

REPORT ON EXAMINATION

OF

KENDAL AT ITHACA

AS OF DECEMBER 31, 2005

DATE OF REPORT

MARCH 19, 2007

EXAMINER

ROY R. ZABALA

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STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

Eliot Spitzer
Governor

Eric R. Dinallo
Acting Superintendent

March 19, 2007

Honorable Eric R. Dinallo
Acting Superintendent of Insurance
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law and New York Public Health Law and in compliance with the instructions contained in Appointment Number 22580, dated December 26, 2006 attached hereto, I have made an examination into the condition and affairs of Kendal at Ithaca, as of December 31, 2005 and submit the following report thereon. Kendal at Ithaca is a not-for-profit Continuing Care Retirement Community licensed pursuant to the provisions of Article 46 of the Public Health Law.

Wherever the designations "the Community" or "Kendal" appear herein without qualification, they should be understood to indicate Kendal at Ithaca. The examination was conducted at the offices of the Community at 2230 N. Triphammer Rd, Ithaca, New York, 14850.

1. SCOPE OF THE EXAMINATION

The Community was formed in December 26, 1995. The previous examination was conducted as of December 31, 2000. This examination covered the period from January 1, 2001 through December 31, 2005. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination comprised a complete verification of assets and liabilities as of December 31, 2005 in accordance with Generally Accepted Accounting Principles (GAAP), as modified by the Department pursuant to Insurance Department Regulation 140 {11NYCRR350}, 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. A review was also made of the following items:

- Community Documents
- Growth of the Community
- Financial Documents
- Board of Directors meeting minutes
- Market Conduct

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

Representatives of the New York Insurance Department and the New York Department of Health conducted a site survey of the Community's facility on August 23, 2005 pursuant to Section 4610 of the New York Public Health Law.

2. DESCRIPTION OF THE COMMUNITY

Kendal is a Continuing Care Retirement Community as defined under Article 46 of the New York State Public Health Law, and has received a Certificate of Authority from the New York State Continuing Care Retirement Community Council. The Community is a New York non-profit organization and is tax-exempt under Section 501 (c)(3) of the Internal Revenue Code.

Kendal at Ithaca is designed for older adults who are in good physical health and able to live independently. The Community consists of 213 independent living units ranging from studio to two-bedroom with a den, a thirty six (36) bed adult care facility and a thirty five (35) bed skilled nursing facility. In addition, the Community includes such common areas as dining rooms, lounges, a health club, a beauty/barber shop, library, auditorium, and administrative areas.

In exchange for an entrance fee and a monthly maintenance charge, the Community provides lifetime residence at Kendal. The amount of the monthly fees is dependent on the type of apartment and type of contract. The following is a description of the three types of contracts offered to residents:

Life care contract

The life care contract provides for personal care and nursing care at no additional charge. The entrance fee is due in two installments. Ten percent (10%) of the entrance fee is due when the life care contract is signed, while the remainder is to be paid upon on or before the occupancy date and before the resident occupies the unit.

The refund for a death or withdrawal is 100% during the first three months of occupancy. Thereafter, the entrance fee is further reduced by a four percent (4%) processing fee and by two percent (2%) per month of the principal amount of the entry fee for each month following the occupancy date.

Fifty percent refundable life care contract

The fifty percent refundable life care contract has the same health care provisions as with the life care contract. The entrance fee is due in two installments. Ten percent (10%) of the entrance fee is due when the fifty percent refundable life care contract is signed, while the remainder is to be paid upon on or before the occupancy date and before the resident occupies the unit.

The refund for a death or withdrawal is 100% during the first three months of occupancy. Thereafter, the entrance fee is further reduced by a four percent (4%) processing fee and by two percent (2%) per month of the principal amount of the entry fee for each month following the occupancy date to a minimum refund of fifty percent (50%).

Modified continuing care contract

The modified contract provides for the same benefits as the life care contract except that only one hundred (100) days of nursing care are covered at no additional charge. For the next 1095 days, in the nursing facility, residents pay the per diem fee. After 1095 days of paying the per diem rate, residents will pay the monthly fee associated with their most recent occupied residential unit.

The entrance fee is due in two installments. Ten percent (10%) of the entrance fee is due when the modified continuing care contract is signed, while the remainder is to be paid upon on or before the occupancy date and before the resident occupies the unit.

The refund for a death or withdrawal is 100% during the first three months of occupancy. Thereafter, the entrance fee is further reduced by a four percent (4%) processing fee and by two percent (2%) per month of the principal amount of the entry fee for each month following the occupancy date.

