

ML - Dept. of Health (NJ) v.

6/5/86

Jersey City

Certified statement of Kenneth M. Cowey,
President and CEO of Sisters of Sorrowful
Mother Senior Citizens Corporation + Sisters
of Sorrowful Mother Primary Care Corporation

P 10

ULL 000858V

FILED**JUN 16 1986**

EINHORN, HARRIS & PLATT
 A Professional Corporation
 Broadway at Second Avenue
 P. O. Box 541
 Denville, New Jersey 07834-0541
 (201) 627-7300

STEPHEN SKILLMAN, J.S.C.

Attorneys for Intervenors Sisters of the
 Sorrowful Mother Primary Care Corporation
 and Sisters of the Sorrowful Mother Senior
 Services Corporation

DEPARTMENT OF HEALTH, STATE OF	:	SUPERIOR COURT OF NEW JERSEY,
NEW JERSEY, et als.,	:	
	:	CHANCERY DIVISION
Plaintiffs	:	MORRIS COUNTY
	:	DOCKET NO. C 3447-67
vs.	:	
	:	Civil Action
CITY OF JERSEY CITY, et als.,	:	CERTIFIED STATEMENT OF
	:	KENNETH M. COUREY
Defendant	:	

1. I am the President and Chief Executive Officer of the Sisters of the Sorrowful Mother Senior Citizens Corporation (hereinafter "SSMSCC") and Sisters of the Sorrowful Mother Primary Care Corporation (hereinafter "SSMPCC"). These two Corporations are part of the Sisters of the Sorrowful Mother Health Care System -- the Sisters of the Sorrowful Mother being the Member of various corporations, including, St. Clare's/Riverside Medical Center Inc., which provide health care services to Denville, the surrounding area of northwest Morris County and portions of Passaic and Essex Counties.

2. The Sisters of the Sorrowful Mother are also the Member of St. Francis Health Resort which is part of the Sisters of the Sorrowful Mother Health Care System.

3. SSMSCC is presently in the process of merging into St. Francis Health Resort which will then be known as St. Francis Life Care Corporation.

4. As a result of an on-going study by the Sisters of the Sorrowful Mother and the respective staffs of SSMSCC and St. Francis Health Resort, it has been determined that there is a pressing need for a Continuing Care Retirement Center (CCRC). It is to be located on the premises presently owned by St. Francis Health Resort and St. Clare's/Riverside Medical Center which are located on the north side of Pocono Road and known as Block 50001, Lots 1 and 2. Continuing care or life care communities, as they are often known, are those that combine living accommodations with social and health care services (usually including nursing and medical services) for the elderly by agreeing to provide continuing care for the term of a contract, most frequently for the duration of a resident's life, in return for an entrance fee or periodic payments or both. The living accommodations provided usually include a totally independent arrangement, such as separate cottages or apartments, with the option of added services similar to congregate care, such as housekeeping or central dining facilities, as the resident's physical capacities decline. Some facilities provide a residential health care level for those residents who are no longer able or wish to maintain an independent unit. The third residential component is a long-term care facility or nursing home which provides post-acute or chronic nursing care to residents as needed. The facilities vary in style from a campus of buildings

designed to meet special residential, social, and health care needs, including a nursing home, to one building that encompasses all living arrangements and services for residents.

5. A Certificate of Need has been issued by the Department of Health for the skilled nursing facility, which will be described in more detail subsequently in this Statement and which is an integral part of the proposed CCRC. Continuing care for life care communities or facilities are regulated by the New Jersey Department of Health.

6. The CCRC which is proposed here is primarily a health care program, meeting a critical and unmet need for the elderly who could otherwise remain close to family and friends if appropriate health care and support services were available to them as their health status changes during the later years of life. The program is regional in scope, with residents expected to come from a service area between 15 and 25 miles in radius from the campus site in Denville. This population grouping is supported by a national experience of CCRC's in the latest survey of life care centers of Laventhal and Horvath, a nationally known accounting firm (1985), and was substantiated and borne out by a local study performed by the said Laventhal and Horvath firm.

