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<b>TO:</b>	<b>CHAIR AND MEMBERS COMMUNITY and PROTECTIVE SERVICES COMMITTEE JULY 21, 2015</b>
<b>FROM:</b>	<b>LYNNE LIVINGSTONE MANAGING DIRECTOR NEIGHBOURHOOD, CHILDREN AND FIRE SERVICES</b>
<b>SUBJECT:</b>	<b>LICENCE AGREEMENT – OPTIMIST CLUB OF NORTH LONDON</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Managing Director of Neighbourhood, Children and Fire Services, the attached By-law (Appendix A) **BE INTRODUCED** at the Municipal Council meeting on July 28, 2015:

- (a) **TO APPROVE** the agreement with the Optimist Club of North London for permission to use portions of the North London Optimist Community Centre for the purpose of providing its programs and services; and,
- (b) **TO AUTHORIZE** the Mayor and Clerk to execute the Agreement in (a) above.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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- City Council – September 6, 1989 authorized a purchase in the amount of \$1,650,000 for the property known as the “All Canadian Club” located near the intersection of Cheapside Street and Highbury Avenue. In a letter dated August 17, 1989 from the Optimist Club of North London to the City of London, the Club made a commitment to the City to contribute \$1,000,000 toward the cost of the purchase. The property is known and operated as the “North London Optimist Community Centre”.
- City Council – November 17, 2008 authorized a Licence Agreement with the Optimist Club of North London

<b>BACKGROUND</b>
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*Strengthening Our Community* is identified as a strategic area of focus in City Council's 2015 – 2019 Strategic Plan. The Optimist Club of North London embodies this important work by providing amazing arts, culture and recreation experiences.

The Optimist Club of North London (OCNL) has been a great partner of the City of London for many years. Optimist International asks their members to work each day to make the future brighter by bringing out the best in children, in their communities and in themselves. The OCNL offers programs and services that meet the needs and interests of North London. Members volunteer their time on community programs and projects, and raise funds to support community initiatives. In November 2015 the OCNL will be celebrating 52 years as a Club. An accomplishment to be recognized and celebrated.

The attached agreement outlines our continued partnership and relationship with the OCNL. Highlighted in the agreement is described the times and days when OCNL is permitted to use portions of the North London Optimist Community Centre including office space and storage space, a meeting room and a gymnasium for the purpose of providing OCNL programs and services at no room rental charge (Schedule A). The agreement also outlines the responsibilities of each party as well as the appropriate insurance and identification requirements. Both the City and OCNL have agreed to all the terms and conditions.

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<b>FINANCIAL IMPACT</b>
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No financial impact

Acknowledgments

This licence agreement was prepared with the assistance of Legal Services, Risk Management and Finance Division.

<b>PREPARED BY:</b>	<b>SUBMITTED BY:</b>
<b>SUSAN STEPIEN SUPERVISOR, RECREATION SERVICES NEIGHBOURHOOD, CHILDREN &amp; FIRE SVCS</b>	<b>PAUL D'HOLLANDER MANAGER, EAST AREA SERVICES NEIGHBOURHOOD, CHILDREN &amp; FIRE SVCS</b>
	<b>RECOMMENDED BY:</b>
	<b>LYNNE LIVINGSTONE MANAGING DIRECTOR NEIGHBOURHOOD, CHILDREN &amp; FIRE SVCS</b>



**APPENDIX A**

Bill No.  
2015

By-law No.

A By-law to authorize and approve a Licence Agreement between The Corporation of the City of London and The Optimist Club of North London regarding the use of the North London Optimist Community Centre; and to authorize the Mayor and City Clerk to execute the Agreement.

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 10 of the *Municipal Act, 2001* provides that the City may provide any service or thing that the City considers necessary or desirable for the public, and may pass by-laws respecting same, and respecting economic, social and environmental well-being of the City, and the health, safety and well-being of persons;

AND WHEREAS section 107 of the *Municipal Act, 2001* provides that the City may make grants (including the power to provide for the use by any person of land owned or occupied by the municipality upon such terms as may be fixed by council) to any person, group or body, for any purpose that council considers to be in the interests of the municipality;

AND WHEREAS council considers it to be in the interests of the municipality to provide a licence to The Optimist Club of North London for its use of the North London Optimist Community Centre;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Licence Agreement attached as Schedule "1" to this by-law between The Corporation of the City of London and The Optimist Club of North London regarding the use of portions of property owned by the City located at 1345 Cheapside Street (known as the North London Optimist Community Centre), is hereby AUTHORIZED AND APPROVED.
2. The Mayor and City Clerk are authorized to execute the Agreement authorized and approved under section 1 of this by-law.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council , 2015.

