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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

Northwest Senior Housing Corporation, *et al.*,¹

Debtors.

Chapter 11

Case No. 22-30659 (MVL)

(Joint Administration Requested)

**DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
AUTHORIZING PAYMENT OF PREPETITION TAXES AND FEES**

The above-captioned debtors and debtors in possession (the “**Debtors**”) hereby move (this “**Motion**”) for entry of interim and final orders substantially in the forms attached hereto as Exhibit A and Exhibit B (the “**Interim Order**” and “**Final Order**”) pursuant to Sections 105(a), 363(b), 506(a), 507(a)(8), and 541 of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rules 6003 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), authorizing, but not directing, payment of prepetition taxes and fees owing to certain federal, state, provincial, and local governmental units. In support of this Motion, the Debtors rely upon the *Declaration of Nicholas A. Harshfield in Support of the Debtors’ Chapter 11 Petitions and First*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Northwest Senior Housing Corporation (1278) and Senior Quality Lifestyles Corporation (2669). The Debtors’ mailing address is 8523 Thackery Street, Dallas, Texas 75225.



Day Pleadings (the “**First Day Declaration**”), filed concurrently herewith.² In further support of this Motion, the Debtors respectfully state as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Debtors confirm their consent to the entry of a final order or judgment by the Court in connection with this Motion if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory and other predicates for the relief requested herein are Bankruptcy Code Sections 105(a), 363(b), 506(a), 507(a)(8), and 541 and Bankruptcy Rules 6003 and 6004.

BACKGROUND

4. On the date hereof (the “**Petition Date**”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Texas (the “**Court**”).

5. The Debtors continue to operate and manage their business as debtors in possession pursuant to Bankruptcy Code Sections 1107(a) and 1108.

6. No trustee, examiner, or official committee of unsecured creditors has been appointed.

7. The factual background regarding the Debtors and the events leading to the filing of the above-referenced chapter 11 cases (the “**Chapter 11 Cases**”) is set forth in the First Day Declaration, which is incorporated herein by reference.

² Capitalized terms used but not defined in this Motion shall have the meanings given to them in the First Day Declaration.

RELIEF REQUESTED

8. By this Motion, the Debtors request entry of the Interim Order and the Final Order, substantially in the forms of Exhibit A and Exhibit B, respectively, attached hereto, authorizing the Debtors to pay any prepetition tax and fee obligations including, without limitation, income and franchise taxes, property taxes, sales and use taxes, business license fees, annual report taxes, and other taxes and fees (collectively, the “**Taxes and Fees**”)³ owing to those federal, state, provincial, and local governmental entities in the United States, including as listed on Exhibit C attached hereto (the “**Taxing Authorities**”). The Debtors propose to limit the aggregate amount of payments to be made on account of prepetition Taxes and Fees under this Motion to \$5,000 unless further authorization is obtained from this Court.

9. For the avoidance of doubt, the requested authorization (a) would be discretionary, allowing the Debtors, among other things, to elect to pay Taxes and Fees as to which their officers and directors may have personal liability in the event of nonpayment by the Debtors, before other Taxes and Fees, (b) would be without prejudice to the Debtors’ rights to contest the amounts of any Taxes and Fees on any grounds they deem appropriate, and (c) would extend to the payment of Taxes and Fees relating to tax audits that have been completed, are in progress, or arise from prepetition periods.

10. In addition, the Debtors request that the Court authorize the Debtors’ banks to receive, process, honor, and pay all prepetition and post-petition checks and fund transfers on account of the Taxes and Fees that had not been honored and paid as of the Petition Date, and

³ Payroll, withholding, and other employee-related tax obligations are separately addressed in the *Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Pay Prepetition Wages, Salaries, Commissions, Employee Benefits, Prepetition Payroll Taxes, and Other Obligations, (B) Maintain Compensation and Benefits Programs, and Pay Related Administrative Obligations, and (C) Make Payroll Deductions, (II) Authorizing Applicable Banks and Other Financial Institutions to Honor and Process Related Checks and Transfers, and (III) Granting Related Relief*, which is contemporaneously filed herewith.

authorize the Debtors' banks and financial institutions to rely on the representations of the Debtors as to which checks and fund transfers should be honored and paid in respect of Taxes and Fees, provided that sufficient funds are on deposit in the applicable accounts to cover such payments.

