



# CALCRA News

California  
Continuing Care  
Residents Association

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## FROM THE PRESIDENT

It was a real disappointment to learn the governor vetoed Senate Bill 489. The bill was a product of two years of effort to establish mandatory measures for humane treatment of CCRC residents whenever they are displaced permanently due to closure of a facility or temporarily due to renovations. The governor's veto message approved the bill's purpose but stated that it placed too much burden on the Department of Social Services (DSS). This is difficult to understand since DSS had reviewed the wording and had no objection to it. We are attempting to get further information that will enable us do what is needed to assure passage of the bill next year. Current economic conditions make passage of the bill more important than ever.



**Walter P. Rozett**

Senate Bill 1212, enacted in 2006, requires a CCRC provider to report all reserves that it has designated and maintains. Reporting of those reserves has been deficient. The Internal Revenue Code Ruling that established the tax exemption for non-profit CCRCs requires that "...the organization must operate so as to provide its services to the aged at the lowest feasible cost, taking into consideration such expenses as the payment of indebtedness, maintenance of adequate reserves sufficient to insure the life care of each resident, and reserves for physical expansion commensurate with the needs of the community and the existing resources of the organization." Although not mentioned specifically, a contingency reserve is also required since neither income nor expense can be predicted with certainty.

The IRS requirement to operate at the

"lowest feasible cost" precludes the provider using CCRC resident funds for any purpose other than to serve residents. Legislation will be introduced this coming year to assure complete non-profit provider transparency and account-ability for all reserves and prohibiting the use of resident funds for other than resident benefits. The legislation will include appropriate reserve reporting requirements for for-profit providers. Again, current economic conditions make enactment of this legislation important.

In the last newsletter I commented on a planned meeting of Aging Services and CALCRA to discuss how our organizations might work together effectively in the future. That meeting took place on November 13 with four CALCRA board members and representatives from Aging Services including President Anne Burns Johnson. The discussion lasted almost three hours and covered our past relationship, current issues facing California CCRCs and each organization's perspective on matters of concern. Although the communication was useful it did not produce any tangible results. We have proposed a continuation of the discussions but reducing the number of participants and concentrating on a specific area of mutual concern and interest such as transparency and accountability. Since Ms. Johnson will be leaving Aging Services early in January it is uncertain whether it will be possible to schedule another meeting in the near future. We will, however, continue to pursue the matter since it would obviously benefit the industry to align provider and resident efforts more closely.

## Executive Board

- Walter P. Rozett**  
President
- Boyd Steele**  
Vice President
- Barbara Krings & Secretary**
- Ed Washburn**  
Treasurer
- Ed Delaney**  
**Norm Eichberg**  
**Denise Fleig**  
**Art Halenbeck**  
**Sid Hanson**  
**Pat Herron**  
**Stefan Moses**  
**Carl Otto**  
**Bernard Werth**  
Members - At - Large

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## ATTENTION ALL MEMBERS



CALCRA's fiscal year begins on October 1. Each year at this time we have problems with duplicate payment of dues by some members. If there is an insert in this newsletter indicating that your dues for 2009 have not been paid then you should send in your check as directed in that insert. If there is no insert you have already paid your 2009 dues.

## REPORT ON ANNUAL AND BOARD MEETINGS

The meetings were held at Spring Lake Village in Santa Rosa on October 18, 2008. Bernard Werth and Walt Rozett were reelected and Carl Otto of Channing house elected for three year terms. Denise Fleig was appointed to fill the remaining two years of Bill Allewelt's term. Bill resigned to enable him to devote his time and energy to the CALCRA Chapter at Davis. He will, however, continue to be involved in statewide issues.

President Rozett presented a Power Point program on Aging Services, the history, mission, organization and legislative efforts of CALCRA. The future legislative efforts include the reintroduction in 2009 of SB 489 dealing with the relocation of residents due to the renovation or closure of CCRCs. Additionally, in 2009, legislation will be sponsored clarifying the reporting of reserves required by Senate Bill 1212 sponsored by CALCRA in 2006. All such reserves will have to be specified as to purpose, amount to be accumulated and the method of accumulation. This, along with currently required detail expense budgeting, will require providers to be completely transparent and accountable concerning their intended use of resident funds. Additionally the legislation will prohibit the use by non-profit providers of resident funds, including both entry and monthly fees, for any purpose other than for the benefit of residents. The legislative effort for 2010, at this time, is anticipated to establish standards for the provider boards of directors including the possibility of converting non-profit directors to trustees. Any CALCRA member who wishes to have a copy of the Power Point presentation sent to her/him by email should contact Walt at wrozett@urcad.org.

