

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
Office of Health Care Access

August 13, 2013

IN THE MATTER OF:

An Application for a Certificate of Need
filed pursuant to General Statutes § 19a-638
(a) (1) by:

Notice of Final Decision
Office of Health Care Access
Docket Number: 12-31784-CON

**SBDI Holding, LLC d/b/a Diagnostic Imaging
of West Haven**

**Acquisition of a Computed Tomography
Scanner in West Haven, Connecticut**

To: Debra Mauriello
Director, Diagnostic Imaging
Milford Hospital
300 Seaside Avenue
Milford, CT

Dear Ms. Mauriello:

In accordance with the Connecticut General Statutes Section 4-179, the Proposed Final Decision dated June 4, 2013, by Hearing Officer Kevin T Hansted, Esq., is hereby adopted as the final decision of the Deputy Commissioner of Department of Public Health in this matter. A copy of the Proposed Final Decision is attached hereto and incorporated herein.

Sincerely,

Kimberly R. Martone,
Director of Operations

KRM: pf

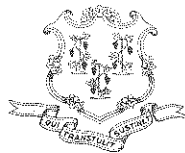
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STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH

Jewel Mullen, M.D., M.P.H., M.P.A.
Commissioner



Dannel P. Malloy
Governor
Nancy Wyman
Lt. Governor

**In Re: SBDI Holding, LLC d/b/a Diagnostic Imaging of West Haven
Docket Number: 12-31784-CON**

FINAL DECISION

On June 4, 2013, a Proposed Final Decision was issued in the above matter pursuant to Section 4-179 of the Connecticut General Statutes.

In accordance with Connecticut General Statutes Section 4-179, the attached Proposed Final Decision dated June 4 2013 by Hearing Officer Kevin T Hansted, Esq., is hereby adopted as the final decision of the Deputy Commissioner of the Department of Public Health in this matter. A copy of the Proposed Final Decision is attached hereto and incorporated herein.

WHEREFORE, it is the final decision of the Deputy Commissioner that the application of SBDI Holding, LLC d/b/a Diagnostic Imaging of West Haven, to acquire a Computed Tomography Scanner in West Haven, is hereby denied.

8/13/2013
Date

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



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Department of Public Health Office of Health Care Access

Proposed Final Decision

Applicant: SBDI Holding, LLC
d/b/a Diagnostic Imaging of West Haven
687 Campbell Avenue, West Haven, CT 06516

Docket Number: 12-31784-CON

Project Title: Acquisition of a Computed Tomography Scanner in
West Haven

Project Description: SBDI Holding, LLC d/b/a Diagnostic Imaging of West Haven ("SBDI Holding, LLC" or "Applicant") is proposing the acquisition of a Computed Tomography ("CT") Scanner from Radiologic Associates of Middletown, P.C. The total capital expenditure associated with this proposal is \$10,000.

Procedural History: The Applicant published notice of its intent to file the Certificate of Need ("CON") application in the *New Haven Register*, on August 8, 9 and 10, 2012. On September 5, 2012, the Office of Health Care Access ("OHCA") received the CON application from the Applicant for the above-referenced project. On December 28, 2012, OHCA deemed the CON application complete.

On January 4, 2013, the Applicant was notified of the date, time and place of the public hearing. On January 7, 2013, a notice to the public announcing the hearing was published in the *New Haven Register*.

Commissioner Jewel Mullen designated Attorney Kevin T. Hansted as the hearing officer in this matter. Pursuant to Connecticut General Statutes ("Conn. Gen. Stat") § 19a-639a, a public hearing regarding the CON application was held on January 24, 2013. The hearing was conducted as a contested case in accordance with the provisions of the Uniform Administrative Procedure Act (Chapter 54 of the General Statutes) and Conn. Gen. Stat. § 19a-639a.

