

**REPORT ON EXAMINATION**

**OF**

**THE JEWISH HOME OF ROCHESTER SENIOR HOUSING, INC.**

**d/b/a THE SUMMIT AT BRIGHTON**

**AS OF**

**DECEMBER 31, 2011**

**DATE OF REPORT**

**MARCH 20, 2013**

**EXAMINER**

**ROBERT W. MCLAUGHLIN, CFE, CIE**

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

March 20, 2013

Honorable Benjamin M. Lawsky  
Superintendent of Financial Services  
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and acting in accordance with the instructions contained in Appointment Number 30688, dated March 14, 2011, attached hereto, I have made an examination of The Jewish Home of Rochester Senior Housing, Inc. d/b/a The Summit at Brighton a continuing care retirement community authorized pursuant to the provisions of Article 46 of the New York Public Health Law, as of December 31, 2011, and respectfully submit the following report thereon.

The examination was conducted at the administrative office of The Jewish Home of Rochester an affiliate of The Jewish Home of Rochester Senior Housing, Inc. d/b/a The Summit at Brighton, located at 2021 Winton Road South, Rochester, New York.

Wherever the designations “the Community” or “Summit at Brighton” appear herein, without qualification, they should be understood to indicate The Jewish Home of Rochester Senior Housing, Inc. d/b/a The Summit at Brighton.

Wherever the designation the “Department” appears herein, without qualification, it should be understood to indicate the New York State Department of Financial Services.

As of December 31, 2009, the Community was not in satisfactory actuarial balance, as determined using generally accepted actuarial standards and applying the statutory requirements defined in Part 350.1(s) of Department Regulation No. 140 (11 NYCRR 350.1(s)). The Community's minimum actuarial surplus requirement, as determined using generally accepted actuarial standards and applying the aforementioned statutory requirements, was deficient in the amount of \$ 5,919,000.

The Community is currently operating under a Plan of Restoration that was accepted by the Department on June 22, 2010.

## **1. SCOPE OF THE EXAMINATION**

The previous examination was conducted as of December 31, 2006. This examination covered the five-year period from January 1, 2007 through December 31, 2011. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

Representatives of the New York State Department of Financial Services and the New York State Department of Health conducted a site survey of the Community's facility on April 11, 2010, pursuant to the requirements of Section 4614(1) of the New York Public Health Law.

The examination comprised a verification of the assets and liabilities of the Community as of December 31, 2011, in accordance with generally accepted accounting principles ("GAAP"), as modified by the Department pursuant to Department Regulation No. 140 (11 NYCRR 350), a review of income and disbursements deemed necessary to accomplish such verification, and utilized, to the extent considered appropriate, work performed by the Community's independent certified public accountants and independent actuary. It is noted that the balance sheet included herein was reported as of December 31, 2009, on a statutory actuarial basis, pursuant to Department Regulation No. 140 (11 NYCRR 350).

A review was also made of the following items:

- Community documents
- Compliance with by-laws
- Occupancy levels
- Financial documents
- Board of Directors' minutes of meetings
- Plan to restore surplus

This report on examination is confined to financial statements and comments on those matters which involve departures from laws, regulations or rules, or which are deemed to require explanation or description.

A review was also made to ascertain what actions were taken by the Community with regard to the comments and recommendations contained in the prior report on examination.

## **2. DESCRIPTION OF THE COMMUNITY**

Summit at Brighton is a continuing care retirement community (CCRC) as defined in Article 46 of the New York Public Health Law. The Community received a Certificate of Authority from the New York State Continuing Care Retirement Community Council effective June 5, 1996 and commenced operations on May 17, 1998. The Community is a New York State not-for-profit organization and is a tax-exempt organization per Section 501(c)(3) of the Internal Revenue Code.

The Community consists of ninety (90) independent living units ranging from studios to two-bedroom/two-bath units and sixty (60) enriched housing units (assisted living). The enriched housing is operated separately from the Community's independent living units by The Jewish Home of Rochester Enriched Housing, Inc. ("Wolk Manor"), an affiliate of the Community. The enriched housing units are comprised of two separate thirty (30) unit facilities that are referred to as Wolk Phase I and Wolk Phase II centers. Per an agreement with The Jewish Home of Rochester, Summit at Brighton also provides nursing care services to its residents that have life care contracts with the Community.

