

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

SC HEALTHCARE HOLDING, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 24-10443 (TMH)

(Jointly Administered)

Ref. Docket Nos. 264 & 569

LIMITED OBJECTION OF BERKADIA COMMERCIAL MORTGAGE LLC TO DEBTORS' MOTION FOR ENTRY OF (A) AN ORDER (I) SCHEDULING A HEARING ON THE APPROVAL OF THE SALE OF ALL OR SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL ENCUMBRANCES OTHER THAN ASSUMED LIABILITIES AND PERMITTED ENCUMBRANCES, AND THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, (II) APPROVING CERTAIN BIDDING PROCEDURES AND ASSUMPTION AND ASSIGNMENT PROCEDURES, AND THE FORM AND MANNER OF NOTICE THEREOF, (III) AUTHORIZING THE DEBTORS TO ENTER INTO THE STALKING HORSE PURCHASE AGREEMENT, AND (IV) GRANTING RELATED RELIEF; AND (B) AN ORDER (I) APPROVING THE ASSET PURCHASE AGREEMENT, (II) AUTHORIZING THE SALE OF ALL OR SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL ENCUMBRANCES OTHER THAN ASSUMED LIABILITIES AND PERMITTED ENCUMBRANCES, (III) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, AND (IV) GRANTING RELATED RELIEF

Berkadia Commercial Mortgage LLC ("Berkadia") hereby files this limited objection (this "Limited Objection") to the *Debtors' Motion for Entry of (A) an Order (I) Scheduling a Hearing on the Approval of the Sale of All or Substantially All of the Debtors' Assets Free and Clear of All Encumbrances Other Than Assumed Liabilities and Permitted Encumbrances, and the Assumption and Assignment of Certain Executory Contracts and*

¹ The last four digits of SC Healthcare Holding, LLC's tax identification number are 2584. The mailing address for SC Healthcare Holding, LLC is c/o Petersen Health Care Management, LLC 830 West Trailcreek Dr., Peoria, IL 61614. Due to the large number of debtors in these Chapter 11 Cases, for which the Debtors have requested joint administration, a complete list of the Debtors and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information will be made available on a website of the Debtors' proposed claims and noticing agent at www.kccllc.net/Petersen.



Unexpired Leases, (II) Approving Certain Bidding Procedures and Assumption and Assignment Procedures, and the Form and Manner of Notice Thereof, (III) Authorizing the Debtors to Enter Into the Stalking Horse Purchase Agreement, and (IV) Granting Related Relief; and (B) an Order (I) Approving the Asset Purchase Agreement, (II) Authorizing the Sale of All or Substantially All of the Debtors' Assets Free and Clear of All Encumbrances Other Than Assumed Liabilities and Permitted Encumbrances, (III) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief [Docket No. 264] (the "Sale Motion") and the [Proposed] Order (I) Approving Asset Purchase Agreement, (II) Authorizing the Sale of all or Substantially all of the Debtors' Acquired Assets Free and Clear of all Liens, Claims, Interests, and Encumbrances Other than Assumed Liabilities and Permitted Encumbrances, (III) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief [Docket No. 569] (the "Proposed Sale Order").² In support of this Limited Objection, Berkadia respectfully states as follows:

PRELIMINARY STATEMENT³

1. The Sale Motion proposes a sale of the Acquired Assets free and clear of all Encumbrances. Berkadia does not generally oppose the Debtors' ability to sell the Debtors' own assets free and clear of Encumbrances, subject to adequate protection of Berkadia's Encumbrances on those assets. Berkadia files this Limited Objection with respect to certain provisions in the Proposed Sale Order and the Agreement that would seek to include assets of the non-Debtor-owned Illini Facility (as defined below), on which Berkadia holds a first mortgage lien, in the "Acquired

² Capitalized terms used but otherwise not defined herein shall have the meanings ascribed to such terms in the Sale Motion, the Bidding Procedures Order or the Proposed Sale Order (defined herein).

