

Report on Examination

of

Lake Seminole Square, LLC

Seminole, Florida

as of

December 31, 2017



**FLORIDA OFFICE OF
INSURANCE REGULATION**

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SCOPE OF EXAMINATION

The Florida Office of Insurance Regulation (“Office”), Life & Health Financial Oversight unit conducted a routine examination of Lake Seminole Square, LLC, pursuant to Section 651.105, Florida Statutes. The objective of the examination was to determine the extent of compliance with provisions of Chapter 651, Florida Statutes, and Rule Chapter 69O-193, Florida Administrative Code. The scope period for the examination was March 9, 2015 through December 31, 2017 and included any transactions prior to the March 2015 date of examination that were subject to provisions of Chapter 651, Florida Statutes and Rule Chapter 69O-193, Florida Administrative Code.

COMPANY HISTORY

Lake Seminole Square is a for-profit Delaware Limited Liability Company that owns and operates a continuing care retirement community facility in Seminole, Florida. The facility consists of independent living condominium units and assisted living units. Each independent living residential unit is conveyed to a continuing care resident as a life estate in the condominium. As a condominium, Lake Seminole Square is also subject to regulation by The Florida Department of Business and Professional Regulation, pursuant to Chapter 718, Florida Statutes and the Florida Administrative Rules promulgated thereunder.

On September 26, 2014, the Office notified Lake Seminole Square that it was engaging in the business of providing continuing care, (as defined in Section 651.011, Florida Statutes), without having been issued a Certificate of Authority by the Office, which is required by Section 651.021, Florida Statutes. Lake Seminole Square subsequently applied for and was granted a Certificate of Authority by the Office on March 9, 2015.

As of December 31, 2017, Lake Seminole Square reported: 332 Continuing Care Units consisting of 299 Independent Living Units and 33 Assisted Living Units; 5 Rental Units; and no Skilled Nursing Units. Lake Seminole Square does not provide Skilled Nursing at its facility. Skilled Nursing is provided by a nearby affiliate, CCRC OpCo – Freedom Square, LLC, also an authorized continuing care provider. As of that same date, 389 individuals were reported as residing at Lake Seminole Square: 383 pursuant to a Continuing Care Agreement; and 6 pursuant to a Rental Agreement.

SUMMARY OF FINDINGS

The following is a summary of findings. The findings are discussed in more detail in the pages that follow with recommendations beginning on page 10.

CONSENT ORDER

Upon the issuance of a Provisional Certificate of Authority and Certificate of Authority on March 9, 2015, the Office and Lake Seminole Square entered into a Consent Order in Case No: 169198-15-CO. Records were reviewed to determine compliance with certain provisions therein.

Finding:

Paragraph 12 of the aforementioned Consent Order required Lake Seminole Square to: 1) submit an endorsement, for the Office's approval, that contained all provisions necessary to bring its in-force continuing care contracts into compliance with Chapter 651, Florida Statutes within ten (10) days of the execution of the Consent Order; and 2) upon the Office's approval, to attach the endorsement to all in-force continuing care contracts in existence before the issuance of the Certificate of Authority.

Lake Seminole Square failed to fully comply with Paragraph 12 of Consent Order 169198-15-CO. The examination revealed the endorsement was filed with the Office as required by the Consent Order. However, the endorsement was not timely attached to all in-force continuing care contracts in existence before the issuance of the Certificate of Authority. The endorsement was provided to the appropriate residents and their respective contracts in January 2018, a period of approximately 34 months after the Consent Order was executed.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Lake Seminole Square provided a list of 125 continuing care contracts executed subsequent to the Certificate of Authority being issued by the Office. A sample of 48 transactions was selected and reviewed for compliance with Section 651.055(2), Florida Statutes.

Section 651.055(2), Florida Statutes, provides in pertinent part that a resident has the right to rescind a continuing care contract within seven (7) days after executing the contract. During this rescission period the resident's funds must be held in escrow, unless the resident requests the provider hold and not deposit the check during the seven-day period, pursuant to Section 651.033(3)(c), Florida Statutes.

Finding 1:

Lake Seminole Square failed to hold a resident's funds in an escrow account for the seven-day rescission period of the continuing care contract, as required by Section 651.055(2), Florida Statutes. Specifically, an individual entered into a continuing care contract on July 29, 2015, wherein the seven-day rescission period ended on August 5, 2015. The individual's reservation-related funds were removed from the escrow account on July 31, 2015.

Finding 2:

In five instances, Lake Seminole Square failed to deposit resident funds into 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. In all instances, the funds posted to the escrow account after the seven-day rescission period of the continuing care contracts had expired.

