

## House Bill 1177 – Opposition Testimony

Madam Chair, Madam Vice Chair and Members of the Committee:

My name is Steve Powell and I live in Union Mills, Maryland. I serve as the Chief Financial Officer for Lutheran Social Ministries of Maryland which has two subsidiary Continuing Care Resident Communities (CCRC)– Carroll Lutheran Village in Westminster, Maryland and The Lutheran Village at Millers Grant in Ellicott City, Maryland. Carroll Lutheran Village was founded in 1977 and opened its doors to residents in 1980. The Lutheran Village of Millers Grant was established in 2004, stumbled through the recessions and finally broke ground in 2014 and welcoming residents in 2016.

HB 1177 contains many provisions which pose significant financial and governance impediments to our historical financial models, future opportunity to secure near term financing for future improvements/projects and the strategic governance of our organization. I will address the primary concerns in the order presented in the bill;

### **Governing Body:**

- **Increase Resident representation on the governing body from one (1) to three (3)** is troublesome in that Boards of Trustees are inherently a strategic organization. Nearly all the information which is discussed has a direct impact on the resident sitting on that body. Carroll Lutheran Village has had resident members openly discuss future plans within the Community opposing future Board action. In fact, had that resident not been removed from the Board it is likely that our second Community would not have been built.
  - It is important to note that residents have no ownership of the units they occupy. The Resident Services Contract stipulates that it conveys no ‘proprietary ownership’ in the dwelling. At the Independent Living level, residents have purchased a service which includes dining options, programming, gym and pool access, entertainment, and maintenance-free living. They also are able to purchase other activities such as organized trips, hair appointments, massage services and other activities they may desire. Moreover, higher levels of care are available, if and when they are needed.
- **Change the selection of Resident Board Member from the same general criteria as all Board Members to being “elected by the Resident Association of the Facility in accordance with the bylaws of the Resident Association.”**
  - A Continuing Care Community is not a Condo Association nor a Homeowners Association. It is an organization providing a service to those who wish to purchase such and its Board is strategically oriented to long-term viability and growth of the organization. The Facility Boards are not operational, they are strategic to the future of the Community. The Facility Staff are the operational component of the organization and regularly meet with the Resident Association and other community members.

- LSMMD Communities are governed by volunteer Boards of Trustees who are selected for their expertise and ability to help guide the Community into the future. Their primary purpose is to hire and manage the President/Chief Executive Officer and provide the strategic input noted above. These Boards are not operational – that takes place at the Community staff level.
- **“A subscriber member of a governing body may report on nonconfidential deliberations, actions and policies of the governing body to the Resident Association. .... a provider may designate a portion of a governing body meeting to be confidential if the governing body discusses individual personnel or individual subscriber’s health issues..”**
  - As noted earlier, the governing bodies are not operational in nature and thus rarely would personnel be discussed and I am not aware of an instance where the governing body discussed the health of a resident.
  - It is important to note again the forward-looking, strategic nature of the Board’s generative discussion. Nearly all Board agenda items are oriented toward that end and thus the resident board member needs to be a member of the Board with that orientation or not at all.

#### **Operational/Financial:**

- **“Conduct an annual survey to evaluate subscribers’ satisfaction with the fulfillment of services....”**
  - LSMMD, as with most CCRCs, conduct such surveys on an every-other-year basis. This serves two primary purposes: 1. Allows time for the organization to evaluate prior survey concerns; create and implement a plan of correction and allow enough time to measure the impact; and 2. Constrain costs to the Community. Each survey costs approximately \$18-20K each time it is administered for our Communities.
- **Annually disclose to a subscriber the finances ... in each CCRC or facility to entity owns or has an interest in.**
  - In Maryland each Community stands on its own. Each Community is responsible for its own debt, and financial underpinning. Sharing a Communities financial position with another is like asking Ford to give Chevrolet its financial plan.
- **Provide a report written by a certified actuary affirming that a provider has sufficient funds to provide for the future of the CCRC**
  - Is the bill simply asking for a letter, not report, which says in the opinion of the actuary the Community has sufficient resources to fulfill the outstanding contracts?

- A letter would be very different from providing the true actuarial report. The actuarial report contains vital proprietary information including a 30 year projection of financials including balance sheets, cash flow statements and operational statements. It further notes margin on various units, overall plan for capital investment. Should this get into hands of competitors, they would have a virtual blue print of our future thinking.
  
- **Before implementing a change to the delivery of HealthCare Services, food Services and Facilities Maintenance, including staffing levels or staff credentialing, notify a subscriber of the planned change**
  - Lutheran Social Ministries often includes resident representatives in selecting new vendors in this regard and would continue to do so
  - LSMMD does not share staffing level changes or credentialing of our team members.
  - A CCRC is not a condo association and does not convey governance abilities.
  - These activities are rightly the responsibility of management.

I want to thank you for taking the time to review my remarks and ask for an UNFAVORABLE report on HB1177.