



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

LIFESPACE COMMUNITIES, INC.

D/B/A

ABBEY DELRAY SOUTH

AS OF

DECEMBER 31, 2013

FLORIDA COMPANY CODE 88009

**Report Issued:
February 23, 2015**

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PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (“Office”), Market Investigations unit, conducted a periodic market conduct examination of Lifespace Communities, Inc. d/b/a Abbey Delray South (“Abbey Delray South”) pursuant to Section 651.105, Florida Statutes. The scope period of this examination was from January 1, 2010 through December 31, 2013. The on-site and desk examination procedures were completed on December 19, 2014.

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 Abbey Delray South. 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

Lifespace Communities, Inc. is a non-profit Iowa corporation which owns and operates the Florida continuing care retirement community, Abbey Delray South, located in Delray Beach, Florida. Abbey Delray South was granted a certificate of authority by the Office to offer continuing care contracts on March 6, 1981 and is one of five Florida continuing care retirement communities owned and operated by Lifespace Communities, Inc. As of December 31, 2013, Abbey Delray South reported: 284 Continuing Care Units, comprised solely of Independent Living Units; 90 Skilled Nursing Beds, comprised of 60 Community Beds and 30 Sheltered Beds; and no Rental Units. As of the same date, there were 424 individuals residing at the community.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Abbey Delray South provided a list containing 138 continuing care contracts executed during the scope period of the examination. A random sample consisting of 56 contract files was selected for examination. Of the 56 contract files selected, 51 were executed after July 1, 2010 and were reviewed for compliance with Section 651.055(2), Florida Statutes.

Finding:

Effective July 1, 2010, Section 651.055(2), Florida Statutes, provides that during the seven-day rescission period of the continuing care contract, the resident’s funds must be held in escrow unless otherwise requested by the resident that the provider hold and not deposit the funds during the seven-day period, pursuant to Section 651.033(3)(c), Florida Statutes.

REQUIRED ESCROW DEPOSITS OR WAIVERS (Continued)

In all 51 instances, Abbey Delray South failed to deposit and/or hold resident funds in the escrow account for the seven-day rescission period of the continuing care contract or obtain authorization from the resident to hold and not deposit the funds for the seven-day period, as required by Section 651.055(2), Florida Statutes.

Recommendation: The Office recommends Abbey Delray South establish adequate procedures and controls to ensure resident funds are handled in accordance with the provisions of Section 651.055(2), Florida Statutes.

Subsequent Event: On December 12, 2014; Abbey Delray South implemented procedures wherein all payments received will be held in escrow until at least seven days after the contract is signed by both parties.

REQUIRED DISCLOSURES

Abbey Delray South provided a list containing 138 continuing care contract transactions executed during the scope period of the examination. A sample consisting of 56 contract files was selected and reviewed for compliance Section 651.091(3), Florida Statutes.

Finding:

Section 651.091(3), Florida Statutes, provides in pertinent part, that before entering into a contract to furnish continuing care, the provider shall make full disclosure, and provide copies of the disclosure documents to the prospective resident or to his or her legal representative.

In 16 instances, Abbey Delray South failed to timely provide the required disclosure documents to prospective residents or their legal representative, as required by Section 651.091(3), Florida Statutes. In all instances, the disclosure document receipt was signed by the resident after they had signed the continuing care contract.

Recommendation: The Office recommends Abbey Delray South establish adequate procedures and controls to ensure all required disclosure documents are properly delivered to the prospective resident or their legal representatives and that documentation is obtained and maintained.

REQUIRED NOTIFICATIONS

Filings submitted by Abbey Delray South and other documents were reviewed to determine the degree of compliance with Section 651.019, Florida Statutes.

REQUIRED NOTIFICATIONS (Continued)

Finding:

Section 651.019(1), Florida Statutes, requires the provider to submit to the Office specific information with respect to any new financing, additional financing or refinancing at least 30 days prior to the closing date of the transaction. In addition, Section 651.019(2), Florida Statutes, requires the provider to submit to the Office copies of executed financing documents within 30 days after the closing date.

Abbey Delray South failed to notify the Office of a financing transaction prior to the closing date of the transaction and failed to provide copies of the executed financing documents within 30 days after the closing date of the transaction, as required by Section 651.019(2), Florida Statutes. Specifically, the issuance of a Series 2013 bond was finalized on or about February 1, 2013; the Office was not provided notice of the transaction prior to its occurrence and was not provided a copy of the executed financing documents until October 2014.

Recommendations: The Office recommends Abbey Delray South establish adequate procedures and controls to ensure that all notifications and executed documents related to new financing, additional financing or refinancing are timely and properly submitted to the Office, as required by Section 651.019(2), Florida Statutes.

ADVERTISING

Advertisements used during the scope period were examined for compliance with Rule 69O-193.040, Florida Administrative Code.

Finding:

Rule 69O-193.040, Florida Administrative Code, requires the provider maintain for at least three years a complete file containing every printed, published, or prepared advertisement it has used in this state.

Abbey Delray South failed to maintain copies of advertisements, as required by Rule 69O-193.040, Florida Administrative Code. The examination revealed the advertisement file for calendar year 2012 did not contain copies of all advertisements utilized by the provider.

Recommendation: The Office recommends Abbey Delray South establish adequate procedures and controls to ensure all advertisements are maintained in accordance with Rule 69O-193.038, Florida Administrative Code.

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 Abbey Delray South.