ("Reconsideration Decision") pending the outcome of this appeal. The Reconsideration Decision confirmed the cancellation of the registration of JVA as an assisted living residence under the *Community Care and Assisted Living Act*, SBC 2002, c 75 ("*Act*"). The Respondent, who is the Assisted Living Registrar, opposes the application for a stay. The hearing on the merits of the appeal is scheduled for nine days starting on May 5, 2025.

[2] Section 25 of the *Administrative Tribunals Act*, SBC 2004, c 45 ("*ATA*"), provides that "The commencement of an appeal does not operate as a stay or suspend the operation of a decision being appealed unless the tribunal orders otherwise." The Community Care and Assisted Living Appeal Board's ("Board") authority to stay a decision and to attach terms or conditions to its order is found in sections 15, 26(9), and 50(2) of the *ATA* (*CM v Dr. Charmaine Enns*, 2014 BCCCALAB 2 at para 3).

[3] Section 29(6) of the *Act* stipulates that the Board "may not stay or suspend a decision unless it is satisfied, on summary application, that a stay or suspension would not risk the health or safety of a person in care."

[4] The Board determines whether to grant a stay or suspension of a decision on "summary application" and in doing so, "it does not conduct a full hearing of the case on its merits and does not determine the legal and factual issues to be decided in the appeal" (*Ghalia Rebei Adlani (Moonlight Daycare) v Dr. Emily Newhouse, Medical Health Officer, Fraser Health Authority*, 2021 BCCCALAB 2 at para 3). The Board explained the significance of this in *MM v Medical Health Officer, Vancouver Coastal Health Services*, 2010 BCCCALAB 5 at paragraph 4:

> The significance of the requirement that the determination be made "on summary application" is twofold. First, an application for a stay should not be turned into a full review of the merits of the appeal. Second, if the determination cannot be made without the need for conducting what would be more or less a full review of the merits of the appeal, then it would not be appropriate to grant a stay because the evidence is not sufficiently clear to warrant a stay.

[5] The issues I must decide in this stay application are:

1. whether granting a stay of the Reconsideration Decision would risk the health or safety of a person in care; and if not,
2. whether I should grant the stay in the circumstances of this case.

[6] For the reasons that follow, the Appellant's application for a stay of the Reconsideration Decision pending the outcome of the appeal is dismissed.

[7] The current interim stay order will expire at the close of business on Wednesday, January 8, 2025. For the reasons that follow, and subject to the conditions in paragraph 68, the interim stay is extended and will expire at **5:00 p.m. on Friday, March 7, 2025**.

MATERIALS BEFORE ME

[8] I have reviewed the following materials which are before me on this stay application:

1. July 11, 2024 decision letter of the Assisted Living Registrar Ross Hayward ("Registrar") cancelling the registration of JVA effective August 31, 2024 (12 pages).
2. July 31, 2024 letter from the Appellant's counsel to the Registrar, requesting a reconsideration of the July 11, 2024 decision (9 pages).
3. The Reconsideration Decision which is the subject of this appeal (11 pages).
4. October 9, 2024 Notice of Appeal filed on behalf of JVA in relation to the Reconsideration Decision.
5. October 9, 2024 letter from the Appellant's counsel, requesting (1) an order staying the Reconsideration Decision pending the outcome of this appeal (the "Stay Application") and (2) an interim stay of the Reconsideration Decision until the Board decides the Stay Application. The letter also sets out the Appellant's submissions on the interim stay and the Stay Application (7 pages).
6. December 6, 2024 letter from the Respondent's counsel, setting out their response submissions on the Stay Application (6 pages); the letter has two schedules attached:
    a. Schedule A: a list of the conditions currently attached to JVA's registration; and
    b. Schedule B: a list of the interim stay conditions agreed to by the parties in October 2024.
7. Enclosures for the Respondent's response submissions (52 pages); this package contains several documents referred to in the response submissions, including:
    a. June 22, 2022 letter from the Assisted Living Registrar (delegate) Danielle Prpich ("Registrar's Delegate") attaching conditions to the registration of JVA; and
    b. July 28, 2023 decision letter of the Registrar.

8. December 13, 2024 letter from the Appellant's counsel, setting out their final reply submissions on the Stay Application and appending various documents referred to in those submissions (26 pages).

