

NEW YORK SUPREME COURT - COUNTY OF BRONX

PART

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX:

Case Disposed
Settle Order
Schedule Appearance

Daines

Index No. ES 209-2008

-against-

Hon. EDGAR G. WALKER, J.S.C.

Justice.

Kingsbridge Heights

The following papers numbered 1 to _____ Read on this motion,
Noticed on _____ and duly submitted as No. _____ on the Motion Calendar of _____

	PAPERS NUMBERED	
Notice of Motion - Order to Show Cause - Exhibits and Affidavits Answered		
Answering Affidavit and Exhibits		
Replying Affidavit and Exhibits		
_____ Affidavits and Exhibits		
Findings - Exhibit		
Stipulation(s) - Referee's Report - Minutes		
Filed Papers		
Memoranda of Law		

Upon the foregoing papers this

*Without opposition Petition
granted, order signed.*

Motion is Respectfully Referred to:
Justice:
Dated:

Dated: 2/11/09

Hon.

J.S.C.

EDGAR G. WALKER, J.S.C.

At a term of Supreme Court held in
and for the County of the Bronx on
~~December 11, 2008.~~

February 11, 2009

Present: Hon. EDGAR G. WALKER, J.S.C., J.S.C.

**STATE OF NEW YORK
SUPREME COURT COUNTY OF THE BRONX**

In the Matter of the Application of _____X

RICHARD F. DAINES, as Commissioner of Health
of the State of New York,

Petitioner,

- against -

**KINGSBRIDGE HEIGHTS CARE CENTER, INC.,
and C.G. LIMITED PARTNERSHIP**

Respondents.

Index No.:

25209-2008

For an Order to Appoint a Caretaker Pursuant to
§ 2806-b of the New York Public Health Law

ORDER APPOINTING CARETAKER

Petitioner, **RICHARD F. DAINES**, Commissioner of Health of the State
of New York, having initiated this proceeding by Order to Show Cause dated
December 9, 2008 issued by Hon. *Edgar Walker*, J.S.C., and Petitioner
having alleged that the conditions warrant the appointment of a Caretaker pursuant
to § 2806-b of the Public Health Law to assume operating authority with respect to
respondent Kingsbridge Heights Care Center, Inc.'s nursing home, and this matter
having come on to be heard before me at the Bronx, New York, on *February 11,* 2009,
and after reading the Verified Petition dated December 8, 2008 and due deliberation
having been had, NOW THEREFORE, IT IS

ORDERED that William Pascoello be and hereby is appointed Caretaker of Kingsbridge Heights Rehabilitation and Care Center (hereinafter "Facility"), pursuant to §§ 2806-b and 2810(2) of the Public Health Law to take charge of the Facility and to exercise all of the powers and duties of a Caretaker as set forth therein; and it is further

ORDERED that said Caretaker shall have all the powers and duties of a receiver appointed in an action to foreclose a mortgage on real property, together with such additional powers and duties as granted and imposed by § 2810(2) of the Public Health Law, the terms of which are incorporated herein by reference; and it is further

ORDERED that respondent Kingsbridge Heights Care Center, Inc., its agents, directors, officers and employees, and any other persons now or hereafter in possession of the Facility or any part thereof make available for use by the Caretaker all bank accounts, funds and all other items of real and personal property, tangible or intangible, all records of the Facility, including all financial and resident care related information, and any other property or records necessary to enable the Caretaker to operate the Facility in accordance with applicable law and regulations; and it is further

ORDERED that the respondent Kingsbridge Heights Care Center, Inc., its officers, directors and shareholders cooperate in all necessary respects and sign all documents which may be necessary or reasonably required to enable the Caretaker to undertake the performance of its duties; and it is further

ORDERED that subject to § 2810(2) and § 2806-b of the Public Health Law and all other applicable federal and state laws, rules and regulations, said Caretaker be and it hereby is directed to demand, collect and receive all income due and to become due from the residents of the Facility and to pay all of the expenses

of operation of the Facility in such manner as to guarantee safety and adequate health care for residents of the Facility; and it is further

ORDERED that the Caretaker is authorized to retain such professional services as shall be necessary for the proper performance of its duties, and to pay the costs thereof from Caretaker funds, and it is further

ORDERED that said Caretaker, after paying the expenses of management and operation of the Facility, retain the balance of monies which may come into its hands, subject to the claims of any third parties, pending an accounting and disposition thereof pursuant to the further order of the Court; and it is further

ORDERED that the said Caretaker shall serve until such time as terminated by the Court pursuant to Public Health Law § 2810(2)(e); and it is further

ORDERED that the said Caretaker shall pay a fair monthly rental for the Facility to the respondent landlord, C.G. Limited Partnership, in an amount to be determined by this Court which shall not exceed the amount reimbursable for real property costs to the Facility under the medical assistance program; and it is further

ORDERED that the said Caretaker, or any party thereto, may at any time, on proper notice to all parties in this action, apply to this Court for further or other instructions or powers necessary to enable said Caretaker properly to fulfill its duties.

ENTER:

Dated: February 11, 2009
December 11, 2008



Justice of the Supreme Court

EDGAR G. WALKER, J.S.C.