REQUIRED DISCLOSURES

Lake Seminole Square provided a list of 125 continuing care contracts executed subsequent to the Certificate of Authority being issued by the Office. A sample of 48 transactions was selected and reviewed for compliance with Sections 651.055(4), 651.091(3), and 651.091(4), Florida Statutes.

Finding:

Section 651.055(4), Florida Statutes, provides in part that before the transfer of any money or other property to a provider by or on behalf of a prospective resident, the provider shall present a typewritten or printed copy of the contract to the prospective resident and all other parties to the contract. Additionally, the provider shall secure a signed and dated statement from each party to the contract certifying that a copy of the contract with the specified attachment was received.

In ten instances, Lake Seminole Square failed to timely provide all parties to the contract a copy of the contract. Lake Seminole Square also failed to secure a signed and dated statement from each party to the contract certifying that a copy of the contract was received prior to the transfer of money or other property to the provider, as required by Section 651.055(4), Florida Statutes. In nine instances, the reservation forms, which included an

acknowledgement that the continuing care contract was received, were signed, but not dated. In the remaining instance, the reservation form included an acknowledgement that the continuing care contract was received, however, the form was not signed or dated.

RESIDENTS' COUNCIL DISCLOSURES

Documentation was reviewed to determine compliance with the Residents' Council disclosure requirements, pursuant to Sections 651.081(2)(a), 651.085(3), and 651.091(2), Florida Statutes.

Finding 1:

Section 651.081(2)(a), Florida Statutes, provides in part that within 30 days of the election of a newly elected president or chair of the residents' council, the provider shall give the elected president or chair a copy of Chapter 651, Florida Statutes, and Rule Chapter 69O-193, Florida Administrative Code, or direct him or her to the appropriate public website to obtain this information.

Lake Seminole Square failed to provide a newly elected President of the Residents' Council a copy of Chapter 651, Florida Statutes, and Rule Chapter 69O-193, Florida Administrative Code or to direct the individual to the appropriate public website to obtain the information, as required by Section 651.081(2)(a), Florida Statutes.

Finding 2:

Section 651.091(2)(d), Florida Statutes (2017), states that each continuing care facility shall distribute a copy of the full annual statement and a copy of the most recent third-party financial audit filed with the annual report to the president or chair of the residents' council within 30 days after filing the annual report with the Office.

- A. Lake Seminole Square failed to distribute to the Residents' Council President or Chair a copy of the 2015 and 2016 third-party financial audit within 30 days after filing the 2015 and 2016 Annual Reports with the Office, as required by Section 651.091(2)(d), Florida Statutes (2017).

- B. Lake Seminole Square failed to distribute to the Residents' Council President or Chair a copy of the 2015 Annual Statement within 30 days after filing the Annual Report with the Office, as required by Section 651.091(2)(d), Florida Statutes (2017).

QUARTERLY MEETINGS WITH RESIDENTS

Quarterly meeting minutes, notices to residents, agenda, and meeting dates contained in the Annual Reports filed with the Office during the scope period of the examination were reviewed for compliance with Section 651.085, Florida Statutes.

Finding 1:

Section 651.085(1), Florida Statutes, provides in part that the Annual Report, required pursuant to Section 651.026, Florida Statutes, shall include the dates on which quarterly meetings with residents were held during the reporting period.

Lake Seminole Square failed to accurately report in the 2015, 2016, and 2017 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. The examination revealed that in all 12 instances (4 meetings per year) the dates the quarterly meetings with residents were actually held, conflicted and were different than the dates reported in the 2015, 2016, and 2017 Annual Reports filed with the Office.

<u>Date per 2015 Annual Report</u>	<u>2015 Date Meeting Held</u>	<u>Date per 2016 Annual Report</u>	<u>2016 Date Meeting Held</u>	<u>Date per 2017 Annual Report</u>	<u>2017 Date Meeting Held</u>
5/22/2015	N/A	2/17/2016	3/8/2016	3/9/2017	2/21/2017
8/7/2015	4/18/2015	5/24/2016	4/15/2016	6/6/2017	4/21/2017
11/12/2015	9/18/2015	9/13/2016	6/1/2016	9/5/2017	6/17/2017
2/17/2016	11/20/2015	11/14/2016	9/7/2016	12/5/2017	10/20/2017

Finding 2:

Section 651.085(4), Florida Statutes, provides in pertinent part that at a quarterly meeting (with the residents) prior to the implementation of any increase in the monthly maintenance fee, the designated representative of the provider must provide the reasons, by department cost centers, for any increase in the fee that exceeds the most recently published Consumer Price Index for All Urban Consumers, all items, Class A Areas of the Southern Region.

For the years 2016 and 2017, Lake Seminole Square failed to provide at a quarterly meeting with the residents prior to the increase in monthly maintenance fees, the reasons, by department cost centers, for monthly maintenance fee increases that exceeded the Consumer Price Index for All Urban Consumers, all items, Class A Areas of the Southern Region, as required by Section 651.085(4), Florida Statutes.

