



THE STATE OF FLORIDA
FINANCIAL SERVICES COMMISSION
OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

JOHN KNOX VILLAGE OF FLORIDA, INC.

D/B/A

JOHN KNOX VILLAGE OF POMPANO BEACH

AS OF

December 31, 2011

FLORIDA COMPANY CODE 88026

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EXECUTIVE SUMMARY

Pursuant to the provisions of Section 651.105, Florida Statutes, an examination was conducted of the books, records, and affairs of John Knox Village of Florida, d/b/a John Knox Village of Pompano Beach. The scope period of the examination was January 1, 2009 through December 31, 2011. The following table represents general findings; however, specific details are found in each section of the report.

TABLE OF TOTAL VIOLATIONS

Statute or Rule Cite	Description	Total Files (for scope period)	Files Reviewed	Number of Violations
Section 651.055(2) Florida Statutes	John Knox Village of Pompano Beach failed to deposit the resident's funds into an escrow account or obtain authorization from the resident to hold and not deposit the check during the seven-day contract rescission period.	159	29	5
Section 651.0585(1) Florida Statutes	John Knox Village of Pompano Beach failed to accurately report the dates on which quarterly meetings with residents were held in the Annual Reports filed with the Office.	12	12	12
Section 651.091(3)(c), Florida Statutes	John Knox Village of Pompano Beach failed to provide required disclosure information to perspective residents or their legal representatives pertaining to a board member's relation to an entity with whom John Knox Village of Pompano Beach transacted business.	159	60	18
Section 651.091(3)(h), Florida Statutes	John Knox Village of Pompano Beach failed to provide prospective residents or their legal representatives who executed a continuing care contract after July 1, 2010, a required disclosure, a copy of Section 651.071, Florida Statutes.	159	29	29
Section 651.105(1), Florida Statutes	John Knox Village of Pompano Beach failed to provide for examination documents to establish that required disclosures to residents were provided.	159	60	2

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a routine market conduct examination of John Knox Village of Florida, Inc d/b/a John Knox Village of Pompano Beach (hereinafter "John Knox Village of Pompano Beach") pursuant to Section 651.105, Florida Statutes. The scope period of this examination was January 1, 2009 through December 31, 2011.

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 John Knox Village of Pompano Beach. 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

John Knox Village of Pompano Beach, a Florida not-for-profit corporation, was granted a certificate of authority by the Office to offer continuing care contracts on February 15, 1980. As of December 31, 2011, John Knox Village of Pompano Beach reported 795 Continuing Care units that consisted of 731 Independent Living units and 64 Assisted Living units. There were 177 Skilled Nursing units that consisted of 107 Sheltered Beds and 70 Community Beds. There were also 11 rental units reported. As of the same date, there were 926 individuals reported residing at this facility: 877 pursuant to a continuing care contract; 13 individuals under a rental agreement and 36 Skilled Nursing Community patients (non-CCRC).

REQUIRED ESCROW DEPOSITS OR WAIVERS

John Knox Village of Pompano Beach provided a list containing the 159 continuing care contracts executed during the scope period of the examination. A random sample consisting of 60 contracts was selected from the list. Of the 60 contracts in the sample, 29 contracts were executed on or after July 1, 2010. These 29 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.

REQUIRED ESCROW DEPOSITS OR WAIVERS (Continued)

In five instances, John Knox Village of Pompano Beach failed to deposit each of the resident's funds into the escrow account for the seven-day rescission period of the contract or obtain authorization from the respective residents to hold and not deposit the check for the seven-day contract rescission period.

Recommendation: The Office recommends John Knox Village of Pompano Beach establish adequate procedures 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, provides that a facility shall report to the Office, in the annual report, the dates on which quarterly meetings with residents are held.

John Knox Village of Pompano Beach failed to accurately state in the 2009, 2010 and 2011 Annual Reports filed with the Office, the dates on which 12 quarterly meetings with residents were held, as required by Section 651.085(1), Florida Statutes. Specifically, John Knox Village of Pompano Beach responded to item 14b of the Annual Reports filed for the years 2009, 2010 and 2010 stating that the monthly meetings were held on the first Monday of the month. The examination revealed that all quarterly meetings with residents were held the second Monday of the month with the exception of one meeting that was held the third Monday of the month.

Recommendation: The Office recommends John Knox Village of Pompano Beach 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.