7. St. Clare's/Riverside Medical Center Inc., another member of the Sisters of the Sorrowful Mother Health Care System, has had a long-standing commitment to providing health care and support services to the elderly. Since 1977, for example, the Senior Citizen Mobile Outreach Van has provided free hypertension screening and mental health counseling to over 30 sites in Morris County

providing 7,000 annual visits. Planning for a comprehensive senior adult services network was begun in 1978 by the Hospital's Board of Trustees, and is identified as the Medical Center's first priority in its five-year long-range plan submitted to the New Jersey Department of Health. The programs and services for the elderly, both those that exist and those planned to be added in the CCRC, are based on surveys of community need, and were designed to avoid duplication of existing community and private resources for the elderly in the areas of health care and residential programs.

8. Specifically, the CCRC will be made up of the following three components:

(a) 240 unfurnished apartments, consisting of studios, one and two-bedroom apartments will be constructed for single and married couples whose age and income qualify. All apartments will be equipped with safety features such as grab bars, hand rails, emergency call buttons, fire and smoke detectors, non-skid tiles, accessibility of amenities, specifically designed kitchen and bathroom fixtures, and barrier free construction throughout. A complete activities and educational and entertainment program will be provided along with dietary services, counseling, and health promotion and maintenance support;

(b) a personal care program is intended for St. Francis Health Resort for ambulatory residents not capable of maintaining their own home or apartment, but not frail nor sick enough to qualify for a skilled nursing facility; and

(c) sixty beds will be constructed in a separate skilled nursing facility, which will provide for the long term care needs of the frail elderly who can no longer function independently but who are not in need of acute hospital care. The SNF offers a complete range of rehabilitative and maintenance services such as physical therapy, occupational therapy, speech therapy and recreational programs.

9. In addition, the CCRC will also provide home-bound and out-patient services which are geared to the elderly and for the benefit of the general community. These programs which will include a medical day-care program which has been awarded a Certificate of Need in 1984 and is scheduled to begin operation in the spring of 1986. This program will provide a structured day program for ambulatory patients and also provide a combination for social and medical services to this portion of the elderly population. In addition, there will be a home health program which will provide comprehensible home health services by offering post-hospitalization services for the elderly including skilled nursing, home health aids, physical therapy, speech therapy, special types of feeding for those individuals who have undergone abdominal surgery and chemotherapy all of which will be delivered to the patient's home. Again, the beneficiaries of the medical day care program and the home health program would be people not only living within Denville but within the aforesaid service area of northwest Morris County and portions of Passaic and Essex Counties.

10. On March 14, 1986, an application was made to Judge Gascoyne seeking an allocation of 27,400 gallons per day for the project - the Continuing Care

Retirement Center (CCRC) and requesting that this gallonage be allocated from the Court's reserve due to the nature and regional character of this project. The Denville Township Sewer Ban Committee joined in this request but Judge Gascoyne denied the application on the basis that since the Court was ending the sewer ban and going "out of the sewer business" neither the Court nor the Rockaway Valley Regional Sewage Authority (RVRSA) would have any type of reserve, and the gallonage would have to come out of Denville's gallonage when it received gallonage. It should be noted that the RVRSA in both of our applications - the medical office building and the Continuing Care Retirement Center - has agreed that the amount of gallonage sought was correct. Again, as a result of this denial, the CCRC application has been placed on the Denville "waiting list" - a list which is maintained by the Denville Sewer Ban Relief Committee and which "waiting list" is to provide the order in which gallonage is to be allocated by Denville when such gallonage is available.

11. Through the PCC, the Sisters plan to develop an 76,000 square foot medical office building to be located on the southerly side of Pocono Road at or near its intersection with the Rockaway River in the Township of Denville. Application has been made to the Planning Board and on June 12, 1986 a hearing for site plan approval will be held.

12. This building will allow the creation of a diagnostic ambulatory care service under the physicians' direction, aimed at a regional population not currently served by the medical center.

