

REPORT ON EXAMINATION

OF

PECONIC LANDING AT SOUTHOLD, INC.

AS OF

DECEMBER 31, 2014

DATE OF REPORT

DECEMBER 18, 2017

EXAMINER

HUSSEIN AGOUDA, CFE

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

December 28, 2017

Honorable Maria T. Vullo
Superintendent of Financial Services
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York Insurance Law and acting in accordance with the instructions contained in Appointment Number 3142, dated May 23, 2016, attached hereto, I have made an examination into the condition and affairs of Peconic Landing at Southold, Inc., a not-for-profit continuing care retirement community certified pursuant to the provisions of Article 46 of the New York Public Health Law, as of December 31, 2014, and respectfully submit the following report thereon.

The examination was conducted at the home office of Peconic Landing at Southold, Inc., located at 1500 Brecknock Road, Greenport, New York.

Wherever the designations the “Community” or “Peconic Landing” appear herein, without qualification, they should be understood to indicate Peconic Landing at Southold, Inc.

Wherever the designation the “Department” appears herein, without qualification, it should be understood to indicate the New York State Department of Financial Services.

1. SCOPE OF THE EXAMINATION

The previous examination was conducted as of December 31, 2011. This examination covers the three-year period from January 1, 2012 through December 31, 2014. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination comprised a verification of assets and liabilities as of December 31, 2014, in accordance with generally accepted accounting principles (“GAAP”), as modified by the Department pursuant to Insurance Regulation No. 140 (11 NYCRR 350), a review of income and disbursements deemed necessary to accomplish such verification, and utilized, to the extent considered appropriate, work performed by the Community’s independent certified public accountants and independent actuary. It is noted that the balance sheet included herein was reported as of December 31, 2014, on a statutory actuarial basis, pursuant to Insurance Regulation No. 140 (11 NYCRR 350).

A review was also made of the following items:

- Community documents
- Compliance with by-laws
- Board of directors’ meeting minutes
- Occupancy levels
- Financial documents

This report on examination is confined to financial statements and comments on those matters which involve departures from laws, regulations or rules, or which are deemed to require explanation or description.

A review was also made to ascertain what actions were taken by the Community with regard to comments and recommendations contained in the prior report on examination.

2. DESCRIPTION OF THE COMMUNITY

Peconic Landing is a continuing care retirement community (“CCRC”) as defined in Article 46 of the New York Public Health Law. The Community received a certificate of authority from the New York State Continuing Care Retirement Community Council effective July 31, 1998. Peconic Landing is a New York State not-for-profit organization and is a tax-exempt organization per Section 501(c)(3) of the Internal Revenue Code. The Community commenced operations on August 15, 2002.

Peconic Landing is organized as a cooperative life care community and offers a range of services including: independent living, enriched housing (assisted living) and full-time skilled nursing units. The Community’s independent living section consists of 250 units, of which, 109 are cottages and 141 are apartments. There are twenty-six (26) enriched housing beds, and forty-four (44) skilled nursing beds; in addition to dining rooms, common areas, and a kitchen area that supports the operations of the Community’s dining services.

On June 19, 2014, Peconic Landing’s August 2012 application to amend its Certificate of Authority (“COA”) was approved by the New York State Department of Health. This allowed Peconic to increase the number of independent living unit (“ILU”) apartments by forty-six (46) to 296 units, and increase the number of skilled nursing facility (“SNF”) beds by sixteen (16) to sixty (60) beds.

The approval also included a change in the Peconic Landing’s Certificate of Authority to cease Adult Care Facility (“ACF”) services through Peconic’s CCRC ACF and provide such services through a separate legal entity to be located on the Peconic Landing campus. The new

ACF entity will consist of twenty-six (26) enriched housing (“EH”) and sixteen (16) special needs assisted living residence (“SNARL”) beds, for a total of 42 beds. The new ACF will provide the required ACF services under a contract that will ensure priority placement to the Community’s residents.

The anticipated construction start date was October 15, 2014 with an estimated completion date of January 15, 2016. The construction was completed as scheduled. The Department conducted a review of the amended COA request that included the pricing structure and stated no objections to the reconfiguration application.