BACKGROUND AND CHRONOLOY

[9] By letter dated June 22, 2022, the Registrar's Delegate attached six conditions to JVA's registration as an assisted living residence, effective July 22, 2022:

1. No new residents may be admitted to the Registered Site until the Registrar confirms compliance with all other conditions.
2. (a) A nurse practitioner, registered nurse, registered psychiatric nurse or medical practitioner is to be employed onsite for at least twenty hours per week in total at the Registered Site and [another site identified by its address].

   (b) JVA must not require or recommend the discontinuance of prescription medications.
3. The practices of restricting the length and number of letters that residents are allowed to send or receive, restricting the amount of time that a resident can keep letters sent to them, and reading the mail sent to or by a resident are prohibited.
4. New residents must not be prohibited from participating in activities and leisure time.
5. JVA must confirm that the resident waiver of liability does not purport to waive the liability of the John Volken Academy Society or the John Volken Foundation.
6. The use of the Horseshoe, the Bench and speaking bans is prohibited.
7. The Student Manual must be amended to be consistent with the other conditions imposed and a copy of the updated Student Manual must be provided to the office of the Registrar within 30 days after the conditions take effect.

[10] These conditions were attached to JVA's registration because of "ongoing concerns about some of the policies and practices employed by" JVA which resulted in the Registrar's Delegate "forming the opinion that JVA is not complying with provisions of the *Community Care and Assisted Living Act* (Act) and the Assisted Living Regulation (Regulation) in its operation of the Registered Site."

[11] In the June 22, 2022 letter, the Registrar's Delegate notes that "JVA is a supportive recovery residence in the substance use class" and therefore "can only admit persons who do not require 'care' as defined by the Act." She sets out detailed reasons for attaching each of the conditions and cites the sections of the *Act* and the *Assisted Living Regulation*, BC Reg 189/2019 ("*Regulation*") that she finds JVA is contravening.

[12] The letter concludes by advising JVA of the process for requesting a reconsideration of the decision pursuant to section 28 of the *Act*: by providing a written response to the Registrar's Delegate "setting out reasons why I should confirm, rescind, vary or substitute the attachment of the above conditions" and that if JVA provides such a written response, JVA must also provide "any additional information you wish for me to consider."

[13] JVA, through its counsel, did provide such a written response along with additional information it wanted the Registrar to consider. JVA's counsel also provided two follow-up responses with additional information. Those responses and the additional information are not before me on this application, but they are referred to in the July 28, 2023 decision letter of the Registrar.

[14] In his July 28, 2023 decision letter, the Registrar rescinded conditions 2(a) and 5, and confirmed the attachment of conditions 1, 2(b), 3, 4, 6 and 7. He provides a comprehensive review and analysis of the conditions and the reasons for attaching them. He also discusses and analyses the responses provided by JVA and the additional information submitted by JVA, including an opinion letter from a physician. He explains in detail his reasons for confirming or rescinding each condition.

[15] On October 19 and 20, 2023, Assisted Living Registry staff ("Registry staff") conducted a site inspection of JVA and discovered that JVA records showed at least six new residents had been admitted following the July 28, 2023 decision of the Registrar which confirmed the attachment of condition 1 (no new residents may be admitted). On November 23, 2023, the Registrar wrote to JVA to advise them of these contraventions and that he might take action to cancel the registration of JVA if that non-compliance continued in the future.

[16] On March 21, 2024, Registry staff made a site visit to JVA and determined that at least another six new residents had been admitted. Those new residents were in addition to the new residents who were admitted between July 28, 2023 and October 19, 2023. On May 1, 2024, counsel for the Respondent wrote to counsel for the Appellant to clarify that the conditions on JVA's registration remained in effect and to reinforce that no new residents were to be admitted to JVA.

[17] On June 2 and 3, 2024, Registry staff conducted an inspection of the JVA site, reviewed resident records, and interviewed residents and staff. During this site inspection, they determined that residents were continuing to be admitted in contravention of the first condition attached to JVA's registration, and despite the letters of November 23, 2023 and May 1, 2024.

[18] On July 11, 2024, the Registrar issued a decision letter giving JVA notice of his decision to cancel the registration of JVA as an assisted living residence effective August 31, 2024. In reaching that decision, the Registrar stated that he considered the following:

1. JVA's past non-compliance with the *Act* and the *Regulation* which resulted in the attachment of conditions to JVA's registration;
2. JVA's non-compliance with the conditions attached to its registration; and

3. complaints received by the Assisted Living Registry since the Registrar's July 28, 2023 decision and "the resulting inspections which have established that JVA is in contravention of the Act and the Regulation."