11. As set forth below, the Taxes and Fees at issue are appropriate for payment to the extent that they are priority or secured claims that are payable in full or, alternatively, under the personal liability theory or the doctrine of necessity. By paying the Taxes and Fees in the ordinary course of business, as and when due, the Debtors will avoid unnecessary disputes with the Taxing Authorities—and expenditures of time and money resulting from such disputes—over myriad issues that are typically raised by such units as they attempt to enforce their rights to collect Taxes and Fees.

THE DEBTORS' TAX AND FEE OBLIGATIONS

12. The Debtors are exempt from federal and state income taxes. However, the Debtors, in the ordinary course of business, incur various tax liabilities. Although, as of the Petition Date, the Debtors were substantially current in the payment of assessed and undisputed Taxes and Fees, certain Taxes and Fees attributable to the prepetition period may not yet have become due. Certain prepetition Taxes and Fees may not be due until the applicable monthly, quarterly, or annual payment dates—in some cases immediately and in others not until next year.

13. As of the Petition Date, the Debtors estimate that there is less than \$1,000 in prepetition Taxes and Fees that will become due within the first twenty-one (21) days of the Chapter 11 Cases, which the Debtors seek to pay, pursuant to the proposed Interim Order, along with any other remaining prepetition Taxes and Fees pursuant to the proposed Final Order.

14. The Debtors are subject to the following Taxes and Fees:

- a. **Sales and Use Taxes:** In the ordinary course of business, the Debtors collect sales and use taxes ("**Sales and Use Taxes**") from the (i) sale of food and beverage to customers (usually visiting

guests of Residents) sold on the premises and (ii) occupancy of guest rooms on the premises by the Residents' visitors. The Debtors typically pay Sales and Use Taxes to the Applicable Taxing Authorities on a monthly basis which average less than \$1,000 per month. The Debtors estimate that less than \$1,000 in prepetition Sales and Use Taxes will become due and payable following the Petition Date.

- b. **Property Taxes:** The Ground Lease requires the Debtors to pay real and personal property taxes and fees and assessments assessed during the term of the Ground Lease.⁴ In January 2022, the Debtors paid \$1,925,733.43 related to the property taxes, which accrued during 2021, but did not become payable until January 2022. The 2022 Property Taxes will become due in 2023.
- c. **Licensing Fees and Other Taxes.** Due to the nature of the Debtors' business, the Debtors incur licensing and permit fees to various government and regulatory agencies which are *de minimis* in amount.⁵ The Debtors do not believe that any such fees are due, but, out of an abundance of caution, seek to pay such fees if due with the first twenty-one (21) days of the Petition Date and thereafter as necessary in the ordinary course of business.
- d. **Provider Fees.** Every four (4) years, the Debtors pay a re-validation fee (the "**Provider Fees**") calculated by the number of Medicare-certified beds at its Community. The last payment was made in 2020 (so the next payment is not anticipated to become due until 2024), but out of an abundance of caution, to the extent the Debtors owe any unexpected Provider Fees that must be paid post-petition, the Debtors seek authority to do so.

15. As of the Petition Date, the Debtors estimate that there is approximately \$1,000 of Taxes and Fees relating to the prepetition period have accrued and will become due and payable to the Taxing Authorities within the first twenty-one (21) days of the Chapter 11 Cases, which the Debtors seek to pay pursuant to the Proposed Interim Order, along with any other remaining prepetition Taxes and Fees pursuant to the proposed Final Order. As of the Petition Date, the

⁴ Section 5.2 of the Ground Lease, dated November 17, 1999, as amended, between Edgemere and Intercity Investment Properties, Inc. relates to property taxes and fees and assessment during the lease term.

⁵ In 2021, the Debtors paid approximately \$2,200 in Licensing Fees and Other Taxes related to SNF licensing. The Licensing Fees and Other Taxes are paid on an annual basis.

Debtors estimate that there is approximately \$5,000 of Taxes and Fees relating to the prepetition period that have accrued and will become due and payable to the Taxing Authorities during the pendency of the Chapter 11 Cases, which the Debtors seek to pay pursuant to the proposed Final Order.

BASIS FOR RELIEF

16. Prior to the Petition Date, the Debtors incurred obligations to federal, state, provincial, and local governments in the United States. Although, as of the Petition Date, the Debtors were substantially current in the payment of assessed and undisputed Taxes and Fees, certain Taxes and Fees attributable to the prepetition period may not yet have become due. Certain prepetition Taxes and Fees may not be due until the applicable monthly, quarterly, or annual payment dates—in some cases immediately and in others not until next year.

