

**MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
TUESDAY, MARCH 30, 2010
COMMISSIONERS HEARING ROOM, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
9:30 A.M.**

Commissioners present: Bernie Heier, Chair
Ray Stevens, Vice Chair
Deb Schorr

Commissioner absent: Larry Hudkins
Bob Workman

Others present: Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer
Tom Fox, Deputy County Attorney
Dan Nolte, County Clerk
Cori Beattie, Deputy County Clerk
Angela Zocholl, County Clerk's Office

The location announcement of the Nebraska Open Meetings Act was given and the meeting was called to order at 9:30 a.m.

- 1) **MINUTES: Approval of the minutes of the Board of Commissioners meeting held on Tuesday, March 16, 2010.**

MOTION: Stevens moved and Schorr seconded approval of the minutes. Stevens, Schorr and Heier voted aye. Motion carried 3-0.

- 2) **CLAIMS: Approval of all claims processed through Tuesday, March 30, 2010.**

MOTION: Schorr moved and Stevens seconded approval of the claims. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- 3) **SPECIAL PRESENTATIONS:**

The Clerk read the background information on the Commissioners' Award of Excellence and introduced the committee members: Jim Baird Jr., Rob Soflin, Becky Simerly, Marvin Little, Scott Waters, Todd Styskal, Renee Runge, Deb Haeffner and Minette Genuchi.

- A. **Presentation of the Annual Commissioners' Award of Excellence for 2009 to honorable mention winners Steven Enstrom, Tom McMillan, and Mary Tobiassen, Corrections.**

The Clerk read the nomination for the record. Commissioner Schorr presented plaques to the three award recipients.

3) **SPECIAL PRESENTATIONS CONTINUED:**

- B. **Presentation of the Annual Commissioner's Award of Excellence for 2009 to winners William Stewart and Tim Vorm, Community Mental Health Center.**

The Clerk read the nomination for the record. Dean Settle, Executive Director of the Community Mental Health Center, and Travis Parker, Deputy Director of the Community Mental Health Center, commended William Stewart and Tim Vorm for their work. Commissioner Stevens presented plaques, a \$500 savings bond, and two days vacation to the two recipients. Stewart and Vorm thanked the Board for the award.

4) **NEW BUSINESS:**

- A. **An application for a Special Designated License from Dave's Wine and Liquor to provide liquor beverage service for a reception at 15000 SW 29th Street, Martell, Lancaster County, Nebraska, on Saturday, August 21, 2010.**

MOTION: Stevens moved and Schorr seconded approval of the Special Designated License application. Stevens, Schorr and Heier voted aye. Motion carried 3-0.

- B. **Applications for Special Designated Licenses from Ken's Liquor to provide liquor beverage service for receptions at Country Pines, 6305 West Adams, Lincoln, Lancaster County, Nebraska, on Friday, June 18; Saturday, June 26; Saturday, June 17; and Friday, July 30, 2010.**

Stevens noted for the record Saturday, June 17, should read Saturday, July 17.

MOTION: Schorr moved and Stevens seconded approval of the Special Designated License applications. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- C. **Ratification of Disaster Declaration for Lancaster County executed by Lancaster County Board Chair Bernie Heier, pursuant to Nebraska Revised Statute 81-829.50 (Reissue 2008), relating to winter storms starting in December, 2009.**

MOTION: Stevens moved and Schorr seconded approval of the ratification. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- D. **A resolution in the matter of adopting federal aid funding requirements, adopting the Lancaster County Title VI plan, agreeing to the assurances contained in the Lancaster County Title VI plan and designating a Title VI coordinator and Title VI specialist. (R-10-0024)**

MOTION: Stevens moved and Schorr seconded approval of the resolution. Stevens, Schorr and Heier voted aye. Motion carried 3-0.

- E. **A recommendation from the Purchasing Agent to award a contract to Vanguard Industries for fuel tank maintenance and service. (B-10-0027)**

4) **NEW BUSINESS CONTINUED:**

MOTION: Stevens moved and Schorr seconded approval of the recommendation. Stevens, Schorr and Heier voted aye. Motion carried 3-0.

- F. **A recommendation from the Purchasing Agent and the County Engineer to award a bid, in the total amount of \$342,325.50, for 2010 spring gravel hauling to various stockpiles to Westover Trucking and Western Sand & Gravel. (B-10-0028)**

MOTION: Schorr moved and Stevens seconded approval of the recommendation. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- G. **A recommendation from the Purchasing Agent to award a contract for portable chemical toilet services to Eagle Services. The County will order services as needed at the proposed rates. (B-10-0029)**

MOTION: Stevens moved and Schorr seconded approval of the recommendation. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- H. **A contract between Vanguard Industries, the City of Lincoln, and Lancaster County for fuel tank maintenance and services. The County shall pay for products and services according to the Contractor's proposal. Term of the contract is four years from the date of execution by both parties. (C-10-0133)**

MOTION: Stevens moved and Schorr seconded approval of the contract. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- I. **A contract between Pavers, Inc., the City of Lincoln, and Lancaster County for the annual supply of asphaltic concrete. The County will pay for services according to the pricing in the contractor's proposal, agreeing to the full proposal of \$288,600. Term of the contract is one year from the date of execution by both parties. (C-10-0121)**

Item held per request of the County Attorney's Office.