On July 12, 2013, the Community was approved by the New York State Department of Health (“DOH”), effective as of June 27, 2013, to commence as a separate entity the operations of Peconic Landing Home Health Services. This entity will provide fee-for-service nursing and home health services to both Community residents and non-residents.

In exchange for the purchase price of a share certificate, a one-time health care reserve fee (entrance fee) and monthly maintenance charges. The Community provides a lifetime residence and varying benefits for nursing care. The amount of the entrance fee and monthly maintenance charges are dependent upon the contract selected and the size of the residence to be occupied.

The following is a description of the life care contract offered to the Community’s residents:

Residents will have the right to occupy one of the residential apartments or cottages (“Cooperative Units”), also known as independent living units, and become a Member by purchasing a share certificate (“Certificate”) in Peconic Landing Housing Association

Cooperative, Inc. (the “Cooperative”), paying an entrance fee, and entering into a Care Agreement (life care contract), under which residents have the right to occupy an independent living unit for the remainder of their life, or until such time as they need to be transferred to one of the Community’s enriched housing units or to the Community’s skilled nursing units. Currently, the enriched housing units and skilled nursing units, together called Care Units may also be occupied by individuals who are not parties with life care contracts and who make payments on a per-diem basis. However, residents with life care contracts have priority access to enriched housing units and the skilled nursing unit facilities, compared to non-residents.

Residents pay monthly fees relative to their occupancy of an independent living unit, enriched housing unit, or a skilled nursing unit according to the terms of the Care Agreement (life care contract) and Subscription Agreement entered into with Peconic Landing, the Cooperative, and the resident. If the Care Agreement and the Subscription Agreement are canceled or the Resident dies within the first 90 days of occupancy, the health care reserve fee is fully refundable. Subsequent to 90 days of occupancy, the amount of the refundable health care reserve fee is reduced by a four percent (4%) processing fee, and an additional two percent (2%) fee per month of occupancy. No refunds are made after 48 months of occupancy and the share certificate must be sold as prescribed by the Community’s by-laws.

An additional Peconic Bay Region Community Preservation Fund Tax payable to the Town of Southold will be charged to the purchaser at 2% of the purchase price in excess of one hundred and fifty thousand dollars (\$150,000). If the Member later vacates the Cooperative Unit and sells the share certificate, the selling Member has the potential for appreciation. A marketing fee of 10% of the sales price and a fifteen thousand dollar (\$15,000) capital improvement fee will be retained by the Community at the time of sale.

On October 20, 2016 the Community submitted an application for a Type C fee-for-service contract for residential living and enriched housing for approval from the New York Department of Health and the New York Department of Financial Services.

The Community's Type C application was approved on October 31, 2016 by the DOH. A prospective Type C contract member will have to purchase a share certificate that can be mortgaged at 50%. No healthcare service is included for Type C contracts, however, the member can receive healthcare on a fee-for-service basis.

The Community revised its Disclosure Statement, Care Agreement, Proprietary Lease, and Subscription Agreement to reflect the addition of the new Type C contract stated above. The revised Disclosure Statement was approved by the New York State Department of Health concurrently with the approval of the Type C fee-for-service contract.

A. Corporate Governance

Pursuant to the Community's charter and by-laws, management of the Community is to be vested in a board of trustees composed of no less than five members. As of December 31, 2014, the Community's board of trustees was comprised of the following thirteen (13) members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Luke Babcock Sag Harbor, New York	Analyst and Manager, Saybrook Capital, LLC
Rosamond Baiz Southold, New York	Owner/Winemaker, The Old Field Vineyards

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Paul J. Connor III Mattituck, New York	President and CEO, Eastern Long Island Hospital
Thomas B. Doolan Southold, New York	President and CEO, Southampton Hospital
Gregory N. Ferraris Sag Harbor, New York	CPA, Partner, Banducci, Katz & Ferraris, LLP
Robert T. Goldman New Suffolk, New York	Retired
Rev. Peter M. Larsen Southampton, New York	Rector, Saint John's Episcopal Church
John M. May Southold, New York	Trustee, Eastern Long Island Hospital
Thomas McCarthy Southold, New York	Owner, Thomas J. McCarthy Real Estate, Inc.
Thomas Murray Orient, New York	President and CEO, Hamilton Federal Savings Bank
Sandra Novick Southold, New York	Employee, ABA Marketing Network
Patricia Stewart Southampton, New York	CEO, McNamara, Stewart, Saperstein
Edward Wellington Webb II Orient, New York	Retired