17. The continued payment of the Taxes and Fees on their normal due dates will ultimately preserve the resources of the Debtors' estates, thereby promoting their prospects for a successful chapter 11 process. If such obligations are not timely paid, the Debtors will be required to expend time and incur attorneys' fees and other costs to resolve a multitude of issues related to such obligations, each turning on the particular terms of each Taxing Authority's applicable laws, including whether (a) the obligations are priority, secured, or unsecured in nature, (b) the obligations are proratable or fully prepetition or post-petition, and (c) penalties, interest, attorneys' fees and costs can continue to accrue on a post-petition basis and, if so, whether such penalties, interest, attorneys' fees, and costs are priority, secured, or unsecured in nature.

18. Moreover, certain of the Taxes and Fees may be considered to be obligations as to which the Debtors' officers and directors may be held directly or personally liable in the event of nonpayment. In such events, collection efforts by the Taxing Authorities would provide obvious

distractions to the Debtors and their officers and directors in their efforts to bring the Chapter 11 Cases to an expeditious conclusion.

19. Certain of the Taxing Authorities may not have been paid or may have been sent checks and/or fund transfers for Taxes and Fees that may or may not have been presented or cleared as of the Petition Date. Similarly, in other cases, Taxes and Fees have accrued or are accruing, or are subject to audit or review, but have not yet become due and payable and, thus, any checks or fund transfers will be issued on a post-petition basis. Accordingly, the Debtors seek entry of an order authorizing and directing their banks and other financial institutions to receive, process, honor, and pay all prepetition and post-petition checks and fund transfers issued by the Debtors to the Taxing Authorities in payment of Taxes and Fees that had not been honored and paid as of the Petition Date, and authorizing the Debtors' banks and financial institutions to rely on the representations of the Debtors as to which checks and fund transfers should be honored and paid in respect of Taxes and Fees, provided that sufficient funds are on deposit in the applicable accounts to cover such payments.

APPLICABLE AUTHORITY

20. To the extent that the Taxes and Fees are priority claims pursuant to Bankruptcy Code Section 507(a)(8), or secured claims pursuant to Bankruptcy Code Section 506(a), their payment should be authorized on the basis that (a) they are required to be paid in full as a condition to satisfying the plan confirmation requirements contained in Bankruptcy Code Section 1129, or (b) they would be entitled to payment before any prepetition non-priority unsecured claim.

21. If the Taxes and Fees are deemed priority claims, Bankruptcy Code Section 1129(a)(9)(C) requires that they be paid no less favorably than through regular installment payments, over a period not exceeding five (5) years after the Petition Date, of a total value as of

the effective date of the plan equal to the allowed amount of each such claim. *See* 11 U.S.C. § 1129(a)(9)(C).

22. In some or all of the states in which the Debtors operate, liens may attach to property on which the Debtors have unpaid Taxes, thus, potentially entitling the relevant Taxing Authority to a secured claim against the property of the Debtors' estates. If the Taxes and Fees are deemed secured claims that would, but for such secured status, fall under the purview of Bankruptcy Code Section 507(a)(8), Bankruptcy Code Section 1129(a)(9)(D) requires that they be paid no less favorably than through regular installment payments, over a period not exceeding five years after the Petition Date, of a total value as of the effective date of the plan equal to the allowed amount of each such claim. *See* 11 U.S.C. § 1129(a)(9)(D). Otherwise, Bankruptcy Code Section 1129(b)(2)(A) requires that they be satisfied through deferred cash payments totaling at least the allowed amount of each such claim, of a value, as of the effective date of the plan, equal to the value of the collateral securing the claim, with a continuation of the liens against the collateral; or if the collateral is to be sold, that the lien securing the claim attach to the proceeds of sale; or that the holder realize the indubitable equivalent of the claim. *See* 11 U.S.C. § 1129(b)(2)(A).

23. Because of the likelihood that the vast majority of the Taxes and Fees constitute either priority claims under Bankruptcy Code Section 507(a)(8) or secured claims under Bankruptcy Code Section 506(a), the Debtors' payment of the Taxes and Fees now, in all likelihood, will affect only the timing of the payments and not the amounts to be received by the Taxing Authorities. Moreover, by paying legitimate tax claims now, the Debtors will avoid any unnecessary fees, interest, or penalties that might otherwise be asserted. Other creditors and parties in interest, therefore, will not be prejudiced if the relief sought herein is granted by this Court.

