

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

G.D.,
Complainant
v,
Canal Side Care Manor, LLC d/b/a
Canal Side Care Manor and
Lakshmi Kademani,
Respondents
PHRC CASE NO. 200705453
HUD Charge No. 03-08-0334-8

JOINT STIPULATION OF FACTS

FINDINGS OF FACT

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RECOMMENDATION OF HEARING PANEL

FINAL ORDER

DISSENT

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

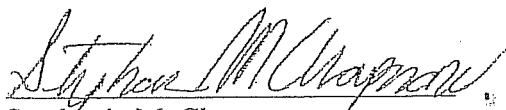
G.D.,	:
	:
Complainant	:
	:
v.	:
	:
CANAL SIDE CARE MANOR, LLC, d/b/a	:
CANAL SIDE CARE MANOR and	:
LAKSHMI KADEMANI,	:
	:
Respondents.	:

JOINT STIPULATION OF FACTS

Complainant G.D., and Respondents, Lakshmi Kademani and Canal Side Care Manor, LLC, hereby stipulate that the following facts are true and correct and no proof thereof shall be required.

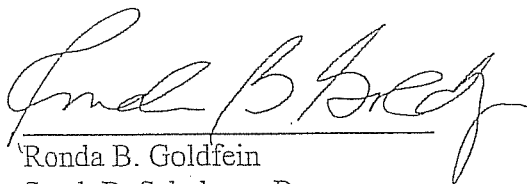
1. The Complainant herein is [REDACTED] (hereinafter "Complainant"). On September 18, 2009, at the Prehearing Conference, the Parties stipulated that Complainant would be referred to as G.D. in the caption of this Complaint.
2. The Respondents herein are Lakshmi Kademani (hereinafter "Respondent Owner") and Canal Side Care Manor, LLC, d/b/a Canal Side Care Manor (hereinafter "Respondent Company").
3. Respondent Owner, at all times relevant to the case at hand, was the owner and administrator of Respondent Company.
4. On or about April 21, 2008, Complainant timely filed a verified complaint against Respondent Owner and Respondent Company, at docket no. 200705453, with the Pennsylvania Human Relations Commission (hereinafter Commission). A copy of the Complaint will be included as a docket entry at the time of hearing.
5. Respondent Owner and Respondent Company, on July 1, 2008, answered the Complaint. A copy of the Answer will be included as a docket entry at the time of hearing.

6. In correspondence dated January 26, 2009, Commission staff notified the Complainant and Respondents that probable cause existed to credit the allegations found in the complaint.
8. Conciliation has been attempted but so far the conciliation efforts have failed to resolve the matter.
9. In correspondence dated August 4, 2009, Commission staff notified the Complainant and Respondents that a public hearing had been approved.
10. On September 18, 2009, during the Prehearing Conference, the Parties stipulated that HIV is a qualifying disability under the PHRA.
11. On December 17, 2009, Complainant filed a First Amended Complaint against Respondents. A copy of the First Amended Complaint will be included as a docket entry at the time of the hearing.
12. On January 5, 2010, Respondents answered the First Amended Complaint. A copy of the Answer to the First Amended Complaint will be included as a docket entry at the time of the hearing.



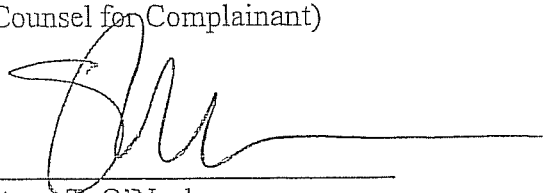
Stephanie M. Chapman
Assistant Chief Counsel
(Counsel for the Commission
in support of the complaint)

4/8/10
Date



Ronda B. Goldfein
Sarah R. Schalman-Bergen
Kailee Farrell
AIDS Law Project of Pennsylvania
(Counsel for Complainant)

4/8/10
Date



Stuart T. O'Neal
Drew Rothman
McCumber Daniels
(Counsel for Respondents)

