IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

TERRY E. BRANSTAD
GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

RODNEY A. ROBERTS, DIRECTOR

Complaint Intake #: 33009-C

May 2, 2011

Carrie Huffman, Administrator
Emerson Point
1355 Shannon Drive
Iowa City, IA 52246

RE: Amended Final Complaint Investigation Report – Emerson Point, Iowa City, IA

Dear Ms. Huffman:

Enclosed is the **Amended Final Complaint Investigation Report** from the on-site monitoring visit of March 21, 2011, 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. After the report was issued, discrepancies were noted that required amendment. These changes do not affect the Department's conclusion that no regulatory insufficiencies were noted during the investigation. The enclosed Amended Final Report replaces the Final Report dated April 13, 2011. **No Regulatory Insufficiencies were identified.**

If you have any questions regarding the enclosed Report, please contact me at 515/281-7039.

Sincerely,

Rose Boccella

Rose Boccella
Program Coordinator
Adult Services Bureau

Enclosure

Iowa Department of Inspections and Appeals
Assisted Living Program
Amended Final Complaint Investigation Report

Assisted Living Program: **Complaint Intake #:** 33009-C

Carrie Huffman, Administrator
Emerson Point
1355 Shannon Drive
Iowa City, Iowa 52246

Date of Investigation:

March 21, 2011

Monitor(s):

Joyce Kix, RN
Maribeth Freland RN
Margaret Kaltefleiter RN

Definitions:

The following definitions are relevant:

Regulatory Insufficiency - A violation of a statutory or rule provision within the Iowa Code or 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 rule violations. IAC r. 481-67.10(5). The plan should identify how, and by a specific date, an insufficiency will be corrected. The plan is due to DIA within ten (10) working days of the program's receipt of a Complaint Investigation Report. Depending on the circumstances, DIA may revisit the assisted living program to confirm progress in fulfilling a plan's corrective measures.

Dementia-specific assisted living program - An assisted living program certified under 481 IAC chapter 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 or serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the Global Deterioration Scale or holds itself out as providing specialized care for persons with dementia, such as Alzheimer's disease, in a dedicated setting.

Overview:

A complaint investigation on-site visit was conducted at Emerson Point on 3-21-11. In preparing this report, the following information was considered:

Current Program Census

General Population Program (GPP)* – A program that does is not include a Dementia Specific unit, but may include have tenants with cognitive disorder.

Current number of tenants without cognitive disorder:	53
Current number of tenants with cognitive disorder:	0
Total Population:	53

Dementia Specific Program (DSP)* – Not applicable.

***These are the census numbers represented by the program to be applicable at the time of the on-site.**

Program History – The program did not receive any regulatory insufficiencies during this certification period.

Complaint Investigation – The complaint investigators made the observations detailed in the following areas.

A. Occupancy Agreement

Complaint Allegation: It was alleged the program's occupancy agreement contained illegal terms for termination of each tenants' lease which allowed the program to give less than 30 day notice of plan to evict and prevented tenants or tenant representatives from appealing the program's decision.

- Monitoring Observation:
  The Occupancy Agreement clearly identified the program rights and tenant rights related to termination of the Agreement. The Agreement included terms for eviction and notice of termination time periods based on the reason for eviction. Iowa Code IAC 481-69.23(2) allows a program to have additional occupancy or transfer criteria as long as the criteria are disclosed in the written occupancy agreement prior to a tenant's occupancy. Iowa Code chapter 562A (Uniform Residential Landlord and Tenant Law) applies, pursuant to Iowa Code section 231C.19.

  The monitors reviewed the clinical record of four tenants. One tenant gave a 30 day notice to the program as he/she planned to move from the area. This termination requirement was clearly defined in the Occupancy Agreement signed by the tenant on 6-23-10.

  The monitors reviewed the clinical record of one tenant who had been given a 7 day notice by the program due to the tenant's failure to abide by the lease agreement requirement to maintain behavior promoting respect for other tenants residing in the building. The notice indicated it was issued pursuant to Iowa Code sections 562A.27 and 562A.17. The tenant's clinical record documented the tenant's consensual sexual fondling with another tenant in a public area of the building on two separate occasions while other tenants were in the immediate vicinity. Multiple staff documented witnessing both incidents.

  This termination requirement was clearly defined in the Occupancy Agreement signed by the tenant on 7-14-08. The tenant chose to change residence within the 7 days required by notice.

  The monitors reviewed the clinical record of another tenant who had been given a 7 day notice by the program due to the tenant's failure to abide by the lease agreement requirement to maintain behavior promoting respect for other tenants residing in the building. The notice indicated it was issued pursuant to Iowa Code sections 562A.27 and 562A.17. The tenant's clinical record documented the tenant's consensual sexual fondling with another tenant in a public area of the building on two separate occasions while other tenants were in the immediate vicinity. Multiple staff documented witnessing both incidents.

  This termination requirement was clearly defined in the Occupancy Agreement signed by the tenant on 1-23-10. The tenant engaged legal counsel, and continued to reside and receive services from the program at the time of the complaint investigation. The tenant's clinical record documented a third incident of sexual inappropriateness in a public area since the original 7 day eviction notice was given by the program.

The monitors reviewed the clinical records of two other tenants finding no concerns related to the complainant's allegations.

The Occupancy Agreements reviewed had been signed by each tenant and a program representative prior to the tenant moving in. The program and tenants reviewed all either gave or received notice of termination of the lease as described in the Agreement.

- Regulatory Insufficiency: None noted.

B. Dementia-Specific Education for Program Personnel

Complaint Allegation: It was alleged program staff had not been appropriately trained in caring for tenants with dementia.

- Monitoring Observation: The program has no tenants with GDS scores of four or greater and therefore does not meet the regulatory definition of a dementia specific program. As the program is not dementia specific, the program is not required to provide any dementia related training to staff, however, three of three staff reviewed had received some dementia related training since hire by the program.

- Regulatory Insufficiency: None noted.

Dated this 2nd day of May 2011.