

A Special Meeting of the Heidelberg Township Board of Supervisors was held Monday July 17, 2006 at the municipal building and called to order at 7:30 PM by Chairman Harry Rodgers.

Members present were Harry Rodgers, Larry Sterner, Tim Hansen, Norma Markle, Steve McKonly and Tiffany Cartwright.

Others present: "SEE ATTACHED SIGN IN SHEET" (1)

Harry Rodgers stated it was great to see so many residents at a meeting and stated the purpose of the meeting is to review and discuss a settlement agreement with Community Service Group (CSG) to establish a group home at 1862 Smith Station Road, Spring Grove. Tiffany Cartwright, of Reager & Adler, special counsel hired by the township explained the terms of a Settlement Agreement that CSG and the Township discussed at an earlier executive session.

BACKGROUND

* CSG came before the Zoning Hearing Board in March and April 2006 to get a Special Exception to allow a "group home" in an agricultural district of the township. The Zoning Hearing Board determined that this is not a "family" and felt it was more accurate as a Domiciliary Care Unit" and the request was denied.

* CSG attended the May and June 2006 meeting of the Supervisors and requested a "Reasonable Accommodation" the same as any other home in the Township. Attorney Dwight Yoder for CSG, explained that according to the 1988 Fair Housing Act, enacted by the Federal Government to protect citizens with handicaps and is defined as persons who are limited in achieving daily tasks on their own. These do not include criminals. The Reasonable Accommodation was turned down by the Supervisors.

* The Harrisburg State Hospital was closed December 31, 2005 and the patients were placed elsewhere according to their ability to live in homes which assist them in daily tasks. They were trying to place them within the county they came from.

* CSG filed a Federal Law suit against the Township citing the Federal Disabilities Act and Americans Disabilities Act were violated. The case went before Judge Christopher Conner in Federal Court and Judge Conner ruled that the parties should meet and discuss this case and come to a reasonable conclusion.

* On July 10, 2006 an Executive Session was held to discuss a Settlement Agreement between CSG and Heidelberg Township.

"SEE ATTACHED SETTLEMENT AGREEMENT" (2)

QUESTIONS

KELLY HEIMBAUGH - Is this a done deal? Will there be recovering addicts there? Are these patients drug or alcohol users or former users? Are there any sex offenders? Who will regulate their meds? Are there background checks on the staff? Will the police department be conducting routine checks? How will they know patients from staff?

DARLENE RABENSTINE - Will the facility be locked down?

DORIS DEITZEL - Has the training of the staff been checked out?

RAND FEDDER - Feels CSG is hiding behind HIPPA Laws

WILLIAM DRUM - Why should this be allowed when all these people are opposed?

DAN WILMONT - Who can be held accountable for the actions if something were to happen?

KENTON FUHRMAN - Asked Tiffany if she would like to have these people as her neighbors?

BEN SCHICK - Questioned if they are living there now?

TERRY FROCK - Didn't get a straight answer from anyone yet, the Zoning Hearing Board only ones willing to stand up for their rights. Asked what #8 Page 8 of the Agreement was about.

WAYNE WINEMILLER - Will taxes decrease if home goes in? Since the value of the property would drop.

TIM HIPPENSTEEL - Can they be sure these people are not a threat to others? Need facts and truths before a decision is made.

RENEE HIPPENSTEEL - How often will these people be evaluated?

LINDA MYERS - What kind of system is in place to alert neighbors if a patient should wonder? If this system is electrical will there be a generator to back up the system?

DON WILLEY - Vague on who is liable if anyone is assaulted. Are there other facilities in York County?

MRS. STAHL - Why are these patients monitored so closely if they are no a threat to the neighborhood?

PAUL KING - Would the Township be notified if a patient left and a new one would take their place?

ROBIN MOLISON - Would these patients be employed outside of the home?

MATTHEW DICKS - Have permits been issued? He was told there is no unpermitted work going on there.

