

THE STATE OF NEW HAMPSHIRE

STRAFFORD, S.S.

SUPERIOR COURT

Town of Durham

v.

Tyche Capital Group, LLC

Docket No. 219-2020-CV-00090

SETTLEMENT AGREEMENT

NOW COME the Town of Durham (hereinafter the “town”), by and through its attorneys, Mitchell Municipal Group, P.A., and Tyche Capital Group, LLC, by and through its attorneys, Gamester Law Office, and hereby stipulate and agree as follows:

1. The Town of Durham initiated this action in February, 2020 alleging, among other things, that the Tyche Capital Group, LLC (hereinafter “Tyche”) was using its property at 14 Edgewood Road, Durham, New Hampshire (hereinafter the “Property”) in violation of the Durham Zoning Ordinance, which limits occupancy of the property to three unrelated persons.

2. Frederick Kell is the Manager of Tyche, and has all applicable authority to negotiate for, and enter into agreements on behalf of, Tyche.

3. Tyche acknowledges the over occupancy of the Property, and thus admits to the violation(s) alleged in the subject Petition. Additionally, Tyche acknowledges that its underlying members have common ownership of additional properties at 26 Strafford Avenue (26 Strafford LLC), and 21 Edgewood Road (21 Edgewood LLC), Durham (all properties hereinafter referred to collectively as the “Properties”).

4. The Parties therefore agree to the following resolution to avoid a hearing in this matter and to create and foster a sustainable working relationship:

a. Tyche shall cease any and all ongoing violations, including, but not limited to, any over occupancy at the Properties.

b. Tyche shall provide the town by August 1 of each of the next three school years (2020-2021, 2021-2022, 2022-2023), copies of the leases it executes for the Properties. These leases shall include the relevant contact information for each tenant, including, but not limited to the license plate numbers of the tenants' vehicles.

c. Tyche shall not rent the Properties, or any other property it owns or comes to own in the town, in violation of the limitation on number of unrelated occupants set forth in the Durham Zoning Ordinance (currently Section 175-56(A)).

d. The town waives, at this time, civil penalties in the amount of \$275 per day for every day since December 9, 2019 that the violations continue to exist. However, should the town be required to return to Court to enforce this agreement, it shall be entitled to collect those amounts as contempt sanctions, in addition to any other costs, fees, and/or penalties the town may be entitled to.

e. Tyche shall reimburse the town for all costs incurred in the present litigation, as well as the costs incurred in obtaining an administrative search warrant. As of June 30, 2020, those costs total \$4,929.40. Tyche shall pay said fees and costs within 15 days of executing this Agreement.

5. This agreement shall be an Order of the Court.

Respectfully submitted,

TOWN OF DURHAM

By Its Attorneys
MITCHELL MUNICIPAL GROUP, P.A.

Date: July 6, 2020

By: /s/ Laura Spector-Morgan
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AND

TYCHE CAPITAL GROUP, LLC
FREDERICK KELL, MANAGER

Date: 7/9/2020

By: 
Frederick Kell, Manager

AND

By Its Attorneys
GAMESTER LAW OFFICE

Date: July 7, 2020

By: /s/ Colby T. Gamester
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