



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

Pat McCrory
Governor

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Secretary DHHS

Drexdal Pratt
Division Director

September 30, 2014

Ruth Levy
Williams Mullen
301 Fayetteville Street, Suite 1700
Raleigh, NC 27601

Exempt from Review – Acquisition of Facility


Facility: Victorian Manor
Type of Facility: Adult Care Home
Acquisition by: DCR Mortgage VI Sub I, LLC
County: Lee
FID #: 955674


Dear Ms. Levy:

In response to your letter of September 25, 2014, the above referenced proposal is exempt from certificate of need review in accordance with G.S 131E-184(a)(8). Therefore, DCR Mortgage VI SUB I, 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,


F. Gene DePorter
Project Analyst


Martha J. Frisone, Interim Chief
Certificate of Need Section

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



Certificate of Need Section

www.ncdhhs.gov

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

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WILLIAMS MULLEN

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September 25, 2014

Received by
the CON Section
SEP 25 2014

VIA HAND DELIVERY

Martha Frisone, Interim Chief
Certificate of Need Section
Department of Health Service Regulation
N.C. Dept. of Health and Human Services
809 Ruggles Drive
Raleigh, NC 27603

Re: Letter of Intent – Acquisition of Adult Care Home Facilities
Ashewood Estates Retirement Center and Victorian Manor
1115 Carthage Street and 1107 Carthage Street, Sanford, Lee County, NC
Facility ID # 950864 and # 955674, License No's. HAL-053-026 and HAL-053-027

Dear Ms. Frisone,

We are writing pursuant to 10A NCAC 14C .0201 on behalf of DCR Mortgage VI Sub I, LLC (“Lender”) to provide the Agency with notice of Lender’s planned acquisition of the above-referenced existing adult care homes in Sanford, Lee County, North Carolina. The facilities, Ashewood Estates Retirement Center (Facility ID # 950864, License No. HAL-053-026) and Victorian Manor (Facility ID # 955674, License No. HAL-053-027) (collectively “Facilities”) are existing, licensed adult care homes currently owned by Millenium IV, Inc. (“Borrower”). The Facilities collectively include 135 adult care home beds; Ashewood Estates is an 85-bed facility and Victorian Manor is a 50-bed facility.

On or about January 12, 2004, Borrower entered into certain loan documents with Branch Banking and Trust Company (“Loan Documents”). The loan documents (as renewed, extended, and/or amended in writing) were subsequently assigned to Lender, and Lender is the current owner and holder of the Loan Documents. Borrower is currently in default of its obligations under the Loan Documents, and as a result of such default, Lender has initiated a civil action to foreclose on the Facilities.

AL’s Line of Care Inc. is currently the licensed operator of Ashewood Estates; Lifetime Care Inc. is currently the licensed operator of Victorian Manor. Following the acquisition of the Facilities, Lender intends to enter into a lease with Meridian Senior Living, LLC which will submit a change of ownership license application to the Division of Health Service Regulation, Adult Care Licensure Section.

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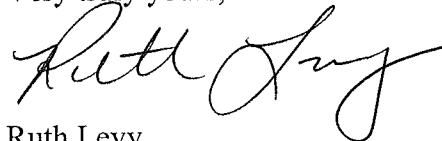
Martha Frisone
September 25, 2014
Page 2

The acquisition described herein does not constitute a new institutional health service as defined in N.C. Gen. Stat. § 131E-176(16), and therefore does not require a certificate of need. First, the Facilities are existing, licensed adult care homes. Therefore the acquisition will not result in the development or establishment of a health service facility under subsection 131E-167(16)a. Nor does the acquisition fall under any other category of new institutional health service. Second, the price paid by Lender for the transfer of the Loan Documents to it was well below the two million-dollar capital cost threshold of subsection 131E-176(16)b. Third, the acquisition will not result in a change in bed capacity under subsection 131E-176(16)c.

Further, even if the acquisition of the Facilities by Lender constituted a new institutional health service, the acquisition would be exempt from CON review under N.C. Gen. Stat. § 131E-184(a)(8) because it constitutes the acquisition of existing health service facilities. Therefore, pursuant to N.C. Gen. Stat. § 131E-178(a) and § 131E-184(a), no certificate of need is required for the acquisition of the Facilities by Lender.

We would appreciate it if the Agency would confirm that the acquisition of the Facilities is not subject to CON review. Thank you for your consideration, and we look forward to the Agency's response.

Very truly yours,



Ruth Levy

cc: John W. Savage