[19] In his decision letter, the Registrar reviewed each of the above in detail and explained his reasons for concluding "that JVA has contravened the Conditions and that JVA is not in compliance with the Act or the Regulation". In particular, the Registrar found that JVA was not in compliance with section 26(5) of the *Act* and sections 43(4) 50, 59(1), 72(2)(b) and (c), and 73(1)(b) of the *Regulation*.

[20] On July 31, 2024, JVA's counsel sent a letter to the Registrar requesting a reconsideration of the July 11, 2024 decision.

[21] On September 19, 2024, the Registrar issued the Reconsideration Decision confirming the cancellation of the registration of JVA effective October 11, 2024.

[22] On October 10, 2024, JVA filed a Notice of Appeal of the Reconsideration Decision with the Board. That Notice of Appeal states the grounds of the appeal: "The cancellation of the registration of JVA … was (a) made in the absence of sufficient evidence to support the Decision; (b) was based on allegations to which JVA was not given a procedurally fair opportunity to respond; and (c) constituted a disproportionate penalty given the issues that remained live as of the date of the cancellation decision." The outcome requested by the Appellant is that the "decision by the Registrar be set aside and the registration of JVA under the Act be reinstated."

[23] Also on October 10, 2024, the day before the cancellation of JVA's registration was to take effect, the Board received a letter (dated October 9, 2024) from JVA's counsel requesting:

1. a stay of the Reconsideration Decision pending the outcome of the appeal; and
2. an interim stay of the Reconsideration Decision until the Board decides the application for a stay pending the outcome of the appeal.

[24] By letter to the parties dated October 10, 2024, the Board ordered an interim stay of the Reconsideration Decision until the Board decided on the application for a stay pending the outcome of the appeal, and set a schedule for the exchange of written submissions on the Stay Application, with final reply submissions due no later than October 31, 2024.

[25] On October 11, 2024, the Board received correspondence from the parties outlining the conditions upon which they agreed to an interim stay of the Reconsideration Decision until December 11, 2024.

[26] On October 16, 2024, based on the agreement of the parties, the Board rescinded the October 10, 2024 interim stay order and ordered a new interim stay of the Reconsideration Decision until close of business on December 11, 2024 subject to the following conditions agreed upon by the parties:

1. John Volken Academy will take reasonable steps to locate alternate safe accommodations for all residents;
2. John Volken Academy will make a written record of their efforts to locate alternate safe accommodations for each resident and will provide an updated copy of that written record to Sue Bedford at sue.bedford@gov.bc.ca by 4:00 p.m. every Friday;
3. John Volken Academy will comply strictly with any existing conditions attached to its registration;
4. John Volken Academy will comply strictly with the requirements of the *Community Care and Assisted Living Act* and its regulations;
5. John Volken Academy will fully cooperate with any continued monitoring by the Assisted Living Registrar; and
6. The Assisted Living Registrar may request the Board vary or cancel the interim stay order if he has reason to believe that the above conditions are not being complied with in a material respect or, on receipt of any new information, that continued registration of John Volken Academy puts at risk the health or safety of a resident.

[27] On October 31, 2024, the Board received further correspondence from the parties requesting:

1. an extension of the interim stay until close of business on January 8, 2025; and
2. an amendment to the schedule for the exchange of written submissions on the Stay Application, with final reply submissions due no later than December 13, 2024.

[28] On November 1, 2024, based on the consent of the parties, the Board extended the interim stay to January 8, 2025 and amended the schedule for the exchange of written submissions as requested. The parties provided their submissions on the Stay Application in accordance with the amended schedule, with the final reply submissions filed on December 13, 2024.

POSITIONS OF THE PARTIES

[29] In this application before me, the Appellant submits that granting a stay "would not risk the health or safety of any person in care", citing section 29(6) of the *Act*, and says that the threshold set out in that section is met. The Respondent notes that assisted living residents are not "in care" within the meaning of the *Act*, but states that "the Registrar accepts that the test outlined in section 29(6) applies to this situation."

[30] The Appellant submits that "at this stage, there is no proof of risk to the health or safety of JVA residents" if the stay is granted, that "there is greater risk to the health and

safety of the residents … if a stay is not granted than if it is", and that "[w]hile the appeal is pending, JVA will continue to make changes so it is fully compliant with the matters the registrar has identified as being contrary to the Act and Regulations."

