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1 THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY 19TH DECEMBER,
2 2002, AT 10.30 AM:

3

4 CHAIRMAN: Mr. Finlay?

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6 MR. FINLAY: Chairman, Members of the Tribunal, good morning.

7

8 Just to confirm to the Tribunal, as I anticipated yesterday, that I am in a
9 position to give, on behalf of Mr. Caldwell, an undertaking in precisely the
0 same terms as that which I gave yesterday on behalf of Mr. Miley.

11

12 CHAIRMAN: Very good, thank you very much.

13

14 MR. FINLAY: Thank you, Chairman.

5

16 CHAIRMAN: Just for clarity sake, in relation to the attendance of
17 Mr. Caldwell, the Tribunal wants to hear evidence from Mr. Caldwell in relation
18 to his control and management of Jackson Way Properties Limited. In the light
19 of the clear statement made by the solicitor acting for the company, the
0 company does not propose to cooperate with the Tribunal, and in consequence,
21 obstruct its work.

22

23 Details relating to Mr. Caldwell's beneficial ownership of the company and the
24 purchase of the relevant lands are matters for consideration by the Tribunal at
5 a later date. We want Mr. Caldwell to come and give evidence in relation to
26 the earlier part of that statement.

27

28 MR. FINLAY: Very good, Chairman.

29

0 CHAIRMAN: On the 22nd, Wednesday 22nd of January.

1

2 MR. FINLAY: Very good, Chairman.

3

4 CHAIRMAN: Thank you.

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6 MR. FINLAY: Thank you.

7

8 CHAIRMAN: We better fix that time at 10.30, so he knows what time.

9

0 MR. FINLAY: Very good.

11

12 MR. GALLAGHER: Mr. Dunlop please.

13

14 CONTINUATION OF EXAMINATION OF FRANK DUNLOP BY MR. GALLAGHER:

5

16 Q.1 MR. GALLAGHER: Mr. Dunlop, good morning.

17 A. Morning.

18 Q.2 Yesterday you concluded your evidence in relation to the payment of £1,000 to

19 Mr. Larkin, which you allege took place in Conway's licensed premises shortly

0 after the vote and after the meeting in Dublin County Council. And I want to

21 ask you about your dealings with the late Councillor Cyril Gallagher. Before I

22 do so, perhaps you would endeavour to put a date on the, or give an approximate

23 date on which your meeting with the late Councillor Larkin would have occurred?

24 A. I am afraid I can't give you an exact date, a precise date, Mr. Gallagher.

5 Q.3 Yes.

26 A. The vote took place on the 12th, Friday 12th of June 1992, and an approximate

27 date, I would imagine, was in the week or fortnight immediately afterwards,

28 because I left the country on the 29th June.

29 Q.4 So you had placed this meeting as having taken place sometime between the 12th

0 June, which was the date of the special council meeting and the 29th June; is

1 that correct?

2 A. Yes.

3 Q.5 There was, it would appear, a special meeting of the council held on 19th June
4 1992, which, according to the minutes, was attended by the late Councillor
5 Larkin. And there was another special meeting on 29th June 1992, also attended
6 by the late Councillor Larkin. Now, is it likely that you met him on one or
7 other of those dates?

8 A. Sorry, I didn't hear you properly. No, the last date you gave Mr. Gallagher
9 for the special meeting, you gave two dates.

0 Q.6 The 19th and 29th?

11 A. I departed on 29th, so it is highly unlikely that it would have been that day.
12 And as I pointed out to you yesterday that I knew where Councillor Larkin was
13 going to be, and it is likely therefore that it was on the date of a council
14 meeting, he wouldn't be in the vicinity otherwise.

5 Q.7 Yes. If I am correct in saying that there are only two meetings after the
16 meeting of the 12th -- two meetings in June after the 12th June, it is
17 probable, is it not, that your meeting with the late Councillor Larkin took
18 place on 19th June?

19 A. Yes, unless, unless we are talking about special meetings of the Development
0 Plan, Mr. Gallagher.

21 Q.8 Right.

22 A. Unless there were ordinary meetings of the council.

23 Q.9 I understand. Indeed, I think that there may very well also have been
24 committee meetings, or sub committee meetings of the council that were held
5 from time to time, that may have occurred during that period also?

26 A. Yes, but I take your point, that in the context of the Development Plan, and
27 given the participation that I had with various proposals on the Development
28 Plan, the likelihood is that it was at a Development Plan meeting.

29 Q.10 Yes. And I believe you said this yesterday, but just to be clear, did you hand
0 cash to Mr -- £1,000 cash to Mr. Larkin?

1 A. Yes.

2 Q.11 Thank you. I now want to turn to your dealings with the late Councillor Cyril
3 Gallagher in relation to the Development Plan, in relation to your attempts to
4 secure the rezoning of Paisley Park, and in the context of your assertion in
5 your statement that you gave £1,000 to the late Councillor Gallagher.

6

7 Would you tell the Tribunal what dealings you had with the late Councillor
8 Gallagher in the context of the Paisley Park rezoning and the events leading up
9 to, and surrounding, the payment of £1,000 to him?

0 A. Yes. I lobbied Councillor Gallagher, among others, in relation to the Paisley
11 Park development both prior to the 24th May 1991 meeting, and then obviously
12 subsequently, in relation to the motion that was on the Development Plan that
13 we have discussed for the rezoning of Paisley Park. And the normal places
14 where I met Councillor Gallagher were either in his own area, by that I mean in
15 Swords, and by that I mean specifically the Grand Hotel in Malahide, and/or a
16 pub which I may have mistakenly identified yesterday as the Lord Mayor, but I
17 know the location of the pub, I think it is -- it is not in the village of
18 Swords, it is outside Swords. But I used the phrase the "Lord Mayor" and I am
19 not quite certain that is the actual name.

0 Q.12 What side of Swords village?

21 A. It is on the Belfast side of Swords, as you leave Swords it is on the other
22 side.

23 Q.13 What side of the road?

24 A. On the right.

5 Q.14 Do you know where the Courthouse in Swords is?

26 A. No.

27 Q.15 On the end of the street there is a bend?

28 A. Yes, you go round that bend and you head out and it is on your right.

29 Q.16 Is there a large car park?

0 A. There is, yes.

1 Q.17 That is the pub that you say you --

2 A. That is the pub. The Dublin County Council offices, the Grand Hotel -- the
3 Royal Dublin Hotel, Conways Pub, and on at least one occasion, my office.
4 Those were the locations in which I met with Councillor Gallagher and discussed
5 with him a variety of proposals. I cannot specifically say to you in which of
6 those I discussed the Paisley Park development, but as I also pointed out to
7 you yesterday, there were a number of other things pending at the time, so it
8 is likely in my view, that given the nature of the motion on the Development
9 Plan that the meeting took -- lobbying took place with Councillor Gallagher in
0 either the Royal Dublin Hotel or Conways Pub.

11 Q.18 Can you tell the Tribunal what was discussed with Councillor Gallagher in
12 relation to the Paisley Park rezoning, or proposed rezoning of Paisley Park?

13 A. I asked him for his support. He readily agreed, on the understanding that
14 there would be a payment of £1,000.

5 Q.19 How was that understanding spelt out?

16 A. He asked for it and I agreed.

17 Q.20 Did he ask for a sum of £1,000 or did he ask for --

18 A. No, he asked for a sum of £1,000.

19 Q.21 And you agreed to pay him?

0 A. Yes, I did.

21 Q.22 Did you agree to pay him that sum -- sorry, was the agreement reached before
22 the vote on 12th June, 1992?

23 A. Yes, it was.

24 Q.23 Approximately how long before that?

5 A. I would imagine that in two or three weeks prior to the vote, given the context
26 of the lobbying that I was doing, I can't put an exact date on it.

27 Q.24 You were present, I take it, in the vicinity of the council chamber on the 12th
28 June, were you?

29 A. Yes, I believe I was.

0 Q.25 Were you actually in the chamber on that day?

1 A. I cannot absolutely say to you that I was present in the chamber, but it is
2 unlikely, given the nature of the proposal and the motion that I had put
3 forward that I would not have been in the immediate vicinity of Dublin County
4 Council.

5 Q.26 Right.

6 A. Either in the lobby or in the corridor outside of the chamber.

7 Q.27 At that meeting, which is to be found on page 441 of the brief, the motion
8 proposed by Councillor Lydon, seconded by Councillor Hand was moved. That was
9 a motion that was defeated by 26 votes against, 24 votes for. And as we can
0 see from the minutes of the meeting Councillor Gallagher -- sorry, if we look
11 at 441? Councillor Cyril Gallagher was one of those in attendance, the bottom
12 left-hand?

13 A. Yes.

14 Q.28 If we turn to page 443 we see that the Carrickmines/Paisley Park Investments
5 Limited, representation number 972 was discussed, the manager's report was
16 read, he recommended that the motion should not be passed?

17 A. Correct.

18 Q.29 And there was a debate, following which there was a vote, and the motion
19 proposed by Councillor Lydon and seconded by Councillor Hand was defeated by
0 two votes. Among those who voted for the rezoning of lands in question were
21 Councillor Cyril Gallagher, at the top of page 442, please? Isn't that right?

22 A. That is correct.

23 Q.30 Now, will you tell the Tribunal what other discussions and meetings you had
24 with Councillor Gallagher in the context of the Paisley Park lands?

5 A. The only other meeting that I had with him in the context of the Paisley Park
26 lands was a meeting that I had with him to give him the £1,000 that I had
27 promised him.

28 Q.31 When was that meeting held?

29 A. I believe that meeting was held after, some days after the actual vote took
0 place.

1 Q.32 Is it likely that it took place sometime between the 12th and the 29th June of
2 1992?

3 A. Yes, it is.

4 Q.33 Can you say where the meeting took place?

5 A. Unfortunately, unhappily I can't be more specific with you, other than the
6 locations that I outlined for you at the beginning. It is likely, I cannot say
7 specifically and precisely, but it is likely that, as in the previous case, it
8 took place during the course of another meeting that took place in Dublin
9 County Council.

0 Q.34 Well, if you cannot recall where the meeting took place how can you recall that
11 you paid him £1,000?

12 A. I recall specifically discussing with him the payment of £1,000 and having
13 discussed it with him there is no way, Mr. Gallagher, that I would not have
14 fulfilled it. I couldn't have afforded not to fulfilled it.

5 Q.35 Why could you not afford not have fulfilled giving money as inducement, bribe,
16 call it whatever word you wish?

17 A. I believe, Mr. Gallagher, in fact I know Mr. Gallagher, I shouldn't say I
18 believe, I know that were that to happen the word would spread pretty rapidly,
19 that if a promise was given to give a thousand pounds and it wasn't fulfilled,
0 people would not cooperate with me.

21 Q.36 Is it your evidence, therefore, that whilst you cannot recall actually handing
22 over £1,000 to the late Councillor Gallagher, you say that you did have such an
23 agreement and that there is no way you would have failed to fulfil that
24 agreement?

5 A. Correct.

26 Q.37 I see. Do you remember having any discussion with the late Councillor
27 Gallagher subsequent to the meeting of the 12th June 1992, relating to the
28 Paisley Park lands and the fact that the motion was unsuccessful?

29 A. No, I do not.

0 Q.38 Is there any other information, or do you have any other recollection of any of

1 your dealings with Councillor Gallagher in the Paisley Park/Jackson Way context
2 that might be of assistance to the Tribunal?

3 A. In the context specifically of Paisley Park, no.

4 Q.39 I should say that your diary appears to show that insofar as formal meetings
5 were concerned you had two meetings with Councillor Gallagher in 1991, one on
6 the 14th February 1991, one on the 30th May of 1991, and the next meeting
7 recorded in your diary is the meeting held on the 30th September 1992, page
8 16 -- sorry, 30th July 1992, page 1621. That shows that on the evening of
9 Thursday 30th July 1992, you had an appointment to meet Councillor Gallagher at
0 the Harp licensed premises in Swords. Is that the licensed premises you were
11 referring to earlier?

12 A. Yes, I think so.

13 Q.40 Can you recall that meeting, and can you assist the Tribunal in indicating
14 what -- the reason the meeting was held and what was discussed there? And
15 before you answer, I would draw your attention to a note for the following day
16 on your diary, 31st July, where you have something which is obliterated, but
17 seems to me to read "Ring C Gallagher?"

18 A. That is correct, yes.

19 Q.41 Does all of that help you in any way to recall what that meeting was about and
0 what was discussed?

21 A. Well, I doubt very much, Mr. Gallagher, if that meeting had anything to do with
22 Paisley Park, we had moved on from Paisley Park. The issue was over and done
23 with. I cannot absolutely say to you now, on looking at the diary and with
24 reference to other developments, the likelihood is that that meeting took place
5 with -- in relation to a specific other development that was being proposed
26 during the course of the Development Plan.

27 Q.42 Does it follow, therefore, that the payment of £1,000 which you say you are
28 satisfied you made but cannot recall, is likely to have taken place some time,
29 or in some date between the 12th June 1992 and the 30th July 1992?

0 A. Yes.

1 Q.43 Your statement goes on to say that you gave the sum of £2,000 to Councillor
2 Tony Fox. I know we have spoken, you gave evidence about your meetings with
3 Councillor Tony Fox. As I recall that evidence was in the context of meeting
4 him and seeking his support before the meeting of May, 24th May?

5 A. Yes, that is correct.

6 Q.44 Now, you have -- we have come to the stage where you make the claim that you
7 paid Councillor Tony Fox £2,000 for his support in the rezoning of the Paisley
8 Park lands, for his support in the motion in question; isn't that right?

9 A. That is correct.

0 Q.45 Perhaps you can just look again at page 443, at the bottom of the page, very
11 bottom line, you see Councillor Tony Fox was one of those councillors who voted
12 for the rezoning of the Paisley Park lands. It is on the screen in front of
13 you Mr. Dunlop?

14 A. Yes.

5 Q.46 Now, would you tell the Tribunal about your meetings with, and dealings with,
16 Councillor Tony Fox and the circumstances in which payment of £2,000 came to be
17 made, dealing with any prior agreement there might have been in relation to
18 that sum, or any other sum, or any specified sum?

19 A. Well, you will recall, Mr. Gallagher, that I said yesterday in relation to the
0 24th May 1991, I had discussions with Councillor Fox in relation to money
21 vis-a-vis the Carrickmines lands. And I said that I was not going to pay money
22 and we would wait and see what occurred later. Subsequently, as it transpired,
23 a representation was made to Dublin County Council for the Development Plan and
24 a motion was signed as by the two signatories that we have discussed.

5 Councillor Fox --

26 Q.47 Can I stop you there for a moment, I am sorry to interrupt you? Can you tell
27 the Tribunal, remind the Tribunal, remind me when these discussions with
28 Councillor Fox took place, approximately? Where? I know you mentioned his
29 premises or his place of work in the Rathmines/Rathgar area yesterday?

0 A. Yes. You are now speaking about prior to meeting of 24th May, 1991.

1 Q.48 Sorry, I am asking -- could you tell the Tribunal please?

2 A. In the lobbying exercise, or the information exercise or whatever one likes to
3 refer to it that I was conducting, you would go to where ever the councillor
4 requested. Most of the councillors having another occupation and they could --
5 they could see you at lunchtime or they could see you for a brief period at 11
6 o'clock or else you met them in Dublin County Council. In the case of
7 Councillor Fox I recall visiting him at his premises, or his premises where he
8 worked, in the area that I indicated to you yesterday on a number of occasions,
9 but specifically in relation to this, the matter that we are discussing, prior
0 to the 24th May 1991, and subsequent to that particular vote.

