



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
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DATE: April 11, 2022  
VIA EMAIL: JHERLIHY@eyeboston.com  
Jonathan Herlihy  
Administrator  
Boston Eye Surgery and Laser Center Trust  
50 Staniford Street, Lobby Level  
Boston, MA 02114

RE: Boston Eye Surgery and Laser Center Trust — Notice of Transfer of Site Application  
# BESLC-20032516-TS

Dear Mr. Herlihy:

We are in receipt of the above-referenced Notice and its accompanying attachments, dated March 2, 2022, in which Boston Eye Surgery and Laser Center Trust (BESLC) provided written notice to the Department of Public Health (the Department) in accordance with 105 CMR 100.745 for a proposed transfer of site of one of its facilities. The Applicant proposes to move its BESLC-West facility from its current location (52 Second Avenue, #2200, Waltham) to an office building one mile away (195 West Street, 2nd floor, Waltham). BESLC has complied with the Notice requirements and has provided information sufficient to allow the Department to make a finding that the proposed transaction will neither result in a Substantial Capital Expenditure nor Substantial Change in Service, and thus will not first require a Notice of Determination of Need (DoN).

*Reason for Request:*

BESLC is proposing this transfer of site because the landlord at its current location informed them that their lease will terminate and not be renewed on October 31, 2022. Pending Department approval, BESLC-West anticipates relocating to West Street effective May 1, 2022.

*Location and Location Change:*

Both the current site (4,700 square feet) and proposed site (7,389 square feet) are commercial office space. According to the Applicant, the proposed site will improve patient access because it has a single entrance with a defined drop-off area (as opposed to the current building, which has multiple entrances, often leading to confusion for patients trying to find the correct suite). Although the proposed site is approximately 2,689 square feet larger (57% larger) than the current site, the number of operating rooms (two) and the number of laser procedure rooms (two) will not change. The Applicant states that there

will be no change in the services offered at the proposed site. However, BESLC-West will use the extra space to build in buffers for social distancing and to dedicate an additional room to storage.

*Sufficient Interest in the Proposed Site:*

In 2021, Boston Properties Limited Partnership, the owner of the building where the proposed site is located, leased the entire building to Ophthalmic Consultants of Boston, Inc. (OCB). The Applicant has agreed to lease terms with OCB and is planning to formally execute the lease very soon. The proposed site is currently unoccupied; therefore, the Applicant can commence construction immediately, pending the requisite permitting and regulatory approvals.

*Patient Population Served:*

Because the current site and proposed site are so close to each other, their primary service areas are the same. According to BESLC's application, in the year leading up to its application, 55% of BESLC-West's patients came from 30 cities and towns in Massachusetts, all of which are east of Worcester. The highest share of patients (7%) came from Framingham. Most BESLC-West patients are members of Medicare.

*Project Cost:*

In its application narrative, the Applicant states that the Proposed Transfer will cost up to \$1,940,191.80. The Applicant plans to spend \$230,415 on new equipment (including sterilizer, beds, furniture, computers, printers, and a server) and \$1,424,814.06–\$1,709,776.80 on construction (including architecture fees, site development costs, permit fees, etc.). Construction costs are presented as a range because the Applicant is preparing for a 20% cost rate for change orders.

*Impact on Price and Health Care Spending:*

The Applicant states that the Proposed Transfer will impact neither the price of their services, nor total medical expenditures. Indeed, the price of services and the facility fees charged by BESLC-West are not expected to change. The Proposed Transfer is not expected to affect rates paid by Medicare or commercial payors. Moreover, BESLC-West anticipates no change in labor/staffing needs.

*Findings:*

The Department finds that the Applicant has provided the Department with the information required in 105 CMR 100.745(D). Based upon review of the Notice and supporting materials, the Department finds that this transaction does not require a DoN either as a Substantial Capital Expenditure or Substantial Change in Service, pursuant to 105 CMR 100.730, and that BESLC may move forward with the proposed changes in the designated locations. The Department advises the Applicant that if it seeks to add operating rooms or services at a later date, additional DoN approvals may be required.

Sincerely,



Margret R. Cooke  
Commissioner