Matt Brown  
Mayor

Catharine Saunders  
City Clerk

First reading -  
Second reading -  
Third reading -



**SCHEDULE "1"**

**THIS LICENCE AGREEMENT** with effect as of August 1, 2015,

BETWEEN:

**THE CORPORATION OF THE CITY OF LONDON**  
("City")

and

**THE OPTIMIST CLUB OF NORTH LONDON**  
("Licensee")

**WHEREAS** the City owns the property located at 1345 Cheapside Street, in the City of London, in the County of Middlesex, upon which is located the North London Optimist Community Centre ("Centre");

**AND WHEREAS** the Licensee is a not for profit charitable organization;

**AND WHEREAS** section 107 of the *Municipal Act, 2001* provides that a municipality may make grants to any group for any purpose that council considers to be in the interests of the municipality, and that the power to make a grant includes the power to provide for the use by any person of land owned or occupied by the municipality upon such terms as may be fixed by council;

**AND WHEREAS** the City considers it in the interests of the municipality to provide support to the Licensee and its programs as it provides services that benefit the community;

**AND WHEREAS** the Licensee has requested permission to use portions of the Centre including Upper Level Office Space, Storage Space, a Meeting Room, and a Gymnasium and more particularly set out on the floor plan attached hereto as **Schedule "A"**, ("Premises"), for the purpose of providing its programs and services;

**THEREFORE IN CONSIDERATION** of the premises and other good and valuable consideration of two (\$2.00) dollars, the receipt and sufficiency of which is hereby acknowledged and admitted, the parties agree as follows:

**1. Licence:**

1.1 The City grants this licence to permit the Licensee to use those portions of the Premises set out below in this section, and pursuant to the terms and conditions contained in this Agreement.

(a) **Office and Storage Space**

The Licensee shall have the exclusive licence to use the Upper Level Office and Storage Space as set out on Schedule "A" during the Centre's normal operating days and times.

(b) **Meeting Room**

The Licensee shall have the non-exclusive licence to use the Meeting Room from 7:00 p.m. to 9:00 p.m. on the 1st Tuesday of every month (or during such dates and times as otherwise agreed to in writing between the parties).

(c) **Meeting Room – One Day Events**

The Licensee shall have the exclusive licence to use the Meeting Room on three days per year from 7:00 a.m. to 11:00 p.m., which dates shall be determined by the City in advance (or for such dates and times as otherwise agreed to in writing between the parties). The Licensee agrees that it shall comply with the City's Special Events Policies and Procedures Manual with respect to Special Events.

(d) **Gymnasium – Roller Skating Events**



The Licensee shall have the exclusive licence to use the Gymnasium from September to June on the last Friday of those months from 7:00 p.m. to 10:00 p.m. (or during such dates and times as otherwise agreed to in writing between the parties). This licence is subject to the conditions set out in section 4.3.

- 1.2 Notwithstanding the use granted by this licence, the Premises shall not be available to the Licensee on days during which the City has closed the Centre for any reason (including but not limited to inclement weather and holidays).

**2. Term:**

- 2.1 The term of this Licence Agreement shall be for five (5) years, commencing on the effective date set out above, and terminating July 31, 2020, or terminating at such earlier date pursuant to section 10 of this Agreement.

**3. Licence Fee:**

- 3.1 The Licensee shall pay to the City a licence fee for each use of the gymnasium under section 1.1(c) and (d) of 0 percent (0%) of the meeting room and gymnasium user fee set out in the City of London’s Community Services Department Fees and Charges By-law, as amended from time to time (or such other amount as agreed to in writing between the parties).

**4. Obligations of the Licensee:**

Keys

- 4.1 The Licensee shall return City keys (“keys”) forthwith upon demand by the City. The Licensee shall forthwith provide the City with the names of any individuals who from time to time are in possession of the keys. The Licensee shall ensure that no duplicates of the keys are made. The Licensee shall ensure that only individuals for whom it is at law responsible have access to the keys. The Licensee shall notify the City forthwith of any lost keys, or if it becomes aware that duplicate keys have been made. Should the City be required to change any locks as a result of lost keys or duplicate keys being made, the cost of same shall be borne by the Licensee.

