



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

FREEDOM VILLAGE OF BRADENTON, LLC

D/B/A

FREEDOM VILLAGE

AS OF

December 31, 2013

FLORIDA COMPANY CODE 88111

Report Issued:
January 8, 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 Freedom Village of Bradenton, LLC d/b/a Freedom Village ("Freedom Village") pursuant to Section 651.105, Florida Statutes. The scope period of this examination was January 1, 2011 through December 31, 2013. The onsite and desk examination procedures were completed on October 3, 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 Freedom Village. 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

Freedom Village of Bradenton, LLC, a Delaware for-profit limited liability company, was granted a certificate of authority by the Office to offer continuing care contracts on November 30, 1984. Freedom Village is located in Bradenton, Florida. As of December 31, 2013, Freedom Village reported: 493 Independent Living Units and one Rental Unit. There were no Assisted Living Units or Skilled Nursing Units reported. Assisted Living and Skilled nursing services are provided onsite through a contracted affiliate. As of that date, there were 567 individuals residing at the community.

FORMS

Effective July 1, 2011, Section 651.022(2)(g), Florida Statutes, was amended to require reservation contract forms be approved by the Office prior to being used. Freedom Village provided a list of 176 continuing care contracts executed during the scope period. A sample consisting of 61 contract files was selected from the list; 51 of which also included a reservation contract executed after July 1, 2011. The 51 reservation contracts were reviewed for compliance with Section 651.022(2)(g), Florida Statutes.

Finding:

In all 51 instances, Freedom Village utilized a reservation contract form that was not approved by the Office, as required by Section 651.022(2)(g), Florida Statutes.

Recommendation: The Office recommends Freedom Village establish adequate procedures and controls to ensure forms requiring statutory approval by the Office have been approved prior to their use.

FORMS (Continued)

Subsequent Event: Freedom Village submitted a reservation contract form to the Office that was approved on June 14, 2014.

CANCELLATIONS AND REFUNDS

Freedom Village provided a list 199 of continuing care contracts that were cancelled during the scope period of the examination. A sample consisting of 65 contract cancellations was selected and examined to verify the amount of the refund due, if any, and whether refunds were properly issued.

Finding:

Section 651.055(1)(g)1, Florida Statutes, requires that the continuing care contract provide the terms governing the refund of any portion of the entrance fee due to cancellation by the resident, person who provides the funds for care of the resident, or the provider. Finally, Section 651.055(1)(h), Florida Statutes, requires that each continuing care contract state the terms under which a contract is canceled by the death of a resident.

In five instances, Freedom Village failed to issue refunds within the timeframe required by the terms of the underlying continuing care contract, as required by Sections 651.055(1)(g)2 and 651.055(1)(h), Florida Statutes. Specifically, in one instance, the cancellation of the contract was attributed to the resident moving out of the community; the refund was issued 27 days beyond the specified 120-day period of the contract. In the remaining four instances, the contracts terminated due to the death of the residents; the refunds were issued from 11 to 17 days beyond the specified 120-day period of the contracts. **A similar finding was included in the last Market Conduct Report of Examination issued by the Office.**

Recommendation: The Office recommends Freedom Village establish adequate procedures and controls to ensure applicable refunds are issued in accordance to the terms of the approved continuing care contract.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Freedom Village provided a list containing the 176 continuing care contracts executed during the scope period of the examination. A sample consisting of 61 contracts files was selected from the list and tested for compliance with Sections 651.055(2) and 651.033(3), Florida Statutes.

REQUIRED ESCROW DEPOSITS OR WAIVERS (continued)

Finding:

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.

In 15 instances, Freedom Village 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 funds for the rescission period, as required by Section 651.055(2), Florida Statutes. Specifically, the 15 instances occurred between February 6, 2012, the date the escrow agreement was approved by the Office, and October 2012, the period on which Freedom Village commenced depositing resident funds into escrow. **Of the 15 violations, 10 occurred after Freedom Village had submitted their corrective action plan in response to a similar finding in the prior Market Conduct Report of Examination issued by the Office.**

Recommendation: The Office recommends Freedom Village review its internal controls and procedures to ensure 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.

Finding:

Section 651.085(1), Florida Statutes, provides that the governing body of a provider, or the designated representative of the provider, hold quarterly meetings with residents. The statute further states that, residents are entitled to at least seven days advance notice of each quarterly meeting.

