The continuing care retirement community is becoming evermore common and evermore in demand.

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THE NUMBER OF CONTINUING CARE RETIREMENT COMMUNITIES (“CCRC”) has grown rapidly in almost every region of the nation. The CCRC housing arrangement combines services for the physical and social needs of an individual with his or her desire to remain independent. Perhaps most importantly, CCRCs allow residents to progress from fully independent living to 24-hour skilled nursing care without having to leave the same general surroundings, as CCRCs offer independent living, assisted living, and skilled nursing care in a “campus-like” environment.

Many individuals presently residing in nursing homes and institutional care facilities would prefer to live elsewhere and, with a little assistance, could live elsewhere. Maybe their own home became too much for them to maintain, both physically and financially, or no family members were able to provide the accommodations and health care that the elderly person needed. A CCRC could possibly provide such people with the care they need. The average person who enters a CCRC is between the ages of 75 and 80 and remains there for 11 to 13 years. See Louise Saul, “Interest Grows in Continuing-Care Communities for Elderly,” New York Times, at 12NJ, page 1 (Aug. 28, 1988). Of those people who choose to move into a CCRC, many choose one that is within the same geographical area as their former home. In this way, they need not adjust to completely new surroundings, thereby making the transition to the CCRC easier.

ENTRANCE FEES AND MONTHLY MAINTENANCE FEES • CCRCs generally offer three different payment/contract options:
• All-inclusive and extensive health care guaranteed to the resident for life;
• Modified health care services for a specified time period only, after which the resident will be charged at the per diem rate; or
• Fees based on the services needed.

Each state allows different payment arrangements, so it is important to check your state
regulations before advising a client. Additionally, individual CCRCs may offer variations of these contract options, as will be described later in this article.

The Entrance Fee

The most common CCRC contract requires a large initial deposit, referred to as an entrance fee. The entrance fee can be as low as $50,000 or as high as $600,000 or more, depending on the size of the apartment and region of the country. Thereafter, the resident must pay a monthly maintenance fee similar to rent, which is often in the $1,500 to $5,000 range, again, depending on the size of the resident’s apartment and region of the country. The initial entrance fee paid by the resident represents a right to occupy a residence unit in the CCRC for life, as well as a right to lifetime long-term care.

The Monthly Maintenance Fee

The monthly maintenance fee covers not only the residence unit, but also pays for upkeep of the community, meals, utilities, emergency medical help, security, housekeeping, and social activities, among other amenities. The cost of physician visits, prescriptions drugs, home health agency services, and transportation are generally not included in the fee, but these and other services may be offered at an additional charge.

Financing the Fees

When calculated, these entrance fees and maintenance fees seemingly make this type of housing affordable only to the affluent. However, soaring real estate prices over the past decades have allowed many elderly to sell their own homes for many times what they originally paid. Seniors can then use the profit from the sale of their home to cover the entrance fee in a CCRC.

How Are the Fees Used?

The large entrance fees paid by residents are sometimes used by the developer to finance the construction of the community. In other cases, the entrance fee is used to pay down the mortgage on the community, or in yet other circumstances, the entrance fee may be placed in an escrow account so funds are available to pay for the future health care costs of the resident.

Variations on the Three Contract Options

To meet the demand of the senior housing population, CCRCs across the nation offer variations of the three contract options described previously. For example, some CCRCs require no entrance fees, but only a monthly maintenance fee. Other CCRCs are moving towards a fee-for-service model, requiring residents to pay only for the services they use. See James C. Plastiras, “Developers may be more likely to build CCRCs on account of recent IDA legislation,” 24 Capital District Business Review 20 (Nov. 24, 1997).

When an individual evaluates which payment option to choose, it is important to determine whether the CCRC contract states that only the payment option changes or whether other portions of the CCRC contract change as well. For example, some CCRCs that offer the “monthly maintenance fee only” option do not guarantee that the resident selecting this option will be able to secure a place in the CCRC’s nursing facility when and if such care is needed in the future. But if that same resident had selected the
“entrance fee” option, then nursing facility placement would be guaranteed.

Refund of the Entrance Fee

Along with the different payment options to enter a CCRC are different options regarding the refund of the entrance fee upon the resident’s decision to leave the community for personal reasons or upon the resident’s death. For example, some CCRCs offer an amortized entrance fee combined with a monthly maintenance fee, where the refund portion of the entrance fee decreases over the life expectancy of the individual. If the individual lives past his or her life expectancy, no refund of the entrance fee will be available.

If an individual chooses a “rent only” option with no entrance fee, there will generally be no refund when the person leaves the CCRC or dies (other than possibly the refund of a security deposit), as no cash has been paid up front. This concept is the same as renting an apartment. Finally, for a higher entrance fee combined with a monthly maintenance fee, some CCRCs guarantee that the resident will receive a refund of approximately 90 percent of the entrance fee when the resident either leaves the CCRC voluntarily or passes away. (Please refer to Appendix A for a sample Admissions Agreement offering the amortized entrance fee option, and Appendix B for a sample Admissions Agreement offering the “rent only” option.)

THE ADVANTAGES OF RESIDING IN A CONTINUING CARE RETIREMENT COMMUNITY

Statistics have shown that living in a CCRC often increases the social and health status of an elderly person and reduces the person’s worry about future medical expenses. Id. A CCRC provides the elderly resident with a sense of independence and community, while also providing a home-like environment, as well as assistance, if necessary, with daily tasks such as dressing, bathing, or taking medications. For those more active residents, CCRCs provide social activities that help residents remain active, both mentally and physically. These healthy and active residents in turn help the more frail residents maintain their vitality.

