

How state's failures put 2 care homes' residents at risk

How regulators fell down on protecting residents in 2 troubled care homes

By **Jaxon Van Derbeken** Updated 9:14 am, Sunday, January 19, 2014



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Cristina Flores (l to r), Agesong chief operating and program officer, gives Velma Shaw a hug in a dining area at WoodPark on Monday, November 18, 2013 in Oakland, Calif.

Cockroaches had the run of the kitchen. There was little fresh food, heat or hot water, and too few staff to care for the frail residents. Emergency call buttons didn't work. Busted bathrooms were nailed shut.

Eden Manor, a 90-bed assisted living home in Oakland, was collapsing.

It was late 2012, and the owner had quietly defaulted on a \$4 million loan.

Residents faced deplorable conditions, and some were shunted to a sister home under the same troubled owner. Two died after being moved.

State regulators eventually got involved, but did little aside from issuing a string of citations. At one point, more established caregivers tried to take over, but were forced out by police as trespassers. The residents protested, singing "We Shall Overcome."

The chaotic fall of Eden Manor, revealed through records and interviews, was a warning that California's oversight of assisted living facilities - part of a booming industry serving some of the state's most vulnerable residents - was in disarray.

But it took a more public disaster a few months later at another home owned by the same woman, Valley Springs Manor in Castro Valley, to spur action. State legislators last week announced a dozen bills that would overhaul regulation of 7,500 assisted living homes. And Gov. **Jerry Brown** has proposed spending \$7.5 million more a year on oversight.

Advocates for seniors say the attention is long overdue. At Eden Manor, they say, regulators actually got in the way of better care.

"We're used to fighting with the industry. But we were disgusted that the state wasn't doing anything here," said **Pat McGinnis**, the head of **California Advocates for Nursing Home Reform**. "They now know their system is broken down and they need to do something about it."

State licensing officials would not answer questions about their handling of Eden Manor, citing an ongoing effort to bar the former owner from operating homes for life.

Unchecked record

Assisted living, which offers residents help but also a measure of independence, appeals to people like **John Cain**, 78. He arrived at Eden Manor in 2009, the year after Herminigilda Manuel of San Leandro bought the plain one-story

former nursing home on busy Fruitvale Avenue.

The retired **General Motors** worker, who once jammed on trumpet with **James Brown** and **B.B. King**, became the unofficial "mayor" of the place. Though he could walk, he loved to motor around the wide corridors in a wheelchair he had inherited from another resident, espousing his Buddhist faith.

In late 2012, though, Cain noticed that things were falling apart.

"The food was different. They started to serve us beans. They wouldn't buy fresh food," he recalled. "I went six months without my toilet working."

What Cain and the other residents didn't know was that Manuel, a former grocery owner with a history of gambling debts, shouldn't have been allowed to run the place at all.

Manuel had been forced to sell two nursing homes in Castro Valley and Milpitas in 1999 after inspectors found that she had slashed staff to perilous levels and left patients bound to beds. She was denied **Medicare** payments and fined more than \$800,000, which she never paid.

Her application to run Valley Springs in late 2007 should have raised clear red flags. Manuel said she had been president of an unidentified skilled nursing home from 1990 to 2002, but marked "no" to the question of whether she had run or owned a health care business. She left a question about past discipline blank.

Still, the state's regulator - the **Community Care Licensing Division** of the Department of **Social Services** - granted her licenses to operate Valley Springs and Eden Manor in 2008, and a third home in Modesto starting in 2012.

Falling behind

The regulator must inspect such homes once in five years, but more typically action follows complaints. In September 2012, records show, inspectors went to Eden Manor after complaints of cockroaches, broken fire alarms and more.

They soon learned that Manuel had stopped paying on a \$4.1 million loan as of April 2012. She had not told regulators and residents of the default, even as she fought it in court.

Her friend and lawyer, **Orrin Grover**, said Manuel's liver and kidney disease had confined her to bed 80 percent of the time. "My client fell behind," he said.

A week after the inspectors' visit, the state levied a \$2,000 fine for not reporting the default. Eden Manor finally alerted residents, but assured them they were "not required" to move. Meanwhile, Manuel told an Alameda County judge she needed her \$14,500-a-month income from Eden Manor to fight Wells Fargo Bank.

Without it, "we would lose our house and be unable to pay an attorney," she told the court in a filing.

By November, investors had taken over, and Manuel had lost her license. But she nonetheless shared - along with regulators - responsibility to protect residents.

Yet even when Manuel shed staff and sent Eden Manor residents to Valley Springs - sometimes without telling guardians - licensing officials did not intervene.

The then-head of the **Center for Elders'** Independence in Oakland, which had placed seniors at Eden Manor, got reports that three women with Alzheimer's had been moved without permission from social workers.

"Our social workers came to see them and they were gone, on to Valley Springs," **Peter Szutu** recalled. "There was no real effort on the state's part to assure it was done according to regulations."

