

U.L. v. Carteret

25 March 1985

Plainsboro

Letter w/ Option Agreement attached  
- hand drawn map

Pgs 9

PI # 5130

CA0005062

March 25, 1985

Mr. Peter Heckenbleikner  
Township Administrator  
TOWNSHIP OF PLAINSBORO  
P.O. Box 278  
Plainsboro, New Jersey 08536

Dear Peter:

Per our conversation today, please find enclosed a copy of an Option Agreement drafted by Jack McCarthy for 35 acres for use as moderate and senior citizen housing. I have not as yet looked at the draft as it arrived in my office a few minutes ago.

I thought, however, that you could quickly peruse the document and inform the Township Committee in executive session of its content and conditions.

I will not execute this option until the Township Committee has reviewed and approved it for the uses we have discussed. As you can see, Jack has a trigger date of April 1st but I am sure this can be extended although the option period will be decreased for a like amount.

Please keep me informed.

Yours very truly,



William M. Swain, Jr.  
Regional Partner

WMS/mh

Enclosure

cc: Mr. Sigmund Weiner, Esq.  
Mr. Roger Rosenberger, Esq.

## OPTION AGREEMENT

This option agreement ("Option Agreement") made this            day of            , 1985:

Between:            **JOHN F. McCARTHY, III AND ROBIN L. McCARTHY**  
                 husband and wife  
                 148 Hunt Drive  
                 Princeton, New Jersey 08540            ("Seller")

And:                **LINPRO PRINCETON, INC.**  
                 a New Jersey corporation  
                 Suite 2A - The Office Center  
                 P. O. Box 279  
                 Plainsboro, New Jersey 08536            ("Purchaser")

### WITNESS:

In consideration of the promises and covenants herein contained, the parties hereto mutually agree as follows:

1.    Premises.            Seller does hereby grant to Purchaser the sole and exclusive option to purchase certain real property owned in fee simple by Seller, and located in the Township of Plainsboro, County of Middlesex, and State of New Jersey, which premises are designated as part of Lot 12, Block 10 on the Plainsboro Township Tax and Assessment Map, consisting of thirty-five acres (plus or minus one acre) and generally described on Schedule A, attached hereto and made a part hereof (hereinafter referred to as the "Premises"), subject to the terms and conditions hereinafter set forth. The exact location of the thirty-five acres (plus or minus one acre) within Lot 12, Block 10, shall be mutually acceptable to both Seller and Purchaser.

2.    Term of Option.            The term of this Option Agreement shall expire upon the earlier of the following events to happen, time being of the essence:

2.1 Eighty days after the Plainsboro Township Planning Board has granted final site plan and subdivision approval on an application submitted by the Purchaser for development of the Premises; or

2.2 September 22, 1986.

3. Consideration.

3.1 On or before April 1, 1985, Purchaser will pay as consideration for this Option Agreement the sum of Twenty-seven Thousand (\$27,000.00) Dollars. This amount shall be in addition to the Purchase Price set forth in Paragraph 4 of this Option Agreement.

3.2 As additional consideration, Purchaser hereby undertakes to contract and pay for all architectural, engineering and legal services necessary to prepare and submit an application for site development of the Premises. Purchaser shall, at Purchaser's cost, retain McCarthy and Schatzman, P.A. to provide legal services in connection with the application for site development of the Premises.

4. Purchase Price. The purchase price for the Premises consisting of thirty-five acres shall be One Million Thirty-two Thousand Five Hundred (\$1,032,500.00) Dollars. If Purchaser purchases an additional acre or portion thereof, Purchaser shall pay \$30,000.00 per acre or a pro rata portion for such part of an acre purchased. If Purchaser purchases an acre (or portion thereof) less thirty-five acres, the Purchase Price shall be reduced by \$30,000.00 per acre or a pro rata share for a portion of an acre not acquired. If the Closing Date is earlier than October 1, 1986, the purchase price shall be reduced by \$1,000.00 for each full month prior to October 1, 1986. For example, if the closing were held on April 8, 1986, the purchase price would be reduced by \$5,000.00. This purchase price shall be paid by cash, certified check or attorney's trustee check at closing of title.

