

**TO:** Mayor Savage and Members of Halifax Regional Council

**SUBMITTED BY:**

Original Signed by 

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Jacques Dubé, Chief Administrative Officer

**DATE:** September 1, 2022

**SUBJECT: Administrative Order 50 Respecting Disposal of Surplus Real Property – A Portion of PID 40454662 44 Simmonds Road, North Preston**

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## **ORIGIN**

July 9, 2021 – Correspondence was received from the North Preston Medical Society requesting the purchase by direct sale a portion of vacant land that forms part of the North Preston Community Centre and Park.

January 26, 2022 – Information Report to Regional Council confirmed that the land requested by the North Preston Medical Society was not required in relation to the North Preston Community Centre and Park.

February 8, 2022 – Item 15.1.5. Moved by Councillor Hendsbee, seconded by Councillor Blackburn that Regional Council:

1. Declare those portions of PID 40454662 located at 44 Simmonds Road, North Preston, shown in Attachment A of the staff report dated January 12, 2022, as Parcel “A” and Parcel “B” (collectively the “Property”), surplus to municipal purposes, subject to subdivision approval.
2. Categorize the Property as a Community Interest property (the “Community Interest Property”) in accordance with Section 2(2)(b) of Administrative Order 50.
3. Sell the Community Interest Property via the Direct Sale process set forth in Schedule 1 of Administrative Order 50, subject to and, in support of such process, authorize the Chief Administrative Officer to invite the North Preston Medical Society to submit, within 90 days of Council approval of the foregoing recommendation, a written proposal to acquire the Community Interest property, and such proposal is to meet all Direct Sale requirements under Schedule 1 of Administrative Order 50 and
4. Waive the requirements, as set forth in Section 13 of Administrative Order 50, for a public information meeting and an advertisement notifying the public of Council’s consideration of the Direct Sale process for this Community Interest property.

MOTION PUT AND PASSED

**RECOMMENDATION ON PAGE 3**

## **LEGISLATIVE AUTHORITY**

- *Halifax Regional Municipality Charter, 2008, S.N.S c.39*

### **Section 63**

(1) The Municipality may sell or lease property at a price less than market value to a non-profit organization that Council considers to be carrying on an activity that is beneficial to the Municipality.

(2) A resolution to sell or lease property referred to in subsection (1) at less than market value shall be passed by a two-thirds majority of the Council present and voting.

(3) Where the Council proposes to sell property referred to in subsection (1) valued at more than ten thousand dollars at less than market value, the Council shall first hold a public hearing respecting the sale

(4) The Council shall advertise the public hearing at least twice, in a newspaper circulating in the Municipality, the first notice to appear at least fourteen days before the hearing.

(5) Notice of the public hearing shall include the date, time and place of the hearing, the location of the real property or description of the tangible personal property, the estimated value of the property and the purpose of the sale.

- *Administrative Order 50, the Disposal of Surplus Real Property Administrative Orders*

### **Section 2(2)(b) Community Interest.**

Properties known to have potential for community use, in particular where:

- (i) there has been a prior community or institutional use of the property; or
- (ii) by location or scarcity of available property the consideration would reasonably arise.

## **Schedule 1 Disposal of Community Interest Properties**

### **Section 11 Direct Sale Request**

(1) A non-profit organization may make a request to purchase, by Direct Sale, a community interest property owned by the Municipality.

(2) If a request to purchase a community interest property by Direct Sale is received by the Municipality and the subject property has not been declared surplus and classified as a community interest property, the request must:

(a) be included in the next review provided to Council pursuant to subsection 3(1) of this Administrative Order; or

(b) be forwarded to Council with a report and recommendation respecting the property.

(3) No action may be undertaken by the Municipality in respect of the request to purchase except those actions required to satisfy subsection 2 of this section.

(4) For greater certainty, the property may only be sold by Direct Sale if the property is declared surplus by Council, is categorized as community interest property by Council in accordance with this Administrative Order, and sections 7, 8, 9, 11, 12 13, and 14 are satisfied.

(5) If Council decides to proceed by Direct Sale, such decision must be made at the same meeting where the property is categorized as community interest property.

(6) An applicant will have up to 90 days to submit to the Municipality the information that would otherwise be required under section 8.

### **Direct Sale – General Procedure**

12. A Direct Sale shall be allowed as determined by Regional Council

**Section 13.** Unless Council directs otherwise, a Direct Sale may be considered without

- (a) A public advertising; and
- (b) a public meeting.