11

12 I had other discussions with Councillor Fox in Dublin County Council, the
13 environs of Dublin County Council, and I do believe in another public house, I
14 think the name of the public house is Coleman's.

5 Q.49 Coleman's?

16 A. In --

17 Q.50 Rathgar?

18 A. Rathgar.

19 Q.51 Can you put an approximate date on that meeting?

0 A. I don't think I can; and can I just, in mitigation, say to you that because I
21 can't in relation to Councillor Fox, when you rang Councillor Fox to -- you
22 didn't make an appointment to see him because he didn't have that type of job,
23 you just couldn't go and see him in his place of work. You rang, and if he was
24 available to see you and he specified a time you went and saw him. If he was
5 available at one o'clock you went and had a sandwich with him, or if he was
26 available for five minutes he would come out of his place of work and talk to
27 you.

28 Q.52 You said that there was, I hope I recall you correctly, you said you had agreed
29 to pay him money after the -- you had agreed, before the vote of the 24th May
0 1991, that he would be paid money, but that that would not be paid until after

1 the vote; is that correct?

2 A. No. To be quite specific, Mr. Gallagher, when I met him in the lobbying
3 exercise prior to the 24th May 1991 meeting, money was discussed. I don't
4 believe exact amounts were discussed. I told him that I was not prepared to
5 pay him money on that occasion given that he had already been in receipt of
6 monies from me in relation to another development.

7 Q.53 Are you saying that he raised the question of money with you?

8 A. Yes.

9 Q.54 Was an amount mentioned or agreed at that stage?

0 A. I don't believe an amount was mentioned on -- at that occasion. And the reason
11 I am convinced an amount was not mentioned on that occasion was because of the
12 attitude that I expressed to him when money was raised.

13 Q.55 All right. You then move on to the agreement to pay £2,000 and the payment of
14 £2,000.

5 A. At a subsequent meeting the -- during the course of the lobbying exercise for
16 the new motion, for the motion that was now before the council, or was going to
17 be before the council. I cannot accurately say to you that I didn't lobby him
18 before the motion was signed. I am absolutely convinced that I lobbied after
19 the motion was signed because Councillor Fox -- there was no point in lobbying
0 very many people unless you had a motion to say that you were going to be on
21 the agenda.

22

23 So, therefore, it is conceivable that I would not lobby him and discussed with
24 him the motion that had already been signed. Those meetings would again either
5 have taken place at -- in any of the places that I have mentioned. And when I
26 did mention those places I forgot to mention, I think, his home. I have -- I
27 called to his home on a number of occasions. On one occasion in the company of
28 a developer, on another -- on other occasions on my own.

29 Q.56 Approximately how many occasions did you call to his home?

0 A. Approximately I would say three.

1 Q.57 I see. Would you mind writing down the name of the developer please? You

2 might date the sheet the 19th December 2002, mark it "number 1" and just say

3 name of developer met with Tony Fox. (Paper handed to witness)

4 A. Do you require this numbed, Mr. Gallagher? Is there a number required?

5 Q.58 Yes please, would you put on "number 1" just in case there is anything else to

6 follow. (Paper handed to Tribunal) Thank you very much.

7 Can you give an approximate date for that, or even year for that visit? You

8 may want to think about it.

9 A. The visit --

0 Q.59 The visit with the developer?

11 A. I would say that the -- that visit almost certainly took place in -- before the

12 vote in relation to that development, in 1991.

13 Q.60 Right. Now, the motion that you have referred to, I take it, is the motion

14 signed by Councillors Lydon and Hand on 4/5/1992?

5 A. Correct.

16 Q.61 That was the motion that was voted on the 12th June, 1992?

17 A. Correct.

18 Q.62 Does it follow that, as a matter of probability, your lobbying of Councillor

19 Fox took place between the 4th May 1992 and the 12th June of 1992?

0 A. Yes.

21 Q.63 At that time was there any discussion about money, and if so would you tell the

22 Tribunal what was said?

23 A. Well, at such a meeting during the course of the lobbying process money was

24 discussed and it was agreed by me, at his request, that I would pay him £2,000.

5 Q.64 Did he ask you for £2,000?

26 A. Yes, he did.

27 Q.65 Did you agree to pay him £2,000?

28 A. I did.

29 Q.66 Was the request in the context of his promising to you that he would support

0 and vote for the motion?

1 A. Yes.

2 Q.67 And did you pay him the money in that context and for that reason?

3 A. Yes, I did.

4 Q.68 When did you pay him the money?

5 A. I believe I paid him the money during the course of another meeting in Dublin
6 County Council, while both of us were walking towards Conway's Pub. I did not
7 pay him the money in Conway's pub. I passed him the money as we walked to
8 Conway's pub. The money was in an envelope so it wasn't obvious that it was
9 money, but I passed it to him on the way to Conway's pub. I cannot give you a
0 date on which I did that, but my absolute recollection is that I did give him
11 money in those circumstances.

12 Q.69 Was this on O'Connell Street or Parnell Street or the back entrance?

13 A. Parnell Street, as you turn the corner.

14 Q.70 As you turn the corner at the Rotunda?

5 A. Yes.

16 Q.71 You say you gave him £2,000 in an envelope on that occasion?

17 A. Yes.

18 Q.72 I hesitate to ask you, what colour envelope?

19 A. I am hesitating because I knew you were going to ask me that question, I can't
0 recall what colour the envelope was.

21 Q.73 Can you recall whether the £2,000 was in cash or by cheque?

22 A. Cash.

23 Q.74 Can you recall where you had obtained this cash? Where you had drawn it from?

24 Or what stash you had taken it from?

5 A. I had taken it from monies that I had available to me in cash at that period on
26 an ongoing basis, for the very purpose that we are discussing.

27 Q.75 And were you, either on paper or in your mind, debiting the account of
28 Mr. Kennedy with that payment? In other words, was it --

29 A. Not on paper, but definitely in my mind.

0 Q.76 Yes. What, if anything, did Councillor Hand say to you on that occasion?

1 A. Councillor Fox.

2 Q.77 Sorry, I beg your pardon, Councillor Fox?

3 A. I don't recall what he said to me.

4 Q.78 Do you recall what you did after you handed over this envelope of £2,000?

5 A. We went into Conway's and we sat down and had a libation.

6 Q.79 I take it that this payment was on, or after, the 12th June, 1992?

7 A. No. It was after the 12th -- it was after the vote, Mr. Gallagher. It was not

8 before the vote.

9 Q.80 Yes. You had a meeting with Councillor Fox -- well, according to your diary

0 had you a meeting with Councillor Fox on Wednesday 3rd June, 1992. Can we have

11 page 1568, please. Does that strike any cord with you? Does it bring anything

12 to your mind?

13 A. Yes.

14 Q.81 Is it something that relates to the Paisley Park lands?

5 A. I am looking at the timing of the meeting, and combined with the date of the

16 meeting, and it is one of the meetings at his home that I had with him at his

17 home, and I would, yes, it is in relation to the Paisley Park Development. One

18 of the lobbying meetings that I had with Councillor Fox, prior to the Paisley

19 Park Development.

0 Q.82 I see. Now, you are aware that Councillor Fox emphatically denies that you

21 gave him money in connection with the rezoning of any lands. Perhaps I will

22 just read to you what Councillor Fox says. He says in a letter of 4th December

23 2000: "I wish to deny that I received any payment from Frank Dunlop in relation

24 to the projects outlined". He does say that he received amounts from you

5 totalling £600 and £1,000. In the first instance, I should say that Councillor

26 Fox was asked about information that had come to the notice of the Tribunal,

27 that between 1991 and 1998 he received money, directly or indirectly, on a

28 number of occasions, that is Frank Dunlop, in connection with.

29 1. Mr. Gerard Fox's support for proposed rezoning of lands in Carrickmines

0 Valley owned by Paisley Park Investments Limited and subsequently by Jackson

1 Way Limited. He was invite to furnish a written statement in response to that,
2 and he did so on 14th December 2000, and he said as follows in the course of
3 that letter: "I wish to deny that I received any payment from Mr. Frank Dunlop,
4 and in particular deny that I received any payment in relation to the projects
5 you outlined in your letter."

6 I take it that in the light of what you have said, you disagree with that
7 denial?

8 A. Yes, I do.

9 Q.83 I am sorry, I may have given the impression earlier in asking a question
0 whether you had made payments of £600 and £1,000 to Mr. Fox, in fact that
11 assertion relates to different matters but which you presumably have no
12 involvement.

13

14 So, I take it it follows that you reject the denial from Councillor Fox that
5 you received £1,000 and you stand by your evidence that you -- sorry, £2,000,
16 and that you gave him £2,000 in the circumstances you have described, and for
17 the reasons you have described.

18 A. Yes, I do.

19 Q.84 In relation to Paisley Park. Thank you.

0

21 I now turn to that part of your statement which deals with your allegation that
22 you made a payment of £2,000 to Councillor Colm McGrath. Would you outline to
23 the Tribunal, please, the dealings you had with Councillor McGrath in relation
24 to the Paisley Park lands and the background and circumstances surrounding the
5 payment of £2,000 and the reasons therefore?

26 A. Well, in the same manner that I outlined to you, Mr. Gallagher, in relation to
27 a lobbying exercise that was conducted vis-a-vis Paisley Park with other
28 councillors that we dealt with, I lobbied Councillor Colm McGrath in relation
29 to this matter. I should say to you that the locations that I normally met
0 Councillor McGrath were as follows: Either in his place of work, which is in

1 the village of Clondalkin, his place of work then was in the village of
2 Clondalkin. At my office, in the Green Isle Hotel nearby, and on other
3 occasions, but rarely, in the Royal Dublin Hotel and Conway's pub.

4

5 Councillor McGrath was not a particular frequenter of either the Royal Dublin
6 Hotel or Conway's pub. He preferred, in my experience, to meet elsewhere at
7 places of his choice rather than in the immediate environs of Dublin County
8 Council. They were, as I have said, in either his office, Green Isle Hotel, in
9 my office, and on other occasions in licensed premises elsewhere. I met him in
0 a pub in Clondalkin itself on one occasion.

11

12 In this lobbying exercise I would have asked for his support. He would -- he
13 guaranteed it on the basis of the relationship that he and I had, which was
14 that he supported matters in return for money. We agreed, at his request, that
5 the sum of £2,000 --

16 Q.85 Where was that agreement reached?

17 A. I cannot be specific on the actual location of the agreement, but I had given
18 what I have said in relation to the meetings, the locations of the meetings, it
19 was either in his office, in my office, or in the immediate environs of
0 Clondalkin.

21

22 I do recall on one occasion visiting Councillor McGrath at his home.

23 Q.86 Can you recall when that meeting, when that visit, took place?

24 A. The meeting to his home, or the meeting in relation to the lobbying.

5 Q.87 The meeting in his home, can you recall, roughly, when that took place?

26 A. It relates to another development.

27 Q.88 All right.

28 A. Yeah.

29 Q.89 Can you tell us then about the lobbying meetings you held with him in 1992 in
0 relation to the Paisley Park lands?

1 A. Yes, I would have lobbied him at his place of work, particularly at his place
2 of work, because the type of business that he ran required him to be at his
3 place of work on a regular basis. We would either arrange by prior
4 arrangement, we either arranged -- I would have arranged to call to his place
5 of work, or that I would meet him elsewhere, prior to a meeting of the
6 Development Plan. And during the course of one of those meetings money was
7 raised and discussed and agreed.

8 Q.90 What was agreed?

9 A. "Agreed" means that he asked for and I agreed the payment of £2,000 in relation
0 to his specific support and vote for this particular motion before the
11 Development Plan meeting of Dublin County Council on 12th June, 1992.

12 Q.91 Page 443, please. This again is the page showing a page from the minutes of
13 Dublin County Council showing the voting for the motion proposed by Councillor
14 Lydon and Councillor Hand to rezone the 108 acres at Carrickmines. Those
5 minutes show that Councillor Colm McGrath was one of the 24 who voted in favour
16 of that motion?

17 A. Yes.

18 Q.92 When, and what circumstances, what manner did you pay the £2,000?

19 A. I paid the £2,000 to him in his office subsequent to the vote.

0 Q.93 Can you put an approximate date on that, or a month, or a period on which that
21 payment was made?

22 A. It is within the same period that we have already discussed, Mr. Gallagher, in
23 relation to the payments to other people.

24 Q.94 So you think it was probably in the second half of June of 1992?

5 A. Yes, yes.

26 Q.95 Your diary shows that you met Councillor McGrath in your office at, I am not
27 quite sure of the time, perhaps -- may I have 1591, please? That looks to be,
28 perhaps you would tell me what time it is?

29 A. 4 o'clock.

0 Q.96 It is one o'clock actually. I am looking at your original diary now rather

1 than the photocopy. Yes. Perhaps you would look at the diary and confirm

2 what --

3 A. Sorry, it is one o'clock.

4 Q.97 Just look at the original, if you would please, and confirm the time. The copy

5 on screen is rather smudged?

6 A. Yes, the entry for Wednesday 7th June, 1992, is one o'clock "Colm MC here".

7 Q.98 Can you confirm that -- first of all, is that entry in your handwriting?

8 A. Yes, it is.

9 Q.99 Does that entry refer to a meeting with Councillor Colm McGrath in your

0 offices?

11 A. Yes, does.

12 Q.100 Can you assist the Tribunal by outlining what you believe happened at that

13 meeting, or what was discussed at that meeting? That is some five days after

14 the vote?

5 A. Yes, it is. I don't believe it relates to Carrickmines. If you go further up

16 the diary, Mr. Gallagher, you will note --

17 Q.101 Perhaps, I will show -- yes. On the same date?

18 A. On the same date, yes.

19 Q.102 Yes.

0 A. You will note two other entries.

21 Q.103 I do, yes.

22 A. Those two other entries are the names of people in relation to another

23 developments.

24 Q.104 I understand that.

5 A. And I am -- I would say without my being able to say so to you precisely and

26 from this witness box, that it is definitive, but I would say that given the

27 entries of those other two names that the matters being discussed on that

28 occasion related to the other two names.

29 Q.105 I see.

0 A. I -- could I take a moment to refer to something else?

1 Q.106Please do.

2 A. No. I want to refer to another date, I thought it related to it, it doesn't.

3 I Am sorry to delay you.

4 Q.107Can you tell me what documents are you consulting?

5 A. I am consulting my statement documents.

6 Q.108I see. Is it possible that the payment of £2,000 took place on the 17th?

7 A. No, that is not possible.

8 Q.109I see. Why is it not possible?

9 A. Well, it is not possible in the context of the other names, and at least one of

0 those names was still present in my office when Councillor McGrath arrived.

11 Q.110I see.

12 A. And I will say to you that the reason he was there was for the purpose of

13 meeting that other person.

14 Q.111I understand. Well then, would you tell the Tribunal where the £2,000 was paid

5 over, whether it was in cash or by cheque, and what was said?

