

# Cavanagh Company

610 Putnam Pike • P.O. Box 953 • Greenville, RI 02828 • 401-949-4000 • 800-635-0568 • Fax: 800-949-0680 • www.cavanaghco.com

March 15, 2013

Andrew Cavanagh  
15 Cherry Blossom Lane.  
Greenville, R.I. 02828

**Re: Notice to Interested Persons Regarding a Proposed Transaction  
Involving the Cavanagh Company Defined Benefit Pension Plan.**


Dear Participant,

Cavanagh Company, Cavanagh Company Defined Benefit Pension Plan (the "Plan"), and Brian P. Cavanagh, the Plan Trustee, filed a request for final authorization under Prohibited Transaction Class Exemption (PTE) 96-62 (as published in 61 Fed. Reg. 39,988 (July 31, 1996), as amended by 67 Fed. Reg. 44,622 (July 3, 2002)) with the United States Department of Labor (the "DOL"). Such authorization, if provided by the DOL, would permit Cavanagh Company to engage in a transaction with the Plan otherwise prohibited under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), and the Internal Revenue Code of 1986, as amended ("the Code"), in connection with the sale, by the Plan to Cavanagh Company, of an unimproved tract of real property.

The proposed transaction has met the requirements for tentative authorization under PTE 96-62. You are hereby notified that the DOL is considering whether to provide final authorization for the above-described transaction pursuant to PTE 96-62. Upon final authorization by the DOL, the restrictions of section 406(a) of ERISA and/or the sanctions resulting therefrom the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the transaction.

As a person who may be affected by this request for final authorization, you have the right to comment by April 14, 2013. The transaction described above will only take place following final authorization by the DOL, which is expected to occur on or after April 19, 2013.

For the convenience of interested persons, a Notice to Interested Persons ("Notice") setting forth both the conditions that would be applicable upon final authorization by the DOL under PTE-96-62 and the facts and representations that support final authorization is attached. The Notice also provides contact information for making comments to the DOL. Cavanagh Company and the Plan strongly urge all interested parties to read the notice contained herein.

Sincerely,  
Cavanagh Company  
  
Andrew Cavanagh  
Gen. Mgr.

## NOTICE TO INTERESTED PERSONS

1. You hereby notified that a written submission has been filed on behalf of Cavanagh Company (the "Company") with the United States Department of Labor seeking authorization of the proposed sale of certain unimproved real property owned by the Cavanagh Company Defined Benefit Pension Plan ("the Plan") (collectively, the "Proposed Transaction"), as described below, to the Company pursuant to Prohibited Transaction Class Exemption (PTE) 96-62 (as published in 61 Fed. Reg. 39988 (July 31, 1996), as amended by 67 Fed. Reg. 44622 (July 3, 2002)).

### 2. Identifying Information

a. Name of Plan: Cavanagh Company Defined Benefit Pension Plan

b. Plan Number: 003

c. Name of Submitters: Cavanagh Company

d. Address of submitters:

Cavanagh Company  
610 Putnam Pike  
Greenville, Rhode Island 02828

e. The Company's Employer Identification Number: 05-0279916

f. Name and address of plan administrator:

Cavanagh Company  
610 Putnam Pike  
Greenville, Rhode Island 02828

3. This transaction has met the requirements for tentative authorization under PTE 96-62.

4. The authorization is subject to the following conditions:

a. The terms and conditions of the Proposed Transaction are at least as favorable to the Plan as those that the Plan could obtain in an arms-length transaction with an unrelated party.

b. The Plan receives the greater of \$40,000 or the fair market value of the Property on the date of such Proposed Transaction, as determined by an independent, qualified appraiser ("the Appraiser"). at the time of the sale, the Plan will receive, as consideration for the Property, the greater of either: (1) \$40,000 or (2) the fair market value of the Property as established by a qualified, independent appraiser in an updated appraisal of the Property.

