

Messner's: What is it?



**A Report by Kentucky Protection & Advocacy
April 28, 2014**

Kentucky Protection and Advocacy (P&A) is a client-directed legal rights agency that protects and promotes the rights of persons with disabilities. P&A is an independent state agency, and derives its authority from both federal and state law: specifically the Developmental Disabilities Assistance and Bill of Rights Act (DD Act), 42 U.S.C. § 15041 *et seq.*; the Protection and Advocacy for Individuals with Mental Illness Act (PAIMI Act), 42 U.S.C. § 10801 *et seq.*; and Kentucky Revised Statutes (KRS) 31.010 (2).

The DD Act and the PAIMI Act authorize P&A to conduct abuse/neglect investigations for eligible individuals if incidents are reported to P&A or if P&A has probable cause to believe the incidents occurred (42 U.S.C. § 15043 (a)(2)(B); 42 U.S.C. § 10805(a)(1)(A)). These acts are designed to ensure the safety and protection of all individuals with disabilities from abusive and neglectful practices in public and privately owned facilities, including institutions and community placements.

Also included in both federal statutes is the mandate for P&A to monitor facilities where persons with disabilities receive services, including where they reside. Facilities are defined to include both public and private entities.

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Messner's Overview

The Property

The property, referred to as "Messner's" throughout this report, is located in Lexington, Kentucky, which is in Fayette County. It consists of three buildings and a garage on two pieces of property. At 708 Hill Rise Court there are two buildings; the first is a two-story building with a basement certified by the United States Department of Veterans Affairs ("VA building," middle picture, cover page) as a Community Residential Care (CRC) home, with the second being a one-story building ("Bungalow," third picture, cover page), at times referred to as 706 Hill Rise Court. On adjoining property at 1702 Versailles Road, there is a large two-story building ("White Building," top picture, cover page) and a garage; both pieces of property were owned by Messner Inc. and were bought in 1986; the Hill Rise Court property was previously owned by Baker Homes, Inc. On February 27, 2014 a quit claim deed was filed with the Fayette County Clerk transferring ownership to Martha Bell.

According to the Secretary of State's website, there is currently no corporation called Messner Homes, Inc. Previously, there was such an entity, which was incorporated on September 12, 1978 and administratively dissolved on November 4, 2004 for failure to file its annual report. Ralph Junior Messner and Mary Charlene Messner were its incorporators. Another corporation, Messner, LLC was organized and dissolved in 2004.

The Residents

All residents of Messner's are adult men of various ages and disabilities, most of whom have a diagnosis of serious mental illness. In addition, some have intellectual disabilities, brain injuries and/or histories of substance abuse. A few are on the Kentucky sexual offender registry. Many of the men have serious physical health problems. They come to Messner's following referral from the VA, Eastern State Hospital (one of the state psychiatric hospitals), homeless shelters, and personal care homes. On March 4, 2014 there was a total property census of 55 men, 10 of these men have court appointed state guardians, one of these young men recently aged out of the Department of Community Based Services (DCBS) state custody and 9 of these men are U.S. military veterans.

The Staff

Messner's is a family operation staffed by long-time Administrator Ralph Messner; his daughter, Cassie Messner; Assistant Administrator Martha Bell; her husband; and a few other staff who work in the kitchen, pass medications, and perform maintenance.

The Systemic Problem

From 1978 to 1996, Messner's operated with little to no interference from the state under the VA, Community Residential Care (CRC) designation. That designation was first obtained in 1969 for the Hill Rise Court property by Mary Baker. Ralph Messner

became the operator in 1978. As noted previously, that property as well as the Versailles Road property was purchased by Mr. Messner in 1986. Mary Baker was Mr. Messner's mother-in-law.