Pursuant to its by-laws, the Community's board is required to meet once each year for an annual meeting, but may hold special meetings as desired. At least four (4) meetings were held, on a quarterly basis, during each year of the examination period. A majority of the members of the Board shall constitute a quorum for the transaction of business. Every action taken or decision made by a majority of the trustees present at a duly held meeting where a quorum is present shall

be the act of the Board, subject to the more stringent provisions of the New York Not-For-Profit Corporation Law, including, without limitation, those provisions relating to: (1) approval of contracts or transactions in which a trustee has a direct or indirect material financial interest; (2) approval of certain transactions between Corporations having common trusteeships; (3) creation of and appointments to the committees of the Board; and (4) indemnification of trustees. A meeting at which a quorum is initially present may continue to transact business, despite the withdrawal of any trustee, if any action taken or decision made is approved by at least a majority of the required quorum for that meeting. Whenever a vacancy on the Board shall prevent a quorum from being present, then, in such event, the quorum shall consist of a majority of the members of the Board excluding the vacancy.

A review of the minutes of the Community's board meetings held during the examination period indicated that two (2) board members attended less than 50% of the board meetings they were eligible to attend during the examination period, and one (1) other board member attended less than 50% of the board meetings they were eligible to attend in 2015. It is also noted that there was not a quorum for one of the 2015 boarding meetings.

Members of the board have a fiduciary responsibility and must show an ongoing interest in the affairs of the Community. Members who fail to attend at least one-half of the board's meetings that they were eligible to attend, unless appropriately excused, do not fulfill such criteria.

It is recommended that board members attend board meetings consistently to set forth their views on relevant matters so that appropriate policy decisions may be reached by the board.

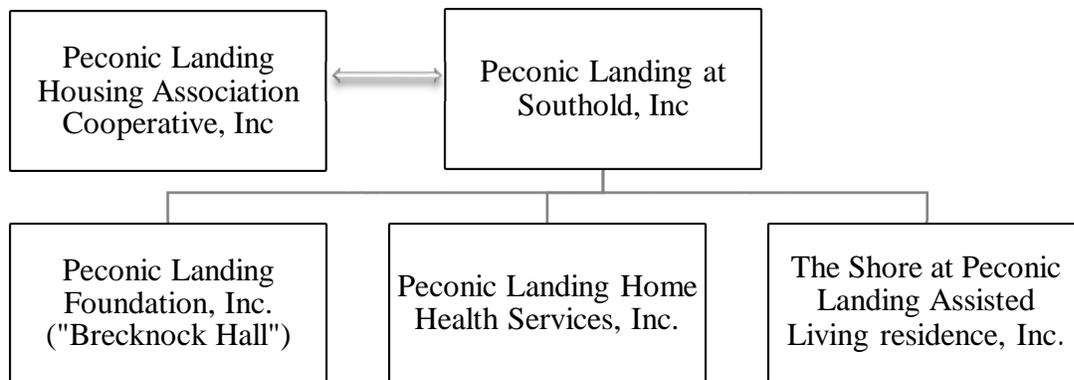
A similar recommendation was included within the prior report on examination.

The principal officers of the Community as of December 31, 2014, were as follows:

<u>Name</u>	<u>Title</u>
Robert Syron	Chief Executive Officer
Steven Carroll	Chief Financial Officer
John May	President, Treasurer and Chair

B. Corporate Structure

The Community's holding company system as of December 31, 2014 was as follows:



Peconic Landing Housing Association Cooperative, Inc.

Peconic Landing Housing Association Cooperative, Inc. is a cooperative corporation formed by the members of the Peconic Landing board of directors pursuant to the provisions of the New York Cooperative Corporations Law, to provide cooperative housing units to Community members who purchase shares in the Cooperative and enter into Care Agreements with Peconic Landing at Southhold, Inc. As such, the independent living units are owned as cooperative housing by the Community's residents.

