

REPORT ON EXAMINATION

OF

EPISCOPAL CHURCH HOME AND AFFILIATES

LIFE CARE COMMUNITY, INC.

D/B/A

CANTERBURY WOODS

AS OF

DECEMBER 31, 2017

DATE OF REPORT

OCTOBER 20, 2021

EXAMINER

CHARLES MCBURNIE

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Department of Financial Services

KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Acting Superintendent

October 20, 2021

Honorable Adrienne A. Harris
Acting Superintendent of Financial Services
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York Insurance Law and the New York Public Health Law and acting in accordance with the instructions contained in Appointment Number 31752 dated April 6, 2018, attached hereto, I have made an examination of the Episcopal Church Home and Affiliates Life Care Community, Inc. d/b/a Canterbury Woods, a not-for-profit continuing care retirement community granted a certificate of authority pursuant to the provisions of Article 46 of the New York Public Health Law, as of December 31, 2017, and respectfully submit the following report thereon.

The examination was conducted at the home office of the Episcopal Church Home and Affiliates Life Care Community, Inc. d/b/a Canterbury Woods located at 705 Renaissance Drive, Williamsville, New York.

Wherever the designations the “Community” or “Canterbury Woods” appear herein, without qualification, they should be understood to indicate the Episcopal Church Home and Affiliates Life Care Community, Inc. d/b/a Canterbury Woods.

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

1. SCOPE OF THE EXAMINATION

The previous examination was conducted as of December 31, 2014. This examination covered the three-year period January 1, 2015 through December 31, 2017. Transactions occurring subsequent to this period were reviewed where deemed appropriate.

Representatives of the Department and the New York State Department of Health conducted a site survey of the Community's facility on May 7, 2018, pursuant to 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, 2017, in accordance with generally accepted accounting principles ("GAAP"), as modified by the Department pursuant to Insurance Regulation 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, 2017, on a statutory actuarial basis, pursuant to Insurance Regulation 140 (11 NYCRR 350).

A review was also made of the following items:

- Community documents
- Compliance with By-Laws
- Occupancy rate levels
- Financial documents
- Board of Directors' minutes

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

Canterbury Woods is a continuing care retirement community (“CCRC”) as defined in Section 4601 of the New York Public Health Law. The Community was formed on July 6, 1995. It received a Certificate of Authority from the New York State Department of Health, approved by the New York Continuing Care Retirement Community Council, and commenced operations on June 1, 1999. On December 22, 2015, the Department of Health granted programmatic approval of the Community’s reconfiguration of its existing Certificate of Authority application and the Department of Financial Services stated no objections to the reconfiguration application.

The Community is a New York State not-for-profit organization which was formed to build, own, and operate a continuing care retirement community.

At December 31, 2017, the Community consisted of 296 independent living units and 85 assisted living and private nursing suites. Canterbury Woods CCRC consisted of two campuses; Williamsville campus and Gates Circle campus.

At December 31, 2017, Canterbury Woods, Williamsville campus, included 243 independent living units, 32 assisted living units and 48 private nursing suites. Within the 243

independent living units on Williamsville campus, there are 40 patio homes located at Lexington Village at Canterbury Woods. Canterbury Woods, Gates Circle campus, included 53 independent living units and five (5) assisted living units. The Community is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code.

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 residency agreement 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.

