



**Application:
Bethel Methodist Home**

CCRC Type: Article 46

County: Westchester

Purpose: To establish Bethel Methodist Home as the operator of a CCRC at the current location of Westchester Meadows CCRC

Executive Summary

The Bethel Methodist Home, a New York not-for-profit corporation, requests approval to be established as the new operator of the Westchester Meadows CCRC campus located at 55 Grasslands Road, Valhalla (Westchester County). The CCRC campus includes 120 independent living units, ten (10) enriched housing units, and twenty (20) skilled nursing beds. The skilled nursing facility also operates a 35-slot Adult Day Health Care Program (ADHCP) on the CCRC campus. Upon approval of this application, the applicant will operate the new CCRC campus under the name The Knolls, a Bethel Community.

Hebrew Hospital Senior Housing, Inc., the operator of Westchester Meadows CCRC, filed a voluntary petition for reorganization under Chapter 11 of the Bankruptcy Code on December 9, 2015. Based on the expressed preference of a majority of the current CCRC residents and a resolution of the Board of Hebrew Hospital Senior Housing, Inc., the Bankruptcy Court ruled that Bethel Methodist Home would have purchase rights to the CCRC. The Bethel Methodist Home (Buyer) and the Hebrew Hospital Senior Housing, Inc. entered into the Asset Purchase Agreement (APA) contingent upon the "Final Order" from the Bankruptcy Court for the Southern District of New York, Manhattan Division (Case 15-13264-MEW). Per the Court Order of Sale, as of the Closing, the transfer of the assets to the Buyer will be legal, valid, and free and clear of all liens, claims, rights, liabilities, and encumbrances. As part of the Order the Buyer will assume revised residency agreements of the current residents of the CCRC. The final executed version of the APA will reflect a purchase price for the CCRC's assets, inclusive of the licensed health care beds, of \$16,114,000.

Bethel Methodist Home will continue to provide contracted health care services to current CCRC residents under revised residency agreements. The agreements, type A and type B, were revised by Westchester Meadows to mitigate the liability of the guaranteed refundable entrance fee while preserving health care services. The CCRC will offer Type B and Type C residency agreements once the new Certificate of Authority has been obtained. The applicant's marketing study indicates there is opportunity in the market to support the products to be offered and demonstrated that the CCRC can be financially feasible under the assumptions presented. Two significant assumptions presented in the applicant's proposal are: Bethel Methodist Home's ability to manage and operate the CCRC at an annual operational savings of at least \$2 million costs; and revised current CCRC residency agreements, passed through to Bethel Methodist Home in the bankruptcy process, that significantly reduce the guaranteed amount of entrance fee refunds due which diminishes dependency on the timing of projected increases of occupancy at the CCRC.

The application as submitted addresses how the proposed CCRC will operate in compliance with Article 46 of Public Health Law and associated regulations.

Recommendation

This application meets the requirements for approval as set forth in 10 NYCRR 900.4, therefore Contingent Approval is recommended.

Review

Program Review

	Existing	Proposed
CCRC Name	Westchester Meadows CCRC	The Knolls, A Bethel Community
Address	55 Grasslands Road Valhalla, NY 10595	Same
Independent Living Units	120	Same
Enriched Housing Units	10	Same
Skilled Nursing beds	20	Same
ADHC Program Capacity	35	Same
Class of Operator	Not-for-profit Corporation	Not-for-profit Corporation
Operator	Hebrew Hospital Senior Housing Inc.	The Bethel Methodist Home <u>Board of Directors:</u> James Holden, Jr. Chairman Robert W. Elliot Vice-Chairman Andrew Samalin Treasurer James J. Campbell Rev. Dr. John E. Carrington Rev. Kevan Thomas Hitch Catherine Wissner, MD <u>Sole Corporate Member (passive)</u> BMH, Inc.

On December 9, 2015, Hebrew Hospital Senior Housing, Inc. filed a voluntary petition for reorganization under Chapter 11 of the Bankruptcy Code. The Court Order of The United States Bankruptcy Court for the Southern District of New York, filed on August 19, 2016, authorized the sale of the CCRC to The Bethel Methodist Home, or its designee, subject to the terms of a draft Asset Purchase Agreement (APA) dated as of August 11, 2016. The Court based their decision on the expressed preference of a majority of the current CCRC residents and a resolution of the Board of Hebrew Hospital Senior Housing, Inc. The Bethel Methodist Home and the Hebrew Hospital Senior Housing, Inc. entered into the APA contingent upon the "Final Order" from the Bankruptcy Court for the Southern District of New York, Manhattan Division (Case 15-13264-MEW). Per the Court Order of Sale, as of the Closing, the transfer of the assets to the Buyer will be legal, valid, and free and clear of all liens, claims, rights, liabilities, and encumbrances.

