

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

SHAKINAH GLORY,)
)
 Petitioner,)
)
 vs.) Case No. 12-3270
)
 DEPARTMENT OF CHILDREN AND)
 FAMILIES,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this case before the Division of Administrative Hearings by its designated Administrative Law Judge, Diane Cleavinger, on December 18, 2013, in Tallahassee, Florida.

APPEARANCES

For Petitioner: Shakinah Glory
4768 Woodville Highway
Apartment 428
Tallahassee, Florida 32305

For Respondent: M. Burnette Coats, Esquire
Department of Children and Families
1317 Winewood Boulevard
Building 2, Room 204
Tallahassee, Florida 32399

STATEMENT OF THE ISSUE

Whether Petitioner's application for licensure as a family foster home should be granted.

PRELIMINARY STATEMENT

By letter dated September 12, 2012, Respondent, Department of Children and Families (Department or DCF), advised Petitioner, Shakinah Glory, that her application for licensure as a family foster home was denied. The denial was based on Petitioner's inability to meet the Department's licensure standards contained in Florida Administrative Code Rules 65C-13.025, 65C-13.028 and 65C-13.030. Specifically, the Department's decision was based on Petitioner's failure to demonstrate home safety, household stability and financial ability necessary to become a licensed foster home. Petitioner disagreed with the denial and requested a formal hearing on September 20, 2012. Thereafter, the case was forwarded to the Division of Administrative Hearings.

At the hearing, Petitioner testified on her own behalf but did not offer any exhibits into evidence. Respondent presented the testimony of three witnesses and offered nine exhibits into evidence.

After the hearing, Petitioner filed a Proposed Recommended Order in letter form on January 14, 2013. Respondent filed a Proposed Recommended Order on February 21, 2013.

FINDINGS OF FACT

1. Sometime around 2004, Petitioner held a license as a foster home in Florida. During the licensure period, Petitioner

fostered X. B. and T. T. in her home where she resided with her three biological children.

2. X. B. stayed in Petitioner's home for approximately three weeks to a month. Throughout X. B.'s stay, Petitioner failed to provide breakfast to X. B. prior to school. Petitioner's failure necessitated the case manager providing such breakfast to X. B. when she drove X. B. to school.

3. Additionally, on several occasions the case manager saw evidence of roach infestation in the home. In particular, upon X. B.'s return to Petitioner's home from visiting X. B.'s siblings, the case manager found him in a roach-infested environment, with no running water in the home since the service had been turned off by the service provider for non-payment of the bill. The toilet bowl was filled with feces and urine and had feces on the lid. It was unsanitary and unusable. X. B. asked the case manager to take him to the local gas station so that X. B. could use the bathroom. Soon after, X. B. was removed from Petitioner's care due to unsanitary conditions and/or unsafe conditions in Petitioner's home.

4. T. T. was a one-year-old child who was also placed in Petitioner's foster home during her earlier licensure period. Again, the case manager saw evidence of roach infestation in Petitioner's home. At first, the case manager only saw a couple of roaches in the home. However, the roach problem progressively

grew to the point that during one of the case manager's visits the wall behind the baby's crib looked like it was moving because there were so many roaches on it. Soon after, the case manager removed T. T. to another foster home. When they arrived at the new home, a roach crawled out of T. T.'s diaper bag. Upon inspection of the bag, the case manager discovered many dead roaches in the bag. More importantly, half of a dead roach was discovered in the baby bottle of milk that T. T. was drinking while being moved to T. T.'s new foster home. Clearly, the condition of Petitioner's foster home was neither sanitary nor safe.

5. Petitioner's care of both these children resulted in verified abuse reports in Florida's abuse registry for conditions hazardous to the health of children.

6. Petitioner's initial foster home license either lapsed or was not renewed.

7. Since 2004, Petitioner has not been financially stable. In fact, she often asked her neighbors for money to pay her utility bills or buy gas for her car. Additionally, Petitioner lost different homes to foreclosure in 2006 and 2007. Since 2009, she and her children have moved to a different home an average of once a year. To her credit, Petitioner attended college and obtained her doctorate in Theology and Philosophy.

