



GEORGIA DEPARTMENT OF
COMMUNITY HEALTH

Rhonda M. Medows, MD, Commissioner

Sonny Perdue, Governor

2 Peachtree Street, NW
Atlanta, GA 30303-3159
www.dch.georgia.gov

WRITER'S DIRECT DIAL
404-657-7198

June 30, 2008

Victor Moldovan
Phears & Moldovan
3399 Peachtree Road, Suite 2050
Atlanta, GA 30326

RE: Senate Bill 433 Clarification Regarding Construction of a Medical Office Building

Dear Mr. Moldovan:

The Georgia Department of Community Health, Division of Health Planning (the Department) is in receipt of your request, dated May 30, 2008, seeking clarification with respect to the nonclinical projects exemption contained in Senate Bill 433. Your request was submitted in response to the Department's invitation to submit questions regarding the impact and applicability of Senate Bill (SB) 433, a Certificate of Need (CON) reform bill passed during the 2008 session of the Georgia General Assembly.

The CON reform changes contained within SB 433 are effective on July 1, 2008. One of the new exemptions from prior CON review and approval in the legislation is for expenditures for nonclinical projects, including parking lots, parking decks, and other parking facilities; computer systems, software, and other information technology; medical office buildings; and state mental health facilities. O.C.G.A. § 31-6-47(a)(16). {Note: all citations referenced are effective July 1, 2008}.

Your letter asks whether a proposed medical office building project to be developed on land owned by The Hospital Authority of Houston County d/b/a Houston Medical Center (Houston) in Warner Robins, Georgia, would be eligible for the statutory exemption referenced above. The question is also whether such a proposed project would qualify for this exemption regardless of whether it was determined the proposed expenditure was by or on behalf of a health care facility, in this case, Houston.

Please be advised that the Department interprets the nonclinical project exemption to be limited to the specific types of projects listed in the language of the exemption. The exemption does not say, "expenditures for nonclinical projects, including but not limited to, etc." It specifically says only including a list of projects that are then referenced. Medical office buildings are among the type of nonclinical projects specifically listed. As a result, it is the Department's position the project you propose would be eligible for

Equal Opportunity Employer

this exemption because it is of the type specifically listed, and would not be subject to prior CON review and approval.

Please be advised that a party wishing to avail itself of this exemption on or after July 1, 2008, pursuant to O.C.G.A. § 31-6-47.1, must submit a specific and factual determination request to the Department on the existing published Determination form, along with the proper filing fee. The Department will respond as appropriate, and the Department response shall be the written confirmation of exemption required in SB 433. This letter is not an official written confirmation of any activity to be undertaken on or after July 1, 2008 pursuant to SB 433.

I hope this letter is responsive to your request. If there are any further questions or concerns, please feel free to contact me at the Department.

Sincerely,

A handwritten signature in cursive script, appearing to read "Clyde L. Reese, III".

Clyde L. Reese, III
General Counsel