

North Carolina Department of Health and Human Services  
Division of Health Service Regulation  
Certificate of Need Section

2704 Mail Service Center • Raleigh, North Carolina 27699-2704  
<http://www.ncdhhs.gov/dhsr/>

Drexdal Pratt, Director

Beverly Eaves Perdue, Governor  
Albert A. Delia, Acting Secretary

Craig R. Smith, Section Chief  
Phone: (919) 855-3873  
Fax: (919) 733-8139

August 16, 2012

Susan K. Hackney  
K&L Gates  
PO Box 14210  
Research Triangle Park, NC 27709

RE: Exempt from Review / Acquisition of Somerset Court of Shelby adult care home / Cleveland County

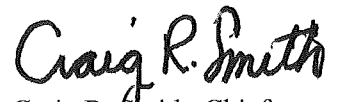
Dear Ms. Hackney:

In response to your letter of August 9, 2012, the above referenced proposal is exempt from certificate of need review in accordance with N.C.G.S 131E-184(a)(8). Therefore, Shelby Health Investors, 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 N.C.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,

  
Les Brown  
Project Analyst

  
Craig R. Smith, Chief  
Certificate of Need Section

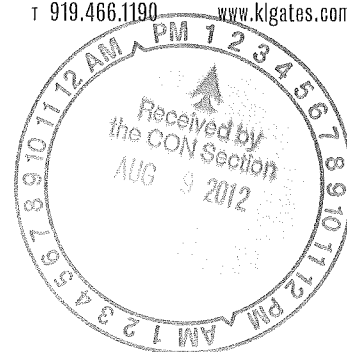
cc: Adult Care Licensure Section, DHSR



August 9, 2012

T 919.466.1190 www.klgates.com

Mr. Craig Smith, 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 Somerset Court of Shelby (Adult Care Home in Cleveland County)

Dear Craig:

Our client, Shelby Health Investors, LLC is planning to acquire an adult care home in Shelby, Cleveland County, known as Somerset Court of Shelby (hereafter “the Facility”). The Facility is located at 950 Hardin Drive, Shelby, North Carolina. The Facility is listed in the “Inventory of Adult Care Home Beds” in the 2012 State Medical Facilities Plan as having 72 adult care home beds. See Exhibit A. The Facility also is listed in the Proposed 2013 State Medical Facilities Plan as having 72 adult care home beds. See Exhibit B.

Shelby Health Investors, 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”). Shelby Health Investors, 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 72 adult care home beds.

**I. THE PROPOSAL**

As of this date, NCAL Acquisition I, 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 Salem Senior Housing, Inc. is the licensee. Shelby Health Investors, LLC will purchase the Facility, and the licensee will become Shelby AL Holdings, LLC. The Facility will be known as Shelby House.

**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”

Mr. Craig Smith, Chief  
August 9, 2012  
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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, "including equipment owned by the health service facility at the time of acquisition." 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." After acquisition, Shelby Health Investors, LLC will operate the Facility as an adult care home. Furthermore, Shelby Health Investors, LLC 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.

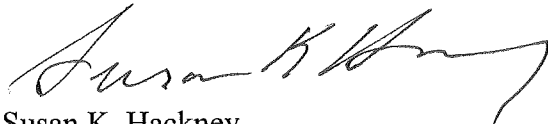
### III. CONCLUSION

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 Shelby Health Investors, 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. Additionally, financing of the transaction is contingent upon this confirmation.

