



The Final Report  
of the  
Tribunal of Inquiry  
into  
Certain Planning Matters and Payments  
  
Vol. V  
  
(The Carrickmines Module)

# **Tribunal of Inquiry into Certain Planning Matters and Payments Binse Fiosrúcháin um Chúrsaí Pleanála agus Íocaíochtaí Áirithe**

Appointed by instrument of The Minister for the Environment and Local Government dated the 4<sup>th</sup> day of November 1997 as amended by instruments dated the 15<sup>th</sup> day of July 1998, the 24<sup>th</sup> day of October 2002, the 7<sup>th</sup> day of July 2003 and the 3<sup>rd</sup> day of December 2004



Ceaptha de réir Ionstraim an Aire Comhshaoil agus Rialtais Áitiúil dar dáta an 4ú lá de Shamhain 1997 a leasáfódh de réir Ionstraimí dar dátaí an 15ú lá de Iúil 1998, an 24ú lá de Dheireadh Fómhair 2002, an 7ú lá de Iúil 2003 agus an 3ú lá de Mhí na Nollag 2004

His Honour Judge Alan P. Mahon S.C. (Chairperson)  
Her Honour Judge Mary Faherty S.C.  
His Honour Judge Gerald B. Keys

A Onóir an Breitheamh Alan P. Mahon S.C. (Cathaoirleach)  
A hOnóir an Breitheamh Mary Faherty S.C.  
A Onóir an Breitheamh Gerald B. Keys

31<sup>st</sup> July, 2013

Our Ref: PTB/49

Mr. Kieran Coughlan  
Clerk of the Dáil  
Dáil Eireann  
Leinster House  
Kildare Street  
Dublin 2

**Re: The Tribunals of Inquiry (Evidence) Act 1921, (As Amended)  
The Tribunal's Final Report and Recommendations**

Dear Mr. Coughlan

Further to the publication of the Fifth and Final Report and Recommendations of the Tribunal on the 22<sup>nd</sup> March, 2012, I now enclose Chapter 19 thereof (the Carrickmines Module) which was withheld from publication on the 22<sup>nd</sup> March, 2012 pending the completion of the jury trials of certain individuals who were the subject of adverse findings in Chapter Nineteen. As these jury trials have now concluded, the Tribunal is in a position to publish Chapter Nineteen, and in so doing complete the publication of the Fifth and Final Report of the Tribunal.

In accordance with the precedent originally set by the Moriarty Tribunal, and subsequently by this Tribunal, Chapter Nineteen is being immediately published in digital format. I enclose with this letter one digital copy and one hard copy of Chapter Nineteen. I am also furnishing you with one digital copy and one hard copy for each of the Houses of the Oireachtas. Printed copies of Chapter Nineteen will become generally available within a few weeks.

I am also arranging to provide each member of both Houses of the Oireachtas with a digital copy of Chapter Nineteen.

Yours sincerely

---

His Hon. Judge Alan P. Mahon, S.C.  
Chairman of the Tribunal

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31<sup>st</sup> July, 2013

Our Ref: PTB/49

Mr. Enda Kenny T.D.  
Taoiseach  
Government Buildings  
Upper Merrion Street  
Dublin 2

**Re: The Tribunals of Inquiry (Evidence) Act 1921, (As Amended)  
The Tribunal's Final Report and Recommendations**

Dear Taoiseach

Further to the publication of the Fifth and Final Report and Recommendations of the Tribunal on the 22<sup>nd</sup> March, 2012, I now enclose Chapter 19 thereof (the Carrickmines Module) which was withheld from publication on the 22<sup>nd</sup> March, 2012 pending the completion of the jury trials of certain individuals who were the subject of adverse findings in Chapter Nineteen. As these jury trials have now concluded, the Tribunal is in a position to publish Chapter Nineteen, and in so doing complete the publication of the Fifth and Final Report of the Tribunal.

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Yours sincerely

His Hon. Judge Alan P. Mahon, S.C.  
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## CHAPTER NINETEEN – THE CARRICKMINES MODULE

### INTRODUCTION

#### THE DELAY IN PUBLICATION OF THIS CHAPTER

**1.01** The Tribunal's Final Report and Recommendations were (with the exception of this Chapter) published on 22 March 2012. The publication of this Chapter was delayed because of the Tribunal's concern that it might prejudice the criminal trials of certain individuals who are the subject of adverse findings herein.

**1.02** As this chapter is a part of the Tribunal's Final Report, it should be read in conjunction with that Report, and in particular, the Preface, the Terms of Reference and Chapter One (Introduction to the Final Report).

#### THE REASONS FOR THE INQUIRY

**1.03** This chapter concerns the Tribunal's public inquiry into attempts to rezone lands comprising approximately 130 acres in the Carrickmines Valley in South County Dublin (the 'Carrickmines lands'). Of these lands, 108 acres were purchased by Paisley Park Investments Ltd ('Paisley Park') in 1991 and, apparently, they were subsequently transferred to Jackson Way Properties Ltd (the 'PP/JW lands').<sup>1</sup> The remaining 22 acres were sold in 1978 in separate lots to a consortium of owners, referred to in this Report as 'the O'Halloran Consortium'. They remained owned by that consortium throughout the period which was the focus of the Tribunal's inquiries.

**1.04** The first attempts to rezone the Carrickmines lands were made in the course of the review of the 1983 Development plan and were unsuccessful. Subsequently, renewed attempts to rezone these lands were made in the course of the making of the 1998 Development Plan by Dun Laoghaire – Rathdown County Council (which was the relevant local authority for the Carrickmines Valley since 1 January 1994).

**1.05** The Tribunal's public inquiry into these rezoning attempts was prompted by allegations of bribery and corruption in connection with those attempts made by Mr Frank Dunlop, lobbyist and public relations consultant.

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<sup>1</sup> The abbreviation 'PP/JW' is used in this Chapter for convenience. It identifies the lands in Carrickmines purchased by Paisley Park Investments Ltd (PP) in 1991 and which were transferred to Jackson Way Ltd (JW) in 1992.

**1.06** At a public sitting of the Tribunal on Day 148 (9 May 2000) Mr Dunlop provided a list of the sources of monies he had received in 1991 – 1993 from the developers who had engaged his services. He did so in response to a question in relation to the source of a lodgement in the amount of IR£80,000 to his 042 (Rathfarnham) account on 5 June 1991. The first item on Mr Dunlop's list, which was headed '1991 -1993 (inclusive)' was entitled: '*Paisley Park (Carrickmines) [Paisley Park were dissolved and reformed into or sold to Jackson Way after 1993] via J. Kennedy & J. Caldwell mainly the former... 25,000 (cash)*'.

**1.07** In that same month, May 2000, Mr Dunlop, in a private interview with the Tribunal alleged that he had, in 1992, paid a total of IR£15,000 in cash to eight named councillors in bribes in return for their support as councillors for the rezoning of these lands. He also alleged that in 1997 he paid a further IR£10,000 in cash to two of those eight councillors in a further attempt to have those lands rezoned.

**1.08** In a statement to the Tribunal in October 2000, Mr Dunlop alleged that he was paid IR£25,000 in cash by Mr Jim Kennedy<sup>2</sup> for the express purpose of bribing councillors to support the rezoning of the PP/JW lands. Mr Dunlop maintained that he was also offered IR£100,000 in cash as a 'success' fee in the event of the lands being rezoned in the course of the review of the 1983 Development Plan by Dublin County Council and that he and Mr Kennedy subsequently entered into a new financial arrangement regarding the making of the 1998 Development Plan by Dun Laoghaire – Rathdown County Council. Pursuant to that arrangement, Mr Dunlop was to be paid a fee of IR£250,000 if the lands were successfully rezoned. This success fee was later changed to a sum equal to the value of one commercial acre of the lands, when rezoned.

### THE PHASES OF THE INQUIRY

**1.09** The Tribunal's inquiry, which was heard in two phases, covered the period from approximately the late 1980s to approximately 1998.

**1.10** The main phase, entitled 'Carrickmines I' was primarily concerned with the efforts to rezone the lands. It was the first of a number of interlinked modules heard by the Tribunal and the first module in which Mr Dunlop gave evidence of the system of corruption in which he admitted to having been involved from the early 1990s.

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<sup>2</sup> Mr Kennedy was a Lucan based auctioneer and property developer. He claimed to be a majority shareholder in an amusement arcade in Westmoreland Street in Dublin and owned the 'Laurels' licensed premises in Clondalkin. He was a business partner of Mr John Caldwell and was also on friendly terms with Mr George Redmond, (the Assistant Dublin County and City Manager until 1989). Mr Kennedy denied that Mr Redmond loaned him and his business partner IR£110,000 in 1980. Mr Lawlor described Mr Kennedy as a friend. In correspondence with the Tribunal, Mr Kennedy (who refused to give evidence to the Tribunal), denied that he had any interest in the Carrickmines lands or in any company associated with them.



**1.11** The Tribunal heard evidence in this phase between 20 November 2002 and 16 October 2003, and also on 7 October 2008. Evidence was taken on Commission from Mr Gerard Carroll on 19 November 2008 and was read into the public record on 3 December 2008. Correspondence by and on behalf of Mr Kennedy, who declined to take part in the inquiry, was also read into the public record. In total, 47 witnesses gave evidence in public in this phase.

**1.12** The second phase, entitled ‘Carrickmines II and related matters’, was concerned with the Tribunal’s inquiry into the beneficial ownership of the PP/JW lands. Mr Dunlop told the Tribunal that he was informed by Mr Kennedy that Mr Lawlor had a share in the PP/JW lands and that that interest was held offshore. It was the Tribunal’s intention to scrutinize the ownership structure of eight separate landholdings in west Co. Dublin with which Mr Jim Kennedy, Mr John Caldwell<sup>3</sup> and Mr Liam Lawlor appeared to have had a close association, with a view to establishing whether or not Mr Lawlor had an interest in the PP/JW lands.

**1.13** The Tribunal heard evidence in the Carrickmines II phase between 21 January and 13 February 2004, on the 27/28 July 2004, and between 12 October and 24 November 2004. In total, 25 witnesses gave evidence in public in this phase of the inquiry.

**1.14** This second phase was not completed because of the unexpected death of Mr Lawlor, one of the key witnesses, in October 2005. The Tribunal was of the view that the continued hearing of the second phase could not be reasonably justified given: Mr Lawlor’s demise; the time required to establish conclusively the beneficial ownership of these landholdings with the attendant significant costs to the public purse; and the consequential delays to other inquiry modules.

**1.15** Whilst the Tribunal was unable to definitively identify all of the beneficial owners of the PP/JW lands it was satisfied that, as claimed by Mr Caldwell, both he and Mr Kennedy, (and, for a short period, Mr Sam Stanley), were beneficial owners.

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<sup>3</sup> Mr Caldwell qualified as a solicitor in the state in 1980. He was apprenticed and worked with Fitzpatrick’s Solicitors Dublin, subsequently Binchy & Partners Solicitors, specialising in taxation and commercial law. Mr Caldwell was introduced by a colleague in the early 1980s to Mr Kennedy, who was a client of his office. In time, Mr Kennedy and Mr Caldwell developed a business relationship primarily involving the purchase of land with development potential.

## THE BACKGROUND TO THE INQUIRY

**1.16** Mr Dunlop alleged that he made payments to elected councillors in connection with the PP/JW lands and the O'Halloran Consortium lands, which were in two adjoining parcels. The former comprised the greater of the two, consisting of approximately 108 acres, and were, from December 1992, registered in Folio 4940 County Dublin<sup>4</sup> as being owned by Paisley Park and subsequently Jackson Way. The smaller parcel (22.5 acres) was owned by a consortium of private individual investors.

**1.17** In the late 1980s, both parcels of land were zoned for agriculture and neither had water nor sewage services although they were likely to benefit from the Carrickmines sewer which was being proposed at that time. They had poor access and lay in the path of, or were close to, the envisaged South Eastern Motorway (SEM).

**1.18** Both the owners of the PP/JW lands and the owners of the O'Halloran consortium lands retained Mr Dunlop's services as a lobbyist in connection with improving the zoning on their lands.

**1.19** Submissions were received within Dublin County Council in 1991 and 1992 seeking the rezoning of both the PP/JW lands and the O'Halloran Consortium's land. Further submissions were made to Dún Laoghaire-Rathdown County Council in 1995, and again in 1997, seeking a rezoning of all of the O'Halloran consortium lands and that portion of the PP/JW lands which was north and west of the SEM line.

**1.20** On 16 December 1997, Dún Laoghaire-Rathdown County Council voted in favour of a motion which proposed a change of zoning to industrial use of the majority of the O'Halloran consortium lands and that portion of the PP/JW lands which was north and west of the SEM line.

**1.21** By 1998 a substantial portion of the O'Halloran consortium's lands and that portion of the PP/JW lands which lay to the east of the SEM had been zoned E (industrial) on condition that no industrial development be permitted on the lands until:

- the SEM was in place
- adequate access was provided to the lands from an upgraded road network
- a public water supply was provided
- an area action plan for Cherrywood was complete.

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<sup>4</sup> They were originally owned by Mr Robert Tracey until sold to Paisley Park Investments Limited.

**1.22** As previously mentioned, according to Mr Dunlop he received IR£25,000 in cash from Mr Kennedy for the express purpose of bribing councillors to support the rezoning of the Paisley Park / Jackson Way (PP/JW lands). In 1992 Mr Dunlop received IR£1,500 from the O'Halloran consortium, and in 1997 he received a further IR£35,000 which included a success fee of IR£30,000. Had the lands been rezoned in 1992, Mr Dunlop would also have received a success fee of IR£8,500.

**1.23** The members of the O'Halloran Consortium and Mr Caldwell, Mr Kennedy's business partner, claimed to have no knowledge of Mr Kennedy's and/or Mr Dunlop's involvement in corruptly paying councillors to support the rezoning of the Carrickmines lands. Mr Kennedy refused to give evidence to the Tribunal, and his absence outside the jurisdiction rendered his attendance unenforceable by subpoena. Mr Kennedy in correspondence with the Tribunal denied paying Mr Dunlop IR£25,000.

### THE O'HALLORAN CONSORTIUM LANDS

**1.24** The following were the registered owners of the O'Halloran Consortium lands:

- Mr Brian O'Halloran: the lands in Folio 10411F
- Dr Austin Darragh: the lands in Folios 101134F and 10410F
- Dr Darragh and Mrs Marie Therese Darragh: one half of the lands in Folio 102134F
- Mr J. Gerard Kilcoyne: the lands in Folio 10412F and 102121F
- Ms Valerie Kilcoyne: the lands in Folio 101135F and half of the lands in Folio 102134F.

**1.25** When Mr O'Halloran, Dr Darragh and Mr Kilcoyne acquired their lands in 1978 they were zoned for agriculture and had neither water nor sewage services. The lands were serviced by a narrow right of way over the adjoining Tracey lands (subsequently the PP/JW lands). These lands were in turn accessed by an agricultural access off the Carrickmines Road. Access to the lands from Golf Road was very poor and restricted to farm machinery and livestock. The lands had the benefit of a deed of covenant which restricted development (to one house) over the adjoining Tracey lands. Another property (Priorsland) also had the benefit of this restrictive covenant. Following the consortium's purchase of the lands, Mr O'Halloran received Counsel's opinion to the effect that their deed of covenant was valid and subsisting.

## THE PP/JW LANDS

**1.26** PP acquired its lands from Mr Tracey in 1991, in what turned out to be a complex and difficult transaction.

**1.27** Mr Stanley was a land agent and had dealings with Mr Kennedy in relation to the purchase of different landholdings in County Dublin. In 1984, Mr Stanley acted as Mr Kennedy's agent in the acquisition of nine acres of land at Cooldrinagh in County Dublin for IR£100,000. Mr Sam Stanley gave evidence to the Tribunal that he was engaged in 1984 by Mr Kennedy to identify the owners of lands with development potential in the Carrickmines Valley, with a view to their purchase by Mr Kennedy. According to Mr Stanley, Mr Kennedy told him that the County Council intended to provide a new sewer through the Carrickmines Valley which would open it to future development and that it was intended that the SEM would run through the valley.

**1.28** Having been provided with details of the intended route of the sewer by Mr Kennedy, Mr Stanley carried out Land Registry searches and identified the owners of those lands with development potential in the Carrickmines valley. He inquired if the owners were interested in selling their then agriculturally zoned lands and in this way came into contact with Mr Tracey.

**1.29** On 9 March 1988, Mr Tracey's 108 acres of land in the Carrickmines Valley<sup>5</sup> were the subject of a contract of sale for IR£540,000. Mr Gerard Charlton, a Dublin solicitor, purchased the lands in trust for Paisley Park. Following a legal dispute between the contracting parties the sale ultimately proceeded with a renegotiated purchase price of IR£700,000. The sale was finally completed on 5 June 1991.

**1.30** At the time the lands were purchased, Paisley Park was a company incorporated in the Isle of Man with its registered office at 29/31 Duke Street, Douglas, Isle of Man. Its shareholders were Maskani Management Ltd. ('Maskani'), Rezenbrinck Investments Ltd ('Rezenbrinck') and Xenon Ltd ('Xenon').

## THE SOURCE OF FUNDS USED TO PURCHASE THE TRACEY LANDS

**2.01** The contract price for the Tracey lands was IR£700,000 and the cost of taking up the shareholding entitlements in Paisley Park amounted to IR£717,573.97. In Mr Kennedy's absence as a witness, Mr Caldwell was asked to account for the funds which were used for the company's purchase of the

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<sup>5</sup> Folio 4940 of the Register of Freeholders, County Dublin.

lands in 1991. Prior to giving sworn evidence to the Tribunal Mr Caldwell included the following in a statement dated 31 January 2002 to the Tribunal provided through his solicitors:

*Our client has no specific recollection as to from which account and from what branch monies were obtained to acquire the lands save with regard to the £25,000 which was paid by our client's family settlement in two trenches of £10,000.00 and £15,000.00 The name of our client's family settlement is Diplomat Trust Company Limited (Caldwell No. 3 Settlement)....*

- (i) The sums of £10,000.00 and £15,000.00 were sourced from Diplomat Trust Company Limited.*
- (ii) Our client cannot recall from where the £274,000.00 were sourced but believes it was sourced through Mr. Bullock. Mr. Bullock told our client verbally that he can not recall the origin of these monies and he is, we understand, making enquiries with his Bank to see whether the origin of the monies can be identified.*
- (iii) The sums of £10,000.00, £15,000.00 and £274,000.00 were used to fund Maskani Management Limited and subsequently used by them to fund their share acquisition in Paisley Park Investments Limited.*
- (iv) The sum of £396,997.44 was the Irish equivalent of £360,000.00 sterling. Our client does not know the source of these monies. They were however used to fund Renzenbrinck Investments Inc who used the monies to fund the acquisition of shares in Paisley Park Investments Limited. Our client believes that Mr. Kennedy should be able to explain the origin of these monies.*

**2.02** In his evidence Mr Caldwell was unable to identify the source of the funds for his 50 per cent contribution to the shareholding cost in Paisley Park with any degree of certainty. He identified the sum of IR£25,000 as paid by Diplomat Trust Company, a trust operated for the benefit of his family. In relation to the IR£274,000 credited to the client account of Mr Caldwell's firm, Binchy Solicitors, on 5 June 1993, Mr Caldwell stated the following in the course of his evidence:

*'As I indicated the last time I gave evidence in relation to it, I thought that the source of the fundings were a number of sources, and what I've done since that and it is to try and find something which makes it that more concrete to try and deal with it here with the Tribunal. I've, and I've spoken to Mr. Bullock in relation to it, because he was the chap in charge of the funds and dealing with the funds, so in terms of the sources of it, it's transactional driven insofar as I'm concerned, and if you like, I mean I can start and go through some of those sources at this point in time, but that's the generality of it.'*

**2.03** Asked to explain ‘*transactional driven*’, Mr Caldwell said:

*‘What I mean by that is that the sources of the funds that were used for the Renzenbrinck side of this transaction emanated, as far as I can work out at this time, from three effective sources. One was the relationship that I had with a Mr. Taylor and the business dealings that I had with him. Two, was some computer software dividends and repayments of loans that occurred. And the third aspect of it was from a disposal of an investment property in the North of Ireland. In terms of the figures that we are looking at now, the first of the two of those items are the ones that fall within this. In terms of the third item, is the item which I believe deals with other payments that went to the liquidator, subsequent to the time period that we are looking at now.’*

**2.04** Mr Caldwell acknowledged that Mr Bullock did not use any of his, Mr Bullock’s, personal funds in the matter. The Tribunal was unable to determine the precise source of the funds used to acquire the Tracey lands. The Tribunal was however satisfied that Mr Caldwell was in a position to provide greater detail as to the sources of, in particular, the sum of IR£274,000, than he had provided, and that he chose to withhold such information from the Tribunal.

**2.05** The Tribunal did not find it credible that Mr Caldwell could not identify with greater precision the source or sources of this substantial sum of IR£274,000 which comprised the bulk of his investment in the purchase of the Carrickmines lands.

### **THE RELATIONSHIP BETWEEN MR GEORGE REDMOND AND MR JIM KENNEDY**

**3.01** In his capacity as Assistant Dublin County and City Manager, Mr Redmond was the de facto Manager of Dublin County Council and a person of significant power and influence within the local authority structure. In particular, Mr Redmond played a key role in the County Council planning and provision of services for land development. He had access to commercially sensitive information within the County Council relating to land within its jurisdiction. A number of witnesses gave evidence regarding Mr Redmond’s and Mr Kennedy’s relationship.

#### **GENERAL RELATIONSHIP**

#### **EVIDENCE OF MR ROBERT TRACEY**

**3.02** On 21 July 1989, Mr Robert Tracey, who was involved at the time in the protracted sale of his lands to Mr Kennedy, made a statement to Detective Supt. Thomas B Burns. In that statement Mr Tracey said:

*‘Stanley then brought a man I now know as Jim Kennedy an auctioneer with an office in Lucan to my house. This was about the end of 1986 or early 1987. They both put a proposition to me and it was, “your land is zoned agricultural and it will stay that way unless we get it in hand – we have inroads with the Planning authorities”...I would not agree to the deal of £5,000 option and both explained the amount of money they would be out of pocket to get the lands rezoned, submit plans and get them passed. Both of them said “£20,000 had to be “thrown in” to the Fianna Fail party for starters. There are men who have to get £10,000 each”. There were few subsequent meetings both in my house and in Jack’s house. I remember that there were three (3) men in the Planning Office who had to be paid £10,000. At a subsequent meeting the offer was increased to £10,000 option, but I still refused that. At this meeting both went through the same story about what the development would cost and then Stanley [said] “Jim is related to George Redmond by marriage. They go on holidays together. George has all his expenses paid that [sic] that costs money”. I know George Redmond had something to do with Planning. Jim Kennedy agreed with this.’*

**3.03** Mr Robert Tracey gave evidence along the lines of the above statement.

#### THE LATE MR JACK TRACEY

**3.04** In 1989, the late Mr Jack Tracey made an almost similar statement to the Gardai to that made by his brother, Mr Robert Tracey, in which he said;

*About three years ago, a fellow called Sam Stanley from Maynooth, Co. Kildare, approached my brother and enquired if he wished to sell his farm. Bob indicated that he did wish to sell and he arranged a meeting in my house between Sam Stanley, Jim Kennedy who is a builder with offices in Lucan, Co. Dublin. Bob and I were present at this meeting. We discussed the sale of the farm. Jim Kennedy said he wasn’t in a position to buy the farm, but that he would take an option on it for £5,000 for two (2) or three (3) years, the longer the better. He said “it would have to be zoned to residential. There would have to be Planning permission sought and that would cost me £20,000 for the Fianna Fail party for the rezoning”. He continued “there are three (3) fellows in the Planning Office - that would be £10,000 each and that we were bound to have an objection which would necessitate an appeal to An Bord Pleanala”. He said “this is where the big money is spent, they don’t work for small money.*

**3.05** He further stated;

*There were further telephone calls, mostly from Stanley. He put a proposition to me that I would go in half share on the farm with Jim Kennedy. He said I would have to put up £80,000 cash which he said would be half the amount required to bribe the various officials to get the land rezoned, get Plannig [sic] permission and the appeal to An Bord Pleanala. I told him to forget about it. I said I would buy the farm myself.*

**3.06** Later in the same statement whilst referring to a conversation he had with Mr Stanley and Mr Kennedy about seven acres of land which he, Mr Jack Tracey, owned at Ticknock County Dublin he said:

*“I had sought planning permission to build one house on those lands about four (4) years ago. Permission was refused. I discussed this with Jim Kennedy and Sam Stanley. Stanley told me that if I paid £50,000 Jim Kennedy would get Planning Permission on Appeal to An Bord Pleanala. I did not agree to that. During the second meeting Jim Kennedy said we would have to take care of George Redmond. I knew him to be the Assistant Manger in the County Council. Sam Stanley then joined in and said that Jim was related to George through marriage. He said that they go away on holidays together and that Jim paid all the expenses.”*

#### MR SAM STANLEY’S EVIDENCE

**3.07** Mr Stanley told the Tribunal that since 1982, Mr Kennedy had made no secret of his close association with Mr Redmond and testified *“I would go so far as to say he probably boasted about it”*. Mr Stanley understood that Mr Kennedy and Mr Redmond were related by marriage, which was denied by Mr Redmond though he said he was aware Mr Kennedy was claiming to be related to him.

**3.08** In his evidence, Mr Stanley told the Tribunal that he never heard Mr Kennedy refer to payments to the Fianna Fáil party and he also stated *‘I was never in any shape or form at any meeting that asked Bob Tracey for any money whatsoever... I never got involved in that in any shape or form’*. Mr Robert Tracey was cross examined by Mr Stanley’s counsel on the basis that the words in so far as they were spoken or said were those of Mr Kennedy and not those of Mr Stanley.

#### MR REDMOND’S EVIDENCE

**3.09** Mr Redmond disputed the suggestion that he had been on holidays with Mr Kennedy. He said that he had never been in Mr Kennedy’s company outside Dublin. Mr Redmond acknowledged that he was aware that Mr Kennedy was inclined to refer to their close relationship and said that he had reprimanded him for doing so.



**3.10** However, based on Mr Redmond's own evidence to the Tribunal, he and Mr Kennedy had a close and lengthy relationship. Mr Redmond told the Tribunal that he lent a total of IR£110,000 to Mr Kennedy and to one of his business partners in late 1980. No documentation was prepared in relation to the loan, nor was any definite repayment schedule agreed. Mr Redmond told the Tribunal that Mr Kennedy was to refund the loan from the proceeds of a business venture relating to gaming in which he and his business partner were involved. Mr Redmond said he received regular payments of money from Mr Kennedy. He claimed that ultimately IR£40,000 was repaid by Mr Kennedy plus IR£5,000/IR£10,000 repaid by Mr Kennedy's partner. Mr Redmond did not take any steps to recover the balance of the monies which he maintained were due to him by Mr Kennedy and his business partner, although he and Mr Kennedy continued in contact down through the years.

**3.11** Mr Redmond was asked to identify the source of the IR£110,000, which he said he lent to Mr Kennedy and his business partner in 1980. At that time, and for essentially his entire working life before then, Mr Redmond was a salaried official of Dublin County Council. Mr Redmond told the Tribunal that the money in question was sourced partly from savings by him over a number of years, and partly from 'consultancy services' provided by him to other people.

**3.12** Mr Redmond denied that he was engaged in any impropriety and reminded the Tribunal that from June 1989 he was retired from the Council.

### **THE COUNTY COUNCIL ZONING MAP**

**3.13** The Tribunal inquired into an allegation that an official of Dublin County Council prepared a map of the Carrickmines lands which contained sensitive and (then) unpublished information relating to the proposed rezoning of those lands, including the PP/JW lands, which was then surreptitiously provided to an engineer, Mr Frank Finnegan, for Mr Kennedy.

**3.14** The Tribunal heard evidence on this issue from Mr Gerard Carroll, Mr Finnegan, Mr Caldwell, Mr Enda Conway, Mr Willie Murray, Mr O'Halloran, Dr Darragh and Mr Kilcoyne.

### **MR GERARD CARROLL'S EVIDENCE**

**3.15** Mr Carroll was an executive draughtsman technician with the Development Plan team at Dublin County Council until his retirement in October / November 2004. Mr Carroll told the Tribunal that he received an instruction to prepare a map showing the most up-to-date County Council zoning proposals for the Carrickmines area. Mr Carroll said that he offered to drop the map into the

O'Connell Street offices of Dublin County Council on his way home in the evening, but was advised that the map would be collected from him. Mr Carroll told the Tribunal that he then prepared the map as instructed.

**3.16** Mr Carroll told the Tribunal that on the following morning, Mr Finnegan came to the public counter of the Council offices and said he was to collect something from him. Mr Carroll then gave him an envelope containing the map which he had prepared and Mr Finnegan left the Council offices.

**3.17** Mr Carroll was uncertain as to the date, or even the approximate date, of the incident but believed it was June or July 1989. Prior to giving evidence, he had indicated in a private interview with the Tribunal on 23 January 2003 that the map incident occurred in the early 1990s.

**3.18** Mr Carroll said he realised the importance of the map and its sensitivity. He was conscious that a recipient of the map could be potentially enriched because of the information it contained. He said that it was his belief that Mr Kennedy had arranged to have the map provided through him, and stated: *'I felt duped, I felt that I had been used by somebody to get a map for Jim Kennedy, but I was not going to get involved at that stage. I knew enough about Jim Kennedy to stay well away from him'.*

**3.19** Mr Carroll had occasionally prepared maps at the direction of senior personnel within the local authority. What made this request unusual, in his opinion, was that it was collected by Mr Finnegan.

#### MR FINNEGAN'S EVIDENCE

**3.20** Mr Finnegan, an engineer, acknowledged that he had received a confidential map from Mr Carroll. He was also unsure as to the date but suggested that it was in the latter half of 1989. Mr Finnegan also told the Tribunal that he *"would accept"* that he picked up the map from Mr Carroll in July 1989 and that if Mr Carroll stated that the map was prepared prior to 4 July 1989, he, Mr Finnegan, would accept that that was the case. When questioned in the course of his sworn evidence about the date on which he received the map, Mr Finnegan stated: *'...it could have happened in June, it could have happened in July'.*

**3.21** Mr Finnegan told the Tribunal that he was directed by Mr Kennedy to collect the map from Mr Carroll. At that time, Mr Kennedy was anxious to prepare a planning application for the residential development of the Paisley Park lands. Mr Finnegan said that he was advised by an official in the Planning Department at Dublin County Council that an application at that time for residential planning

permission on the lands was futile as the lands were then zoned agricultural. Mr Finnegan told the Tribunal that he and Mr Carroll were known to each other, that they both came from County Laois as did Mr Kennedy. Mr Carroll also knew Mr Kennedy. Mr Finnegan said that when he collected the map, Mr Carroll said to him *‘I believe that Kennedy was talking to you’*. Mr Carroll denied this, testifying that *“the only conversation I had with Frank about Jim Kennedy was he told me he was employed by Jim and he asked me what was he like to pay”*. Mr Finnegan said that he had presumed that Mr Carroll’s handing him a map was prompted by Mr Kennedy.

**3.22** Mr Finnegan told the Tribunal that he had previously worked for Mr Kennedy but not in the few years immediately prior to 1989. Mr Finnegan said that Mr Kennedy had asked him to act for him in relation to a proposed planning application for a housing development on the PP/JW lands. Mr Kennedy had identified Mr Carroll to him as an individual within the County Council who might be helpful.

**3.23** Mr Finnegan said that the map prepared for him was broadly similar to [Map DP90/123](#) which was publicly released on 18 October 1990. Map DP90/123 had *“refinement modifications”* to the map prepared by Mr Carroll in 1989. He agreed that the map contained confidential and commercially sensitive information which at the time was not available to other members of the public. The map indicated proposed zonings for different pieces of land in the Carrickmines Valley, and reflected the views of the planners at that time in 1989 (in the course of the review of the 1983 Dublin County Development Plan). Mr Finnegan said that the Paisley Park lands, which were still owned by Mr Tracey, were shown coloured purple with their zoning indicated as industrial. Such a zoning would have excluded development for residential purposes.

**3.24** Mr Finnegan testified that he told Mr Kennedy that the zoning proposed by the County Council for his lands was industrial. Mr Finnegan said that it was his belief that he posted the map to Mr Kennedy.

**3.25** Mr Finnegan did not discuss ‘fees’ with Mr Kennedy. Mr Finnegan said he recalled meeting Mr Caldwell who was (based on Mr Caldwell’s sworn evidence to the Tribunal) the beneficial owner of 50 per cent of the PP/JW lands, the other 50 per cent being owned by Mr Kennedy. Mr Finnegan said that Mr Caldwell requested him to send an [invoice for IR£2,000](#) plus VAT to Paisley Park in the Isle of Man. He did so and the fee was discharged by a [bank draft dated 15 March 1990](#), in the sum of IR£2,500. Mr Finnegan said that the invoice described the fee as in connection with lands at Carrickmines. Mr Finnegan said that the only work he performed in relation to this fee was a telephone call to a

Mr Hyde in Dublin County Council<sup>6</sup> and the collection of the map from Mr Carroll's office. Mr Finnegan understood that Mr Caldwell nominated the IR£2000 plus VAT because he felt that Mr Finnegan had saved the Paisley Park consortium a substantial amount by providing it with the industrial zoning council map received from Mr Carroll. Mr Finnegan said that the map was not copied and he was told by Mr Kennedy that Mr Caldwell had shredded it, because of its sensitive and confidential nature.

#### MR CALDWELL'S EVIDENCE

**3.26** Mr Caldwell told the Tribunal that he had no recollection of a map such as that described by Mr Carroll and Mr Finnegan. He said that he never destroyed or shredded any map. Mr Caldwell said that he recalled a meeting with Mr Finnegan in Mr Finnegan's offices in 1989 when they discussed making a planning application for the residential development of the PP/JW lands. It was his, Mr Caldwell's belief that the IR£2,500 payment (inclusive of VAT) was in respect of work done for Mr Kennedy in relation to a planning application for residential use of the lands. He was also conscious at the time that Mr Finnegan was in need of fees.

**3.27** Mr Caldwell disputed Mr Finnegan's story in relation to the map. He told the Tribunal:

*'Well, in relation to that, Mr. Gallagher, my emphatic position in relation to it was I did not meet him to pay him 2,000 pounds in relation to any envelope he got from Mr. Carroll. I have no knowledge of any envelope coming from Mr. Carroll. I have no idea until I read this information who Mr. Carroll is. I have, certainly did not get a map from Mr Kennedy. I did not go to Mr. Finnegan's office with the mission of paying him money for some map that he had, had been got in doubtful circumstances from the County Council, and I did not shred any map, the map that you are referring to, because I never had it to shred it in the first place'.*

**3.28** Mr Caldwell questioned why, if Mr Finnegan had indeed received a map from Mr Carroll which indicated a proposal to rezone the PP/JW for industrial use, he and Mr Kennedy, together with Mr O'Halloran and his colleagues Dr Darragh and Mr Kilcoyne, would have continued to seek planning permission for residential use of their lands. Mr Caldwell said that he first became aware of the planners' preference, in October 1990, to have the PP/JW lands zoned for industrial use after the meeting of the 18 October 1990.

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<sup>6</sup> When he was informed that an application for planning permission in the absence of the lands being suitably zoned for development was futile.

## MR REDMOND'S EVIDENCE

**3.29** Mr Redmond strongly denied any involvement in the map preparation, or of it being made available to Mr Finnegan or Mr Kennedy.

**3.30** Mr Redmond denied that he had provided Mr Kennedy with any material, maps or information relating to drainage or services in the Carrickmines Valley, or relating to the rezoning of those lands.

**3.31** Mr Redmond testified that: *"I had no discussions with him about land. I just at the time I made the advances to him and the other person, it was simply related to – I was giving a loan which, you know, the interest would have been very good at that time and I would have got a good return on it".*

## MR O'HALLORAN'S EVIDENCE

**3.32** Mr O'Halloran stated that in 1988/9, he and Mr Kennedy discussed a joint rezoning application in respect of their separate, but adjoining lands. He understood that Mr Kennedy was intent on seeking residential rezoning for the lands. Mr O'Halloran said that he recalled discussing the October 1990 map provided by the County Council after its public release but that he had no recollection of Mr Kennedy having shown him a map in 1989 indicating the County Council's planners' proposals for the Carrickmines Valley. Neither had he any recollection of Mr Kennedy having apprised him of such proposals.

**3.33** In fact, Mr O'Halloran thought it was *"too good to be true"* that the council planners in October 1990 were proposing a change in the agricultural zoning of his land, since the roadway was not in place and the Carrickmines sewer was not yet constructed.

## MR KILCOYNE'S EVIDENCE

**3.34** Mr Kilcoyne also told the Tribunal that he recalled seeing the County Council map after it was published in October 1990, which indicated a preference on the part of the County Council for industrial zoning for the lands in question. Mr Kilcoyne testified that he was shown the October 1990 map by Mr O'Halloran who was *"very enthusiastic about it at the time."*

## MR CONWAY'S EVIDENCE

**3.35** Mr Enda Conway was one of the senior Planning Officers with Dublin County Council in the late 1980s/early 1990s and had responsibility for overseeing the review of the 1983 Dublin County Development Plan. The Development Plan drawing team worked under his direction. Mr Conway, in a statement to the Tribunal dated 1 December 2002, said that in-house

procedures for dealing with Development Plan meetings involved management (the County Manager and the Principal Officer) and the Dublin Planning Officer and Deputy Planning Officer. Completed maps and draft reports prepared by Mr Conway or by members of his team passed up the line to the Manager via the Deputy Planning Officer. These reports were occasionally changed to varying degrees before being circulated to councillors. Mr Conway testified that there was an in-house rule that confidential information remained strictly confidential to his staff and those personnel within the County Council who were necessarily involved in the planning review process. He recalled that Mr Dennis Daly was the chief draughtsman and that he was very careful that material produced in-house would not get into the wrong hands.

**3.36** Mr Conway informed the Tribunal that there were a series of maps outlining from time to time the planners' proposals for the Carrickmines Valley which ultimately culminated in Map DP90/123. The internal map register showed that a map was recorded in the name of a Mr Davin in November 1989. This entry read, 'Map 89/150 Carrickmines Valley Draft Structure plan'. This was one of many maps prepared in relation to the Carrickmines lands. Mr Conway explained: *'There were all sorts of sketch maps being prepared by different people at different times, most of them would finish up in the bin and there would be various sketches, these would . . . culminate in a plan which would suddenly appear on this register.'*

#### MR MURRAY'S EVIDENCE

**3.37** Mr Murray, who was then a senior official with the Planning Department of Dublin County Council, essentially confirmed Mr Conway's evidence in relation to the process of preparing maps. Mr Murray described the maps prepared in this way as 'work in progress'. Such maps might not necessarily represent the thinking of the County Council but rather the thinking of some members of staff at a given time.

#### MR STANLEY'S EVIDENCE

**3.38** Mr Stanley told the Tribunal of his belief that Mr Kennedy had access to sensitive and confidential information relating to zoning and other related matters within Dublin County Council. According to Mr Stanley, at the time he was engaged by Mr Kennedy in 1984, Mr Kennedy informed him that he had been provided with information regarding a proposed sewer for the Carrickmines valley and the line of the South Eastern Motorway, by way of a *'privileged and confidential private map'*.

**3.39** According to Mr Stanley, Mr Kennedy told him that Mr Redmond had supplied him with the map. Mr Stanley said that he understood that the map referred to by Mr Kennedy was confidential to the County Council, and was not available to the public. Mr Kennedy told him that the map should be '*under lock and key*'.

**3.40** Mr Stanley went on to say that Mr Kennedy gave him a copy of the Dublin Development Plan, (which he understood was a generally available map), and that he: '*pencilled in the area across the Carrickmines Valley, he indicated to me that the trunk sewerage would link up with Glenamuck Road and lands possibly up as far as Kilternan could be all serviced. So he pencilled in what, the general area that he wanted*'.

### **THE TRIBUNAL'S CONCLUSIONS RELATING TO THE PROVISION OF THE MAP TO MR CALDWELL**

**3.41** The Tribunal rejected Mr Caldwell's evidence that he was not informed of the existence of the map prepared by Mr Carroll in mid 1989, and had not seen the map or any similar map prior to October 1990. The Tribunal was satisfied that Mr Kennedy provided Mr Caldwell with the map. The Tribunal was satisfied that Mr Caldwell at all times was aware that the map in question was a confidential document which had been wrongfully provided to Mr Finnegan and/or Mr Kennedy.

**3.42** The Tribunal was satisfied that the confidential and commercially sensitive information contained in the map prompted Mr Kennedy and Mr Caldwell to complete the purchase of the PP/JW lands, certain in their expectation that the value of the lands would increase enormously when rezoned for development.

**3.43** The Tribunal was satisfied that Mr Caldwell was anxious to ensure that the Tribunal believed that he had not been provided with a map of the type described by Mr Carroll and Mr Finnegan, and was aware when provided with the map, that it had been wrongfully provided to Mr Kennedy.

**3.44** The Tribunal was unable to determine with a reasonable degree of certainty the identity of the person who requested or directed Mr Carroll to prepare the map in the first instance.

## THE RELATIONSHIP BETWEEN THE O'HALLORAN CONSORTIUM AND THE OWNERS OF THE PP/JW LANDS PRE 1991

**4.01** Mr O'Halloran made contact with Mr Kennedy in 1988, after Mr Robert Tracey told him that Mr Kennedy was negotiating for the purchase of his lands. Each had an interest in meeting the other. The consortium needed to obtain better access to its lands while Mr Kennedy wished to buy the O'Halloran consortium lands or, at the very least, have the covenant which restricted development on the Tracey lands formally removed.

**4.02** Mr O'Halloran and Mr Kilcoyne met with Mr Kennedy on 23 November 1988. A memorandum of that meeting compiled by Mr O'Halloran, noted, under the heading '*points of the meeting*' as follows:

- *Kennedy confirmed that he had purchased Tracey's land for IR£5,000 per acre, the total being approximately 108 acres and that it had taken him many years of persistent chasing to achieve the sale. During that time, Tracey's brother, Jack, had been an obstacle to Kennedy closing the sale.*
- *Kennedy will immediately seek to change the present zoning – which is Agriculture – to Residential.*
- *The Dublin County Council Development Plan is due for revision in March 1989, by which deadline any representations to change the existing zoning must be made. If that deadline is missed, zoning changes will then have to follow the difficult 'material contravention' route. Kennedy wants to avoid that.*
- *Kennedy, therefore, has instructed his architects to prepare designs for a Residential Development on Tracey's farm, he confirmed that the density per acre will be 6.5 houses. It is his intention to make a submission for Planning Permission as soon as the Plans will be completed.*

**4.03** Mr O'Halloran also noted:

*Kennedy told us that if we three want to change the present zoning of our land to Residential we must work on this at once, as the 31<sup>st</sup> March 1989 deadline by which the review of the Dublin County Council Development Plan must be completed is fast approaching. Kennedy confirmed that he would send me a copy of correspondence from the Department of the Environment that date/deadline.<sup>7</sup>*

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<sup>7</sup> This deadline was extended on a number of occasions. The review of the 1983 Development Plan was not ultimately completed until December 1993.



**4.04** According to Mr O'Halloran's testimony, Mr Kennedy '*had done his homework*' regarding infrastructural projects being proposed for South County Dublin, including the Carrickmines Valley sewer which would serve to open the Carrickmines area for major development.

**4.05** Mr Kennedy was recorded as stating that there were two options available to O'Halloran and his two colleagues, namely '*To sell now to him*' or '*To join with him in a Joint Planning Application for Tracey's land and for ours*'.

**4.06** Mr O'Halloran also recorded Mr Kennedy as being sceptical that the covenant actually provided any benefit to the consortium's lands and his claim that it benefited only Priorsland House (an adjoining property). He also noted Mr Kennedy's awareness of the fact that the consortium's lands were '*effectively landlocked*'.

### THE JOINT RESIDENTIAL SCHEME

**4.07** In May/June 1989 Mr Kennedy provided Mr O'Halloran with a map which outlined a residential development scheme proposed for the Tracey and O'Halloran consortium lands. Mr O'Halloran told the Tribunal that when Mr Kennedy gave him the map he did not indicate where, or from whom, he had acquired it.

**4.08** Mr O'Halloran described Mr Kennedy's residential development plan as a '*barbaric residential layout*', an opinion he did not at the time communicate to Mr Kennedy. However he and his colleagues opted not to take up Mr Kennedy's suggestion for a joint residential development on their respective lands.

### THE JOINT REZONING SUBMISSION

**4.09** On 7 September 1989 Mr Caldwell wrote to Mr Anthony Gore Grimes, the solicitor to the O'Halloran consortium, and requested that the consortium lands be included in a rezoning submission for the Tracey lands which he proposed to make to the County Council. Mr Gore Grimes, Mr O'Halloran and Mr Kilcoyne met on 20 September 1989.

**4.10** Mr O'Halloran's memorandum of the meeting noted that as of September 1989, Mr Kennedy had moved away from the idea of a joint application for a housing development, following the '*material contravention*' route, to proposing that both sets of land owners make a joint rezoning application. The memo noted that:

AGG [Anthony Gore Grimes] pointed out that if we three joined our lands with Kennedy for a re-zoning application, that definitely would weaken our Covenant position, in those circumstances we would be seen to want to put a housing development on our land, whereas the purpose of the Covenant is to protect our lands against precisely that. That very obvious conflict would be injurious to our interests under the Covenant, AGG therefore advised against that.

**4.11** The following were among the ‘follow up’ actions contemplated on 20 September 1989:

*AGG will contact John Cauldwell [sic] to arrange a meeting at 23 Herbert Place<sup>8</sup> during the week commencing Monday October 2<sup>nd</sup>, that will be attended by AGG, JGK and BOH – AGG will ask John Cauldwell [sic] to have Jim Kennedy present.*

*That meeting will review where Kennedy now is vis-a-vis any forthcoming application that he might make for Tracey’s lands, and all of that in the context of his continuing interest in ours.*

**4.12** The meeting duly took place on 5 October 1989. Mr O’Halloran’s memorandum of this meeting suggested to the Tribunal (as testified to by Mr O’Halloran) that Mr Kennedy was a valuable source of knowledge vis-a-vis the County Council’s proposals for the Carrickmines Valley. Mr O’Halloran noted as follows:

*JK confirmed that the County Council Planners are still working on their proposals for changes, these will shortly come before the County Council for discussion and resolution, a series of meetings has been set up for that purpose, at the end of which the County Council will put the revised plan on public display. JK feels that the revised plan will go on public display for about 6 months from now.*

- 1. To first seek permission for a re-zoning of the lands from its present usage – agriculture – to a residential. This application must be made very soon by his Architects, it would comprise mainly written documents with back-up substantiation about drainage capacity in the area when the Carrickmines Valley Suir [sewer] will have been constructed in the long term, also in the short term JK is aware that the Ballyogan Road pumping station has adequate additional capacity to provide for a residential development of Bob Tracey’s farm together with our land.*

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<sup>8</sup> Mr O’Halloran’s architectural practice offices.

2. Hopefully, having obtained a re-zoning permission, JK would then apply for a Planning Permission and Building Bye-Laws Approval for Bob Tracey's farm and the layout drawing which he gave me at our June meeting.
- A brief discussion took place on the draft of our agreement which we might sign with Jim Kennedy, and as follows
  1. John Cauldwell [sic] would not agree to the recognition of the Covenant which was put forward by AGG.
  2. Jim Kennedy will want the timescale of that agreement extended by a further 9 months in view of the delays at the beginning of the year in completing it.
  3. JC and JK stressed the time urgency in making the re-zoning application and suggested that we should now deliberate our intentions and inform them as soon as possible.

