

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. note	re: personal medical (2 pages)	03/18/2000	P6/b(6)
001b. letter	Sheila and Larry Fisher to Bill Clinton (4 pages)	03/13/2000	P6/b(6)
002. letter	Charles Onufur to Peggy Felthouse (3 pages)	04/06/2000	P6/b(6)
003. letter	Sheila and Larry Fisher to Peggy Felthouse (5 pages)	04/11/2000	P6/b(6)
004. report	re: personal medical (5 pages)	n.d.	P6/b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Devorah Adler
OA/Box Number: 20463

FOLDER TITLE:

Casework

2012-0463-S

rc726

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.



Christopher C. Jennings
03/30/2000 04:30:41 PM

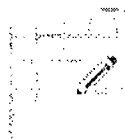
Record Type: Record

To: Devorah R. Adler/OPD/EOP@EOP

cc:

Subject: cleveland

----- Forwarded by Christopher C. Jennings/OPD/EOP on 03/30/2000 04:31 PM -----



Orson C. Porter
03/30/2000 11:26:40 AM

Record Type: Record

To: Christopher C. Jennings/OPD/EOP@EOP

cc:

Subject: cleveland

Judge kills hospital deal

Thursday, March 30, 2000

By DIANE SOLOV
JOAN MAZZOLINI
and REGINA McENERY
PLAIN DEALER REPORTERS

Federal Bankruptcy Judge Mary F. Walrath yesterday dismantled the Cleveland Clinic's pact with Primary Health Systems and ordered three PHS hospitals and its medical campus to be sold through a public auction.

Walrath said the private, \$62.7 million deal struck between the Clinic and PHS "was clearly not designed to elicit the highest and best price."

"A full and fair auction will remove the smell from this case," Walrath said, after listening to hours of testimony from Dennis I. Simon, the chief executive of PHS.

Walrath took just 23 minutes to consider her ruling and

returned to a rapt courtroom where she bemoaned the health care crisis and slapped PHS for its numerous misrepresentations spelled out in court.

The judge gave PHS 30 days to solicit new bids.

Her decision scuttles a deal that would have given the Clinic the valuable Integrated Medical Campus in Beachwood, but would have also closed Mt. Sinai Medical Center-East in Richmond Heights, and St. Michael Hospital in Cleveland's Slavic Village.

The Clinic has until tomorrow morning at 8:30 a.m. to tell Walrath whether it intends to keep its offer on the table, while the banks face the same deadline to decide whether to extend more credit.

The deadline came with stern warnings, including the threat of a federal investigation that set off a wave of whispers and gasps among spectators.

"This is a great victory," said Rep. Dennis Kucinich, who sat alongside a number of his constituents on the hard courtroom benches all day. "We get a month now to work and save the hospitals. I'm so proud of my constituents. They're so strong."

Mayor Michael R. White, who came under heavy criticism for brokering a compromise with the Clinic that would have retained only limited services at St. Michael, said through a spokesman that the judge's decision was a vindication because bidders must agree, at minimum, to the services established in the agreement for St. Michael.

"She's [the judge] embracing that deal as the standard," said Economic Development Director Chris Warren, who attended the hearing. "If there is another deal out there that could provide for additional services ... the mayor is foursquare behind that."

The decision capped a daylong hearing where a packed courtroom, including Cleveland residents who traveled by bus to attend the proceeding, heard testimony about why PHS thought the Clinic's deal was the best they could get.

Calling PHS's misrepresentations disturbing, Walrath said she would consider later what steps she will take to "rectify this issue." She threatened that anything less than a full, fair and open bidding process would prompt her to consider her other options, including referring "to the U.S. attorney as to whether the whole process has been tainted."

She singled out PHS, its lenders and the Clinic for shutting out other bidders, and other companies PHS owes money to.

The provision barring PHS from shopping the hospitals to other potential bidders was "particularly onerous," the judge said, because it eliminated competition that would have made it possible to judge whether the Clinic's price was fair.

"I do not find any lack of good faith on the Cleveland Clinic today, but if the Cleveland Clinic does pull out of its bid, it would be evidence of bad faith and could support the assertion the Cleveland Clinic just wanted these hospitals closed to reduce competition," Walrath said at the end of nearly eight hours of

testimony and arguments.

University Hospitals, which upped its bid in court for St. Michael and Mt. Sinai-East from \$10 million to \$12 million, argued against PHS's contention that it had no choice but to complete the deal with the Clinic.

