

**WOMBLE  
CARLYLE  
SANDRIDGE  
& RICE**  
A PROFESSIONAL LIMITED  
LIABILITY COMPANY

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Raleigh, NC 27601

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William C. Matthews, Jr.  
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September 22, 2005

R. Michael Pipkin  
1506 East Franklin Street  
Suite 304-A  
P.O. Box 2806  
Chapel Hill, North Carolina 27514

**VIA TELECOPY AND  
FEDERAL EXPRESS**

Spencer C. Young Investments /  
The Courtyard of Chapel Hill, LLC

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Dear Mike:

You and I have had lengthy negotiations concerning the terms and conditions of a lease of the parking lot tract. This letter summarizes those discussions, and outlines the consequences of P.H. Craig's decision to renege on prior commitments.

On July 20, 2005, I sent you an email (copy enclosed) outlining the terms P.H. Craig required in order to consummate a lease with my client. You confirmed to me that my email correctly stated P.H. Craig's requirements. On July 27, 2005, our firm forwarded to you a lease revised in accordance with your client's specifications. Thereafter, you informed me that P.H. Craig was unwilling to execute the lease and that your client was requiring (i) an increase in rent over that previously stipulated, and (ii) deletion of renewal option provisions.

I requested that you confirm in writing P.H. Craig's willingness to execute a lease meeting these further demands. Your letter of August 4, 2005, clearly and unambiguously confirms that agreement by P.H. Craig.

On August 8, 2005, I revised the lease to incorporate each and every additional demand made by P.H. Craig. You thereafter informed me by telephone that P.H. Craig was now unwilling to execute any lease.

On August 31, 2005, I sent you a letter (copy enclosed) requesting confirmation that P.H. Craig was now unwilling to execute a lease and requesting an explanation as to why P.H. Craig was reneging on prior commitments. To date, I have not yet had the courtesy of a response.

As a result of P.H. Craig's actions, my client has incurred significant expenses:

1. P.H. Craig Lease Negotiations Cost. Spencer Young has incurred attorney fees in excess of \$25,000 (i) in investigating the special use permit ramifications flowing from the yoking of parking lot tracts with the Courtyard property, and (ii) in documenting and re-documenting the proposed ground lease. A significant portion of these costs were accrued as additional demands (to which Spencer Young acceded) were placed upon prior demands (to which Spencer Young had previously acceded).

2. Due Diligence Costs. As a result of the commitments made by P.H. Craig, Spencer Young incurred additional costs in documenting the purchase of the Courtyard property. If P.H. Craig had not represented that he was willing to execute a lease, Spencer Young may have elected to have terminated the contract in July and avoided many costs altogether. As a result of P.H. Craig's recanting of his agreement, Spencer Young is faced with a decision either (i) to terminate the contract and risk an inability to recapture any costs; or (ii) to proceed to close, but without the benefit of commitments made.

These costs outlined above (my litigation friends describe these as "damages") are only one element of the issue. I personally told the seller that the purchaser and P.H. Craig had reached an agreement. I am confident that the purchaser has made similar statements. P.H. Craig's unwillingness to honor prior representations has undoubtedly led others to wonder whether I accurately captured prior statements made by you after your conversations with Mr. Craig.

Spencer Young is electing to proceed with the closing. Closing is set for September 29, 2005. If P.H. Craig is willing to execute the lease prepared pursuant to the terms of your August 4, 2005, letter, please have him do so immediately and forward the lease to me.

If he is unwilling to abide by his prior commitments, we expect (and my client would more forcefully state that he "demands") an explanation as to why Mr. Craig has reneged on his prior commitments.

Please give me a response on or before September 27, 2005.

Sincerely,



William C. Matthews, Jr.

WCMjr/srb  
Enclosures

cc: Spencer C. Young (w/encl.)(via email)

## Matthews, Bill

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**From:** Matthews, Bill  
**Sent:** Wednesday, July 20, 2005 11:38 AM  
**To:** 'mpipkin@bellsouth.net'  
**Cc:** Spencer C. Young (E-mail)  
**Subject:** Courtyard: PH Craig

Mike, thanks for calling me back today. I am communicating the following to Spencer Young as the "final and best" offer of PH Craig as to the parking lot lease:

1. Term. Two years, with one three-year renewal option. The renewal option could be exercised by the tenant and would not require further agreement/consent by the landlord. (You confirmed that the landlord will not agree, at the present time, to a second three-year option.)
2. Rate. The existing rental presently being paid would continue for the initial term outlined above. If the tenant exercised the renewal option, each renewal year would be subject to the escalator provision of the existing lease (thus, increases in years 3, 4 and 5).
3. Right of Termination. The tenant requested a right to terminate the lease at the end of each year. Your client did not agree to this.
4. Right to Swap Parking Lot Tracts. Your client would be able to request that the easternmost lot be released from the lease (lot 5 on the attached diagram) and offer a substitution of two identified lots (Lots 4 and 6). The tenant, however, would have no obligation to release this lot during the initial term or the renewal term, even if substitution was offered.
5. Annual Payments. Your client insists on annual payments, in advance.
6. Form of Documentation. A replacement lease would be executed, with such deviations as are outlined above and such other deviations as the two parties may agree upon. The landlord would execute a memorandum of lease to be recorded in the Orange County Registry.

I am informing Spencer that your client has indicated that this offer is his final offer and that your client has indicated no desire to negotiate these positions further. To the contrary, your client has indicated that certain positions that our firm's client have asked be revisited (e.g., annual payments) will not be revisited.

Please confirm by reply email that this email correctly summarizes what your client is willing to do (and not do). If I've missed something, please let me know.

Thanks.

Bill

*William C. Matthews, Jr.  
Womble Carlyle Sandridge & Rice, PLLC  
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2100 Wachovia Capitol Center  
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PH Craig parcel  
Info.pdf

**R. MICHAEL PIPKIN, P. A.**  
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CHAPEL HILL, NORTH CAROLINA 27517

*Courtney  
Craig Lease*

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E-Mail: [rmplaw@mindspring.com](mailto:rmplaw@mindspring.com)

August 4, 2005

VIA FACSIMILE 755-2118 / U.S. MAIL

William C. Matthews, Jr., Esquire  
Womble Carlyle Sandridge & Rice  
P.O. Box 831  
Raleigh, NC 27602

Re: P.H. Craig Lease to Spencer C. Young Investments, LLC

Dear Bill:

I have reviewed the proposed Ground Lease you faxed to me on July 27 with P.H. Craig, and he has indicated to me that he would be willing to enter into the lease with your client provided the annual rent for the two year period in Section Three is amended to \$40,000.00 per year and all references to a renewal option are deleted.

Please call me if you have any questions.

Sincerely,



R. Michael Pipkin

Copy: P.H. Craig

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August 31, 2005

R. Michael Pipkin  
1506 East Franklin Street  
Suite 304-A  
P.O. Box 2806  
Chapel Hill, North Carolina 27514

VIA EMAIL

Spencer C. Young Investments /  
The Courtyard of Chapel Hill, LLC

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Dear Mike:

So that I will have a written confirmation of our phone conversation, please send me a letter that P.H. Craig will not execute the lease we sent on August 17, 2005.

If possible, I would also appreciate your including an explanation as to why P.H. Craig will not execute the lease modified by us to satisfy his requirements.

Thanks.

Sincerely,

William C. Matthews, Jr.

WCMjr/srb

cc: Spencer C. Young (via email)