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14 **SUPERIOR COURT OF THE STATE OF ARIZONA**

15 **IN AND FOR THE COUNTY OF MARICOPA**

16 STATE OF ARIZONA, *ex rel.* KRISTIN K.  
17 MAYES, Attorney General,

18 Plaintiff,

19 -vs.-

20 HERITAGE VILLAGE BLDG2, LLC, et al.;

21 Defendants.

Case No: CV2024-005359

**APPLICATION (WITH NOTICE) FOR  
APPOINTMENT OF RECEIVER**

*(Expedited Consideration Requested)*

(Assigned to Hon. Michael Gordon)

22 Pursuant to Rule 66 of the Arizona Rules of Civil Procedure, A.R.S. § 46-455, and A.R.S.  
23 § 12-1242, Plaintiff State of Arizona (the “State”) hereby respectfully applies for appointment of  
24 a receiver to take control of the operations and finances of Heritage Village Assisted Living in  
25 Mesa, Arizona (“Heritage Village”). The receivership will cover those defendants currently  
26 known to have a direct relationship to Heritage Village, to wit, Heritage Village Bldg2, LLC;  
MRC VSL HV Management, LLC; MRC VSL HV Management II, LLC; MRC VSL Heritage  
Village, LLC; and MRC VSL Heritage Village II, LLC (“Receivership Defendants”).

The State nominates Peter S. Davis, of J.S. Held, LLC to be receiver for the Receivership

1 Defendants. A copy of Mr. Davis’ *curriculum vitae* is attached hereto as **Exhibit 1**.

2 This Application is supported by the following memorandum of points and authorities, and  
3 the Declaration of Shane M. Ham (“Decl.”), attached hereto as **Exhibit 2**.<sup>1</sup> Rule 65 of the Arizona  
4 Rules of Civil Procedure does not apply. A proposed form of order accompanies this Application.

5 **MEMORANDUM OF POINTS AND AUTHORITIES**

6 Heritage Village is perhaps the most notorious assisted living facility in Arizona. The  
7 facility has been featured in the local news repeatedly for a variety of horrific events occurring on  
8 the premises. The Arizona Department of Health Services (“ADHS”) reportedly cited Heritage  
9 Village for violations of Arizona law more than any other assisted living facility in the state, and  
10 in January 2024 ADHS initiated proceedings to revoke the license under which Heritage Village  
11 operates.

12 The State initiated a civil investigation into Heritage Village, and as a result of the  
13 discoveries made during that investigation, filed the instant lawsuit for the health and protection  
14 of the residents at the facility. The State seeks receivership for Heritage Village to effect an  
15 immediate change in leadership of Heritage Village, to bring the facility into compliance with all  
16 laws and regulations for the protection of vulnerable adults, to prevent the revocation of the license  
17 to operate the facility, and to assess and protect the financial health of the facility. The State  
18 respectfully requests the Court appoint Mr. Davis as receiver for the reasons below.

19 **BACKGROUND**

20 Heritage Village is an assisted living facility located in Mesa, Arizona and currently  
21 licensed by ADHS under the name Heritage Village Bldg2, LLC (the lead defendant in this  
22 action). The facility provides long-term care and assistance with activities of daily living to its  
23 residents, all of whom are considered “vulnerable adults” under Arizona’s Adult Protective  
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25 <sup>1</sup> For ease of review, the exhibits to the Ham Declaration have been filed together as a  
26 standalone supporting document with consecutive pagination. Citations to exhibits in the  
Declaration include numbers in brackets, which refer to the consecutive page numbers in the  
standalone document.

1 Services Act (“APSA”) because they are unable to protect themselves from abuse, neglect, or  
2 exploitation due to their physical and/or mental impairments. *See* A.R.S. § 46-451(12).