DAVID HAMMONDS - If settlement is not made can CSG not comply with the agreement discussed earlier?

JACK SCHUMAN - Can the Board limit the number of patients?

RYAN SNYDER - They own it so why aren't they allowed to do as they please?

MRS. MOLISON - CSG needs to make surrounding neighbors comfortable.

DEB MORNINGSTAR - Would the police be patrolling on a regular basis?

BOB STINE - What's the process to fight this?

GEORGE LITTLE - Feels Supervisors should fight this.

VERNON BUTCHER - Why isn't more information about the patients being given, this is an insult to the Township.

GENE NACE - CSG is a business, how is this going to be a positive for the township,

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profit making for CSG. Can they build another building on this property? Township is not protecting the community.

PUBLIC COMMENTS

DARLENE RABENSTINE - Greatest concern is safety, has faith the Supervisors will do the right thing. Needs to consider if someone is seriously hurt that the Township may be held liable.

KELLY HEIMBAUGH - Gave the Board pictures of her 2 children standing with the home in the background and asked them to picture themselves in this situation. Moved to the country to be safe and get away from worrying if children are outside and playing and don't have to worry about. Would not feel safe to sleep out in a tent or children to play outside alone. Would always be looking over her shoulder. Let the court make the decision.

WILLIAM DRUM - Did pass the 8th grade. "United We Stand", lived in Maryland and the community met once a month as an association and then took their concerns to the local government.

RAND FETER - Feels the Judge should make this decision.

HEATHER ALTLAND - Stated she has lived in the Township all her life. She did research on this and feels that this can work if everyone would be more open minded. Need to pray for these people. Consider volunteering at the facility.

DEB WARFIELD - Is a widow with 2 children and was thought she had a safe place to raise her children. Why aren't you fighting for us?

ROBIN HIPPENSTEEL - Their home is separated by a field from this site and if someone would run it could be through their property. Home schools their children, would have to be extra cautious. Why should their rights be violated, they were here first. This is a very black and white issue.

DON WILLEY - Not interested in settlement agreement, all or nothing, let the Judge settle.

DONALD WEAVER - Lives directly across from the home. Would rather not have it, but feels the Board is intelligent enough to make the right decision and has confidence in what they decide.

ROBIN MOLISON Understands both sides. Feels the Board feels their hands are tied. Why is CSG pushing so hard. Please make people feel secure.

WAYNE WINEMILLER - Does not like what they are proposing.

MR. DEITZEL - These people have been in a locked down surroundings for years and suddenly they are to be entered into the community. Feels things need to be further researched.

DAVE HAMMONDS - Tough decision for the Board. If this does go through it needs to be taxed as a business.

HEATHER ALTLAND - Has seen several group homes and they are well maintained and feels would increase property values.

JAMIE STALCUP, Officer from Southwestern Regional Police - Feel free to call the police anytime, the department is here for you. Has heard indications of 80-90 minute response

time, feels this is unlikely and would respond much quicker. Deals with calls on how serious it is and is taken very seriously.

CONCLUSION OF PUBLIC COMMENTS

Tim Hansen made a motion to adjourn into an Executive Session @ 10:17 PM, Larry Sterner seconded and Harry Rodgers concurred.

Meeting reconvened at 10:33 PM. Tiffany stated the Board has 3 options. (1) Approve settlement as stated, (2) Enter into other terms, (3) Not agree and take to Federal Court

DISCUSSION

TIM HANSEN - Appreciate the large turnout and feels they will be the ones that are most affected.

LARRY STERNER - Glad to see the turnout and has mixed emotions about it and has been praying about this decision.

HARRY RODGERS - Appreciated all the questions and comments and will try to do what is right for the Township.

Tim Hansen made a motion to reject the Settlement Agreement and proceed to Federal Court. Larry Sterner seconded and Harry Rodgers concurred.

VOTE - Harry Rodgers - Yes
Larry Sterner - Yes
Tim Hansen - Yes

Nay Votes - None

Those in attendance applauded the Boards decision.

