JACKSON WALKER LLP
Michael S. Held (State Bar 09388150)
W. Ross Forbes, Jr. (State Bar 00796564)
2323 Ross Avenue, Suite 600
Dallas, Texas 75201
Telephone: (214) 953-6000
Facsimile: (214) 953-5822

Local Counsel for Intercity Investment Properties, Inc. and Kong Capital LLC

LEVENFELD PEARLSTEIN, LLC
Eileen M. Sethna, Esq. (admitted *pro hac vice*)
Ryan C. Hardy, Esq. (admitted *pro hac vice*)
Elizabeth B. Vandesteeg, Esq. (admitted *pro hac vice*)
120 South Riverside Plaza, Suite 1800
Chicago, Illinois 60606
Telephone: (312) 346-8380
Facsimile: (312) 346-8634

Counsel for Intercity Investment Properties, Inc. and Kong Capital LLC

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

In re:	)	
	)	
Northwest Senior Housing Corporation, *et al.*,	)	Chapter 11
	)	
Debtors[1]	)	Case No. 22-30659 (MVL)
	)	
Leif M. Clark, Trustee of the Edgemere Litigation Trust,	)	
	)	
Plaintiff	)	
	)	
v.	)	Adv. No. 22-03040 (MVL)
	)	
Intercity Investment Properties, Inc., and Kong Capital, LLC,	)	
	)	
Defendants	)	

JOINT MOTION TO MODIFY SCHEDULING ORDER

TO THE HONORABLE MICHELLE V. LARSON, UNITED STATES BANKRUPTCY JUDGE:

Defendants Intercity Investment Properties, Inc. ("**ICI**") and Kong Capital, LLC ("**Kong**, referred to collectively with ICI as the "**Defendants**"), jointly with Plaintiff Leif M. Clark, solely

[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 ("SQLC") (2669). The Debtors' mailing address is 8523 Thackery Street, Dallas, Texas 75225.

in his capacity as Trustee of the Edgemere Litigation Trust (the "**Plaintiff**," or the "**Trustee**," referred to collectively with Defendants as the "***Parties***"), brings this *Joint Motion to Modify the Scheduling Order* for cause under rules 15(a) and 16(b)(4) of the Federal Rules of Civil Procedure (the "**Rules**"), applicable here by operation of rules 7015 and 7016 of the Federal Rule of Bankruptcy Procedure (the "**Bankruptcy Rules**"). In support of this Motion, the Parties state:

1. The Plaintiff's predecessor in interest, Northwest Senior Housing Corporation, filed this adversary proceeding on April 14, 2022. (ECF 1).

2. The current order governing scheduling matters in this Case, appearing on the docket at ECF 342 (as modified by ECF 355) (the "**Scheduling Order**") calls for the close of fact discovery at the end of January 2024, with additional dates and deadlines rapidly following thereafter.

3. As the Case has proceeded, the Parties have worked to advance the proceedings through discovery, but it is now apparent that the schedule set for this complex commercial litigation matter has proven overly ambitious and insufficient to allow the time necessary for the Parties to conduct and complete discovery on the Scheduling Order's existing timeline.

4. The Parties are currently engaged in numerous discovery disputes that have rendered the existing schedule unworkable. Without resolving these discovery issues, many of the depositions the Parties intend to take cannot proceed, additional time will be necessary to produce and review any supplemental productions either Party may make or be compelled to make, which will not be completed prior to the currently-scheduled close of discovery.

5. The Scheduling Order permits the Parties to modify the schedule for this Case by agreement and without further order of Court, except where proposing to modify hearing dates or dates for final submissions by the Parties. (ECF 342 at ¶ 17).

