



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

LIFESPACE COMMUNITIES, INC.

D/B/A

THE WATERFORD

AS OF

DECEMBER 31, 2013

FLORIDA COMPANY CODE 88047

**Report Issued:
April 21, 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 The Waterford (“The Waterford”) 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 January 21, 2015.

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. 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 The Waterford. 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, The Waterford, located in Juno Beach, Florida. The Waterford 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, The Waterford reported: 288 Continuing Care Units, comprised solely of Independent Living Units; 60 Skilled Nursing Beds, comprised solely of Community Beds and no Rental Units. As of the same date, there were 401 individuals residing at the community.

REQUIRED ESCROW DEPOSITS OR WAIVERS

The Waterford provided a list containing 149 continuing care contracts executed during the scope period of the examination. A random sample consisting of 42 contract files was selected for examination. Of the 42 contract files selected, 34 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 14 instances, The Waterford failed to either deposit the entrance fee funds into the escrow account for the seven-day rescission period of the continuing care contract, or to maintain the entrance fee funds in the escrow account for the entire seven-day period, as required by Section 651.055(2), Florida Statutes. Specifically, in four instances, the residents' funds did not post to the escrow account until after the rescission period lapsed. In the remaining ten instances, the funds were withdrawn from the escrow account prior to the expiration of the rescission period.

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

POSTING OF RECORDS

Verified the Certificate of Authority, Market Conduct Report of Examination, Financial Report of Examination, and Annual Report were posted in the community as required by Section 651.091(2), Florida Statutes.

Finding:

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

The Waterford failed to post a summary or complete copy of the last Market Conduct Report of Examination issued by the Office and the actions taken to rectify the deficiencies noted, as required by Section 651.091(2)(b), Florida Statutes.

Recommendation: The Office recommends The Waterford post, in a prominent and conspicuous area of the community, the last Market Conduct Report of Examination and the actions taken to rectify the deficiencies noted in the report, as required by Section 651.091(2)(b), Florida Statutes. The Office further recommends The Waterford establish adequate procedures and controls to ensure that all required information is posted and that residents and the general public have unfettered access to the information in accordance with Section 651.091(2), Florida Statutes.

RESIDENT COUNCIL DISCLOSURES

Section 651.081(2), Florida Statutes, states that, “Within 30 days after the election of a newly elected president or chair of the residents’ council, the provider shall give the president or chair a copy of this chapter and rules adopted thereunder, or direct him or her to the appropriate public website to obtain this information.”

Finding:

The Waterford failed to provide within 30 days of the election of the newly elected president the Residents’ Council, copies of Chapter 651 and Chapter 690-193, Florida Administrative Code, as required by Section 651.081(2), Florida Statutes. Specifically, the President of the Residents’ Council was elected in 2012, but was not afforded a copy of Chapter 651 or Chapter 690-193, Florida Administrative Code, nor was the President directed to the appropriated public website to obtain this information, until October 17, 2014.

Recommendation: The Office recommends The Waterford establish adequate procedures to ensure compliance with Section 651.081(2), 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 The Waterford.