

**NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF HEALTH SERVICE REGULATION
RALEIGH, NORTH CAROLINA**

IN RE: REQUEST FOR DECLARATORY)	
RULING BY RHA HEALTH SERVICES,)	
INC.)	DECLARATORY RULING
)	
Project I.D. No. G-8233-08)	

I, Drexdal Pratt, as Director of the Division of Health Service Regulation, North Carolina Department of Health and Human Services (“Department” or “Agency”), do hereby issue this Declaratory Ruling pursuant to North Carolina General Statute § 150B-4 and 10A NCAC 14A .0103 under the authority granted me by the Secretary of the Department of Health and Human Services.

RHA Health Services (“RHA”) has requested a declaratory ruling for Project I.D. No. G-8233-08 (“Project”) allowing for a change in the location of a six-bed Intermediate Care Facility for the Mentally Retarded group home. This ruling will be binding upon the Department and the entity requesting it, as long as the material facts stated herein are accurate. This ruling pertains only to the matters referenced herein. Except as provided by N.C.G.S. § 150B-4, the Department expressly reserves the right to make a prospective change in the interpretation of the statutes and regulations at issue in this Declaratory Ruling. Scott Little, Vice President of Housing and Asset Management for RHA has requested this ruling on behalf of RHA and has provided the material facts upon which this ruling is based.

STATEMENT OF THE FACTS

On January 28, 2010, the CON Section issued a Certificate of Need for Project I.D. No. F-8233-08 authorizing RHA to develop a six-bed Intermediate Care Facility for the Mentally Retarded group home designated for individuals moving from state operated facilities per the

2008 State Medical Facilities plan. The approved site is located at 1607 Bridges Drive in High Point.

Since issuance of the Certificate of Need, the original property where the facility was to be located was determined to be unsuitable upon further review. A secondary site proposed in the application was unavailable. A third potential site could not support a septic system. RHA now has identified a site for the group home at 404 Skeet Club Road, High Point, North Carolina 27265. RHA represents that the new site has access to city water and sewer, has had a phase 1 environmental soil inspection, is appropriately zoned and meets City restrictions on ICF/MR facilities. The proposed site is approximately one acre and does not require land for a septic system. It is located 4 miles from the approved site, 11.5 miles from the secondary site, 2 miles from EMS services, 8 miles from a Day Program, 4.5 miles from High Point Regional Hospital and less than 3 miles from various other support services. Access, medical equipment, charges, capital costs and the project schedule will not change. The purchase price of the proposed alternative is \$35,000 – less than the \$56,000-\$60,000 purchase price of the approved site.

ANALYSIS

The CON law would require a full review of RHA's proposed change of site if that change were to represent a material change in the physical location or scope of the project. N.C.G.S. § 131E-181(a). The proposed change of the site for RHA's project does not constitute a material change in the physical location or the scope of the proposed project. The proposed site is large enough for the project and meets zoning and other requirements. It is located near the original location and key support services. Development at this site will not affect access, medical equipment, charges, capital costs or the project schedule. It also will result in cost savings of more than \$20,000.

N.C.G.S. § 131E-189(b) allows the Agency to withdraw RHA's Certificate of Need if RHA fails to develop the project in a manner consistent with the representations made in the application or with any conditions that were placed on the Certificate of Need. RHA will not be developing its project in a manner that is materially different from the representations made in its application, nor will it be developing its project in a manner that is inconsistent with any of the conditions that were placed on its Certificate of Need.

CONCLUSION

For the foregoing reasons, assuming the statements of fact in the request to be true, I conclude that the substitution of 404 Skeet Club Road, High Point, North Carolina 27265 as a site for RHA's group home, Project I.D. No. G-8233-08, will not constitute a material change in the physical location or scope of the project, will not violate N.C.G.S. § 131E-181, and will not constitute a failure to satisfy a condition of the CON in violation of N.C.G.S. § 131E-189(b).

This the _____ day of October, 2010.

Drexdal Pratt, Director
Division of Health Service Regulation
N.C. Department of Health and Human Services

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Declaratory Ruling has been served upon the nonagency party by certified mail, return receipt requested, by depositing the copy in an official depository of the United States Postal Service in first-class, postage pre-paid envelope addressed as follows:

CERTIFIED MAIL

Scott Little
RHA Health Services, Inc.
1701 Westchester Drive, Suite 940
High Point, NC 27262

This the _____ day of October, 2010.

Jeff Horton
Chief Operating Officer