



North Carolina Department of Health and Human Services
Division of Health Service Regulation

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Division Director

March 17, 2014

Susan K. Hackney
K&L Gates, LLP
P.O. Box 14210
Research Triangle Park, NC 27709-4210

Exempt from Review – Acquisition of Facility


Facility: Cedar Cove Assisted Living
Acquisition by: Cedar Cove Properties, LLC
County: New Hanover
FID #: 940188

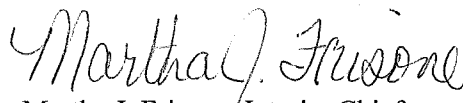
Dear Ms. Hackney:

In response to your letter of January 15, 2014, the above referenced proposal is exempt from certificate of need review in accordance with G.S 131E-184(a)(8). Therefore, Cedar Cove Properties, LLC may proceed to acquire the above referenced health service facility without first obtaining a certificate of need. However, you need to contact the Adult Care Licensure Section of the Division of Health Service Regulation to obtain instructions for changing ownership of the existing facility. Note that pursuant to G.S. 131E-181(b): *“A recipient of a certificate of need, or any person who may subsequently acquire, in any manner whatsoever permitted by law, the service for which that certificate of need was issued, is required to materially comply with the representations made in its application for that certificate of need.”*

It should be noted that this Agency's position is based solely on the facts represented by you and that any change in facts as represented would require further consideration by this Agency and a separate determination. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,


Gregory F. Yakaboski
Project Analyst


Martha J. Frisone, Interim Chief
Certificate of Need Section

cc: Medical Facilities Planning Branch, DHSR
Adult Care Licensure Section, DHSR



Certificate of Need Section

www.ncdhhs.gov

Telephone: 919-855-3873 • Fax: 919-733-8139

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

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January 15, 2014

Received by
the CON Section
JAN 15 2014

Ms. Martha Frisone, Chief
Certificate of Need Section
Division of Health Service Regulation
Department of Health and Human Services
809 Ruggles Drive
Raleigh, NC 27603

Re: Exemption Notice for Cedar Cove Assisted Living (Adult Care Home in New Hanover County)

Dear Craig:

Our client, Cedar Cove Properties, LLC is planning to acquire an adult care home in Wilmington, New Hanover County, known as Cedar Cove Assisted Living (hereafter “the Facility”). The Facility is located at 4200 Jasmine Cove Way, Wilmington, North Carolina. The Facility is listed in the “Inventory of Adult Care Home Beds” in the 2014 State Medical Facilities Plan as having 64 adult care home beds. See Exhibit A.

Cedar Cove Properties, LLC is seeking to purchase the Facility through a purchase and sale agreement. The purpose of this letter is to provide prior notice of this acquisition, which is exempt from certificate of need (“CON”) review, to the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section (the “Agency”). Cedar Cove Properties, LLC seeks confirmation that it is permitted to acquire the Facility as described herein without CON Review, thus acquiring the Facility’s existing CON rights to own that existing health service facility (as defined in the CON statute) with 64 adult care home beds.

I. THE PROPOSAL

As of this date, Adcar, LLC (formerly Adcar, Inc.) owns the property and building comprising the Facility, which is an existing “health service facility,” as that term is defined in N.C. Gen. Stat. § 131E-176(7a) and Cedar Cove Assisted Living, LLC is the licensee. Cedar Cove Properties, LLC will purchase the Facility and Cedar Cove Assisted Living, LLC will remain the licensee. The Facility will still be known as Cedar Cove Assisted Living.

II. EXEMPTION NOTICE

Under North Carolina law, a certificate of need (“CON”) is required only prior to offering or developing a “new institutional health service.” “New institutional health service”

Ms. Martha Frisone, Chief
January 15, 2014
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includes a variety of services and activities, including a capital expenditure exceeding \$2 million. N.C. Gen. Stat. § 131E-176(16)(b).

The North Carolina General Assembly saw fit to exempt certain types of services or proposals from CON review, pursuant to N.C. Gen. Stat. § 131E-184. One such exempt service or proposal includes the acquisition of an existing health service facility. N.C. Gen. Stat. § 131E-184(a)(8).

This project involves only the acquisition of an existing adult care home, which falls within the purview of the statutory definition of "health service facility." N.C. Gen. Stat. § 131E-176(9b). After acquisition, Cedar Cove Assisted Living, LLC will continue to operate the Facility as an adult care home. Furthermore, Cedar Cove Properties, LLC's acquisition of the Facility does not entail the purchase of any major medical equipment or any *per se* reviewable equipment as defined in N.C. Gen. Stat. §§ 131E-176(14o) and (16)(f1). Likewise, the acquisition does not include the offering of any *per se* reviewable services. N.C. Gen. Stat. § 131E-176(16)(f). Thus, given that the transaction involves only the acquisition of an existing health service facility, it is exempt from CON review.

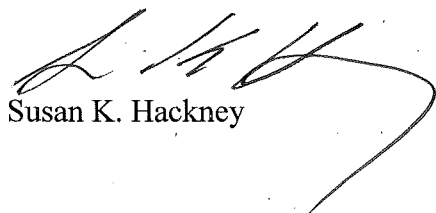
III. CONCLUSION

Based on the foregoing information, we hereby request the Agency's confirmation that the proposal described above is exempt from CON review, pursuant to N.C. Gen. Stat. § 131E-184(a)(8), and thus Cedar Cove Properties, LLC may acquire the Facility with all its existing CON rights without a CON.

In addition, we respectfully request that this request be considered on an **expedited basis** because the parties wish to proceed with this transaction as soon as possible.

If you require additional information to consider this request, please contact us at the above number as soon as possible. We thank you for your consideration of this request.

Sincerely,



Susan K. Hackney