Meeting adjourned at 10:37 PM.

Norma Marble

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JULY 17, 2006 - SPECIAL MEETING

PLEASE SIGN IN:

- Rand A. Feder 32 W. Duke St York PA 17401 (717)843-8915
- Heather Altland 1716 W Langview Dr SG PA 717.225.6263
- MONA DUTTERER 1910 Rosepointe Way SG PA. 637-3186
- Ellen & Paul Tregnor 6267 Hill Top Dr E, ^{56. PA} 225-6225
- BRUCE JONES 225-6250
- Denise Van Etten 225-0248
- Deborah Weiford 225-9391
- DAN WILMOT 1937 SMITH STATION RD.
- William DRUMM 1843 Liberty Rd
- Linda Myers 1941 Smith Station Rd
- DANIEL & DEREK MOSTOWAL 1977 Smith Station Rd.
- DEB + BILL MCKILLINGSTAN 1845 LOCKYR RD. SPECU, PA 17362
- Donnie & Grace Weaver 1871 Smith Station Rd.
- Jane Nare 2032 Yungling Dr.
- Richard Trimmer 2030 Yungling Dr.
- RALPH ALLISON 2124 YINGLING DR
- EDWARD J MILLER 6879 CANNERY RD
- Robin E. Morrison 2234 Smith Station Rd.
- Rose Beecher 1864 Yungling Dr.
- Bob Beecher 1864 Yungling Dr.
- Wayne Wimmer 1948 Yungling DR
- Melissa Miller 1936 Yungling Dr.
- STEE STALEY 1230 Glatica Lodge Rd
- Ron Troch 1799 Smith Station Rd
- Judy Troch " " " "
- Consuela Van Stal 6576 Oufred Rd. Spring Grove

Jack Sherman	1106 Walden Dr.	225-5172
Norm Stambough	2001 Yungling Dr	632-3910
Ryan Snyder	1055 Pinyon Dr. W	225-6595
DON WILLY	1887 SMITH STATION	943-400-8626
JAMES KIMMERY	1932 SMITH STATION RD	637-8774
HOWARD MITCHELL	230 DEAGON RD	632-0011
Tim & Renee Hoppersted	1950 Yungling Ave	632-2230
Wm + Margret Zeln	6490 Pamadana	633-7307
Scott & Holly Miller	741 Menges Mills Rd	225-1998
Bob & Sardi Stein	6327 Strawcross Rd	225-3673
Hemie Adams	2100 Yungling Dr.	637-9712
Jean + David Hammond	6308 Strawcross Rd	225-9492
Vernon + Sandra Butcher	6401 Creffield Rd.	225-3667
Terry & June Fred	1816 Smith Station Spc	632-6779
Cheryl Bowersox	6434 Shutt Rd Spring Grove	225-1921
Kathy Russo	6428 Shutt Rd Spring Grove	225-1745
Paul King	6829 Cannery Rd. Hanover	632-2771
Clair E. Atwood	1714 W. Longwood	225-1031
Don Deitzel	1974 Yungling Drive Spring Grove	632-4055
Daniel W Deitzel Jr.	1974 Yungling Drive Spring Grove	632-4055
LEWIS & MITCHELL BUFFALO	1950 SMITH STATION RD	632-3408
Shirley Abrisch	6433 Pamadana Rd Hanover	
Nadine Schenker	1983 Yungling Dr.	632-0173
Nancy J. - Nash	6429 Pamadana Rd	633-6853
Ed & Deona Schmittel	2074 Yungling Dr. S.G. PA	17362
Janic Geiman-Schmidt	2162 Yungling Dr	632-8515
Robert A. Schmidt	"	"