Lock Box Keys

- 4.2 The Licensee shall ensure that if the Licensee’s staff members require keys from the City’s Lock Box, they will sign them in and out. The Licensee shall ensure that these keys do not leave the Centre.

Use of Gymnasium for Roller Skating Events

- 4.3 This section applies to licensing the Gymnasium under section 1.1(d). If the Licensee charges an admission fee, the Licensee shall be responsible for collecting such fees, and such fees shall be the property of the Licensee.

The Licensee shall not advertise nor promote the Roller Skating Event as a City Event.

The Licensee shall be responsible for adequate security and supervision of the event, and agrees to provide additional security or supervision, at its own cost, as required by the City. The Licensee shall provide a minimum of two trained skate cruisers, and, depending on the number of participants, such further skate cruisers as determined by the City.

The Licensee agrees that the City will be responsible for roller skate rentals, including staffing of the skate shop, and the Licensee shall pay the City’s staffing costs at the applicable City rate. The Licensee agrees that all fees collected for roller skate rentals are the property of the City.

If the Licensee wishes to play music, the Licensee shall pay the City for any damages that result from the Licensee’s use of the DJ booth equipment and its music. The Licensee shall be solely responsible for complying with the federal Copyright Act when playing



music, including paying any applicable tariffs (e.g. SOCAN, Resound). The Licensee agrees that the City may contact relevant third parties (e.g. SOCAN, Resound) to advise them of this contract with the Licensee as it relates to the *Copyright Act* and its Regulations and tariffs. Failure to comply with the *Copyright Act* and to pay any applicable tariffs shall be deemed to be a breach of this agreement.

**5. Licensee Covenants:**

5.1 The Licensee hereby covenants and agrees as follows:

- (a) to pay the fee set out in paragraph 3.1 (and 4.3, if applicable) above;
- (b) to use the Centre and Premises only for the purpose set out in this Agreement;
- (c) to maintain the appearance of the Premises in a neat, tidy, clean and well-kept manner, free from garbage and debris;
- (d) to ensure that no rubbish, refuse or objectionable material accumulates in or about the Premises;
- (e) not to store anything in any location other than as set out as Storage Room in Schedule "A";
- (f) not to bring into the Centre or store at the Centre dangerous materials, including but not limited to flammable or explosive materials;
- (g) to ensure:
  - (i) smoking is not permitted on the Premises in contravention of the City's smoking by-laws or Provincial law;
  - (ii) drinking of alcoholic beverages is not permitted on the Premises;
  - (iii) that vehicles will be parked only in designated parking areas;
- (h) to comply with all Federal and Provincial Legislation, Rules, Regulations and Municipal By-laws;
- (i) the complete care, custody and control of the Centre and Premises shall at all times remain with the City through its management, supervisory, custodial and maintenance employees, excluding contents owned by the Licensee or its members, invitees, or persons for whom it is at law responsible;
- (j) to be available to receive any required orientation provided by the City on security systems including, emergency procedures such as fire evacuation, reporting procedures regarding injuries, property damage and theft;
- (k) to be responsible for any damage to the Premises as a result of any act or omission of the Licensee or any person for whom it is responsible at all and, in the event of such damage, to pay the City's costs of repairing the damage.

**6. Obligations of the City:**

6.1 Keys:

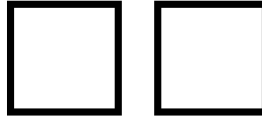
The City will provide the Licensee with keys for the Upper Level Office and Storage Space set out in Schedule "A" and the Licensee shall have access to keys from the City's Lock Box which must be signed in and out by the Licensee.

Orientation

6.2 The City, in its sole discretion, will provide any required orientation on all security systems including, emergency procedures such as fire evacuation, reporting procedures regarding injuries, property damage and theft.

Custodial Services

6.3 The City will be responsible for all custodial services for the Premises.



Other Services

- 6.4 The City agrees as follows, to a standard as determined solely in the City’s discretion:
  - (a) to keep the sidewalks and parking areas at the Centre clean and reasonably free of ice and snow;
  - (b) to clean and maintain the Centre and the entrance to the Centre;
  - (c) to keep the Premises in a good state of repair, except that the City’s obligation to repair shall not extend to any repairs, damages, injuries or maintenance which arises from or results from the wilful or negligent act or omission of the Licensee or its agents or of those for whom it is at law responsible.