A. Management

Pursuant to the Community's charter and by-laws, management of the Community is vested in a board of trustees consisting of not less than ten (10) nor more than twenty (20) trustees. As of the examination date, the board of trustees was comprised of twenty members. The trustees as of December 31, 2005 were as follows:

Board of Directors

<u>Name</u>	<u>Position</u>
Carolyn N. Ainslie Ithaca, NY	Vice President for Planning and Budget, Cornell University
Roger M. Battistella Ithaca, NY	Professor of Health Policy and Management in the Sloan Graduate Program, College of Human Ecology at Cornell University
Caroline B. Cope Berkshire, NY	Department Head of the Special Education, Dewitt Middle School
Janet Corson-Rikert Ithaca, NY	Director, Cornell University, Gannett Health Center
Henry E. Doney Ithaca, NY	Retired
Joycelyn R. Hart Ithaca, NY	Retired
Margaret J. Hill Ithaca, NY	Kendal at Ithaca resident
Gerald A. Kinchy Milan, PA	Attorney at Law, private practice
Susan Landis Ithaca, NY	Senior Accountant, Phyton, Inc
Michael S. Levy Ithaca, NY	Partner of Sciarabba Walker, Director of Practice Management

<u>Name</u>	<u>Position</u>
Allyn B. Ley Ithaca, NY	Retired
Clark Moeller Ithaca, NY	Retired
John S. Ostrom Ithaca, NY	Kendal at Ithaca resident
Kark A. Pillemer Ithaca, NY	Co-Director, Cornell Gerontology Research Institute, Professor, Department of Human Development, Cornell University and Cornell University Medical College
John B. Rudd Ithaca, NY	Vice President of Finance/CFO Cayuga Medical Center
Michael D. Shay Ithaca, NY	Retired
James S. Spero Ithaca, NY	Kendal at Ithaca Resident
Irene W. Stein Ithaca, NY	Director, Tompkins County Office for the Aging
Mack Travis Ithaca, NY	Owner/Developer, Ithaca Rentals and Renovations, Inc.
William D. White Ithaca, NY	Director, Sloan Program of Health Administration, Professor, Policy, Analysis and Management, Cornell University

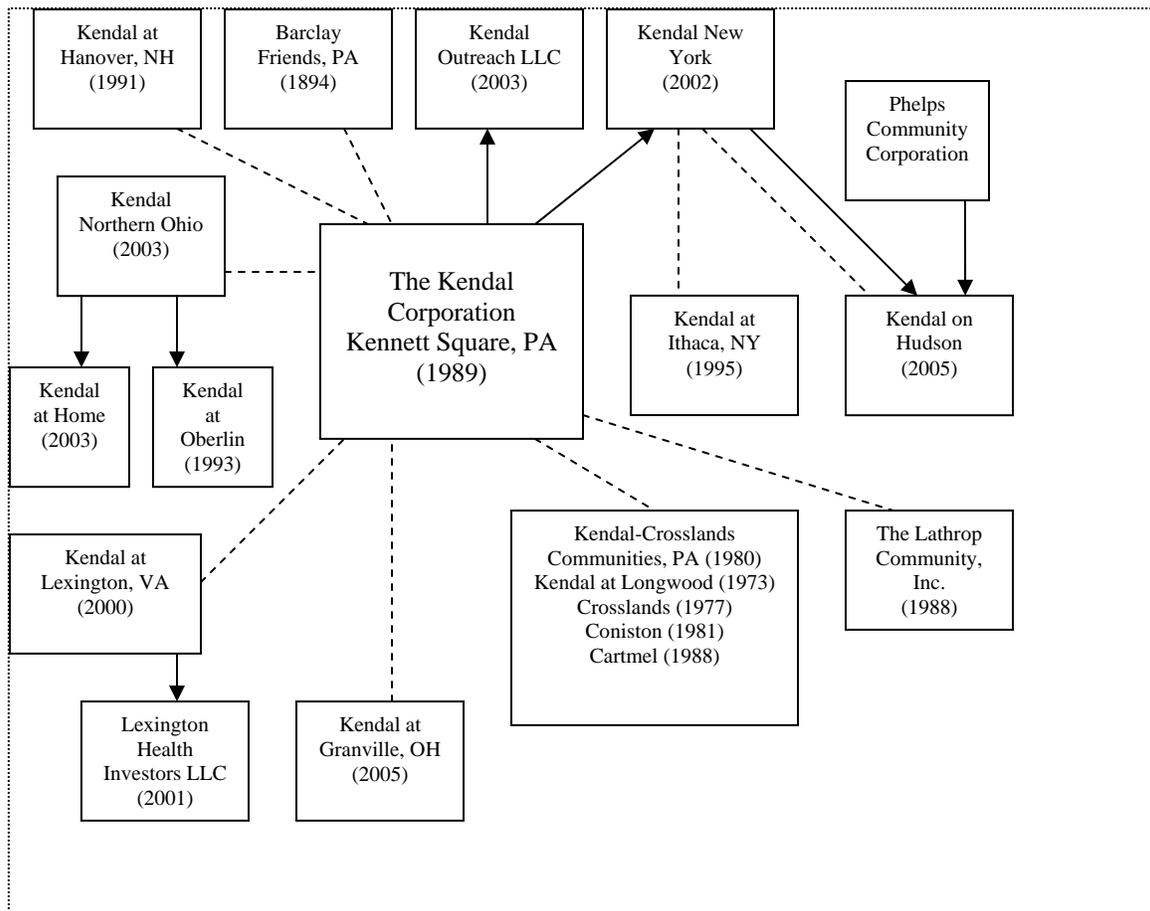
The board is required to meet once for an annual meeting, and once additionally each quarter, but may hold special meetings as desired. The board of trustees of Kendal met thirty-three times during the period of January 1, 2001 through December 31, 2005. A review of the minutes of the board of trustees' meetings indicated that board meetings were generally well attended.

