



**Department
of Health**

Westchester Meadows CCRC Bankruptcy

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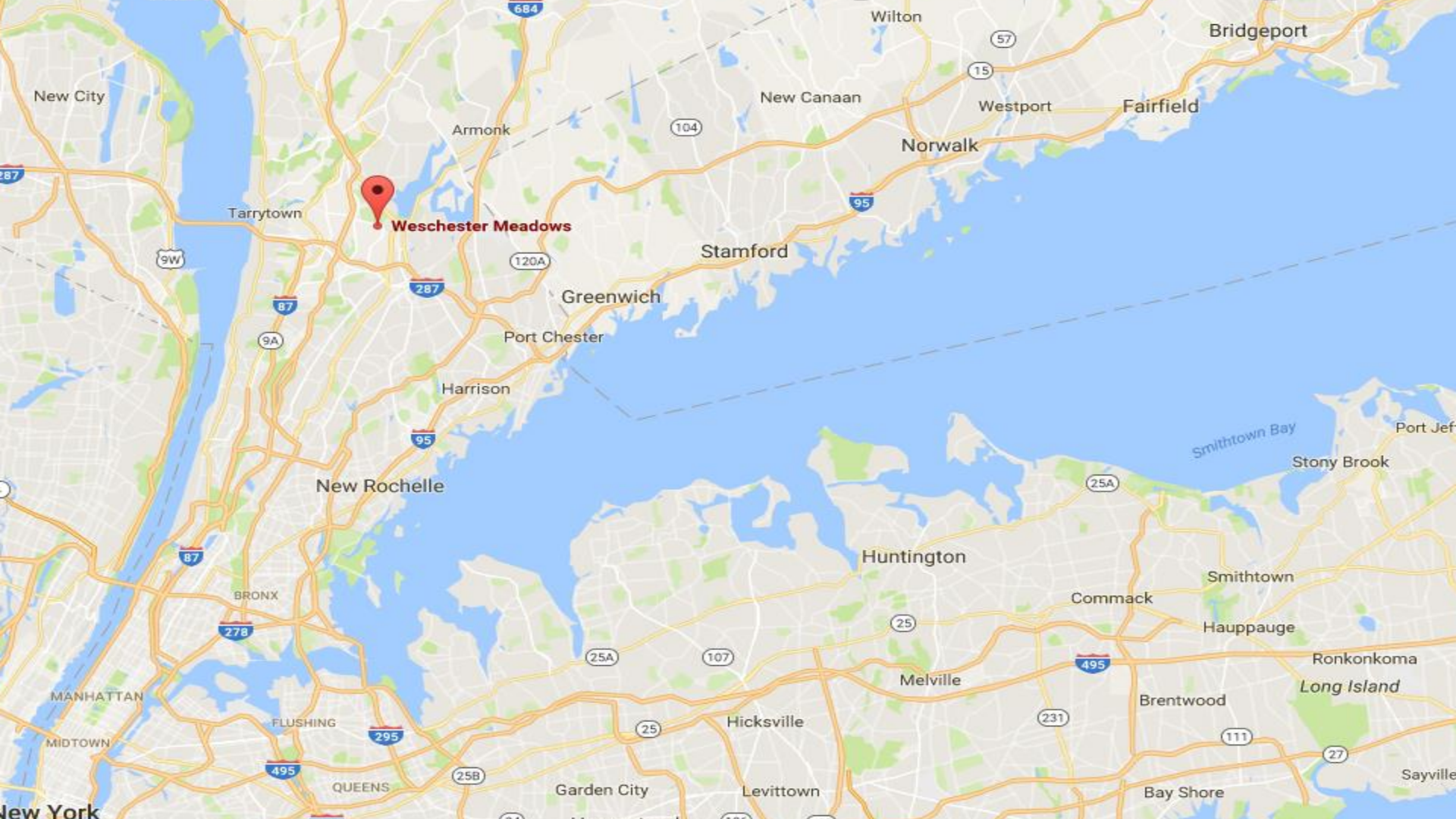
**Director, Nursing Home Licensure and
Certification & CCRC Programs**

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Background on the CCRC

Westchester Meadows CCRC facts

- Located in Westchester County
- A not for profit CCRC
- Licensed to operate 120 ILUs, 12 Enriched Housing units, and 20 Skilled Nursing Home beds
- Has 75 out of 120 ILU under contract (62.5% occupancy)
- Has 90 residents in ILUs (includes spouses), 3 in enriched housing, and 9 in long-term care SNF beds
- Occupancy has been an issue over time and operations required financial support from parent organization



Westchester Meadows

Westchester Meadows CCRC facts (cont.)

