



# STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

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April 28, 2009

## CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF	)	CERTIFICATE OF NEED
	)	APPLICATION
	)	NO. 09-03
SYS Land Corporation	)	
	)	
Applicant	)	
_____	)	DECISION ON THE MERITS

## DECISION ON THE MERITS

The State Health Planning and Development Agency (hereinafter "Agency"), having taken into consideration all of the records pertaining to Certificate of Need Application No. 09-03 on file with the Agency, including the written and oral testimony and exhibits submitted by the applicant and other affected persons, the recommendations of the Oahuwide Certificate of Need Review Committee, the Certificate of Need Review Panel and the Statewide Health Coordinating Council, the Agency hereby makes its Decision on the Merits, including findings of fact, conclusions of law, order, and written notice on Certificate of Need Application No. 09-03.

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## BACKGROUND

1. This is an application for a Certificate of Need ("Cert.") for the establishment of a 42 bed SNF/ICF facility at 2787 Winam Avenue, Honolulu, HI, at a capital cost of \$4,720,000.
2. The applicant, SYS Land Corporation, is a for-profit corporation.

3. The Agency administers the State of Hawaii's Certificate Program, pursuant to Chapter 323D, Hawaii Revised Statutes (HRS), and Title 11, Chapter 186, Hawaii Administrative Rules (HAR).
4. On January 29, 2009, the applicant filed with the Agency a Certificate of Need application for the establishment of a 42 bed SNF/ICF facility at 2787 Winam Avenue, Honolulu, HI, at a capital cost of \$4,720,000 (the "Proposal"). On March 2, 2009, the applicant submitted additional information. On March 20, 2009, the application was determined to be complete. For administrative purposes, the Agency designated the application as Cert. #09-03.
5. The period for Agency review of the application commenced on March 24, 2009, the day notice was provided to the public pursuant to 11-186-39 HAR.
6. The application was reviewed by the Oahuwide Certificate of Need Review Committee at a public meeting held March 30, 2009. The Council voted 4 to 0 in favor of recommending approval of the application.
7. The application was reviewed by the Certificate of Need Review Panel at a public meeting held April 17, 2009. The Council voted 5 to 0 in favor of recommending approval of the application.
8. The application was reviewed by the Statewide Health Coordinating Council at a public meeting held April 23, 2009. The Council voted 12 to 0 in favor of recommending approval of the application.
9. This application was reviewed in accordance with Section 11-186-15, HAR.
10. Pursuant to Section 323D-43(b), HRS:  

“(b) No Certificate shall be issued unless the Agency has determined that:

  - (1) There is a public need for the facility or service; and
  - (2) The cost of the facility or service will not be unreasonable in light of the benefits it will provide and its impact on health care costs.”
11. Burden of proof. Section 11-186-42, HAR, provides:  

“The applicant for a certificate of need or for an exemption from certificate of need requirements shall have the burden of proof, including the burden of producing evidence and the burden of persuasion. The degree or quantum of proof shall be a preponderance of the evidence.”

II

**FINDINGS OF FACT**

**A. REGARDING THE RELATION OF THE PROPOSAL TO THE STATE HEALTH SERVICES AND FACILITIES PLAN (HAWAII HEALTH PERFORMANCE PLAN) OR "H2P2"**

12. The applicant states that "By providing quality long-term care it will reduce the effect of chronic disease and prolong health related quality of life."

13. The applicant states that "It will reduce the morbidity and pain of chronic long-term conditions. The patients will be able to maintain a dignified and comfortable life while they are at Manoa Cottage East."

14. The applicant states that "The service area for this SNF/ICF facility is O'ahu. According to the SHPDA utilization data for 2006, the SNF/ICF facilities on O'ahu had a 96.06% utilization rate."

15. The applicant states that "Given the great need for more long-term care beds, and given the modest size of the facility (42 beds) we project that we can reach a 97% occupancy rate even in the first year of operation."

16. The applicant states that "Chapter III of the H2P2 contains four sections developed by the various Subarea Health Planning Councils (SACs) on O'ahu. In these sections, the various SACs establish certain values and priorities. The number one priority for the Honolulu SAC is 'Increased geriatric care services for the growing elderly population.'"