[31] The Appellant submits that if a stay is not granted and if suitable arrangements are not made for the residents at JVA to relocate to other supportive recovery residences, the residents "will be back in the community prematurely which poses serious risks to their recovery. The irreparable harm of a stay not being granted is harm to the current residents" and "there is no evidence of irreparable harm if the stay is granted."

[32] The Appellant acknowledges that "the Registrar's role in enforcing the Act is to ensure the absolute safety of the residents" and states that it "wishes to work with the Registrar to ensure that all statutory and regulatory requirements are demonstrably met in the daily operations of JVA". The Appellant then states that its position on appeal will be "that the Registrar has not adduced sufficient or any evidence of non-compliance in some of the areas referred to in the [Reconsideration Decision]. With regard to those areas that JVA has acknowledged having been non-compliant, JVA has been making and continues to make changes to ensure compliance." The Appellant also states that at the hearing of this appeal, it will lead evidence "that the Registrar misconceived several important facts."

[33] The Respondent submits that JVA "is not in compliance with registration conditions nor the conditions of the interim stay", that "JVA's ongoing non-compliance … make it impossible to be satisfied that a stay pending the outcome of the appeal would not risk the health or safety of the remaining JVA residents", and that "this is not a situation where maintaining the current conditions will address the potential for health and safety risks to residents, because JVA has failed to comply with key registration conditions and has not been strictly compliant despite its commitment in the interim stay."

[34] The Respondent submits that "JVA has provided inadequate or absent weekly reports about its efforts to relocate residents to safe alternate accommodation, in violation of conditions 1 and 2 of the interim stay." They also submit that JVA failed to fully cooperate with continued monitoring by the Assisted Living Registrar in violation of condition 5 of the interim stay.

[35] The Respondent argues that "JVA should not be permitted to rely on its own non-compliance in admitting new residents well after that condition was imposed on its registration to say that it now needs more time to transition residents. This is particularly so where the Registrar agreed to the interim stay on the understanding that JVA would use reasonable efforts to effect safe transitions for its residents before January 8."

[36] The Appellant admits "that twelve new residents had been accepted after July 28, 2023" (the date of the Registrar's decision letter confirming the attachment of conditions to JVA's registration). In its final reply submissions, the Appellant submits that "[w]hile this issue is a major point on the appeal, it is not indicative of ongoing risk to the health and safety of current residents. Residents admitted in non-compliance with this Condition 1. are treated in the same manner as all other residents which, in JVA's submission, is in

compliance with all regulations and conditions and does not place any of those residents at risk to their health and safety."

[37] Regarding conditions 1 and 2 of the interim stay, the Appellant submits that "JVA has been making and continues to make reasonable efforts for the safe transition of students."

ANALYSIS

The Reconsideration Decision

[38] This stay application is set against the backdrop of the Registrar's Reconsideration Decision dated September 19, 2024. The Registrar's areas of concern and findings of non-compliance will be central to the merits of the appeal, however they are not for the Board to review in detail on this summary application. The following excerpts are provided for context.

[39] In his Reconsideration Decision dated September 19, 2024, the Registrar stated:

> I have carefully considered all the information that was included in the [July 31, 2024 letter from JVA's counsel requesting reconsideration], as well as the additional documents that were provided to my office on August 30, 2024. Although JVA has committed to future compliance with the [Act] and the [Regulation], JVA continues to demonstrate an insufficient appreciation of its legal obligations as a registered assisted living residence in the supportive recovery class.

[40] The Registrar then reviewed and discussed his areas of concern and findings of non-compliance by JVA, which I summarize below.

1. Hiring a new manager without informing the Registry and without obtaining the required approval for the change in management, in contravention of section 9(2) of the Regulation.
2. The admission of new residents over a dozen times between July 2023 and May 2024 which "demonstrates that attaching conditions to the registration of JVA is ineffective to obtain the level of compliance that is necessary to protect resident health and safety."
3. The use of speaking bans in contravention of the condition attached to JVA's registration.
4. Giving a resident a pullback (requiring them to stay in the program longer) for complaining to the Registry, contrary to section 43(4) of the Regulation.
5. The JVA Life Skills Training Program which includes 48+ weekly hours of volunteer work for JVA-owned businesses, and having additional months of work added to a resident's time in the program for breaking certain rules. The Registrar sets out

his reasons for finding that these additional work requirements constitute emotional abuse of residents contrary to section 50 of the Regulation.