16 A. I think I have said to you already, Mr. Gallagher, that I made the payment in

17 Councillor McGrath's offices in Clondalkin, and it was in cash.

18 Q.112Right. And you have identified the period as between the 12th and the 29th of

19 June?

0 A. Correct.

21 Q.113June of 1992?

22 A. Correct.

23 Q.114Can you tell the Tribunal what was said on that occasion?

24 A. On that particular occasion, no.

5 Q.115Can you say whether the notes were in large denominations or otherwise, can you

26 remember?

27 A. I would imagine that they were in 20's. Can I just say to you, Mr. Gallagher,

28 when you ask me for clarification, when you ask me what was discussed, many

29 things were discussed. The actual transaction of handing over the money was a

0 very swift exercise. Discussions took place about a number of issues.

1 Q.116 Yes, well I can understand that at the meeting, a number of matters might be
2 discussed. One might talk about the weather or other developments. What I
3 meant was, what was discussed, or what was said about the £2,000. In other
4 words, did you identify this £2,000 as being the money paid for Paisley Park on
5 20th June?

6 A. I am sorry, that is exactly the point. Yes, the monies would have been handed
7 over specifically for the vote that had taken place, or had been provided.

8 Q.117 Did you identify to Councillor McGrath that that is why they were being handed
9 over?

0 A. Yes, I did.

11 Q.118 What would you have said to him?

12 A. We agreed £2,000 in relation to the Paisley Park vote, you voted for it, there
13 it is.

14 Q.119 I see. Are you saying that that money was paid to him because he had voted as
5 he had agreed, in favour of the Paisley Park proposal?

16 A. Yes.

17 Q.120 And you were effectively fulfilling your part of the agreement?

18 A. Yes.

19 Q.121 Did you have any doubt in your mind as to the reason for making the payment?

0 A. None whatever.

21 Q.122 Or the nature of the payment, how it might be characterised?

22 A. None, whatever.

23 Q.123 Would you characterise it as -- well, how would you characterise it?

24 A. Well, I would characterise it as you have asked me to, and I have characterised
5 the other payments. Either the interchangeable word an inducement or a bribe.

26 Q.124 I see. Have you any doubt in your mind as to Mr. McGrath's understanding of
27 why he was receiving the money at that time?

28 A. He was in no doubt as to the reason for the payment of money.

29 Q.125 You mentioned that because of the nature of his work it was necessary for him
0 to remain in, or in close contact with, his office in Clondalkin. What was the

1 nature of his business?

2 A. I understand -- I understood at the time that he ran a number of businesses.

3 One of which I think was a secretarial business, and then subsequently became a

4 security business and he provided -- he had an agency for air extraction

5 machines for offices, one of which I purchased from him on a subsequent

6 occasion.

7 Q.126Can you say where you obtained the £2,000 that you paid him?

8 A. Yes, I can.

9 Q.127Out of what account, or of what stash, or bundle, or bag, or drawer, or

0 whatever?

11 A. Well, I took the money from the amount of money that I had available to me

12 during that period for the purpose of lobbying and paying councillors in

13 relation to the Paisley Park development.

14 Q.128In a statement of the 14th December 2000, Councillor McGrath has disagreed with

5 what you say, and in fairness to him, I must put to you what he says. He was

16 asked by the Tribunal by letter of 24th November 2000 to respond to the

17 Tribunal's letter, in which the Tribunal indicated that it was "investigating

18 the following information which has come to its attention, and in respect of

19 which it was the intention of the Sole Member to hear sworn testimony at

0 public hearing of the Tribunal. That is, that since 1990, Mr. McGrath directly

21 or indirectly received money from Frank Dunlop in connection with his support

22 for the proposed rezoning of lands in Carrickmines Valley owned by Paisley Park

23 Investments Limited, and subsequently by Jackson Way Properties Limited".

24

5 In response to that letter Mr. McGrath said as follows, well more correctly his

26 solicitor wrote to the Tribunal referring to the correspondence and setting out

27 in quotation marks Mr. McGrath's statement, which is in the following terms:

28 "I did not receive any money from Frank Dunlop, either directly or indirectly,

29 in connection with the matters listed at A1."

0

1 That is his support for the rezoning of lands owned by Paisley Park, owned by
2 Jackson Way Properties Limited. He denies that you gave him money, directly or
3 indirectly, in connection with that?

4 A. Yes.

5 Q.129 In the light of that denial, do you want to change your evidence in any way?

6 Do you want to add to it or take away from it in any way?

7 A. Certainly not.

8 Q.130 Mr. McGrath went on to say, and I quote: "I did receive a number of
9 unconditional political donations from Frank Dunlop in response to fund raising
0 requests to defray elections expenses and the costs of running my full-time
11 constituency office. These ranged in amounts from £500 to £2,000 in the form
12 of cash and cheques. Cheques were lodged through my bank account, details of
13 which have been supplied to the Tribunal. Cash was expended on day-to-day
14 election and constituency expenses. The only records of the above are my
5 bank/building society accounts, details of which have been supplied to the
16 Tribunal."

17 End of quotation and end of statement.

18

19 What do you say to the assertion that Mr. McGrath received from you a number of
0 unconditional political donations in response to fundraising requests to defray
21 election expenses, and cost to run his full-time constituency office.

22 A. Yes, on 18th May 1999 I gave a cheque for £500 to the Colm McGrath Golf
23 Classic. That was a straightforward political fundraising exercise on his
24 part. His request for it was dated 7th May, 1999. It is my intention to
5 contest the forthcoming local elections, as independent candidate, and to this
26 end --

27 Q.131 Sorry, Mr. Dunlop what document are you reading from now?

28 A. A document accompanying my statement in relation to monies given to Colm
29 McGrath.

0 Q.132 I see. Would you wait for one moment until I try -- I am not certain that that

1 statement has been circulated -- sorry, that document has been circulated. I

2 just would like to check that, if I may?

3

4 Sorry, Ms. Dillon points out to me that the document is not relevant to the

5 Carrick One module.

6

7 Do I understand you then to say that in response to what Mr. McGrath has said

8 that you confirmed that you paid him £500, as a legitimate political donation

9 in 1999?

0 A. Correct.

11 Q.133Did you pay him any other legitimate donations at any time? If you would just

12 identify them and --

13 A. Legitimate? No.

14 Q.134All right. So you disagree then, I take it, with the assertion in

5 Mr. McGrath's statement that you did pay him unconditional political donations,

16 ranging from £500 to £2,000?

17 A. Yes.

18 Q.135Save for the £500 contribution that you have identified?

19 A. Sorry, Mr. Gallagher, I just want to be completely certain about this.

0 Q.136Take your time, that is all right.

21 A. There is a payment to Mr. McGrath's company in April of 1992.

22 Q.137Yes?

23 A. Which I refer to in my statement, for £1,000.

24 Q.138That -- does that relate, in any way, to Paisley Park?

5 A. No.

26 Q.139It is for a different matter?

27 A. Yes.

28 Q.140Was that a payment by cheque?

29 A. Yes. Invoice dated April 1992, paid by Frank Dunlop & Associates on 5 -- on

0 1/5/1992.

1 Q.141 Can I have -- may I have 1493, please? This is a document which has been
2 circulated and which has been furnished to the Tribunal by Colm McGrath. It
3 shows his office account details, and it shows that on 6th May 1992, he wants a
4 payment of £1,000 received from Dunlop & Associates.

5 A. 1992.

6 Q.142 Yes?

7 A. The note on the invoice, in a hand that I recognise from the accounts branch in
8 my office says "paid on 1/5/92, invoice number 662".

9 Q.143 I see.

0 A. It also refers to a client, but that is an internal note in relation to Frank
11 Dunlop & Associates, for accounting purposes.

12 Q.144 Does that refer to Mr. Kennedy or anybody?

13 A. No, nothing in relation to Carrickmines One or Paisley Park.

14 Q.145 I see. Sir, I am now turning to another subject, another matter, I wonder

5 would it be appropriate to rise for ten minutes?

16

17 CHAIRMAN: We will sit again around 12 o'clock.

18

19 THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK

0 AND RESUMED AGAIN AS FOLLOWS:

21

22 Q.146 MR. GALLAGHER: Mr. Dunlop please.

23 Mr. Dunlop, you had concluded your evidence in relation to the payment of
24 £2,000 to Councillor McGrath in return for his, what you say is his support for
5 the Paisley Park motion. Now I want you to continue to deal with the matters
26 as out in your statement.

27

28 And the next matter is an allegation that you gave £2,000; that of the money
29 you received from Mr. Kennedy which you say is £25,000, you say that you gave
0 £2,000 to senator, Mr. Liam Cosgrave. Is that correct?

1 A. That is correct.

2 Q.147 Will you outline the circumstances in which this payment was made, dealing in

3 the first instance with any discussions you may have had with Mr. Cosgrave

4 leading up to the motion, or motions, that relate to the Paisley Park lands?

5 A. In the lobbying exercise in relation to the Carrickmines Valley prior to the

6 meeting of 24th May 1991, I indicated to you, I told you that I lobbied a

7 significant number of councillors. I also told you that prior to the 24th May

8 1991 I discussed monies with certain councillors. I named those councillors

9 yesterday. In the context of the lobbying I lobbied Councillor, Senator

0 Cosgrave in relation to the Carrickmines Valley.

11

12 Councillor, Senator Cosgrave was a local representative for the area in the Dun

13 Laoghaire/Rathdown section of the County Council, and as I indicated to you in

14 relation to the lobbying that I conducted with councillor, another councillor

5 in the area, he told me that it was going to be extremely difficult, the whole

16 Carrickmines Valley issue was very very contentious, and as it transpired at

17 the meeting of the 24th May 1991, Councillor Cosgrave is not recorded as

18 voting.

19

0 Subsequent to the meeting of the 24th May 1991, and the decision to make a

21 recommendation to the Development Plan -- the first display of the Development

22 Plan, and the provision of a motion, I again lobbied councillors, including

23 Councillor Senator Cosgrave.

24

5 The issue of the South Eastern Motorway was an issue that was particularly

26 relevant to the councillors in that particular area. I recall him saying to me

27 that it was contingent on the attitude of the manager in relation to the line

28 of the motorway, but that he would support it. He and I discussed money and I

29 agreed to give him £2,000. I subsequently gave him £2,000. And he

0 acknowledged the receipt of the £2,000 at a subsequent conversation, during the

1 course of a subsequent conversation which I had with him in relation to further
2 monies.

3 Q.148 If you pause there, please? First of all, can we have the minutes of the
4 meeting of the 24th May 1991, and may I have page 1264, please? The attendance
5 at that meeting, the list as shown on screen on page 1264, suggests that
6 Councillor Coffey -- Councillor Cosgrave was present at that meeting. Perhaps
7 we can go on then to deal with the -- go ahead, please.

8

9 Now, we are on page 1267, and this is the page which deals with the three
0 options that were presented by the manager; and the proposal from the Chairman,
11 seconded by Councillor Coffey, that option one be adopted. And you say that
12 Councillor Cosgrave did not vote in that, and he certainly doesn't appear to be
13 one of the 21 who voted for the motion.

14

5 Can we have the next page, please? Councillor Cosgrave does not appear to have
16 voted on that occasion. That is the record that you are referring to?

17 A. Correct.

18 Q.149 Now you said that you met Councillor Cosgrave and you say "he and I discussed
19 money and I agreed to give him £2,000". Would you please tell the Tribunal, in
0 as much detail as you can recall, the circumstances and by whom the question of
21 money was first raised, what was said and by whom, and what was agreed?

22 A. The discussion, obviously, took place in the context of the motion that was
23 prepared for the rezoning of the land at Paisley Park during the course of the
24 Development Plan. I should say that the normal meeting places between Senator
5 Councillor Cosgrave and myself were either in the environs of Dublin County
26 Council -- he did come to my office on a number of occasions. I met him with
27 others at a variety of restaurants and hotels and I also recorded a meeting
28 with him in the Dáil on one occasion.

29

0 The lobbying in relation to the Paisley Park motion was of more particular

1 interest to him than to many of the other councillors that I lobbied because of
2 the fact that he was a councillor for the Dun Laoghaire/Rathdown area, but
3 nonetheless, notwithstanding the merits or demerits of the particular proposal,
4 which he obviously had considered, on the basis of the motion put forward that
5 he would support it, but would support it on the basis of the provision of
6 money, which he raised and which I agreed, and which I did.

7 Q.150 In raising the question of money what did Councillor Cosgrave say?

8 A. It is very difficult, Mr. Gallagher, to -- and I want to be extremely careful,
9 as I have been, of putting words in peoples' mouths ten years on, almost. I
10 have already said to you that one particular councillor used the phrase "it
11 will cost you". Councillor Cosgrave never used that type of language. I
12 cannot be definitive, precise and specific in relation to the exact words that
13 he used, but I was in no doubt, and he was in no doubt, about what was being
14 discussed, and the fact that I did what I did, and that he subsequently in a
15 further conversation at a future date acknowledged the receipt, is indication
16 that monies -- the question of money was discussed.

17 Q.151 Is it your evidence that the question of money was raised with you by
18 Councillor Cosgrave?

19 A. Yes.

20 Q.152 And is it your evidence that he raised it in the context of your attempts to
21 secure the rezoning of the Paisley Park lands?

22 A. Yes.

23 Q.153 Is it your evidence that he raised it with you in the context of his
24 willingness to support the rezoning of the Paisley Park lands?

5 A. Yes.

26 Q.154 When was the sum of £2,000 first mentioned?

27 A. The sum of £2,000 was mentioned at one of the meetings that I had with
28 Councillor Cosgrave in relation to the lobbying in relation to Paisley Park.
29 Councillor Cosgrave, from the point of view of the mechanics of the vote, was
0 always interested in who else was going to support the proposal. I did not ask

1 him, and he did not offer, and it never arose, that he would sign or have
2 anything to do with, the provision of the motion itself, but in the context of
3 the lobbying exercise with him, we would have discussed the possibilities of
4 success. Who was going to support it and who wasn't. And I would have told --
5 I would have told him who I was lobbying and the likelihood of success. He
6 gave his support on the basis that, in the first instance he wanted to support
7 it and would support it, but in the second instance he was anxious to know how
8 much support I actually had in relation to the particular motion.

9 Q.155 When was the sum of £2,000 first mentioned?

0 A. At one of the lobbying meetings prior to the vote.

11 Q.156 Now what vote are you referring to, is it the 12th June vote?

12 A. Absolutely, 12th June, 1992.

13 Q.157 I see. Can I have, may I have page 1568, please? On screen, Mr. Dunlop, you

14 will see an excerpt from your diary for Wednesday, 3rd June 1992; and you will

15 see that you have noted as follows: "4.30 Liam Cosgrave (Dáil)"

16 A. Yes.

17 Q.158 Is that an entry in your handwriting?

18 A. Yes, it is.

19 Q.159 When was that entry made?

0 A. That entry was made when the appointment was made.

21 Q.160 Which, presumably, was on or before the 3rd June, 1992?

22 A. Correct.

23 Q.161 Can you assist the Tribunal by indicating what was -- did that meeting take

24 place, first of all?

5 A. Yes.

26 Q.162 What was discussed at that meeting, or what was the purpose of that meeting?

27 A. The purpose of that meeting was in relation to the lobbying exercise that I

28 have spoken to you about in relation to Paisley Park.