Several directors reported on problems at their communities. Sid Hanson discussed the communication problems with management and the board of directors at Air Force Village West in Riverside. Carl Otto talked about the

Herriot case at Channing House in Palo Alto in which the court has ruled in favor of the provider on most issues related to the transfer of Sally Herriot from her independent living unit to a higher level of care. Several issues remain unresolved so she remains in her independent living unit. Norm Eichberg's report on Classic Residence by Hyatt at La Jolla Village in San Diego was read because he was unable to attend the meeting. The case, involving allegations of misuse of funds, elder abuse, excessive monthly fee increases and inadequate medical services has been settled by mediation. A detailed report on the settlement is included on page 3. Bernard Werth, who was also unable to attend the meeting, indicated that the litigation at San Francisco Towers involving inappropriate use of resident funds is in critical discussions at this time and no information is available. Comments and questions from the audience were requested and after some discussion the annual meeting was adjourned.

At the subsequent executive session of the board Walt Rozett was elected president; Boyd Steele, vice president; Ed Washburn, treasurer and Barbara Krings, secretary.

Pat Herron discussed the study at the Law School at Berkeley of the Health, Economics and Security of the Family which will include the challenging legal and public policy issues of elder care. As in all academic endeavors, it may be some time before results are seen. Pat, who is a retired judge, indicated her delight that we have a law school with the reputation and prestige of UC Berkeley studying our issues.

Two bids from insurance companies providing directors and officers liability insurance were discussed. The board authorized proceeding with the coverage subject to final review of the policy. Subsequent to the meeting the coverage has been placed with United States Liability Insurance Company.

Boyd Steele reviewed a collaborative effort with Norm Eichberg related to increasing CALCRA membership. Their study included consideration of the dues level, making all California CCRC residents members unless they opt out, multiple year membership, membership cards and funding by providers as an element of their funding of Aging Services. Because the CALCRA fiscal year has already started the matter of any changes was deferred for consideration at the April 2009 meeting and would be effective with the 2010 fiscal year.

The analysis of all CCRC financial information filed with the Department of Social Services was discussed. This project, under a grant to CANHR, California Association for Nursing Home Reform, has been receiving attention for several years but is not yet complete. CALCRA hopes to be able to work with CANHR to make all CCRC financial information available on the CANHR, CALCRA and the Continuing Care Contracts Branch websites. It is a huge effort and will take some time to bring to a conclusion.

Director Sid Hanson spoke on the application of commercial restaurant food standards to CCRC's. Our communities are largely exempt from these regulations and there is reason to believe this must change. Director Carl Otto attended a conference on Long-Term Care Financing Solutions held at Stanford University sponsored by Aging Services of California, ASHSA (the providers' national organization) and AARP. Some of the conclusions: the current long-term care system is not sustainable, government programs in place are not likely to play a larger role in financing long-term care, demand will continue to grow and private sector options are limited. AAHSA's, proposed solution is a broad-based national insurance trust.

The 2010 CALCRA annual meeting has been tentatively set for October 15, 2009. The date and location of the April board meeting are yet to be determined.

## WHY ALL CCRC RESIDENTS SHOULD BE CALCRA MEMBERS

by Barbara Krings

A few weeks ago at a meeting in my community, management announced our monthly fees would be increased by 4.75 per cent. Facts were presented to residents to justify the increase and we were able to question management concerning the need for the increase. This kind of meeting with CCRC residents was never required until CALCRA sponsored legislation that made them mandatory.

At our last resident council meeting our elected resident representative to the provider board informed us about difficulties experienced with swap agreements purchased in the past from now defunct Lehman Bros. This information probably would never have been available to residents if CALCRA had not sponsored legislation which requires providers to have a resident representative to the provider's

governing body.

At this same council meeting our resident finance committee chair gave a yearend overview of the corporation's finances. This was the result of meetings with the chief financial officer of the corporation and information supplied to the committee by management. Once again, before CALCRA introduced legislation to require communication with residents on financial matters little, if any, of this information would have been available to residents.

These are only a few of the benefits that CALCRA has already produced for residents, but which many residents now take for granted as just something that has always been there. Much work remains for CALCRA. The body of law governing the CCRC industry put in place before CALCRA existed was

written by providers to protect provider interests, but with little regard for resident rights. Until this statutory imbalance is corrected CALCRA must chip away at this imbalance to gain the due rights for residents.

CALCRA continues to strive for complete transparency and accountability in financial reporting from management. We have never wavered from this standard and believe that a trusting relationship with management can be accomplished only when management is completely open and communicative with residents.

Even though every resident does not have the capacity to participate directly in these efforts all can assist in assuring that needed change is accomplished by being members of CALCRA.