Findings of Fact

1. SBDI Holding, LLC is a taxable corporation owned equally by Seabridge Corporation and Diagnostic Imaging of Milford, P.C.. Ex. A, p. 13.
2. Seabridge Corporation is a taxable entity affiliated with Milford Hospital. Diagnostic Imaging of Milford, P.C., is a physician-owned radiology group. Ex. A, p. 13.
3. Seabridge Corporation and Diagnostic Imaging of Milford, P.C., operate SBDI Holding, LLC, which in turn purchases the equipment for Diagnostic Imaging of Milford, P.C.'s existing imaging center located at 30 Commerce Park, Milford, CT. Ex. A, p. 13.
4. Diagnostic Imaging of Milford, P.C. provides professional radiology services, including mammography, bone density, plain radiography, fluoroscopy, ultrasound, CT scans and Magnetic Resonance Imaging. Ex. A, p. 13.
5. Diagnostic Imaging of Milford, P.C. recently acquired a free-standing radiology office in West Haven, CT, ("Diagnostic Imaging of West Haven") where it currently provides plain radiography, ultrasound and mammography. Radiologic Associates of Middletown, P.C. provides CT scan services at this location. Ex. A, p. 13.
6. SBDI Holding, LLC is proposing the acquisition of the existing Toshiba Asteion 4-Slice CT Scanner from Radiologic Associates of Middletown, P.C. Ex. A, pages. 4 & 13.
7. According to SBDI Holding, LLC, the populations to be served by the proposed CT scanner are residents of the City of West Haven and portions of the Town of Orange. Ex. A, p. 14.
8. SBDI Holding, LLC claims the following as the basis for the proposed acquisition of the CT scanner from Radiologic Associates of Middletown:
 - The CT scanner currently being utilized is the only free standing unit in the City of West Haven;
 - The CT scanning service is supported entirely by referring physicians in the surrounding area; and
 - Diagnostic Imaging of West Haven is located on a major bus route. Ex. C, p. 22.
9. Diagnostic Imaging of Milford operates an 8-Slice CT Scanner Monday through Friday from 8:00 am to 5:00 pm at 30 Commerce Park, Milford, CT. Ex. A, p. 4.

10. SBDI Holding, LLC indicates that existing providers of CT scanning services are located in Milford at Milford Hospital, and New Haven at Yale New Haven Hospital and Hospital of Saint Raphael. The following CT providers are located within the Applicant's service area towns.

Table 1: Existing Service Area CT Providers with Associated Scans Performed in CY 2010

Town	Existing CT Provider	Number of CT Scans Performed in CY 2010	Distance in miles to existing providers#
Milford	1. Milford Hospital, 300 Seaside Avenue*	10,979	8.3 miles
New Haven	1. Hospital of Saint Raphael, 1450 Chapel Street*	18,900	4.0 miles
	2. Hospital of Saint Raphael, 1450 Chapel Street *	3,991	4.0 miles
	3. Yale-New Haven Hospital, 20 York Street**	32,863	2.8 miles
	4. Yale-New Haven Hospital, 20 York Street***	4,332	2.8 miles
	5. Yale-New Haven Hospital, 20 York Street***	6,751	2.8 miles
	6. Yale-New Haven Hospital, 20 York Street*	13,526	2.8 miles
	7. Yale-New Haven Hospital, 20 York Street*	12,726	2.8 miles
	8. Yale-New Haven Hospital, 20 York Street****	962	2.8 miles
	9. Yale-New Haven Hospital, 60 Temple Street*****	3,215	4.0 miles

In September 2012, Yale New Haven Hospital purchased the Hospital of Saint Raphael. The number of CT scans performed in calendar year ("CY") 2010 for each provider was obtained from the Office of Health Care Access' Imaging Questionnaire.

*Radiology Department

**Emergency Department

***Smilow Cancer Center

****Biopsy

*****Satellite Location

Source: MapQuest

Ex. A, p. 5.

11. The Applicant claims that the patient population at Diagnostic Imaging of West Haven will not change as a result of this proposal. Ex. A, p. 5.

12. The following table indicates the number of referrals to Diagnostic Imaging of West Haven by town for Year 2012 (Jan-Sept):

Table 2: Number of referrals by town for Year 2012 (Jan-Sept) for Diagnostic Imaging of West Haven

Town	# of Referrals
West Haven	338
Orange	38
New Haven	24
Milford	5
North Haven	2
Other	39
Total	446

Ex. C, p. 25

13. Physicians located in West Haven made the most referrals to Diagnostic Imaging of West Haven in 2012 (Jan-Sept).
Ex. C, pages 25-28.