3 In May 2023, the ARIZONA REPUBLIC launched a series of stories about assisted living  
4 facilities in Arizona, including a searchable database of complaints against the facilities. Heritage  
5 Village featured prominently in the series, which detailed shocking levels of violence against  
6 residents and incompetence among the staff. *See, e.g.,* Caitlin McGlade, *Arizona senior living*  
7 *center where resident killed roommate has had nearly 150 citations since*, Arizona Republic, Oct.  
8 23, 2023.<sup>2</sup> In November 2023, the Office of the Attorney General initiated a civil investigation  
9 into Heritage Village. Decl. ¶ 4. The investigation relied on a wide variety of public and  
10 government sources, as well as a civil investigative demand issued to Heritage Village and  
11 examinations under oath of witnesses to activities at Heritage Village. Decl. ¶¶ 5-6.

12 On or about January 12, 2024, ADHS issued a Notice of Intent to Revoke Health Care  
13 Institution License to Heritage Village, citing the “direct risk to the life, health and safety” of the  
14 residents at the facility. Decl. ¶¶ 24-25. Many of the violations of law found by ADHS inarguably  
15 demonstrate the risk faced by the residents of Heritage Village under current management, such  
16 as propping open doors that should be alarmed to prevent dementia patients from wandering,  
17 hiring caregivers who lack proper training, giving residents improper medication doses (or  
18 skipping doses entirely), and putting a toddler lock on a resident’s bedroom door, trapping the  
19 resident inside. Decl. ¶ 26.

20 As a result of that investigation, the State learned that approximately 39 of the residents at  
21 the facility are unable to ambulate even with assistance, a condition commonly known as  
22 “bedbound” and/or “chairbound.” Decl. ¶ 30. Under the applicable regulations, assisted living  
23 facilities are not allowed to accept or retain bedbound residents unless the resident’s physician  
24 certifies in writing that the facility is capable of providing the resident with the necessary level of

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25 <sup>2</sup> Available at [https://www.azcentral.com/story/news/local/arizona-](https://www.azcentral.com/story/news/local/arizona-investigations/2023/10/23/heritage-village-injuries-neglect-mistakes-and-death/70993896007/)  
26 [investigations/2023/10/23/heritage-village-injuries-neglect-mistakes-and-death/70993896007/](https://www.azcentral.com/story/news/local/arizona-investigations/2023/10/23/heritage-village-injuries-neglect-mistakes-and-death/70993896007/)  
(last visited March 21, 2024).

1 care, as set forth in each resident's care plan (also known as a service plan). *See* A.A.C. § R9-10-  
2 814(B). As part of its investigation, the State requested the written certifications and service plans  
3 for all bedbound residents. Decl. ¶ 30.

4 When Heritage Village produced those documents, many of the service plans and a  
5 majority of the written certifications were signed after the date the documents had been demanded.  
6 That is to say, Heritage Village did not produce documents that were already in their files, but  
7 rather created documents that did not previously exist. Decl. ¶ 31. Moreover, the vast majority  
8 of the certification forms produced had been signed by just three providers, and the dates on the  
9 forms indicated that the signatures were done in batches, as if each provider had signed a stack of  
10 forms all at once. Decl. ¶ 32.

11 When examined under oath during the investigation, all three of those providers confirmed  
12 that they did not sign the forms because they had reviewed the service plans and determined that  
13 the patients could receive appropriate care at Heritage Village. Rather, all three providers  
14 admitted that they signed the forms without understanding what they were signing, without  
15 knowing the requirements that must be met before certification, and without reviewing the service  
16 plans for the residents. One provider admitted she signed the forms without reading them. One  
17 provider admitted he had never been to Heritage Village and did not know his patients resided  
18 there. All of them testified that Heritage Village did not include copies of the corresponding  
19 service plans when it gave the certification forms to the providers for signature. Decl. ¶ 33.

20 This event triggered the early termination of the civil investigation in favor of filing suit  
21 against the Heritage Village enterprise and seeking receivership. Creating bedbound certifications  
22 in response to a production demand could be condonable if Heritage Village had done so in a good  
23 faith effort to bring their facility into compliance. Heritage Village could have generated up-to-  
24 date service plans for all bedbound residents, supplied those plans to the medical providers, and  
25 explained the regulatory standards the providers were certifying. Instead, Heritage Village  
26 generated forms that create an illusion of compliance, but are completely meaningless in terms of

1 resident care, because the medical providers signing the forms did not understand what they were  
2 signing. Decl. ¶¶ 31-33.