6. JVA's failure to provide incident reports to the Registry within 24 hours as required in section 51 of the Regulation.
7. Concerns about the adequacy of JVA's program of psychosocial supports and whether it complies with sections 72(2)(b) and (c) of the Regulation.
8. Concerns about the health and safety of residents at JVA due to the intense work schedules and apparent lack of appropriate, individualized psychosocial programming and access to professional assistance.
9. Insufficient evidence that social and recreational activities are being provided to JVA residents in accordance with section 59 of the Regulation.
10. Advertising that minors may be admitted to JVA.

[41] For the reasons set out in the Reconsideration Decision and in his July 11, 2024 decision letter, the Registrar confirmed the cancellation of the registration of JVA stating that "[a]ny lesser action would, in my view, be inadequate to address the risk of harm to JVA residents, given JVA's repeated disregard of the applicable legal requirements over the past 3 years."

Would granting a stay risk the health or safety of a person in care?

[42] As set out in the June 22, 2022 letter attaching conditions to JVA's registration, JVA is "a supportive recovery residence in the substance use class" that "can only admit persons who do not require 'care' as defined by the [*Act*]" (emphasis added).

[43] "Care" is defined in section 1 of the *Act*:

> "care" means supervision that is provided to
> (a) a child through a prescribed program,
> (b) a child or youth through a prescribed residential program, or
> (c) an adult who is
> (i) vulnerable because of family circumstances, age, disability, illness or frailty, and
> (ii) dependent on caregivers for continuing assistance or direction

[44] Condition 1 was attached to JVA's registration because the Registrar's Delegate, and subsequently the Registrar, found that JVA had been admitting residents who were not appropriate for assisted living, in contravention of section 26.1 of the *Act* [Persons not allowed to reside in an assisted living residence] and section 29 of the *Regulation* [Admission screening].

[45] Based on the materials before me on this summary application, it is apparent that the individuals who required care but were nevertheless admitted to JVA were all admitted

prior to June 22, 2022 and are no longer residents at JVA. With its final reply submissions, the Appellant included a list showing that there were 19 residents still at JVA as of December 13, 2024. The list indicates the intake date for each resident. All 19 of those residents have intake dates between February 2023 and April 2024, and therefore I conclude that there are no residents currently at JVA who specifically require "care" within the meaning of section 1 of the *Act*.

[46] Section 29(6) of the *Act* stipulates that the Board "may not stay or suspend a decision unless it is satisfied, on summary application, that a stay or suspension would not risk the health or safety of a person in care." There is no evidentiary basis before me for finding that a stay would "risk the health or safety of a person in care".

[47] But that is not the end of the matter. I must now consider whether a stay should be granted in the circumstances of this case.

Should a stay be granted in the circumstances of this case?

[48] It is clear from all the submissions that both parties accept that the health and safety of the current JVA residents is the single most important consideration for the Board in deciding whether to order a stay of the Reconsideration Decision pending the outcome of the appeal.

[49] The Appellant submits that granting a stay "would not risk the health or safety of any person in care" and that "the Respondent has not demonstrated in its submissions … that the health and safety of residents will be at risk if the stay is continued pending the outcome of the appeal."

[50] The Respondent notes that assisted living residents are not "in care" within the meaning of the *Act* but "accepts that the test outlined in section 29(6) applies to this situation."

[51] Part 3 of the *Act* sets out provisions relating to assisted living residences. Section 25(2)(b) stipulates that the assisted living registrar "must not register an assisted living residence unless the registrar is of the opinion that the housing, hospitality services and assisted living services to be provided to residents will be provided in a manner that will not jeopardize their health or safety". Section 26(5) stipulates that a "registrant must ensure that the assisted living residence is operated in a manner that does not jeopardize the health or safety of its residents."

[52] Section 27 of the *Act* empowers the register to "suspend or cancel a registration, attach conditions to a registration or vary the conditions of a registration if, in the opinion of the registrar, the registrant

(a) no longer complies with this Act or the regulations,

(b) has contravened a relevant enactment of British Columbia or of Canada, or

(c) has contravened a condition of the registration.

[53] This legislative framework makes it clear that risk to the health or safety of residents is an indispensable consideration on this application.

[54] Due to apparent conflicts in the parties' positions and the evidence submitted on this application, I am unable to determine whether a stay pending the outcome of the appeal would or would not risk the health or safety of the current JVA residents.

