



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

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February 5, 2014

Mr. Marcus C. Hewitt  
Williams Mullen  
301 Fayetteville Street, Suite 1700  
Raleigh, North Carolina 27601

**Exempt from Review – Acquisition of Facility**

Facility: Concord House  
Acquisition by: Acquisition of Concord House by Cabarrusco, LLC  
County: Cabarrus  
FID #: 960814

Dear Mr. Hewitt:

In response to your letter of January 22, 2014, the above referenced proposal is exempt from certificate of need review in accordance with G.S 131E-184(a)(8). Therefore, Cabarrusco, 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,

Gloria C. Hale  
Project Analyst

Martha J. Frisone, Interim Chief  
Certificate of Need Section

cc: Adult Care Licensure Section, DHSR  
Medical Facilities Planning 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

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# WILLIAMS MULLEN

Direct Dial: 919.981.4308  
mhewitt@williamsmullen.com

January 22, 2014

*Howa*



## VIA HAND DELIVERY

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

Re: Letter of Intent – Acquisition of Adult Care Home Facility  
Concord House, 2339 Odell School Road, Concord, Cabarrus County, NC  
Facility ID # 960814, License no. HAL-013-038

Dear Ms. Frisone,

We are writing pursuant to 10A NCAC 14C.0201 on behalf of Cabarrusco, LLC (“Cabarrusco”), which is a wholly-owned subsidiary of DCR Mortgage VI Sub II, LLC (“Lender”). We are writing to provide the Agency with notice of Cabarrusco’s planned acquisition of the above-referenced existing adult care home in Concord, Cabarrus County, North Carolina. The facility, Concord House (Facility ID # 960814, License No. HAL-013-038) (collectively “Facility”) is an existing, licensed 48-bed adult cares home currently owned by Clifford Hemingway (“Borrower”).

In or about April 2006 Borrower entered into certain loan documents with First Charter Bank (“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 the right to initiate a civil action and foreclose on the Facility. However, in lieu of Lender’s filing a foreclosure, Lender and Borrower have agreed that Borrower shall convey the Facility and substantially all assets used in or necessary for the operation the operation of the Facility to Cabarrusco.

It is our understanding that Raintree Healthcare of Concord, LLC (“Raintree”) is currently the licensed operator of the Facility. Following acquisition of the Facility by Lender, lender intends to allow Raintree to continue to operate the Facility.

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 Facility is an existing, licensed adult care home. Therefore the acquisition will not result in the development or establishment of a health service facility under subsection 131E-167(16)a. 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. Nor does the acquisition fall under any other category of new institutional health service.


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Martha Frisone  
January 22, 2014  
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Further, even if the acquisition of the Facility 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 an existing health service facility. 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 Facility by Cabarrusco.

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

Very truly yours,



Marcus C. Hewitt

cc: John W. Savage