

BEFORE THE COUNTY BOARD OF COMMISSIONERS  
MULTNOMAH COUNTY, OREGON

In the Matter of the Denial                    )  
of the Adult Care Home License            )  
Application of Luis Solomon                )

ORDER  
96-165

The Board of County Commissioners has reviewed the record, Hearing Officer's Order and the Adult Care Home Program's Response regarding the appeal of Luis Solomon from an Order of the Hearing Officer affirming the Adult Care Home Program's denial of his license application to operate an adult care. The Hearing Officer found that the evidence indicated that on at least three occasions, while functioning as a caregiver, Mr. Solomon was under the influence of alcohol. On one occasion, he was consuming alcohol while driving a resident of the home in a motor vehicle. The Hearing Officer found that Mr. Solomon's inappropriate use of alcohol demonstrated that his ability to operate an Adult Care Home was compromised, in violation of MCAR 890-080-120(k)(c) and that he lacked the sound judgment and good character required by MCAR 890-020-220.

The Hearing Officer also found that Mr. Solomon was dishonest in his dealings with the Adult Care Home Program, including lying about his arrest history on the written license application and his drinking history during an administrative conference. The Hearing Officer found that the numerous instances of dishonesty violated both MCAR 890-020-220 (c), in demonstrating a lack of good character, and MCAR 890-020-260(a),

1 by failing to cooperate with County staff.

2 The Board accepts the Hearing Officer's Order, attached  
3 hereto as Exhibit A. The Board finds that the Hearing Officer's  
4 Order is fully supported by the record and that there are no  
5 grounds for rejecting or modifying the Hearing Officer's Order.

6 IT IS HEREBY ORDERED that the Order of the Hearing Officer  
7 in the appeal of Luis Solomon is accepted.

8 Review of this final Order may be taken solely and  
9 exclusively by Writ of Review in the manner set forth in ORS  
10 34.020 to 34.100.

11 Approved this 19th day of September, 1996.



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13 BOARD OF COUNTY COMMISSIONERS  
14 MULTNOMAH COUNTY, OREGON

15 By Don Galtman  
16 for Beverly Stein, Chair  
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21 REVIEWED:

22 PETER KASTING, SPECIAL COUNSEL  
23 FOR MULTNOMAH COUNTY, OREGON

24 By Peter Kasting  
25 Peter Kasting  
26

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CITY OF  
**PORTLAND, OREGON**  
HEARINGS OFFICE

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**HEARINGS OFFICER'S ORDER**

APPEAL OF LUIS SOLOMON

HEARING NO. 162169

DATE OF HEARING: Friday, July 19, 1996

APPEARANCES:

Ms. Mary Fassell, for Multnomah County  
The appellant, Luis Solomon, did not appear

HEARINGS OFFICER: Mr. William W. Shatzer

STATEMENT OF THE CASE:

This is an appeal from a determination of the Multnomah County Adult Care Home Program, denying the application of the appellant, Luis Solomon, for a Multnomah County Adult Care Home License. On or about December 8, 1995, the appellant submitted an application to the Multnomah County Adult Care Program for a license to operate an Adult Care Home. On or about May 6, 1996, the Sanctions Specialist for the Multnomah County Adult Care Program issued a Notice of Sanctions denying appellant's license application on the grounds that Mr. Solomon had failed to demonstrate the required abilities, good personal character, judgment, and cooperation as required under MCAR 890-020-200 and 890-020-260. Mr. Solomon appealed that denial pursuant to MCC 8.90.090 and MCAR 890-090-100. This proceeding followed.

PRELIMINARY RULING:

This matter was set for hearing at 9:00 A.M. on Tuesday, July 19, 1996. Written notification of the time, date and place of hearing was provided to all interested parties, including Mr. Solomon on June 28, 1996.

Mr. Solomon did not appear at the scheduled time for hearing on the morning of July 19, and, after waiting some time, the County was allowed to proceed and present its prima facie case. On the morning of July 22, 1996, the hearings officer received a mailed request from Mr. Solomon requesting that the scheduled July 19 hearing be rescheduled.