29 Q.163 Do you say that you went to see Mr. Cosgrave in Dáil Eireann in order to

0 discuss with him the question of his support for the motion that was to be

1 voted on at the meeting of Dublin County Council on the 12th June, 1991?

2 A. Yes, and other matters.

3 Q.1641992, I beg your pardon.

4 A. Yes, and other matters.

5 Q.165All right. Just stay now with the Paisley Park matters. Can you recall

6 whether any money was mentioned at that meeting?

7 A. I don't believe so.

8 Q.166I see. Is there anything else you remember about your discussions with Senator

9 Cosgrave, as he then was, up to the meeting of the 12th June of 1992 in

0 relation to Paisley Park lands?

11 A. Yes, I remember that Senator Cosgrave and I discussed the Paisley Park motion

12 on a number of occasions, both face-to-face, and I do believe, by telephone, in

13 relation specifically to how it was going, what support there was or was not.

14 And in that context, if I may say, that was normal, and particularly so in the

5 context of Senator Cosgrave and this particular motion in the area, that it

16 was. This was, as it were, in his own backyard and he was -- wanted to be

17 assured that success was at least possible, if not guaranteed.

18 Q.167Can you recall where in the Dáil you met Senator Cosgrave on that occasion?

19 A. Yes. I met Senator Cosgrave briefly in the Dáil bar and we left the confines

0 of the Dáil, we did not stay in the Dáil.

21 Q.168Where did you go to?

22 A. I think we went to Buswells.

23 Q.169Where did you go to, Buswells?

24 A. We went to the bar in Buswells.

5 Q.170How long did the meeting last, approximately?

26 A. Very short. I would -- I shouldn't say I would, no more than 15 minutes.

27 Q.171Do you mean 15 minutes in the Dáil and/or 15 minutes?

28 A. No, no, 15 minutes in Buswells.

29 Q.172How long did the meeting last in the Dáil, in the Dáil bar?

0 A. It is very difficult to have a meeting in the Dáil bar, Mr. Gallagher, so I

1 think it was by mutual agreement that we left the Dáil and we went to Buswells.

2 Q.173The quieter confines of Buswells, is that so?

3 A. Well, sometimes it is quieter, sometimes it is not as quiet.

4 Q.174What was Senator Cosgrave's attitude to the motion when you spoke with him on
5 Wednesday 3rd June, 1992?

6 A. His attitude was that he wanted to be supportive, he was supportive of the
7 motion, but he wanted to have an assurance, or reassurance I should say, that
8 the possibilities of strong support existed.

9 Q.175Was there any mention of money on that occasion?

0 A. Not on the meeting in -- that I can accurately recollect in the Dáil or in
11 Buswells.

12 Q.176We know that the councillor vote took place on the -- sorry, on 12th June, may

13 I have page 1582, please? You will see on screen, Mr. Dunlop, the minutes of
14 the meeting of Dublin County Council, that portion which deals with the lands
15 at Carrickmines, representation number 000972. And you will see that the names
16 of those who voted for the motion are found at the bottom of that page, they
17 continue on to the next page. You will see that Councillor LT Cosgrave was one
18 of the 24 councillors who voted in favour of the rezoning of 108 acres at
19 Paisley Park to B. That is to industry; isn't that right?

0 A. That's correct.

21 Q.177That is the motion which had been proposed by Councillor Lydon, which had been

22 seconded by Councillor Hand, and in respect of which you gave evidence earlier
23 this week?

24 A. Correct.

5 Q.178Now the motion was lost. I take it that you were disappointed that it was lost?

26 A. By such a slim margin, yes.

27 Q.179Did you meet Councillor Cosgrave after that meeting?

28 A. On his own immediately afterwards, no.

29 Q.180Did you meet him with somebody else immediately afterwards?

0 A. Yes.

1 Q.181I see. Where did you meet him?

2 A. In Conway's pub.

3 Q.182And can you say whether he was in the company of other councillors or --

4 A. Yes. There was a number of councillors present with me in Conway's pub

5 subsequent to the vote, in which we consoled one another.

6 Q.183Can you say whether any of the other councillors named in your statement were

7 present in that group, on that occasion?

8 A. I would say the vast majority of people who voted for the motion were in

9 Conway's pub immediately after -- I delete the words "immediately after" the

0 vote, it doesn't necessarily follow once the vote is taken everybody leaves,

11 after the meeting.

12 Q.184Are you certain that Councillor Cosgrave was there with you in that room?

13 A. Yes.

14 Q.185Did you discuss anything in particular with him at that meeting -- sorry, on

5 that occasion?

16 A. No.

17 Q.186Did you meet him subsequent to that date?

18 A. I met him subsequent to that date on a number of occasions.

19 Q.187When did you meet him, approximately what dates or during what period did you

0 meet him?

21 A. I would have met him in the period that I outlined to you earlier, subsequent

22 to the vote and prior to my departure on the --

23 Q.18829th June?

24 A. 29th, I beg your pardon. The 29th, yes.

5 Q.189You said you paid him £2,000?

26 A. Yes.

27 Q.190Where and when, and in what manner did you pay him £2,000?

28 A. I paid him £2,000 in cash, and the payment, given what I have told you in

29 relation to the locations that I met him, or was accustomed to meeting him,

0 while I cannot be absolutely precise in relation to -- or in relation to this

1 matter, was in one of those locations.

2 Q.191 Perhaps you would just itemise those locations again?

3 A. Yes. My office, the Dáil, subsequently in the context of the Dáil, Buswells,

4 the Royal Dublin Hotel, and Conway's pub.

5 Q.192 Now, if you can be precise about the amount of money you paid and the fact that

6 it was paid in cash, why can you not recall where you handed that money over?

7 A. Because, Mr. Gallagher, there was so much money being dispersed, or disbursed,

8 at the time to so many people, I am being very careful in the context of

9 proceedings in the Tribunal to say exactly where anything took place, unless I

10 can absolutely be positive that it took place in a given location.

11 Q.193 Well, if you can -- if you are unable to be precise as to the location how can

12 you be precise as to the amount that was paid and the approximate time it was

13 paid?

14 A. I can be precise in relation to the amount because that was the amount agreed.

15 I can be precise in relation to the timing because at a subsequent

16 conversation, during the course of another discussion about money, I reminded

17 Councillor Senator Cosgrave that I had already given him £2,000 in the context

18 in which we are speaking. And he acknowledged that.

19 Q.194 Right. You -- I have asked you on, I think two occasions, when the sum of

20 £2,000 was agreed, when yourself and Senator Cosgrave -- and you haven't yet

21 told me where that agreement, or when that agreement, was reached?

22 A. It was reached at a meeting between Senator Councillor Cosgrave and myself

23 during the course of the lobbying process and one of the meetings that I

24 conducted with Senator Councillor Cosgrave, not the meeting that is alluded to

25 in my diary.

26 Q.195 All right. Who raised the question of money?

27 A. Senator Councillor Cosgrave.

28 Q.196 And doing the best you can, would you please tell the Tribunal what he said to

29 you about money?

30 A. Again, Mr. Gallagher, I am -- in the context of exact words, I am very

1 reluctant to put any words in anybody's mouth.

2 Q.197I am not asking you to do that, but just to recall as best you can what was
3 said?

4 A. Well, there is very little that can be said in relation to money, it is either
5 "this is going to cost money" or "I need money" or whatever. There is no --
6 this is no resiling from a discussion about money. It is either about money or
7 it is not about money, so neither of the two parties involved in the discussion
8 are ever in any doubt as to what is being asked, agreed, discussed or
9 undertaken.

0 Q.198Are you saying that, and arising from the conversation and discussion you had
11 with Mr. Cosgrave, you were in no doubt that what was being asked for was
12 money?

13 A. Yes. Sorry, I was in no doubt.

14 Q.199Were you in any doubt as to the amount being asked for?

5 A. No, I was not.

16 Q.200Were you specifically asked for £2,000?

17 A. Yes, I was.

18 Q.201Did you specifically agree to pay £2,000?

19 A. Yes, I did.

0 Q.202Was this specific request for £2,000 in return for voting in support of the
21 Paisley Park proposal?

22 A. Yes.

23 Q.203Did you agree to pay that sum provided that Councillor Cosgrave voted in favour
24 of the Paisley Park proposal at the meeting of 12th June, 1992?

5 A. Yes, I did.

26 Q.204You say that this agreement between you was reached sometime before the meeting
27 of Dublin County Council on 12th June of 1992?

28 A. Yes.

29 Q.205And is it your evidence to this Tribunal that subsequent to that meeting you
0 paid over the sum of £2,000 in cash to Senator Cosgrave in accordance with that

1 agreement?

2 A. Yes.

3 Q.206And in fulfilment of that agreement?

4 A. Yes.

5 Q.207Where -- sorry, when approximately did that payment take place?

6 A. After the vote, and in the period that I have outlined to you already.

7 Q.208So, as a matter of probability, this payment, are you saying that this payment

8 was made on a date unknown to you, but probably between 12th June 1992 and the

9 29th June 1992?

0 A. Correct.

11 Q.209And it was a payment in cash?

12 A. Correct.

13 Q.210And when you handed this money over to Senator Cosgrave, did you indicate to

14 him what the purpose of the contribution was, or what it related to, what the

15 payment, call it what you wish, related to?

16 A. Yes.

17 Q.211And would you please tell the Tribunal, to the best of your recollection, what

18 you would have said to him? What you did say to him on that occasion?

19 A. What I said to him on the occasion, as I said to other people on similar

20 occasions when giving them money in relation to a particular matter, "that is

21 in relation to the vote for Paisley Park".

22 Q.212How would you characterise that payment?

23 A. As I have characterised other payments, Mr. Gallagher, during the course of my

24 evidence here in the last number of days.

5 Q.213That is as a bribe or as an inducement?

26 A. Yes.

27 Q.214You have told the Tribunal that on a subsequent occasion you had a discussion

28 with Senator Cosgrave in connection with this payment?

29 A. Yes.

0 Q.215Is that correct?

1 A. Correct.

2 Q.216 And as I understood your evidence, you reminded him on that occasion of the
3 payment of £2,000 that you have just referred to?

4 A. Yes.

5 Q.217 Now, I want you to remember that we are dealing with the Carrickmines rezoning
6 module, the Paisley Park/Jackson Way?

7 A. Yes.

8 Q.218 Bearing that in mind, would you please tell the Tribunal where, when and in
9 what circumstances you spoke with Senator Cosgrave at a later time about the
0 £2,000 payment that you have just described?

11 A. Yes. I had a discussion with Councillor Cosgrave in early November of 1992 in
12 the context of the announcement of an election and Senator Cosgrave sought
13 financial help. And in that context I reminded him that I had given him £2,000
14 earlier that year. He acknowledged that. After a discussion I agreed that I
15 would give him £5,000. The discussion did not relate solely to the election.
16 And he undertook to continue to support another development which we discussed
17 and named, and asked me to tell the promoter of that particular development
18 that he was supportive and would be on side.

19 Q.219 Would you please write down on a sheet of paper the name of that promoter? You
0 might mark the sheet "number 1" and put today's date on it please; 19th
21 December 2002. (Paper handed to witness)
22 (Paper handed to Tribunal).

23

24 MR. O'HIGGINS: Chairman, I appear for Mr. Cosgrave, I assume in due course
5 the information which has been furnished to Mr. Gallagher will in turn be
26 furnished to us?

27

28 CHAIRMAN: In due course.

29

0 MR. GALLAGHER: The information will in due course be furnished.

1

2 MR. O'HIGGINS: By "due course" I mean long before I come to --

3

4 CHAIRMAN: "In due course" is the answer to your question.

5

6 MR. O'HIGGINS: Well Chairman, may I say for the purpose --

7

8 CHAIRMAN: "In due course" is the answer. We shall see. I don't know the
9 circumstances which involve the transfer of information to you. If you have a
0 problem with it you can raise it again, but I have no information from Counsel
11 as to what precise machinery they are going to use.

12

13 MR. O'HIGGINS: What I want to say Chairman --

14

5 MR. GALLAGHER: Sir, I object to any interruption in this examination. It is
16 inappropriate. You have ruled and I think that the interruption should cease.

17

18 MR. O'HIGGINS: I have not made a submission, and I wish to make a
19 submission.

0

21 CHAIRMAN: I think the appropriate time to make a submission is at the end of
22 the examination. Not in the middle of it.

23

24 MR. O'HIGGINS: Yesterday, or the day before, I was criticised for
5 acquiescing in something and saying nothing at the time, which is it to be?

26

27 CHAIRMAN: At this moment in time, when the examination is over, you may make
28 such submissions as you may desire, but not in the middle of an examination of
29 a witness. Now, that is ruling and it is going to be obeyed.

0

1 Q.220MR. GALLAGHER: Mr. Dunlop, I was asking you about the meeting that you had
2 with Senator Cosgrave, as I understand it in the context of an election which
3 had been called in November of 1992. And you have told us that on that
4 occasion you reminded Senator Cosgrave that you had paid £2,000 earlier to him
5 that year, and he confirmed, or acknowledged, that that was so?

6 A. Yes.

7 Q.221Can you tell us where that meeting took place?

8 A. The meeting took place -- sorry, the meeting in relation to the transfer of
9 money or the meeting --

0 Q.222Well, we are dealing with, now, with the meeting at which you say he
11 acknowledged receipt of the £2,000. And you went on to agree to pay him
12 £5,000, and he in turn asked you to convey, as I understood your evidence, an
13 assurance to an individual?

14 A. That's correct.

5 Q.223Where did that meeting, in or about November 1992, take place?

16 A. In the confines of Dublin County Council.

17 Q.224Can you remember the date?

18 A. The election had been called and it was subsequent to the -- immediately
19 subsequent to the calling of the election, November 1992.

0 Q.225My recollection is that the date of the order signed by the minister for the
21 Seanad Election was signed on 10th November 1992, and that the voting took
22 place between 30th December 1992 and the 1st February 1993?

23 A. No. It wasn't a Seanad election I am talking about, Mr. Gallagher. I am
24 talking about the General Election of 199 --

5 Q.226A general election? All right, of 1992. The order was made on 5th November
26 and polling day was 25th November, 1992?

27 A. Yes.

28 Q.227Can you therefore assist the Tribunal by indicating the approximate date on
29 which this meeting with Senator Cosgrave took place at Dublin County Council?

0 A. It took place at Dublin County Council between that date that you have alluded

1 to, 5th November 1992 and 11th November 1992.

2 Q.228How can you be sure that it took place between the 5th and the 11th?

3 A. Because it was on the 11th that I paid the money.

4 Q.229You paid what money?

5 A. The money --

6 Q.230Are you talking about the £2,000?

7 A. No.

8 Q.231Well, will you tell the Tribunal when you paid the £2,000, to the best of your

9 recollection -- sorry, I think you told me that.

0 A. Yes.

11 Q.232Second half of June?

12 A. In the period that I outlined to you between the taking of the vote and my

13 departure.

14 Q.233Did you have a meeting with Councillor Cosgrave on 11th November of 1992?

5 A. Yes, I did.

16 Q.234Where did you have that meeting?

17 A. By -- at his request, and by agreement, I met him -- sorry, Mr. Gallagher, I

18 have lost my page. I met him in Newtownpark Avenue in Blackrock on the

19 sidewalk, prior to a funeral.

0 Q.235Can you recall whose funeral it was?

21 A. It was at Senator Cosgrave's request I meet him there, I don't know whose

22 funeral it was.