The principal officers of the Community as of December 31, 2005 were as follows:

<u>Officers</u>	<u>Title</u>
Daniel Governanti	Chief Executive Officer
Ann E. Wall	Chief Financial Officer
Caroline B. Cope	Board Chair
Joycelyn R. Hart	Board Vice Chair
Michael S. Levy	Board Treasurer
Margaret J. Hill	Board Secretary

B. Holding Company System

The structure of the Holding Company, as of the examination date, was as follows:



In 2005, Kendal at Ithaca became affiliated with Kendal New York, in place of its prior affiliation with The Kendal Corporation of Pennsylvania. Through bylaws requirements, control of the Community is shared with Kendal New York, Inc. Kendal New York, Inc. must approve the selection of board members of the Community and any amendments to the articles of incorporation or certain sections of the bylaws. Furthermore, Kendal New York, Inc. must approve changes in corporate purpose; incurring of debt; use of the name “Kendal”; the substance of residence contracts; and the purchase, sale, lease, or other disposition of any real estate or improvements thereon. The bylaws also specify that the Community and Kendal New York, Inc. shall have certain board members in common.

Subsequent to the examination period, an agreement went into effect on April 27, 2006 between Kendal at Ithaca and Kendal New York, Inc. Under this agreement, Kendal New York, Inc., will provide basic services and in return Kendal at Ithaca, shall pay a system fee.

The following is a summary of the basic services that Kendal New York, Inc. provides as well as a brief description of each:

1. Governance and Administration:

- a. Board – templates for board manuals, profiles minutes, committee descriptions and policies.
- b. Public Policy – information to staff and boards on subjects of interest.
- c. Research and Planning – technical assistance/consultation regarding planning issues.

2. Finance

- a. General Finance – comparison financial reports and analysis, technical assistance with actuarial studies and projections, as well as consulting on long-term debt management
- b. Information Services – set standards for system-wide hardware and software. Evaluate new hardware and software.

3. Marketing, Public Relations and Admissions:

- a. Consultation on the design and production of admission materials.
- b. Guidelines and standards for Marketing/Public Relations/Admission Programs.

4. Human Resources

- a. Consultation on job description and performance appraisal systems as well as Human Resources Policies.
- b. Resources for employee orientation, education and supervisors' training.

5. Operations

- a. General – (1) assist Kendal at Ithaca, in complying with and interpreting state and federal regulations. (2) Consultation on labor, refinancing, healthcare and other regulations.
- b. Dining Services – assist with program and menu development/diet system.
- c. Health Services – share of information on current research and innovations in health facility design, service provision, care techniques, and other developments in health care.
- d. Housekeeping, Laundry and Maintenance Services – review capital project plans and budgets for capital projects.