24. Alternatively, authorization to pay the Taxes and Fees is appropriate under the “doctrine of necessity,” which is grounded in Bankruptcy Code Section 105(a). Section 105(a) provides that the Court “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). The purpose of this section is to grant bankruptcy courts the authority to take actions necessary to exercise their power under the Bankruptcy Code.

25. The doctrine of necessity is a well-settled doctrine that permits a bankruptcy court to authorize payment of certain prepetition claims prior to the completion of the reorganization process where the payment of such claims is necessary to the reorganization. *See In re Just for Feet, Inc.*, 242 B.R. 821, 826 (D. Del. 1999) (stating that where the debtor “cannot survive” absent payment of certain prepetition claims, the doctrine of necessity should be invoked to permit payment and thereafter approving payment of key inventory suppliers’ prepetition claims when such suppliers could destroy debtor’s business by refusing to deliver new inventory on eve of debtor’s key sales season);⁶ *see also In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191-92 (Bankr. D. Del. 1994) (reiterating court’s own statement in a prior ruling that “[i]n the Third Circuit the law is clear that to justify payment of one class of pre-petition creditors in advance of a confirmed plan, the debtor must show that payment is essential to the continued operation of the business”); *In re Sharon Steel Corp.*, 159 B.R. 730, 736 (Bankr. W.D. Pa. 1993) (“The Third Circuit has

⁶ The Court’s power to utilize the doctrine of necessity in chapter 11 cases derives from the Court’s inherent equity powers and its statutory authority to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). The United States Supreme Court first articulated the doctrine of necessity over a century ago, in *Miltenberger v. Logansport Ry. Co.*, 106 U.S. 286 (1882), in affirming the authorization by the lower court of the use of receivership funds to pay pre-receivership debts owed to employees, vendors and suppliers, among others, when such payments were necessary to preserve the receivership property and the integrity of the business in receivership. *See id.* at 309-14. The modern application of the doctrine of necessity is largely unchanged from the Court’s reasoning in *Miltenberger*. *See In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581-82 (3d Cir. 1981) (“[I]n order to justify payment under the ‘necessity of payment’ rule, a real and immediate threat must exist that failure to pay will place the continued operation of the [debtor] in serious jeopardy.”).

adopted the ‘necessity of payment’ doctrine.”); *In re NVR L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (“[T]he court can permit pre-plan payment of a pre-petition obligation when essential to the continued operation of the debtor.”).

26. This Court may also authorize the Debtors to pay Taxes and Fees under Bankruptcy Code Section 363(b), which provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Courts have indicated that the use of property of the estate outside of the ordinary course of business is proper where the debtor in possession has articulated “some business justification, other than the mere appeasement of major creditors.” *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989); *see also Institutional Creditors of Cont’l Airlines, Inc. v. Cont’l Airlines, Inc. (In re Cont’l Airlines, Inc.)*, 780 F.2d 1223, 1226 (5th Cir. 1986) (holding that Bankruptcy Code Section 363(b) requires that “there must be some articulated business justification for using, selling, or leasing the property outside the ordinary course of business”); *Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983) (“[A] judge determining a § 363(b) application [must] expressly find . . . a good business reason to grant such an application.”); *Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999) (“In determining whether to authorize the use, sale or lease of property of the estate under [Section 363], courts require the debtor to show that a sound business purposes justified such actions.”).

27. The relief requested herein easily satisfies the foregoing standards. Failure to pay the Taxes and Fees to the Taxing Authorities in full and on time, thereby risking the cessation of normal relations between the Taxing Authorities and the Debtors, will make these estates worse off than they will be having paid the Taxes and Fees. It is in the best interests of the Debtors’

estates that the Taxes and Fees be paid on time so as to avoid administrative difficulties. Failure to timely pay, or a precautionary withholding by the Debtors of payment of, the Taxes and Fees may cause the Taxing Authorities to take precipitous action, including an increase in audits, a flurry of lien filings, and significant administrative maneuvering at the expense of the Debtors' time and resources. Prompt and regular payment of the Taxes and Fees will avoid this unnecessary governmental action.