[55] It appears that JVA has made changes to several of its policies and practices to bring itself into compliance with the *Act* and *Regulation*. The Appellant states that "JVA will continue to make changes so it is fully compliant with the matters the registrar has identified as being contrary to the Act and the Regulations." The question is whether the changes that JVA *has* made are effective and adequate to protect the health and safety of residents.

[56] The Appellant submits that "there is no proof of risk to the health or safety of JVA residents." The Respondent submits that "JVA's ongoing non-compliance" makes it "impossible to be satisfied that a stay pending the outcome of the appeal would not risk the health or safety of the remaining JVA residents." The Respondent also submits that "this is not a situation where maintaining the current conditions [at JVA] will address the potential for health and safety risks to residents, because JVA has failed to comply with key registration conditions and has not been strictly compliant despite its commitment in the interim stay."

[57] Without examining the credibility of witnesses and delving into issues central to the merits of the appeal, I cannot reconcile the apparent conflicts in the parties' evidence and their respective positions. I would be conducting what would be more or less a full review of the merits of the appeal and therefore it would not be appropriate to grant a stay pending the outcome of the appeal (*MM v Medical Health Officer, Vancouver Coastal Health Services*, 2010 BCCCALAB 5 at paras 4, 7). The Appellant's application for a stay of the Reconsideration Decision pending the outcome of the appeal is dismissed.

[58] I emphasize that this decision is made based on the materials before me on this application, solely for the purpose of deciding whether the Reconsideration Decision should be stayed pending the hearing and disposition of the appeal. It is not a determination or reflection on the merits of the appeal.

Interim Stay with Conditions

[59] Having dismissed the Appellant's application for a stay pending the outcoming of the appeal, I now turn to the interim stay order, which is set to expire at close of business on January 8, 2025.

[60] On October 16, 2024 the Board ordered an interim stay of the Reconsideration Decision until December 11, 2024, subject to six conditions agreed upon by the parties (set out at paragraph 26 of this decision). On November 1, 2024, based on the consent of the

parties, the Board extended that interim stay until the end of business on January 8, 2025, subject to the same six conditions.

[61] The first two conditions of the interim stay are that JVA "will take reasonable steps to locate alternate safe accommodations for all residents" and that JVA "will make a written record of their efforts to locate alternate safe accommodations for each resident" and "provide an updated copy of that written record to Sue Bedford … by 4:00 p.m. every Friday".

[62] I am significantly concerned that, contrary to the conditions on the interim stay order, JVA has not taken any steps to locate alternate safe accommodations for the remaining 19 residents, and that JVA will not be able to do so in the remaining few days before the January 8, 2025 expiry date. It is therefore foreseeable that some or all current residents will abruptly lose their housing which could jeopardize their health and safety.

[63] Further to this concern, the Respondent submits that JVA has not been strictly compliant with those two conditions because JVA did not provide an updated copy of the written record every Friday, and the written record of their efforts to locate alternate safe accommodations "does not evidence that JVA took 'reasonable steps' to locate alternate safe accommodations" for all the residents. For example, the November 15 weekly report "fails to provide any plan for 14" residents and "the notes for [the] other residents do not contain any concrete transition plan for those residents."

[64] The Appellant submits that reports "as required by the interim stay order have been provided as required with the exception of two reports" and then explains why two weekly reports were delivered late. The Appellant also submits:

> Each successive report [provided to Ms. Bedford] provides information about more [residents] than the previous report. Steps taken to locate [residents] are described. Steps have not been taken to locate each and every [resident] at the date of each report. Therefore, no description can be given. As efforts are made to locate alternate safe accommodations for each resident, such information is noted. It is JVA's submission that the information provided is in compliance with the conditions [of the interim stay]. "Reasonable steps" is not defined. … On any objective standard, if that is the applicable standard, JVA has been making and continues to make reasonable efforts for the safe transition of the [residents].

[65] Copies of written records provided by JVA are before me on this application. They are in the form of a spreadsheet which includes each resident's name, their intake date, their graduation date and transitioned date (where applicable), and a column for notes. Those records, along with the list of residents included with the Appellant's final reply submissions, establish the following:

1. There were 23 residents at JVA in early October 2023 when the Stay Application was originally filed with the Board.

2. One of those residents was "Transitioned safely from program" on October 17, 2024. There is no indication where that resident went or where they are currently residing.
3. Two residents graduated (i.e. completed the program) and transitioned on October 31 and November 30, 2024 respectively. The notes indicate that both residents were "Hired at Academy Farms". There is no indication where those residents are currently residing.
4. One of those residents moved home on December 8, 2024.
5. Of the remaining 19 residents, the most recent updated spreadsheet has notes for 7 residents, and no notes at all for 12 residents.