4/8/2010
Date

FINDINGS OF FACT*

1. To maintain and preserve confidentiality, the Complainant in this case shall be referred to as G.D. (hereinafter “G.D.”). (S.F.1).
2. G.D. is a 36 year old female individual who has been living with HIV since being diagnosed in 1998. (N.T. Vol 1 at 118-24; R.E. 7 at 53; RE 10 at 420).
3. The Respondents are Canal Side Manor, LLC d/b/a Canal Side Manor, (hereinafter “Canal Side”), and Lakshmi Kademani, (hereinafter “Kademani”). (S.F. 2).
4. G.D. is the mother of three children ages 16, 14, and 12. (N.T. Vol 1 at 141).
5. In 2006, G.D. was living in New Jersey and was embroiled in custody issues with respect to her children. (N.T. Vol 1 at 69; R.E. 10 at 10).
6. At the time, G.D.’s sister, Queen D., lived in Easton, Pa, with her husband and her four children. (R.E. 10 at 8).
7. G.D. has three sisters and three brothers. (R.E. 10 at 8).

*.The foregoing “Stipulations of Facts” are hereby incorporated herein as if fully set forth. To the extent that the Opinion which follows recites facts in addition to those here listed, such facts shall be considered to be additional Findings of Facts. The following abbreviations will be utilized throughout these Findings of Fact for reference purposes:

N. T. Vol 1	Notes of Testimony, April 8 th , 2010
N. T. Vol 2	Notes of Testimony, April 9 th , 2010
C. E.	Complainant’s Exhibit
R. E.	Respondents’ Exhibit
S. F.	Joint Stipulation of Facts

8. In May 2006, Queen D. visited G.D. in New Jersey for three days and discovered that G.D. was experiencing problems and struggling. (N.T. Vol 1 at 69, 70, 89).
9. Queen D. called her husband to discuss bringing G.D. and her children back to Easton to live with her. (N.T. Vol 1 at 70).
10. In or about May 2006, Queen D. brought G.D. and her children to live with her in Easton. (N.T. Vol 1 at 69; R.E. 10 at 24).
11. Subsequently, Queen D. became G.D.'s Power of Attorney and Health Care Proxy. (N.T. Vol 1 at 86, 88; C.E. 3; R.E. 10 at 9).
12. In addition to living with HIV, G.D. is also bipolar and schizophrenic. (N.T. Vol 1 at 88, 89).
13. Beginning in July 2006, G.D. received treatment at Easton Community Hospital and was a patient of Jamie Bloss, (hereinafter "Bloss"), a care coordinator, nurse practitioner. (N.T. Vol 1 at 163, 164, 166).
14. G.D. also received outpatient care at Lehigh Valley Mental Health in Bethlehem, Pa. (R.E. 10 at 22).
15. In 2006, for a period of several months while living with Queen D., G.D. did not speak with Queen D. (N.T. Vol 2 at 75; R.E. 10 at 33-34).
16. Initially, G.D. was depressed, experienced nightmares, she was bald, and she was scared and had to wear diapers because G.D. had urinary incontinence. (N.T. Vol 2 at 79; R.E. 10 at 22, 25, 27, 88-89).
17. In 2007, G.D. moved from Queen D.'s home to a group home on Main Street in Bethlehem, Pa. (N.T. Vol 1 at 7; N.T. Vol 2 at 12; R.E. 8 at 24).