**4.13** On 10 October 1989 Mr Gore Grimes wrote to Mr Caldwell advising him that the O'Halloran consortium was '*not agreeable to their lands being included in the submissions being made for rezoning*'. This stance was based on advice given by Mr Gore Grimes that such a course of action might weaken the covenant which benefited the lands.

### PROPOSED PURCHASE OF THE O'HALLORAN LANDS

**4.14** As of October 1989, Mr Kennedy himself had not concluded any agreement with Mr Tracey for the purchase of the latter's lands. The sale was only finally concluded on 5 June 1991 when the lands were transferred to Paisley Park Investments Limited. Nonetheless, the O'Halloran Consortium, over the course of 1989 to 1990, continued to negotiate with Mr Kennedy in relation to the Carrickmines lands.

**4.15** During this period, discussions were continuing about a possible purchase by Mr Kennedy of the O'Halloran Consortium lands. The O'Halloran Consortium decided against giving Mr Kennedy an option of their lands. As was evident from a memorandum of a meeting which took place on 28 February 1990 between Mr O'Halloran, Dr Darragh, Mr Kilcoyne and their professional advisors, the decision not to engage with Mr Kennedy's proposal to take an option on their lands was taken in their knowledge and appreciation, in early 1990, '*of imminent events at Carrickmines*'. Mr O'Halloran acknowledged that this referred to their awareness at that time that (in the context of the Development Plan review) '*There would have been a window of opportunity in the event of one seeking a rezoning of one's lands*'.

**4.16** Discovery made to the Tribunal by Mr Kilcoyne included a [letter from Mr O'Halloran dated 23 March 1990](#), on which the following was handwritten: 'JGK/PK 18/4/90 Draft development plan now ready says what rezoning situation is going to be.' Mr O'Halloran told the Tribunal that he did not know why Mr Kilcoyne made that note.<sup>9</sup>

### THE COVENANT AGREEMENT AND THE ACCESS ISSUE

**4.17** On 31 May 1990, the O'Halloran Consortium concluded two agreements with two companies nominated by Mr Kennedy, Insignia Ltd and Paisley Park, in relation to the deed of covenant and the issue of access.<sup>10</sup>

**4.18** The agreement relating to the deed of covenant provided that the members of the O'Halloran consortium would release/assign their interest in the deed of covenant (in relation to the Tracey lands) to Insignia Ltd at no monetary compensation (but under seal) if either: a) the O'Halloran Consortium lands were rezoned within two and a half years of the date of the Agreement; or b) Insignia Ltd paid the consortium IR£30,000 prior to the expiry of the two and a half year period, regardless of whether or not the lands were rezoned. This agreement was conditional on Paisley Park granting a right of way over the Tracey lands to the consortium by the time it was called upon to release or assign its deed of covenant.

**4.19** Pursuant to the second agreement, Paisley Park agreed to grant the O'Halloran Consortium a right of way over its lands.<sup>11</sup>

### MR KILCOYNE'S RESERVATIONS CONCERNING MR KENNEDY

**4.20** Although the two agreements appeared to have been signed on behalf of Insignia Ltd and Paisley Park on 31 May 1990, as of early June 1990 Mr O'Halloran and his colleagues had not signed them. This delay was the result of reservations on the part of Mr Kilcoyne which he communicated to his colleagues on 14 June 1990 as follows:

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<sup>9</sup> Mr Kilcoyne, acknowledged the likelihood that he made the note on 18 April 1990 (or possibly 18 September 1990 – the date was somewhat unclear on the note). He surmised that the information contained in the note may have come from his brother (PK) or another individual with the same initials who was a builder. Mr Kilcoyne ruled out the possibility that the information came from Mr Kennedy. Mr Kilcoyne believed that insofar as he received the information contained in the note it would have been in terms not of what was contained in any proposal then being considered by the Council, but rather in terms of his being advised that if the Council's Development Plan was now ready he had '*better get on [his] bicycle and find out what was going on*'.

<sup>10</sup> Meetings regarding these (and other issues) took place on 25 January, 28 February, 12 March and 18 April 1990.

<sup>11</sup> The agreement provided for a 20 metre wide access.

MY POSITION ON CARRICKMINES

*Despite the fact that our land is currently zoned “agricultural” and landlocked, I am reluctant at this time to sign any contract with Mr Kennedy for a number of reasons, as below:*

1. *My main concern re Kennedy is that until such time as he completes the purchase of Tracey’s farm, he will not be in any position to provide us with access etc. In fact, he will not legally own the 108 acre farm until sometime in 1991. If we waited ten years until now – then one other year should not be too much of a burden!*

*If we sign now, we will have passed our interest in the Covenant over to what is more than likely a £2 Isle of Man company. What happens if Kennedy is made bankrupt or he sells his interests or his Paisley Company goes under?*

2. *His reputation worries me: he is perceived as a hustler, wheeler dealer type who is probably devious and certainly litigious. (At the moment, he is currently suing the Bank of Ireland on two separate issues). Also, I don’t like his possible involvement in the current County Council scam.*
3. *Although we may have mixed views about the value of our Covenant, my own feeling is that deep down Kennedy is worried about the overall Covenant situation and would probably and ultimately pay a lot more for its removal than he pretends. After all, if he gets planning permission for his farm and solves the problem of the Covenant he stands to make somewhere between £10 million and £20 million. Furthermore, and irrespective of what we do, Kennedy will be pushing hard for re-zoning and planning permission.*
4. *Undoubtedly, much progress has been made on our site over the last two years. Things are hotting up, services are imminent and after holding it for ten years, suddenly our land is valuable. To quote an acquaintance of mine, a builder and a Fianna Fail Councillor – Larry Butler ‘your land is going to rocket in the next two years’ why risk it now, when the picture will be much clearer in twelve months time. As a group, we really haven’t done any research on what is happening – but I am certain that Mr. Kennedy knows a lot more than he communicates to us.*

**4.21** Asked what he meant to convey by his description of Mr Kennedy, Mr Kilcoyne stated that he had been given certain information by a professional person whom he had retained in relation to his business interests and who had reported to him that:

*‘...you would have to be very weary [sic] of Mr. Kennedy that he was a sort of slippery type of person and you would want to be very cautious in your dealings with him because he was, he had a lot of strong native intelligence and he was by nature a property speculator and he was a far thinking far seeing individual and he might be five or six leaps ahead of the average person including myself, he said in any dealings you have with this gentleman he will just have to be doubly certain and treble certain you have the best legal advice and that you get the best property advice and just be careful and be weary [sic].’*

**4.22** Mr Kilcoyne explained his reference to Mr Kennedy’s possible involvement in ‘the current County Council scam’ as referring to articles which were published in the *Phoenix Magazine* in the 1980s.

**4.23** Mr O’Halloran testified that following a meeting between himself, Dr Darragh and Mr Kilcoyne, Mr Kilcoyne was persuaded to sign the agreements. Mr O’Halloran said he did not know any detail of the ‘County Council scam’ referred to by Mr Kilcoyne.

### **MR FRANK DUNLOP’S RELATIONSHIP WITH PAISLEY PARK/JACKSON WAY**

**5.01** Developments within Dublin County Council in the last quarter of 1990 in relation to the Carrickmines Valley were the probable catalyst for Mr Dunlop’s retention in 1991 by Mr Kennedy in relation to the PP/JW lands. There was some conflict between Mr Dunlop’s and Mr Caldwell’s evidence on this issue.

### **MR DUNLOP’S ENGAGEMENT BY MR KENNEDY**

#### **MR DUNLOP’S EVIDENCE**

**5.02** Mr Dunlop testified that on a date in January 1991, prior to 17 January, he received a telephone call from Mr Caldwell who introduced himself as a solicitor in Binchy & Partners Solicitors and said he wished to set up a meeting for Mr Dunlop with Mr Kennedy in relation to lands in Carrickmines.

**5.03** He and Mr Caldwell duly met at 6pm on 17 January 1991, as indicated in Mr Dunlop’s diary, and Mr Caldwell briefed him on the Carrickmines lands. According to Mr Dunlop, at that meeting, which took place in Mr Dunlop’s office, Mr Caldwell advised him that Mr Kennedy owned lands in Carrickmines which he wished to have rezoned for development. Mr Caldwell asked Mr Dunlop to meet with Mr Kennedy and provided him with his address and telephone number. Although Mr Caldwell did not allude to the manner in which Mr Dunlop might be

of assistance to Mr Kennedy, he did indicate that there would be a requirement *‘to deal with the matter with local elected representatives’*.

**5.04** Mr Dunlop maintained that the telephone call preceding this meeting was his first contact with Mr Caldwell to the *‘very very very best’* of his recollection: he could not recall meeting Mr Caldwell prior to 17 January 1991. While there were entries in Mr Dunlop’s diary for meetings with Mr Caldwell on 11 April 1990 (which was crossed out), 18 April 1990 and 15 January 1991 and references to Mr Dunlop in Mr Caldwell’s diary for 1989, Mr Dunlop could not account for these entries. Mr Dunlop denied that he met Mr Caldwell in 1989/1990 in relation to Baldoyle or that he ever had any contact with Mr Caldwell in relation to Baldoyle. Mr Dunlop rejected Mr Caldwell’s assertion (as set out in written statements to the Tribunal) that their meeting on 17 January 1991 did not relate to the Carrickmines lands and he took issue with Mr Caldwell’s statement that he *‘did not initiate contact with Frank Dunlop on Paisley’*.

**5.05** Mr Dunlop denied any dealings with Mr Caldwell in connection with the lands at Baldoyle on which Mr Dunlop held an option to purchase through a company, Pennine Holdings Ltd. He declared himself *“flabbergasted”* at Mr Caldwell’s suggestion that he had sought tax advice from him in connection with that company. Mr Dunlop acknowledged having contact with Mr Caldwell subsequent to January 1991 both in relation to the PP/JW lands and other unrelated matters, including lands at Portrane (Eighty Five Developments).

#### MR CALDWELL’S EVIDENCE TO THE TRIBUNAL ON THE ISSUE OF MR DUNLOP’S RETENTION

**5.06** Mr Caldwell furnished a statement to the Tribunal on 28 March 2003 in which he disputed Mr Dunlop’s assertion that they first met on 17 January 1991 and outlined a history of dealings between himself and Mr Dunlop prior to that date in relation to matters other than the PP/JW lands.

**5.07** Mr Caldwell described a November 1989 entry in his diary regarding Mr Dunlop as a reference to a meeting relating to the issue of a foreshore licence for lands in Baldoyle in respect of which Mr Kennedy and Mr Caldwell held an option to purchase. Mr Kennedy and Mr Caldwell were in the process of applying for such a licence through corporate structures. An application for a licence had been made to the Department of the Marine in July 1989 which had requested that notice of this application be placed in a national newspaper. This was done in November 1989. Mr Dunlop was the holder of an option on adjoining lands at Baldoyle and according to Mr Caldwell, he consulted with him particularly in the context of concerns which Baldoyle residents had raised with regard to the contemplated foreshore licence. Mr Caldwell described the entries in Mr

Dunlop's diary specific to him for 18 April 1990 and 23 August 1990 as also being related to Baldoyle.

**5.08** In his 28 March 2003 statement, Mr Caldwell claimed that his meetings with Mr Dunlop in January 1991, including that of January 17, also related to Baldoyle. In the course of that statement, he said:

*I have no hesitation whatsoever in saying that Mr Dunlop is wrong in his allegation that the first meeting he had with me was on the 17 January 1991. I am sure that I met him in November 1989 in relation to the Foreshore Licence at Baldoyle and again on a number of occasions in 1990 in connection with the resolution of the local residents' objections to the industrial planning application which was then pending [in relation to Baldoyle]. Mr Dunlop is wrong when he says that the matter discussed at our meeting on the 17<sup>th</sup> January 1991 was Carrickmines. Both the meetings on the 15<sup>th</sup> January 1991 and on the 17<sup>th</sup> January 1991 related solely to Baldoyle.*

*The first time I met Mr Dunlop in relation to the Carrickmines lands was in 1992 when I met him and provided him with a copy of the Submission which had been prepared in 1992 in conjunction with Mr Finnegan and Ms. Grainne Mallon. I did not contact Mr Dunlop to arrange a meeting with him on the 17<sup>th</sup> January 1991 with a view to introducing him to Mr Kennedy nor did I have such a meeting with Mr Dunlop at any other time. Mr Kennedy was well known to Mr Dunlop at that stage and had been for a long time before that.*

**5.09** Giving evidence in relation to the two entries in Mr Dunlop's diary for 15 and 17 January 1991 which referred to him, Mr Caldwell confirmed his statement and while acknowledging having met with Mr Dunlop on those dates, specifically disputed Mr Dunlop's evidence that the meeting on January 17 related to the Carrickmines lands. He maintained that both meetings concerned the Baldoyle lands. Mr Caldwell stated that he did not discuss Paisley Park or the Carrickmines lands with Mr Dunlop in 1991 but conceded that Mr Dunlop and Mr Kennedy may have had such discussions at that time. In addition, the thrust of Mr Caldwell's Counsel's cross-examination of Mr Dunlop, with regard to the January 17 meeting, was that insofar as Mr Caldwell met with Mr Dunlop on that date, the meeting related to interests then shared by Mr Dunlop, Mr Caldwell and Mr Kennedy in relation to their respective land holdings at Baldoyle.

**5.10** When asked to explain why he was certain that both his and Mr Dunlop's diary entries for the year 1991 were unrelated to the Carrickmines lands, but instead related to the Baldoyle lands, Mr Caldwell responded that, in this regard, he was relying on his own recollection.



**5.11** Mr Caldwell rejected Mr Dunlop's claim that he, Mr Caldwell had approached Mr Dunlop and suggested that he contact Mr Kennedy, on advice from Mr Lawlor. Mr Caldwell could not say when Mr Kennedy first apprised him that he had spoken to Mr Dunlop in relation to the lands, but he assumed that it was in early 1992, a time when he himself went to Mr Dunlop to provide him with a copy of the rezoning submission which had been made to the Council on behalf of Paisley Park.

**5.12** He also acknowledged that in the course of 1992 he had dealings with Mr Dunlop in relation to the PP/JW lands and the lands at Portrane.

**5.13** On 6 December 1990 Dublin County Council voted in favour of a motion which proposed that the development of the Carrickmines Valley would be limited to lands north/east of the proposed SEM line. This vote effectively rejected the proposals which the Manager had placed before the County Council on 18 October 1990 (Map DP90/123) and which proposed industrial/residential and other zonings for lands (including the PP/JW lands) in the Carrickmines Valley.<sup>12</sup>

**5.14** Mr Caldwell acknowledged (as indeed he had done in his earlier statement) that the the vote of 6 December 1990 had negative implications for the PP/JW lands. If that vote were to be adopted as part of the new Development Plan, all of the PP/JW lands would remain zoned for agricultural use only, as they were all located to the south/west of the proposed SEM lines. Thus by 1991, in advance of a decision by the Council on a draft plan for the Carrickmines Valley, there was good reason for Mr Kennedy (and Mr Caldwell) to retain Mr Dunlop.

**5.15** Mr Caldwell acknowledged that Mr Dunlop was retained on his and Mr Kennedy's behalf to lobby councillors to support the rezoning of their lands at Carrickmines.

**5.16** Mr Caldwell maintained that in his discussions with Mr Kennedy he did not go into any detail about Mr Dunlop's precise role, other than that he understood the broad thrust of that role was to act as a lobbyist in the rezoning project. When asked if Mr Kennedy had told him of the steps Mr Dunlop intended to take in the effort to get the lands rezoned, Mr Caldwell replied that his understanding was that Mr Dunlop was to lobby councillors to support the rezoning. Mr Caldwell said he understood that the vote of a majority of councillors was required for a motion to pass and he understood that Mr Dunlop,

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<sup>12</sup>In Map DP90/123 as presented to the Council in October 1990 by the Manager, the PP/JW lands were zoned Industrial with a portion zoned Residential. Prior maps, prepared by the Council, namely DP90/110 and an earlier version of DP90/123 also proposed such zoning for the lands. If DP90/123 had been adopted by the Council this would have been a favourable result for Paisley Park.

in the course of his lobbying, had to marshal whatever number of votes was necessary to achieve that end. Mr Caldwell said that he knew that Mr Dunlop was a professional lobbyist, associated with Murray Consultants who had a good reputation. Mr Caldwell could not recall if he knew that prior to his public relations work, Mr Dunlop had been a government press officer. Asked to identify qualities he believed Mr Dunlop possessed and which commended themselves to himself and Mr Kennedy, Mr Caldwell stated:

*‘Mr Dunlop was a man with the biggest ego and the biggest set of confidence, not that I have ever met, but certainly he would be up there. He was a very articulate individual, very polished, very professional in the, in his image [...] and the way he spoke. He was a man that you felt that you could have confidence in [...] He was a lobbyist and a lobbyist has a skill set and he has a set of years of experience in what he does and he goes to sell a package and a vision. He is a seller of ideas.’*

**5.17** No written record of what was discussed between Mr Dunlop and Mr Caldwell either in 1989, in 1990 or in January 1991 was produced to the Tribunal.

## MR DUNLOP’S CLAIMED FIRST MEETING WITH MR KENNEDY

### MR DUNLOP’S EVIDENCE

**5.18** According to Mr Dunlop’s evidence, he duly met Mr Kennedy at the latter’s amusement arcade in Westmoreland Street. The meeting took place in the basement of the arcade which was accessed via a security kiosk and through a steel door which led downstairs to a basement. The premises, according to Mr Dunlop, comprised a kitchen, dining area and a room to the right of the stairs which appeared to be a strong room.

**5.19** It was Mr Dunlop’s belief that this first meeting with Mr Kennedy probably took place on 19 or 20 January 1991<sup>13</sup>. Mr Kennedy informed Mr Dunlop that he had purchased the Carrickmines lands some ten years previously. Other than advising Mr Dunlop that he was the owner of the lands he did not provide any further details, save the comment that Paisley Park was an Isle of Man company. Mr Kennedy did not advise Mr Dunlop at that meeting that Mr Caldwell or others had any interest (beneficial or otherwise) in the lands but did so subsequently, in or around 1992.

**5.20** Mr Dunlop said that Mr Kennedy had come across as extremely knowledgeable technically, not just about the rezoning process but also about the infrastructure required to obtain planning permission, such as access.

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<sup>13</sup> Mr Dunlop’s diary does not record a meeting with Mr Kennedy in January 1991.

However, Mr Dunlop had understood from their discussion that Mr Kennedy had not previously been involved in the Development Plan review process.

**5.21** Prior to his meeting with Mr Kennedy, Mr Dunlop knew nothing of the history of the Carrickmines lands, or if any application had been previously made for their rezoning. Mr Dunlop stated that he never visited the lands and that his knowledge of them came from maps and from information provided to him by Mr Kennedy. Mr Kennedy discussed the question of access to these lands and advised him that they were serviced with an agricultural access only. Mr Kennedy did not advise Mr Dunlop as to how he intended to upgrade that access to facilitate future development.

**5.22** Mr Dunlop told the Tribunal that in the course of their discussion Mr Kennedy made a number of references to ‘*Liam*’, which Mr Dunlop understood to refer to Mr Lawlor. Mr Kennedy stated that Mr Lawlor had been very helpful and would continue to be helpful in relation to the steps necessary to achieve the rezoning of the PP/JW lands. Mr Kennedy also apprised Mr Dunlop of Mr Lawlor’s expertise on technical matters including access and drainage. At a later stage in their relationship, Mr Kennedy told Mr Dunlop that he had been recommended to him by Mr Lawlor.

**5.23** Mr Dunlop understood from his discussion with Mr Kennedy in January 1991 that in the spring of 1991, prior to the first statutory display of the Draft Development Plan, a rezoning opportunity existed for the PP/JW lands.<sup>14</sup>

#### MR CALDWELLS EVIDENCE

**5.24** Mr Caldwell accepted that Mr Dunlop was probably correct when he told the Tribunal that he had met Mr Kennedy in his Westmoreland Street Arcade premises and that it was there Mr Kennedy and Mr Dunlop had entered a fee arrangement.

### MR DUNLOP’S AND MR KENNEDY’S UNDERSTANDING REGARDING PAYMENTS TO COUNCILLORS

#### MR DUNLOP’S EVIDENCE

**5.25** Mr Dunlop testified that, at his first meeting with Mr Kennedy, the latter ‘*went on to discuss the matter in the terms that I have outlined in my statement in relation to having the lands rezoned, how it would be done, what would be required and that he had a previous involvement with a councillor and he named the councillor.*’ Mr Dunlop’s evidence was that as a result of this conversation,

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<sup>14</sup>This opportunity would arise at the Special Meeting of the Council which duly took place on 24 May, 1991.

he knew that Mr Kennedy expected him to pay money on his behalf to councillors to secure their support for the rezoning of the lands. Mr Dunlop's description of Mr Kennedy's imparting this information was as follows:

*'Well, Mr Kennedy left me with a very distinct impression that his knowledge of what would be required was based on conversations that he had had with a member of Dublin County Council, and that that person – it was going to be difficult to get this job done and that that person, that person's help would be required and would be of assistance in trying to achieve the desired result. It struck me then and has always stayed with me, Mr Gallagher [Counsel for the Tribunal], that Mr Kennedy was an extremely knowledgeable man technically in relation to matters, not specifically relating to zoning but in relation to the infrastructure required to ensure that a planner or planners or officials and/or councillors would assess the value or otherwise of a proposal. He discussed the question of access. And I think that was the general tone of the conversation.[...] What he said was two things. One, that he had previous dealings with a member of Dublin County Council, and two, that another identified member of Dublin County Council had been very helpful and would be very helpful [...] His presentation of the matter to me was that he knew that more matters had to be dealt with during the course of the Development Plan for rezoning purposes, that councillors would either require or would need to be paid in relation to their support. And in that context he mentioned a councillor that he had previous dealings with.'*

**5.26** The councillor was identified to Mr Dunlop as Cllr Hand. Mr Dunlop told the Tribunal that Mr Kennedy went on to advise him that in relation to another development (which he did not identify), Cllr Hand had sought and was paid money by Mr Kennedy and furthermore had sought additional monies from Mr Kennedy.

**5.27** Mr Dunlop said he concurred with Mr Kennedy that the payment of money would be required and that he agreed to pay councillors for their support. There followed a *'business discussion'* between them as to how much Mr Dunlop might be allocated for this purpose. Mr Dunlop believed that he sought a sum of IR£50,000 but that ultimately a figure of IR£25,000 was agreed. Mr Dunlop stated: *'Mr Kennedy gave me the money in his own words knowing that this could only be done by getting councillors on side arising from his experience which I have already alluded to in the context of a named councillor.'*

**5.28** Mr Dunlop said that he did not see anything wrong with this approach at the time and did not find it odd. He agreed that at that time he had only recently commenced business on his own and he acknowledged that, based on what he

had discussed with Mr Kennedy, he was willingly involving himself in a process which included the payment of money to councillors for their voting support. Mr Dunlop maintained that this process became '*common practice*' and that he was '*freely, absolutely and honestly*' admitting to having agreed with Mr Kennedy that he would pay money to councillors to buy votes. It was Mr Dunlop's evidence that Cllrs Hand and Lawlor<sup>15</sup> were the only councillors mentioned by Mr Kennedy in the course of their first meeting.

**5.29** According to Mr Dunlop, sometime after their first meeting but prior to the Special Meeting of 24 May 1991, Mr Kennedy provided him with the agreed IR£25,000. This was to be his remuneration for the work he was doing, as well as the fund from which he was to make disbursements to councillors. The money was in cash and was contained in cellophane bags using Ulster Bank wrappers.

**5.30** Mr Dunlop said he kept this cash at home. Although he did not rule out the possibility that he may have lodged a portion of this money, he testified that he always retained a supply of cash. Mr Dunlop stated that he was not maintaining that he kept the IR£25,000 he received from Mr Kennedy in 1991 intact, or in the form he received it, until he made disbursements to councillors in 1992 connected to the Paisley Park rezoning Motion. Mr Kennedy's IR£25,000 had been added to his confluence of funds out of which he was making payments in the period May/June 1991 in the context of another development (Quarryvale), albeit under the guise of making Local Election contributions. Mr Dunlop maintained however that he was always conscious that he had received IR£25,000 from Mr Kennedy for the purposes of the Paisley Park rezoning – which duly came up for voting in the council in June 1992.

**5.31** Mr Dunlop was unaware if Mr Caldwell knew about the financial arrangement he had agreed with Mr Kennedy in 1991. He did not, he said, discuss the issue of money with Mr Caldwell. Mr Dunlop accepted Mr Caldwell's claim that he neither instructed nor paid him in relation to the PP/JW rezoning project. Mr Dunlop stated, however, that Mr Caldwell had paid him and given him instructions on the lobbying of councillors in relation to another development, unrelated to the PP/JW lands, namely lands at Portrane ('85 Developments').

**5.32** Responding to questions put to him in cross-examination, Mr Dunlop acknowledged that his career had not qualified him for the task of engaging in corruption. He had earlier been press secretary to the government, and, separately, press secretary to a government minister, and thereafter he was a prominent member of a PR firm before establishing his own PR company. Mr Dunlop was asked how it was that Mr Kennedy might have formed the view, in

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<sup>15</sup> Mr Lawlor was a councillor until June 1991.

1991, that Mr Dunlop was the person for the task in hand. Mr Dunlop stated that he believed that Mr Kennedy had been told by Mr Lawlor that he, Mr Dunlop, would be a ‘runner’ for the task. Mr Dunlop stated that he did not believe that his reputation at that time was such that Mr Kennedy would have presumed that he was the person for the task and pointed out that it was Mr Lawlor who recommended to Mr Kennedy that he hire him.

**5.33** Mr Dunlop rejected the suggestion that his claim to have received IR£25,000 from Mr Kennedy in early 1991 was merely a belief on his part, having regard to his use of the words in his statement ‘*to the best of my belief I received a sum of IR£25,000 cash from Mr James Kennedy.*’ Mr Dunlop also rejected any suggestion that he received IR£50,000 from Mr Kennedy, although he acknowledged in his evidence that he may have asked for IR£50,000. Mr Dunlop denied that his testimony in this regard was ‘*pregnant with doubt*’ and reiterated that he had received IR£25,000 cash from Mr Kennedy, having first sought more.

**5.34** Mr Dunlop acknowledged that there was no letter or other document to evidence his agreements with Mr Kennedy. He claimed that his relationship with Mr Kennedy was not a normal professional engagement, but rather something which was in the ‘*dark areas of my life and other peoples, it is as simple as that.*’ Their agreement had never been the subject of a written contract. His agreements had been made with Mr Kennedy solely and without formality. With regard to his and Mr Kennedy’s financial arrangement in 1991 and later in 1996/1997, Mr Dunlop acknowledged that he had not kept any records of these dealings.

**5.35** Mr Dunlop stated that his involvement with the PP/JW lands in January 1991 was the ‘*first carriage in the train of corrupt practices*’. He agreed that in 2000 he told the Tribunal that Mr Kennedy’s payment to him of IR£25,000 was the first instance in which he received monies for corrupt activities but accepted, in evidence, that that in fact it was not the case<sup>16</sup>.

**5.36** Mr Dunlop acknowledged that, on his account of events as to the reason for the provision of IR£25,000, Mr Kennedy was effectively subverting democracy by maintaining that councillors’ voting support could be bought. It was put to Mr Dunlop that, from his perspective, there was a huge risk for Mr Kennedy in acknowledging to Mr Dunlop, whom he had not met previously, that councillors would have to be bribed as Mr Dunlop might have gone to the Gardaí or have made the issue public.

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<sup>16</sup> Mr Dunlop had dealings with Cllr Gallagher in 1990 – See Chapter Fourteen (Duff Lands).

**5.37** Mr Dunlop acknowledged that he could not identify an exact date when he received the IR£25,000 cash from Mr Kennedy. He stated that he did not know whether or not Mr Kennedy had an account in the Ulster Bank. He could not recall when he first took cash from this IR£25,000 sum or from the confluence of funds to which it had been added.

**5.38** Mr Dunlop agreed that if he was, as he claimed, giving out money in the period May/June 1991 in the context of the local election campaign, he was effectively depleting Mr Kennedy's IR£25,000 fund. Mr Dunlop stated that at this time he was in receipt of money from a wide variety of people some of which he retained in cash and some of which he lodged. Over the course of the period 1991 to 1993 he had significant funds available to him, including funds in his AIB 042 Rathfarnham account from which he made withdrawals. He had retained significant cash sums at this time. He could not, he stated, quantify the cash resources he had in the period 1991 to 1993 but he could identify the people who had employed him as a lobbyist during that period and the monies which had been provided to him.

**5.39** It was suggested to Mr Dunlop that, if he were to be believed, of the IR£25,000 he received from Mr Kennedy in 1991, he used only slightly in excess of IR£15,000 to bribe councillors in 1992.

**5.40** It was put to Mr Dunlop that Tribunal Counsel had advised him in April 2000 that the Tribunal had traced IR£420,000 in the AIB 042 account and that this sum could not have included the cash payments Mr Dunlop stated he had retained and that as such, it was in his interest (for tax reasons) to play down the size of such cash payments. It was suggested to Mr Dunlop that what he received from Mr Kennedy in 1991 was IR£50,000 but that he was only admitting to IR£25,000 in order to reduce his potential liability to the Revenue Commissioners for unpaid tax. Mr Dunlop rejected that suggestion. In Chapter Fifteen the Tribunal also rejected this suggestion as having been a likely reason for Mr Dunlop's allegations of payments to councillors.

**5.41** It was also put to Mr Dunlop that in the [list prepared by him on 9 May 2000](#), when he stated that he had received the IR£25,000 'via J. Kennedy & J. Caldwell mainly the former', he had conveyed the suggestion that Mr Caldwell had been a party to the payment, or a portion of it. Mr Dunlop insisted however that he never intended to convey that anyone other than Mr Kennedy had made the payment.

**5.42** With regard to his evidence that Mr Kennedy provided him with the IR£25,000 cash in order to bribe councillors, it was suggested to Mr Dunlop that Mr Kennedy did not appear to be the type of man to 'front load' money to anyone

for an unspecified job to be carried out at some future time. According to Mr Dunlop, Mr Kennedy had not asked him afterwards how he had utilised the money.

#### MR CALDWELL'S EVIDENCE ON PAYMENTS TO COUNCILLORS

**5.43** Mr Caldwell acknowledged that Mr Dunlop's evidence was that he met Mr Kennedy regarding the rezoning project in January 1991 after being requested to do so by Mr Caldwell, and that Mr Dunlop had asked Mr Kennedy for IR£50,000 and that Mr Kennedy had agreed to provide Mr Dunlop with a sum of IR£25,000. Mr Caldwell also accepted that Mr Dunlop was saying that the IR£25,000 cash, duly provided by Mr Kennedy, was given so that Mr Dunlop could bribe councillors. Mr Caldwell denied any knowledge of this arrangement and he maintained that Mr Kennedy had never sought any contribution from him to any payment to Mr Dunlop.

**5.44** Mr Caldwell acknowledged that as of January 1991 Mr Lawlor was involved with himself and Mr Kennedy in relation to the option held by them on lands in Baldoyle<sup>17</sup> and in relation to lands at Lucan, especially the Coolamber lands.

**5.45** When asked to speculate as to why Mr Dunlop might allege that Mr Kennedy had paid him IR£25,000 from which he was to pay councillors, Mr Caldwell surmised that perhaps it was retribution on Mr Dunlop's part for his failure to have the Baldoyle lands rezoned, as a consequence of which he lost the opportunity to make a substantial amount of money.

**5.46** Mr Caldwell also told the Tribunal that Mr Kennedy (following Mr Dunlop's allegations) had denied to him that he had paid Mr Dunlop IR£25,000 to enable him to make disbursements to councillors to ensure their support for the rezoning of PP/JW lands.

**5.47** However, Mr Caldwell acknowledged that Mr Kennedy was not willing to come to the Tribunal to make that denial. Asked if he knew why Mr Kennedy was not prepared to come to the Tribunal, Mr Caldwell responded that Mr Kennedy had told him that he was not prepared to have his affairs torn apart in the public domain and spend several years dealing with the demands of the Tribunal. Mr Kennedy, he stated, regarded himself as an innocent man, wrongly accused of paying these funds to councillors through Mr Dunlop.

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<sup>17</sup>In relation to Mr Lawlor's dealings with Mr Kennedy in this regard, see the Baldoyle/Pennine module – Chapter Nine.



**5.48** Mr Caldwell surmised that it may well be the case that Mr Kennedy would deal with the Tribunal, if the IR£25,000 funds issue could be dealt with on a single issue basis.

### MR DUNLOP'S SUCCESS FEE

#### MR DUNLOP'S EVIDENCE

**5.49** Mr Dunlop also maintained that, at their initial meeting, he and Mr Kennedy agreed that he would be paid a success fee of IR£100,000, in the event that the PP/JW lands were rezoned in the course of the review of the 1983 Development Plan.

**5.50** Mr Dunlop rejected Mr Caldwell's evidence that Mr Dunlop and Mr Kennedy negotiated an agreement regarding Paisley Park whereby Mr Dunlop was to lobby councillors on its behalf and that for such work a company nominated by Mr Dunlop was to receive a sum of IR£200,000 in the event that the PP/JW lands were rezoned.

**5.51** Mr Caldwell claimed, in his statement of 31 January 2002, that a letter had issued from Paisley Park to Mr Dunlop regarding his fee which made reference to Mr Dunlop having nominated a company beginning with the letter "S" to receive that fee. Mr Dunlop denied having nominated any company or produced an invoice to Mr Kennedy or indeed to Mr Caldwell. Mr Dunlop acknowledged that he had a company called Shefran Ltd (Shefran). He also maintained that insofar as he had an agreement in 1991 for a success fee, it was for a sum of IR£100,000 and not IR£200,000.

**5.52** Mr Dunlop told the Tribunal that he was not paid any success fee (be it IR£100,000 or IR£200,000) as the PP/JW lands were not rezoned during the Review of the 1983 Plan.

**5.53** Mr Dunlop was probed by Tribunal Counsel and indeed by Counsel on behalf of Mr Caldwell and other witnesses about the entry in his [diary for 5 February, 1991](#) which read '50,000 5% but not less than 150,000 and 50,000 if over £3m'. Mr Dunlop claimed not to recall or know what this entry referred to. Mr Dunlop agreed that the entry coincided with the time he maintained he met Mr Kennedy and received the IR£25,000 cash. Mr Dunlop accepted that the entry suggested that he was going to receive IR£200,000 for something, and that the entry had been made by him around the time when he said he entered into his agreement with Mr Kennedy in relation to the rezoning of the Carrickmines lands.

**5.54** In response to questions put to him by Counsel on behalf of Cllr L.T. Cosgrave, Mr Dunlop acknowledged that a reasonable reading of that diary entry suggested that he was to receive a minimum of IR£200,000 for some endeavour on his part and he also agreed that the formula, as set out in his diary, was probably related to land. Mr Dunlop however refuted the suggestion, given the aforementioned possible interpretation and the date of the entry (within days of Mr Dunlop's meeting with Mr Kennedy), that the entry represented his agreement with Mr Kennedy and he remained adamant that his success fee arrangement with Mr Kennedy was for a figure of IR£100,000.

**5.55** Mr Dunlop maintained, however, that he did not know what the entry meant or the identity of the lands to which it referred.

#### MR CALDWELL'S EVIDENCE REGARDING THE SUCCESS FEE

**5.56** Mr Caldwell testified that at some stage, Mr Kennedy informed him that he had agreed with Mr Dunlop that the latter would be paid a success fee of IR£200,000, in the event of the lands being rezoned. He acknowledged that, if his account of events were correct, Mr Kennedy had apparently agreed the success fee with Mr Dunlop without consulting his partner. Mr Caldwell stated:

*'If I disagreed with the success fee I would have told Mr Kennedy I wasn't happy with the success fee, but you don't pay a success fee unless there is an outcome and I wouldn't have been unhappy with the outcome. If he succeeded in having the lands rezoned as a result of his lobbying the land would have been worth somewhere well in excess of 10 million pounds, at a point in time even allowing for the covenant associated with it, so that would have been a good outcome, so 200,000 pounds was – not unpalatable'.*

**5.57** Mr Caldwell maintained that the IR£200,000 success fee was the only sum Mr Kennedy mentioned to him in the context of Mr Dunlop's retention in relation to the 1992 rezoning attempts. When asked why, on his account of events, there was no agreement to pay Mr Dunlop a fee for his services as a professional at that time, given that other professionals retained were being paid, he said that as far as he knew it was not part of the deal negotiated between Mr Kennedy and Mr Dunlop. Mr Caldwell suggested that it might have been due to Mr Dunlop's certainty that he would get a result.

**5.58** Mr Caldwell did not see any disparity in Mr Dunlop being paid a IR£200,000 success fee (if the lands were rezoned) in return for, effectively, talking to councillors, compared to the modest fees which were paid by Paisley Park to other professionals in relation to the rezoning. Such a success fee, Mr Caldwell maintained, would have been payable out of a 'multiple' of funds in the

event that the PP/JW lands had been rezoned. Mr Dunlop, Mr Caldwell stated, was promised a success fee based on the prospective value of the PP/JW lands, post their rezoning, and therefore justified.

### **THE TRIBUNALS FINDINGS REGARDING MR DUNLOP'S ENGAGEMENT BY PP/JW**

**5.59** The Tribunal accepted that contact took place between Mr Dunlop and Mr Caldwell in 1989 and 1990. It was also satisfied, from the account of events given by Mr Dunlop, that on 17 January 1991, following a telephone call from Mr Caldwell, he and Mr Caldwell met and discussed the lands in Carrickmines. Moreover, the Tribunal was satisfied that Mr Dunlop was requested to go and see Mr Kennedy in relation thereto. In the Tribunal's view, it was more than probable that such a request was made, given the awareness of Mr Kennedy (and probably Mr Caldwell), as of January 1991, that the County Council planners were going back to the drawing board in relation to the draft Plan for the Carrickmines Valley, in the wake of the councillors' effective rejection, on December 6 1990, of Map DP90/123. Moreover, the Tribunal was satisfied that Mr Kennedy and Mr Caldwell appreciated at that time that there would be an opportunity to lobby councillors as to the content of the Draft Development Plan prior to its first statutory display. In this respect, their objective would have been to ensure that the councillors were lobbied to reinstate the rezoning proposal of the Carrickmines Valley as envisaged by Map DP90/123. The Tribunal's finding in this regard was underpinned by the fact that as early as 1989, Mr Kennedy was in possession of a map ("*the Map*") which outlined the Council planners' general approach to zoning in the Carrickmines Valley – an approach which included rezoning proposals for the Paisley Park lands. The Tribunal considered it likely that, in early 1991, Mr Kennedy would have sought to avail of any opportunity to lobby councillors to support the rezoning of the Carrickmines Valley.

**5.60** The Tribunal was satisfied that the circumstances which led to Mr Kennedy's engagement of Mr Dunlop had their genesis in the rejection of Map DP90/123 as a result of the vote which had taken place on 6 December 1990. It was probable that, to that point in time, Mr Kennedy had hoped that the PP/JW lands would be included as rezoned in the draft plan that would go out on public display given that the rezoning of the lands had support within the Council Executive. It was probable that Mr Kennedy had such hopes ever since he came into possession (in 1989) of the map which Mr Finnegan collected from Mr Carroll in Dublin County Council. The Tribunal was satisfied that this map was essentially a precursor of the proposals which the Council Planners ultimately outlined to councillors in October 1990 via Map DP90/123. Considering the

limited rezoning being contemplated for the Carrickmines Valley as of December 1990 / January 1991, the Tribunal had no doubt but that Mr Kennedy appreciated the importance of lobbying councillors in order to achieve a more extensive rezoning of the valley. The Tribunal was also satisfied that Mr Kennedy, in early 1991, appreciated that such an opportunity would present itself, in advance of the draft plan for the Carrickmines Valley being put on its first statutory display.

**5.61** Thus, the Tribunal found Mr Dunlop's evidence that in January 1991 he was contacted by Mr Caldwell in the manner described to be credible. The Tribunal accepted that he was shortly thereafter retained by Mr Kennedy in relation to the proposed rezoning of the PP/JW lands.

**5.62** The Tribunal's conclusions in this regard were underpinned by Mr Dunlop's account of his dealings with Mr Lawlor in the period January to May 1991 in relation to the PP/JW lands, and by Mr Dunlop's graphic description of his and Mr Kennedy's reaction to the manner in which Mr Lawlor exercised his vote as a councillor at the Special Meeting of 24 May 1991.<sup>18</sup> Given the Tribunal's acceptance of Mr Dunlop's evidence in this regard, it followed, as a matter of logic, that Mr Dunlop was retained as a lobbyist in relation to the lands prior to 24 May 1991.

**5.63** The Tribunal also concluded that Mr Caldwell probably knew of Mr Dunlop's retention as of January 1991. Indeed it would be illogical to suppose otherwise, given that the Tribunal was satisfied that Mr Dunlop was sent to Mr Kennedy by Mr Caldwell in January 1991 in relation to the lands.

**5.64** The Tribunal also accepted Mr Dunlop's evidence that Mr Kennedy conveyed to him that he (Mr Kennedy) was aware that money would have to be paid to councillors as part of any rezoning campaign in order to secure sufficient councillor support. It likewise accepted Mr Dunlop's evidence that Mr Kennedy mentioned Cllr Hand's name to him in the context described by Mr Dunlop in evidence (namely, that Cllr Hand had previously sought money in relation to other lands). The Tribunal also accepted Mr Dunlop's evidence that a sum of IR£25,000 was duly handed over in the manner outlined by him and for the purposes stated by him. The Tribunal was satisfied that it was intended by Mr Kennedy that Mr Dunlop would use all or a portion of the IR£25,000 to make corrupt payments to councillors.

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<sup>18</sup> See below.

**5.65** The Tribunal considered that, contrary to Mr Caldwell's speculation, it was unlikely that Mr Dunlop lied about the IR£25,000 as retribution for his failure to have the Baldoyle lands rezoned. In particular, there was no evidence to suggest that either Mr Caldwell or Mr Kennedy had been responsible for the failure of the Baldoyle lands project.

**5.66** In relation to the success fee, and Mr Dunlop's alleged use of his company Shefran to receive that fee, the Tribunal considers it conceivable that Mr Dunlop would have used that company in this way. In 1991 and 1992 Mr Dunlop was using Shefran to receive funds from other landowners/developers. Thus, the Tribunal could not exclude, despite Mr Dunlop's protestations, the possibility that Mr Dunlop may have volunteered this company as the corporate entity through which he would receive a success fee from Mr Kennedy / Paisley Park. However, the Tribunal noted that, notwithstanding Mr Caldwell's assertions, neither he nor Paisley Park were in a position to produce any evidence of such a letter having emanated from or on behalf of Paisley Park, either to Mr Dunlop, to Shefran or indeed to any company whose name began with the letter "S". In contrast, Mr Caldwell was in a position to provide a letter from Mr Bullock concerning the 1991 rezoning submission.

**5.67** While it accepted as logical the suppositions put to Mr Dunlop with regard to his 5 February 1991 diary entry, the Tribunal preferred Mr Dunlop's testimony to that of Mr Caldwell that the agreed success fee in 1991 was IR£100,000. As the lands were not rezoned in the course of the Review of the 1983 Development Plan, and thus no success fee was paid to Mr Dunlop, the Tribunal perceived no benefit for Mr Dunlop, in his dealings with the Tribunal, to have claimed an agreed success fee figure other than the one actually agreed with Mr Kennedy.

**5.68** The Tribunal however was not convinced by Mr Dunlop's inability to recall what the diary entry of 5 February, 1991 represented. It believed that Mr Dunlop chose not to disclose this information to the Tribunal. Notwithstanding Mr Dunlop's extensive client portfolio over the course of his years in public relations and as a lobbyist, the Tribunal could not conceive of a circumstance whereby Mr Dunlop could have forgotten the detail relating to a promised payment of IR£200,000 in early 1991.

**5.69** While the Tribunal believed that Mr Caldwell knew considerably more about Mr Dunlop's retention by Mr Kennedy in January 1991 than he disclosed to the Tribunal, the Tribunal was not satisfied that Mr Caldwell was aware that Mr Dunlop's *modus operandi* would involve the making of corrupt payments to councillors.

**MR DUNLOP'S LOBBYING ACTIVITIES FOR PP/JW****THE LEAD UP TO THE SPECIAL MEETING OF 24 MAY 1991**

**5.70** Mr Dunlop acknowledged the importance of the Special Meeting of 24 May 1991 at which a Draft Plan for the Carrickmines Valley was due for consideration, in advance of the first statutory display of the Draft Development Plan.

**5.71** Prior to that meeting, Mr Dunlop had meetings with Mr Kennedy at his arcade. Mr Caldwell was present at one of those meetings. At that meeting the discussion centred on the potential opportunity for the rezoning of the PP/JW lands presented by the imminent first statutory display of the Draft Development Plan. Mr Kennedy believed that he had a good chance of achieving a rezoning of the lands prior to the first public display. According to Mr Dunlop, Mr Kennedy and Mr Caldwell discussed the proposals made by the Manager in October 1990, which they had recognised as official support for the rezoning of lands in the area, (including the PP/JW lands), in the context of a proposed Development Plan for the overall Valley.<sup>19</sup> Mr Kennedy's belief at the time was that this possibility should be exploited.

**5.72** Mr Dunlop stated that on foot of his discussions with Mr Kennedy, he lobbied a number of councillors for their support for the rezoning of the PP/JW lands as proposed by the Manager in 1990 in the Draft Development Plan which was due to go out on public display. He maintained that he lobbied quite a number of councillors in relation to both the PP/JW lands and other matters in which he was involved. Mr Dunlop stated that he specifically spoke to Cllrs Gilbride, Larkin, Gallagher, Hand, Lydon, Fox, McGrath and L. T. Cosgrave in relation to the PP/JW lands.

**5.73** In the course of his contact with Mr Kennedy at this time, the latter did not ask for progress reports nor did he inquire as to whom Mr Dunlop had spoken. Mr Dunlop stated that local councillors in the Carrickmines area were being put under significant pressure by a number of organisations including the Carrickmines Preservation Association. At this time the local election was imminent and people were positioning themselves. Mr Dunlop said that Cllrs Gilbride, Larkin, Gallagher, Hand, McGrath and Fox were supportive of the rezoning. However, Cllrs Lydon and L. T. Cosgrave expressed reservations – Cllr Cosgrave lived locally.

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<sup>19</sup>On Map DP90/123 as presented to the Council in October, 1990 by the Manager the PP/JW lands were shown zoned industrial with a portion thereof zoned residential. Prior maps, as prepared by the Council DP90/110 and an earlier version of DP90/123 also proposed such zoning for the lands.

**5.74** Mr Dunlop stated that of the councillors lobbied by him in the run up to the 24 May 1991 Council meeting, Cllrs Hand, Fox, McGrath, Gilbride, Larkin and Gallagher requested money in return for their support.

**5.75** Mr Dunlop maintained that notwithstanding such requests, he refused to make payments to those councillors specifically in relation to the PP/JW lands. This was because of the fact that he was already making payments to those councillors in the course of the Local Election campaign, then underway.<sup>20</sup> Mr Dunlop described himself as being under siege by councillors seeking money in that period. He felt that the payments he was making to councillors in the context of the forthcoming June 1991 Elections, albeit as part of his lobbying campaign for Quarryvale, would be sufficient to ensure that those councillors exercised their vote in a manner favourable to the PP/JW lands proposal on 24 May 1991.

**5.76** Having regard to the reasons, as found by the Tribunal, for Mr Kennedy's retention of Mr Dunlop in 1991, the Tribunal was satisfied that Mr Dunlop did lobby councillors in the period leading up to 24 May 1991 to have the PP/JW lands displayed as rezoned during the first statutory display of the Draft Development Plan.

**5.77** On his account of events, Mr Dunlop had the use of Mr Kennedy's IR£25,000 for some fourteen/fifteen months, before he expended it on councillors in relation to the Carrickmines lands.