³ Capitalized terms used but otherwise not defined in this Preliminary Statement shall have the meanings ascribed to them through the Limited Objection

Assets” and thus order a transfer of those non-debtor asset’s free and clear of Berkadia’s lien and claims. The amount of the Purchase Price allocated to the Illini Facility, as reflected in Section 2.11 of the Agreement (\$4 million), far exceeds the amount owed to Berkadia on the mortgage note that is secured by that facility. If the Debtors wish to include a sale of the non-debtor-owned Illini Facility in the sale, Berkadia should be paid in full on its applicable mortgage loan at closing to secure a release of its mortgage lien.

2. With respect to the facilities the Debtors do own and are selling, any order approving the Sale should (i) make clear that the Debtors are not transferring to the Purchaser any interest in escrows and reserves held by the relevant lender to such facility, and (ii) authorize the applicable lender to apply such escrows and reserves to the applicable loan obligations when the sale closes.

BACKGROUND

A. General Background

3. On March 20, 2024 (the “Petition Date”), Debtors commenced these cases (these “Chapter 11 Cases”) by filing voluntary petitions for relief under title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Court”).

4. On May 14, 2024, the Court entered the *Final Order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Granting Security Interests and Superpriority Administrative Expense Status, (III) Granting Adequate Protection to Certain Prepetition Secured Credit Parties, (IV) Modifying the Automatic Stay; (V) Authorizing the Debtors to Enter into Agreements with JMB Capital Partners Lending, LLC, (VI) Authorizing Use of Cash Collateral, and (VII) Granting Related Relief* [Docket No. 313] (the “Final DIP Order”).

5. The Final DIP Order excluded certain “Excluded HUD Mortgage Collateral” from the priming liens set forth therein, providing:

Notwithstanding anything herein or in the DIP Loan Documents to the contrary, the priming liens granted pursuant to section 364(d)(1) of the Bankruptcy Code in this Final Order shall not apply to encumber the Excluded HUD Mortgage Collateral (as defined below) owned by the following Debtors (the “HUD Debtors”): Petersen Health Care – Illini, LLC; Petersen Roseville, LLC; Petersen 23 LLC; Petersen 26 LLC; Petersen 27 LLC; Petersen 29 LLC; Petersen 30 LLC; South Elgin, LLC; Jonesboro, LLC; Macomb, LLC; Petersen Roseville, LLC; and SJL Health Systems, Inc. “Excluded HUD Mortgage Collateral” means the “real property” portion of the HUD Lenders’ collateral, with real property defined specifically to be the ground, buildings, fixtures (as defined in Article 9, § 102 of the UCC), together with, in each case related thereto, (i) claims under any real property insurance and the proceeds thereof, (ii) condemnation claims, awards and proceeds; and (iii) any funds held by HUD Lenders in escrow or reserves relating to such real property or loan secured thereby (“Reserves”).

6. On May 21, 2024, the Court entered the *Order (I) Approving (A) Bidding Procedures and (B) Assumption and Assignment Procedures and (II) Granting Related Relief* [Docket No. 341] (the “Bidding Procedures Order”). Pursuant to the Bidding Procedures Order, the Debtors held an Auction for the Acquired Assets that concluded on July 3, 2024. At the conclusion of the Auction, the Debtors announced the Stalking Horse Bidder was the winning bidder for the Acquired Assets, less two (2) facilities that were excluded under terms announced at the Auction.

7. On June 26, 2024, the Debtors filed the Proposed Sale Order. On June 26, the Debtors additionally filed the *Notice of Stalking Horse Bidder and Proposed Bid Protections* [Docket No. 564]. Attached thereto as Exhibit A was the *Asset Purchase Agreement*, dated June 26, 2024, executed between the Debtors and the Stalking Horse Bidder (as defined therein).

B. Berkadia's Loans

8. Debtor Roseville, LLC ("Roseville"), a single-asset entity, is liable to Berkadia under a HUD-insured loan facility in the original principal amount of \$1,885,229.76 (the "Roseville Loan") secured by a first-priority mortgage lien on a health care facility in Roseville, Illinois (the "Roseville Facility"). As further security for Roseville's obligations on the Roseville Loan, Petersen Health Care – Roseville, LLC ("Roseville Operator") granted Berkadia a security interests in and lien on all of its personal property. As of the Petition Date, Berkadia was holding as additional collateral for the Roseville Loan approximately \$1,230,211.54 in reserves and escrows related to the Roseville Loan, on which Berkadia holds a perfected lien by possession and as to which Berkadia retains all rights of setoff and recoupment (the "Roseville Reserves").

