



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

Office of Health Care Access

February 6, 2014

IN THE MATTER OF:

An Application for a Certificate of Need filed
Pursuant to Section 19a-638, C.G.S. by:

Notice of Final Decision
Office of Health Care Access
Docket Number: 13-31833-CON

Tolland Imaging Center, LLC

**Continued Delivery of Comprehensive
Imaging Services including MRI and
CT Services**

To:

Rebecca A. Matthews, Esq.
Wiggin and Dana LLP
One Century Tower
New Haven, CT 06508-1832

Dear Attorney Matthews:

This letter will serve as notice of the Final Decision of the Office of Health Care Access in the above matter pursuant to Connecticut General Statutes § 4-180. On February 6, 2014, the Final Decision was rendered as the finding and order of the Office of Health Care Access. A copy of the Final Decision is attached hereto for your information.

Kimberly R. Martone
Director of Operations

Enclosure
KRM:pf

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(If you require aid/accommodation to participate fully and fairly, contact us either by phone, fax or email)

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**Department of Public Health
Office of Health Care Access
Certificate of Need Application**

Final Decision

Applicant: Tolland Imaging Center, Inc.
6 Fieldstone Commons, Tolland, CT 06084

Docket Number: 13-31833-CON

Project Title: Continued Operation of Tolland Imaging Center, Inc.

Project Description: Tolland Imaging Center, Inc. (“Applicant” or “Tolland Imaging Center”) proposes to continue delivery of comprehensive imaging services including Magnetic Resonance Imaging (“MRI”) and Computed Tomography (“CT”) scanning services, with an associated cost of \$1,300,000.

Procedural History: The Applicant published notice of its intent to file a Certificate of Need (“CON”) application in The Hartford Courant on March 4, 5, and 6, 2013. On April 1, 2013, the Office of Health Care Access (“OHCA”) received the CON application from the Applicant for the above-referenced project. On August 7, 2013, OHCA deemed the application complete.

On September 26, 2013, the Applicant was notified of the date, time, and place of the public hearing. On September 26, 2013, a notice to the public announcing the hearing was published in The Hartford Courant. Thereafter, pursuant to Connecticut General Statutes (“Conn. Gen. Stat.”) § 19a-639a, a public hearing regarding the CON application was held on October 23, 2013.

Commissioner Jewel Mullen designated Attorney Kevin Hansted as the hearing officer for the public hearing. The public hearing was conducted in accordance with the provisions of the Uniform Administrative Procedure Act (Chapter 54 of the Conn. Gen. Stat.) and Conn. Gen. Stat. § 19a-639a(f). The public hearing record was closed on October 23, 2013. Thereafter, Deputy Commissioner Davis considered the entire record in this matter and rendered this decision. To the extent the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc., v. S & H Computer Systems, Inc.*, 605 F.Supp. 816 (Md. Tenn. 1985).

Findings of Fact and Conclusions of Law

1. On September 18, 2007, OHCA granted approval (DN: 06-30841-CON), as a three year demonstration project, for the establishment of Tolland Imaging Center, a joint venture between Johnson Memorial Hospital, Manchester Memorial Hospital, Rockville General Hospital and Windham Community Memorial Hospital. Exhibit A, p. 7.
2. Tolland Imaging Center became operational on September 2, 2008. Exhibit A, p. 7.
3. The Applicant is requesting authorization to continue the delivery of comprehensive imaging services, including the continued provision of MRI and CT scanning services. Exhibit A, p. 7.
4. Tolland Imaging Center is currently equipped with a Hitachi Altaire 0.7 Tesla High Field Open MRI and a Siemens Sensation 4, 4-Slice CT Scanner. Exhibit A, p. 8.
5. Tolland Imaging Center offers the following complement of modalities: MRI, CT, mammography, bone density, radiography and ultrasound services. Exhibit A, p. 7.
6. Tolland Imaging Center's service area includes Coventry, Ellington, Mansfield, Stafford, Tolland, Union, Vernon and Willington. Exhibit A, p. 11.
7. Tolland Imaging Center has established solid referral patterns with health care providers in its service area. Exhibit A, p. 15.
8. The number of patients referred to Tolland Imaging Center for MRI and CT scans, as well as overall patient volume, has increased steadily since FY 2008, serving nearly ten thousand patients in FY 2012.

Table 1: Patients referred to the Center, FY 2008-FY 2012

	Number of Patients				
	FY 2008**	FY 2009	FY 2010	FY 2011	FY 2012
CT	6	390	654	689	751
MRI	18	838	1,299	1,633	1,639
All Modalities*	152	5,735	8,086	8,686	9,761

*Includes patient referrals for all services offered at Tolland Imaging Center.