### THE SPECIAL MEETING OF 24 MAY 1991

**5.78** At the Special Meeting of 24 May 1991, the Manager's report on the Carrickmines Valley was read. That report recommended that the Council adopt one of the following three options for the purposes of the display of the draft Development Plan. These options were:

- 1) [Map DP90/129A](#): the 1983 Development Plan to remain unchanged except for updating to reflect changes since 1983
- 2) Map DP90/123: the planners' proposal of October 1990, rejected on 6 December 1990
- 3) Maps 26 and 27: as considered and noted at a special meeting of the Council on 18 January 1991.

**5.79** At this meeting the councillors voted, by a majority of two votes, in favour of option 1. This option was the least favourable to Paisley Park's rezoning ambitions. As a result of this vote the PP/JW lands retained their agricultural zoning when the Draft Plan was put on public display between September and

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<sup>20</sup>See Chapter Two - Quarryvale. Mr Dunlop cashed his first Shefran cheque from Riga on 17 May 1991.

December 1991. Had Option 2 been adopted, then the PP/JW lands would have been shown as zoned Industrial / Residential during the first public display of the Draft Plan.

**5.80** Of the councillors Mr Dunlop claimed to have lobbied in advance of this special meeting of the County Council, Cllrs Gilbride and Larkin were not recorded as having voted (and probably were not in attendance at the meeting), while Cllrs Gallagher, Hand, Lydon, Fox and McGrath voted against Option 1. Cllr Cosgrave was listed as being in attendance, but did not vote.

**5.81** Mr Lawlor voted in favour of Option 1, one of five Fianna Fail councillors who voted in this manner. In the course of his testimony Mr Dunlop accepted this to have been the case, despite his earlier assertion that Mr Lawlor was the only Fianna Fail councillor to have voted in this way.

#### MR DUNLOP'S EVIDENCE REGARDING THE WAY MR LAWLOR VOTED AT THE MEETING OF 24 MAY 1991

**5.82** Mr Dunlop stated that in the immediate aftermath of the vote of 24 May 1991 Mr Kennedy was quite annoyed<sup>21</sup> about the way Mr Lawlor had voted. Mr Kennedy had used words to the effect that one would think that because Mr Lawlor had a beneficial interest in the lands he would have voted otherwise than he did. Mr Dunlop stated that he never received a satisfactory explanation from Mr Lawlor as to why he had voted as he did on 24 May 1991.

**5.83** Notwithstanding the fact that on the Draft Development Plan as displayed between September and December 1991 the PP/JW lands were zoned agricultural, Mr Dunlop understood that it was still possible for Paisley Park to submit a proposal seeking the rezoning of the lands, after the first statutory display of the Draft Development Plan. Mr Dunlop said that both he and Mr Kennedy had been apprised of this by Mr Lawlor.

**5.84** Mr Dunlop maintained that although Mr Lawlor was no longer a councillor following the June 1991 Local Elections he continued to be involved in efforts to have the PP/JW lands rezoned by way of advising Mr Dunlop and Mr Kennedy as to how they should proceed with those efforts.

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<sup>21</sup>Mr Caldwell while disputing any involvement by Mr Dunlop at this time, also testified that he too was aware that Mr Kennedy had been annoyed by Mr Lawlor's vote.



**MR DUNLOP’S INVOLVEMENT IN THE PERIOD BETWEEN THE  
MEETING OF 24 MAY 1991 AND THAT OF 12 JUNE 1992 AND HIS  
LIAISONS WITH MR KENNEDY AND MR CALDWELL**

**5.85** On 3 December 1991 a [zoning submission](#) was lodged with the Council on behalf of Paisley Park.<sup>22</sup> Mr Dunlop stated that he was not involved in the preparation of this submission, although he knew it was being prepared and he knew Mr Lawlor was assisting in that regard. Mr Kennedy made reference to “Liam” looking after the technical matters pertaining to this submission. Mr Dunlop said that he had no recollection of Mr Lawlor speaking to him specifically in relation to it or about the role he was playing in it.<sup>23</sup>

**5.86** Mr Dunlop stated that in the lead up to the rezoning vote in June 1992 he did not recall receiving any documentation or submissions from Mr Caldwell in relation to the rezoning attempts, notwithstanding Mr Caldwell’s assertion, in his statement of November 2002, that he had provided Mr Dunlop with a copy of the Paisley Park submission.

**5.87** In 1992 a decision was made that Paisley Park would seek the rezoning of the entire of its lands. According to Mr Dunlop this decision arose from discussions he had separately with Mr Kennedy and Mr Lawlor.

**5.88** In April 1992, Dublin County Council commenced the formal consideration of the Draft Development Plan, following the expiry of the first statutory display period and the receipt of oral representations on the Draft Development Plan.

**5.89** Mr Dunlop said that he had no doubt but that in the course of his meetings with councillors in this period he lobbied them on behalf of the PP/JW lands.

**5.90** Mr Dunlop’s diary revealed meetings with Mr Caldwell on 12 March 1992, 23 March 1992 and 1 May 1992. On 19 March 1992, his diary recorded a meeting with Mr Kennedy (together with a Mr Dobson).<sup>24</sup> It recorded a meeting with both Mr Caldwell and Mr Kennedy together on 27 March 1992.

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<sup>22</sup>It was lodged by D. McCarthy & Associates and it sought the rezoning of the lands of Paisley Park as a District centre and Business park and sought as an alternative residential / neighbourhood zoning.

<sup>23</sup>For a consideration of Mr Lawlor’s involvement with this submission see the chapter on Mr Lawlor. The Submission made reference to the fact that in October, 1990, the Manager’s proposal (DP90/123) had zoned the lands Industrial / residential. Between Mr Finnegan’s attendance at the Representation Hearing with the Council on 2 March 1992 and 1 April 1992 the District Centre part of the proposal was dropped for one seeking an all industrial rezoning.

<sup>24</sup>Mr Dunlop told the Tribunal that he had no recollection of ever meeting Mr Kennedy and Mr Dobson together.

**5.91** Mr Dunlop described the 27 March 1992 meeting as a strategy meeting to discuss the rezoning proposed for the lands and what was happening overall in the context of the Development Plan Review. Mr Dunlop told the Tribunal that he did not recall discussing the O'Halloran consortium rezoning proposals with Mr Kennedy or Mr Caldwell at that time. Nor had he discussed with the latter Mr Kennedy's rezoning proposals for the PP/JW lands.<sup>25</sup>

**5.92** Mr Dunlop confirmed that he also met Mr Caldwell on 1 May 1992 in relation to the Paisley Park rezoning motion. According to Mr Dunlop this meeting was about the mechanics of that motion. It was probable that Mr Dunlop told Mr Caldwell that it was intended to get Cllrs Hand and Lydon to sign it. The 4 May 1992 was the final day for the lodging of motions in relation to the lands in question.

**5.93** Mr Dunlop's [diary for 1 May 1992](#) recorded meetings with Cllrs Lydon and Hand (the signatories to the May 1992 Paisley Park motion) as did his [diary for 4 May 1992](#).<sup>26</sup>

**5.94** Notwithstanding the crucial timeframe, and the context in which Mr Dunlop met with Mr Caldwell on 1 May 1992, there was, according to Mr Dunlop, no discussion between the two as to whether monies would have to be paid to Cllrs Lydon or Hand. Mr Dunlop stated that that issue never arose in his dealings with Mr Caldwell and he never discussed the issue of money with Mr Caldwell in any context, including whether or not he intended to or had disbursed monies to councillors. This issue was only discussed with Mr Kennedy and Mr Lawlor, apart from the individuals to whom Mr Dunlop gave money.

**5.95** Asked why he had waited until the eleventh hour before getting the Paisley Park motion signed, Mr Dunlop stated that councillors had been reluctant to discuss the Paisley Park rezoning issue. This reluctance was attributable to the controversy that was ongoing in relation to the Carrickmines Valley at that time, because of proposals that were being considered in relation to other lands adjacent to the PP/JW lands in that valley (the Monarch / Cherrywood lands).

**5.96** On 5 May 1992, following the lodging of the Paisley Park motion (in the names of Cllrs Lydon and Hand) Mr Dunlop met again with Mr Caldwell and Mr Kennedy.

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<sup>25</sup>At this time records indicated that Mr Kennedy and Mr O'Halloran were in contact in relation to their respective rezoning proposals.

<sup>26</sup>See section on Mr Dunlop's dealings with Councillors.

**5.97** Mr Dunlop also met Mr Caldwell on 8 June 1992 – four days prior to the Paisley Park Motion being voted on by Dublin County Council.

#### MR CALDWELL'S EVIDENCE

**5.98** Mr Caldwell maintained that the meetings on the 5 May and 8 June 1992 both related to the oral submission made to the County Council in March 1992 in respect of which Mr Caldwell had prepared summaries for Mr Dunlop. Mr Caldwell suggested that other meetings were probably updates by him in relation to negotiations in which he was engaged in relation to the Carrickmines Golf Course and the proposed line of the SEM. Mr Caldwell said he interacted only with Mr Dunlop and Mr Kennedy in relation to the rezoning issue, and that his particular skill was in organising documentation and preparing summaries.

**5.99** In the crucial period from 1 March to 12 June 1992, Mr Dunlop had three meetings with Mr Kennedy (two in the company of Mr Caldwell) and eight meetings with Mr Caldwell (two in the company of Mr Kennedy). Therefore, Mr Dunlop had more contact with Mr Caldwell than with Mr Kennedy during this period. The Tribunal considered the extent of Mr Caldwell's liaison with Mr Dunlop during this period to be significant.

#### THE SPECIAL MEETING OF DUBLIN COUNTY COUNCIL OF 12 JUNE 1992

**5.100** At the Special Meeting of the Council on 12 June 1992, a motion was put before the Council seeking to have the PP/JW lands rezoned for industrial use. This motion was proposed by Cllr Lydon and seconded by Cllr Hand. The Manager's report on that occasion stated that the PP/JW lands were not suitable for industrial development in view of their isolated location, and difficulty of access. The motion was lost (24 voted in favour, 26 voted against, with one abstention). All of the councillors (except Cllr O'Halloran who was not present at the meeting) whom Mr Dunlop claimed that he bribed in 1992 voted in favour of the rezoning namely; Cllrs Lydon, Hand, McGrath, LT Cosgrave, Gilbride, Fox, Gallagher and Larkin.

**5.101** As a consequence of this meeting, the PP/JW lands retained their agricultural zoning status when the Draft Plan went on its second public display in July 1993 and subsequently, when the Development Plan was adopted by the County Council in December 1993.

**5.102** *The Tribunal's conclusions:*

- (i) Did Mr Dunlop lobby councillors in the period January 1991 to 24 May 1991, so that the PP/JW lands would be displayed as rezoned during the first statutory display of the Draft Development Plan for Carrickmines?

The Tribunal was satisfied that he did so, having regard to the reasons, as found by the Tribunal, as to why he was retained by Mr Kennedy in 1991. In this regard see above.

- (ii) Was Mr Dunlop credible in his claim that, although he had received £25,000 in cash from Mr Kennedy for the purposes, inter alia, of making disbursements to councillors, he did not spend this money on issues specific to Paisley Park in the course of his lobbying in the lead up to the 24 May 1991, notwithstanding his claim that a number of councillors requested money from him in 1991 for their support?

The Tribunal found this claim by Mr Dunlop credible. In so finding, the Tribunal took cognisance of Mr Dunlop's evidence in the Quarryvale Module that in May 1991 when lobbying councillors to support a motion which was lodged on 15 February 1991 to rezone the Quarryvale lands requests were made of him by named councillors for election contributions. According to Mr Dunlop, all those councillors to whom he made election contributions in the period May/June 1991, (bar Cllr Gallagher) had, when requesting such contributions, made specific reference to their support for the Quarryvale rezoning. Mr Dunlop also testified that all of the election contributions which he paid in the period May/June 1991 to named councillors (including the contribution given to Cllr Gallagher) were in reality paid to promote the rezoning of the Quarryvale lands, although such contributions were given under the guise of election contributions for the local election happening around that time.

The thrust of Mr Dunlop's evidence in the Carrickmines Module was that as he was making or had promised to make the abovementioned election contribution payments in May 1991, he felt that this was sufficient to cause those councillors in receipt of or promised such contributions to look favourably on his lobbying endeavours in May 1991, vis-à-vis the PP/JW lands.

- (iii) Mr Dunlop's activities in the lead up to the Special Meeting of the 12 June, 1992 and his involvement with councillors in this period.

Mr Dunlop did not give evidence of having any discussion with Mr Kennedy post January 1991 about the manner in which Mr Dunlop was to carry out his functions as a lobbyist. However, Mr Dunlop testified that, in 1992, when a rezoning motion for the PP/JW lands was being contemplated, and indeed produced, and when he embarked on the lobbying of councillors, he carried with him the “*mental*” note that he had been given IR£25,000 in cash by Mr Kennedy which was to be utilised by him in making disbursements to councillors, in aid of the Paisley Park rezoning proposal. Based on Mr Dunlop’s testimony regarding his initial meeting with Mr Kennedy, and the reason he received IR£25,000 cash from Mr Kennedy, the Tribunal was satisfied that Mr Dunlop, in disbursing payments to councillors in June 1992 in connection with their support for the Paisley Park rezoning motion, was doing no more than had been contemplated (and agreed) by himself and Mr Kennedy in 1991.

### **THE O’HALLORAN CONSORTIUM’S REZONING ATTEMPTS AND THEIR RELATIONSHIP WITH MR KENNEDY POST 1991**

**6.01** As was the position vis-a-vis a portion of the PP/JW lands, Map DP90/123, which was before the Council in October 1990, included a change of use for the O’Halloran Consortium lands from agricultural to industrial. This, Mr O’Halloran told the Tribunal, had come as ‘*a complete surprise*’ and was obviously not unwelcome. Mr O’Halloran acknowledged that on that map the proposed line of the SEM was to the southern edge of the O’Halloran Consortium lands<sup>27</sup> and that the map provided for a junction to be located close to the O’Halloran Consortium lands as well as for feeder roads. Such infrastructure would have opened up the area for development.

**6.02** The Council’s rejection, on 6 December 1990, of Map DP90/123 meant that development opportunities for lands in the Carrickmines valley were limited to the area north/east of the proposed line of the SEM. This was not completely adverse to the O’Halloran Consortium’s rezoning ambitions, given that the vast majority of their lands were located in that area. Equally, maps which were prepared by the Council officials in January 1991 (Maps 26 and 27) to take account of the events of 6 December 1990 showed the O’Halloran Consortium lands with a residential zoning, a positive outcome for the Consortium. Map DP90/123 and Maps 26 and 27 were again before the Council on 24 May 1991 (as Options 2 and 3) and either, had they been adopted by the Council, would have been beneficial to the O’Halloran Consortium lands. However, as was the case with the PP/JW lands, the Council’s adoption on 24 May 1991 of the 1983

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<sup>27</sup>In the 1983 Development Plan the proposed line of the SEM traversed the O’Halloran Consortium lands.

plan with updates (Option 1) as the Draft Plan meant that the Consortium's lands retained their agricultural zoning during the statutory display.

**6.03** On 29 August 1991 Mr O'Halloran wrote to Mr Kilcoyne as follows:

*According to Jim Kennedy, proposed revisions to the Dublin County Council Development Plan will be published on September 3<sup>rd</sup> and will remain on public display for three months from that date. Our lands will remain zoned as they presently are and as a direct result of the vote taken by the Dublin County Council in late May. From September 3<sup>rd</sup> we will have a similar three month period to make a submission to Dublin County Council outlining a case to have our lands rezoned. That submission must be made by a competent Town Planner and must put forward a very good case (we are aware that the Dublin County Council's Planners are totally in favour of significant rezoning in the Carrickmines area insofar as they are perfectly aware that lands for further development in the area are presently not available, major rezoning therefore is the only solution to this problem). Jim Kennedy will likewise make a submission in respect of Tracey's farm, he has suggested the details of both submissions should be closely coordinated. Other major land owners in the area who now find themselves in a similar position to us will equally make submissions, foremost will be Phil Monahan for Monarch Properties. I am sending you a copy of his recent letter to me suggesting that we might meet to discuss this mutual matter, also my reply, I now await confirmation of meeting detail. Jim Kennedy confirmed today that he has signed the Dublin County Council Carrickmines Valley Sewer Wayleave Agreement recently received by him insofar as he considers this is a step forward in the area being developed, he is aware that I resisted signing the Agreement received some months ago by me and urged that I should change my mind. I am aware further that you recently received a Wayleave and when we next meet we will discuss what our attitude might be towards those. When the submission earlier referred to will have been made to Dublin Council, we must take the precaution of lobbying the Councillors who will be involved in the decision making process and for that reason as already hinted, we will have no option but to employ somebody experienced and skilled in this work – I outlined my likely approach to find the right person.*

**6.04** In a further letter to Mr Kilcoyne on 19 September 1991, following their meeting on that day with Mr Kennedy and Monarch executives, Mr O'Halloran reflected on what had occurred at County Council level between October 1990 and September 1991 as follows:

*First of all, the recently published amendments proposed by Dublin County Council to the current Development Plan clearly shows our lands zoned for Agriculture. Jim Kennedy's lands has a similar zoning, Monahan's has a different category which is to 'preserve residential amenities'. This zoning shake-out is a direct consequence to the important meeting last May when Dublin County Council decided by a narrow margin to revert to the current zoning picture with very limited modifications. The amendments now proposed by Dublin County Council to its current development plan are on public display until the beginning of December during which time any property owner may make representations. For our part we must now make a strong submission to argue our case why our lands should be zoned for residential development.*

*You will be aware that the County Council's December 1990 proposal called for major development in the Carrickmines area, as a result of an outcry this was significantly watered down and resulted in a revised proposal which was published prior to the May 1991 Council meeting already referred to. That proposal showed a significant amount of residential rezoning including all of our lands.<sup>28</sup>*

*The Council's own Planners are in total favour of the May 1991 proposal insofar as there is an extreme shortage of new lands for development in the area, if further lands do not become available it will have the effect of pushing up lands with appropriate zoning to a very high cost level which will be extremely inflationary. It is the policy of any Local Authority to take measure to avoid that situation.<sup>29</sup>*

**6.05** Mr O'Halloran also advised Mr Kilcoyne that *'they must now contemplate making a well constructed submission to Dublin County Council; this will necessitate a professional involvement, it is a task that lies beyond our reach, it must involve an experienced Town Planner'*.

**6.06** Mr O'Halloran recommended the retention of Dr Brian Meehan as the *'experienced Town Planner'*. Dr Meehan was subsequently retained. Mr O'Halloran, in his letter to Mr Kilcoyne, again counselled *'We will require to lobby*

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<sup>28</sup>This was probably a reference to the fact that in January 1991, following the 6 December 1990 rejection of Map DP90/123 the County Council planners published Maps 26 and 27 which provided for residential and industrial zoning of a substantial area of land north/east of the proposed SEM line, including the O'Halloran consortium lands (but excluding the PP/JW lands). Maps 26 and 27 represented Option 3 in the Report the County Manager circulated to Councillors on the 24 May 1991.

<sup>29</sup>The meaning of this paragraph is somewhat unclear, given the reference to *'the May 1991 proposal'* but the tenor of Mr O'Halloran's letter suggested his awareness of the plans the County Council Planners were advocating for the Carrickmines Valley in October 1990. He probably intended to refer to "option 2" (i.e. Map DP90/123 of October 1990).

*all of the elected members well before our submission comes up for consideration, if we fail to do that we run the distinct prospect of failure. Therefore we will require to retain a person experienced and competent to undertake this task for us, and in that regard there are two<sup>30</sup> names I would like to raise with you.'*

**6.07** On 3 December 1991, a submission prepared by Dr Meehan (representation number 837) was made to Dublin County Council in respect of the O'Halloran consortium lands which sought their rezoning to either A1 (residential) or E (industrial) or AP (to provide for residential development on pipe sewerage) for some 22.5 acres of lands.<sup>31</sup> The decision to seek industrial as well as residential zoning was on the advice of Mr Kennedy, as evidenced by Mr O'Halloran's letter to Dr Darragh on 4 December 1991. It stated:

*The submission requests re-zoning for either residential or industrial uses, the latter was added as an option on Jim Kennedy's advice, when I was in recent contact with him he told me about a mounting local campaign for jobs in the area and in line with the Dublin County Council's own Planners, he told me that he would seek industrial zoning for the bulk of Tracey's farm now owned by him.*

*This therefore keeps our options open, it remains to be seen whether the Council's own Planners will have their way and whether they will have to bow to local pressures from influential people who I understand have resigned to low density residential development...*

*As the Carrickmines Valley area is a high profile and controversial topic just now, it is very likely that there will be a rather prolonged and heated debate. Jim Kennedy will tell me the date of the Council's meeting when this will take place as before then it will be essential that we should lobby any support that we can muster and in that specific context I will be in touch with you in good time to find out if you can lend assistance in achieving that.*

**6.08** On 4 December 1991 also, Mr O'Halloran wrote to Dr Meehan, thanking him for the 'excellent submission', and he advised that:

*Jim Kennedy, who owns the farm immediately to the south of our property and who has made a separate submission on his own account will advise me of the date when the Council will meet to discuss submissions for the*

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<sup>30</sup>Notwithstanding the reference to "two names" it would appear that by this time Mr O'Halloran had Mr Dunlop in mind for this project.

<sup>31</sup>Mr O'Halloran met Mr Dunlop on 3 December 1991. On the same date D McCarthy & Co. lodged a submission on behalf of Paisley Park (representation no. 972) which proposed the rezoning of some 108 acres of its lands from agriculture to district centre/business park, or alternatively to residential.



*Carrickmines area in general. As this area is regarded as a high profile and controversial one, there are bound to be many different opinions and long before that meeting it is my intention to lobby whatever political support I can in order to press home our case.*

**6.09** On 29 January 1992, Dr Meehan made an oral submission to the County Council in support of the rezoning of the O'Halloran Consortium lands. Approximately one month later, Paisley Park, also by way of oral submission, pressed for the rezoning of its lands.

**6.10** By the spring of 1992, both the O'Halloran Consortium and Mr Kennedy envisaged that the County Council would shortly embark on a consideration of the submissions and representations which it had received following the display of the Draft Development Plan in September/December 1991.

### **THE O'HALLORAN CONSORTIUM'S CONTACT WITH MR KENNEDY BETWEEN 1991 AND 1992**

**6.11** Liaison between the O'Halloran Consortium and Mr Kennedy continued throughout 1991 vis-a-vis their rezoning ambitions for their respective land holdings. As was evident from the above quoted letter, as of 19 September Messrs O'Halloran and Kilcoyne had resolved to keep in close contact with both Mr Monahan and Mr Kennedy 'so that we will muster their support as far as they will be prepared to give it to us'. Mr O'Halloran advised that 'on no account should our submission adversely clash or be in conflict with theirs in case we might lose out. How we might achieve this compatibility remains to be seen but there is ample time to debate this and arrive at a conclusion'.

**6.12** Both Mr O'Halloran and Mr Kilcoyne testified that an arrangement had been reached whereby the O'Halloran Consortium would co-operate with Mr Kennedy by way of the exchange of information regarding their respective rezoning attempts during the review of the 1983 Development Plan. However, they both believed that the information sharing process was not one of equality and that while Mr Kennedy was being apprised of their lobbying efforts, he himself was not quite so forthcoming with information. He described Mr Kennedy as a 'forager of information'.

**6.13** In the course of his testimony Mr O'Halloran, while acknowledging the regular contact he had with Mr Kennedy in the period 1988 to 1991 (sometimes in the company of Mr Kilcoyne and professional advisors on both sides), appeared to suggest that his and Mr Kennedy's contact lessened in the crucial period March to June 1992. Specifically, Mr O'Halloran could not "recall" his contact with Mr Kennedy during that period. However, it appeared to the Tribunal

from correspondence between Mr O'Halloran, his solicitor, Mr Gore-Grimes, and his consortium partners that there was contact between the consortium and Mr Kennedy and/or Mr Caldwell in this latter period.

**6.14** Mr O'Halloran told the Tribunal that he did not show the rezoning submission prepared by Dr Meehan in December 1991 to Mr Kennedy nor, he believed, was he shown the zoning submission which Paisley Park made to Dublin County Council on 3 December 1991. The Tribunal found this difficult to credit, given the extent of cooperation between the two sets of landowners at this time.

**6.15** On 24 February 1992, Mr Caldwell wrote to Mr Gore Grimes requesting an extension of the time limit provided for in the covenant agreement of 31 May 1990, which was due to expire on 30 November 1992. As previously mentioned, pursuant to that agreement Mr O'Halloran, Dr Darragh and Mr Kilcoyne had agreed to release/assign their interest in the deed of covenant over the PP/JW lands once certain conditions were met. It appeared that Mr Kennedy sought to have the agreement extended by a further 18 months after 30 November 1992.<sup>32</sup> This was probably attributable to the fact that the Development Plan review was still at a relatively early stage and was progressing much more slowly than had been envisaged when the agreement was concluded. In the course of his letter to Mr Gore Grimes, Mr Caldwell referred to '*the zoning issue*' being '*at a very crucial stage*'.

**6.16** On 24 March 1992, Mr O'Halloran wrote to Mr Kilcoyne advising him that the rezoning motions for the lands in the Carrickmines/Loughlinstown area were likely to come before Dublin County Council in the second week of April 1992. Mr O'Halloran informed Mr Kilcoyne that he had been advised of this by Mr Kennedy. He also advised Mr Kilcoyne that long before any such rezoning motions would come before the County Council '*we will have to make appropriate representations and before we do so, Jim Kennedy would like to meet with us to outline his strategy and compare notes with us*'. Mr O'Halloran further advised Mr Kilcoyne that he would be away until 30 March and wrote that on his return he would be in contact with Mr Kilcoyne '*To find out when you might be available for a meeting with Jim Kennedy, that must take place as soon as ever possible*'.

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<sup>32</sup>On 9 April 1992 Mr Caldwell wrote to Mr Gore Grimes stating that '*Brian O'Halloran has agreed to the extension requested. I would be obliged if you could please contact him.*'

By 21 April 1992 Mr O'Halloran was advising his solicitor, Mr Gore Grimes, that '*there would be nothing to gain by not agreeing to Jim Kennedy's request through John Caldwell*'. (This extension agreement was never subsequently concluded.)

**6.17** Notwithstanding this request to Mr Kilcoyne, Mr O'Halloran told the Tribunal that he was unable to confirm whether or not the proposed strategy meeting with Mr Kennedy took place and no memorandum of any such meeting was produced to the Tribunal. Indeed, although meetings with Mr Kennedy did take place on 18 December 1992 and 9 February 1993, the Tribunal was not given any memorandum of those meetings either. Mr O'Halloran believed that he might have changed his mind regarding a strategy meeting with Mr Kennedy in the period March to June 1992.

**6.18** When asked on Day 371 if he recalled a meeting with Mr Kennedy at this time, Mr Kilcoyne stated that he did, but would rely on what Mr O'Halloran had recorded, as it was Mr O'Halloran who invariably took notes and minutes of meetings, save where he requested Mr Kilcoyne to do so.

**6.19** Mr Kilcoyne however could not recall whether or not such a strategy meeting had taken place with Mr Kennedy prior to Mr Kilcoyne and Mr O'Halloran meeting Mr Dunlop on 31 March 1992. Moreover, he had '*absolutely zero recall*' of what transpired at this "strategy" meeting if it did take place. He surmised that had such a meeting taken place, Mr O'Halloran, as '*an extremely meticulous keeper of records*' would have recorded same. Asked why he felt a meeting with Mr Kennedy (clearly envisaged as per Mr O'Halloran's letter to Mr Kilcoyne on 24 March 1992) had not taken place, Mr Kilcoyne said that he did not know and surmised that perhaps Mr O'Halloran had contacted Mr Kennedy by telephone.

**6.20** On 21 April 1992 Mr O'Halloran advised his solicitor Mr Gore Grimes that they had '*joined forces with Jim Kennedy*' to compare notes with him '*on strategy to follow, pitfalls to avoid etc*'.

**6.21** The Tribunal was satisfied that Mr O'Halloran and Mr Kennedy were in contact at this time, particularly having regard to the content of Mr O'Halloran's letter to Mr Kilcoyne of 24 March 1992 and given Mr O'Halloran's belief that Mr Kennedy knew the '*nuts and bolts*' of the rezoning process. Moreover, Mr O'Halloran, as recorded in his memorandum of 17 April 1992, was to check with Mr Kennedy as to whether or not a motion required both a proposer and a seconder. This memorandum indicated that there continued to be close contact with Mr Kennedy in the period leading up to the Special Meeting in June 1992 and it was probable that both men compared notes, as envisaged by Mr O'Halloran in his 24 March 1992 letter to Mr Kilcoyne.

**6.22** Acknowledging that he had referred to Mr Kennedy as '*a good friend and ally*' in the course of a letter to Dr Darragh on 21 April 1992, Mr O'Halloran told the Tribunal that in April 1992 he was urging Dr Darragh '*with certain reservations*' to agree to extend the time limits set out in the covenant

agreement as sought by Mr Kennedy's lawyers. Mr O'Halloran maintained that he and his colleagues *'didn't want to cross Mr Kennedy's path because Mr Kennedy was a much more powerful property owner in the Valley than we were'*.

**6.23** Asked to identify the strategy which Mr Kennedy had advised Mr O'Halloran to follow in relation to rezoning motions in 1992, Mr O'Halloran replied: *'I would think that he said to me that Frank Dunlop, Mr Dunlop on his behalf was going to contact a range of councillors to put the case to them, why the land should be rezoned and we for our part were going to get Mr Dunlop to do the same thing in respect of our land and that really was the sum total of it.'*

## THE O'HALLORAN CONSORTIUM'S RETENTION OF MR DUNLOP

### MR DUNLOP'S EVIDENCE

**6.24** In his October 2000 statement to the Tribunal under the heading *'O'Halloran lands'* Mr Dunlop stated as follows:

*'In the early stages of the development plan, I was approached by Brian O'Halloran for advice regarding lands he and others owned in Carrickmines. I advised him and he dealt with the necessary motion to have his lands rezoned, himself. His endeavours were unsuccessful.'*

**6.25** Mr Dunlop and Mr O'Halloran were known to each other from the late 1980s. It was clear from their respective testimonies, as well as from the correspondence which passed between them prior to March 1992, together with diary entries, that, by at least mid 1991, they had discussed the rezoning of the O'Halloran consortium lands. Mr Dunlop referred the Tribunal to a number of diary entries confirming meetings with Mr O'Halloran in 1991, some of which he said related to Carrickmines. At this time, Mr Dunlop was also providing professional advice to Mr O'Halloran on behalf of a client of his, which involved liaison with Dublin City Council.

**6.26** While Mr O'Halloran's contact with Mr Dunlop in terms of the O'Halloran Consortium rezoning attempts commenced from mid 1991, it was probable that Mr Dunlop was not formally engaged by the Consortium until 31 March 1992. As set out previously, Mr Dunlop's retention by Mr Kennedy in relation to the PP/JW lands commenced in late January 1991.

### MR O'HALLORAN'S EVIDENCE

**6.27** Mr O'Halloran told the Tribunal that he himself had arrived at the conclusion that it was necessary to lobby councillors and that he did not see the sense of it being left to a professional town planner. He perceived lobbying to be effectively a marketing exercise and he said he duly engaged Mr Dunlop's services on that basis.

**6.28** On 3 September 1991 Mr O'Halloran wrote to Mr Dunlop thanking him for having furnished him with a list of the elected councillors and their addresses, a list which Mr Lawlor had provided to Mr Dunlop the previous month.<sup>33</sup>

**6.29** Despite having been provided with this list, Mr O'Halloran maintained that he had not then made contact with councillors and it was his belief that Mr Dunlop was employed to make that contact. Mr O'Halloran stated that because he and his colleagues did not know any of the councillors on the list, he directed Mr Dunlop to *'go out and meet them all'*.

**6.30** Mr O'Halloran told the Tribunal that he could not recall when he became aware that Mr Dunlop had also been retained by Mr Kennedy, but he maintained that this fact would not have influenced his decision to recruit Mr Dunlop. He said that he had decided to retain Mr Dunlop following consultation with his fellow landowners. Mr O'Halloran, together with Mr Kilcoyne, met Mr Dunlop on 31 March 1992, a meeting which he described as *'short and sweet'*, and in the course of which Mr Dunlop was instructed to lobby councillors to support the rezoning of the O'Halloran consortium lands. Mr O'Halloran described the basis of Mr Dunlop's retention and the work he was expected to undertake in the following terms:

*'Well, as he was the professional we weren't going to dictate to him exactly what he should. What we asked him to do is to ensure that we would have a successful outcome to our rezoning motion and whatever he had to do and how he did it, well, that was up to him. This is a task that we didn't know very much about because we had never done it before so it was up to him to do it and he had the reputation of being good at this particular task.'*

#### MR KILCOYNE'S EVIDENCE

**6.31** According to Mr Kilcoyne, Mr O'Halloran strongly recommended Mr Dunlop. Mr Kilcoyne told the Tribunal:

*'The way I see it in soccer parlance it is like looking at the first division and saying there is only one side and no other side existed and that side is Manchester United, for example, in this particular case Mr Dunlop was the sole person who specialised in this area and he had no competition and he had a good reputation and he had a list of very top class clients and Mr O'Halloran was recommending him to Dr. Darragh and myself and we weren't in the business of disputing it or disagreeing with him. I couldn't have offered any alternative'.*

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<sup>33</sup> See Chapter Two

## DR DARRAGH'S EVIDENCE

**6.32** The consortium's strategy, according to Dr Darragh, was to employ someone who could take them 'through the minefield of lobbying County Councillors'.

## THE FEE ARRANGEMENT AND PAYMENTS TO MR DUNLOP BY THE O'HALLORAN CONSORTIUM

**6.33** Mr O'Halloran wrote to Mr Dunlop on 7 April 1992, following telephone contact on that date, in the following terms:

*Dear Frank,*

*As a follow up to our telephone conversation earlier today I am attaching to this letter three cheques for IR£500 in your favour from Gerard Kilcoyne, Austin Darragh and from me. This represents payment to you for the work which I asked you to undertake at a meeting here on March 31 to support our recent motion to Dublin County Council for the rezoning of our land at Carrickmines.*

*At that meeting you raised the question of an additional fee which would be paid to you by us three in the event of the land being favourably rezoned. In that event I would confirm that we will pay you an additional IR£8,500 bringing the total that would be paid to you to IR£10,000, that additional fee will be paid immediately following the favourable rezoning of the land.*

*This morning I told you that we bought this land in June 1978, at the time we had to pay a price well in excess of the market in order to secure it insofar as we bid against an adjoining owner who was determined to acquire the land.*

*Understandably, we would now like to see a reasonable return on that investment and for that reason alone it goes without saying that we hope for a successful outcome.*

**6.34** Mr O'Halloran stated that Mr Dunlop had requested a success fee, and that he and his associates were prepared to pay it. They felt that it was fair and would be an 'incentive' to Mr Dunlop.

**6.35** Mr Dunlop was unable to explain why his statement in October 2000 was silent on the fee arrangement agreed between himself and Mr O'Halloran on behalf of the consortium, in 1992. He accepted that he had received a fee of IR£1,500 in April 1992 and that he and Mr O'Halloran had agreed a success fee of IR£8,500.<sup>34</sup>

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<sup>34</sup> This fee was not paid as the lands were not rezoned in the course of the making of the 1993 Plan.

## MR DUNLOP'S KNOWLEDGE OF THE CONTACT BETWEEN MR O'HALLORAN AND MR KENNEDY

**6.36** Mr Dunlop claimed that in 1991 to 1992 he was unaware of the extensive contact taking place between Mr O'Halloran and Mr Kennedy but was aware of it in later years, (i.e. from 1996 onwards) because of the joint rezoning submissions and motions. Mr Dunlop claimed that he had no knowledge of the agreements which had been entered into between the O'Halloran consortium and companies associated with Mr Kennedy/Mr Caldwell in 1990. At some point, however, Mr Dunlop apprised Mr Kennedy that he was also advising Mr O'Halloran. Mr Dunlop stated that Mr Kennedy did not take issue with his involvement with Mr O'Halloran.

**6.37** Mr Dunlop acknowledged that from documentation and evidence produced to the Tribunal, and contrary to what he then believed to be the case, he now knew that Mr O'Halloran and Mr Kennedy had significant contact with one another in the years 1991 and 1992. On Day 346 Mr Dunlop stated:

*'For quite a significant amount of time I would have regarded individual landowners not as strategising together or but working against one another. I mean the objective of the exercise was obviously to maximise the benefit in relation to any particular ownership so Paisley Park, in my view, at that time was not interested in any altruistic way in ensuring that Brian O'Halloran's land was zoned or vice versa. But I can see the logic. I accept the logic of what – sorry, I don't accept it, I see the logic of what you are saying, but given that you are asking me did I discuss – as if this was one, you were making a Christmas cake and all these were the ingredients and you had various clients and you had various submissions and they are all interchangeable and one was looking out for the other and one was dependent or cross-referenced to the other, I don't think so. In fact, I am quite, quite certain it's not so. [...]*

*I didn't do very much for Mr O'Halloran in the context of his lands. I advised him what the requirements were in relation to getting – going about and getting these lands zoned. I'm sure you will come to a scenario in relation to fee structure and whatever which, in the context of other fees, in contrast was pretty minimalist. But while I accept the logic of what you are saying and the apparent logic of what you are saying and while I accept that you might find it strange I have some sympathy with the point that you are making, but I have to say to you that I have no recollection of ever entering into that type of collusive structure that you have just outlined. Why, for example, if I may put it, I don't mean to put in form of a question, but is it not the case that I have said that I did very little for Mr O'Halloran and his colleagues other than to advise them and*

*is it not also the case that I have told you that I know Mr O'Halloran conducted a very extensive lobbying campaign by himself and his colleagues and I didn't participate to any great extent in that but that I did observe it, and I did hear about it, there is nothing like a bunch of politicians putting them together to gossip about who was in contact with whom.*

*And obviously I did hear back from politicians that Mr O'Halloran and his colleague, Mr Kilcoyne, had lobbied them. But my awareness of the submission by Brian Meehan, my submission [sic] or otherwise of the submission by D. McCarthy & Partners, if that is the name, does not necessarily follow. And I am saying to you to the very best of my recollection and I think I am very accurate about this, Mr Gallagher, I do not believe that that type of collusive structure that you outlined existed. Now I am not aware of discussions between Mr Kennedy and Mr O'Halloran until I saw Mr O'Halloran's statement on circulation. I was not aware, for example, that Mr O'Halloran and Mr Kennedy were meeting in 1988'.*

**6.38** Mr Dunlop accepted that he probably knew in December 1991 that both Paisley Park and the O'Halloran Consortium had lodged submissions with the Council. While he was in contact individually with Mr O'Halloran, Mr Caldwell, Mr Kennedy (and Mr Lawlor), he denied that he discussed with either set of landowners the other's rezoning intentions or proposals. The Tribunal however could not conceive of a situation whereby Mr Dunlop could have been unaware of the extensive contact between the consortium and Mr Kennedy in the period 1991 to 1992.

### **MR DUNLOP'S LOBBYING EFFORTS ON BEHALF OF THE O'HALLORAN CONSORTIUM**

**6.39** By March/April 1992 Mr Dunlop was, for all intents and purposes, fully engaged by the O'Halloran Consortium to promote the rezoning of their lands.

### **MR DUNLOP'S EVIDENCE**

**6.40** Mr Dunlop explained to the Tribunal that in his contact with Mr O'Halloran, he advised him about what was required to get the lands rezoned and, in particular, the need to lobby councillors and to have a motion lodged with the County Council. Asked to identify the expertise he provided to Mr O'Halloran, when compared to, for example, that provided by Dr Meehan, Mr Dunlop stated:

*'The only expertise that I would have brought to the party would be advising or actually about or lobbying councillors. Dr. Brian Meehan's*



would relate to making the submission on a professional basis to the officials and would have no involvement whatsoever with the political element of the project.'

**6.41** Mr Dunlop also stated:

*'Well, I am conscious of what he said, I did not put in my statement, but he and his colleagues employed me and I received three cheques to the value of IR£500 each for the advice that I had given to him and that I would use my best endeavours to see that his proposal, and I don't mean Dr. Meehan's proposal, I mean his proposal in relation to any motion that he would bring forward, would be canvassed for, given whatever attention one could garner from the political element, but I did say to him and I would hope that Mr O'Halloran in evidence at some future date may well confirm this, I did say to him and the evidence is in existence to prove that whatever assistance I might give him, he, himself and his colleagues, all or none, would have to personally make an approach to all of the councillors in Dublin County Council at that time and to highlight the benefit or otherwise, obviously the benefit, of having his land rezoned.'*

**6.42** Mr Dunlop acknowledged that his input, as described, was not 'rocket science' and that he had probably given that advice to Mr O'Halloran as early as September 1991, when he provided him with the list of the members of Dublin County Council.

**6.43** Mr Dunlop told the Tribunal that he suggested to Mr O'Halloran that certain councillors might be more usefully contacted by him (Mr Dunlop) in his lobbying campaign, including Cllrs Coffey and Hand and other councillors in the Carrickmines area, none of whom Mr O'Halloran knew (save that Cllr Coffey was a family friend), and went on to explain:

*'I advised Mr O'Halloran, I did certain things for Mr O'Halloran. I can absolutely with confidence say to you that I did not do the same level or give the same level of involvement or commitment to Mr O'Halloran's project in that period, at that time, in the early stages of the Development Plan that I gave to others and I have already told you that Mr O'Halloran very willingly, together with his colleague, Mr Kilcoyne, presented themselves in the lobby of Dublin County and visibly and volubly asked me, to my embarrassment, and I don't mean to be derogatory to Mr O'Halloran because he was embarrassed about it himself, asked me who was he, as a certain councillor passed in. So, Brian O'Halloran, you know, was virtually on a learning curve in this period and to quote himself in his own documentation he says he and his colleagues were naive.'*

**6.44** Mr Dunlop agreed that it was probable that at a meeting he had with Cllr Larry Butler on 8 April 1992 (the day after Mr O'Halloran had sent Mr Dunlop cheques totalling IR£1,500), he had discussed the O'Halloran consortium lands with Cllr Butler. Cllr Butler stated that he had no recollection of this meeting and that, in any event, Mr Dunlop had never lobbied him in relation to the O'Halloran Consortium lands.

**6.45** Mr Dunlop recalled meeting Dr Darragh only once during his engagement, although Dr Darragh said that he believed that he never met Mr Dunlop in relation to the lands. Mr Dunlop said that he principally met Mr O'Halloran, although on occasions he met Mr O'Halloran and Mr Kilcoyne together. All of Mr Dunlop's dealings and negotiations regarding fees and advice were conducted between himself and Mr O'Halloran as the representative of the O'Halloran Consortium.

**6.46** Other than advising Mr O'Halloran as to the rezoning requirements Mr Dunlop admitted that he did very little for the O'Halloran Consortium in the period 1991 to 1992. Mr Dunlop claimed that during this period he was too busy with other development projects to give much attention to the consortium's requirements.

**6.47** The thrust of Mr Dunlop's evidence to the Tribunal was that although acknowledging (in evidence though not in his written statements) that he had been retained on a fee paying basis in 1991 to 1992, he had done very little for the O'Halloran Consortium to assist them in their rezoning endeavours. Mr Dunlop's understanding was that Mr O'Halloran: *'was unhappy about the level of involvement or the level of action I took on his behalf'*.

#### EVIDENCE OF MESSRS O'HALLORAN AND KILCOYNE

**6.48** In the course of their respective testimonies, Messrs O'Halloran and Kilcoyne maintained that in 1991 and 1992, Mr Dunlop, although engaged for a fee with the promise of a success fee, did little to promote the rezoning ambitions of the O'Halloran Consortium. Mr O'Halloran described Mr Dunlop's reporting to him in 1992 as not very satisfactory. He suggested that Mr Dunlop had not told him about those councillors with whom he was in contact and that in 1992 Mr Dunlop had done very little work for him and his associates. Yet, Mr O'Halloran's correspondence with Dr Darragh suggested that, at the very least until 21 April 1992, Mr Dunlop was *'working at full pace on the task'* of lobbying in support of those ambitions. Mr O'Halloran, in responding to questions from his own Counsel, maintained that his dissatisfaction with Mr Dunlop had not taken effect as of 21 April 1992, which suggested that Mr Dunlop was working to Mr O'Halloran's satisfaction up to that point in time.

**6.49** Mr Dunlop's claimed lack of effort was puzzling. There appeared to be no logical basis for Mr Dunlop not to have been diligently lobbying councillors in support of the rezoning of the Consortium's lands during the period 21 April 1992 to 4/5 June 1992, the date the submission/motion relevant to those lands was scheduled for consideration.

## MR O'HALLORAN'S KNOWLEDGE OF MR DUNLOP'S SYSTEM

### MR DUNLOP'S EVIDENCE

**6.50** Asked if he had apprised Mr O'Halloran of his 'system', Mr Dunlop stated that he informed him of elements of that 'system', namely of: the technicalities of getting a motion passed; the need to make contact with councillors, including local councillors; Mr Dunlop's understanding of the whip system within the County Council; the need for cross-councillor support in order to operate the whip system to one's advantage; and the desirability of having councillors from different political parties to sign, co-sign, propose and second a motion.

**6.51** When asked if he had advised Mr O'Halloran that money would have to be paid to certain councillors for their support, Mr Dunlop stated that he had not. When queried as to why he had not done so, Mr Dunlop replied:

*'Well, the first simple answer to your question is I did not tell him and it didn't necessarily always follow, either, Mr Gallagher, that any client that I represented in relation to zonings in Dublin County Council, that I told them all what they told me or we had future actual discussions about the payment of councillors. That did not apply. When I described the system to you in my evidence here before Christmas, I described the evidence in its totality, it doesn't mean in each particular instance that that applied and I am absolutely 1000 per cent adamant, in answer to your question, he did not raise, I did not raise, and we did not discuss the payment of monies to councillors, and by he I mean Brian O'Halloran.'*

### MR O'HALLORAN'S EVIDENCE

**6.52** Commenting on Mr Dunlop's evidence as to the circumstances in which Mr Kennedy had provided him with IR£25,000 in cash in January 1991, Mr O'Halloran told the Tribunal that if Mr Dunlop had raised any such issue with him or with his associates, he would have been '*shown the door*'. Mr O'Halloran insisted that Mr Dunlop had never advised him that Mr Kennedy had given him money for disbursement to councillors and said that his awareness of this only emerged from documentation which the Tribunal had latterly circulated to him. Asked specifically if Mr Kennedy had ever advised him of such a payment to Mr Dunlop or of its purpose, Mr O'Halloran responded: '*never ever and had he ever done so Mr Kennedy would not ever have heard from us again.*'

## DR DARRAGH'S EVIDENCE

**6.53** Dr Darragh stated that he was never asked for money in relation to the rezoning prospects of the O'Halloran Consortium lands nor would he have acceded to such requests which he described as blackmail. He said he was unaware of Mr Dunlop's payments to councillors until the Tribunal commenced its work.

**6.54** The Tribunal accepted that neither Mr O'Halloran, Mr Kilcoyne nor Dr Darragh were aware of Mr Dunlop's *modus operandi* – namely the payment of councillors to win support for rezoning proposals, and more particularly the rezoning of their lands.

**THE ROLE, IF ANY, PLAYED BY THE O'HALLORAN CONSORTIUM IN  
THE LOBBYING OF COUNCILLORS**

**6.55** In this period leading up to the Special Meeting of 5 June 1992 both Mr O'Halloran and Mr Kilcoyne themselves conducted a significant lobbying campaign with the benefit of Mr Dunlop's advice as to how and who best to lobby.

