



**Tribunal of Inquiry
Into Certain Planning Matters and Payments**

Appointed by Instrument of The Minister for the Environment
and Local Government dated the 4th day of November 1997
as amended by Instrument dated the 15th day of July 1998

**DECISION re Affidavit of Liam Conroy; Professional
Disciplinary Ruling re Roger Copsey; Statement of Michael
O'Sullivan**

OF

**THE SOLE MEMBER
Mr. JUSTICE FEARGUS M. FLOOD**

Friday 19th March 1999

This is an application by Mr. Callanan, for leave of the Tribunal to lead evidence from his own witness, Mr. Gogarty, in relation to three specific matters, namely:-

1. The content of an affidavit sworn in proceedings before the Isle of Man Courts, a copy of which was provided to Mr. Gogarty by JMSE/Messrs. Murphy.
2. The contents of a disciplinary ruling of a professional body in the UK relating to the professional conduct of Mr. Roger Copsey, said to have been provided to him by Mr. Frank Reynolds, an executive of the same JMSE.
3. A statement of Mr. Michael O'Sullivan.

I have read and fully considered the detailed written submissions of all interested parties, and taking them fully into account in arriving at my decision.

These submissions have been supplemented by oral submissions from the legal teams for Mr. James Gogarty and Messrs. JMSE/Murphy.

The legal team for Messrs. Bailey/Bovale have elected not to make any oral submissions.

Dealing with these matters in reverse order.

In relation to Mr. O'Sullivan, Mr. Cush has correctly characterised the relevant circumstances in identifying

1. That the Tribunal has made a ruling on this matter.
2. That no argument has been advanced which at this time establishes why the Tribunal in effect should reverse its own ruling.
3. The Tribunal does not consider that the hearing of evidence in the course of public proceedings is in this situation a proper context for the making of what has been described as "Statements for the record".

In relation to Mr. Roger Copsey; an application has been made to admit into evidence the contents of a decision publicly available from an established professional body concerning Mr. Copsey. There is no contest on the basis of the application before me as to the fact of such a disciplinary finding having been made. The central

objection is to the Tribunal hearing evidence as to the content of the finding as opposed to the fact, or effect of the ruling concerned.

Similar arguments have been advanced in relation to the affidavit of Mr. Conroy, sworn in the Isle of Man proceedings. Mr. Cush submits that the Tribunal may take account of the fact of that affidavit and the effect of that affidavit but may not have any regard to the actual content. In my view, it is an unrealistic proposition to invite a Tribunal to have regard to the fact of an affidavit or to the fact of the disciplinary finding, and the potential effect of both of these without considering the content.

The effect of either of these documents necessarily bears a direct relationship with its contents, and it would be in my view, inappropriate to exclude those contents.

The consideration of the contents of those documents may have some probative value on matters relevant to the Tribunal's of Inquiry and in my view that is, they should be admitted.

That's the conclusion of my ruling.