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December 8, 2009

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Director Wayne Honeycutt  
Loudon County Schools  
County Office Building  
100 River Road  
Loudon, Tennessee 37774

Re: Investigation Request  
School system purchase of property on Hwy 321

Dear Director Honeycutt:

Based on our telephone conversation of last month it is my understanding that the Loudon County School Board is requesting a 'TBI investigation' into the School Board's purchase of 80 acres located off of Hwy 321 in September 2006 for the future use as a new high school location or other school construction. TBI investigations can only be initiated by either the Director of TBI or by me upon formal predication to TBI. The Board's request is particularly troubling because it does not even make any specific allegation of criminal wrongdoing, nor does it come with any supporting information or evidence of criminal wrongdoing whatsoever. Usually there has to be a specific allegation of a violation criminal law and some evidence of the alleged crime, *e.g. a case of official misconduct whereby John Doe was a board member at the time of the transaction, he sponsored the resolution to purchase the property and was also the real estate agent for the seller without disclosing the potential conflict to the other board members.*

Obviously, and with all due respect, I do not want to continue to waste the time and effort of TBI or my office investigators on matters that may be perceived as proverbial 'witch-hunts or wild goose chases' to try and find something that does not exist just to bring about unnecessary political embarrassment for a previous board or school official(s). However, towards the end of trying to satisfy this board's request and without predicating an investigation, I have personally reviewed the relevant documents and issues surrounding the purchase of the property. Maybe all of this information is not known to the present board members and maybe a review of same will help to satisfy their concerns.

Mrs. Helen Larue Smith (now Wofsy), along with her husband, Claude E. Smith, were the owners of some 100 +/- acres located on Hwy 321 since 1971. After her husband died in 1976 Mrs. Smith became the sole owner of the property. She later remarried Chester Wofsy. On May 20, 2005, Richard Eisenbach of Knoxville entered into an option to purchase the "Smith property" for the sum of \$1,250,000. The parties executed a replacement option agreement in February 2006. Eisenbach paid a total of almost \$70,000 for both

option agreements. As the option period continued after the execution of the replacement option agreement the purchase price increased accordingly until the closing took place in September 2006 at \$1,300,000.

As part of his purchase of the property Eisenbach conducted an IRS approved 1031 'like-kind exchange' utilizing Safe Harbor, LLC as a 1031 approved 'qualified intermediary' for purposes of properly completing the 'exchange'. Either in our telephone conversation or in some internet article one of the board members raised a question about the use of the LLC (limited liability company) being a 'shell corporation' and implying some sort of illegality. Evidently this person(s) is not aware that a 1031 exchange requires the use of a neutral, third-party qualified intermediary that acts in the nature of a 'straw man' or 'escrow agent' to accept and convey title to the subject real estate and/or to hold funds from a previous real estate sale being used to purchase the exchange property. Safe Harbor, LLC is such a qualified intermediary set up as a business to regularly provide this service to individuals utilizing this IRS recognized tax shelter from the payment of capital gains taxes.

Loudon County Schools entered into a contract dated September 14, 2006 [signed by Leo Bradshaw, Purchasing Agent and A. Edward Headlee, Director of Schools] to purchase the property from Eisenbach who held the option to purchase the property and who had the right to market the property during the option period for the sum of \$27,500 per acre. The contract contained a closing date of September 29, 2008.

Eisenbach used Safe Harbor, LLC as a qualified intermediary to 'shelter' gain from the sale of the property to Loudon County Schools. Eisenbach, through Safe Harbor, LLC, purchased the 100+ acres from Mrs. Smith (now Wofsy) for \$1,300,000 and sold 80 acres of the property to Loudon County Schools for \$2,200,825 on September 29, 2008.

Essentially, for the purpose of understanding the differences in the price of the purchase from Smith and the sale to Loudon County Schools one need only have a basic understanding of the real estate market in Loudon County. Eisenbach pinned down the price of the entire 100 acre tract in the Spring of 2005. Prices were rising rapidly in Loudon County at that time and thereafter. My conversation with Jane Smith (not related to Helen Smith Wofsy), who does the appraising for the property assessor's office, confirmed that land prices were nearly "doubling every year". Leo Bradshaw and Jane Smith both confirmed to me that Ed Headlee and the board looked at several properties up and down the Hwy 70/Hwy 321 corridors. Jane stated that Headlee was "in and out of the [property assessor's office] on a continual basis looking for properties. LCUB was in the process of extending or planning to extend additional or enhanced utilities (sewer, etc.) out Hwy 321. Talk of the Town Creek development and other projects were continually driving land prices upward. Therefore, it is not surprising that property purchased in the spring of 2005 would have significantly increased by the fall of 2006 - especially taken into consideration that when property is divided further (like Eisenbach did), then the price per acre generally increases. Furthermore, I imagine that people investing in real estate do so with the hopes of gaining significant profits. Therefore, I further imagine that Eisenbach would not have sold this property without making a significant profit. However, this is merely speculation on my part.

Finally, it is common knowledge that the real estate 'bubble' occurred here in Loudon County somewhat later than other parts of the country like Florida, Las Vegas, etc., with the bubble fully maturing by early 2008. This certainly applies for houses, but maybe not to the same extent to larger tracts of vacant land. There are now plenty of houses for sale at reduced prices due to the glut of houses resulting from overdevelopment and foreclosures. However, there is not a similar glut of vacant land because, in real estate sales parlance - 'they are not making any more land'.

December 10, 2008

The school system paid significantly more per acre for a smaller tract of land in September 2006 [\$27,500/acre for 80+ acres] than what Eisenbach pinned down the price per acre [\$12,750/acre for 102+acres] for in May 2005. Most of the answers to the questions the board may ask about the transaction are apparent by a simple review of the documents and a basic understanding of real estate prices. My opinion based on this review of the transaction and my sixteen years experience as a real estate attorney in Loudon County is that the pervious school board was acting to pin down one of what may have been the most useful (for their purposes) tracts of real estate in an area of the county where they expected the most population growth. In retrospect, they paid a premium for the property that now, in light of the real estate bust, appears to have been too much. A lack of understanding about 1031 real estate exchanges may be fueling the idea of a 'conspiracy'. The conclusion becomes that the previous board and school officials may have been the victims of the bulging real estate bubble and the resulting bursting of that bubble makes it appear to have been a bad business decision.

Perfect hindsight in the light of unfortunate economic circumstances does not make for evidence necessitating a TBI investigation. If some board member or other person has actual evidence of criminal wrongdoing, then I will be glad to review this information with the TBI to determine if it is credible and warrants further investigation. I also will be glad to meet with you or anyone else on this issue at a mutually convenient time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Russell Johnson', written over the printed name.

Russell Johnson  
District Attorney General