17. The Agency finds that this criterion has been met.

**B. REGARDING NEED AND ACCESSIBILITY CRITERIA**

18. The applicant states that "The most recent SHPDA annual utilization report is for calendar year 2006. The report shows that there were 25 facilities on O'ahu with 'SHPDA approved' SNF/ICF beds, totaling 2,425 beds... The report further shows that 21 O'ahu facilities reported SNF/ICF utilization for 2006. They reported 2,158 beds and an occupancy rate of 96.06%."

19. The applicant states that "The Healthcare Association of Hawaii does a quarterly survey of the number of 'waitlisted' patients in acute hospitals beds.... The most recent waitlist survey... shows that as of November 30, 2008, there was a total of 76 patients on O'ahu waiting for an SNF or ICF bed to become available."

20. The applicant states that "The calculations for how many LTC beds a community needs are commonly based on the number of people over the age of 65. Table B-1 shows that the population 65+ is rapidly increasing; and that the rate of increase is much greater than the rate of increase for the general population. This increase is so notable that it merited a special comment in the DBEDT report cited in Table B-1.

Aging of the population has been one of the most prominent features of Hawaii population trends. The share of the population aged 65 years and over of the total population increased from 8.0 percent in 1980 to 13.8 percent in 2005. This trend will continue in the future, increasing this share of the total population to 22.0 percent in 2035."

21. The applicant states that "...given the current high occupancy, the existing waitlists, the aging population and our own waitlist, the number of additional beds needed on O'ahu will far exceed the 42 beds we are proposing."

22. The applicant states that "Manoa Cottages provides service to racial and ethnic minorities, women, handicapped persons, other underserved groups and the elderly."

23. The applicant states that "...we will establish a program to provide discounted or uncompensated care to any of our patients who reach a financial point where they are no longer able to pay the full rate. We estimate that this will be 2% of our annual gross revenue in the first two years of operation ... This is a target and could go higher as our experience and net revenue permits."

24. The Agency finds that the need and accessibility criteria have been met.

### C. REGARDING QUALITY AND LICENSURE CRITERIA

25. The applicant states that "Manoa Cottage East will be licensed by the State and we will comply with State standards to assure the highest quality of care for our patients."

26. The applicant states that "Manoa Cottages, which is currently licensed as an ARCH (Adult Residential Care Home), already has written policies and procedures addressing the quality of care at the ARCH level...We will use these existing

policies and procedures as a base from which to develop the more extensive standards required for SNF/ICF"

27. The applicant states that "Manoa Cottages has provided care home services at its existing site since 1994. We have a long history of providing quality care as is evidenced by our reputation, our compliance with State standards, and the waitlist of residents seeking admission."

28. The applicant states that "All the staff will be appropriately trained, licensed and qualified to provide their services... All staff will receive necessary continuing education to keep them current with their licensure requirements. "

29. The Agency finds that quality and licensure criteria have been met.

#### D. REGARDING THE COST AND FINANCIAL CRITERIA

30. The applicant states that "The capital cost of the project will be \$4,720,000. The sources of funds are:

- \$710,000 cash or cash flow from SYS Land Corp
- \$2,560,000 from the seller on a two-year agreement of sale...
- \$1,000,000 new construction loan, from Hawaii National Bank.
- \$450,000 for the expense of the equipment acquired by lease, from existing lines of credit with Premier Capital Business Equipment Finance and Five Point Capital Equipment Leasing Specialist."

31. The applicant projects net cash flow after taxes of \$943,878 for Year 1 of the proposal, \$1,128,199 for Year 2 and \$1,309,301 for Year 3 of the proposal.

32. The applicant states that "The new facility may actually reduce overall health care costs by making more LTC beds available and relieving the waitlist problem. Patients that are forced to extend their stays in acute beds have a negative financial impact on the hospital as well as their own finances. The cost of caring for a LTC patient in an appropriate LTC bed is much lower than the cost of caring for that same patient in an acute bed. The Health Care Association of Hawaii estimates that uncompensated costs for waitlisted patients for FY2006 are between \$80,000,000 to \$95,000,000."