1. **In three instances, Freedom Village failed to provide residents with at least seven days advance notice of the quarterly meetings with residents held on March 15, May 17 and July 19, 2013, as required by Section 651.085(1), Florida Statutes.** The failure to provide residents at least seven days advanced notice of the quarterly meetings occurred after Freedom Village had submitted their corrective action plan in response to a similar finding in the prior Market Conduct Report of Examination issued by the Office.

QUARTERLY MEETINGS WITH RESIDENTS (continued)

- 1a. **Recommendation:** The Office recommends Freedom Village establish adequate procedures and controls to ensure to ensure resident s are provided proper notice of quarterly meetings.

Finding:

Section 651.085(1), Florida Statutes, also provides in pertinent part that the community report to the Office in the annual report the dates on which the quarterly meetings were held during the reporting period.

2. **Freedom Village failed to accurately state in the 2012 and 2013 Annual Reports filed with the Office, the dates on which four quarterly meetings with residents were held, as required by Section 651.085(1), Florida Statutes.**

The meetings were held and reported as follows:

Date of Meeting (per examination)	Date of Meeting per Annual Report
September 21, 2012	September 7, 2012
November 16, 2012	November 30, 2012
March 15, 2013	March 8, 2013
May 17, 2013	May 10, 2013

These instances occurred after Freedom Village had submitted their corrective action plan, in response to a similar finding in the prior Market Conduct Report of Examination issued by the Office.

- 2a. **Recommendation:** The Office recommends Freedom Village establish adequate procedures and controls to ensure the dates on which the quarterly meetings with residents are accurately stated in the annual report.

REQUIRED POSTINGS

Finding:

Section 651.091(2)(b), Florida Statutes, requires each continuing care community to post in a prominent position in the community, accessible to all residents and the general public, a concise summary of the last examination report issued by the Office with references to the page numbers of the full report noting any deficiencies found by the Office, and the actions taken by the provider to rectify such deficiencies, indicating in such summary where the full report may be inspected in the community.

REQUIRED POSTINGS (Continued)

Freedom Village failed to post in a prominent position in the community, a summary or complete copy of the last Market Conduct Examination Report issued by the Office along with the actions taken by the provider to rectify the deficiencies, as required by Section 651.091(2)(b), Florida Statutes. Although copies of the documents were available in the community, the summaries of the documents, to include a notation of where the full documents may be inspected in the community, were not posted.

Recommendation: The Office recommends Freedom Village establish adequate procedures and controls to ensure the required information is posted in accordance with Section 651.091(2), Florida Statutes.

WAITING LIST

Freedom Village provided a list containing 35 waiting list deposits collected during the scope period of the examination. A sample consisting of 15 deposit transactions was selected and reviewed for compliance with Rule 69O-193.018, Florida Administrative Code.

Finding:

Rule 69O-193.018, Florida Administrative Code requires that any waiting list fee in excess of \$1,500 paid by a prospective resident to secure a priority right to subscribe to a continuing care agreement be deposited into an escrow account governed by an escrow agreement as prescribed by Section 651.033, Florida Statute.

In nine instances, Freedom Village failed to deposit waiting list fees in excess of \$1,500 into the established escrow account, as required by Rule 69O-193.018, Florida Administrative Code. Moreover, Freedom Village obtained approval from the Office to use the escrow agreement on February 6, 2012, but did not commence to deposit resident funds into the escrow account until October 2012.

Recommendation: The Office recommends Freedom Village establish adequate procedures and controls to ensure that all waiting list fees in excess of \$1,500 are properly deposited into the escrow account as required by Rule 69O-193.018, Florida Administrative Code.

ACCESS TO RECORDS

Records necessary to conduct the examination and determine the degree of compliance with Chapter 651, Florida Statutes and Rule 69O-193, Florida Administrative Code were requested from Freedom Village in accordance with Section 651.105, Florida Statutes.

ACCESS TO RECORDS (Continued)

Finding:

In two instances, Freedom Village failed to provide for examination, the residents' written notice of cancellation of the continuing care contract, as required by Section 651.105(1), Florida Statutes.

Recommendation: In order for the Office to determine the degree of compliance with Chapter 651, Florida Statutes, and Rule 69O-193, Florida Administrative Code, the Office recommends Freedom Village establish adequate controls and procedures to ensure complete and adequate records are properly maintained and made accessible to the Office, as required by Section 651.105, 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 Freedom Village of Bradenton, LLC.