July 30, 2013

Honorable Toni Preckwinkle
President, Board of Commissioners
of Cook County
118 North Clark Street
Chicago, Illinois 60602

Re: Proposed Amendment to the OIIG Enabling Ordinance

Dear President Preckwinkle:

This letter is written to request your support in amending the Office of the Independent Inspector General (OIIG) Ordinance, Cook County, Ill., Ordinances 07-O-52 (2007), to clarify and confirm the authority of the OIIG to seek enforcement of subpoenas that it issues under Section 2-286 of the OIIG ordinance.

As you know, Section 2-286 of the OIIG Ordinance authorizes the OIIG to issue subpoenas for documents or testimony related to an OIIG investigation. We believe the authority of the OIIG to issue subpoenas also includes the authority to request court enforcement, through the Cook County State's Attorney (*See* 55 ILCS 5/3-9005), of subpoenas when necessary to ensure compliance. As outlined in the matter of *Blanchard v. Berrios,* No. 13 CH 14300, currently pending in the Circuit Court of Cook County, a subpoena issued in connection with an on-going OIIG investigation has not been complied with requiring its enforcement through litigation.

The Office of the Assessor has now filed a motion to dismiss the complaint in *Blanchard v. Berrios* asserting, among other things, that no provision of law "grants the IG the authority either to file suit in its name or to enforce a subpoena in the Circuit Court." We do not believe that this argument will prevail and we are prepared to fully litigate the issue. The recent opinion of the Illinois Supreme Court in the *Ferguson* (City of Chicago Inspector General) case makes clear that the resolution of this issue depends upon the intention of the subject ordinance. Therefore, should the Cook County Board of Commissioners amend the OIIG Ordinance to expressly authorize suit in the name of the OIIG, acting through the State's Attorney of Cook County, to enforce its subpoenas (which we firmly believe to have been its intention in granting the OIIG power to issue subpoenas), litigation over this issue could be avoided along with the associated time and costs.

Please see attached a proposed amendment to Section 2-286 of the OIIG Ordinance for your consideration.

Thank you for your consideration to this important issue. I would appreciate the opportunity to further discuss this issue if you or any member of your office has any questions.

Very truly yours,

Patrick M. Blanchard
Independent Inspector General
312.603.0364

cc: Mr. G.A. Finch, Chief of Staff
Mr. Carlos Ponce, Deputy Chief of Staff
Ms. Kimberly Foxx, Deputy Chief of Staff
Ms. Laura Lechowicz Felicione, Special Legal Counsel to the President
Mr. Alexander Polikoff, Special State's Attorney
Ms. Emily Blumberg, Special State's Attorney

OIIG PROPOSED AMENDMENT

ORDINANCE AMENDING INDEPENDENT INSPECTOR GENERAL ORDINANCE

WHEREAS, Chapter 2 Administration, Article IV Officers and Employees, Division 5 Inspector General, Section 2-286 of the Cook County Code authorizes the Independent Inspector General to issue subpoenas to request documents or testimony related to an authorized investigation;

WHEREAS, it was intended by such authorization to authorize the Independent Inspector General to enforce such subpoenas by filing suit in his own name, through the State's Attorney of Cook County, requesting court enforcement thereof;

WHEREAS, it has been asserted that no such enforcement authority is explicitly included in Section 2-286 and therefore does not exist;

WHEREAS, this Board desires to clarify its intention in this regard;

Now, therefore, be it ordained, by the Cook County Board of Commissioners that Chapter 2 Administration, Article IV Officers and Employees, Division 5 Inspector General, Section 2-286 Subpoenas of the Cook County Code, is hereby amended by adding the following sentence at the end of Section 2-286:

"The Independent Inspector General shall be authorized to seek enforcement of subpoenas issued pursuant to this Section, through the State's Attorney of Cook County, by filing suit in his own name in the Circuit Court of Cook County."