9. As of the Petition Date, Debtors Roseville and Roseville Operator were obligated to Berkadia in the amount of \$1,994,274.59 in principal and accrued but unpaid interest on the Roseville Loan, plus all accrued but unpaid prepetition attorneys' fees and expenses. Berkadia also holds a secured, claim for all interest, fees, and expenses (including without limitation attorneys' fees and expenses) accruing after the Petition Date in connection with the Roseville Loan.

10. Non-Debtor Heritage Nursing Center, LLC ("Heritage"), a single-asset entity, is liable to Berkadia under a HUD-insured loan facility in the original principal amount of \$1,050,837.48 (the "Heritage Loan" and together with the Roseville Loan, the "Berkadia Loans") secured by a first-priority mortgage lien on a health care facility located in Champaign, Illinois and referred to by the Debtors as the Illini facility (the "Illini Facility"). True and correct copies of the Mortgage Note evidencing, and the Mortgage and Security Agreement securing, the Heritage Loan are attached hereto as Exhibits A and B, respectively. As of the Petition Date, Berkadia was

holding as additional collateral for the Heritage Loan approximately \$717,611.16 in reserves and escrows related to the Heritage Loan, on which Berkadia holds a perfected lien by possession and as to which Berkadia retains all rights of setoff and recoupment (the “Heritage Reserves” and, together with the Roseville Reserves, the “Berkadia Reserves”).

11. As of March 20, 2024, Heritage was obligated to Berkadia in the amount of \$1,091,006.37 in principal and accrued but unpaid interest on the Heritage Loan, plus all accrued but unpaid prepetition attorneys’ fees and expenses. Interest, fees, and expenses (including without limitation attorneys’ fees and expenses) have continued to accrue on the Heritage Loan since that date, all of which are secured obligations of the non-Debtor, Heritage.

LIMITED OBJECTION

A. The Court Does Not Have Jurisdiction to Order a Sale of the Illini Facility Free and Clear of Encumbrances

12. Section 363(b)(1) of the Bankruptcy Code provides that the “trustee, after notice and hearing, may use, sell, or lease...*property of the estate.*” 11 U.S.C. § 363 (emphasis added). Nothing in the Bankruptcy Code authorizes, and therefore the Court does not have jurisdiction over, a sale of property that is *not* part of the bankruptcy estate. *In re DVI, Inc.*, 324 B.R. 548, 553 (Bankr. D. Del. 2005) (dismissing claims for relief concerning alleged agreement for sale of property that was no longer property of the bankruptcy estate); *Saul Ewing Remick & Saul v. Provident Sav. Bank*, 190 B.R. 771, 776 (D. Del. 1996) (“[A] court has ‘related to’ jurisdiction over property only when the property is part of the bankruptcy estate.”); *Baker Dev. Corp. v. Mulder (In re Mulder)*, 307 B.R. 637, 645 (Bankr. N.D. Ill. 2004) (“Disputes between

third parties over property that is not part of the estate are not ‘related to’ the bankruptcy.”) (citations omitted).

13. The Court lacks jurisdiction to order a sale of the Illini Facility free and clear of Berkadia’s Encumbrances because the real property and improvements comprising that facility are owned by a non-Debtor (Heritage), and the relevant loan is between two non-Debtors (Berkadia and Heritage). *In re Goli Nutrition Inc.*, No. 24-10438 (LSS), 2024 WL 1748460, at *5 (Bankr. D. Del. Apr. 23, 2024) (“I see nothing in section 363 of the Code that permits me to authorize the sale of property that is not property of the estate—in other words that the debtor has no interest in at all. Further, I see nothing in section 363 that permits me to relegate the non-debtor owner of property to proceeds of a sale process.”).

14. Currently, the Proposed Sale Order does not carve-out the Illini Facility from the definition of Acquired Assets. By treating the Illini Facility as if it were a Debtor asset, notwithstanding that it is owned by a non-Debtor, various provisions of the Proposed Order are factually inaccurate and legally unsound. By way of example, only, the findings of fact in the Proposed Sale Order provide that the “Debtors are the sole and lawful owners of the Acquired Assets.” Proposed Sale Order, ¶ H. That is not true with respect to the real property and improvements comprising the Illini Facility.

