

Notes and News from **NaCCRA**

Current Developments.

Greatness often arises out of dysfunction. The United States evolved from the disaster of the Articles of Confederation. The greatness of Abraham Lincoln arose from the dysfunction of the Dred Scott decision. NaCCRA, too, is ready for greatness.

If NaCCRA's membership confirms the election of new Directors, a new leadership team is poised to take office after the March 18th General Meeting in Virginia. The new Directors are committed to moving NaCCRA forward vigorously, effectively, and with unity.

NaCCRA's leaders have decided that there should be a new vote and that all Directors, both those current Directors who would otherwise continue in office automatically, and the new Directorial candidates should stand together in a new election. We know that you may have already shown your preference, but we urge you to vote again to help launch the new, revived NaCCRA.

The Bylaws provide "Elections shall be at the Annual Meeting and Individual Members may vote by proxy or electronic means during the thirty (30) day period preceding the Annual Meeting." That language is now to be strictly construed. The Annual Meeting is set for Saturday, March 18th. Hence, the 30-day period begins on February 16th (Remember that February this year has just 28 days).

Accordingly, a new polling process will open on February 16th. The parsing of the Bylaws phrasing has been interpreted to mean that any votes cast before February 16 are invalid. You can vote on or after February 16th by clicking the grey-blue button at <http://naccra2017.com>. There you can also let us know your expectation for your entrance fee investment.

The new Directors have committed themselves to focusing more concentratedly on advocacy on behalf for the members than on organizational mechanics. It is expected that compliance with the spirit and letter of the Bylaws will be so clear that it will not have to be the leadership distraction that it has become. We hope that you

will support this change in direction toward a new NaCCRA organization that works for **YOU**.

Note the Name.

Our last electronic newsletter for our members was captioned LifeLine to show continuity with the Lifeline newsletter which has long been the information conduit for NaCCRA members.

To avoid confusion, we are now naming these more frequent, content-filled updates as "**Notes and News from NaCCRA.**" Our intent is to keep you, our Members, better informed concerning all that is being done to support you.

Share the News.

We recognize that many CCRC residents, and many loyal NaCCRA Members, are not comfortable with modern electronic communications. The new Directors, though, are committed to letting you know more of what is happening and to keeping NaCCRA's costs to a minimum.

We encourage you, therefore, to reproduce these electronic messages locally and to insert them in the in-house mailboxes where you live, so that all residents can be fully informed. In our CCRC, we have a copy machine for two-sided copying, and these Notes and News are formatted to allow you, similarly, to copy them for distribution.

Unexpected Controversy.

Recent developments led by regulators have resulted in one of the clearest conversations to date between the views of providers and those of residents. Those discussions have revealed unanticipated differences of perspective which are material to your well-being.

When residents pay their entrance fees, our experience is that most of them believe that they are pre-paying for contractual services. The only legal claims that the residents have are grounded in the contract and entrance fees are a necessary consideration for the contract.

Many providers, though, have a different view. It's not uncommon for providers to conclude that entrance fees are used to pay down debt. This view makes entrance fees an equity investment in a debt-funded real estate venture, much as a down payment on a home is an equity investment in a mortgage-funded real estate transaction.

Providers then fund all operations, and the fulfillment of contractual commitments, from the monthly and ancillary fees, while using entrance fees as though they were no more than cash capital contributions to be used at the discretion of the owners, which for a nonprofit is abstractly the public weal but in practice the executives.

Would residents knowingly make the large entrance fee investments if they thought that they were to receive neither prefunded contractual benefits nor ownership investment rights? That seems unlikely, but we want to know what you think. Accordingly, we are adding a query about this contentious matter to the ballot for Directors described earlier.

Let us know what you think.

Need for Funding.

With the emphasis on state resident associations, NaCCRA has long been starved for both members and funding. It is becoming increasingly clear, though, that the breakthroughs to benefit residents are more likely to come about through national activity than at the state level.

The new Directors are seeking to raise the needed funds to advance your interests and to make you more secure in your CCRC. Funding and widespread membership support are the tools that can gain you the protections that you need as you age.

Accounting. NaCCRA has already made considerable progress in persuading the accounting profession to take a more principled approach toward CCRC accounting, especially with respect to so-called "refundable" contracts. Even so, many CCRCs operate with impaired GAAP Balance sheets, liabilities greater than assets, which diverts residents entrance fees away from the fulfillment of resident contractual promises.

NaCCRA seeks to ensure that your benefits will be there for you when you reach the stage of needing assistance. That's not now a certainty in impaired CCRCs.

Tax Exemption. The IRS ruling that allows CCRCs to have tax exemption is now over forty years old, and needs to be updated to require sufficient capital adequacy and to include residents as members.

Nationwide Regulation. There is no uniformity of regulation from one state to another, and this has worked to weaken regulation everywhere, as providers play off one state against another. NaCCRA needs funding to allow it to work with the National Association of Insurance Commissioners and other national regulatory entities. This requires that NaCCRA be present when the NAIC meets and that takes money.

Such funding can enable NaCCRA to seek uniform nationwide regulation for capital adequacy and other technical aspects of CCRC operations. Most particularly for residents who risk losing their entire entrance fee investment, funding NaCCRA could allow the leaders to seek guaranty legislation to assure fulfillment of CCRC contracts even when providers fail financially.

Congressional Action. More conventionally, increased funding can enable NaCCRA to seek Congressional action on matters of Federal legislation affecting CCRC residents.

The new Directors are committed to seeking means to pursue initiatives on your behalf. The new leaders will need your enthusiastic support if NaCCRA is to be the effective organization that you would like it to be.

Book Note.

Someone asked that these *Notes and News* not only be serious, so here's an unrelated book recommendation.

Ona Judge was a slave in the household of President and Mrs. Washington. She ran away from her captivity while the President was presiding in Philadelphia. Washington pursued her aggressively but Ms. Judge eluded capture. Erica Armstrong Dunbar tells the tale in a book titled, "*Never Caught: The Washingtons' Relentless Pursuit of Their Runaway Slave, Ona Judge.*"

We recommend the book for the insight it gives on the dark side of our American saga, even in its finest moments.

Notes and News from NaCCRA appears from time to time, whenever there is a need to keep NaCCRA members informed about current developments. Thank you for supporting NaCCRA. Our mission is to serve you.