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OFFICE OF ADMINISTRATIVE HEARINGS

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OFFICE OF ADMINISTRATIVE HEARINGS

DSHS/ADSA/HCS Adult Family Home Compliance

WASHINGTON STATE OFFICE OF ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

In Re:

DOCKET NO. 05-2007-L-0014

TLC ADULT FAMILY HOME THISTLE, C/O ANTONIA MALLA

520200 STIPULATION AND AGREED ORDER OF DISMISSAL

Appellant.

AB

The State of Washington Department of Social and Health Services (Department), by and through its attorneys Robert M. McKenna, Attorney General, and Daphne Huang, Assistant Attorney General, and Antonia Malla (Malla), represented by and through attorney Scott Feir, hereby agree to the following:

I. BACKGROUND

A dispute has arisen between the Department and Malla concerning the continued operation of TLC Adult Family Home - Thistle. The Department issued its Notice of Summary Suspension, License Revocation and Stop Placement Order Prohibiting Admissions dated March 23, 2007 (the Notice) regarding TLC Adult Family Home - Thistle. Malla denied the allegations in and appealed the Department's Notice. In order to control the expense and uncertainty of litigation, the parties are entering the following stipulation and request dismissal of Malla's appeal.

II. STIPULATIONS

1. Malla agrees to voluntarily surrender and relinquish her license for TLC Adult Family Home - Thistle.

STIPULATION AND AGREED ORDER OF DISMISSAL

ORIGINAL

1           2.       Malla does not admit to any of the violations cited by the Department in  
2 its Notice of Summary Suspension, License Revocation and Stop Placement Order  
3 Prohibiting Admissions dated March 23, 2007 regarding TLC Adult Family Home – Thistle,  
4 and the withdrawal and surrender of her adult family home license for TLC – Thistle shall  
5 not be considered or otherwise construed as an admission of those violations.

6           3.       The Department agrees to accept the voluntary surrender and  
7 relinquishment of Malla's license for TLC Adult Family Home – Thistle.

8           4.       The Department's agreement to enter into this Stipulation and Agreed Order  
9 of Dismissal shall not be considered or otherwise construed as an admission by DSHS that  
10 its action to suspend and revoke appellant's adult family home license and impose a stop  
11 placement was without legal or factual basis, or that the intended action was contrary to law  
12 or administrative regulation. The Department alleges that if the matter were to proceed to  
13 trial, there is sufficient evidence to support the Department's allegations and licensing  
14 action.

15           5.       Malla hereby withdraws her request for an administrative hearing received  
16 by the Office of Administrative Hearings in Olympia, Washington on April 20, 2007.

17           6.       The Department shall not use the citations set forth in the Statement of  
18 Deficiencies for TLC Adult Family Home – Thistle dated March 21, 2007, as the sole  
19 basis for any subsequent licensing action against any adult family home license issued to  
20 Antonia Malla or TLC Adult Family Home Inc., provided that the Department shall have  
21 the right to reallege the citations and the factual basis thereof should the same or similar  
22 violations of licensing regulations be found in future investigations and/or inspections. The  
23 Department is not presently aware of a basis for a licensing enforcement action against any  
24 other adult family home license issued to Antonia Malla or TLC Adult Family Home Inc.

1 Malla agrees that neither she nor anyone affiliated with her under RCW 70.128.060(2)(b),  
2 will apply for another adult family home license within two (2) years of entry of this order.

3 7. Neither party shall be construed to admit to any civil liability by entering  
4 into this Agreement, which is intended for licensing purposes only. Nothing in this  
5 stipulation, the Notice, or above captioned proceeding, shall have any preclusive effect in  
6 any proceeding or action commenced by any third party.

7 8. The parties have entered into this agreement knowingly and voluntarily and  
8 were given full opportunity to seek the advice of counsel.

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See attached fax approval

Dated \_\_\_\_\_

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ANTONIA MALLA  
Appellant

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Janice L. Schurman

Dated 8/30/07

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JANICE SCHURMAN  
Adult Family Homes Compliance Specialist  
Department of Social & Health Services  
Residential Care Services

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STIPULATION AND  
AGREED ORDER OF DISMISSAL

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6 any proceeding or action commenced by any third party.

