

Suzanne Hood

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

FILED
07 JAN 18 PM 3:43
DIVISION OF
ADMINISTRATIVE
HEARINGS

GEORGE AND ALICIA BARRETT,
d/b/a CHILD CARE 2000, INC.

Petitioner,

CASE NO. 06-2462

RENDITION NO. DCF-07- 006 -FO

v.

DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Respondent.

FILED
JAN 12 2007

DCF Department Clerk

FINAL ORDER

THIS CAUSE is before me for entry of a Final Order. The Recommended Order concludes that petitioners' violations of child care licensing standards did not warrant denial of their renewal application and recommends that the Department grant petitioners' application to renew their child care facility license. The Department adopts the administrative law judge's (ALJ) findings of fact.


The conclusions of law are adopted in part. The Department rejects the conclusions of law in paragraphs 32, 35, 37, and 43 of the Recommended Order to the extent that these paragraphs indicate that the Department was required to prove the reasons it provided for denying petitioners' license application by clear and convincing evidence. Petitioners, as applicants for a license, had the burden to demonstrate fitness for licensure by a preponderance of the evidence.

Department of Banking and Finance v. Osborne Stern & Co., 670 So. 2d 932 (Fla. 1996). In denying the application, the Department was required to provide specific reasons for denying the license and to produce competent substantial

evidence in support of those reasons. Id. The ALJ erred by requiring the Department to prove its stated reasons for denying the license by clear and convincing evidence.

Despite the foregoing concern, the Department adopts the ALJ's recommendation. Due to the passage of time since the denial of the application in this case, petitioners must submit an updated application package for consideration.

DONE AND ORDERED at Tallahassee, Leon County, Florida, this 12 day of January, 2007.



Don Winstead, Deputy Secretary
Department of Children and Family Services

RIGHT TO APPEAL

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW WHICH SHALL BE INSTITUTED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF CHILDREN AND FAMILIES, AND A SECOND COPY ALONG WITH FILING FEE AS PRESCRIBED BY LAW, IN THE FIRST DISTRICT COURT OF APPEAL OR IN THE DISTRICT COURT OF APPEAL WHERE A PARTY RESIDES. REVIEW PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA RULES OF APPELLATE PROCEDURE. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

Copies furnished to:

Ralph McMurphy
District 13 Assistant Legal Counsel
Department of Children and Family Services
1601 West Gulf Atlantic Highway
Wildwood, FL 34785

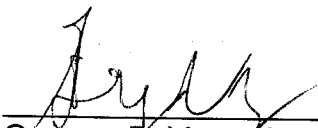
Stella Varona Balandran
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QUALIFIED REPRESENTATIVE

Diana McKenzie
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1601 West Gulf Atlantic Highway
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Ann Cole, Clerk
Division of Administrative Hearing
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-3060

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this Final Order was provided to the above-named individuals at the listed addresses, by U.S. Mail, this 12 day of January, 2007.



Gregory D. Venz, Agency Clerk
Department of Children and Families
1317 Winewood Blvd.
Bldg. 2, Rm. 204-X
Tallahassee, FL 32399-0700