Peconic Landing, pursuant to a long term lease agreement (“Lease Agreement”), leases a portion of its real property to the Cooperative for the cooperative residential portion of the Community. The Cooperative owns the improvements on the leased premises, which include cooperative housing units used for the independent housing component of the Community.

Pursuant to the Lease Agreement, upon commencement of the lease term, the Cooperative has agreed to pay, before delinquency of the lessee, all charges for utilities, including, but not limited to: gas, electricity, light, heat, water, power and telephone or other communication service used, rendered or supplied, upon or in connection with the leased premises and the residential improvements. The Lease Agreement was included as part of the initial Peconic Landing Disclosure Statement and Plan of Organization and was approved by the New York State Department of Health in August 1998. The Long Term Lease Agreement was amended on November 28, 2000 but had not been submitted to the Department of Health for approval. The Community submitted the agreement to the Department of Health for approval after it was recommended in the Department’s report on examination as of December 31, 2011. The Long Term Lease Agreement was approved by the Department of Health on February 7, 2015.

Brecknock Hall Foundation, Inc.

The Brecknock Hall Foundation (the “Foundation”) is a wholly-owned subsidiary of the Community and has cooperated in the restoration of Brecknock Hall, which is a 19th Century stone building on the grounds of the Community under a Stewardship Agreement made between the Community (“Licensor”) and the Foundation (“Steward”), effective July 1, 2005, and revised on August 26, 2009.

The revised Stewardship Agreement establishes a framework whereby Brecknock Hall will be maintained and promoted as a historic landmark, while being used for activities that will benefit Peconic Landing and the North Fork Long Island community, while generating funds to contribute to the preservation, protection and operation of Brecknock Hall. Under this revised agreement, the Community owns, operates, and takes full responsibility for promoting, marketing, operating, financing and maintaining Brecknock Hall. The Foundation is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code and is also exempt from state income taxes.

The Shore at Peconic Landing Assisted Living Residence, Inc.

The Shore at Peconic Landing Assisted Living Residence, Inc. (“the Shore Assisted Living”), is a wholly-owned subsidiary of the Community. The Shore Assisted Living was incorporated and approved on December 6, 2011 for the purpose of providing services to those parties who are residing in the Community’s assisted living residences. On May 24, 2016, the Shore was approved to amend its certificate of incorporation to establish, maintain and operate an Enriched Housing Program, an Assisted Living Residence, an Assisted Living Residence with an enhanced assisted living certificate and an Assisted Living Residence with a special needs assistance certificate as defined in Sections 4651 and 4655 of the New York Public Health Law.

The Shore Assisted Living entered into a management agreement (Agreement) with the Community on June 6, 2014 to provide oversight and management services and to ensure quality administration of its operation. The Agreement was submitted to the Department of Health and approved on June 6, 2014. The Shore at Peconic Landing Assisted Living Residence, Inc. is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code and is also exempt from state income taxes.

Peconic Landing Home Health Services, Inc.

Peconic Landing Home Health Services, Inc. (“Home Health”), is a wholly-owned subsidiary of the Community. Home Health was incorporated in 2013 for the purpose of providing fee-for-service nursing and home health services to Community resident and non-residents. The New York State Department of Health granted the Community approval to incorporate Peconic Landing Home Health Services, Inc. and to commence operation effective June 27, 2013. Home Health is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code and is also exempt from state income taxes.

During the review of the Community’s management agreements with its subsidiaries, it was noted that the Community, did obtain DOH’s approval for the incorporation, however it did not establish or submit the administrative/management service agreements to either the DOH or the Department for review and approval, as required by the following sections of the Administrative Rules and Regulations of the New York State Department of Health.

Sections 901.8(b)(5)(i)(f) and (g) of the Administrative Rules and Regulations of the New York Department of Health (10 NYCRR Part 901.8) state the following:

"(b) The operator shall file an annual statement with the Commissioner of Health and Superintendent of Insurance within four months following the close of the operator's fiscal year.