- J. **A contract between Dobson Brothers Construction Company, the City of Lincoln, and Lancaster County for the annual supply of asphaltic concrete. The County will pay for services according to the pricing in the contractor's proposal, agreeing to the full proposal of \$264,500. Term of the contract is one year from the date of execution by both parties. (C-10-0122)**

Item held per request of the County Attorney's Office.

- K. **A contract between Cather & Son's Construction, Inc., the City of Lincoln, and Lancaster County for the annual supply of asphaltic concrete. The County will pay for services according to the pricing in the contractor's proposal, agreeing to line items 1, 2, and 3, for a total of \$246,750. Term of the contract is one year from the date of execution by both parties. (C-10-0123)**

4) **NEW BUSINESS CONTINUED:**

Item held per request of the County Attorney's Office.

- L. **A contract between Constructors, Inc., the City of Lincoln, and Lancaster County for the annual supply of asphaltic concrete. The County will pay for services according to the pricing in the contractor's proposal, agreeing to the full proposal of \$244,500. Term of the contract is one year from the date of execution by both parties. (C-10-0124)**

Item held per request of the County Attorney's Office.

- M. **A construction contract with Hartmann Construction Company, in the amount of \$285,067.71, for Bluff Road grading; Project No. C55-H-402(1). (C-10-0125)**

MOTION: Stevens moved and Schorr seconded approval of the contract. Stevens, Schorr and Heier voted aye. Motion carried 3-0.

- N. **A construction contract with T.J. Osborn, in the amount of \$216,664.70, for concrete box culverts; Project No. 10-22. (C-10-0126)**

MOTION: Schorr moved and Stevens seconded approval of the contract. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- O. **A construction contract with Brandt Excavating Company, in the amount of \$157,809.50, for erosion control at box culverts and bridges; Project No. 10-23. (C-10-0129)**

MOTION: Stevens moved and Stevens seconded approval of the contract. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- P. **A construction contract with Dobson Brothers Construction Company, in the amount of \$2,195,496.01, for asphaltic concrete resurfacing and paving on W. Raymond Road, Waverly Road, Old Cheney Road, S. 84th Street, S. 82nd Street and Panama Road; Project No. 10-35. (C-10-0137)**

MOTION: Stevens moved and Schorr seconded approval of the contract. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- Q. **A construction contract with Pavers, Inc., in the amount of \$349,395.53, for Arbor Road grading and paving; Project No. C55-G-408(3). (C-10-0136)**

MOTION: Stevens moved and Schorr seconded approval of the contract. Stevens, Schorr and Heier voted aye. Motion carried 3-0.

- R. **A surveying agreement with WNK Surveying, in the amount of \$2,050, for surveying services for the County Engineer relating to Project C55-G-408(3), located on Arbor Road; Project BR-3340(7), located at Bridge H-46 Waverly Southeast; and Concrete Box Culvert O-206. (C-10-0130)**

4) **NEW BUSINESS CONTINUED:**

MOTION: Stevens moved and Schorr seconded approval of the agreement. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- S. **A surveying agreement with Allen Surveying, in the amount of \$2,570, for surveying services for the County Engineer relating to Project C55-H-402(1), located on Bluff Road from N. 148th Street to N. 190th Street. (C-10-0131)**

Stevens noted upon approval of this agreement approximately \$3,800,000 in road work will have been authorized this year for Lancaster County.

MOTION: Schorr moved and Stevens seconded approval of the agreement. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- T. **A grant contract with Center for People in Need, in the amount of \$7,500, to provide funding to establish a program that provides services to assist the community in addressing the basic and emergency needs of refugees in Lancaster County. Term of the grant contract is October 1, 2009, to September 30, 2010. (C-10-0132)**

MOTION: Schorr moved and Stevens seconded approval of the contract. Stevens, Schorr and Heier voted aye. Motion carried 3-0.

- U. **An agreement between Lancaster County, on behalf of the Lancaster County Election Commissioner, and Steve McClatchey for the delivery of voting machines and other miscellaneous equipment to several polling locations for the primary election on May 11, 2010. The agreement shall commence upon execution by both parties and shall continue until May 14, 2010. The County will pay \$50 per polling location for the delivery services. (C-10-0135)**

MOTION: Stevens moved and Schorr seconded approval of the agreement. Stevens, Schorr and Heier voted aye. Motion carried 3-0.

