

Congress of the United States

Washington, DC 20515

July 30, 2024

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John R. Castello
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Edward K. Aldag, Jr.
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Medical Properties Trust, Inc.
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Dear Dr. de la Torre, Mr. Castello, Mr. Aldag, and Mr. Kuchel:

On July 26, 2024, Steward Health Care (“Steward”) announced that it intends to close two hospitals in Massachusetts: Carney Hospital in Dorchester and Nashoba Valley Medical Center (“Nashoba Valley”) in Ayer, on or around August 31, 2024.¹ The loss of these hospitals would exact a significant cost on communities and workers. Prior to any closure, and notwithstanding the bankruptcy proceeding, Steward must proceed through a closure notification process under Massachusetts state law and retains obligations to workers under federal labor law. In light of Steward’s demonstrated inability to comply with the state, federal, and international legal requirements,² we write to urge Steward to follow the directives of state officials and others that seek to hold Steward to state and federal law. Steward, Medical Properties Trust, and Macquarie Infrastructure Partners must also do everything in their power to free Steward-owned hospitals from their current, abusive leases. Finally, each dollar that Steward, Medical Properties Trust, Macquarie Infrastructure Partners, Cerberus Capital Management and all other private equity firms made off of the Massachusetts health care system, and currently stand to make from

¹ Neal Riley & Kristina Rex, *Steward to close Carney Hospital and Nashoba Valley Medical Center in Massachusetts*, WBZ News (July 26, 2024), <https://www.cbsnews.com/boston/news/carney-hospital-nashoba-valley-steward-closing/>.

² Jessica Bartlett et al., *Steward Health Care is under federal investigation for potential foreign corruption violations*, Boston Globe (July 11, 2024), <https://www.bostonglobe.com/2024/07/11/business/steward-health-care-is-under-federal-investigation-for-potential-foreign-corruption-violations-company-confirms/> (Steward is under federal investigation for potential violations of federal law overseas following Maltese authorities alleging Steward’s participation in criminal conspiracy); Priyanka Dayal McCluskly, *Steward Health Care has kept financial information secret for years. Now, it faces a demand*, WBUR (Feb. 26, 2024), <https://www.wbur.org/news/2024/02/23/steward-health-care-audited-financial-statements-healey-deadline> (Steward fails to disclose financial information as mandated under state law); Press Release, *Steward Health Care System Agrees to Pay \$4.7 Million to Resolve Allegations of False Claims Act Violations*, US Attorney’s Office Dist. of Mass. (June 10, 2022), <https://www.justice.gov/usao-ma/pr/steward-health-care-system-agrees-pay-47-million-resolve-allegations-false-claims-act> (Steward pays \$4.7 million to settle allegations that its relationships with several physicians and physicians groups violated federal law).

the sale of Steward’s hospitals, must be directed back to the communities and health workers who have been impacted by this crisis.

Carney Hospital and Nashoba Valley are acute care hospitals, serving primarily patients on Medicare and Medicaid.³ Together, the hospitals are licensed for more than 150 beds and serve patients in and around Dorchester and Ayer and employ hundreds of workers.⁴ Each of these hospitals serves communities that have historically faced great challenges with access to care: Carney Hospital serves regions of the state with a high concentration of communities of color.⁵ Nashoba Valley serves patients in rural areas of the state.⁶ In other words, the hospitals function as essential parts of the state’s health care system, and their loss could have profound impacts on access to health care in a state where the hospital network is already under intense pressure. As Ayer Fire Chief Tim Johnston noted, the closure of Nashoba Valley could result in tripling or quadrupling of local EMT travel time responding to calls for help.⁷ Sonia Lyle of Mattapan said the announcement of Carney’s intent to close left her with “a broken heart.” She would be losing access to a hospital where the health providers know her by name, and “[she] know[s] them by name.”⁸

But even in bankruptcy, Steward’s pre-closure obligations to its workers and the Massachusetts Department of Public Health (DPH) remain. Massachusetts state regulations require that a hospital formally notify DPH of its intent to close its services 120 days before the proposed closure date.⁹ State regulations also require the hospital to notify those who would be most impacted by the closure, or those who represent such individuals, including hospital staff and labor organizations, the hospital’s patient and family council, and local and state elected officials.¹⁰ Patients, workers, and community members depend on this advance notice for their economic and physical health and well-being.

State regulations require that this initial notification is followed by a formal 90-day notice before closure, which triggers actions by DPH to conduct public hearings and make determinations regarding the hospital’s transition plans to ensure community access to health care.¹¹ At least 60 days before the closure date, regulations provide that DPH must hold a public

³ Nashoba Valley Medical Center, A Steward Family Hospital: 2022 Hospital Profile, Center for Health Information and Analysis, <https://www.chiamass.gov/assets/docs/r/hospital-profiles/2022/nash-val.pdf>; Steward Carney Hospital: 2022 Hospital Profile, Center for Health Information and Analysis, <https://www.chiamass.gov/assets/docs/r/hospital-profiles/2022/carney.pdf>.

