

VERMONT SUPERIOR COURT
CHITTENDEN UNIT

PROBATE DIVISION
DOCKET NO. 645-4-16Cnpr

IN RE: GUARDIANSHIP OF ELEANOR F. MCDONALD

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER REGARDING TEMPORARY GUARDIANSHIP**

The above referenced matter came before the court on April 27, 2016, on petition of Patricia A. Sundberg to appoint a temporary guardian for Eleanor F. McDonald pursuant to 14 V.S.A. 3081. Based upon the affidavit of Patricia Sundberg, and supporting documentation submitted with the Petition, the Court finds as follows:

Findings of Fact

Eleanor F. McDonald is a 92-year-old woman presently residing in her own home in Burlington, Vermont. Ms. McDonald's daughters, Patricia A. Sundberg and Gail E. Welch, had been providing day to day care for their mother until their brother, John McDonald, abruptly cut off access to her several weeks ago, and John McDonald's son recently moved into the home. A family member who saw Ms. McDonald two weeks ago reported that she was unkempt and smelled badly. Petitioner was notified by certified mail on April 15, 2016, that Ms. McDonald's Power of Attorney, in which the Petitioner was named as agent, had been terminated. Petitioner also learned that in June 2015 John McDonald arranged for Ms. McDonald to sign a quitclaim deed transferring her house to him as a joint tenant with rights of survivorship. Mr. McDonald also arranged to put his name on his mother's accounts and Certificates of Deposit. Petitioner reports that Ms. McDonald has been diagnosed with dementia, and she is concerned that Ms. McDonald has been the subject of exploitation. Petitioner seeks an emergency guardianship to protect her mother's assets and physical health. Immediate, serious, and irreparable harm may result to the Respondent if a guardian is not appointed promptly.

Proposed co-guardians, Patricia A. Sundberg and Gail E. Welch, are the Respondent's daughters. They are suitable persons to serve as co-guardians for the Respondent in accordance with the terms of 14 V.S.A. 3072.

The proposed co-guardians should be granted those powers set forth in 14 V.S.A. 3069(b)(1)-(6), including the power to seek medical or dental treatment, subject to the provisions of 14 V.S.A. 3075, and any constitutional right of the person under guardianship to refuse treatment.

**Conclusions of Law
And Order**

The Petitioner has proven by clear and convincing evidence that Eleanor F. McDonald is a person in need of guardianship, and she is unable to manage some or all aspects of her personal or financial affairs without the supervision of a guardian.

The proposed co-guardians are suitable under 14 V.S.A. 3072.

Patricia A. Sundberg and Gail E. Welch are hereby appointed as co-guardians for Eleanor F. McDonald, and they shall have the powers set forth in 14 V.S.A. 3069(c)(1)-(6), as follows:

(1) the power to exercise general supervision over the person under guardianship. This includes care, habilitation, education, and employment of the person under guardianship and choosing or changing the residence, subject to the requirement of sections 2691, 3073, and 3074 of Title 14 of the Vermont Statutes Annotated;

(2) the power to seek, obtain, and give or withhold consent to the initiation or continuation of medical or dental treatment, subject to the provisions of 14 V.S.A. 3075 and any constitutional right of the person under guardianship to refuse treatment, provided that the court in its discretion may place limitations on the guardian's powers under this subdivision if appropriate under the circumstances, including requiring prior court approval for specific surgeries, procedures, or treatments;

(3) the power to exercise general financial supervision over the income and resources of the person under guardianship. This includes the power to seek or apply for, receive, invest, and expend all wages, compensation, insurance benefits, public benefits, and pensions for the benefit of the person under guardianship, to liquidate personal property for the benefit of the person under guardianship, to settle accounts, demands, claims, and actions by or against the person under guardianship, and to take any other action reasonably necessary to secure, preserve, protect, and defend the financial interests of the person under guardianship;

(4) the power to approve or withhold approval of any contract, except for necessities, which the person under guardianship wishes to make;

(5) the power to approve or withhold approval of the sale or encumbrance of real property of the person under guardianship subject to subchapter 6 of Title 14. (14 V.S.A. 2881 et seq.)

(6) the power to obtain legal advice and to commence or defend against court actions in the name of the person under guardianship.

The co-guardians shall exercise supervisory power over their mother in a manner which is least restrictive of her personal freedom consistent with the need for supervision, and she shall retain all powers previously held except those specifically granted in this Order.

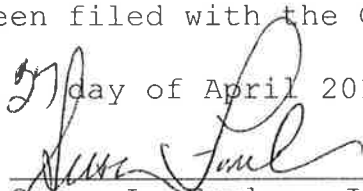
The co-guardians shall encourage Ms. McDonald to participate in decisions, to act on her own behalf when practicable, and to develop or regain the capacity to manage her own personal affairs to the maximum extent possible. The wishes, values, beliefs, and preferences of the person under guardianship shall be respected to the greatest possible extent in the exercise of all guardianship powers.

The co-guardians shall maintain close contact with Ms. McDonald and encourage maximum self-reliance on her part.

This Order shall expire on its terms on June 14, 2016, unless a Motion to Continue the Temporary Order is filed with the court before **May 2, 2016**, and no objection to the Motion is filed in advance of the hearing date. In the event an objection to continuation of the Temporary Order is filed, a hearing has been tentatively scheduled for **May 4, 2016 at 11:30 a.m. in Franklin Probate Division, St. Albans, Vermont**. If there is no objection filed, the Temporary Order will continue until an evaluation has been completed and a full hearing has been scheduled.

Guardianship bond in the amount of Ten Thousand Dollars (\$10,000.00) with personal surety has been filed with the Court.

Dated at Burlington, Vermont, this 27 day of April 2016.



Susan L. Fowler, Judge
Chittenden Superior Court
Probate Division