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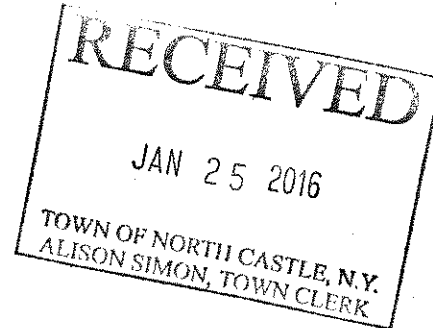
**Robert N. H. Christmas**  
*Partner*  
T 212-940-3103  
rchristmas@nixonpeabody.com

437 Madison Avenue  
New York, NY 10022-7039  
212-940-3000

January 24, 2017

***Via E-Mail and Overnight Delivery***

Supervisor Michael J. Schiliro and  
Honorable Members of the Town Board  
Town of North Castle, Town Hall  
15 Bedford Road  
Armonk, New York 10504



***RE: Proposed Establishment of a Community Residence Facility by  
Paradigm Treatment Centers LLC at 14-16 Cole Drive, Town of North  
Castle, New York***

To Supervisor Schiliro and Members of the Town Board:

We write on behalf of Paradigm Treatment Centers LLC (“Paradigm”) in response to the letter to the Board from Acting Building Inspector Cromwell dated January 17, 2017 (the “Letter”) which we received on January 20, regarding the establishment of a Community Residence at 14-16 Cole Drive, Town of North Castle, New York (the “Residence”) by Paradigm.

The letter’s initial premise, that the operation of the Residence “may” require a use classification change, thus purportedly triggering the need for both a new Certificate of Occupancy and County-level additional review of the septic and water systems, is based on a fundamental misunderstanding of the pre-emptive effect of the Padavan Law.

Under the Padavan Law, residences under the law are treated as single family units. See N.Y. Mental Hyg. Law § 41.34(f) (“A community residence established pursuant to this section and family care homes shall be deemed a family unit, for the purposes of local laws and ordinances”); *Mehta v. Surles*, 905 F.2d 595, 597 (2d Cir. 1990) (“the Mental Hygiene Law deems a licensed facility to be a single family home for the purposes of zoning”). Accordingly, there is no change in use.

In addition, the New York Department of State’s Division of Code Enforcement and Administration has provided specific guidance on State Occupancy Conversions (<https://www.dos.ny.gov/dcea/stateOccupconv.html>). The Residence proposed by Paradigm (a community residence facility to be licensed by the Office of Mental Health (“OHM”)) is subject only to the State’s Residential Code. The reference in the Acting Building Inspector’s Letter to

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an R-4 Occupancy classification and the applicability of the State Building Code is erroneous and applies to facilities of a different type.<sup>1</sup>

The referenced Division of Code Enforcement and Administration guidance specifically provides that no change in occupancy is triggered for community residence facilities licensed by OMH that are for 14 persons or fewer in a one- or two-family dwelling. All such facilities (including the Residence proposed by Paradigm) are subject only to the State's Residential Code; thus, no new Certificate of Occupancy is required.

Based on the foregoing, we respectfully submit that the analysis of the Letter is foundationally in error and thus its conclusions are incorrect.

Respectfully submitted,



Robert N. H. Christmas  
Partner

cc: Joshua J. Grauer, Esq.

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<sup>1</sup> To the extent the Letter suggests, without saying so, that this Residence is to be a chemical dependence treatment facility, which would be licensed by the Office of Alcoholism and Substance Abuse Services and apparently have an R-4 Occupancy classification, that is wholly incorrect. This facility is to be licensed by OMH, as Paradigm has stated repeatedly. Paradigm has in fact submitted its Prior Approval Review application to OMH on January 23, and the Town is free to confirm that with OMH.