## Settlement of SHORT vs. CLASSIC RESIDENCE

by HYATT at LA JOLLA VILLAGE lawsuit

by Norm Eichberg

This is a summary of the outcome of the lawsuit filed this year by Donald Short, against Classic Residence by Hyatt at La Jolla Village, a for profit CCRC provider. But, who is Donald Short? Let me introduce him to you and tell you about the results of his efforts.

Don and his wife, Marilyn, moved into La Jolla Village six years ago after he retired from his business as an owner/builder of apartment complexes in Arizona. After living at La Jolla Village for a year he ran for a seat on the resident council and was elected. In the middle of his fourth year on the council he suffered a stroke and resigned. He had become angry with Hyatt because, as he perceived it, they were not treating residents with the respect they deserved and, further, he had determined that monthly fees were being increased beyond appropriate justification. He brought the suit as an individual, bearing the cost of all of the litigation expenses. Several residents subsequently joined in the suit resulting in its conversion to a class action. Among other claims the suit included elder abuse as a cause of action.

Without going into all of the details, at

this time, we can say that the mediation, called for by the defendants, is progressing nicely toward a "win-win" situation. The big issue, increases in monthly maintenance fees, was settled by an agreement to put a ten year "cap" on future increases in monthly fees. This was a big win for the plaintiffs since continuation of the large past increases would have been a serious problem for many residents. In addition a sum of money was allocated for distribution to the members of the "class" including residents who "opted out" of the suit. The plaintiffs' attorney fees are also to be paid by Hyatt.

We feel that the suit did more than award us a sum of money and put a cap on the increases - it created a new respect for the residents on the part of the provider. Attitudes changed appreciably and the annual meeting of governing body of the provider and the residents went on with greater understanding, more candor, more transparency and more congeniality than ever before. We are working together to improve conditions in the community and to fill the vacant

apartments. We all agreed that the name of the game is "occupancy-occupancy-occupancy" and we would work together to correct the situation.

The members of the Classic Residence by Hyatt "Board" indicated their confidence in the executive director by telling us that she was "The Decider" and that they would support her and her decisions. This puts a new aspect on the relationship of the administration with the resident council and the residents. It was indicated that, in the future, decisions are to be made locally, after consultation with the resident representatives and that those decisions would be final unless the Hyatt hierarchy concluded further discussion was required.

While at this time, mid-November 2008, the settlement has not been finalized by payment of the amounts due members of the class and the monthly fee increase limitation has yet been instituted, we have been assured that the entire settlement will be completed before the end of December, ringing in a HAPPY NEW YEAR for all.

# CARRYING ON THROUGH HARD TIMES

by Stefan Moses

As our national economy continues to weaken, we are finding that virtually every aspect of life as we have known it has been affected. As a CCRC resident I have been particularly interested in the general financial health of retirement communities not only here in California but throughout the U.S. as well. From all reports and articles I have been reading, retirement communities around the country are suffering from similar consequences of the economic downturn. The decreased activity in the housing market, the loss of equity in home values, and the eroding values of investments are all contributing to a decreasing number of prospective residents financially qualified to move into CCRCs. In addition, people are often less inclined to make a major investment of this kind in times of uncertainty.

As a result, a majority of CCRCs are experiencing a decline in occupancy rates which can have a serious negative effect on the available funds needed for administrative and operational costs many of which are fixed and thus not substantially affected by occupancy rates.

While there will always be some prospective residents for whom the sale of their homes is not a precondition for having sufficient funds to pay the entry fee in a CCRC, the present financial situation will no doubt continue to prevent a restoration of much higher occupancy levels in the near future.

How then can CCRCs cope with this fiscal crisis? The answer, of course, is by careful management, strategic cost cutting, and a continuing cultivation of a spirit of cooperation between management and residents. At The Village in Hemet, we have embarked on a program that will help to see us through this financial downturn. The Village, and its sister community, Freedom Village in Lake Forest, are privately owned. We are fortunate that both properties are debt free, that the owners have substantial reserves, and that the firm deals with a bank that is strong and safe.

The owners have always been forthright in their dealings with residents and, during this time of uncertainty, this has helped greatly in assuring us that our community is in a

stable condition. Equally important, management has instilled in the residents a desire to work cooperatively in helping to reduce waste, to control expenses and to offer suggestions that may help to achieve these goals. Also, management has offered suggestions helping residents to protect their assets, and we, in turn, continue to advise our friends to consider this community as a safe haven, a place where they may live relatively free of many of the worries of coping with home ownership.

Best of all, we continue to enjoy an undiminished quality of life. New residents do continue to move in and many have been referred by our residents. With a positive approach on the part of the owners and residents we feel confident that our community will see us through these difficult times.

President's commentary: There is a message of prudence here that is applicable to every CCRC. It starts with the integrity of the provider and the understanding that effective communication with residents is essential.

**WWW.CALCRA.ORG**  
**We're on the Web!!!**

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