- c. The Proposed Transaction is a one-time transaction for cash.
  - d. The Plan's trustee will determine whether it is prudent to go forward with the Proposed Transaction, review and approve the methodology used by the Appraiser in its appraisal, and ensure that such methodology is properly applied by the Appraiser in determining the Property's fair market value.
5. The property is a 4.647+/- acre tract of undeveloped land in Smithfield, Providence County, Rhode Island. The Property resides on Douglas Pike (RI Route 7) in an area made up predominantly of residential uses. It has an overall area of 4.67+/- acres of land with 3.25.57+/- linear feet of frontage on Douglas Pike. It contains a significant amount of wetlands according to the R.I. Dept. of Environmental Management resource maps. These wetlands impact the frontage of the property inhibiting any future development of the Property. The Property contains no access to utilities.
  6. Applicant and the Plan are the only two parties involved in the Proposed Transaction. The Proposed Transaction is not part of a larger integrated transaction. A chronology of the events leading up to the transaction is as follows: the Plan (by virtue of conveyance to the trustees of its predecessor in interest, "Cavanagh & Sons, Inc., Pension Trust") acquired the Property in 1974. The Property was recently the subject of that Administrative Subdivision Plan prepared by Anthony E. Muscatelli, P.L.S., of International Mapping & Surveying Corp. of Smithfield, Rhode Island. The Property was listed for sale with a real estate brokerage firm in March of 2012. Since that date, no interested buyers have offered to purchase the Property. Thus, Applicant requests an exemption to purchase the Property at or above its fair market value.
  7. Given the location and limited development possibility, it is unlikely that the Plan could sell the Property to an unrelated third party for a higher purchase price. Thus, Applicant requests an exemption to purchase the Property at or above its fair market value.
  8. The Property was appraised in October, 2012. It was valued at its Highest and Best Use. The Appraiser surveyed the market for sales of residential land within the subject region. These sales were analyzed and adjusted for time of sale, location and characteristics. Based on that analysis, the Appraiser identified a range of value from \$2,272.73 to \$8,727.27 per acre and concluded that the estimated a value of \$8,000 per acre for the Property. Therefore, 4.647 +/- acres at \$8,000 per acre yields a value of \$37,176, which was then rounded up to \$40,000 by the Appraiser.
  9. It is represented that the Proposed Transaction poses little, if any, risk of abuse or loss to the Plan or to any participant or beneficiary of the Plan, as the Proposed Transaction will enable the Plan to dispose of the Property which equals the fair market value at the time of the transaction, as determined by an independent, qualified appraiser.
  10. The applicant has identified as substantially similar to the Proposed Transaction the following exemptions granted by the Department of Labor:

a. Prohibited Transaction Exemption 2009-11E for McHenry Law Firm Retirement Plan; E00630 (July 18, 2009).

The McHenry Law Firm Retirement Plan and Trust ("McHenry Plan") owned a real estate tract of approximately 35 acres which was owned adjacent to the Robert McHenry, P.A. building ("McHenry Property"). The employer and trustees proposed that Robert and Donna McHenry, husband and wife, purchase the McHenry Property from the McHenry Plan. The sale by the McHenry Plan was to be a one-time transaction for cash, and no commission or other expenses associated with the sale were to be charged to the Plan. The McHenry Property was purchased by the McHenry Plan in 1999, for \$52,000. An appraiser determined that the fair market value of the McHenry Property as of January 26, 2009, was \$71,000. The appraiser considered the fact that the Property was adjacent to that owned by a separate LLC, the shareholders of which were Robert and Donna McHenry, and concluded that no premium to this valuation was appropriate. The purchase price was to be the greater of \$71,000 or the fair market value of the McHenry Property on the date of sale, as determined by an independent appraiser. The independent appraiser was Brett Sullivan, with Arkansas Appraisal Associates. The appraisal was to be updated as of the date of the sale.