DISADVANTAGES OF A CONTINUING CARE RETIREMENT COMMUNITY

A major drawback of CCRCs is their expense. Those individuals who do not have substantial assets or monthly income may find it difficult to become approved for residence in a CCRC. In addition to the funds required for the entrance fee, a person’s monthly income must meet the level of continuing monthly maintenance fees. The CCRC need not guarantee that the monthly maintenance fee remain set. As such, an individual may find rising monthly maintenance costs putting a strain on his or her budget.

Some CCRCs have long waiting lists for residence units. Such may be the case in certain parts of the country where only few CCRCs exist or if an individual prefers a certain type of residence unit, which may be in high demand. An additional concern is where the individual will continue to live while waiting for a residence unit in the CCRC to become available. If the individual owns a house and the house sells quickly, the individual will have to rent elsewhere in the interim. Alternatively, when a residence unit in the CCRC becomes available, the individual will have a short time during which to sell his or her house. If the house does not sell quickly, the individual may find him or herself owning a house and having to pay monthly maintenance fees for the CCRC residence...
unit to reserve the unit. Or, if the individual desires to move into the CCRC before his or her former house is sold, there may be insufficient funds to pay the entrance fee to the CCRC. This coordination process may prove to be an obstacle for some elderly people who do not have the finances available to provide for the possible flexibility required.

It is also important that the individual considering a CCRC thoroughly understand the contract between the individual and the CCRC, as contracts are lengthy and refund policies are often confusing. It is vital that the CCRC be financially sound, as bankruptcies have occurred.

Finally, when an individual decides to move into a CCRC, the decision should be considered a decision for life. The individual, and preferably a trusted family member or friend, should have researched all available options regarding the type of care needed by the individual and the type of care available to meet that need before any downpayment to a CCRC is made or a contract with a CCRC is signed. It is often difficult for an elderly person to relocate after he or she has settled in somewhere, be it in a CCRC or elsewhere. Additionally, alternative housing outside the CCRC may not be available if the individual finds he or she wishes to leave the CCRC environment at a later date.

THE RESIDENT’S PROPERTY INTEREST IN CCRC UNITS • Units in a CCRC can either be rented in the form of a life lease (a “non-equity arrangement”), or may actually be owned, similar to how a condominium is owned (an “equity arrangement”). Some states, although few, permit resident ownership in the community.

In some CCRCs, the entry fee in non-equity arrangements is based upon the applicant’s age, as the applicant will only be using the unit for the remainder of his or her lifetime. The shorter the expected life, the smaller the entrance fee. See Kathy Kristof, “CCRCs gain popularity as retirement alternative,” The Fresno Bee, Business, p. C1 (Dec. 28, 1997). On the other hand, if the resident acquires an equity interest in the unit, the resident may qualify for income tax deductions and real estate exemptions for the elderly. Additionally, the equity owner may sell his or her unit and obtain cash with which to purchase other housing, if the situation so requires.

REGULATION OF CCRCs • The CCRC senior housing market has developed largely because of the increased and marked demand for independent senior living options. Although CCRCs offer “assisted living,” they do not fall under any category of regulated senior housing because these facilities are geared toward private pay seniors. CCRCs are not considered part of the Assisted Living Program because the Assisted Living Program is designed for low-income seniors. The CCRC market is geared toward private pay seniors. Furthermore, CCRCs do not fall under the statutory definition of adult housing and enriched housing because they are designed to provide assisted living on a larger scale. See Devinder Brar and Bridget E. Holohan, Housing Alternatives For an Aging Population: Options for Reform, Government Law Center of Albany Law School at 19 (May 1999).

Most states, however, provide for a minimum amount of regulation of CCRCs through various state agencies. In New York, for example, Public Health and Social Services agencies help enforce the standards that CCRCs must meet before and during their operation. N.Y. Pub. Health Law §4601 et seq. (McKinney Supp. 2001). In Connecticut, where CCRC’s are not licensed, but must adhere to certain statutory requirements, the CCRC industry is regulated by the Department of Social Services. See Devinder Brar
The agency or agencies, if any, regulating the CCRC industry in a specific state may impose minimum standards or mandatory accreditation processes on the operation of CCRCs. The agencies in some states believe that such regulation is unnecessary, as market forces will cause CCRC providers operating at substandard levels out of the market. Many states, however, have begun to institute minimum standards of care and mandatory accreditation. On a national level, the Continuing Care Accreditation Commission ("CCAC") was founded in 1985 and is funded by fees imposed upon the accredited CCRCs. Brar & Holohan, supra, at 33. This independent accrediting body is sponsored by the American Association of Homes and Services for the Aging and is responsible for imposing standards for CCRCs. See Kathryn L. Brod, The CCRC Industry, 1997 Profile, American Association of Homes and Services for the Aging. The accreditation process includes self-evaluation by the CCRC’s staff, residents, and board of directors, and an on-site review by trained CCAC evaluators. Id.

COMMUNITY OPPOSITION TO CCRCs • Although CCRCs might seem like the answer to housing the elderly in a community environment, CCRC developers have often encountered opposition from the communities in which they seek to build such senior housing. Zoning regulations often present a barrier to building accessible and affordable senior housing, as such regulations may limit the number of stories of a dwelling or may stipulate that a building lot be a certain acreage to accommodate the size of the proposed structure. Other times, a proposed building site might be zoned residential and therefore meet opposition from members outside the proposed retirement community living near the site. Generally, however, CCRCs are becoming more prevalent and seem to be an important part of aging in America.