"What odd bedfellows have come together to challenge this transaction," said UH lawyer Jim Peck. "There is ... an appearance that something is wrong here. Can we really all be wrong?"

PHS's Simon, the only witness to testify yesterday, said he sought the Clinic deal because the company was out of money and he knew the Clinic was a willing buyer, having made numerous overtures to buy the IMC.

But opponents to the private sale noted that PHS had no appraisals or evidence that they had tried to sell the hospitals to anyone else since their bankruptcy filing in March 1999.

In fact, because PHS had stated in court in February that it had closed Mt. Sinai-University Circle to keep the other hospitals open, any potential bidders could not have known the other hospitals were for sale, attorneys argued and the judge agreed.

Walrath's ruling brings no guarantees that competing bids will arrive with the right price and terms to keep the hospitals open. Competing bids must add up to at least \$2.5 million more than the Clinic's, although unlike the Clinic's bid, the court will consider offers for St. Michael, Mt. Sinai-East and the IMC individually.

She ordered that the bidding process go forward with St. Michael and Mt. Sinai-East open, saying that experience has proven businesses are worth more open than boarded up.

"It's a complete vindication of our position," said James McMonagle, general counsel for UH.

While sympathetic to the impact closed hospitals have on communities, Walrath said her job in Bankruptcy Court, in most instances, was to take the highest prices.

"Usually, money is king in Bankruptcy Court," Walrath said.

The fate of Deaconess Hospital in Cleveland's Old Brooklyn neighborhood remains uncertain. "Our intention would be to keep it open and to sell it to someone who keeps it open," Simon said.

However, the lawyer for the two large lenders, First Union and KeyCorp, said that if the Clinic deal didn't go forward, there might not be any money to run Deaconess. The money from PHS' banks is set to run out tomorrow.

"We have not even been able to get the banks to agree to give us \$1 past March 31," said James Ricciardi, the attorney for PHS.

Restraining order extended Meanwhile, Walrath extended the temporary restraining order on Mt. Sinai-East, keeping the hospital's emergency room open

and allowing patients to continue to be admitted. The judge may determine tomorrow whether to require St. Michael to reopen its emergency room and possibly begin admitting patients again.

"The judge gave us a reprieve," said Vince Marimberga, a maintenance worker at St. Michael. "She said, Do it the right way now. Make it all fair."

PHS spokesman Ed Nebb last night declined to comment. "I really can't answer any questions at this time until I confer with legal," he said.

The Clinic also had little to say.

"The Cleveland Clinic will be reviewing the changes in the bid process ordered Wednesday evening by bankruptcy Judge Walrath," spokesman Mark Cohen said in a prepared statement. "In light of the fact that the parties are now scheduled to go before the judge Friday morning to review these changes in the bid process, the Clinic will be prepared to respond to the judge's ruling in court Friday morning."

Those who fought to keep the hospitals open had a sharply different tone.

"We won, man. It's great," Dr. Mark A. Foglietti, chief of staff at Mt. Sinai-East, yelled into the phone last night.

Dr. Javier Lopez, director of surgery at St. Michael, said the staff was excited at the prospect of salvation.

There are about 45 patients at the hospital and the main work ahead is getting the emergency room up and running, Lopez said. PHS halted admissions at St. Michael last week.

"I think she [the judge] knew something was wrong in the way negotiations were conducted," he said. "It should be done in an open way. They owe it to us and they owe it to the community."

Legal challenge succeeds Doctors said the success of the legal challenge was remarkable.

"I've been here for 40 years and I've never seen anything like this in health care - not anywhere in the country. This is a historical case," said Lopez.

"It goes to show you," said Foglietti, "what the people in the community want means something, and it means more than the bottom line in a ledger."

Foglietti believes the decision will lead to University Hospitals buying Mt. Sinai-East and St. Michael and keeping them open. The Clinic, he speculated, will buy the Beachwood medical campus.

Farah M. Walters, president and CEO of University Hospitals, said in a prepared statement that she hoped "there will be no further attempt to dismantle the operations of these hospitals as there has been in the past three weeks."

Cleveland Council President Michael D. Polensek, who was attending with Councilmen Joe Cimperman and Edward W. Rybka, said, "We need to have

full-service neighborhood hospitals."

Councilman Michael O'Malley, whose ward includes Deaconess Hospital, said the ruling was a victory for council, Kucinich and the community. But he took exception to White's spin.