In Kentucky the Cabinet for Health and Family Services (CHFS) is responsible for the licensing and regulation of all health care facilities, including those that provide residential and other services to individuals with disabilities. In 1996, CHFS filed a complaint in the Fayette Circuit Court alleging Messner's was operating an unlicensed health care facility and requesting the court order a permanent injunction to halt operation of Messner's. The complaint stated, "Investigators observed residents lying on filthy mattresses, insect infestation, soiled rooms and physical plant deterioration." It was dismissed after a short hearing. Then CHFS appealed to the Kentucky Court of Appeals. The appeal resulted in a finding that Messner's was exempt from state licensure and regulation requirements because the facility was licensed as a CRC facility, and regulated and inspected by the VA. *Comm. of Ky., et al v. Messner Homes, Inc.*, 96-CA-3506, (Ky. App. May 22, 1998). The appellate court made this finding despite CHFS's argument that persons other than veterans were living on the property owned and operated by Mr. Messner. As the issue of licensing and regulation was settled by the Kentucky Court of Appeals decision precluding CHFS from interfering, the VA was ostensibly responsible from 1998 to 2008 for Messner's operations.

Then, on February 14, 2008 the VA informed CHFS via letter that, "We do not recognize any regulatory authority over 206 Hillrise [sic] Court or 1702 Versailles Road." This letter refers to the Bungalow (at 706 Hill Rise Court) and the White Building. P&A is not aware of any prior communication to CHFS from the VA denying VA regulatory authority over these two buildings. CHFS had maintained that Messner's could not be licensed or regulated by the state due to the 1998 Court of Appeals decision.

P&A Raises Awareness

Initial Visit

Kentucky P&A first visited Messner's on August 26, 2011. P&A, via its national organization, the National Disability Rights Network, has a contractual agreement with the Social Security Administration (SSA) to conduct visits with persons who have a representative payee for their Social Security benefits—SSI and/or SSDI. The purpose of the visit is to mitigate the risk of fraud, financial misuse, neglect or abuse to beneficiaries with representative payees. The grant requires P&As to review financial information and interview pre-selected beneficiaries and their representative payees.

Upon arrival, the P&A advocate explained the process to Ralph Messner, owner and Administrator, and asked to complete an initial interview with him, as Mr. Messner acknowledged he handled SSA beneficiaries' benefits. According to Mr. Messner, his facility is a Community Residential Care (CRC) facility certified by the U.S. Department of Veterans Affairs to house U.S. military veterans. Mr. Messner stated all of the veterans live in the VA Building. His assistant later stated the other two buildings were for their "Eastern Staters", referring to persons discharged from Eastern State Hospital in Lexington. Following the representative payee interview, the advocate obtained

financial information from Mr. Messner regarding the three beneficiaries identified by SSA for interviews. Messner's staff made arrangements for one of the men to come to the VA Building to be interviewed (the other two were not available).

After the interview was complete, the P&A advocate asked the man if he could see his bedroom and he agreed. The advocate went to the White Building to see the room and then to the Bungalow. Just three months prior, the Lexington VA Medical Center completed an inspection of the VA facility on May 16, 2011, noting three fire safety deficiencies and Messner's was approved for another year of VA CRC program status by letter dated June 7, 2011.

Conditions found during the visit conducted by P&A on August 26, 2011:

- Severe bedbug infestation in the White Building and the Bungalow, with residents reporting same in the VA Building.
- No shower or bathtub in the Bungalow
- Inoperable, broken bedroom doors, and dilapidated storage lockers which could not be locked to secure personal possessions
- Only two operable showers for 38 men living in the White Building and the Bungalow
- Holes in the walls and floor, broken windows, filthy walls with various substances on them in the White Building and the Bungalow
- Excessive cigarette butts thrown on the floors in all buildings (including the dining area in the VA Building) and trash strewn about the porches, common areas, and shared yard
- No shower curtains and no privacy doors for bathroom stalls in the White Building
- Exposed insulation and outlets in the Bungalow
- Multiple residents with intellectual disabilities lacking appropriate services
- Lack of appropriate bedding and/or filthy bedding in White Building and the Bungalow



Bed bug bites on resident's legs at later visit



Bed bug bites on resident's arm at a later visit



Bugs swarming on blanket at a later visit



Picture of a resident with bed bug bites at a later visit



Broken window in the White Building



Restroom stall in the White Building



Resident bed in the White Building



Resident bed in the White Building



Resident bunk bed in the White Building

P&A Immediately Reports Findings to Appropriate Agencies

Following the site visit, P&A reported these alarming concerns to the following Federal, State and local Authorities:

- U.S. Department of Veterans Affairs (VA) Office of Inspector General
- Social Security Administration (SSA) to relay concerns that beneficiaries' SSI/SSDI was not being appropriately spent
- CHFS's Fayette County Branch of Adult Protective Services (APS) to conduct an investigation of abuse/neglect
- CHFS's Office of the Inspector General (OIG) as the entity responsible for licensing and regulating health care facilities in Kentucky
- CHFS's Department for Aging and Independent Living (DAIL) – Guardianship Division (11 men who had court-appointed state guardians resided at Messner's)
- CHFS's Department of Public Health (DPH), the state agency responsible for registering Boarding Homes
- Lexington-Fayette County Health Department (LHD) to address the bed bug infestation
- Lexington-Fayette Urban County Government (LFUCG) Division of Code Enforcement (DCE) for property structural concerns

P&A requested a collaborative meeting which was set for September 23, 2011.

Investigations and Meetings

Abuse and Neglect Investigation conducted by P&A

P&A, invoking federal authority to conduct abuse and neglect investigations, returned to Messner's on September 14, 2011, to conduct interviews and gather more information. Mr. Messner was interviewed regarding census and demographic information about the men who live on his properties. He said there were 73 men living there; when asked how many of those had a serious mental illness, he replied "all". Mr. Messner indicated that of the 73 residents, 11 had court-appointed state guardians, only 13 were veterans, only 2 had an intellectual disability, and only 1 had a physical disability. He stated that there were 38 beds in the VA Building, 8 in the Bungalow, and 30 in the White Building

P&A staff interviewed 12 residents, with at least one interview conducted with a person who lived at each of the three buildings. Recurring descriptions of life at Messner's by the residents included on-going bed bug infestation; rigid meal times; physical fights among residents, especially when drugs/alcohol/theft of possessions were involved; on-site activities limited to a church group that visited on Sundays; no choice of roommates; no privacy; and difficulty accessing needed medical or mental health services.



Picture shows the rear view of the White Building

New concerns noted by P&A staff during the visit conducted on September 14, 2011 included:

- Some residents had diabetes and needed special diets, but no special diets were provided
- To take a shower, residents living in the Bungalow had to walk to the VA Building, request a towel and half bar of soap, walk to the White Building, take their shower, and then return the towel/soap to the VA Building before returning to the Bungalow; residents living in at White Building had the same protocol, but were able to use the showers in their own building
- A young man with a court-appointed state guardian, age 18, who had recently aged out of DCBS foster care was not receiving mental health services nor assistance to complete his last three high school credits to earn his diploma
- A man with court-appointed state guardian, who had complained of tooth pain for months, had not received any help by the state guardian or Messner's staff to seek treatment; in addition he had numerous bed bug bites
- The VA representative arrived during the investigative visit, but refused to enter any building other than the VA Building, stating that the other buildings were not under VA oversight and that he was told not to go in either of the other two buildings



White Building Shower and Sink Area



White Building Upstairs Hall

Meeting with State and Local Agencies

On September 23, 2011, following the investigative visit, P&A hosted a collaborative meeting. All agencies that received initial reports of concerns listed on page 7 of this report were invited, with the exception of SSA, who had received their required representative payee report noting these concerns, and DPH. Only representatives from APS, DAIL-Guardianship, LHD, and LFUCG-DCE attended. P&A staff gave a PowerPoint presentation about the legal issues and the lack of state oversight of Messner's, as well as shared pictures of the conditions and apprised attendees of the new concerns noted at the most recent visit only nine days before. Following the presentation, P&A engaged attendees to address the issues of squalid living conditions in all three buildings, the number of persons with serious mental illness living in a congregate setting, the number of men with an appointed state guardian, the abuse/neglect allegations, and the lack of regulatory oversight. All in attendance agreed to conduct another visit to Messner's the next week, in conjunction with others identified by the group to be invited.