14. Historical CT Scans performed at Diagnostic Imaging of Milford, 30 Commerce Park, Milford, CT, are listed as follows:

Table 3: Historical CT Scans

	FY 2009	FY 2010	FY 2011	FY*2012
D.I. Milford	2790	2398	1706	1548

*Applicant's FY year is the calendar year, January to December.

Ex. C, page 23.

Ex. J, email.

15. Historical CT Scans performed at Diagnostic Imaging of West Haven by Radiologic Imaging of Middletown, P.C. are listed as follows:

Table 4: Historical CT Scans

	FY 2009	FY 2010	FY 2011	FY* 2012
D.I. West Haven	1081	913	631	580

*Applicant's FY year is the calendar year, January to December.

Ex. C, page 23.

Ex. I, Prefile Testimony

16. SBDI Holding, LLC attributes the decline in CT Scans between FY 2010 and FY 2011 to the new combination CPT codes for abdomen and pelvis CT Scan, and to public awareness of radiation exposure. Prior to 2011, an abdomen and pelvis CT scans were counted as two separate exams. As of January 1, 2011, they are now counted as one exam. Ex. A, p. 8.

17. The following table represents the projected CT Scans for the next three fiscal years as provided by the Applicant:

Table 5: Projected CT Scans

	FY 2013	FY 2014	FY 2015
D.I. Milford	1597	1597	1597
D.I. West Haven	596	596	596

Ex. C, Applicant's responses to Completeness Letter, p. 52.

18. According to SBDI Holding, LLC, volume is expected to remain consistent for the Diagnostic Imaging West Haven CT Scanner, as the population of West Haven has only grown 1% since 2005. Ex. A, p. 8.
19. The proposed total capital expenditure associated with this proposal is \$10,000 for medical equipment purchase.
 Ex. A, p. 10.
20. SBDI Holding, LLC proposes to fund the proposed capital expenditure through its equity. Ex. A, p. 10.
21. SBDI Holding, LLC projects the following revenues and expenditures incremental to the proposal:

Table 6: Projected Revenues and Expenditures Incremental to the Proposal

	FY 2013	FY 2014	FY 2015
Revenue From Operations	\$242,801	\$242,801	\$242,801
Total Operating Expense	\$177,476	\$180,159	\$183,023
Overall Gain (Loss) from Operations	\$65,325	\$62,642	\$59,778

Ex. A, p. 39.

22. SBDI Holding, LLC's current and proposed patient payer mix as a result of this proposal is as follows:

Table 7: Applicant's Projected Payer Mix

Payer	Current FY 2012	Year 1 FY 2013	Year 2 FY 2014	Year 3 FY 2015
Medicare	33.86%	33.86%	33.86%	33.86%
Medicaid	9.79%	9.79%	9.79%	9.79%
CHAMPUS & TriCare	0.0%	0.0%	0.0%	0.0%
Total Government	43.65%	43.65%	43.65%	43.65%
Commercial Insurers	54.62%	54.62%	54.62%	54.62%
Uninsured	0.0%	0.0%	0.0%	0.0%
Workers Compensation	1.63%	1.63%	1.63%	1.63%
Total Non-Government	56.25%	56.25%	56.25%	56.25%
Total Payer Mix	99.9%	99.9%	99.9%	99.9%

Ex. A, pages 10 & 11.