23 Q.236Was it a funeral in that church on that day?

24 A. Yes. He was going to attend, I understand, the removal part of the funeral, it

5 wasn't the funeral per se, it was the removal.

26 Q.237You had arranged to meet him at 2.30, that is an unusual time for a removal?

27 A. Yes, it is. And I believe that while the arrangement for 2.30 is in my diary,

28 that was at his request, that the meeting actually did not take place until an

29 hour or two later because of the timing of the funeral.

0 Q.238Mr. Dunlop, we have carried out some inquiries and investigations, and we have

1 been unable to establish that there was any funeral, or removal, to that church
2 on that date.

3 A. That -- my diary is as it is, and I have a vivid recollection of meeting
4 Senator Cosgrave in Newtownpark Avenue on that date, in those circumstances.

5 Q.239 When was that entry in your diary written?

6 A. That entry was made in my diary when it was agreed that that is where we would
7 meet.

8 Q.240 Just, perhaps I might show you the original diary so that you can confirm that?

9 If you go back. Do you confirm that that entry -- may I have page 4257,
0 please? Do you confirm that the entry which we see on screen, which you have
11 before you in your original diary was made by you in your diary for 11th
12 November, 1992?

13 A. Yes, it was.

14 Q.241 You say that it was made either on that date or prior to that date?

5 A. It was made in the -- at the time that the appointment was agreed between the
16 parties, as were all of the other appointments in the diary. On that date,
17 preceding that appointment.

18 Q.242 Is there any possibility that that entry would have been made after the
19 appointment?

0 A. None whatever.

21 Q.243 Now, you say that you have a vivid recollection of meeting Senator Cosgrave at
22 a church in Newtownpark Avenue. You are aware, as I have told you, the
23 Tribunal has been unable to confirm, to date at least, that there was any
24 removal, or funeral, in Newtownpark Avenue on that occasion. Can you assist
5 the Tribunal by giving any further information you have, of your recollection
26 of that meeting? Where in relation to the church did it take place, for
27 example? Was it in a car or car park? Was there anybody else present? What
28 was said? Anything that may assist the Tribunal?

29 A. Yes, Mr. Gallagher. I just don't mean to be correcting anything that you said,
0 but you just said that I met Senator Councillor Cosgrave in the church, I did

1 not say that.

2 Q.244I beg your pardon?

3 A. I said I met him on a sidewalk in Newtownpark Avenue. He parked in the church

4 car park and walked towards me. I had parked in another area and he walked

5 towards me and we stood on the sidewalk.

6 Q.245Where had you parked?

7 A. I had parked in Newtownpark Avenue.

8 Q.246On Newtownpark Avenue itself?

9 A. Yes.

0 Q.247Where in relation to the church?

11 A. If you come to Newtownpark Avenue from, is it the Merrion Road or the --

12 Q.248Merrion Road?

13 A. That is the way I came, and I was at that end of Newtownpark Avenue, I wasn't

14 down near the church. Councillor Cosgrave walked up to me, by arrangement.

5 Q.249How far did he have to walk from the church, roughly?

16 A. I couldn't say, I don't -- not very far.

17 Q.250I mean, are you talking about 100 yards or couple of hundred yards or something

18 of that order?

19 A. No. Hundred yards, 200 yards. I can't be precise, sorry. I can only recall

0 the event, the reason for the event, the actual event and why it took place.

21 Q.251All right. Do I take it that you drove out the main Stillorgan Road, you

22 turned left at Whites Cross, down Newtownpark Avenue?

23 A. If that is the name of the cross, I don't know the name of the cross.

24 Q.252The road to your right leads up to Leopardstown Race Course. You turned left

5 off Stillorgan Road; is that right?

26 A. Yes.

27 Q.253And you drove down Newtownpark Avenue, drove down a hill?

28 A. Yes. The church is at the bottom.

29 Q.254On what side of the road is the church?

0 A. If you come down that road, the church, to my recollection, is on the left.

1 Q.255I see. Do I understand you to say that you parked your car on the left-hand
2 side of Newtownpark Avenue, facing down towards the church, and facing down
3 towards Blackrock, and you there met Senator Cosgrave?

4 A. Again, Mr. Gallagher, without seeming corrective, I did not say that I parked
5 on the left.

6 Q.256Sorry. I beg your pardon. I am sorry.

7 A. I didn't say where I parked. I said I parked on Newtownpark Avenue.

8 Q.257All right, yes?

9 A. Now that you mentioned where I parked, I am virtually certain that the meeting
0 took place on the right of Newtownpark Avenue as you face down.

11 Q.258I see.

12 A. I haven't been in Newtownpark Avenue for many, many years.

13 Q.259Perhaps you would give any further details to the Tribunal that you can
14 remember about that meeting, because as you are aware, Senator Cosgrave
15 emphatically denies that he received any improper payment from you whatsoever?

16 A. It was my understanding that Senator Cosgrave had acknowledged receipt of
17 payment.

18 Q.260He has denied any improper payment.

19 A. The meeting took place with a specific purpose of giving the amount that I have
0 already mentioned. I transferred it to him in a large envelope.

21 Q.261All right. Yes, I just want -- I don't want to get into that particular
22 matter.

23 A. Right.

24 Q.262I just want to establish the meeting and if such a meeting took place where it
5 took place and who was present and what was said?

26 A. There was no other body present.

27 Q.263I see. Did you retire to any nearby premises or do anything of that nature?

28 A. No.

29 Q.264Did you simply conclude your meeting on the footpath and parted?

0 A. Yes, and Senator Cosgrave said "I must put this in the car before I go to the

1 funeral."

2 Q.265Right. If there was no funeral that would be a strange thing to say?

3 A. I wasn't attending a funeral and I am not aware that there was a funeral or
4 whether or not there was a funeral. The reason I met Senator Cosgrave at that
5 location, at his request, at his appointment, was for the purposes, was because
6 he told me he was attending a funeral. I did not discuss whose funeral it was
7 or whether or not there was a funeral.

8 Q.266Is it possible that the funeral was at a different location?

9 A. It may well have been.

0 Q.267I see.

11 A. All I have said, Mr. Gallagher, is "prior to a funeral" and they are the words
12 used by Councillor Cosgrave. "I have to go to a funeral."

13 Q.268Right. Can I hand you back your diary? I want you to look at an entry for 6th
14 November, 1992. It has not been circulated, I think, and I just wanted to ask
15 you whether that is Councillor Senator Liam Cosgrave, is that his initials?

16 A. Yes, it is.

17 Q.269Sir, this particular extract from Mr. Dunlop's diary has not been circulated
18 because the Tribunal wasn't clear that -- whether or not the entry referred to
19 Councillor Liam Cosgrave, and in the circumstances I think I perhaps better
0 circulate the page in question to the parties concerned.

21

22 CHAIRMAN: As it is coming up to three minutes to one, circulate it to the
23 appropriate parties over lunchtime and they will be in a position to take
24 instructions over lunchtime. We resume at about 2.05.

5

26 MR. GALLAGHER: Thank you.

27

28 CHAIRMAN: If that is --

29

0 MR. GALLAGHER: Yes.

1

2 CHAIRMAN: If there is anything else you prefer to do, do advise me.

3

4 MR. GALLAGHER: No, that is fine.

5

6 CHAIRMAN: This appears to be the proper way --

7

8 MR. GALLAGHER: No, I need to check it myself against certain matters.

9

0 CHAIRMAN: We will sit again at five past two, is that adequate by the time
11 you make your arrangements?

12

13 MR. GALLAGHER: Yes, we will circulate them here, sorry, before 2 o'clock.

14

5 CHAIRMAN: Okay, thank you very much.

16

17 MR. GALLAGHER: In fact we can circulate them now.

18

19 CHAIRMAN: Yes.

0

21 THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

22

23

24

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26

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30

1 THE TRIBUNAL RESUMED AS FOLLOWS AFTER LUNCH:

2

3

4 MR. GALLAGHER: I understand, Sir, that Mr. Higgins has an application?

5

6 CHAIRMAN: Mr. O'Higgins, before you start may I say that, I may have been a

7 little short with you this morning, I didn't intend to be rude, I can assure

8 you.

9

0 MR. O'HIGGINS: No such thinking, not at all Chairman. In fact, I am sorry if

11 my own voice was not appropriately moderated.

12

13 CHAIRMAN: So be it.

14

5 MR. O'HIGGINS: Chairman, I have had the opportunity of having some discussion

16 with my colleague Mr. Gallagher about an issue that arose before lunch which

17 was the piece of paper in respect of which Mr. Dunlop wrote down a name. Now,

18 to very very briefly refresh the Tribunal's memory, Mr. Dunlop had given

19 evidence that at some unspecified time and place which he can not remember,

0 between I think the 11th and 29th of June he had paid my client a sum of

21 £2,000, at a subsequent meeting in November there is cross-reference to the

22 £2,000 being acknowledged and that acknowledgement, it is alleged, is made in

23 the course of a request for an election donation, the general election being

24 imminent and canvassing actually in progress, it would seem. And Mr. Dunlop

5 handed over a sum of £5,000, and contemporaneous with handing over the money

26 was a suggestion that Mr. Cosgrave would support a particular developer and

27 that developer was unnamed. At least unnamed on the record.

28

29 Mr. Gallagher is aware of that developer, as is the Tribunal. Now, as Council

0 for Mr. Cosgrave, I have a number of reservations about the propriety of that,

1 in this particular instance.

2

3 I do so, Chairman, for the following reasons: As has been pointed out, the
4 credibility of Mr. Dunlop is a strong feature of this module. Mr. Dunlop has
5 introduced the name of a third party, we don't know who the party is. It is
6 suggested that the election donation was linked to support for this third
7 party. We would want to know the identity, we would want to know the identity
8 first of all to see was such support forthcoming, if it wasn't that would tend
9 to undermine the account.

0

11 Alternatively, if support was forthcoming, is there a perfectly rational and
12 reasonable basis upon which the support was given? Because clearly the run of
13 Mr. Dunlop's evidence carries with it an innuendo to the effect that the
14 support which would be rendered was one that was an improper one to render and
15 was being rendered as a response to receipt of monies, and so forth.

16

17 So we would say we need all that information first of all to decide whether we
18 would wish to raise it on cross-examination.

19

0 There is also, we would respectfully submit, another factor which we ask the
21 Tribunal to take into account and it's this: For reasons which are perfectly
22 understood by my client and by his legal advisers, for reasons of good
23 housekeeping and administration it has been deemed appropriate to modulate the
24 running of this Tribunal which will be divided into a number of different
5 hearings, so that particular sections as far as is practicable, and I use that
26 description advisedly, as far as practicable can be canalised and fenced off
27 from each other so that the Tribunal can approach each on a section by section
28 basis and hear the evidence as far as is practicable only relevant to that
29 section. And so on and so forth.

0

1 But, I would ask the Tribunal to take this into account, it may be perfectly
2 proper and justifiable to modulate conduct, what cannot in my respectful
3 submission be modulated is somebody's credibility. A person's credibility is
4 something indivisible. You can't in my respectful submission say we are only
5 giving you access to material which impinges upon your, upon Mr. Dunlop's
6 credibility vis-a-vis this section.

7

8 We would say that his credibility is at large and in its entire, and it would
9 be my respectful submission, if the Tribunal were to say, were we are not
0 giving you the name of that developer because at some future time in the event
11 that your client is involved in another module, that information would flow to
12 you.

13

14 In my respectful submission that would be to engage upon making credibility
5 divisible. In my respectful submission, you can't support them, divorce them,
16 it is a one intricate, integral thing.

17

18 Now, the first thing I would say, Chairman, if the Tribunal were minded to look
19 favourably on this application, we also understand why the Tribunal does not
0 gratuitously want people's name tossed into an element of controversy in
21 respect of something to which they are not present. And so, first of all, may
22 I say that, in seeking the name, seeking the name it is not for the purpose of
23 gratuitously bringing it into the public domain or something of that sort.

24

5 In the first instance we would consider the name and take instructions on it,
26 it may be relevant to cross-examination, it may not. If the answer is that it
27 may not, well then it just goes dead there and then. In the event that it is
28 argued that it is relevant to an issue of cross-examination, we would endeavour
29 as far as is practicable to reach a formula with the Tribunal where the person
0 could be, the actions or the identity of the person need not be given. And if

1 we felt that such a formula were not practicable and that the person had to be
2 named, and I can't see that as even being probable, but even if it were so, we
3 would undertake not to do so before, first of all, explaining to the Tribunal
4 why we thought the name ought to be put into the public domain. And, if
5 absolutely necessary, we would give an undertaking to be bound by whatever
6 ruling the Tribunal would make in that regard and give such an undertaking in
7 advance.

8

9 But it is not for the purpose of getting a name, just gratuitously tossing it
0 out, nobody is more aware than Mr. Cosgrave of how loose talk can be enormously
11 damaging, particularly when decontextualised.

12

13 CHAIRMAN: Well, may I just ask you a question, we simply -- and it is this:
14 From the statements of evidence which have been circulated and which I am aware
5 of, what is arising here is, as I understand the situation and I hope I do it
16 fairly and accurately, Mr. Dunlop is saying one that on a particular date he
17 gave a sum of money to your client and he adds it was not only for an election
18 but it was for a subsidiary element, that's what he is saying.

19

0 As I understand your situation, you say "I never got a" -- let's put it bluntly
21 "I never received an improper payment from anyone" That's your station, that
22 is the issue.

23

24 The name of the alleged beneficiary which was on the piece of paper, may I put
5 it that way, does not effect the outcome of that issue because you can conduct
26 your operation and cross examine him on the principle which, as I understand
27 it, now I hope I do your client full justice of what his premise is that he
28 starts from it, I never received an improper payment. That's the issue the
29 Tribunal is going to have to determine.

0

1 Now, it is not going to be determined today or tomorrow to be quite honest
2 about that. This is part and parcel of a much wider element of the Inquiry,
3 and that element of the Inquiry will be reached in due course. You will be
4 given full notice when that element of the Inquiry is reached, in retrospective
5 to this occasion, who the person was, that will become everybody's lot when we
6 get to that point. So, you are not going to be excluded in the ultimate and
7 there is no doubt that you can and would be perfectly entitled to demand that
8 Mr. Dunlop return to be cross examined on that particular point.

9

0 Now, I see no injustice being done to you, but I do see a potential injustice
11 to the other party whose on the piece of paper, who has no notice whatsoever of
12 that allegation.

13

14 MR. O'HIGGINS: First of all, Mr. Chairman, by way of clarification --

5

16 CHAIRMAN: I simply put that to you now.

17

18 MR. O'HIGGINS: Yes. I am answering it in the spirit in which it was tendered.

19

0 When it was suggested that my client could at some later stage cross examine
21 Mr. Dunlop, when is that envisaged? Will that be at the end of module 20 or --

22

23 CHAIRMAN: When we reach, it's in the same type of situation in a different
24 context, let me put it like that. I don't want to get down to what it is.

5

26 MR. O'HIGGINS: Well --

27

28 CHAIRMAN: I can assure you that, you will have a full and ample opportunity in
29 due course, and as I say, the issue is clear and it is not being determined
0 here today. The issue is clear, are you in anyway -- you are saying -- never.