This application seeks to establish Bethel Methodist Home as the operator of a Public Health Law Article 46 CCRC located on the campus of Westchester Meadows CCRC with the assets obtained through the Court Order. Westchester Meadows CCRC is a Public Health Law Article 46 facility that contains 120 independent living units, 10 enriched housing units and 20 skilled nursing beds. The skilled nursing license also contains a 35 slot Adult Day Health Care Program (ADHCP) that operates on the campus. The CCRC will be operated under the name The Knolls, A Bethel Community. Bethel Methodist Home is

one of six affiliated New York corporations that provide a continuum of care to seniors in Westchester County which collectively operate two RHCs with a total of 243 beds, two ADHCPs with a total of 45 slots, a 150 patient capacity LTHHCP, 50 independent senior living apartments (IL), a 125-bed assisted living Enriched Housing Program (EH), an eight-bed inpatient hospice in partnership with Phelps Memorial Hospital, a Respite Care program, and a Licensed Home Care Services Agency. Bethel Methodist Home does not propose a change to the makeup of the campus through this transaction. However, they do plan to invest \$6 million in capital expenditures to enhance the appearance of the facility and improve the quality of life for the residents.

As part of the Court Order of Sale, the Buyer will assume revised residency agreements of the current residents of the CCRC. Bethel Methodist Home will continue to provide contracted health care services to current CCRC residents under revised residency agreements. The agreements, type A and type B, were revised by Westchester Meadows to mitigate the liability of the guaranteed refundable entrance fee while preserving health care services. The revised agreements were subject to current residents signing an addendum to the current Westchester Meadows Residency Agreement. At the time of this report, 88% of eligible current CCRC residents have signed addendum to their residency agreements. The CCRC will offer Type B and Type C residency agreements once the new Certificate of Authority has been obtained. The new contract offerings will be:

Type B – 90% Refundable
Type C – 90% Refundable

Type B – Declining Balance
Type C – Declining Balance

Contract pricing will include entrance fees ranging from mid \$200,000s to mid \$600,000s with monthly fees from the low \$3,000s to low \$6,000s. Per diem fee-for-service health care rates are in line with the average monthly rates for similar type levels of care in the County. Services to be provided as part of the residency agreement include: access to exercise center and swimming pool, weekly linen service, 1 meal per day, home health services covered under Medicare, weekly housekeeping and annual heavy cleaning, maintenance of the apartment, utilities including television but excluding telephone services, optional activities, access to physician services, prescription drugs and rehabilitation services, local limited transportation, parking, access to private dining room, and on-site parking. In addition, Type B contracts will include in the monthly fee the cost of 60 days of care in enriched housing and 60 days of care in skilled nursing, not including any care covered by Medicare.

Independent Living units on the campus range in size. There are 56 one bedroom apartments which are less than 1,000 square feet and 64 two bedroom apartments that are over 1,000 square feet. The 10 enriched housing units average 377 square feet and the 20 skilled nursing beds average 277 square feet. All 20 skilled nursing beds are in single bedded rooms.

As part of this application, Bethel Methodist Home has requested approval under 10 NYCRR 900.8(b)&(c) to allow the CCRC to provide, for a period of seven years, skilled nursing and enriched housing services to persons who are not residents of the community. This request is being made to allow the proposed operator to maximize revenue through utilization of a resource that would otherwise be vacant due to the initial vacancies in Independent Living Units. As apartment occupancy increases, the CCRC health care beds will revert back to use by CCRC residents. It is expected that the operator will oversee the occupancy of the health care beds to ensure that these services are available to CCRC residents should they need them.

Bethel Methodist Home plans to transfer the Adult Day Health Care Program (ADHCP) to the license of an affiliated entity, Bethel Nursing and Rehabilitation Center. The ADHCP will continue to remain in its current location on the CCRC campus. ADHCP services are not traditionally offered to CCRC residents and are not a required service for CCRC residents. This transfer will mitigate any financial risk to the CCRC from the ADHCP operations.