The Community includes such common areas as multi-purpose room, family room, creative arts studio, swimming pool, fitness equipment room, massage therapy studio, three dining rooms, cafe, library and administrative areas.

The Community provides residents with a continuum of services, including independent living, enriched housing and skilled nursing home care. As a condition precedent to providing these services, the Community enters into a contract with each prospective resident that sets forth the responsibilities of both parties. For the right to occupy, use the living accommodations and utilize the services of the Community, each resident is required to pay an entrance fee and monthly service fee based on the size and type of living unit and the number of occupants.

The following is a description of the four types of contracts offered to prospective residents by the Community:

Type A Residency Agreement – 90% Refundable

This contract provides for the use of an independent living apartment and related common areas with enriched housing provided by The Jewish Home of Rochester Enriched Housing, Inc. (Wolk Manor) and nursing care provided by The Jewish Home of Rochester.

The resident pays an entrance fee which is comprised of a residential component and a life care component and also pays a monthly fee. The resident pays an entrance fee in two installments. Ten percent (10%) of the entrance fee is due when the life care contract is signed, the remainder is to be paid upon the earlier of: (1) the date the resident occupies the facility; or (2) sixty (60) days from the date the contract is executed.

The refund for termination during the first ninety (90) days of occupancy is 100% of both the residential and life care entry fees. After 90 days of occupancy, the refund of the residential component is reduced by a 4% administrative fee plus 2% per month, starting with the fourth month, with a minimum refund of 90%. After 90 days of occupancy, the refund of the life care component is reduced by 4% plus 2% per month, until the life care component is fully amortized.

Any increases in the monthly fee will follow a methodology previously approved by the Superintendent of Financial Services. Changes in the monthly fees which are not reflected in the fee methodology are also subject to approval by the Superintendent.

Type A Life Care Residency Agreement – 50% Refundable

This contract provides for the use of an independent living apartment and related common areas with enriched housing provided by The Jewish Home of Rochester Enriched Housing, Inc. (Wolk Manor) and nursing care provided by The Jewish Home of Rochester.

The resident pays an entrance fee which is comprised of a residential component and a life care component. The resident pays an entrance fee in two installments. Ten percent (10%) of the entrance fee is due when the life care contract is signed, the remainder is to be paid upon the earlier of: (1) the date the resident occupies the facility; or (2) sixty (60) days from the date the contract is executed.

The refund for termination during the first ninety (90) days of occupancy is 100% of both the residential and life care entry fees. After 90 days of occupancy, the refund of the



residential component is reduced by a 4% administrative fee plus 2% per month, starting with the fourth month, with a minimum refund of 50%. After 90 days of occupancy, the refund of the life care component is reduced by 4% plus 2% per month, until the life care component is fully amortized.

Any increases in the monthly fee will follow a methodology previously approved by the Superintendent. Changes in the monthly fees which are not reflected in the fee methodology are also subject to approval by the Superintendent.

#### Type B Residency Agreement – 50% Refundable

In addition to the above mentioned independent living residential apartment and related services as described in the above agreements, this contract provides for sixty (60) days lifetime of enriched housing and sixty days of nursing care at no additional charge. The resident pays an entrance fee comprised of a residential component only. The refund for death or withdrawal during the first 90 days of occupancy is 100% of the entry fee. After 90 days of occupancy, the refund is reduced by a 4% administrative fee plus 2% per month, starting with the fourth month, with a minimum refund 50% of the residency component of the entrance fee..

#### Type B Residency Agreement – 100% Refundable

In addition to the independent living residential apartment and related services as described in the above agreements, this contract provides for sixty (60) days lifetime of enriched housing and sixty days of nursing care at no additional charge. The resident pays an entrance fee comprised of a residential component only. For termination by the resident or sponsor the

amount of refund, before reduction, will be 100%. The agreement does call for refunds to be reduced by (i) any unpaid entrance fee balance: (ii) amounts due for unpaid monthly fees and accrued interest thereon: (iii) advances made by sponsor: (iv) costs specifically incurred at the request of the resident to the extent those costs were not paid by the resident; (v) any other amounts due sponsor and accrued interest thereon; (vi) the cost of refurbishing the resident's independent living apartment for use by a new occupant and (vii) any unpaid amounts due Jewish Home for nursing home services.