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(79)
 Web Becker 225-9751
 Matt Dixon 1517 Jacobs Mill Rd
 Ben Schick 6970 Connelly Rd
 George Little 1954 Smith Station Rd,
 Shawn Russell 6581 Orefield Rd
 Ryan Russell 6581 Orefield Rd
 Devon Russell 6581 Orefield Rd
 Gene A Mann 2008 Yingling Drive
 Jeri Ann 2008 YINGLING DRIVE
 Kenton Finkman 1830 SMITH STATION RD
 Tim Muto 1870 Smith Station Rd
 ANTHONY BATTISTA 4479 PAMADEVA RD
 Mary Uffelman 6331 Straw Acres Rd
 Drew Fuchtschag 1848 Smith STATION RD

7.11.06 DRAFT
7.13.06 Rev by JDY
7.16.06 Rev by TMC
7.17.06 Rev by JDY

SETTLEMENT AGREEMENT

THIS AGREEMENT, made the ___ day of _____, 2006 by and between the Heidelberg Township and the Board of Supervisors of Heidelberg Township (collectively, "Township") and Community Services Group ("CSG").

WITNESSETH

WHEREAS, Heidelberg Township and the Board of Supervisors of Heidelberg Township are named defendants in a Complaint filed by CSG in the United States District Court for the Middle District of Pennsylvania claiming violations of the Fair Housing Amendments Act of 1988 ("FHA") arising from the Township's denial of CSG's request for a "reasonable accommodation" for a Long-Term Structured Residence ("LTSR") to be located at 1862 Smith Station Road, Spring Grove, Pennsylvania and which will house eight (8) individuals suffering from mental illness, which Complaint is docketed as *Community Services, Inc. v. Heidelberg Township et al.*, Civil Action No. 1:06-CV-1206 ("Federal Complaint"); and

WHEREAS, federal policy as embodied in the Americans with Disabilities Act ("ADA") and as announced by the United States Supreme Court requires that state and county mental health and mental retardation programs place individuals with mental illness in community based settings when treatment professionals have determined it is appropriate to do so; and

WHEREAS, Federal Fair Housing Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C.A. §§ 3601-3631, ("FHA"), is a federal law that prohibits

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 7.13.06 Rev by JDY
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WHEREAS, federal policy as embodied in the Americans with Disabilities Act ("ADA") and as announced by the United States Supreme Court requires that state and county mental health and mental retardation programs place individuals with mental illness in community based settings when treatment professionals have determined it is appropriate to do so; and

WHEREAS, Federal Fair Housing Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C.A. §§ 3601-3631, ("FHA"), is a federal law that prohibits

discrimination in housing based on, *inter alia*, a handicap of an individual. The FHA permits individuals and service providers to request a reasonable accommodation from state and governmental entities when they believe one is necessary in order to afford an individual with a disability an equal opportunity to live in residential housing of their choice.

WHEREAS, CSG s requested a "reasonable accommodation" under the FHA from either the Township zoning officer or the Township Board of Supervisors by request to the Board of Supervisors ("Request"); and

WHEREAS, the Township denied CSG's Request by an oral determination issued June 7, 2006 ("Determination"), stating as the grounds for denial that the Board of Supervisors lacked jurisdiction to entertain the Request; and

WHEREAS, following the issuance of the Board of Supervisors' Determination, CSG commenced legal action against Township in the District Court for the Middle District of Pennsylvania by Federal Complaint alleging violations of the FHA; and

WHEREAS, Township and CSG have engaged in pre-trial practice involving the Federal Complaint, including the filing by CSG of a Motion for a Preliminary Injunction; and

WHEREAS, believing a negotiated settlement of the parties' respective claims and positions to be in the best interest of the Parties and the general public because it avoids additional significant litigation costs and would, by necessity, provide safeguards through the terms of the settlement and Court Order, Township and CSG, at the request of the Court, engaged in settlement negotiations for the purpose of resolving the pending Federal Complaint without further litigation; and

WHEREAS, Township and CSG preliminarily agreed to the terms of settlement set forth

herein with respect to the pending Federal Complaint ("Settlement"); and

WHEREAS, believing public review and comment on the Proposed Settlement to be in the public interest and consistent with Township policy, Township advertised and on July 17, 2006, the Township's Board of Supervisors held a public hearing on the Proposed Settlement Agreement memorializing the settlement of the pending federal litigation; and

WHEREAS, Township believing the Proposed Settlement Agreement to be in the best interests of the Township voted on _____, 2006 to approve the Proposed Settlement Agreement; and

WHEREAS, Township and CSG desire to settle the Federal Complaint according to the terms set forth in this Settlement Agreement.