- V. **A unit price contract with ImageScapes, Inc., for miscellaneous landscape installation and maintenance services (projects under \$10,000). Term of the contract is two years from the date of execution with an option to renew the contract for one additional two-year term. (C-10-0140)**

MOTION: Stevens moved and Schorr seconded approval of the contract. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- W. **A unit price contract with Lanoha Nurseries for miscellaneous landscape installation and maintenance services (projects under \$10,000). Term of the contract is two years from the date of execution with an option to renew the contract for one additional two-year term. (C-10-0141)**

MOTION: Stevens moved and Schorr seconded approval of the contract. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

4) **NEW BUSINESS CONTINUED:**

- X. **A request from Mumm & Associates, P.C., on behalf of North Bluff Farms, for a refund of 2007 and 2008 personal property taxes.**

Scott Gaines, Deputy County Assessor/Register of Deeds, explained the farm's equipment was accidentally reported and paid for twice. He recommended approving the refund request.

MOTION: Stevens moved and Schorr seconded approval of the refund request. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- Y. **A salary increase of 1% for Dr. Gary Nadala from \$89 per hour to \$89.89 per hour, effective December 31, 2009.**

MOTION: Schorr moved and Stevens seconded approval of the salary increase. Stevens, Schorr and Heier voted aye. Motion carried 3-0.

- Z. **A request for an Exceptional Circumstance Award under Rule 17.9(b) of the Lancaster County Personnel rules for Mary Meyer for a one-step increase from Step 4 to Step 5 in the classified position of Excluded Clerk Typist III, effective April 6, 2010.**

Note: Per the Personnel Department, the effective date is April 8, 2010.

Kerry Eagan, Chief Administrative Officer, explained Mary Meyer has been covering two vacated City Council support staff positions, as well as her own. He requested the one-step pay increase to compensate Meyer for the additional workload. The Board expressed their appreciation to Meyer for her work.

MOTION: Stevens moved and Schorr seconded approval of the exceptional circumstance award. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- AA. **Appointment of Leland Volker to the Lancaster County Board of Zoning Appeals to complete the unexpired term of Jim Haberlan through April, 2014.**

MOTION: Stevens moved and Schorr seconded approval of the appointment. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

- BB. **Reappointment of Tom Thurber to the Lancaster County Board of Zoning Appeals through March, 2015.**

MOTION: Stevens moved and Schorr seconded approval of the reappointment. Stevens, Schorr and Heier voted aye. Motion carried 3-0.

- CC. **A political subdivision tort claim, in the amount of \$40, filed against Lancaster County Corrections by Rodne R. Jones for lost property.**

MOTION: Schorr moved and Stevens seconded denial of the tort claim based upon the department director's recommendation. Stevens, Schorr and Heier voted aye. Motion carried 3-0.

4) **NEW BUSINESS CONTINUED:**

DD. **A political subdivision tort claim, in the amount of \$120, filed against Lancaster County Corrections by Matthew A. Tonjes for lost property.**

Stevens noted the Department of Corrections tried to contact the claimant, but were unable to reach him; therefore, the department's recommendation was to deny the claim.

MOTION: Schorr moved and Stevens seconded denial of the tort claim based upon the department director's recommendation. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

EE. **A political subdivision tort claim, in the amount of \$23, filed against Lancaster County Corrections by Shane A. Backemeyer for lost property.**

MOTION: Stevens moved and Schorr seconded denial of the tort claim based upon the department director's recommendation. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

FF. **A political subdivision tort claim, in the amount of \$40, filed against Lancaster County Corrections by Jolene S. Fletcher for lost property.**

MOTION: Schorr moved and Stevens seconded denial of the tort claim based upon the department director's recommendation. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

GG. **A political subdivision tort claim, in the amount of \$27, filed against Lancaster County Corrections by Anthony S. Smith for damaged property.**

MOTION: Schorr moved and Stevens seconded denial of the tort claim based upon the department director's recommendation. Stevens, Schorr and Heier voted aye. Motion carried 3-0.

HH. **A political subdivision tort claim, in the amount of \$25, filed against Lancaster County Corrections by Brett C. Fenton for lost property.**

Stevens noted the property was found by the Department of Corrections, who sent a certified letter to notify the claimant. The claimant signed for the letter, but never claimed the item.

