SUNRISE®
SENIOR LIVING

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EITF0706DA

LETTER OF COMMENT NO. 2

October 22, 2007

Mr. Russell G. Golden
Chairman of Emerging Issues Task Force
Financial Accounting Standards Board
401 Merritt 7
Norwalk, Connecticut 06856-5116

Re: EITF No.07-6, "Accounting for the Sale of Real Estate Subject to the Requirements of FASB Statement No. 66, *Accounting for the Sale of Real Estate*, When the Agreement Includes a Buy-Sell Clause"

Dear Mr. Golden:

Sunrise Senior Living (Sunrise) welcomes this opportunity to respond to the request for comments from the Emerging Issues Task Force (EITF) on EITF No.07-6 (Exposure Draft).

Sunrise, a McLean, Va.-based company, employs approximately 40,000 people. As of June 30, 2007, Sunrise operated 453 communities in the United States, Canada, Germany and the United Kingdom, with a combined capacity for more than 53,000 residents. At quarter end, Sunrise also had 38 communities under construction in these countries with a combined capacity for 6,000 additional residents. Sunrise offers a full range of personalized senior living services, including independent living, assisted living, care for individuals with Alzheimer's and other forms of memory loss, as well as nursing, rehabilitative and hospice care. Sunrise's senior living services are delivered by staff trained to encourage the independence, preserve the dignity, enable freedom of choice and protect the privacy of residents.

The majority of Sunrise's communities are developed in ventures with 3rd party investors. Sunrise typically owns a 20% ownership interest in the venture and manages the communities under long-term management contracts (typically twenty to thirty years). Buy-Sell provisions are a part of many, if not most, of our venture/partnership agreements. Buy-Sell provisions typically exist in order to facilitate an orderly process after a key event has happened and, most importantly, can be enacted by either party. Some examples of key events are:

- The end of the term of the partnership.

- When a partner defaults and the non-defaulting partner no longer wants to be in a partnership with the defaulting partner.
- When two partners encounter a bona fide dispute with each other. For example, sometimes two partners can have legitimate conflicting business objectives regarding the disposition of the venture assets.
- When a disabling event occurs. For example, if one partner goes bankrupt.
- When there is a takeover of a partner. For example, if one partner is bought by an entity and the other partner does not want to be in a partnership with the new entity, then the partner has a mechanism of getting out of the partnership.

The buy-sell clauses in the venture agreements are intended to give either party a mechanism to exit the venture at a fair price. We account for these clauses by analogy to footnote 7 of FAS 66 which states that a "a right of first refusal based on a bona fide offer by a third party ordinarily is not an obligation or an option to repurchase." We do not consider clauses that provide the selling party the unilateral right to repurchase the asset sold to be buy-sell clauses. We are not aware of any transactions in which we exercised a buy-sell option.

With respect to paragraphs 7 and 8 of the Exposure Draft, we agree that a buy-sell clause, in and of itself, should not constitute a prohibitive form of continuing involvement that would preclude partial sales treatment under FAS 66. We understand that the Exposure Draft indicates that the final determination of whether the seller has transferred the usual risks and rewards of ownership and does not have substantial continuing involvement is a matter of judgment and that all the relevant facts and circumstances of the transaction need to be considered. However, we are concerned that even though the Exposure Draft says that the examples provided in paragraph 8 are not intended to be "presumptive or determinative," in practice they may become a checklist to determine substantial continuing involvement. As a specific example, paragraph 8c references arrangements such as "management or third-party leasing arrangements." We believe our management contracts are at market terms and after a rigorous qualitative and quantitative analysis, we do not believe them to constitute a <u>substantial</u> continuing involvement under FAS 66, or a <u>significant</u> variable interest under FIN 46R. We believe that, at a minimum, the references should distinguish between at, below or above market arrangements and should refer to relevant literature to put the references in the proper context.

We strongly urge the EITF to retain the principle content of paragraphs 7 and 8, and not provide specific examples that could in practice be applied as a checklist.

In terms of specific comments requested by the EITF:

a. We agree with the prospective application of the consensus for new arrangements entered into in fiscal years beginning after December 15, 2007.
b. We agree with the comments provided by NAREIT in its letter dated September 6, 2007, that the buy-sell clauses are accounted for consistently with the provisions of FAS 66.
c. As mentioned above, these buy-sell clauses are present in many, if not most, of our venture agreements. Generally the buy-sell clauses are not fixed but rather are based on fair value at the point they are invoked. In some cases the clause requires the initiating party to utilize an impartial agent (i.e. a real estate broker, appraiser, etc.) to determine the fair value.

d. As mentioned above, we are not aware of any transactions in which we exercised a buy-sell option.
e. As described above, we are concerned that the factors of significant continuing involvement included in the draft abstract may, in practice, be used as a checklist to determine continuing involvement.
f. There should be no specific disclosures required by the draft abstract as these clauses are customary to real estate venture transactions.

Sunrise thanks the EITF for this opportunity to comment on this proposal. Please contact me at (703)854-0594, if you would like to discuss our comments.

Respectfully submitted,

Agarwal

Gaurav Agarwal
Vice President, Accounting Policy