



NC DEPARTMENT OF HEALTH AND HUMAN SERVICES

ROY COOPER • Governor
KODY H. KINSLEY • Secretary
MARK PAYNE • Director, Division of Health Service Regulation

VIA EMAIL ONLY

September 11, 2024

Taylor Chambless
Taylor.Chambless@hklaw.com

Exempt from Review – Acquisition of Facility

Record #: See Attachment A
Date of Request: August 30, 2024
Facility Name: See Attachment A
Type of Facility: Adult Care Home
FID #: See Attachment A
Acquisition by: NHI-REIT of North Carolina, LLC
Business #: 3863
County: Multiple

Dear Taylor Chambless

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 facilities identified above without first obtaining a CON. 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 facilities 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 facilities, 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,

Crystal Kearney

Crystal Kearney, Project Analyst

Micheala Mitchell

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

Attachment A

Record #	Name of Facility	FID	Type of Facility	County	Current Owner-Lessor	New Owner-Lessor
4558	Spring Arbor of Albemarle	971268	ACH	Stanly	Spring Arbor Albemarle NC Landlord, LLC	NHI-REIT of North Carolina, LLC
4559	Spring Arbor of Apex	990039	ACH	Wake	Spring Arbor Apex NC Landlord, LLC	NHI-REIT of North Carolina, LLC
4560	Spring Arbor of Cary	130543	ACH	Wake	Spring Arbor Cary NC Landlord, LLC	NHI-REIT of North Carolina, LLC
4561	Spring Arbor of Greensboro	090346	ACH	Guilford	Spring Arbor Greensboro NC Landlord, LLC	NHI-REIT of North Carolina, LLC
4562	Spring Arbor of Greenville	970986	ACH	Pitt	Spring Arbor Greenville Landlord, LLC	NHI-REIT of North Carolina, LLC
4563	Spring Arbor of Outer Banks	970709	ACH	Dare	Spring Arbor Kill Devil Hills NC Landlord, LLC	NHI-REIT of North Carolina, LLC
4564	Spring Arbor of Kinston	980433	ACH	Lenior	Spring Arbor Kinston NC Landlord, LLC	NHI-REIT of North Carolina, LLC
4565	Spring Arbor of Rocky Mount	955657	ACH	Nash	Spring Arbor Rocky Mount NC Landlord, LLC	NHI-REIT of North Carolina, LLC
4566	Spring Arbor of Wilmington	970923	ACH	New Hanover	Spring Arbor Wilmington NC Landlord, LLC	NHI-REIT of North Carolina, LLC
4567	Spring Arbor of Wilson	960313	ACH	Wilson	Spring Arbor Wilson NC Landlord, LLC	NHI-REIT of North Carolina, LLC

Holland & Knight

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Tayler Chambless
615.850.8737
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August 30, 2024

Via email to: Micheala.Mitchell@dhhs.nc.gov; Tiffany.Stancil@dhhs.nc.gov

Ms. Micheala Mitchell, Chief,
Health Care 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: *Notice of Matter Not Subject to Review*

Dear Ms. Mitchell:

I am writing on behalf of our client, NHI-REIT of North Carolina, LLC (the “Future Owner-Lessor”), and Foundry Commercial, LLC and its related entities and assignees (each a “Current Owner-Lessor”, and collectively the “Current Owner-Lessors”), to provide notice to the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Healthcare Planning and Certificate of Need Section (the “CON Section”) of a matter we understand is not subject to Certificate of Need Review. Specifically, Current-Owner Lessor owns ten (10) real properties and buildings that are leased to certain North Carolina licensed adult care homes (each a “Lessee”, and collectively the “Lessees”), which Future Owner-Lessor intends to purchase pursuant to a transaction currently scheduled to occur on or around September 13, 2024, or as soon thereafter as possible.