**CONTACT WITH CLLR LARRY BUTLER (FF)**

## MR O'HALLORAN'S EVIDENCE

**6.56** Mr O'Halloran and Mr Kilcoyne met with Cllr Larry Butler (known to Mr Kilcoyne) on 17 April 1992. Mr O'Halloran's memorandum of that meeting read as follows:

*Purpose of the meeting*

*'For JGK and BOH to discuss with Larry Butler the forthcoming rezoning meetings of the Dublin County Council insofar as these lands would be affected, to obtain his general views of all this and specifically to seek his advice on whom might put down a motion with Dublin County Council to support our rezoning application.'*

*Points of the meeting*

*Larry Butler told BOH & JGK that he was not in a position to put down the motion on our behalf, however he undertook to talk to either Senator Don Lydon or Tony Fox, one of these two would be asked by him to perform that task, very soon he would tell us who and would introduce us to the person in question without delaying.*

*Larry Butler was reminded by BOH that all such motions must be formally received by the Dublin County Council 9 days prior to the date of a meeting of the Council when the property to which the motion refers comes before the Council for rezoning consideration.*

*Therefore no time can be lost in advancing this further. Larry Butler suggested that BOH & JGK should try to get Fine Gael to also sign a motion, he pointed out that we would need not only a proposer but also a seconder and he would recommend Liam Cosgrave. (BOH to check out with Jim Kennedy if the procedure does require a proposer and a seconder). Larry Butler stated Sean Galvin's golf course proposal is looked on extremely favourably by everybody in the area and in particular by the Local Residents Committee. Larry Butler felt that the Council would favour tourist driven activities with high employment potential in the area and for that reason felt that Jim Kennedy's lands might be developed to include a hotel etc'.*

**6.57** Mr O'Halloran told the Tribunal that he had no recollection of Cllr Butler subsequently confirming that he had approached Cllrs Lydon and/or Fox, as he had undertaken to do at their meeting on 17 April 1992. Mr O'Halloran testified that Cllr Butler did not advise him as to whether or not he had in fact made an approach to Cllrs Fox and Lydon. The Tribunal was told neither Messrs O'Halloran or Kilcoyne had any contact with either of these councillors at that time.

**6.58** At the meeting with Cllr Butler, Paisley Park's proposal to rezone its lands was discussed. Mr Butler said that he understood Mr Kennedy to be the owner of those lands. Mr O'Halloran said that he probably advised Cllr Butler that the O'Halloran Consortium had retained Mr Dunlop as its lobbyist. Cllr Butler however maintained that he had not been so advised.

#### MR KILCOYNE'S EVIDENCE

**6.59** Mr Kilcoyne described his relationship with Cllr Butler as follows:

*"It came out in evidence, it was mentioned that I was a friend of Mr. Butler's, I wouldn't categorise Mr. Butler as a friend I mean I never socialised with him or anything but he was a friendly associate or a friendly acquaintance who happened to be a Fianna Fail councillor and as I have said, over the year he had come to my house at many occasions at election times and he invariably came in and had a drink or cup of tea or something and he would have had somebody with him and chatted about the coming election and I felt that I would have known him well enough to phone him".*

## CLLR BUTLER'S EVIDENCE

**6.60** Cllr Butler denied that he identified Cllrs Lydon and Fox as councillors to be talked to with reference to the submission on behalf of the consortium and that he said that he would ask them to perform that task:

*“No. What I said to Mr. Kilcoyne and Mr. O'Halloran at the meeting was that they should go to all councillors, canvass all the councillors”.*

**6.61** Later he testified:

*‘...there might be a little bit of misunderstanding there in so far as Mr. Kilcoyne and Mr. O'Halloran in fairness didn't know many councillors, and they asked me who the councillors were in the party and I was naming out councillors, but I suggested to them they should go to all the councillors. I mean, in Dublin County Council at that time we are talking about 78 members and I mean unless you were canvassing all the councillors there, I wouldn't see, you know, they had any chance at all. I suggested that they would do that.’*

**CONTACT WITH CLLR BETTY COFFEY (FF)**

## MR O'HALLORAN'S EVIDENCE

**6.62** In or about April 1992, Mr O'Halloran approached Cllr Coffey for the purpose of requesting whether or not she would propose or second a motion to rezone the O'Halloran consortium lands. According to Mr O'Halloran, Cllr Coffey bluntly told him that he had left it too late to make such a request of her.

## CLLR COFFEY'S EVIDENCE

**6.63** Cllr Coffey could not recall Mr O'Halloran approaching her to request her to propose or second a motion to rezone the O'Halloran Consortium's lands. However, she testified that Mr O'Halloran *“was being a pest because I was very busy and I had made up my mind about my support or not for that area and he, I think he came into the lobby of the County Council, he didn't formally meet me anywhere”*. Cllr Coffey could not remember whether Mr O' Halloran had a motion in hand when he met her.

**MR O'HALLORAN'S AND MR KILCOYNE'S MEETING WITH  
CLLR HAND (FG) AND CLLR O'CONNOR (FF)**

**6.64** The thrust of Mr O'Halloran's testimony was that having had little joy with the approaches made to Cllrs Butler and Coffey, he had turned to Mr Dunlop for advice as to who might sign a motion for the rezoning of the lands. This approach to Mr Dunlop probably took place sometime after 17 April 1992 (the date of the meeting with Cllr Butler) and subsequent to Cllr Coffey's refusal. Mr O'Halloran

testified that Mr Dunlop advised him to go and see Cllr Hand. Mr O'Halloran had probably advised Mr Dunlop that neither Cllr Coffey nor Cllr Butler were prepared to sign a motion. Thus, notwithstanding Mr O'Halloran's protestations that Mr Dunlop did very little in the period in question, the latter did put Mr O'Halloran in touch with a councillor for the purpose of ascertaining whether or not that councillor would sign or propose a motion to rezone the land.

**6.65** Mr O'Halloran and Mr Kilcoyne then visited Cllr Hand at his home and after outlining their rezoning proposal, asked him if he would consider signing a motion. Mr O'Halloran could not recall whether or not he had a draft of a motion with him at the time of this visit. He did recall that Cllr Hand suggested that he would arrange for Cllr Charlie O'Connor to co-sign the motion.

**6.66** The import of Mr O'Halloran's evidence of his and Mr Kilcoyne's approach to Cllr Hand was that they understood that a motion would be signed by him, and moreover that Cllr Hand was to get Cllr O'Connor to co-sign the Motion seeking the rezoning of the lands, which was submitted to the Council of 28 April 1992. Ultimately, however, Cllr O'Connor was the sole signatory to that rezoning motion.

**6.67** Notwithstanding this evidence, Mr O'Halloran claimed that he did not meet with Cllr O'Connor at all prior to 5 June 1992 and that on that date he had had only fleeting contact with him.

#### MR KILCOYNE'S EVIDENCE

**6.68** Mr Kilcoyne recalled meeting Cllr O'Connor in the presence of Cllr Coffey and Cllr Butler on 5 June 1992 and of Cllr O'Connor being introduced; *'as the man who is going to support us in the motion.'*

#### MR DUNLOP'S EVIDENCE

**6.69** According to Mr Dunlop, Mr O'Halloran lobbied councillors at the County Council offices as did Mr Kilcoyne, and that on some occasions while there, Mr O'Halloran had expressed his frustration to Mr Dunlop about some councillors' apparent lack of interest in discussing his proposals to rezone the lands.

**6.70** Mr Dunlop accepted that he had recommended Cllr Hand as one of the councillors to approach, but said that he did not advise Mr O'Halloran that Cllr Hand would require money. Mr Dunlop was unable to say if it had ever occurred to him to apprise Mr O'Halloran of the fact that it might be necessary to encourage Cllr Hand by paying him money. Mr Dunlop said that he had simply recommended that Mr O'Halloran speak to Cllr Hand. In relation to Mr O'Halloran's meeting with Cllr Hand, Mr Dunlop stated: *'I have no knowledge of*

*what transpired during the course of that meeting. I have no knowledge as to the purpose of the meeting, whether it was to obtain Mr Hand's signature or whether to elicit support but I did not raise this issue with Mr O'Halloran in relation to Mr Hand.'*

### **THE LODGING OF MOTIONS IN RELATION TO THE O'HALLORAN CONSORTIUM LANDS**

**6.71** On 28 April 1992, Cllr O'Connor signed a motion which proposed the residential rezoning of the O'Halloran Consortium lands and which was submitted to Dublin County Council on 28 April 1992. Cllr O'Connor was the sole signatory to this motion.<sup>35</sup>

**6.72** Mr Dunlop told the Tribunal that he regarded the text of the O'Connor motion as 'odd' in that it referred to the O'Halloran Consortium submission which had been made to the County Council, as opposed to simply seeking a change of zoning status from Agriculture to Residential or Industrial. He agreed it was surprising and unusual that the motion only had one signature.

**6.73** Mr O'Halloran could not recall who had drafted or typed the motion, and he could not recall whether or not he had a copy of or the text of the motion at the time of his meeting with Mr Dunlop on 31 March 1992. However, he believed that he had prepared the map accompanying the motion lodged on 28 April 1992. Mr O'Halloran stated that he had wondered why it had only one signature as he had been under the impression that two councillors' signatures were required. He stated that he did not know the circumstances under which Cllr O'Connor came to sign the motion.

**6.74** On 4 May 1992, six days after Cllr O'Connor's motion had been lodged, the Hand/Lyndon motion to rezone the PP/JW lands was lodged with Dublin County Council, and on the same date a motion in the name of Cllr Fox was lodged which sought to fix the proposed line of the SEM.

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<sup>35</sup>Mr Dunlop's diary for 14 April 1992 recorded a meeting with Cllr Hand, and that on 15 April 1992 he met with Cllr O'Connor. Although Mr Dunlop believed he never had a discussion with Cllr Hand in relation to the O'Halloran Consortium lands, he said he did have such a discussion with Cllr O'Connor. Cllr O'Connor told the Tribunal that Cllr Hand had asked him to sign a motion. He was not offered money nor was he made any other promise. He said he signed the motion merely to facilitate the order of business at the Council meeting. Cllr O'Connor said he had no recollection of having discussed the motion with Mr Dunlop but accepted that he possibly did.



## THE SPECIAL MEETINGS OF DUBLIN COUNTY COUNCIL ON 13 AND 27 MAY 1992

**6.75** On 30 April 1992 the Manager's report on the Carrickmines Valley was circulated to councillors and this report, inter alia, noted the representations which had been made by: Monarch Properties; Mr Sean Galvin, for the development of a golf course; Mr O'Halloran, Dr Darragh and Mr Kilcoyne, seeking a change of zoning to A1 Residential or Industrial for their lands; and Paisley Park which also sought a change of zoning for its lands from agricultural to industrial or residential.

**6.76** The Council's officials' plans for the Valley were presented at a Special Meeting on 13 May 1992 in the form of Map DP92/44.<sup>36</sup>

**6.77** At a Special Meeting of the Council held on 27 May 1992 to discuss the representations received in respect of the 1991 Draft Plan, a proposal by Cllr Lydon seconded by Cllr McGrath that the Manager's report (including Map DP92/44) be adopted and approved was defeated by 35 votes to 33.

### MR O'HALLORAN'S EVIDENCE

**6.78** Mr O'Halloran acknowledged the benefits that would have resulted from the adoption of Map DP92/44 for his and his colleagues' lands. In the event that the Council's Planners' recommendations, as outlined on that map, had been approved by the Council, part of the O'Halloran consortium lands north of the proposed SEM line would have been rezoned residential.<sup>37</sup> Had Map DP92/44 been adopted by the Council, there would, in all probability, have been no need to further progress the O'Connor motion which had been lodged on 28 April 1992.

## THE SPECIAL MEETINGS OF DUBLIN COUNTY COUNCIL IN JUNE 1992

**6.79** Cllr O'Connor's motion to rezone the O'Halloran Consortium lands was dealt with at the special meeting of the Council held on 5 June 1992. Council minutes record that the motion was proposed by Cllr O'Connor and seconded by Cllr Hand. It was ultimately withdrawn by Cllr O'Connor because of lack of support and was not therefore the subject of a vote on 5 June 1992.

**6.80** Prior to its withdrawal, Cllrs Coffey and Butler proposed an amendment to the motion to add the words '*at a density of one house per acre*'. The minutes also recorded that after this was proposed and debated by the councillors, the

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<sup>36</sup>See Chapter Three.

<sup>37</sup>This map did not assist the Paisley Park lands as they were, for the most part, south of the proposed SEM line.

special meeting was adjourned for five minutes. When the meeting resumed, Cllr O'Connor informed the meeting that he wished to withdraw the motion, and this was agreed.

**6.81** The withdrawal of the O'Connor motion on 5 June 1992 meant that the lands retained their original agricultural zoning during the second statutory display of the draft plan in July/ August 1993. While a further rezoning submission was lodged during the second statutory display there was no further motion brought before the Council and the lands were duly confirmed zoned agricultural when the 1993 plan was adopted in December 1993.

#### MR O HALLORAN'S EVIDENCE

**6.82** Mr O'Halloran stated that on the day before the vote of June 5, he and Mr Kilcoyne attended the County Council offices to observe the process but could not gain access to the County Council chamber because of the large crowd in attendance. They returned the next day and again waited in the crowded lobby. They were again unable to access the Council chamber. They saw Mr Dunlop, but he did not approach them and appeared to be extremely busy. Mr O'Halloran said that he and Mr Kilcoyne did not speak to Mr Dunlop on either 4 or 5 June 1992. At one point on the latter date Mr Dunlop had come through the lobby like '*an express train with a very pained expression on his face*', ignoring everybody. Mr O'Halloran said that he and Mr Kilcoyne understood that in the course of the day there was a debate on their motion, but because they could not access the chamber they were unaware of the content of that debate.

**6.83** According to Mr O'Halloran, in the course of a fleeting introduction to Cllr O'Connor, he and Mr Kilcoyne thanked him for having signed the motion. Mr O'Halloran stated that at one stage in the proceedings Cllr Coffey came '*charging*' out of the chamber and told him and Mr Kilcoyne that there was no support for their motion, and suggested an amendment to it which might make it more acceptable to her colleagues. Neither Cllr O'Connor who proposed the motion, nor Cllr Hand who seconded it, approached Mr O'Halloran to advise as to its progress.

**6.84** Mr O'Halloran stated that Cllr Coffey's proposed amendment to limit residential development to one house per acre was a disappointment, but that he and Mr Kilcoyne agreed to it on the basis that such a rezoning would remove the lands from '*the daffodils, buttercups and daisies*'. Later however, Cllr Coffey again reverted to them, and advised them that there was no councillor support for her amendment. The O'Connor motion was then withdrawn.

## MR DUNLOP'S EVIDENCE

**6.85** Mr Dunlop told the Tribunal that he recalled that at the meeting of June 5, significant discussions took place between Mr O'Halloran, Mr Kilcoyne and Cllrs Coffey and O'Connor concerning the motion. Mr Dunlop believed that Messrs O'Halloran and Kilcoyne were informed by the councillors, during the short adjournment period, that a head count had been conducted and there was not enough support for the motion. According to Mr Dunlop, *'you always had to count the nails in the bag'*. Mr Dunlop did not believe that he himself was a party to these discussions.

## MR DUNLOP'S RETENTION BY JACKSON WAY IN 1996/1997

**7.01** Another opportunity to have the Carrickmines lands rezoned arose in 1996/1997 in the course of the Review of the Development Plan by Dun Laoghaire-Rathdown County Council. The Carrickmines lands had come under the jurisdiction of this council on 1 January 1994, when Dublin County Council was divided into three separate councils.

MR DUNLOP'S EVIDENCE REGARDING THE CIRCUMSTANCES  
IN WHICH HE WAS RETAINED

**7.02** Mr Dunlop, in his October 2000 statement to the Tribunal, stated as follows:

Under the heading 'Jackson Way'<sup>38</sup>

*'The proposal to zone the Paisley Park lands, in 1992, was unsuccessful. Paisley Park was either reformed or renamed and became Jackson Way. The larger Council broke up. In 1997 I entered a new arrangement with Mr Kennedy. I was to receive no more money immediately but if Jackson Way was successful I was to receive a success fee of £0.25m. Subsequently an arrangement was made between myself and Mr Kennedy that success would translate into the value of one commercial acre.*

*After the line of the motorway had been decided, and the decision had been taken that zoning was going to occur on the North side of the motorway, a Motion was put in relation to Jackson Way, organised by me, signed by Mr Cosgrave and Mr Fox. I paid Messrs. Cosgrave and Fox a sum of £5,000 each. I would have given this money in circumstances*

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<sup>38</sup>Mr Dunlop placed an asterisk beside the heading 'Jackson Way'. He told the Tribunal that the attribution of an asterisk to particular lands in his statement indicated that monies were given to him with regard to that development in the full knowledge that payment to councillors was required to achieve support.

*specifically referable to their support for this particular zoning in this particular development plan. The money would have been asked for.*

*It was my understanding that Mr Lawlor retained an interest in Jackson Way.'*

**7.03** Mr Dunlop believed that he was re-engaged by Mr Kennedy in connection with the PP/JW rezoning proposal sometime in late 1996, in the context of the proposal then underway in Dun Laoghaire Rathdown County Council to make its own Development Plan. Meetings between Mr Dunlop and officials of Dun Laoghaire-Rathdown Council in late 1996 suggested that this was indeed the case.

**7.04** At this time, Mr Stephen Miley, solicitor on behalf of Jackson Way, was also in contact with the Dun Laoghaire Rathdown County Council in relation to the line of the SEM and in relation to the issue of sewage connections. In late 1995/ early 1996, Jackson Way had received confirmation that a sewer connection would be made to the Shanganagh sewer, subject to the grant of planning permission.

**7.05** Mr Dunlop was aware that the advice from Dun Laoghaire Rathdown County Council was that it was not inclined to consider rezoning proposals for small parcels of lands and of the suggestion by Council officials that the O'Halloran Consortium lands combine with the neighbouring PP/JW lands and make a joint submission to the Council.<sup>39</sup> Mr O'Halloran confirmed that this advice was provided to him by Mr Willie Murray.

#### MR CALDWELL'S EVIDENCE REGARDING MR DUNLOP'S RETENTION

**7.06** Mr Miley stated the following in a letter to the Tribunal in relation to the circumstances in which Mr Dunlop again became involved with the Carrickmines lands:

*In so far as the 1998 Development Plan is concerned both ourselves and our client have a memory that the writer [Mr Stephen Miley] was contacted by Mr Dunlop who was either seeking the brief to act on behalf of Jackson Way Properties Limited or seeking confirmation that he was retained in the matter and that, on our client's instructions, we wrote to Mr. Dunlop either with a view to retaining him or confirming his retainer in relation to the matter. Despite searching through our files we have been*

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<sup>39</sup> Joint Submissions were made in March 1995, September 1996 in addition to the joint Submission which was made in August, 1997 in the course of the Council's Review of the 1993 Development Plan.

unable to find a copy of the letter and the writer now wonders whether such a letter was written at all or not. It may well be that there was only a phone conversation involved and no correspondence. As far as our client can recall, Frank Finnegan and Ambrose Kelly were retained to make Submissions on the rezoning of the lands and perhaps some others although our client cannot recall any others at present. Messrs. Brian Meehan & Company, Planning Consultants, and Frank Benson & Partners, Planning Consultants, were also involved in making Submissions but these were primarily in relation to the draft Action Plan and were made in conjunction with other adjoining landowners. These other adjoining landowners-Messrs. Darragh, O'Halloran and Kilcoyne together with Jackson Way Properties Limited made joint representations in relation to the rezoning of the lands. Precise details of all of this are contained in the files of Miley & Miley, Solicitors in respect of which you have taken copies. ....As best our client can recall the whole rezoning issue in so far as the 1998 Development Plan was concerned was led by Mr. Brian O'Halloran on behalf of Jackson Way Properties Limited and the other adjoining owners and it is probable that Mr. O'Halloran initially retained Mr. Dunlop and that Mr. Dunlop's contact with us was for confirmation that he was retained by Jackson Way Properties Limited in addition to the other adjoining landowners.

[...] Having regard to all of the foregoing our client has not directly or indirectly and whether on his own behalf or on behalf of any other persons, Company, Trust, Partnership, Legal or other entity, provided any other monies or benefits to or for any person including Frank Dunlop (and/or any of his Companies) for the purpose of canvassing or making representations to any person, body, organisation, Council or Authority, in relation to the lands or any part thereof and whether in relation to attempts to secure rezoning, services, Planning Permission and/or compensation in relation thereto or otherwise howsoever save as disclosed above or in the copy files which are in your possession. No payment was made to Mr. Frank Dunlop in relation to any services he may have provided in relation to the 1998 Development Plan. No account has been received from him nor has our client been made aware of what, if anything, Mr. Dunlop did in relation to the matter. What seems likely is that the part of the lands which were rezoned industrial were so rezoned because the adjoining lands were rezoned and to have omitted the Jackson Way lands would have been incongruous and inconsistent with good planning practice.

**7.07** In his November 2002 statement, Mr Caldwell provided the following information:

*As to Mr. Dunlop I do not recollect any meeting with Mr. Dunlop on Jackson Way prior to two meetings in 1999, one alone to ascertain if I was prepared to meet a Mr. Bird of RTE and the other at a supposedly off the record meeting with Mr. Bird.*

*I believe Mr. Kennedy informed me that Mr. Dunlop had been retained by Mr. O'Halloran to assist Mr. O'Halloran's lobbying for the rezoning of the joint submission lands. I have a recollection of Mr. Miley informing me that Mr. Dunlop had contacted him. There is nothing on the files of Mr. Miley that I have reviewed to assist in preparing this narrative which indicates Mr. Dunlop in fact contacted Mr. Miley. On Mr. Miley's file is an incompletely dated note (4.5.year) (from the file sequence the year appears to be 1996) of a telephone call message left by Mr. Holland for Mr. Miley (I had no knowledge of/or input into the making of this call). It may have been this contact which we both vaguely recollect. It may also have been the case that Mr. Dunlop did contact Mr. Miley or it may have been the case that Mr. Miley was informing me that Mr. Holland had asked him to contact Mr. Dunlop. Both our recollections are uncertain in this regard. I have a memory of asking Mr. Miley to contact Mr Dunlop arising out of whatever conversation Mr. Miley had with me.*

*I also have a recollection of Mr. Kennedy informing me that Mr. Dunlop wanted several acres of land if the Jackson Way 1997 rezoning of the lands was successful but that he, Mr. Kennedy, had negotiated a fee equal to the value of one acre of zoned land if that zoning occurred. I do not recollect any discussion or mention by Mr. Kennedy of a fee for Mr. Dunlop in relation to the joint submission on zoning. I do not know whether, Mr. O'Halloran was carrying all the costs of Mr. Dunlop's fee. The original joint submission deal of 1995 had been a 50/50 cost sharing agreement with Mr. O'Halloran. I do not know what, if any, costs deal with Mr. O'Halloran applied for the 1996/1997 submission. My view is that there was no cost sharing deal, none being referred to in the correspondence, that I reviewed in Mr. Miley's files nor did Mr. Kennedy ever mention one to me.*

## MR DUNLOP'S REMUNERATION IN RELATION TO THE JACKSON WAY REZONING ATTEMPTS

### MR DUNLOP'S EVIDENCE

**7.08** Mr Dunlop told the Tribunal that his agreement with Mr Kennedy in the period 1996 to 1998 did not involve any further provision of cash by Mr Kennedy. Mr Dunlop agreed with Mr Kennedy that if the lands were rezoned he would receive a success fee of IR£250,000.

**7.09** On 3 October 1996 Mr Dunlop informed Mr John Aherne of AIB, (Mr Dunlop's bank manager), that his fee arrangement for the Jackson Way lands was IR£250,000, noted by Mr Aherne as follows:

*'100 acres in Carrickmines – New Motorway to bisect the land – sewage and water already in place together with impending road network – land acquired by Jackson Way Properties and Frank Dunlop engaged by Miley & Miley Solicitors to have land rezoned for industrial usage with the purpose of developing a Business Development Park – rezoning should be in place in one year giving a return of IR£250k'.*

**7.10** Subsequent to entering into this fee arrangement, Mr Dunlop and Mr Kennedy varied it. Pursuant to that variation, the success fee of IR£250,000 was substituted by an agreement that, if the lands were rezoned, Mr Dunlop would receive the value equal to one commercially zoned acre of the lands. According to Mr Dunlop he had a number of meetings with Mr Kennedy in the period 1996 – 1998, either at Mr Kennedy's Arcade premises or in the Temple Bar Hotel and he believed that this variation was negotiated at a meeting in the Temple Bar Hotel. He had negotiated verbally with Mr Kennedy in this regard. As was the situation in 1991, there was no written agreement between the two. Nor did Mr Dunlop's diary note any aspect of the agreement he entered into with Mr Kennedy in 1996/1997.<sup>40</sup> They did not discuss how, if rezoning was achieved, the value of one commercial zoned acre would be calculated.

**7.11** Mr Dunlop's diary for 1996 recorded meetings with Mr Kennedy on the 26 April, 2 May, 17 September, 21 October, 18 November, and 22 November of that year. Mr Dunlop stated that those meetings solely concerned the proposed rezoning of the PP/JW lands. Mr Dunlop's 1997 diary recorded meetings with Mr Kennedy on the 29 September 1997, 9 October 1997 and 22 October 1997.

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<sup>40</sup>This was in contrast to Mr Dunlop's retention by the O'Halloran consortium in 1996/7 where on 29 May 1997 he diaried the financial arrangement entered into between himself and the consortium.

## MR CALDWELL'S EVIDENCE

**7.12** Mr Caldwell told the Tribunal that he had no particular recollection of discussing Mr Dunlop's retention with Mr Kennedy in 1996/7 other than being informed by Mr Kennedy that Mr Dunlop had again been retained. Mr Caldwell understood from Mr Kennedy that if the rezoning was successful, Mr Dunlop was to receive by way of success fee the value of '*one commercial acre*' of the lands. Mr Dunlop was to be paid no other fee. Mr Caldwell believed that in the course of his negotiations with Mr Kennedy, Mr Dunlop had sought the value of several acres of PP/JW lands and that Mr Kennedy had negotiated him down to one commercial acre. Mr Caldwell stated that he did not have any clear recollection of the earlier agreement (as claimed by Mr Dunlop) between Mr Kennedy and Mr Dunlop in 1997, namely that Mr Dunlop would be paid a success fee of IR£250,000 if the PP/JW lands were rezoned.

**7.13** Mr Caldwell stated that he believed that Mr Kennedy would have advised him that motions had been submitted to the County Council proposing the rezoning of 88 acres (effectively the entire of the PP/JW lands). Mr Caldwell described Mr Kennedy as the person '*driving that train*'. Mr Caldwell said that he had no discussions with Mr Dunlop in relation to these endeavours. While he, Mr Caldwell, felt there was no prospect of these renewed rezoning efforts succeeding, he said that Mr Kennedy wanted to spend time and effort on the matter, and accordingly had come to an arrangement with Mr Dunlop. Mr Caldwell stated that he had not given any thought as to what work and effort Mr Dunlop would have to expend in relation to that arrangement.

**7.14** Mr Caldwell claimed that he had no dealings with Mr Dunlop in the period October to December 1997. He was unaware, he said, that Mr Dunlop had sought from Mr Kennedy a pro rata payment of the agreed one commercial acre success fee in the aftermath of the successful motion of 16 December 1997 when a portion of the PP/JW lands north of the proposed SEM line were rezoned (see below). Mr Caldwell remarked that he could not see how Mr Dunlop could have sought this given his, Mr Caldwell's, understanding, from his discussions with Mr Kennedy, that the agreement with Mr Dunlop was that he would receive a success fee equal in value to one commercial acre in the event that the entire of the PP/JW lands north and south of the proposed SEM line were rezoned. As this had not occurred Mr Dunlop had not received a success fee. Mr Dunlop had never complained to Mr Caldwell that he had been treated unfairly.



**MR DUNLOP'S RE-ENGAGEMENT BY THE O'HALLORAN CONSORTIUM****MR DUNLOP'S EVIDENCE**

**8.01** In his October 2000 statement, Mr Dunlop stated the following:

*'O'Halloran lands*

*Mr. O'Halloran approached me again in 1996/1997 when the new Dun Laoghaire/Rathdown Council was conducting its own development plan. His preference was to proceed on his own but he required certain advice. A fee of £30,000 was agreed between us. On my advice, Mr. Brian O'Halloran organised that a motion be put in relation to his lands. The motion was signed by Mr. Cosgrave and Ms. Coffey. In discussion with the Council Mr. O'Halloran was advised that it wanted to deal comprehensively with issues surrounding the zoning of the Jackson Way lands and lands owned by Mr. O'Halloran and others. The result was that land belonging to Mr. O'Halloran, Mr. Austin Darragh, Mr. Gerard Kilcoyne and approximately 20 acres of the Jackson Way lands were rezoned. Apart from organising that motions concerning his lands would be signed I did very little overtly, with Councillors, concerning these lands. At no stage was there any discussion regarding payments to Councillors. I did advise Mr. O'Halloran however with regard to Christmas gifts for Councillors.*

*I paid Mr Cosgrave a sum of £2000 in respect of his support for this development'.*

**8.02** It was likely that Mr Dunlop's renewed contact with Mr O'Halloran commenced in late 1996. Mr Dunlop met with Mr O'Halloran on 4 December 1996, and again on 29 May 1997, a meeting which Mr Kilcoyne also attended.

**8.03** Mr Dunlop testified that the '*course of action*' which he discussed with Mr O'Halloran on 29 May 1997 was the same course of action which they had discussed in the earlier years, namely that he would lobby councillors and seek signatures to motions. It was probable that he apprised Mr O'Halloran of the identities of the councillors he intended approaching to ascertain the level of support available and that he advised Mr O'Halloran of those councillors whom he believed would be '*reliable*'.

## MR O'HALLORAN'S EVIDENCE

**8.04** On 4 June 1997 Mr O'Halloran wrote to Mr Dunlop in the following terms:

*At our meeting here on May 29<sup>th</sup> – which was also attended by Gerard Kilcoyne – you agreed to act on our behalf in our quest to have our lands at Carrickmines – also owned by Austin Darragh – rezoned from the present Agricultural zoning to either Residential or Industrial.*

*In that regard the following points were discussed:*

*Because the land is now serviced and on account of the connection rights that we have negotiated with the Council, the prospect for rezoning looks much more favourable than was the case a few years ago. A further benefit is the new access to the land which the Council will provide on completion of the construction of the South Eastern Motorway.*

*However as in all of these matters there will be difficulties along the way which we must anticipate before they will arise and when they do we must face them and find appropriate solutions.*

*We informed you about the unofficial submission which we made in 1996 to the Council on behalf of our lands and the adjoining lands north of the Motorway in the ownership of Jackson Way Properties Limited. That application is now on the Council's file and was recently circulated to the members as was a similar application made at the same time by Jackson Way Properties Limited for lands in the company's ownership south of the proposed Motorway.*

*Because of that association we are not inclined to disassociate ourselves from the lands owned by Jackson Way Properties Limited north of the Motorway. Moreover, during discussions with the Planning Department prior to the submission being made, we were advised that any submission should be in respect of the largest possible parcel of land as that would be preferable from the Council's point of view. The Council are not inclined to look favourably on rezoning applications for a series of fragmented and uncoordinated parcels of land.*

*Having discussed the course of action that will be followed you undertook on our behalf to lobby the Council Executive, also key members and in due course to identify two members who will support a Motion that will be submitted to the Council on our behalf.*

*It will be important prior to the Motion coming before the Council for discussion and voting to have established if the Planning Department*

*would support that Motion and if so on what terms, e.g. whether for Industrial or Residential Rezoning.*

*It would be damaging to our success prospects if the Planning Department would oppose the Motion during debate, conversely it would increase the prospect of success if the Council would support our Motion. That therefore is a matter of the utmost importance to explore.*

*In your making contact with various people, on behalf of Gerard Kilcoyne and Austin Darragh I undertook to help you in every way I can and to make myself available. I would reiterate that you should not therefore hesitate to contact me in that regard.*

*You pointed out that understandably there would be little or no activity until after the General Election and the follow up Senate Elections.*

*When the process will begin, you will report on progress to me, I will for my part inform Gerard Kilcoyne and Austin Darragh.*

*We agreed for the services we require from you that we will pay you an initial fee of £5,000 and in the event of there being a favourable rezoning of the lands we will pay you an additional £30,000 as a success fee.*

*I am enclosing my cheque in your favour for £1670 and have requested Gerard Kilcoyne and Austin Darragh to send me their cheques immediately, on receipt I will forward them to you.*

**8.05** Mr O'Halloran stated that the O'Halloran Consortium members had agreed a fee structure with Mr Dunlop in 1997, namely a payment of IR£5,000, and a IR£30,000 success fee in the event of the lands being rezoned. With regard to the success fee, Mr O'Halloran stated that while it was Mr Dunlop who had sought a success fee in 1992, the offer of a success fee in 1997 had come from his consortium.

**8.06** When asked whether he and his colleagues had considered requesting a contribution to Mr Dunlop's professional fee and prospective success fee from Mr Kennedy, in view of the joint rezoning approach being adopted, Mr O'Halloran stated:

*'We never pursued that issue, because we felt that there were enormous benefits to us three to have the Jackson Way lands included with ours because we looked upon – I know Mr. Caldwell in some of his evidence was saying that they were piggy-backing on us, equally we were piggy-backing on Jackson Way because we had gone from 22 acres to 47 acres*

*and we felt now we had achieved a certain importance in relation to the scale of our land which the planners would have to look at.'*

**8.07** Mr O'Halloran agreed however that a substantial benefit also stood to accrue to Mr Kennedy if the O'Halloran Consortium/PP/JW zoning proposal was successful (which ultimately was the case when 36.85 acres of their joint lands were zoned "Industrial" on 16 December, 1997). Mr O'Halloran said that *'With hindsight we might have asked of Jackson Way, but we didn't'*.

**8.08** Although he knew Mr Kennedy had also retained Mr Dunlop in 1997, Mr O'Halloran maintained that he did not inquire of Mr Kennedy about his financial arrangement with Mr Dunlop, nor had he asked Mr Dunlop himself about this. Mr O'Halloran suggested that Mr Kennedy was not the sort of person of whom one could make that type of inquiry. Mr O'Halloran stated that in any event Mr Kennedy's relationship with Mr Dunlop was of no interest to himself and his colleagues.

**8.09** Mr O'Halloran maintained that his level of contact with Mr Kennedy in 1997 was very limited, and that they had not discussed Mr Dunlop's role. The Tribunal however believed it to be inconceivable that Mr Kennedy would not have been advised of that role given that the O'Halloran Consortium's rezoning proposal included a portion of the PP/JW lands.

#### **MR DUNLOP'S PAYMENT FROM THE O'HALLORAN CONSORTIUM**

**8.10** Mr Dunlop acknowledged that he received the IR£5,000 fee referred to in Mr O'Halloran's letter, and that he had agreed to accept a IR£30,000 success fee in the event that the lands were rezoned. Moreover, Mr Dunlop acknowledged that a diary entry which read *'5 now; 30 later, agreed'*, recorded in his diary on 29 May 1997, immediately following the reference to Messrs O'Halloran and Kilcoyne, was in fact a record of the fees arrangement agreed with Messrs O'Halloran and Kilcoyne on that date. Mr Dunlop was subsequently paid the success fee of IR£30,000. Mr O'Halloran, Mr Kilcoyne and Dr Darragh contributed equally to that payment.

#### **MR DUNLOP'S ADVICE TO THE O'HALLORAN CONSORTIUM**

**8.11** Questioned as to what he had agreed to do for Mr O'Halloran and Mr Kilcoyne in return for his IR£5,000 fee, plus a prospective IR£30,000 success fee, Mr Dunlop told the Tribunal:

*‘ the only answer that I can give to your question is that at the end of the meeting I came out of the meeting with a contract, verbal, admittedly, reflected in the content of my diary in the timing of the meeting and subsequently reflected in the content of the letter. I’m not- I wouldn’t attempt to suggest to you, Mr. Gallagher that there was anything different, substantially, professionally, technically in the lobbying context or the PR context, anything different to what I had advised them in 1991/1992, and bearing in mind what Mr. O’Halloran himself said, that he would prefer to proceed on his own – sorry, he didn’t say that, I beg your pardon, I said that, that he evinced an opinion that he would prefer to proceed on his own. Modesty alone dictates that I should say that it is their choice, not mine. They contacted me. I do believe that in the course of the meeting, Mr. O’Halloran, who did virtually all of the talking, spoke about my track record or ability in this particular area. I didn’t ask him where he heard this, how he came by this knowledge or otherwise and what I am trying to do for you, Mr. Gallagher, is to answer the question in the full knowledge that I am probably not answering it in the specific terms that you wish me to answer it and that is I cannot say to you what persuaded them. Obviously something persuaded them. They decided they were going to hire me and I agreed.’*

**8.12** In response to the following question:

*‘What did you say to Mr. O’Halloran that persuaded him it was worth his while paying you 35,000 in an attempt to secure the rezoning of his lands rather than engage some other lobbyist or some other planning consultant who might be able to secure the objective that they had identified?’*

**8.13** Mr Dunlop replied:

*‘The only thing that I can say to you is and I know that I appear to be depending heavily on the content of Mr. O’Halloran’s letter but I have already said, uninvited, earlier today about the capacity of Mr. O’Halloran to keep accurate notes and I have already accepted that I accept this letter as an accurate note, almost a minute of what took place at the meeting on the 29 May 1997... and I really must say to you, Mr. Gallagher, that when invited to do so, I put a miss doubt (sic) performance in relation to my own ability as to what might or might not happen as to the strategy that ought be followed in relation to this particular attempt. Bearing in mind that Mr. O’Halloran himself refers to the submission that has already been made and to a significant sentence saying that given that the lands are now serviced, which was the subject of some discussion between us yesterday.’*

**MR DUNLOP'S WORK FOR THE O'HALLORAN CONSORTIUM**

**8.14** In July 1997 Mr O'Halloran wrote to Mr Dunlop twice. In the letter of 3 July 1997 he advised him that part of the O'Halloran consortium lands was being compulsorily acquired by Dún Laoghaire-Rathdown Council for flood attenuation purposes connected to the proposed SEM. That letter also referred to the County Council's proposals to acquire a portion of the lands as having the *'most disastrous consequences for our prospect for rezoning'* and Mr O'Halloran requested Mr Dunlop to look into the matter in Mr Dunlop's *'own inimitable way because of the dire consequences it now imposes'*. Mr Dunlop denied contacting Council Officials in relation to the issue, although he recalled contact with Cllr Coffey. In a [second letter dated 7 July 1997](#), Mr O'Halloran advised Mr Dunlop that, with regard to plans to seek rezoning of the lands, he proposed to meet Mr Dermot Drumgoole, a senior County Council official: *'to find out from him the zoning that he and his colleagues would favour if the lands were to be rezoned'*. The purpose of this proposed meeting was: *'to ensure when the motion comes before the Council for debate that the Planners will not speak against the zoning proposed but rather support it in the event of the Members voting for it.'*

**8.15** On 22 August 1997, following a meeting two days previously, Mr O'Halloran furnished Mr Dunlop with a copy of the joint rezoning submission made to the County Council by JW and the O'Halloran Consortium, with a promise to provide a further twelve copies. He also made reference to having lodged three copies with the Council that morning. In further correspondence on 18 September 1997, Mr Dunlop was provided with six copies of a coloured map which had been prepared to identify the location and extent of the lands which was the subject matter of the rezoning submission, as well as six copies of key information extracted from that submission which Mr O'Halloran stated would: *'be necessary for the Members who will put down the Motion and as discussed with you, they should work this information into the written part of the Motion as they see fit.'*

**8.16** It was evident that Mr O'Halloran was intent that Mr Dunlop should commence his lobbying of councillors with immediate effect. He wrote to Dr Darragh on 22 August 1997 as follows:

*In effect Frank Dunlop must now commence his lobbying of Councillors' support for our submission when it will arrive in the Council Chamber for discussion and voting. He will arrange that a motion is put down by 2 members of the Council in support of our submission, that will be required in order to get it into the Chamber [...] Finally whereas all the pointers seem to indicate a successful outcome in our attempts to have our land rezoned, there are many barriers to be overcome and one*

*cannot be sure until the actual day when a vote will be taken in the Chamber.*

**8.17** Mr Dunlop told the Tribunal that at this point in time he was relying on Cllrs Cosgrave, Fox and Butler to lobby other councillors, although he did not specifically request them to do so. By 1997 Mr Dunlop's relationship with Cllrs Cosgrave and Fox was such that he did not have to specifically ask them to lobby other councillors. Mr Dunlop stated that in the period leading up to the vote of 16 December 1997 he had ongoing discussions with councillors in relation to the joint submission of O'Halloran consortium and Jackson Way to rezone lands, independently of the efforts then ongoing by Jackson Way to have its entire lands rezoned (including the portion of the lands which comprised the joint rezoning submission). Mr Dunlop stated that in the course of his lobbying efforts he received feedback from Cllrs Fox and Cosgrave on the lobbying process.

**8.18** Mr O'Halloran recalled Mr Dunlop advising him that the prospects of rezoning the lands, in the context of the likely councillor support was *"going to be very tight"*.

**8.19** Mr Dunlop's diary for the period September to December 1997 recorded considerable contact with councillors, including Cllrs Coffey, Fox and Cosgrave. While he also lobbied Cllr Butler (who had agreed to lobby other councillors), Mr Dunlop did not recall receiving any feedback from Cllr Butler, other than he had reported that 'Betty' (a reference to Cllr Coffey) was being 'a little bit difficult'. Mr Dunlop believed this to be a reference to Cllr Coffey's desire to appear objective vis-à-vis the O'Halloran consortium rezoning proposal, because of her friendship with Mr O'Halloran. Mr Dunlop acknowledged that he was kept apprised by Cllr Cosgrave, during this period, of Dun Laoghaire-Rathdown County Council's proposed schedule of meetings to consider representations and motions, as was evident from documentation which was faxed to Mr Dunlop from Cllr Cosgrave's solicitor's practice on 23 September 1997.

### **THE JOINT O'HALLORAN CONSORTIUM AND JACKSON WAY REZONING SUBMISSION**

**8.20** By July 1997, terms were agreed between the O'Halloran consortium and Mr Miley (representing Jackson Way) regarding a joint submission to be made to Dun Laoghaire-Rathdown County Council in the context of its Review of the 1993 Development Plan. The submission was duly lodged on 22 August 1997. It sought Industrial/Residential rezoning for 47.1 acres of the O'Halloran consortium lands and the Jackson Way lands located north of the proposed SEM line.

**8.21** In his letter of gratitude to Dr Brian Meehan for his preparation of the joint rezoning submission, Mr O'Halloran stated: *'Our flag has now been raised by Frank Dunlop who has been retained by us to lobby the Members on our behalf and to arrange that a motion will be put down so that our submission will get into the Council Chamber for discussion and voting.'*

**8.22** In tandem with the foregoing, by August 1997 the O'Halloran consortium and Jackson Way had entered into a new agreement, whereby the former released the Covenant relating to the Jackson Way lands.<sup>41</sup>

**8.23** Also, by this time Jackson Way had lodged a submission seeking Residential/Industrial rezoning of 88 acres of the PP/JW lands, located north and south of the proposed SEM (including that portion of the Jackson Way lands which was included in the joint submission with the O'Halloran consortium).

### THE FOUR 1997 MOTIONS AND MAPS

**8.24** While the consortium's plan was to put down two motions on foot of the joint rezoning submission, one seeking residential and the other industrial, by October 1997 a decision was made to lodge four motions, in order to take account of Dun Laoghaire-Rathdown County Council's proposal to compulsorily acquire a portion of the O'Halloran Consortium lands for flood attenuation purposes.

**8.25** On 24 October 1997 Mr O'Halloran furnished Mr Dunlop with four maps and the texts of four motions which the consortium intended to lodge with the County Council. They were:

- (i) Motion 1: seeking residential A1 zoning for land area 47.1 acres (the land area referred to the August 1997 joint submission);
- (ii) Motion 2: seeking residential A1 zoning for acreage of 36.85 acres (to take account of the proposed compulsorily purchase issue);
- (iii) Motion 3: seeking industrial E zoning for 47.1 acres (as per the August 1997 joint submission);
- (iv) Motion 4: seeking industrial E zoning for 36.85 acres (again to take account of the proposed compulsorily purchase issue).

**8.26** Mr O'Halloran stated that he prepared the maps and that he believed that the texts of the four motions were typed in his office with assistance from Dr Meehan.

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<sup>41</sup>In June 1998 Jackson Way executed a grant of right of way to Messrs. O'Halloran Darragh Kilcoyne, providing for improved access to their lands as had been envisaged in the 31 May 1990 Agreement.



**8.27** In the course of Mr O'Halloran's letter dated 24 October 1997 to Mr Dunlop he made reference to having had several 'off the record' meetings with the County Council's senior planners in the period leading to the lodging of the joint submission on 22 August 1997. He also advised Mr Dunlop that his last meeting with the planners: *'was held for the purpose of finding out in the event of our motion coming before the Council for debate, what rezoning the Planners would support on our lands should they be asked that question'* and that *'It was suggested to me that our rezoning submission should be in respect of two separate zonings in order to keep our options open – for Residential 'A' or 'A1' and/or Industrial 'E' or 'E1'.'*

**8.28** Motions had to be lodged with Dun Laoghaire-Rathdown County Council by 28 October 1997. Four motions in the terms outlined by Mr O'Halloran in his 24 October 1997 letter to Mr Dunlop were duly lodged with Dun Laoghaire-Rathdown County Council on that date in the names of Cllrs Cosgrave and Coffey.

**8.29** Cllr Coffey agreed that she signed the motions at Mr O'Halloran's request, but was adamant that she had not suggested Cllr Cosgrave to second the motions. Mr O'Halloran did not recall requesting Cllr Coffey to sign, but did not rule it out that he had done so. Mr Dunlop said he believed that Mr O'Halloran had requested Cllr Coffey to sign.

**8.30** The Tribunal was satisfied that Cllr Coffey signed the motions at Mr O'Halloran's request.

**8.31** Mr O'Halloran acknowledged that Cllr Cosgrave appeared to be the first signatory to the motions. He did not meet Cllr Cosgrave in 1997 in relation to the motions but agreed that the motions were signed by him between 24 and 28 October, 1997. Mr. O'Halloran accepted that he must have been aware of this in the lead-up to the vote.

**8.32** While Mr O'Halloran agreed that the consortium had probably advised Mr Kennedy that the four motions had been signed and lodged, he stated that Mr Kennedy had not advised him that Jackson Way was also in the separate process of having two motions signed in respect of the proposed rezoning of the entire of the PP/JW lands.

### **MR O'HALLORAN'S LOBBYING OF COUNCILLORS BETWEEN 28 OCTOBER AND 16 DECEMBER 1997**

**8.33** The evidence clearly established that when it came to the later rezoning efforts in the years 1995 to 1997 Mr O'Halloran, in particular, continued to take a hands on approach. This was evidenced from the correspondence passing

between him and Mr Dunlop in June, July, September and October, 1997, and from Mr O'Halloran's correspondence in the period 1995 to 1997 with his co-owners, with Dr. Meehan and with Mr Miley, Solicitor to Jackson Way. Moreover, Mr O'Halloran's direct liaisons with officials in Dun Laoghaire-Rathdown County Council during this timeframe indicated that a concerted effort was being made on the part of the O'Halloran Consortium to achieve the rezoning of their lands.

**8.34** In addition, [Mr O'Halloran's letter to Mr Dunlop of 24 October 1997](#), and indeed a letter written on 28 October 1997 to Dr Meehan, suggested that he and his associates would themselves engage in lobbying councillors.