A. Corporate Governance

Pursuant to the Community's by-laws, management of the Community is vested in a Board of Directors comprised of no less than seven (7) and no more than thirteen (13) members.

As of December 31, 2011, the Community's Board of Directors was comprised of eleven (11) members as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Hon. John J. Ark Rochester, New York	Justice, Monroe County Supreme Court
Stuart I. Boyar Rochester, New York	President, Cooley Group, Inc.
Irwin N. Frank, MD Pittsford, New York	Retired
Julian M. Gordon Rochester, New York	Retired
Daniel I. Katz* Rochester, New York	President and Chief Executive Officer, Jewish Senior Life
Sherman F. Levey Rochester, New York	Attorney, Boylan, Brown, Code, Vigdor and Wilson.
Linda Oldfield Rochester, New York	Attorney, Harris Beach

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
John H. Olsan, MPH Rochester, New York	Director of Mental Health Services, Rochester Rehabilitation
David G. Ross Rochester, New York	Attorney, Ross and Gould-Ross
Susan Rothenberg Rochester, New York	Physical Therapist, Self Employed
Myron Silver* Rochester, New York	Owner, Continental Beauty School

\* Indicates non-voting board member.

The Board of Directors are required to meet at least on a quarterly basis each year, of which one (1) of the meetings is designated as the annual meeting of the Board of Directors. The annual meeting is to take place within six months of the end of the Community's fiscal year. Regular board meetings are held on a quarterly basis. The Chairman of the Board may, and at the request in writing of the Parent or any five directors, the Secretary shall call special meetings of the board.

A review of the minutes of the meetings of the Board of Directors during the examination period revealed that the meetings were generally well attended, with all board members attending at least one-half of the meetings that they were eligible to attend.

Article III, Section 2 of the Community's by-laws states the following in part:

"...One of the directors will be a resident of The Summit at Brighton or Wolk Manor..."

As of December 31, 2011, the board of directors of the Community did not include a resident of The Summit at Brighton or Wolk Manor.

It is recommended that the Community comply with Article III, Section 2 of its by-laws and include a resident of Summit at Brighton or Wolk Manor on its board of directors.

Article III, Section 3(a) of the Community's by-laws states the following in part:

“Board positions other than those filled ex officio shall be filled by appointment by the Parent...in its capacity as the Member of the Corporation...”

The Community reported on the jurat page of its filed December 31, 2011 annual statement, members of the board of directors who were not elected members of the board of directors or ex-officio members of the board. In addition, the Community reported on the jurat page of its filed December 31, 2011 annual statement, members of the board of directors who were not empowered with voting rights.

It is recommended that the Community restrict the reporting of its board of directors on the jurat page of its filed annual statements to only those members who are duly appointed by the sole shareholder or are ex-officio members of the board and who are empowered with voting rights.

A similar recommendation was included in the prior report on examination.

A review of the Community's board minutes and pertinent minutes of its parent, Jewish Senior Life, revealed that such minutes did not reflect each occurrence involving the termination, resignation and appointment of members of the Community's board of directors.

It is recommended that the Community's board minutes reflect all changes with regard to the members of the Community's board of directors.

A similar recommendation was included in the prior report on examination.

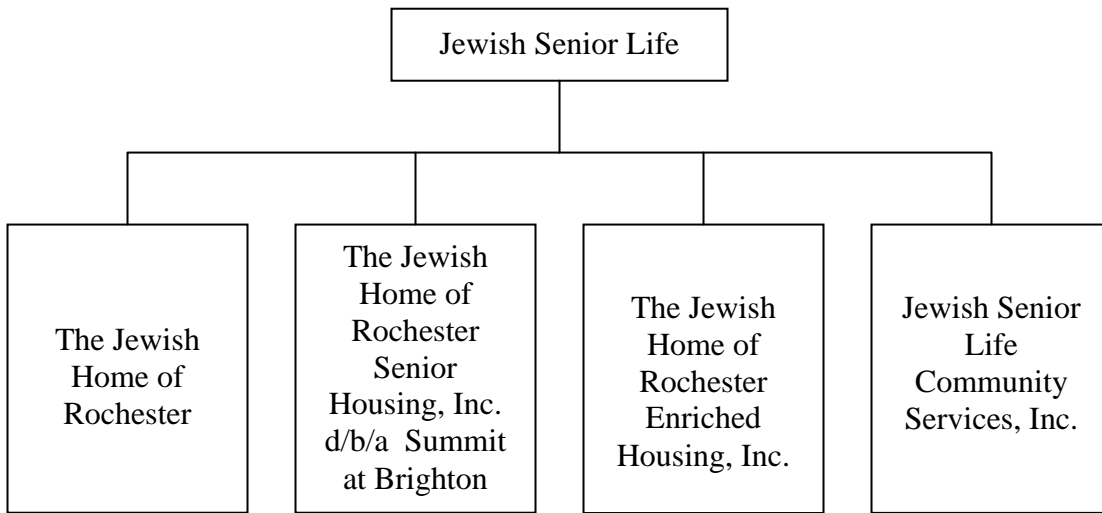
The officers of the Community as of December 31, 2011 were as follows:

<u>Name</u>	<u>Title</u>
Stuart I. Boyar	Board Chairman
Linda Oldfield	Board Vice-Chairman
Daniel Katz	Chief Executive Officer
Deborah McIlveen	Chief Financial Officer
John Olsan	Treasurer
John Ark	Secretary

Note: Stuart J. Boyar resigned as Board Chairman on March 27, 2012. The Board Chairman position remained vacant as of the date of this report on examination.

B.  Holding Company System

Below is a chart of the Community's holding company system as of December 31, 2011:



### Jewish Senior Life

Jewish Senior Life, a New York organized not-for-profit corporation, is the sole voting member (parent) of Summit at Brighton and Summit's other affiliates shown in the above chart. Jewish Senior Life is empowered to appoint the board of directors of Summit at Brighton, to amend its certificate of incorporation and by-laws and to approve certain corporate transactions entered into by the Community.

### The Jewish Home of Rochester Enriched Housing, Inc. ("Wolk Manor")

The Jewish Home of Rochester Enriched Housing, Inc. owns an enriched housing center referred to as Wolk Manor which consists of sixty units for use by the residents of Summit at Brighton and private pay individuals. Wolk Manor is located at 4000 Summit Circle Drive, Rochester, New York and shares common areas with the Community. Wolk Manor is managed by Summit pursuant to an inter-company management agreement.

The Management Agreement, dated August 28, 2008, made between the The Jewish Home of Rochester Senior Housing, Inc. (Summit at Brighton) and The Jewish Home

Rochester Enriched Housing, Inc. (Wolk Manor) provides for Summit at Brighton to maintain and manage the sixty units enriched housing center (“Facility”) located at 4000 Summit Circle Drive, Rochester, New York. According to the agreement, Summit at Brighton provides all services required to be provided to the Facility’s residents including meals, 24 hour professional care assistance, personal laundry and linen services, scheduled transportation, medication supervision, housekeeping service, focused daily activities, and security.

#### The Jewish Home of Rochester

The Jewish Home of Rochester (“JHR”) provides The Jewish Home of Rochester Senior Housing, Inc. with nursing home care services to the life care residents (those living in independent units or enriched units on a life care contract) contingent upon a medical determination that a resident requires nursing home care services. The affiliates have an existing agreement which is dated December 31, 2007 for such nursing home care services . However, it is noted that the agreement is silent as to the specific nursing care services that are to be provided.

It is recommended that the Community amend its existing agreement with The Jewish Home of Rochester to clearly specify the nursing care services that are to be provided under the arrangement.

A similar recommendation was included in the prior two reports on examination.

Jewish Senior Life Community Services, Inc.

Jewish Senior Life Community Services, Inc. was established in 2011 to operate programs related to community services. One such service, Marian's House, is currently being constructed and will provide daycare and respite services to Alzheimer's patients from the Rochester, New York area.

C. Occupancy Rates

The following reflects the occupancy ratios at each year-end of the examination period for each of the facilities within the Community:

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>Oct. 30, 2012</u>
Independent living units	95.8%	94.2%	93.3%	89.6%	72.9%	70.1%
Enriched / Assisted Living facility	91.6%	93.0%	97.7%	96.7%	83.7%	85.9%
Skilled nursing facility	N/A	N/A	N/A	N/A	N/A	N/A

As indicated in the above chart, the Community's independent living units occupancy ratio has declined substantially since December 31, 2009, primarily because the Community has been unable to fill vacant independent living units because of economic and narrowed marketing perimeters.