7 8. The parties have entered into this agreement knowingly and voluntarily and  
8 were given full opportunity to seek the advice of counsel.

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*Amall*

Dated 9/5/07

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ANTONIA MALLA

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Appellant

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Dated \_\_\_\_\_

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JANICE SCHURMAN  
Adult Family Homes Compliance Specialist  
Department of Social & Health Services  
Residential Care Services

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STIPULATION AND  
AGREED ORDER OF DISMISSAL

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**III. MOTION**

The Department of Social and Health Services, by and through Daphne Huang, Assistant Attorney General, and Ms. Malla, by and through her attorney of record, Scott Feir, jointly move for an order dismissing the Appellant's request for an administrative hearing.

see attached fax approval

Dated \_\_\_\_\_

SCOTT FEIR, WSBA #28192  
Attorney for Appellant

Daphne Huang

Dated \_\_\_\_\_

DAPHNE HUANG, WSBA #28434  
Attorney for Petitioner

**IV. ORDER**

THIS MATTER having come before this court upon stipulation of the parties and the court being fully advised, now therefore,

IT IS HEREBY ORDERED that the stipulations noted above are acknowledged by the Administrative Law Judge to be freely given and reasonable.

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STIPULATION AND  
AGREED ORDER OF DISMISSAL

III. MOTION

The Department of Social and Health Services, by and through Daphne Huang, Assistant Attorney General, and Ms. Malla, by and through her attorney of record, Scott Feir, jointly move for an order dismissing the Appellant's request for an administrative hearing.

*Scott Feir*

Dated 9/10/07

SCOTT FEIR, WSBA #28192  
Attorney for Appellant

Dated \_\_\_\_\_

DAPHNE HUANG, WSBA #28434  
Attorney for Petitioner

IV. ORDER

THIS MATTER having come before this court upon stipulation of the parties and the court being fully advised, now therefore,

IT IS HEREBY ORDERED that the stipulations noted above are acknowledged by the Administrative Law Judge to be freely given and reasonable.

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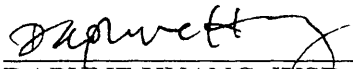
STIPULATION AND  
AGREED ORDER OF DISMISSAL

1 IT IS FURTHER ORDERED that, as the Appellant has voluntarily surrendered and  
2 relinquished her adult family home license for the TLC Adult Family Home – Thistle and  
3 has withdrawn her request for an administrative hearing, this matter is dismissed.

4  
5 DATED this 17<sup>th</sup> day of September, 2007.

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8 ALJ BARBARA BOIVIN

9 Presented by:

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11 DAPHNE HUANG, WSBA #28434  
12 Attorney for Respondent

13 approval through counsel  
14 JANICE SCHURMAN  
15 Adult Family Home Compliance Specialist  
16 Department of Social & Health Services  
17 Residential Care Services

18 COPY RECEIVED; APPROVED FOR ENTRY; NOTICE OF PRESENTATION  
19 WAIVED:

20 see attached fax approval  
21 SCOTT FEIR, WSBA #28192  
22 Attorney for Appellant

23 approval through counsel  
24 ANTONIA MALLA  
25 Appellant

26 STIPULATION AND  
AGREED ORDER OF DISMISSAL

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ATTORNEY GENERAL OF WASHINGTON  
800 Fifth Avenue, Suite 2000  
Seattle, WA 98104-3188  
(206) 464-7744

1 IT IS FURTHER ORDERED that, as the Appellant has voluntarily surrendered and  
 2 relinquished her adult family home license for the TLC Adult Family Home – Thistle and  
 3 has withdrawn her request for an administrative hearing, this matter is dismissed.

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5 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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ALJ BARBARA BOIVIN

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Presented by:

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 DAPHNE HUANG, WSBA #28434  
 Attorney for Respondent

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 JANICE SCHURMAN  
 Adult Family Home Compliance Specialist  
 Department of Social & Health Services  
 Residential Care Services

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 \_\_\_\_\_  
 SCOTT FEIR, WSBA #28192  
 Attorney for Appellant

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 ANTONIA MALLA  
 Appellant

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STIPULATION AND  
 AGREED ORDER OF DISMISSAL