Collaborative Investigation

On September 27, 2011, representatives from APS, DAIL-Guardianship, LHD, LFUCG-DCE, with the addition of the Lexington Division of Fire and Emergency Services (LDFES) joined P&A staff to visit and evaluate the conditions at Messner's first hand. Upon arrival, the collaborative group was informed that a resident death had occurred the previous night. The man was discovered deceased following an altercation with another resident. Two weeks prior to this resident's passing, a P&A staff had interviewed him. His death was investigated by police and an autopsy was performed; no link was found between the altercation and his death.

During the visit, participants walked about the properties to evaluate the living conditions of residents. LDFES determined its basic agency standards were met, while LFUCG-DCE noted areas requiring repair by Messner's to meet its code standards. APS discovered one resident with an intellectual disability lacking appropriate services and began efforts to secure means to get those for him. DAIL-Guardianship expressed disgust at the living conditions of the men placed at Messner's; upon being informed another individual with a state guardian was supposed to arrive that day at Messner's, the representative intervened to ensure that this did not occur. LHD confirmed the following week that Messner's signed a contract for twelve months of bug control treatment to address the bed bug infestation, which LHD would continue to monitor until all bed bugs were eradicated.

Third Site Visit for P&A Investigation

An advocate and attorney from P&A visited Messner's on October 19, 2011 to meet with clients, to continue the investigation, and to evaluate progress on efforts for improving residents' living conditions. Some improvements were noted, but many general hygiene issues were unchanged. One resident in the Bungalow was lying on a stained mattress with no sheet or pillow. He requested sheets and a pillow. P&A staff relayed this request to Messner's staff.

P&A staff ascertained from discussions with residents that there were mixed results from their previous advocacy. The man who had an appointed state guardian, who had previously complained of tooth pain and lesions on his extremities from bed bug bites, had since had two teeth extracted and a cream prescribed for his bites. He expressed appreciation for P&A's intervention. Conversely, despite P&A advocacy, the 18 year old young man who had an appointed state guardian and only needed three credit hours to earn his high school diploma still had not been assisted by Messner's staff or state guardianship.

Meeting with Federal, State and Local Agencies

On November 14, 2011, P&A hosted another meeting to address ongoing concerns about conditions at Messner's. In attendance were representatives from VA, APS, LHD, LFUCG-DCE, and DAIL-Guardianship. VA participants consisted of a social worker from the Lexington VA office, and an attorney for VA participating via phone. Again, P&A staff conveyed concerns about the living conditions for the residents of Messner's. VA counsel asserted that while P&A primarily expressed concerns about the White Building and the Bungalow, the VA had no control or responsibility over those buildings. She referenced the historical documents regarding the original CRC designation, which had been reviewed by the VA social worker. P&A requested the documents or a formal letter stating this assertion; VA representatives said this could be provided pending approval from the chain of command.

VA counsel further stated she had recently spoken with counsel for CHFS about this issue with nothing definitive decided. As repeated issues about the living conditions in the White Building and Bungalow were conveyed, VA counsel replied these buildings

were “Kentucky’s problem” and the issue was summarized as people who have chosen to live in poor conditions. CHFS representatives from APS and DAIL Guardianship were in attendance during these exchanges, but no action was taken by CHFS.

Fourth Site Visit for P&A investigation

P&A returned to Messner’s on January 12, 2012. Conditions found at this visit included:

- The DCBS committed 18 year old was working on being recommitted so he could transfer to an independent living situation
- The young man with an appointed state guardian had yet to be enrolled in high school to obtain his diploma and stated he had not seen his state guardian since the day he was placed at Messner’s
- A resident with a serious mental illness originally from another country stated he would like to live somewhere else, but had never been informed there were other options (he had lived there for approximately 2 years at the time of the visit)
- Multiple broken windows, floors littered with cigarette butts, spilled liquids, and soiled mattresses in all three buildings
- Indications of and statements by residents of continued bed bug infestation
- Rooms with missing smoke detectors, with one room having crumpled newspaper laying in the windowsill with scattered cigarette butts all around it
- A bathroom with missing drywall, leaving exposed pipes
- A bathroom with feces smeared on commodes and the wall



Resident bed in the White Building

Who is responsible to provide appropriate oversight of the White Building and the Bungalow?