It is noted that in 2012, the Community initiated a renovation program relative to upgrading its independent living units and also has started a new marketing strategy aimed at targeting potential new residents from a more diversified demographic population with the



goal of increasing its independent living units occupancy ratio to an acceptable level (approximately 95%).

It is recommended that the Community continue its efforts to increase its independent living units occupancy ratio to an acceptable level (approximately 95%).

D. Investment Custodial Agreements

The Community, at the time of examination, did not maintain custodial agreements for the safeguarding of its investments (other than those investments held under an approved agreement with a bank trustee pursuant to the Community's bond indenture issued by the Monroe County Industrial Development Agency) that are held in the depository accounts of banking institutions.

With regard to investments that are not held pursuant to the existing bond indenture issued by the Monroe County Industrial Agency, it is recommended that the Community establish appropriate custodial agreements with the financial institutions that safeguard its investments and include the Department's previously recommended enumerated protective covenants and provisions in such custodial agreements.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as determined by this examination as of December 31, 2009. It is the same as the actuarial balance sheet reported by the Community, revised as of August 27, 2011, presented on a statutory actuarial basis pursuant to Department Regulation No. 140 (11 NYCRR 350):

<u>Assets</u>	<u>Examination</u>	<u>Community</u>
Cash and invested assets	\$ 8,780,000	\$ 8,780,000
Accounts receivable and prepaid expenses	97,000	97,000
Land	1,540,000	1,540,000
Building	22,124,000	22,124,000
Furniture, fixtures and equipment	2,968,000	2,968,000
Accumulated depreciation	(6,586,000)	(6,586,000)
Deferred financing costs	<u>1,628,000</u>	<u>1,628,000</u>
Total assets	\$ <u>30,551,000</u>	\$ <u>30,551,000</u>
<u>Liabilities</u>		
Loans payable (IDA Bonds)	\$ 13,104,000	\$ 13,104,000
Actuarial reserve	<u>23,366,000</u>	<u>23,366,000</u>
Total liabilities	\$ <u>36,470,000</u>	\$ <u>36,470,000</u>
Total net surplus	<u>(5,919,000)</u>	<u>(5,919,000)</u>
Total liabilities and net surplus	\$ <u>30,551,000</u>	\$ <u>30,551,000</u>
Ratio of net surplus to total liabilities	<u>(16.2)%</u>	<u>(16.2)%</u>

Note: It should be noted that the asset values herein are reported on a statutory actuarial basis. As such, the values differ from the certified financial statements prepared by the Community's certified public accountants.

Note: As of December 31, 2009, the Community was not in satisfactory actuarial balance, as determined using generally accepted actuarial standards and applying the statutory requirements defined in Part 350.1(s) of Department Regulation No. 140 (11 NYCRR 350.1(s)). The Community's minimum actuarial surplus requirement, as determined using generally accepted actuarial standards and applying the aforementioned statutory requirements, was deficient in the amount of \$ 5,919,000. The Community is currently operating under a Plan of Restoration that was accepted by the Department on June 22, 2010.

B. Statement of Revenue, Expenses and Change in Actuarial Surplus

The statement of revenue and expenses is presented on a statutory modified GAAP basis for the three-year examination period, January 1, 2007 through December 31, 2009.

Revenue

Monthly maintenance fees	\$10,971,334	
Other revenue from residents	225,503	
Revenue from related organizations	8,921,308	
Earned entrance fees (net of refunds)	1,361,353	
Patient revenue from nonresidents	798,492	
Non-operating revenue	<u>329,094</u>	
Total revenue		\$ 22,607,084

Expenses

Interest expense	\$ 2,059,687	
Facility and dining expenses	7,260,505	
Health expenses	5,490,158	
Administration expenses	7,654,775	
Depreciation and amortization charges	3,304,433	
Real estate taxes	<u>241,962</u>	
Total expenses		\$ <u>26,011,520</u>
Net income or (loss)		\$ <u>(3,404,434)</u>

