Constantino, Mike

From: Morado2, Juan (DPH)
Sent: Friday, May 13, 2016 3:52 PM
To: Constantino, Mike; Roate, George
Cc: Avery, Courtney; Mitchell, Jeannie
Subject: FW: Project #15-044: Documentation of Technical Assistance

For the project file.

Juan Morado Jr.
General Counsel and Ethics Officer
Health Facilities and Services Review Board
69 West Washington Street Suite 3500
Chicago, IL 60602
Office- 312.814.2678
Email- juan.morado2@illinois.gov

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From: Morado2, Juan (DPH)
Sent: Friday, May 13, 2016 3:51 PM
To: 'Lawler, Daniel'
Cc: John Kniery (JKniery@foleyandassociates.com); Charles Foley (CFoley@foleyandassociates.com); Mitchell, Jeannie; Avery, Courtney
Subject: RE: Project #15-044: Documentation of Technical Assistance

Dan,

Thank you for providing this documentation of our meeting. I wanted to address a few of the questions you raised during our meeting.

Processing of application following intent to deny

- We anticipate that this application will be placed on the June agenda for consideration by the HFSRB. Thank you for responding to the Board's request for additional information on April 28, 2016.

Rule Requirements

- 1125.210(c)- Facilities providing a general long-term nursing care service should operate those beds at a minimum annual average occupancy of 90% or higher
    - The Board and staff have traditionally interpreted this rule to require that long term care facilities meet a utilization target of 90% to justify that there is a need for a new facility in a particular planning area. As you know, there is no one criteria that is more important than another. If an applicant does not meet a particular criteria the Board may still approve an application after considering the totality of the project. The 90% utilization targets provides our review process with a barometer to measure the current needs of a planning area.

- 1125.570- There are 5 separate parts to this criteria. We plan on documenting in the State Board Staff Report each of the 5 parts and will describe whether or not an applicant meets each part of the criteria or even addresses it.

- 1125.580 – Both (c)(1) and (c)(2) are requirements. Thus, an applicant must show that it will not lower utilization of other area providers below the occupancy standards (90%) for facilities that are operating at target occupancy. An applicant must also show that its project will not lower, to a further extent, the utilization of other area facilities that are operating below the target occupancy.

Board Staff Request for Information

- You specifically asked about #8 in our April 25, 2016 letter requesting additional information from your client. You noted that it would be difficult to assure that the facility will maintain Medicare and Medicaid certification no matter the owner. You assured us that your client planned on operating the facility for a long time and while he was the owner he would maintain these certifications. We agree that it would be difficult to document such a request. We believe that the most efficient way of addressing this concern should the Board maintain it would be with a condition on the permit itself.

Thank you again for responding to the Board's request for information. If you should have additional questions please feel free to call me.

Best ,

Juan

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From: Lawler, Daniel [mailto:Daniel.Lawler@btlaw.com]
Sent: Friday, April 29, 2016 12:45 PM
To: Morado2, Juan (DPH)
Cc: John Kniery (JKniery@foleyandassociates.com); Charles Foley (CFoley@foleyandassociates.com)
Subject: RE: Project #15-044: Documentation of Technical Assistance

To correct the date below, he meeting was on April 27, 2016.

Dan

Daniel J. Lawler | Partner
Direct 312-214-4861

BARNES & THORNBURG LLP

From: Lawler, Daniel
Sent: Friday, April 29, 2016 12:43 PM
To: Juan Morado (Juan.Morado2@illinois.gov)
Cc: John Kniery (JKniery@foleyandassociates.com); Charles Foley (CFoley@foleyandassociates.com)
Subject: Project #15-044: Documentation of Technical Assistance

Dear Mr. Morado,

This email is to document the technical assistance meeting on the above project on April 27, 2015 at the IHFSRB offices at 69 West Washington Street in Chicago. Present were Mr. Gerry Jenich, Mr. John Kniery, Mr. Charles Foley and me on behalf of the applicant, and Ms. Courtney Avery, Ms. Jeannie Mitchell and you.

We sought technical assistance regarding processing of the application following the intent to deny, rule requirements and the staff's letter request for additional information. Thank you for meeting with us to provide technical and procedural guidance on these matters.

Dan Lawler

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