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

Enclosures



Table 11A: Inventory of Adult Care Home (Assisted Living) Beds

| County           | Facility Name                                       | Licensed Beds in Nursing Homes | Licensed Beds in Hospitals | Licensed Beds in Adult Care Facilities | Total Licensed Beds | CON Approved/License Pending |            |              |                  | Available in SMFP | Total Available | Sum of Exclusions | Total Planning Inventory |
|------------------|---|--------------------------------|----------------------------|--|---------------------|------------------------------|------------|--------------|------------------|-------------------|-----------------|-------------------|--------------------------|
|                  |   |                                |                            |  |                     | CON                          | ACH Exempt | ACH Pipeline | CON Bed Transfer |                   |                 |                   |                          |
| Catawba          | Austin Adult Care Home                              | 0                              | 0                          | 29                                     | 29                  | 0                            | 0          | 0            | 0                | 0                 | 29              | 0                 | 29                       |
| Catawba          | Brian Center Health & Rehabilitation/Hickory E.     | 20                             | 0                          | 0                                      | 20                  | 0                            | 0          | 0            | 0                | 0                 | 20              | 0                 | 20                       |
| Catawba          | Carlton Assisted Living of Newton                   | 0                              | 0                          | 96                                     | 96                  | 0                            | 0          | 0            | 0                | 0                 | 96              | 0                 | 96                       |
| Catawba          | Catawba Valley Living at Rock Barn                  | 0                              | 0                          | 80                                     | 80                  | 0                            | 0          | 0            | 0                | 0                 | 80              | 0                 | 80                       |
| Catawba          | Heritage Care of Conover                            | 0                              | 0                          | 60                                     | 60                  | 0                            | 0          | 0            | 0                | 0                 | 60              | 0                 | 60                       |
| Catawba          | Heritage Manor                                      | 0                              | 0                          | 88                                     | 88                  | 0                            | 0          | 0            | 0                | 0                 | 88              | 0                 | 88                       |
| Catawba          | Hickory Village                                     | 0                              | 0                          | 56                                     | 56                  | 0                            | 0          | 0            | 0                | 0                 | 56              | 0                 | 56                       |
| Catawba          | Lutheran Home/Hickory                               | 90                             | 0                          | 0                                      | 90                  | 0                            | 0          | 0            | 0                | 0                 | 90              | 0                 | 90                       |
| Catawba          | Piedmont Village at Newton                          | 0                              | 0                          | 40                                     | 40                  | 0                            | 0          | 0            | 0                | 0                 | 40              | 0                 | 40                       |
| Catawba          | Springs of Catawba                                  | 0                              | 0                          | 66                                     | 66                  | 0                            | 0          | 0            | 0                | 0                 | 66              | 0                 | 66                       |
| Catawba          | Sterling House of Hickory                           | 0                              | 0                          | 60                                     | 60                  | 0                            | 0          | 0            | 0                | 0                 | 60              | 0                 | 60                       |
| Catawba          | The Alberta House                                   | 0                              | 0                          | 20                                     | 20                  | 0                            | 0          | 0            | 0                | 0                 | 20              | 0                 | 20                       |
| Catawba Totals   |   | 128                            | 0                          | 595                                    | 723                 | 0                            | 0          | 0            | 0                | 0                 | 723             | 0                 | 723                      |
| Chatham          | Cambridge Hills of Pitsboro                         | 0                              | 0                          | 90                                     | 90                  | 0                            | 0          | 0            | 0                | 0                 | 90              | 0                 | 90                       |