The mayor-backed deal "appeared to be a mechanism for the Cleveland Clinic to eliminate competition. I think that's what it's all about. The deal wasn't what was best for the citizens or these institutions."

O'Malley thinks Deaconess can be saved.

"There should be interest in Deaconess. It has a history as a very viable hospital."

Plain Dealer reporter Harlan Spector contributed to this article.

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WASHINGTON, DC 20515-3510

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Dennis J. Keenan

President Clinton

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DENNIS J. KUCINICH

10TH DISTRICT, OHIO

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Committees:
Government Oversight
Education and Labor

Congress of the United States

House of Representatives

March 14, 2000

THIS DOCUMENT HAS BEEN

3-18-00

Dear President Clinton.

Bill -

You have always been for those who are powerless to fight for themselves. An old working class neighborhood in Cleveland is threatened with the loss of the heart and soul of its community, a 116 year old hospital, St. Michael's. The community hospital is caught up in legal action, including bankruptcy proceedings, designed to force its closure.

Unfortunately, the world-renown Cleveland Clinic is behind the effort to force St. Michael's and another community hospital, Mt. Sinai East, both of which are making a profit, to close. A third neighborhood hospital, Deaconess, is under threat of immediate closure. A fourth, serving the African-American community, Mt. Sinai, was closed last month.

Hundreds of dedicated employees, including doctors and nurses, are being thrown out of work and tens of thousands of Clevelanders are being denied accessible health care. With the exception of the status of Deaconess Hospital, the Cleveland Clinic stands to benefit directly from the closings of the other hospitals. In fact, they are purchasing both St. Michael's and Mt. Sinai East in order to shut them down.

There is no reason the Cleveland Clinic is spending good money to buy St. Michael's and Mt. Sinai East, two hospitals it does not want to use, except to make sure that no one else can use them. It is forcing more and more people to become patients in the Clinic's own broad network. It wants to eliminate existing competitive facilities by purchasing them and taking them out of operation, so they cannot be utilized by competitors.

Hundreds of community hospitals are being closed nationally. The poor, the disadvantaged, and the elderly are finding it more and more difficult to have access to health care. You are the only one who can raise this to a level of national concern. We need your help in Cleveland. We need your help across America. Please help.

Sincerely,

Dennis

Dennis J. Kucinich



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HOME & COMMUNITY BASED WAIVER**FOR****MEDICALLY FRAGILE, TECHNOLOGY DEPENDENT CHILDREN****B-2 Attachment #2****Rationale for the Use of Agency Personnel for the Provision of Private Duty Nursing and Home Health Aide Services.**

In addition to the provisions for licensure etc., the Department also requires that individuals providing nursing and home health aide services are employed by a private duty nursing agency. For the purposes of this explanation when private duty nursing or nursing services are referenced, it includes the services of a home health aide.

The agency provides continuity, accountability, credentialing, administrative, and supervisory oversight and quality assurance.

All children in the waiver program require a level of care provided in a hospital or long term care facility, which includes the need for skilled nursing services 24 hours per day. Employment of a nursing agency ensures that administrative responsibility for the provision of continuous nursing services rests with the agency and not the child's parents. Were it not for the nursing agency oversight and administration, parents would become responsible for the recruiting, the credentialing, and the hiring of appropriately licensed and experienced nurses. Additionally, parents would have to train nursing staff, ensure that they are supervised, and care for the child themselves when problems with the nursing staff arise since they have no backup nursing pool to care for the child. Quality assurance and continuity of care would likewise become the responsibility of the parents, and thus they would be put in the position of assessing professional performance, most likely, outside their area of expertise.

The nursing agency provides all the above mentioned oversight services. The parents have absolute freedom of choice in the selection of nurses to provide care for their child. This requirement has been in place for over five waiver years under the State's Model Waiver (ref. #40147). There have been occasions, albeit infrequent, when parents have requested that friends or relatives be allowed to care for their children. When this occurred, DPA and DSCC worked with the family to employ the individual through an appropriate agency.

A family's decision to bring a medically fragile child to their home creates an extremely stressful situation. The provision of nursing services through an agency is one way to minimize the additional stress to the parents and provide a critical support service for maintaining a child safely in the home and community.

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Dwora -

Ms Felthaus received the copy of
the complete appeal I made reference

to in my letter of 4-11-00. Here are
the basic pages for your file.
If you need more, please call.

Shirley

Shirley Fisher

(847)256-1824

5-10-00

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