NOW THEREFORE, in consideration of the promises and terms set forth herein and as required by the Consent Order entered in the Federal Complaint, Township and CSG, each intending to be legally bound hereby, do mutually represent, covenant and agree as follows:

1. Within five (5) business days of entry of the Consent Order, described *infra* ¶ 6, Township shall issue a Use Permit to CSG granting zoning approval for the residence at 1862 Smith Station Road, Spring Grove, to be used and occupied as a Long-Term Structured Residence for no more than eight (8) individuals. The Permit shall contain the following conditions:

- a. The number of residents at the Property shall at no time exceed eight (8) individuals.
- b. The number of regularly scheduled shift staff on a daily basis at the Property shall be limited to six (6) individuals, unless more are required

for CSG to provide the services and assistance mandated by York County MH / MR or the Department of Public Welfare. If the number of regularly scheduled shift staff on a daily basis is required to increase above six (6), CSG shall notify the Township of the increase at which time the Township may request a meeting with CSG to review the increase in shift staff. This provision only applies to regularly scheduled shift staff and does not apply to visits by other professionals, employees or individuals, such as doctors, social workers or other employees of CSG not scheduled on a daily shift at the Property.

- c. The residents at the Property shall be "handicapped" within the meaning of the FHA, 42 U.S.C. § 3602(h), and not fall within the exemptions set forth in 42 U.S.C. §§ 3602(h), 3604(f)(9) (relating to individuals who currently engage in substance abuse or illegal activity, and individuals who constitute a direct threat to the health or safety of other individuals or property).
- d. CSG shall obtain all necessary permits and approvals before commencing regulated construction or modifications to the existing structure and appurtenant facilities, including, but not limited to, necessary building permits and storm water approvals for addition of any impervious surfaces.
- e. Prior to occupancy, CSG shall obtain a certification from the Sewage Enforcement Officer for Heidelberg Township that the existing well and

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septic system are sufficient for the intensity of the use proposed for a single family home with a similar number of occupants.

- f. A parking area which will accommodate ten (10) parking spaces shall be provided on the Property to accommodate the residents, staff, and guests. Parking spaces shall be at least 10 feet by 20 feet in size, but need not be specifically demarcated. Parking spaces shall be arranged so that no vehicle must be moved in order to allow another vehicle to enter, exit or move within the parking area.
- g. CSG shall construct a four-foot tall fence enclosing the rear yard of the Property. The fence shall be constructed of durable materials, and be of a typical style for a residential dwelling.
- h. CSG shall ensure that adequate safety measures, as required by York County MH / MR, the Department of Public Welfare or CSG's own internal rules and regulations for an LTSR, are installed at the Property. The safety measures shall include:
 - (1) All external doors and windows shall contain mechanisms that monitor unauthorized entry or exit. Such mechanisms shall not interfere with occupants' ability to exit the residence in case of an emergency.
 - (2) Staff shall take regular head counts of all residents as required by DPW regulations. If the head count reveals an occupant unaccounted for and the resident is not accounted for within a

reasonable period of time, staff shall notify the regional police department.

(3) Medications shall be handled in accordance with DPW regulations as contained in 55 Pa. Code § 5320.53.

(4) CSG shall provide representatives of the Township and emergency services personnel with reasonable access to the facility and the occupants, as required by 55 Pa. Code § 5320.23.

2. CSG and the Township agree that the installation of the fence enclosing the rear yard of the Property does not limit where the residents may be on the Property or otherwise prohibit the residents from occupying unenclosed areas (i.e. front yard) of the Property.