UNFAIR INSURANCE TRADE PRACTICES ACT

Pursuant to Section 651.106(15), Florida Statutes, the certificate of authority of a continuing care provider may be suspended or revoked if the Office finds that the provider in the conduct of business under the license, is engaging in unfair methods of competition or in unfair or deceptive acts or practices prohibited under Part IX of Chapter 626, Florida Statutes, the Unfair Insurance Trade Practices Act.

Section 626.9541(1)(m), Florida Statutes (2017), prohibits a licensed insurer or its agent from giving to insureds, prospective insureds, and others, for the purpose of advertising, any article of merchandise having a value of more than \$25.

Lake Seminole Square provided merchandise for the purpose of advertising valued at more than \$25, in violation of Section 626.9541(1)(m), Florida Statutes (2017). Specifically, Lake Seminole Square provided a \$50 gift card to individuals to attend a 2016 marketing event.

REQUIRED POSTINGS

The required postings related to the Certificate of Authority, Examination Report, and Annual Statement were reviewed to determine compliance with Section 651.091(2), Florida Statutes.

Finding:

Section 651.091(2)(c), Florida Statutes (2017), requires each continuing care facility to post in a prominent position in the facility which is accessible to all residents and the general public, a summary of the latest annual statement, indicating in such summary where the full annual statement may be inspected in the facility.

Lake Seminole Square failed to post in a prominent position in the facility, accessible to all residents and the general public, a summary of the latest Annual Statement filed with the Office, as required by Section 651.091(2)(c), Florida Statutes (2017).

During the examination process the statutory posting requirements were discussed with Lake Seminole Square's management. Management promptly posted the annual statement information in a prominent position in the facility accessible to all residents and the general public.

MINIMUM LIQUID RESERVE

As of December 31, 2017, Lake Seminole Square's Minimum Liquid Reserve (MLR) was funded in accordance with Section 651.035, Florida Statutes.

SUMMARY OF RECOMMENDATIONS

CONSENT ORDER

The Office recommends Lake Seminole Square establish adequate procedures and controls to ensure that all consent order requirements are fully and timely complied with in accordance with the provisions therein and maintain documentation to substantiate compliance.

REQUIRED ESCROW DEPOSITS OR WAIVERS

The Office recommends Lake Seminole Square establish adequate procedures and controls to ensure resident funds are properly handled during the seven-day rescission period of the continuing care contract, in accordance with Section 651.055(2), Florida Statutes.

REQUIRED DISCLOSURES

The Office recommends Lake Seminole Square establish adequate procedures and controls to ensure that prior to the transfer of any money or other property to the provider, a typewritten or printed copy of the contract is provided to all parties to the contract. A signed and dated statement must also be secured from each party to the contract, certifying that a copy of the contract was received, in accordance with Section 651.055(4), Florida Statutes.

RESIDENTS' COUNCIL DISCLOSURES

Findings 1, 2A & B: The Office recommends Lake Seminole Square establish adequate procedures and controls to ensure that all required Residents' Council disclosures are properly delivered to the appropriate individuals and that documentation is obtained to substantiate the disclosures were provided.

QUARTERLY MEETINGS WITH RESIDENTS

Finding 1: The Office recommends Lake Seminole Square establish adequate procedures and controls to ensure the dates of the quarterly meetings with residents are accurately reported in the Annual Reports filed with the Office, in accordance with Section 651.085(1), Florida Statutes.

Finding 2: The Office recommends Lake Seminole Square establish adequate procedures and controls to ensure quarterly meetings with residents are held in compliance with Section 651.085, Florida Statutes, to include, providing the reasons, by department cost centers, for any increase in the fee that exceeds the most recently published Consumer Price Index for all Urban Customers, all items, Class A Areas of the Southern Region, as applicable.

UNFAIR INSURANCE TRADE PRACTICES ACT

The Office recommends Lake Seminole Square establish adequate procedures and controls to ensure compliance with Section 651.106(15) and Part IX, Chapter 626, Florida Statutes.

REQUIRED POSTINGS

The Office recommends Lake Seminole Square establish adequate procedures and controls to ensure that all required information is posted, in accordance with Section 651.091(2), Florida Statutes.

CONCLUSION

This Final Report of Examination is based upon the information provided to the Office by Lake Seminole Square and additional research conducted by the Office.

The following individuals from the Office of Insurance Regulation participated in the examination: Bernie L. Stoffel, Senior Management Analyst Supervisor; Alicia Thompkins-Perryman, APIR, Financial Specialist; Hannah Scott, Insurance Analyst II; and Lisa M. Parker, ASA, MAAA, APIR, Actuary.

Respectfully submitted,



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