

**Village of Evergreen Park, *et al.***  
**v.**  
**Sisters of Mercy of the Americas West Midwest Community, Inc., *et al.***

CASE NO. 08 CH 34375

Commonly Asked Questions and Answers

**QUESTION:** Who is involved in the litigation?

**ANSWER:** There are two lawsuits proceeding under two different legal theories. The Village of Evergreen Park is the plaintiff against the Sisters of Mercy of the Americas West Midwest Community, Inc. (“Sisters of Mercy”) under a theory of promissory estoppel. Beth Ann Amado and Catherine Manahan are plaintiffs against the City of Chicago alleging violations of their due process rights.

**QUESTION:** If the Village of Evergreen Park settles its case with the Sisters of Mercy, will the individual plaintiffs be permitted to proceed with their case against the City of Chicago?

**ANSWER:** Yes.

**QUESTION:** When will the Village of Evergreen Park be considering a settlement of the litigation?

**ANSWER:** The Village of Evergreen Park Board of Trustees will consider a settlement at its regularly scheduled meeting on February 6, 2012 at 7:30 p.m. The meeting will be held in the Village Board Room located at 9418 South Kedzie Avenue, Evergreen Park, Illinois.

**QUESTION:** Will the public be able to view the terms of the settlement before the meeting?

**ANSWER:** Yes. Copies of the proposed Judgment and Consent Decree, as well as the Declaration of Restrictive Covenant, are available to the public at the Village Hall. The public may view those documents on the Village’s web-site as well.

**QUESTION:** How will a settlement be implemented should the parties approve the proposed settlement?

**ANSWER:** The settlement will be implemented by a judgment and consent decree entered by the judge overseeing the case. The Sisters of Mercy have also agreed to sign and record a restrictive covenant against its

property prohibiting the expansion of the development, or changing the uses allowed on the property.

**QUESTION:** What was the total building square footage of the Mercy Circle development when it was approved by the City of Chicago?

**ANSWER:** The total building square footage of the Mercy Circle development was 307,180 square feet when it was approved by the City of Chicago.

**QUESTION:** What will be the total building square footage of the Mercy Circle development if the parties approve the proposed settlement?

**ANSWER:** The total building square footage of the Mercy Circle development will be 146,267 square feet.

**QUESTION:** What were the heights of the buildings comprising the Mercy Circle development when it was approved by the City of Chicago?

**ANSWER:** Originally, the Independent Living Building was proposed to be five (5) stories and the Skilled Nursing/Assisted Living Building was proposed to be four (4) stories.

**QUESTION:** What will be the height of the buildings comprising the Mercy Circle development if the parties approve the proposed settlement?

**ANSWER:** The Independent Living Building will be three (3) stories and the Skilled Nursing/Assisted Living Building will be three (3) stories.

**QUESTION:** How many units were proposed for the Mercy Circle development when it was approved by the City of Chicago?

**ANSWER:** The Sisters of Mercy originally proposed the Mercy Circle development to consist of 212 Units as follows:

Independent Living:	not more than 116 Units.
Assisted Living:	not more than 41 Units.
Memory Care:	not more than 20 Units.
Skilled Nursing:	not more than 35 Units.

**QUESTION:** How many units will be permitted at the Mercy Circle development if the parties approve the proposed settlement?

**ANSWER:** The Sisters of Mercy will be allowed 110 Units as follows:

Independent Living:	not more than 44 Units.
Assisted Living:	not more than 44 Units.

Memory Care: not more than 12 Units.  
Skilled Nursing: not more than 10 Units.

**QUESTION:** Has the shape of the Mercy Circle development changed since its approval by the City of Chicago?

**ANSWER:** Yes. Originally, the Independent Living Building proposed near 99<sup>th</sup> Street was shaped like an “S.” The Sisters of Mercy have removed the eastern-most portion—traversing southeasterly along 99<sup>th</sup> Street—of that structure. The shape of the Skilled Nursing/Assisted Living Building has changed from a four-wing building to two L-shaped wings.

**QUESTION:** Have the set-backs for the buildings comprising the Mercy Circle development changed in this settlement proposal?

**ANSWER:** Yes. The last time the Sisters of Mercy presented a settlement proposal the set back for the Independent Living Building was 122 feet from 99<sup>th</sup> Street and 87 feet from the North Property Line. In this proposal, the Sisters of Mercy have increased the set back to 137 feet from 99<sup>th</sup> Street and 102 feet from the North Property Line.

**QUESTION:** How many parking spots were proposed to serve the Mercy Circle development when it was approved by the City of Chicago?

**ANSWER:** The Sisters of Mercy proposed 156 parking spots to serve the Mercy Circle development when it was approved by the City of Chicago.

**QUESTION:** How many parking spots will be provided to serve the Mercy Circle development if the parties approve the proposed settlement?

**ANSWER:** The Sisters of Mercy are proposing 82 parking spots to serve the Mercy Circle development under the settlement.

**QUESTION:** Who would have been allowed to reside or receive medical care at the Mercy Circle development at the time it was approved by the City of Chicago?

**ANSWER:** There were no restrictions as to who could reside or receive medical care at the Mercy Circle development when it was approved by the City of Chicago. However, the Sisters of Mercy intended on limiting access to individuals at least 60 years of age.

**QUESTION:** Who will be allowed to reside or receive medical care at the Mercy Circle development if the parties approve the proposed settlement?

