



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

LIFESPACE COMMUNITIES, INC.

D/B/A

ABBHEY DELRAY

AS OF

DECEMBER 31, 2013

FLORIDA COMPANY CODE 88001

Report Issued:
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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 Abbey Delray (“Abbey Delray”) 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 December 19, 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 Abbey Delray. 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, Abbey Delray, located in Delray Beach, Florida. Abbey Delray was granted a certificate of authority by the Office to offer continuing care contracts on January 18, 1980. Abbey Delray is one of five Florida continuing care retirement communities owned and operated by Lifespace Communities, Inc. As of December 31, 2013, Abbey Delray reported: 357 Continuing Care Units, comprised of 343 Independent Living Units and 14 Assisted Living Units; 100 Skilled Nursing Beds, comprised solely of Community Beds and no Rental Units. As of the same date, there were 440 individuals residing at the community.

CANCELLATIONS AND REFUNDS

Abbey Delray provided a list of 128 contracts cancelled during the scope period of the examination. A sample of 36 cancellations was selected and examined to verify the amount of the refund due, if any, and whether refunds were properly issued. Of the 36 cancellations selected for examination, 13 were eligible for refunds.

Findings:

Section 651.055(1)(g), Florida Statutes, requires that the continuing care contract provide the terms governing the refund of any portion of the entrance fee. Section 651.055(1)(g)2, Florida Statutes requires that such refund be paid within 120 days of a resident’s cancellation notice.

In two instances, Abbey Delray failed to timely issue refunds within 120 days from receipt of the resident’s cancellation notice, as required by Section 651.055(1)(g)2, Florida Statutes.

CANCELLATIONS AND REFUNDS (Continued)

The refunds were issued 12 and 23 days beyond the specified 120-day timeframe, respectively. **A similar finding was previously addressed in the last Market Conduct Report of Examination issued by the Office.**

Recommendation: The Office recommends Abbey Delray establish adequate procedures and controls to ensure applicable refunds are timely issued.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Abbey Delray provided a list containing 168 continuing care contracts executed during the scope period of the examination. A random sample consisting of 45 contract files was selected for examination. Of the 45 contract files selected, 44 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 all 44 instances, Abbey Delray failed to deposit and/or hold resident funds in 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.

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

Subsequent Event: On December 12, 2014; Abbey Delray implemented procedures wherein all payments received will be held in escrow until at least seven days after the contract is signed by both parties.

FORMS

Abbey Delray provided a list containing 168 continuing care contracts executed during the scope period of the examination. A sample consisting of 45 contract files was selected from the list; three of which also included a reservation contract executed on or after July 1, 2011. The three reservation contracts were reviewed for compliance with Section 651.022(2)(g), Florida Statutes.

FORMS (Continued)

Finding:

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.

In all three instances, Abbey Delray utilized a reservation contract form entitled "Courtesy Hold Agreement" that was not approved by the Office, as required by Section 651.022(2)(g), Florida Statutes

Recommendation: The Office recommends Abbey Delray submit the reservation contract form for approval by the Office and establish adequate procedures and controls to ensure that forms requiring statutory approval by the Office are approved prior to use.

POSTING OF RECORDS

The postings of the Certificate of Authority, Market Conduct & Financial Reports of Examination, and Annual Report in the community were reviewed to determine compliance with Section 651.091(2), Florida Statutes.

Findings:

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. In addition, Section 651.091(2)(c), Florida Statutes, requires a summary of the latest annual report be posted in the community indicating in such summary where the annual report full report may be inspected in the community.

1. **Abbey Delray failed to post a summary or complete copy of the last Market Conduct Report of Examination and Financial 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.**
2. **Abbey Delray failed to post a summary or complete copy of the most recent annual report, as required by Section 651.091(2)(c), Florida Statutes.**

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

POSTING OF RECORDS (Continued)

Subsequent Event: Upon notification of this issue Abbey Delray promptly posted the required documents in a prominent position in the facility together with a notation that the full documents are available for inspection in the library.

QUARTERLY MEETINGS WITH RESIDENTS

The quarterly meeting agendas, notices to residents, minutes, and meeting dates contained in the annual reports filed for the scope period of the examination were reviewed for compliance with Section 651.085, Florida Statutes.

Finding:

Section 651.085(1), Florida Statutes, provides in pertinent part that the provider report to the Office, in the annual report required under Section 651.026, Florida Statutes, the dates on which the quarterly meetings were held during the reporting period.

Abbey Delray failed to accurately state the dates on which certain quarterly meetings with residents were held in the 2010, 2011, 2012 and 2013 Annual Reports filed with the Office, as required by Section 651.085(1), Florida Statutes. Specifically, the 2012 and 2013 inaccurate annual report filings occurred after the final report for the prior examination was issued by the Office. **A similar finding was previously addressed in the last Market Conduct Report of Examination issued by the Office.**

Recommendation: The Office recommends Abbey Delray establish adequate procedures and controls to ensure the actual dates on which the quarterly meetings are held with residents are stated in the annual report.

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 Abbey Delray.