

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

KIM AND COBY LANTZ,)	
)	
Petitioners,)	
)	
vs.)	Case No. 05-1685
)	
DEPARTMENT OF CHILDREN AND)	
FAMILY SERVICES,)	
)	
Respondent.)	
_____)	

RECOMMENDED ORDER

A final hearing was conducted in this case before Daniel M. Kilbride, Administrative Law Judge of the Division of Administrative Hearings on July 12, 2005, in Melbourne, Florida.

APPEARANCES

For Petitioners: Kim and Coby Lantz, pro se
6983 Dahlia Drive
Cocoa, Florida 32927

For Respondent: Richard Cato, Esquire
Department of Children and
Family Services
400 West Robinson Street, Suite S-1106
Orlando, Florida 32801-1782

STATEMENT OF THE ISSUE

Whether Petitioners, Kim and Coby Lantz, should be granted a license as a family foster home.

PRELIMINARY STATEMENT

By certified letter dated April 6, 2005, Respondent, the Department of Children and Family Services, informed Petitioners, Kim and Coby Lantz, that their application for a license as a family foster home was being denied. Petitioners disputed the facts underlying Respondent's decision, and on April 1, 2005, by letter, timely requested an administrative hearing. On May 11, 2005, Respondent referred the matter to the Division of Administrative Hearings (DOAH) for the assignment of an Administrative Law Judge to conduct the hearing requested by Petitioners.

Following discovery and a continuance granted at the request of Respondent, the final hearing was scheduled for and held on July 12, 2005. At the hearing, official recognition was taken of Section 409.175, Florida Statutes (2004), and Florida Administrative Code Chapter 65C-13.

Respondent presented the testimony of Helga M. Mejia, licensing specialist and former family services counselor with Respondent's Central Licensing Zone, and Gina Dickerson, former licensing representative and family service counselor for Respondent in Brevard County, Florida. Respondent offered four exhibits which were admitted into evidence.

Petitioners testified on their own behalf at the hearing and offered no other live witnesses at the hearing. Petitioners

offered two exhibits which were admitted into evidence.

Exhibit 2 consisted of several letters of recommendation and was offered as a composite exhibit.

The hearing was recorded, and the Transcript was filed with DOAH on July 26, 2005. The parties were given 15 days in which to file proposed orders. However, neither of the parties has filed their proposed recommended orders as of the date of this Recommended Order.

FINDINGS OF FACT

Based on the testimony and evidence received at the hearing, the following findings are made:

1. Respondent is the state agency responsible for licensing and regulating family foster homes.
2. Petitioners are applicants for a family foster home license.
3. In February 2004, Petitioners initially sought to adopt a child, but, subsequently, changed the application to provide foster care for children. As part of the process, Petitioners attended an orientation conducted by Respondent's family services counselor and completed a screening questionnaire.
4. As part of the application process, applicants are required to complete the Model Approach for Parenting (MAP) training, which includes classes to better prepare prospective foster and adoptive parents for the placement of children in

their homes. The purpose is to ensure, prior to placement, that prospective parents work effectively as a team with each other and with Respondent. It is also important that they know and understand their rights and obligations that a stable environment be created for the children.

5. As part of the MAP training and evaluation, prospective foster parents are required to complete a thorough background and history form. They are asked to give a complete life history, including prior relationships, marriages, customs, and culture. Both Petitioners completed the form.

6. Petitioner Coby Lantz has been very supportive of his wife's desire to obtain a family foster home license and to provide care for foster children. He provided sufficient information in order for Respondent to complete his portion of the family assessment.

7. Petitioner Coby Lantz completed the MAP training during this period. Petitioner Kim Lantz was given credit for completing the MAP training while married to her second husband, Darrell Palmer.

8. Petitioner Kim Lantz completed the Adult's Personal Profile (for prospective mothers), consisting of 17 pages, plus a five-page, hand-written "Life Story." On page five of the profile, she was specifically asked to complete information on previous intimate relationships and former marriages.

Petitioner Kim Lantz listed only one former marriage. She indicated she was married to Darrell Palmer from November 18, 2000, until his death on September 12, 2001. However, Petitioner Kim Lantz was, in fact, married to Robert D. Haynes in June 1991, separated two years later, and the final decree of divorce was entered on October 10, 1995.

9. Petitioner Kim Lantz's explanation of this omission, while testifying at the hearing, was that she and her first husband married shortly after college. She stated, "[i]t was a high school sweetheart thing . . . he was not abusive to me. He did drink. We just grew apart. We divorced. That was it. It was like a guy I dated. He's not really anything to comment about. I moved on"

10. These responses, along with other parts of her testimony, indicate that Petitioner Kim Lantz tends to suppress unpleasant memories from her past and to not deal with them effectively.

11. Also, Petitioner Kim Lantz has not given a credible explanation of her complete omission of any reference to Haynes in her profile or "Life Story." In addition, it was only with excessive prodding that Petitioner produced a Certificate of Divorce from Haynes.

12. These omissions and vague explanations have prevented Respondent from completing a thorough family assessment as required by Florida law.

13. Petitioner Kim Lantz's second marriage to Darrell Palmer ended tragically on November 12, 2001. She was present with her husband in their apartment when local law enforcement came to their door. The law enforcement officers were seeking to determine the origin of bomb threats made to a local Dillard's department store. Apparently, they wanted to interview her, who was employed there at the time, and Palmer, a former employee. When Palmer, who was preparing a meal in the kitchen, opened the door with a kitchen knife in his hands, he was shot and killed by law enforcement.

14. Petitioner was emotionally devastated by this event. At her parents urging, she returned to their home in upstate New York, where she received love and support from her family and her church.

