



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

SOUTHWEST FLORIDA RETIREMENT CENTER, INC.

D/B/A

VILLAGE ON THE ISLE

AS OF

December 31, 2012

FLORIDA COMPANY CODE 88005

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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 Southwest Florida Retirement Center, Inc. d/b/a Village on The Isle (hereinafter "Village on The Isle") pursuant to Section 651.105, Florida Statutes. The scope period of this examination was January 1, 2010 through December 31, 2012. The on-site and desk examination procedures were completed on October 24, 2013.

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 Village on The Isle. 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

Village on The Isle is a Florida not-for-profit Continuing Care Retirement Community, located in Venice, Florida. Village on The Isle was granted a certificate of authority by the Office to offer continuing care contracts on June 17, 1982. As of December 31, 2012, Village on The Isle reported 241 Continuing Care units that consisted of 193 Independent Living units and 48 Assisted Living units. In addition, there were 60 Skilled Nursing units, all of which consisted of Community Beds. There were also 56 Rental Units reported. As of the same date, there were 405 individuals reported residing at this facility.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Village on The Isle provided a list containing the 96 continuing care contracts executed during the scope period of the examination. A random sample consisting of 45 contracts was selected from the list.

Findings:

For continuing care contracts executed on or after July 1, 2010, Section 651.055(2), Florida Statutes, provides that during the seven-day rescission period, the resident's funds must be held in escrow unless otherwise requested by the resident, pursuant to Section 651.033(3)(c), Florida Statutes. Of the 45 contracts in the sample, 38 contracts were entered into on or after July 1, 2010.

REQUIRED ESCROW DEPOSITS OR WAIVERS (Continued)

These 38 transactions were tested for compliance with Section 651.055(2), 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.

In three instances Village on The Isle failed to either escrow the residents' funds or hold and not deposit the funds for the seven-day rescission period of the continuing care contract, as required by Section 651.055(2), Florida Statutes. In one instance, Village on The Isle failed to deposit the resident's funds into the escrow account for the rescission period of the contract. In the remaining two instances, Village on The Isle failed to hold and not deposit the residents' funds until expiration of the rescission period as authorized by the residents.

Recommendation: The Office recommends Village on The Isle establish adequate procedures and controls to ensure that resident funds are managed in accordance with Sections 651.055(2), and 651.033(3)(c), Florida Statutes.

REQUIRED DISCLOSURES

The 45 contracts selected were also tested for compliance with Section 651.091(3), Florida Statutes. 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, or the agent of the provider, shall make full disclosure, and provide copies of the disclosure documents to the prospective resident or his or her legal representative.

Findings:

Effective July 1, 2010 Section 651.091(3)(h), Florida Statutes, required the provider to include as a required disclosure document, a copy of Section 651.071, Florida Statutes, entitled "Contracts as preferred claims on liquidation or receivership." Of the 45 continuing care contracts sampled, 38 were entered into on or after July 1, 2010. All 38 transactions were reviewed to determine compliance with disclosure requirements of Section 651.091(3)(h), Florida Statutes.

In all 38 instances Village on The Isle failed to provide as a required disclosure, 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 Isle establish adequate procedures to ensure all statutory disclosure requirements to prospective residents or their legal representatives are met, to include providing a copy of Section 651.071, 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 Village on The Isle.