33. The Agency finds that cost and financial criteria have been met.

E. REGARDING THE RELATIONSHIP OF THE PROPOSAL TO THE EXISTING HEALTH CARE SYSTEM OF THE AREA

34. The applicant states that "This proposal relates well to the existing health care system. Adding more LTC beds to the existing system will enhance the system, mainly by meeting some of the bed deficit."

35. The applicant states that "The facility will benefit existing acute facilities as it will relieve them of some of the burden and expense of caring for waitlisted patients."

36. The applicant states that "The project should have no negative impact on any other health care providers in the community. The existing SNF/ICF facilities are already occupied at the 96% occupancy level ... There is a need for additional beds in the community."

37. The Agency finds that these criteria have been met.

F. REGARDING THE AVAILABILITY OF RESOURCES

38. The applicant states that "Some of the nursing staff employed at the existing Manoa Cottages will transfer to this new facility. This will assure a high quality of care from the beginning, since we know these staff and the quality of their work, and since they are familiar with our policies and procedures."

39. The applicant states that "Although there is a high demand for nursing staff, Manoa Cottages has had little difficulty in filling our nursing positions."

40. The applicant states that "The capital funds are available, with \$710,000 available in cash and the remainder available through loans. The financial resources for operating the service are also available. Exhibit D-2 shows that the revenues generated will offset the expenses."

41. The Agency finds that the applicant has met this criterion.

III

**CONCLUSIONS OF LAW**

Having taken into consideration all of the records pertaining to Certificate of Need Application No. 09-03 on file with the Agency, including the written and oral testimony and exhibits submitted by the applicant and other affected persons, the recommendations of the Oahuwide Certificate of Need Review Committee, the Certificate of Need Review Panel and the Statewide Health Coordinating Council and based upon the findings of fact contained herein, the Agency concludes as follows:

The applicant has met the requisite burden of proof and has shown by a preponderance of the evidence that the Proposal meets the criteria established in Section 11-186-15, HAR.

Accordingly, the Agency hereby determines that, pursuant to Chapter 323D-43(b):

- (1) There is a public need for this proposal; and
- (2) The cost of the proposal will not be unreasonable in light of the benefits it will provide and its impact on health care costs.

**ORDER**

Pursuant to the findings of fact and conclusions of law contained herein, IT IS HEREBY DECIDED AND ORDERED THAT:

The State Health Planning and Development Agency hereby APPROVES and ISSUES a certificate of need to SYS Land Corporation for the proposal described in Certificate Application No. 09-03. The maximum capital expenditure allowed under this approval is \$4,720,000.

WRITTEN NOTICE

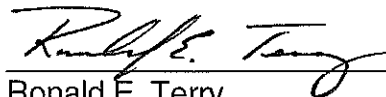
Please read carefully the written notice below. It contains material that may affect the Decision on the Merits. The written notice is required by Section 11-186-70 of the Agency's Certificate of Need Program rules.

The decision on the merits is not a final decision of the Agency when it is filed. Any person may request a public hearing for reconsideration of the decision pursuant to Section 11-186-82 HAR. The decision shall become final if no person makes a timely request for a public hearing for reconsideration of the decision. If there is a timely request for a public hearing for reconsideration of the decision and after the Agency's final action on the reconsideration, the decision shall become final.

(Note, pursuant to Chapter 323D-47, Hawaii Revised Statutes, a request for reconsideration shall be received by the Agency within ten working days of the state agency decision.)

DATED: April 28, 2009  
Honolulu, Hawaii

HAWAII STATE HEALTH PLANNING  
AND DEVELOPMENT AGENCY



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Ronald E. Terry  
Administrator

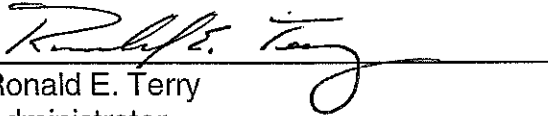


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the attached Decision on the Merits, including findings of fact, conclusions of law, order, and written notice, was duly served upon the applicant by sending it by certified mail, return receipt requested, in the United States Postal Service addressed as follows on April 28, 2009.

Sandra Shim  
Administrator  
SYS Land Corporation  
2035 Kamehameha Ave.  
Honolulu, HI 96822

HAWAII STATE HEALTH PLANNING  
AND DEVELOPMENT AGENCY

  
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Ronald E. Terry  
Administrator