6. Given the posture of the Case, and the need for additional time for the Parties to properly prepare for trial in this matter, the Parties propose that the dates and deadlines set forth in the Scheduling Order be modified as follows:

Event	Current Date	Proposed Modified Date
1. Close of fact discovery	January 26, 2024	April 26, 2024
2. Deadline to produce supplemental or amended expert witness list and reports	February 16, 2024	May 17, 2024
3. Deadline to exchange rebuttal expert reports	March 22, 2024	July 12, 2024
4. Close of expert discovery	April 12, 2024	August 9, 2024
5. Deadline to file dispositive motions	May 10, 2024	September 6, 2024
6. Dispositive motion response deadline	June 7, 2024	October 7, 2024
7. Dispositive motion reply deadline	June 21, 2024	October 21, 2024
8. Hearing on dispositive motions	July 2, 2024	November 1, 2024
9. Deadline to file *Daubert* motions	May 17, 2024	September 6, 2024
10. *Daubert* motion response deadline	June 14, 2024	October 7, 2024
11. *Daubert* motion reply deadline	June 28, 2024	October 21, 2024
12. Hearing on *Daubert* motions	July 2, 2024	November 1, 2024
13. Witness and exhibit lists due	July 19, 2024	October 25, 2024
14. Deadline to object to witnesses or exhibits	July 30, 2024	November 15, 2024
15. Deadline to submit proposed findings of fact and conclusions of law	July 30, 2024	December 20, 2024
16. Deadline to file and serve trial briefs	August 6, 2024	December 20, 2024
17. Deadline to file motions *in limine*	August 13, 2024	December 20, 2024
18. Deadline to submit Joint Pretrial Order	August 20, 2024	December 20, 2024
19. Final pretrial conference	August 27, 2024	One week before Docket Call

Event	Current Date	Proposed Modified Date
20. Docket call	September 3, 2024, at 1:15 p.m.	To be established by the Court
21. Trial commencement	September 9	To be established by the Court

WHEREFORE, the Parties respectfully request that the Court enter an order substantially in the form of the accompanying proposed order, and that the Court enter such other or additional relief as it may deem just and appropriate in the circumstances.

Dallas, Texas
January 8, 2024

/s/ Ryan C. Hardy

JACKSON WALKER LLP
Michael S. Held (State Bar 09388150)
W. Ross Forbes, Jr. (State Bar 00796564)
2323 Ross Avenue, Suite 600
Dallas, Texas 75201
Telephone: (214) 953-6000
Facsimile: (214) 953-5822
Email: mheld@jw.com
Email: rforbes@jw.com

Local Counsel for Defendants

LEVENFELD PEARLSTEIN, LLC
Elizabeth B. Vandesteeg (admitted *pro hac vice*)
Ryan C. Hardy (admitted *pro hac vice*)
Eileen M. Sethna (admitted *pro hac vice*)
120 S. Riverside Plaza, Suite 1800
Chicago, IL 60606
Telephone: (312) 346-8380
Facsimile: (312) 346-7634
Email: evandesteeg@lplegal.com
Email: rhardy@lplegal.com
Email: esethna@lplegal.com

Counsel for Defendants

And

/s/ J. Gregory Taylor

DIAMOND MCCARTHY LLP
Allan B. Diamond (State Bar No. 05801800)
Stephen T. Loden (State Bar No. 24002489)
Christopher D. Johnson (State Bar No. 24012913) 909 Fannin, Suite 3700 Houston, Texas 77010 Telephone: (713) 333-5100
adiamond@diamondmccarthy.com
sloden@diamondmccarthy.com
chris.johnson@diamondmccarthy.com

Counsel to Leif M. Clark, solely in his capacity as the Trustee of the Edgemere Litigation Trust

DIAMOND MCCARTHY LLP
J. Gregory Taylor (State Bar No. 19706100)
Mark A. Sales (State Bar No. 17532050)
Drew Jones (State Bar No. 24083269)
2711 N. Haskell Avenue, Suite 3100
Dallas, Texas 75204
Telephone: (214) 389-5300
gtaylor@diamondmccarthy.com
msales@diamondmccarthy.com
drew.jones@diamondmccarthy.com

CERTIFICATE OF SERVICE

I certify that on this 8th day of January 2024, a copy of the foregoing was filed electronically with the Clerk of Court via ECF, which caused a copy of same to be transmitted to all counsel of record.