(5) The annual statement shall show the condition of the community as of the last day of the preceding fiscal year and shall include, at a minimum, the following information in a format prescribed by the Council:

(i) a change in status of any of the following information submitted with the original application pursuant to paragraphs (3-9) and (11-14) of subdivision (c) of section 900.3 of Part 900:

(f) The basic organizational documents and agreements including, as applicable: bylaws, partnership agreements, articles of incorporation, articles of association or other membership agreements, or their substantial equivalents;

(g) any bylaws, certificates of incorporation of a parent corporation or controlling person and any agreements with such an entity relating to the manner and mechanisms by which any such controlling person or parent corporation will exercise control;”

Section 901.10(d) of the Administrative Rules and Regulations of the New York State Department of Health (10 NYCRR Part 901.10) states the following:

“A governing body wishing to enter into a management contract shall submit a proposed written contract to the department upon submission of a certificate of authority application in accordance with section 900.3(c)(13) of this Title or a governing body entering a new management contract or revising a management contract subsequent to the issuance of a certificate of authority shall submit a copy of the contract with the submission of the disclosure statement in accordance with section 901.9(a)(2) of this Part.”

It is recommended that the Community establish, and submit for approval, an administrative management service agreement with Peconic Landing Home Health Services Inc. to the New York State Department of Health for review, as required by Sections 901.8(b)(5)(i)(f) and (g) and 901.10(d) (10 NYCRR Part 901) of the Administrative Rules and Regulations of the New York State Department of Health.

C. Disclosure Statement

During the review of the Community’s current Disclosure Statement, it was noted that Peconic Landing at Southold, Inc. is identified as the Parent corporation, and is also known as “Sponsor”. Peconic Landing at Southold, Inc. is also an affiliate of Peconic Landing Housing Association Cooperative, Inc. (“Cooperative”), to which it leases a portion of its real property. The Parent/Sponsor, in addition, owns the three subsidiaries described above, The Shore at Peconic Landing Assisted Living Residence, Inc., Peconic Landing Home Health Services, Inc., and

Peconic Landing Foundation, Inc. All are New York State not-for-profit organizations and are tax-exempt per Section 501(c)(3) of the Internal Revenue Code.

It was also noted that the primary activities of the Parent/Sponsor, and the affiliate “Cooperative” were stated in the disclosure statement as required. However, a review of the Community’s disclosure statement revealed that the Community is not in compliance with the requirements of Section 4606(9) of the New York State Public Health Law with regard to its three subsidiaries. Section 4606(9) of the New York State Public Health Law requires that the Community include the required wording relative to the primary activities, interest and financial responsibilities between the Community and its subsidiaries, and Sections 901.8(b)(5)(i)(j) (10 NYCRR Part 901) of the Administrative Rules and Regulations of the New York State Department of Health, which requires a periodic reporting requirement of any changes in the status of the Community.

Section 4606(a) of the New York State Public Health Law states in part:

“Prior to the execution of a contract, or before the transfer of any money, other than a refundable priority reservation agreement application fee, to an operator or on behalf of a prospective resident, whichever comes first the operator shall deliver to the person with whom the contract is to be entered into or the person’s legal representative the most recent annual statement as required by section forty-six hundred seven of this article, and an initial disclosure statement which contains the following:...

(9) If the applicant is a subsidiary corporation or the affiliate of another corporation, a statement identifying the parent corporation or the other affiliate corporation, the primary activities of such parent, or other affiliate corporation, the interest in the applicant held by such parent or other affiliate corporation, and the extent to which the parent corporation will be responsible for the financial and contractual obligations of the subsidiary;...”

It is recommended that the Community update its disclosure statement to reflect the addition of The Shore at Peconic Landing Assisted Living Residence, Inc., Peconic Landing Home

Health Services, Inc., and Peconic Landing Foundation, Inc. as subsidiaries of the Community, and include the required wording relative to the primary activities, interest and financial responsibilities between the Community and its subsidiaries required by Section 4606(9) of New York Public Health Law.

Section 901.8(b)(5)(i)(j) (10 NYCRR Part 901) of the Administrative Rules and Regulations of the New York State Department of Health states the following:

“(b) The operator shall file an annual statement with the Commissioner of Health and Superintendent of Insurance within four months following the close of the operators fiscal year.