Bethel Methodist Home will enter into a Memorandum of Understanding (MOU) with 1199SEIU who represents the unionized workforce at the CCRC. The MOU will extend the Bethel contract with 1199SEIU to union employees at the CCRC. Bethel Methodist Home does not plan on retaining the services of the current management team, choosing instead to draw from its existing long term care management experience to assist in operations at the CCRC.

Conclusion:

The program to be operated as proposed in this application will meet the approval requirements for a CCRC as set forth in 10 NYCRR 900.4(c)(1),(2),&(6).

Approval of this application will allow the CCRC to accept non-CCRC resident admissions to the Enriched Housing and Skilled Nursing beds for a period of up to 7 years as authorized under 10 NYCRR 900.8(b)&(c). A condition will be placed on this approval to require the operator to annually report to the Department of Health the projected CCRC resident need for Skilled Nursing and Enriched Housing Units, demonstrating that the need for these services will not be jeopardized through admission of non-residents.

A contingency will be placed on this approval to require the applicant to demonstrate that they will gain operational control of the enriched housing units and skilled nursing beds prior to closing. This contingency will act to ensure that the approval requirements under 10 NYCRR 900.4(b)(2)&(3) have been met.

Market Demand Review

Bethel Methodist Home is proposing to operate the CCRC under the current configuration operated by Westchester Meadows CCRC; 120 Independent Living apartments, 10 enriched housing units and 20 skilled nursing beds. The current configuration has 4 ILUs for each long term care bed. This 4:1 ratio is acceptable within the industry.

Westchester Meadows CCRC achieved a level of stable occupancy after opening in 2002. The downturn in the housing market and aging of existing residents caused a decline in occupancy starting in 2008. In response the CCRC began to reprice units in an attempt to increase sales, with little success. They also discontinued offering type A life care contracts. This application proposes to reprice the Type B contracts and offer Type C fee-for-service contracts. The current available units are outlined in the chart below.

Type	Total #	VACANT UNITS	Square Footage
Apartment Residences			
One-Bedroom (Bayberry)	24	18	701
One-Bedroom w/ Den (Elmwood)	32	9	879
Two-Bedroom (Hawthorne)	32	9	1,047
Two-Bedroom Deluxe/Bay (Whitney)	8	3	1,146
Two-Bedroom Deluxe (Montgomery)	8	4	1,173
Two-Bedroom Deluxe (Knollwood)	8	3	1,320
Two-Bedroom w/ Den (Winthrop)	8	2	1,589
Apartment	120	48	

As demonstrated above, 40% of the current units are unoccupied. The highest number of these, 18, are the smallest apartments available at the lowest price point. In fact, 27 of the 48 available apartments are under 1,000 square feet and offered at the lowest priced units. The availability of lower priced units may allow the applicant to penetrate a portion of the market that may be underserved.

There are only two other CCRC models in the immediate market; Kendal on Hudson and The Osborne. Kendal on Hudson is a Public Health Law Article 46 regulated CCRC that offers Type A and Type B contracts, but is primarily a Type A contract CCRC. The Osborne is a CCRC that is exempt from Article 46 regulations and offers only Type C contracts. Bethel's CCRC is not expected to directly compete with the two existing CCRCs in the immediate market based on the available units, contract types offered, and proposed price points.

The appeal of the CCRC should be improved after the planned capital investment is made which should aid marketing efforts. The new management with brand name recognition, combined with an updated look should allow the CCRC to achieve sales levels to support the projected fill up of the community. It would be reasonable to assume that a level of sales can be achieved under the model proposed that would support a growth in ILU occupancy. The projections in the application of an average net increase of 1.3 units per month are not unreasonable, but may be hampered if a high rate of attrition occurs in the first few years. The demographics of the market as presented in the applicant's Strategic Positioning Analysis support that there is adequate opportunity in the market to support sales that will allow the CCRC to reach a stabilized occupancy rate of 92% at some point in the future.

Conclusion:

The CCRC is sized appropriately with available units that should be attractive to potential residents at the price points and contract types offered. There appears to be opportunity in the market to support sales levels that could eventually lead to stable occupancy. Therefore, the applicant has demonstrated that the proposed CCRC will meet the requirements for approval as set forth in 10 NYCRR 900.4(c)(1)&(6).