28. Certain of the Taxes and Fees may constitute so-called "trust fund" taxes, which are required to be collected from third parties and held in trust for payment to the Taxing Authorities. Such taxes are not considered property of the estate under Bankruptcy Code Section 541(d). *See Begier v. IRS*, 496 U.S. 53, 63-67 (1990) (trust fund taxes are not property of estate); *see also City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 96 (3d Cir. 1994) (withheld taxes were subject to a trust); *Official Comm. Of Unsecured Creditors of the Columbia Gas Transmission Corp. v. Columbia Gas. Sys. Inc. (In re Columbia Gas Sys. Inc.)*, 997 F.2d 1039, 1061-62 (3d Cir. 1993) (refunds required to be collected by federal law created trust fund that was not property of the debtor's estate); *Shank v. Wash. State Dep't of Revenue, Excise Tax Div. (In re Shank)*, 792 F.2d 829, 830 (9th Cir. 1986) (sales tax required by state law to be collected by sellers from their customers is "trust fund" tax); *DeChiaro v. N.Y. State Tax Comm'n*, 760 F.2d 432, 433-34 (2d Cir. 1985) (same); *In re Al Copeland Enters., Inc.*, 133 B.R. 837, 841-42 (Bankr. W.D. Tex. 1991) (debtor obligated to pay Texas sales taxes plus interest because such taxes were "trust fund" taxes), *aff'd*, 991 F.2d 233 (5th Cir. 1993). The Debtors, therefore, arguably have no equitable interest in the Taxes and Fees that are trust fund taxes and are obligated to pay over the collected amounts.

29. Additionally, under the laws of many states and provinces, officers and directors may be held directly or personally liable for the nonpayment of certain types of taxes. It is in the

best interests of the Debtors' estates, and consistent with the reorganization policy of the Bankruptcy Code, to eliminate the possibility that their officers and directors will become subject to time-consuming and potentially damaging distractions.

30. The Chapter 11 Cases are complicated due to the nature of the Debtors' business, and the Debtors' focus should be on addressing their operational and financial issues in a manner that will maximize recoveries. In this context, the payment of the Taxes and Fees is insignificant and will have no meaningful effect on the recoveries of creditors in the Chapter 11 Cases, particularly in view of the priority or secured status of a significant portion of such obligations. Moreover, the payment amount will likely be offset in no small part by the amount of post-petition resources that the Debtors will conserve by obviating the need to spend time and money to address disputes with the Taxing Authorities that are unnecessary and wasteful of the resources of the Debtors and this Court.

31. The relief requested in this Motion is similar to relief granted by numerous courts, including this court in other chapter 11 cases in this district. *See, e.g., See, e.g., In re 4 West Holdings, Inc.*, Case No. 18-307777 (HDH) (Bankr. N.D. Tex. Apr. 18, 2018) [Docket No. 258]; *In re ADPT DFW Holdings LLC*, Case No. 17-31432 (Bankr. N.D. Tex. May 19, 2017) [Docket No. 215]. Accordingly, the Debtors submit that the present circumstances warrant this relief in the Chapter 11 Cases.

WAIVER OF BANKRUPTCY RULES

32. To the extent that any aspect of the relief sought herein constitutes a use of property under Bankruptcy Code Section 363(b), the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay under Bankruptcy Rule 6004(h), to the extent applicable. *See* Fed. R. Bankr. P. 6004(a), (h). As described above, the relief that the Debtors seek in this Motion is immediately necessary in order for the Debtors to be able to continue to operate

their businesses and preserve the value of their estates. The Debtors respectfully request that the Court waive the notice requirements imposed by Bankruptcy Rule 6004(a) and the 14-day stay imposed by Bankruptcy Rule 6004(h), as the exigent nature of the relief sought herein justifies immediate relief.

RESERVATION OF RIGHTS

33. Nothing contained herein is intended or should be construed as an admission of the validity of any claim against the Debtors; a waiver of the Debtors' right to dispute any claim; or an approval, assumption, or rejection of any agreement, contract, or lease under Bankruptcy Code Section 365. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtors' right to dispute such claim subsequently.

