

Memorandum

TO: The Stratford Homeowners
FROM: Allan D. Jergesen
DATE: May 27, 2014
RE: Legal Structure of The Stratford

OUR FILE NO.: 21249.94

This memorandum explains the legal structure of The Stratford, the laws governing its operation, and the rights and protections that those laws provide to residents.

The Structure of The Stratford

The Stratford was created in 1992 as a combination condominium-continuing care retirement community ("CCRC") project. This is a model that was pioneered in other states and first implemented in California at The Peninsula Regent. Prior to implementation, there were extensive consultations with the California Department of Real Estate ("DRE"), with its jurisdiction over common interest developments, and the California Department of Social Services ("DSS"), with its jurisdiction over CCRCs. By the time that The Stratford was created, both DRE and DSS were comfortable with the model, including the interface between the Davis Stirling Act and the California continuing care statute. Both agencies approved the structure of the community, including the rules governing the authority of the operator and the HOA. The Stratford continues to be subject to the regulatory oversight of both DRE and DSS, as appropriate. The CCRC statute, however, makes it clear that, in the event of conflict, it prevails over the Davis Stirling Act.

On the real estate side, The Stratford was subdivided into condominiums consisting of individual units and a common area. Residents own their units in fee simple and the common area in undivided interests in the same way as do residents of any condominium project. In addition, however, the developer retained a real estate interest in the common area by virtue of service easements owned in perpetuity by the developer or its successors. This interest was transferred to Sunrise when it became the operator in 2006. The organizational documents create The Stratford of San Mateo Homeowners' Association with more limited jurisdiction than that exercised by normal homeowner associations. Thus, the HOA has neither the authority nor the responsibility for maintaining the premises or overseeing the amenities provided to homeowners. That responsibility rests under the CC&Rs with the operator. The HOA is limited to ensuring that there is adequate insurance on the building, to authorizing the rebuilding of The Stratford after any catastrophic uninsured loss, and to approving purchases of fixtures and improvements to the premises whose cost exceeds five percent of operating revenues in a fiscal year.

Under the CC&Rs, responsibility for the premises and amenities rests entirely with the operator, which is Sunrise Stratford, L.P. ("Sunrise Stratford"). In this capacity, Sunrise Stratford is owner

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of the service easements, with the exclusive right and responsibility to maintain the premises and to use them to provide services to residents under continuing care contracts. Sunrise Stratford contracts for management services at The Stratford with Sunrise Senior Living Management, Inc., a related entity. In addition, Sunrise Stratford possesses the various licenses and permits from DSS necessary to operate The Stratford as a CCRC. These consist of a license (shared with Sunrise Senior Living Management) to provide services to homeowners as a residential care facility for the elderly (an "RCFE") and a certificate of authority (held through its general partner, Sunrise Stratford GP, LLC, and its ultimate owner, Sunrise Senior Living, LLC) to enter into continuing care contracts with residents. As holder of these licenses, Sunrise Stratford has an obligation under the RCFE and CCRC laws to maintain the premises and to provide services meeting the standards set forth in those laws.

Resident Participatory Rights

Sunrise Stratford and Sunrise Senior Living Management are expected to respect the participatory rights of residents as set forth in the CCRC laws. These include obligations to provide financial and other information to residents at various junctures and to meet with them periodically to discuss issues of concern to them. They also must ensure that there is a functioning resident council, whose role is to obtain the views of residents on matters of concern and to communicate them to the operator. At The Stratford, this function is exercised by the HOA, which therefore has duties under the CCRC laws, as well as the limited functions that it exercises under the Davis Stirling Act.

The Laurel Avenue Trust

Shortly after establishing The Stratford, the developer created the Laurel Avenue Trust (the "LAT") under a separate Trust Agreement. The purpose was to provide a place for funds set aside from the proceeds of the initial sellout to help defray the cost of the long-term care program, to provide loans to residents who could demonstrate inability to pay fees, and to make repairs, to renovate, and to replace assets as appropriate. The LAT continues to be funded from payments made by entering residents at the time that they purchase their condominium interests. It constitutes a segregated fund that can be used only for the benefit of The Stratford and its residents under the terms set forth in the Trust Agreement. Although it performs a function that otherwise would fall to Sunrise Stratford alone, it is not necessarily the only source of support for The Stratford. DSS approved its formation under the condition that Sunrise Stratford retain ultimate financial responsibility for the facility in its capacity as holder of the CCRC certificate of authority. For the same reason, it required that Sunrise Stratford exercise ultimate control over the LAT. Accordingly, the LAT is governed by three trustees, two of whom are appointed by Sunrise Stratford and one by the HOA. At present, the two Sunrise Stratford trustees are the Executive Director of The Stratford and Sunrise's Regional Director of Operations for the West Region, with two votes between them. Two residents jointly share the third trustee position, with one vote between them.

ADJ:gxn

cc: Gayle P. Viola
Carla Sanchez
Nancy A. Voisin