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April 27, 2004

Commissioner D. Lorenzo Padron  
Department of Banks and Real Estate  
310 S. Michigan Avenue  
Suite 2130  
Chicago, IL 60604-4278

Re: Complaint Against Owen J. Hayes II  
McLennan Commercial Properties, Inc.

Dear Commissioner Padron:

Sometime during the last week of March of this year, the City of Park Ridge became aware that a building at 515 Busse Road in Park Ridge was for sale. This was of significant interest to the City because it is an ideal location for a police station and a new police facility is a priority capital project for the City.

The City immediately contacted the broker, McLennan Commercial Properties, Inc. and were put in touch with Owen J. Hayes II, apparently the listing agent. The property was formerly owned by the American College of Foot and Ankle Surgeons and was listed for \$1,385,000. While it may or may not be relevant to our complaint, it should be noted that Mr. Hayes was a member of the Park Ridge Economic Development Corporation, a not for profit entity that is legally independent of the City, but reliant on the City for most of its funding. Its offices are in City Hall and it is required to make periodic reports to the City of its activities. Its purpose is to facilitate business development in the City of Park Ridge.

An appointment was made for March 30, 2004 for City officials to visit the property. The visit took place and was conducted by Mr. Hayes. Mr. Hayes informed the City officials that if they were truly interested in the property that they must move quickly because he already had a buyer at \$1,315,000. The City officials were given a listing sheet that indicated that this was the "former American College of Foot

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and Ankle Surgeons building". At no time did Mr. Hayes inform the City that the property had changed hands, that American College of Foot and Ankle Surgeons was no longer the owner. He certainly made no mention, in any way, of the fact that he had an ownership interest in the property.

The City Manager, believing that the property was ideal for the City's purposes told the Chief of Police to prepare a presentation to advise the City Council of the Department's enthusiastic interest in the property. This was done at great expense of time and effort. On April 5, 2004, the staff made the presentation to the City Council. After careful consideration, the City Council instructed the City Attorney to prepare an offer to purchase the property.

The City Attorney then prepared a detailed, complete offer to purchase.

On April 9, after the Offer to Purchase was completed, the City Attorney was advised by the Chief of Police to "hold" the offer. After the site visit, it was discovered, after the City had expressed its interest in the property, but prior to the Owen Hayes accompanied site visit, that on April 29, 2004, Mr. Hayes, himself, had applied for transfer tax stamps for the property and had purchased it himself for \$950,000. This closing took place after the City had expressed an interest with the brokerage, and apparently closed prior to his showing the property to the City. At no time did Mr. Hayes, now acting as a dual agent, divulge to the City either a present, contractual or any other inchoate interest in the property. The City was presented only with the attached listing sheet identifying Owen J. Hayes II as the broker.

On April 19, the City Council determined that despite the fact that the property was ideal for City purposes, Mr. Hayes' actions had now made it impossible for the City to consider acquiring the property. As a public body, it is axiomatic that all of our dealings must be above reproach. No matter that the City had no fault in this situation, it was now inappropriate to enter into a deal with a person and organization whose forthrightness had been compromised.

It is our belief that Mr. Owens' actions with respect to this matter are a breach of ethical standards bordering on fraud and merit full investigation.

I have attached a copy of a memorandum prepared by Klein, Thorpe and Jenkins Ltd. with respect to this matter. It is not attached as a legal opinion or as a guide for your department. It is attached solely as an indication of the concerns raised by this unfortunate matter.

If you have any questions, please contact the undersigned.

Sincerely,

KLEIN, THORPE AND JENKINS, LTD.  
Attorneys for the City of Park Ridge

By: \_\_\_\_\_  
Everette M. Hill, Jr.

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Attachments

cc: Mr. Timothy Schuenke, City Manager  
Honorable Lisa Madigan  
Honorable Richard Devine