REQUIRED DISCLOSURES

John Knox Village of Pompano Beach provided a list containing of 159 continuing care contracts executed during the scope period of the examination. A sample consisting of 60 contracts was selected and tested for compliance with Section 651.091(3), Florida Statutes.

REQUIRED DISCLOSURES (Continued)

Findings:

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

Section 651.091(3)(c), Florida Statutes, requires a provider to make full disclosure to prospective residents or their legal representative, including the information specified in Section 651.022(2)(b)8, Florida Statutes, prior to entering into a continuing care contract. Of the 60 transactions in the sample, 18 contracts were executed during calendar year 2009.

1. **In all 18 instances of the contracts entered into during the calendar year 2009 John Knox Village of Pompano Beach failed to provide a required disclosure to prospective residents or their legal representative prior to their entering into a continuing care contract, as required by Section 651.091(3)(c), Florida Statutes.**

Specifically, the audited financial statements of John Knox Village of Pompano Beach for the year ending December 31, 2009, contained a "related party transactions" note that stated in pertinent part "A member of the Board is a partner of a firm that owns a staffing agency. Fees paid to that staffing agency for temporary help and permanent hires by the Village totaled approximately \$35,000 and \$23,200 in 2009 and 2008, respectively." John Knox Village of Pompano Beach failed to disclose and provide the information specified in Section 651.022(2)(b)8, Florida Statutes, to prospective residents or their legal representatives prior to their entering into a continuing care contract.

- 1a. **Recommendation:** The Office recommends John Knox Village of Pompano Beach establish adequate procedures to ensure its disclosure documents contain the required disclosures and are timely provided to prospective residents or their legal representatives, prior to the execution of a continuing care contract. Additionally, Section 651.091(4), Florida Statutes, requires a true and complete copy of the disclosure document to be used be filed with the Office before use.

Findings:

Effective July 1, 2010 Section 651.091(3)(h), Florida Statutes, required the Provider to include as a required disclosure document, a copy of Section 651.071, Florida Statutes. Of the 60 contracts sampled, 29 were entered into after July 1, 2010. All of these 29 transactions were reviewed to determine compliance with disclosure requirements of Section 651.091(3)(h), Florida Statutes.

REQUIRED DISCLOSURES (Continued)

2. In all 29 instances John Knox Village of Pompano Beach failed to provide as a required disclosure, a copy of Section 651.071, Florida Statutes, entitled "Contracts as preferred claims on liquidation or receivership", to prospective residents or their legal representative prior to entering into a continuing care contract as required by Section 651.091(3)(h), Florida Statutes.

Subsequent Event: During the on-site portion of the examination John Knox Village of Pompano Beach promptly remedied the violation by including in their disclosure documents a copy of Section 651.071, Florida Statutes.

- 2a. Recommendation: The Office recommends John Knox Village of Pompano Beach establish adequate procedures to ensure all statutory disclosure requirements to prospective residents or their legal representatives are met, to include providing a copy of Section 651.071, Florida Statutes. The Office further recommends that a true and complete copy of the full disclosure document to be used be filed with the Office before use, pursuant to Section 651.091(4), Florida Statutes.

ACCESS TO RECORDS

Records necessary to conduct the examination and determine the degree of compliance with Chapter 651, Florida Statutes and Rule 690-193, Florida Administrative Code were requested from John Knox Village of Pompano Beach in accordance with Section 651.105, Florida Statutes.

Findings:

In two instances John Knox Village of Pompano Beach failed to make available for examination documents pertaining to the delivery of required disclosure documents to prospective residents or their legal representatives, in violation of Section 651.105(1), Florida Statutes. In one instance, John Knox Village of Pompano Beach failed to make available for examination documentation that demonstrated a prospective resident or their legal representative was provided the required disclosure documents pursuant to Section 651.091(3), Florida Statutes. In the remaining instance, John Knox Village of Pompano Beach failed to make available for examination documentation that demonstrated that a copy of the continuing care contract had been provided to all parties to the contract prior to the transfer of any money or other property to the provider pursuant to Section 651.055(4), Florida Statutes.

Recommendation: In order for the Office to determine the degree of compliance with Chapter 651, Florida Statutes and Rule 690-193, Florida Administrative Code, the Office recommends John Knox Village of Pompano Beach establish adequate procedures and controls to ensure documentation is maintained and made available for examination purposes.

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 John Knox Village of Pompano Beach.