**Schedule 2 Schedule of Transaction Fees: Community Interest Real Property Disposal**

1. The purchase price shall include the following transaction fees:

Migration and Deed for the Property	maximum \$2,500 per property transaction, plus
HST Appraisal/Comparative Market Value	lesser of 50% of the cost of the appraisal or
\$2,500 per	property transaction, plus HST

Plan of Survey for the Subdivision of Land, including Lot Consolidation, legal description and deed	full cost recovery
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2. If Council approves the sale of a community interest property to a non-profit organization in accordance with Schedule 1 of this Administrative Order, the non-profit organization awarded the property may make application to the Treasurer of the Municipality for a payment plan respecting the remittance of the transaction fees required by Section 1 of this administrative order.

**RECOMMENDATION**

It is recommended that Halifax Regional Council:

1. Approve the direct sale of a Portion of PID 40454662, 44 Simmonds Road, North Preston, identified as "Parcel A" and "Parcel B" as shown in Attachment 1 of this report, to the North Preston Medical Society subject to final subdivision approval as per the terms and conditions outlined in Table 1 of this report; and
2. With respect to the sale of Parcels "A" and "B" shown in Attachment 1 of this Report, authorize the Chief Administrative Officer to:
  - a) negotiate and execute an Agreement of Purchase and Sale with the North Preston Medical Society as per the terms and conditions set out in Table 1 in the Discussion section of this report; and
  - b) direct Mayor and Municipal Clerk to execute a Quit Claim Deed; and
  - c) direct staff to take all steps necessary to complete the said sale.

**EXECUTIVE SUMMARY**

This report is in response to correspondence received by the Municipality from the North Preston Medical Society requesting the purchase a portion of municipal land that forms part of the North Preston Community Centre and Park. The purpose of the Society's acquisition is to consolidate the additional land with their existing facility located at 52 Cain Street, North Preston, and expand programming. A less than market value sale is recommended in support of children and family services in North Preston and to address a long-standing encroachment issue with respect to entry to the property owned by the Society. Because the appraised market value of the land to be conveyed at less than market value is below \$10,000 a public hearing is not required.

## **BACKGROUND**

**Municipal Policy:** Administrative Order 50 is a standardized process for the sale of surplus real property. Section 2(2)(b) defines Community Interest properties as known to have potential for community use, in particular where:

- (i) there has been a prior community or institutional use of the property; or
- (ii) by location or scarcity of available property the consideration would reasonably arise.

In 2022 two portions of PID 40454662, identified as “Parcel A” and “Parcel B” on Attachment A of this report, were declared surplus by Regional Council and assigned to the Community Interest category of Administrative Order 50 in response to a request from the North Preston Medical Society (“the Society”) for Direct Sale consideration. Following Council’s decision, a technical package was sent to the Society which included an application form and guidebook. The deadline for the submission of a proposal was June 20, 2022.

**Property Description:** The North Preston Community Centre and Park is located on Simmonds Road in North Preston which is the oldest and largest Black community in Nova Scotia and has the highest concentration of African Canadians in Canada. HRM’s recreation facility was constructed in 2002 on lands acquired by the Municipality from the Nova Scotia Department of Community Services (Nova Scotia Housing Commission) and the North Preston Recreational Association<sup>1</sup>. The latter incorporated as a nonprofit society in 1969 and conveyed their lands to the Municipality in support of recreation amenities for the community. The lands acquired from the Association totaled 86,644 square feet representing approximately 46% of the community centre site which has a total land area of 17,348.9 square meters. The facility is a high traffic destination within the community. Property within the immediate vicinity is a mix of low-density housing and some commercial development.

The area of land requested by the North Preston Medical Society is identified in Attachment A as “Parcel A”. The land is located on the West of the community centre site and to the rear of the Society’s facility located at 52 Cain Street, North Preston. Parcel A comprises approximately 28,900 square feet, is land-locked with limited utility, and HRM Parks and Recreation has confirmed this land is not required for a municipal purpose. In addition to the formal request, the initial staff review identified an issue with respect to the lack of street frontage for the Society’s property. Staff recommended this matter be addressed by considering the disposal of an area of land identified as “Parcel B” which abuts the Society’s building and has been used for parking and entry to the premises<sup>2</sup>.

The review of the Society’s request has taken into consideration the cultural and historical significance of these lands in relation to:

- the challenges historically faced by residents of North Preston regarding land ownership, expropriation, title clarification, and new development which threatens to displace residents or exert pressure on property availability and affordability<sup>3</sup>;

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<sup>1</sup> Deed dated June 20, 2001. Parcel NP-1 Simmonds Road, North Preston. The area of land sold by the North Preston Recreational Association to HRM was approximately 86,664 square feet.