NOTICE

34. Notice of this Motion will be provided to (a) the U.S. Trustee; (b) the holders of the thirty (30) largest unsecured claims against the Debtors on an aggregate basis, (c) UMB Bank, N.A., as Trustee and counsel thereto, (d) Lifespace Communities, Inc. and counsel thereto, (e) the United States Attorney's Office for the Northern District of Texas, (f) the Internal Revenue Service, (g) the United States Department of Justice, (h) the Texas State Attorney General, (i) the United States Securities and Exchange Commission, (j) the Taxing Authorities, and (k) any party that has requested notice pursuant to Bankruptcy Rule 2002.

35. The Debtors respectfully submit that such notice is sufficient and that no further notice of this Motion is required.

NO PRIOR REQUEST

36. No previous request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter the Proposed Interim Order and Proposed Final Order, substantially in the forms attached hereto as Exhibit A and Exhibit B, respectively, granting the relief requested in the Motion and such other and further relief as may be just and proper.

Dated: April 14, 2022
Dallas, Texas

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– and –

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**PROPOSED COUNSEL TO THE DEBTORS
AND DEBTORS IN POSSESSION**

Exhibit A

Proposed Interim Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

Northwest Senior Housing Corporation, *et al.*,¹
Debtors.

Chapter 11

Case No. 22-30659 (MVL)
(Jointly Administered)

**INTERIM ORDER AUTHORIZING PAYMENT OF
PREPETITION TAXES AND FEES**

Upon the motion (the “**Motion**”)² of the Debtors for entry of an interim order (this “**Interim Order**”) pursuant to Bankruptcy Code Sections 105(a), 363(b), 506(a), 507(a)(8), and 541 and Bankruptcy Rules 6003 and 6004, authorizing, but not directing, the Debtors, in their discretion, to pay any prepetition Taxes and Fees owing to the Taxing Authorities; and the Court having reviewed the Motion and the First Day Declaration; and the Court having jurisdiction over

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Northwest Senior Housing Corporation (1278) and Senior Quality Lifestyles Corporation (2669). The Debtors’ mailing address is 8523 Thackery Street, Dallas, Texas 75225.

² All capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

this matter pursuant to 28 U.S.C. 157 and §§ 1334(b); and the Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and that the Debtors consent to entry of a final order under Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and the opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court; and all objections, if any, to the Motion having been withdrawn, resolved or overruled; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation thereon; and good and sufficient cause appearing therefore, it is **HEREBY ORDERED THAT:**

1. The Motion is **GRANTED** on an interim basis as set forth herein.
2. The Debtors are hereby authorized, but not directed, to pay, in the ordinary course of their businesses, all prepetition Taxes and Fees relating to the period prior to the Petition Date, including all those Taxes and Fees subsequently determined upon audit, or otherwise, to be owed for periods prior to the Petition Date, to the Taxing Authorities, provided that payments on account of prepetition Taxes and Fees shall not exceed \$1,000 on an aggregate basis during the interim period.
3. Nothing in the Motion or this Interim Order shall be construed as impairing the Debtors' rights to contest the validity or amount of any Taxes and Fees allegedly due or owing to

any Taxing Authorities or priority of any claim or lien against the Debtors and all Debtors' rights with respect thereto are hereby reserved.

4. The Debtors' banks and financial institutions shall be, and are hereby authorized, when requested by the Debtors, to process, honor, and pay any and all checks or electronic fund transfers drawn on the Debtors' bank accounts to pay all prepetition Taxes and Fees owed to the Taxing Authorities, whether those checks were presented prior to or after the Petition Date, provided that sufficient funds are available in the applicable accounts to make the payments.

5. The Debtors' banks and financial institutions may rely on the representations of the Debtors with respect to whether any check or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this order, and any such bank or financial institution shall not have any liability to any party for relying on such representations by the Debtors as provided for in this order.

6. Notwithstanding the relief granted herein or any actions taken hereunder, nothing contained in this order shall create any rights in favor of, or enhance the status of any claim held by, any Taxing Authority.

7. Neither the provisions contained herein, nor any actions or payments made by the Debtors pursuant to this order, shall be deemed an admission as to the validity of any underlying obligation or a waiver of any rights the Debtors may have to dispute such obligation on any ground that applicable law permits.

8. All payments made pursuant to this Order shall be subject to any interim or final order entered by the Court governing the Debtors' right to the use the cash collateral of UMB Bank, N.A., as Trustee, including the budget attached thereto.

9. The Debtors are hereby authorized to take such actions and to execute such documents as may be necessary to implement the relief granted by this order.