Character and Competence Review

A. Character and Competence – Background

- Facilities Reviewed

Note: as per 10 NYCRR 900.4(d)(1), health care operations are reviewed for the past 10 years as shown below.

Nursing Homes

Bethel Methodist Home	09/2006 to present
Bethel Nursing Home	09/2006 to present
Bethel Nursing and Rehabilitation Center	09/2006 to present

Hospital

NY Methodist Hospital	09/2006 to 01/2012
-----------------------	--------------------

Enriched Housing Program

Living Independently for the Elderly	09/2006 to present
--------------------------------------	--------------------

- Individual Background Review

James Holden, Jr. is a practicing attorney at the firm of Holden Brothers, PC, since June 1975. Mr. Holden has a license in good standing, and discloses that he has served on the boards of the following nursing related corporations:

Bethel Methodist Home	01/1985 to present
Bethel Nursing Home	01/1985 to present
Bethel Nursing and Rehabilitation Center	01/1985 to present
Living Independently for the Elderly	01/1985 to present

Robert Elliott works as a consultant. Mr. Elliott was employed by the New York Department of State from 2007 to 2009. Mr. Elliott discloses that he serves on the boards of the following nursing related corporations:

Bethel Methodist Home	01/2000 to present
Bethel Nursing Home	01/2000 to present
Bethel Nursing and Rehabilitation Center	01/2000 to present
Living Independently for the Elderly	01/2000 to present

Catherine Wissner, MD has been working as Consulting Physician at Industrial Medicine Associates in White Plains since 2007. Dr. Wissner has a physician license in good standing. Dr. Wissner discloses that she serves on the boards of the following nursing related corporations:

Bethel Methodist Home	01/2011 to present
Bethel Nursing Home	01/2011 to present
Bethel Nursing and Rehabilitation Center	01/2011 to present

Andrew Samalin is a principal in the investment management firm Samalin Investment Counsel, LLC, since 2007. Mr. Samalin indicates he is a Certified Financial Planner by the CFP Board of Standards and a stockbroker certified by the FINRA Series 7 and 63 licensing exams. Mr. Samalin is also certified as an enrolled agent in the IRS which permits him to represent taxpayers before the IRS. Mr. Samalin discloses that he serves on the boards of the following nursing related corporations:

Bethel Methodist Home	01/2007 to present
Bethel Nursing Home	01/2007 to present
Bethel Nursing and Rehabilitation Center	01/2007 to present
Living Independently for the Elderly	01/2007 to present

Reverend John Carrington is a retired minister, with his most recent employment as interim pastor at Brooks Memorial United Methodist Church, and previously Commack United Methodist Church in 2008, and Grace United Methodist Church. Rev. Carrington discloses he serves on the boards of the following health related corporations:

Bethel Methodist Home	01/2007 to present
Bethel Nursing Home	01/2007 to present
Brooklyn Methodist Home	01/2002 to 01/2012
NY Methodist Hospital	01/2002 to 01/2012

Reverend Kevan Thomas Hitch is a minister currently serving as pastor of Valhalla United Methodist Church. Rev. Thomas discloses he serves on the board of the nursing related corporation:

Bethel Methodist Home	01/2006 to present
-----------------------	--------------------

B. Character and Competence - Analysis

All health care facilities are in substantial compliance with all rules and regulations. No negative information has been received concerning the character and competence of the proposed applicants.

Bethel Methodist Home, a New York State 501(c)(3) nonprofit corporation, will be the operator of the CCRC, with BMH, Inc. as the passive parent. BMH, Inc. is the passive parent of six affiliated New York corporations that provide a continuum of care to seniors in Westchester County. Five of the corporations are voluntary not-for-profits that collectively operate two RHCs with a total of 243 beds, two ADHCPs with a total of 45 slots, a 150 patient capacity LTHHCP, 50 independent senior living apartments (IL), a 125-bed assisted living Enriched Housing Program (EH), an eight-bed inpatient hospice in partnership with Phelps Memorial Hospital, a Respite Care program and a Licensed Home Care Services Agency. A sixth for-profit entity that provides supplemental nursing services is also an affiliate. These six corporate entities, collectively referred to as The Bethel Homes, are located in Ossining and Croton-on-Hudson, and currently serve over 400 seniors. Bethel Methodist Home provides management and administrative services to all subsidiaries of BMH, Inc. Revenue for Bethel Methodist Home is generated by charging related entities monthly management fees for services provided.