Cries for help

Cain said the owners "tried very hard to get me to go," and also pressed his

neighbor, **Peter Straus**, 65, a retired recreational therapist for San Francisco. Straus resisted. He liked playing the piano in the lobby in his trademark fedora. But he too worried about the conditions and considered the management "predators."

"Food was terrible, and often it was not nearly enough," he said. "I had to buy extra food. I bought peanut butter, bread, dried plums and granola bars."

On Nov. 17, 2012, Straus' roommate, who had chronic lung disease, began to gasp in the middle of the night.

"You could see the guy was really sick," Straus recalled. "I was running up and down the hall, screaming for somebody to come."

No staffers arrived when he pressed the call button, so he phoned 911. Workers came some 20 minutes later, but did not speak English. Frustrated paramedics busted in the front office door to get critical medical data.

Straus said he had called 911 even though he had seen how management would "get even" later for such calls by stalling requests for food, medicine and other comforts. "It's a really big problem," he said, "when the residents become afraid to call 911."

Regulators concluded that Eden failed to promptly report the incident, and noted it was part of a pattern linked to short staffing. They met with Manuel and vowed to "increase monitoring." Yet on Nov. 29, three residents with dementia were moved without notification, their advocates discovered.

Inspectors returned only after Christmas to answer another resident complaint. They found that the temperature in the dementia unit had plunged to 56 degrees - below a 68-degree level set by law - and that deficient staffing meant no one was able to dole out medications.

Patients' spending money from **Social Security**, meanwhile, had been illegally placed into accounts controlled by Eden Manor, regulators concluded. (Grover

said all the residents had to do was ask for the money.) Inspectors issued fines of \$4,800 and left.

A month later, on Jan. 25, 2013, regulators came back after a volunteer from the county's ombudsman program called police to complain that Eden staff would not provide a list of residents. Again, inspectors issued a citation and left.

Szutu said that by the end of January, his staff could not visit residents. He suspected that Manuel barred the visits, fearing she would lose paying customers if advocates saw the conditions.

The stakes were high. Two residents who were moved out of Eden Manor in January, **Claire McGlynn** and **Eloise Dove**, died within weeks, according to death records and interviews.

'Where am I going?'

McGlynn had advanced Alzheimer's and had been in hospice care. But Dove had been lucid when she was moved to Valley Springs in January, said **Janelle Ubilas**, an \$8-an-hour caregiver who had stayed on at Eden Manor without pay to help the residents.

"Eloise said, 'Where am I going?' " Ubilas recalled. "She said, 'I don't want to go anywhere. This is my house. This is my home.' Then suddenly, they moved her."

Eldercare experts say patients can suffer trauma during moves, sometimes rapidly declining.

Grover said he had no reports of residents dying after a move from Eden Manor. "All the residents are safe in either hospitals or in successor facilities," he said.

On Feb. 6, 2013, advocates pressed their case. McGinnis' group, California Advocates for Nursing Home Reform, recounted a litany of problems in a letter

to the state agency - the barring of social workers, the short staffing, the questionable handling of residents' money.

The social worker who wrote the letter called Manuel's on-site manager at Eden Manor and Valley Springs, Cristina Musngi, "irresponsible and abusive" and sought to ban her from running homes for life.

The next day, regulators returned and leveled about two dozen more violations.

New providers

As head of the San Francisco nonprofit AgeSong, Nader Shabahangi touts an "existential humanistic" approach, emphasizing treating elder residents with dignity.

New investors, a group of Russian entrepreneurs, turned to AgeSong to operate Eden Manor. At the end of January 2013, Grover told regulators a stopgap deal had been all but inked for AgeSong to manage the home for Manuel during the transition.

But AgeSong soon realized that the situation was too dire for waiting and that it had to act with or without a deal.

"When I walked in and saw what was happening," Shabahangi said, "there was no way we would leave without doing something to help these people."

Dinah Bailes, then operations manager for AgeSong, was touched by the bond between unpaid staff and the holdout residents. "The staff told me they wouldn't leave because of the residents, and the residents wouldn't leave the staff," she said.

Shabahangi wanted AgeSong, which ran two big assisted living homes in San Francisco with a good record, to take over right away. However, he said, the state forced AgeSong to resubmit its Eden Manor application and pay new licensing fees in a dispute that lasted several weeks.

Licensing officials denied that version, saying they had received only one application, dated Feb. 15, and that the holdup had only been a few days.

"We needed a fire clearance," said licensing authority spokesman Michael Weston.

Shabahangi said he did not know why the state did not issue an emergency license under the circumstances.

"We were sitting in the Oakland licensing office saying, 'Please give us this license,' " he said. "We couldn't understand from a humanistic point of view. Why would anybody want to stand in our way?"

Ubilas said her boss asked her to report AgeSong's presence to the police. She refused. She said regulators then told residents that they had to move during the dispute over AgeSong's application.