EXHIBIT A  
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Mr. Solomon's request was not timely filed nor has any good cause for his failure to file in a timely manner been shown. Moreover, no good cause for a postponement itself has been shown. The request for postponement is denied.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Solomon was employed as an unapproved caregiver in an Adult Care Home operated by a Ms. Essie Askew from approximately November 1995 through the present. During that period, Multnomah County Adult Care Program personnel had numerous opportunities to observe Mr. Solomon's conduct, competence, and behavior in that capacity. Those observations fully support and justify the conclusion that Mr. Solomon lacks the required ability, good character, judgment and cooperation required of Adult Care Home operators and the denial of his license application.

##### 1. Evidence of Intoxication and Inappropriate Use of Alcohol:

The evidence shows that on at least three occasions, Mr. Solomon, while present as a caregiver in Ms. Askew's Adult Care Home, was under the influence of alcohol. Quite obviously, the excessive consumption of alcoholic beverages while serving as a caregiver is inconsistent with the duties and responsibilities of a caregiver in an Adult Care Home and demonstrates a lack of good judgment and good character. On other occasions, Mr. Solomon operated a motor vehicle with an Adult Care Home Resident as a passenger while Mr. Solomon was consuming alcohol. While the evidence does not demonstrate that Mr. Solomon was actually intoxicated while operating the vehicle, operating a motor vehicle while consuming alcoholic beverages demonstrates a lack of sound judgment and good character.

Mr. Solomon's inappropriate use of alcohol demonstrates both that he has an alcohol problem which compromises his ability to operate an Adult Care Home in violation of MCAR 890-080-120(k)(C) and that he lacks the required sound judgment and good character in violation of MCAR 890-020-220(b) and (c).

##### 2. Evidence of Dishonesty:

The record is replete with evidence of Mr. Solomon's lack of honesty and candor in dealing with Multnomah County Adult Care Home Program staff.

A. Mr. Solomon answered "no" to the question on his written license application (Exhibit 7) "Have you ever been arrested?" when, in fact, he had been arrested on or about February 25, 1995, for the crime of harassment. Furnishing untruthful information to the Multnomah County Adult Care Program demonstrates a lack good character in violation of MCAR 890-020-220(c) and a failure to cooperate with County staff in violation of MCAR 890-020-260(a).

B. Multnomah County Adult Care Program staff held an administrative conference with Mr. Solomon to discuss, among other things, the harassment arrest which had been disclosed by his criminal records check. During the course of that conference, Mr. Solomon claimed that he was unable to provide any details of the incident surrounding the harassment arrest because he was too drunk at the time to remember the incident. Later during the course of the same conference, Mr. Solomon denied he had a drinking problem and claimed not to "have had a drink in twenty years."

Quite obviously, the two statements are mutually inconsistent and cannot both be true. Providing untrue and mutually contradictory statements to County personnel demonstrates a lack good

character in violation of MCAR 890-020-220(c) and a failure to cooperate with County staff in violation of MCAR 890-020-260(a).

C. Patricia Askew, the daughter of Essie Askew, had been denied approval as an approved caregiver for Ms. Askew's Adult Care Home because of a previous criminal conviction. When a Multnomah County staff person visited Ms. Askew's Adult Care Home on December 13, 1995, he found only Patricia Askew present on the premises, apparently acting as caregiver for the home despite the fact she was not approved as a caregiver and was prohibited from being in the home on a regular basis. During the County's investigation of this incident, Mr. Solomon affirmatively represented to County personnel that he, not Patricia Askew, was the caregiver actually present in the home at that time. Mr. Solomon attempted to explain why only Patricia Askew and not Mr. Solomon was found on the premises by claiming, alternately, that he had "been in the basement" and had "been out back, mowing the lawn."

Again, quite obviously, both of these mutually inconsistent statements cannot be true and it is unlikely that either of them are. Moreover, Mr. Solomon's claim that he was outside mowing the lawn on December 13 stretches credibility to the breaking point. Providing untrue and mutually conflicting statements to County personnel demonstrates a lack of good character in violation of MCAR 890-020-220(c) and a failure to cooperate with County staff in violation of MCAR 890-020-260(a).