15. Berkadia therefore request that any Sale Order contain the following language: “Notwithstanding any contrary provisions herein, nothing in this Sale Order or any related or implementing document, including any exhibits, addendums, or schedules thereto, authorizes the Sale free and clear of Encumbrances on property of Heritage Nursing Center, LLC (including, without limitation, the Illini Facility) or of any other entity that was not a Debtor as of the commencement of the hearing on the Motion, and all Encumbrances on such non-Debtor

property, including without limitation the Heritage Facility or the Heritage Reserves, shall be unaffected by the entry of the Sale Order or approval of the Agreement. The foregoing shall not limit any party's right or ability to secure or grant a written release of Encumbrances from the holder thereof in connection with the transactions contemplated by the Agreement and in accordance with any applicable agreement or non-bankruptcy law."

B. No Sale of Escrows and Reserves

16. As one would expect, the Asset Purchase Agreement filed with the Court on June 26, 2024 (as the same may be amended, the "APA") does not appear to contemplate a sale of any interest of the Debtors in escrows and reserves held by the Debtors' various lenders. To avoid any future disputes on that point, though, any Sale order approving the APA should clearly state that the Purchaser is not acquiring an interest in any such escrows and reserves, including without limitation the Berkadia Reserves.

17. Moreover, each of the Debtors' secured lenders are having collateral sold with no immediate payment on their respective loans, but with their respective Encumbrances attaching to the proceeds of sale. As additional adequate protection of the secured lenders' interests, any Sale order should authorize such lenders, including Berkadia, to apply such escrows and reserves to the Debtors' obligations on such lenders' respective loans upon closing of the APA sale transaction.

18. Berkadia reserves the right to supplement this Limited Objection, to assert any other and further objections to the Sale Motion, to join in any objections of other parties, and to seek or assert any other rights or remedies available to them in these bankruptcy cases, including

but not limited to the right to seek relief from the automatic stay and/or to seek conversion or dismissal of any of the Debtors' Chapter 11 Cases.

CONCLUSION

19. For the reasons set forth above Berkadia respectfully requests that the Court deny approval of the relief sought in the Sale Motion.

Dated: July 3, 2024
Wilmington, Delaware

Respectfully submitted,

TROUTMAN PEPPER HAMILTON
SANDERS LLP

/s/ David M. Fournier

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*Counsel to Berkadia Commercial Mortgage
LLC*

EXHIBIT A

FHA FORM NO. 4116-D
(CORPORATE)
Revised March 1971

MORTGAGE NOTE

\$ 1,615,000

, Illinois.

FOR VALUE RECEIVED, The undersigned Heritage Nursing Center, L.L.C., an Illinois limited liability company

promise(s)

to pay to the order of GMAC Commercial Mortgage Corporation
a corporation organized and existing under the laws of California, the principal
sum of One Million Six Hundred Fifteen Thousand and 00/100 Dollars
(\$ 1,615,000.00), with interest from date at the rate of Six and three tenths
centum (6.300 %) per annum on the unpaid balance until paid; the said principal and in-
terest shall be payable in monthly installments as follows:

Interest alone payable on the first day of September 2002. Thereafter, commencing on the first day of October 2002, and on the first day of each month thereafter, monthly installments of interest and principal shall be paid in the sum of \$9,536.20 until the entire indebtedness has been paid. In any event, the entire balance of principal, if any, remaining unpaid, plus accrued interest, will be due and payable on the first day of September 2037. The installments of interest and principal shall be applied first to interest at the rate of 6.300% on the principal sum or so much thereof as from time to time remains unpaid, and the balance thereof shall be applied on account of principal.

See Rider, which is attached to and made part of this Note.

Both principal and interest under this Note, as well as the additional payments set forth in the Mortgage of even date herewith securing this Note, shall be payable at the office of GMAC Commercial Mortgage Corporation in Horsham, Pennsylvania, or at such other place as the holder may from time to time designate in writing.