3 As of this date, it appears that at least 33 bedbound residents continue to reside at Heritage  
4 Village without a proper certification as required by law. Because no medical providers have  
5 engaged in a substantive evaluation of the needs of the bedbound residents and the ability of  
6 Heritage Village to meet those needs, it appears those residents are in ongoing danger. Decl. ¶ 34.

7 All people who move into assisted living facilities are vulnerable because they are no  
8 longer able to care for themselves, but bedbound residents are the most vulnerable because they  
9 cannot move without help. The cavalier attitude toward these vulnerable citizens, more than  
10 anything, demonstrates why current ownership must be removed from control over the facility  
11 and the vulnerable residents who pay thousands of dollars per month for care at the facility.  
12 Heritage Village may argue that the most recent ADHS citations have not been adjudicated as fact  
13 (though it is difficult to envision any valid substantive defenses to the citations). Heritage Village  
14 cannot reasonably argue that their actions in response to the State’s investigations demonstrate a  
15 commitment to quality care for vulnerable adults.

## 16 ARGUMENT

### 17 **I. The legal standard for appointment of a receiver is minimal under Arizona law.**

18 Under Arizona law generally, and under APSA specifically, the standard for appointment  
19 of a receiver is easily met by the facts in this case. The Court has general power under Title 12 to  
20 appoint a receiver “to protect and preserve property or the rights of parties therein.” A.R.S. § 12-  
21 1241. In an APSA case such as this one, the Court has the specific power to appoint a receiver  
22 before a determination of liability. A.R.S. § 46-455(G). “The decision to appoint a receiver rests  
23 in the sound legal discretion of the trial court.” *Gravel Res. of Arizona v. Hills*, 217 Ariz. 33, 37,  
24 ¶ 12 (App. 2007) (internal citations and quotations omitted).

25 Taken together, these authorities demonstrate the Court’s broad power to appoint a receiver  
26 even when the Receivership Defendants dispute liability for the claims in the State’s Complaint.

1 The guiding principle should be, first and foremost, protecting the vulnerable seniors who reside  
2 at Heritage Village. As detailed herein and in the State’s Complaint, the allegations against the  
3 Receivership Defendants are credible enough, numerous enough, and serious enough to justify  
4 appointment of a receiver.

5 **II. Ample cause exists to appoint a receiver for Heritage Village.**

6 As set forth in the Complaint and in the Declaration accompanying this Application, the  
7 allegations against the Receivership Defendants more than justify appointment of a receiver.  
8 Protection of the vulnerable residents at Heritage Village requires new management to bring the  
9 facility into compliance and prevent a complete shutdown due to revocation of the license. In  
10 addition, other public records provide strong evidence that the Heritage Village ownership group  
11 is in financial distress, which represents an additional risk to the residents and the viability of the  
12 facility. Because Heritage Village has not been adequately forthcoming during the investigative  
13 phase of this matter, appointing a receiver may be the only way to uncover the true status of the  
14 Heritage Village enterprise and what will be needed to fix it.

15 **A. Appointment of a receiver is necessary to protect the health and safety of**  
16 **current and future Heritage Village residents.**

17 As detailed above, dozens of bedbound vulnerable adults currently reside at Heritage  
18 Village, and none of them have yet received the bare minimum required by law: an evaluation by  
19 their primary medical provider certifying that the resident’s service plan is adequate and that the  
20 facility is capable of meeting the resident’s needs as set forth in the service plan. Decl. ¶ 34.

21 Beyond that, the citations issued to Heritage Village by ADHS paint a picture of a facility  
22 that is out of control and needs immediate professional help in order to provide appropriate  
23 resident care and come into compliance with Arizona law. Decl. ¶ 26 (citing ¶¶ 62-86 of the  
24 Complaint). These allegations are serious, numerous, and recurring. The Receivership  
25 Defendants have controlled the facility for years, and yet it is still arguably the most troubled  
26 assisted living facility in Arizona. Only a receiver can bring the kind of immediate and impactful

1 change necessary to protect the vulnerable adults residing at Heritage Village.

