

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) THURSDAY, THE 30TH
JUSTICE KIMMEL) DAY OF MARCH, 2023

B E T W E E N:

PEOPLES TRUST COMPANY

Applicant

- and -

ROSE OF SHARON (ONTARIO) RETIREMENT COMMUNITY

Respondent

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c B-3,
as amended, and section 101 of the *Courts of Justice Act*, as amended**

APPROVAL AND VESTING ORDER

THIS MOTION, made by Deloitte Restructuring Inc. in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertaking, property and assets of Rose of Sharon (Ontario) Retirement Community (the “**Debtor**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an agreement of purchase and sale between the Receiver and Arirang Age-Friendly Community Centre (the “**Purchaser**”) dated 13 May 2019 (as amended and restated on 1 April 2021) and appended to the Tenth Report of the Receiver dated 10 December 2019 (the “**Report**”), as such agreement of purchase and sale is further amended pursuant to a first amending agreement dated 29 December 2022, and as may be further amended or restated from time to time the (collectively, the “**Sale Agreement**”), and vesting in the

Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such amendments as the Receiver may deem necessary.
2. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of the Receiver's Certificate in the form attached as **Schedule A**, all of the Debtor's right, title and interest in and to the Purchased Assets, including, without limitation, the property identified on **Schedule B**, shall vest absolutely in the Purchaser, as beneficial owner and as registered owner, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order dated 27 September 2011; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule C** (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule D**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for Land Titles Division of Metropolitan Toronto (64 and 66) (LRO #80) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registrations Reform Act*, the Land Registrar is hereby directed to enter Arirang Age-Friendly Community Centre as the owner of the real property identified on Schedule B (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver’s Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor’s past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-11-9399-00CL

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**APPLICATION UNDER 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c B-3,
as amended, and section 101 of the *Courts of Justice Act*, as amended**

RECEIVER’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Ontario Superior Court of Justice dated 27 September 2011, Deloitte Restructuring Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of Rose of Sharon (Ontario) Retirement Community (the “**Debtor**”).

B. Pursuant to an Order of the Court dated 10 June 2021, the Court approved an agreement of purchase and sale between the Receiver and Arirang Age-Friendly Community Centre (the “**Purchaser**”) dated 13 May 2019 (as amended and restated on 1 April 2021, as further amended pursuant to a first amending agreement dated 29 December 2022, and as may be further amended or restated from time to time, collectively, the “**Sale Agreement**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, including the real property identified on Schedule 1 which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming

(i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The Purchaser has consented to the attached Schedules;
3. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
4. The Transaction has been completed to the satisfaction of the Receiver.
5. This Certificate was delivered by the Receiver at _____ [TIME] on _____ [DATE].

DELOITTE RESTRUCTURING INC., in its capacity as Receiver of the undertaking, property and assets of Rose of Sharon (Ontario) Retirement Community, and not in its personal capacity

Per: _____

Name:

Title:

Schedule B

Real Property

Legal description of the Lands

A 100% fee simple interest in the following:

	Legal Description
1.	PIN 10468-0610(LT) PART LOTS 24, 25 & 26 BLOCK F PLAN 875 PARTS 3, 8, 10 & 16, 66R30578; TOGETHER WITH AN EASEMENT OVER PART LOTS 24,25, 26 BLOCK F, PLAN 875 PARTS 1,2 PLAN 66R23529 AS IN AT5176027; TOGETHER WITH AN EASEMENT OVER COMMON ELEMENTS OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2911 AS IN AT6082534; SUBJECT TO AN EASEMENT IN FAVOUR OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2911 AS IN AT6082534; CITY OF TORONTO
2.	PIN 10468-0611(LT) PART LOT 26 BLOCK F PLAN 875 PART 13, 66R30578; TOGETHER WITH AN EASEMENT OVER PART LOTS 24,25, 26 BLOCK F, PLAN 875 PARTS 1,2 PLAN 66R23529 AS IN AT5176027; TOGETHER WITH AN EASEMENT OVER COMMON ELEMENTS OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2911 AS IN AT6082534; SUBJECT TO AN EASEMENT IN FAVOUR OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2911 AS IN AT6082534; CITY OF TORONTO
3.	PIN 10468-0612(LT) PART LOT 26 BLOCK F PLAN 875 PART 14, 66R30578; TOGETHER WITH AN EASEMENT OVER PART LOTS 24,25, 26 BLOCK F, PLAN 875 PARTS 1,2 PLAN 66R23529 AS IN AT5176027; TOGETHER WITH AN EASEMENT OVER COMMON ELEMENTS OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2911 AS IN AT6082534; SUBJECT TO AN EASEMENT IN FAVOUR OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2911 AS IN AT6082534; CITY OF TORONTO
4.	PIN 10468-0613(LT) PART LOTS 25 & 26 BLOCK F PLAN 875 PART 15, 66R30578; TOGETHER WITH AN EASEMENT OVER PART LOTS 24,25, 26 BLOCK F, PLAN 875 PARTS 1,2 PLAN 66R23529 AS IN AT5176027; TOGETHER WITH AN EASEMENT OVER COMMON ELEMENTS OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2911 AS IN AT6082534; SUBJECT TO AN EASEMENT IN FAVOUR OF TORONTO STANDARD CONDOMINIUM PLAN NO. 2911 AS IN AT6082534; CITY OF TORONTO

Schedule C

Claims to be deleted and expunged from title to Real Property

1. **Instrument number CA439307** registered November 25, 1996 being a Transfer of land from Stonefam Investments Ltd. in trust to Rose of Sharon (Ontario) Retirement Community.
2. **Instrument number CA600752** registered May 14, 1999 being a Charge in the principal amount of \$100,000 in favour of Mikal Construction Inc.
3. **Instrument number E579089** registered August 2, 2002 being a Charge in the principal amount of \$590,000 in favour of Turfpro Investments Inc.
4. **Instrument number AT1040316** registered January 19, 2006 being an Application between Mikal Construction Inc. and Rose of Sharon (Ontario) Retirement Community *related to the Charge registered as CA600752.*
5. **Instrument number AT1040360** registered January 19, 2006 being a Transfer of Charge registered as CA600752 from Mikal Construction Inc. to Turfpro Investments Inc.
6. **Instrument number AT1040424** registered January 19, 2006 being a Charge in the principal amount of \$150,000 from Rose of Sharon (Ontario) Retirement Community in favour of MIJO Holdings Inc.
7. **Instrument number AT1450426** registered May 18, 2007 being a Charge in the principal amount of \$17,300,162 from Rose of Sharon (Ontario) Retirement Community in favour of Peoples Trust Company.
8. **Instrument number AT1450427** registered May 18, 2007 being a Notice of Assignment of Rents – General *related to the Charge registered as AT1450426 in favour of Peoples Trust Company.*
9. **Instrument number AT1450457** registered May 18, 2007 being a Postponement of the Charge CA600752, as transferred to Turfpro Investments Inc. by a Transfer of Charge registered as AT1040360, to the Charge registered as AT1450426 in favour of Peoples Trust Company.
10. **Instrument number AT1450458** registered May 18, 2007 being a Postponement of the Charge registered as E579089 in favour of Turfpro Investments Inc. to the Charge registered as AT1450426 in favour of Peoples Trust Company.
11. **Instrument number AT1450459** registered May 18, 2007 being a Postponement of the Charge registered as AT1040424 in favour of MIJO Holdings Inc. to the Charge registered as AT1450426 in favour of Peoples Trust Company.
12. **Instrument number AT1450745** registered May 18, 2007 being a Transfer of Charge registered as AT1040424 from MIJO Holdings Inc. in favour of Unimac Group Ltd.