5. Mutual Cooperation. Purchaser shall proceed promptly to apply for necessary governmental approvals from the Plainsboro Township Planning Board

to construct four hundred and thirteen (413) low and moderate income housing units pursuant to Purchaser's development plans ("Development Plans"). Seller hereby agrees to cooperate with Purchaser in furtherance of Purchaser's procurement of such governmental approvals. To that end, Seller shall forthwith, as owner of the Premises, upon reasonable notice by Purchaser, execute and deliver to Purchaser such applications, affidavits, consents, and such other instruments or documents in connection therewith as Purchaser may cause to be prepared from time to time and which reasonably may be deemed necessary or appropriate by Purchaser for submission in aid of its application to certain governmental entities. Purchaser shall pay for all costs incurred in connection with the Development Plans.

6. Entry onto Premises. During the term of this Option Agreement, Purchaser (its assigns, designees, nominees, agents and servants) shall have the right to enter upon the Premises for the purpose of conducting such engineering tests, surveys, and other procedures as Purchaser shall deem necessary in connection with its Development Plans. Purchaser shall indemnify and save Seller harmless from and against any and all claims, demands, charges, expenses, or judgments (including all attorneys fees and costs) with respect to any personal injury, property damage, or other liability which Seller may incur arising out of such entry and activity by Purchaser.

7. Title.

7.1 Seller represents that as of the date hereof and as of the date of closing of title hereunder, title to the Premises is and shall be good, marketable, and insurable by a reputable title insurance company doing business in New Jersey at regular premiums. The Premises are subject to a year-to-year Lease of crop land between Seller and Raymond G. Simonson.

7.2 Within sixty (60) days from the date of this Option Agreement Purchaser shall procure a preliminary certificate of title from a reputable title insurance

company. Purchaser shall immediately notify seller of any title defects ("Non-Permitted Exceptions"). Seller shall then have ninety (90) days after such notice in which to clear or remove the Non-Permitted Exceptions, and in the event Seller is unable to do so, then Purchaser shall have the right to cancel this Option Agreement, and Seller shall forthwith return all option money without interest.

7.3 During the term of this Option Agreement or subsequent to the exercise of the option by Purchaser, Seller shall not cause or suffer any liens or encumbrances to be created against the Premises or any portion thereof, nor shall Seller convey or transfer the Premises, or any portion thereof, without the prior written consent of Purchaser.

8. Closing. In the event Purchaser exercises the option granted hereunder, the following terms and conditions shall govern the purchase of the Premises.

8.1 Time and Place. On or before the expiration of this Option Agreement, Purchaser shall Seller written notice of Purchaser's exercise of the Option Agreement. Closing of Title shall be within ten (10) days of such written notice and no later than October 1, 1986, time being of the essence. Closing of title shall be held at the offices of McCarthy and Schatzman, 228 Alexander Street, Princeton, New Jersey 08540, on a date and at a time within said ten (10) day period which is mutually agreeable to Seller and Purchaser, at which time Seller shall deliver to Purchaser, in consideration for payment of the purchase price, a bargain and sale deed with covenants against grantor's acts, together with an affidavit of title in form satisfactory to Purchaser's title insurance company.

8.2 Title. Title to the Premises shall be as provided in Paragraph 7 hereof, but in the event it is not, at the time of closing, Purchaser shall have the right to: refuse to close title, in which event all monies deposited or paid hereunder by Purchaser shall be immediately repaid by Seller to Purchaser.

8.3 Adjustments. All adjustments, including real property taxes and rents, shall be apportioned and allowed as of the date of closing of title and delivery of deed.