| Chatham          | Careview Rest Home                                  | 0                              | 0                          | 20                                     | 20                  | 0                            | 0          | 0            | 0                | 0                 | 20              | 0                 | 20                       |
| Chatham          | Carolina Meadows - Fairways                         | 0                              | 0                          | 95                                     | 95                  | 0                            | 0          | 0            | 0                | 0                 | 95              | 48                | 47                       |
| Chatham          | Coventry House of Siler City                        | 0                              | 0                          | 52                                     | 52                  | 0                            | 0          | 0            | 0                | 0                 | 52              | 0                 | 52                       |
| Chatham          | The Arbor - (Bed Counts per CON project conditions) | 23                             | 0                          | 0                                      | 23                  | 28                           | 0          | 0            | 0                | 0                 | 51              | 26                | 25                       |
| Chatham          | Hill Forest Rest Home                               | 0                              | 0                          | 40                                     | 40                  | 0                            | 0          | 0            | 0                | 0                 | 40              | 0                 | 40                       |
| Chatham          | Pitsboro Christian Village                          | 0                              | 0                          | 40                                     | 40                  | 0                            | 0          | 0            | 0                | 0                 | 40              | 20                | 20                       |
| Chatham Totals   |   | 23                             | 0                          | 337                                    | 360                 | 28                           | 0          | 0            | 0                | 0                 | 388             | 94                | 294                      |
| Cherokee         | 2011 SMFP - Need Determination                      | 0                              | 0                          | 0                                      | 0                   | 0                            | 0          | 0            | 0                | 0                 | 0               | 0                 | 0                        |
| Cherokee         | Carolina Care Home #1                               | 0                              | 0                          | 12                                     | 12                  | 0                            | 0          | 0            | 0                | 0                 | 12              | 0                 | 12                       |
| Cherokee         | Carolina Care Home #2                               | 0                              | 0                          | 12                                     | 12                  | 0                            | 0          | 0            | 0                | 0                 | 12              | 0                 | 12                       |
| Cherokee         | Murphy House  | 0                              | 0                          | 0                                      | 0                   | 70                           | 0          | 0            | 0                | 0                 | 70              | 0                 | 70                       |
| Cherokee Totals  |   | 0                              | 0                          | 24                                     | 24                  | 70                           | 0          | 0            | 0                | 0                 | 80              | 174               | 174                      |
| Chowan           | Edenton House                                       | 0                              | 0                          | 60                                     | 60                  | 0                            | 0          | 0            | 0                | 0                 | 60              | 0                 | 60                       |
| Chowan           | Edenton Prime Time Retirement Village               | 0                              | 0                          | 60                                     | 60                  | 0                            | 0          | 0            | 0                | 0                 | 60              | 0                 | 60                       |
| Chowan Totals    |   | 0                              | 0                          | 120                                    | 120                 | 0                            | 0          | 0            | 0                | 0                 | 120             | 0                 | 120                      |
| Clay             | Clay County Care Center                             | 10                             | 0                          | 0                                      | 10                  | 0                            | 0          | 0            | 0                | 0                 | 10              | 0                 | 10                       |
| Clay             | Hayesville House                                    | 0                              | 0                          | 60                                     | 60                  | 0                            | 0          | 0            | 0                | 0                 | 60              | 0                 | 60                       |
| Clay Totals      |   | 10                             | 0                          | 60                                     | 70                  | 0                            | 0          | 0            | 0                | 0                 | 70              | 0                 | 70                       |