(5) the annual statement shall show the condition of the community as of the last day of the preceding fiscal year and shall include, at a minimum, the following information in a format prescribed by the Council:

(i) a change in status of any of the following information submitted with the original application pursuant to section 900.3(c)(3)(9) and (11)(14) of this Title:

(j) The initial disclosure statement;”

It is recommended that the Community update any changes in status in its disclosure statement annually and submit the updated disclosure statement with its annual financial statements to DFS and DOH as required by Section 901.8(b)(5)(i)(j) (10 NYCRR Part 901) of the Administrative Rules and Regulations of the New York State Department of Health.

Further, it is recommended that the Community amend its disclosure statement to read “New York State Department of Financial Services” in place of “New State Department of Insurance”.

D. Occupancy Rates

The occupancy rates for the three years covered by the examination period were as follows:

	<u>2012</u>	<u>2013</u>	<u>2014</u>
Independent Living	96.3%	95.30%	94.90%
Enriched Housing	66.6%	85.65%	88.18%
Skilled Nursing	92.9%	93.80%	94.43%

The Community's most recent actuarial report for the period ending December 31, 2013 states in part:

“...we have assumed, based on Peconic Landing's expectations, that Peconic Landing will be able to market and maintain an ultimate 95.6% occupancy level in the Independent Living Units, 96.2% occupancy in Enriched Housing and 103.5% occupancy in the Skilled Nursing Facility over the next 20 years.”

Subsequent to the examination date, as of December 31 2015, the Community's occupancy level experienced a slight decrease of .67 of a percentage point to 94.23% from 94.90%, relative to its Independent Living Units; a 1.77% modest increase in its Enriched Housing occupancy rate from 88.18% to 89.95%; and a 3.3% increase in its Skilled Nursing Facility occupancy rate from 94.43% to 97.73%.

Although the Community improved its occupancy rates, particularly with regard to its Enriched Housing Units, the rates still remained below the occupancy goal for its Enriched Housing Units and its Skilled Nursing Facility as determined by its actuarial consultant as of the examination date of this report.

3. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, and actuarial surplus as of December 31, 2014, as contained in the Community's 2014 filed annual statement presented on a statutory actuarial basis pursuant to Insurance Regulation No. 140 (11 NYCRR 350), a condensed summary of operations and a reconciliation of the actuarial surplus account for the years under review.

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Community's financial condition as presented in its financial statements contained in the December 31, 2014 filed annual statement.

A. Balance Sheet

<u>Assets</u>	<u>Examination</u>
Other Cash and Investments	\$ 17,544,257
Total Current Assets	1,699,840
Property Plant and Equipment	144,715,012
Unamortized Financing Costs	922,900
Escrow Account	<u>14,059,349</u>
Total Assets	\$ <u>178,941,358</u>
 <u>Liabilities</u>	
Long-Term and Short- Term Debt	\$ 27,900,000
Actuarial Reserve Liabilities	<u>146,625,358</u>
Total Liabilities	\$ <u>174,525,358</u>
Actuarial Surplus	\$ <u>4,416,000</u>
Total Liabilities and Surplus	\$ <u>178,941,358</u>

Note: It is noted that the asset values herein are reported on a statutory/actuarial basis. As such, the values differ from the certified financial statements prepared by the Community's certified public accountants.

B. Statement of Revenue and Expenses and Change in Actuarial Surplus

The statement of revenue and expenses is presented on a GAAP basis, as modified pursuant to Insurance Regulation No. 140, for the four-year period, January 1, 2011 through December 31, 2014:

Revenue

Monthly Maintenance Fees	\$59,098,335	
Other Revenue from Residents	2,603,339	
Earned entrance Fees (Net of refunds)	4,565,733	
Patient revenues from non-residents	16,794,954	
Interest and dividend income	3,585,440	
Aggregate write-ins-for other assets	<u>5,023,192</u>	
Total revenue		\$91,670,993

Operating expenses

Healthcare expense	\$19,040,877	
Facility and dining expense	29,060,457	
Administration and general	17,573,273	
Depreciation and amortization	20,124,323	
Interest expense	9,376,256	
Real estate taxes and PILOT	6,061,580	
NYS health facilities assessment	<u>587,182</u>	
Total operating expenses		\$101,823,948
Operating loss		<u>\$(10,152,955)</u>