Change in Actuarial Surplus

Actuarial surplus decreased \$1,165,000 during the three-year period January 1, 2007 through December 31, 2009, detailed as follows:

Actuarial surplus, per report on examination, as of December 31, 2006			\$ (4,754,000)
	<u>Gains in surplus</u>	<u>Losses in surplus</u>	
Net income		\$ 3,404,434	
Other changes in net assets		269,951	
Statutory adjustment as per examination*	\$ <u>2,509,385</u>	_____	
Total gains/losses in surplus	\$ <u>2,509,385</u>	\$ <u>3,674,385</u>	
Net decrease in actuarial surplus			\$ <u>(1,165,000)</u>
Actuarial surplus as of December 31, 2009			\$ <u>(5,919,000)</u>

\*Note: This adjustment represents the difference between the net income pertaining to the statutory modified GAAP basis of accounting and the actuarial surplus.

#### **4. LONG-TERM DEBT**

Summit at Brighton maintained long-term debt in the amount of \$8,525,000 as of December 31, 2011 in the form of Revenue bonds issued via a mortgage loan installment sales agreement with the County of Monroe Industrial Development Agency (IDA) payable in annual installments through November, 2032. Such mortgage loan installment sales agreement provided for issuance of Series 2006 Bonds issued under an Indenture of Trust dated June 1, 2006 (“Indenture”) between the IDA and The Bank of New York Mellon (“Trustee”) subject to certain covenants on the part of Summit at Brighton.

As of December 31, 2011, Summit was in non-compliance with one covenant with regard to the Installment Sales Agreement and with regard to the Indenture of Trust agreement. Although such non-compliance with the covenant did not constitute an event of default, the Community obtained from the majority bondholder, on May 17, 2012, a waiver of any event of default of any or all of such covenant violations that may have occurred with regard to such Installment Sales Agreement related to the Indenture of Trust agreement.

## **5. CONCLUSION**

As of December 31, 2009, the Community was not in satisfactory actuarial balance, as determined using generally accepted actuarial standards and applying the statutory requirements defined in Part 350.1(s) of Department Regulation No. 140 (11 NYCRR 350.1(s)). The Community's minimum actuarial surplus requirement, as determined using generally accepted actuarial standards and applying the aforementioned statutory requirements, was deficient in the amount of \$ 5,919,000.

The Community is currently operating under a Plan of Restoration that was accepted by the Department on June 22, 2010.

## **6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION**

The prior report on examination as of December 31, 2006, contained the following nine (9) comments and recommendations (page numbers refer to the prior report on examination):

<b><u>ITEM NO.</u></b>	<b><u>PAGE NO.</u></b>
<u>Actuarial Surplus</u>	
1.	As of December 31, 2006, the Community's minimum surplus requirement as determined using generally accepted actuarial standards and applying statutory requirements, was impaired in the amount of \$4,754,000. <span style="float: right;">2/3/17/20</span>
	It is recommended that the Community continue to operate under its Plan of Restoration, accepted by the New York Insurance Department on August 27, 2007, in order to bring its required surplus to an adequate level.
	<i>The Community continues to operate under a revised Plan of Restoration which was accepted by the Department on June 22, 2010.</i>
<u>Management</u>	
2.	It is recommended that the Community disclose its certificate of authority issue date in its future annual statement filings made with the New York Insurance Department. <span style="float: right;">4</span>
	<i>The Community has complied with this recommendation.</i>
3.	It is recommended that the Community restrict the reporting of its board of directors in the jurat pages of its filed annual statements to only those members who are appointed by the sole shareholder and who are empowered with voting rights relative to those matters presented before the board. <span style="float: right;">7</span>
	<i>The Community has not fully complied with this recommendation. A similar recommendation is included within this report on examination.</i>

**ITEM NO.****PAGE NO.**

4. It is recommended that the board minutes reflect each occurrence involving the termination, resignation and appointment of members to the Community's board of directors. 8
- The Community has not fully complied with this recommendation. A similar recommendation is included within this report on examination.*
5. It is recommended that the Community correct the discrepancy in the language between its charter and by-laws relative to the minimum number of directors required for the composition of the Community's board of directors. 8
- The Community has complied with this recommendation.*
6. It is again recommended that directors who have failed to attend the board meetings on a regular basis attend meetings on a more consistent basis. Board members who are unable or unwilling to attend meetings consistently, should resign or be replaced. 9
- The Community has complied with this recommendation.*
- Holding Company System
7. It is again recommended that the Community amend its existing agreement with The Jewish Home of Rochester to clearly specify the nursing care services that are to be provided under the arrangement. In addition, it is also recommended that the agreement specify the method of cost reimbursement for the applicable services provided. 12
- The Community has not complied with this recommendation. A similar recommendation is included within this report on examination.*