Bethel Methodist Home previously operated a skilled nursing facility that is no longer licensed or operational. No enforcement history exists for the 10 year review period.

A review of operations for Bethel Nursing Home for the 10 year review period reveals the following:

- The facility was fined \$12,000 pursuant to a Stipulation and Order NH-12-02 issued January 17, 2012 for surveillance findings on December 17, 2010. Deficiencies were found under 10 NYCRR 415.11(c)(2)(i-iii) Right to Participate Planning Care Revise CP and 10 NYCRR 415.12(h)(1)(2) Quality of Care: Accident Hazards and Supervision.

A review of operations for Bethel Nursing Home for the 10 year review period results in a conclusion of a consistent pattern of compliance since an acceptable plan of correction was implemented which resulted in compliance.

A review of operations for Bethel Nursing and Rehabilitation Center for the 10 year review period reveals the following:

- The facility was fined \$2,000 pursuant to a Stipulation and Order NH-08-02 issued January 3, 2008 for surveillance findings on August 30, 2006 and January 30, 2007. Deficiencies were found under 10 NYCRR 415.12(h)(2) Quality of Care: Accidents and 10 NYCRR 415.12(c)(1)&(2) Quality of Care: Pressure Sores.

A review of operations for Bethel Nursing and Rehabilitation Center for the 10 year review period results in a conclusion of a consistent pattern of compliance since an acceptable plan of correction was implemented which resulted in compliance.

A review of operations for Living Independently for the Elderly for 10 year review period results in a conclusion of a consistent pattern of compliance since there were no enforcements.

A review of operations for NY Methodist Hospital for the 10 year review period reveals the following:

- The facility was fined \$6,000 pursuant to a Stipulation and Order 07-08H issued April 2, 2007 for surveillance findings on December 22, 2006, related to the care of a newborn infant.

A review of operations for NY Methodist Hospital for the 10 year review period results in a conclusion of a consistent pattern of compliance since an acceptable plan of correction was implemented which resulted in compliance.

C. Character and Competence - Conclusion

This application meets the requirements for approval on Character and Competence as set forth in 10 NYCRR 900.4(c)(3)&(d).

Financial Review

The acquisition price to be paid for the CCRC assets, pursuant to the Court Order for Sale, is \$16,114,000. However, to accommodate funding for necessary physical plant capital expenditures, operating reserve requirements, working capital needs, and cost of issuance (legal and other fees), the total proposed funding for the CCRC project is \$30,435,000 to be financed as follows:

- \$2,000,000 via equity by The Bethel Methodist Home;
- \$28,685,000 from 2016 revenue bonds comprised of the following:
 - \$14,810,000 Series A, tax-exempt, 7% fixed rate, 30-year term and 36-months interest only;
 - \$4,675,000 Series B taxable, 7.5% fixed rate, 30-year term and 36-months interest only; and
 - \$9,200,000 Series C taxable, 6.5% fixed rate, 7-year term with repayment from a sweep of days cash on hand in excess of 200 days quarterly.

The proposed project term sheet identifies Cross Point Capital LLC as the underwriter, Hamlin Capital Management LLC as the bond purchaser, Hamlin Capital Advisors, LLC as a special purpose financial advisor, and Westchester County Local Development Corporation as issuer of the bonds.

The applicant states that the funds will be used as follows:

- \$16,114,000 to acquire the assets of Westchester Meadows CCRC;
- \$6,000,000 for capital expenditures (held in a trustee account for approved purposes);
- \$884,000 for working capital (the CCRC is currently operating at a deficit);

- \$3,088,336 for Capitalized Interest Fund through July 1, 2018 (to cover interest expense);
- \$500,000 for a liquid reserve fund that the New York State Department of Financial Services requires;
- \$1,897,000 to cover the cost of issuance (various legal fees, issuance fees and advisor costs); and
- \$2,202,000 debt service reserve fund (required by bond purchaser).