MOTION: Schorr moved and Stevens seconded denial of the tort claim based upon the department director's recommendation. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

5) **CONSENT ITEMS:** *These are items of business that are routine which are expected to be adopted without dissent. Any individual item may be removed for special discussion and consideration by a Commissioner or by any member of the public without prior notice. Unless there is an exception, these items will be approved as one with a single vote of the Board of Commissioners. These items are approval of:*

A. **Receive and place on file the following:**

1. **Weed Control Authority monthly report for February, 2010.**
2. **Management's Discussion and Analysis, Financial Statements and Supplementary Information regarding the Lancaster County Agricultural Society for the year ended November 30, 2009.**

5) **CONSENT ITEMS CONTINUED:**

- B. **A right-of-way contract between the County Engineer and Danny L. and Anne C. Kubr, in the amount of \$235, located at 10233 Saltillo Road, Roca; Project No. C55-PQ-406(2). (C-10-0127)**
- C. **Leasehold contracts between the County Engineer and the following:**
 - 1. **Brent Nisley, in the amount of \$10, located at 614 S. 2nd Street, Bennet; Project No. C55-PQ-406(2). (C-10-0128)**
 - 2. **Daryl Hopp, in the amount of \$10, located at 510 190th Street, Eagle; Project No. C55-G-408(3). (C-10-0138)**
 - 3. **Bryan Haase, in the amount of \$10, located at 7101 Arbor Road, Lincoln; Project No. C55-G-408(3). (C-10-0139)**
- D. **Setting of a public hearing for Tuesday, April 13, 2010, at 9:30 a.m. in the County Commissioners Hearing Room, Room 112, on the first floor of the County-City Building regarding automatic renewal of retail liquor and beer licenses issued in Lancaster County and outside the corporate limits of any city, for which the County Clerk has received no protests.**

MOTION: Stevens moved and Schorr seconded approval of the consent items. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

6) **PUBLIC COMMENT:**

Kim Kaspar, President of the American Federation of State, County and Municipal Employees, discussed articles from the Chicago Tribune regarding Rothner-owned nursing homes (Exhibit A). She expressed her concern over the sale of Lancaster Manor to the new owner.

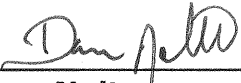
Melvin Moore discussed the information presented by Kim Kaspar. He asked the Board to investigate the information presented in the articles to find out if it is true.

7) **ANNOUNCEMENTS:**

- A. **The Lancaster County Board of Commissioners will hold a staff meeting on Thursday, April 1, 2010, at 8:30 a.m., in Room 113 on the first floor of the County-City Building.**
- B. **The Lancaster County Board of Commissioners meeting is broadcast live at 9:30 a.m., on Tuesdays and rebroadcast at 1:30 p.m., and 6:30 p.m., as well as on Saturday afternoon on 5 City-TV, Cable Channel 5. In addition, this meeting may be viewed on Nebraska On Demand Time Warner Channel 101 and is available on the internet 24 hours a day at www.lancaster.ne.gov. Click on 5 City-TV Video on Demand.**

8) **ADJOURNMENT**

MOTION: Stevens moved and Schorr seconded to adjourn the Board of Commissioners meeting at 10:13 a.m. Stevens, Schorr and Heier voted aye. Motion carried 3-0.



Dan Nolte
Lancaster County Clerk



MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, MARCH 30, 2010
COMMISSIONERS HEARING ROOM, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
IMMEDIATELY FOLLOWING THE LANCASTER COUNTY
BOARD OF COMMISSIONERS MEETING

Commissioners present: Bernie Heier, Chair
Ray Stevens, Vice Chair
Deb Schorr

Commissioner absent: Larry Hudkins
Bob Workman

Others present: Norm Agena, County Assessor/Register of Deeds
Scott Gaines, Deputy County Assessor/Register of Deeds
Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer
Tom Fox, Deputy County Attorney
Dan Nolte, County Clerk
Cori Beattie, Deputy County Clerk
Angela Zocholl, County Clerk's Office

The location announcement of the Nebraska Open Meetings Act was given and the meeting was called to order at 10:13 a.m.

1) **MINUTES: Approval of the minutes of the Board of Equalization meeting held on Tuesday, March 16, 2010.**

MOTION: Schorr moved and Stevens seconded approval of the minutes. Stevens, Schorr and Heier voted aye. Motion carried 3-0.

2) **ADDITIONS AND DEDUCTIONS: Approval of 35 additions and deductions to the tax assessment rolls per Attachment "A".**

MOTION: Stevens moved and Schorr seconded approval of the additions and deductions. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

3) **MOTOR VEHICLE TAX EXEMPTION APPLICATIONS:**

Christ's Place
Cornhusker Council Boy Scouts of America
Developmental Services of Nebraska, Inc.
First Baptist Church
Gates of Praise
Praise Temple Church of the Living God
Priestly Fraternity of St. Peter, d/b/a Our Lady of Guadalupe Seminary

3) **MOTOR VEHICLE TAX EXEMPTION APPLICATIONS CONTINUED:**

**St. Patrick Catholic Church
Temple Baptist Church**

Stevens noted there were two applications for Christ's Place and for First Baptist Church.