On January 18, 2012, P&A sent a Freedom of Information Act (FOIA) Request to the VA for all documents related to Messner's VA Community Residential Care (CRC) designation. On January 25, 2012, the Lexington VA provided multiple documents spanning 43 years, including the initial application from 1969 regarding only the 708 Hill Rise Court building as the CRC. As previously noted, also included was a letter, dated February 14, 2008, from the Lexington VA Medical Center (VAMC) Director, to the Kentucky Department of Public Health (DPH) which stated:

The Lexington Veterans Affairs Medical Center only has regulatory authority over the facility where we place patients who need that level of care. As a result we only place patients at the facility located at 708 Hillrise [sic] Court. We do not recognize any regulatory authority over [7]06 Hillrise [sic] Court or 1702 Versailles Road. We do not place patients into those two facilities.

In addition to the statements made on the November 14, 2011 conference call with VA representatives, this letter and the other documentation provided written confirmation that the VA exercised no regulatory authority over the White Building and the Bungalow. Following the receipt of these records, P&A increased its advocacy effort towards CHFS, imploring them to require Messner's to submit to state licensing and regulation of the separate White Building and the Bungalow.

In addition to CHFS's role as the licensing and regulating authority for health care facilities, the Department for Aging and Independent Living, within the CHFS, is responsible for making personal and financial decisions in the best interest of those who are appointed a state guardian. A number of men living in the White Building and the Bungalow were clients of state guardianship.

Meeting with Federal, State and Local Agencies

On February 3, 2012, following receipt of the VA documentation, another meeting was hosted by P&A to determine what efforts had been made by all the agencies that have or should have a role at Messner's. Attendees from the prior meeting, with the addition of representatives from Eastern State Hospital (ESH), LFUCG- Social Services, Department of Public Health (DPH) and SSA, were present for the meeting. P&A apprised all attendees that living conditions continued to be severely substandard. DPH and LFUCG-CE reported Messner's was addressing bed bug concerns and identified structural issues. LFUCG-SS offered to become representative payee for some of the residents. State Guardianship stated it was no longer placing individuals at Messner's and was trying to find alternative placements for those at Messner's. DPH stated they did not think Messner's would qualify as a Boarding Home due to staff dispensing medications to residents. ESH stated that it continued to discharge patients to Messner's because "Ralph serves a need" and "some folks don't want to go to a

Personal Care Home (PCH), don't meet 'criteria' for a PCH, or don't want to go to a homeless shelter." No APS investigation had substantiated abuse and neglect at Messner's, even though four complaints had been filed since August 26, 2011. APS participants expressed concern that if Messner's was closed, there would be no place for the men to go.

P&A asserted that neither the efforts to improve the conditions nor the excuses voiced by ESH or APS alleviated the problem. With the documentation requested from the VA in hand, P&A implored CHFS, through its various representatives, to ensure standards and oversight of the two unregulated buildings.

During the summer of 2012, the Bungalow was damaged by a fire. Residents who lived in the Bungalow moved to the VA Building or the White Building. The Bungalow remains closed at the time of the release of this report. P&A continued to call for oversight of the White Building, a congregate setting where residential and other services were being provided to persons with disabilities.

CHFS Both Acts and Fails to Act

Adult Protective Services Substantiates Verbal Abuse

In December of 2012, it was reported to APS that a Messner's resident stated that someone hit him with a metal pipe or baseball bat resulting in him having a broken foot. In January of 2013, P&A was informed of the injury by a separate resident who stated he witnessed the alleged assault by a Messner's staff person. P&A investigated and called the APS investigator, who stated the abuse allegation would not be substantiated. The APS investigator stated she had not interviewed any witnesses to the incident and had based her conclusion on the victim's inability to consistently explain what caused his injury. She had then interviewed the Assistant Administrator, who surmised that the resident had somehow injured himself. The APS investigator acknowledged that she was not aware that the Assistant Administrator is the wife of the alleged perpetrator.

P&A requested further investigation and APS agreed, this time interviewing the alleged perpetrator (Messner's staff person) and the witness. APS substantiated verbal abuse by the alleged perpetrator based upon a racial epithet used by the perpetrator, but did not substantiate physical abuse due to conflicting statements made by the alleged victim and the witness.

