



NC DEPARTMENT OF  
**HEALTH AND  
HUMAN SERVICES**

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

**VIA EMAIL ONLY**

September 19, 2021

Francisco T. Morales

[ftm@algsenior.com](mailto:ftm@algsenior.com)

**Exempt from Review – Acquisition of Facility**

**Record #:** 3658  
**Date of Request:** August 19, 2021  
**Facility Name:** Hickory Village  
**Type of Facility:** Adult Care Home  
**FID #:** 970790  
**Acquisition by:** Hickory Propco, LLC  
**Business #:** 3441  
**County:** Catawba

Dear Mr. Morales:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that the project described above is exempt from certificate of need (CON) review in accordance with G.S. 131E-184(a)(8). Therefore, the above referenced business may proceed to acquire the health service facility identified above without first obtaining a CON. In addition, the Agency notes that the operator of the facility will change to Hickory Opco, LLC. The Agency's determination is limited to the question of whether the above referenced business would have to obtain a CON if the current owners of the health service facility do in fact sell it to the business listed above. 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.*"

If the business listed above does acquire the facility, you should contact the Agency's Adult Care Licensure Section to obtain instructions for changing ownership of the existing facility.

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 regarding whether a certificate of need would be required. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Ena Lightbourne  
Project Analyst

Micheala Mitchell  
Chief

cc: Adult Care Licensure Section, DHSR

**NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION**  
**HEALTHCARE PLANNING AND CERTIFICATE OF NEED SECTION**

LOCATION: 809 Ruggles Drive, Edgerton Building, Raleigh, NC 27603  
MAILING ADDRESS: 809 Ruggles Drive, 2704 Mail Service Center, Raleigh, NC 27699-2704  
<https://info.ncdhhs.gov/dhsr/> • TEL: 919-855-3873

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

***Hickory Village***  
427 3<sup>rd</sup> Ave SE  
Hickory, North Carolina 28602

August 18, 2021

Micheala Mitchell, Chief  
Healthcare Planning and Certificate of Need Section  
Division of Health Service Regulation  
North Carolina Department of Health and Human Services  
2704 Mail Service Center  
Raleigh, NC 27699-2704

Re: **Exemption from Review / Non-Withdrawal of Certificate of Need**  
Change of Ownership for *Hickory Village*  
427 3<sup>rd</sup> Ave SE, Hickory, Catawba County, North Carolina 28602  
License No. HAL-018-015 (the “Facility”)

Dear Ms. Mitchell:

I am writing on behalf of Hickory Propco, LLC, a North Carolina limited liability company (“New Owner”) and Hickory Opco, LLC, a North Carolina limited liability company (“New Operator”). New Owner and New Operator have entered into an Asset Purchase Agreement to buy the Facility real estate and its operations from the Facility’s current owner, Community Facilities, Inc. fka DePaul Community Facilities, Inc., a New York Not-For-Profit Corporation (“Current Owner”) and current operator, DePaul Adult Care Communities, Inc., a New York Not-For-Profit Corporation (“Current Operator”).

Because the Facility was developed prior to the enactment of N.C. Session Law 1997-443, the Facility has not been issued a Certificate of Need (“CON”) by the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section (the “Agency”). However, the Facility is subject to North Carolina CON law as the Facility’s adult care home beds were “grandfathered in” at the time adult care homes became subject to the CON law. The Facility is listed in the “Inventory of Adult Care Home Beds” in the 2021 State Medical Facilities Plan as having 56 adult care home beds, all of which have a Special Care Unit (SCU) designation.

As part of the proposed transaction, the Current Owner and Current Operator of the Facility will change. Please refer to the attached Exhibit A showing the current and proposed new ownership structure. Other than the changes reflected in Exhibit A, New Owner and New Operator plan to keep the Facility name the same (*Hickory Village*). The proposed transaction is estimated to close on or before October 1, 2021.

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, “including equipment owned by the health service facility at the time of acquisition.” N.C. Gen. Stat. § 131E-184(a)(8).

The proposed transaction involves the acquisition of an existing adult care home, which falls within the purview of the statutory definition of “health service facility.” After acquisition, the New Operator will operate the Facility as an adult care home. Furthermore, the New Owner’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(14)(o) 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 services facility, it is exempt from CON review.

Based on the foregoing, and in accordance with the provisions of N.C. Gen. Stat. § 131E-184(a)(8) and N.C. Gen. Stat. § 131E-189(c), please allow this letter to serve as prior written notice to the Agency of the intent by New Owner to acquire the Facility from Current Owner as outlined herein, and a formal request that the Agency conclude that the proposed transaction is exempt from CON review and that the Facility’s CON will not be withdrawn as a result of the proposed transaction.

Should you need additional information in order to make a decision on this matter, please do not hesitate to contact me directly.

Sincerely,



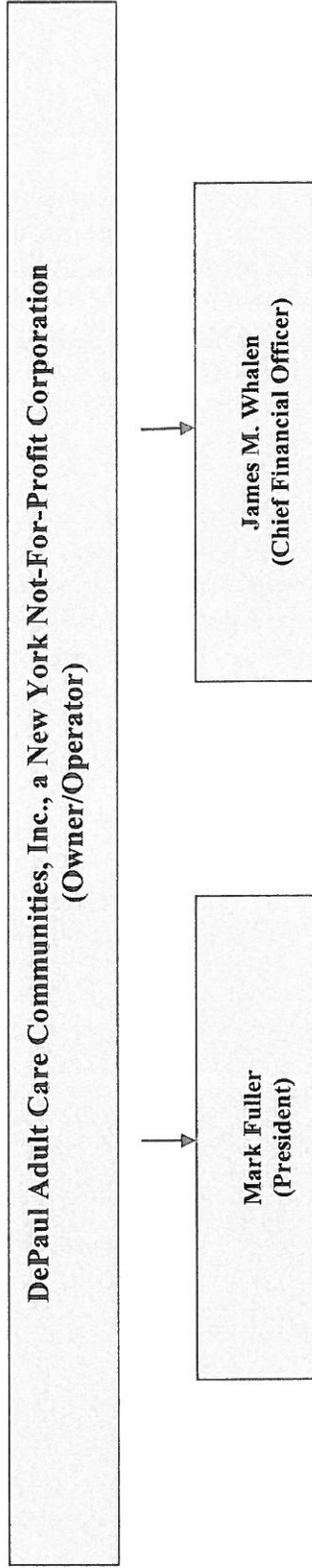
Francisco T. Morales  
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919-353-2059  
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*Counsel for Hickory Propco, LLC and Hickory  
Opco, LLC*

Exhibit A:  
Proposed Changes in Ownership Structure

**EXHIBIT A**

***Hickory Village***  
**Current Corporate Structure**



*Hickory Village*  
Proposed New Corporate Structure

