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March 15, 2018

**VIA EMAIL ([donna.jerry@vermont.gov](mailto:donna.jerry@vermont.gov)) AND FIRST CLASS MAIL**

Donna Jerry  
Senior Health Policy Analyst  
Green Mountain Care Board  
144 State Street  
Montpelier, Vermont 05620

**RE: Request for Determination of No Jurisdiction  
Purchase of Parking Lot**

Dear Ms. Jerry:

I am writing on behalf of the Visiting Nurse Association and Hospice of Vermont and New Hampshire, Inc. (“VNH”), seeking a determination of no jurisdiction with respect to the proposed purchase of a parking lot, as a member of a condominium association, as further detailed herein.

VNH is a member of the 88 Prospect Street Unit Owners Association, Inc. (the “Association”). VNH holds an equity interest of approximately 77% in the Association, with the balance owned by the other tenant, a salon, in their shared building.

The Association is contemplating entering into a Purchase and Sale Agreement with DEW Prospect Street, LLC (“DEW”). DEW is the owner of a condominium unit identified as Unit #4 of the 88 Prospect Street Condominium, located at 88 Prospect Street in the Town of Hartford, Vermont, consisting of a parking lot with ownership and use of not fewer than 61 parking spaces (the “Property”).

The purchase price has not yet been established, but it will be no higher than \$500,000.

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## **Background**

On February 22, 2016, the Green Mountain Care Board issued a Certificate of Need (“CON”) and Statement of Decision and Order allowing VNH to purchase real estate in White River Junction for use as its administrative offices (the “Condominium”). There is one other owner of space (the salon) in the same building where the Condominium is located, and, together these two entities comprise the 88 Prospect Street Unit Owners Association, Inc.

The Board subsequently approved VNH’s request to reconfigure the office design and enlarge the project square footage by 585 gross square feet, increasing the project costs from \$2,584,000 to \$2,701,080, but leaving mortgage payments substantially the same, due to a lower interest rate. The Board concluded that the change was “nonmaterial.”

By letter dated September 26, 2016, VNH notified the Board that the property’s owner had offered VNH the opportunity to purchase an additional 485 gross square feet (the owner had been using it during construction but no longer needed it), increasing the total project cost to \$2,924,650. The Board approved the request.

VNH closed on the Condominium on November 9, 2016. VNH submitted implementation reports dated August 22, 2016 and February 23, 2017 (Second and Final Implementation Report), satisfying in full its obligations under the Second Amended CON to file such reports.

The Property (that is the subject of this jurisdictional request) is additional parking that is now available for purchase by the Association. To date, the Association, has been leasing the Property. The opportunity to purchase the Property is a recent development.

VNH submits that the proposed project is a separate and distinct project that should not, under Green Mountain Care Board Rule 4.207 2, be deemed, a “component” of the Condominium CON project. Instead, this is a separate project that does not fall within the Board’s jurisdictional limits, as it will fall well below \$1,500,000. 18 V.S.A. § 9434(a)(1).

Based on the foregoing, on behalf of VNH, we respectfully request a determination that the Board will not be asserting jurisdiction in this matter. Please do not hesitate to contact me with any questions or concerns.

Sincerely,



Shireen T. Hart