Change in Actuarial Surplus

Actuarial surplus decreased \$4,384,030 during the four-year period, January 1, 2011 through December 31, 2014, detailed as follows:

Actuarial surplus, per report on examination, as of December 31, 2010			\$ 8,001,760
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net loss		\$ 10,152,955	
Statutory adjustment as per examination*	<u>\$6,567,195</u>	_____	
Net decrease in surplus			<u>(3,585,760)</u>
Actuarial surplus, per report on examination, as of December 31, 2014			<u>\$ 4,416,000</u>

*Note: This adjustment represents the difference between the net income pertaining to the statutory modified GAAP basis of accounting and the actuarial surplus.

5. **COMPLIANCE WITH PRIOR REPORT ON EXAMINATION**

There were eleven (11) comments and recommendations made in the prior report on examination as of December 31, 2011 (page numbers refer to the prior report on examination):

<u>ITEM NO.</u>	<u>PAGE NO.</u>
<p>1. <u>Management and Controls</u></p> <p>It is recommended that board members attend board meetings consistently to set forth their views on relevant matters so that appropriate policy decisions may be reached by the board.</p> <p><i>The Community has not complied with this recommendation.</i></p>	<p>7</p>
<p>2. <u>Long Term Lease and Maintenance and Service Agreements</u></p> <p>It is recommended that the Community comply with the requirements of Section 901.10(d) of the Administrative Rules and Regulations of the New York State Department of Health and submit its amended Long Term Lease Agreement to the New York State Department of Health for review and approval. Since the Maintenance and Services Agreement is a subsidiary agreement to the Long Term Lease Agreement, it is also recommended that the Community also submit the Maintenance and Service Agreement to the New York State Department of Health for review and approval.</p> <p><i>The Community has complied with this recommendation.</i></p>	<p>11</p>
<p>3. <u>Brecknock Hall Foundation, Inc. (the "Foundation")</u></p> <p>It is recommended that Peconic Landing comply with the requirements of Section 715(a) of the New York Not-For-Profit Corporation Law and follow a prudent business practice by (i) establishing a written loan agreement each time it loans money, (ii) including a formalized repayment plan in the agreement, (iii) submitting the agreement to its board of directors for approval, and (iv) submitting the agreement to the New York State Department of Financial Services for review.</p> <p><i>The Community has complied with this recommendation</i></p>	<p>13</p>

ITEM NO.**PAGE NO.**

4. Stewardship Agreement
- i. It is recommended that the Community submit its revised Stewardship Agreement with the Brecknock Hall Foundation, Inc. to the New York State Department of Health for review, as required by Part 901.10(d) (10 NYCRR 901.10(d)) of the Administrative Rules and Regulations of the New York State Department of Health. 14
- The Community has complied with this recommendation*
- ii. It is recommended that the Community comply with the requirements of Section 4606(9) of the New York State Public Health Law and include the required wording relative to the primary activities, interest and financial responsibilities between the Community and the Brecknock Hall Foundation Inc., as stated within the Brecknock Hall Stewardship Agreement within the Community's Disclosure Statement. 15
- The Community has not complied with this recommendation.*
5. Expense Allocation Procedure
- It is recommended that the Community adopt a formal written expense allocation procedure for the purpose of allocating expenses among its affiliates. 16
- The Community has complied with this recommendation*
6. Occupancy Rates
- It is recommended that the Community continue to strive to increase its occupancy rates in accordance with its actuarial consultant's recommendations, particularly with regard to its Enriched Housing Units. 17
- The Community has subsequently improved its occupancy rates, particularly with regard to its Enriched Housing*
7. Disaster Recovery Plan
- It is recommended that the Community include specific transportation procedures for the evacuation of its residents within its Emergency Procedures Manual. 17
- The Community has complied with this recommendation.*

