

A RESIDENT'S VIEW ON REGULATION

An essay on the Aldersgate resident experience

By Paul Johnson, Past President of the Aldersgate Residents' Association

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Five years ago, at age 78, I thought I was investing in a place to live that also provides food service, maintenance, lawn service, help with most aspects of life as needed, advanced health care, and all of that in an environment of stability, security and well-being. The added plus was Independent Living offerings in life style amenities and activities. I was not totally wrong, but did not consider downside risk as part of the whole picture. The reality is that residents have a very subordinate standing in the financial obligations of a CCRC, and that part does seem wrong to me. I get that our contracts are considered to essentially be an insurance policy, but don't we buy insurance to be protected? What I don't get is that residents are not protected from the worst case of bankruptcy or receivership. Investments in down payment refunds are usually the first things to be wiped out. And what follows is uncertainty of housing, food, care and community that might be lost as well as huge cost impacts.

Residents don't actually think of it as buying insurance; we buy shelter, food and care in addition to the insurance of advanced care in the future if it is needed, often investing life savings in doing so. And so, the threat underlying subordinate standing is much greater than an insurance policy that can't meet financial obligations; it is losing a living space and food service, community connections and multiple aspects of care. It's different from buying a product that has been discontinued; you can buy something else. It's different if your favorite hotel goes out of business; you can go to another hotel. What's different is that residents are not products, we are people, old people, old people who have taken a proactive step to take care of themselves removing that burden from family or from society. And, unfortunately, moving to another CCRC is unrealistic because the cost of that move is so extreme; you've already lost your life savings, your insurance policy has defaulted, and everybody has financial priority over any claim made by a resident against the now bankrupt CCRC. There are no good options for residents. It seems odd that while residents are the

very object of a CCRC business and they provide the revenue to support the CCRC's existence, and yet they suffer the most harm when things go sideways.

And so, there is the need for regulation. The regulation needs to recognize the magnitude of jeopardy residents face in the event of mismanaged financial matters. Regulations should place residents into a more favorable recovery position and/or provide the regulator with sufficient tools to prevent situations that lead to bankruptcy or receivership. In the case of Aldersgate, existing statutes were insufficient to alert the regulator to the emerging problems. Regulations tend to lag the ability of nefarious CFO's, CEO's and Boards of Directors to circumvent them.

I hate the thought of burdensome regulations that create more work, more reporting, more scrutiny and more cost in CCRC management. But it would be wrong to think that Aldersgate was "one-off", that it won't happen again. All it takes is a management team that does not have the well-being of residents as the main objective and focus of their business.

There needs to also be another eye on things, something to supplement the statutes and assist the regulatory commission, and I think that has to come from the residents or Residents' Association. Residents need to take on a responsibility for looking after themselves. Certainly, NorCRAA is critical in the role of representing residents' needs on a broad front, and their work in legislative review is necessary and impressive. But I think each local Residents' Association must have feet-on-the-ground presence to be aware of situations, decisions, trends that indicate deviations from mission and strategies that threaten resident well-being.

Here are some key areas for Residents' Associations to consider.

- The voice of the residents must be heard by Senior Operating Management and also by governing bodies of the organization. There must be a routine path of communications between the Association and the Board of Directors. This would be best accommodated by residents having seats on the board.
- NC statutes require a Semi-Annual meeting. More than one member of the board of directors needs to be in attendance. These meetings are very important to get the attention of the board of directors.

- The board of directors must balance current and on-going needs of the CCRC with their strategic planning. It is easy for them to only work on future projects and lose sight of the health of current operations
- A skilled resident committee is needed in order to have an understanding of financial condition, ask questions, get responses that make sense and report to the Residents' Association.
- Residents' Association should understand the statutes regulating CCRC's, have a direct link to the Department of Insurance and interact on a regular basis.
- Residents should be actively engaged in committees, meetings, forums so that their voice is heard at all levels of the organization. This level of engagement can help prevent major problems or catch them early on. A collaborative relationship also provides opportunities for the organization to capitalize on the experience and expertise of the resident population and presents opportunities for residents to make fulfilling contributions. An excellent reference is the book, *Disrupting The Status Quo of Senior Living* by Jill Vitale-Aussem.
- A collaborative relationship between the Residents' Association and Management will give residents knowledge of demands of the business to better understand rationale for decisions affecting residents. In the case of Aldersgate, a strictly autocratic management style, poor communications, incompetent financial management and uncaring, uninformed, unengaged boards responsible for governance became onerous and intolerable for residents.
- Make your expectations known and call out management behaviors that do not meet expectations.
- Other specific actions taken at Aldersgate include:
 - The Residents' Finance Committee, after failed efforts to get information from unresponsive CFO and CEO, sent a "Vote of No Confidence" in Senior management to the Board of Directors. The board responded saying that they did not get

involved in Operations, and they had full trust in Senior Management. It was then that we went to the Department of Insurance for help.

- The Residents' Association staked its claim on behalf of residents to be recognized as key stakeholders and demanded an effective voice in governance.
- The Residents' Association worked on improving performance on work orders for maintenance, housekeeping and other services using our network of resident Area Representatives.
- The Residents' Association improved efficiency of meetings to prioritize the most important information relating to finances, management behaviors and governance.
- The Residents' Association set a course to create a more collaborative relationship between residents and management, trying to overcome the years of an autocratic, arms-length relationship with management.
- The Residents' Association wrote a 5-page declaration of resident expectations of Aldersgate insisting that the mission and vision of the organization be changed to bring focus on residents of Aldersgate.
- The President of the Residents' Association spoke at Semi-Annual Business Meetings calling for changes in governance.
- The Residents' Association established support groups on "How to Deal with Uncertainty." These resident-led groups helped to deflate rampant rumors, provide the best real information we could get and offered concerned residents support in the midst of uncertainty.
- Dealing with failures of Senior Management (CEO) and Board of Directors required persistence, calling out misinformation, drilling down into suspicious financial statements, and ultimately required the Department of Insurance interventions.

Residents have a right to expect all the things we signed up for including stability, safety and a relatively stress-free retirement. At the same time, we

residents also must realize that we have a responsibility to ourselves and each other to pay attention for any financial excursions, foggy and incomplete communications, deflections, delays, and for not meeting our expectations. When management fails to give a clear and positive response to residents' concerns, call in the Department of Insurance. And don't wait too long to do so.

The next chapter in the 75-year history of Aldersgate is still being written. A new Board of Directors, a new mission statement, new Senior Managers, positive involvement of the Department of Insurance Deputy Commissioner and an enlightened and vigilant Residents' Association have set the ship aright and continue making progress on charting a future that looks prosperous. Empowered residents are an integral part of building this future and will continue in a collaborative relationship with a management team who is now receptive to understanding the value of resident engagement.

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