<sup>2</sup> Recommendation report to the February 8, 2022, meeting of Regional Council, Administrative Order 50: Disposal of Surplus Real Property – a Portion of PID 40454662, North Preston Community Centre Park, 44 Simmonds Road, North Preston, dated January 12, 2022.

<sup>3</sup> See: Angela Simmonds, *This Land Is Our Land: African Nova Scotian Voices from the Preston Area Speak Up*, August 19, 2014.

- the efforts of local volunteers to develop recreational amenities and the sale of land owned by the North Preston Recreational Association to HRM that enabled the development of the North Preston Community Centre and Park; and
- the historical significance of the North Preston Medical and Child Care Society's establishment and its' service to the community. The society is commemorating their 50<sup>th</sup> Anniversary in 2022.

The subdivision of municipal land for sale purposes is not exempted from the legislated requirement for subdivision approval. Therefore, Corporate Real Estate has made a subdivision and consolidation application to Planning & Development which the Development Officer has approved.

**Zoning:** PID 40454662 is zoned RS (Rural Settlement) and P-2 (Community Facility). The Society's intended use conforms to current zoning. Specifically, the P-2 zoning permits institutional uses including daycare facilities.

**Property Valuation and Assessment:** *Appraised Market Value:* In 2022 HRM retained the services of Kempton Appraisals Limited to conduct an appraisal of the market value of Parcel A and Parcel B. The appraised market value for both is \$8,000.

*Assessed Value:* The North Preston Community Centre and Park property, including buildings and infrastructure, is assessed Commercial (\$292,800) and Commercial Exempt (\$2,541,000) The taxable portion of the premises is in relation to a lease with the Nova Scotia Health Authority for the Community Health and Wellness Centre located within the North Preston Community Centre building.

**History of Ownership and Use - North Preston Medical and Daycare Centre:** On September 26, 1969, a meeting was convened to consider the establishment of a free medical clinic in North Preston. At the meeting Dr John Savage reported that the Save the Children Fund had guaranteed \$10,000 towards a medical facility and a daycare. In May 1970, a nonprofit society was created, the North Preston Medical and Child Care Society, which shortly thereafter acquired a parcel of land identified as Lot MI from the Nova Scotia Housing Commission. A surplus church building was donated by the United Church in Cole Harbour which was dismantled and reconstructed on the site that has since been assigned civic address 52 Cain Street, North Preston. A day care service opened at this location on December 10, 1971<sup>4</sup>, and the facility was officially opened by the Premier of Nova Scotia on January 8, 1972, with an initial enrolment of twenty children. The current day care serves North Preston and the surrounding Preston area, Cole Harbour and Westphal. The building also provides rentals for community organizations, community events and meetings. The Society wish to acquire land to the rear of their facility, identified as "Parcel A" to expand their current programming. The additional land would enable, for example, the expansion of the building, the addition of a garage and outdoor storage, and/or an outdoor play space/garden for children.

The area of HRM land identified as "Parcel B" has been improved by the Society with the construction of a parking lot at the front of the daycare building's main entrance. It is important to note that the original "Plan" (dated October 27, 1970) showing the location of Lot MI included 160 feet of frontage on "Street A". Evidently, at that time there was an intent to establish a road to connect what is now Cain Street<sup>5</sup> with Simmonds Road. Had the road been constructed the Society's entry and parking area would have had street frontage and access independent of the lands subsequently acquired by the Municipality.

## **DISCUSSION**

**Proponent's Profile:** Incorporated on May 7, 1970, as the North Preston Medical and Child Care Society the organization changed its name to the North Preston Medical Society ("the Society") on July 8, 1997. Although a daycare service had operated at this location since 1971 the group did not incorporate as a

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<sup>4</sup> See: YouTube video *North Preston Day Care 50<sup>th</sup> Anniversary*.

<sup>5</sup> The original plan (1970) identified what is now known as Cain Street as "Street B".

separate legal entity, the North Preston Day Care Society, until January 31, 1979. Both parties are closely integrated but each maintains their own financial accounts and are governed by their own Board of Directors. The medical society owns the land and building and is the party assessed for property tax. Operations are sustained by rental fees and partial tax relief under HRM's Property Tax Relief for Non-Profit Organizations Program.