**ITEM NO.****PAGE NO.**Custodial Agreements

- |    |   |    |
|----|---|----|
| 8. | It is recommended with regard to the Community's investments that are not held pursuant to any existing bond indenture with the Industrial Development Agency that Summit at Brighton establish appropriate custodial agreements with the financial institutions that safeguard its investments and include the enumerated protective covenants and provisions in those agreements. | 14 |
|----|---|----|

*The Community has not complied with this recommendation. A similar recommendation is included within this report on examination.*

Accounts and Records

- |   |  |    |
|---|--|----|
| 9 | It is recommended that the Community comply with the record retention and audit requirements of Part 243.3(c) of New York Insurance Department Regulation 152 (11 NYCRR 243.0) and Part 901.11(a)(2) of New York Department of Health Regulation (10 NYCRR 901). | 16 |
|---|--|----|

*The Community has complied with this recommendation.*



## 7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A.     <u>Actuarial Surplus</u></p> <p>As of December 31, 2009, the Community was not in satisfactory actuarial balance, as determined using generally accepted actuarial standards and applying the statutory requirements defined in Part 350.1(s) of Department Regulation No. 140 (11 NYCRR 350.1(s)). The Community's minimum actuarial surplus requirement, as determined using generally accepted actuarial standards and applying the aforementioned statutory requirements, was deficient in the amount of \$ 5,919,000.</p> <p>The Community is currently operating under a Plan of Restoration that was accepted by the Department on June 22, 2010.</p>	<p>2/16/19</p>
<p>B.     <u>Corporate Governance</u></p> <p>i. It is recommended that the Community comply with Article III, Section 2 of its by-laws and include a resident of The Summit at Brighton or Wolk Manor on its board of directors.</p> <p>ii. It is recommended that the Community restrict the reporting of its board of directors on the jurat page of its filed annual statements to only those members who are duly appointed by the sole shareholder or are ex-officio members of the board and who are empowered with voting rights.</p> <p>A similar recommendation was included in the prior report on examination.</p> <p>iii. It is recommended that the Community's board minutes reflect all changes with regard to the members of the Community's board of directors.</p> <p>A similar recommendation was included in the prior report on examination.</p>	<p>10</p> <p>10</p> <p>11</p>

**ITEM****PAGE NO.**C. Holding Company System

It is recommended that the Community amend its existing agreement with The Jewish Home of Rochester to clearly specify the nursing care services that are to be provided under the arrangement.

13

A similar recommendation was included in the prior two reports on examination.

D. Occupancy Rates

It is recommended that the Community continue its efforts to increase its independent living units occupancy ratio to an acceptable level (approximately 95%).

15

E. Investment Custodial Agreements

With regard to investments that are not held pursuant to the existing bond indenture issued by the Monroe County Industrial Agency, it is recommended that the Community establish appropriate custodial agreements with the financial institutions that safeguard its investments and include the Department's previously recommended enumerated protective covenants and provisions in such custodial agreements.

15

A similar recommendation was included in the prior report on examination.

Appointment No. 30688

**STATE OF NEW YORK  
INSURANCE DEPARTMENT**

I, James J. Wrynn, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

**Robert McLaughlin**

as a proper person to examine into the affairs of the

**Jewish Home of Rochester Senior Housing Inc.  
dba Summit at Brighton**

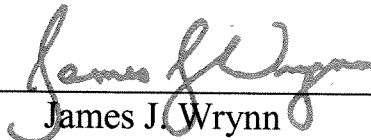
and to make a report to me in writing of the condition of the said

**CCRC**

with such other information as she shall deem requisite.

In Witness Whereof, I have hereunto subscribed by name and affixed the official Seal of this Department, at the City of New York.

This 14<sup>th</sup> day of March, 2011



James J. Wrynn  
Superintendent of Insurance