1 It's a matter, no matter who the person was, it never occurred. The person
2 doesn't enter into it. It's the nature of the payment that you are complaining
3 about in reality.

4

5 MR. O'HIGGINS: Well, Chairman, having clarified it I would respectfully reply
6 to the point raised by the Tribunal as follows:

7

8 Of course my client's assertion that nothing improper concerned is narrowly
9 unaffected by knowing or not knowing the identity, that's putting the emphasis
0 on my client. But putting the emphasis on Mr. Dunlop's credibility, supposing
11 we were able to demonstrate that the person who it is alleged the money was
12 being passed over for support, supposing we were able to demonstrate that that
13 support was not forthcoming, for example, that would greatly undermine the
14 credibility of Mr --

5

16 CHAIRMAN: But, Mr. O'Higgins, your attitude, what you are saying is that you
17 would demonstrate that you never took part in any inappropriate activity. Now
18 what you are saying, and I have no reason to doubt you at this moment in time,
19 that's your case. It has to be considered, it has to be looked at in the light
0 of all the evidence, and indeed has to be looked at in due course of the light
21 of the evidence relating to the event being addressed at the moment. I don't
22 want to get into it because --

23

24 MR. O'HIGGINS: Yes, Mr. Chairman.

5

26 CHAIRMAN: I am in no way excluding or appropriating to your client any moral
27 approbium whatsoever.

28

29 MR. O'HIGGINS: The material --

0

1 CHAIRMAN: May I finish? My colleague points out here to me the reality of
2 what your proposition is, that if the person was known he might come, confirm,
3 come in and confirm that it was inaccurate that the support alleged was
4 inaccurate or improper, that brings the matter no further because that's going
5 to happen in any event. It is not going to happen within the next 24 hours,
6 but it is going to happen in any event, let me assure you that this Tribunal
7 will conduct a root and branch inquiry.

8

9 MR. O'HIGGINS: Well, that leads me on, Chairman, to the second point which I
0 wish to make, which is this: It seems implicit the Tribunal seems to accept
11 now that if that person, for example, were to come forward and to exonerate my
12 client in respect of this it would have the effect of undermining Mr. Dunlop's
13 testimony, but that can all be done later. Where I -- what I say respectfully
14 is incorrect, I do so with the greatest of respect about that approach, is as
5 follows:

16

17 Clearly, there are conflicting rights. My client is here and now present
18 before the Tribunal, in real time. His reputation in colloquial terms is
19 taking a thrashing. Now it is all very well for the Chairman to say we haven't
0 formed any moral view on anything and I fully accept --

21

22 CHAIRMAN: Any moral or legal view.

23

24 MR. O'HIGGINS: I accept that incidentally, absolutely without any
5 qualification. It is all very well for the Tribunal to say that. But the rest
26 of the population, as a matter of fact in my respectful submission is not
27 similarly moderated.

28

29 And the allegations that are being made against my client are enormously,
0 enormously damaging and they are destructive of his home life and every aspect

1 of his professional life. And from his perspective, for anything to remain on
2 the record five minutes longer than is necessary, never mind perhaps months or
3 years, he would say and he would make a submission if he were speaking through
4 himself, is unacceptable.

5

6 But what I say as his legal advisor is, his reputation is actually being
7 damaged in the wider domain versus a potential damage to a third party, if the
8 Tribunal is to weigh up which of those rights must prevail, in my respectful
9 submission Mr. Cosgrave wins hands down.

0

11 Now the only other observation or submission that I would make to the Tribunal
12 is this: It is unfortunately a fact of life, it's not something this Tribunal
13 or anybody else is responsible for but it is a fact of life, that not everybody
14 has the same resources when brought before a Tribunal.

5

16 If you are an institution you have a very deep pocket. If you are a very
17 wealthy individual you have a very deep pocket. If you are my client you
18 don't. And there is absolutely no guarantee that my client will be in a
19 position to have solicitors, senior junior counsel in here indefinitely. He is
0 a man of limited resources. And he would view, with a certain amount of
21 concern, that in six or nine months or 12 months or whenever it might be, he
22 might be representing himself because you have to be, the reality is, either an
23 institution or a very very wealthy man to come in here on an open ended basis.

24 And I am not disparaging my own client in so saying, that is a fact of life
5 Mr. Chairman.

26

27 So that would be at yet another reason, that his resources are limited and it
28 is for that reason he would wish his present legal team, as now constituted, to
29 assess material which may to use the discovery test, advance his own case or
0 damage the case being made against him. In my respectful submission on a

1 relevance test, it passes muster on either.

2

3 Thank you very much, Mr. Chairman.

4

5 CHAIRMAN: As a matter of courtesy to you, your submissions, I am going to rise
6 for a very short period and come back and give you my, our decision.

7

8 THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK

9 AND RESUMED AGAIN AS FOLLOWS:

0

11 CHAIRMAN: Mr. O'Higgins, in relation to the matter you raised before lunch and
12 which you have just addressed me on in, further addressed me on, sorry further
13 addressed the Tribunal on, arising from the fact that the purpose for which it
14 is alleged Mr. Cosgrave gave £5,000 was not being identified the Tribunal would
5 like to state the following.

16

17 1. For reasons already given in an earlier ruling, mention of development
18 other than Carrickmines must and will wait for subsequent modules.

19

0 2. The identity of the development or developer concerned will be revealed to
21 you and the public at large at a later date and you will be given an
22 opportunity to take instructions from your client and cross examine Mr. Dunlop
23 if you wish to do so.

24

5 3. Insofar as there is concern on your part that the failure to disclose this
26 information at this stage will in some way tie your hand when it comes to
27 cross-examination, we would point out that there is absolutely no reason why
28 Mr. Cosgrave cannot deal at this stage with the simple allegation that £5,000,
29 or part thereof, was paid to him for his support of a particular development.

0

1 If Mr. Cosgrave denies money, taking money for any development whatsoever, he
2 can simply cross examine Mr. Dunlop on that premise.

3

4 The question of damage and repair of reputation must await the conclusion of
5 the hearing of all evidence which the Tribunal will endeavour to bring about as
6 soon as possible.

7

8 We are confident, we very cognisant of the fact that there is a cost factor
9 involved but in this instance and in such an instance legal advisers and their
0 parties will be notified when and if is appropriate for them to return for the
11 purpose of dealing with the evidence relevant to them, and the Tribunal will
12 always be mindful of the fact that costs of the parties ought to be kept to a
13 minimum.

14

5 That is the ruling of the Tribunal.

16

17 MR. O'HIGGINS: May it please, I am obliged Mr. Chairman.

18

19 MR. GALLAGHER: Mr. Dunlop please?

0

21 FRANK DUNLOP CONTINUED IN EXAMINATION BY MR. GALLAGHER AS FOLLOWS:

22

23 Q.270Mr. Dunlop, before lunch I drew your attention to an entry in your diary from
24 June -- sorry, for the 11th of November 1992, I beg your pardon, for the 6th of
5 November of 1992. Sorry about this page -- would you look at that entry again
26 please, part of it is on the screen?

27

28 CHAIRMAN: I don't think any assistance is going to be got from what's on the
29 screen.

0 Q.271MR. GALLAGHER: Well, you will see on the screen there is just an entry for 1

1 o'clock I think it is, lunch and the name, 3 initials; is that right?

2 A. In my diary, yes.

3 Q.272In your diary. There are 3 initials.

4 A. Yes.

5 Q.2733 initials?

6 A. 3 sets of initials.

7 Q.2743 separate initials yes?

8 A. No. Two sets of initials and a name.

9 Q.275All right. And is the second set of initials known to you, can you identify

0 who that person is?

11 A. Yes, yes, that is Liam Cosgrave.

12 Q.276Right. Can you say whether or not you met Mr. Cosgrave and the other two

13 individuals for lunch on that occasion?

14 A. Yes, I believe I did. It was a social occasion.

5 Q.277Can you say whether there was any discussion on that occasion with Mr. Cosgrave

16 about any of the matters we have discussed earlier, that is the support for

17 Paisley Park, the result of the Paisley Park motion, support for him or payment

18 of monies for him in any context.

19 A. No such discussion took place.

0 Q.278I see. You are saying it was a social luncheon pure and simple?

21 A. These, the name, the initials including that of Mr. Cosgrave and the name

22 attached met from time to time on a variety of occasions for lunch or -- mainly

23 for lunch.

24

5 JUDGE MAHON: What month is that Mr. Gallagher?

26

27 MR. GALLAGHER: That was on the 6th of November, 1992, Sir. Now, before

28 leaving this matter, I must put to you, in fairness to Mr. Cosgrave, his

29 responses to the various questions that have been put to him by the Tribunal

0 relating to any payments he might have received from you in the context of the

1 Paisley Park rezoning matters.

2

3 On the 20th of December 1999 a general query was addressed to Mr. Cosgrave and
4 he was asked whether he had received, in the context of a different
5 development, any payments or whether he provided assistance, and in response to
6 that letter he said on the 17th of February 2000 that he thinks he got a
7 donation from you, but he doesn't identify or particularise that in anyway.

8

9 Now, on the 23rd of November 2000 he was written to by the Tribunal and was
0 told that the Tribunal had received information to the effect that in the years
11 1991 to 1997 inclusive, he had received money on a number of occasions from you
12 in connection with support for the proposed rezoning of lands in the
13 Carrickmines Valley owned by Paisley Park Investments Limited and subsequently
14 by Jackson Way Properties Limited. In response to that letter Senator
5 Cosgrave, as he then was, responded "I wish to state categorically that I never
16 received money from anybody in connection with my support for the proposed
17 rezoning of any lands." Now that I understand is the present position, has at
18 all times been the position of Councillor Cosgrave.

19

0 Following further correspondence Councillor Cosgrave furnished a further
21 statement to the Tribunal on the 15th of March 2001. That statement was, ran
22 to 15 pages and in the course of that he said as follows, I think it is --
23 this is the only reference in that statement to monies alleged to have been
24 paid or received, he said and I quote "I received several electoral donations
5 which were given in relation to the 1992 general election/1993 senate election,
26 1997 senate election and 1999 local elections. These were not given in return
27 for or as a result of any vote by me. These were bona fide electoral donations
28 for assistance at these election campaigns. I did not issue any receipts for
29 these donations and I am not sure yet to what account or accounts, if any, they
0 were lodged to."

1

2 And on the 17th of September 2001 Mr. Cosgrave in response to further
3 correspondence with the Tribunal said as follows: "I received several
4 legitimate political donations from Mr. Dunlop in connection with me being a
5 candidate in the Dail and Seanad elections of 1992 and 1993 and in relation to
6 the Seanad election of 1997 and the local election of 1999." He said "I first
7 met Mr. Dunlop in the mid 70s, then knew him subsequently when I was a TD
8 between 1981 and 1987 and when he was a Press Officer to a Minister in the then
9 government. Mr. Dunlop used to frequently ring me seeking information and
0 clarification regarding Council matters. He was one of dozens of people who
11 made representations to me in the course of the Development Plan then being
12 considered and drawn up by the councillors. I do not have records of these
13 donations and believe that most of them were paid by cheque being in the sums
14 of £500 to £1,000 and there was also I believe a cash donation.

5

16 I received these donations solely in connection with my being a candidate in
17 various elections and to support the campaigns.

18

19 Mr. Dunlop at all times when he gave me these said they were political
0 donations to be used in respect of my electioneering work and campaigns and
21 they had nothing to do with any project to which he may have had made
22 representations to me seeking support.

23

24 He subsequently at a lunch reconfirmed and reiterated this I believe in 1998 or
5 1999. I used to frequently along with several other public representatives go
26 to lunch with Mr. Dunlop. All these donations were used to help fund the
27 various campaigns and to assist with the expenses normally incurred in the
28 running of the various campaigns.

29

0 I am not aware whether any of the cheques were lodged to any bank account or

1 whether they were cashed but it is probable that some were lodged and some were
2 cashed. These details should be available from Mr. Dunlop's bank, I can
3 possibly acknowledge some of these donations but probably thanked him in person
4 as well. Most of these donations were given through the course of the various
5 campaigns."

6

7 And finally I want to draw your attention to what was said in the statement
8 read on behalf of Mr. Cosgrave following my opening, this was at the same time
9 read by his counsel Mr. Burke on his behalf, and he said "I am angry --" I am
0 quoting in part from what he said. "I am angry and disgusted by what
11 Mr. Dunlop alleged about me. I considered him to be a gentleman and a friend.
12 I refute his allegations in their entirety. My vote was never bought by him or
13 anyone. Anyone that knows me knows I have never lived or aspired towards an
14 extravagant life style. I have always voted with my conscious and towards the
5 common good."

16

17 And he goes on to say, "Mr. Dunlop's credibility is an issue. He himself
18 hopelessly compromised it as a corrupter and corrupting influence, a dishonest
19 man, a greedy man, a man who in one transaction by his own account trousered
0 £175,000 in 1991 through evading income tax and value added tax, a man who
21 contrived a sophisticated plan through a sham company staffed by an offshore
22 director for the pupose of hiding the transaction and keeping out prying eyes."

23

24 Now, those various letters and statements encapsulate the response that I
5 believe Mr. Cosgrave will make when he comes to give evidence to this Tribunal
26 and I would like you to respond at this stage to what he has said to the
27 Tribunal.

28

29 Do you wish to change anything you have said in evidence here over the past few
0 days, indeed today, in relation to Senator Cosgrave in anyway?

1 A. No, I don't.

2 Q.279 Do you accept or reject his assertion that his vote was never bought by you or
3 by anybody else?

4 A. I reject that assertion.

5 Q.280 And why do you reject it?

6 A. Because it happened. And I was a participant in the purchase of the vote.

7 Q.281 Was that the vote that you have referred to, the vote in Dublin County Council
8 on the 12th of June of 1992?

9 A. In the course of this module, yes, that is the vote I am referring to.

0 Q.282 What do you say to the assertion that you have hopelessly compromised yourself
11 as a corrupter and corrupting influence, a dishonest man, a greedy man, a man
12 who on your own account trousered £175,000 in 1991 to evade income tax and
13 value added tax?

14 A. What is one expected to say, Mr. Gallagher? I reject the totality of what
15 Mr. Cosgrave said in that particular statement to the Tribunal on that given
16 day through his counsel.

17 Q.283 Do you deny that you have been a corrupter and corrupting influence?

18 A. I don't deny, I am in, by virtue of the matters that are being investigated by
19 this Tribunal and by virtue of the evidence that I have given in the course of
20 the past number of days, I accept, however difficult, personally, morally and
21 otherwise it is for me to do so, I accept the thrust of the comment that is
22 made that I was involved in corrupt practices. Corruption by its very nature,
23 if I may refer you to your opening statement, takes two.

24 Q.284 And do you include Mr. Cosgrave as a person who was in particular circumstances
25 you describe one of the two, one and yourself.

26 A. Yes, yes, I do.

27 Q.285 Do you tell the Tribunal that you do not resile or wish to correct anything you
28 have said here today about him or indeed about anybody else?

29 A. I neither wish to correct or resile any of the things I have said about
0 Mr. Cosgrave or indeed anybody else we have mentioned in the course of this

1 examination.

2 Q.286Mr. Dunlop, I am now just going to move on to the remainder of your initial
3 statement, the one we have been dealing with, if you don't mind?