**FY 2008 includes only one month of operation.
Exhibit A, p. 9.

9. Tolland Imaging Center performed more than 11,000 imaging procedures in FY 2013, a 12.7% increase from FY 2010.

Table 2: Historical Utilization by Equipment Type

Procedure Volume	Historical Volume ¹				% Change FY 2010-13
	FY 2010	FY 2011	FY 2012	FY 2013	
Bone Density	385	419	462	470	22.1%
CT ²	949	699	805	740	na ³
Mammography	1,395	1,638	2,104	2,170	55.6%
MRI	1,403	1,745	1,724	1,653	17.8%
Ultrasound	2,480	2,219	2,571	2,394	-3.5%
X-Ray	3,356	3,502	3,795	3,810	13.5%
Total	9,968	10,222	11,461	11,237	12.7%

¹ Applicant's fiscal year: October 1 through September 30.

² Effective 1/1/2011 CPT coding change eliminated separate billing and CPT codes for all abdomen and pelvis CT exams performed on the same day.

³ Percentage change omitted – significant CPT coding changes reduced volumes in FY 2011-13. The resulting percent change from FY10-13 would overstate the drop in volume. Exhibit A, p. 17, Exhibit M, pp. 388-389.

10. The future demand for imaging services is projected to be similar to FY 2013's historical volumes and remain constant over the next three years.

Table 3: Projected Utilization by Equipment Type

Procedure Volume	Projected Volume*		
	FY 2014	FY 2015	FY 2016
Bone Density	470	470	470
CT	740	740	740
Mammography	2,170	2,170	2,170
MRI	1,653	1,653	1,653
Ultrasound	2,394	2,394	2,394
X-Ray	3,810	3,810	3,810
Total	11,237	11,237	11,237

*Projected volume for FY 2014, FY 2015, and FY 2016 assumes 0% growth based on FY 2013 volumes. Exhibit M, pp. 388-389.

11. From FY 2012 to FY 2013, Tolland Imaging Center only experienced a 2% loss in volume, compared to a double-digit drop for statewide ambulatory services and outpatient imaging. Hearing Transcript, p. 21, Ethan B. Foxman, M.D., President and Chief Executive Officer, Jefferson Radiology, P.C.
12. Tolland Imaging Center's long-term financial viability is dependent upon its ability to continue offering the full spectrum of imaging services; removing MRI and/or CT capabilities would threaten the provider referral network that generates volume for all imaging services at Tolland Imaging Center. Exhibit A, p. 7.

13. Tolland Imaging Center’s profits and losses are allocated at the end of each fiscal year among the owners in accordance with their respective membership interest. Owner members are identified in the table below:

Table 4: Ownership of Tolland Imaging Center, LLC

Member	% Owned
Johnson Memorial Hospital, Inc.	15%
Windham Community Memorial Hospital, Inc.	15%
Manchester Memorial Hospital, Inc.	35%
Rockville General Hospital, Inc.	35%
Total Ownership Percentage	100%

Exhibit A, p. 32.

14. Tolland Imaging Center is the only freestanding imaging center in northeastern Connecticut and has helped to eliminate any geographic or logistical barriers to services that would occur absent its existence. Exhibit A, p. 10.
15. There are only two other providers of imaging services in the Applicant’s service area, Johnson Memorial Hospital and Rockville General Hospital; both of which are hospitals that have an owner membership interest in Tolland Imaging Center. Exhibit A, p. 11.
16. Due to billing differences, different fee schedules and lower overhead, the charge for an MRI or CT scan at Tolland Imaging Center is lower than a comparable scan performed at a hospital. Hearing Transcript, pp. 22-23, Daniel J. DelGallo, Executive Director of Tolland Imaging Center and Administrative Director of Medical Imaging at Eastern Connecticut Health Network, Inc. (“ECHN”).
17. The establishment of Tolland Imaging Center has improved the quality of health care delivery in the region by facilitating collaboration between three independent hospital systems; Johnson Memorial Hospital, Eastern Connecticut Health network (comprised of Manchester Memorial Hospital and Rockville General Hospital), and Windham Community Memorial Hospital. Exhibit A, p. 22.

18. The expenditures in Table 6 represent the expenses that would continue to be incurred by Tolland Imaging Center ownership members in the event Tolland Imaging Center ceased operation.

Table 5: Total Capital Expenditure

Description	Cost
Medical Equipment Purchase	\$166
Imaging Equipment Purchase	\$10,410
Non-Medical Equipment Purchase	\$9,037
Construction/Renovation	\$350,735
Total Capital Expenditure	\$370,348
Imaging Equipment Lease (Fair Market Value)	\$470,517
Fair Market Value of Space	\$403,552
Total Capital Cost	\$874,069
Total Project Cost	\$1,244,417
Capitalized Financing Costs (Informational Purpose Only)	\$726
Total Capital Expenditure with Cap. Fin. Costs	\$1,245,144

Exhibit A, pp. 24-25.