8.4 Assessments. If on the date of this Option Agreement, Premises or any part thereof shall be or shall have been affected by an assessment or assessments which are or may become payable in annual installments of which the first installment is then due or has been paid, then for the purposes of this Option Agreement all the unpaid installments of any such assessments, including those which are to become due and payable after the date of this Option Agreement, shall be deemed to be due and payable and to be liens upon the Premises affected thereby and shall be paid and discharged by the Seller. Unconfirmed improvements or assessments, if any, shall be paid and allowed by the Seller on account of the purchase price, if the improvement or work has been completed on or before the date of this Option Agreement. All other assessments or improvements shall be paid by Purchaser.

9. Failure to Exercise Option. In the event Purchaser fails to exercise the option given hereunder during the term provided, then upon expiration of this Option Agreement, Seller shall retain the Twenty-seven Thousand (\$27,000.00) Dollars paid pursuant to Paragraph 3.1, and neither party shall have any claim on or liability to the other.

10. Farmland Assessment. Seller represents the Premises are taxed under the Farmland Assessment Act. Purchaser is responsible for and shall pay all rollback taxes.

11. Sewer Contingency. Purchaser's right to exercise this Option Agreement is contingent upon the balance of Seller's land in Plainsboro Township (i.e. the remaining portion of Lot 12, Block 10 and all of Lots 13.06, 13.07 and 13.08

in Block 10) being included by Plainsboro Township in the sewer franchise area for the Princeton Meadows Utility Company, Inc. and Purchaser's obtaining for Seller a sewer allocation of not less than 25,000 gallons of sewer capacity from Plainsboro Township pursuant to an agreement with Plainsboro Township, the form and substance of such agreement being satisfactory to Seller. Purchaser shall obtain such sewer allocation prior to the expiration of this Option Agreement. If Seller's lands are not included with the sewer franchise area and/or if Purchaser is unable to obtain such sewer allocation for Seller, Seller shall return the option payment of \$27,000.00 without interest, and this Option Agreement shall be null and void. Neither party shall have any claim against the other.

12. Brokerage. The parties mutually represent to each other that negotiations with respect to the Premises were not aided by the services of any broker.

13. Notices. All notices to be given hereunder shall be given in writing and sent by either personal delivery or by certified mail, return receipt requested, to the parties being noticed as such parties address appears on the first page of this Option Agreement.

14. Entire Agreement. This Option Agreement constitutes the entire agreement between the parties, and no modifications of or amendments to the terms of this Option Agreement shall be binding unless in writing and signed by the parties hereto.

15. Effect of Agreement. This Option Agreement shall be binding upon the parties, and to the extent assignable, to their respective heirs, executors, administrators, successors and assigns.

16. Assignment. Seller may not assign this Option Agreement except to the Township of Plainsboro, to a non-profit housing authority or for the sole purpose



of constructing four hundred and thirteen (413) low and moderate housing units required to be built in Plainsboro Township pursuant to Urban League of Greater New Brunswick, et al. v. The Mayor and Council of the Borough of Carteret, et al., Docket No. C 4122-73, Superior Court of New Jersey.

17. Miscellaneous.

17.1 Captions and Headings. Captions and headings used herein are for reference only and shall in no way be deemed to define, limit, explain or amplify any provision hereof.

17.2 Construction. When the context of the within Option Agreement so requires, nouns appearing in the singular shall have the same effect as if used in the plural and vice versa.

17.3 Conflict of Laws. This Option Agreement shall be construed in accordance with the laws of the State of New Jersey.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first written above.

WITNESS OR ATTEST:

SELLER

\_\_\_\_\_

\_\_\_\_\_  
John F. McCarthy, III

\_\_\_\_\_

\_\_\_\_\_  
Robin L. McCarthy

PURCHASER

LINPRO PRINCETON, INC.  
a New Jersey corporation

Its:

By: \_\_\_\_\_

Its:

(Corporate Seal)

125 units  
6-10 acres

James C. Hagan