Messner's Agrees to Seek Approval as a Registered Boarding Home

On February 13, 2013, P&A mailed a letter to CHFS's Secretary asking the state to take action to regulate and certify the White Building. Twelve clients of state guardianship were living at Messner's at the time. The letter emphasized the poor living conditions and gave two specific examples (inappropriate discharge and substantiated verbal abuse by staff) concerning state guardianship clients living in the unlicensed/

unregulated congregate setting. On March 22, 2013, the Secretary responded that CHFS had met with Mr. Messner and that he agreed to seek approval from the Department of Public Health to become a registered boarding home. The Bungalow had been destroyed by a fire the previous summer, and therefore, was no longer at issue because the Bungalow residents were relocated to the other buildings. The CHFS letter stated, "Wards [referring to men who have an appointed state guardian] who remain at Messner's have been refused all other possible placements," but they continue to make referrals.

P&A Advocates for Improved Adult Protective Services

In March of 2013, P&A requested a conference call with the Department for Community Based Services, including Adult Protective Services, in Fayette County. P&A expressed concern that the local APS office had assigned someone to investigate the allegation at Messner's regarding a resident being hit by a staff member with a metal pipe or baseball bat who was unaware of the ongoing concerns. APS agreed to assign future reports to investigators who are aware of ongoing concerns and the inter-familial relationships of Messner's staff. P&A again reminded the DCBS representatives on the call that Messner's remained an unlicensed/unregulated facility. Despite the investigation substantiating verbal abuse, the perpetrator of verbal abuse remained an employee at Messner's.

It is important to understand that in licensed facilities where verbal abuse is substantiated by APS or the Office of the Inspector General, part of any corrective action could include termination of the determined perpetrator. At Messner's, residents remain at risk of further abuse and neglect. As noted in the previous paragraph, substantiated abuse did not result in termination of employment because, lacking licensing or regulatory requirements, no corrective action is required. Further, APS neglect investigations result in unsubstantiated findings due to determinations that the facility is not in a caretaker role.

Adult Protective Services Investigates More Allegations of Abuse

In May of 2013, P&A visited Messner's and discovered a resident who was sunburned with clothes falling off and bruises and scratches on his eye and cheek. The resident was confused and frightened and could not explain his injuries. This man has an appointed state guardian. Another resident witness stated the same staff member whom APS had substantiated verbal abuse against had assaulted this resident. Messner's staff, although standing within only a few feet of the witness making the allegation, provided no comment. P&A reported the allegation to APS.

Despite the conference call in March with P&A, APS assigned an investigator who was not familiar with Messner's ongoing history or the inter-familial relationships of staff. APS did not interview the eyewitness nor did they investigate adult abuse. The APS investigation determined the allegation of caretaker neglect was unsubstantiated because Messner's is a "boarding home" and staff at boarding homes are not considered caretakers. P&A sent a letter to APS detailing its concerns found in the report, including the fact that Messner's is not a registered boarding home, and

requested further investigation. Despite several requests, as of the release of this report, P&A has not received any further information from APS about this investigation.

Young Man with State Guardian Remains at Messner's

P&A advocated for a young man and assisted him in completing his high school credits. He then received his diploma and graduated. P&A made many requests to state guardianship to assist this young man in his request to leave Messner's. In May of 2013, at the request of the young man, P&A made contact with an Admissions Counselor for Job Corps. P&A relayed all the needed information to state guardianship for it to get the young man placed at a Kentucky Job Corps site. As of October of 2013, the Job Corps Admissions Counselor had yet to receive all of the requested information for placement consideration.

State guardianship has often stated the reason they are unable to ensure the individuals they are responsible for do not reside at Messner's is due to criminal history or failed placements at all other locations. This young man wanting to move out and further his education had no criminal history preventing relocation; he had not failed at other placements and, per Messner's staff, had never behaved in a way that would cause concern for other possible living arrangements. State guardianship finally moved him to a Personal Care Home in March of 2014 after he resided at Messner's for two years and eight months. As of the release of this report, he has yet to participate in a Job Corps program.

More Resident Safety Concerns

Serious Fires in all Three Buildings at Messner's

Since P&A's initial visit there have been serious fires in all three buildings operated by Messner's.