~~Privilege is reserved to pay the debt in whole or in an amount equal to one or more monthly payments on principal next due, on the first day of any month prior to maturity upon at least thirty (30) days' prior written notice to the holder. If this debt is paid in full prior to maturity and while insured under the provisions of the National Housing Act, as amended, all parties liable for payment thereof agree to be jointly and severally bound to pay to the holder hereof such adjusted mortgage insurance premium as may be required by the applicable Regulations.~~

A.H.
initial

~~Notwithstanding any provision herein for a prepayment charge, such charge shall be applicable only to the amount of prepayment in any one calendar year which is in excess of fifteen per centum (15%) of the original principal sum of this Note.~~

A.H.
initial

If default be made in the payment of any installment under this Note, and if such default is not made good prior to the due date of the next such installment, the entire principal sum and accrued interest shall at once become due and payable without notice, at the option of the holder of this Note. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default. In the event of default in the payment of this Note, and if the same is collected by an attorney at law, the undersigned hereby agree(s) to pay all costs of collection, including a reasonable attorney's fee.

A.H.
initial

~~No default shall exist by reason of nonpayment of any required installment of principal so long as the amount of optional additional prepayments of principal already made pursuant to the privilege of prepayment set forth in this Note equals or exceeds the amount of such required installment of principal.~~

All parties to this Note, whether principal, surety, guarantor or endorser, hereby waive presentment for payment, demand, protest, notice of protest and notice of dishonor.

Signed and sealed as of this 6th day of August 2002.

Heritage Nursing Center, L.L.C. an Illinois
limited liability company

By

Avigdor Horowitz, Manager

THIS IS TO CERTIFY, That this is the Note described in and secured by Mortgage of even date herewith, in the same principal amount as herein stated and secured on real estate situated in the City of Champaign, County of Champaign, and State of Illinois.

Dated August 6, 2002.

Lyne A. Nichols

Notary Public



STATE OF ILLINOIS

LOAN NO.

Mortgage Note

Heritage Nursing Center, L.L.C.

TO

GMAC Commercial Mortgage Corporation

No. 072-22038

Insured under §232 pursuant to* of the
National Housing Act and Regulations published thereunder

In effect on May 7, 2002

~~To the extent of advances approved by the
Secretary of Housing and Urban Development
acting by and through the Federal
Housing Commissioner~~

By

(Authorized Agent)

Date

A total sum of \$ 1,615,000.00 has been
approved for insurance hereunder by the
Secretary of Housing and Urban Development
acting by and through the Federal
Housing Commissioner

By

(Authorized Agent)

Date

8/9/02

Reference is made to the Act and to the
Regulations thereunder covering assignments
of the insurance protection on this
note.

43559-P Rev. 3/71 HUD-Wash., D. C.

* §223(f)

FHA Project No.: 072-22038-REF
 Project Name: Heritage Nursing Center

RIDER TO MORTGAGE NOTE

This Rider is attached to and made part of the Mortgage Note (this "Note") in the original amount of \$1,615,000 from Heritage Nursing Center, L.L.C. ("Maker"), to GMAC Commercial Mortgage Corporation ("Holder").

1. Prepayment:

- (a) Maker shall not have the right to prepay the indebtedness evidenced hereby in whole or in part at any time prior to September 1, 2007. Maker shall have the right, on or after September 1, 2007, to prepay the indebtedness evidenced hereby in whole or in part on the last day of any calendar month after such date during the term hereof, upon at least thirty (30) days prior written notice to the holder of this Note, which notice shall specify the date on which the prepayment is to be made, the principal amount of such prepayment and the total amount to be paid. In the event of any prepayment of principal at any time on or after September 1, 2007, the Maker shall concurrently pay to the holder of this Note a prepayment premium equal to the following designated percentages of the amount of principal of this Note to be so prepaid with respect to any prepayment which occurs during the following indicated time periods:

<u>Time of Prepayment</u>	<u>Prepayment Premium</u>
from September 1, 2007, through August 31, 2008	5%
from September 1, 2008, through August 31, 2009	4%
from September 1, 2009, through August 31, 2010	3%
from September 1, 2010, through August 31, 2011	2%
from September 1, 2011, through August 31, 2012	1%
from September 1, 2012, and thereafter	0%

Notwithstanding any partial prepayment of principal made pursuant to the privilege of prepayment set forth in this Note, the Maker shall not be relieved of its obligations to make scheduled monthly installments of principal and interest as and when such payments are due and payable under this Note.