A. Corporate Governance

Pursuant to the Community's Charter and By-laws, management of the Community is to be vested in a Board of Directors comprised of no less than seven and no more than sixteen members. As of December 31, 2017, the Community's Board of Directors was comprised of eleven voting and three ex-officio members, as follows:

<u>Name</u>	<u>Principal Affiliation</u>
Amy Bard Buffalo, New York	Vice President, M&T Bank
Barry W. Brandon Clarence, New York	Managing Director, FTI Consulting
Gregory R. Carballada Williamsville, New York	Architect, Foit-Albert Associates

<u>Name</u>	<u>Principal Affiliation</u>
Rev. R. William Franklin* Tonawanda, NY	Retired, Episcopal Diocese of Western New York
Robert Greene Williamsville, New York	Retired
Charles E. Kopp E. Amherst, New York	Retired
Dale Lesinski Clarence, New York	President, DiVal Safety Equipment, Inc.
Joan Mangano* Buffalo, New York	Retired
Laurie Menzies Buffalo, New York	Senior Partner, Pfalzgraf, Beinhauer and Menzies, LLP
Katherine M. Mohney Holland, New York	Director, Morgan Stanley
Sandra Moore* Williamsville, New York	Resident of Canterbury Woods, President of Canterbury Woods Resident Council
Anne Ryan Buffalo, New York	Executive Director, Read to Succeed – Buffalo,
Carol G. Salvatore Clarence Center, NY	Certified Public Accountant, Tronconi Segerra and Associates
Richard K. Welte Williamsville, NY	Manager, Northtown Automotive Companies

*Ex-Officio Director, non-voting Director.

The Community's officers as of December 31, 2017, were as follows:

<u>Name</u>	<u>Title</u>
Robert L. Wallace	Chief Executive Officer
James J. Juliano	Chief Financial Officer
Katherine M. Mohny	Chairman
Anne Ryan	Treasurer
Laurie Menzies	Secretary

The Directors do not receive any compensation for their service however, they may be reimbursed for any reasonable expenses incurred on behalf of the Community.

The by-laws require the Board to meet at least four times per year on dates selected by the Board at an hour and place designated by the Chair, and on such other occasions as the Chair considers proper. One of these meetings will be designated as the Annual Meeting. The Chairman of the Board shall have authority to cancel or fix another date for a regular meeting.

Special meetings of the Board of Directors, at which any business may be considered, can be called by the Chair. Special meetings are also called on written request of not less than three members of the Board, the notices thereof to state the business to be considered.

A review of the attendance records of the Board of Directors' meetings held during the period under examination revealed that there was a quorum at each such meetings, either in person or by proxy.

The By-laws state that any Director may be removed from office for cause, or if such Director misses two or more meetings of the Board convened within any twelve-month period, without sufficient reason for such absences.

It was noted that two (2) Board members Amy Bard and Reverend R. William Franklin failed to attend at least one-half of all board meetings they were eligible to attend.

Members of the Board have a fiduciary responsibility and must show an ongoing interest in the affairs of the Community. Members who fail to attend at least one-half of the Board meetings that they were eligible to attend, unless appropriately excused, do not fulfill such criteria and should therefore resign or be removed.

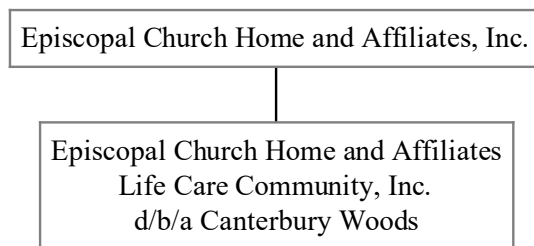
It is recommended that Board members who are unable or unwilling to consistently attend meetings they are eligible to attend, either resign or be replaced.

During the review of the Board minutes, it was noted that, while the minutes did record attendance, the minutes did not clearly indicate which attendees were directors, and which were officers or invitees.

It is recommended as a best practice; the minutes of the Board of Directors' meetings clearly delineate the position of each attendee.

B. Holding Company System

The structure of the Community's holding company system as December 31, 2017, was as follows:



The Community is affiliated through common Directors and/or shared economic interests with the following entities:

- Episcopal Church Home and Affiliates, Inc. (“ECH&A”)
- Episcopal Church Home of Western New York
- Episcopal Community Healthcare, Inc.
- Episcopal Community Housing, Inc.
- Episcopal Residential Health Care Facility, Inc.
- Brent Manor, Inc.
- Episcopal Community Housing Development Organization, Inc. (“CHODO”)
- Episcopal Church Home Foundation of Western New York, Inc.

