

NEW YORK
state department of
HEALTH

Nirav R. Shah, M.D., M.P.H.
Commissioner

Sue Kelly
Executive Deputy Commissioner

June 5, 2013

See Distribution List

Re: New York State Department of Health *State Environmental Quality Review (SEQR)* Lead Agency Request for the Jewish Home Lifecare, Manhattan *Replacement Nursing Facility Project*, Borough of Manhattan, New York County, New York–CON Project #121075 C

Dear _____:

The New York State Department of Health (“NYSDOH”) has received a request from Jewish Home Lifecare, Manhattan (“JHL, Manhattan”) to construct a replacement nursing facility (the “Proposed Project”). For purposes of *State Environmental Quality Review (“SEQR”)*, the Proposed Action would consist of NYSDOH’s approval of a construction application filed pursuant to Section 2802 of the *Public Health Law (“PHL”)* that would consist of JHL, Manhattan’s plan to rebuild its Manhattan Division, which is currently located at 120 West 106th Street in the borough of Manhattan, New York County, New York, at a new location at 125 West 97th Street (the “Project Site”) in Manhattan’s Upper West Side neighborhood. The Proposed Project would result in the construction of a new 414-bed skilled nursing facility in a single, newly-constructed building on the Project Site with private- and semi-private rooms, replacing the 514 existing, mostly semi-private beds currently located in several older buildings in JHL, Manhattan’s existing nursing facility. This would represent a reduction in the NYSDOH-certified bed complement of 100 beds.

More specifically, the Proposed Project would redevelop an existing, approximately 31,804-square-foot (“sf”), 88-space, surface, accessory parking lot located on the Project Site (Block 1852, Lot 5) with a new, 20-story (plus cellar floor), approximately 376,000-gross-square-foot (“gsf”) building. Users of the existing parking lot would receive alternative nearby parking. The proposed building would have three access areas, including: (1) a public pedestrian entrance on West 97th Street with access to the reception, main lobby, and resident and family areas for residents, visitors, staff, and the general public; (2) a public vehicular entrance on the north side of the building to the same areas via a covered, semi-circular driveway for patient drop-off and pick-up, including ambulette and taxi access, utilizing the existing driveway along the eastern end of the Project Site for access from West 97th Street and West 100th Street; and (3) loading and service access on West 97th Street. The ground-floor level would include an approximately 8,700-gsf, publicly-accessible open space along the west side of the Project Site, of which about 1,850 gsf would be covered by the building above.

The Proposed Project would include 414 beds, with 264 long-term-care beds located on the 9th floor through the 19th floor. Each floor would house 24 beds in two “Green House” homes, complete with living and dining areas, a kitchen, private bedrooms and bathrooms with showers, and staff support areas. Another 150 subacute (short-term rehabilitation) beds would be located on the 4th floor through the 8th floor, along with community dining and decentralized therapy and activity space. The remaining floors would contain shared common areas, administrative offices, and service and support areas. The building would have one cellar level and one mechanical story, and would include an approximately 1,950-gsf rooftop garden for JHL, Manhattan residents and their visitors. The proposed building would be up to approximately 280 feet in height.

Construction of the Proposed Project is expected to begin in 2014 and would last approximately 31 months. It is expected that construction would be completed in a single phase and that occupants would move into the new facility over the course of 10 months. The Proposed Project would add approximately 625 full-time-equivalent (“FTE”) employees to the Project Site.

JHL, Manhattan is a member of Jewish Home Lifecare System (the “System”), which operates a geographically diverse continuum of services for the elderly and disabled in the New York metropolitan area, covering the counties of Manhattan, the Bronx, and Westchester. The System serves nearly 11,000 individuals per year. The existing nursing facility, located at 120 West 106th Street, is in outdated buildings constructed between 1898 and 1964, which are at the end of their useful lives and operate at 65 percent efficiency. The existing facility presents physical challenges that negatively impact residents’ quality of life, mobility, privacy, and independence; the buildings are antiquated and require major infrastructure replacement.

JHL, Manhattan’s Proposed Project would result in a vitally needed new nursing facility of 414 beds on the Project Site, and would permanently decertify 100 beds from the current complement of 514. This plan, which is a culmination of over seven years of collaboration with the NYSDOH, would enable JHL, Manhattan to continue serving the Manhattan market and to maintain viability. The proposed facility would provide an innovative model of care (the “Green House model”) where elders could maintain a sense of home through a person-centered care model. The new facility would be groundbreaking as the first true urban Green House model to be developed in New York City and State and one of the first nationwide. The facility would also accommodate the significant shift that is occurring from long-term care to short-stay, post-acute rehabilitation needs, with 36 percent subacute beds. The Proposed Project would be a state-of-the-art and an efficiently-designed facility that would fully support JHL’s goals in terms of a family-focused, person-centered, and staff-supported model of care.