**8.35** Mr O'Halloran's testimony however was that in the period in question he restricted his lobbying to approaches made to Cllrs Larry Butler and Paddy Madigan. Other than contacting those two councillors (and his approach to Cllr Coffey) he said that he had not lobbied any other councillor. Mr O'Halloran maintained that he limited his own lobbying because he did not want to cut across the lobbying work Mr Dunlop was doing.

**8.36** On 25 November 1997, in order to assist his lobbying endeavours, Mr O'Halloran furnished Mr Dunlop with six copies of an information document relating to the lands and in the letter he explained his rationale in so doing in the following terms:

*'Whereas I anticipate that the members who will speak in support of our Motion will put the case for re-zoning the lands in their own way, I nevertheless feel that they should have some facts about the land to draw from – in particular the attitude in 1990 adopted by the then Dublin County Council which I am sure you will recall. The Council then had an objective to rezone all of the 47 acres for 'industrial and related uses'.*

**8.37** The Tribunal was satisfied that the reference made by Mr O'Halloran to 'the attitude in 1990' referred to the plans which the County Council officials had encompassed in Map DP90/123.

### THE SPECIAL MEETING OF 16 DECEMBER 1997

**8.38** The four joint rezoning motions came before the Council on 16 December 1997.<sup>42</sup> The Manager's recommendation with regard to the joint submission which had been made to the County Council on 22 August 1997 was that there should be no change to the zoning of the lands. The Manager's Report stated: 'Consideration of zoning for development of these lands is premature as the

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<sup>42</sup> The two Jackson Way motions were listed for the meeting on 21 January 1998.

*lands are affected by the South Eastern Motorway Order and lie outside the area to be served as the Sandyford High Level Water Scheme.'*

**8.39** Notwithstanding the Manager's recommendation, one of the four motions (being the motion which sought '*E industrial*' zoning for 36.85 acres of joint lands) was proposed by Cllr Coffey and seconded by Cllr Cosgrave. It was carried by 13 votes to 11 votes. As a consequence 36.85 acres in total of Jackson Way lands and O'Halloran Consortium lands were zoned industrial E.

**8.40** Mr Dunlop told the Tribunal that he himself was not present in the County Council Chamber on 16 December 1997. However, he was duly advised of the successful passage of the motion by Cllr Cosgrave. Mr Dunlop believed that on that same day, following his telephone conversation with Cllr Cosgrave, he noted the outcome of the vote on a document in his possession and listed the names and addresses of councillors. Mr Dunlop's manuscript note read as follows:

*'JW/OH/AD/G KILL*

*FF7*

*FG4*

*IND 2*

*13 For*

*11 Against*

*16/12/97'*

**8.41** Mr O'Halloran also did not attend the special meeting of the Council on 16 December 1997. He believed that Cllr Coffey had apprised him of its successful outcome.

**8.42** On 17 December 1997, armed with the information he had received from Cllr LT Cosgrave, Mr Dunlop advised Mr O'Halloran of the identities of the councillors who had voted for and against the motion. Mr O'Halloran duly arranged '*thank you*' cards and Christmas hampers for those councillors who had voted in support of the motion. Mr O'Halloran told the Tribunal that Mr Dunlop had said to him that this gesture was breaking new ground. However, Mr O'Halloran acknowledged that in a note written by him to Mr Dunlop on 19 December 1997 he, Mr O'Halloran, gave Mr Dunlop credit for suggesting the idea of the Christmas hampers. The Tribunal also heard evidence in the Quarryvale Module of Mr Dunlop himself presenting councillors with hampers and gifts of alcohol long before 1997.

**8.43** On 18 December 1997 Mr O'Halloran wrote to his solicitor, Mr Gore-Grimes, advising him that '*there was white smoke in copious quantities following the Council's meeting last Tuesday evening when the vote was carried for the rezoning of our lands at Carrickmines for Industrial usage*'.

**8.44** *The Tribunal's conclusions in relation to Mr Dunlop's re-engagement as a lobbyist in 1996/1997:*

- (i) The Tribunal accepted Mr Dunlop's evidence of the circumstances in which he was re-engaged by Mr Kennedy in 1996/1997, and his evidence as to the financial arrangements agreed between them both initially and as subsequently varied.
- (ii) The Tribunal was also satisfied that Mr Caldwell was fully aware of those arrangements.
- (iii) The Tribunal was satisfied that insofar as Mr Dunlop made payments to councillors in connection with the rezoning motion brought on behalf of Jackson Way in 1997/1998, he did so on the same basis as provided for in his agreement with Mr Kennedy in 1991, namely that lobbying with regard to the rezoning proposals for the Carrickmines lands would require the payment of money to some councillors.
- (iv) The Tribunal was satisfied that Mr Dunlop's retention in 1997 by the O'Halloran Consortium was on the terms indicated by both Mr Dunlop and Mr O'Halloran in their evidence to the Tribunal, and that the financial arrangements agreed between them involved an immediate payment to Mr Dunlop of IR£5,000, and a success fee of IR£30,000. In total, Mr Dunlop received IR£35,000 from the O'Halloran Consortium for his lobbying efforts on its behalf in 1997/1998.
- (v) In the course of his cross examination Mr Dunlop's credibility was challenged on the basis that on his account of events and given his admission that in 1997 he did not have the same confluence of funds which had been available to him in the period 1991 to 1993, he was effectively extending "credit" to Mr Kennedy in 1997. Mr Dunlop did not demur when so challenged by Counsel on behalf of Cllr Fox. In the course of responses made to Counsel for Cllr Cosgrave, Mr Dunlop maintained, however, that had the Fox/Cosgrave motion to rezone the Jackson Way lands north/south of the SEM line been successful, he (Mr Dunlop) stood to make a considerable gain, having regard to the success fee arrangement which had been negotiated with Mr Kennedy. The Tribunal was satisfied, on the evidence overall, that the agreement that he was to receive value equal to one commercial acre of the Jackson Way lands by way of a success fee if the rezoning Motion was successful, was sufficient incentive for Mr Dunlop to pay substantial sums to two councillors in 1997/1998 in relation to the rezoning of the Carrickmines lands.

- (vi) It would appear that Mr Dunlop did not report to Mr Kennedy on the payments he actually made to councillors (either in 1992 or 1997). Nevertheless, the thrust of his testimony (in the context of his initial discussion with Mr Kennedy in January 1991) was that Mr Kennedy was aware that the payment of money to councillors would be required, in the course of Mr Dunlop's lobbying endeavours on Mr Kennedy's behalf. The Tribunal accepted this evidence of Mr Dunlop as true and was satisfied, in all the circumstances, that this overarching consideration permeated Mr Dunlop's and Mr Kennedy's dealings.
- (vii) The Tribunal found that the same constituted corrupt activity on the part of Mr Dunlop and Mr Kennedy.
- (viii) There was no evidence before the Tribunal which established, as a matter of probability, such knowledge on the part of Messrs O'Halloran, Kilcoyne or Dr Darragh or that they engaged in such a system, either directly or via Mr Dunlop.

## **THE RELATIONSHIP BETWEEN THE O'HALLORAN CONSORTIUM AND MESSRS KENNEDY AND CALDWELL BETWEEN 1995 - 1998**

**9.01** While during the course of the Review of the 1983 Development Plan, Paisley Park and the O'Halloran Consortium went about the task of seeking to have their individual lands rezoned, subsequently in the period 1995 – 1997 Jackson Way and the O'Halloran Consortium sought to achieve a rezoning of their combined lands.

**9.02** Apart from their rezoning ambitions, both sets of landowners were bound together by a number of other factors, not least the Covenant restricting development on the PP/JW lands which attached to the O'Halloran Consortium lands. The terms of that Covenant were such that even if those lands were rezoned, be it residential, industrial or otherwise, any development of the lands would remain severely restricted (if not impossible).

**9.03** Communication between Mr Kennedy on the one hand, and Messrs O'Halloran and Kilcoyne on the other, appeared to be somewhat more prevalent in the years 1988 to 1993 than in later years. However, the Tribunal was satisfied that Mr O'Halloran and Mr Kennedy continued to have regular contact in the course of their more formal collaboration in the years 1996 to 1998, although Mr O'Halloran did not appear to have recorded the details of that contact as meticulously as he recorded their contact in the earlier period.

**9.04** As was the case in the period 1991 to 1992, in the years 1995 – 1997, the O’Halloran Consortium and Jackson Way again retained separate independent professional advisors and, as in that early period, Mr Dunlop was retained, independently, by both sets of landowners. On this occasion however, the O’Halloran Consortium engaged Mr Dunlop to lobby councillors in pursuit of the rezoning of both the O’Halloran Consortium lands and some 25 acres of the Jackson Way lands.

**9.05** In due course, the efforts put in by the O’Halloran Consortium and their professional advisors, including Mr Dunlop, resulted in some 11 acres of their lands and some 25 acres of the Jackson Way lands being rezoned Industrial on 16 December, 1997. This event resulted in potentially enormous financial gain for both sets of landowners.

**9.06** The Tribunal found it curious that the O’Halloran Consortium did not seek to recover from Jackson Way any contribution to the monies they paid to Mr Dunlop in the period 1997 - 1998 (a total of IR£35,000). This was particularly so in view of the amount of expenditure the Consortium incurred in the course of their rezoning attempts over a ten year period, and the fact that two thirds of the 36 rezoned acres belonged to Jackson Way. This failure to recover any such contribution was all the more surprising given that in 1995 Jackson Way had agreed to contribute to 50% of the fees paid by the O’Halloran Consortium to Dr Brian Meehan.

### **MR DUNLOP’S ALLEGATIONS OF PAYMENTS TO COUNCILLORS IN CONNECTION WITH EFFORTS TO REZONE THE CARRICKMINES LANDS (THE PP/JW LANDS)**

**10.01** Mr Dunlop alleged that he paid a total of IR£27,500 to nine councillors between 1992 and 1997 in return for their support for the rezoning of the PP/JW lands. The councillors, and the amount alleged by Mr Dunlop to have been paid to each, were as follows:

- Cllr Don Lydon: IR£3,000 (1992)
- Cllr Tom Hand: IR£3,000 (1992)
- Cllr Tony Fox: IR£7,000 (1992 and 1997)
- Cllr L.T. Cosgrave: IR£9,000 (1992 and 1997)
- Cllr Colm McGrath: IR£2,000 (1992)
- Cllr Sean Gilbride: IR£1,000 (1992)
- Cllr Jack Larkin: IR£1,000 (1992)
- Cllr Cyril Gallagher: IR£1,000 (1992)
- An unspecified sum to Cllr John O’Halloran (1992)

**10.02** Mr Dunlop stated that the funding for these payments came from the IR£25,000 paid to him by Mr Jim Kennedy in 1991, and the IR£5,000 paid to him by the O'Halloran consortium in 1997.

### CLLR DON LYDON (FF)

**11.01** Mr Dunlop alleged that he paid a sum of IR£3,000 to Cllr Lydon in return for his signature for the motion of 12 June 1992, which was defeated by 26 votes to 24 votes. This motion sought to rezone 108 acres of the PP/JW lands in Carrickmines to 'E' Industrial.

**11.02** Mr Dunlop first alleged that he corruptly paid money to Cllr Lydon in his statement to the Tribunal on 9 October 2000, when he identified Cllr Lydon as having received IR£3,000 in connection with the PP/JW lands. In 2002, Mr Dunlop again identified Cllr Lydon as the recipient of IR£3,000 in connection with the PP/JW lands.

**11.03** Mr Dunlop identified two recorded scheduled meetings in his [diary for 1 and 4 May 1992](#), which he said were held for the purposes of discussing Cllr Lydon's support for the then forthcoming Paisley Park motion. Mr Dunlop said that both meetings took place at Cllr Lydon's place of work, the St. John of God hospital in Stillorgan. Mr Dunlop stated that at the first meeting, which took place at 3.30pm on 1 May 1992, Cllr Lydon sought IR£5,000 from him in return for signing the motion, but that he eventually agreed a payment of IR£3,000. Mr Dunlop said that the payment was made to Cllr Lydon at their second meeting which took place at 9.30am on 4 May 1992, when Cllr Lydon signed the motion. Mr Dunlop said that he paid the IR£3,000 to Cllr Lydon from cash funds available to him at the time, which included the IR£25,000 in cash given to him by Mr Kennedy in early 1991. In this way, Mr Dunlop maintained that the payment to Cllr Lydon had been funded by Mr Kennedy's IR£25,000.

**11.04** An examination by the Tribunal of Cllr Lydon's bank accounts revealed that on 5 May 1992, the day after the date on which Mr Dunlop alleged that he paid him the IR£3,000 in cash, Cllr Lydon lodged IR£3,619.04 to his Bank of Ireland account including IR£1,000 in cash. When asked to identify the source of that cash, Cllr Lydon said it was possibly a re-lodgement of cash withdrawn by him from his bank account on 28 April 1992.

**11.05** Cllr Lydon strongly denied receiving IR£3,000 in cash from Mr Dunlop in May 1992, or at all, in relation to the PP/JW lands. In particular, he disputed the possibility that he might have met Mr Dunlop at 9.30am on Monday 4 May 1992 (the time and date indicated in Mr Dunlop's diary) because it was his practice to

conduct ward rounds in St John of God Hospital at that time. He said that he would never have arranged a meeting for a Monday morning.

**11.06** Cllr Lydon doubted that he could have met Mr Dunlop at 3.30pm on 1 May 1992 (the time and date recorded in Mr Dunlop's diary) as he had addressed the annual conference of the Irish Association of Corporate Treasurers on that afternoon, and he believed that he was engaged at the conference all that afternoon. Mr Healy, Secretary of the Irish Association of Corporate Treasurers, confirmed that Cllr Lydon addressed the conference on that date, but he was unable to state with certainty if Cllr Lydon had been at the conference for the whole afternoon. He did believe, however, that he was present up to 3.25pm at least. The conference was held in the Royal Marine Hotel in Dún Laoghaire, a relatively short distance from St John of God Hospital in Stillorgan.

**11.07** Cllr Lydon also told the Tribunal that on 4 May 1992, he had attended a funeral in Sallynoggin. A daughter of the deceased person in question confirmed to the Tribunal that the funeral mass for her late father had taken place at 10am on 4 May 1992. She said that she was '80%/90%' certain that Cllr Lydon and his wife were present outside the church after the funeral mass at approximately 11am.

**11.08** Cllr Lydon was questioned by Tribunal Counsel on the issue of councillors receiving money from developers and lobbyists. Cllr Lydon stated the following:

*'They got money at election time and he (Mr Dunlop) may have assumed that by doing that they voted a certain way but I don't believe they always did. I think they made up their own minds. That may be a very stupid belief but that's what I think [...] I didn't say they took money on the nod. I said they got monies at elections and what they got were political donations...I am saying it now. He [Mr Dunlop] may have thought that by doing that he was influencing but he wasn't, in my opinion. Maybe he was but I don't think that they were doing it. That's my opinion [...] I see nothing wrong with getting political donations, provided they are spent on elections, which I always did with them'.*

**11.09** Asked why he thought developers might give money to councillors, Cllr Lydon stated:

*'I believe, Chairman, that they hoped to influence you. That's my firm belief. They did it then, they did it before, they do it now'.*

**11.10** Cllr Lydon told the Tribunal that he was prepared to accept money from developers, and had done so, though he always voted as he wished to vote.



**11.11** *The Tribunal's conclusions in relation to the allegation that Cllr Lydon was paid IR£3,000:*

- (i) The Tribunal was satisfied that Cllr Lydon sought money from Mr Dunlop and was paid a sum of IR£3,000 in return for signing the Paisley Park motion which came before Dublin County Council on 12 June 1992 and in return for the support provided by him at that date.
- (ii) In particular, the Tribunal accepted Mr Dunlop's evidence (both in its oral and its documentary form) that, as indicated in his diaries, Mr Dunlop met with Cllr Lydon by arrangement on both 1 and 4 May 1992. The Tribunal accepted that at the first of these meetings, Cllr Lydon sought a payment from Mr Dunlop in return for signing the motion, and that at the second meeting he signed the motion and was paid the sum of IR£3,000. The payment of IR£3,000 was corrupt.
- (iii) Cllr Lydon's alibi evidence did not exclude the possibility that he met with Mr Dunlop in his place of work in Stillorgan at specific times on 1 and 4 May 1992. The Tribunal was satisfied that Cllr Lydon's confirmed attendance at a hotel in Dun Laoghaire up to approximately 3:25pm on the afternoon of 1 May 1992, and at a funeral in Sallynoggin at 11:00am on the morning of 4 May 1992 would not have prevented Cllr Lydon from meeting with Mr Dunlop in his place of work in Stillorgan at 3:30pm and 9:30am on those respective dates. The Tribunal preferred Mr Dunlop's evidence on this issue and found that the meetings did in fact take place as testified to by Mr Dunlop.

### **CLLR TOM HAND (FG)**

**12.01** Mr Dunlop alleged that he had paid Cllr Tom Hand IR£3,000 in return for his signature on a motion seeking to rezone Paisley Park's 108 acres to 'E' Industrial, which was the subject of a vote of Dublin County councillors at a special meeting of Dublin County Council on 12 June 1992. That motion, which was supported by Cllr Hand, was defeated on 12 June 1992. Cllr Hand died on 29 June 1996 and therefore did not give sworn evidence to the Tribunal.

**12.02** According to Mr Dunlop, he spoke to a number of councillors, including Cllr Hand, in relation to the PP/JW lands prior to the County Council meeting on 24 May 1991, and at the time, Cllr Hand (and some other councillors) indicated that they had some reservations regarding the proposed rezoning of those lands.

**12.03** Mr Dunlop said that on 1 May 1992 he had a meeting with Cllr Hand (at 4.30pm) in his home and that he again met with him on 4 May 1992.

**12.04** Mr Dunlop believed that this second meeting with Cllr Hand was for the purposes of obtaining his signature for the 12 June 1992 motion. Mr Dunlop said that he agreed to pay Cllr Hand IR£3,000 for his signature on that motion, which Cllr Hand duly signed at the offices of Dublin County Council. Mr Dunlop alleged that when he initially approached Cllr Hand to request his signature and support for the motion, Cllr Hand indicated to him that he would not sign anything unless he first received payment. Mr Dunlop said that he requested IR£10,000, but eventually agreed to a payment of IR£3,000. Mr Dunlop testified that he duly paid the IR£3,000 to Cllr Hand in the lobby of the reception area of Dublin County Council. Mr Dunlop stated, in the course of his evidence: *‘The payment I made to him is as the payment I made to Senator Don Lydon, it was an inducement for his signature and for his continued support in relation to this particular proposal during the course of the development plan’.*

**12.05** Mr Dunlop told the Tribunal that he dealt with Cllr Hand in relation to a number of developments, with which he was associated, and that Cllr Hand had, on numerous occasions, demanded money from him and that Mr Dunlop had paid him money. Mr Dunlop stated that Cllr Hand had participated in the ‘system’ with him. This was a reference to the practice of councillors seeking and accepting money to support particular rezoning projects.

**12.06** Prior to giving sworn evidence to the Tribunal in the course of this Module, Mr Dunlop had identified Cllr Hand as an individual who sought money from him, and to whom money was paid in relation to a number of rezoning projects. In his written statement of 9 October 2000, Mr Dunlop informed the Tribunal that from the monies that he had received from Mr Kennedy in relation to the PP/JW lands, he had paid IR£3,000 to Cllr Hand for his signature in relation to the Paisley Park motion.

**12.07** Mr Dunlop also told the Tribunal of a demand made of him by Cllr Hand for IR£250,000 in return for his support for the rezoning of the Quarryvale lands, on an occasion between mid-July and early October 1992, which included a request that the money be lodged in a bank account in Australia identified by Cllr Hand.<sup>43</sup>

**12.08** *The Tribunal’s conclusions in relation to the allegation that Cllr Hand was paid IR£3,000:*

- (i) The Tribunal was satisfied that Mr Dunlop did indeed pay IR£3,000 in cash to Cllr Hand in return for his signature for the Paisley Park motion, and that the payment was agreed following a request for IR£10,000 by Cllr Hand.

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<sup>43</sup> See Chapter Two, Part 7.

(ii) The Tribunal believed that Cllr Hand had a propensity to request money from Mr Dunlop in return for supporting particular rezoning projects, and that Mr Dunlop had a clear recollection of having paid him substantial sums on a number of occasions.

(iii) This payment of IR£3,000 was corrupt.

### CLLR COLM MCGRATH (FF)

**13.01** Mr Dunlop alleged that he paid IR£2,000 to Cllr McGrath to ensure his support for the rezoning of the PP/JW lands. He said that this money came from funds provided by Mr Kennedy to him in January 1991.

**13.02** Mr Dunlop said that he lobbied Cllr McGrath to support the PP/JW lands rezoning and that Cllr McGrath had agreed to provide that support. Mr Dunlop said that he probably met Cllr McGrath either in his own office, Cllr McGrath's office or "somewhere" in Clondalkin and agreed the payment of IR£2,000 prior to the County Council meeting of 12 June 1992 at which the motion seeking to rezone the 108 acres of land owned by Paisley Park was defeated. Cllr McGrath was one of 24 councillors who voted in favour of the motion. Mr Dunlop claimed that he subsequently paid IR£2,000 in cash to Cllr McGrath in his Clondalkin office in the second half of June 1992. Mr Dunlop said that Cllr McGrath was in no doubt as to the reason for the payment.

**13.03** In his written statement to the Tribunal on October 2000, Mr Dunlop alleged that he paid the sum of IR£2,000 to Cllr McGrath to ensure his support for the rezoning of the PP/JW lands. Mr Dunlop repeated this allegation in his July 2002 statement to the Tribunal.

**13.04** In his statement to the Tribunal through his solicitors on [14 December 2000](#), Cllr McGrath denied receiving any money from Mr Dunlop directly or indirectly in connection with the PP/JW lands. In reply to the Tribunal's letter of the [24 November 2000](#), Cllr McGrath acknowledged that he had received political/election contributions from Mr Dunlop in amounts ranging from IR£500 to IR£2,000 in the form of both cash and cheques. According to Mr Dunlop, however, the only 'bona fide' political donation he paid to Cllr McGrath was a cheque for IR£500 for a golf classic fundraising event organised by Cllr McGrath on 18 May 1999.

**13.05** Cllr McGrath conceded that he was lobbied by Mr Dunlop at various locations (including Mr Dunlop's office, Cllr McGrath's place of work in Clondalkin, Conway's Public House and in the Royal Dublin Hotel, O'Connell St). However, he denied that he raised the issue of money with Mr Dunlop in the

course of any conversation he had with him in relation to the PP/JW lands. He described Mr Dunlop's allegation that he was paid IR£2,000 to support the PP/JW lands as 'preposterous'. Cllr McGrath stated: *'Frank Dunlop made political contributions to me. He didn't offer them to me, he just arrived and left them, there was no negotiation'*.

**13.06** Cllr McGrath accepted that he received a contribution of IR£2,000 from Mr Dunlop but was unable to say exactly when he received the money. He recalled that Mr Dunlop had telephoned him from his car, that they had met in his (Cllr McGrath's office), and that after a few minutes of general conversation, Mr Dunlop shook hands with him, and slapped the *Irish Times* newspaper on the desk and said *'That's a little something for your election'*. Cllr McGrath said he was unaware in advance of the meeting that he was to receive any money from Mr Dunlop. He accepted that the payment was made to him sometime between 12 and 30 June 1992, and that it was in cash. No election was pending or expected at that time. He saw no connection between being lobbied by Mr Dunlop on the one hand and receiving a substantial sum in cash with no immediate election looming. Cllr McGrath stated: *'No, I saw no connection whatsoever. In fact, if I'd formed the opinion that Mr Dunlop was trying to induce my support by way of generous political contribution, I would have thrown it in his face.'*

**13.07** Cllr McGrath told the Tribunal that he considered Mr Dunlop's suggestion that he had been paid IR£2,000 as a bribe or an inducement in return for his support for the PP/JW lands motion to be 'offensive'.

**13.08** *The Tribunal's conclusions in relation to the allegation that Mr Dunlop paid IR£2,000 to Cllr McGrath:*

- (i) The Tribunal was satisfied that Mr Dunlop paid a sum of IR £2,000 in cash to Cllr McGrath in or about June 1992 in return for his support for the PP/JW lands motion on 12 June 1992. Cllr McGrath acknowledged that he received a payment of IR£2,000 from Mr Dunlop around that time.
- (ii) The Tribunal rejected Cllr McGrath's claim that the IR£2,000 which he received from Mr Dunlop around June 1992 was a "bona fide" political contribution. In or about that time, Mr Dunlop had been lobbying Cllr McGrath to support the Paisley Park rezoning motion which was dealt with at a special meeting of Dublin County Council on 12 June 1992: it is simply not credible that Cllr McGrath would have considered such a substantial cash donation to him from Mr Dunlop to have been anything other than a reward for having voted in a particular way. Furthermore, the

IR£2,000 paid to Cllr McGrath in June 1992 was not paid at the time of an election. While this fact did not of itself exclude the possibility that the payment was legitimate, it prompted the Tribunal to question why Mr Dunlop would have considered making a political contribution to any councillor in such circumstances.

(iii) This payment of IR£2,000 was corrupt.

### **CLLR LIAM T. COSGRAVE (FG)**

**14.01** The Tribunal inquired into three alleged payments to Cllr Cosgrave in connection with the rezoning of the Carrickmines lands, namely IR£2000 in June 1992 and IR£5000 and IR£2000 in 1997. It also inquired into a number of other alleged payments by Mr Dunlop to Cllr Cosgrave which were not, according to Mr Dunlop, paid in connection with Cllr Cosgrave's support for the rezoning of those lands.

#### **THE PAYMENT OF IR£2,000 IN JUNE 1992**

**14.02** Mr Dunlop told the Tribunal that he paid the sum of IR£2,000 in cash to Cllr Cosgrave in return for his support for the PP/JW rezoning Motion on a date between 12 and 29 June 1992. Cllr Cosgrave denied receiving this payment. Mr Dunlop stated that the payment was funded by the IR£25,000 Mr Kennedy paid him in 1991.

**14.03** According to Mr Dunlop, Cllr Cosgrave was one of the councillors whom he lobbied to support the rezoning of the PP/JW lands, between 24 May 1991 and the special meeting of Dublin County Council on 12 June 1992. At that meeting, Cllr Cosgrave voted in favour of the motion, signed by Cllrs Lydon and Hand, which proposed that 108 acres of those lands be rezoned 'E' Industrial.

**14.04** Mr Dunlop stated that in the course of lobbying Cllr Cosgrave to support the rezoning of the PP/JW lands, the subject of money was discussed, whereupon Mr Dunlop said that he agreed to pay Cllr Cosgrave IR£2,000. Mr Dunlop said that his discussions with Cllr Cosgrave took place either in the environs of Dublin County Council, in his own office, in restaurants, in Conway's Public House, in the Royal Dublin Hotel beside the County Council offices in O'Connell Street, or in the Dáil.

**14.05** Mr Dunlop alleged that Cllr Cosgrave raised the subject of money with him in the context of his providing voting support for the rezoning of the PP/JW lands. Mr Dunlop's [diary recorded a meeting on 3 June 1992](#) at 4.30pm 'Liam Cosgrave Dail'. Mr Dunlop stated that the meeting related to the PP/JW lands and 12 June 1992 vote. However, he did not believe that money was discussed

at that meeting. Mr Dunlop recalled that Cllr Cosgrave wanted reassurance that the motion was likely to succeed.

**14.06** Mr Dunlop was unable to identify precisely the location or date when he said he paid Cllr Cosgrave the sum of IR£2,000. His explanation for this inability to recall these details was: *'...there was so much money being...disbursed, at the time to so many people, I am being very careful in the context of proceedings in the Tribunal to say exactly where anything took place, unless I can absolutely be positive that it took place in a given location'*.

**14.07** Mr Dunlop insisted that although he could not recall the exact words used by Cllr Cosgrave he had no doubt but that Cllr Cosgrave was asking him for money in return for his support for the rezoning of the PP/JW lands, and that IR£2,000 was agreed and paid. It was his belief that he paid the IR£2,000 to Cllr Cosgrave on a date between 12 June 1992 (the date of the motion) and 26 June 1992. Mr Dunlop characterised the payment as a bribe or an inducement.

**14.08** Cllr Cosgrave acknowledged that Mr Dunlop had lobbied him to support the rezoning of the PP/JW lands in 1992. Cllr Cosgrave was adamant that he had not received any money from Mr Dunlop in June 1992 or at any time in relation to his support for the rezoning of the lands. However, he stated that he received IR£2,000 in cash from Mr Dunlop in Buswell's Hotel in November 1992, long after the 12 June 1992 Carrickmines vote. Cllr Cosgrave said that this payment was a political donation for his election campaign, and that it had not been solicited by him<sup>44</sup>. (A General Election was held in November 1992. The linked Seanad election took place in January/February 1993.)

**14.09** Cllr Cosgrave also accepted that he may have been lobbied by Mr Dunlop prior to the 24 May 1991 meeting of Dublin County Council. Cllr Cosgrave said that he supported the rezoning of the PP/JW lands on 12 June 1992, because he felt that the proposal made sense as it sought industrial usage for the land. He knew the lands, but did not believe he had visited them. He said that while he may have spoken to other Fine Gael Councillors about the proposal, he did not actively canvass support for it. Cllr Cosgrave accepted that he may have met Mr Dunlop in Dáil Eireann on 3 June 1992, and that they subsequently went to Buswell's Hotel for approximately 15 minutes. Cllr Cosgrave denied that he sought any assurance from Mr Dunlop as to the strength of support for the rezoning motion on 12 June 1992. Cllr Cosgrave insisted that Mr Dunlop's allegation that he was paid IR£2,000 to support the proposal was *'a lie'*.

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<sup>44</sup>The Tribunal found that Cllr Cosgrave was in fact paid IR£5,000 cash by Mr Dunlop in November 1992. See Chapter Two.

## THE PAYMENTS OF IR£5,000 AND IR£2,000 IN 1997

**14.10** Documentary evidence established that Cllr Cosgrave faxed Mr Dunlop documentation on 16, 18 and 25 September 1997 which he had received from Dun Laoghaire/Rathdown County Council in his capacity as a councillor relating to the review of the Development Plan 1997. One of these documents included an Agenda for proposed meetings of Dun Laoghaire/Rathdown County Council to consider representations following the public display of the 1997 Development Plan.

**14.11** Six separate Motions were prepared in respect of the Carrickmines lands. Two related to the PP/JW lands, and four related to the O'Halloran lands. The proposals in the two PP/JW Motions were as follows:

- i. 88 acres to be rezoned for industrial use, and
- ii. 88 acres to be rezoned for residential use.  
(the acreage referred to related to the same lands, and was, in reality, two alternative proposals).

**14.12** The proposals in the four O'Halloran Consortium Motions were as follows:

- i. 36.85 acres to be rezoned for industrial use, and
- ii. 36.85 acres to be rezoned for residential use, and
- iii. 47.1 acres to be rezoned for industrial use, and
- iv. 47.1 acres to be rezoned for residential use  
(as was the case with the PP/JW Motions, these motions were, in reality, alternative proposals relating to the same acreage).

**14.13** The four O'Halloran Consortium Motions (and accompanying maps) were signed by Cllrs Cosgrave and Betty Coffey. Mr Dunlop maintained that he obtained Cllr Cosgrave's signatures. Cllr Coffey's signatures were obtained by Mr O'Halloran.

**14.14** The two PP/JW Motions (and accompanying map) were signed by Cllrs Cosgrave and Tony Fox. Mr Dunlop said that he obtained both sets of signatures.

**14.15** Mr Dunlop appeared uncertain as to where he obtained Cllr Cosgrave's signatures to the six motions. He was however certain that the two PP/JW motion signatures of Cllr Cosgrave were obtained in his (Mr Dunlop's) office. He believed the date was 21 October 1997. Mr Dunlop's diary for that date recorded 'Liam Cosgrave@ FDA'.

**14.16** Mr Dunlop alleged that at the meeting in his office on 21 October 1997, he agreed to pay IR£5,000 to Cllr Cosgrave in return for his signature on the six motions. Subsequently, under cross-examination, Mr Dunlop altered his position stating that the agreed IR£5,000 was in respect of the two PP/JW Motions only. Mr Dunlop maintained that in the course of his meeting with Cllr Cosgrave the issue of money was raised by Cllr Cosgrave. This was denied by Cllr Cosgrave, as was the allegation that any payment relating to the signing of motions was agreed or paid.

**14.17** According to Mr Dunlop, he paid half the agreed IR£5,000 to Cllr Cosgrave in, he believed, the Davenport Hotel, on 30 October 1997. An entry in his diary for that date read '*LC two and a half*' (which Mr Dunlop explained was IR£2,500 to Cllr Cosgrave). Mr Dunlop stated that the balance, IR£2,500, was paid to Cllr Cosgrave on 23 December 1997 in Buswell's Hotel when he met Cllr Cosgrave in the company of his two young children. Cllr Cosgrave denied that any meeting took place on that date, or on any date when he was accompanied by his children.

**14.18** Mr Dunlop further alleged that at the 23 December 1997 meeting, he paid an additional IR£2,000 to Cllr Cosgrave in respect of his signatures on the O'Halloran consortium motions, one of which had been successfully passed by the Council approximately seven days earlier. He said that Cllr Cosgrave had not requested payment, but had referred to his assistance in respect of the O'Halloran Consortium lands. This was denied by Cllr Cosgrave, as was the payment of IR£2,000.

**14.19** The PP/JW motions came before the Council on 21 January 1998. One motion was defeated (by 16 votes to eleven votes). The other motion was not moved.

INFORMATION PROVIDED TO THE TRIBUNAL BY MR DUNLOP AND BY CLLR  
COSGRAVE PRIOR TO THEIR ORAL EVIDENCE TO THE TRIBUNAL

**14.20** In written statements to the Tribunal on 9 October 2000 and 31 July 2002. Mr Dunlop alleged that he paid IR£2,000 to Cllr Cosgrave in return for his support for the rezoning of the PP/JW lands. In his statement of 9 October 2000, Mr Dunlop also alleged that he paid Cllr Cosgrave a sum of IR£5,000 in 1997, in relation to his support for the PP/JW proposal. In that statement, Mr Dunlop also alleged that he paid Cllr Cosgrave IR£2,000 in respect of his support for the O'Halloran Consortium proposal.



**14.21** In a letter to the Tribunal on 12 December 2000, Cllr Cosgrave, in response to a request for information made to him by the Tribunal in a letter dated 23 November 2000, stated that he had never received money from anyone in connection with his support for the proposed rezoning of any lands. On 15 March 2001, Cllr Cosgrave, in a letter to the Tribunal, acknowledged that Mr Dunlop had lobbied him in relation to the rezoning of land. He did not at this time refer to the receipt by him of any payments from Mr Dunlop.

**14.22** In a further [statement to the Tribunal on 17 September 2001](#), Cllr Cosgrave acknowledged that he received ‘several *legitimate political donations*’ from Mr Dunlop in relation to the 1992 general election, the 1993 Seanad election, the 1997 Seanad election, and the 1999 local elections. No specific details of the payments or the circumstances in which they were made were furnished to the Tribunal.

**14.23** On 1 April 2003, the Tribunal received [two letters from Cllr Cosgrave both dated 28 March 2003](#). In one letter, Cllr Cosgrave advised the Tribunal that he received IR£6,000 in political donations from Mr Dunlop. In the second letter, Cllr Cosgrave described a IR£2,500 cheque payment (undated) to him from Mr Dunlop as a Seanad election contribution, and a cheque for IR£1,815. He told the Tribunal that this latter cheque was payment for legal services carried out in respect of an option agreement. Cllr Cosgrave conceded that he had not complied with the provisions of the Electoral Act 1997, in relation to his annual returns of political donations for the year ended 31 December 1997. Specifically, those returns did not disclose the cheque payment of IR£2,500 which Cllr Cosgrave acknowledged having received from Mr Dunlop within the relevant period.

**14.24** In an internal inquiry conducted by the Fine Gael party in 2000, following allegations of illicit payments to Dublin County councillors in the aftermath of Mr Dunlop’s initial appearance before the Tribunal in April 2000, Cllr Cosgrave stated his belief that he received IR£2,000 in cash from Mr Dunlop in 1992/1993, IR£500-IR£1,000 in 1997 and IR£500 in 1999. Cllr Cosgrave did not indicate to the Tribunal the circumstances in which the payments were made, and he rejected the notion that any of the payments were made in exchange for his vote on rezoning/planning issues, or that there were any conditions attached.

**14.25** *The Tribunal's findings in relation to the payments of IR£2,000 in 1992 and the payments of IR£5,000 and IR£2,000 in 1997:*

- (i) The Tribunal was satisfied that Mr Dunlop paid IR£2,000 to Cllr Cosgrave in June 1992, as well as IR£5,000 (in two amounts) and IR£2,000 in late 1997. The Tribunal was satisfied that the aforesaid payments totalling IR£9,000 were made in return for Cllr Cosgrave's support (including his signature on Motions) for the rezoning of the Carrickmines lands.
- (ii) The Tribunal was satisfied to accept Mr Dunlop's evidence that IR£7,000 of the IR£9,000 paid to Cllr Cosgrave was directly solicited by Cllr Cosgrave.
- (iii) These payments were corrupt.

#### OTHER ALLEGED PAYMENTS BY MR DUNLOP TO CLLR COSGRAVE

**14.26** In the course of evidence heard by the Tribunal in the Carrickmines module, the Tribunal was informed of payments to Cllr Cosgrave by Mr Dunlop other than those dealt with above, which were not, according to Mr Dunlop, paid in the context of Cllr Cosgrave's support for the PP/JW lands and/or the O'Halloran Consortium lands.

#### CHEQUE PAYMENTS FOR IR£1,000 AND IR£2,500 PAID RESPECTIVELY ON 12 JANUARY 1993 AND 2 JULY 1997

**14.27** Mr Dunlop made payments by cheque to Cllr Cosgrave in the sum of IR£1,000 on 12 January 1993 and in the sum of IR£2,500 on 2 July 1997. According to Mr Dunlop, the 1993 payment was a contribution towards Cllr Cosgrave's 1993 Senate election campaign while the July 1997 payment was paid as a contribution towards Cllr Cosgrave's 1997 Senate campaign. Cllr Cosgrave acknowledged receipt of both sums.

#### A CHEQUE PAYMENT TO CLLR COSGRAVE OF IR£1,815 IN 1997

**14.28** Both Mr Dunlop and Cllr Cosgrave acknowledged that, on 16 September 1997, Frank Dunlop and Associates Limited paid a [cheque](#) to Egan Cosgrave & Associates Solicitors (in which Cllr Cosgrave was then a partner) in the sum of IR£1,500 plus VAT, a total of IR£1,815. Mr Dunlop categorised this payment as a *bona fide* election contribution. This was despite the fact that it was paid in an unusual format inclusive of VAT, and paid to Cllr Cosgrave's solicitors firm. Cllr Cosgrave insisted that the payment was made in respect of legal work carried out by Egan Cosgrave Solicitors on Mr Dunlop's behalf.

**14.29** Cllr Cosgrave accepted that the cheque payment of IR£1,815 was not properly accounted for in the books of Egan Cosgrave & Associates Solicitors, and that its full value was withdrawn from the firm by him without any payment of VAT or income tax. Egan Cosgrave's books described the payment as 'sundries'.

**14.30** Egan Cosgrave & Associates Solicitors had in fact provided legal services to Mr Dunlop in relation to an option on land. This matter was unrelated to lands in Carrickmines. The work had been carried out approximately two years earlier. No fees were paid by Mr Dunlop in respect of this work, and no invoice/fee note was issued to him between the completion of the work and the payment of IR£1,815.

**14.31** Mr Dunlop also alleged that he paid a sum of IR£1,000 in cash to Cllr Cosgrave at the same time that he paid the cheque for IR£1,815 to Egan Cosgrave & Associates Solicitors. This payment was denied by Cllr Cosgrave. The Tribunal was unable to determine if in fact any such payment was made.

### **CLLR SEAN GILBRIDE (FF)**

**15.01** Mr Dunlop alleged that he paid a sum of IR£1,000 in cash to Cllr Gilbride in return for his support for the rezoning of the PP/JW lands. Mr Dunlop maintained that this payment was made from funds provided to him in early 1991 by Mr Jim Kennedy.

**15.02** In his written statement to the Tribunal on 9 October 2000, Mr Dunlop maintained that Cllr Gilbride sought money to ensure his support for the PP/JW lands.

**15.03** Mr Dunlop told the Tribunal that he and Cllr Gilbride discussed the subject of money in advance of the motion scheduled for hearing at a special meeting of Dublin County Council on 12 June 1992, in which Paisley Park sought to rezone 108 acres of its lands at Carrickmines.

**15.04** Cllr Gilbride maintained that Mr Dunlop never offered or paid him money in relation to any rezoning motion. While he supported the 12 June 1992 rezoning motion, Cllr Gilbride emphasised that he would have supported the rezoning of lands for development irrespective of where they were if the relevant motion carried the signature of a Fianna Fáil councillor, as was the case with that motion. Cllr Gilbride said he was unconcerned with what the County Council Planners themselves might say because, in his view, they '*...were there to make recommendations; we were there to do the voting and make the plan*'.

**15.05** Mr Dunlop's diary recorded a meeting between himself and Cllr Gilbride on [11 June 1992](#), the day prior to the 12 June 1992 motion in Dublin County Council. Mr Dunlop told the Tribunal that he paid Cllr Gilbride IR£1,000 at this meeting. However, Cllr Gilbride maintained that he did not discuss the Carrickmines lands with Mr Dunlop at the meeting of June 11 and claimed that that meeting, in fact, related to the Quarryvale development. Later in his evidence, Cllr Gilbride conceded that it was possible that Mr Dunlop raised the PP/JW matter in the course of this meeting.

**15.06** *The Tribunal's conclusions in relation to the allegation by Mr Dunlop that he paid Cllr Gilbride IR£1,000:*

- (i) The Tribunal was satisfied that Cllr Gilbride sought and was paid the sum of £1,000 in cash by Mr Dunlop in return for his support for the rezoning of the PP/JW lands and in particular, his support for the Paisley Park motion on 12 June 1992. This payment was corrupt.
- (ii) The Tribunal was satisfied that Mr Dunlop demonstrated a clear recollection of Cllr Gilbride seeking money in respect of, and being paid money for, his support for the rezoning motion on 12 June 1992.

### CLLR TONY FOX (FF)

**16.01** Mr Dunlop alleged Cllr Fox sought money from him when he lobbied him to support the rezoning of the Carrickmines Lands, in advance of the Special Meeting of the Council of 24 May 1991. He also alleged that he paid IR£2,000 to Cllr Fox in return for his support for the motion to rezone the Carrickmines lands which was voted on at a special meeting of the County Council on 12 June 1992.<sup>45</sup> He further alleged that he made payments to Cllr Fox in connection with the rezoning of the Carrickmines lands in 1997.

**16.02** With reference to the meeting of 24 May 1991, Mr Dunlop said he “would have” lobbied Cllr Fox, in addition to a number of other councillors, prior to that meeting at which Dublin County Council considered the ‘three Options’ presented to it by the Manager. Cllr Fox voted against the adoption of Option 1.

**16.03** Mr Dunlop told the Tribunal that when he lobbied Cllr Fox, Cllr Fox discussed the payment of money with him. Mr Dunlop said that Cllr Fox indicated to him that, as he had done previously, he would support the preferred option for the PP/JW lands at the meeting on 24 May 1991 but that what Mr Dunlop

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<sup>45</sup>In statements to the Tribunal, Mr Dunlop referred to the IR£2,000 payment in the context of Cllr Fox's support for the rezoning of the Paisley Park lands. In his sworn evidence, Mr Dunlop said that the payment was specifically made in return for Cllr Fox's support for the Lydon / Hand motion on 12 June 1992.

described as *'the normal rules of engagement'* would apply. According to Mr Dunlop what Cllr Fox actually said to him was *'I will need to look after people.'* Mr Dunlop told the Tribunal that he reminded Cllr Fox that he had already received money from him<sup>46</sup>, and that he did not intend to make disbursements in relation to the Paisley Park/Jackson Way related motion prior to its outcome. In the event, Mr Dunlop said he did not pay any money to councillors in relation to the motion of 24 May 1991.

#### THE PAYMENT OF IR£2,000 IN 1992

**16.04** According to Mr Dunlop, he probably lobbied Cllr Fox between 4 May 1992 and 12 June 1992 to support the 12 June 1992 Lydon/Hand motion. Cllr Fox voted in favour of that motion, which was defeated by a margin of two votes. Mr Dunlop alleged that in the course of that lobbying, Cllr Fox asked him for IR£2,000 which Mr Dunlop agreed to pay him. Mr Dunlop believed that after the vote he handed over the IR£2,000 in cash to Cllr Fox in an envelope while walking the short distance between Conway's Public House and the O'Connell Street offices of Dublin County Council.

**16.05** An entry in Mr Dunlop's [diary for 1992 recorded on 3 June 1992](#), *'9pm Tony Fox'*. Mr Dunlop stated that this was one of the meetings he had with Cllr Fox in his home, and the occasion when he lobbied Cllr Fox to support the Paisley Park/Jackson Way proposal.

#### THE PAYMENT OF IR£5,000 (IN TWO AMOUNTS) TO CLLR FOX IN 1997

**16.06** Mr Dunlop told the Tribunal that in 1996 and 1997, he again lobbied Cllr Fox to support the renewed attempts to rezone the PP/JW lands, or at least a portion of those lands.

**16.07** Mr Dunlop's diary recorded meetings between himself and Cllr Fox at the Royal Marine Hotel in Dun Laoghaire in September and December 1996 and in September and October 1997.

**16.08** Mr Dunlop's [diary for 28 October 1997](#) recorded the following *'12.30 Tony Fox @ Davenport Hotel 1<sup>1</sup>/<sub>4</sub>- 5 first instance 10/15 finish'*. Mr Dunlop told the Tribunal that this entry represented details of an agreement he made with Cllr Fox at a meeting on that day, whereby Cllr Fox was to be paid a total of IR£16,250 in the event that the proposal to rezone the Paisley Park/Jackson Way lands was successful. The agreement was that IR£1,250 was to be paid immediately followed by IR£5,000 at Christmas time. A further payment was to

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<sup>46</sup>See Chapter 2 for the monies paid to Cllr Fox by Mr Dunlop in May/June 1991.

be made of between IR£10,000 and IR£15,000 in the event that the land was successfully rezoned.

**16.09** An entry in Mr Dunlop's [diary for the 30 October 1997](#) read 'TF 1<sup>1</sup>/<sub>4</sub> and LC 2<sup>1</sup>/<sub>2</sub>'. Mr Dunlop told the Tribunal that the reference to 'TF 1<sup>1</sup>/<sub>4</sub>' related to a payment of IR£1,250 in cash that he made on that date to Cllr Fox in the Davenport Hotel. This was in return for his signature on two motions which were scheduled to come before the County Council on the 21 January 1998. The first of these motions sought to rezone 88 acres of the PP/JW lands to 'E' Industrial, while the second motion sought to have the same acreage rezoned to 'A1' Residential. The first motion was defeated by 16 votes to 10 (with Cllr Fox voting in favour). The second motion was not the subject of a vote.

**16.10** While there was some inconsistency in Mr Dunlop's evidence on the make-up of the total paid, Mr Dunlop stated that he paid Cllr Fox a further IR£3,750 on a later date, prior to Christmas 1997.

**16.11** Cllr Fox denied receiving money for any purpose from Mr Dunlop. He did accept the possibility that Mr Dunlop could have made a small contribution to his election campaign fund through a third party or parties.