The Community is a Type B corporation as defined in Sections 201 and 601(a) of the New York Not-for-Profit Corporation Law. The sole member of the Community is Episcopal Church Home and Affiliates, Inc. The Community is controlled by ECH&A through By-law requirements. ECH&A must approve any amendment to the Community’s By-laws or Articles of Incorporation.

C. Contract Options

During the examination period the Community offered three contract types. The Type A 90% refundable, Type A Amortized Contract and Type B 90% refundable contract. Under these contracts the resident pays an entrance fee and a monthly service fee to the Community. The entrance fee for these contracts consist of a residential component and life care component or modified life care component for the Type B contract.

Subsequent to the examination period, a fourth contract option was added, the Type C (Fee for Service) 90% refundable contract.

Additional details of the Community’s contracts are as follows:

Type A 90% Refundable Contract

During the first 90 days after the entrance fee is received in full, if the resident terminates the contract for any reason, all amounts collected are fully refundable. After the 90-day period, the residential component of the entrance fee is reduced by a 4% processing fee and an additional 2% charge each month until the balance reaches 90%, at which time no additional decreases are applied. The life care component continues to be reduced by 2% each month, until it reaches zero at the 51st month. Upon vacancy, the remaining 90% balance in the residential component is refunded.

In this contract option, the resident is eligible for unlimited days of assisted living services and nursing home care.

Type A Amortized Contract

This option has a lower entrance fee than the Type A 90% Refundable Contract. During the first 90 days after the entrance fee is received in full, if the resident terminates the contract for any reason, all amounts collected are fully refundable. If termination occurs more than 90 days, but less than 50 months after the resident's occupancy date, a portion of the residential and life care components of the entrance fee will be refunded. The Community will retain six (6) percent of the entrance fee after 90 days and two percent for each month after resident's occupancy date beginning with the fourth month and will refund the balance. If the agreement is terminated on or after the 50th month after the resident's occupancy date, no refund will be due.

Under this contract, the resident is also eligible for unlimited days unlimited days of assisted living services and nursing home care.

Type B 90% Refundable Contract

This modified life care contract type has a similar entrance fee as the Type A 90% Refundable Contract but has a lower life care fee and monthly fee. The payment and refund structure in this option are similar to the Type A 90% Refundable Contract.

The resident with this contract, is restricted to a maximum of 60 days of assisted living services and nursing home care under this contract. Assisted living services beyond 60 days will be paid by the resident at the daily rate for such services. Nursing home care beyond 60 days provided at Canterbury Woods will be paid by the resident or by the residents Health Maintenance Organization (“HMO”) if the resident is enrolled in an HMO at the Medicare per diem rate.

Type C (Fee-for-Service) 90% Refundable Contract

The Type C contract does not provide any prepaid life care benefits and does not have a life care charge in the entrance fee. Any assisted living services, or nursing home care used is paid for at the per diem rate by the resident. The entrance fee and monthly service fee for the Type C contract is set at 75% of the Type A 90% refundable contracts residential component of its entrance fee and monthly service fees.

The refund structure is similar to the Type A 90% refundable contract for the residential component of the entrance fee.

D. Occupancy Rates

The following reflects the occupancy rates at each year-end, 2014 to 2017, for each of the facilities within the Community:

	<u>2015</u>	<u>2016</u>	<u>2017</u>
Independent living units	91.4%	91.8%	81.8%
Enriched housing/Adult care units	81.3%	90.6%	81.1%
Skilled nursing facility	100.0%	100.0%	100.0%

On September 21, 2015, Canterbury Woods signed a guaranteed maximum price (“GMP”) construction contract for the building of 53 additional independent living units and 5 additional assisted living units called Canterbury Woods at Gates Circle in Buffalo, New York. Canterbury Woods at Gates Circle opened in October of 2017.

