

June 2, 2020

VIA E-MAIL

Mike Constantino
Senior Project Reviewer
Health Facilities and Services Review Board
Illinois Department of Public Health
525 West Jefferson Street, Second Floor
Springfield, Illinois 62761

**Re: Mercyhealth Hospital and Medical Center and Medical Office Building
Project#17-001 and #17-002**

Dear Mr. Constantino:

As you know we represent Mercy Health Corporation ("Mercyhealth") in relation to Project #17-001 and #17-002, Mercyhealth Hospital and Medical Center and Medical Office Building. Mercyhealth received a letter on December 18, 2019 from you on behalf of the Illinois Health Facilities and Services Review Board ("HFSRB") detailing post-permit reporting requirements for the aforementioned projects. We appreciate the follow up from Board relative to the reporting obligations and wanted to confirm the financial commitment requirements for these projects.

These two projects were approved by the HFSRB on June 20, 2017, and on July 25, 2017, a summons (enclosed) for an administrative review was filed challenging the approval of these two projects. The administrative review case has taken a considerable amount of time and only recently on March 25, 2020, did the Supreme Court of Illinois issue an order (enclosed) denying the petition for leave to appeal the decision of the Appellate Court, which subsequently ruled in favor of Mercyhealth and upheld the Board's decision to approve these projects. The Appellate Court then issued its mandate to the Circuit Court (enclosed) on May 5, 2020, ordering the reversal of the Circuit Court's decision which overturned the HFSRB decision approving the project, thereby affirming and reinstating the Board's approval of the projects. The May 5, 2020 mandate marked the conclusion of the administrative review case.

We are writing to confirm that pursuant to Ill. Admin. Code Section 1130.710(a)(2) the financial commitment requirements for these two projects has been stayed throughout the pendency of the administrative review. This section of the HFSRB administrative rules states that: *"The financial commitment period shall be extended for any project for which issuance of a permit has been contested and is in administrative review. the financial commitment period will be extended by the length of time equal to the number of days from the date a summons was received until the date of final disposition of the suit."* This section of the administrative rules appears to be applicable to these projects as they were contested in an administrative review

May 20, 2020

Page 2

case. As such, the financial commitment period should be extended by the length of time equal to the number of day from the date of summons (March 25, 2017) until the date of the final disposition of the suit (May 5, 2020). In this case, the resolution of this matter took one thousand one hundred and thirty seven (1,137) days.

Given that, the financial commitment period should be extended by 1,137 days for these two projects. The original financial commitment date was June 20, 2019. Per Ill. Admin. Code Section 1130.710 (a)(2), the new financial commitment date for the projects should be June 16, 2023. Additionally, if necessary, Mercyhealth should be permitted the opportunity to file an extension of financial commitment in advance of the June 16, 2023 for a one year extension as contemplated under Ill. Admin. Code Section 1130.730.

We do agree that the Mercyhealth is obligated under Ill. Admin. Code Section 1130.760 to file annual progress reports every June 20 until the projects are completed. Additionally, we agree that unless the projects can be completed by November 30, 2020, under Ill. Admin. Code Section 1130.740 a permit renewal request must be filed in advance of that date. Finally, in the event any alterations are required for these projects, Mercyhealth will file such requests in accordance with Ill. Admin. Code Section 1130.750.

It is our hope that you can confirm our interpretation of the Board's rules and the new financial commitment filing dates for these projects. If you have any questions or need any additional information regarding the projects, please feel free to contact me via phone at 312-212-4967 or via email at JMorado@beneschlaw.com. You can also contact my colleague, Mark J. Silberman by phone at 312-212-4967 or via email at MSilberman@beneschlaw.com with any questions.

Very truly yours,

BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP

A handwritten signature in black ink, appearing to read "Juan Morado Jr.", with a stylized flourish at the end.

Juan Morado Jr.

Enclosures

cc: Courtney Avery, Board Administrator
Rukhaya Alikhan, General Counsel