| Cleveland        | Carlton Assisted Living of Shelby                   | 0                              | 0                          | 96                                     | 96                  | 0                            | 0          | 0            | 0                | 0                 | 96              | 0                 | 96                       |
| Cleveland        | Golden Years Rest Home                              | 0                              | 0                          | 12                                     | 12                  | 0                            | 0          | 0            | 0                | 0                 | 12              | 0                 | 12                       |
| Cleveland        | Kings Mountain Care Center                          | 0                              | 0                          | 20                                     | 20                  | 0                            | 0          | 0            | 0                | 0                 | 20              | 0                 | 20                       |
| Cleveland        | Openview Retirement Home                            | 0                              | 0                          | 24                                     | 24                  | 0                            | 0          | 0            | 0                | 0                 | 24              | 0                 | 24                       |
| Cleveland        | Shelby Manor  | 0                              | 0                          | 74                                     | 74                  | 0                            | 0          | 0            | 0                | 0                 | 74              | 0                 | 74                       |
| Cleveland        | Somerset Court of Shelby                            | 0                              | 0                          | 72                                     | 72                  | 0                            | 0          | 0            | 0                | 0                 | 72              | 0                 | 72                       |
| Cleveland        | Sterling House of Shelby                            | 0                              | 0                          | 60                                     | 60                  | 0                            | 0          | 0            | 0                | 0                 | 60              | 0                 | 60                       |
| Cleveland        | Summit Place of Kings Mountain                      | 0                              | 0                          | 65                                     | 65                  | 0                            | 0          | 0            | 0                | 0                 | 65              | 0                 | 65                       |
| Cleveland Totals |   | 0                              | 0                          | 423                                    | 423                 | 0                            | 0          | 0            | 0                | 0                 | 423             | 0                 | 423                      |
| Columbus         | Lake Pointe Assisted Living                         | 0                              | 0                          | 80                                     | 80                  | 0                            | 0          | 0            | 0                | 0                 | 80              | 0                 | 80                       |
| Columbus         | Liberty Commons Nursing & Rehab Center              | 40                             | 0                          | 10                                     | 40                  | 0                            | 0          | 0            | 0                | 0                 | 50              | 0                 | 50                       |
| Columbus         | Premier Living and Rehab Center                     | 15                             | 0                          | 0                                      | 15                  | 0                            | 0          | 0            | 0                | 0                 | 15              | 0                 | 15                       |
| Columbus         | Shoreland Health Care & Retirement Center           | 10                             | 0                          | 0                                      | 10                  | -10                          | 0          | 0            | 0                | 0                 | 0               | 0                 | 0                        |
| Columbus         | Watertrook Assisted Living                          | 0                              | 0                          | 80                                     | 80                  | 0                            | 0          | 0            | 0                | 0                 | 80              | 0                 | 80                       |
| Columbus Totals  |   | 65                             | 0                          | 160                                    | 225                 | 0                            | 0          | 0            | 0                | 0                 | 225             | 0                 | 225                      |
| Craven           | Bayview Nursing and Rehabilitation                  | 20                             | 0                          | 0                                      | 20                  | 0                            | 0          | 0            | 0                | 0                 | 20              | 0                 | 20                       |
| Craven           | Cartridge Assisted Living Community                 | 0                              | 0                          | 108                                    | 108                 | 0                            | 0          | 0            | 0                | 0                 | 108             | 0                 | 108                      |
| Craven           | Croatan Village                                     | 0                              | 0                          | 72                                     | 72                  | 0                            | 0          | 0            | 0                | 0                 | 72              | 0                 | 72                       |