**16.12** *The Tribunal's conclusions in relation to the alleged payments totalling IR£7,000 to Cllr Fox:*

- (i) The Tribunal was satisfied that Mr Dunlop was in frequent contact with Cllr Fox in the periods leading up to the special meetings of Dublin County Council on 24 May 1991, 12 June 1992, 16 December 1997 and 21 January 1998, at which the councilors considered motions relating to the rezoning of the Carrickmines lands.
- (ii) The Tribunal was satisfied that Mr Dunlop made payments of IR£2,000 and IR£5,000 (consisting of two individual sums of IR£1,250 and IR£3,750) to Cllr Fox on his request and in return for his support for the rezoning of lands in Carrickmines. The payments totaling IR£5,000 made to Cllr Fox in late 1997 also included payment for Cllr Fox's signature on two rezoning motions scheduled for consideration by the County Council on the 21 January 1998.
- (iii) The said payments, totalling IR£7,000, were corrupt payments.

**CLLR CYRIL GALLAGHER (FF)**

**17.01** Mr Dunlop alleged that he paid a sum of IR£1,000 in cash to Cllr Gallagher to ensure his support for the rezoning of the PP/JW lands. He said that the money in question was funded from Mr Kennedy's payment to him of IR£25,000 in early 1991.

**17.02** Mr Dunlop maintained that Cllr Gallagher requested IR£1,000 in return for supporting the rezoning of the PP/JW lands, and that some two to three weeks prior to the June 1992 vote, he, Mr Dunlop, agreed to pay him that money. He said that he paid the money between 12 and 29 June 1992. He could not recall where the payment was made, but he was certain that he had paid the money.

**17.03** Cllr Gallagher died on 20 March 2000 and did not therefore give oral evidence to the Tribunal.

**17.04** *The Tribunal's conclusions in relation to Mr Dunlop's allegation of a payment of IR£1,000 to Cllr Gallagher:*

- (i) The Tribunal was not satisfied that Mr Dunlop had a clear and definite recollection of a payment of IR£1,000 to Cllr Gallagher specifically in relation to the rezoning of the PP/JW lands, and therefore rejected his evidence.

**CLLR JACK LARKIN (FF)**

**18.01** In a written statement to the Tribunal dated 9 October 2000, Mr Dunlop alleged that he paid IR£1,000 to Cllr Larkin out of the IR£25,000 he received from Mr Jim Kennedy, to ensure his support for the Paisley Park rezoning project.

**18.02** On 23 March 1998, Cllr Larkin, in reply to a Tribunal questionnaire, denied any awareness of any corrupt payments being made to councillors or of any attempts to compromise the disinterested performance of public duties on the part of any individual. Cllr Larkin died on 6 May 1998 and therefore did not give sworn evidence to the Tribunal.

**18.03** Mr Dunlop said that he lobbied Cllr Larkin to support the rezoning of the PP/JW lands. Mr Dunlop stated that Cllr Larkin had indicated to him that he would support the PP/JW rezoning proposal if there was money available to him for so doing, and the two men then agreed a sum of IR£1,000 to be paid after the vote on the motion in relation to the rezoning of those lands on 12 June 1992. Mr Dunlop alleged that he paid IR£1,000 in cash to Cllr Larkin in

Conway's public house subsequent to that date and that on receiving the payment, the councillor stated to him that he was pleased to have been of assistance. Mr Dunlop described his discussion about the payment of money with Cllr Larkin as follows:

*'The discussion that I had with him in relation to the Carrickmines lands, to the best of my recollection, took place in Conway's pub when others were present, other councillors were present. And he indicated that he would support it. I had ... again trying to be as helpful as possible in relation to this matter, I spoke to him subsequently on his own and he reiterated his support, but that he would need 'a few bob'. They are his words'.*

**18.04** Later in his sworn evidence, Mr Dunlop said, referring to Cllr Larkin: *'...he indicated that he would support on the basis of money being available. I agreed. I agreed IR£1,000 and I paid him that IR£1,000 subsequently, by that I mean on a date after the vote, in Conway's pub in cash'.*

**18.05** Mr Dunlop categorised the payment to Cllr Larkin as a *'bribe or inducement'*. Cllr Larkin supported the PP/JW vote on 12 June 1992, together with 23 other councillors.

**18.06** On Day 146 (18 April 2000), the day on which Mr Dunlop first gave evidence on oath to the Tribunal, he identified Cllr Larkin as one of a number of councillors who requested what he (Mr Dunlop) described as *"money for legitimate electoral reasons"*. On the following day, in the course of his continuing sworn evidence to the Tribunal, Mr Dunlop identified Cllr Larkin as one of a number of councillors to whom he paid money from withdrawals from his AIB Rathfarnham account in 1991, which he described on occasion as one of his *'war chest'* accounts. On Day 147, Mr Dunlop maintained that he had paid IR£1,000 to Cllr Larkin as a contribution relating to the 1991 Local Elections. However, in his list of payments made from the Rathfarnham account in 1992, Mr Dunlop did not name Cllr Larkin.

**18.07** Mr Dunlop gave conflicting evidence to the Tribunal in relation to his allegation that he paid Cllr Larkin IR£1,000 for his support for the rezoning of the PP/JW lands. On one occasion, he told the Tribunal that he had no memory of Cllr Larkin talking to him about money in the context of the PP/JW lands. Yet on another occasion, in the course of his sworn evidence to the Tribunal, Mr Dunlop claimed to recall that when he, Mr Dunlop, sought Cllr Larkin's support for the rezoning of the PP/JW lands, Cllr Larkin confirmed his support but stated that he would need *'a few bob'*. He also stated in the course of his sworn evidence that he had *'agreed £1,000'* and that he had subsequently paid him that sum.



**18.08** *The Tribunal's conclusions in relation to the alleged payment of IR£1,000 to Cllr Larkin:*

- (i) The Tribunal found Mr Dunlop's evidence regarding an alleged payment of IR£1,000 to Cllr Larkin in connection with the PP/JW lands to be unreliable, and in the absence of any relevant corroboration, the Tribunal did not find that any such payment had been made.

### **CLLR JOHN O'HALLORAN<sup>47</sup> (LAB/IND)**

**19.01** In his written statement of 31 July 2002, Mr Dunlop stated that he had paid Cllr O'Halloran a total of IR£5,000<sup>48</sup> in relation to a number of rezoning matters that were to come before Dublin County Council in the course of its review of the County Dublin Development Plan. One of these payments related to the PP/JW lands. Mr Dunlop also referred to having paid Cllr O'Halloran '*...not more than IR£5,000 in all...*' in his 9 October 2000 statement to the Tribunal.

**19.02** Mr Dunlop told the Tribunal, in evidence, that he lobbied Cllr O'Halloran to support the PP/JW lands rezoning project prior to the County Council vote on 24 May 1991, and again prior to the County Council rezoning vote of 12 June 1992. Mr Dunlop said that money was not discussed between them in the context of that lobbying. Mr Dunlop however alleged that subsequent to the 12 June 1992 vote, Cllr O'Halloran approached him at Dublin County Council offices and complained to him that he had not received anything while others were '*coining it*'. Mr Dunlop alleged that in the course of this conversation, Cllr O'Halloran told Mr Dunlop that he would have supported the Paisley Park rezoning proposal if Mr Dunlop had paid him for that support.

**19.03** In the course of his evidence (Day 344) Mr Dunlop stated of Cllr O'Halloran, that he '*...was an enthusiastic supporter of motions in relation to rezoning, and I specifically refer that remark solely to motions and items that I was involved with.*'

**19.04** Mr Dunlop also stated that:

*'During the course of the development plan, Cllr John O'Halloran approached me in Dublin County Council and complained is the word I have used, that he was getting nothing and others were coining it. [...] In this conversation that I had with Councillor O'Halloran he alluded to his ongoing support for the development which I have referred to earlier, but is not relevant to this module.'*

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<sup>47</sup>See also pages 1050 to 1065 of Chapter Two, Part 7.

<sup>48</sup>See also 'A composite payment not exceeding IR£5,000 from Mr Dunlop', pages 1053, 1054, 1060 and 1061 of Chapter Two, Part 7.

**19.05** Mr Dunlop told the Tribunal (with reference to Cllr O'Halloran): *'The sums that I paid to him subsequently took account of the fact that he said he would have supported Paisley Park. He never asked me for money during the course of the proposal for Paisley Park, either prior to May '91 or June 1992.'*

**19.06** Mr Dunlop alleged that in addition to a payment of IR£2,500 which he made to Cllr O'Halloran in 1996, he paid *'small amounts, and not more than £5,000 in all during the course of the development plan'* to Cllr O'Halloran. Mr Dunlop believed that these small payments were made in the period between late 1992 and the end of 1993, and related to Cllr O'Halloran's support for various developments with which Mr Dunlop was engaged. Mr Dunlop was unable to provide the Tribunal with a detailed breakdown of these small payments. Mr Dunlop explained to the Tribunal: *'And what I have said to you, and what I say again here today, is that while I do not recall the circumstances in each case, and apart from a certifiable traceable payment in 1996 of £2,500, Mr. O'Halloran received monies from me in small amounts and not more than £5,000 in all during the course of the Development Plan.'*

**19.07** [In a letter addressed to the Tribunal dated 26 January 2000](#), Cllr O'Halloran said he received a political donation of IR£5,000 from Mr O'Callaghan towards the end of 1993. He also said that he received IR£2,500<sup>49</sup> from Mr Dunlop as a contribution towards his election expenses for a by-election in Dublin West in April 1996.

**19.08** In a further letter to the Tribunal dated 20 September 2000, Cllr O'Halloran said that he had not received any payment from Mr Dunlop in the course of the review of the 1993 Dublin Development Plan. He specifically denied that he had received money from Mr Dunlop in relation to the Carrickmines lands. However, in a further letter dated 25 November 2002 (written by Cllr O'Halloran's Solicitors) the Tribunal was informed that Cllr O'Halloran now recollected that following a conversation initiated by Mr Dunlop, he received an unsolicited donation of IR£500 from Mr Dunlop between June 1991 and December 1993.

**19.09** Cllr O'Halloran informed the Tribunal that he recollected Mr Dunlop approaching him and making the political contribution to him, between June 1991 and December 1993, in the environs of Dublin County Council offices in O'Connell Street. He said that no specific project was discussed between them and there were no strings attached. The amount was IR£500. Cllr O'Halloran maintained that he accepted this donation as a straightforward political contribution without any express or implied agreement or understanding that its

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<sup>49</sup> See also pages 1058 to 1060 and page 1062 of Chapter Two, Part 7.

acceptance was in return for agreeing to support any land rezoning proposals in the Dublin Draft Development Plan, either concerning lands at Carrickmines or otherwise.

**19.10** In evidence, Cllr O'Halloran told the Tribunal that this payment of IR£500 from Mr Dunlop was a "once off", and the only cash payment ever made to him by Mr Dunlop. Cllr O'Halloran maintained that the payment was made after Mr Dunlop had raised the issue of fundraising with him, and that he had not solicited the payment. Cllr O'Halloran acknowledged that there was no election expected at the time of the payment.

**19.11** Cllr O'Halloran denied receiving payments from Mr Dunlop in the 1991-1993 period other than a IR£250 cheque payment in December 1992<sup>50</sup> and the aforesaid cash payment of IR£500.

**19.12** Cllr O'Halloran was first elected councillor in June 1991, and therefore was not an elected councillor on the occasion of the Carrickmines related motions which were considered by Dublin County Council on 6 December 1990 and 24 May 1991. Cllr O'Halloran voted in favour of the Lydon/McGrath motion on 27 May 1992.

**19.13** *The Tribunal's conclusions in relation to Mr Dunlop's allegations regarding payments to Cllr O'Halloran in return for his support for the rezoning of lands:*

- (i) There was a substantial conflict between Mr Dunlop and Cllr O'Halloran on the issue of the number of small payments made by Mr Dunlop in the period 1991 to 1993. The Tribunal was satisfied that Cllr O'Halloran received IR£500 in cash from Mr Dunlop sometime between June 1991 and December 1993. The Tribunal was also satisfied that Mr Dunlop gave Cllr O'Halloran a cheque for IR£250 on 8 December 1992, in or about the time that Cllr O'Halloran signed the Quarryvale motion which was lodged with Dublin County Council on 9 December 1992. Furthermore, the Tribunal accepted Mr Dunlop's evidence that there were other occasions on which he paid Cllr O'Halloran small sums (in the region of IR£500 each) during this period.
- (ii) The Tribunal could not determine which of Mr Dunlop's development projects these payments related to. The Tribunal was satisfied that insofar as Cllr O'Halloran solicited and accepted such payments at times when he was aware that Mr Dunlop was a lobbyist in relation to rezoning issues

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<sup>50</sup> See paragraph 27.16 on page 1053 of Chapter Two, Part 7.

current in Dublin County Council, including the PP/JW lands, then he did so improperly.

### **CLLR BETTY COFFEY (FF)**

**20.01** Mr Dunlop told the Tribunal that he visited Cllr Coffey's home at least twice prior to the O'Halloran Consortium/ PP/JW rezoning vote on 16 December 1997, seeking her support for that proposal. Mr Dunlop said he also lobbied Cllr Coffey in January 1998 relating to the proposal to rezone the PP/JW lands. Mr Dunlop stated that the question of money did not arise as between them.

**20.02** Cllr Coffey initially told the Tribunal that no payment of any nature had been made by Mr Dunlop to her. Subsequently however, she revealed that Mr Dunlop had given her IR£1,000 for the 1992 general election, the receipt of which she acknowledged in writing. Cllr Coffey recalled being lobbied once by Mr Dunlop in relation to the lands.

### **MR O'HALLORAN'S PAYMENTS TO COUNCILLORS**

#### **CLLR LARRY BUTLER (FF)**

**21.01** Mr O'Halloran advised the Tribunal that he made two payments to Cllr Butler, one for IR£100 on 13 March 1992 and the other for IR£250 on 31 May 1993. The first payment was made at the suggestion of Mr O'Halloran's colleague, Mr Kilcoyne, and was a political contribution. The second payment was in aid of a fundraising event at Kitty O'Shea's Public House in Grand Canal Street in Dublin. Mr O'Halloran explained to the Tribunal that his colleague, Mr Kilcoyne was a friend of Cllr Butler and had known him for many years. He was introduced to Cllr Butler by Mr Kilcoyne.

**21.02** Cllr Butler confirmed to the Tribunal that he received two payments totalling IR£350, which he described as '*cash gifts*' from Mr O'Halloran. In addition, he received two bottles of wine at Christmas 1997. He said the bottles of wine were used as spot/raffle prizes at Fianna Fáil fundraising functions.

**21.03** Cllr Butler told the Tribunal that while he supported the O'Halloran Consortium rezoning motion in 1997, he did not support the Paisley Park or Monarch (relating to other lands in Carrickmines) development proposals. He believed that he was lobbied for support by Mr O'Halloran and Mr Kilcoyne. Mr Dunlop also recalled lobbying Cllr Butler in relation to the PP/JW lands. Mr Butler did not vote in the PP/JW rezoning motion in Dublin County Council on 21 January 1998.

**CLLR BETTY COFFEY (FF)**

**22.01** Mr O'Halloran told the Tribunal that he asked Cllr Coffey, whom he knew as a friend for over twenty years, to propose a motion in 1992 to rezone the O'Halloran Consortium lands, but that she refused to do so as she was unable to examine the submission made in support of that proposal, because of the short notice of the request. However, on 5 June 1992, Cllr Coffey and her colleague Cllr Butler proposed an amendment to the O'Halloran motion seeking a residential density of one house per acre. This was done in circumstances where the motion seeking a greater density of housing for the lands appeared unlikely to succeed because of lack of councillor support. Mr O'Halloran maintained that in an effort 'to salvage' the rezoning attempt, Cllr Coffey suggested a reduction of the housing density for the lands. However, this proposed amendment also failed because of the lack of councillor support and the motion was withdrawn. In 1997, Cllr Coffey co-signed (with Cllr Liam T. Cosgrave) the four motions which came before a special meeting of Dun Laoghaire/Rathdown County Council on 16 December 1997.

**22.02** Cllr Coffey told the Tribunal that Mr O'Halloran was the only person who lobbied her in relation to these matters. Cllr Coffey said she agreed to sign and support the motions because it would lead to improvements in the economy, the need for jobs and housing and because of a positive feedback in relation to the proposals from the County Council planners.

**22.03** Mr O'Halloran told the Tribunal that he paid a political contribution to Cllr Coffey of IR£1,000 on 19 March 1996. Mr O'Halloran told the Tribunal that he initially proffered a contribution of IR£250 to Cllr Coffey in the course of a fundraising event in Killiney Castle Hotel in Dublin, whereupon she indicated that this was insufficient and that she expected more from him. He then duly paid the sum of IR£1,000 to her. Cllr Coffey told the Tribunal that she received no personal benefit from this cheque as it was passed on to her Fianna Fáil constituency organisation. Cllr Coffey was certain that the money paid by Mr O'Halloran on this occasion had nothing to do with her decision to sign motions and support the rezoning of lands partly owned by Mr O'Halloran.

**22.04** The Tribunal was however satisfied that Cllr Coffey's insistence that Mr O'Halloran's offer of a donation of IR£250 in March 1996 was insufficient, which resulted in it being increased to IR£1,000, was improper and served to compromise Cllr Coffey's disinterested performance of her duties as a councillor.

## THE O'HALLORAN CONSORTIUM AND PAYMENTS TO MR O'HALLORAN

**23.01** Discovery made to the Tribunal by Messrs O'Halloran, Kilcoyne and Dr Darragh included, inter alia, correspondence dated June 2001. This correspondence referred to payments sought by Mr O'Halloran from Dr Darragh and Mr Kilcoyne. The first related to a fee of IR£50,000 discharged by Mr O'Halloran in late 1997. Mr O'Halloran sought to recover two thirds of this amount from his two colleagues. The second related to a payment of IR£150,000 each from Dr Darragh and Mr Kilcoyne in respect of the work done by Mr O'Halloran on behalf of the consortium and which was to be paid from the sale proceeds of the land.

**23.02** The Tribunal wrote to Mr O'Halloran, Dr Darragh and Mr Kilcoyne in relation to these payments on 14 February 2003. Tribunal Counsel also questioned them on the payments in the course of their sworn evidence. The Tribunal was anxious, in particular, to establish the purpose of the expenditure to which the payments related, given that it coincided with the rezoning of a portion of the O'Halloran Consortium lands in addition to some 25 acres of the Jackson Way lands.

### MR O'HALLORAN'S EVIDENCE REGARDING THE PAYMENTS

**23.03** On 28 October 1997, Mr O'Halloran wrote to Mr Kilcoyne and provided him with a copy of the rezoning submission to the County Council on 22 August 1997 which had been made on behalf of the O'Halloran consortium and Jackson Way. This letter apprised Mr Kilcoyne as to how matters were proceeding vis-a-vis the submission of motions to rezone the lands and the likely date on which the matter would come before Dún Laoghaire-Rathdown Council for decision.

**23.04** The letter also contained the following:

*'The preparation of this latest submission has once again involved several members of my staff who have contributed a great deal of time. Because of the costs involved I would now like you and Austin to make a contribution not only in respect of this latest round of work but also for the many earlier submissions and representations which were prepared here.*

*What I have in mind is that you both make a contribution to the costs incurred for the time spent by staff here, also towards the associated printing costs, my own time – as always – is being contributed by me as part of my involvement with you both.*

*From my records over the past five years I estimated that a contribution from each of you of £3,500 would go a long way towards covering my expenses here which have already been paid.'*

**23.05** In the course of his evidence Mr O'Halloran confirmed that, in October 1997, he had requested and received a sum of IR£3,500 each from Messrs Kilcoyne and Darragh for the work he had undertaken in relation to the rezoning issue. Mr O'Halloran stated that the sum of IR£3,500 had been suggested by him at that time as Dr Darragh, in particular, was anxious to be provided with an account from Mr O'Halloran for the work he and his office had invested into the rezoning issue.

**23.06** Mr O'Halloran stated that in December 1997 a further discussion took place between the three men. According to Mr O'Halloran, at that meeting Dr Darragh expressed his view that the account sent by Mr O'Halloran in October was '*ridiculous*', and both Dr Darragh and Mr Kilcoyne insisted that Mr O'Halloran nominate a more appropriate and realistic fee for the work he and his office had undertaken. Mr O'Halloran stated:

*'During that or as a result of that conversation I suggested and pulled a figure out of the air that they would pay me 50,000, which I suggested I would put a lump sum of 50,000 against the work that my office had done from the period of about 1998 (sic), I suppose realistically up to 1988 up to 1997. That each of us would take our share one-third of that. Each agreed that that was viable. It was agreed also that that fee would be billed by me in due course, but it would not be paid until we benefited from the proceeds of the sale of the land or part of it. So, that amount was agreed in principle, was never invoiced and it was never paid.'*

**23.07** Mr O'Halloran told the Tribunal that no note or record of that December 1997 meeting was made, nor was the agreement which had been reached recorded but Mr O'Halloran stated that '*50,000 lump sum was definitely raised*'. Mr O'Halloran further acknowledged that he did not provide this figure in writing to his colleagues, nor had he furnished any account in writing to them at the time.

**23.08** Mr O'Halloran believed that the sum was agreed sometime between the rezoning of the lands on 16 December 1997 and 1 January 1998.

**23.09** Although Mr O'Halloran, Dr Darragh and Mr Kilcoyne purchased their lands in 1978, they did not enter into a formal agreement as to how the proceeds of any sale of the lands would be divided, until 1990. That agreement was concluded on 22 November 1990, and it provided that the sale proceeds were to be divided on an agreed percentage basis.

**23.10** In January 2000 the members of the O'Halloran Consortium decided to meet and review their inter-party agreement. The agenda for that meeting, prepared by their solicitor, Mr Gore Grimes, stated that one of the purposes of the meeting was to ensure that the agreement which they had signed was adequate to *'cover in all respects the situation going forward'*. According to Mr O'Halloran he and his colleagues felt that it was appropriate to review the agreement which had been entered into in 1990 *'...in anticipation of the land being sold in the near future'* and with the view that he and his colleagues *'... should have a complete and clear understanding amongst each other as to what the format would be of the share of the proceedings of the sale from the lands.'*

**23.11** On 25 January 2000 Mr O'Halloran wrote to Mr Gore Grimes in advance of a meeting on 23 February 2000, and set out as follows: *'As pointed out during our meeting, it is now my intention to prepare a statement of the details and cost to this practice of all of the work completed here during the past ten years in particular leading to the rezoning of part of the lands and for other activities additional to that.'* According to Mr O'Halloran, he had agreed with the other consortium members that he would receive a fee of IR£50,000 for his work during the period 16 December 1997 to 1 January 1998. However, he acknowledged that this letter did not refer to that sum.

**23.12** The meeting took place on 23 February 2000. An attendance note of the meeting prepared by Mr Gore Grimes identified the issues discussed. According to that note, there was a discussion about the work which Mr O'Halloran himself had undertaken in relation to the land rezoning project and that it was agreed that Mr Kilcoyne and Dr Darragh would each pay him IR£150,000 for his services to the Consortium, from their share of the sale proceeds. As Mr O'Halloran acknowledged, that attendance note made no mention of the previous agreement whereby they were to pay him two thirds of IR£50,000.

**23.13** On 19 June 2001, Mr O'Halloran again wrote to Mr Gore Grimes in connection with the monies being claimed by him for the work he and his office had carried out in relation to the lands. This letter was written in the aftermath of a compensation agreement which had been negotiated and agreed on behalf of the O'Halloran Consortium and Dún Laoghaire-Rathdown County Council. According to that agreement, the consortium were to be paid IR£400,000 for the lands being compulsorily acquired for the construction of the South Eastern Motorway.

**23.14** In that letter, Mr O'Halloran, proposed that his fellow consortium members would each pay him 50% of the IR£150,000 which they had agreed to pay to him, from their respective shares of the IR£400.000 compensation. Mr



O'Halloran also suggested that they would *'also each pay me  $\frac{1}{3}$  of an account for £50,000 which dates from late 1997, they are both also aware of this.'* With his letter Mr O'Halloran attached a schedule wherein he calculated the percentage due to each (based on their 1990 agreement) out of the IR£400,000 compensation. According to those calculations, out of the IR£400,000 sum, Mr O'Halloran was due IR£126,200, Dr Darragh was due IR£112,400 and Mr Kilcoyne was due IR£161,400. Each individual's entitlement was based on his percentage land holding, as was the liability of each for Mr O'Halloran's remuneration.

**23.15** The thrust of Mr O'Halloran's letter of the 19 June 2001 and the attached schedule was that taking into account the monies owed to him by Dr Darragh and Mr Kilcoyne, the IR£400,000 compensation money should be apportioned as follows: Mr O'Halloran IR£309,333; Mr Kilcoyne IR£69,734 and Dr Darragh IR£20,734.

**23.16** Following that letter of 19 June 2001, Mr Gore Grimes wrote to Mr Kilcoyne on 20 June 2001 and stated:

*'Brian sent me a calculation of how he thinks the apportionment should be made, bearing in mind the agreement which was made between the three of you in my office on the 23 February 2000, to the effect that each of you would pay Brian £150,000 to cover the services rendered by him in relation to the matter over many years. He has suggested that 50% amounting to £150,000 would now be paid. He has taken this up with Austin, and Austin is happy this should take place.*

*There is also a £50,000 fee account which he discharged back in 1997 which gives rise to an obligation of £33,333 on behalf of yourself and Austin.*

*I am attaching to this letter Brian's calculation of the position and I would be glad if you would confirm it to me.'*

**23.17** In the course of his evidence Mr O'Halloran claimed that Mr Gore Grimes was *'incorrect'* in describing the IR£50,000 agreement made between the three landowners between 16 December 1997 and 1 January 1998 as *'a IR£50,000 fee account' 'discharged'* by Mr O'Halloran in 1997. It was suggested to Mr O'Halloran, however, that Mr Gore Grimes would likely have taken a careful note of information provided to him by Mr O'Halloran and that as of 2001, Mr Gore Grimes understood that Mr O'Halloran had discharged a fee of IR£50,000 in 1997 on behalf of himself, Dr Darragh and Mr Kilcoyne.

**23.18** An attendance taken by Mr Gore Grimes on 28 June 2001, following a discussion with Mr O'Halloran in the previous week set out as follows:

*'Brian is absolutely determined to collect his own fees. He has a bill in for £50,000, which Austin Darragh has agreed to pay 1/3 but Kilcoyne has not yet agreed to pay 1/3. Additionally Brian is to be paid 50% each from Kilcoyne and Darragh of £150,000. As you will see from Brian's letter the £400,000 compensation will be paid less the £309,333 to Brian O'Halloran. £69,734 to Kilcoyne and £20,734 to Darragh.'*

**23.19** In evidence, Mr O'Halloran acknowledged that there was no reference in either his letter and schedule of 19 June 2001 to Mr Gore Grimes or in the latter's letter of the 20 June 2001 to Mr Kilcoyne, to the effect that the IR£50,000 (of which he was seeking to be reimbursed two thirds) was a figure which had been agreed between the parties as recompense for Mr O'Halloran's services over the years.

**23.20** It was put to Mr O'Halloran in evidence that in 1997 he had discharged a sum of IR£50,000 on behalf of himself and his fellow landowners. He denied this and stated that he could not have afforded to do so. It was also pointed out to Mr O'Halloran that it appeared that Mr Gore Grimes was of the belief that Dr Darragh and Mr Kilcoyne each owed Mr Halloran one third of IR£50,000 in respect of a sum discharged by Mr O'Halloran in 1997. This appeared both from Mr Gore Grimes' letter of 20 June 2001 to Mr Kilcoyne and his attendance note of 28 June 2001.

**23.21** Mr O'Halloran again stated that Mr Gore Grimes was not correct in the manner in which he had noted the payment of IR£50,000. Mr O'Halloran stated that when the issue of the IR£50,000 had been raised in 2001 in discussions with Dr Darragh and Mr Kilcoyne, they were unhappy, as they believed that this IR£50,000 figure had been subsumed into the IR£150,000 figure which each had agreed to pay Mr O'Halloran in February 2000. Mr O'Halloran stated that, ultimately, he agreed with this proposition.

#### MR KILCOYNE'S EVIDENCE

**23.22** Mr Kilcoyne testified that he and Dr Darragh's payment of IR£3,500 each to Mr O'Halloran in 1997 had been an *'interim gesture'*, paid after Mr O'Halloran had been urged to put a figure on the services he had provided. Mr Kilcoyne however acknowledged that in the correspondence at the time no reference had been made to the payment being an interim payment and that moreover, Mr O'Halloran had specifically set out in 1997 that he was not claiming for his own time and efforts.

**23.23** Mr Kilcoyne agreed that in the course of the meeting of 23 February 2000, Mr Gore Grimes noted that Mr O'Halloran had suggested that Mr Kilcoyne and Dr Darragh each pay him £150,000. Mr Kilcoyne acknowledged that in June 2001 when Mr O'Halloran was suggesting that he and Dr Darragh would each pay half of their respective IR£150,000 liability to him out of the IR£400,000 compensation monies, Mr O'Halloran had also advised Mr Gore Grimes that he required Mr Kilcoyne and Dr Darragh to each pay one third of the outlay of IR£50,000 which dated back to late 1997.

**23.24** Mr Kilcoyne explained that the reference to IR£50,000 was referable to a consensus which had been reached between the three men after the lands were rezoned in December 1997, on the basis that Mr O'Halloran's previous figure of IR£7,000 from himself and Dr Darragh (which was in fact paid) was insufficient for the work Mr O'Halloran had invested in the project. Mr Kilcoyne stated that post the rezoning, Dr Darragh, in particular, was pressing Mr O'Halloran for a more comprehensive figure.

**23.25** Mr Kilcoyne also testified that when in February 2000 he and Dr Darragh had agreed to pay IR£150,000 each to Mr O'Halloran for his work he, Mr Kilcoyne, was of the belief that the earlier agreed IR£50,000 figure had been subsumed into the total IR£300,000 figure. Consequently, he was annoyed when he received Mr Gore Grimes' letter of 20 June 2001.

**23.26** Mr Kilcoyne was questioned in relation to the contents of this letter. Despite the fact that it appeared from those contents that Mr O'Halloran had made an individual/single payment of IR£50,000 in 1997, Mr Kilcoyne refuted that any such payment had been made. The thrust of Mr Kilcoyne's evidence was that the manner in which this had been referred to in Mr Gore Grimes' letter was erroneous.

#### DR DARRAGH'S EVIDENCE

**23.27** In the course of his evidence, Dr Darragh stated that in 1997 he pressed Mr O'Halloran to nominate a sum for the work he and his office had carried out for the O'Halloran Consortium. Mr O'Halloran duly suggested a figure of IR£3,500 each to be paid by himself and Mr Kilcoyne, which Dr Darragh felt was a '*ridiculous*' figure. Later, Mr O'Halloran nominated a sum of IR£50,000 of which he and Mr Kilcoyne were to each pay one third. Dr Darragh agreed that the only figure recorded in 1997 referable to the fees/recompense to be paid to Mr O'Halloran was the October 1997 figure of IR£7,000 and acknowledged that no written note of the IR£50,000 agreement was made at that time. He also agreed that this figure of IR£50,000 was not mentioned either in January 2000 in Mr O'Halloran's letter to Mr Gore Grimes or in February 2000, when the three

landowners met and agreed that Dr Darragh and Mr Kilcoyne would each pay IR£150,000 to Mr O'Halloran for his services.

**23.28** Dr Darragh also maintained (as did Mr Kilcoyne) that Mr O'Halloran himself, in his letter of 19 June 2001, and Mr Gore Grimes, in his correspondence to Mr Kilcoyne on 20 June 2001, had made an error in their respective claims that he and Mr Kilcoyne owed two thirds of a fee of IR£50,000 which had been discharged in 1997. He argued that the IR£50,000 had not been 'discharged' in 1997, and that the correct word should have been 'charged'. He also claimed that this IR£50,000 had been subsumed in the IR£150,000 they each subsequently agreed to pay Mr O'Halloran.

**23.29** *The Tribunal's conclusions in relation to the IR£50,000 issue:*

- (i) No satisfactory evidence was provided to the Tribunal as to the actual circumstances surrounding the origins of the figure of IR£50,000. The documentary evidence strongly indicated that Mr O'Halloran had expended IR£50,000 for some purpose associated with the rezoning of the O'Halloran consortium lands, and that that sum was at all times treated as being separate and distinct to payments to Mr O'Halloran by his two colleagues (initially IR£3,500 each, and later IR£150,000 each) in respect of the work undertaken by Mr O'Halloran in relation to the attempts to rezone their lands.
- (ii) The Tribunal was satisfied that Mr Gore-Grimes had understood that the said IR£50,000 sum represented an item of expenditure discharged by Mr O'Halloran on behalf of the consortium, and that it was therefore subject to reimbursement to the extent of 2/3 by Messrs Kilcoyne and Darragh, and that his understanding was based on carefully taken instructions provided to him by Mr O'Halloran.

## **MR LAWLOR'S INVOLVEMENT WITH THE PP/JW LANDS**

### **BACKGROUND**

**24.01** In the course of the Carrickmines Module the Tribunal enquired into Mr Lawlor's involvement with the PP/JW lands. This particular aspect of its inquiry was prompted by the following:

- 1) Mr Dunlop's claim that it was largely through Mr Lawlor that he became aware of a 'system' of payments to councillors in return for their support for rezoning and other motions in Dublin County Council.
- 2) Mr Dunlop's claim that he was advised by Mr Kennedy that Mr Lawlor had recommended his retention to him.

- 3) Mr Dunlop's indication that he and Mr Lawlor were in contact during his association with these lands.
- 4) Mr Dunlop's claim that he was told by Mr Kennedy that Mr Lawlor had a beneficial interest which was held offshore (a claim which was denied by Mr Lawlor).
- 5) Mr Dunlop's claim of an expression of concern by some members of Dublin County Council of a possible interest by Mr Lawlor in the lands.
- 6) The claims that Mr Lawlor had attended a meeting with Mr Dunlop and a senior County Council planner in connection with the lands.
- 7) An allegation that Mr Lawlor in December 1991 advised in relation to submissions on the rezoning of the lands to Dublin County Council.

### **MR DUNLOP'S ALLEGATION OF A 'SYSTEM' OF PAYMENTS TO COUNCILLORS**

**24.02** Mr Dunlop claimed that it was largely through his contact with Mr Lawlor that he became aware of the 'system' of payments to councillors, prior to his involvement with the Paisley Park rezoning project.<sup>51</sup> Mr Dunlop stated that Mr Lawlor advised him in 1990 that money would have to be paid to councillors in order to have them sign and/or support motions to rezone land. Mr Dunlop indicated to Mr Lawlor that he was prepared to participate in such activity and they had various discussions in relation thereto. Mr Dunlop said that he and Mr Lawlor, on occasion, alluded to the necessity or requirement for payments of money to councillors to progress matters through the County Council.

**24.03** Mr Dunlop stated that at this time (early to mid 1991) he met Mr Lawlor at a number of locations including Mr Dunlop's office, hotels, Mr Lawlor's Dáil office and Mr Lawlor's home office. Not all of Mr Dunlop's meetings with Mr Lawlor were recorded in his diaries. Often Mr Lawlor arrived at Mr Dunlop's offices in Mount Street, Dublin unannounced. There were, however, a number of references in Mr Dunlop's diaries to meetings with Mr Lawlor over a ten-year period, from the early 1990s.

### **THE DUNLOP/LAWLOR RELATIONSHIP IN THE CONTEXT OF THE PP/JW LANDS**

#### **MR DUNLOP'S EVIDENCE**

**24.04** Mr Dunlop told the Tribunal that Mr Lawlor was the first councillor he spoke to about the PP/JW lands, following his initial contact with Mr Kennedy and Mr Caldwell in January 1991. He did so because of the desirability of

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<sup>51</sup> Mr Dunlop also referred to Cllr Pat Dunne as being another source of this information.

arranging for a councillor located in the Carrickmines area to propose a motion, and a councillor outside of the area (but not too remote from it), to second it.

**24.05** Prior to the special meeting of the Council on 24 May 1991, Mr Lawlor advised Mr Dunlop to talk to Fianna Fáil councillors and pressure them for their support. In that regard, Mr Dunlop stated that he and Mr Lawlor recognised the fact that on occasion it would be necessary to pay for signatures on motions, as well as for voting support and for support already provided. Mr Dunlop commented that he had not needed Mr Lawlor's encouragement to engage in this activity.

**24.06** Mr Dunlop stated that it was agreed with Mr Lawlor that in 1991 the objective was to have the PP/JW lands rezoned in the Draft Development Plan map, in the course of its first public display. As to how this objective was to be achieved, Mr Dunlop stated:

*'Well, again, on recall, it was contingent on what was going to take place in the council chamber and what proposals would be put forward by the local councillors. What happened was the manager reported and outlined the various options that were available, and the three that you have just outlined, and the councillors were asked then to consider the options; number one being the unchanged 1983 plan and that didn't, obviously, satisfy the Fianna Fáil grouping in the council because that was just holding on to the 1983 zonings and minimal change. There were going to be some changes, but they weren't going to be as extensive as people thought.'*

*'[...] The strategy...on the part of Mr. Kennedy and Mr. Lawlor and the Fianna Fáil grouping was to get as wide an opportunity for rezoning lands in the Carrickmines Valley as was possible. This obviously was curtailed by the options that were put forward by the manager<sup>52</sup>.*

**24.07** Mr Lawlor was one of the councillors who voted in support of Option 1 which was considered to be unfavourable to Paisley Park's rezoning ambitions. Mr Dunlop described himself and Mr Lawlor as having had a strong exchange of views on the issue both on the day of the vote and afterwards. Mr Dunlop accepted that the special meeting of 24 May 1991 was an important meeting from Mr Kennedy's point of view because if Option 2 had been chosen the PP/JW lands would have been shown as zoned industrial/residential in the course of the first statutory display. Mr Dunlop agreed that the manner in which Mr Lawlor had voted on that date was inconsistent with Paisley Park's rezoning ambitions.

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<sup>52</sup>This view expressed by Mr Dunlop was inaccurate, as Option 2, had it been adopted by the County Council, would have resulted in the PP/JW lands being rezoned 'E' (Industrial). In fact Option 1 was adopted by the councillors.

**24.08** Mr Dunlop stated that Mr Lawlor had never provided a satisfactory answer as to why he had voted as he did, other than to say that an opportunity would arise for making representations and for lodging a suitable motion following the first statutory display of the Plan. He had not indicated to either Mr Dunlop or Mr Kennedy his intention to vote in this way. While Mr Dunlop could not recall Mr Lawlor's exact words, he informed the Tribunal that he did recall...

*'...the end result of the conversation which was the get-out as far as I was concerned, I suppose both for him and for me in the context that a mechanism existed whereby a motion – a representation could be made and a motion could be put forward. I did say to you this morning and I repeat again now that in 1991 at the period when this motion was put forward on the 24<sup>th</sup> May, the local elections were virtually imminent and I did point out to you also that if you looked at the names of the people who voted in according to the voting list, that the vast majority, if not all of the people who voted against the motion, were Fianna Fáil. And that it was unusual for Deputy Lawlor – to find Mr. Lawlor to find himself in the company that he found himself in the context of the vote. I said all those things to him. The only thing I can say to you is that the end of the conversation was the thing that sticks in my mind because it was the mitigation factor that a motion could be prepared on foot of a representation, and that would then be a new process to become involved in.'*

**24.09** Asked if he had pressed Mr Lawlor (a) to explain why he had not supported the Paisley Park proposal and (b) for an assurance that he would support it in the future, Mr Dunlop stated:

*'It is difficult to press Mr. Lawlor for an explanation, Mr. Gallagher. The only – as I try to answer your question, yes there was a strong exchange of views about what happened because I was fully aware and so was Mr. Kennedy that getting on the first display was a particularly good thing. Trying to get in after the display, after the first public display while it was possible within the mechanics of the Development Plan, it could be difficult. Getting on the display meant that you couldn't be put off it unless somebody deliberately went about taking you off it, either the council officials themselves or by a motion of some member of the county council or group of members of the council who disagreed with it.'*

**24.10** Mr Dunlop described Mr Kennedy's annoyance at Mr Lawlor's stance on this issue as follows:

*'I had a discussion also with Mr. Kennedy about this matter in which he expressed himself strongly about what had happened. I took it from the conversation that I was having with him that he did not believe that Mr.*

*Lawlor would do this and couldn't believe that he had done it and in those circumstances he spoke to me along the terms I mentioned to you this morning, that Mr. Lawlor had an interest in the land and that he had advised him in relation to that interest in the land and that this [had] been registered elsewhere. In mitigation, I explained to Mr. Kennedy that I had been told by Mr. Lawlor that the matter wasn't over, that there was a procedure whereby when the public display was going on, that Paisley Park could make a representation to the public display which would be note[d], taken account of and on foot of that a motion could be given, could be drafted and submitted to Dublin County Council for consideration.'*

**24.11** Mr Lawlor lost his Council seat in the Local Elections in June 1991, but remained a TD for West Dublin. Mr Dunlop explained to the Tribunal, how, despite the loss of his Council seat, Mr Lawlor continued to support the Paisley Park rezoning project:

*'Mr Lawlor was no longer a member of the actual council and therefore was not to – was not – did not have direct bearing on how anybody – Fianna Fáil party or anybody else would vote, in the context of anything that happened. Mr. Lawlor's 'interest' as I have used the word in my statement, his support continued, notwithstanding the fact that he was no longer a member of Dublin County Council. And that support manifested itself in advice to Mr. Kennedy and to me as to how we should proceed.'*

#### MR LAWLOR'S EVIDENCE

**24.12** With regard to his involvement with the PP/JW lands while still a councillor, Mr Lawlor stated:

*'My recollection, as an elected member when I voted down some proposals that was supposed to be to the detriment of Paisley Park, (a) I didn't know anything about it and (b), I was in and out to the chamber, I wasn't terribly interested about the submissions, or whatever had been discussed. And for the last ten or 15 minutes of the meeting I came in and the manager was summing up and I voted the way the manager had suggested and that seemed to be the detriment of Paisley Park. But sure I wasn't even aware of the lands in question or whose lands they were, were not – it would be my understanding that Frank Dunlop possibly wasn't involved until I was no longer an elected member. Because in that decision, it was Monarch Properties who were the most prominent lobbyists at the time and I don't think Frank Dunlop was acting for them at that time but would have been probably acting for them later'.*



**24.13** Mr Lawlor acknowledged his awareness of Mr Dunlop's involvement on behalf of the PP/JW lands but believed it to have commenced at a time when Mr Lawlor himself was no longer a councillor. Mr Lawlor told the Tribunal that at some point, (he could not be precise as to the date) he became aware of Mr Dunlop's involvement. Mr Dunlop was representing the O'Halloran consortium as well and Mr Lawlor believed that Mr Dunlop also represented Monarch Properties<sup>53</sup> at that time, in relation to their Carrickmines lands.

**24.14** Mr Lawlor acknowledged that Mr Dunlop told him that he was representing Mr Kennedy's interests. Mr Lawlor accepted Mr Dunlop's evidence of his understanding from Mr Kennedy at the time he was retained that Mr Lawlor was assisting Mr Kennedy in relation to the PP/JW lands. He also accepted that Mr Kennedy could well have apprised Mr Dunlop of the assistance he was providing, but Mr Lawlor maintained that: *'...the contradictions of my supposed involvement or not out of Frank Dunlop's mouth has varied as often as you know the cock crowed in the morning'*. Mr Lawlor further accepted that Mr Kennedy may well have advised Mr Dunlop to contact him, when declaring that: *'he [Mr Kennedy] could have said, look, if you want to know something about any of the greater, what's the timing of the plan, sure, ring up Lawlor, he will know, his office will have the information and be able to find it for you. That could well have happened there'*.

**24.15** When Tribunal Counsel suggested to Mr Lawlor that (based on Mr Dunlop's evidence) Mr Lawlor was assisting Mr Kennedy in a number of matters including getting relevant motions on to the council agenda for discussion, getting the motions voted on, dealing with 'technical matters', and advising as to the rezoning issue, Mr Lawlor responded in the following terms:

*'I would suggest, Mr Chairman, it was the complete opposite, because Frank Dunlop would have said, for God's sake, don't speak or ask anybody to support it because they will think you own it and that could be here or any other piece of County Dublin. So, Frank Dunlop would have adopted a completely reversed position to the position he has outlined to this Tribunal and would have said to me several times, and the Don Lydon situation I gather, is that Dunlop did all of that on his own bat. He didn't need me or anybody else. And he lobbied these people and put in motions and I was well out of the nitty gritty of south County Dublin, so I would have to say that I would have no recollection now drafting motions, well the County Manager responsible for planning, Mr Prendergast, Chairman, at meeting after meeting regularly briefed the elected members that they would have access to experts on these subjects for*

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<sup>53</sup> Mr Dunlop said that his involvement commenced with Monarch in mid 1992.

*ease of management of the council. And if somebody rang me and said, we need to put in an objection or a motion or a revision or an amendment, then my office could look up a previous agenda and give them the wording of the correct procedure and that could be for anywhere.*

*So, yes, If Frank Dunlop rang my office, we'd extract, one of my staff would do, extract a previous agenda, may be fax him the agenda and he could see from the agenda the wording, because there was a particular type of wording the officialdom advise the elected members, because of the quasi-judicial function of making a Development Plan and, yes, that certainly could have happened. But I would put it on the record not specifically with wanting to support the specifics of the south County Dublin zonings, the reverse would have been Dunlop's attitude, stay away, don't ask anybody to support it, they will think you own half the damn thing so don't ask anybody for any support.'*

He further stated;

*'I think the only discussions I had with Dunlop, Mr Dunlop was a great man for brain robbing people and going to the other party and explaining that he was the expert on everything. And he would have maybe telephoned me and asked about these matters, how to put it on the agenda and the deadline and so forth, what discussions he had with Jim Kennedy, it's hearsay between them, I can't add or take from it.'*

**24.16** Mr Lawlor confirmed, however, that he could have 'absolutely' given Mr Dunlop and Mr Kennedy advice including advice about the preparation of motions and the Council agenda.

**24.17** When asked to comment on Mr Dunlop's claim that he Mr Dunlop had received IR£25,000 from Mr Kennedy 'to distribute as he saw fit...so as to achieve the end of rezoning', Mr Lawlor stated:

*'...if Frank Dunlop got 25,000 pounds from Jim Kennedy, he is a better man than I thought he was. I have no idea, it just amazes me because that particular situation, as I saw it, it was years down the road and you know, he never ever said, because Frank Dunlop, you see, when he got involved in this thing, after he got an understanding of how to get clients and lobby and so forth, he didn't need any contact or advice and I have no knowledge of him setting off on this mission as he has given evidence. None whatsoever and he never ever discussed with me that he got a penny from Jim Kennedy.'*

**24.18** Mr Lawlor acknowledged that Mr Dunlop would ‘*certainly*’ have discussed the lobbying of councillors with him but, according to Mr Lawlor, by then Mr Dunlop knew all the elected members from his time as government press secretary for Fianna Fáil under a number of Taoisigh and also from having worked for a Fine Gael Minister as a press officer. Mr Lawlor acknowledged that Mr Dunlop could well have discussed the motion with him and that he (Mr Lawlor) would have advised that: *‘you can’t be zoning land in isolation, what’s the plan, is there other landowners going to put in submissions and so forth.’*

**24.19** Mr Lawlor maintained that in 1992 he was not in a position to recommend either Cllr Lydon or Cllr Hand to Mr Dunlop. Mr Dunlop had never told him that he had paid IR£3,000 each to Cllrs Lydon and Hand in return for their signatures on the motion. Mr Lawlor was again reminded that Mr Dunlop had testified that he had informed Mr Lawlor at the time that he had paid Cllrs Hand and Lydon, and that Mr Lawlor thus had knowledge that these two councillors had been paid. Mr Lawlor dismissed Mr Dunlop’s evidence ‘*out of hand*’ and stated: *‘Never have I come across it in public life, I have come across people getting contributions but not contingent on them exercising their public duties. Never.’* When it was suggested to Mr Lawlor, that given his assistance to Mr Kennedy in 1991 and to Mr Dunlop in 1992 in relation to the motion to rezone the PP/JW lands, it would be surprising if he had not continued to evince an interest in the rezoning of these lands or to seek to ascertain what was being done to advance their rezoning, Mr Lawlor, in the course of a lengthy answer, stated:

*‘...you know, Frank Dunlop keeping me abreast of whether he was making a success of this project or not, he would have mentioned it among other things to me and talked about a whole range of matters as well as this. It wouldn’t have been something that was high on my agenda, it was up to himself if he was lobbying to succeed or otherwise. I would have no input into it and he would have repeatedly asked me not to speak to a single soul about these matters, not just this land but any land. I was out of the council and could give advice and so forth but me ringing up the late Tom Hand, Don Lydon, Betty Coffey, or any of my colleagues, me just have an interest in this thing. If he is lobbying for it, I never did anything for it, absolutely not.’*

**24.20** Mr Lawlor did not disagree with Mr Dunlop’s claim that he assisted with the preparation of the Lydon/Hand motion, which came before the Council on 12 June 1992, and that he provided many of the operative words in the motion. Mr Lawlor acknowledged that he could have suggested the words *‘to provide a high quality job creation base for South County Dublin’* to Mr Dunlop. While Mr Lawlor accepted that he could have had an input into the motion and that it could have

been prepared in his office and faxed to Mr Dunlop, he had no recollection of being informed by Mr Dunlop as to who the signatories to the motion were to be.