10. The requirements set forth in Bankruptcy Rule 6004(a) are hereby waived.

11. Notwithstanding Bankruptcy Rule 6004(h), to the extent applicable, this order shall be effective and enforceable immediately upon entry hereof.

12. Nothing in the Motion or this Order, or the Debtors' payment of any claims pursuant to this Order, shall be deemed or construed as: (a) an admission as to the validity of any claim or lien against the Debtors or their estates, (b) a waiver of the Debtors' rights to dispute any claim or lien, (c) an approval or assumption of any agreement, contract, or lease pursuant to Bankruptcy Code Section 365, (d) an admission of the priority status of any claim, whether under Bankruptcy Code Section 503(b)(9) or otherwise, or (e) a modification of the Debtors' rights to seek relief under any section of the Bankruptcy Code on account of any amounts owed or paid to any Taxing Authority.

13. The Final Hearing on the Motion shall be held on _____, 2022 at ____:____ __.m., prevailing Central Time. Any objections or responses to entry of a final order (the "**Final Order**") on the Motion shall be filed with the Court and served on the following parties at least seven (7) days prior to the commencement of the Final Hearing: (a) the Debtors, 8523 Thackery Street, Dallas, TX 75225 (attn: Nick Harshfield); (b) proposed counsel to the Debtors, Polsinelli PC, 2950 N. Harwood, Suite 2100, Dallas, TX 75201 (attn: Trinitee G. Green) and 600 3rd Avenue, 42nd Floor, New York, NY 10016 (attn: Jeremy R. Johnson and Brenna A. Dolphin); (c) the Office of the United States Trustee for the Northern District of Texas (Dallas Division), Earle Cabell Federal Building, 1100 Commerce Street, Room 976, Dallas, TX 75242; (d) counsel to UMB Bank N.A., as Trustee, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., One Financial Center,

Boston, MA 02111 (attn: Daniel Bleck); (e) counsel to Lifespace Communities, Inc., Dorsey & Whitney LLP, 801 Grand Avenue, Suite 4100, Des Moines, IA 50309 (attn: David D. Grossklaus) and Perkins Coie LLP, 110 North Wacker Drive, 34th Floor, Chicago, IL 60606 (attn: Eric E. Walker), (f) counsel to any statutory committee appointed in these Chapter 11 Cases; and (g) any party that has requested notice pursuant to Bankruptcy Rule 2002.

14. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

End of Order

Submitted by:

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and

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*Proposed Counsel to Debtors and
Debtors-in-Possession*

Exhibit 1

List of Governmental Authorities

List of Governmental Authorities

Name	Address	City	State	Postal Code
Internal Revenue Service Department of the Treasury	Internal Revenue Service Center	Ogden	UT	84201
Internal Revenue Service Department of Treasury	PO Box 7346	Philadelphia	PA	19101-7346
State of Texas Attorney General	Attn: Ken Paxton 300 W. 15th Street	Austin	TX	78701
State of Texas Attorney General	Attn: Ken Paxton PO Box 13528 Bankruptcy and Collections, 8 th Floor WPC Bldg Capitol Station	Austin	TX	78711-3528
Texas Comptroller of Public Accounts	PO Box 13528 Bankruptcy and Collections, 8 th Floor WPC Bldg Capitol Station	Austin	TX	78711-3528
Texas Workforce Commission	101 E 15th St	Austin	TX	78778
Texas Department of Labor	1117 Trinity Street	Austin	TX	78701
Texas Department of Insurance	333 Guadalupe	Austin	TX	78711
Texas Department of State Health Services	1100 West 49th St	Austin	TX	78756-3199
Texas Department of Licensing & Regulation	PO Box 1157	Austin	TX	78711
City of Dallas	Building Inspection Offices Oak Cliff Municipal Center 320 E. Jefferson Blvd.	Dallas	TX	75203
City of Dallas	1500 Marillas Street Room 4A	Dallas	TX	75201

Name	Address	City	State	Postal Code
Dallas County Tax Office John R. Ames, CTA Tax Assessor/Collector	1201 Elm St, Ste. 2600	Dallas	TX	75270
Centers for Medicare and Medicaid Services	7500 Security Boulevard	Baltimore	MD	21244
Texas Secretary of State	1019 Brazos St	Austin	TX	78701

Exhibit B

Proposed Final Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

Northwest Senior Housing Corporation, *et al.*,¹

Debtors.