C. Occupancy Rates

The following reflect the occupancy rates at each year-end from 2001 to 2005 for Independent Living Units:

Year End	2001	2002	2003	2004	2005
Occupancy	98%	94%	97%	96%	100%

The following reflect the occupancy rates at each year-end from 2001 to 2005 for Enriched Housing/Adult Care Units:

Year End	2001	2002	2003	2004	2005
Occupancy	66%	93%	86%	86%	86%

The following reflect the occupancy rates at each year-end from 2001 to 2005 for Skilled Nursing Units:

Year End	2001	2002	2003	2004	2005
Occupancy	92%	78%	89%	89%	74%

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and surplus as determined by this examination as of December 31, 2005. It is the same as the actuarial balance sheet submitted by the Community in April 25, 2006, presented on a statutory accounting basis, pursuant to New York Insurance Department Regulation 140 {11 NYCRR 350}:

<u>Asset</u>	
Cash and investable assets	\$ 20,103,000
Accounts receivable and prepaid expenses	2,232,000
Property, plant and equipment:	
Land	2,572,000
Building	43,370,000
Furniture and equipment	4,979,000
(Less) Accumulated depreciation	(9,146,000)
(Less) Long Term Debt	<u>(24,215,000)</u>
Deferred financing costs	902,000
Deferred marketing costs	<u>452,000</u>
 Total assets	 \$ <u>41,249,000</u>
 <u>Liabilities</u>	
Actuarial reserve	\$ 41,261,000
Adjustment for release of excess in retrospective reserve	<u>(12,000)</u>
Total Liabilities	\$ <u>41,249,000</u>
Net surplus, as of December 31, 2005	\$ <u>0</u>
 Total liabilities and net surplus	 \$ <u>41,249,000</u>
Ratio of net surplus to total liabilities	<u>0%</u>

It is 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.

B. Statement of revenue, expenses and net worth

The statement of revenue and expenses is presented on a GAAP basis for the period January 1, 2001 through December 31, 2005.

Revenue

Monthly maintenance fees	\$ 47,852,021
Other revenue from residents	610,566
Earned entrance fees (net of refunds)	18,659,419
Patient revenue from non residents	2,354,500
Interest and dividend income	2,310,970
Net realized capital gains (losses)	(420,368)
Aggregate write-ins for other operating revenue	<u>492,572</u>
Total revenue	<u>\$ 71,859,680</u>

Expenses

Interest expense	\$ 6,858,611
Residence expense	
Facility expense	9,574,809
Dining	8,317,409
Health expense	14,823,583
Administration expense	12,511,892
Depreciation and amortization	9,350,186
Real estate tax	5,965,727
NYS health facilities assessment	156,837
Aggregate write-ins for other operating expense	<u>65,515</u>
Total expenses	<u>\$ 67,624,569</u>
GAAP basis net income/(loss)	<u>\$ 4,235,111</u>

C. Changes in actuarial surplus

Surplus was unchanged during the examination period, January 1, 2001 through December 31, 2005, detailed as follows:

Surplus per report on examination as of December 31, 2000			\$ 0
	Gains in Net Worth	Losses in Net Worth	
Net income	\$ 4,235,111		
Statutory adjustment		(4,247,111)	
Release of excess of retrospective reserve	12,000		
Net increase/decrease in actuarial surplus			<u>\$ 0</u>
Surplus per examination as of December 31, 2005			<u><u>\$ 0</u></u>

4. MARKET CONDUCT REVIEW

The examination included a market conduct review focusing on the following major areas:

- a) Sales and advertising
- b) Disclosure statement
- c) Residency agreement

No problem areas were encountered during the review.

COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained one (1) recommendation as follows:
(page numbers refer to the prior report):

ITEM NO.

PAGE NO.

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|----|---|---|
| 1. | It is recommended that the members of the board of trustees attend one-half of the regular meetings. Board members who are unable or unwilling to attend meetings consistently, should resign or be replaced. | 7 |
|----|---|---|

The Community has complied with this recommendation.

Appointment No. 22580

**STATE OF NEW YORK
INSURANCE DEPARTMENT**

I, **Howard Mills**, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

Roy Zabala

as a proper person to examine into the affairs of the

Kendal at Ithaca, Inc.

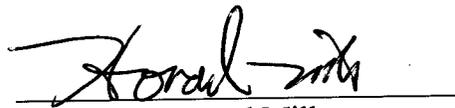
and to make a report to me in writing of the said

Continuing Care Retirement Community

with such information as he shall deem requisite.

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

this 26th day of December 2006



Howard Mills
Superintendent of Insurance