The facility was the first African Nova Scotian daycare in Nova Scotia and served as a model for others, including the East Preston Daycare which opened in 1974. The provision of childcare was an important economic and social enhancement to the community in terms of enabling women to work outside the home and for those who advanced their education and employment prospects by completing early childhood education training which at the time was only available in Halifax. Successive generations have attended the daycare, volunteered in support of the Society, or worked at the facility.

**Proponent's Intended Property Use:** The Society proposes to use "Parcel A" to expand amenities for the North Preston Day Care Centre, including an outdoor play area and a garden, and enhance programming with a parent resource centre.

**Proponent's Terms and Conditions of Offer:** The Society proposes a Purchase Price of \$10.00 and request that no Buy-Back Agreement be applied to the conveyance. Although the Association's Articles of Incorporation are silent on the disposition of assets upon dissolution, Section 7 stipulates that where members decide the Association shall sell, mortgage, purchase or otherwise deal with property, a meeting of all members shall be called, and motions carried by a majority vote.

- The Society has offered a purchase price of \$10.00.
- The Society has no immediate plans to dispose of their property; the additional land is to be consolidated with the existing site. Therefore, the Society has requested that a Buy-Back Agreement not be applied to the conveyance.
- A closing date of September 2022 is requested to coincide with the Society's 50<sup>th</sup> Anniversary celebrations.

### **Administrative Order 50 – Community Interest Category**

Consideration under the Community Interest category is a two-step process to determine the feasibility of the applicant's proposal. The first step requires a technical evaluation by a staff team followed by overall consideration by Regional Council.

#### **1. Staff Evaluation Results**

An inter-disciplinary team of staff was convened to evaluate the Association's submission. Led by Finance (Grants & Contributions, Accounting), Corporate & Customer Services (Real Estate), and the Office of the CAO (Diversity & Inclusion). In accordance with subsection 4(1)(f) of Administrative Order 50, staff evaluates submissions on four (4) criteria:

- Viability
- Benefit to the Community
- Benefit to the Municipality
- Compensation

### **Key Findings:**

1. **Viability** – The Society is an established, viable and successful organization having operated for 50 years. Federal government funding to improve the Society's facility is confirmed. These improvements could enhance rental opportunities and earned income to reduce the impact of increasing operating costs, for example, utilities.

2. **Benefit to the Community** - Conveyance of “Parcel A” would enable expanded programming for young children attending the daycare and “Parcel B” provides street frontage to the Society’s building thereby remedying an encroachment. The programs offered through the Society’s facility at 52 Cain Street, North Preston, benefit residents’ and an expansion of programming to include a parent resource centre would enhance services.
3. **Benefit to the Municipality** – The proposed use aligns with several municipal goals in terms of: (i) support to children and families (ii) access to facilities and natural assets to enable a range of choices for structured and unstructured recreational and leisure activities; and (iii) upholding the principles of diversity and inclusion. Conveyance of “Parcel B” mitigates a liability to the Municipality in relation to a parking lot over which it has no control.

The conveyance of a portion of vacant municipal land to an historically underserved African Nova Scotian community advances the Municipality’s interest in community capacity building, specifically in relation to land ownership, the development of infrastructure and attracting investment referenced in the Road to Economic Prosperity for African Nova Scotia Communities: Summary Report and Action Plan (September 2020).

4. **Compensation** – A proposed purchase price of \$10.00 is below the property’s appraised value but is considered appropriate in support of children and family services in North Preston and given that the Municipality has no operational requirement for the lands identified as “Parcel A”.

**Summary and Recommendation Rationale:** In summary, the submission scored 90/100 based on information provided by the applicant. The review concluded that “Parcel A” and “Parcel B” of the subject property should be conveyed to the Society unencumbered by a Buy-Back Agreement conditional upon consolidation with the Society’s property located at 52 Cain Street, North Preston. In the event the Society elect to sell or convey their property at some future date the Municipality has no interest in a repurchase. Proceeds from any future sale or conveyance would belong to the Society and any liabilities associated therewith would be the responsibility of the Society.

**Buy-Back Agreement:** It is recommended that a Buy-Back Agreement not be applied to the proposed conveyance based on the following:

- “Parcel A” to the rear of the Society’s premises has limited utility and market appeal and conveyance of “Parcel B” remedies an encroachment on municipal land; and
- the proponent states: “The plans of the North Preston Medical Society do not include future sale or transfer of property. The North Preston Medical Society, therefore, is not interested in the Buy-Back Agreement as the acquired lands will be consolidated to become part of an existing property”.