The \$2,000,000 equity contribution from Bethel Methodist Home is expected to be funded by collecting from the over \$4 million in related party receivables, the majority coming from Bethel Nursing Home's repayment on an approximately \$3 million receivable to The Bethel Methodist Home. It should be noted that a contingency has been placed on the Public Health and Health Planning Council approval of the Article 28 Skilled Nursing License transfer requiring DOH approval of documentation verifying the source of funding for the contribution.

The applicant maintains that the financial projections set forth in the application are conservative and the \$884,000 in working capital may not have to be accessed in full. Bethel expects that they may be able to achieve significant financial efficiencies upon assuming operations. A reduction of up to \$2 million in operating expenses may be achieved post transaction related to: (a) the rejection of certain contracts for services, such as dining and maintenance, (b) overhead allocation adjustments due to new ownership structure, and (c) property taxes/PILOT payments. These efficiencies may allow the CCRC to approach operational break even without a significant increase in occupancy and could possibly achieve operational break even at 70% occupancy, or a net increase of 12 occupied units. Should these efficiencies not be achieved, the \$884,000 in working capital would be drawn upon to fund operating deficits incurred until revenues have increased with an increase in occupancy of Independent Living Units.

Bethel's overall business plan for the CCRC can be summarized as follows:

- Structure the acquisition conservatively so as to mitigate risk and promote long-term stability, which includes financial flexibility provided through the amended residency agreement of current CCRC residents.
- Reduce operating costs;
- Reposition the price points and contract options offered;
- Rebrand the campus under Bethel's reputation for providing quality services to the long term care community in the County;
- Invest heavily in marketing (at levels consistent with a start-up community);
- Invest in the physical plant;
- Reduce operating costs; and
- Enhance services offered to residents (meals program, wellness, etc.).

Bethel will be offering Type B and Type C residency agreements. The contracts and their pricing structure have been included as addendums to this exhibit. These contracts have positive margins, with the mix of contracts expected to be:

- 75% Type C Plan – 90% Refund
- 15% Type C Plan – Declining Balance
- 5% Type B Plan – 90% Refund
- 5% Type B Plan – Declining Balance

Existing residents at Westchester Meadows will enter into an amended residency agreement prior to closing. The amendment will maintain all access to services, as well as the residents' healthcare benefit, per their existing residency agreement. Monthly service fees will remain consistent with the existing agreement as well. The amended terms will be related to the amounts owed to residents upon move-out and the structure of those payments (the "Refund"). Under the terms of the revised residency agreements, the Refund was revised to 7.5% of the current Refund owed. The remainder will be paid in two separate conditional payments:

- a) 67.5% of the current Refund owed will be paid upon achievement of the established financial targets (300 Days Cash on Hand and 1.35x Debt Service Coverage)

- b) 25% of the current Refund owed will be paid out of an interest bearing escrow account that will be established by Bethel. The escrow account will be funded through annual payments of up to \$500,000 from any operating surplus incurred by the CCRC.

The two conditional payments above are not considered to be refunds as described in New York Public Health Law Section 4609. As such, the conditional payments are not guaranteed and are at risk for payment should the CCRC not achieve a pre-defined level of performance against financial indicators.

The applicant has requested approval to allow non-resident admissions to the Enriched Housing Units and Skilled Nursing beds for a seven-year period as allowed under 10 NYCRR 900.8(4). Admissions to these otherwise vacant health care beds will allow additional revenue to be realized by the CCRC and help offset operating expenses.

The applicant has requested through this application a regulatory consideration to allow the CCRC to come into compliance with the Statutory Operating Reserve Requirement by FY2020. The Reserve will be initially funded at \$500,000 and increased by 25% of the total requirement in each subsequent fiscal year.

Conclusion:

Based on the materials submitted and the assumptions used, this application as proposed meets the requirements for approval as set forth in 10 NYCRR 900.4(b)(1).

Recommendations

Office of Attorney General

This application does not require Office of Attorney General review for issuance of a Certificate of Authority as per Public Health Law 4604(4)(e) since no aspect of this community is an equity arrangement for independent living.