4

5 The next portion of your statement reads as follows "Part of the sum which I
6 paid to Mr. O'Halloran during the course of the Development Plan related to his
7 support for Paisley Park. Those who did not sign the motion but received money
8 from me nonetheless, received money to ensure that they continued to support
9 Paisley Park."

0

11 Would you give me the first name please, Christian name of Mr. O'Halloran
12 referred to there?

13 A. John.

14 Q.287Was Mr. Mr. John O'Halloran a member of Dublin County Council at one stage?

5 A. Mr. John O'Halloran was -- I beg your pardon, Mr. John O'Halloran was a member
16 of Dublin County Council, if in the first instance as a member of the Labour
17 Party from which he resigned then operated as an Independent.

18 Q.288Can you tell the Tribunal, please, what dealings you had with Mr. John
19 O'Halloran in the context of the Paisley Park lands?

0 A. I'm sorry, Mr. Gallagher, I seem to have lost my thread here for a moment.

21 Q.289All right, if you take your time.

22 A. No, I don't want to delay you. It doesn't matter really -- in the course of
23 the lobbying in relation to Paisley Park I would have lobbied Councillor John
24 O'Halloran. By that stage he had left the Labour Party, he was no longer a
5 member of the Labour Party and was a enthusiastic supporter of motions in
26 relation to rezoning, and I specifically refer that remark solely to motions
27 and items that I was involved with.

28

29 He was particularly enthusiastic and supportive of a particular motion which is
0 not relevant to this particular module, and in that regard I had significant

1 meetings and dealings with Councillor O'Halloran.

2

3 Sorry, Mr. Gallagher, I don't -- I really need to for comfort sake, I really

4 need to refer to my document

5 Q.290 Yes, certainly, do you want some time to --

6 A. No no, I just don't want to detain the Tribunal but I just haven't put my

7 finger on it.

8 Q.291 Would you like the Tribunal to rise for a few moments to give you a chance to

9 find your documents or --

0 A. Yes please, if that's -- if that's appropriate.

11 Q.292 Would the Tribunal --

12

13 CHAIRMAN: We'll do that for five minutes but not more now.

14

5 As a matter of fact Mr. Gallagher you might point out the pagination on the

16 bottom of my documents, 13 would appear to be where the witness is, it's on the

17 bottom of the documents.

18

19 MR. GALLAGHER: Page 35 I think --

0

21 CHAIRMAN: Pagination is not the same maybe.

22

23 MR. GALLAGHER: That's my internal pagination for my own benefit, Sir.

24

5 CHAIRMAN: Yes, I beg your pardon, you are correct. Page 35.

26

27 THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK

28 AND RESUMED AGAIN AS FOLLOWS:

29

0 Q.293 MR. GALLAGHER: Now, Mr. Dunlop, have you got your --

1 A. Yes I apologise, Mr. Gallagher, I --

2 Q.294That's all right.

3 A. I just hadn't had it --

4 Q.295Would you please tell me what documents you are working from?

5 A. I am working from my own statement.

6 Q.296That you gave to the Tribunal?

7 A. That I gave to the Tribunal.

8 Q.297I see.

9 A. Yes.

0 Q.298Thank you. Now, I asked you about your dealings with Mr. John O'Halloran in

11 the context of the Paisley Park lands, perhaps you would continue?

12 A. Yes. I think I had begun to tell you that in the context of the Paisley Park

13 lands that I would have lobbied Councillor O'Halloran along with many others.

14 I said he was an enthusiastic supporter of various developments that I was

15 associated with, particularly one which is not relevant to this particular

16 module.

17

18 In the event of discussion with Councillor John O'Halloran at no stage prior to

19 the actual vote or prior to the submission or prior to the vote on the 24th of

0 May 1991, or prior to the vote on the 12th of June of 1992 did Councillor

21 O'Halloran or I ever discuss money.

22

23 He did not ask me for money prior to, during the course of my lobbying him in

24 relation to both of those issues.

5 Q.299Sorry -- would you just, in relation to --

26 A. In relation to the meeting of the Council on the 24th of May 1991, which he

27 would have been lobbied about in relation to the Carrickmines Valley in

28 general, and in relation to the motion that we are discussing, in relation to

29 Paisley Park, which came before the Council on the 12th of June of 1992, what I

0 have said and what I am saying is that, neither Councillor O'Halloran or I

1 discussed money. He did not ask, the subject was not raised.

2

3 In the event of the meeting of the 24th of May 1991 and the meeting of the 12th
4 of June 1992, to the best of my recollection Councillor O'Halloran was not
5 present for either vote.

6 Q.300 Perhaps when -- just have a look at those two meetings, just to check and see
7 whether that is -- whether that is correct. The meeting of the 12th of June is
8 on page 441. And it appears that he was not in attendance at that meeting on
9 the 12th of June of 1992, that's unless my eyesight is failing.

0

11 Perhaps we can now look at the meeting held on the 24th of May of 1991? Isn't
12 that correct?

13 A. Correct.

14 Q.301 That's page 262, we have on the screen now the minutes of the special meeting
5 of the County Council held on the 24th of May of 1991 and again it appears that
16 Mr. O'Halloran was not present at either of those meetings.

17

18 Thank you. Sorry, I interrupted you, I just wanted to check that.

19 A. Subsequently, during the course of the Development Plan, Councillor John
0 O'Halloran approached me in Dublin County Council and complained is the word I
21 have used, that he was getting nothing and others were coining it.

22

23 And what I have said to you, and what I say again here today, is that while I
24 do not recall the circumstances in each case, and apart from a certifiable
5 traceable payment in 1996 of £2,500, Mr. O'Halloran received monies from me in
26 small amounts and not more than £5,000 in all during the course of the
27 Development Plan.

28

29 In this conversation that I had with Councillor O'Halloran he alluded to his on
0 going support for the development which I have referred to earlier, but is not

1 relevant to this module. And that he would have supported other motions and
2 proposals that I had brought forward, had he been in receipt of monies. And in
3 the particular instance of Paisley Park he referred to Paisley Park as one that
4 he would have supported and it is in that context that I have given
5 Mr. O'Halloran's name in my statement.

6 Q.302 Do I understand you to say that in a conversation with Councillor O'Halloran
7 concerning a particular proposal with which we are not concerned at the moment,
8 he told you that he would have supported the Paisley Park proposal if he had
9 been paid monies by you for his support?

0 A. Correct.

11 Q.303 What was your response to that?

12 A. I told him he didn't ask me.

13 Q.304 Can you recall where that conversation took place?

14 A. In the lobby of Dublin County Council.

5 Q.305 Can you recall the approximate date of that conversation?

16 A. I hesitate to say that it was during the course of the Development Plan, but I
17 do believe that it was in the context of the development that I have referred
18 to earlier, a vote on which was imminent, so I am, I am happy and satisfied
19 that the conversation took place towards the end of 1992.

0 Q.306 In other words, it was after the vote of the 12th of June of 1992 that we have
21 referred to?

22 A. Yes, yes.

23 Q.307 Did you make any other, did you make any payment to Mr. O'Halloran at that time

24 or any subsequent time relating to the Paisley Park lands, specifically

5 referable to the Paisley Park lands?

26 A. Specifically referable to the Paisley Park lands, the first payment that I made
27 to him took account of the fact that he said he would have supported, supported
28 it had I paid him.

29 Q.308 Remind me again, how much that payment was?

0 A. Well, what I -- what I have said to you, Mr. Gallagher, is that apart from the

1 traceable and identifiable sum of £2,500 I gave Mr. O'Halloran not more than
2 £5,000 during the course of the Development Plan. That means that if we start
3 at the period which I have referred to which is late 1992, the Development Plan
4 confirmation did not take place until December 1993, so in the course of the
5 latter part of 1992 and 1993 I made various payments to Councillor O'Halloran
6 in respect of his support for various developments.

7 Q.309 And that support included support in respect of Paisley Park, is that correct?

8 A. At his -- as I have told you, he told me that were it not for the fact that --
9 were it for the fact that -- sorry, I beg your pardon. Had I paid him he would
0 have supported Paisley Park. That is the only allusion to Paisley Park that
11 was ever made by John O'Halloran in the context of money. I did lobby him in
12 the context of the May 1991 meeting and in the context of the June 1992
13 meeting, and as I have pointed out to you, not only did he not vote, but he is
14 not registered as being present at either meeting.

5 Q.310 In response to your lobbying did he indicate to you before those meetings how
6 he intended to vote?

7 A. No, he did not. Councillor O'Halloran was, I think I have already said to you,
8 a supporter of rezoning and made some very strong public comments both in the
9 chamber of Dublin County Council and in newspaper articles when questioned
0 about it, that he was strongly in favour of rezoning. And if my recollection
11 is correct in relation to one of those remarks, he referred to people who
12 opposed rezoning as environmental terrorists.

13 Q.311 And where -- sorry, can you recall where and the approximate date on which he
14 made that statement?

5 A. I think I am correct in saying, Mr. Gallagher, that he made that statement in
6 the course of a meeting in Dublin County Council relating to a development in
7 North County Dublin which is listed in my statement but which is not relevant,
8 which is not part of this module.

9 Q.312 Had you any other dealings with Mr. O'Halloran in relation to the Paisley Park
0 lands or the proposed rezoning of those lands?

1 A. No.

2 Q.313 May I have page 1492 please? Your diary for the 5th of May of 1992 indicates a
3 meeting with John O'Halloran, is that correct?

4 A. That is correct, yes.

5 Q.314 Can you tell the Tribunal whether that meeting related in any way to the
6 proposed rezoning of the Paisley Park lands?

7 A. There is a deletion in the -- no, sorry, I don't think it is relevant. There
8 is a deletion immediately above his name which explains the bracket on the
9 screen. 12.45 John O'Halloran, I believe that was probably a meeting that I
0 had with John O'Halloran by appointment in relation to lobbying him vis-a-vis
11 Paisley Park. I draw your attention --

12 Q.315 That was approximately, well five weeks before the vote in Dublin County
13 Council. You also had a meeting with him on the 16th of September of 1992, may
14 I have page 1625 please? Can you recall whether that meeting had anything to
5 do with Paisley Park?

16 A. That meeting definitely has nothing to do with Paisley Park.

17 Q.316 May I have 1630 please? That was another meeting you appear to have had with
18 Mr. O'Halloran at 9.30.

19 A. 199 --

0 Q.317 The 4th of November of 1992. Did that have anything to do with --

21 A. No, no.

22 Q.318 -- Paisley Park. You appear to have had a meeting with him again at 8.30 pm
23 presumably on the 15th October 1992. May I have page 3197 please? Did that
24 meeting have anything to do with Paisley Park?

5 A. No. That meeting is referable to the other entries in the diary on that day,
26 particularly the lead entry.

27 Q.319 Yes, I see. Now Mr. O'Halloran, who hasn't turned up here, has furnished a
28 number of statements to the Tribunal, and in fairness to him I must put those
29 statements to you and put them on the record. I believe I have already done so
0 in my opening statement, but I want to give you an opportunity of hearing them

1 and responding to them.

2

3 In the letter to the Tribunal of the 20th of December 2000 Mr. O'Halloran said
4 in part, and I quote: "I have already indicated in my previous statement to
5 the Tribunal that I did receive a sum of £2,500 from Frank Dunlop as a
6 political contribution in the course of my campaign as an independent candidate
7 in a Dail by-election in 1996."

8

9 CHAIRMAN: I think Mr. O'Halloran has appeared by Council according to us

0 Q.320Sorry --

11

12 JUDGE FAHERTY: Representation was granted to Mr. O'Halloran.

13

14 CHAIRMAN: Just to clarify that.

5

16 MR. GALLAGHER: My apologise to my colleague Mr. Dulley who is here, sorry.

17 A. Sorry, could I add I don't appear to have Councillor O'Halloran's statement,

18 it's not in my --

19 Q.321It should have been circulated?

0 A. I am quite certain it was circulated, it is probably my fault but it is not on

21 it, not in the tab that I have --

22 Q.322Perhaps we'll arrange to get you a copy -- reading from a letter of the 20th of

23 December 2000?

24 A. Sorry, I beg your pardon, I have it.

5 Q.323You have it. "I have already indicated in my previous statement to the

26 Tribunal that I did receive a sum of £2,500 from Frank Dunlop as a political

27 contribution in the course of my campaign as an independent candidate in a Dail

28 by-election in 1996." Do you accept that you paid £2,500 in the course of that

29 campaign in 1996?

0 A. Yes, I do.

1 Q.324 Do you accept as Mr. O'Halloran says that he personally solicited these funds
2 from you and he personally solicited them as a political donation?

3 A. He personally solicited those funds from me during the course of the
4 by-election of 1996 in his constituency.

5 Q.325 Did he solicit them as a political donation.

6 A. Yes, he did.

7 Q.326 And do you accept that that was a legitimate political donation that you made
8 to him at that time?

9 A. In his soliciting the money for the by-election in 1996 he pointed out to me
0 that he had been extremely helpful in relation to a number of developments, one
11 in particular, and he would be grateful if I organised that the proposer of
12 that particular development would assist him also. I subsequently organised
13 that and I could believe, though I have no concrete evidence to that effect,
14 that such assistance was given.

5 Q.327 Does that relate to Paisley Park or to another matter?

16 A. No, it does not, it has no reference to this matter.

17 Q.328 I see. Perhaps we will come to that in due course. He goes on in that letter
18 to say "I wish to reiterate that money received from Mr. Dunlop was not a
19 payment "in connection" with any rezoning proposal or planning matter as is
0 implied in the text of your letter dated 22nd of November 2000." Do you wish
21 to make any comment on that observation?

22 A. What paragraph are you reading from?

23 Q.329 It's at the bottom of the second page of the letter in question. Sorry, it is
24 not. It is in the middle of that, page two. "I wish to reiterate monies
5 received from Mr. Dunlop was not a payment in connection with any rezoning
26 proposal or planning matter as is implied in the text of your letter dated 22nd
27 of November of 2000." Do you --

28 A. He is making reference to the by-election contribution.

29 Q.330 Yes.

0 A. The by-election contribution was made at the request of Councillor O'Halloran,

1 who as I have told you said that he had been particularly helpful in relation
2 to a number of matters in -- one in particular.

3 Q.331I see. Would you please identify the development which he identified as the
4 one he had been particularly helpful with, perhaps you might write it down? I
5 think it is number two. (paper handed to witness) Sorry, put today's date on
6 it if you would please?

7 A. I think it is number 3.

8 Q.332Well if it is I stand corrected, thank you. (paper handed to Tribunal).

9

0 Now Mr. O'Halloran has also indicated in a letter of the 25th of November 2002,
11 I don't know whether you have that, do you have that letter?

12 A. No, I don't have that one. I am aware of the contents of that letter but I
13 haven't got it filed.

14 Q.333All right.

5 A. Thanks very much, thank you.

16 Q.334In this letter of the 25th of November 2002 Messrs Cullen & Company, the
17 solicitors for Mr. O'Halloran, drew attention to an unintentional inaccuracy in
18 their letter dated the 28th of December 2000, and they say as follows and I
19 quote: "Our client has now brought it to our attention that he has a
0 recollection of receiving a political donation from Mr. Dunlop in the sum
21 approximately £500 whilst an elected member of Dublin County Council. It is
22 our client's further recollection that he received this donation at some time
23 between June 1991 and December 1993 at or in the environs of the Council's
24 headquarters in Upper O'Connell Street. He believes that the donation was made
5 by Mr. Dunlop following a conversation initiated by Mr. Dunlop and was
26 unsolicited by our client. Our client cannot recall whether the donation was
27 made in the course of his conversation with Mr. Dunlop or subsequently. Our
28 client wishes to make clear that he accepted this donation as a straightforward
29 political contribution without any expressed or implied agreement or
0 understanding that it's acceptance was in return for agreeing to support any

1 land rezoning proposals in the Dublin Draft Development Plan either concerning
2 lands at Carrickmines or otherwise."