⁴ *Id.*

⁵ Carney Hospital Community Benefits, Steward Health Care (2020), https://content.steward.org/sites/default/files/inline-files/AGO-CB_%20Implementation%20Strategy%20-%202021%20-%20CARNEY%20HOSPITAL%20-%202021%20-%202021.pdf.

⁶ Riley, *supra* note 1.

⁷ Jonathan Hall, *Nurses, public health officials react to Steward Health Care’s plans to close 2 Massachusetts hospitals*, 7 News WHDH (July 26, 2024), <https://whdh.com/news/nurses-public-officials-react-to-steward-health-cares-plans-to-close-2-massachusetts-hospitals/>.

⁸ Riley, *supra* note 1.

⁹ 105 CMR § 130.122.

¹⁰ *Hospital essential service closures*, Commonwealth of Massachusetts (2024), <https://www.mass.gov/info-details/hospital-essential-service-closures>.

¹¹ *Id.*

hearing on the hospital closure in order to hear directly from community members and other interested parties about their concerns regarding the hospital closure. This can include patients' and providers' concerns about access to care, including distance to other providers, the impact on health equity in the area, and the impact on health workers.¹² At least 45 days before the closure, pursuant to regulations, DPH must make a determination regarding whether the service the hospital is providing is "necessary for preserving access and health status" for its service area. If so, the hospital must provide DPH with a plan for assuring access for patients.¹³

Steward is familiar with this process, as it has participated in it on a number of occasions, most recently with the closure of New England Sinai Hospital.¹⁴ However, Steward's announcement of intended closures with just over a month's notice to its workers and communities could conflict with requirements under Massachusetts law to engage in a closure-reporting and community-engagement process. Steward has also, once again, apparently failed to consider the profound impact of its decision-making on the communities it serves. Nonetheless, Steward retains responsibilities under state law and regulations, and we urge Steward to follow directives from state officials, including with regard to closure process obligations.

Second, Steward must comply with existing employment contracts and provide adequate notice to its workers, consistent with federal law. Unionized workers at Nashoba Valley and Carney Hospital rely on the wages and benefits they receive per collective bargaining agreements. Notwithstanding bankruptcy proceedings and potential closures, Steward retains legal obligations under negotiated collective bargaining agreements with labor unions, including terms and conditions related to closures, layoffs, successors, and assigns.¹⁵ Compliance with these contracts is designed to protect workers and avoid unfair labor practices, and violations of the agreements could be charged and adjudicated by the National Labor Relations Board.¹⁶ We urge Steward to comply with its legal obligations under the labor contracts to which it is a party, for the benefit of workers.

Steward must also meet its obligations under the Worker Adjustment and Retraining Notification (WARN) Act. The WARN Act requires most employers to provide most workers with 60-day notice in the event of mass layoffs.¹⁷ The notice must be provided to the employees' representative or, if there is no representative, to each affected worker. The employer must also

¹² Bruce Mohl & Colin A. Young, *Steward to close hospitals in Dorchester*, *Ayer*, Commonwealth Beacon (July 26, 2024), <https://commonwealthbeacon.org/health-care/steward-to-close-hospitals-in-dorchester-ayer/>; Priyanka Dayal McCluskey and Robert Weisman, *Quincy Medical Center to close*, *Boston Globe* (Nov. 6, 2014), <https://www.bostonglobe.com/business/2014/11/06/steward-shut-down-quincy-medical-center-largest-massachusetts-hospital-closure-decade/bVI0qPstKwouQLMKQ3UJil/story.html>.

¹³ *Hospital essential service closures*, *supra* note 10.

¹⁴ *Id.*

¹⁵ 11 U.S.C. § 1113.

¹⁶ Heather Lennox & T. Daniel Reynolds, *First Impressions: Third Circuit Rules That a Terminated Collective Bargaining Agreement May Be Rejected Under Section 1113*, Jones Day Publications (May/June 2016) <https://www.jonesday.com/en/insights/2016/06/first-impressions-third-circuit-rules-that-a-terminated-collective-bargaining-agreement-may-be-rejected-under-section-1113#:~:text=However%2C%20given%20the%20special%20attention,from%20the%20umbrella%20of%20section>.

¹⁷ 29 U.S.C. § 2101; 29 U.S.C. § 2107(a).

notify the state and local government.¹⁸ The purpose of this advance notice is to provide “workers and their families some transition time to adjust to the prospective loss of employment” and “to seek and obtain alternative jobs.”¹⁹ Workers who are not given adequate notice may be entitled to back pay and benefit claims.²⁰ We urge Steward to comply with its obligations under the WARN Act to provide adequate, 60-day notice ahead of any layoffs to prevent additional hardship on Steward workers. Steward’s financial mismanagement has already forced workers to manage under substandard working conditions, facing unpaid bills and missing medical supplies.²¹ At minimum, Steward can and must meet its obligations to workers as dictated by law.

