



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

GULF CARE, INC.

D/B/A

GULF COAST VILLAGE

AS OF

December 31, 2013

FLORIDA COMPANY CODE 88081

**Report Issued:
July 16, 2015**

TABLE OF CONTENTS

Purpose and Scope	1
Company Operations	1
Required Escrow Deposits or Waivers	1
Quarterly Meeting with Residents	2
Cancellations and Refunds	3
Examination Final Report Submission	4

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a routine market conduct examination of Gulf Care, Inc. d/b/a Gulf Coast Village (hereinafter “Gulf Coast Village”) pursuant to Section 651.105, Florida Statutes. The scope period of this examination was January 1, 2011 through December 31, 2013. The onsite and desk examination procedures were completed on October 13, 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. This market conduct examination did not encompass a financial compliance examination.

In reviewing materials for this report, the examiners relied on records provided by Gulf Coast Village. 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

Gulf Coast Village, a Florida not-for-profit corporation, was granted a certificate of authority by the Office to offer continuing care contracts on October 6, 1987. Gulf Coast Village is located in Cape Coral, Florida. As of December 31, 2013, Gulf Coast Village reported: 214 continuing care units consisting of 146 independent living units and 68 assisted living units; 85 skilled nursing units consisting of 54 community beds and 31 sheltered beds; and 13 rental units. As of that date, there were 322 individuals residing at this facility.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Gulf Coast Village provided a list of the 94 continuing care contracts and 16 continuing care-at-home contracts executed during the scope period. A sample of 37 contracts files, including 21 continuing care contracts and 16 continuing care-at-home contract files, was selected. The contract files were tested for compliance with Sections 651.055(2) and 651.033(3), Florida Statutes.

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 an escrow account 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)

Findings:

In all 37 instances, Gulf Coast Village failed to deposit 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. The examination found no indication that the residents requested that funds not be deposited in an escrow account and be held by the provider for the seven-day period.

Recommendation: The Office recommends Gulf Coast Village establish adequate procedures and controls 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 meeting dates contained in the annual reports filed for the scope period were reviewed for compliance with Section 651.085, Florida Statutes.

Section 651.085(1), Florida Statutes, provides in pertinent part that the facility 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.

Findings:

Gulf Coast Village failed to accurately state the dates of five quarterly meetings with residents in its 2012 and 2013 Annual Reports, as required by Section 651.085(1), Florida Statutes. Specifically, in the Annual Report for the period ending December 31, 2012, Gulf Coast Village reported the incorrect date of one quarterly meeting. In the Annual Report for the period ending December 31, 2013, Gulf Coast Village reported the incorrect date for four quarterly meetings. The meetings were reported and held as follows:

Date of Meeting (per exam)	Meeting Date per Annual Report
2/13/2012	2/08/2012
2/20/2013	4/19/2013
5/13/2013	7/26/2013
9/08/2013	10/18/2013
11/06/2013	1/26/2014

Recommendation: The Office recommends Gulf Coast Village 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.

CANCELLATIONS AND REFUNDS

Gulf Coast Village provided a list of the 60 continuing care contracts cancelled during the scope period of the examination. A sample of 37 cancellations was selected and tested for compliance with Section 651.055(1), Florida Statutes.

Gulf Coast Village's continuing care contract's "Refund of Entrance Fee" provision provides:

The timing of payment will be based upon the receipt of new entry fees collected from the sale of a like-kind apartment. The order of payment to resident of the refund will be in the same order like-kind apartments are cancelled and sold. For example, if at the time of cancellation of this Contract there are three (3) other like-kind apartments available for resale, the refund of this deposit shall be payable only upon receipt of the proceeds of the sale of 4th like-kind apartment.

Documents submitted for the examination indicate that Gulf Coast Village uses a number of classifications to identify "like-kind" units. Gulf Coast Village has at least five classifications for one-bedroom units namely, the "Corner," "Deluxe," "Special," "Standard," and "Plus." A similar classification system is used for two-bedroom units.

Due to the complex classification system, the Office expanded the scope for this test and reviewed the status and timing of payment of refunds for contracts cancelled from December 31, 2013 through August 31, 2014, to determine the effect, if any, that the classifications have on the timeliness of refunds.

Section 651.055(1)(g)3., Florida Statutes, provides in relevant part, that in addition to a processing fee, if the contract provides for the facility to retain up to 1 percent per month of occupancy by the resident, it may provide that such refund will be paid from the proceeds of the next entrance fees received by the provider for units for which there are no prior claims by any resident until paid in full.

Findings:

Gulf Coast Village is not in compliance with Section 651.055(1)(g)3., Florida Statutes, or the terms of its continuing care contracts. The examination revealed that the classification system, and thus interpretation, of "like-kind" units by Gulf Coast Village has resulted in the delayed issuance of refunds to residents, their estates, or assigns.

For example, the sale of an unencumbered one-bedroom unit would not trigger a refund if the unit sold is not of the same classification as the next one-bedroom unit in the refund queue. As a consequence, refunds for recently cancelled contracts were issued sooner than contracts for similarly-sized units that had been cancelled at an earlier date.

CANCELLATIONS AND REFUNDS (Continued)

Further, for refunds issued from January 1 through August 31, 2014, there were nine instances where refunds remained outstanding between 248 and 894 days. Moreover, of the 14 refunds that remained outstanding as of August 31, 2014, five have been outstanding between 199 and 404 days.

Recommendation: The Office recommends that for existing contracts, Gulf Coast Village revise its interpretation of the refund provision with regard to the term “like-kind” unit. The Office also recommends that Gulf Coast Village revise its existing continuing care contract form(s) to comply with Section 651.055(1)(g), Florida Statutes and submit the revised contract form(s) to the Office for approval. The Office further recommends Gulf Coast Village establish procedures and controls to ensure the timely payment of refunds.

Subsequent Event: House Bill 749 which revised Chapter 651, Florida Statutes, was enacted into law on June 10, 2015, to become effective October 1, 2015. Under the new statute revision, Section 651.055(h)(2)(b), Florida Statutes, allows for the entrance fee refund to be paid from the proceeds of the next entrance fee received by the Provider for a like or similar unit as specified in the residency or reservation contract signed by the resident for which there are no prior claims by any resident until paid in full. Additionally, Section 651.055(h)(3)(b), Florida Statutes provides that, for such contracts entered into on or after January 1, 2016, refunds must be “...paid within 30 days after receipt by the provider of the next entrance fee...” Furthermore, Section 651.055(h)(4), Florida Statutes, was also revised to define the term “like kind or similar unit”.

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 Gulf Care, Inc. d/b/a Gulf Coast Village.