The Bungalow Fire

As noted previously, the Bungalow was damaged by fire in the summer of 2012 and remains boarded up (see picture on the cover page of this report).



The VA Building Fire

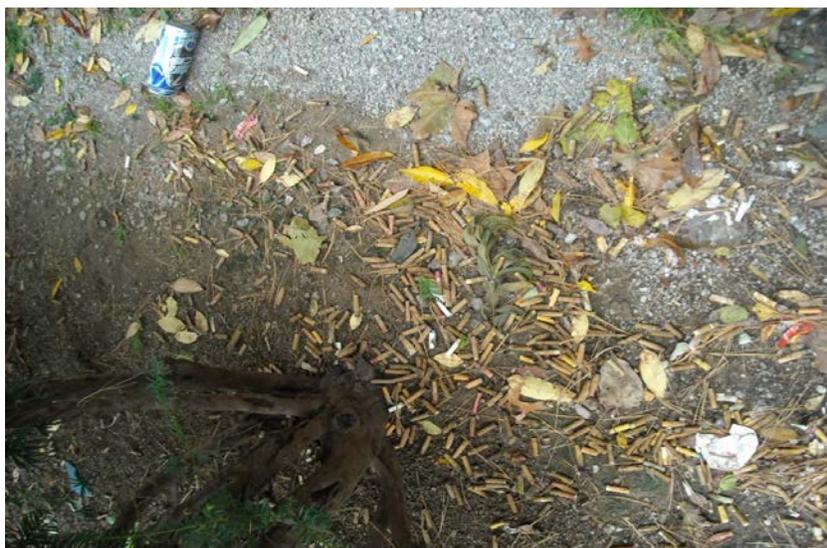
The VA Building was set afire in the summer of 2013. Fire warning signs hang throughout the VA Building. The VA Building also houses a dining area which constantly remains a smoke-filled room, a health risk to all staff and residents who do not smoke.



Fire damage to the VA Building and a Chair in Sitting Room of VA Building

The White Building Fires

The White Building has had more than one fire. The most recent occurred in the autumn of 2013 and it destroyed a resident room with five beds. Involved agencies are aware of the serious risk posed to residents and their neighbors as these residents with disabilities go without needed services and treatment in an unlicensed/unregulated facility.



Piles of Cigarettes Strewn Outside the White Building

Conclusion

Since August of 2011, P&A has performed an investigation and provided legal representation to residents living at Messner's. P&A's representation has resulted in the transition and relocation of one resident to supported housing, and the transition of four residents with intellectual disabilities to the Supports for Community Living Waiver, a Medicaid waiver program that provides residential and other services to individuals with intellectual and developmental disabilities. P&A and the SSA attempted to secure alternative representative payees for those residents living at Messner Home for whom Mr. Messner acted as payee, but were only successful in obtaining a new payee for some of these residents.

Also since August of 2011, P&A has continued to advocate for the oversight and regulation of the White Building. On February 11, 2014, some three and a half years after discovering the problem and making officials aware of the situation, P&A was informed by CHFS officials, including representatives from the Department for Public Health, DAIL-guardianship, the Department of Behavioral Health, and attorneys with the Office for Legal Services (OLS), that they were sending Mr. Messner a cease and desist letter, giving him one month to cease "the unlawful [operation] of a 'boarding home.'" The Department of Public Health also sent a denial letter to Mr. Messner in regards to his request for the White Building to be registered as a boarding home.

Following this on February 27, 2014, Mr. Messner transferred the property by Quit Claim Deed to Martha Bell, the Assistant Administrator. She informed P&A that Ralph and Cassie would continue to be involved with the ongoing operation of Messner's. Ms. Bell has since become the VA CRC sponsor and has filed an application to have the White Building registered as a boarding home. All of the individuals who are clients of state guardianship have now been moved to other placements, most to personal care homes that are licensed and regulated by OIG. As a result of the recent transfer of ownership, efforts are now underway to transfer representative payee responsibilities from Mr. Messner to Ms. Bell.

Protection and Advocacy will continue to monitor the change in ownership, including potential registration as a boarding home; conditions; and services at Messner's and to offer P&A services to men who remain there.



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