2 **B. Appointment of a receiver is necessary to protect the facility’s license.**

3 Without a receiver in place to defend the facility in the ADHS revocation proceedings, the  
4 residents face the further risk that Heritage Village will close down entirely, causing disruption to  
5 the residents and their families as they scramble to find new care facilities. The ADHS Notice of  
6 Intent to Revoke lists an enormous number of violations discovered in recent months. Decl. ¶¶ 24-  
7 26. In light of the overwhelming amount of evidence against Heritage Village, including its long  
8 history of violations and horrific incidents at the facility, the likelihood that the current ownership  
9 group of Heritage Village will successfully defend the license is quite low.

10 Should the license be lost, moving the residents will be a complicated undertaking, the  
11 major burden of which will fall on family members of the residents. Families who live in Mesa  
12 and chose Heritage Village to keep their loved ones close for visitation may struggle to find other  
13 convenient facilities. Because demand for beds in assisted living facilities is quite high, it may be  
14 difficult for families to find quality facilities with available beds and adequate staffing to meet the  
15 needs of the relocating Heritage Village residents. Moreover, it appears that some residents at  
16 Heritage Village do not have proper documentation of power of attorney or other authorization to  
17 act on behalf of the vulnerable adults, so finding authorized family members or appointing  
18 representatives to fill that role may complicate matters even more. Decl. ¶ 29.

19 Closing Heritage Village entirely would be better than letting the facility continue under  
20 current ownership and management, but that is not the only option available. Appointing a  
21 receiver will greatly increase the odds that the facility can come into compliance and avoid  
22 revocation entirely. Even if revocation cannot be avoided, having a receiver in place will still  
23 benefit the residents at Heritage Village because managing the transition will require dedicated  
24 and experienced professionals in the key leadership roles. That will not occur if the Receivership  
25 Defendants remain in control of the facility—if the current owners were capable of running the  
26 facility properly, there would be no license revocation proceeding in the first place. Only a

1 receiver can properly manage the process.

2 **C. Appointment of a receiver is necessary to determine the facility's true**  
3 **operational and financial condition.**

4 Based on the State's investigation, the Heritage Village ownership group structured the  
5 business to be as opaque as possible. The owners appear to be in financial distress, and the tangle  
6 of entities related to Heritage Village appear designed to allow the owners to move money around  
7 without proper controls. Moreover, the lack of candor from Heritage Village in response to the  
8 State's investigation suggests even discovery under the Rules of Civil Procedure cannot guarantee  
9 that the true status of the facility will be revealed during the course of this lawsuit. Appointing a  
10 receiver will ensure that financial controls and reporting will be lawful, accurate, and honest.

11 The evidence for the financial instability of the Receivership Defendants and the ownership  
12 group comes from two other facilities operated by the same group, Visions Senior Living in Mesa  
13 and Visions Senior Living in Apache Junction. Decl. ¶ 35. One of the entities related to the  
14 Visions facility in Mesa filed a lawsuit in December 2021, alleging that the owners had defaulted  
15 on a \$2.5 million loan and had improperly diverted funds to insiders while in default. Decl. ¶¶ 36-  
16 38. Significantly, the entity that received and defaulted on the loan was not the entity that held  
17 the license to operate the Visions facility, even though the borrowing entity held apparent  
18 authority to pledge the real property and stream of rental income as collateral for the defaulted  
19 loan. Decl. ¶ 39.

20 Heritage Village faces the same situation. The owners have borrowed at least \$14.6 million  
21 secured by the real property and income stream of the Heritage Village facility. Decl. ¶ 52. The  
22 deeds of trust for the Heritage Village loans require the borrowing entities to perform duties that  
23 can only be performed by facility owners, such as maintaining the premises and complying with  
24 all legal requirements. Decl. ¶¶ 46, 50. In other words, the debt burden does not fall on tangential  
25 or unrelated facilities. These debts are to be repaid with funds that should be used to provide  
26 adequate staffing and resources for the Heritage Village facility.