13. **Instrument number AT1949790** registered November 14, 2008 being a Charge in the principal amount of \$700,000 from Rose of Sharon (Ontario) Retirement Community in favour of Iwok Corporation.
14. **Instrument number AT1949960** registered November 14, 2008 being a Postponement of the Charge CA600752, as transferred to Turfpro Investments Inc. by a Transfer of Charge registered as AT1040360, to the Charge registered as AT1949790 in favour of Iwok Corporation.
15. **Instrument number AT1949961** registered November 14, 2008 being a Postponement of the Charge E579089 in favour of Turfpro Investments Inc. to the Charge registered as AT1949790 in favour of Iwok Corporation.
16. **Instrument number AT1950125** registered November 14, 2008 being a Postponement of the Charge AT1040424, as transferred to Unimac Group Ltd. by a Transfer of Charge registered as AT1450745, to the Charge registered as AT1949790 in favour of Iwok Corporation.
17. **Instrument number AT2318865** registered March 2, 2010 being a Transfer of Charge from Unimac Group Ltd. to Iwok Corporation. *The instrument recites the Transfer of Charge registered as AT1450745 but does not recite the instrument number of the Charge. The Charge was registered as AT1040424 in favour of MIJO Holdings Inc.*
18. **Instrument number AT2547993** registered November 9, 2010 being a Notice of Lease from Rose of Sharon (Ontario) Retirement Community to York Health Care Developments Inc.
19. **Instrument number AT2579872** registered December 16, 2010 being a Notice of Lease from Rose of Sharon (Ontario) Retirement Community to Robert Berg.
20. **Instrument number AT2601817** registered January 19, 2011 being a Notice of Lease from Rose of Sharon (Ontario) Retirement Community to Albert Yoon.
21. **Instrument number AT2905656** registered December 23, 2011 being an Application to Register Court Order from the Ontario Superior Court of Justice Commercial List to Deloitte & Touche Inc., in its capacity as receiver and manager of Rose of Sharon (Ontario) Retirement Community.
22. **Instrument number AT2908311** registered December 30, 2011 being a Transfer of Charge from Iwok Corporation to Morrison Financial Services Limited *related to the Charge registered as AT1949790.*
23. **Instrument number AT3416400** registered September 26, 2013 being a Transfer of Charge of the Charge registered as AT1949790, as transferred by a Transfer of Charge registered as AT2908311, from Morrison Financial Services Limited to 2383431 Ontario Inc.
24. **Instrument number AT3461665** registered November 25, 2013 being a Transfer of Charge from Iwok Corporation to 2381682 Ontario Inc. *The instrument recites the Transfer of Charge registered as AT2318865 from Unimac Group Ltd. to Iwok Corporation but does not*

recite the instrument number of the Charge. The Charge was registered as AT1040424 as transferred by a Transfer of Charge registered as AT1450745 to Unimac Group Ltd.

25. **Instrument number AT5759673** registered June 7 2021 being an Application to Change Name – Instrument from Deloitte & Touche Inc., in its capacity as receiver and manager of Rose of Sharon (Ontario) Retirement Community to Deloitte Restructuring Inc. *related to the Application to Register Court Order registered as AT2905656.*
26. **Instrument number AT5781875** registered June 29, 2021 being an Application to Register Court Order from Ontario Superior Court of Justice to Deloitte Restructuring Inc.

Schedule D

Permitted Encumbrances, Easements and Restrictive Covenants related to the Real Property

(Unaffected by the Vesting Order)

1. **Instrument number CA439308** registered November 25, 1996 being a Transfer of land from 669026 Ontario Limited to Rose of Sharon (Ontario) Retirement Community. *Lot 26 and Part Lot 25, Block F Plan 875 as described in metes and bounds. 171 Vaughan Road.*
2. **Instrument number CA517084** registered December 31, 1997 being an Agreement – Site Plan between Rose of Sharon (Ontario) Retirement Community, as Owner, and The Corporation of the City of York. *Land in CA439308. 161-171 Vaughan Road.*
3. **Instrument number 66R30578** deposited February 25, 2019 being a Reference Plan.
4. **Instrument number TCP2911** registered May 18, 2022 being a Standard Condominium Plan.
5. **Instrument number AT6082534** registered May 18, 2022 being a Condominium Declaration by Rose of Sharon (Ontario) Retirement Community.
6. **Instrument number AT6196502** registered October 4, 2022 being a Notice of Shared Facilities Agreement dated May 18, 2022 between Toronto Standard Condominium Corporation No. 2911 and Rose of Sharon (Ontario) Retirement Community.

Court File No.: CV-11-9399-00CL

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ONTARIO
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(COMMERCIAL LIST)

(PROCEEDING COMMENCED AT TORONTO)

APPROVAL AND VESTING ORDER

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