3

4 Now I would like you to comment on that, and I would also like you to clarify,
5 for the Tribunal, certainly clarify for me if you would please, the part of
6 your statement where you say that "part of the sum I paid to Mr. O'Halloran
7 during the course of the Development Plan related to his support for Paisley
8 Park".

9

0 My understanding was that the payment you made to him was the payment after the
11 Paisley Park motion was dealt with on the 12th of June of 1992

12 A. Correct.

13 Q.335 Now, what other support did he give you or do you say he gave you which caused
14 you to give him a payment, part of which related to the support he gave you for
15 Paisley Park?

16 A. Sorry I have lost you, Mr. Gallagher, sorry.

17 Q.336 I'm not surprised I have nearly lost myself, it was rather a long question.

18 A. Sorry.

19 Q.337 In your statement you said: "Part of the sum which I paid to Mr. O'Halloran
0 during the course of the Development Plan related to his support for Paisley
21 Park?"

22 A. Yes.

23 Q.338 Now what support did he give you for Paisley Park?

24 A. None.

5 Q.339 What is the basis, therefore, of saying that part of the sum which you paid to
26 him related to his support for Paisley Park?

27 A. The -- when I was approached by him he told me that, when I outlined in my
28 statement where he came to me and complained, that he was getting nothing and
29 others were coining it, and that he would have supported Paisley Park had I
0 given him money, and in the context of what happened which is a comment I wish

1 to make when you were talking about these previously, in the context of what
2 happened in the vote of the 12th of June of 1992, that wasn't exactly welcome
3 news as far as I was concerned because an extra vote would have meant that the
4 motion would more than likely have been carried or certainly might have put it
5 into the context that the Chairman would have had a casting vote.

6

7 But that was the comment that John O'Halloran made. The sums that I paid to
8 him subsequently took account of the fact that he said he would have supported
9 Paisley Park. He never asked me for money during the course of the proposal
0 for Paisley Park either prior to May '91 or June 1992

11 Q.340 Do you say that he did ask you for money after June 1992?

12 A. He, yes -- and I think I have given you an approximate date in relation to
13 that, that he asked me for, to use the phrase again, without undue repetition,
14 that he complained that he was getting nothing and others were coining it, and
15 that he was a significant supporter of rezoning. He was a significant
16 supporter of a particular development and would be helpful in others.

17 Q.341 Yes. But -- did he give any support for the Paisley Park rezoning proposal
18 subsequent to the vote on the 12th of June of 1992?

19 A. No, no such support was required.

0 Q.342 All right. When you say that it was, that you, part of the money you gave him
21 was paid related -- was paid and it related to his support for Paisley Park,
22 are you saying that you paid it because he had indicated to you that if he had
23 been asked he would have supported earlier proposals in relation to Paisley
24 Park and would support any future proposal in relation to Paisley Park that
5 might arise?

26 A. I paid it in the context that he said he would have supported it but would
27 support other developments or proposals. I knew at the time that he asked me
28 for money that it was virtually impossible for Paisley Park to be revived. I
29 had no knowledge at that time that Paisley Park which subsequently was
0 transformed, if that's the correct word, into another name, another entity,

1 that I had no knowledge at the time of the vote on the 12th of June 1992, or
2 immediately subsequent to it, that it would arise again. And as it did arise,
3 it arose in an area in which John O'Halloran had absolutely no involvement. It
4 was in another county.

5 Q.343 But surely if this was a payment that you were making to him which was ex post
6 facto?

7 A. Mm-hmm.

8 Q.344 It can only have been referable to Paisley Park if it was contingent, as it
9 were, on something arising about Paisley Park in the future and ensuring his
10 support for that in the events that such a, such motion was proposed or such
11 support was required?

12 A. Well he, the facts of the matter are that he did not support, in fact he wasn't
13 present as I pointed out, at any of the meetings in relation to the
14 Carrickmines Valley, this particular meeting in relation to the Carrickmines
15 Valley or Paisley Park. But perhaps I am not expressing myself as clearly as
16 you would wish me to, but he came to me and said that he would have supported
17 Paisley Park had I paid him money. Recognising the fact that he also said that
18 he would give support to other developments on foot of the payment of money, I
19 gave him money, and which then -- look, part of that is for Paisley Park, I
20 know and I appreciate that it doesn't sound very logical or rational but that
21 was the context in which the matter arose with John O'Halloran, in the context
22 of Paisley Park.

23 Q.345 Yes. But this surely is a different situation than the situation you have
24 described with other councillors where there was, where they actually voted for
25 the proposal and they were paid either before or after that?

26 A. Yes, I fully accept that.

27 Q.346 Can you say what was the source of the monies that you gave to Mr. O'Halloran?

28 A. Well this, the source of the monies were out of the general amounts of money
29 that I'd available to me at that time, I didn't particularly allocate it to
30 monies that I had received from any particular individual.

1 Q.347When you say general monies you had, are you saying that it was out of a, for
2 want of a better expression, out of a kitty into which you had placed the
3 Kennedy monies or other monies?

4 A. Yes.

5 Q.348And I don't want to put words in your mouth, I just want it try to understand
6 what you mean when you say monies that were available to you. So, is it your
7 evidence then to the Tribunal that at the time that this and perhaps other
8 payments were made, you had monies which included the £25,000 from Mr. Kennedy,
9 you had those monies available to you, you had received them in cash and
0 presumably you had them available to you in cash, to a greater or lesser
11 extent?

12 A. Yes.

13 Q.349And do I understand that those sums were in effect mixed and you took from them
14 as whatever sums you required as and when you felt you required them to pay to
5 councillors, is that what you are saying?

16 A. That is correct.

17 Q.350I will come back to that question of funds and where they were kept in just a
18 moment, but I would like to finish off with the explanation that Councillor
19 O'Halloran gives in his letter of the 25th of November 2000 where he says that
0 he received a political donation from you of approximately £500 when he was an
21 elected member of the county Council, and that took place between June 1991 and
22 December 1993 at the Council headquarters in O'Connell Street. Do you recall
23 any such payment?

24 A. I recall making payments, yes, to Councillor O'Halloran as I have said. I do
5 not believe it is in the window, the calendar window that he has mentioned. I
26 believe it is in the period, in the time frame that I mentioned earlier on
27 myself and I, I do not understand what Councillor O'Halloran means in his
28 letter when he refers to a political donation in that period. The only request
29 for a donation for political purposes that was ever made to me by Councillor
0 O'Halloran was made in the context of a by-election in 1996, this is a window

1 between June '91 and December '93.

2 Q.351I see. Well, he does say that it was a donation, it was a donation that was
3 made by you following a conversation initiated by you and that the donation was
4 unsolicited by his client, what do you say to all of that?

5 A. I disagree.

6 Q.352Do you disagree that you made any donation at that time?

7 A. No. I don't disagree that I made any payment.

8 Q.353Payment?

9 A. By donation, do I take it to mean that you are referring to a political
0 donation, which is the context of his letter?

11 Q.354I am simply reading out what he has said in his letter. When I use the word,
12 to you or to anybody else, donation contribution or payment, it's a short hand
13 for the passing of money without any suggestion as to what the motive might or
14 might not have been?

5 A. Given the period that Councillor O'Halloran has referred to in his letter of
16 June 1991 which is post, post the local elections of 1991, and December of
17 1993, there is no, there are no or were no circumstances that I can recall in
18 which I would initiate a conversation with Councillor O'Halloran in relation to
19 giving him a donation, unsolicited for what purpose? The only election that I
0 recall and that I have said in my statement that Councillor O'Halloran made a
21 request for payment was for a by-election in 1996 and I have also said to the
22 very best of my recollection that Councillor O'Halloran did not receive any
23 monies from me at the time of the 1991 local elections. And to the best of my
24 recollection he never solicited any such monies.

5 Q.355Well, I should point out that there was a Dail election in, on the 25th of
26 November 1992?

27 A. Yes.

28 Q.356There was also a Seanad election in, which was called on the 10th of November
29 of 1992, the voting taking place between the 18th of June and the first of
0 February and then for a University members it was the voting was between the

1 30th December and 1st of February. There was a local government election held
2 on 27th of June of 1991 and the next local government election was 1994. Now,
3 it was, therefore -- there was therefore an election, a Dail election in 1992
4 which is during the window that you have referred to?

5 A. As I sit before you here today I cannot even recall whether John O'Halloran was
6 a candidate in the 1992 general election and certainly he did not request
7 monies from me if he was a candidate in that election.

8 Q.357I might turn, if I may, now just to the funds that you have described, funds
9 that were available to you. My understanding from the evidence you have given
0 over the past number of days in relation to the monies you received from
11 Mr. Kennedy, that you received a sum of £25,000 in cash early in 1991, some
12 time after your meeting, your first meeting with him in his premises in
13 Westmoreland Street in or about the 19th or 20th of January of 1991; is that
14 correct?

5 A. That is correct.

16 Q.358And my understanding is that you took this money, you kept it in cash in your
17 home?

18 A. Yes.

19 Q.359Did you at all times keep it in your own, in your possession in your home or
0 did you lodge it to any bank account or otherwise deal with it?

21 A. In the context of receipts of other monies I may have lodged some of it into a
22 bank account, but I always had monies available to me on a cash basis in
23 relation to the requirements that we have outlined. In other words, I kept
24 money at home for these purposes. I am again in the context of your question,
5 I am not saying that I kept the £25,000 from Mr. Jim Kennedy, that I received
26 from him in the early part of 1991 solely and completely in the form that I
27 received it in my home until such time as I disbursed it in 1992.

28 Q.360I see.

29 A. I used that money and other money in the context of another development, always
0 conscious of the fact that I had received £25,000 from Mr. Kennedy for the

1 purposes of the rezoning of Paisley Park, which the opportunity for which arose
2 in circumstances that we didn't anticipate, in other words that it came up
3 again in 1992.

4 Q.361 Yes. In other words, you tell the Tribunal that you received the £25,000 and
5 other sums in cash from other sources?

6 A. Yes.

7 Q.362 And did you not keep them in separate compartments or separate drawers or
8 separate envelopes or whatever?

9 A. No, that is correct.

10 Q.363 Is that correct?

11 A. That is correct.

12 Q.364 And are you saying they were effectively mixed together, put into the one box
13 or drawer or safe or whatever, and they were drawn as you saw fit?

14 A. That is correct.

15 Q.365 Did you keep any written note of how much money was being expended by you in
16 relation to the Paisley Park matter? In other words, you had received £25,000,
17 my understanding is that you hoped to be remunerated for your lobbying work out
18 of that sum, and it would seem to follow that the less you paid out the more
19 you had for yourself?

20 A. Plus a success fee, which you --

21 Q.366 Apart from a success fee, that didn't arise, we are talking about the £25,000.

22 And you had other monies that you had to deal with on behalf of another party
23 or parties.

24

25 Did you keep any written record of how much of the £25,000 you were expending
26 in relation to the Paisley Park lands in your attempts to secure their rezoning

27 A. No.

28 Q.367 Did you keep any records in relation to any of the other monies that you
29 received from any other person or persons or company or whatever, in relation
0 to any other project that you had in hand?

1 A. Mr. Gallagher, some of the payments from other developers or other, for other
2 proposers were not always in cash.

3 Q.368I appreciate that.

4 A. They could be lodged and were withdrawn for the purpose.

5 Q.369I appreciate that. I am talking about cash now, just want to understand and
6 want the Tribunal to understand what you are saying about your handling and
7 your dealing with the cash that you received.

8

9 So you did not keep a note or a record of how much was being paid out of the
0 £25,000, how much was left for yourself, how much was paid out of any other sum
11 and how much might have been let for yourself?

12 A. No

13 Q.370Did you keep a mental note of all of that?

14 A. I did.

5 Q.371And in giving your evidence here today and in the past few days are you relying
16 exclusively on your recollection of those payments?

17 A. Well, previously while I was before this Tribunal I said that the best
18 opportunity for approaching this matter was to follow the road map of the
19 Development Plan because that is where these matters arose, that's what I did.
0 I gave an undertaking to the Tribunal that's what I would do and that's what I
21 did. And that is the basis for my statement in relation to each payment in
22 relation to each development, in relation to each councillor.

23 Q.372Yes, I understand that. I understand you have taken the Paisley Park lands and
24 said in relation to Paisley Park I did the following. But what I am asking you
5 is whether insofar as the cash payments are concerned you are relying solely on
26 your memory in the giving of your evidence in relation to such payments?

27 A. That is correct.

28 Q.373If you did not keep a note or a record of disbursements out of these monies
29 that you had received and had put into your safe or into a cabinet or whatever,
0 how could you know whether, I hesitate to use the word profit, but I can't

1 think of any other appropriate word at the moment, how could you be sure that
2 you were being remunerated for the work that you were doing in relation to any
3 particular commission?

4 A. That was up to me. As it transpired in one or two developments that are not
5 related to this particular module, that in effect I did not make a profit, by
6 virtue of the fact that I had to -- didn't have to, I decided that from the
7 very outset that I was a participant in the system and was going to make
8 payments and in certain circumstances it arose where the payments that were
9 made to me weren't sufficient.

10 Q.374 Did you at any time lodge monies which in your, which were or which in your
11 mind were attributed to the, or part of the payment that you had received from
12 James Kennedy, did you lodge any of that money to any bank account?

13 A. I may well have done, yes. I cannot say definitively that I did, but I may
14 well have done.

15 Q.375 Well, do I take it that from time to time you did make lodgements to your bank,
16 lodgements of cash sums?

17 A. Yes, that is correct.

18 Q.376 And to the best of your recollection and if you can't to think about this come
19 back at a later stage if you have to, to the best of your recollection were
20 those lodgements made contemporaneous with the receipt of the funds by you?

21 A. Not immediately contemporaneous, but within days.

22 Q.377 When I say contemporaneous, within that day or within a few days?

23 A. Yes, correct.

24 Q.378 Did you ever receive monies whether from Mr. Kennedy or otherwise that you can
25 recall at this stage which you brought home and left at home for a month or two
26 or three or four months and then lodged to your account, any one of your
27 accounts?

28 A. That is, that is probable.

29 Q.379 I see.

1 CHAIRMAN: Mr. Gallagher, it's just after four o'clock. It sounds like a point
2 where we might break.

3

4 MR. GALLAGHER: All right, Sir.

5

6 CHAIRMAN: Because of the Tribunal legal team require time to deal with the
7 vast amount of paper work which has built up in recent weeks the public
8 sittings of the Tribunal will not resume until January 21st at 10.30 as usual.

9

0 And with those few words may I wish you all a very happy Christmas.

11

12 Thank you.

13

14

5

16 THE TRIBUNAL THEN ADJOURNED UNTIL TUESDAY,
17 21ST JANUARY, 2003 AT 10.30 AM.

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