Attachment A to this correspondence identifies each of the Current Owner-Lessor entities that currently own the real properties and buildings being acquired; the trade names and license numbers for the corresponding Lessees, which operate the adult care homes thereon; and the Future Owner-Lessor entity acquiring the real properties and buildings. At the closing of the

Atlanta | Austin | Birmingham | Boston | Century City | Charlotte | Chattanooga | Chicago | Dallas | Denver | Fort Lauderdale
Houston | Jacksonville | Los Angeles | Miami | Nashville | Newport Beach | New York | Orlando | Philadelphia
Portland | Richmond | San Francisco | Stamford | Tallahassee | Tampa | Tysons | Washington, D.C. | West Palm Beach

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transaction, Future Owner-Lessor will enter into a new master lease with the Lessees for the subject real property buildings (the "New Lease").

We note that the adult care home licensed Lessees identified in Attachment A will continue to operate the adult care homes pursuant to the New Lease. The ownership of the Lessees is not changing as part of this transaction. Neither the legal entity, name, federal tax identification number, nor manager for the Lessees is changing as a result of this sale of real property and buildings.

As such, please accept this notice as the parties request for a determination that the sale of real property and buildings described in this letter is not subject to Certificate of Need Review as it does not constitute a "new institutional health service" as defined by N.C. Gen. Stat. § 131E-176(16). Moreover, since the Lessees are not being acquired and will remain unchanged, this transaction does not appear to involve an existing "health service facility" as defined at N.C. Gen. Stat. section 131E-176(9b), which we understand would be similarly exempt from review pursuant to N.C. Gen. Stat. § 131E-184(a)(8).

We would appreciate it if you would provide written confirmation at your earliest convenience that the transaction described herein is not subject to CON Section review and that the parties may proceed with the transaction without first obtaining a certificate of need.

Thank you in advance for your prompt consideration of this Notice of a Matter Not Subject to Review. Please let me know if you have any questions or need additional information.

Best regards,

HOLLAND & KNIGHT LLP



Tayler Chambless

Enclosures

cc: Jeff Calk

ATTACHMENT A

LESSEE (ADULT HOME CARE LICENSEE)	CURRENT OWNER-LESSOR	FUTURE OWNER-LESSOR	ADDRESS	COUNTY
Spring Arbor of Albemarle FID # 971268	Spring Arbor Albemarle NC Landlord, LLC	NHI-REIT of North Carolina, LLC	315 Park Ridge Rd, Albemarle, NC 28001	Stanly
Spring Arbor of Apex FID # 990039	Spring Arbor Apex NC Landlord, LLC	NHI-REIT of North Carolina, LLC	901 Spring Arbor Ct, Apex, NC 27502	Wake
Spring Arbor of Cary FID # 130543	Spring Arbor Cary NC Landlord, LLC	NHI-REIT of North Carolina, LLC	1705 Kildaire Farm Rd, Cary, NC 27511	Wake
Spring Arbor of Greensboro FID # 090346	Spring Arbor Greensboro NC Landlord, LLC	NHI-REIT of North Carolina, LLC	5125 Michaux Rd, Greensboro, NC 27410	Guilford
Spring Arbor of Greenville FID # 970986	Spring Arbor Greenville NC Landlord, LLC	NHI-REIT of North Carolina, LLC	2097 W Arlington Blvd, Greenville, NC 27834	Pitt
Spring Arbor of Outer Banks FID # 970709	Spring Arbor Kill Devil Hills NC Landlord, LLC	NHI-REIT of North Carolina, LLC	803 Bermuda Bay Blvd, Kill Devil Hills, NC 27948	Dare
Spring Arbor of Kinston FID # 980433	Spring Arbor Kinston NC Landlord, LLC	NHI-REIT of North Carolina, LLC	3207 Carey Rd, Kinston, NC 28504	Lenoir
Spring Arbor of Rocky Mount FID # 955657	Spring Arbor Rocky Mount NC Landlord, LLC	NHI-REIT of North Carolina, LLC	1251 S Winstead Ave, Rocky Mount, NC 27803	Nash
Spring Arbor of Wilmington FID # 970923	Spring Arbor Wilmington NC Landlord, LLC	NHI-REIT of North Carolina, LLC	809 John D Barry Dr, Wilmington, NC 28412	New Hanover
Spring Arbor of Wilson FID # 960313	Spring Arbor Wilson NC Landlord, LLC	NHI-REIT of North Carolina, LLC	2045 Ward Blvd, Wilson, NC 27893	Wilson