MOTION: Stevens moved and Schorr seconded approval of the motor vehicle tax exemptions. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

4) **AN APPEAL REGARDING THE REJECTION OF HOMESTEAD EXEMPTION STATUS:**

Jerry L. Cain

Scott Gaines, Deputy County Assessor/Register of Deeds, recommended upholding the denial of homestead exemption since the applicant did not meet the criteria of owning and occupying the property from January 1 to August 15 for the year of application. He stated Cain has not lived in the home for several years, and the house has been red-tagged as uninhabitable. Jerry Cain explained there had been a fire in the home in December 2004, but he was still trying to maintain the property so he could eventually return to the home. Stevens and Cain discussed the effect of the red-tagged status on the valuation of the property. Schorr confirmed with Gaines that Cain would be able to reapply for homestead exemption once Cain moved back into the home.

MOTION: Schorr moved and Stevens seconded denial of the homestead exemption based on the County Assessor's recommendation. Schorr, Stevens and Heier voted aye. Motion carried 3-0.

5) **NOTICE OF ASSESSED VALUATION CHANGE FOR PROPERTY TAXATION PURPOSES:**


**Douglas McMahan et al
Joanne H. Hranac**

Scott Gaines recommended approval of both notices. He explained the McMahan property was listed as a non-buildable lot in 2009; the valuation change would reflect the non-buildable status for 2007 and 2008. Gaines said the Hranac property was protested in 2009; there was a misinterpretation of the referee's recommendation that needed to be corrected.

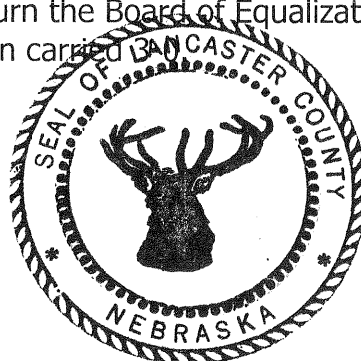
MOTION: Schorr moved and Stevens seconded approval of the valuation notices. Stevens, Schorr and Heier voted aye. Motion carried 3-0.

6) **ADJOURNMENT**

MOTION: Schorr moved and Stevens seconded to adjourn the Board of Equalization meeting at 10:22 a.m. Schorr, Stevens and Heier voted aye. Motion carried 3-0.



**Dan Nolte
Lancaster County Clerk**



www.chicagotribune.com/news/local/ct-met-nursing-home-reform-20100308,0,7142353.story

chicagotribune.com

Deadline set to close Chicago nursing home

Illinois authorities said they plan to shut Somerset Place, one of the state's largest nursing homes, by Friday

By David Jackson and Gary Marx, Tribune reporters

10:17 AM CST, March 9, 2010

State authorities said Monday that they plan to shut one of the state's largest nursing homes by Friday and are working to transfer out the remaining 76 residents.

Medicaid funding to Uptown's troubled Somerset Place facility is being cut off, and the state health department has moved to revoke Somerset's license after repeated inspections that found violence, abuse and mistreatment of residents.

Somerset was licensed to hold more than 400 residents, but over the last several weeks, most of the residents have been moved to other nursing homes, said state Department of Public Health assistant director Teresa Garate. "Everybody will be out Friday," Garate said.

Somerset, which exclusively serves patients with mental illness, reported profits of \$21.4 million on revenues of \$132.8 million between 2000 and 2008, much of it from the Medicaid health program, according to cost reports filed with the state.

Eric Rothner, who through companies and family trusts has an ownership stake or consulting role in Somerset and more than a dozen Illinois nursing facilities, declined to comment.

The facility's impending closing comes four months after one of Rothner's former nursing home management firms, Care Centers Inc., declared bankruptcy amid more than three dozen personal-injury and medical-malpractice lawsuits. Care Centers helped manage Somerset, state records show, and Rothner was owner until the bankruptcy.

Care Centers also owes roughly \$435,000 to Kathleen Ryl-Kuchar, a former employee, after a federal jury concluded that she was improperly denied family leave benefits. Much of that judgment was for attorneys fees racked up during the years-long case.

A little more than a year before Care Centers filed for bankruptcy in October, Rothner received a total of \$900,000 from the firm in three separate payments. The company's statement of financial affairs called the transfers repayments of loans from Rothner. An attorney for Ryl-Kuchar alleged the transfers improperly stripped Care Centers of assets that should have been used to pay her judgment.



A November recommendation by U.S. Magistrate Judge Geraldine Soat Brown supported Ryl-Kuchar, saying "there is a strong suggestion of a deliberate attempt to conceal and divert assets to avoid paying the judgment." Care Centers denied wrongdoing in court papers.