D. County staff again visited Ms. Askew's Adult Care Home on February 27, 1996. Prior to Mr. Solomon's answering the door of the main house, County staff observed Patricia Askew exit the rear door of the main house and enter one of the "cottages" on the rear of the property. When questioned by County Staff, Mr. Solomon insisted that Patricia Askew was not and had not been present on the property and that only Mr. Solomon and the residents were present. When County staff requested to inspect the "cottage" at the rear of the property, Mr. Solomon insisted that there was no one in the cottage and initially refused to allow the County staff access to the building. Ultimately, County staff were successful in convincing Mr. Solomon to allow them access to the "cottage" where Patricia Askew was discovered hiding behind a bedroom door.

Mr. Solomon's statements to County staff on this occasion were manifestly untrue and were an attempt to conceal Patricia Askew's unauthorized and improper presence on the premises and to mislead County staff. In providing false and misleading information to County staff and in attempting to conceal a Rule violation, Mr. Solomon demonstrated a lack of good character in violation of MCAR 890-020-220(c) and a failure to cooperate with County staff in violation of MCAR 890-020-260(a).

E. On the February 27 visit, County staff requested to inspect the fire drill records for Ms. Askew's Adult Care Home. Mr. Solomon was unable to locate or provide a copy of the fire drill records but informed County staff that a fire drill had been conducted on February 17, 1996, and that it had been documented by Ms. Askew. At a subsequent staff visit on March 20, 1996, a fire drill record was produced which documented a February 17, 1996, and a March 9, 1996, fire drill but no fire drill for January. On March 26, 1996, this fire drill record had disappeared and Ms. Askew produced a different fire drill record (Exhibit 3) which purported to document January 19, February 17, and March 9, 1996 fire drills. Contrary to Mr. Solomon's statement on February 27, 1996, this fire drill record showed that the February 17, 1996, fire drill was documented by Mr. Solomon, not Ms. Askew, and, indeed, showed that Ms. Askew was not even present on the premises at the time of the purported drill.

Clearly, Exhibit 3 was prepared sometime after March 20, 1996, and was an attempt to conceal the fact that the required January fire drill had either not been held or had not been properly

documented. Mr. Solomon obviously participated in the preparation of this document as he verified the purported February 17, 1996, fire drill.

By his participation in the preparation of this fire drill document, Mr. Solomon intended to mislead County staff and to conceal a violation of the applicable Administrative Rules. This demonstrates a lack of good character in violation of MCAR 890-020-220(c) and a failure to cooperate with County staff in violation of MCAR 890-020-260(a). Moreover, Mr. Solomon's statement on February 27 that Ms. Askew had documented the February 17 fire drill and Mr. Solomon's initials on Exhibit 3 that he documented the February 17 fire drill and that Ms. Askew was not even present at the time are mutually inconsistent and cannot both be truthful. Providing untrue and mutually conflicting statements to County personnel demonstrates a lack of good character in violation of MCAR 890-020-220(c) and a failure to cooperate with County staff in violation of MCAR 890-020-260(a).

Multnomah County has provided ample evidence to demonstrate that the appellant, Luis Solomon lacks the sound judgment and good character required of an Adult Care Home Operator under MCAR 890-020-200 and that he has failed to evidence the required cooperation with Multnomah County staff in violation of 890-020-260. The Notice of Sanctions should be sustained.

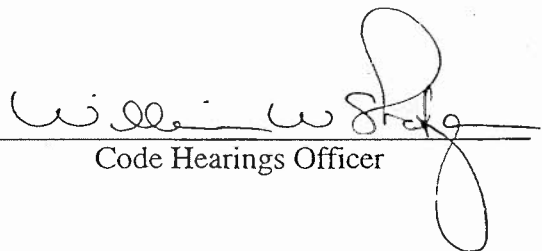
ORDER AND DETERMINATION:

The Notice of Sanctions dated May 6, 1996, denying the application of the appellant Luis Solomon for a Multnomah County Adult Care Home License is hereby SUSTAINED.

This order and determination has been mailed to the parties on July 26, 1996, and shall become final on August 15, 1996, unless written exceptions are file with the Board of County Commissioners prior to such date.

Dated: July 26, 1996

WWS:ry

  
Code Hearings Officer