3. The Township and CSG agree that this Agreement does not affect CSG's obligation to obtain any other necessary permits, approvals or certifications from the Township, the Department of Public Welfare, or other governmental entities necessary for the occupation, use, or modification of the Property.

4. CSG agrees to comply with all applicable building code requirements, as determined by the Township's Code Enforcement service, Commonwealth Code Service, Inc. CSG agrees to seek all necessary building permits for any regulated modifications to the Property, comply with all inspection requirements and schedules, and complete necessary modifications prior to occupancy.

5. This Agreement shall be strictly construed to be in settlement of the Federal Complaint and the acts and omissions of the Parties described therein. Notwithstanding any of

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the foregoing provisions, CSG does not by this Settlement Agreement waive claims against the Township, its Boards, employees, or authorized agents arising from the FHA based upon acts or omissions other than those described in the Federal Complaint. This Agreement shall not limit CSG in any way from requesting a "reasonable accommodation" under the FHA from the proper municipal board, agent or authority of the Township based upon acts or omissions other than those described in the Federal Complaint, nor does this Agreement limit the proper municipal board, agent or authority from considering, denying and / or granting such a request.

6. Township and CSG agree to present a Consent Order to the United States District Court for the Middle District of Pennsylvania for approval that shall require the Township to grant CSG a Use Permit to permit the LTSR at the house and shall require CSG and the Township to comply with the terms and conditions of this Settlement Agreement as an Order of the Court ("Consent Order").

7. Township and CSG agree to the continuing and open jurisdiction of the United States District Court for the Middle District of Pennsylvania over the Federal Complaint, the Consent Order, this Settlement Agreement (including the enforcement or challenges to this Settlement Agreement) until such time as CSG has completed any necessary renovations to the Property and obtained all necessary state and local permits, approvals and certifications such that residents are lawfully able to move into the LTSR. Within fourteen (14) days from the date on which residents lawfully occupy the LTSR, Township and CSG agree to present a Joint Motion for Dismissal to the District Court. The Joint Motion shall dismiss the Federal Complaint as to all parties. If there are any appeals or challenges pending at the time the residents occupy the LTSR, the Joint Motion shall occur fourteen (14) days after all appeals or challenges are fully

exhausted.

8. In the event any appeal or challenge is filed or brought by a third party to this Settlement Agreement or to the Consent Order, both Parties agree to actively and promptly defend all such actions and agree that any such appeals or challenges will be removed immediately to federal court to the docket of the Federal Complaint pursuant to the Consent Order and this Settlement Agreement. The Parties agree that if an appeal or legal challenge to the Consent Order or Agreement is filed, the Parties shall seek an expedited schedule for resolution of the appeal or challenge.

9. Township and CSG agree to cooperate and to take all action necessary to implement the provisions of this Settlement Agreement and Consent Order.

10. CSG authorizes the Township to disclose to the public the following documents:

- a. Overview of Daily Activities and Policies for a LTSR
- b. Summary of Mental Health Commitment Laws

11. This Settlement Agreement shall be binding upon and inure to the benefit of Township and CSG and their respective successors and assigns. In the event that CSG ceases to be the service provider for the LTSR, CSG agrees to notify the Township of the change in service provider. Any and all succeeding service providers shall receive a copy of this Settlement Agreement.

12. The effective date of this Settlement Agreement shall be the date upon which this Settlement Agreement is executed by appropriate officials of the Township and the date executed by CSG. This Settlement Agreement will become binding and enforceable upon approval by the Court as part of the Consent Order.

IN WITNESS WHEREOF, Heidelberg Township and CSG have caused this Settlement Agreement to be approved and executed.

**HEIDELBERG TOWNSHIP
BOARD OF SUPERVISORS**

Witness

Harry Rodgers, Chairman
Chairman

Witness

Tim Hansen

Witness

Larry Sterner

COMMUNITY SERVICES GROUP, INC

Witness

Susan Blue
President