**ANSWER:** Only “Men and Women Religious” will be permitted to reside or receive medical care at the Mercy Circle development under the settlement.

**QUESTION:** Who will qualify as a man or woman religious?

**ANSWER:** The phrase is defined in the Judgment and Consent Decree as follows: “individual men and women who are members, ministers, or associates of religious and/or faith based communities associated with an established religion such as Priests, Nuns, Brothers, Sisters, Deacons, Reverends, Rabbis, etc., or novitiates studying but not yet ordained or sanctioned by that religious or faith based community associated with an established religion as a Man or Woman Religious.”

**QUESTION:** Will lay people be allowed to reside or receive medical care anywhere on the property if the parties approve the proposed settlement?

**ANSWER:** No. The Judgment and Consent Decree provides that “[n]o lay persons shall be permitted to reside/occupy or receive medical care on the subject property.”

**QUESTION:** How does the settlement proposal differ from the uses that have been on-going on the property?

**ANSWER:** According to a correspondence from the Sisters of Mercy to the Village of Evergreen Park dated June 3, 1953, the following buildings were proposed for the property that was later disconnected: 1) a complete educational unit,---college, including student union building, residence hall and auditorium; high school, and kindergarten primary school; 2) a novitiate for the training of young sisters; 3) a provincial house for administrative offices; and 4) an infirmary for old and incapacitated sisters. The Sisters of Mercy have resided on the property since the convent was constructed. Under this proposal, other members of religious faith such as priests, brothers, nuns, reverends, etc., will be permitted to reside and receive medical care on the property. However, the vast majority of residents—if not all in the near future—will be sisters of the Mercy Order. The medical care that those individuals receive will be more specialized than previously offered.

**QUESTION:** What will happen to the existing convent if the parties approve the proposed settlement?

**ANSWER:** The Sisters of Mercy do not have current plans for the convent. However, the Sisters of Mercy may demolish the building for green space or remodel the existing building and use it for classrooms for Mother McAuley High School. The Declaration of Restrictive Covenant restricts the buildings that currently exist on the property from being used or converted for residential, health care or commercial purposes.

**QUESTION:** How many sisters previously lived in the convent on the property?

**ANSWER:** At one time, approximately 75 sisters resided in the convent. Due to the small size of the sisters' living quarters, sitting rooms were added to each living quarter and a common area was also provided. The addition of the sitting rooms and a common area caused the displacement of the majority of sisters. The convent currently accommodates 35 sisters.

**QUESTION:** Will there be a commercial restaurant at the property available to the public if the parties approve the proposed settlement?

**ANSWER:** No. There will be a cafeteria available only to the residents, their families or other personal visitors. The Judgment and Consent Decree specifically provides that "[a]menities shall not be open to the general public."

**QUESTION:** How will the Mercy Circle development affect traffic in the area?

**ANSWER:** Before the Sisters of Mercy agreed to decrease the size and scope of the Mercy Circle development, both it and the Village of Evergreen Park engaged separate firms to conduct a site traffic analysis. Both firms came to the similar conclusions that the Mercy Circle development would not significantly impact the surrounding street network and would have a minimal impact on the traffic delays commonly associated with the area. Besides decreasing the size and scope of the Mercy Circle development, the Sisters of Mercy have agreed to stagger the employment times for those who will be working on the property so that they will be leaving or arriving during non-peak hours.

**QUESTION:** What prevents the Sisters of Mercy from adding on to the Mercy Circle development or changing the uses that will be allowed on the property?

**ANSWER:** Both the Judgment and Consent Decree and the Declaration of Restrictive Covenant prevent such action. The Sisters of Mercy cannot violate the Judgment and Consent decree without risking contempt proceedings. The Declaration of Restrictive Covenant also prevents the Sisters of Mercy from taking action without the Village of Evergreen Park's express approval. This document will restrict the development and uses employed on the property without the need to litigate or rely on the disconnection promise—although that is available too—for the next fifty (50) years.

**QUESTION:** Is there any way for the Sisters of Mercy to amend or expand Mercy Circle, or the uses for which the property is to be devoted, without the Village's approval?

**ANSWER:** No. Under the Declaration of Restrictive Covenant, the Sisters of Mercy must petition the Village of Evergreen Park to waive the restrictive covenant for such a project. The project will not be allowed unless the Village of Evergreen Park expressly approves the waiver of the restrictive covenant after a public hearing.

**QUESTION:** Would the public be notified if the Sisters of Mercy petitioned the Village of Evergreen Park to waive the restrictive covenant for a project?

**ANSWER:** Yes. The Village is required by the Open Meeting Act to post an agenda identifying matters under consideration at least 48 hours before the meeting. Additionally, the Sisters of Mercy will be required by the Declaration of Restrictive Covenant to follow the procedures attending planned development proposals in the Village of Evergreen Park. This means that: 1) published notice must be given not less than 15 days nor more than 30 days in advance of the hearing date in a newspaper having general circulation within the Village; 2) mailed notice must be given not less than 10 days not more than 30 days in advance of the hearing date to all persons listed on the Village water billing records for property located within 200 feet of the applicant's property; and 3) posted notice may be placed on the property indicating that an application is pending. Additionally, any modification to the planned development would need to be approved by the City of Chicago and notice would be provided through its zoning proceedings.