19. Tolland Imaging Center has been financially viable for the last two years; positive net income was recorded in both FY 2012 and FY 2013. Net income is expected to grow incrementally over the next few years and will benefit from the September 2013 expiration of two capital leases. Hearing Transcript, p. 9, Daniel J. DelGallo, Executive Director of Tolland Imaging Center and Administrative Director of Medical Imaging at ECHN.
20. The MRI and CT services provided by Tolland Imaging Center account for approximately 60% of its total revenue. Hearing Transcript, p. 10, Daniel J. DelGallo, Executive Director of Tolland Imaging Center and Administrative Director of Medical Imaging at ECHN.
21. Tolland Imaging Center will still be responsible for depreciation and lease costs of \$1.3 million, through 2016, for both MRI and CT, even if it ceases operation. Hearing Transcript, p. 10, Daniel J. DelGallo, Executive Director of Tolland Imaging Center and Administrative Director of Medical Imaging at ECHN.
22. The Applicant projects incremental gains from operations as follows:

Table 6: Incremental Gain/(Loss) from Operations

	FY 2014	FY 2015	FY 2016
Revenue from Operations	\$2,141,150	\$2,175,408	\$2,210,215
Total Operating Expenses*	\$1,224,036	\$1,673,181	\$1,477,286
Gain/(Loss) from Operations	\$917,114	\$502,227	\$732,929

*Operating expenses include salaries and fringe benefits, contracted services, supplies and drugs, bad debt, interest and lease expenses required to operate the Center and support the forecasted volumes. Exhibit J, p. 363.

23. Tolland Imaging Center's current payer mix, based on Net Patient Revenue, is as follows:

Table 7: Tolland Imaging Center's Current Payer Mix

Description	Facility	CT	MRI
Medicare*	21.6%	30.5%	19.9%
Medicaid*	6.9%	6.3%	6.4%
CHAMPUS & TriCare	0.9%	0.9%	1.0%
Other Government	0.1%	0.1%	0.1%
Total Government	29.6%	37.8%	27.4%
Commercial Insurers*	67.9%	59.5%	64.7%
Uninsured	1.9%	2.3%	7.8%
Workers Compensation	0.6%	0.4%	0.1%
Total Non-Government	70.4%	62.2%	72.6%
Total Payer Mix	100%	100%	100%

*Includes managed care activity.
Exhibit A, p. 27.

24. The projected patient population mix for FY 2014, FY 2015 and FY 2016 will remain the same. Tolland Imaging Center does not anticipate any changes in operations or the population it serves. Exhibit A, p. 27.
25. OHCA is currently in the process of establishing its policies and standards as regulations. Therefore, OHCA has not made any findings as to this proposal's relationship to any regulations adopted by OHCA. (Conn. Gen. Stat. § 19a-639(a)(1))
26. This CON application is consistent with the overall goals of the Statewide Health Care Facilities and Services Plan. (Conn. Gen. Stat. § 19a-639(a)(2)).
27. The Applicant has established that there is a clear public need for its proposal. (Conn. Gen. Stat. § 19a-639(a)(3)).
28. The Applicant has satisfactorily demonstrated that the proposal is financially feasible. (Conn. Gen. Stat. § 19a-639(a)(4)).
29. The Applicant has satisfactorily demonstrated that its proposal would improve the accessibility of health care delivery in the region and potentially improve quality in the region by facilitating collaboration between three independent hospital systems. (Conn. Gen. Stat. § 19a-639(a)(5)).
30. The Applicant has shown that there would be no change to the provision of health care services to the relevant populations and payer mix. (Conn. Gen. Stat. § 19a-639(a)(6)).
31. The Applicant has satisfactorily identified the population to be served and has satisfactorily demonstrated that this population has a need as proposed. (Conn. Gen. Stat. § 19a-639(a)(7)).
32. The historical utilization of overall imaging services in the service area supports this proposal. (Conn. Gen. Stat. § 19a-639(a)(8)).

33. The Applicant has satisfactorily demonstrated that this proposal would not result in an unnecessary duplication of existing services in the area. (Conn. Gen. Stat. § 19a-639(a)(9)).

Discussion

CON applications are decided on a case by case basis and do not lend themselves to general applicability due to the uniqueness of the facts in each case. In rendering its decision, OHCA considers the factors set forth in General Statutes § 19a-639(a). The Applicant bears the burden of proof in this matter by a preponderance of the evidence. *Jones v. Connecticut Medical Examining Board*, 309 Conn. 727 (2013).