A spokesman for Rothner said Care Centers' bankruptcy filing was "the direct result of Mr. Rothner refusing to fund the company's continuing losses." Rothner transferred the \$900,000 to himself "on the advice of his accounting firm and denies that the transfers were inappropriate." The statement added that Rothner had loaned Care Centers more than \$10 million, "which was never repaid."

At Somerset, meanwhile, Garate said all residents who have been moved from the facility were assessed for their ability to live in less institutional settings, and 43 were recommended for placement in smaller supported-living arrangements.

But, she said, the residents had final say in where they moved, and some of those 43 opted instead to move to other nursing facilities. "We want to have people move into the community, but it is residents' choice," Garate said.

On Monday, the Organization of the NorthEast community group held a candlelight vigil outside Somerset to protest the movement of residents to other nursing homes — including facilities outside the Uptown-Edgewater neighborhood.

Anthony Zipple, head of Thresholds, a Chicago-based nonprofit that serves people with mental illness, said he hopes many of the former Somerset residents will eventually be discharged to community settings. "Within the limits of the hand that we were dealt ... the state has been very cautious and prudent in trying to work through the process," Zipple said.

Somerset has proposed refashioning the facility as a "state-of-the-art" acute treatment center for people with severe mental illness. But Zipple, Ald. Mary Ann Smith and some advocates for the disabled contend the former hotel is simply too big to effectively house and treat psychiatric patients.

"The state-of-the-art facility is not a facility," said Wendy Meltzer, executive director of Illinois Citizens for Better Care, a nursing-home resident advocacy group. "State of the art means people don't live in places like that."

dyjackson@tribune.com

gmarx@tribune.com

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Northlake closure could stall

(<http://www.post-trib.com/news/2093498,northlake0310.article>)

March 10, 2010

BY MARK TAYLOR, POST-TRIBUNE CORRESPONDENT

A state administrative law judge upheld an earlier state order to close Northlake Nursing and Rehabilitation Center in Merrillville.

Judge Brian Lowe's decision effectively closes the 150-bed, for-profit nursing home, which has until March 15 to relocate its remaining residents. However, Northlake owner Eric Rothner filed suit in county court Monday, the same day Lowe issued his ruling.

In its petition filed in Marion County Superior Court, Northlake seeks a county judge to hear its case and a ruling to delay the Indiana State Department of Health actions. If the Marion County court agrees to hear the case, it could effectively postpone Northlake's closing.

After issuing Northlake three consecutive probationary licenses -- the maximum allowable under Indiana law--- on Feb. 1 the state Health Department ordered the facility to relocate its remaining patients and on Feb. 3 announced it would not issue a permanent license. Without a license, a nursing home is ineligible for Medicare or Medicaid funding, which accounted for most of Northlake's revenue stream.

Northlake, which the federal Centers for Medicare and Medicaid Services named one of the worst nursing home in the country last year, faces numerous medical malpractice lawsuits.

In its February orders, the state Department of Health said it took the action because of Northlake's "failure to maintain its license to operate a health facility" and determined that "the health, safety, security, rights or welfare of the patients was not adequate" during the period of its probationary license and a permanent license was not justified.

Shortly after the state took its actions, Northlake appealed to the administrative law judge to overturn the state relocation order and license denial. In February, the federal Centers for Medicare and Medicaid Services told Northlake it would end Medicare and Medicaid funding by March 15.

At a six-hour appeal hearing Feb. 22 in Indianapolis, Northlake presented its case for remaining open and contended that the facility was in substantial compliance with state regulations. Northlake also presented evidence alleging anti-Semitic remarks and racial discrimination by unnamed state officials against Rothner, who is an Orthodox Jew.

Northlake attorney Randall Fearnow of the Chicago and Indianapolis law firm, Krieg DeVault, said Northlake filed the petition for judicial review and a petition to stay Lowe's administrative decision because they weren't sure when he would rule.

Rothner, a Skokie, Ill., businessman and philanthropist who owns at least two dozen nursing homes in four states, said Indiana has unfairly targeted him and his four Lake County homes.

Nursing home rankings by the federal "Nursing Home Compare" and the Indiana State Department of Health's "Nursing Home Report Cards" rank Northlake and Rothner's other long-term care facilities in Dyer, East Chicago and Hobart among the worst scoring in the state and the Health Department has frequently cited those homes for poor quality of care.

In an exclusive Post-Tribune interview, Rothner said at a Feb. 22 administrative hearing challenging Northlake's closure, a Health Department official admitted under oath that the home was in substantial compliance with state regulations, but nonetheless decided "to take the law into her own hands and deny us a license. And the law reads that if we're in compliance, the state shall -- not may -- shall issue a license," Rothner said.

