pennsylvania
DEPARTMENT OF HUMAN SERVICES

JUN 05 2017

Mr. Mark Mortimer
COO
Adelphoi Village, Inc.
1119 Village Way
Latrobe, PA 15650

RE: Sweeney
1145 Mission Road
Latrobe, PA 15650

Dear Mr. Mortimer:

This is to acknowledge receipt of your request to appeal the Department's decision to revoke a regular license and issue a provisional license for Sweeney. Your request has been forwarded to the Department of Human Services, Bureau of Hearings and Appeals. You will be contacted regarding the date and time of the hearing.

Sincerely,

Jacqueline L. Rowe
Director

cc: Gene Cuccarese, Office of General Counsel

RECEIVED

JUN 02 2017

Human Services Licensing

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HUMAN SERVICES
BUREAU OF HEARINGS AND APPEALS

IN THE APPEAL OF: **ADELPHOI VILLAGE, INC. – SWEENEY HOME**
1145 MISSION ROAD
LATROBE, PA 15650

REQUEST FOR HEARING

Re: Appeal by Adelphoi Village, Inc., Sweeney Home ("Sweeney Home") from decisions by the Bureau of Human Services Licensing ("BHSL") to revoke Sweeney Home's full license and to issue Sweeney Home a provisional license.

BACKGROUND

Sweeney Home, a licensed child care residential facility, appeals from decisions dated May 23, 2017 by BHSL to revoke Sweeney Home's current regular license dated June 3, 2016 to June 3, 2017, and its new license dated June 3, 2017 to June 3, 2018, and to issue Sweeney Home a first provisional six month license due to an unauthorized act that was committed by a former employee of Sweeney Home. See Attachment A.

In this instance, the former employee engaged in an unlawful and unauthorized action that was outside the scope of [redacted] employment. Upon finding the former employee engaging in inappropriate conduct on the evening of February 23, 2017, the Director of Sweeney Home immediately conducted an internal investigation. Sweeney Home, within a matter of hours, also promptly filed a report with ChildLine, contacted the Pennsylvania State Police, filed a reportable incident report and notified the resident's guardian. Sweeney Home terminated the employment of the involved staff person.

The incident here was attributable to inappropriate action committed by a single individual. There are no allegations, let alone facts, that remotely suggest that Sweeney Home,

by its practices, policies or procedures, enabled or facilitated the incident to occur or that Sweeney Home could have taken action to prevent the incident from occurring.

Nevertheless, BHSL revoked Sweeney Home's long standing full license and issued Sweeney Home a first provisional license. That action wrongly and unjustly blames and attributes to Sweeney Home the commission of an abusive act by the former employee.

This administrative decision by BHSL is contrary to the provisions of 55 Pa. Code Chapter 3800, reflects arbitrary and capricious action and is manifestly unreasonable. BHSL errs and abuses its authority by revoking Sweeney Home's full license and issuing Sweeney Home a provisional license when the alleged regulatory violation is not supported by, indeed, is contracted by the undisputed facts. This incident was not caused by the manner in which Sweeney Home operates. There simply is no causal link between the incident and the operation of Sweeney Home which, obviously, is essential to support the revocation of Sweeney Home's full license and issuance of a first provisional license.

ISSUES

1. Whether BHSL wrongfully and without legal justification attributes to Sweeney Home the occurrence of an incident of abuse by a former employee that occurred at Sweeney Home and which Sweeney Home promptly addressed and reported to BHSL?

2. Whether BHSL, in issuing the notice of regulatory violation to Sweeney Home, misinterpreted and so misapplied 55 Pa. Code 3800.32(b) as to Sweeney Home.

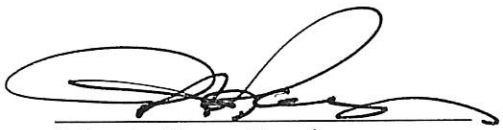
3. Whether the decision by BHSL to revoke Sweeney Home's full license and to issue Sweeney Home a first provisional license reflects unreasonable, arbitrary and capricious action by BHSL and an abuse of discretion?

Sweeney Home reserves the right to raise additional issues after completion of discovery.

RELIEF SOUGHT

Sweeney Home requests that BHA order BHSL to withdraw the revocation of Sweeney Home's full license and to order BHSL/Department to issue Sweeney Home a full license consistent with the findings of its most recent annual license inspection to operate as a child residential and day treatment facility pursuant to 55 Pa. Code Chapter 3800.

Respectfully submitted,



Date: June 2, 2017

John A. Kane, Esquire
Offit Kurman
240 North 3rd Street, 8th Floor
Harrisburg, PA 17101
(717) 724-4600

VERIFICATION

I, Mark Mortimer, Chief Operating Officer, Adelphoi Village, Inc., verify that the facts set forth in the foregoing Request for Hearing are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: 6/1/2017

Mark Mortimer
Chief Operating Officer