**24.21** Mr Lawlor acknowledged that Mr Dunlop's lobbying efforts in relation to the PP/JW lands may have been among the many matters in respect of which he and Mr Dunlop were in contact but denied that these contacts in so far as they related to these lands were done on a '*reportage*' basis.

**24.22** Accordingly, Mr Lawlor appeared to accept that:

- 1) Mr Lawlor was told by Mr Dunlop of his retainer by Mr Kennedy although Mr Lawlor thought that his involvement post-dated the lodging of the December 1991 submissions;
- 2) Mr Dunlop could have been told by Mr Kennedy to contact Mr Lawlor in relation to the rezoning of these lands;
- 3) Mr Dunlop was also representing the O'Halloran Consortium in respect of their lands;
- 4) Mr Dunlop could have discussed the lobbying of councillors with him;
- 5) Mr Lawlor could have assisted Mr Dunlop with the text of the Hand/Lydon motion;
- 6) He and Mr Dunlop could have discussed Mr Dunlop's lobbying efforts.

### **MR LAWLOR'S RELATIONSHIP WITH MR KENNEDY AND MR CALDWELL**

#### **MR LAWLOR'S EVIDENCE**

**24.23** Mr Lawlor in effect acknowledged that he knew Mr Kennedy as a friend and associate, and that in that regard he took an interest in the PP/JW lands. He acknowledged knowing Mr Kennedy at the time he assisted Messrs Finnegan and Flannagan of D. J. McCarthy & Company architects with the Paisley Park rezoning submission in December 1991, and of Mr Kennedy's ownership interest in the lands. Mr Lawlor maintained that he only had 'a passing knowledge' of Mr Caldwell's involvement with the Carrickmines Lands, and that he had had no dealings with Mr Caldwell in relation to them.

#### **MR CALDWELL'S EVIDENCE**

**24.24** Mr Caldwell also acknowledged dealings with Mr Lawlor. He always thought of Mr Lawlor as a TD rather than a councillor.

**24.25** In his November 2002 statement, under the heading '*Mr Lawlor*' Mr Caldwell stated as follows:

1. *'I never discussed the Carrickmines Lands with Mr Lawlor at any time nor had I any dealings with him in relation thereto. As far as I am aware he did not know that I had any involvement with those lands. Mr. Kennedy wanted only himself seen as the person associated with the lands. I believe this was a self-esteem matter arising from his many financial setbacks of the 1980s.*
2. *Mr. Lawlor to the best of my knowledge and belief does not and never had any interest whatsoever in the Carrickmines Lands or any of its associated companies.*
3. *Media materials produced by the Carrickmines Valley Association show that Mr. Lawlor voted in the May 1991 County Council vote to revert to the 1983 plan updated. The vote was 21 to 19. This vote reinforced the exclusion of the Paisley Park's lands from future development to the benefit of Monarch Properties. If Mr. Lawlor had voted the other way it would have been a tied vote with the Chairman then having the casting vote, which might have been in favour of the planners proposal. His vote was a vote against the planners proposals and against Paisley Park. It was only after the failed 12<sup>th</sup> June 1992 rezoning vote and the Manager's use of the vote on the Motorway line (inter alia) against the Paisley Park Motion for rezoning that I appreciated the significance of the May '91 vote for the Paisley Park's lands for the foreseeable future'.*

**24.26** Mr Caldwell acknowledged that Mr Lawlor was involved with himself and Mr Kennedy in relation to lands owned by them in Baldoyle, and said that Mr Lawlor was also involved with Mr Kennedy in relation to lands at Lucan. Mr Caldwell stated that he himself had meetings “from time to time” with Mr Lawlor, particularly in relation to the Coolamber lands. Mr Lawlor was involved with the Baldoyle lands through a company. Mr Caldwell also acted in a legal capacity for people to whom Mr Lawlor had introduced him. Mr Caldwell denied any contact whatsoever with Mr Lawlor in relation to the PP/JW lands, and claimed that he had never discussed these lands with him. Mr Caldwell stated:

*'In relation to Carrickmines, I had personally no contact whatsoever with Mr Lawlor in relation to Carrickmines and I never discussed it with him. I would have not sought his help in any shape or fashion in relation to Carrickmines and I did not do so.'*

**24.27** Asked if he regarded Mr Lawlor as someone who would be helpful to Mr Kennedy in relation to the Carrickmines lands and other matters, Mr Caldwell stated that that may have been the case. However, he reminded the Tribunal that Mr Lawlor had voted against the interests of Paisley Park on 24 May 1991. He was aware that Mr Kennedy had expressed annoyance at Mr Lawlor's vote of

24 May 1991. Mr Caldwell did not know whether, in May 1991, Mr Kennedy had any expectation that Mr Lawlor would vote otherwise than he did.

#### MR DUNLOP'S EVIDENCE

**24.28** Mr Dunlop said that he was told by Mr Kennedy that Mr Caldwell and Mr Lawlor had a falling out which resulted in the threat of litigation. Mr Dunlop did not ask Mr Kennedy the reason for this falling out. Later, Mr Caldwell stated to Mr Dunlop, in the presence of a journalist (Mr Charlie Bird of RTE), that he and Mr Lawlor had not seen 'eye to eye' or words to that effect.

#### MR LAWLOR'S ROLE IN THE PREPARATION OF A SUBMISSION TO DUBLIN COUNTY COUNCIL IN RESPECT OF THE PP/JW LANDS IN DECEMBER 1991

**24.29** On 3 December 1991, under cover of a letter from Mr McCarthy, the Paisley Park rezoning submission was lodged with Dublin County Council. Two architects, Mr Brian Flanagan and Mr Frank Finnegan, employed by D. J. McCarthy & Company Architect, the firm engaged by Paisley Park to prepare submissions to Dublin County Council in support of the rezoning of their lands at Carrickmines gave evidence to the Tribunal to the effect that together with Mr Kennedy they met Mr Lawlor in Leinster House on 2 December 1991. This meeting was concerned with a submission which was to be lodged with the Council by 3 December 1991.

#### MR DUNLOP'S EVIDENCE

**24.30** Mr Dunlop said he was aware from comments made to him by Mr Kennedy that Mr Lawlor was involved in assisting in the preparation of that submission. Mr Dunlop told the Tribunal that that involvement was on the technical side, particularly in relation to issues concerning services, access and, most importantly, sewage drainage relating to the lands. Mr Lawlor did not discuss the submission with Mr Dunlop, and, although aware of it, Mr Dunlop never saw it.

#### MR CALDWELL'S EVIDENCE

**24.31** On [11 November 1991](#), Mr Martin Bullock wrote to Mr Kennedy, requesting him to identify a town planner to prepare a submission in relation to the PP/JW lands. Mr Caldwell acknowledged arranging for Mr Bullock to send that letter, which was part of a paper trail which had been created for the company for tax purposes. Mr Caldwell stated that while he had no recollection of being told about the Leinster House meeting of 2 December 1991, he

accepted that it was possible that Mr Kennedy had advised him that it had taken place, although he believed that he had learnt of that meeting from the evidence.

**24.32** Mr Caldwell knew that by 3 December 1991 a submission had to be lodged with the County Council, and he knew that this was a critical date. In his evidence, Mr Caldwell implied that he had no input into the preparation of that submission and believed that he saw it only after it had been lodged with the County Council. Also, while he had no recollection of Mr Lawlor's involvement in relation to the submission which went to the County Council on 3 December 1991, it was possible that Mr Kennedy had informed him of it.

**24.33** Mr Caldwell said that he believed that the submission lodged with the County Council on 3 December 1991 was, to all intents and purposes, abandoned by early 1992 in that the proposal for a district centre was dropped. A more comprehensive document was produced in February 1992. This was the document that was presented to the County Council's oral hearing on 2 March 1992 and from which Mr Caldwell generated summaries which he duly provided to Mr Dunlop in order to assist him in his lobbying endeavours.

#### MR LAWLOR'S EVIDENCE

**24.34** Having read Mr O'Flanagan and Mr Finnegan's statements, (which placed him in their company and in the company of Mr Kennedy on 2 December 1991), Mr Lawlor advised the Tribunal that:

*'It is my recollection that the discussion centred on the Airlie Stud and Stassen lands, which were capable of being drained through the underground services, in which I have an interest, in association with Mr Harold Dobson. However it is possible that other matters could have been discussed and my comments sought.*

*Mr. James Kennedy, again, to the best of my recollection, was acting as a property advisor/auctioneer on behalf of my neighbours, Messrs. Rogers and Stassen, the owners of the lands in question.*

*My recollection is that the discussions centred on the preparation of submission for the Review of the County Development Plan. Consideration was given to the Draft Written Statement associated with the Review of the Development Plan to ensure the submissions were compatible with the statutory requirements and planning guidelines.*

*It is suggested in the Witness Statements that when Mr Finnegan's office had completed the submission, it was collected from his office. This may be so. However, I must make it clear that this submission would have*

*been accessible to me, forming part of documentation circulated to all seventy eight elected members and other interested parties.<sup>54</sup>*

*While Mr Brian O’Flanagan could well have attended the Dáil discussion, I must say that I have no recollection of meeting him. I may not have been formally introduced to him.’*

**24.35** Asked why in his letter to the Tribunal of 9 December 2002, he had not stated that a reference to the Paisley Park rezoning submission could have been made at meetings in which he was involved, Mr Lawlor responded that he had not been asked that question. While Mr Lawlor continued to state that he did not accept he had any ‘involvement’ with the PP/JW lands it was put to him that he had been indeed involved in drafting documentation to assist Paisley Park to rezone its lands. It was also put to Mr Lawlor that his letter of 9 December 2002 did not provide a full account of his involvement in December 1991 in relation to the Paisley Park rezoning attempts.

**24.36** Mr Lawlor sought to explain the sparseness of information contained in his letter by stating that the request for the meeting related to the Airlie Stud issue. Mr Lawlor stated:

*‘They seemed to be putting in two submissions at the time. I get the impression they possibly could have given drafts of submissions or maps or whatever. I might have put some sort of wording together for them later at the office. Yeah. Just part of meeting people, responding, trying to be of assistance to them in what they were trying to achieve, if you agreed with what they were trying to achieve.’*

**24.37** On Day 410 Mr Lawlor was questioned as follows:

*‘In connection with the meeting that took place in Dáil Eireann on the 2<sup>nd</sup> December, 1991 which was attended by Mr. James Kennedy, Mr. Brian O’Flanagan and by Mr. Frank Finnegan, can you confirm now, having considered the matter, that in fact you were providing advice to that consortium or to those individuals about the best way forward from their point of view in advancing their desire to have these lands rezoned for commercial rather than industrial purposes?’*

**24.38** Mr Lawlor responded:

*‘My priority in the request for the meeting, as I recall, was to deal with the [Airlie] submission. The Carrickmines thing was just a ‘by the way’ that they brought up while they were there, because they were both trying to*

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<sup>54</sup>Mr Lawlor was not, however, an elected councillor at this time, having lost his Council seat in the previous June Local Elections.



*get submissions in by a deadline. Whatever contribution I would have made to Carrickmines would have been probably fairly decisive and incisive, and if asked about it, listening to them discussing it when we discussed the Airlie submission. If I was asked about that meeting, Henry Beatty rang to know would what [sic] I meet them about the Airlie submission and this other matter was introduced. It would be quite irrelevant to me in the detail. The system, give them whatever help you could, wouldn't be beyond that'.*

**24.39** Mr Lawlor acknowledged that he could have given the assistance described in relation to the submission lodged on 3 December 1991. According to Mr Lawlor, he may have assisted in drafting the submissions which were submitted at that time in relation to both the Airlie Stud lands and the PP/JW lands. Documentation furnished to the Tribunal indicated that on 22 November 1991, Mr Lawlor wrote to Mr Finnegan in relation to 'the Airlie Stud lands' submission and enclosed with that letter was an updated written submission. It was put to Mr Lawlor that the contents of his letter showed a very 'hands on' approach on his part and that he was playing a similar role in relation to the Paisley Park rezoning submission. Mr Lawlor stated in response:

*'Well, if they had given me drafts, or whatever they had prepared, I could well have put my gloss on it or dictated it, or whatever, because that would be like a barrister doing a brief to me. It would be just similar, if you gave me drafts of documents associated with some portion of land somewhere, I could certainly put some sort of words together for them so, yes, absolutely, yeah.*

*Now, I don't know whether they handed me documents at the meeting in the Dáil and I would have taken them back, handed them to my secretary and just started dictating with the copies in front of me of the drafts and putting them into that format. Quotes from the written statement and highlighting the next section which would be documents they would have from the written statement of the County Development Plan, yes.'*

**24.40** Mr Lawlor did not dispute that, as maintained by Mr O'Flanagan, he had contacted Mr O'Flanagan following the meeting of 2 December 1991 and had attended at his office, in the company of Mr Kennedy and his son Mr Niall Lawlor to collect documentation.

**24.41** In his evidence Mr Lawlor appeared to suggest that after the 3 December 1991 meeting he had no further interest in the rezoning of the PP/JW lands. However, he qualified this suggestion in the following terms:

*'I couldn't say so, because Mr. Dunlop was repeatedly on looking for advice and comments, so there was no day that he wasn't on a couple of times a day, ringing in the morning going into the offices, ringing on his way home, sometimes drop in the office on his way home, meet him lunchtime around the Dáil or whoever. So, I couldn't say whether there was any further contact or not. Very likely if he was involved there was, yes.'*

**24.42** Mr Lawlor acknowledged that, as he had lost his seat as a member of Dublin County Council in June 1991, he did not meet Mr Kennedy, Mr O'Flanagan and Mr Finnegan in December 1991 in the capacity of a councillor, but maintained that as a member of Dáil Eireann and a public representative he was present in order to give advice. The fact that the Carrickmines lands were not in his West Dublin constituency was, he maintained, irrelevant:

*'During the County Development Plan when an elected member, people came and made representations to you from every corner of the county and that is one of a book of five or six foot high that you would receive by way of submissions as an elected member. Because the planning was so pathetic in County Dublin, the elected members of the review of the plan became the planners, because there was no decent forward planning. There was a managerial directive to planners not to plan forward and the elected members came under serious lobbying from all quarters and ended up having to take decisions in the reviews, which took 11 years to do a five year review, plans started in 1972, we didn't complete the first review until '83. We didn't complete the second review until '93.'*

**24.43** Mr Lawlor summarised his involvement with the PP/JW lands in the following statement: *'My understanding is that other than when it came with a manager's recommendation on which I partook at a council meeting<sup>55</sup>, opposing I think or voting against something, just listened to the manager and took a decision. After that, after 1991, I wasn't an elected member of the council and I had no interest in them whatsoever other than Dunlop was on ten times a week looking for comment, information, advice and got it.'*

## MR LAWLOR'S ALLEGED INVOLVEMENT WITH THE LINE OF THE SEM

### MR DUNLOP'S EVIDENCE

**24.44** In his statement dated 31 July 2002 Mr Dunlop stated as follows:

*'From early 1991, at the latest, it was recognized that the line of the proposed south-east motorway ("the proposed motorway") through the Carrickmines valley would be an important factor in determining the*

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<sup>55</sup> Probably a reference to the County Council meeting on 24 May 1991.

extent of the lands that might be rezoned in the Carrickmines valley, including the Paisley Park lands. I believe that from in or about 1991 it was understood that the line of the proposed motorway would effectively form a boundary in terms of the lands that could be rezoned in the Carrickmines valley. Indeed, the draft Dublin County Development Plan, 1991, suggested a line for the proposed motorway.

A motion submitted in May, 1992, signed by Councillors Tom Hand and Donal Lydon to rezone the entire of the Paisley Park lands (the Appendix A Motion), was moved in 1992 but was narrowly defeated. Unfortunately, I am unable to recall whether the Appendix A motion was defeated before or after the motion signed by Mr. Tony Fox, referred to below (the Appendix B Motion). The hope was that one of either the Appendix A or Appendix B motions would be successful thereby fixing the line of the proposed motorway or, alternatively, (if the Appendix A motion was successful) ensuring that compensation would be assessed on the basis of lands zoned for development if the proposed motorway ultimately traversed the lands.

I am aware that various other motions were tabled in 1992 which, directly or indirectly, related to fixing the line of the proposed motorway. While the line of the proposed motorway was clearly an important factor in relation to the zoning and development of the lands, I was involved in only one motion expressed in terms of fixing the line of the proposed motorway i.e. the Appendix B motion. The other motions so expressed are matters of public record. In 1992 Mr. James Kennedy informed me that he had discussed a strategy concerning the line of the proposed motorway with Mr. Liam Lawlor. As a result of discussions with Mr. James Kennedy, in relation to the line of the proposed motorway, I had a number of discussions with Councillors Tony Fox and Tom Hand in relation to the line of the proposed motorway. Mr. James Kennedy informed me that, as a result, Mr. Liam Lawlor had been responsible for drafting a motion. I believe that it was that motion which was ultimately tabled by Mr. Tony Fox bearing reference DLR.MOT1.02-278 (i.e. the Appendix B motion). This was the only motion, expressed in terms of fixing the line of the proposed motorway, in which I had a direct involvement. Unfortunately I cannot recall whether I was given the wording of the Appendix B motion by Mr. Kennedy (for provision to Mr. Fox) or whether the wording of the Appendix B motion was otherwise provided to Mr. Fox. Likewise I am unable to recall whether (if I was given the wording of the Appendix B motion) I had a role in transcribing that wording into the motion tabled by Mr. Tony Fox. However I have a clear recollection of being concerned that

*the word 'similar', mentioned in the Appendix B motion, was incorrectly spelt. Indeed I believe the handwritten amendment which appears on the face of the Appendix B motion may have been made by me.*

*To the best of my recollection and belief the Appendix B motion, tabled by Mr. Tony Fox, was the only motion in which I had an involvement whether on behalf of Mr. Kennedy, or any other party, expressed in terms of fixing the line of the proposed motorway.*

*The Appendix B motion was proposed by Mr. Tony Fox, and seconded by Mr. Tom Hand, at a special meeting of Dublin County Council held on the 5<sup>th</sup> of June 1992. At that meeting the Deputy Dublin Planning Officer showed those present the various lines suggested for the proposed motorway and the then Senior Engineer, Roads Department, advised the meeting concerning the engineering matters to be considered before making a recommendation in relation to any proposed line of the proposed motorway. The Manager recommended that the line of the proposed motorway, as shown on the 1991 draft Development Plan, be retained as a diagrammatical line with a note to say that finalization of the line of the proposed motorway would be dependent upon the outcome of the feasibility/environmental impact study that 'the line on the maps is diagrammatic and indicates an objective to construct a motorway in the general area'.*

*Following discussion it was unanimously agreed the Manager's recommendation to the Council be adopted and approved. The Manager advised those present that a number of motions, including the Appendix B motion 'fall' as the matter had been disposed of.*

*This was agreed'.*

**24.45** The Tribunal understood from Mr Dunlop's statement of 31 July 2002 that it was recognised in 1991 that the SEM line would be an important factor in determining the extent of the lands that might be rezoned in the Carrickmines Valley, including the PP/JW lands. Everyone, according to Mr Dunlop, realised this even prior to 1991, including Mr Kennedy, Mr Lawlor and a variety of councillors. Specifically, the further south the line of the SEM motorway, the better for the rezoning prospects of lands in the Carrickmines Valley. In that statement, Mr Dunlop also made reference to Mr Lawlor, in that he stated that Mr Kennedy had told him that he had discussed a strategy in relation to the line of the SEM with Mr Lawlor, and that Mr Lawlor may have been responsible for the motion which had been signed by Cllr Fox and proposed by him at a Council meeting on 5 June 1992 and seconded by Cllr Hand.

**24.46** Cllr Fox's Appendix B motion proposed:

*'That the line of the South East Motorway on map 27 be as per the attached map thus releasing circa 156 acres of uninterrupted land to accommodated a golf course and the line being on similar contour as the 1991 line and being the shortest distance between two points should be less expensive to provide'.*

**24.47** According to the council's minutes of the meeting, the motion fell as it was agreed unanimously that the Manager's recommendation to the Council be adopted and approved.

**24.48** Mr Dunlop stated that he did not know who had asked Cllr Fox to sign the SEM motion. Mr Dunlop thought that the motion may have been typed in his office – he also believed it was he that made the correction to the spelling of the word '*similar*' on the motion. Mr Dunlop recalled discussions about the line of the SEM with Cllrs Hand and Fox. He recalled a conversation with Cllr Fox who, to the best of Mr Dunlop's recollection, indicated to him that the line of the SEM had been discussed by the Fianna Fáil group in the County Council and that Cllr Betty Coffey had informed it (based on discussions she had with Council officials), that only lands above the line of the SEM (i.e. lands north/east of the line) would be considered suitable for zoning.<sup>56</sup>

**24.49** Mr Dunlop believed that the motion signed by Cllr Fox, while it mentioned the SEM line in the context of allowing for the development of a golf course and the Galvin lands, was in reality designed to ensure that as much as possible of the PP/JW lands would be rezoned, by making sure that as much of those lands as possible appeared above (or north) of the SEM line.

**24.50** Mr Dunlop's discussions with Mr Kennedy about the line of the SEM were not substantive, save that Mr Kennedy had indicated that it was going to be a dominant factor with regard to the rezoning of lands. Mr Dunlop himself did not recall any discussion with Mr Lawlor about the SEM.

**24.51** *The Tribunal's conclusions in relation to Mr Lawlor's role in the re-zoning PP/JW lands:*

- (i) The Tribunal was satisfied that Mr Lawlor played an active role in efforts to rezone the PP/JW lands both in the period prior to June 1991 when he was an elected councillor, and subsequent to that date as an elected T.D. That role, as an advisor and strategist, while at all times well known to Mr Kennedy, Mr Caldwell and Mr Dunlop, was kept secret from others including most of Mr Lawlor's political colleagues for fear that any known

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<sup>56</sup>Ultimately, in 1997, only those lands of the PP/JW and the O'Halloran Consortium north of the SEM were rezoned for development.

association between Mr Lawlor and the PP/JW lands would be likely to prove a hindrance in their attempts to rezone those lands.

- (ii) The Tribunal was satisfied that Mr Lawlor's advisor/strategist role in relation to the PP/JW lands was an abuse of his position as a councillor (until mid 1991) and a TD. The Tribunal was also satisfied that Mr Lawlor's involvement was part of a wide ranging corrupt relationship between himself and Mr Dunlop, in which Mr Lawlor, in reality, used his position as an elected public representative for his own personal gain and the personal gain of others, including Mr Kennedy and Mr Caldwell.

## MR DERMOT DRUMGOOLE AND MR LAWLOR

### MR DUNLOP'S EVIDENCE

**25.01** In a letter to the Tribunal on 7 November 2002, Mr Dunlop's solicitors advised that their client had noticed from a booklet of witness statements supplied to him by the Tribunal that the Tribunal expected to receive a statement from Mr Dermot Drumgoole. Mr Drumgoole was a senior administrative planner within Dublin County Council and the most senior administrative planner within Dún Laoghaire-Rathdown County Council from its formation in January 1994 until his retirement in 1998. In that letter, the Tribunal was advised that the reference to Mr Drumgoole's name had caused Mr Dunlop to recollect a meeting with Mr Drumgoole which had taken place at some stage (Mr Dunlop believed) in 1997. Mr Dunlop said that Mr Lawlor accompanied him to the meeting and that it was his belief that it arose following queries by Mr Lawlor as to how matters were progressing in relation to the PP/JW lands. Mr Dunlop claimed that he had not met with, nor was he acquainted with, Mr Drumgoole prior to the meeting. The meeting was arranged very shortly after Mr Lawlor had suggested it to Mr Dunlop. Mr Dunlop said that he was introduced to Mr Drumgoole by Mr Lawlor as a person who represented the owners of lands at Carrickmines. It was Mr Dunlop's belief that Mr Lawlor instigated the meeting in order to ascertain the intentions of Dún Laoghaire-Rathdown County Council in relation to, in particular, the '*Jackson Way*' lands.

**25.02** Mr Dunlop confirmed the content of his solicitor's letter in his sworn evidence to the Tribunal. He said that the meeting took place in the temporary offices of the Council at Glenageary sometime prior to the date on which the Paisley Park motions were lodged with the County Council in October 1997. Mr Dunlop described the meeting with Mr Drumgoole as an information gathering exercise to ascertain the attitude of Dún Laoghaire-Rathdown Council to the rezoning of the PP/JW lands, in the context of the Development Plan Review then underway. Mr Dunlop stated that he and Mr Lawlor did not emerge from the meeting with any more information than they previously had. Mr Dunlop recalled

Mr Drumgoole stating that the line of the SEM (which was by then fixed) would be the decisive factor in determining what lands should be rezoned.

**25.03** On Day 345 Mr Dunlop stated as follows:

*‘...in fairness to Mr. Lawlor, I mean he is not a fool and I don’t think I am either, I wasn’t seeking an explanation from him, I knew of the circumstances from Kennedy himself that Mr. Lawlor, according to Mr. Kennedy, had a beneficial interest in these lands. Mr. Lawlor never alluded to, never confirmed, and I never asked. But if Mr. Lawlor suggested that it would be a good idea to have a meeting with Mr. Dermot Drumgoole or Dermot, as he was want to refer to, for the benefit of eliciting information in relation to what might or might not happen in the Development Plan in relation to these lands, it served me no purpose to disagree or say no, I am not going to such a meeting.’*

#### MR DRUMGOOLE’S EVIDENCE

**25.04** A letter to the Tribunal from Mr Drumgoole to the Tribunal dated 8 December 2002 stated that he believed that no meeting had taken place between himself, Mr Dunlop and Mr Lawlor in 1997. In his sworn evidence to the Tribunal, Mr Drumgoole repeated his belief that no such meeting had taken place in 1997. He said that he did not recall ever meeting Mr Dunlop in relation to the PP/JW lands or the O’Halloran consortium lands, nor did he recall meeting Mr Lawlor in relation to either of those lands.

**25.05** Mr Drumgoole stated that the Council had temporary offices in Glasthule until December 1996 only, yet Mr Dunlop had maintained that the meeting in question had taken place in Glenageary in 1997. There was however a meeting with Mr Lawlor recorded in Mr Drumgoole’s diary for the 25 October 1996.<sup>57</sup> Mr Drumgoole was unable to recall the purpose of this meeting and he expressed surprise at the existence of the diary entry. Mr Drumgoole acknowledged meeting Mr O’Halloran in March 1995, and again in the company of Dr Meehan in 1997. Mr Drumgoole retired from the County Council in January 1998. He told the Tribunal that the only landowner he ever met while in Dún Laoghaire-Rathdown Council was Mr O’Halloran. He did not know at that time that the O’Halloran consortium was being represented by Mr Dunlop. Mr Drumgoole stated that he advised Mr O’Halloran that the SEM route would determine which lands would be rezoned. (Mr Dunlop said that Mr Drumgoole had similarly informed Mr Lawlor and himself at their 1997 meeting – the meeting which Mr Drumgoole himself denied attending.)

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<sup>57</sup>Mr Drumgoole’s diary also contained a telephone number for Mr Lawlor. Likewise, Mr Lawlor’s diary contained a telephone number referable to Mr Drumgoole, and which was not the telephone number of the Dún Laoghaire-Rathdown Council offices.

## MR LAWLOR'S EVIDENCE

**25.06** In his letter to the Tribunal dated 9 December 2002 (sent after the Carrickmines 1 brief of documents had been furnished to him) Mr Lawlor made the following reference to a meeting with Mr Drumgoole: *'I recall meeting Mr Dermot Drumgoole when I believe the South Eastern Motorway and possibly other issues relating to Dun Laoghaire, such as the development of Port facilities would have been discussed as well as the proposed Port tunnel which would have significant implications for the area.'*

**25.07** When asked why he had not previously stated that the meeting involved a discussion in relation to the Carrickmines lands or referred to the fact that he attended the meeting along with Mr Dunlop whose only involvement there was to discuss the interests of PP/JW, he claimed that it was he himself who brought the meeting to the attention of the Tribunal. Pressed again to explain why he had made no mention of the meeting he said:

*'...it would be my understanding that Frank Dunlop had quite a wider brief. That's all. I mean I don't know whether he did or not. I believe he was consulted by Monarch Properties. I remember him telling me about going out to see the chief planning officer, Mr Murray, about LUAS going out there, etc, so I wasn't focused on any one patch of land. And if you were to ask me to go out to the Jackson Way lands today, I don't know where they are other they are up to the right at the back of the Silver Tassie somewhere, that's my only knowledge, they are out there as a swathe of County Dublin. It's not an area you would be familiar with in detail. I didn't refer to Monarch Properties, Jackson Way, Paisley Park or Darragh or the other, O'Halloran or other people that had land out there.'*

**25.08** In his response to the Tribunal on 13 December 2002, Mr Lawlor stated:

*'I would further say that numerous parties contacted me during my time as a public representative seeking meetings with Government Ministers or officials, Local Authority Manager's or their officers and routine procedures were instituted to try to arrange same. The process in respect of any approach from Frank Dunlop would have been no different.*

*The meeting with myself and Mr. Drumgoole, which I recalled in my letter to the Tribunal of the 9<sup>th</sup> December 2002 would have been discussed and requested by Mr. Frank Dunlop and my office would have arranged this in the usual routine manner. The meeting with Mr. Dermot Drumgoole and Mr. Dunlop would have enabled both those parties put forward their positions.'*



**25.09** It was suggested to Mr Lawlor that his admitted attendance at such a meeting constituted an ‘involvement’ on his part with the PP/JW lands at that time. Mr Lawlor maintained however that the meeting had been set up merely to oblige Mr Dunlop: *‘by facilitating, bringing him out to meet a senior person who could answer his questions. As simple as that, no more or less, happened all the time’.*

**25.10** Mr Lawlor was reminded that while his 13 December 2002 letter mentioned Mr Dunlop, the thrust of what he stated in his letter was that the meeting with Mr Drumgoole related to a number of matters entirely unrelated to the PP/JW lands. It was also pointed out to Mr Lawlor, that although he knew that the Tribunal was inquiring into the particular interests of the companies Paisley Park and Jackson Way, he had not brought to the Tribunal’s attention the fact that he had arranged the meeting with Mr Drumgoole on behalf of Jackson Way. Mr Lawlor responded to this as follows:

*‘...I arranged that meeting on a generalised ‘get information about the progress of the Southeastern Motorway for Mr. Frank Dunlop’. If anybody else has a different version of it, I desist from that version. That’s my recollection of my version of that meeting on this matter and if I wanted to know this, I could find that out for myself any hour of the day. It was to facilitate a request about progress on the Southeastern Motorway.*

*Now, if that to Mr Dunlop meant going through one company’s lands or three or four company’s lands, it wouldn’t have mattered to me and I don’t believe he would have said to me, I want to find out about the progress on the motorway related to A or B. I believe he just said, could you find out what’s the up-to-date progress on the Southeastern Motorway and that’s what was achieved by meeting. I am not sure Mr. Drumgoole was of particular assistance, I can’t really recall the detail. When we were finished discussing the Southeastern Motorway, I would have gone on to talk about general matters as I referred to in the letter.’*

## THE LEGAL AND BENEFICIAL OWNERSHIP OF THE PP/JW LANDS

**26.01** The ownership structure put in place for the PP/JW lands was complex and was designed at all material times so as to conceal the ultimate personal beneficial ownership of those lands. This section first sets out the evidence regarding the legal ownership of those lands and then considers their beneficial ownership, including Mr Lawlor’s evidence regarding his ownership of those lands.

## LEGAL OWNERSHIP OF PAISLEY PARK

**26.02** Paisley Park was a company incorporated in the Isle of Man with its registered office at 29/31 Duke Street, Douglas, Isle of Man. The directors were Mr Roderick Peter Harker, a chartered accountant, and Mr Martin Bullock,<sup>58</sup> a company service provider, both Isle of Man residents. Mr Bullock had offices at 53 Strand Street, Douglas, Isle of Man.

**26.03** In 1992, Paisley Park's shareholders were Maskani Management Ltd ('Maskani'), Renzenbrinck Investments Limited ('Renzenbrinck') and Xenon Limited ('Xenon').

### MASKANI

**26.04** Maskani was a company incorporated in Douglas, Isle of Man on 12 April 1986 with registered offices at 12 Mount Havelock, Douglas, Isle of Man. Mr R. P. Harker and his wife Ms Helen Patricia Harker, with an address at Court View, 12 Mount Havelock, Douglas, Isle of Man, were subscribers of one share each in the company at its date of incorporation. Mr Harker and Ms Harker were the first directors of the company. Mr Caldwell told the Tribunal that he understood that Mr Kennedy was associated with the company.

### RENZENBRINCK

**26.05** Renzenbrinck was a Panamanian incorporated company. In 2002, Ms Minerva Bultron was a director and Ms Marcela De Lombardo its secretary. Mr Bullock was registered as both director and secretary. It appeared from documentation discovered to the Tribunal that, on 11 October 2002, Mr Caldwell acknowledged to Mr Bullock that, subject to an arrangement recorded in a memorandum dated 3 July 2001, Renzenbrinck was at all times Mr Bullock's company. It is noteworthy that, four days later, on 15 October 2002, Mr Caldwell advised the Tribunal that he held his interest in Jackson Way Properties Limited through Renzenbrinck.

### XENON

**26.06** At one time Mr Stanley was recognised as having a 20 per cent interest in Paisley Park. This interest was held through Xenon which was incorporated on 17 August 1998 and had registered offices in Tortola, British Virgin Islands.

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<sup>58</sup>Mr Bullock was described by Mr Caldwell as a company service provider. They worked closely on a number of matters over the years. In January 2002 Mr Caldwell sought Mr Bullock's assistance in identifying the source of a sum of IRE£274,000 received by Binchy & Partners solicitors on 5 June 1991 in addition to IRE£360,000 in or around the same date. These sums were used to purchase the Paisley Park/Jackson Way lands.

**26.07** Mr Caldwell told the Tribunal that Paisley Park resolved that the shareholders should subscribe for shares in the company to provide the necessary monies to fund the purchase of the lands. Xenon failed to pay its share, and in consequence the purchase money was provided equally by Maskani and Renzenbrinck. In his Statement through his Solicitors dated 31 January 2002, Mr Caldwell stated that this had the result of reducing the shareholding of Xenon from 20 per cent to 1 per cent with the consequent increase in the shareholding of both Maskani and Renzenbrinck to 49.5 per cent each.

### **THE LIQUIDATION OF PAISLEY PARK AND THE DISTRIBUTION OF ITS INTEREST IN THE LANDS**

**26.08** Following the purchase of Mr Tracey's lands, the directors of Paisley Park liquidated the company. Mr Caldwell told the Tribunal that this was done in order to end Mr Stanley's relationship with the company as it was believed at that time that he had been instrumental in Mr Tracey being paid an additional IR£160,000 for the Carrickmines lands.

**26.09** On 17 February 1992 the directors made a Declaration of Solvency in the course of a Members' Voluntary Winding Up. The lands were valued at that time at IR£800,000. On 13 March 1992, at an extraordinary general meeting of Paisley Park, it was resolved that the company be wound up voluntarily and that Mr Harker, one of the directors, be appointed liquidator.

**26.10** The resolution also provided that, subject to compliance with company law, the liquidator could divide between the members in specie the whole or any part of the assets of the company and could for that purpose value any assets and determine how the division should be carried out as between the members.

**26.11** On this basis, the value of Xenon's (Mr Stanley's) shareholding was calculated at Stg£7,421. On 12 May 1992, Mr Harker, as liquidator, forwarded a cheque for Stg£6,000 to Xenon and advised that he expected to make a further distribution in due course. Although Mr Stanley was very aggrieved at the manner in which his shareholding in Paisley Park had been diluted, and although he alleged that the manner in which this had occurred was illegal, he did not then, or subsequently, initiate legal proceedings in relation to the issue.

**26.12** On that same day, the 12 May 1992, Mr Harker made declarations authorising the transfer of the shares held by Renzenbrink and Maskani to a company registered in Panama, Iris Development Company Ltd ('Iris'). He also resolved to distribute in specie to Iris the whole of the Paisley Park interest in the lands at Carrickmines. However, the Tribunal was unable to identify any

documentary evidence of the actual transfer of shares to Iris. Mr Caldwell was unable to provide a definite explanation for this apparent absence of a full documentary history of that transfer.

**26.13** Iris' shareholders were not named in this declaration of 12 May 1992 but appear to have been Maskani and Renzenbrinck. According to Mr Caldwell, Mr Harker was aware that Maskani was holding its interest for a Liberian company Pertland, although Pertland was not a registered shareholder of Paisley Park. Pertland was controlled by Mr Nicholas Morgan<sup>59</sup> through the Jersey-based Channel Islands and International Law Trust Co. Ltd (CI Law Trust) which was a director of Pertland.

**26.14** Mr Caldwell told the Tribunal that at some stage during the Paisley Park liquidation Mr Morgan became involved in the ownership structure of the lands. According to evidence given by Mr Caldwell the triggering factor for Mr Morgan's involvement was a desire on Mr Kennedy's part to have something more tangible in existence which would reflect or record his interest in the lands and which he believed was not evident in the previous arrangement as between Mr Caldwell, Mr Harker and Mr Bullock. Pertland was utilised for this purpose.

**26.15** On 19 May 1993 Mr Morgan was informed that Mr Bullock required Pertland's consent to distribute the land in specie. Mr Morgan wanted to include Pertland as the entity which would ultimately feed through to the Kennedy structure. Then Pertland stepped in and it became Mr Kennedy's vehicle. Mr Harker was required to obtain Pertland's consent to the liquidator distributing in this particular way. Both Mr Morgan (on behalf of Pertland) and Renzenbrinck gave their consent to the distribution.

**26.16** On 23 March 1993, CI Law Trust requested Mr Alan George Holland, a director of Fishers, a Birmingham-based property management company, to establish a new company to take ownership of the Paisley Park lands. The CI Law Trust letter to Mr Holland read as follows:

*Nick [Morgan] has been asked by substantial Irish clients to arrange for the formation/acquisition of a UK company which is empowered to hold property and also act as trustee and nominee. Ideally the company needs to be set up by a UK property man and beneficially owned by him, and he should also appear as a director and arrange for an appropriate secretary to be provided. It is intended that certain land in Ireland presently held by*

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<sup>59</sup> Messrs David and Nicholas Morgan were father and son, UK qualified solicitors, and beneficial owners of CI Law Trust in Jersey. They specialised in offshore structures and tax and trustee arrangements. At different times they acted for Mr Caldwell, Mr Kennedy and Mr Lawlor. Mr David Morgan died in July 1999. Mr Caldwell could not recollect specifically instructing Mr Nicholas Morgan to act for him but he accepted that as a matter of high probability Mr Morgan probably understood that, from March 1993, he was in fact acting for both Mr Kennedy and Mr Caldwell.

*a company in liquidation will be transferred to the company by way of a distribution in specie, and the UK company will hold as trustee 50/50 for two offshore companies.*

**26.17** Mr Caldwell told the Tribunal that when it was decided not to proceed with the entity Iris, he and Mr Nicholas Morgan discussed finding an individual suitable to act as director and shareholder of a UK company, Mr Morgan suggested Mr Holland. Mr Caldwell said that he had had no contact with or knowledge of Mr Holland before his introduction to him by Mr Morgan. Mr Caldwell explained the reasoning behind the decision not to proceed with Iris. He stated:

*‘I’d say it was a joint decision, [with Mr Kennedy] more likely than not, and it would have reflected the threads that I spoke about earlier, the desire to have this situation more Kennedy-ised, I suppose. And I would have discussed with him, the use of a UK company in relation to it. I would have discussed with him finding someone who was suitable to be the director and shareholder of that company. He was the one who suggested Mr. Holland. I had no contact or no knowledge of Mr. Holland before the introduction of Mr. Holland to this by Mr. Morgan. I would have discussed with him how the matter would be structured in terms of the, Jackson Way owning the land in trust for the two original companies. I would have discussed with him the possibility of putting a co-ownership agreement in place and the, I have a recollection that I may in fact have provided him with an original precedent draft in relation to that. And over the months that this relationship was evolving in terms of Jackson Way and how it was going to be structured, I would have had discussions with him about obtaining tax advice in relation to it’.*

**26.18** Mr Holland gave instructions to Mr Stephen Miley, of Miley & Miley Solicitors, Dublin in connection with the PP/JW lands. A company entitled ‘Arriveclever Ltd’ was acquired, with Mr Holland as its sole director and shareholder and his employee, Mrs Marian Gillies, as company secretary. This company’s name was changed to ‘Jackson Way Properties Limited’ on 25 May 1993.

**26.19** Mr Nicholas Morgan advised Mr Holland in a letter dated 28 May 1993 that it was best if he, Mr Holland, made no inquiries into the beneficial ownership of the companies for which Jackson Way would hold the Carrickmines lands in trust. Mr Morgan informed Mr Holland that he, Mr Morgan, would be prepared to provide written confirmation that the two offshore companies were not beneficially owned by an Irish resident, as the ultimate ownership of the

companies was vested in further offshore vehicles. On 23 June 1993, Mr Morgan wrote to Mr Holland stating:

*It has been agreed generally between ourselves that I should disclose to you the identities of the two offshore companies for whom Jackson Way Properties Limited is holding the Irish land on trust... but that I should not disclose to you details of the ownership or ultimate ownership of the shares of these companies.*

**26.20** Following concern expressed by Mr Holland of the use of the word ‘should’, Mr Morgan amended it to ‘need’. Mr Morgan was now advising Mr Holland that he ‘need not disclose details to you of the ownership or ultimate ownership of the shares of these companies.’

**26.21** On 20 May 1993, Mr Harker purported to make a further declaration that he had resolved to distribute to Jackson Way the whole of Paisley Park’s interest in the lands at Carrickmines at the specific request of the majority shareholder.

**26.22** The status of the declaration in favour of Jackson Way dated 20 May 1993 remained unclear, because as of that date, the shareholders appeared not to be Maskani and Renzenbrinck, but rather, Iris, which had in fact been the shareholder since 12 May 1992, when it took the shareholdings then held by Renzenbrink and Maskani. The Tribunal was not provided with evidence which established to its satisfaction that the shareholding had been transferred back from Iris to Maskani, Renzenbrinck or Pertland.

**26.23** On 22 November 1993 Mr Holland wrote to Mr Harker, the Paisley Park liquidator, advising him that Maskani held its shares in Paisley Park as nominee for Pertland. Nevertheless, Mr Harker and Jackson Way’s solicitors agreed that the beneficiaries named in the trust deed should agree with those shown on the deed of transfer, namely Renzenbrinck and Maskani, not Renzenbrinck and Pertland.

**26.24** The trust deed forwarded to Mr Harker for signature on 22 November 1993 was signed by Mr Holland as director of Jackson Way and specifically recited that the property was transferred to Jackson Way as nominee of Renzenbrinck and Pertland. This was not apparently the case. On 30 November 1993, Mr Morgan forwarded to Mr Holland for his signature what he described as ‘a revised’ Declaration of Trust declaring that the property had been transferred to Jackson Way by Paisley Park on 30 July 1993 as trustee for Renzenbrinck and Maskani. This again appeared not to have been the case.

**26.25** A 'Mandators Agreement' was executed but was undated. However a Draft of the document bore a facsimile date of the 23 June 1993. Based on documentation furnished to the Tribunal, in this agreement Pertland and Renzenbrinck were stated to be the mandators on the one side, and Mr Holland and his associate Mr Radovan Vuckovic the mandataries on the other side. Under its terms, the mandators were obliged to operate in the capacity of directors of Jackson Way on the instruction of the mandators given through Mr Nicholas Morgan, the mandator in person or by Mr David Morgan. The signatories to the Mandators' Agreement were Mr Nicholas Morgan (on behalf of Pertland and Renzenbrinck) and Messrs Holland and Vuckovic.

**26.26** A declaration, purportedly signed, sealed and delivered by Mr Bullock, dated 3 July 2001 stated: *'We confirm that we will transfer all our right, title and interest to and in the shares of Renzenbrinck Investments Inc to your designee when called upon to do so by you or your successors or assigns'*. The person to whom the interest was to be assigned was not named in the transfer. Mr Harker forwarded a similar transfer in respect of the shares of Maskani to Mr Nicholas Morgan dated 6 July 2001.

**26.27** On 7 November 2001, Maskani executed a Declaration of Trust in favour of Pertland, This deed of trust which was provided by Mr Miley to the Tribunal on 11 February 2002 recited the legal title to the lands comprised in Folio 4940 of the Registered of Freeholders County Dublin (Jackson Way lands) up to that time as follows:

(A) *By transfer dated the 30th July 1993 and made between Paisley Park Investments Limited (in Liquidation) and Jackson Way Properties Limited, the property known as part of the lands at Carrickmines (being All that and those the lands comprised in Folio 4940 of the Register of Freeholders Co. Dublin)( hereinafter called 'the Property') was transferred to Jackson Way Properties Limited.*

(B) *By Declaration of Trust made the 4th August 1993 by the said Jackson Way Properties Limited ('Jackson Way'), Jackson Way declared that it held the Property in Trust for Maskani and Renzenbrinck Investments Inc. as Beneficiaries as tenants in common in equal shares and that it agreed that it would at the request and costs of the said Maskani and Renzenbrinck Investments Inc. transfer the Property to such person or persons at such time and in such manner or otherwise deal with the same as the said Maskani and Renzenbrinck Investments Inc. shall jointly direct or appoint.*

- (C) *Jackson Way continues to hold the Property subject to the said Declaration of Trust dated the 4th August 1993 free from any charge, lien or other encumbrance and Maskani and the said Renzenbrinck Investments Inc have further agreed that the Land Certificate and Deeds of the Property ('the Deeds') shall remain in the possession of Jackson Way or its appointees.*
- (D) *Maskani hereby acknowledges that it has not charged pledged or otherwise encumbered or parted with possession or dealt with any part of its interest in the Property and that it has no liabilities.'*
- (E) *Pertland Limited is a company registered in Liberia and whose registered office is situate at 80 broad Street, Monrovia, Liberia (hereinafter called "the owner").*
- (F) *Maskani hold its interest in the Property pursuant to the said Declaration of Trust dated the 4th August 1993 and/or such right, title or interest as it holds under the General Law as Trustee for the Owner as the Trustee hereby acknowledges.*
- (G) *The present Directors and Shareholders of Maskani are Mr Roderick Peter Harker and Mrs. Helen Patricia Harker both of Courtview 12 Mount Havelock Douglas aforesaid ('the Directors and Shareholders') and confirm the undertakings and acknowledgements herein made.*

**26.28** Jackson Way was served with a [Notice to Treat on 14 June 2000](#) by Dun Laoghaire County Council in respect of the portion of these lands which was the subject of a compulsory purchase order. On 27 June 2001 Jackson Way submitted a Compensation Claim wherein they sought compensation in an amount which ranged between IR£72.7m and IR£91m. In November 2003, the property arbitrator assessed compensation at €12.86m. All of the Jackson Way lands on the eastern side of the motorway and a portion of those on the other side of the motorway have been approved by the Government for inclusion in a 'Strategic Development Zone' within Dun Laoghaire-Rathdown County Council.<sup>60</sup>

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<sup>60</sup>The arbitration award of €12.86m is currently, in effect, frozen, pending the outcome of legal proceedings concerning the restrictive covenant over these lands referred to above. The Criminal Assets Bureau have applied to the courts for an order restraining any transfer of that portion of these lands which is the subject of the strategic development zoning.