- Part of a larger health care organization Hebrew Hospital Home which at one time also included:
 - a managed long-term care plan (MLTCP)
 - home care services: certified home health agency (CHHA), licensed home care services agency (LHCSA)
 - a skilled nursing facility (SNF)
- Sold or spun off operations of the MLTCP, SNF, CHHA and LHCSA which in essence left the CCRC as the sole operational entity within the organizational structure

Filing of Bankruptcy

Westchester Meadows CCRC Bankruptcy

The initial plan of Hebrew Hospital Home (HHH) was to use the proceeds from the sale of health care operations (SNF, MLTCP, LHCSA and CHHA) to fund CCRC operations and revitalize the community.

In May 2015 a group of creditors filed an involuntary chapter 11 bankruptcy proceeding against the HHH MLTCP entity for which HHH was still liable for debt.

Westchester Meadows CCRC Bankruptcy

A June 2015 joint meeting of the HHH affiliated entity Boards was held to discuss financial matters. The Board of Hebrew Hospital Senior Housing, Inc (operating entity of Westchester Meadows) was advised of the lack of cash resources to fund CCRC operations and possibility of a bankruptcy filing.

It is the Departments understanding that based on this meeting the Board decided to halt entering into new residency agreements at the CCRC and stop paying entrance fee refunds due.

Westchester Meadows CCRC Bankruptcy

On July 13, 2015 a letter was distributed to residents of Westchester Meadows CCRC detailing financial issues and the need to sell the CCRC through a Chapter 11 Bankruptcy process. The letter also informed residents that the CCRC was suspending the sale of new units and payment of resident entrance fee refunds.

The CCRC was placed into bankruptcy on December 9, 2015.

Bankruptcy Sale Process

Westchester Meadows CCRC Bankruptcy

The initial plan was for the CCRC to solicit the sale of the facility by identifying a stalking horse bidder to act as a floor for a bankruptcy auction.

A stalking horse bidder is an entity that signs an asset purchase agreement with the CCRC that is approved by the bankruptcy court. The stalking horse is guaranteed certain protections which include a breakup fee should they not be awarded the winning bid in auction.

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While the bankruptcy was in process the CCRC started running low on operating funds and requested the Court approve debtor in possession (DIP) financing. The Court approved limited DIP funding that would allow the CCRC to fund operations through the end of September 2016.

The Court determined that the matter needed to be resolved prior to September 30 and additional DIP financing would not be approved by the Court.

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The CCRC could not reach an agreement with a stalking horse bidder and in the interest of time the Court approved a bankruptcy sale process without a stalking horse. A bid due date and auction date were set.

In July 2016 two bids were submitted: one to continue the facility as a CCRC, the other to convert the property to senior housing. Based on the difference in the bids the auction was cancelled and a hearing was held.

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Prior to the hearing on the sale, the two bidders were allowed to present their proposals to the residents of the CCRC.

The bidders were allowed to change their proposals to address questions and concerns raised by the residents.

Residents were allowed to express a preference for a proposal by casting a ballot after the presentations.

Details of Bids Filed

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Focus Healthcare Partners

A Chicago based for-profit senior housing owner that proposed to convert the property into senior housing.

- Current residents receive 100% of entrance fee refunds due to be paid towards a rental deposit at the new facility or towards alternative care placement.
- Future long-term health care to be provided at another facility under an insurance policy for current ILU residents.
- Monthly rates stay the same for existing ILU residents.

