

## **91023 Action upon Application**

### **(a)**

The Director may certify, no later than 90 days after the public hearing required by Section 91021, that: (1) The acquisition of the property sought to be condemned is necessary for the establishment, operation, or expansion of the nonprofit hospital. (2) The public interest and necessity require the proposed project. (3) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

#### **(1)**

The acquisition of the property sought to be condemned is necessary for the establishment, operation, or expansion of the nonprofit hospital.

#### **(2)**

The public interest and necessity require the proposed project.

#### **(3)**

The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

### **(b)**

The Director shall decline to certify if the above is not established by substantial evidence in the record.

### **(c)**

In making such determination, the Director shall take into consideration and

evaluate the following information: (1) Application for Certificate of Necessity with attachments. (2) Public hearing record. (3) Recommendation of the area health planning agency or health systems agency. (4) Hearing officer's findings, recommendations and proposed decision.

**(1)**

Application for Certificate of Necessity with attachments.

**(2)**

Public hearing record.

**(3)**

Recommendation of the area health planning agency or health systems agency.

**(4)**

Hearing officer's findings, recommendations and proposed decision.

**(d)**

Notwithstanding any other provision of these regulations, the Director shall decline to certify according to this Section unless and until a Certificate of Exemption or Certificate of Need, if required for the project by Section 437.10 of the Health and Safety Code, has been issued. However, the Director shall issue a letter of intent to certify according to this Section conditioned on the above requirement.

**(e)**

The Director may reconsider, revoke or suspend a certificate, prior to entry of a final court judgment of condemnation, upon proof of false or incorrect application information. The Director may suspend the certificate pending a new hearing at any time prior to the commencement of the trial on the merits of the action for condemnation of the property at issue, on his own motion or on the motion of any interested party, based upon evidence presented to the Director under penalty of

perjury which with reasonable diligence could not have been produced at the hearing and which reasonably leads the Director to determine that had this evidence been produced, his original determination would have more probably than not been a denial of certification. Where the certificate is suspended under this section, a new hearing pursuant to the provision of 91021 shall be held within 90 days. No new application shall be required.

**(f)**

Any interested party may request the Director to reconsider the decision to certify or decline to certify pursuant to this Section, based on the materials listed in (c), by submitting written argument in support thereof.