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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF KLAMATH

SKY LAKES MEDICAL CENTER, INC.,

Petitioner,

v.

OREGON DEPARTMENT OF HUMAN SERVICES, an Oregon administrative agency; OREGON DEPARTMENT OF ADMINISTRATIVE SERVICES, an Oregon administrative agency;

Respondents.

Case No.

PETITION FOR JUDICIAL REVIEW

Review of an Order in Other than Contested Case – ORS 183.490

Fees: ORS 21.135(1), (2)(e)

NOT SUBJECT TO MANDATORY ARBITRATION

For its Petition, Petitioner alleges:

1.

Petitioner Sky Lakes Medical Center, Inc. is a community-owned, internationally accredited acute-care teaching hospital serving the people of Oregon’s Klamath and Lake Counties and California’s Siskiyou and Modoc Counties. Petitioner is an Oregon non-profit corporation with its principal place of business located in Klamath County at 2865 Daggett St, Klamath Falls, OR 97601.

2.

Respondents Oregon Department of Human Services (“DHS”) and Oregon Department of Administrative Services (“DAS”) are agencies of the State of Oregon.

3.

On March 27, 2018, DHS entered a lease and buildout agreement with Klamath Falls

1 Holdings, LLC, which provides for the lease and construction of a DHS facility at TimberMill
2 Shores, Lots 12 & 13, Klamath Falls, Oregon 97603. DHS intends to use this facility, at least in
3 part, for the provision of social services to the public.

4 4.

5 The TimberMill Shores property is located in the City of Klamath Falls in a Mixed Use
6 (“MU”) zoning district. Although “Social Service” is a designated public use category under the
7 City of Klamath Falls’ Community Development Ordinance (“CDO”), “Social Service” is not a
8 permitted or conditional use in MU zones. Accordingly, DHS’ intended use of the TimberMill
9 Shores property violates local zoning and land use regulations.

10 **FIRST CLAIM FOR RELIEF**

11 **(Review under ORS 183.490)**

12 5.

13 Petitioner realleges paragraphs 1-4 above.

14 6.

15 ORS 197.180(1)(b) requires Respondents to carry out their planning, powers and
16 responsibilities and to take actions that are authorized by law that affect land use in a manner that
17 is compatible with acknowledged comprehensive plans and land use regulations. Pursuant to
18 that statute and OAR 125-110-0001, DAS was required to make a finding that DHS’ intended
19 use of the TimberMill Shores property complied with the Statewide Planning Goals and is
20 compatible with the City of Klamath Falls’ acknowledged Comprehensive Plan and other land
21 use regulations before DHS entered the lease and buildout agreement.

22 7.

23 ORS 183.490 grants jurisdiction to this Court to compel an agency to act where the
24 agency has unlawfully refused to act or make a decision or unreasonably delayed taking action or
25 making a decision. Although DHS has already entered the lease and buildout agreement with
26 Klamath Falls Holdings, LLC, DAS has failed to make the required finding that the agreement

1 complies with acknowledged comprehensive plans and land use regulations. By failing to make
2 findings required by law, Respondents have unlawfully refused to act or make a decision or
3 unreasonably delayed taking action or making a decision.

4 8.

5 Petitioner has been adversely affected or aggrieved within the meaning of ORS 183.480,
6 because, among other reasons:

7 (a) Petitioner owns property in the vicinity of the TimberMill Shores site and has an
8 interest in ensuring compliance with state and local land use requirements; and

9 (b) Petitioner has a financial interest in a competing site for the DHS facility that was
10 rejected in favor of the noncompliant TimberMill Shores site.

11 9.

12 Petitioner is entitled to an order pursuant to ORS 183.490 compelling Respondents to
13 issue an order determining whether DHS' intended use of the TimberMill Shores property
14 complied with the Statewide Planning Goals and is compatible with the City of Klamath Falls'
15 acknowledged Comprehensive Plan and other land use regulations.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Petitioner prays for judgment against Respondents as follows:

18 1. For an order compelling Respondents to issue an order making the findings
19 required by law;

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