Department of Financial Services

The Department of Financial Services (DFS) recommends contingent approval based on a review of the financial feasibility study, actuarial study, initial fee structure, proposed initial disclosure statements, and residency agreements for new residents, as provided by Bethel. DFS notes, however, that the respective financial positions of Bethel, BMH, INC. (Parent), and certain affiliated entities are not strong. For a typical new CCRC application, DFS would want additional financial resources available, above the \$884,000 in working capital presented in these projections, to provide funding should the CCRC's fail to meet its projections. This would normally require additional capital to fund the CCRC's operations. Bethel stated that its assumption related to fill-up (to full/stable occupancy) of the CCRC is conservative based on the assumed pricing (entrance fees and monthly fees). DFS relies upon Bethel's statement in recommending this contingent approval. Based on the data presented in the certificate of authority (COA) application, the proposed community will operate in compliance with the financial requirements of New York State Public Health Law Article 46 and DFS Insurance Regulation 140 (11 NYCRR 350) (Insurance Regulation 140 or Regulation) as qualified below. The data presented in the COA application are Bethel's projections based on numerous assumptions and actual results may vary as events and circumstances occur. DFS makes its recommendation under its own assumption that all materials in the COA application are, to the best of the applicant's knowledge, accurate and represent a fair and complete portrayal of the information required for approval, and that all representations made by the applicant's advisors, whether oral or written, are complete and accurate.

Regulatory Consideration:

1. Bethel has committed to fund the minimum liquid reserves for operating expenses required pursuant to section 350.6 of Insurance Regulation 140 as follows. Initially, at the time of the closing of the transaction with Westchester Meadows CCRC, a reserve for operating expenses equal to at least 10% of the full reserve required by the Regulation will be held. On or before December 31, 2017, the

reserve held will increase to at least 25% of the full level. On or before December 31, 2018, the reserve held will increase to at least 50% of the full level. On or before December 31, 2019, the reserve held will increase to at least 75% of the full level. Finally, on or before December 31, 2020, the reserve held will increase to be in full compliance (100% or more) of the required level according to the Regulation. The assets held in support of these reserves will satisfy the requirements for eligible liquid assets that are described in section 350.6 of Insurance Regulation 140.

Approval contingent upon:

1. Bethel submitting the executed commitment regarding funding its minimum liquid reserves for operating expenses.
2. Submission of a copy of the "Final Order" from the Bankruptcy Court for the Southern District of New York (Case 15-13264-MEW), acceptable to DFS.
3. Submission of an executed asset purchase agreement, acceptable to DFS.
4. Submission of an administrative services agreement between the CCRC and Bethel Methodist Home, as well as any other administrative services agreements, consulting agreements, etc. that the CCRC will enter into, acceptable to DFS and the Department of Health.
5. Submission of documentation verifying the source of the required \$2 million equity contribution for the acquisition of the Article 46 Continuing Care Retirement Community, acceptable to DFS and the Department of Health. The CCRC cannot be responsible in any way for the repayment of any debt that the applicant or affiliated entities entered into to fund the equity contribution to the CCRC.
6. Submission of the following regarding the financing of the acquisition of the CCRC pursuant to the asset purchase agreement: final term sheet, Westchester County Local Development Corporation Resolution approving the issuance of the bonds, preliminary bond prospectus, bond covenants to be included in the proposed bonds, and all loan agreements.
7. Submission of acceptable responses to all outstanding DFS correspondence.
8. Submission of an updated financial feasibility study, acceptable to DFS.
9. Submission of an updated actuarial study, acceptable to DFS, should the study require revisions when final financing occurs.
10. Submission of a detailed breakdown of the approximately \$2 million of start-up costs that Bethel has indicated it has incurred, if such costs are going to be run through the books of the CCRC, acceptable to DFS and the Department of Health. In addition, submission of an explanation of where in the financial feasibility study and the sources and uses of funds statement such costs are reflected, if applicable.

Approval conditional upon:

1. Assets of the CCRC are not to be used to collateralize the debt of another entity.
2. On or before December 31, 2020, the minimum liquid reserves for operating expenses held will be in full compliance (100% or more) of the required level imposed by Insurance Regulation 140. The assets held in support of these reserves will satisfy the requirements for eligible liquid assets that are described in section 350.6 of Insurance Regulation 140.
3. The CCRC division of Bethel Methodist Home cannot pay the proposed \$500,000 management fee until detailed documentation supporting the appropriateness and reasonableness of such fee has been submitted for review and acceptance by DFS and the Department of Health.
4. The assets, liabilities, income, and expenses of the CCRC division must be accounted for separately from all other operations of Bethel Methodist Home. The CCRC division cannot pay expenses belonging to the other operations of Bethel Methodist Home or any affiliated entity. There can be no co-mingling of the CCRC division's funds with funds of any other Bethel Methodist Home division or entity.