"If the state is out to get you, Jesus Christ could be your administrator and the Mother Mary your director of nursing and you're still dead. I think it's a total miscarriage of justice," Rothner said of Lowe's ruling. "(The state) may succeed in closing Northlake, which would be a terrible thing. But you just can't win when your government is so much larger than you are."

In his eight-page ruling released Tuesday, Lowe said Northlake had accumulated many deficiencies in state surveys during its first two probationary periods and recorded 25 deficiencies in its Dec. 16 survey.

He wrote that Northlake "has not satisfied its burden of proving a reasonable probability that the (the state) Emergency Order was invalid or illegal."

ISDH spokesman Ken Severson the agency would not comment on Judge Lowe's decision or Northlake's suit to stay his order.

Indiana isn't the only state taking legal action against Rothner homes. The Illinois Department of Public Health announced this week it would move the last of the residents from his 400-bed Somerset Place in Chicago's Uptown neighborhood by March 12. The department issued a closure order after repeated citations for patient abuse, violence and poor quality of care, spokeswoman Kelly Jakubek said, and a Somerset license revocation is pending trial.

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Nursing home long troubled

(http://www.post-trib.com/news/2101428_new-bcmainbar-0307.article)

March 14, 2010

BY MARK TAYLOR, POST-TRIBUNE CORRESPONDENT

Complaints filed by residents of Northlake Nursing and Rehabilitation Center and their family members depict horrors that sound unbelievable in a modern health and healing center.

It was due to those complaints and Northlake's failure to systemically correct them that the Indiana State Department of Health last year suspended the nursing home's license.

It culminated in the state issuing an emergency closure order on Feb. 1 for the home owned by Eric Rothner and his Evanston, Ill.-based company, Extended Care Clinical, which own three other nursing homes in Lake County and more than a dozen in Illinois, Nebraska and Ohio.

Of the nearly 100 patients residing at Northlake in early January, fewer than 12 remain. The state-supervised relocation is winding down and more residents leave daily for new homes in other long-term care facilities.

Remaining residents say they are being forced out and hope to remain at Northlake, their home for many years. However, at least nine resident and family-member lawsuits and numerous state inspection surveys tell a different story, one involving repeated evidence of broken care.

The complaints and lawsuits point to repeated breakdowns in patient care. They point to high turnover, not only at the level of low-paid certified nurse assistants, but also among staff nurses and the top executive positions of administrator and director of nursing.

The story of Northlake's demise can be told through its residents and their families and staff, as well as state regulators and ombudsmen and physicians who have treated patients there.

Nancy Coleman, a Valparaiso nurse worked as a Rothner facility supervisor in the 1990s, and now operates Tender Loving Guardian Services, which has 54 Northwest Indiana clients. Coleman recalled transferring 17 of her clients from Northlake after one incident in 2006.

"After that incident I said I would never take residents to Northlake again," she said. "But eventually I relented. They had one of only two ventilator units in our area. Since then, I've tried to work with everybody."

Coleman said Rothner seems to specialize in purchasing troubled nursing homes at low prices then struggles to fill the resident census.

"He buys homes cheaply that are in terrible shape. They (Rothner's Northwest Indiana nursing homes) have a certain number of beds to fill and don't have high enough census to pay their bills. They start getting desperate and are not selective about accepting the residents they take, people they have no business accepting, just to fill the beds."

She said Rothner also brings in Illinois staff unfamiliar with Indiana laws and regulations to operate his Indiana nursing homes. Former employees said Rothner's corporate training programs focus exclusively on Illinois rules.

"The two states are different animals," she said.

She said some of Rothner's problems are driven by Indiana's Medicaid reimbursement. "Medicaid pays too little and if your whole building is comprised of Medicaid residents, it's going to affect your revenue stream," she said. "However, if you operated a high quality facility, you wouldn't have to rely exclusively on Medicaid and would attract some private pay patients as well."

Management woes

A former Rothner executive who asked to remain anonymous, citing Rothner's power in the industry, offered some insights into Rothner and Northlake.

He said Northlake has had at least four administrators in the past eight years and at least 10 changes in the director of nursing since 2005. He attributed part of the problem to Rothner's management style.

"He would wake up with a brainstorm at 3 a.m. and want a conference by 4 a.m.," the former manager said. "When he wants something to change, he wants it at that moment. His administrators not only worked 16- to 17-hour days, but had to deal with an army of Rothner consultants changing orders almost daily."

He said most consultants weren't particularly competent and weren't successful in turning his homes around and improving quality.

"Rothner has a strong belief that business is based on relationships and not necessarily competence. And when you have so many people running the show in one home, it's impossible to create and follow comprehensive plans of care."

Not always a problem

Local long-term care ombudsman Christopher Herrmann said Northlake wasn't always a problem home. He said when a Rothner predecessor company, Care Centers Inc., bought Northlake in 1995, he hoped for a good turnaround.

