IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

TERRY E. BRANSTAD
GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

RODNEY A. ROBERTS, DIRECTOR

Complaint/Incident Intake #: 40715-C

October 26, 2012

Mr. Jim Hunter, Executive Director
Legacy Gardens
15 Silvercrest Place
Iowa City, IA 52240

RE: Final Complaint/Incident Investigation Report – Legacy Gardens, Iowa City, IA

Dear Mr. Hunter:

Enclosed is the **Final Complaint/Incident Investigation Report** from the on-site monitoring visit of October 22, 2012, completed by the Department of Inspections and Appeals ("DIA") in accordance with Iowa Code chapter 231C and Iowa Administrative Code ("IAC") chapters 481—67 and 481—69. **No Regulatory Insufficiencies were identified.**

If you have any questions regarding the enclosed Report, please contact me at 515/281-7039 or **Rose.Boccella@dia.iowa.gov**

Sincerely,

Rose Boccella

Rose Boccella
Program Coordinator
Adult Services Bureau

Enclosure

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Assisted Living Program
Final Complaint/Incident Investigation Report

Assisted Living Program: **Complaint/Incident Intake #:** 40715-C

Jim Hunter, Executive Director
Legacy Gardens
15 Silvercrest Place
Iowa City, IA 52240

Date of Complaint/Incident Investigation:

October 22, 2012

Monitor(s):

Stephanie Cummins, MA
Margaret Kaltefleiter, RN MS

Definitions: ***The following definitions are relevant:***

Assisted Living Program – A program certified under 481 IAC 69 that provides housing with contracted services to three or more tenants in a physical structure that provides a homelike environment. Services may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living. A General Population Program is an Assisted Living Program that is not dementia-specific but may have tenants with cognitive disorder.

Dementia-Specific Assisted Living Program - An assisted living program certified under 481 IAC 69 that serves fewer than fifty-five (55) tenants and has five (5) or more tenants who have dementia between Stages 4 and 7 on the Global Deterioration Scale (GDS), or serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the GDS, or holds itself out as providing specialized care for persons with dementia, such as Alzheimer's disease, in a dedicated setting.

Regulatory Insufficiency - A violation of a statutory or rule provision within the Code of Iowa (2011) or the Iowa Administrative Code (IAC) governing assisted living programs. A regulatory insufficiency requires a plan of correction to be presented to and approved by the Department of Inspections and Appeals (DIA).

Plan of Correction - A written response to one or more regulatory insufficiencies that are statutory or rule violations. The plan should identify how and by what date each regulatory insufficiency will be corrected, and what measures will be taken to ensure the problem does not recur. The plan is due to DIA within ten (10) working days of the program's receipt of a Complaint/Incident Investigation Report. Depending on the circumstances, DIA may revisit the assisted living program to confirm progress in fulfilling a plan's corrective measures.

Overview: *In preparing this report, the following information was considered:*

Current Program Census

Assisted Living Programs are defined by the type of population served. The census numbers below were provided by the Program at the time of the on-site visit.

Dementia-Specific Program by Dedication	
Number of tenants without cognitive disorder:	3
Number of tenants with cognitive disorder:	25
Total Population of Program at time of on-site	28
TOTAL census of Assisted Living Program	28

Program History – The program received regulatory insufficiencies during the Recertification and Complaint/Incident (40184-I, 40159-C, 40187-C) on-sit of August and Sept, 2012 in the areas of: Service Plan, Medications, Nurse Review, Staffing, Policy and Procedure, Tenant Rights and Tenant Documents.

Complaint/Incident Investigation – The Complaint/Incident investigator(s) made the observations detailed in the following areas:

A. Other

Complaint/Incident Allegation: It was alleged there was retaliation.

- Monitoring Observation: A list of 13 staff that resigned or were terminated in the past three months was provided. According to the document, 9 staff resigned and 4 staff was terminated. A review of 10 of those staff files was completed including both resigned and terminated staff.

  Staff #1, #2, #4, #5, #9 and #10 resigned. The dates of hire and resignation were provided. Staff #3, #7 and #8 was terminated. Staff #6 was self terminated related to not completing a dementia class. Staff #3 and Staff #8 were terminated for failing to perform job duties and or assignments satisfactorily and efficiently. Staff #7 was terminated related to a breach of confidentiality. Dates of hire and resignation were provided.

  Staff #3, who was terminated for failing to perform job duties and or assignments satisfactorily and efficiently, had performance deficiency notifications in Staff #3's file. Staff #8, who was terminated for failing to perform job duties and or assignments satisfactorily and efficiently, had medication error reports provided by the Program. Staff #7, who was terminated related to a breach of confidentiality, had a signed Confidentiality Statement in Staff #7's file. Staff #6, who self terminated, signed a form which indicated Staff #6 had received a copy of the Program's Mandatory Training Policy and Procedure and understood that compliance with the

policy was necessary for continued employment. The Mandatory Trainings Policy and Procedure indicated all staff was required to attend an eight hour dementia education class and two hour dependent adult abuse training. The policy indicated staff must attend the training within the first 30 days of employment. It indicated if staff did not attend within the deadline; staff would no longer have a job at the Program.

Review of 10 former staff files indicated Staff #1, #2, #3, #4, #5, #6, #7, #8, #9 and #10 had signed an Acknowledgement Form regarding receiving a copy of various policies and procedures including At Will Employment.

Review of 10 former staff files indicated Staff #1, #2, #3, #4, #5, #6, #7, #8, #9 and #10 had signed an Acknowledgment Form regarding the receipt of the Employee Handbook.

The Employee Handbook provided Standards of Performance of Conduct. It indicated some violations might be more severe than others, repeated violations or a combination of violations might result in disciplinary action, up to and including termination. The employment with the company was at will. Possible disciplinary actions included but not limited to: oral warning, written warning, suspension and discharge. It indicated an employee could be discharged for any reason, including unacceptable work performance or misconduct. The handbook indicated the company, in its sole discretion, would determine what disciplinary action was appropriate and one or more of the steps might be taken but none was necessary or required.

Staff #11 and Staff #12 said they did not have any concerns regarding retaliation and felt they could share information with the Department. The Executive Director and Director of Nursing (DON) said tenants, families, visitors, current and former staff had not been retaliated against in any way. The Executive Director and DON said no one had been retaliated against for any involvement with the Department including: speaking with, contacting or sharing information with the Department.

Review of 10 former staff files, interviews with current staff and the Executive Director and DON and review of Program policies and Employee Handbook did not reveal concerns regarding retaliation.

- Regulatory Insufficiency: None noted.