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# ADMINISTRATIVE PENALTY ORDER SUMMARY TO BE MADE AVAILABLE IN HOME

Pursuant to the *Retirement Homes Act, 2010* S.O. 2010, Chapter 11, section 93.

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The Bill McMurray Residence Inc.  
o/a Bill McMurray Residence  
180 Sheridan Avenue  
Toronto, ON M6K 3C7

## ADMINISTRATIVE PENALTY ORDER NO. 2023-T0189-93-01

The Deputy Registrar of the Retirement Homes Regulatory Authority (the “Deputy Registrar” and the “RHRA”, respectively) has reasonable grounds to believe that The Bill McMurray Residence (the “Licensee”) operating as Bill McMurray Residence (the “Home”) has contravened sections of the *Retirement Homes Act, 2010* (the “Act”).

The Deputy Registrar issues this Order to Pay an Administrative Penalty under section 93 of the Act to encourage the Licensee to comply with the requirements under the Act and Ontario Regulation 166/11 under the Act.

## CONTRAVENTIONS

The Deputy Registrar has reasonable grounds to believe that the Licensee contravened the following sections of the Act.:

- Section 67(2) of the Act, in relation to the Licensee’s failure to ensure that a resident of the Home was not neglected
- Section 75 (1)(paragraph 2) of the Act, in relation to the Licensee’s failure to make a report to the Registrar.

## BRIEF SUMMARY OF FACTS

The RHRA conducted an inspection of the Home on November 24, 2022, resulting in the findings of non-compliance on which this Order is based.

The Deputy Registrar has reasonable grounds to believe that the Licensee failed to ensure that staff of the Home did not neglect a resident. Specifically, the Licensee failed to ensure that staff appropriately followed the Home’s resident check policies and procedures after a resident was not seen by staff for approximately a day and a half and was found deceased. This is contrary to the Home’s policies and procedures and to its resident agreement with the resident, which required staff to visually confirm the presence of residents at particular intervals and to alert management when the resident was not seen. While the Deputy Registrar is not aware of the cause of death or whether staff following the policies and procedures would have had any effect on the resident, the RHRA requires that when Licensee’s have safety checks, they abide by them.

## ADMINISTRATIVE PENALTY FACTORS

The Registrar considered the factors set out at s. 60.1(1) of the Regulation in determining the amount of the Administrative Penalty.

- a. **Severity of Adverse Effect / Potential Adverse Effect:** The risk of adverse effect to the resident was high. It is impossible for the Deputy Registrar to determine whether the harm could have been prevented through adherence to the Licensee's procedures, but the risk of harm was clearly high as the ultimate result shows. Further there is an assumption that the failure to comply with resident check procedures results in a high risk of harm because the purpose of resident checks is to ensure resident safety.
- b. **Mitigation of Contravention:** The Licensee took steps to re-educate staff and to amend its Dining Room Checklist procedure to make clear that staff have to check rooms more thoroughly. The Licensee's mitigation did not include an acknowledgement that its staff training documents, and its Dining Room Checklist procedure were inconsistent. Nevertheless, the Licensee did attempt to mitigate the non-compliance in good faith and so this should be weighted in lowering the quantum of the penalty.
- c. **Previous Contraventions:** The Licensee's history with the RHRA has been generally compliant, however it was found to have contravened s. 67(2) of the Act in 2018, also for failing to comply with its resident check procedures. The repeated contravention weighs in favour of a larger monetary penalty.
- d. **Economic Benefit:** The Licensee did not receive any economic benefit from this incident.
- e. **Purpose of the Administrative Penalty:** The purpose of the administrative penalty is not to be punitive, but to encourage compliance going forward. This penalty will encourage the Licensee to ensure that all of its staff are aware of their obligations to check on residents that the Licensee has committed to in its policies and procedures and agreements.

The Deputy Registrar is of the view that the quantum of the payment is appropriate given the factors above and in light of the purpose of the administrative penalty to incentivize and encourage compliance now and into the future and that it is not intended to be punitive.

**Issued on September 28, 2023.**