Date: July 30, 2013

Cook County Board of Commissioners

118 North Clark Street
County Board Room
Chicago, Illinois

New Items Agenda
#2

Wednesday, September 11, 2013

10:45 AM

Issued: Monday, September 9, 2013

PRESIDENT

13-1622

PROPOSED ORDINANCE AMENDMENT

Sponsors:

TONI PRECKWINKLE, PRESIDENT and JOHN P. DALEY, COUNTY COMMISSIONER

AN AMENDMENT TO THE INDEPENDENT INSPECTOR GENERAL ORDINANCE

WHEREAS, Chapter 2 Administration, Article IV Officers and Employees, Division 5 Inspector General, Section 2-286 of the Cook County Code authorizes the Independent Inspector General to issue subpoenas to request documents or testimony related to an authorized investigation; and

WHEREAS, the Independent Inspector General from time to time is required to enforce such subpoenas, through the State's Attorney of Cook County, requesting court enforcement thereof; and

WHEREAS, it has been asserted that no such enforcement authority is explicitly included in Section 2-286 and therefore does not exist; and

WHEREAS, this Board desires to clarify its intention in this regard and ensure that the Independent Inspector General has the legal authority to seek enforcement of such subpoenas by including explicit enforcement powers in this Ordinance Amendment.

NOW, THEREFORE, BE IT ORDAINED, by the Cook County Board of Commissioners that Chapter 2 Administration, Article IV Officers and Employees, Division 5 Inspector General, Section 2-286 Subpoenas of the Cook County Code, is hereby amended as follows:

Sec. 2-286. - Subpoenas.

The Independent Inspector General shall be authorized to issue subpoenas to request documents or testimony related to an investigation authorized by this division. Subpoenas shall be served in the manner provided under the Rules of the Illinois Supreme Court and shall identify the person to whom the subpoena is directed and the documents or items sought, stating the date, time and place for appearance of the witness and production of the documents or other items described in the subpoena. In no event shall the date for appearance or production be less than seven days after service of the subpoena. No later than the time for appearance or production requested by subpoena, the person to whom the subpoena is directed may object to the subpoena in whole or in part. The Independent Inspector General shall consider the grounds for the objection and may resolve the objection through negotiation. The Independent Inspector General shall be authorized to seek enforcement of subpoenas issued pursuant to this Section, through

the State's Attorney of Cook County in accordance with 55 ILCS 5/3-9005(a)(3) or 55 ILCS 5/3-9008(a), in the Circuit Court of Cook County. No documents or testimony may be sought from representatives of labor organizations relating to the function of representing an employee subject to investigation, or for documents or information which are privileged or confidential under State or Federal law, including but not limited to documents or information maintained under the Mental Health and Developmental Disabilities Confidentiality Act.

Effective date: This ordinance shall be in effect immediately upon adoption

COMMISSIONERS

COMMITTEE REPORTS

The following item was previously approved by poll on July 31, 2013.

13-1618 **COMMITTEE REPORT**

Committee Name: Finance Subcommittee on Real Estate and Business Economic Development

Committee Date: July 31, 2013

OFFICE OF THE PUBLIC DEFENDER

PROPOSED GRANT AWARD AMENDMENT

The following item was previously approved by poll on August 27, 2013.

13-1621 **PROPOSED GRANT AWARD AMENDMENT**
PROPOSED INTERAGENCY AGREEMENT AMENDMENT
Department(s):
Office of the Cook County Public Defender

Other Part(ies):
Illinois Criminal Justice Information Authority, Chicago, IL

Request:
This extension will provide an additional 30 days of the Cook County Defender Mitigation Project. Requesting authorization to accept a grant extension from August 31, 2013 to September 30, 2013

Good(s) or Service(s):
The authorization to accept the original grant was given on September 10, 2012 by the Cook County Board of Commissioners in the amount of $159,929.00

Agreement period:
Original start date September 1, 2012 through August 31, 2013 Extension Period August 31, 2013 through September 30, 2013

Fiscal Impact:
None

Accounts:

Agreement Number(s):
809060

Summary/Notes:
An additional 30 days is needed to complete grant deliverables