



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

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December 16, 2014

Charles E. Trefzger, Jr.
P.O. Box 2568
Hickory, NC 28603-2568

Exempt from Review – Acquisition of Facility

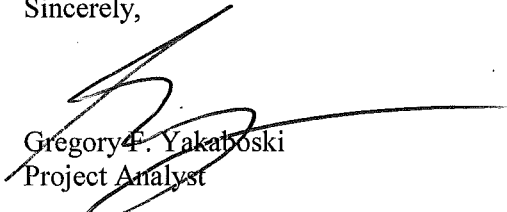
Facility: Ashe Gardens
Type of Facility: Adult Care Home
Acquisition by: JFC SOP I, LLC
County: Pender
FID #: 960526


Dear Mr. Trefzger, Jr.:

In response to your letter dated November 24th and received on December 1st, the above referenced proposal is exempt from certificate of need review in accordance with G.S 131E-184(a)(8). Therefore, JFC SOP 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,


Gregory F. Yakaboski
Project Analyst


Martha J. Frisone, Interim Chief
Certificate of Need Section

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



Certificate of Need Section

www.ncdhhs.gov

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

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704

An Equal Opportunity/ Affirmative Action Employer



JFC SOP I, LLC
Post Office Box 2568
Hickory, North Carolina 28603-2568

November 24, 2014



Mrs. Martha Frisone
Certificate of Need Section
Division of Health Service Regulation
Department of Health and Human Services
Dorothea Dix Hospital Campus
809 Ruggles Drive
Raleigh, NC 27603

Re: Exemption Notice for Ashe Gardens (Adult Care Home in Pender County)
Facility ID: 960526

Dear Mrs. Frisone:

JFC SOP I, LLC ("JFC SOP I") is planning to acquire an adult care home in Pender County, currently known as Ashe Gardens (hereafter "the Facility"). The Facility is located at 300 West Ashe Street in Burgaw, North Carolina. The Facility is listed in the "Inventory of Adult Care Home Beds" in the 2014 State Medical Facilities Plan as having 60 adult care home beds.

JFC SOP I, 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"). JFC SOP I 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 60 adult care beds.

I. THE PROPOSAL

As of this date, DePaul Adult Care Communities, 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(9)(b), and DePaul Adult Care Communities, Inc., is the Licensee. JFC SOP I, LLC will purchase the Facility, and the Licensee will be Burgaw Health Holdings, LLC. The Facility will still be known as Ashe Gardens Assisted Living.

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" 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

Mrs. Martha Frisone, Interim Chief
Certificate of Need Section
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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, the Licensee, Burgaw Health Holdings, LLC, will operate the Facility as an adult care home. Furthermore, JFC SOP I'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.

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 JFC SOP I, 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. If you require additional information to consider this request, please contact us at (828) 261-7318 as soon as possible. We thank you for your consideration of this request.

Sincerely,



Charles E. Trefzger, Jr.
Manager