<u>ITEM NO.</u>		<u>PAGE NO.</u>
8.	<u>Custodial Agreement</u>	
	It is recommended, with regard to the Community’s investments that are not held pursuant to a bond indenture, that the Community establish custodial agreements with the financial institutions that safeguard its investments and include the above enumerated safeguards and controls in those agreements.	19
	<i>The Community complied with this recommendation.</i>	
9.	<u>Accounts Receivable</u>	
	It is recommended that the Community comply with the requirements of Section 350.6(c)(7) of Insurance Regulation No. 140 and report on its actuarial balance sheet, as admitted assets, government agency receivables that are due within 365 days and non-government agency receivables that are due within 90 days of the determination date.	20
	<i>The Community has complied with this recommendation.</i>	
10.	<u>Marketing Incentive</u>	
	i. It is recommended that Peconic Landing comply with the “Instructions for Completing The Continuing Care Retirement Community (CCRC) Annual Statement Blank Calendar Year 2011” by reporting as prepaid expenses only amounts paid to creditors prior to the due date.	22
	ii. It is also recommended that Peconic Landing report amounts due to the Community as a result of the recapture program as an accounts receivable item within its annual statement filings.	22
	<i>The Community complied with these recommendations.</i>	
11.	<u>Common Stock Investment</u>	
	It is recommended that Peconic Landing comply with the “Instructions for Completing The Continuing Care Retirement Community (CCRC) Annual Statement Blank” by reporting as prepaid expenses only amounts paid to creditors prior to the due date, and report the 20 shares bought from Island’s End within the asset account, “Common stock” in the Community’s future filed annual statements.	23
	<i>The Community complied with this recommendation</i>	

6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Corporate Governance</u>	
It is recommended that board members attend board meetings consistently to set forth their views on relevant matters so that appropriate policy decisions may be reached by the board.	8
A similar recommendation was included within the prior report on examination.	
B. <u>Peconic Landing Home Health Services, Inc.</u>	
It is recommended that the Community establish and submit for approval an administrative management service agreement with Peconic Landing Home Health Services Inc. to the New York State Department of Health for review, as required by Sections 901.8(b)(5)(i)(f) and (g) and 901.10(d) (10 NYCRR Part 901) of the Administrative Rules and Regulations of the New York Department of Health.	13
C. <u>Disclosure Statement</u>	
i. It is recommended that the Community update its disclosure statement to reflect the addition of The Shore at Peconic Landing Assisted Living Residence, Inc., Peconic Landing Home Health Services, Inc., and Peconic Landing Foundation, Inc. as subsidiaries of the Community, and include the required wording relative to the primary activities, interest and financial responsibilities between the Community and its subsidiaries required by Section 4606(9) of New York Public Health Law.	14
ii. It is recommended that the Community update any changes in status in its disclosure statement annually and submit the updated disclosure statement with its annual financial statements to DFS and DOH as required by Section 901.8(b)(5)(i)(j) (10 NYCRR Part 901) of the Administrative Rules and Regulations of the New York State Department of Health.	15
iii. Furthermore, it is recommended that the Community amends its disclosure statement to read New York State Department of Financial Services in place of New State Department of Insurance.	15

ITEM**PAGE NO.**D. Occupancy Rates

Although the Community improved its occupancy rates, particularly with regard to its Enriched Housing Units, the rates still remained below the occupancy goal for its Enriched Housing Units and its Skilled Nursing Facility as determined by its actuarial consultant as of the examination date of this report.

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Respectfully submitted,

_____/S/_____

Hussein Agouda
Insurance Examiner, CFE

STATE OF NEW YORK)
) SS.
)
COUNTY OF NEW YORK)

HUSSEIN AGOUDA, being duly sworn, deposes and says that the foregoing report submitted by him is true to the best of his knowledge and belief.

_____/S/_____
Hussein Agouda, CFE

Subscribed and sworn to before me

this _____ day of _____ 2017

NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES

I, MARIA T. VULLO, Acting Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

Hussein Agouda

as a proper person to examine the affairs of

Peconic Landing at Southhold, Inc.

and to make a report to me in writing of the condition of said

CCRC

with such other information as he shall deem requisite.

In Witness Whereof, I have hereunto subscribed my name
and affixed the official Seal of the Department
at the City of New York

this 23rd day of May, 2016

MARIA T. VULLO
Acting Superintendent of Financial
Services

By:



Lisette Johnson
Bureau Chief
Health Bureau