- (b) Notwithstanding any prepayment prohibition imposed and/or premium required by this Note with respect to prepayments made prior to September 1, 2011, the indebtedness evidenced by this Note may be prepaid in whole or in part without the consent of the holder of this Note and without prepayment premium if the Federal Housing Commissioner (the "Commissioner") determines that prepayment will avoid a mortgage insurance claim and is therefore in the best interests of the Federal Government.
- (c) Notwithstanding the provisions of Paragraph 1(a) above, the provisions of Paragraph 1(a) shall not apply, and no prepayment premium shall be collected by the holder of this Note, with respect to any prepayment which is made by or on behalf of the Maker from insurance proceeds as a result of damage to the mortgaged premises or condemnation awards which, at the option of the holder of this Note, may be applied to reduce the indebtedness of Maker evidenced hereby pursuant to the terms of the Mortgage of even date given by Maker to the holder of this Note to secure said indebtedness. Any prepayment made pursuant to this

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Paragraph 1(c) shall be deemed to have been made on the last day of the month in which such payment is received by holder.

- (d) Further, and in addition to the limitations and requirements set forth in Paragraph 1(b) above, the debt evidenced by this Note may not be prepaid in whole for a period of five (5) years from the date of endorsement hereof except in cases where the prior written approval of the Commissioner is obtained and such written approval is expressly based upon the existence of one of the following:
- (i) The Maker has entered into an agreement with the Commissioner to maintain the property as a nursing home for the remainder of the specified five (5) year period;
 - (ii) The Commissioner has determined that the conversion of the property to cooperative or condominium ownership is sponsored by a bona fide tenants' organization representing a majority of the households in the project;
 - (iii) The Commissioner has determined that continuation of the property as a nursing home is unnecessary to assure adequate a nursing home opportunities for low and moderate income people in the community; or
 - (iv) The Commissioner has determined that continuation of the property as a nursing home would have an undesirable and deleterious effect on the surrounding neighborhood.

2. Exculpation

Notwithstanding any other provision of this Note, it is agreed that the execution of this Note will impose no personal liability on Maker for payment of the indebtedness imposed hereby, and, in the event of a default, Holder shall look solely to the property described in the Mortgage and to the rents, issues, and profits therefrom in satisfaction of the indebtedness evidenced hereby and will not seek or obtain any deficiency or personal judgment against Maker except such judgment or decree as may be necessary to foreclose and bar Maker's interest in the property and all other property mortgaged, pledged, conveyed, or assigned to secure payment of this Note, except as set out in the Mortgage of even date given to secure this indebtedness.

3. Late Charges

In order to cover extra expenses incurred in handling delinquent payments, in the event that Maker fails to make any monthly payment when due to Holder within 15 days after the due date thereof, Holder may, at its option, impose a late charge upon Maker in the amount of two cents per one dollar of interest and principal that is more than 15 days in arrears. This late charge will be separately charged to and collected from Maker. This late charge cannot be deducted from any total monthly mortgage payment or collected from any reserve escrow, from residual receipts funds, or from any accruals of interest in such escrows or funds.

Maker:

Heritage Nursing Center, L.L.C., an Illinois
limited liability company

By: 

Avigdor Horowitz, Manager

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EXHIBIT B

2002R25573

RECORDED ON

08-08-2002 3:37:32

CHAMPAIGN COUNTY
RECORDER
BARBARA A. FRASCA

REC. FEE: 41.00
REV FEE:
PAGES: 6
PLAT ACT: 0
PLAT PAGE:

Mortgage
165565

ALLIED TITLE SERVICES

RECORDING COVER SHEET

Prepared by & Return to:

Sackroff & Weaner
30. South Wacker
Suite 2900
Chicago, IL 60606

025573

visions of this mortgage or in case of any suit or legal proceeding wherein the Mortgagee shall be made a party thereto by reason of this mortgage, its costs and expenses, and the reasonable fees and charges of the attorneys or solicitors of the Mortgagee, so made parties, for services in such suit or proceedings, shall be a further lien and charge upon the said premises under this mortgage, and all such expenses shall become so much additional indebtedness secured hereby and be allowed in any decree foreclosing this mortgage;

