



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

LIFESPACE COMMUNITIES, INC.

D/B/A

VILLAGE ON THE GREEN

AS OF

DECEMBER 31, 2014

FLORIDA COMPANY CODE 88125

Report Issued:
May 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 Lifespace Communities, Inc. d/b/a Village on The Green (“Village on The Green”) pursuant to Section 651.105, Florida Statutes. The scope period of this examination was from January 1, 2010 through December 31, 2014. The on-site and desk examination procedures were completed on February 12, 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 Village on The Green. 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, Village on The Green, located in Longwood, Florida. Village on The Green was granted a certificate of authority by the Office to offer continuing care contracts on June 19, 1985, and is one of five Florida Continuing Care Retirement Communities owned and operated by Lifespace Communities, Inc. As of December 31, 2014, Village on The Green reported: 244 Continuing Care Units, comprised solely of Independent Living Units; 60 Skilled Nursing Beds, comprised solely of Sheltered Beds; and no Rental Units.

FORMS

Effective July 1, 2011, Section 651.022(2)(g), Florida Statutes, was amended to require waitlist contract forms to be approved by the Office prior to use. Village on The Green provided a list containing the 85 waitlist deposits collected during the scope period; a sample of 45 deposits was selected for examination. There were 37 waitlist contracts executed after July 1, 2011, all of which were reviewed for compliance with Section 651.022(2)(g), Florida Statutes.

Finding:

In 37 instances, Village on The Green utilized a waitlist contract form that was not approved by the Office, as required by Section 651.022(2)(g), Florida Statutes. Specifically, in 36 instances a wait list form entitled “Priority Connection Agreement” was utilized; and in the remaining instance a wait list form entitled “Future Residency Program Agreement” was utilized.

FORMS (Continued)

Recommendation: The Office recommends Village on The Green promptly file the wait list contract forms for approval by the Office; and establish internal controls and procedures to ensure that forms requiring statutory approval by the Office have been approved prior to being used.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Village on The Green provided a list containing 140 continuing care contracts executed during the scope period of the examination. A random sample consisting of 45 contract files was selected for examination. All 45 contracts 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.

In 30 instances, Village on The Green failed to deposit the residents' entrance fee funds in the escrow account for the seven-day rescission period of the continuing care contract, or failed to maintain the entrance fee funds in the escrow account for the entire seven-day rescission period, as required by Section 651.055(2), Florida Statutes. In 14 of the 30 instances residents' funds were not deposited into the escrow account; in the remaining 16 instances, residents' funds were deposited in the escrow account, but, were not held in the escrow account for the entire seven-day rescission period.

Recommendation: The Office recommends Village on The Green establish adequate procedures and controls to ensure resident funds are handled in accordance with the provisions of 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.

QUARTERLY MEETINGS WITH RESIDENTS (Continued)

Finding:

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

Village on The Green failed to hold a quarterly meeting with residents during the third quarter of the 2010 calendar year, as required by Section 651.085(1), Florida Statutes.

Recommendation: The Office recommends Village on The Green establish adequate procedures to ensure proper notice of the quarterly meetings are afforded to residents and documentation is maintained for examination purposes.

REQUIRED DISCLOSURES

Village on The Green provided a list containing the 140 continuing care contracts executed during the scope period of the examination. A sample consisting of 45 contract files was selected and tested for compliance with Section 651.091(3), 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 copy of the contract to the prospective resident and all other parties to the contract. This section further provides that the provider secure a signed, dated statement from each party to the contract certifying that a copy of the contract with the specified attachment was received.

In two instances, Village on The Green failed to timely provide to all parties to the contract a copy of the continuing care contract prior to the transfer of assets or property to the provider and secure a signed, dated statement from each party certifying that a copy of the contract was timely received, as required by Section 651.055(4), 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 undertaking to furnish the care shall make full disclosure, and provide copies of the specific disclosure documents to the prospective resident or his or her legal representative.

REQUIRED DISCLOSURES (Continued)

Furthermore, Section 651.091(3)(b), Florida Statutes, requires the provider to include as a required disclosure, a concise summary of the last examination report issued by the Office and the actions taken by the provider to rectify the deficiencies noted in the report. Finally, effective July 1, 2010, Section 651.091(3)(h), Florida Statutes, requires the provider to include, as a required disclosure document, a copy of Section 651.071, Florida Statutes.

1. **In eight instances, Village on The Green failed to provide as a required disclosure to the prospective resident or their legal representative, a copy of the most recent Market Conduct Report of Examination, as required by Section 651.091(3)(b), Florida Statutes.**

2. **In 37 instances, Village on The Green failed to provide as a required disclosure to the prospective resident or their legal representative, a copy of Section 651.071, Florida Statutes, as required by Section 651.091(3)(h), Florida Statutes.**

Recommendation: The Office recommends Village on The Green establish adequate procedures and controls to ensure all required disclosures are timely provided to prospective residents or their legal representatives. The Office further recommends Village of The Green provide a copy of Section 651.071, Florida Statutes to each resident that entered into a continuing care contract on or after July 1, 2010, that has not previously been provided a copy.

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 Village on The Green.