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- Health facility required to close and residents must be relocated to an unaffiliated alternative placement to be paid for from entrance fee refunds.
- Offer to buy bankruptcy claims of prior residents who are still owed entrance fee refunds, subject to Court approval.
- This proposal would not require state regulatory approval. Court stated it would not require AG approval. DOH, DFS and CCRC Council action not required for proposal.
- Closure plans for Enriched Housing and Skilled Nursing required for safe and orderly placement of residents

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Bethel Methodist Home

A not-for-profit licensed long-term care provider in Westchester County that operates Assisted Living, Skilled Nursing, and Independent Living facilities.

- Proposes to continue full CCRC operations with current residents seeing no change in monthly rates paid.
- Would require existing contracts to be revised to reduce short-term liability of entrance fee refunds.

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Westchester Meadows CCRC Bankruptcy

- Would restore financial reserves to regulatory requirements over time.
- Would request a 7 year waiver of the restriction on outside admissions to the health facility.
- Transfer of licenses to Bethel would be subject to DOH, DFS, PHHPC, and CCRC Council approval.
- Current debt will be discharged through bankruptcy proceedings with the facility and revised resident contracts transferred to Bethel at closing.

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With the Bethel proposal, Westchester Meadows CCRC would be required to obtain a revision to existing resident contracts that would restate the entrance fee refund at a lower amount and assign the balance as a conditional payment to residents at some future date should certain financial indicators be met.

Previous residents or their estates currently owed entrance fee refunds would be subject to bankruptcy proceedings as unsecured creditors.

The Bankruptcy Court Ruling

Westchester Meadows CCRC Bankruptcy

The Court conducted hearings in mid-August of 2016 to hear testimony from all parties and to weigh the facts and evidence presented in the case.

The debtor (Westchester Meadows) and a majority of current residents expressed preference for the Bethel proposal. Representatives for the creditors expressed a preference for the Focus proposal.

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On August 22, 2016 the judge presiding over the Bankruptcy case ruled awarding the winning bid to Bethel. The judge further found that the assets would be transferred to Bethel free and clear of liabilities. Liabilities of the debtor would be discharged through the bankruptcy process in exchange for the \$16.1 million purchase price to be paid by Bethel.

Bethel would assume the rights of all licenses through a change in ownership. Bethel would also assume the assignment of revised resident contracts for current residents.

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The judge ruled the Asset Purchase Agreement (APA) must be executed with a closing by October 31, 2016. At that time Bethel would officially assume full operational control.

Since the CCRC was set to run out of money by September 30, the sale order includes a provision for Bethel to pay up to \$200,000 in operating losses for the month of October.

The ruling noted the need and requirement for Bethel to obtain the statutory approvals for transfer of the CCRC operations by October 31, 2016.



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Submission requirements to obtain regulatory approvals to assume control of CCRC operations:

- A Certificate of Authority application to DOH as outlined in PHL 4604 and 10 NYCRR 900.3. DOH will determine if the requirements for approval have been met as defined under 10 NYCRR 900.4, and if so make a recommendation to the Council for a formal vote.

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- A Certificate of Need for the Article 28 skilled nursing facility license transfer. DOH must review and make a recommendation to the Public Health and Health Planning Council (PHHPC) for a formal vote.
- A Certificate of Need for the Article 7 enriched housing license transfer. DOH must review and approve the application.

Next Steps

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Per the Asset Purchase Agreement, Westchester Meadows CCRC must renegotiate the terms of current resident contracts by September 26, 2016. The revised residency agreements must be approved by DOH prior to presentation to the current residents.

The revised contracts will become effective upon transfer of ownership to Bethel Methodist Home. Bethel has the right to assume the contracts under the sale order of the Bankruptcy Court.

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Applications need to be filed, reviewed and approved.

- Application for change in the Article 46 Certificate of Authority would need to be presented and approved by the Council at a October 26, 2016 meeting.
- Application for change in the Article 28 Skilled Nursing Facility Operating Certificate would need to be presented and approved by the PHHPC at its October 6, 2016 meeting.
- Application for the change in the Article 7 Enriched Housing License would need to be reviewed and approved by DOH prior to October 31, 2016.

Questions?