13. The ready accessibility of this office facility to the St. Clare's/Riverside Medical Center will serve to attract physicians in vitally need specialties to our area, a problem which the medical center and community are currently encountering. With these physicians, the public will be afforded a wider choice of medical specialties. It should be noted occupancy in this building will be restricted to members of the medical/dental staff of the St. Clare's/Riverside Medical Center only, along with anyone associated with the family or health care services aligned with the Sisters of the Sorrowful Mother of the Denville Province. In short, it is restricted to the Greater St. Clare's/Riverside Medical Center family.

14. The office facility will also be used for corporate headquarters for the multiple health care corporations all under the sponsorship of the Sisters of the Sorrowful Mother of the Denville Province. Among these will be corporations whose charters call for health services geared solely to the growing elderly population of the 19 municipalities served by the medical center.

15. This office center will be directly across the street from aforesaid Life Care Center project which is being proposed by the Sisters of the Sorrowful Mother through their Senior Services Corporation. Again, the occupants of the professional building will have easy access to this life care center and this will facilitate their ability to give the necessary attention to the occupants of the life care system.

16. On April 11, 1986, an application was made to Judge Gascoyne seeking an allocation of 8,325 gallons per day for this project (the medical office building).

The Denville Township Sewer Ban Relief Committee recommended to Judge Gascoyne that the application be granted but Judge Gascoyne denied the request for gallonage since there was no sewer gallonage available to Denville at that time. As a result of its refusal, PCC has been put on a "waiting list" which is maintained by the Denville Sewer Ban Relief Committee.

17. I have been advised by Mr. Einhorn, our attorney, that Judge Gascoyne on May 9, 1986, orally rendered an opinion in which the Sewer Ban was ended and the Court allocated gallonage to the various municipalities who are members of the RVRSA and more particularly allocated 215,000 ± gallons per day to Denville. Based on this allocation and based on the placing of our two projects -- the medical office building and the CCRC -- on the "waiting list", even if the CCRC is treated strictly as a local Denville matter, there will be sufficient sewage gallonage available for the construction of both these projects.

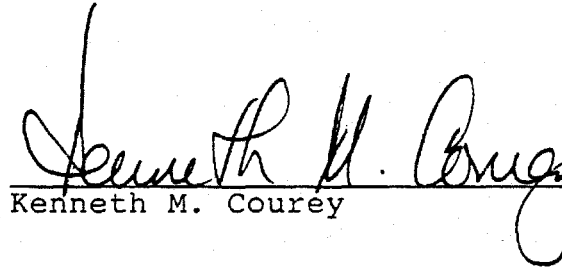
18. Both of these projects have been in the planning process for about eight (8) years and to date the Sisters have expended approximately \$1,000,000.00 based on the hiring of necessary consultants, planning, demographic and feasibility studies, Certificate of Need applications and engineering, legal and administrative fees and/or salaries. It is projected that construction will start in the Fall of 1986 on the medical office building and this will then be followed by construction of the CCRC commencing with its first phase in late fall of 1986.

19. The proposed ban on construction in Denville would have an disastrous effect on our project. If we are not able to build in the Fall of 1986 this will, in all

likelihood, result in the scaling down or even withdrawal of these projects due to increased construction costs, withdrawal of financing commitments and other negative factors which necessarily will accrue due to the passage of time if these project are stopped now. Besides the fact that the Sisters will have expended large sums of money, time and effort needlessly, there will be clear negative effects on the health care needs of the community in Denville and the surrounding region.

20. Finally, due to the Sewer Ban, the Sisters realized that this project could not be started. However, what with the public plans for the new RVRSA plant and what everyone thought would be sufficient gallonage with the plant, the Sisters went ahead with the plans for this project. Now even with the Sewer Ban ended and sufficient gallonage available for this vitally needed project to go ahead, the Sisters are faced with the Motion to stop the project. This is an extremely disturbing proposition and hopefully the Court will allow this project to go forward now.

I hereby certify that the foregoing statements made by me are true. I am fully aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.


Kenneth M. Courey

Dated: June 5, 1986