

IN THE CHANCERY COURT OF LOWNDES COUNTY, MISSISSIPPI

HOMEPLACE OF COLUMBUS  
DENNIS NOONER, LICENSEE

APPELLANT

VS.

CASE NO. 2013-0398

THE MISSISSIPPI STATE DEPARTMENT OF HEALTH

APPELLEE

Order Granting Emergency Motion to Lift Status Quo and  
Denying Motion to Dismiss Appeal

THIS MATTER is before the Court on Motions filed by Appellee, the Mississippi State Department of Health. Having heard arguments on the matter and all premises considered, this Court finds that the Defendants Emergency Motion to Lift Status Quo is well taken and as such is GRANTED; however, the Court DENIES the Motion to Dismiss Appeal and finds that the Motion to Set Scheduling Order is MOOT.

FACTS

Dennis Nooner is the current licensee and owner/operator of Homeplace of Columbus Personal Care Home. On March 29, 2012, the Mississippi State Department of Health (hereinafter "Department") notified Mr. Nooner, that the Department intended to revoke his license to operate a Personal Care Home due to willful and repeated violations of the Minimum Standards of Operation of Personal Care Homes. Mr. Nooner requested an administrative hearing to challenge this decision, and said hearing was held on November 27, 2012 and December 28, 2012. On May 16, 2013, Mary Carrier, MD, MPH, State Health Officer revoked the license issued to Dennis Nooner to operate Homeplace of Columbus. On May 23, 2013, Dennis Nooner appealed.

## LEGAL ANALYSIS

### *Emergency Motion to Lift Status Quo*

Appellant appeals pursuant to Miss. Code Ann. §43-11-23 (1972, as amended). This section states in pertinent part, “[p]ending final disposition of the matter the status quo of the applicant or licensee shall be preserved, **except as the court otherwise orders in the public interest.**” Miss. Code Ann. §43-11-23 (1972, as amended)(*Emphasis Added*).

Appellees have presented evidence to this Court that LLP Mortgage, Ltd. currently has the note and deed of trust for the real property upon which Homeplace of Columbus is located. Further, evidence has been presented that this note is in default and therefore, foreclosure proceedings have been instituted. Additionally, on August 13, 2013, Appellees supplemented their *Motion* to include documentation that evidences Mr. Noonan has pled guilty to two (2) counts of Willful Failure to Collect or Pay Over Tax. As a result of this guilty plea, Mr. Noonan was ordered to serve thirty month sentences for each count; these sentences will run concurrently. Mr. Noonan is required to report to the United States Bureau of Prisons for the service of this sentence on or before September 3, 2013.

Based upon the evidence presented, it is apparent that the interests of the residents of Homeplace of Columbus would be best served by lifting the status quo and removing them from this facility. This Court finds that Miss. Code Ann. §43-11-23 allows for the status quo to be lifted for the benefit of public interest; and that in the matter presently before this Court such is warranted. It is therefore **ORDERED** that the status quo be lifted. Because the status quo has been lifted, the facility may no longer house residents pursuant to the license at issue on appeal. Therefore, the Department, in full cooperation with the staff and residents of Homeplace, may begin to assist in finding proper placement for the

residents currently residing at Homeplace of Columbus. All residents of Homeplace of Columbus should be relocated within thirty days of this Order.

*Motion to Dismiss Appeal*

The Motion to Dismiss Appeal is DENIED; however, this Court will make its determination based upon the record filed in this matter. The parties need not file briefs or request oral arguments. The Order of the Court on this matter will be given thirty (30) days from the date of this Order.

*Motion to Set Scheduling Order*

This Court has ordered that no briefing or arguments are necessary for this matter; and as such, a scheduling order is not necessary. Therefore, the *Motion to Set Scheduling Order* is MOOT.

SO ORDERED, ADJUDGED and DECREED this the 19<sup>th</sup> day of August, 2013.

  
CHANCELLOR KENNETH M. BURNS