

Kimberly T. Boike

Writer's Direct Line
(312) 855-6418

Writer's Email
kboike@chuhak.com

Thomas S. Chuhak
1920-1995
Joseph A. Tecson
Ret. 2007

Principals
John P. Adams
Jeralyn H. Baran
David J. Bloomberg
Steven P. Bloomberg
Kimberly Boike
Mark E. Broaddus
Stacey C. Bromberg
Edmond M. Burke
Carri A. Conlon
Francisco E. Connell

William F. DeYoung
Barry A. Feinberg
David J. Feinberg
Mitchell S. Feinberg
Cary S. Fleischer
Phyllis K. Franklin
Valerie J. Freireich
Gregory A. Frezados
Daniel J. Fumagalli
Ryan A. Haas
Joshua S. Hyman
Terrell J. Isselhard
Edwin I. Josephson
Arnold E. Karolewski
Loretto M. Kennedy
Lindsey P. Markus

Adam R. Moreland
Lisa A. Rothstein
Donald J. Russ, Jr.
Eileen M. Sethna
David B. Shiner
Sanjay Shivpuri
Mark A. Stang
Andrew P. Tecson
David J. Tecson
Molly A. Ward
Mitchell D. Weinstein
Anne M. Wolniakowski
Stephen A. Wood

Associates
Kara Allen

Sara L. Anaszewicz
Samantha L. Babcock
Adam K. Beattie
William P. Ellsworth
Michael A. Eunich
John K. Gerrity
Andrew L. Glubisz
Amy Grace
Slone P. Isselhard
Kathryn L. Kaler
Sarah K. Lash
Amanda E. Losquadro
Patricia C. O'Brien
Meredith C. Pike
Kevin R. Purtill
Joseph R. Santeler

Gina G. Santostefano
Terence G. Tiu
Jacquelyn Vengal

General Counsel
Dennis A. Ferraro

Of Counsel
Fred C. Begy, III
Lawrence E. Glick
James B. Gottlieb
Albert L. Grasso
Stephen M. Margolin
Joseph O. Rubinelli
Miriam R. Stein
J. Samuel Tenenbaum

April 14, 2014

RECEIVED

APR 15 2014

**HEALTH FACILITIES &
SERVICES REVIEW BOARD**

Illinois Health Facilities and Services Review
Board

Attention: Chairperson Olson

525 W. Jefferson St., Second Floor

Springfield, IL 62761

**Re: Transitional Care Center of Arlington Heights
Project 11-006**

Dear Chairperson Olson:

Please accept this letter as a request that the Illinois Health Facilities and Services Review Board (the "Board") investigate the allegations made during the public comment period of the February 20, 2014 Board meeting stating that Transitional Care Center of Arlington Heights (Project 11-006) failed to notify the Board in accordance with the Board's rules regarding an alteration to Project 11-006.

At the November 5, 2013 Board meeting, Mr. David Weiss, a representative of Transitional Care Center, made the following statements regarding Project 11-006 as set forth in the transcript from the November 5, 2013 Board meeting :

"We acquired the land back in May and immediately began construction, and that was originally targeted to be a HUD financing. And while we do a considerable amount of HUD financing -- in fact, have done well over a hundred of them -- the -- sometimes that process can be drawn out. **And in the case of Arlington Heights, we made the decision to just go ahead and fund with conventional bank financing.** And, ironically, I signed all the closing papers yesterday. And we actually began -- we began construction on that project almost immediately back in May when we closed on the land." (Page 93, Lines 8-18) (emphasis added).

Chairperson Olson
April 14, 2014
Page 2

“ So the -- it's really not a problem. It's a process. And the reason that I -- and the reason that I used Arlington Heights as an example certainly, **the HUD financing is a viable option**, and, essentially that is a qualification-oriented financing. You size the project to fit the parameters of HUD, and it is a -- it is a very, very reliable funding process. **That takes a long time. In the case of Arlington Heights, we made the decision that we did not want to wait for that process, and so we went to one of our core banking relationships, and we did it that way. We chose not to wait that -- for that process.**”
(Page 103, Lines 19-24; Page 104, Lines 1-7) (emphasis added).

The application and approval of Project 11-006 was based on Transitional Care Center of Arlington Heights obtaining HUD financing for the project. As evidenced by the above statements, Transitional Care Center of Arlington Heights changed to conventional financing without notifying the Board.

Section 1130.140 of the Board Rules defines an alteration as “any revision or change to a project as detailed in the application that occurs after HFSRB issuance of the permit. A completed project cannot be altered.” The nature of the financing for a project is detailed in the application. Accordingly, a change to such financing that occurs after the issuance of a permit constitutes an alteration.

Section 1130.750 of the Board Rules states that “proposed alterations that are not cited under these two categories require only written notification to HFSRB prior to execution of the alteration.” A change in type of financing is not one of the proposed alterations under the two categories, and accordingly requires written notification to the Board.

Section 1130.750 of the Board Rules further states: “any change after issuance of a permit may constitute an alteration. All alterations shall be reported to HFSRB **before** any alteration is executed.” (emphasis added)

Pursuant to Section 1130.750 of the Board Rules, Transitional Care Center of Arlington Heights was required to notify the Board in writing of any alteration to the project.

Any alteration undertaken without prior notice to the Board or notice and approval (when required) shall be considered a violation of the Act and/or subsection (a)(1) of Section 1130.750 of the Board Rules and shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act (see 20 ILCS 3960/14.1) and in Section 1130.790.

Based on the foregoing, we respectfully request that the Board investigate this matter and take any action the Board deems appropriate in order to ensure compliance with the Board Rules.

Chairperson Olson
April 14, 2014
Page 3

In addition to the foregoing issue, we respectfully request that the Board deny Transitional Care Center of Arlington Heights' second request for a permit renewal. The original permit was issued to Transitional Care Center of Arlington Heights on June 28, 2011. Almost 3 years have elapsed since the project was originally approved and no significant progress has been made on the project. In their second renewal request, Transitional Care Center of Arlington Heights states that only 15.3% of the project has been completed to date. In addition to the lack of progress on the project, such an extensive amount of time has elapsed since the initial approval, that the project is no longer needed in the Arlington Heights community.

On July 23, 2012, over a year after the Transitional Care Center of Arlington Heights project was approved, the Board approved Project 12-025, which authorized Lutheran Home for the Aged, Inc. to modernize its existing long-term care facility, which included the construction of a new, state-of-the art short-term rehabilitation wing featuring 78 all-private rooms. The new short-term rehabilitation wing is anticipated to open this summer, less than two years after the Board approved the project. The Lutheran Home project will provide the exact same services that Transitional Care Center of Arlington Heights proposed to provide in its initial application. Accordingly, given the extensive period of time that has elapsed since Transitional Care Center of Arlington Heights first received approval, the market for short-term rehabilitation services has dramatically changed with the opening of the Lutheran Home's new facility and the Transitional Care Center of Arlington Heights project is no longer needed in the community.

As further support that the Transitional Care Center of Arlington Heights project is no longer needed, many other facilities within a 30 minute drive time of the proposed site for the project do not meet the Board's standard for 90% occupancy. When Transitional Care Center of Arlington Heights' original application was considered by the Board, the occupancy data in the State staff report was based on the 2009 IDPH LTC profiles. The IDPH LTC profiles have since been updated and reflect that many facilities within the relevant area are not at target occupancy.

For these reasons, we respectfully request that the Board deny Transitional Care Center of Arlington Heights' second request for a permit renewal.

Sincerely,



Kimberly T. Boike

KTB:jmp