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Via Electronic Mail

The Honorable Amanda Crawford
Commissioner of Insurance
Texas Department of Insurance
Sahrish K. Soleja
Layla D. Milligan
Stephanie Eberhardt
Office of the Attorney General of Texas

Re: Request to Preserve Sale Proceeds Pending Resolution of Appeal Concerning Chapter 246: Chapter 11 Bankruptcy, Case No. 25-80595-MVL-11, United States Bankruptcy Court Northern District of Texas Dallas Division

Dear Commissioner Crawford and Assistant Attorneys General:

We write on behalf of former residents and estates of residents of Buckingham Senior Living Community regarding the pending appeal concerning standing to enforce protections afforded by Chapter 246 of the Texas Health and Safety Code.

This request is not made to advocate for any particular creditor. Rather, it concerns preserving the regulatory framework enacted by the Texas Legislature to protect residents of continuing care retirement communities ("CCRCs") and ensuring that appellate review remains meaningful.

The Legislature expressly anticipated CCRC insolvencies when it enacted House Bill 677. The House Research Organization Bill Analysis explains that retirees often use proceeds from the sale of their homes or much of their life savings to pay entrance fees to CCRCs and states that residents would possess lien rights in the event of liquidation, bankruptcy, or insolvency. See House Research Organization Bill Analysis, H.B. 677 (1987), discussing resident protection and lien rights. (See attached Exhibit A.)

Consistent with that legislative purpose, Attorney General Opinion JM-895 explains that the State Board of Insurance (now the Texas Department of Insurance) was charged with regulating continuing care facilities, issuing and revoking certificates of authority, adopting rules, administering and enforcing Chapter 246, and investigating compliance with the Act. (See attached Exhibit B.)

The State Board of Insurance itself later advised Attorney General Jim Mattox that Chapter 246 exists "to facilitate the monitoring of CCRCs' ongoing operations and solvency, and thereby protect CCRCs' customers and the public." The Board further explained that CCRCs "function like insurance companies" because residents pay substantial entrance fees today in exchange for contractual promises of future care. (See attached Exhibit C.)

Buckingham presents precisely the circumstance the Legislature anticipated. Residents collectively entrusted many millions of dollars in entrance fees to a licensed CCRC that later became insolvent and entered bankruptcy.

On February 4, 2026, the Bankruptcy Court entered its Sale Order (Docket No. 266). The Court repeatedly held that any valid interests, liens, claims, or encumbrances would attach to the sale proceeds with the same validity, priority, force, and effect they possessed before closing. See Findings GG and KK and Ordering Paragraphs 10 and 12 of the Sale Order. (See attached Exhibit D.)

The pending appeal concerns standing—not whether Chapter 246 exists or the Legislature intended to protect residents. If the sale proceeds are distributed before appellate review concludes, the fund to which any statutory rights may attach could be irrevocably dissipated. In that event, even a successful appeal could provide only a hollow victory.

Accordingly, we respectfully request that the Texas Department of Insurance and the Office of the Attorney General evaluate whether the State's institutional interests would be served by participating in the pending appeal, appearing as amicus curiae, or taking such other action as may be appropriate to preserve the sale proceeds pending appellate review. Such action would not require the State to endorse any particular creditor's position. Rather, it would preserve the status quo while the appellate courts determine the proper interpretation and enforcement of Chapter 246.

This issue extends well beyond Buckingham. It affects every licensed continuing care retirement community in Texas and the continuing vitality of the protections the Legislature enacted for elderly Texans.

Thank you for your attention.

Respectfully submitted,

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- Exhibit A – House Research Organization Bill Analysis, H.B. 677.
- Exhibit B – Attorney General Opinion JM-895 (1988).
- Exhibit C – August 3, 1990 State Board of Insurance letter to Attorney General Jim Mattox.
- Exhibit D – Buckingham Sale Order (Docket No. 266), Findings GG & KK and Ordering Paragraphs 10 & 12.