Table 11A: Inventory of Adult Care Homes (Assisted Living) Beds - Proposed 2013 Plan

| County     | Facility Name                                      | Licensed Beds in Nursing Homes | Licensed Beds in Hospitals | Licensed Beds in Adult Care Facilities | Total Licensed Beds | CON Approved/ACH Exempt | ACH License Pending Pipeline | CON Bed Transfer | Available in SMFP | Total Available | Sum of Exclusions | Total Planning Inventory |
|------------|--|--------------------------------|----------------------------|--|---------------------|-------------------------|------------------------------|------------------|-------------------|-----------------|-------------------|--------------------------|
| Cherokee   | Edenton House                                      | 0                              | 0                          | 60                                     | 60                  | 0                       | 0                            | 0                | 0                 | 60              | 0                 | 60                       |
| Cherokee   | Edenton Prime Time Retirement Village              | 0                              | 0                          | 20                                     | 20                  | 0                       | 0                            | 0                | 0                 | 20              | 0                 | 20                       |
| Cherokee   | Cherokee Valley/Peachtree Manor                    | 0                              | 0                          | 595                                    | 723                 | 0                       | 0                            | 0                | 0                 | 723             | 9                 | 714                      |
| Cherokee   | Murphy House                                       | 0                              | 0                          | 0                                      | 0                   | 0                       | 0                            | 0                | 0                 | 0               | 0                 | 0                        |
| Cherokee   | Cherokee Care Home #1                              | 0                              | 0                          | 12                                     | 12                  | 0                       | 0                            | 0                | 0                 | 12              | 0                 | 12                       |
| Cherokee   | Cherokee Care Home #2                              | 0                              | 0                          | 12                                     | 12                  | 0                       | 0                            | 0                | 0                 | 12              | 0                 | 12                       |
| Cherokee   | Cherokee Valley/Peachtree Manor                    | 0                              | 0                          | 0                                      | 0                   | 80                      | 0                            | 0                | 0                 | 80              | 0                 | 80                       |
| Cherokee   | Murphy House                                       | 0                              | 0                          | 0                                      | 0                   | 70                      | 0                            | 0                | 0                 | 70              | 0                 | 70                       |
| Cherokee   | Cherokee Totals                                    | 0                              | 0                          | 24                                     | 337                 | 28                      | 0                            | 0                | 0                 | 429             | 26                | 355                      |
| Chatham    | Edenton House                                      | 0                              | 0                          | 60                                     | 60                  | 0                       | 0                            | 0                | 0                 | 60              | 0                 | 60                       |
| Chatham    | Edenton Prime Time Retirement Village              | 0                              | 0                          | 60                                     | 60                  | 0                       | 0                            | 0                | 0                 | 60              | 0                 | 60                       |
| Chatham    | Chatham Totals                                     | 0                              | 0                          | 120                                    | 120                 | 0                       | 0                            | 0                | 0                 | 120             | 0                 | 120                      |
| Clay       | Clay County Care Center                            | 0                              | 0                          | 10                                     | 10                  | 0                       | 0                            | 0                | 0                 | 10              | 0                 | 10                       |
| Clay       | Hayesville House                                   | 0                              | 0                          | 60                                     | 60                  | 0                       | 0                            | 0                | 0                 | 60              | 0                 | 60                       |
| Clay       | Clay Totals  | 0                              | 0                          | 60                                     | 60                  | 0                       | 0                            | 0                | 0                 | 60              | 0                 | 60                       |
| Cleveland  | Carlton Assisted Living of Shelby                  | 0                              | 0                          | 96                                     | 96                  | 0                       | 0                            | 0                | 0                 | 96              | 0                 | 96                       |
| Cleveland  | Golden Years Rest Home                             | 0                              | 0                          | 12                                     | 12                  | 0                       | 0                            | 0                | 0                 | 12              | 0                 | 12                       |
| Cleveland  | Kings Mountain Care Center                         | 0                              | 0                          | 20                                     | 20                  | 0                       | 0                            | 0                | 0                 | 20              | 0                 | 20                       |
| Cleveland  | Openview Retirement Home                           | 0                              | 0                          | 24                                     | 24                  | 0                       | 0                            | 0                | 0                 | 24              | 0                 | 24                       |
| Cleveland  | Shelby Manor                                       | 0                              | 0                          | 74                                     | 74                  | 0                       | 0                            | 0                | 0                 | 74              | 0                 | 74                       |
| Cleveland  | Somerset Court of Shelby                           | 0                              | 0                          | 72                                     | 72                  | 0                       | 0                            | 0                | 0                 | 72              | 0                 | 72                       |
| Cleveland  | Starling House of Shelby                           | 0                              | 0                          | 60                                     | 60                  | 0                       | 0                            | 0                | 0                 | 60              | 0                 | 60                       |
