

2018 JUL 12 P 12: 02

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

ESMINE SANTOS,

Petitioner,

v.

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondent.

DOAH Case No. 18-2110
Informal Case No. 18-133PH
AHCA No. 2018000477

FINAL ORDER


Having reviewed the Amended Notice of Intent to Deny Initial Adult Family Care Home Application and all other matters of record, the Agency for Health Care Administration finds and concludes as follows:

1. The Agency issued the Petitioner, an initial applicant for licensure, the attached Amended Notice of Intent and Election of Rights form. (Ex. 1) The Election of Rights form advised of the right to an administrative hearing pursuant to Sections 120.57(1) and 120.57(2), Florida Statutes. The Petitioner received the Amended Notice of Intent and Election of Rights form and the matter was referred for an informal hearing and subsequently for a formal hearing before the Division of Administrative Hearings. At the Division, the Petitioner relinquished jurisdiction admitting to the allegations that the Petitioner's proposed location does not meet the zoning requirements under Florida law. The Petitioner waived the right to object and have a hearing. (Ex. 2)

Based upon the foregoing, it is **ORDERED**:

2. The Petitioner's application for licensure is denied.
3. The Notice of Intent is upheld.

ORDERED at Tallahassee, Florida, on this 11 day of July, 2018.



Justin M. Senior Secretary
Agency for Health Care Administration

NOTICE OF RIGHT TO JUDICIAL REVIEW

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 AHCA, and a second copy, along with filing fee as prescribed by law, with the District Court of Appeal in the appellate district where the Agency maintains its headquarters or where a party resides. Review of proceedings shall be conducted in accordance with the Florida appellate rules. The Notice of Appeal must be filed within 30 days of rendition of the order to be reviewed.

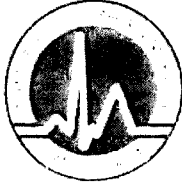
CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of this Final Order was served on the below-named persons by the method designated on this 12th day of July, 2018.



Richard J. Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308
Telephone: (850) 412-3630

Facilities Intake Unit Agency for Health Care Administration (Electronic Mail)	Nicole M. Barrera, Assistant General Counsel Office of the General Counsel Agency for Health Care Administration (Electronic Mail)
The Honorable John G. Van Laningham Administrative Law Judge Division of Administrative Hearing (Electronic Filing)	Melissa O'Connor, Esquire Melissa O'Connor, P.A. 1451 W. Cypress Creek Road, Suite 300 Fort Lauderdale, FL 33309 (U.S. Mail)
Thomas J. Walsh II, Esquire Informal Hearing Officer Agency for Health Care Administration (Electronic Mail)	Esmine Santos 325 Iowa Ave. Fort Lauderdale, FL 33312 (U.S. Mail)



RICK SCOTT
GOVERNOR

JUSTIN M. SENIOR
SECRETARY

June 1, 2018

CERTIFIED

Administrator
Santos, Esmine
325 Iowa Ave
Fort Lauderdale, FL 33312

File Number: 52963404
License Number: Initial
Provider Type: Adult Family Care Home
Application Number: 13065

RE: Complaint Number 2018000477 325 Iowa Ave, Fort Lauderdale

Amended Notice Of Intent To Deny
Initial Adult Family Care Home Application

Dear Ms. Santos:

It is the decision of this Agency that Esmine Santos' initial application for an Adult Family Care Home license be DENIED.

The specific basis for this determination is:

The applicant submitted a fictitious zoning approval form, dated December 29, 2017. Lack of authenticity was confirmed with the local Broward County zoning office.

The proposed location for the 5 bed adult family care home is located within 1,000 feet of other community residential homes with 6 or fewer residents, which requires zoning approval from the local government by Section 419.001(2), Florida Statutes. The Broward County zoning office authority has confirmed that the applicant does not have zoning approval from the local Broward County zoning office as required under Section 419.001(2), Florida Statutes.

The applicant failed to provide legitimate documentation, signed by the appropriate governmental official, verifying that the home has met local zoning as required by Section 429.67(5), Florida Statutes, and by Rule 58A-14.003, Florida Administrative Code.

The applicant does not have the proper authority to operate an adult family care home with 6 or fewer residents at the proposed location, as required by Rule 59A-35.100, Florida Administrative Code.

Pursuant to Section 408.815(1)(a) and (c), Florida Statutes, Rule 59A-35.100 Florida Administrative Code, and due to the applicant's failure to meet minimum licensure standards pursuant to Chapters 408, Part II; 419; and 429, Part II, Florida Statutes, and Rule Chapters 58A-14 and 59A-35, Florida Administrative Code, the initial application for an Adult Family Care Home license is denied.