Department of Health

The Department of Health has recommended contingent approval based on a review of the materials presented in this application. The material presented in the application indicates that the proposed community will operate in compliance with New York State Public Health Law Article 46 and associated regulations unless otherwise noted below. The Department makes its recommendation under the

assumption that all materials in the application are accurate and represent a fair and complete portrayal of information required for approval.

Regulatory Consideration:

1. Under the authority of Public Health Law 4605(2)(a)&(b) the Commissioner has the authority, with consultation of the CCRC Council, to allow a CCRC to provide, for a limited time, health care facility services to non-residents. Bethel Methodist Home, through approval of this application, will be authorized under 10 NYCRR 900.8(b)&(c) to admit non-residents to licensed enriched housing and skilled nursing beds at the CCRC for a period not to exceed seven (7) years. As a condition of this waiver the CCRC must demonstrate as part of its annual statement that it has the capacity to provide enriched housing services and skilled nursing facility services to CCRC residents and that non-resident admissions did not result in residents being placed outside the CCRC for enriched housing or skilled nursing services.
2. The CCRC is being granted temporary relief from 10 NYCRR 901.7 Reserves and Supporting assets. This regulatory consideration is conditional to Insurance Regulation 140 considerations as described in the Department of Financial Services section above. The DOH regulatory consideration will be in effect as long as the DFS regulatory considerations to Insurance Regulation 140 remain in effect and shall be considered automatically rescinded should DFS revoke or rescind the regulatory consideration to Insurance Regulation 140.

Approval contingent upon:

1. Bethel Methodist Home must obtain approval to take operational control of the Skilled Nursing and Enriched Housing beds through approval of certificate of need applications or through receivership agreements.
2. Bethel Methodist Home must submit the technical revisions to the application on file as indicated in correspondence from the Department of Health and Department of Financial Services. These revisions are technical in nature and do not impact the material as presented in this exhibit to the Council.
3. Submission of documentation supporting the final legal name to be used by the CCRC.
4. Proof of transfer of the \$2 million from Bethel Nursing Home to The Bethel Methodist Home.
5. Details and dollar breakout of the management fee to be charged to the CCRC by The Bethel Methodist Home.

Approval conditional upon:

1. Licensed skilled nursing and enriched housing beds will operate under the Article 46 Certificate of Authority (COA) and shall be surrendered should the COA be revoked, surrendered or invalidated in any way.
2. Adherence to the terms of regulatory considerations set forth as part of this approval.
3. Annual reporting to the Department of Health of the projected CCRC resident need for Skilled Nursing and Enriched Housing Units, demonstrating that the need for these services will not be jeopardized through admission of non-residents.
4. Monthly reporting to the Department of Health and Department of Financial Services as to the status of the following:
 - a. Increase/Decrease in ILU occupancy with details on contract type.
 - b. Performance against key financial indicators that will be used to pay conditional payments to current CCRC amended contracts assumed through bankruptcy proceedings.
 - c. List of conditional payment liabilities assumed, conditional payments made to date, net conditional payment liability due. This should be provided in detail for each Westchester Meadows CCRC contract assumed through bankruptcy proceedings.
 - d. Other enhanced reporting as deemed necessary to ensure compliance with the terms and conditions of this approval.
5. Department of Health and Department of Financial Services approval of any transfer of equity from Bethel Methodist Home to any related party organization. This includes the submission and Department of Health approval of any contracts with the CCRC that will result in payment to a related party or the establishment of a related party receivable.
6. Assets of the CCRC are not to be used to collateralize the debt of another entity.

7. A separate financial accounting will be maintained for CCRC operations with the expectation that all current Bethel Methodist Home non-CCRC operations will be moved to the passive parent, BMH, Inc. or some other affiliated entity.

Council Action Date

October 26, 2016

Attachments

- A. Strategic Positioning Analysis
- B. Financial Feasibility Analysis
- C. Actuarial Study
- D. 2015 Certified Financial Statements for The Bethel Methodist Home
- E. Organization Chart
- F. Price Sheets
- G. Proposed Residency Agreements, Disclosure Statement to the Residency Agreements, and Standard Information Sheet
- H. Addendum to Westchester Meadows CCRC Residency Agreement