On September 18, 2007, OHCA granted approval (DN: 06-30841-CON) for the establishment and operation of a full-service imaging center in Tolland as a three-year demonstration project. The facility, Tolland Imaging Center, is a joint venture between Johnson Memorial Hospital, Manchester Memorial Hospital, Rockville General Hospital and Windham Community Memorial Hospital. *FF1*. Since 2008, Tolland Imaging Center has been providing MRI, CT, mammography, bone density, radiography, and ultrasound services. *FF2&5*. The Applicant is seeking authorization to continue the delivery of comprehensive imaging services at Tolland Imaging Center, including the continued provision of MRI and CT scanning services. *FF3*.

Tolland Imaging Center's service area consists of the towns of Coventry, Ellington, Mansfield, Stafford, Tolland, Union, Vernon and Willington. *FF6*. Tolland Imaging Center has established solid referral patterns with health care providers in its service area. *FF7*. It has a strong referral base of over 1,000 physicians; 69 of these physicians provide consistent referrals within a given year. *Hearing Transcript, p. 8, Daniel J. DelGallo*. The number of patients referred for MRI and CT, as well as overall patient volume at Tolland Imaging Center, has increased steadily from FY 2008 to FY 2012, serving nearly ten thousand patients and providing more than 11,000 imaging procedures in FY 2013. *FF8&9*. The Applicant provides comprehensive services for many sub-specialty groups (e.g., obstetrics, orthopedics, and family practice) located in its service area. *Hearing Transcript, p. 8, Daniel J. DelGallo*. Tolland Imaging Center also serves the imaging needs of Med-East Medical Walk-In Center, an urgent care facility located in close proximity to Tolland Imaging Center. *Hearing Transcript, p. 8, Daniel J. DelGallo*.

The establishment of Tolland Imaging Center has improved the quality of health care delivery in the region by facilitating collaboration between three independent hospital systems; Johnson Memorial Hospital, Eastern Connecticut Health network (comprised of Manchester Memorial Hospital and Rockville General Hospital), and Windham Community Memorial Hospital. *FF17*.

Tolland Imaging Center is the only freestanding imaging center in northeastern Connecticut; it has helped to eliminate any geographic or logistical barriers to services that would occur absent its existence. *FF14*. While there are two other providers of imaging services in Tolland Imaging Center's service area, Johnson Memorial Hospital and Rockville General Hospital, Tolland Imaging Center provides an added benefit to the community it serves since it can provide MRI and CT scanning services at a lower cost than a comparable scan at a hospital. This is due to billing differences, different fee schedules and lower overhead than a hospital. *FF15&16*. Based upon the amount of patients served and the lower cost of the services provided, it is clear that Tolland Imaging Center serves an important role within its service area. Additionally, since the two hospitals in the service area have an ownership interest in Tolland Imaging Center, approval

of this proposal will not have an adverse impact on either hospital. Therefore, the Applicant has satisfactorily demonstrated that its proposal satisfies a clear public need without an unnecessary duplication of services or negative financial impact upon other providers in the service area.

The long-term financial viability of Tolland Imaging Center is dependent upon its continued ability to provide the full spectrum of imaging services, including MRI and CT, which account for 60% of its total revenue. As a result, removing MRI and/or CT capabilities would threaten the provider referral network that generates volume for all imaging services at Tolland Imaging Center and may ultimately lead to the closure of the facility. *FF12&20*. Furthermore, Tolland Imaging Center, and indirectly its hospital owner members, incurred certain financial obligations in the amount of \$1.3 million in order to establish its operations, and will still be responsible for those liabilities even if the facility ceases operations. *FF13,18&21*. The result would be a financial detriment to the owner hospitals without the opportunity to recoup the funds through the continued operation of Tolland Imaging Center.

Tolland Imaging Center recorded positive net income in both FY 2012 and FY 2013. *FF19*. With approval of the project, the Applicant projects operational incremental gains of \$917,114 in FY 2014, \$502,227 in FY 2015 and \$732,929 in FY 2016. *FF22*. With no associated capital expenditures, and projected volumes that appear reasonable and achievable, OHCA concludes that the Applicant's proposal is financially feasible.

Order

Based upon the foregoing Findings of Fact and Discussion, the Certificate of Need application of Tolland Imaging Center, Inc. to continue delivery of comprehensive imaging services including MRI and CT services, is hereby **APPROVED**.

All of the foregoing constitutes the final order of the Office of Health Care Access in this matter.

Date

2/6/14

Lisa A. Davis, MBA, BSN, RN
Deputy Commissioner

* * * COMMUNICATION RESULT REPORT (FEB. 7. 2014 11:34AM) * * *

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DEPARTMENT OF PUBLIC HEALTH
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DATE: 02/07/2014 Time: 11:30 am
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Comments:
13-31833-
CON Final
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