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HEALTH FACILITIES &
SERVICES REVIEW BOARD

November 24, 2014

VIA FEDERAL EXPRESS DELIVERY

Ms. Courtney Avery
Administrator
Illinois Health Facilities and
Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, IL 62761

Re: Project No. 14-043, St. Elizabeth's Hospital, O'Fallon

Attorney General's Inquiry of City of Belleville

Dear Ms. Avery:

Please include in the above project file the attached letter from the Office of the Attorney General to the City of Belleville regarding the City's refusal to comply with a Freedom of Information Act ("FOIA") request from Ms. Clare Ranalli on behalf of St. Elizabeth's Hospital in connection with public allegations the City has made about St. Elizabeth's replacement hospital project. As noted in the letter, the Attorney General office has "determined that further inquiry is warranted" regarding the City's conduct.

The City has for months publicly averred that St. Elizabeth's project would have an adverse economic impact on Belleville and has also stated that St. Elizabeth's relocation would result in the hospital serving a different patient population. The City has never provided supporting evidence of these claims and, consequently, Ms. Ranalli submitted a FOIA request to the City on September 5, 2014 for any information regarding these two assertions, among other requests. The City admitted that it possessed responsive documents relating to these two specific requests, but refused to produce them. Ms. Ranalli made several attempts over the following months to work with the City to obtain the information but was repeatedly stonewalled. Even after Ms. Ranalli advised the City that St. Elizabeth's would have to seek assistance from the Office of the Attorney General to obtain the documents if they were not voluntarily produced, the City continued to withhold the information. St. Elizabeth's then asked me to seek the involvement of the Attorney General's office in obtaining compliance with the FOIA request.

The City acknowledges that it possesses information on economic impact and patient population yet continues withholding it even as the end of the project's written-comment period approaches. While it is common practice for private opponents of CON projects to file eleventh-

hour objections at the end of the written comment period in order to impair an applicant's ability to timely respond, it is startling to see a public body subject to FOIA apparently employing this same tactic even to the extent of refusing to comply with its statutory obligations under the Freedom of Information Act.

Given the above, I respectfully request that if the City were to submit into St. Elizabeth's project file any information relating to either economic impact on the City or the patient population to be served, the Review Board consider that such information should have been produced to St. Elizabeth's well over a month ago and that the City's refusal to produce that information has resulted in a formal inquiry by the Office of the Attorney General as to why that information was not previously produced.

Very truly yours,

BARNES & THORNBURG LLP

Daniel J. Lawler

DJL:dp
Enclosure

cc: Clare Ranalli, McDermott, Will & Emery
Susan Beeler, Project Manager, St. Elizabeth's Hospital
J. Nicole Lewer-Holst, Southern Illinois Division & HSHS Associate General Counsel

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 20, 2014

Ms. Jennifer Starnes
City Clerk's Office
City of Belleville
101 South Illinois Street
Belleville, Illinois 62221

Re: FOIA Request for Review – 2014 PAC 32181

Dear Ms. Starnes:

Pursuant to section 9.5(a) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(a) (West 2012)), the Public Access Bureau has received a Request for Review of the response by the City of Belleville (City) to a FOIA request submitted by Mr. Clare Connor Ranalli. Enclosed for your information is a copy of the Request for Review.

On September 5, 2014, Ms. Ranalli submitted a FOIA request to the City seeking records concerning the Belleville Memorial Hospital project and St. Elizabeth Hospital replacement project. The City responded on September 22, 2014, providing some responsive records, but withholding certain documents pursuant to 7(1)(l) and 7(1)(m) of FOIA (5 ILCS 140/7(1)(l), (1)(m) (West 2013 Supp.), as amended by Public Act 98-695, effective July 3, 2014). Mr. Daniel J. Lawler submitted a Request for Review on behalf of Ms. Ranalli as her co-counsel, disputing the denial of her request, specifically those records concerning the economic impact of St. Elizabeth's relocation from Bellville and records concerning the City's statements that St. Elizabeth's relocation would result in the hospital serving a different patient population.

We have determined that further inquiry is warranted. Please provide a detailed explanation of the factual and legal bases for the asserted sections of FOIA, along with unredacted copies of a representative sample of the records in question for our confidential review.

As required under section 9.5(c) of FOIA (5 ILCS 140/9.5(c) (West 2012)), please provide this information to our office within seven (7) business days after receipt of this letter. As we review this matter, we will advise you if we require additional information. If you

believe that other documents or information would help us as we review these issues, you may submit additional records or affidavits with the requested information.

Please note that, under FOIA, we are required to forward a copy of any response from a public body to the requester and provide the requester with an opportunity to reply. 5 ILCS 140/9.5(d) (West 2012). The Act provides, however, that "[t]o the extent that records or documents produced by a public body contain information that is claimed to be exempt from disclosure under Section 7 of [the] Act, the Public Access Counselor shall not further disclose that information." 5 ILCS 140/9.5(c) (West 2012). The Act also requires that we redact "any alleged confidential information to which the request pertains" when providing a copy of your written response to the requester (5 ILCS 140/9.5(d) (West 2012)). **If your response contains information or documents you believe are confidential, you must clearly identify that specific information in your response.**

Please contact me at (217) 782-1699 or at the Springfield address provided at the bottom of the first page if you have questions or would like to discuss this matter. Thank you.

Very truly yours,

BENJAMIN REED
Assistant Attorney General
Public Access Bureau

Enclosure

cc: *Via electronic mail*
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