THE CORPORATION OF THE MUNICIPALITY OF MORRIS-TURNBERRY

BY-LAW No. 62-2016

"Being a by-law to authorize the granting of an Easement"

WHEREAS, Section 9 of the Municipal Act, R.S.O. 2001, as amended, states that a Municipality has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority;

AND WHEREAS The Corporation of the Municipality of Morris-Turnberry deems it necessary to transfer an easement to property owner, in Plan 432 North Wingham, located in the Municipality of Morris-Turnberry, as set out in Schedule 'A' of this By-law;

AND WHEREAS the easement is required by the property owner, to enter on the property to maintain, operate, repair, replace, relocate, upgrade, reconstruct and remove at any time, sewer works, for the provision of a sewer service on the land described as Part of Peter Street, Plan 432, Geographic Township of Turnberry, being Parts 1, Plan 22R-6223, Municipality of Morris-Turnberry, County of Huron;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF MORRIS-TURNBERRY ENACTS AS FOLLOWS:

1. That the Mayor and Administrator Clerk-Treasurer be authorized to sign all of the necessary documents required for the easements.

Read a First and Second Time 7th of June, 2016.
Read a Third Time and Finally Passed 7th of June, 2016.

Nancy Michie, Administrator Clerk-Treasurer

Paul Gowing, Mayor

I, Nancy Michie, Clerk of the Municipality of Morris-Turnberry, hereby certifies that this is a true copy of By-law No. 62-2016 for the Municipality of Morris-Turnberry, duly passed by Council on the 7th day of June, 2016.

Nancy Michie, Administrator Clerk-Treasurer
SCHEDULE ‘A’ of By-law No. 62-2016

ALL AND SINGULAR THAT CERTAIN PARCEL OR TRACT OF LAND AND PREMISES SITUATE, described as Part of Peter Street, Plan 432, Geographic Township of Turnberry, being Part 1, Plan 22R-6223, Municipality of Morris-Turnberry, County of Huron, and being part of PIN 41049-0036 (LT) (the Servient Lands). “

And being all or Part of PIN Number:

1. Grant of an easement to MacGowan Nursing Homes Ltd. - the owner of lands in the Municipality of Morris-Turnberry described as Part Lot 23, Concession 8, Geographic Township of Turnberry, being Parts 1, 2 and 3, Plan 22R-3702, subject to easement over Parts 1, 2 and 3, Plan 22R-3702, as in HC25523, Municipality of Morris-Turnberry, County of Huron, and being PIN 41048-0007(LT) (the “Dominant Lands”);
EASEMENT AGREEMENT

BETWEEN:

THE CORPORATION OF THE MUNICIPALITY OF MORRIS-TURNBERRY

(hereinafter the "Transferor")

OF THE FIRST PART

and -

MACGOWAN NURSING HOMES LTD.

(hereinafter the "Transferee")

OF THE SECOND PART

WHEREAS the Transferor is the owner of lands in the Municipality of Morris-Turnberry described as Part of Peter St., Plan 432, Geographic Township of Turnberry, being Part 1, Plan 22R-6223, Municipality of Morris-Turnberry, County of Huron, and being part of PIN 41049-0036(LT) (the "Servient Lands");

AND WHEREAS the Transferee is the owner of lands in the Municipality of Morris-Turnberry described as Part Lot 23, Concession 8, Geographic Township of Turnberry, being Parts 1, 2 and 3, Plan 22R-3702, subject to easement over Parts 1, 2 and 3, Plan 22R-3702, as in HC25523, Municipality of Morris-Turnberry, County of Huron, and being PIN 41048-0007(LT) (the "Dominant Lands");

AND WHEREAS the Transferor has agreed to grant the easement hereinafter set out to the Transferee to be annexed to and to run with the Dominant Lands.

NOW THEREFORE THIS AGREEMENT WITNESSETH that, in consideration of the mutual promises contained herein and the payment of the sum of Two Dollars ($2.00) by the Transferee to the Transferor, the receipt and sufficiency of which are hereby acknowledged, the Transferor grants and transfers to the Transferee, its successors and assigns, the following easement (the "Easement") upon, over, in, under and across the Servient Lands:

1. (a) to operate, maintain, inspect, alter, repair, and replace sanitary sewers including all pipes and appurtenances thereto (the "Sewer Works"), in and under the Servient Lands;

(b) for the Transferee, its contractors, agents, workmen and employees to enter onto the Servient Lands at all times with machinery, material, equipment and supplies for all purposes in connection with the Easement;

(c) to remove, trim, sever or fell any obstructions such as trees, roots, brush, stumps, boulders or rocks in the exercise of the Easement rights.

2. The Transferor shall have the right to fully use and enjoy the Servient Lands provided that the Transferor shall not place any buildings or other structures on or dig, drill or excavate within the Servient Lands without the prior written consent of the Transferee, such consent not to be unreasonably withheld. Notwithstanding the foregoing, the Transferor shall be permitted to use the Servient Lands as a private road and shall be permitted to construct, improve, repair and maintain such private road using construction materials and construction techniques the Transferor deems reasonable in the Transferor's sole discretion provided the Transferor does not damage the Sewer Works.

3. The Transferee shall restore the Servient Lands to a condition approximately the condition which existed prior to each and every entry upon the Servient Lands in a good and workmanlike manner as soon as reasonably possible and, in any event, within not more than 30 days, and at the sole cost of the Transferee.

4. The parties agree that this is a permanent Easement and shall continue for such period as the Transferee's Sewer Works are located on and under the Servient Lands.

5. The Transferee, in the event that it grants a release of this Easement, shall remove all of its Sewer Works and all appurtenances thereto from the Servient Lands, and shall restore and clean up the Servient Lands in a good and workmanlike manner as soon as reasonably possible and, in any event, within not more than 90 days, and at the sole cost of the Transferor.
6. The Transferee shall indemnify and save harmless the Transferor with respect to all actions, claims, damages, and costs or expenses of whatever kind (including, without limitation, with respect to any and all liability for environmental contamination and legal fees, on a full indemnity basis) that the Transferor may be subject to, incur or suffer as a result of the Transferee’s exercise and use of the Easement and its activities and installations on the Servient Lands.

7. The Transferor covenants that it has the right to convey this Easement and will execute such further assurances as may be reasonably required by the Transferee, at the sole cost of the Transferee, to give full effect to this Agreement.

8. This Agreement and all rights, covenants and agreements contained herein, shall run with the respective lands of the Transferor and Transferee and shall enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns of the Transferor and Transferee.

SIGNED, SEALED AND DELIVERED the \textit{\textbf{1}}\textsuperscript{st} day of \textbf{September}, 2016.

THE CORPORATION OF THE MUNICIPALITY OF MORRIS-TURNBERRY

Per:

\begin{quote}
Paul Gowing, Mayor
\end{quote}

\begin{quote}
Nancy Michie, Administrator Clerk-Treasurer
\end{quote}

We have authority to bind the Municipality.

SIGNED, SEALED AND DELIVERED the \textit{\textbf{1}}\textsuperscript{st} day of \textbf{September}, 2016.

MACGOWAN NURSING HOMES LTD.

\begin{quote}
We have authority to bind the Corporation.
\end{quote}