But once the state began issuing Nursing Home Report Cards in 2002, Northlake recorded poor scores. Herrman, of Northwest Indiana Community Action Corp., said Northlake staff expressed shock at those scores, complaining Indiana was tougher than the Illinois inspectors who survey Rothner's nearly 20 homes there.

In August 1995 Rothner purchased Northlake from Atrium Living Centers of Indiana. Its current administrator, Crystal Wray, took over in March 2009, shortly after the U.S. Centers for Medicare and Medicaid Services, the federal agency that administers the Medicare program, named Northlake a Special Focus Facility.

CMS confers that nursing home "hall of shame" designation to fewer than 150 of the nation's 15,000 nursing homes annually.

Arlene Franklin, the state's long-term care ombudsman who advocates for nursing home patients for the Indiana Families and Social Services Administration, said she wasn't surprised to see Northlake close.

"They had a bad record and couldn't return to compliance," Franklin said. "Since I've been state ombudsman I can only recall four or five other nursing home closures. Normally when a home is cited they work really hard to get back into compliance, but the ones that closed never did."

Northlake 'not profitable'

Rothner said he's tried hard to operate a quality facility. He said his nursing homes have never been accused of short-staffing, of paying kickbacks or any fraudulent activity.

Rothner said state health regulators have it in for him.

"I'm not going to tell you that I get picked on," Rothner said. "But there isn't a nursing home in the country in which state inspectors could walk in and find everything is perfect."

He said Northlake has not been a profitable facility and has the highest cost of any of his Lake County homes.

Rothner said he had a deal in place to sell Northlake, but the state rejected it. "They'd rather transfer people out than allow a new owner to come in and operate. There is no value in closing this facility and removing these

residents who can't get ventilator care except in a few other places in Indiana."

Rothner's petition in Marion County Superior Court to hear the case and postpone the closure is slated for Monday.

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Northlake avoids funds loss for now

(<http://www.post-trib.com/news/2125166,northlake0327.article>)

March 27, 2010

BY MARK TAYLOR, POST-TRIBUNE CORRESPONDENT

In another apparent victory for nursing home owner Eric Rothner, the federal Centers for Medicare and Medicaid Services withdrew Thursday its earlier termination of federal reimbursement flowing to Northlake Nursing and Rehabilitation Center in Merrillville.

However, that success could be short-lived. Unless Northlake is in substantial compliance with nursing home regulations by April 13, the termination could be reinstated.

The legal victory was the second in two weeks for Rothner, whose Northlake faces closure from the Indiana State Department of Health.

Last week a Marion County judge agreed to hear Northlake's appeal, which delayed any state actions to relocate more patients, essentially freezing the status quo. Northlake also is unable to accept any new patients.

The recent action follows the stay order of the Indianapolis judge. It also could buy more time for Rothner to potentially find new buyers for the 155-bed, for-profit nursing home, which was named one of the worst performing nursing homes in America by the Centers for Medicaid and Medicare and one of the worst ranked in Indiana by the state.

In February, the state Department of Health said it would not issue Northlake a permanent license to operate after issuing three consecutive probationary licenses, the state's legal limit. One condition of Medicare participation is that a nursing home must be licensed by the state.

In February, the state rejected a Northlake purchase offer from two Rothner associates, Moishe Gubin and Michael Blisko, who operate 10 Illinois nursing homes. Rothner also has challenged that denial.

In January and February, the federal government warned Northlake that it would terminate Medicare and Medicaid payments for two reasons: the numerous deficiencies the state found in its surveys and the failure of the home to receive a license. The termination of Medicare and Medicaid reimbursement is considered the financial kiss of death to a nursing home like Northlake, which is highly dependent upon revenues from state and federal health insurance programs to operate.

This week's federal order to withdraw the termination effectively moves that date from March 15 to April 13.

In the order, Ellen Greif, Medicare Branch Manager for Long Term Care Certification and Enforcement, warned Northlake Administrator Crystal Wray that if the home is not in substantial compliance by April 13, its Medicare and Medicaid participation would be terminated.

"However, they have the opportunity to request a temporary restraining order and if a judge grants it, then that would delay the April 13 termination," Greif told the Post-Tribune.

In December, Medicare forbade Northlake from charging Medicare or Medicaid for any new admissions, fined the home \$4,950 and imposed a \$300 per day penalty effective Dec. 16, a fine now exceeding \$30,000. Those provisions remain in effect.

Rothner attorney Randall Fearnow of the Chicago and Indianapolis law firm Krieg DeVault said Northlake disputes the termination and contends that the home was in substantial compliance as of Oct. 31, before the sanctions were to begin, and has remained in compliance since.

Rothner was not available at deadline for comment.

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