**7. General Provisions:**

Current Condition of lands and premises

- 7.1 The Licensee accepts the lands and premises in its current condition as of the date of this Agreement and shall not call upon the City to do or pay for any work or call upon the City to supply any equipment to make the lands and premises more suitable for the proposed use by the Licensee.

Donations

- 7.2 Any items donated by the Licensee to the City shall become the property of the City, and the City may use such items as in its sole discretion it sees fit.

Inspections by City

- 7.3 The City may inspect the Centre and the Premises at any time to ensure compliance with the terms of this Agreement and any Federal or Provincial Legislation, Regulations or Municipal By-laws.

Not Responsible for Damage / Theft

- 7.4 The City shall not be responsible for any damage or theft to vehicles parked in the parking areas. The City shall not be responsible for any loss or damage to the Licensee’s equipment or property. The City shall not be responsible for any loss or damage to the equipment or property of persons for whom the Licensee is at law responsible.

No Assignment

- 7.5 The Licensee shall not assign this agreement or sublicense any part of the Premises without first obtaining the written consent of the City.

Asbestos

- 7.6 The Licensee acknowledges that the Premises may contain asbestos or other toxic or harmful substances. The Licensee shall not make any alterations to the Premises, without the prior written express approval of the City. Alterations that shall not be made without such approval include, but are not limited to, the following: drilling holes in any walls, floors or ceilings, inserting nails into any walls, floor or ceilings; making any structural changes; painting walls.

**8. Insurance and Indemnification:**

Insurance

- 8.1 (a) Throughout the term of this agreement, the City agrees to obtain and maintain at its own expense general liability insurance for legal liability arising out of bodily injury, including death, or property damage covering its ownership, maintenance and activities on the Centre in an amount of not less than five million (\$5,000,000.00) dollars subject to a deductible usual to a corporation of its size.
- (b) Throughout the term of this agreement, the Licensee shall obtain and maintain the coverage shown below and shall provide that the following insurance will not be cancelled or permitted to lapse unless the insurer notifies the City in writing at least thirty (30) days prior to the date of cancellation or expiry:



- (i) Third party general liability insurance covering all claims for negligence, nuisance, property damage and bodily injury, including death, arising out of the use of the Centre by the Licensee. Such policy shall include the City as an additional insured with respect to this Agreement and be in an amount not less than five million (\$5,000,000.00) dollars including personal injury liability, broad form property damage liability, contractual liability, owners' and contractors' protective liability, non-owned automobile liability, contingent employer's liability, and shall contain a severability of interests clause and cross-liability clauses.
- (ii) Standard all-risk property insurance covering the property of the Licensee, including leasehold improvements, in an amount not less than the full replacement cost value with a deductible of no more than \$2,500.00; such policy shall include a waiver of subrogation in favour of the City;
- (c) The Licensee shall not do, omit to do, or permit to be done or omitted to be done on or at the Centre anything that may increase premiums or void coverage under the property insurance policies carried by the City on the Premises described in this agreement.
- (d) Evidence of such insurance shall be delivered to the City promptly at inception of this agreement and thereafter prior to the insurance renewal date.
- (e) Failure to satisfactorily meet these conditions relating to insurance shall be deemed a breach of this agreement.
- (f) The City reserves the right to request such higher limits of insurance or other types of policies appropriate to this agreement as the City may reasonably require from time to time.

8.2 Indemnification

The Licensee agrees to protect, defend, indemnify and save the City harmless from and against: (a) all liability, loss, claims, demands, actions, proceedings, fines or penalties, including any costs and expenses incurred by the City thereby, including reasonable legal fees, for loss, damage or injury, including death, to any person or persons and to any property arising in connection with this licence as a result of any act or omission of the Licensee or the group represented by or affiliated with the Licensee or their members, officers, employees, agents or contractors, invitees, or other persons for whom the Licensee is at law responsible; and (b) any claim or finding that any of the Licensee, the Licensee's employees or persons for whom the Licensee is at law responsible are employees of, or are in any employment relationship with, the City or are entitled to any Employment Benefits of any kind; and (c) any liability on the part of the City, under the Income Tax Act (Canada) or any other statute (including, without limitation, any Employment Benefits statute), to make contributions, withhold or remit any monies or make any deductions from payments, or to pay any related interest or penalties, by virtue of any of the following being considered to be an employee of the City, from Licensee; Licensee's employees or others for whom Licensee is at law responsible in connection with the licensing of the Premises or otherwise in connection with Licensee's operations.