The Exemption Transaction has the following similarities to PTE 2009-11E: 1. The sale was to be a one-time cash transaction; 2. The purchasers were to pay the McHenry Plan, as consideration for the McHenry Property, the greater of (i) the fair market value as of the date of the sale as determined by a qualified independent appraiser, or (ii) the fair market value on the date of the sale as determined by a qualified independent appraiser; 3. The McHenry Plan was not to pay any costs, including brokerage commissions, appraisal costs, or any other expenses associated with the sale; 4. Robert and Donna McHenry as McHenry Plan Trustees, were to (i) review and, if warranted, approve the methodology used by the qualified independent appraiser, (ii) ensure that such methodology is properly applied, and (iii) determine whether it is still prudent to proceed with the Transaction; and 5. The terms and conditions of the transaction were at least as favorable to the McHenry Plan as those obtainable in an arm's length transaction with an unrelated party.

b. Prohibited Transaction Exemption 2006-02 for Pennsylvania Institute of Neurological Disorders, Inc. Profit Sharing Plan, D-11306, 71 FR 14008 (March 20, 2006)

The Pennsylvania Institute of Neurological Disorders, Inc. ("Employer") is the sponsor of the Pennsylvania Institute of Neurological Disorders, Inc. Profit Sharing Plan ("PINDI Plan"). Mahmood Nasir, M.D. is the sole owner, shareholder, and president of the Employer. The Employer is located in Sunbury, Pennsylvania. The Plan is a defined contribution profit sharing plan which was effective as of September 1, 1993. As of December 31, 2004, the Plan had seven participants. In July 1995, the PINDI Plan purchased a 22,500 square foot parcel of unimproved real property

located at Lot 20 Kingswood Drive, Selinsgrove, Pennsylvania ("PINDI Property"). The PINDI Property was adjacent to property owned and resided on by Dr. Nasir. The PINDI Property had not been leased to, or used by, any party in interest with respect to the PINDI Plan since the date of acquisition by the PINDI Plan. Since the date of the purchase, the PINDI Property had remained vacant and no income had been generated. The PINDI Property was appraised ("PINDI Appraisal") on June 21, 2005, by Mary Beth Rodriguez (the PINDI Appraiser), of the Bowen Agency in Selinsgrove, Pennsylvania. The PINDI Appraiser was certified by the Commonwealth of Pennsylvania as a General Appraiser. The PINDI Appraiser determined that the fair market value of the PINDI Property was \$81,000 as of June 21, 2005. The transaction was in the interest of the PINDI Plan because a gain was realized when the parcel of land was sold to Dr. Nasir and the proceeds reinvested in other investments with a higher rate of return without incurring carrying costs such as real estate taxes. The PINDI Property is the only real property owned by the PINDI Plan. The transaction was to be a one-time cash sale and enable the PINDI Plan to diversify its investment portfolio.

The Exemption Transaction has the following similarities to PTE 2006-02: 1. The sale was to be a one-time cash transaction; 2. The purchaser was to pay the PINDI Plan, as consideration for the PINDI Property, the greater of (i) the fair market value as of the date of the sale as determined by a qualified independent appraiser, or (ii) the fair market value on the date of the sale as determined by a qualified independent appraiser, which amounts would exceed the original acquisition cost of the PINDI Property; 3. The PINDI Plan was not to pay any costs, including brokerage commissions, appraisal costs, or any other expenses associated with the sale; and 5. The terms and conditions of the transaction were at least as favorable to the PINDI Plan as those obtainable in an arm's length transaction with an unrelated party.

11. As a person who may be affected by the Proposed Transaction, you have the right to comment on the Proposed Transaction. Written Comments should be sent to:

Office of Exemption Determinations  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Ave, NW  
Room N-5649  
Washington, D.C. 20210  
Attention Submission No. E-00720

12. The comment period will close on April 14, 2013. Final authorization of this transaction will not occur until the Department reviews all comments received in response to this notice.