Honorable Mayor
Domingo F. Vargas

RECEIVED
SEP 09 2019
HEALTH FACILITIES &
SERVICES REVIEW BOARD

September 6, 2019

VIA UPS and EMAIL
Ms. Courtney Avery, Administrator
Illinois Health Facilities and Services Review Board
525 West Jefferson Street, Second Floor
Springfield, IL 62761-0001

Ms. Karen Senger, RN, BSN
Division Chief
Division of Health Care Facilities and Programs
Illinois Department of Public Health
525 West Jefferson, Fourth Floor
Springfield, IL 62761-0001

RE: Exemption Application of MetroSouth (E-024-19)

Dear Ms. Avery and Ms. Senger:

This letter is to formalize as a complaint, the concerns raised in the August 29, 2019 correspondence to the Health Facilities and Services Review Board. Specifically, the City has been informed that MetroSouth has begun the discontinuation of various categories of service in violation of the requirements to first obtain a permit. This conduct, if true, would constitute a violation of HFSRB regulations, specifically 77 Ill. Admin. Code 1130.525(a) ("Prior to any person discontinuing a health care facility or category of service, the person shall submit an application for exemption to the HFSRB, submit the required application-processing fee (see Section 1130.230), and receive approval from HFSRB."); See also 77 Ill. Admin. Code 1130.790(d)(6).

More importantly, if there is a violation and the HFSRB has notified the facility of the violation, pursuant to 77 Ill. Admin. Code 1130.790(e) this provides a basis to defer consideration of a project. ("If an individual or entity has failed to comply with the Act or HFSRB rules and has been notified by HFSRB about an allegation of noncompliance, this ***shall provide a basis for HFSRB to defer consideration of any and all applications, rulings, or advisory opinions filed before HFSRB until the noncompliant matter is resolved***.") (emphasis added).

City Hall, Office of the Mayor
13051 Greenwood Ave.
Blue Island, IL 60406

Phone 708-396-7011
Fax 708-396-1221
www.Blueisland.org

Honorable Mayor
Domingo F. Vargas

There are multiple ways in which this issue could be addressed, but the City sincerely believes this issue must be addressed. Please consider the following:

- The Illinois Department of Public Health has the authority to investigate this issue;

- The HFSRB could ask that our local health department or other governmental agency assist in this investigation.

  Section 7 of the Planning Act specifically provides that the "Administrator or the Chairman of the State Board may request the cooperation of county and multiple-county health departments, municipal boards of health, and other governmental and nongovernmental agencies in obtaining information and in conducting investigations relating to applications for permits." 20 ILCS 3960/7.

- There could be a request of the applicant to provide clarification of this issue. Depending on the timing and sufficiency of any response from the Applicant (obviously a simple denial would not be sufficient) the government could then determine whether verification was necessary.

The Board and IDPH have broad authority here. Pursuant to Section 14.1(a) of the Act, "The State Board may deny an application for a permit or may revoke ***or take other action as permitted by this Act with regard to a permit*** as the State Board deems appropriate, including the imposition of fines as set forth in this Section…." (emphasis added). The City is not suggesting that this application should be denied if there is an infraction, although that ultimate question would rest with the Board, but the City strongly believes that the process should be slowed down sufficiently to allow for a meaningful assessment of this issue. The timing for closure desired by the applicant is not what should drive these decisions, it should be whether or not the government has the information it deems sufficient for adherence to its process.

The Board's authority can be invoked for any one or a combination of circumstances, including:

- Pursuant to Subsection 14.(1)(a)(3), "the violation of any provision of this Act or any rule adopted under this Act;" or

- Subsection 14.1(a)(4) addresses "The failure, by any person subject to this Act, to provide information requested by the State Board or Agency within 30 days after a formal written request for the information.

City Hall, Office of the Mayor
13051 Greenwood Ave.
Blue Island, IL 60406

Phone 708-396-7011
Fax 708-396-1221
www.Blueisland.org

Honorable Mayor
Domingo F. Vargas

The City understands that, absent identifying another path agreeable to the applicant, that the closure of this facility under the Board's rules (despite having since been amended) may be unavoidable. However, that does not divest the Board of its authority or obligation to ensure its rules are followed and that the Board members believe they have the sufficient information to protect the public. An applicant being deemed complete means that the minimum threshold of information has been provided - it does not mean that the Board or its staff do not want (and certainly that they do not have the authority to request) additional information.

Therefore, the City would implore you to look into these issues and, if necessary, take the requisite steps to create the space and provide the public comfort that the government looked into every aspect necessary to perform its duty and protect the public interest. The City can ask no more, but would hope for no less.

Respectfully submitted,

Domingo F. Vargas

Mayor Domingo F. Vargas

Cc: Governor JB Pritzker

Deputy Governor Sol Flores

City Hall, Office of the Mayor
13051 Greenwood Ave.
Blue Island, IL 60406

Phone 708-396-7011
Fax 708-396-1221
www.Blueisland.org