As of December 31, 2017, Canterbury reported a drop in its Independent Living Unit occupancy rate to approximately 82 percent from nearly 92 percent the prior year. The decreased occupancy rate was due to the opening of the 53 new independent living units two months prior for occupancy as Canterbury was still in the process of procuring residents for the units.

E. Disclosure Statement

Section 4606(14)(b) of the New York Public Health Law states, in part:

“Initial disclosure statement. Prior to the execution of a contract, or before the transfer of any money, other than a refundable priority reservation fee or non-refundable priority reservation agreement application fee, to an operator by or on behalf of a prospective resident, whichever occurs first, the operator shall deliver to the person with whom the contract is to be entered into or the persons legal representative the most recent annual statement as required by section forty-six hundred seven of this article, and an initial disclosure statement which contains the following,,

14. In accordance with regulations promulgated by the council, the operator shall prepare a standard information sheet for each approved continuing care retirement community, which must be approved by the department of health, distributed with the community’s marketing materials and attached to the initial disclosure statement prepared in accordance with this section. The standard information sheet shall be prepared in plain language and in twelve-point type and shall include but shall not be limited to the following information...

b. the name, address, and telephone number of the operator and a contact person employed by the operator.”

The Community does not list a contact person in its standard information sheet within its Disclosure Statement and therefore, is not in compliance with Section 4606(14)(b) of the New York Public Health Law.

It is recommended that the Community comply with Section 4606(14)(b) of the New York Public Health Law by listing a contact person within the standard information sheet of its disclosure statement.

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

3. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, and actuarial surplus as of December 31, 2017, as contained in the Community's 2017 filed annual statement presented on a statutory actuarial basis pursuant to Insurance Regulation No. 140 (11 NYCRR), a condensed summary of operations and a reconciliation of the actuarial surplus account for the years under review.

For calendar years 2014 through 2017, Canterbury Woods retained the firm of Bonadio & Co., LLP to audit the Community's combined statement of financial position and related consolidated statements of operations and cash flows.

It was concluded that the consolidated financial statements present fairly, in all material respects, the financial position of the Community at the respective "as of" audit dates. Balances reported in these audited financial statements were reconciled to the corresponding years' annual statements with no discrepancies noted.

A. Balance SheetAssets

Cash and investable assets	\$ 37,786,822
Accounts receivable and prepaid expenses	4,753,901
Land	11,267,798
Building	94,865,986
Furniture, fixtures and equipment-at cost	14,247,403
Deferred financing cost	2,575,635
Deferred marketing cost	<u>3,903,767</u>
Total assets	\$ <u>169,401,312</u>

Liabilities

IDA bonds	2,035,000
Financial institutions	24,128,000
Actuarial reserves	<u>129,322,517</u>
Total liabilities	\$ 155,485,517
Net surplus	
Total net surplus	\$ <u>13,915,795</u>
Total liabilities and net surplus	\$ <u>169,401,312</u>

Note: It should be noted that the net 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 using generally accepted accounting principles (GAAP basis).

B. Statement of Operations

The statement of operations is presented on a statutory modified GAAP basis for the three-year examination period, January 1, 2015 through December 31, 2017.

Revenue

Monthly maintenance fess	\$ 41,436,676	
Revenue from related organizations	108,000	
Earned entrance fees (net of refunds)	7,046,557	
Patient revenue from nonresidents	4,853,462	
Interest and dividend income	389,335	
Aggregate write-ins for other operating revenue	<u>1,025,633</u>	
Total revenue		\$ 54,859,663

Expenses

Operative interest expense	\$ 656,654	
Facility and dining expenses	19,059,467	
Health expenses	10,803,618	
Administration expenses	10,388,853	
Depreciation and amortization charges	9,501,978	
Change in provision for uncollectible accounts	20,000	
Real estate taxes	2,620,814	
NYS health facilities assessment	533,313	
Aggregate write-ins	<u>26,276</u>	
Total expenses		\$ <u>53,610,973</u>
Net income		\$ <u><u>1,248,690</u></u>