23. 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 policies and standards not yet adopted as regulations by OHCA. (Conn. Gen. Stat. § 19a-639(a)(1)).
24. OHCA recently published a statewide facilities and service plan. Since the plan was not in circulation more than ninety days at the time the CON application was deemed complete, OHCA has not made any findings as to this proposal's relationship to the plan. (Conn. Gen. Stat. § 19a-639(a)(2)).
25. SBDI Holding, LLC has failed to establish that there is a clear public need for this proposal. (Conn. Gen. Stat. § 19a-639(a)(3)).
26. SBDI Holding, LLC has not satisfactorily demonstrated that the proposal is financially feasible. (Conn. Gen. Stat. § 19a-639(a)(4)).
27. SBDI Holding, LLC has failed to satisfactorily demonstrate that its proposal would improve the accessibility, quality or cost effectiveness of health care delivery in the region. (Conn. Gen. Stat. § 19a-639(a)(5)).
28. SBDI Holding, LLC has shown that there will be no change to the provision of health care services to the relevant populations and payer mix. (Conn. Gen. Stat. § 19a-639(a)(6)).
29. SBDI Holding, LLC has satisfactorily identified the population to be served by their proposal, but has failed to satisfactorily demonstrate that this population currently has a need as proposed. (Conn. Gen. Stat. § 19a-639(a)(7)).
30. The historical utilization in the service area does not support this proposal. (Conn. Gen. Stat. § 19a-639(a)(8)).
31. SBDI Holding, LLC has failed to satisfactorily demonstrate that its proposal would not result in an unnecessary duplication of existing imaging 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 § 19a-639(a) of the Statutes. The Applicant bears the burden of proof in this matter by a preponderance of the evidence. *Goldstar Medical Services, Inc., et al. v. Department of Social Services, 288 Conn. 790 (2008)*.

SBDI Holding, LLC is a taxable corporation owned equally by Seabridge Corporation and Diagnostic Imaging of Milford, P.C. *FF 1*. Diagnostic Imaging of Milford, P.C. recently acquired a free-standing radiology office in West Haven, Connecticut from Radiologic Associates of Middletown, P.C. At that location, Diagnostic Imaging of Milford, P.C. currently provides plain radiography, ultrasound and mammography and Radiologic Associates of Middletown, P.C. provides CT scans. *FF 5*. SBDI Holding, LLC is proposing to acquire the existing 4-Slice CT Scanner located in West Haven from Radiologic Associates of Middletown, P.C. *FF 6*.

SBDI Holding, Inc. reports that in FY 2012, the CT scanner at Diagnostic Imaging of West Haven only performed 580 scans and that volume declined nearly 50% in the last three years reported. *FF 15*. Moreover, SBDI Holding, LLC projects that, at best, the CT scanner will only perform 596 scans annually for FYs 2013 through 2015. *FF 17*. Both the actual and projected annual scan utilization for the CT scanner is extremely low for this type of imaging equipment. Therefore, SBDI Holding, LLC has failed to demonstrate that there is currently a clear public need to acquire the CT scanner as proposed. *FF 25*.

SBDI Holding, LLC asserts that the CT scanner currently being utilized is the only freestanding unit in the City of West Haven. However, it also indicates that existing providers of CT scanning services are located in Milford at Milford Hospital, and New Haven at Yale New Haven Hospital's main and St. Raphael campuses. Existing providers of CT services are in fact located between 2.8 and 8.3 miles of the current West Haven location. *FF 10*. In light of declining historical volume, flat projected utilization and the close proximity of existing CT scan providers, OHCA finds that the Applicant has failed to demonstrate a clear public need to acquire the CT scanner and that patients' current CT needs can be accommodated by the other existing providers in the service area.

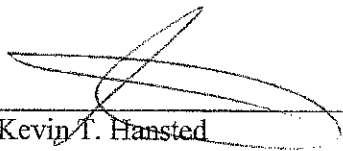
Based upon the lack of evidence demonstrating that SBDI Holding, LLC's proposed project fulfills a clear public need, OHCA is unable to conclude that SBDI Holding, LLC's financial projections, and the volumes upon which they are based, are reasonable and achievable, or that the project is financially feasible. *FF 26*.

ORDER

Based upon the foregoing Findings of Fact and Discussion, I respectfully recommend that the Certificate of Need application of SBDI Holding, LLC d/b/a Diagnostic Imaging of West Haven for the acquisition of a Computed Tomography Scanner from Radiologic Associates of Middletown, P.C. with an associated capital expenditure of \$10,000 be **DENIED**.

Respectfully submitted,

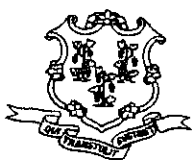
6/4/13
Date


Kevin T. Hansted
Hearing Officer

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Comments: 12-31784-CON FINAL DECISION

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