| Cleveland  | Summit Place of Kings Mountain                     | 0                              | 0                          | 65                                     | 65                  | 0                       | 0                            | 0                | 0                 | 65              | 0                 | 65                       |
| Cleveland  | Cleveland Totals                                   | 0                              | 0                          | 423                                    | 423                 | 0                       | 0                            | 0                | 0                 | 423             | 0                 | 423                      |
| Columbus   | Lake Pointe Assisted Living                        | 0                              | 0                          | 80                                     | 80                  | 0                       | 0                            | 0                | 0                 | 80              | 0                 | 80                       |
| Columbus   | Liberty Commons Nursing & Rehab Center             | 0                              | 0                          | 40                                     | 40                  | 0                       | 0                            | 10               | 0                 | 50              | 0                 | 50                       |
| Columbus   | Premier Living and Rehab Center                    | 0                              | 0                          | 15                                     | 15                  | 0                       | 0                            | 0                | 0                 | 15              | 0                 | 15                       |
| Columbus   | Shoreland Health Care & Retirement Center          | 0                              | 0                          | 10                                     | 10                  | 0                       | 0                            | -10              | 0                 | 0               | 0                 | 0                        |
| Columbus   | Waterbrooke Assisted Living                        | 0                              | 0                          | 80                                     | 80                  | 0                       | 0                            | 0                | 0                 | 80              | 0                 | 80                       |
| Columbus   | Columbus Totals                                    | 0                              | 0                          | 160                                    | 225                 | 0                       | 0                            | 0                | 0                 | 225             | 0                 | 225                      |
| Craven     | Bayview Nursing and Rehabilitation                 | 0                              | 0                          | 20                                     | 20                  | 0                       | 0                            | 0                | 0                 | 20              | 0                 | 20                       |
| Craven     | Carebridge Assisted Living Community               | 0                              | 0                          | 108                                    | 108                 | 0                       | 0                            | 0                | 0                 | 108             | 0                 | 108                      |
| Craven     | Coastal Village                                    | 0                              | 0                          | 72                                     | 72                  | 0                       | 0                            | 0                | 0                 | 72              | 0                 | 72                       |
| Craven     | Good Shepherd Home for the Aged                    | 0                              | 0                          | 54                                     | 54                  | 0                       | 0                            | 0                | 0                 | 54              | 0                 | 54                       |
| Craven     | Homeplace of New Bern                              | 0                              | 0                          | 60                                     | 60                  | 0                       | 0                            | 0                | 0                 | 60              | 0                 | 60                       |
| Craven     | Riverpoint Crest Nursing and Rehabilitation Center | 0                              | 0                          | 18                                     | 18                  | 0                       | 0                            | 0                | 0                 | 18              | 0                 | 18                       |
| Craven     | Riverside  | 0                              | 0                          | 64                                     | 64                  | 0                       | 0                            | 0                | 0                 | 64              | 0                 | 64                       |
| Craven     | Sterling House of New Bern                         | 0                              | 0                          | 60                                     | 60                  | 0                       | 0                            | 0                | 0                 | 60              | 0                 | 60                       |
| Craven     | The Courtyards at Bern Village                     | 0                              | 0                          | 55                                     | 55                  | 0                       | 0                            | 0                | 0                 | 55              | 0                 | 55                       |
| Craven     | The Courtyards at Bern Village Memory Care         | 0                              | 0                          | 25                                     | 25                  | 0                       | 0                            | 0                | 0                 | 25              | 0                 | 25                       |
| Craven     | Water Oak Manor                                    | 0                              | 0                          | 100                                    | 100                 | 0                       | 0                            | 0                | 0                 | 100             | 0                 | 100                      |
| Craven     | Craven Totals                                      | 0                              | 0                          | 598                                    | 636                 | 0                       | 0                            | 0                | 0                 | 636             | 0                 | 636                      |
| Cumberland | Carlton Assisted Living of Fayetteville            | 0                              | 0                          | 96                                     | 96                  | 0                       | 0                            | 0                | 0                 | 96              | 0                 | 96                       |
| Cumberland | Carolina Inn at Village Green                      | 0                              | 0                          | 100                                    | 100                 | 0                       | 0                            | 0                | 0                 | 100             | 0                 | 100                      |
| Cumberland | Countryside Villa                                  | 0                              | 0                          | 80                                     | 80                  | 0                       | 0                            | 0                | 0                 | 80              | 0                 | 80                       |