**9. Status of Licensee:**

9.1 The Licensee acknowledges and agrees this Agreement shall in no way be deemed or construed to be an Agreement of Employment. Specifically, the parties agree that it is not intended by this Agreement that the Licensee, nor any person employed by or associated with the Licensee is an employee of, or has an employment relationship of any kind with the City or is in any way entitled to employment benefits of any kind whatsoever from the City whether under internal policies and programs of the City, the *Income Tax Act*, R.S.C. 1985 c.1 (1st Supp); the *Canada Pension Act*, R.S.C. 1985, c.C-8; the *Employment Insurance Act*, S.O. 1996,c.23; the *Workplace Safety and Insurance Act*, 1997 S.O. 1997, c.26 (Schedule "A"); the *Occupational Health and Safety Act*, R.S.O. 1990, c.o.1; the *Pay Equity Act*, R. S. O. 1990, c.P.7; the *Health Insurance Act*, R.S.O. 1990, c.H.6; or any other employment related legislation, all as may be amended from time to time, or otherwise.





9.2 Notwithstanding paragraph 9.1 above, it is the sole and exclusive responsibility of the Licensee to make its own determination as to its status under the Acts referred to above and, in particular, to comply with the provisions of any of the aforesaid Acts, and to make any payments required thereunder.

9.3 The Licensee shall operate independently of the City and is not the agent or servant of the City for any purpose.

9.4 Nothing in this Agreement shall entitle or enable the Licensee or any subcontractor to act on behalf of, or as agent for, or to assume or create any obligation on behalf of, or to make any representation, promise, warranty or guarantee binding upon, or otherwise to bind the City. Each of the Licensee, any subcontractor of the Licensee and the City is independent and not the agent, employee, partner or joint venturer of any of the others.

**10. Termination:**

Termination by the City

10.1 If the Licensee defaults in performing any of its obligations under this Agreement, the City may terminate the licence granted under this Agreement immediately without liability. Any waiver by the City of any breach by the Licensee of any provisions of this Agreement shall be without prejudice to the exercise by the City of all or any if its rights or remedies in respect of any continuance or repetition of such breach.

10.2 Unless otherwise provided for in this Agreement, the City may terminate this Agreement without liability by providing notice in writing seven (7) calendar days prior to the date of such termination.

10.3 In the event of termination of this agreement, the City shall have no further obligations to the Licensee.

Termination by the Licensee

10.4 The Licensee may terminate this Agreement without liability upon thirty (30) days' prior written notice for any reason.

**11. Notice:**

11.1 Any notice required to be given to the City or the Licensee under this Agreement shall be sufficiently given if delivered personally or by courier, transmitted by fax, or mailed postage prepaid to the addresses below (or such other address as provided in writing to either party). Such notice shall be deemed to have been received on the date of its delivery if delivered personally, by courier or by fax, or in the case of mailing, three (3) business days after it was delivered to the post office.

City's Address

Licensee's Address

City Clerk  
The Corporation of the City of London  
300 Dufferin Avenue  
P.O. Box 5035  
LONDON, ON N6A 4L9

The Optimist Club of North London  
North London Optimist Community Centre  
1345 Cheapside Street  
London, ON N5V 3N9

**12. Circumstances Beyond the Control of Either Party**

12.1 Neither party will be responsible for damage caused by delay or failure to perform under the terms of this Agreement resulting from matters beyond the control of the City and the Licensee including strike, lockout or any other action arising from a labour dispute, fire (other than a fire caused by the Licensee's negligence), natural flood, act of God, war, riot or other civil insurrection, lawful act of public authority, all of which cannot be reasonably foreseen or provided against.

**13. Execution:**

[ ] [ ]

13.1 The Licensee acknowledges that it has read this agreement, understands it and agrees to be bound by its terms and conditions. Further the Licensee agrees that it is the complete and exclusive statement of the agreement between the parties, which supersedes all proposals or prior agreement, oral or written, and all other communications between the parties relating to the subject-matter of this Agreement.

**14. Independent Legal Advice**

14.1 The Licensee acknowledges that it has had the opportunity to obtain independent legal advice with respect to this agreement.

IN WITNESS WHEREOF the parties have duly authorized this agreement, attested by the hands of their duly authorized officers.