/s/ *Michael S. Held*
Michael S. Held

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

In Re: NORTHWEST SENIOR HOUSING CORPORATION, *et al*.[2] Debtors.	Chapter 11 Case No. 22-30659 (MVL)
Leif M. Clark, Trustee of the Edgemere Litigation Trust Plaintiff, v. Intercity Investment Properties, Inc. and Kong Capital, LLC, Defendants.	Adv. No. 22-03040 (MVL)

AMENDED AGREED SCHEDULING ORDER

[2] 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.

Pursuant to Federal Rule of Civil Procedure 16, made applicable to this adversary proceeding by Federal Rule of Bankruptcy Procedure 7026, the Court issues the following amended scheduling order (this "**Scheduling Order**") [at the request of Leif M. Clark, solely in his capacity as Litigation Trustee of the former Debtor Northwest Senior Housing Corporation d/b/a Edgemere ("**Debtor**") and Defendants Intercity Investment Properties, Inc. and Kong Capital LLC ("**Defendants**")]. The rules of procedure referenced in this Scheduling Order are the Federal Rules of Civil Procedure as modified or made applicable to this proceeding by the Federal Rules of Bankruptcy Procedure.

IT IS ORDERED THAT:

1. Fact discovery must be completed by April 26, 2024. The parties may, by agreement, continue fact discovery beyond the deadline, but the trial setting will not be vacated because of information obtained in post-deadline discovery except by further court order.

2. Parties must exchange any supplemental or amended expert witness list and expert reports required by FRCP 26(a)(2) by May 17, 2024. Only those expert witnesses will be permitted to testify. Within twenty-one (21) days thereafter, the parties will make their expert witnesses available for deposition.

3. Parties must exchange any rebuttal expert reports by July 12, 2024. Only those expert witnesses will be permitted to testify. Within fourteen (14) days thereafter, the parties will make their expert witnesses available for deposition.

4. Expert discovery must be completed by August 9, 2024.

5. Parties must file any dispositive motions and Daubert motions by September 6, 2024. Parties must file responses in opposition to dispositive and Daubert motions by October 7,

2024. Parties must file replies in support of dispositive motions by October 21, 2024. A hearing on dispositive motions shall be held no later than November 1, 2024.

6. Parties must file and serve witness and exhibit lists by October 25, 2024. Each exhibit shall be marked with an exhibit label. Except for impeachment documents, the parties shall submit a joint list of all exhibits. Written objections to any such witness or exhibit by the opposing party must be filed and served by November 15, 2024. All exhibits on the joint list shall be admitted into evidence at trial without further proof, except for objections to relevance. Written objections to exhibits will be taken up either at the beginning or during the course of the actual trial or at any pretrial conference.

7. Parties must file proposed findings of fact and conclusions of law by December 20, 2024.

8. Parties must file and serve trial briefs on disputed issues of law by December 20, 2024.

9. Parties must file any motions *in limine* by December 20, 2024.

10. A Joint Pretrial Order in compliance with Local District Court Rule 16.4 shall be filed, served, and uploaded for Court entry by December 20, 2024. All counsel are responsible for preparing the Joint Pretrial Order, which shall contain the following: (a) a summary of the claims and defenses of each party; (b) a statement of stipulated facts; (c) a list of the contested issues of fact; (d) a list of contested issues of law; (e) an estimate of the length of trial; (f) a list of additional matter which would aid in the disposition of the case; and (g) the signature of each attorney.

11. The final pretrial conference shall occur one week before Docket Call.

12. Docket call shall take place on a date to be established by the Court.

13. Trial is set to commence on a date to be established by the Court.[3]

14. Except as otherwise set forth herein, the parties are granted leave to agree to modify any of the dates set forth in this Order without further order of the Court. However, the parties may not modify any hearing date or the date of a final submission by any party prior to any hearing date without further order of the Court.

15. Sanctions may be imposed for failure to comply with this Order.

END OF ORDER###

[3] The Defendants have not consented to entry of final judgment by the Bankruptcy Court, and therefore state that the date on which trial is set to commence will be determined by the availability of trial dates of the assigned district court in the Northern District of Texas. Nothing in this Agreed Scheduling Order shall be construed as waiver of either Party's right to not consent or withdraw consent to trial proceeding in and entry of final judgment by this Court.