21. AND THERE SHALL BE INCLUDED in any decree foreclosing this mortgage and be paid out of the proceeds of any sale made in pursuance of any such decree: (1) All the costs of such suit or suits, advertising, sale, and conveyance, including attorneys', solicitors', and stenographers' fees, outlays for documentary evidence and cost of said abstract and examination of title; (2) all the moneys advanced by the Mortgagee, if any, for any purpose authorized in the mortgage, with interest on such advances at the rate specified in the note, from the time such advances are made; (3) all the accrued interest remaining unpaid on the indebtedness hereby secured; (4) all the said principal money remaining unpaid. The over-plus of the proceeds of sale, if any, shall then be paid as the court may direct;

22. A RECONVEYANCE of said premises shall be made by the Mortgagee to the Mortgagor on full payment of the indebtedness aforesaid, the performance of the covenants and agreements herein made by the Mortgagor, and the payment of the reasonable fees of said Mortgagee.

23. IT IS EXPRESSLY AGREED that no extension of the time for payment of the debt hereby secured given by the Mortgagee to any successor in interest of the Mortgagor shall operate to release, in any manner, the original liability of the Mortgagor;

24. The Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure of this mortgage on its own behalf and on behalf of each and every person except decree or judgment creditors of the Mortgagor acquiring any interest in or title to the premises subsequent to the date of this mortgage;

25. THE COVENANTS HEREIN CONTAINED shall bind, and the benefits and advantages shall inure to, the successors and assigns of the respective parties hereto. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

26. Notwithstanding any other provision contained herein or in the Note, it is agreed that the execution of the Note shall impose no personal liability upon the Grantor for payment of the indebtedness evidenced thereby and in the event of a default, the holder of the Note shall look solely to the Property subject to this Mortgage and to the rents, issues and profits thereof in satisfaction of the indebtedness evidenced by the Note and will not seek to obtain any deficiency or personal judgment against the Grantor except such judgment or decree as may be necessary to foreclose or bar its interest in the Property subject to this Mortgage and all other property mortgaged, pledged, conveyed or assigned to secure payment of the Note; provided that nothing in this condition and no action so taken shall operate to impair any obligation of the maker under the Regulatory Agreement herein referred to and made a part hereof.

IN WITNESS WHEREOF, the Mortgagor, has caused these presents to be signed on its behalf by its manager as of the day and year first above written, pursuant to authority given by informal action in lieu of a meeting of said limited liability company.

Heritage Nursing Center, L.L.C., an Illinois limited liability company

By: Avigdor Horowitz, Manager

STATE OF ILLINOIS
COUNTY OF COOK

The foregoing instrument was acknowledged before me in my jurisdiction aforesaid this 6TH day of August, 2002, by Avigdor Horowitz, manager of Heritage Nursing Center, L.L.C., an Illinois limited liability company, for an on behalf of the limited liability company, for the purposes therein set forth.

[AFFIX NOTARIAL SEAL]

Lynn A. Nichols
Notary Public

My Commission Expires: 7/12/05

"OFFICIAL SEAL"
LYNN A. NICHOLS
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 7/12/2005

STATE OF ILLINOIS

Loan No. 072-22038

Mortgage

HERITAGE NURSING CENTER, L.L.C.

TO

CHAC COMMERCIAL MORTGAGE CORPORATION

Doc. No.

Filed for Record in the Recorder's Office

of Champaign County, Illinois,

on the day of August, 2002

A.D. 2002, at o'clock m.,

and duly recorded in Book

of , page

Clerk.