[66] The notes for the 7 residents contain no information about what JVA has done to locate alternate safe accommodations for those residents. This is what is recorded in the notes:

1. Planning in progress / Possibly going to work with his dad
2. Looking at Butcher apprentice with Farm Butcher
3. Setting up BCID – ordering transcripts
4. Looking into Ultrasound tech Program at BCIT
5. LPN – Waiting for information on reregistration
6. Meeting with support date pushed to Dec
7. Meeting with family to be rescheduled

[67] The focus of most of these notes is the occupation, education, or activity these 7 residents might undertake in the future and it lacks the required information about what JVA staff have done to locate an alternate safe place to live for each resident. Given the conditions agreed to by the parties as of October 11, 2024, I would have expected JVA to make it a top priority to look for alternate safe accommodations and to develop and document concrete transition plans for all the residents during the remainder of October, throughout November, and during the first half of December 2024.

[68] The current interim stay order will expire at close of business on January 8, 2025 and I have nothing before me to indicate that the 19 residents at JVA will have safe alternate accommodations to go to. Some or all current residents may abruptly lose their housing on that date, which could jeopardize their health and safety. Given these circumstances, I am exercising my discretion and extending the interim stay **until 5:00 p.m. on Friday, March 7, 2025** on the following conditions:

1. JVA will take reasonable steps to locate alternate safe accommodations for each and every resident. Accommodations means a place to live; it is not an occupation, education plan, or activity.

2. JVA will make a written record of their efforts to locate alternate safe accommodations for the 19 residents who were at JVA as of December 13, 2024; that written record must include:
    a. a description of each step and/or action JVA has taken to identify potential safe accommodations for each resident;
    b. the nature of the alternate safe accommodations it has looked for and/or identified for each resident (examples: returning to their home, moving in with a parent or other family member, going to another identified assisted living residence) and whether any accommodation for the resident has been confirmed or not;
    c. if accommodation for a resident has been confirmed, what is the nature of that accommodation and what date will the resident be moving there;
    d. if a resident is no longer at JVA, the date they left JVA and where they went to live; and
    e. any other information that demonstrates the steps taken and efforts made by JVA to locate alternate safe accommodations for the residents.
3. By 4:00 p.m. on Friday, January 10, 2025, JVA will provide the written record described in condition 2 to Sue Bedford at sue.bedford@gov.bc.ca, or to another person who may be designated by the Assisted Living Registrar and communicated in writing to JVA.
4. By 4:00 p.m. on each successive Friday after January 10, 2025, JVA will provide an updated written record as described in condition 2 to Sue Bedford at sue.bedford@gov.bc.ca, or to another person who may be designated by the Assisted Living Registrar and communicated in writing to JVA.
5. John Volken Academy will comply strictly with the existing conditions attached to its registration.
6. John Volken Academy will comply strictly with the requirements of the *Community Care and Assisted Living Act* and its regulations.
7. John Volken Academy will fully cooperate with any continued monitoring by the Assisted Living Registrar.
8. The Assisted Living Registrar may request the Board to vary or cancel this interim stay order if he has reason to believe that the above conditions are not being complied with in a material respect or, on receipt of any new information, that continued registration of John Volken Academy puts at risk the health or safety of a resident.
9. The Assisted Living Registrar, or his delegate, will communicate the following information to each resident of JVA before January 8, 2025, in the manner and

form that he deems most effective to ensure residents are effectively notified of and understand the following:

a. The registration of John Volken Academy will be cancelled at 5:00 p.m. on Friday, March 7, 2025.

b. Between now and March 7, 2025, John Volken Academy will take reasonable steps to locate alternate safe accommodations for each resident, pursuant to an order made by the Community Care and Assisted Living Appeal Board on January 2, 2025.

c. Any residents still at John Volken Academy will not be able to remain there after March 7, 2025.

[69] The Board thanks the parties for their effort and time in preparing their submissions.

"Lynn McBride"

Lynn McBride, Panel Chair
Community Care and Assisted Living Appeal Board