EXPLANATION OF RIGHTS

Pursuant to Section 120.569, F.S., you have the right to request an administrative hearing. In order to obtain a formal proceeding before the Division of Administrative Hearings under Section 120.57(1), F.S.,

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Tallahassee, FL 32308
AHCA.MyFlorida.com



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EXHIBIT 1

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your request for an administrative hearing must conform to the requirements in Section 28-106.201, Florida Administrative Code (F.A.C), and must state the material facts you dispute

SEE ATTACHED ELECTION AND EXPLANATION OF RIGHTS FORMS.

If you have any questions or need further assistance, please contact the Agency's General Counsel at (850) 412-3630.

A handwritten signature in black ink, appearing to read "Keisha Woods", with a large, stylized flourish extending from the end of the signature.

Keisha Woods, MPH Unit Manager
Assisted Living Unit
Agency for Health Care Administration

cc: Legal Intake Unit, MS# 3

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STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

RE: Santos, Esmine

Case Number: 2018000477

ELECTION OF RIGHTS

This Election of Rights form is attached to a proposed Notice of Intent to Deem Incomplete and Withdraw from Further Review of the Agency for Health Care Administration (AHCA). The title may be **Notice of Intent to Deem Incomplete and Withdraw from Further Review** or some other notice of intended action by AHCA.

An Election of Rights must be returned by mail or by fax within 21 days of the day you receive the attached Notice of Intent to Deem Incomplete and Withdraw from Further Review or any other proposed action by AHCA.

If an Election of Rights with your selected option is not received by AHCA within twenty-one (21) days from the date you received this notice of proposed action, you will have given up your right to contest the Agency's proposed action and a final order will be issued.

(Please reply using this Election of Rights form unless you, your attorney or your representative prefer to reply according to Chapter 120, Florida Statutes (2006) and Rule 28, Florida Administrative Code.)

Please return your ELECTION OF RIGHTS to:

Agency for Health Care Administration
Attention: Agency Clerk
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308
Phone: (850) 412-3630 Fax: (850) 921-0158

PLEASE SELECT ONLY 1 OF THESE 3 OPTIONS:

OPTION ONE (1) ____ **I admit to the allegations of facts and law contained in the Notice of Intent to Deem Incomplete and Withdraw from Further Review, or other notice of intended action by AHCA and I waive my right to object and have a hearing.** I understand that by giving up my right to a hearing, a final order will be issued that adopts the proposed agency action and imposes the proposed penalty, fine or action.

OPTION TWO (2) ____ **I admit to the allegations of facts contained in the Notice of Intent to Deem Incomplete and Withdraw from Further Review, or other proposed action by AHCA, but I wish to be heard at an informal proceeding** (pursuant to Section 120.57(2), Florida Statutes) where I may submit testimony and written evidence to the Agency to show that the proposed administrative action is too severe or that the fine should be reduced.

OPTION THREE (3) ____ **I dispute the allegations of fact contained in the Notice of Intent to Deem Incomplete and Withdraw from Further Review or other proposed action by AHCA, and I request a formal hearing** (pursuant to Section 120.57(1), Florida Statutes) before an Administrative Law Judge appointed by the Division of Administrative Hearings.

PLEASE NOTE: Choosing **OPTION THREE (3)**, by itself, is **NOT** sufficient to obtain a formal hearing. You also must file a written petition in order to obtain a formal hearing before the Division of Administrative Hearings

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under Subsection 120.57(1), Florida Statutes. It must be received by the Agency Clerk at the address above within 21 days of receipt of this proposed administrative action. The request for formal hearing must conform to the requirements of Rule 28-106.201, Florida Administrative Code, which requires that it contain:

1. The name and address of each agency affected and each agency's file or identification number, if known;
2. Your name, address, and telephone number, and the name, address, and telephone number of your representative or lawyer, if any;
3. An explanation of how your substantial interests will be affected by the Agency's proposed action;
4. A statement of when and how you received notice of the Agency's proposed action;
5. A statement of all disputed issues of material fact. If there are none, you must state that there are none;
6. A concise statement of the ultimate facts alleged, including the specific facts you contend warrant reversal or modification of the Agency's proposed action;
7. A statement of the specific rules or statutes you claim require reversal or modification of the Agency's proposed action; and
8. A statement of the relief you are seeking, stating exactly what action you wish the Agency to take with respect to its proposed action.

(Mediation under Section 120.573, Florida Statutes, may be available in this matter if the Agency agrees.)

License Type: Adult Family Care Home License Number:

Licensee Name: Santos, Esmine

Contact Person:

Name	Title
Address: _____	_____
Street and number	City Zip Code

Telephone Nbr.: _____ Fax Nbr.: _____

Email (optional): _____

I hereby certify that I am duly authorized to submit this Notice of Election of Rights to the Agency for Health Care Administration on behalf of the licensee referred to above.

Signed: _____ Date: _____

Print Name: _____ Title: _____