



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

LAKE PORT SQUARE, LLC

AS OF

December 31, 2012

FLORIDA COMPANY CODE 88140

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PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a routine market conduct examination of Lake Port Square, LLC (hereinafter "Lake Port Square") pursuant to Section 651.105, Florida Statutes. The scope period of this examination was January 1, 2009 through December 31, 2012. The onsite and desk examination procedures were completed on Tuesday, August 14, 2013.

The objective of the examination was to determine the extent of compliance with the provisions of Chapter 651, Florida Statutes and Chapter 690-193, Florida Administrative Code Rules. This market conduct examination did not encompass a financial compliance examination.

This final report is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by Lake Port Square. This report is a report by exception, and the information within has been limited to identification of exceptions, errors or unusual problems noted during the examination.

COMPANY OPERATIONS

Lake Port Square, a for-profit, Delaware Limited Liability Company, was granted a certificate of authority by the Office to offer continuing care contracts on December 29, 1988. Lake Port Square, located in Leesburg, Florida, is one of three Florida Continuing Care Retirement Communities ultimately owned by CalPERS (California Public Employees Retirement System) and managed and operated by Brookdale Senior Living, Inc. As of June 30, 2012, Lake Port Square reported 392 Continuing Care Units, all of which were Independent Living Units, and six Rental Units. As of the same reporting period, there were 383 individuals residing at this community.

CANCELLATIONS AND REFUNDS

Lake Port Square provided a list of 186 continuing care contracts that were cancelled during the scope period of the examination. A sample consisting of 61 contract cancellations was selected and tested to verify the amount of the refund paid, if any, and whether such refunds were properly issued. All of the 61 cancellations examined were eligible for refunds.

Findings:

Section 651.055(1), Florida Statutes provides in pertinent part, that each continuing care contract and each addendum to such contract be approved by the Office prior to its use in this state.

In nine instances, Lake Port Square failed to timely issue refunds within the period specified by the terms of the underlying continuing care contracts, in violation of Section 651.055(1), Florida Statutes.

CANCELLATIONS AND REFUNDS (Continued)

Contrary to the terms of the continuing care contracts, the nine refunds were issued from 2 days to 52 days beyond the specified refund period stipulated by the underlying continuing care contract.

Recommendation: The Office recommends Lake Port Square establish adequate procedures to ensure applicable refunds are issued in accordance to the terms of the approved continuing care contract.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Lake Port Square provided a list containing the 120 continuing care contracts executed during the scope period of the examination. A random sample consisting of 54 contracts was selected from the list. Of the 54 contracts in the sample, 25 contracts were executed on or after July 1, 2010. The 25 contracts were tested for compliance with Section 651.055(2), Florida Statutes.

Findings:

For continuing care contracts executed on or after July 1, 2010, Section 651.055(2), Florida Statutes, provides that during the seven-day rescission period, the resident's funds must be held in escrow unless otherwise requested by the resident, pursuant to Section 651.033(3)(c), Florida Statutes. Section 651.033(3)(c), Florida Statutes, further provides that, at the request of an individual resident of a facility, the provider may hold the check for the seven-day period and shall not deposit it during this time period.

In all 25 instances wherein the continuing care contract was executed on or after July 1, 2010, Lake Port Square failed to deposit resident funds into an escrow account for the seven-day rescission period of the contract or obtain authorization from the resident to hold and not deposit the check for the seven-day rescission period, in violation of Section 651.055(2), Florida Statutes.

Subsequent Even: On August 14, 2013, Lake Port Square filed the escrow agreement with the Office for review and approval.

Recommendation: The Office recommends Lake Port Square immediately take steps to establish escrow procedures in accordance with Section 651.033, Florida Statutes, and to ensure that resident funds are managed in accordance with Section 651.055(2), Florida Statutes.

QUARTERLY MEETINGS WITH RESIDENTS

The quarterly meeting agendas, notices to residents, minutes, and the dates of the meetings contained in the annual reports filed for the scope period were reviewed for compliance with Section 651.085, Florida Statutes.

Findings:

Section 651.085(1), Florida Statutes, states in pertinent part that the governing body of the provider or the designated representative of the provider shall hold quarterly meetings with residents and that, residents are entitled to at least 7 days' advance notice of each quarterly meeting.

1. **In two instances Lake Port Square failed to provide residents with at least seven days' advance notice of quarterly meetings, as required by Section 651.085(1), Florida Statutes.** Specifically, Lake Port Square failed to provide residents the seven-day advance notice for the 1st and 3rd quarterly meetings held in 2010.
 - 1a. **Recommendation:** The Office recommends Lake Port Square establish adequate procedures to ensure that residents receive proper notice of quarterly resident meetings, as required by Section 651.085(1), Florida Statutes.

Findings:

Section 651.085(1), Florida Statutes, provides that a facility shall report to the Office, in the annual report, the dates on which quarterly meetings with residents are held.

2. **Lake Port Square failed to accurately state in three annual reports filed with the Office the dates on which quarterly meetings with residents were held, as required by Section 651.085(1), Florida Statutes.** Lake Port Square provided incorrect responses to item 14b of the annual reports filed with the Office. The examination revealed that four of the resident quarterly meetings held during the years 2010 through 2012 were held on dates other than those reported on the annual reports.
 - 2a. **Recommendation:** The Office recommends Lake Port Square establish adequate procedures to ensure that the actual dates on which quarterly meetings with residents are held, are properly reported in the annual reports filed with the Office, as required by Section 651.085(1), Florida Statutes.

RESIDENTS' COUNCIL

Section 651.085(3), Florida Statutes, states "The designated representative shall be notified at least 14 days in advance of any meeting of the full governing body at which proposed changes in resident fees or services will be discussed. The representative shall be invited to attend and participate in that portion of the meeting designated for the discussion of such changes."

RESIDENTS' COUNCIL (Continued)

Findings:

For the years 2009, 2010, 2011 and 2012 Lake Port Square failed to invite the designated representative of the Residents' Council to attend and participate in that portion of the meetings of the full governing body where proposed changes in the resident fees were discussed, as required by Section 651.085(1), Florida Statutes.

Recommendation: The Office recommends Lake Port Square establish adequate procedures to ensure compliance with Section 651.085(3), Florida Statutes.

EXAMINATION FINAL REPORT SUBMISSION

The Office hereby issues this Final Report based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by Lake Port Square.