<b>Table 1. KEY TERMS AND CONDITIONS (PROPOSED)</b>	
<b>Civic Address</b>	44 Simmonds Road, North Preston
<b>Area</b>	Parcel A – 2,557 sq. meters (27,572 sq. feet) Parcel B – 433.2 sq. meters (4,878 sq. feet)
<b>Zoning</b>	RS (Rural Settlement) and P2 (Community Facility)
<b>Assessed Value</b>	The parent parcel PID 4045662 from which Parcel A and Parcel B will be subdivided is owned and operated by the Municipality and is Commercial Exempt in accordance with Section 5(1) of the Assessment Act. The Commercial assessment applies to a leased area within the Community Centre.
<b>Appraised</b>	\$8,000

<b>Value</b>	
<b>Tax Status</b>	Commercial Exempt (land area to be conveyed) Conveyance and consolidation of the land with the Society's property located at 52 Cain Street, North Preston will trigger a re-assessment of the Society's property by Property Valuation Services Corporation.
<b>Proposed Purchase Price</b>	\$10.00
<b>Terms of Offer</b>	The Society shall be responsible for all operating and capital costs including annual real property tax.
<b>Proposed Use</b>	Operation of an existing daycare operation and possible program expansion or enhancement.
<b>Conditions of Sale</b>	Property to be conveyed "as is/as zoned".
<b>Buy-Back Agreement</b>	There shall be no Buy-Back Agreement applied to the proposed conveyance conditional upon consolidation with PID 00639963 52 Cain Street, North Preston.
<b>Closing Date</b>	Subject to Regional Council's approval, subdivision and consolidation approval, and a new plan of survey and legal description.
<b>Cost of Sale Recoveries</b>	The Purchaser shall pay up to a maximum of \$2,500+ HST towards closing costs <sup>1</sup> in accordance with Schedule 2 subsection 1 of Administrative Order 50 for migration and an independent market value appraisal.  As proposed, the Purchaser shall pay the cost of subdivision and lot consolidation, legal description and plan of survey (See: Note 2 below)

**Notes to Table 1.**

Schedule 2. Item 1. Transaction Fees: Community Interest Real Property Disposal, of Administrative Order 50 applies payment thresholds to:

- migration and deed fees of up \$2,500 per property.
- appraisal/comparative market value analysis as the lessor of 50% of the cost or \$2,500 per property transaction.

Schedule 2. Item 2. Requires full cost recovery for subdivision and lot consolidation, legal description, and deed and allows for a nonprofit organization to make payment of transaction fees through a payment plan. The term of the payment plan can up to 24 months, without interest, which is billed monthly. Therefore, the Society could elect to pay their share of closing costs in installments.

**FINANCIAL IMPLICATIONS**

If approved, the terms of conveyance recommended by the staff review constitutes a less than market value sale (i) assignment to the Community Interest category restricts the opportunity to acquire title to only nonprofit and charitable organizations, and (ii) acceptance of a purchase price of \$10.00. If Council decides to proceed with disposal, funds received will be directed to the Capital Fund Reserve Q526.

The estimated opportunity cost to the Municipality includes the following:

Less than market value sale price	(\$8,000)
Loss of deed transfer tax (1.5% of market value)	(\$200)
<b>Total</b>	<b>(\$8,200)</b>



Although the addition of land to the Society's property located at 52 Cain Street, North Preston may increase the assessed value, the organization currently receives municipal tax relief under Schedule 27 of Administrative Order 2014-001-ADM.

### **RISK CONSIDERATION**

Low – The Society has extensive experience in operating the facility located at 52 Cain Street, North Preston and upgrades or expansion could potentially increase earned revenues. Should the Society cease operations or elect to sell or convey 52 Cain Street all proceeds shall belong to the Society.

### **COMMUNITY ENGAGEMENT**

A public information meeting in the vicinity of the subject property is not mandatory under the Direct Sale category, Section 13 of Schedule 1 of Administrative Order 50. At their meeting of February 8, 2022, Regional Council waived the requirement for a public information meeting and an advertisement notifying the public of Council's consideration of a Direct Sale process for this Community Interest disposal.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications were identified.

### **ALTERNATIVES**

1. Regional Council could decline the offer of \$10.00 in favour of a higher sale price.

This action is not recommended: the vacant land has limited marketability and utility.

2. Regional Council could apply other terms and conditions as deemed appropriate to protect the interest of the Municipality in relation to public access to the North Preston Community Centre and Park.

### **ATTACHMENTS**

Attachment 1 - Site map showing "Parcel A" and "Parcel B".

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

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