Chapter 11

Case No. 22-30659 (MVL)

(Jointly Administered)

**FINAL ORDER AUTHORIZING PAYMENT OF
PREPETITION TAXES AND FEES**

Upon the motion (the “**Motion**”)² of the Debtors for entry of a final order (this “**Final Order**”), pursuant to Bankruptcy Code Sections 105(a), 363(b), 506(a), 507(a)(8), and 541 and Bankruptcy Rules 6003 and 6004, authorizing the Debtors, in their discretion, to pay any prepetition Taxes and Fees owing to the Taxing Authorities; and the Court having reviewed the Motion and the First Day Declaration; and the Court having jurisdiction over this matter pursuant

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are Northwest Senior Housing Corporation (1278) and Senior Quality Lifestyles Corporation (2669). The Debtors’ mailing address is 8523 Thackery Street, Dallas, Texas 75225.

² All capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

to 28 U.S.C. 157 and §§ 1334(b); and the Court having found that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and that the Debtors consent to entry of a final order under Article III of the United States Constitution; and venue of this proceeding and the Motion in this District being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefore; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court; and all objections, if any, to the Motion having been withdrawn, resolved or overruled; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY ORDERED THAT**

1. The Motion is **GRANTED** on a final basis, as set forth herein.
2. The Debtors are hereby authorized, but not directed, to pay, in the ordinary course of their businesses, all prepetition Taxes and Fees relating to the period prior to the Petition Date, including all those Taxes and Fees subsequently determined upon audit, or otherwise, to be owed for periods prior to the Petition Date, to the Taxing Authorities, provided that payments on account of prepetition Taxes and Fees shall not exceed \$5,000 in the aggregate without further order of this Court.
3. Nothing in the Motion or this order shall be construed as impairing the Debtors' rights to contest the validity or amount of any Taxes and Fees allegedly due or owing to any Taxing

Authorities or priority of any claim or lien against the Debtors and all Debtors' rights with respect thereto are hereby reserved.

4. The Debtors' banks and financial institutions shall be, and are hereby authorized, when requested by the Debtors, to process, honor, and pay any and all checks or electronic fund transfers drawn on the Debtors' bank accounts to pay all prepetition Taxes and Fees owed to the Taxing Authorities, whether those checks were presented prior to or after the Petition Date, provided that sufficient funds are available in the applicable accounts to make the payments.

5. The Debtors' banks and financial institutions may rely on the representations of the Debtors with respect to whether any check or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this order, and any such bank or financial institution shall not have any liability to any party for relying on such representations by the Debtors as provided for in this order.

6. Notwithstanding the relief granted herein or any actions taken hereunder, nothing contained in this order shall create any rights in favor of, or enhance the status of any claim held by, any Taxing Authority.

7. Neither the provisions contained herein, nor any actions or payments made by the Debtors pursuant to this order, shall be deemed an admission as to the validity of any underlying obligation or a waiver of any rights the Debtors may have to dispute such obligation on any ground that applicable law permits.

8. All payments made pursuant to this Order shall be subject to any interim or final order entered by the Court governing the Debtors' right to the use the cash collateral of UMB Bank, N.A., as Trustee, including the budget attached thereto.

9. The Debtors are hereby authorized to take such actions and to execute such documents as may be necessary to implement the relief granted by this order.

10. The requirements set forth in Bankruptcy Rule 6004(a) are hereby waived.

11. Notwithstanding Bankruptcy Rule 6004(h), to the extent applicable, this order shall be effective and enforceable immediately upon entry hereof.

12. Nothing in the Motion or this Order, or the Debtors' payment of any claims pursuant to this Order, shall be deemed or construed as: (a) an admission as to the validity of any claim or lien against the Debtors or their estates, (b) a waiver of the Debtors' rights to dispute any claim or lien, (c) an approval or assumption of any agreement, contract, or lease pursuant to Bankruptcy Code Section 365, (d) an admission of the priority status of any claim, whether under Bankruptcy Code Section 503(b)(9) or otherwise, or (e) a modification of the Debtors' rights to seek relief under any section of the Bankruptcy Code on account of any amounts owed or paid to any Taxing Authority.

13. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Final Order.

End of Order

Submitted by:

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Texas Department of State Health Services	1100 West 49th St	Austin	TX	78756- 3199
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