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## Headnote

Relief granted from the requirement to deliver an offering memorandum in the required form under 4.2 of MI 45-103 *Capital Raising Exemptions*, for an offering of syndicated mortgage securities and preferred shares. Instead of the prescribed form, BC Form 45-901F, the issuer will deliver form 45-103F1 and incorporate the parts of BC Form 45-901F that are applicable

## Exemption Order

### Investicare Seniors Housing Corp.

#### Section 9.1 of Multilateral Instrument 45-103 *Capital Raising Exemptions*

## Background

- ¶ 1 Investicare Seniors Housing Corp. (Investicare) applied for an exemption from the requirement in section 4.2 of Multilateral Instrument 45-103 *Capital Raising Exemptions* (MI 45-103) to use the required form of offering memorandum.

## Representations

- ¶ 2 Investicare represents that:
1. it was incorporated in Alberta on May 7, 2004 and it is not a reporting issuer under the *Securities Act* (British Columbia) (the Act) or any other securities legislation in Canada;
  2. its authorized capital consists of an unlimited number of common shares and an unlimited number of non-voting preferred shares of which 6,000,000 common shares and no preferred shares are currently issued and outstanding;
  3. it was formed to acquire and fund the development by third parties of residential seniors housing in Western Canada (the project);
  4. in connection with the project, it will grant a mortgage (the mortgage) with a first charge against all of the real property owned by Investicare to Valiant Trust Company as trustee (the trustee) on behalf of holders of units (defined below);
  5. it will enter into a trust indenture with the trustee, which will hold the mortgage and a general security interest in trust for purchasers of units;
  6. it is making an offering of units consisting of a \$20,000 undivided interest in the mortgage (the syndicated mortgage interest) and 5,000 non-voting

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preferred shares convertible into common shares at an issue price of \$1 per share (the units) to investors in British Columbia, Alberta and, possibly, elsewhere in Canada (the offering);

7. the offering will be made under the offering memorandum exemption in MI 45-103;
8. the required form of offering memorandum for syndicated mortgage interests under this exemption in British Columbia is BC Form 45-901F;
9. it cannot use BC Form 45-901F because items 1, 6, 12, 14, 16, 23 and 25 (the mortgage broker disclosure requirements) pertain to a mortgage broker involved in a syndicated mortgage offering, and there is no mortgage broker involved with Investicare or in the offering;
10. it has no intention of engaging the services of a mortgage broker with respect to the offering or the syndicated mortgage interests generally;
11. there is no requirement in the Act or any other legislation to use a mortgage broker for an offering of syndicated mortgage interests;
12. item 9 of BC Form 45-901F requires that Investicare provide details of the most recent assessment by the British Columbia Assessment Authority (BCAA) of the land and existing improvements of the project (the BC assessment disclosure requirement) and any appraisal of the value of the land and existing improvements by a professional appraiser;
13. it cannot provide the details of a BCCA assessment because the project's properties are located in Alberta;
14. it is obligated to use Form 45-103F1 for its offering memorandum in connection with the distribution of the preferred shares, and would like to use this form of offering memorandum for the offering;

### **Order**

- ¶ 3 Because it is not prejudicial to the public interest, the Executive Director orders, under Section 9.1 of MI 45-103, that the requirement in 4.2 of MI 45-103 that the offering memorandum must be in the required form does not apply to Investicare for the offering, provided that:

- (a) Investicare delivers an offering memorandum in the form 45-103F1; and

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(b) the offering memorandum contains the disclosure required by BC Form 45-901F, except for:

- (i) the mortgage broker disclosure requirements and
- (ii) the BC assessment disclosure requirement, provided that:
  - (A) it provides the details of the equivalent Alberta authority's assessment; and
  - (B) it provides an appraisal of the value of the land and existing improvements by a professional appraiser.

¶ 4 July 12, 2004

Brenda Leong  
Director