Distinct from requiring Steward’s compliance with the law, we again reiterate our request that MPT and MIP provide relief to the costly and burdensome leases on the hospitals’ real estate, as Steward has requested.²² The sale-leaseback agreements that Steward formed with MPT and MIP played an integral role in Steward’s financial decline,²³ and today, these real estate investment trusts are interfering with the ability to sell these hospitals.²⁴ Steward’s filings describe their lease agreements with MPT and MIP as “onerous,”²⁵ and these terms may dissuade potential buyers from going through with acquisitions of Steward-owned hospitals. However, these hospitals must be sold, and they must be sold quickly to protect continuity of care in Massachusetts. It is therefore essential that the Steward-owned hospitals be freed from MPT and MIP’s current, abusive lease obligations.

Finally, Steward executives, MPT, MIP, and the private equity firms that played a role in Steward’s financial downfall, and who may also be first in line to be repaid as part of the bankruptcy process,²⁶ should direct the money extracted from the sale of these hospitals towards addressing the impacts of Steward’s bankruptcy on communities and workers. Communities served or employed by Steward-owned hospitals should not pay the price for the mistakes of corporate executives. It was Cerberus Capital Management, MPT, MIP, and Steward that engaged in deal-making that drove these hospitals into financial disaster, not the Commonwealth,

¹⁸ 29 U.S.C. §§ 2107(a), 639.6(a).

¹⁹ *Id.* § 639.1.

²⁰ 29 USC Ch. 23 2104.

²¹ Deborah Becker, *Workers describe unpaid bills, delayed care and anxiety as Mass. Steward hospitals*, WBUR (April 30, 2024), <https://www.wbur.org/news/2024/04/30/massachusetts-steward-hospitals-rats-complaints>.

²² Emergency Motion of Debtors for Entry of an Order (I) Authorizing Rejection of Master Lease II Agreements Effective as of the Rejection Date in Connection with Planned Transition and Sale of Massachusetts Hospitals to New Operators, and (II) Granting Related Relief), p. 2 of Proposed Order, *Steward Health Care System, LLC., et al., v. Debtors*, Case No. 24-90213(CML) (July 26, 2024).

²³ Rosemary Batt & Eileen Applebaum, *The Role of Public REITs in Financialization and Industry Restructuring*, Institute for New Economic Thinking (July 9, 2022), https://www.ineteconomics.org/uploads/papers/WP_189-Batt-Appelbaum-Public-REITS1.pdf.

²⁴ Chris Lisinski, *Steward’s leases make hospitals ‘less attractive’ to buyers, Mass. Health secretary says*, WBUR (Apr. 24, 2024), <https://www.wbur.org/news/2024/04/24/massachusetts-steward-health-care-hospitals-finances-sale>.

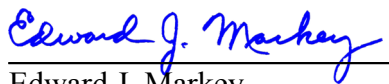
²⁵ Emergency Motion of Debtors for Entry of an Order (I) Approving (A) Funding from the Commonwealth of Massachusetts for the Planned Transition and Sale of Massachusetts Hospitals, (B) the Closure of Carney Hospital and Nashoba Valley Medical Center, and (C) Procedures Related to Facility Closures; and (II) Granting Related Relief, *Steward Health Care System, LLC., et al., v. Debtors*, Case No. 24-90213(CML) (July 26, 2024).

²⁶ 11 U.S.C. §§ 506, 507.

communities that Carney Hospital or Nashoba Valley serve, or the workers they employ.²⁷ And while workers and communities will have to grapple with the impact of hospital closures, the companies that helped facilitate this crisis also have the power and responsibility to help them. For instance, MPT owns a total of 436 properties and, in just the first quarter (Q1) of 2024, made over \$271 million in revenue from them.²⁸ Revenue from Steward-owned properties represented only 3.9% of MPT's 2024 Q1 revenues,²⁹ while Steward-owned hospitals pay 100% of some health workers' salary.

Steward's financial crisis does not exempt the company from following the law, nor does it relieve Steward and its corporate enablers from their moral obligation to the public. We urge you to comply with any applicable state and federal law (including at the direction of state and federal officials), do everything possible to free Steward-owned hospitals from the current and onerous MPT and MIP leases, and direct resources towards supporting workers and communities whose lives and livelihoods have been put at risk as a result of your actions.

Sincerely,



Edward J. Markey
United States Senator



Elizabeth Warren
United States Senator



Ayanna Pressley
Member of Congress



Stephen F. Lynch
Member of Congress



Lori Trahan
Member of Congress

²⁷ Batt, *supra* note 23.

²⁸ Quarterly Supplemental 1Q 2024 (Updated), Medical Properties Trust (2024), <https://medicalpropiertiestrust.gcs-web.com/static-files/b68021c1-823e-48f2-a735-f108db626771>.

²⁹ *Id.*