18. The group home was interchangeably called Step by Step and Main Street. (N.T. Vol 1 at 235-235; N.T. Vol 2 at 7).
19. Step by Step is a human services agency community residential rehabilitation program principally designed to assist individuals move towards greater independent living. (N.T. Vol 1 at 71, 199, 206).
20. Many Step by Step clients have developmental disabilities or mental illness or both. (N.T. Vol 2 at 7).
21. Step by Step was run by two women, Marie, a staff member, and Tracey, the director of the group home. (N.T. Vol 1 at 94, 207, 208, 234-235; N.T. Vol 2 at 39; R.E. 8 at 56).
22. Some Step by Step clients graduate from the group home setting into more stable independent living situations while others are directed to personal care homes. (N.T. Vol 2 at 12).
23. Assisting Step by Step clients are Intensive Case Managers, (hereinafter "ICM"), who are supervised by Cherie Zettlemyer, (hereinafter "Zettlemyer"). (N.T. Vol 2 at 7-8).
24. ICM's assist clients by accompanying them to doctor's appointments, providing assistance in searching for jobs, and finding transportation and generally rendering assistance. (N.T. Vol 1 at 201).
25. Following G.D.'s October 2007 intake to enter the ICM program, Aurora Valle was assigned to be G.D.'s IMC. (N.T. Vol 1, 200, 231; N.T. Vol 2 at 11).
26. Aurora Valle subsequently married and is now Aurora Anaya, (hereinafter "Anaya"). (N.T. Vol 1 at 283).

27. Anaya is an ICM for Step by Step's young adult program. (N.T. Vol 1 at 200).
28. When Anaya met G.D. in October 2007, G.D. disclosed that she has HIV. (N.T. Vol 1 at 231).
29. Several additional times G.D. disclosed this information to Anaya. (N.T. Vol 1 at 232).
30. Anaya informed G.D. that she did not have to disclose this information. (N.T. Vol 1 at 232).
31. At some point, G.D. developed the virus commonly known as shingles. (N.T. Vol 1 at 156; R.E. 7 at 52-53).
32. Shingles is caused by the virus varicella zoster, aka the chickenpox virus. (N.T. Vol 1 at 44).
33. After an individual has had the chickenpox, the virus lays dormant in the spine's nerve system roots and stays there until the body's immune system tires and the virus breaks out as a blistering rash. (N.T. Vol 1 at 44-46).
34. As long as the blistering shingles are fluid filled, the individual is contagious to those who have never had chickenpox. (N.T. Vol 1 at 46).
35. The period of contagion is generally four to five days. (N.T. Vol 1 at 47).
36. While living at Step by Step's group home, G.D. experienced problems with basic daily living skills, hygiene and urinary incontinence. (N.T. Vol 1 at 206).
37. With respect to G.D.'s urinary incontinence, G.D. was put on both a queuing program and a training program where G.D. would constantly be reminded to go to the bathroom. (N.T. Vol 1 at 71; R.E. 10 at 53, 55).

38. Whether G.D. would be reminded every hour and a half, every hour, or even every half hour, by December 2007, G.D.'s urinary incontinence had not improved. (N.T. Vol 1 at 71; R.E. 10 at 95).
39. While residing at Step by Step, G.D. wore a diaper everyday. (R.E. 10 at 118).
40. Periodically, Step by Step would meet with G.D., Anaya and Queen D. to discuss G.D.'s needs. (N.T. Vol 1 at 72).
41. Periodically, Step by Step also called Queen D. to discuss G.D.'s progress. (N.T. Vol 1 at 92).
42. By November and December 2007, Queen D. was being informed that G.D. has severe bladder incontinence. (N.T. Vol 1 at 92).
43. In a meeting about G.D., Queen D. and Anaya were told both queuing and training had failed and a discussion ensued regarding whether it was time to secure another level of care for G.D. (N.T. Vol 1 at 94, 97, 234-235; R.E. 8 at 56).
44. Collectively, the Step by Step staff, Anaya and Queen D. decided that G.D. needed more care and supervision and that G.D. should be in a personal care home. (N.T. Vol 1 at 71; R.E. 10 at 48-49).
45. G.D. testified that she was annoyed at Step by Step because the staff was on her back about every little thing. (R.E. 7 at 44).
46. G.D. offered that she hated Tracy and wanted to hit her. (R.E. 7 at 45-52).
47. G.D. also indicated that she and Tracy argued about G.D.'s children. (R.E. 7 at 52, 112).
48. G.D. further testified that she also did not like Marie because she believed Marie nagged her. (N.T. 7 at 52, 98).