FILED June 18 1990
BILL COVINGTON, CLERK
BY [illegible] D.C.

IN THE PROBATE COURT FOR DAVIDSON COUNTY, TENNESSEE

IN RE: Last Will and Testament of NANNIE WILLIAMS, Deceased. ) No. 17796

BOOK 8140 PAGE 761

ORDER

This cause came to be heard on the 8th day of June 1990, upon the petition of New Hope Baptist Church ("New Hope") for this Court to interpret the Last Will and Testament of Nannie Williams, which was admitted to probate on October 29, 1935 (Will Book 52, page 239), so as to limit the operation of a restriction in the Will that would purportedly require the Trustees of New Hope to use certain real property devised to New Hope as "a home for old women (colored)." Upon consideration of the petition, the argument of counsel and the record as a whole, the Court finds that the petition is well taken, and specifically finds as follows:

1. Section III of the referenced Will provides as follows:

> I give to my Sister Lina Jordon and Daisy Mayberry and my Grand son Leslie Delk my homestead at 2432 Scovel St., Nashville Tennessee as long as they live, not to be sold but for them to live there as long as they live and after the death of them all to be given to the trustee of New Hope Baptist Church to be used as a home for old women (colored).

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2. The Court finds that although Section III of the Will refers to the address of the subject property as 2432 Scovel Street, the current correct address is 2402 Scovel Street, located in Nashville, Davidson County, Tennessee, and is further described as follows, to wit:

> Land in Davidson County, Tennessee, being the westerly fifty feet (50') front and 17-1/4 feet rear of Lot No. 44 on the plan of Bransford Realty Company's Subdivision of lots Nos. 1 to 10 inclusive and other lots in Mrs. E. S. Clark's Subdivision on lots Nos. 39 and 40 and part of lot No. 38, Boyd McNairy Plan, as of record in Book 421, Page 90, Register's Office for said County.

Said part of Lot No. 44 fronts fifty feet (50') on the northerly side of Scovel, formerly Madison Street and runs back 158 feet, more or less, on the easterly line and 150 feet on the westerly line to an alley, measuring 17-1/4 feet thereon.

Being the same property conveyed to Marguerite Delk by Quitclaim Deed from Lina Jordon, of record in Book 4762, Page 976, Register's Office for Davidson County, Tennessee.

3. The Court finds that Lina Jordon, Daisy Mayberry and Leslie Delk, the beneficiaries who received a life estate in Ms. Williams' property under Section III of the Will, are all deceased. Therefore, title to the property described in Section III of the Will has vested in the Trustees of the New Hope Baptist Church, but with the restriction that the property be used as a home for old colored women.

4. The Court finds that it would be impossible for New Hope to satisfy the restriction contained in the Will, given in particular that the house that Ms. Williams was living in at the time of her death was in a dilapidated condition before title to the property vested in New Hope, and was condemned and demolished in January 1981, by the Nashville Metropolitan Government, and that New Hope is not in the business of operating nursing homes or homes for the aged, nor has any specialized knowledge that would enable it to enter that field. In any event, New Hope has valid concerns that the operation of a nursing home for old "colored" women would be discriminatory, that any required state approval for the operation of such a home might be refused for fear of possible constitutional violations, and that even if given state approval, New Hope might be burdened with future legal challenges as to the operation of the home.

5. The Court finds that Ms. Williams' dominant purpose expressed through Section III of her Will was to ultimately vest ownership of the property in the New Hope Baptist Church. Since it would be impossible for New Hope to fulfill Ms. Williams' secondary purpose of providing a home for old colored women, the Court finds that the restriction should be

disregarded, and New Hope allowed to use the property in any otherwise lawful manner.

Accordingly, it is hereby ORDERED, ADJUDGED AND DECREED that the restriction contained in the Last Will and Testament of Nannie Williams, admitted to probate on October 29, 1935 (Will Book 52, page 239), which would purportedly require New Hope Baptist Church to use the above-described property as a home for old colored women, shall be disregarded, and that fee simple title shall be vested in the Trustees of New Hope Baptist Church, free of any Will restrictions, and with full power to use, convey or transfer the property in any otherwise lawful manner.

ENTERED this 18 day of June, 1990

James R. Everett, Jr.
Probate Judge

APPROVED FOR ENTRY:

NEAL & HARWELL

By: George H. Cate, III
George H. Cate, III, #12595

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STATE OF TENNESSEE, DAVIDSON COUNTY

I, BILL COVINGTON, Clerk of the Probate Court of Davidson County, State aforesaid, do certify that the foregoing is a full, true and complete copy of the original on file in my office. Minute Book 342 Page 174
Given under my hand and official seal, at office, in Nashville, this 28 day of June 1990.

BILL COVINGTON
Clerk of Probate Court
By Deputy Clerk

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