Under the provisions of the *New York State Environmental Quality Review Act* (“*SEQRA*”), NYSDOH, as the only identified agency with a discretionary *SEQR* action, proposes to designate itself as lead agency and conduct a *SEQR* review among involved and interested agencies. NYSDOH has made a preliminary determination that the Proposed Project is a Type I action as specifically designated by 6 *N.Y.C.R.R.* 617.4(b)(6)(v) and 10 *N.Y.C.R.R.* Part 97.14(b)(1)(v) and may have a significant impact on the environment; and a *Positive Declaration Notice of Intent to Prepare a Draft Environmental Impact Statement* (“*DEIS*”)

Determination of Significance will be issued.¹ Unless a written objection is submitted to NYSDOH within 30 days of the mailing of this notification, NYSDOH will presume its assumption of the lead agency role for the Proposed Project is affirmed.

Enclosed is a copy of an *Environmental Assessment Statement* (“EAS”) and supporting documentation, as well as a *Distribution List of Involved Agencies and Interested Parties* to whom this letter has been sent. Should you have any written *SEQR* questions or comments, please submit them to: **Mr. Charles P. Abel, Acting Director, Division of Health Facility Planning, New York State Department of Health, Room 1805, Corning Tower, Empire State Plaza, Albany, New York 12237** or by e-mail at dhfpdivoffice@health.state.ny.us.

Sincerely,



Charles P. Abel
Acting Director
Division of Health Facility Planning

Enclosures (2)

cc: Nirav R. Shah, M.D., M.P.H. (NYSDOH)
Karen S. Westervelt (NYSDOH)
Mary T. Callahan (NYSDOH)
Thomas J. King (NYSDOH)
James E. Dering (NYSDOH)
Robert G. Schmidt (NYSDOH)

¹ The DEIS will focus on the significant environmental impacts associated with the Proposed Project. It is the intention of JHL, Manhattan to sell its existing facility upon completion of the replacement nursing facility. The redevelopment of that facility is subject to a separate environmental review being conducted by the New York City Planning Commission (“CPC”). It should be noted that the DEIS will not address environmental impacts that may be associated with the sale, reuse or redevelopment of the extant JHL, Manhattan facility. Review of these two independent development projects separately does not constitute segmentation under *SEQR*. The State of New York Supreme Court, Appellate Division, Third Department, found that “... contractual contingencies, standing alone, do not create a geographic or environmental interrelationship between . . . two projects.” (*See Friends of the Stanford Home v. Town of Niskayuna*, 50 A.D.3d 1289, 857 N.Y.S.2d 249 [3rd Dept. 2008] and 50 A.D.3d at 1291.) More specifically, they accommodate a practical consideration which would apply to a transaction no matter where a new or replacement facility would be constructed. The two locations/projects have entirely different and separate purposes, different project sponsors, and different approvals and approving agencies. The projects are also located over 10 blocks apart in a major metropolitan area; have independent utility; and are not part of a common design. Hence, a contractual link between these otherwise independent actions would not be sufficient to establish that they are part of an overall development plan that would require cumulative review. (*See Friends of the Stanford Home*, 50 A.D.3d at 1291.)

Additionally, the two actions do not meet the basic test for what constitutes segmentation under *SEQR*: (a) there is no common purpose or goal for each segment, (b) each segment will not be completed at or about the same time, (c) there is no common geographic location involved, (d) the activities being considered for segmentation do not share a common impact that may, if the activities are reviewed as one project, result in a potentially significant adverse impact, even if the impacts of single activities are not necessarily significant by themselves, (e) the different segments will not be under the same or common ownership or control, (f) they are not part of a common identifiable plan, (g) they are functionally independent, and (h) the approval of one phase or segment does not commit the agency to approve other phases. Indeed, in this case, NYSDOH has no approval authority over the redevelopment of the extant JHL, Manhattan facility, and CPC has no discretionary approvals relating to the Proposed Project.

**NEW YORK STATE DEPARTMENT OF HEALTH
STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)**

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*JEWISH HOME LIFECARE, MANHATTAN
REPLACEMENT NURSING FACILITY PROJECT***

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STATE ENVIRONMENTAL QUALITY REVIEW (SEQR)**

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