Exhibit A

025573

LEGAL DESCRIPTION

Parcel I:

Part of the Northwest Quarter of Section 2, Township 19 North, Range 8 East of the Third Principal Meridian, more particularly described as follows: Beginning at the intersection of the East line of Dobbins Downs I Subdivision in Champaign County, Illinois and the South right of way line of Curt Drive as platted in said Dobbins Downs I Subdivision; thence North 89 degrees, 54 minutes, 10 seconds East along the extended South right of way line of said Curt Drive 322.8 feet; thence South 00 degrees 02 minutes 50 seconds East 425.31 feet to the North line of the John T. Treballas Tract, a Subdivision recorded in Plat Book "N", at Page 52 in the Recorder's Office of Champaign County; thence North 88 degrees, 44 minutes, 20 seconds West along said North line 322.65 feet to the East line of said Dobbins Downs I Subdivision, thence North 00 degrees, 05 minutes, 50 seconds West, along said East line, 417.80 feet to the point of beginning, except therefrom the following described tract, to-wit: Part of the Northwest Quarter of said Section 2, Township 19 North, Range 8 East of the Third Principal Meridian more particularly described as follows: Commencing at the intersection of the East line of Dobbins Downs I Subdivision in Champaign County, Illinois, and the South right of way line of Curt Drive as platted in said Dobbins Downs I Subdivision; thence North 89 degrees, 54 minutes, 10 seconds East along the extended south right of way line of said Curt Drive, 40.00 feet to the point of beginning; thence, continuing along said extended South right of way line North 89 degrees, 54 minutes, 10 seconds East, 282.80 feet; thence South 00 degrees, 02 minutes, 50 seconds East, 207.50 feet, thence South 89 degrees 54 minutes, 10 seconds West, 282.72 feet, thence North 00 degrees, 05 minutes, 50 seconds West along a line parallel to and 40 feet East of the East line of said Dobbins Downs I Subdivision, 207.50 feet to the point of beginning, all situated in the City of Champaign, Champaign County, Illinois

Parcel II:

A non-exclusive easement for the benefit of Parcel I as created by Deed in Trust recorded February 17, 1969 as Document 788648, for the purposes of pedestrian and vehicular ingress and egress, together with right of use and access of any and all public or municipal utilities over, under, in or across the following described tract of land, to-wit: A tract of land situated in the Northeast Quarter of the Northwest Quarter of Section 2, Township 19 North, Range 8 East of the Third Principal Meridian in Champaign County, Illinois, the boundary of which is described as follows: Commencing at the Northeast corner of Lot 60 in Dobbins Downs I Subdivision in Champaign County, Illinois, proceed thence on an assumed bearing of North 89 degrees, 54 minutes 10 seconds East along an Easterly extension of the South line of Curt Drive, as platted in said Dobbins Downs I Subdivision, 70 feet; thence North 00 degrees, 05 minutes, 50 seconds West, 60.00 feet; thence South 89 degrees, 54 minutes 10 seconds West along an Easterly extension of the North line of said Curt Drive, 70 feet to the Southeast corner of Lot 59 of said Dobbins Downs I Subdivision; thence South 00 degrees, 05 minutes, 50 seconds East along the East line of Dobbins Downs I Subdivision, 60.00 feet to the point of beginning, situated in Champaign County, Illinois.

Commonly known as 1315 Curt Drive, Champaign, Illinois
 Permanent Tax Number: 41-20-02-132-008; Code 41-2.

CERTIFICATE OF SERVICE

I, David M. Fournier, hereby certify that on the 3rd day of July, 2024, I caused the foregoing *Limited Objection of Berkadia Commercial Mortgage LLC to Debtors' Motion for Entry of (A) An Order (I) Scheduling a Hearing On the Approval of the Sale of All or Substantially All of the Debtors' Assets Free and Clear of All Encumbrances Other Than Assumed Liabilities and Permitted Encumbrances, and the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (II) Approving Certain Bidding Procedures and Assumption and Assignment Procedures, and the Form and Manner of Notice Thereof, (III) Authorizing the Debtors to Enter into the Stalking Horse Purchase Agreement, and (IV) Granting Related Relief; and (B) An Order (I) Approving the Asset Purchase Agreement, (II) Authorizing the Sale of All or Substantially All of the Debtors' Assets Free and Clear of All Encumbrances Other Than Assumed Liabilities and Permitted Encumbrances, (III) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (IV) Granting Related Relief* to be served by email upon the parties set forth on the attached list; and all ECF participants registered in this case were served electronically on the date of filing through the court's ECF system at their respective email addresses registered with the court.

/s/ David M. Fournier
David M. Fournier (DE No. 2812)

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