"I don't understand why they moved them, because they knew that AgeSong could get the license," Ubilas said. "Still, they were helping the old management."

Protest chorus

Frustrated, Cain and two other residents went to the Oakland licensing office in mid-February and sang, "We Shall Overcome."

"I just felt it was necessary to show support" for AgeSong, Cain said. The group had already made improvements, he said, and the home "didn't look like the same place."

On Feb. 21, regulators visited Eden and issued a notice to Manuel that she was operating without a license.

They believed that the landlord - the management company for the bank - might evict the 14 remaining residents. The heat was still off, forcing some residents to move to warmer rooms.

"This is not only a physical plant issue but a violation of their rights," the state's licensed professional analyst, Cyndie Perryman-French, wrote in her report.

Lunches consisted of sandwiches, with no milk, her report noted. Room call buttons were not working, and there was only one working washing machine. A water company official told Perryman-French that service would be shut off over a \$14,000 bill.

Warned that Manuel had the obligation to relocate all residents, her on-site administrator, Musngi, promised that everyone would be out by the next day.

By that time, AgeSong had been in the home for three weeks. Though it had no license, AgeSong had paid the water bill, cleaned the roach-infested kitchen and emptied a basement full of rotten furniture.

On Feb. 22, state regulators were back. They saw the heating was being fixed and the water was still on. Two Alameda County eldercare agencies began to coordinate moving out the residents, including Straus.

He ended up reluctantly leaving - for about a month.

"Some said they didn't want to go. They just got bullied, told they would be out on the street," Straus said. "I wanted to stay. This was my home. I like this place. "

Calling in the cops

On Feb. 23, Oakland police arrived and ordered AgeSong out. Cain was still there with a die-hard band of holdouts. They stayed, Cain said, in a bid to save Ubilas' job.

The officers "didn't know what to do," Shabahangi said. "They were nice, courteous. They just told us to get out for the time being."

Manuel's lawyer, Grover, said he had called the police on AgeSong. The

nonprofit, he said, took over before it had a license, began "interfering with the operation," and even urged residents to vote on management decisions.

"It was creating all kinds of consternation," he said.

AgeSong officials fed the residents from the parking lot the day of the police visit, but did not leave, Shabahangi said.

Five days later, Perryman-French gave the home a "clear" report after an inspection, saying the place had working showers, food and heat. Eight people remained. By March 1, the dispute was over and AgeSong got the license.

Szutu said the license was finally granted after he and other groups took their case to local politicians he did not name to "grease the wheels." He said the breakdowns were among the most egregious he has seen in 30 years in the industry.

"The state wasn't helping; the county wasn't helping. Nobody was helping," he said.

New beginning

Cain said he will always be grateful for AgeSong's help.

"They were bringing us sandwiches. You can't ever forget somebody who feeds you when you're hungry," he said. "We had a right to be there. We sang, 'We Shall Overcome.' We did overcome."

Cain never left Eden, which is now called WoodPark and has been totally made over by AgeSong.

But the collapse of Eden Manor wasn't nearly the end of the debacle.

Deborah Espinola, a social worker with California Advocates for Nursing Home Reform, pressed the state to bar Manuel from running any assisted living homes, including Valley Springs in Castro Valley. She fired off a letter in April

2013 demanding action.

"It is a disgrace that Eden Manor was allowed to operate for as long as it did," she wrote, insisting that the agency act so "this type of tragedy does not happen again."

By May, the state had moved to permanently bar Manuel from running such facilities, but she appealed, allowing her to remain in business under state law.

Despite all that had happened, the closure of Valley Springs a few months later was headed for disaster as well. On Oct. 18, the same manager who had run Eden Manor, Cristina Musngi, told Valley Springs workers that they would no longer be paid, and many stopped showing up. On Oct. 21, regulators posted a notice on the front door, notifying Manuel that she had three days to close.

By Oct. 24, 19 residents remained - all under the care of a heroic cook and janitor who had stayed on, unpaid. After two more days, following a series of 911 calls from the home, paramedics took the remaining residents to hospitals. All survived.

A probe completed this month found that regulators had made a bad "judgment call that the facility could continue to function for several more days while the last residents were relocated." Later, it was revealed that state analysts had made multiple trips to the facility in its final days, but merely documented the dire conditions.

The **California Department** of Social Services last week issued a report acknowledging that regulators "fell short" in protecting the vulnerable at Valley Springs, and vowing to better monitor shutdowns of problem homes in the future.

In the end, it was people like Ubilas who spared Eden Manor residents the nightmare of Valley Springs. She worked 16-hour shifts, seven days a week, for an entire month - unpaid.

"I worked for the residents who stayed," said Ubilas, who now works at WoodPark. "I wanted to give them all the best I can to help."

Jaxon Van Derbeken is a San Francisco Chronicle staff writer. E-mail: jvanderbeken@sfchronicle.com Twitter: [@jvanderbeken](https://twitter.com/jvanderbeken)

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