1 Nor are the two Visions facilities the only indicators of the financial condition of Heritage  
2 Village’s owners. A report from the Visions receiver indicates multiple facilities in Utah were  
3 also placed under receivership at the same time. Decl. ¶¶ 40-43. The fact that the current Heritage  
4 Village ownership group had two other Arizona facilities placed into receivership due to financial  
5 problems strongly indicates that the owners are in financial trouble.

6 Moreover, the Heritage Village owners have structured the business with the apparent  
7 intent of allowing funds to flow interchangeably between their various entities without proper  
8 controls. For example, the written agreements residents sign when moving into Heritage Village  
9 are not agreements between the residents and existing entities. Rather, the agreements give names  
10 for the “Community” (“MRSC VSL Heritage Village Assisted Living” and “Heritage Village  
11 Assisted Living”) that do not exist as legal entities. Because the residents have not signed an  
12 agreement with any specific entity, the owners are free to divert the rental income to any entity  
13 they choose. Decl. ¶¶ 21-22. A receiver will be able to control the flow of money, ensuring the  
14 funds paid by Heritage Village residents are not being diverted to pay the owners’ other debts.

15 Nor can the current ownership group be trusted to be honest and forthcoming with the  
16 Court about the corporate structure and finances of the Heritage Village enterprise. Heritage  
17 Village did not fully cooperate with the State’s investigations, even failing to meet production  
18 deadlines they set for themselves. Decl. ¶¶ 9-12. When asked to disclose the full ownership of  
19 the entity that holds the Heritage Village license, the responses given by Heritage Village were at  
20 best confusing, and perhaps more accurately described as misleading. Decl. ¶¶ 14-20.

21 Most concerningly, Heritage Village succeeded in giving itself a clean slate with a new  
22 license issued to a new entity. ADHS issued the previous license to “Heritage Village Bldg2,  
23 LLC dba Heritage Village Bldg 2.” In February 2023, ADHS issued a license with a new facility  
24 number to “Heritage Village Bldg 2, LLC, dba Heritage Village Bldg 2, LLC.” Decl. ¶ 22. In  
25 other words, Heritage Village received a fresh license by inserting a space between “Bldg” and  
26 “2” while claiming that the entities are the same. Decl. ¶ 14. Conveniently for the owners, giving

1 themselves a name change effectively concealed the past history of ADHS citations in the online  
2 database available to the public (as pointed out in the Arizona Republic article cited above).

3 In short, the current Heritage Village ownership has repeatedly demonstrated their  
4 willingness to use a web of real entities, along with fake names of fake entities, in order to conceal  
5 the truth about their operations, their finances, and their past history of harm to Heritage Village  
6 residents. The owners cannot be trusted to tell the truth about how the business is structured, and  
7 should the State succeed in proving its claims, the truth will need to come out because the owners  
8 will be required to sell the facility. Appointing a receiver now will prevent the current ownership  
9 from sandbagging during discovery and taking additional steps to hide or transfer assets.

10 **CONCLUSION**

11 Heritage Village is a mess, and the residents of the facility are paying the price with their  
12 health, their safety, their peace of mind, and sometimes with their lives. The State filed this  
13 lawsuit because immediate action is necessary to protect the vulnerable adults in the facility, and  
14 to protect the value of the facility itself in the event the Court orders it to be sold. Appointing a  
15 receiver will be the crucial first step to fixing the mess, and making Heritage Village a place where  
16 elderly residents can receive the care they deserve and live out their final days in comfort and  
17 dignity. The State respectfully requests that the Court grant the Application and enter the  
18 proposed receivership order.

19  
20 DATED this 22nd day of March, 2024.

21 **KRISTIN K. MAYES**  
22 ATTORNEY GENERAL

23 By: /s/ Shane M. Ham  
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25 Assistant Attorney General  
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