However, her history has not demonstrated either household stability or financial ability in her life.

8. In 2011, Petitioner applied for licensure as a family foster home. She successfully completed the Model Approach to Partnership in Parenting (MAPP) training program on September 20, 2011.

9. In June 2012, Trauma Therapist for Children's Homes Society, Katie Klutz, began the required home study of Petitioner.

10. During the home study, Petitioner and her three biological children were living in a three bedroom home. Petitioner moved her bedroom furniture into the living room in order to make room for potential foster children. The bedroom space was separated from the living room by "curtains" that afforded no significant privacy for those living in the home. Clearly, Petitioner's home did not provide sufficient space to foster an additional child in the home.

11. Petitioner has since moved to a larger home that was not the subject of the home study for this license. However, given Petitioner's past household instability, the very limited evidence regarding this new home does not support a finding that Petitioner's current home offers sufficient space to provide for the privacy and well-being of a foster child.

12. More importantly, Petitioner has not worked since having an accident on the job in May 2010. A neighbor also provided a written reference in which she praised Petitioner's spirit but stated that it is "a real struggle" for Petitioner to maintain her home and that "she will definitely need additional support in this area."

13. Notably, it was unclear how Petitioner was currently supporting her household. She has no employment. Petitioner claimed that she received money from a church or charitable organization that she founded. However, there was no evidence that such limited income, if any, was sufficient to support her family and/or provide financially stable conditions to Petitioner and her family.

14. Moreover, Petitioner's bank records reflect that in June 2012, she made deposits of \$167.53 and debited the account \$266.07. Her ending balance in June was \$18.81. At hearing, other than child support and food stamps, Petitioner offered no evidence of additional finances or income that is attributable to her.

15. Given these facts, Petitioner has failed to demonstrate home safety, household stability or financial ability sufficient to entitle her to be licensed as a foster home. Therefore, Petitioner's application for such licensure should be denied.

CONCLUSIONS OF LAW

16. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. § 120.57, Fla. Stat. (2013).

17. The Department is the state agency charged with the responsibility of licensing foster homes under chapter 409, Florida Statutes.

18. The purpose of such licensure is to "protect, the health, safety, and well-being of all children in the state who are cared for by family foster homes." § 409.175(1), Fla. Stat.

19. Section 409.175(2)(f), Florida Statutes, which governs licensure of foster homes, defines the term "license" as follows:

(f) "License" means "license" as defined in s. 120.52(10). 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.

20. As a consequence, a foster care license is a public trust and not a privilege. However, the Department cannot act unreasonably, arbitrarily or capriciously in denying requests for foster home licensure.

22. Pursuant to section 409.175(9), Florida Statutes, DCF has the authority to deny, suspend, or revoke a foster care license for:

(b)(1). . . an intentional or negligent act materially affecting the health or safety of children in the home or agency.

23. Additionally, the Department has adopted rules establishing the qualifications for licensure. See Fla. Admin. Code R. 65C-13. In general, these rules require an applicant to be able to safely care for foster children in a clean, healthy and stable environment. See Fla. Admin. Code R. 65C-13.030(5). Further, the applicant must have the financial ability to provide household stability, as well as, provide for the needs of the foster family and the foster child placed in their care. See Fla. Admin. Code R. 65C-13.025(5)(j).

24. As an applicant for foster home licensure, the Petitioner has the burden of establishing entitlement to the license being sought. Fla. Dep't of Transp. v. J.W.C. Co., 396 So. 2d 778 (Fla. 1st DCA 1981).

25. In this case, Petitioner has a history of neglect with past foster-care children that necessitated the removal of those children from Petitioner's home. Additionally, the evidence was clear that Petitioner does not possess sufficient household stability or financial ability to meet the requirements of

becoming licensed as a foster home. Given these facts, Petitioner's application for licensure as a foster home should be denied.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that Petitioner's application for licensure as a foster home should be denied.

DONE AND ENTERED this 28th day of March, 2013, in Tallahassee, Leon County, Florida.

Diane Cleavinger

DIANE CLEAVINGER
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 28th day of March, 2013.

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.