

May 31, 2005

Joseph M. Fischer  
St. Louis County Attorney  
403 Government Services Center  
320 West 2<sup>nd</sup> Street, #403  
Duluth, MN 55802-1495

Gwen Updegraff  
Attorney at Law  
Legal Aid Service  
302 Ordean Building  
424 West Superior Street  
Duluth, MN 55802

Re: *In re the Revocation of the Child Care License of Carole Bruhjell*  
OAH Docket No. 12-1800-16446-2

Dear Mr. Fischer and Ms. Updegraff:

I am in receipt of both parties' correspondence regarding the additional evidence Mr. Fischer submitted along with his written closing argument. The record in this matter closed at the end of the hearing on April 5, 2005, except for written closing argument. Contrary to Mr. Fischer's recollection, the record was kept open only for final legal argument and not for submission of additional evidence.

Minnesota Rule 1400.8100, subp. 1, provides that no factual information or evidence that is not part of the record shall be considered by the judge or agency in the determination of a contested case proceeding. In the Notice of and Order for Hearing issued by the Department in this matter the parties were advised to bring all necessary documents and records to the hearing.<sup>[1]</sup> The County has failed to demonstrate why it could not have presented the evidence, which consists primarily of notes and correspondence from Ms. Bruhjell's licensing file, at the time of the hearing.<sup>[2]</sup>

For all of these reasons, the additional evidence submitted with the County's closing argument and attached to the Affidavit of Jean Taren is excluded from the record and will not be considered. I hope to issue a decision in this matter within 30 days of today's date.

Sincerely,

/s/ Steve M. Mihalchick

STEVE M. MIHALCHICK  
Administrative Law Judge  
Telephone: (612) 349-2544

SMM:mbg



STATE OF MINNESOTA  
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ADMINISTRATIVE LAW SECTION  
100 WASHINGTON SQUARE, SUITE 1700  
MINNEAPOLIS, MINNESOTA 55401

**CERTIFICATE OF SERVICE**

Case Title: <i>In the Matter of the Revocation of the Child Care License of Carole Bruhjell</i>	OAH Docket No.: 12-1800-16446-2
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Mary Beth Gossman, certifies that on the 31st day of May, 2005, she served a true and correct copy of the attached letter by placing it in the United States mail with postage prepaid, addressed to the following individuals:

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<sup>[1]</sup> See also, Minnesota Rule 1400.5600, subp. 2H.

<sup>[2]</sup> See, Minnesota Rule 1400.8300.