Change in Actuarial Surplus

The Community's actuarial surplus increased \$12,749,396 during the examination period, January 1, 2015 through December 31, 2017, detailed as follows:

Actuarial surplus, per report on examination, as of December 31, 2014			\$ 1,166,399
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$ 1,248,690		
Statutory adjustment as per examination*	<u>11,500,706</u>	_____	
Net increase in surplus			<u>12,749,396</u>
Actuarial surplus, per report on examination, as of December 31, 2017			\$ <u>13,915,795</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. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination included five (5) recommendations detailed as follows
(page number refers to the prior report on examination):

<u>ITEM NO.</u>	<u>PAGE NO.</u>
<u>Corporate Governance</u>	
1. It is recommended that the Community report in its filed annual statements only those board members who are actually on the Board of Directors as of date of the annual statements, which is, in this case, December 31, 2014.	7
<i>The Community complied with this recommendation.</i>	
2. It is recommended that the Community comply with Section 715-a(c) of the New York Not-For-Profit Corporation Law by requiring that its board members complete and sign a conflict of interest statement before the initial election and annually thereafter.	7
<i>The Community complied with this recommendation.</i>	
<u>Disclosure Statement</u>	
3. It is recommended that the Community comply with Section 4606(14)(b) by listing a contact person within the standard information sheet of its disclosure statement.	8
<i>The Community did not comply with the recommendation.</i> A similar recommendation is included in this report.	
<u>Accounts Receivable</u>	
4. It is recommended that the Community comply with the requirements of Part 350.6(c)(7) of Insurance Regulation No. 140 by reporting on its actuarial balance sheet, as admitted assets, government agency receivables that are not overdue more than 365 days and non-government agency receivables that are not overdue more than 90 days from the valuation date.	12
<i>The Community complied with this recommendation.</i>	

ITEM NO.**PAGE NO.****Information System Controls**

5. It is suggested that the Community change its controls procedures to provide for the automatic log-off of the Community's workstations from the current 60 minutes of inactivity to a significantly less period of time of inactivity. It is further suggested that such change be included within the Community's access controls policy. 13

The Community complied with this recommendation.

5. **SUMMARY OF COMMENTS AND RECOMMENDATIONS**

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Corporate Governance</u>	
i. It is recommended that Board members who are unable or unwilling to consistently attend meetings they are eligible to attend, either resign or be replaced.	7
ii. It is recommended as a best practice, that the minutes of the Board of Directors' meetings clearly delineate the position of each attendee.	7
B. <u>Disclosure Statement</u>	
It is recommended that the Community comply with Section 4606(14)(b) of the New York Public Health Law by listing a contact person within the standard information sheet of its disclosure statement.	12

Respectfully submitted,

Charles J. McBurnie
Insurance Examiner

STATE OF NEW YORK)
)SS.
)
COUNTY OF NEW YORK)

CHARLES McBURNIE being duly sworn, deposes and says that the foregoing report submitted by him is true to the best of his knowledge and belief.

Charles J. McBurnie

Subscribed and sworn to before me
This ____ day of _____ 2021.

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, MARIA T. VULLO, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

Charles McBurnie

as a proper person to examine the affairs of

Episcopal Church Home and Affiliates Life Care Community, Inc. d/b/a Canterbury Woods

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

CCRC

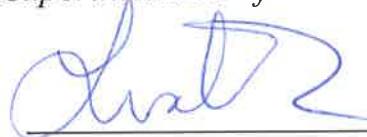
with such other information as he shall deem requisite.

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

this 6th day of April, 2018

MARIA T. VULLO
Superintendent of Financial Services

By:



Lisette Johnson
Bureau Chief
Health Bureau