15. Petitioner Kim Lantz testified that she was diagnosed with post-traumatic stress disorder and received mental health counseling for two years and, also, received medication for this condition. However, Petitioners have provided only sketchy information concerning her current mental health status.

16. While still in New York, Petitioners met at a church function, dated, and married and eventually moved to Cocoa, Florida.

17. During the course of Respondent's family assessment, it was determined, in late March 2005, that Petitioner Kim Lantz was terminated at her place of employment, a daycare facility, on February 28, 2005. She failed to report this event and attempted to withhold this fact from Respondent. Her explanation to Respondent's investigator and her testimony at the hearing is not credible and amounts to a willful or intentional misstatement.

CONCLUSIONS OF LAW

18. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter to this case pursuant to Section 120.569 and Subsection 120.57(1), Florida Statutes (2005).

19. Section 409.175, Florida Statutes (2004), relating to licensure of family foster homes reads, in pertinent part:

(1)(a) The purpose of this section is to protect the health, safety, and well-being of all children in the state who are cared for by family foster homes, residential child-caring agencies, and child-placing agencies by providing for the establishment of licensing requirements for such homes and agencies and providing procedures to determine adherence to these requirements.

* * *

(2) As used in this section, the term:

* * *

(e) "Family foster home" means a private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such homes include emergency shelter family homes and specialized foster homes for children with special needs. A person who cares for a child of a friend for a period not to exceed 90 days, a relative who cares for a child and does not receive reimbursement for such care from the state or federal government, or an adoptive home which has been approved by the department or by a licensed child-placing agency for children placed for adoption is not considered a family foster home.

(f) "License" means "license" as defined in s. 120.52(9). A license under this section is issued to a family foster home or other facility and is not a professional license of any individual. Receipt of a license under this section shall not create a property right in the recipient. A license under this act is a public trust and a privilege, and is not an entitlement. This privilege must guide the finder of fact or trier of law at any administrative proceeding or court action initiated by the department.

(g) "Operator" means any onsite person ultimately responsible for the overall operation of a child-placing agency, family foster home, or residential child-caring agency, whether or not she or he is the owner or administrator of such an agency or home.

(h) "Owner" means the person who is licensed to operate . . . family foster home. . . .

20. Florida Administrative Code Rule 65C-13.009 provides, in pertinent part:

Parent Preparation and Mutual Selection.

(1) Philosophy and Rationale. In January 1989 the department adopted the MAPP Group Preparation and Selection program for use in the preparation and selection of prospective shelter, foster and adoptive parents. The program provides a structured format through which prospective parents can be prepared to work with department staff as team members in permanency planning. This program was developed by the Child Welfare Institute and predicated on the beliefs that shelter, foster and adoptive parents need to be prepared prior to the placement of children in their homes and that they need to be prepared to work as partners in permanency planning.

* * *

(5) Requirements for Prospective Parents. Prospective parents must:

(a) Attend ten meetings, a minimum of 30 hours, of pre-service training. Families may not miss more than two sessions. Under only rare circumstances can they miss meeting three or four. If these specific meetings are missed, the family must make up the sessions and demonstrate an understanding of the material. In situations where an individual foster home study is completed, the prospective foster parent must demonstrate an understanding of the pre-service materials and handouts.

- (b) Complete a family portfolio.
- (c) Sign an application for license.
- (d) Sign a confidentiality statement.
- (e) Meet minimum standards for shelter and foster family care as found in Administrative Chapter 65C-13, F.A.C., and department policy.

21. Florida Administrative Code Rule 65C-13.011, Minimum Standards for Licensure of Family Foster Homes, Family Emergency Shelter Homes and Family Group Homes, provides, in pertinent part:

Section 409.175(11)(a)2., F.S., makes it unlawful for any person to make a willful or intentional misstatement on any license application or other document required to be filed in connection with an application for a license. Such a violation is a misdemeanor of the first degree, punishable as provided in Section 775.082 or 775.083, F.S. Applicants who make such willful or intentional misstatements will have their license denied or revoked. . . .

22. Subsection 409.175(9)(b)1., Florida Statutes (2004), authorizes Respondent to deny, suspend, or revoke a license for an intentional or negligent act materially affecting the health or safety of children in the home.

23. Petitioners are seeking a family foster home license for the first time. As the party asserting the affirmative of an issue before this administrative tribunal, Petitioners have

the burden of proof. Florida Department of Transportation v. J.W.C. Company, 396 So. 2d 778 (Fla. 1st DCA 1981). In addition, the license which Petitioners seek is not a professional license and does not create a property right. § 409.175(2)(f), Fla. Stat. (2004). Therefore, Petitioners must establish facts by a preponderance of evidence to establish entitlement to the license. Department of Banking and Finance v. Osborne Stern & Co., 670 So. 2d 932, 934 (Fla. 1996).

24. Petitioners have not met their burden. In view of Petitioner Kim Lantz's significant omission or misstatements on her application for a family foster home license during the course of the investigation and at the hearing, the evidence is insufficient to establish entitlement to a license which is a public trust and a privilege. The evidence is unclear that Petitioners will be responsible foster parents if they are given a license to operate a family foster home.

RECOMMENDATION

Based on the foregoing Findings of Facts and Conclusions of Law, it is

RECOMMENDED that Petitioners, Kim and Coby Lantz's application for a family foster home license be denied.

DONE AND ENTERED this 28th day of October, 2005, in
Tallahassee, Leon County, Florida.



DANIEL M. KILBRIDE
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 28th day of October, 2005.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the final order in this case.