

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

In re: Fletcher Allen Health Care)
 Burlington Property Acquisition)
 Certificate of Need Application) Docket No. GMCB 015-14con
_____)

**ORDER GRANTING AMICUS CURIAE STATUS
TO HOWARDCENTER, INC.**

HowardCenter, Inc. has filed a motion with the Green Mountain Care Board requesting interested party status in this certificate of need (CON) proceeding. For the reasons below, HowardCenter is granted amicus curiae status.

In this proceeding, Fletcher Allen Health Care, Inc. (FAHC) seeks a CON permitting it to purchase four commercial office buildings, five vacant lots, and an abutting parcel of vacant land located in South Burlington (the Property) for a total cost of \$52,641,971. The project involves only the acquisition of the Property. FAHC is not seeking CON approval for any construction, renovation, or development of new or existing buildings, the acquisition of equipment, or the creation of any new health care facilities or health services. As FAHC acknowledges in the CON application, any such project(s) will require separate CON approval in the future.

HowardCenter has been designated by the State to provide mental health and developmental services to residents of Chittenden County. As a “Designated Agency,” HowardCenter must “plan, develop, and provide or otherwise arrange for those community mental health . . . services that are not assigned by law to the exclusive jurisdiction of another agency and which are needed by and not otherwise available to persons with mental illness.” 18 V.S.A. § 8907(b). To that end, Vermont law requires HowardCenter to prepare and maintain a “local community services

plan” for Chittenden County. 18 V.S.A. § 8909(b). Given its role as Chittenden County’s Designated Agency, HowardCenter collaborates with FAHC across an array of mental health and substance abuse services.

HowardCenter’s central point in its request for interested party status is that the CON application does not “specify in any detail the future uses of the Property.” HowardCenter Req. for Int. Party Status (Req.) at 5. HowardCenter argues that the absence of such detail makes it difficult to “evaluate and measure the ultimate impact of the Project on the State’s health care system.” *Id.* To address these concerns, HowardCenter suggests that this CON proceeding “be broadened to amply assess use-related issues.” *Id.* at 7.

HowardCenter’s argument, based on future uses of the Property, does not demonstrate a substantial and direct impact sufficient to grant interested party status under 18 V.S.A. § 9440(c)(7) and GMCB Rule 4.000, § 4.406(3). For example, HowardCenter points out that relocating mental health services to a suburban campus “may” have negative consequences and that this project “has the potential to unintentionally create potential barriers” to access for patients. *Id.* at 6-7. These concerns, while important, are premature in the context of this proceeding because the current application will not result in the reconfiguration of any of FAHC’s services or facilities. Such changes cannot happen until they are fully vetted through future CON proceedings.

However, as a Designated Agency with a critical role in providing health care to Vermonters often in collaboration with FAHC, HowardCenter is uniquely poised “to render material assistance to the Board by providing nonduplicative evidence relevant to the Certificate of Need application decision.” *Id.* § 4.406(6). Therefore, we grant HowardCenter amicus curiae status under GMCB Rule 4.000, § 4.406(6), and we encourage HowardCenter to provide information

likely to assist the Board's review and/or offer questions that the Board, in its discretion, may pose to FAHC.

Based on the above, it is ORDERED that HowardCenter is granted Amicus Curiae status in this docket. HowardCenter shall be copied by all parties on all materials entered into the record and materials submitted by HowardCenter shall be admitted into record and copied to all parties. Finally, if HowardCenter intends to submit any proposed questions for the Board to consider posing to the applicant, it must do so on or before July 21, 2014.

Dated: July 9, 2014
Montpelier, Vermont

GREEN MOUNTAIN CARE BOARD

By: /s/ Alfred Gobeille
Alfred Gobeille, Chair