SIGNED, SEALED AND DELIVERED

**THE OPTIMIST CLUB OF NORTH LONDON**

\_\_\_\_\_  
Date

Per (Signature): \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

\_\_\_\_\_  
Date

Per (Signature): \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

*I/We Have the Authority to Bind the Corporation*

**THE CORPORATION OF THE CITY OF LONDON**

\_\_\_\_\_  
Date

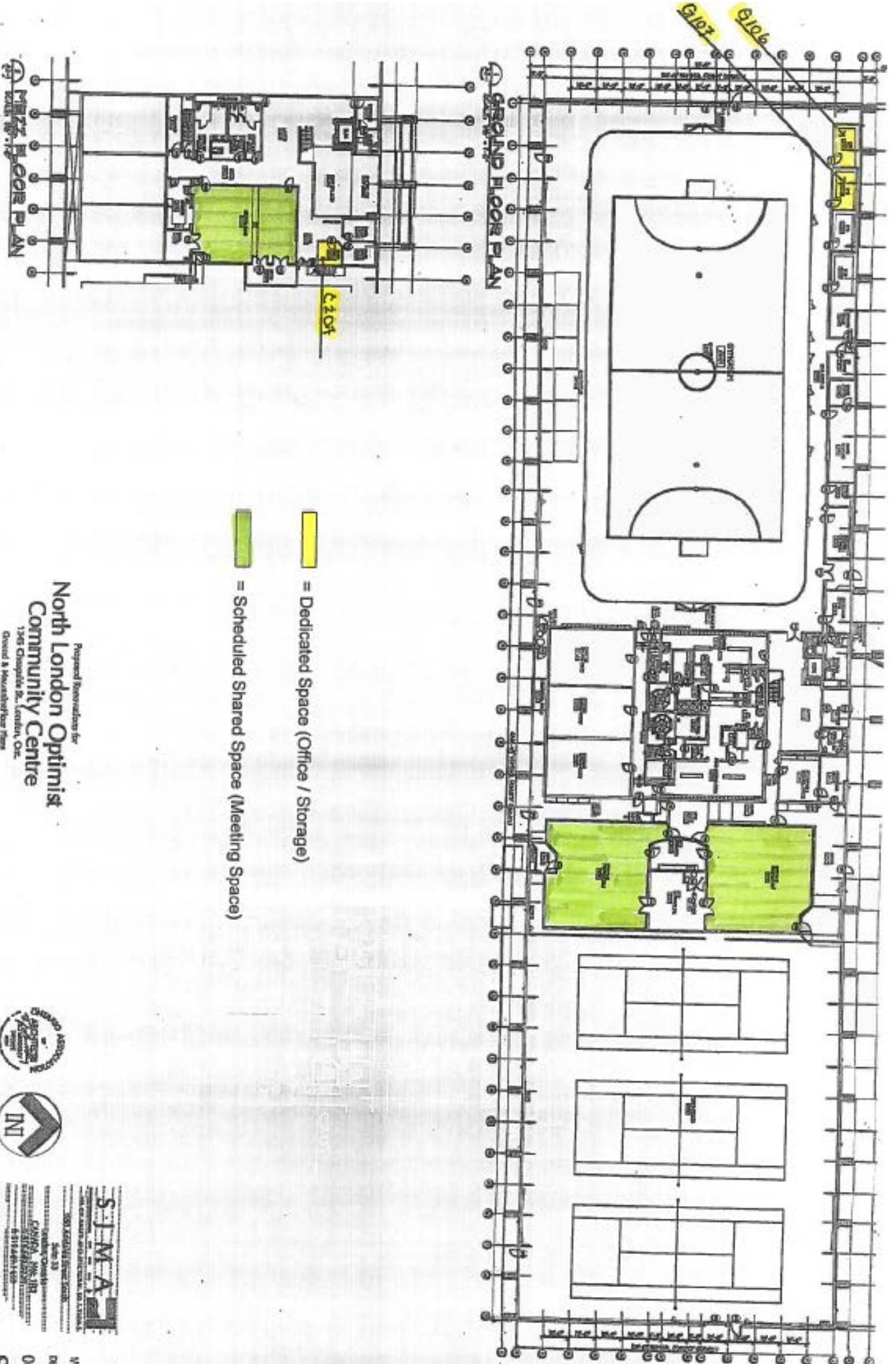
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Matt Brown, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Catharine Saunders, City Clerk



SCHEDULE "A"  
FLOOR PLAN SHOWING PREMISES



Proposed Renovations for  
**North London Optimist  
 Community Centre**  
 1345 Clapton St., London, Ont.  
 Owned & Maintained by the Firm



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