## THE BENEFICIAL OWNERSHIP OF PP/JW LANDS

### THE TRIBUNAL'S EFFORTS TO IDENTIFY THE TRUE BENEFICIAL OWNERS OF THE PP/JW LANDS

**26.29** Prior to hearing evidence regarding the beneficial ownership of the PP/JW land the Tribunal found it extremely difficult to ascertain such information. Mr Caldwell's position, as initially expressed through his Solicitors was of little practical use to the Tribunal in its inquiries. Mr Kennedy denied ownership and refused to assist the Tribunal. His attendance could not be compelled because of his absence from this jurisdiction. Mr Lawlor denied any involvement on his part.

### EVIDENCE FROM JACKSON WAY

**26.30** On 9 May 2000<sup>61</sup> the Tribunal wrote to Mr Stephen Miley of Miley & Miley, Solicitors,<sup>62</sup> seeking the name of the person from whom he had received instructions on behalf of Jackson Way. Mr Miley declined to provide the name. Following an exchange of correspondence with the Tribunal Mr Miley attended a public hearing of the Tribunal on 29 May 2000 on foot of a summons issued by the then Sole Member. At that hearing Mr Miley indicated that he had been instructed by his clients to respond: *'that's a matter which I understand is protected by the solicitor/client privilege, and I very much regret I can't assist the Tribunal by divulging that'*. Mr Miley referred the Tribunal to what he described as the well-recognized privilege which existed as between solicitor and client in relation to the confidentiality of matters passing between them.

**26.31** Following legal argument, the Tribunal ruled on 7 June 2000 that Mr Miley did have an obligation to assist the Tribunal and to provide the information sought. The decision became the subject of a judicial review in the High Court which decided in a reserved judgment delivered on 24 January 2001 that the Tribunal was entitled to be informed of the identity of Mr Miley's clients.

**26.32** Between May 2000 and 17 December 2002, Jackson Way was represented in its dealings with the Tribunal by Mr Miley. Formal grants of limited representation were made by the Tribunal to Jackson Way. On 1 November 2002 the Tribunal made an order for discovery against Jackson Way Properties for all documents relating to its lands in Carrickmines. On 18 December 2002 the Tribunal was informed that Miley and Miley Solicitors were no longer in a position to represent the company due to the company's refusal to comply with the Tribunal's discovery order. From December 2002 Jackson Way refused to

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<sup>61</sup>The same day as Mr Dunlop gave his evidence to the Tribunal.

<sup>62</sup>Mr Miley's firm had acted for the company in judicial review proceedings taken against the Minister for the Environment and Local Government, Ireland and the Attorney General.

cooperate with the Tribunal. This withdrawal of cooperation by Jackson Way had a significant negative impact on the Tribunal's inquiries in this module.

## THE INVOLVEMENT OF MR CALDWELL IN THE OWNERSHIP OF THE LANDS

### MR DUNLOP'S EVIDENCE

**26.33** According to Mr Dunlop, in 1999, following the establishment of the Tribunal, he received a telephone call from Mr Charlie Bird, who asked him to confirm that it was true that he had acted for Jackson Way. Mr Dunlop confirmed he had. Mr Bird then requested that Mr Dunlop introduce him to the owner of Jackson Way. Mr Dunlop said that he *"would have to check"*. Mr Dunlop's first port of call was Mr Kennedy. Mr Kennedy told him that *"John Caldwell would be dealing with the matter"*. Mr Dunlop then got in touch with Mr Caldwell and outlined to Mr Caldwell the nature of Mr Bird's enquiry. They arranged to meet in a public house in Dunshaughlin, Co Meath. In the course of that meeting, and at a subsequent meeting with Mr Dunlop and, by invitation, Mr Bird, Mr Caldwell claimed he was the beneficial owner of Jackson Way. Mr Caldwell did not then claim or suggest that Mr Kennedy had any interest in Jackson Way or the Carrickmines lands. This claim of sole ownership by Mr Caldwell was in stark contrast to information subsequently provided to the Tribunal.

**26.34** Mr Dunlop told the Tribunal that Mr Kennedy had indicated to him that Mr Caldwell *'had stepped into the shoes of the ownership of Jackson Way for a significant fee'*. Mr Dunlop said that Mr Kennedy had commented to him that *'it had cost him dearly'*. Mr Caldwell denied that anything had been paid to him for his acknowledgment to RTE that he was the sole owner of Jackson Way.

### MR CALDWELL'S EVIDENCE

**26.35** The Tribunal wrote to Mr Caldwell on 2 June 2000, seeking certain information from him relating to the lands. Cahill and Co, solicitors representing Mr Caldwell, responded. A further letter from the Tribunal to Cahill and Co, on 16 June 2000 sought a comprehensive narrative statement from Mr Caldwell dealing with certain matters raised by the Tribunal in its initial letter.

**26.36** On 19 June 2000, the Tribunal again wrote to Mr Caldwell's solicitors seeking information relating to the PP/JW lands. Specifically, Mr Caldwell was asked if he had a beneficial interest in (a) the lands in Folio 4940 County Dublin, (b) Paisley Park Investments Limited, (c) Jackson Way Properties Limited, (d) Maskani Limited, and/or (e) Renzenbrinck Investments Inc., and/or (f) Xenon

Limited. Mr Caldwell was asked for certain additional information and he was requested to respond to the Tribunal's letter on or before 23 June 2000.

**26.37** In the absence of a response to this letter, the Tribunal directed Mr Caldwell to attend the Tribunal in person on 6 September 2000. On 4 September 2000, two days prior to Mr Caldwell's scheduled appearance at the Tribunal, his solicitors wrote to the Tribunal enclosing two narrative statements from him. In one of those statements, Mr Caldwell provided details relating to Paisley Park, Jackson Way, Maskani and Renzenbrinck. Mr Caldwell also stated that (referring to the lands originally purchased by Paisley Park) and now owned by Jackson Way, that *'The lands are held to my order'*. Mr Caldwell failed to confirm if he had a beneficial interest in the lands in Folio 4940 County Dublin, or in the various companies identified.

**26.38** On 6 September 2000, the Tribunal again wrote to Mr Caldwell's solicitors stating that it did not understand Mr Caldwell's statement that *'the lands are held to my order'*. The Tribunal again requested Mr Caldwell to state if he had any beneficial interest in the lands or in the various companies identified. On 19 October 2000, Mr Caldwell's solicitors responded to the Tribunal in the following terms:

*We refer to previous correspondence.*

*Our client would consider that the statements furnished with our letter of the 4th September last deal with queries which have been raised.*

*Insofar as clarification is required our client instructs us that he does not have nor did he ever have any beneficial interest in Maskani Management Limited (Maskani) or Renzenbrinck Investments Inc. (Renzenbrinck) or Jackson Way Properties Limited, or Xenon Limited.*

*The shares of Paisley Park Developments Limited (Paisley Park) were held indirectly through Maskani and Renzenbrinck for our client, save for a period from circa November 1988 when 20% of Paisley Park was owned by Xenon Limited, Mr Stanley's Company. This Xenon Ltd percentage reduced to circa 1% prior to the liquidation of Paisley Park, following a further allotment of shares the pro rata share of which was not taken up by Xenon Ltd.*

*Post the Paisley Park Liquidation, the lands were held indirectly via Maskani and Renzenbrinck to the order of our client. By this we mean that our client had and does have the power to control the use, sale etc., of the lands i.e. exercise via the structure, all the powers and rights of ownership of the lands.*

**26.39** As is clear, in this letter Mr Caldwell continued to suggest that he had the right to control the lands and effect their sale, but he fell short of acknowledging any beneficial ownership of the lands or of any of the companies involved. The impression Mr Caldwell conveyed to the Tribunal at this time was that he was acting in a capacity similar to that of a trustee of the lands, but without any entitlement to beneficial ownership. There was no reference to Mr Kennedy in this correspondence.

**26.40** Subsequently in 2001, Mr Caldwell withdrew his instructions to his then solicitors, Cahill and Co. From September/October 2001, he was represented by Mr Miley. The Tribunal made a formal grant of limited representation to Mr Caldwell.

**26.41** In a letter dated 13 September 2001 to the Tribunal, Mr Caldwell for the first time maintained that he was not an Irish citizen and that he had not resided in Ireland for many years. He therefore rejected the validity of a summons from the Tribunal requiring his attendance at a public hearing on 27 September 2001. In the event, Mr Caldwell disobeyed this summons.

**26.42** The Tribunal heard evidence from a number of people which satisfied it that Mr Caldwell was probably amenable to an Order of the Tribunal. Mr Caldwell was duly referred to the High Court pursuant to Section 4 of the Tribunal of Inquiries Evidence Acts. He appeared in the High Court through his Counsel on 16 October 2001 and, following discussions between Mr Caldwell's lawyers and the Tribunal's lawyers, Mr Caldwell consented to an Order of the High Court directing him to attend to give evidence to the Tribunal. Mr Caldwell duly gave evidence to the Tribunal for the first time on 1 November 2001.

**26.43** On [16 November 2001](#), the Tribunal wrote to Mr Caldwell's newly appointed solicitors, Miley and Miley. It repeated earlier requests to Mr Caldwell that he confirm or otherwise if he had any beneficial interest in the lands in Folio 4940 County Dublin, or in the various identified companies. The Tribunal was satisfied at that time that Mr Caldwell's earlier responses to questions relating to his possible ownership of the lands (which included his claim that the lands were held '*to his order*' and that he possessed '*all the powers and rights of ownership of lands*') were meaningless and had been provided, in all probability, for the purposes of concealing from the Tribunal his proprietorial interest in the lands.

**26.44** Miley and Miley responded on Mr Caldwell's behalf on 31 January 2002<sup>63</sup> stating, *inter alia*:

*'The answer to this question is yes. Our client had now and did previously have what amounts in his opinion to an indirect beneficial interest in the lands comprised in Folio 4940 Co. Dublin..... In March, 1988 Mr. Kennedy informed our client that he had agreed to buy the lands for £540,000.00 and enquired of our client as to whether he would take a 50% interest in the transaction. Our client agreed to this proposition.'*

**26.45** Mr Miley went on to outline in detail the purchase of the lands from Mr Tracey and advised the Tribunal for the first time of Mr Kennedy's involvement in the lands. He said that Mr Caldwell had always exercised complete control over Jackson Way in the sense that Mr Harker, Mr Bullock and Mr Holland had conducted the affairs of the company in accordance with his instructions. According to Mr Miley, Mr Kennedy had also left it to Mr Caldwell to decide how the affairs of Jackson Way should be conducted. Mr Miley said that it was only when taking instructions for the letter of 31 January 2002 that he became aware of Mr Kennedy's interest in the matter. On 15 October 2002, Mr Miley advised the Tribunal that Mr Caldwell had now informed him that he held his interest in Jackson Way through Renzenbrinck.

**26.46** The beneficial ownership issue had now been addressed by Mr Caldwell but only 18 months after the Tribunal had first raised the matter with him. During the course of those months, the Tribunal wrote numerous letters to Mr Caldwell regarding his ownership of the PP/JW lands and took a High Court action to compel Mr Caldwell to co-operate with the Tribunal.

**26.47** In evidence, Mr Caldwell told the Tribunal that he at all times controlled Renzenbrinck, through Mr Bullock, and acknowledged that he was the beneficial owner of the company and thereby of its 50 per cent shareholding in the lands in Folio 4940 County Dublin. Mr Caldwell's name never appeared on documentation indicating an interest in the lands.

**26.48** In a statement provided in advance of his oral evidence through his solicitors dated 31 January 2002, Mr Caldwell advised the Tribunal as follows:

*Renzenbrinck Investments Inc. is a company owned by Mr. Martin Bullock and in respect of which he is the sole Director. Our client has the power to*

---

<sup>63</sup>Mr Caldwell had a meeting with Mr Nicholas Morgan at the Marriott Hotel, Swiss Cottage London NW3, on Monday 14 January 2002. Mr Morgan had a meeting with Mr Lawlor on 16 January 2002 at which they discussed a range of matters which appeared to be of interest to the Tribunal. In a letter to Mr Lawlor on 23 January 2002 Mr Morgan advised him that they had *'discussed a number of matters in respect of which my understanding it now transpires was then less than perfect as my late father had dealt with the issues.'*

*direct the transfer of Shares in this Company and Mr. Bullock has agreed to not transfer the Shares without our client's consent. Until recently this arrangement was undocumented and was based upon trust but notwithstanding this our client considers himself to have effectively been the beneficial owner of this Company at all material times.*

**26.49** Mr Caldwell told the Tribunal that the ownership structure for the Folio 4940 lands for both himself and Mr Kennedy was devised by him for tax planning and 'asset protection' purposes. In the course of Mr Caldwell's evidence to the Tribunal he was questioned as to the nature and purpose of creating an ownership structure which carried with it the risk of losing control of beneficial ownership because of the absence of a clear documentary trail between himself (and Mr Kennedy) and the lands, or the companies linked to them. Mr Caldwell said:

*'People set up trusts on a regular basis. This is not a trust, but people do set up trusts on a regular basis. They divorce themselves of the ownership of their assets, they place them into that trust. They no longer have the legal or beneficial ownership in relation to those assets. They can still be involved in how those assets are invested, in how they are realised and how they are grown or how they are lost by silly decisions. They can do all of that because of their relationship with the trustee. The situation that I have with Mr Bullock, and its not a trust relationship, is one, its in the same conceptual position, except he's the owner and I have made absolute, as far as I can, and make absolutely sure that I'm not the beneficial owner of the assets. But that is legally, not that dissimilar to the trust situation.'*

**26.50** Mr Caldwell also stated 'I was relying on the relationship that I had with him [Mr Bullock] and I would expect if I had dropped dead or be knocked down by a bus, I would have expected him to talk to my family in relation to it, and to deal with it as my family directed him to do.'

#### **THE INVOLVEMENT OF MR JIM KENNEDY IN THE OWNERSHIP OF THE PP/JW LANDS**

**26.51** Mr Kennedy was first contacted by the Tribunal on 19 June 2000, through his solicitors, Delahunt. He was asked if he had a beneficial interest in the lands in Folio 4940 or in Paisley Park, Jackson Way, Maskani, Renzenbrinck or Xenon. On 23 June 2000, Delahunt Solicitors responded on Mr Kennedy's behalf in a brief letter to the Tribunal to the effect that Mr Kennedy had no beneficial interest in the lands or companies identified by the Tribunal. This claim was in stark contrast to information which was subsequently provided to the Tribunal by

Mr Dunlop and Mr Caldwell. The Tribunal was not provided with any documentary proof of any legal or beneficial ownership by Mr Kennedy of the lands in Folio 4940 County Dublin or of Paisley Park, Jackson Way, or of any company associated with either.

**26.52** On 29 January 2002, the Tribunal again wrote to Delahunt Solicitors seeking additional information from Mr Kennedy. On 26 February 2002, the Tribunal received a letter from Triay and Triay, a firm of solicitors based in Gibraltar, claiming that Mr Kennedy was now residing in Gibraltar and had renounced his Irish citizenship, and also that he was suffering from ill health. They indicated that Mr Kennedy was refusing to co-operate with the Tribunal's request for information '*with regret*'.

**26.53** On 31 July 2002 the Tribunal sent a summons to Triay and Triay requiring Mr Kennedy to attend at the Tribunal, returnable for 1 October 2002. He did not attend. On [17 September 2002](#), Triay and Triay wrote to the Tribunal indicating that Mr Kennedy had no intention of giving evidence to the Tribunal. This position was in effect repeated by Triay and Triay on 1 October 2002 (the date on which Mr Kennedy had been directed to appear at the Tribunal). Mr Kennedy at no time gave evidence to the Tribunal. Mr Kennedy's wife, Mrs Antoinette Kennedy, did attend to give evidence to the Tribunal on 13 December 2002. She maintained that she had no knowledge of the Carrickmines lands or of the companies associated with it, Renzenbrinck or Maskani. She told the Tribunal that her memory of anything relating to the Carrickmines lands was '*very vague*'. Mrs Kennedy told the Tribunal that she was aware that her husband had received documentation from the Tribunal, and was aware that he had instructed his Gibraltar based lawyers to keep this documentation on their file, but that he himself did not wish to see it nor respond to it because "*[f]or solicitors to open letters and write back costs money. So I don't think he wants to incur any costs*".

#### MR CALDWELL'S EVIDENCE

**26.54** In his evidence to the Tribunal, Mr Caldwell stated his belief and understanding that Maskani (and in effect, Pertland) represented the beneficial interest of Mr Kennedy in the lands comprised in Folio 4940 County Dublin. Mr Caldwell agreed that until the involvement of Mr Nicholas Morgan he effectively controlled the Carrickmines lands on behalf of both himself and the other ultimate beneficial owner, Mr Kennedy, which was effected through Mr Martin Bullock and Mr Roderick Harker, and corporate entities of which they were directors.

**26.55** Other than Mr Caldwell's evidence to the Tribunal that he was the ultimate individual beneficial owner of 50 per cent of the lands held by Paisley Park, and later Jackson Way, and his evidence that it was his belief and understanding that the other 50 per cent individual beneficial owner was Mr Kennedy, the Tribunal was not referred to any documentary or corroborative evidence which confirmed that this was indeed the case.

#### MR DUNLOP'S EVIDENCE

**26.56** Mr Dunlop believed the Mr Kennedy was the owner of Paisley Park and that Mr Caldwell *'had a portion of it'*.

#### DID MR LAWLOR HAVE AN INTEREST IN THE PP/JW LANDS?

#### MR DUNLOP'S EVIDENCE

**26.57** Mr Dunlop told the Tribunal that immediately after the 24 May 1991 vote he was informed by Mr Kennedy that Mr Lawlor had a beneficial interest in the PP/JW lands. Mr Dunlop stated:

*'...The first reference, and indeed only reference, as I recall it, by Mr. Kennedy to Mr. Lawlor's ownership or part ownership or participation to whatever extent, or whatever percentage, which was never discussed, was in the context immediately after the vote on the 24<sup>th</sup> May 1991, when Mr. Lawlor had voted as he had voted in the context of Carrickmines Valley. Mr. Kennedy expressed himself, as I think I indicated yesterday, quite volubly about the matter and used the phrase, as I think I again used yesterday, you know, 'you think because he had an interest in it'. He went on to further explain to me that whatever that interest was he had advised Mr. Lawlor to register it abroad and had given him advice as to the mechanics of doing it, and he said he had it done in Lichtenstein'.*

**26.58** Mr Dunlop's recollection was that Mr Kennedy had so informed him: *'either immediately before the elections were called or that the elections were actually on, one or the other, and I know that it was virtually the last meeting of the council prior to the elections. There may well have been another meeting, I don't know.'*

**26.59** Mr Dunlop told the Tribunal that while Mr Kennedy mentioned Mr Lawlor frequently in the course of their discussions, he only made one reference to Mr Lawlor's beneficial interests in the lands. Mr Kennedy did not indicate to him the extent of that interest. Mr Kennedy did not advise Mr Dunlop of Mr Caldwell's beneficial interest in the lands at their initial meeting, but did so at a later stage.



**26.60** Mr Dunlop said that he never spoke to Mr Lawlor about his alleged beneficial interest in the PP/JW lands as it was ‘*none of [his] business*’ and stated:

*‘I had been told about his interest by a – the person who present – with whom I had discussions about the project and the possibility of having it rezoned and he was the one who told me. I was not aware initially that Mr. Lawlor had any interest in Paisley Park, I was told subsequently and that is the time at which I was told, at the time when the vote took place in relation to the Carrickmines Valley.’*

**26.61** According to Mr Dunlop in his statement of 9 October 2000, on one occasion he was approached by Cllr Olivia Mitchell (and another councillor) who indicated that while they would like to support the Paisley Park rezoning project, they required an assurance that Mr Lawlor was not involved in relation to the lands. Mr Dunlop informed them that he was dealing only with the solicitor for Paisley Park and was not in a position to give that assurance. Cllr Mitchell did not vote at the Dublin County Council meeting of 16 December 1997 in relation to the motion to rezone the O’Halloran Consortium/PP/JW lands. This motion was successful. Mr Dunlop did not allege that he paid money to Cllr Mitchell in relation to Carrickmines.

#### MR LAWLOR’S EVIDENCE

**26.62** In his [statement of 9 September 2002](#), Mr Lawlor denied having any interest in the PP/JW lands. In his evidence to the Tribunal, Mr Lawlor said that the he had merely been consulted regarding those lands in the same way as many people did in the course of the 1983 Development Plan review. Mr Lawlor stated that the identity of those who owned the lands or ‘*the commerciality of it*’ did not cost him ‘*a second thought*’.

**26.63** It was put to Mr Lawlor, by Tribunal Counsel, that his statement in his letter of 9 September 2002, that he did not have any interest in a ‘*consultancy*’ sense in the company, was untrue. Mr Lawlor repeated that it was true and that he had no involvement in the lands other than that he assisted in the preparation of submissions in relation to rezoning. He said that the reference in the correspondence to having no ‘*involvement*’ in the companies named in the Tribunal’s correspondence was to his having no involvement with the ‘*commerciality*’ of the lands. He maintained that he never had any involvement in the context of himself having an interest, equity or profitability in the PP/JW lands. When it was suggested to Mr Lawlor that in his letter of 9 September 2002 he should have informed the Tribunal that he had acted in an advisory capacity to Paisley Park, Mr Lawlor responded as follows:

*'I don't know anything about who is Paisley Park or who is not, the name means nothing to me...They were in the Dáil, I see Mr. O'Flanagan who I don't even remember at the meeting to be honest with you, I remember Frank Finnegan well, he is from Mountrath in County Laois and I have connections with that part of the country.'*

*They came into the Dáil, would have sat down, made their case, got comment, got suggestions, got ideas and it would be all over in half an hour. They would be gone and the next meeting would be 15 or 20 minutes later. So, meeting these people would be just a normal routine, process, during the goings on of the County Development Plan.'*

**26.64** Mr Lawlor told the Tribunal that until he learned (from documentation provided by the Tribunal) of the concerns expressed about his supposed beneficial interest in the land, he had had no awareness that such a rumour had existed.

**26.65** When Mr Lawlor was asked if Mr Dunlop had said to him that he should not be publicly associated with the PP/JW lands rezoning, because, if there was a widespread belief that Mr Lawlor had an interest in the lands, it was likely to be detrimental to the success of the project, Mr Lawlor responded:

*'You know it was a generalised comment I was making to you to show that Frank Dunlop would have, you know, he had as many versions of events as the weather. I had no interest if this thing went through, didn't go through, no great interest to me. That was up to themselves and planners in south County Dublin. Even to this day I don't have any detailed interest in it other than writing to the arbitrator telling him I don't have an interest in the land, despite all the media speculation and saying I don't have a - I was supposed to be putting motorways through it in the Sunday Tribune, as referred to every other Sunday, they have given me a major role in this play out here and I have nothing to do with it.'*

#### MR CALDWELL'S EVIDENCE

**26.66** Mr Caldwell stated that Mr Lawlor was never an economic beneficiary in relation to the Carrickmines lands (unlike the Coolamber lands). Mr Caldwell acknowledged that in relation to Mr Lawlor's Coolamber claim, he and Mr Lawlor agreed a settlement of Mr Lawlor's claim.<sup>64</sup>

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<sup>64</sup> See Chapter Sixteen.

## MRS KENNEDY'S EVIDENCE

**26.67** Mr Kennedy's wife, Mrs Antoinette Kennedy who gave evidence to the Tribunal said that her husband had told a business man not to have anything to do with Mr Lawlor as he was the '*kiss of death*' for any property. Knowing this, she said that she found it amusing that Mr Kennedy was reported to be a business partner of Mr Lawlor's.

**26.68** *The Tribunal's conclusions in relation to any ownership on Mr Lawlor's part of the PP/JW lands:*

The Tribunal heard evidence of the significant role played by Mr Lawlor as an advisor and strategist in the efforts to rezone the PP/JW lands. The Tribunal however did not hear evidence which established that as a matter of probability Mr Lawlor was (or had been) a beneficial owner of the PP/JW lands.

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INDIVIDUALS  
(CHAPTER NINETEEN/CARRICKMINES MODULE ONLY)**

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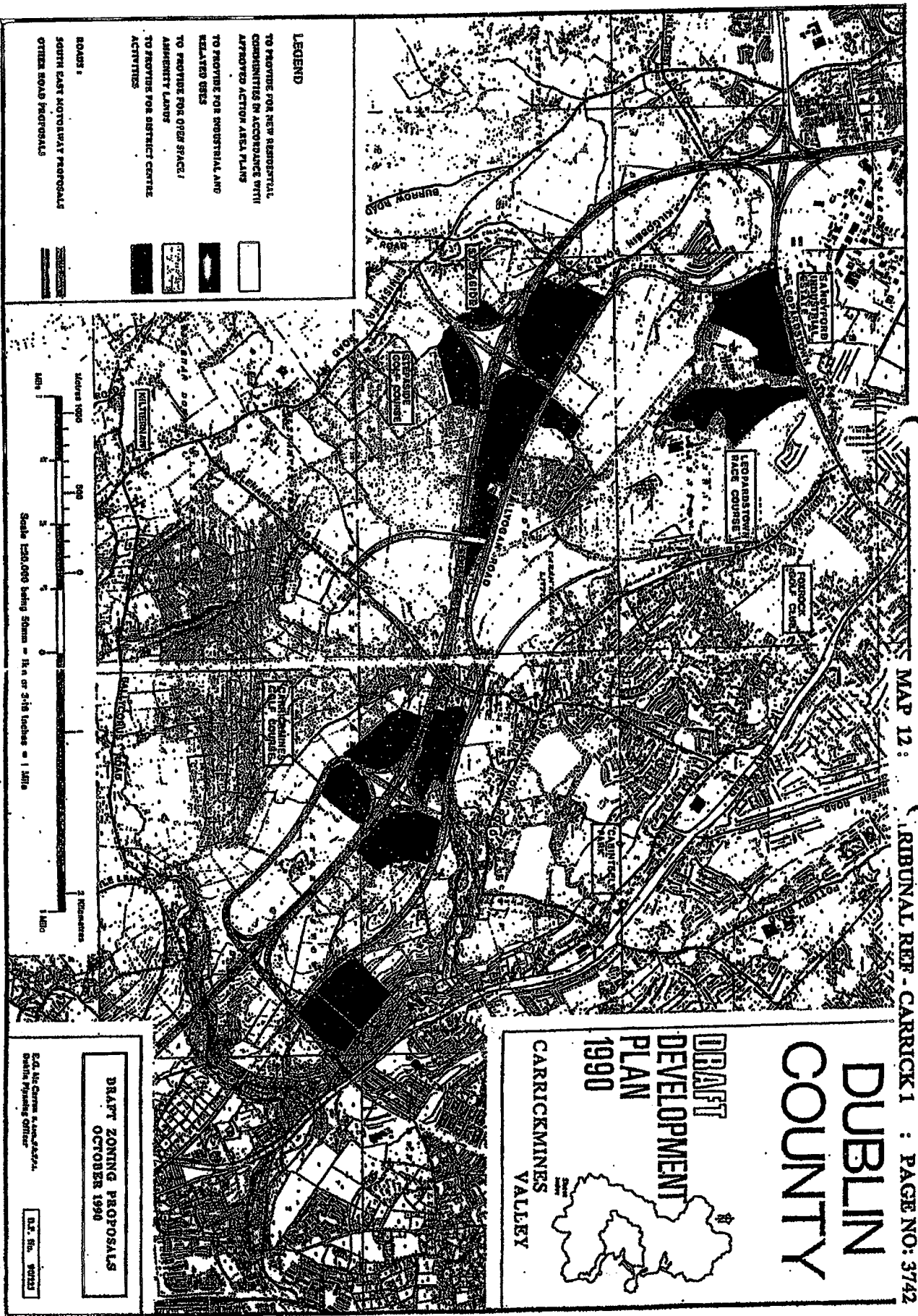
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- 12.** Cllr Jack Larkin
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## CHAPTER NINETEEN – THE CARRICKMINES MODULE

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INVOICE

**DESMOND MCCARTHY & COMPANY**  
CONSULTING ENGINEERS

Paisley Park Inv. Ltd.  
29-31 Duke Street,  
Douglas  
Isle of Man.

89.90/18

Lynwood House  
Dundrum,  
Dublin 14

Dated

7/12/1989

Invoice No: 107

Vol. No: 2855041

**TO FEES:**

F preparation of plans and documents  
for lands at Carrickmines, Kiltarnan,  
Dublin 18.

2000.00

Sub Total: 2000.00

V.A.T. @ 25%: 500.00

Invoice Total: £ 2500.00

ols  
e. m. l. a. z.  
p. d. /



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PAISLEY PARK INVESTMENTS LIMITED

(Incorporated in the isle of Man, no. 33,261)

Registered Office: 29-31 Duke Street, Douglas, Isle of Man

Telephone: 0624 28858

Desmond McCarthy & Co.,  
Lynwood House,  
Dundrum,  
Dublin 14,  
Ireland.

15th March 1990

Dear Sirs,

Please find enclosed our draft for £2,500-- in respect of your fees  
in connection with our lands at Carrickmines.

Yours faithfully,

*Martin Bullock*  
Martin Bullock  
Director

**Standard Chartered**

Standard Chartered Bank  
(Isle of Man) Limited

64 Athol Street, Douglas, I.O.M.

001452

15th MARCH 19 90

On demand pay  
Payez contre ce chèque  
Zahlen sie gegen diesen scheck an

Desmond McCarthy & Co.

The sum of  
le montant de  
en lettres de  
Two Thousand Five Hundred Irish Pounds Only  
our balance with  
le débet de notre compte chez  
in undrem guthaben bei

IEP2500.00

In reimbursement debit your head office account with you  
Standard Chartered Bank (Isle of Man) Limited

Standard Chartered Bank  
8 Dawson Street  
DUBLIN 2

Authorized Signature

Directors: M. Bullock, R.P. Barker

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BRIAN O'HALLORAN & ASSOCIATES

ARCHITECTS

Anthony Gore Grimes Esq.,  
Gore & Grimes,  
Solicitors,  
6 Cavendish Row,  
Dublin 1.

*JMK/PK 18/9/90*  
*Draft Development Plan*  
*now ready*  
*- says what rezoning*  
*situation is going to be*

BOH/SM  
23rd March 1990

Dear Anthony,

I met Gerald Kilcoyne last night as a follow-up to my 21st March 1990 letter, a copy of which I also sent to you.

We decided we would first prefer to discuss with you the two points raised by Kennedy when he telephoned me on March 16th, then perhaps you might contact John Cauldwell.

I will telephone Kennedy today to inform him of this procedure, also to advise him that as I will be away until Monday April 2nd, he will not hear from us until sometime during that week.

Yours sincerely,

BRIAN O'HALLORAN

c.c. J. G. Kilcoyne Esq.,  
Gerald Gilbert Esq.

Tribunal Ref : DUNLOP FRANK WF/RED

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PAY 148 Exhibit No 1. (Page 1 of 2)  
Put in evidence by Frank Dunlop on Tuesday 9<sup>th</sup> May 2000  
Peter Kavanagh.  
REGISTER TO THE TRIBUNAL.

1991 - 1993 (inclusive)

1. Paisley Park (Carrickmines)

[Paisley Park was dissolved  
+ reformed into or sold  
to Jackson Way after  
1993]

via J. Kennedy + J. Caldwell,  
mainly the former

25,000.00  
(cash)

2. Ballycullen Farm,  
near Rathfernham

17,500.00  
Chgs mainly  
credited

3. Gerry Gannon lands  
in Lucan

c.7,500.00

4. Newlands / City West

30,000.00  
(500 cheques  
20 - June 91  
10 - Nov 92)

Jan. 1992

4(a) Baldoyle / Fiddlers

10,000.00

5. Carrigrohane lands,  
near Airport

10,000.00

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[illegible]

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*0/H*  
D. McCarthy & Company

Consulting Engineers  
Telephone: 984147, 988244  
Fax: 951773

Lynwood House,  
Ballinteer Road,  
Dublin 16.

972

3rd December 1991.

"Objections to Draft Development Plan".

Principal Officer,  
Dublin County Council,  
Planning Department,  
Irish Life Centre,  
Lower Abbey Street,  
Dublin 1.

Re: Carrickmines District Centre and Business Park.  
Client: Paisleypark Investments Ltd.  
Map No: 27.

Dear Sir,

I enclose herewith representations relating to the above.

On behalf of my client, I wish to have same considered.

I request an opportunity to state the case orally.

Yours faithfully,

*D. McCarthy*  
D. McCarthy & Co.

D.A. Terry B.E., M.I.E.I., F. Finnegan, B. O'Flanagan.

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# CARRICKMINES DISTRICT CENTRE

972

&

## BUSINESS PARK

TOWN PLANNER:-  
Grainne Mallon,  
B. Arch. MRUP, MRIAI, MIPI  
8 Merrion Square,  
Dublin 2

### PLANNING CONSULTANTS:-

Grainne Mallon  
B.Arch MRUP, MRIAI, MIPI  
Architect/Planning Consultant  
8 Merrion Square,  
Dublin 2.

### CONSULTING ENGINEERS:-

D. McCarthy & Co  
Lynwood House  
Dublin 16.



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### FOREWORD

IN RESEARCHING THE BACKGROUND TO PREPARING THIS BRIEF, WE RECOGNISED THAT THE PRESENT INFRASTRUCTURE WILL NEED SUBSTANTIAL INVESTMENT TO ALLOW A HIGH QUALITY DEVELOPMENT THAT WILL GIVE TO SOUTH COUNTY DUBLIN AN ATTRACTIVE DISTRICT CENTRE AND BUSINESS PARK TO SERVE, IN PARTICULAR, THE EXISTING POPULATION, AND MORE IMPORTANTLY TO PROVIDE A RANGE OF FACILITIES. WE FULLY RECOGNISE THE CONCERNS OF THE ELECTED MEMBERS, CARRICKMINES VALLEY PRESERVATION ASSOCIATION, CARRICKMINES AN TAISCE AND OTHER MEMBERS OF THE LOCAL COMMUNITY,

THE NEED TO LOOK FORWARD TO THE YEAR 2000 WHEN THE COUNTY DUBLIN DEVELOPMENT PLANS WILL BE FURTHER REVIEWED, PUT A VERY ONEROUS RESPONSIBILITY ON ALL CONCERNED TO ADDRESS IN A SENSITIVE AND CO-OPERATIVE MANNER THIS PLANNING ISSUE.

IN THE FOLLOWING OUTLINE SUBMISSION, WE TRUST WE HAVE ADDRESSED THE ISSUES CONFRONTING THE ELECTED MEMBERS, THE COUNCILS PLANNING OFFICIALS AND THE LOCAL REPRESENTATIVE GROUPS AND WE TRUST THIS SUBMISSION, WHEN OBJECTIVELY CONSIDERED, WILL BE ACCEPTED AS A GOOD QUALITY PLANNING PROPOSAL FOR PROGRESS, WHILE ENSURING THAT PROTECTION AND PRESERVATION HAS BEEN ADDRESSED.

THE PROMOTERS OF THE PROJECT WILL RESPOND TO ANY INTERESTED GROUPS OR RESIDENTS AND ANSWER ANY QUERIES OR CONCERNS THEY MAY HAVE REGARDING OUR SUBMISSION FOR THE PROVISION OF:-

(A) CARRICKMINES DISTRICT CENTRE

B) CARRICKMINES BUSINESS PARK

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## CARRICKMINES

THE CARRICKMINES AREA IS SCHEDULE, IN THE COMING YEARS, TO BE TRANSFORMED BECAUSE OF TWO MAJOR INFRASTRUCTURE PROPOSALS WHICH WILL PROCEED, IRRESPECTIVE OF DECISIONS RELATING TO THE COUNTY DEVELOPMENT PLAN, NAMELY:-

### 1. ROADS

#### SOUTH EAST MOTORWAY.

THIS MOTORWAY IS AN INTEGRAL PART OF THE EURO ROUTE APPROVED BY THE E.C AND DEPARTMENT OF ENVIRONMENT AND THE COUNTY COUNCIL ROAD SECTION TO BE AN INTEGRAL SECTION OF THE ROSSLARE TO BELFAST EASTCOAST MOTORWAY.

AS WE ARE ALL AWARE, THE WESTERN PARKWAY MOTORWAY IS NOW COMPLETED AND CONSTRUCTION ON THE NORTHERN CROSS MOTORWAY IS IN PROGRESS AND THE ORAL HEARING CONCLUDED FOR THE SOUTHERN CROSS MOTORWAY. THIS BRINGS INTO FOCUS THE NEED FOR ACTION ON THE SOUTH EAST MOTORWAY.

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RECOGNISING THE SERIOUS TRAFFIC CONGESTION THAT WILL BUILD UP IN SOUTH COUNTY DUBLIN ON THE COMPLETION OF THE SOUTHERN CROSS MOTORWAY, THEREBY CAUSING SERIOUS ENVIRONMENTAL AND AIR POLLUTION EFFECTS HAS ALREADY PROMOTED THE DEPARTMENT OF THE ENVIRONMENT AND DUBLIN COUNTY COUNCIL ROADS FORWARD PLANNING SECTION TO RECOGNISE THE URGENCY OF DESIGNING SOUTH EAST MOTORWAY AND TO PREPARE FOR A PUBLIC HEARING TO ALLOW RESIDENTS OF SOUTH COUNTY DUBLIN AND PARTICULARLY CARRICKMINES ON THE PROPOSED MOTORWAY.

WE ASSUME IT IS ACCEPTABLE TO ALL INTERESTED PARTIES, THAT THE SOUTH EAST MOTORWAY WILL PROCEED AND IT IS A QUESTION OF DETAIL, BOUNDARY TREATMENT TIMING AND FUNDING THAT MUST BE ADDRESSED.

THE MAIN CONCERN IS TO ENSURE THE MOTORWAY IS AS ENVIRONMENTALLY FRIENDLY AS POSSIBLE, SO THAT IT WILL NOT AFFECT BRIDESGLEN AND OTHER HIGH AMENITY PARKS IN THE CARRICKMINES VALLEY.

OUR SUBMISSION IS BUILT AROUND THE ACCEPTANCE THAT THE MOTORWAY WILL PASS THROUGH PART OF THE LANDS IN THIS SUBMISSION, AND AS THE STRATEGIC LOCATION OF THE LANDS IN CARRICKMINES PROVIDES THE ROAD LINK TO THE PROPOSED NEW CARRICKMINES DISTRICT CENTRE AND BUSINESS PARK, WE BELIEVE OUR SUBMISSION WILL BE COMPATIBLE WITH PROPER PLANNING AND DEVELOPMENT OF THE AREA.

LOCAL ROAD IMPROVEMENT LINKS WILL ALSO FORM PART OF OUR PROJECT.

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## 2. UNDERGROUND SERVICES

THE CONSTRUCTION OF THE SHANGANAGH TREATMENT WORKS MANY YEARS AGO WITH ITS SUBSTANTIAL SURPLUS CAPACITY TO ALLOW THE OPTION TO CONSIDER A QUALITY DEVELOPMENT IN THE CARRICKMINES AREA, HAS LONG BEEN RECOGNISED.

THE UNDERGROUND FOUL DRAINAGE NETWORK TO SERVE THE CATCHMENT AREA RELATED TO THE SHANGANAGH TREATMENT WORKS, COUPLED WITH THE UPGRADING OF THE INADEQUATE EXISTING UNDERGROUND PIPE NETWORK, SHOULD BE UNDERTAKEN TO PROTECT SERVICES TO THE HIGHEST INTERNATIONAL STANDARD.

THE CURRENT ISSUES CONFRONTING THE DECISION MAKERS IS THE SIZE OF THE FOUL DRAINAGE. WE CONTEND THAT THE VERY MODERATE, FOUL DRAINAGE REQUIREMENT FOR A DISTRICT CENTRE AND DRY TYPE USES IN THE BUSINESS PARK, CAN BE MET WITH A MODEST FOUL DRAINAGE PIPE.

FOUL DRAINAGE DISCHARGE FROM THE PROJECT WILL CONNECT TO THE CARRICKMINES VALLEY SEWER WHICH RUNS THROUGH THE LANDS. A WAYLEAVE HAS BEEN MADE AVAILABLE TO THE APPROPRIATE AUTHORITY.

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### 3. SURFACE WATER

THE EXISTING STREAM TO THE NORTH OF THE LANDS CAN ADEQUATELY ACCEPT THE SURFACE WATER RUN OFF.

THE STREAM HAS SUFFICIENT CAPACITY TO CATER FOR THE CALCULATABLE WATER FLOWS, AND THE ADDITIONAL FLOW RATE WILL ENHANCE THE STREAM BY INCREASED CLEAN WATER DISCHARGE. THE APPROPRIATE WAYLEAVE FOR THE LAYING OF THE SURFACE WATER PIPES ARE ALSO AVAILABLE.

### 4. WATER SUPPLY

THERE IS AN 8" (200MM) WATER MAIN IN CLOSE PROXIMITY TO THE LANDS IN QUESTION.

### 5. OTHER SERVICES

ELECTRICITY SUPPLY, TELECOMMUNICATIONS, CAN ALSO BE UPGRADED TO MEET THE MODEST NEEDS OF THE SUBMISSION.

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## LAND USE PROPOSAL

### (A) CARRICKMINES DISTRICT CENTRE

WHEN STUDYING IN DETAIL THE CORRECT LAND USE PROPOSAL, IT HAS BECOME OBVIOUS THE DISTRICT CENTRE FACILITIES FOR THE CARRICKMINES AREA SHOULD BE LOCATED AT THE MOTORWAY INTERSECTION, THEREBY ENSURING THAT CARRICKMINES VILLAGE AND ITS ENVIRONS AND THE AMENITY AREAS OF CARRICKMINES VALLEY BE UNAFFECTED BY ANY NEW DEVELOPMENT.

WE THEREFORE PROPOSE A C ZONING ON 8.27 HECTARES AS SHOWN ON THE ATTACHED MAP NUMBER 1.

THE C ZONING AS STIPULATED IN THE COUNTY DUBLIN DEVELOPMENT PLAN IS TO PROVIDE TO THE COMMUNITY A RANGE OF OPTIONS AS STIPULATED IN THE WRITTEN STATEMENT OF THE COUNTY DEVELOPMENT PLAN.

TABLE 3.6

#### ZONING OBJECTIVE 'C'

"TO PROTECT, PROVIDE FOR AND/OR IMPROVE TOWN/DISTRICT  
CENTRE FACILITIES"

#### USE CLASSES RELATED TO ZONING OBJECTIVES

#### PERMITTED

Shops - Major Sales Outlet, Residential, Bed & Breakfast,  
Open Space, Public Services, Betting Office, Education, Church,  
Residential Institution, Doctor/Dentist etc., Enterprise Centre,  
Funeral Home, Health Centre, Community Facility, Creche/  
Nursery School, Dance Hall/Discotheque, Cultural Use,  
Recreational Buildings (Commercial), Guest House, Hotel/Motel,  
Public House, Restaurant, Recreational Facility/Sports Club,  
Shop - Local, Shops - Neighbourhood, Veterinary Surgery,  
Offices <100m<sup>2</sup>, Offices 100m<sup>2</sup> - 1000m<sup>2</sup>, Petrol Station,  
Motor Sales Outlet, Carpark, Advertising/Advertising Structures,  
Garden Centre, Industry - Light, Hospital, Household Fuel  
Depot, Retail Warehouse, Retirement Homes

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WE SUGGEST THAT THIS RANGE OF ADDITIONAL SERVICES TO THE GREATER CARRICKMINES AREA, WHERE LOCATED SOUTH OF THE MOTORWAY, WILL BE ACCESSIBLE, BUT SUITABLY REMOTE BUT A SUITABLE DISTANCE FROM THE EXISTING SETTLED POPULATION THE FAR SIDE OF THE MOTORWAY TO MAKE THE LOCATION IDEALLY SUITABLE FOR A C ZONING.

(B) BUSINESS PARK

WE ARE PROPOSING, ON MAP NUMBER 1, AN E ZONING, FOR 35.61 HECTARES.

TODAY'S BUSINESS PARK AND IN PARTICULAR OUR PROPOSAL FOR CARRICKMINES, OFFERS A UNIQUE OPPORTUNITY TO PROVIDE AN INTERNATIONALLY ACCEPTABLE, HEAVY LANDSCAPED BUSINESS PARK ENVIRONMENT. THIS BUSINESS PARK WOULD ATTRACT PRESTIGIOUS, GOOD QUALITY, ENVIRONMENTALLY FRIENDLY PROJECTS, PROVIDING JOB CREATION OPPORTUNITIES IN THE GREATER CARRICKMINES AND SOUTH DUBLIN AREA.

TODAY'S WORKING ENVIRONMENT HAS ADVANCED TO THE STAGE WHERE A WELL DESIGNED BUSINESS PARK, UNDERTAKEN BY A PROFESSIONAL TEAM OF PLANNERS, MASTER ARCHITECT, LANDSCAPE EXPERTS AND ENVIRONMENTALIST, CAN ENSURE THAT NEW HIGH QUALITY ARCHITECTURALLY DESIGNED BUILDINGS CAN BE COMPATIBLE WITH A SENSITIVE LOCATION SUCH AS CARRICKMINES AND COUPLED WITH THE CREATION OF FOUNTAINS, LAKES, LANDSCAPING AND TREE PLANTING. SUCH PROJECTS CAN RECEIVE APPROVAL FROM ALL CONCERNED.

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IT WOULD BE OUR INTENTION, AS PROMOTERS OF THE CARRICKMINES BUSINESS PARK, WHEN OUR SUBMISSION HAS BEEN CONSIDERED AND ADOPTED, TO APPOINT THE ABOVE OUTLINED PROFESSIONAL TEAM TO PREPARE A DRAFT MASTER PLAN FOR CONSULTATION WITH THE LOCALLY ELECTED MEMBERS, COUNCIL PLANNERS AND COMMUNITY REPRESENTATIVES.

THE IDA AND THE OTHER RESPONSIBLE BODIES FOR JOB CREATION HAVE CONSISTENTLY HIGH LIGHTED THE NEED FOR HIGH QUALITY ENVIRONMENTALLY FRIENDLY BUSINESS PARK DEVELOPMENTS, IN STRATEGIC LOCATION, TO ALLOW A SHOWING OF THESE LOCATIONS TO POTENTIAL EMPLOYERS BOTH NATIONALLY AND INTERNATIONALLY.

WE BELIEVE THE CARRICKMINES BUSINESS PARK MEETS THE IDA CRITERIA AS SET OUT IN THEIR LETTER TO THE DUBLIN LOCAL AUTHORITIES WHEN THE COUNCIL WAS CONSIDERING HOW TO PROMOTE JOB CREATION.

WE SUGGEST THE CARRICKMINES BUSINESS PARK MEETS WITH THE IDA CRITERIA FOR MAJOR SITES IN DUBLIN.

NOTE : ATTACHED:-

(A) LETTER FROM IDA

(B) CRITERIA FOR MAJOR SITES IN DUBLIN



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April 1992

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April/May 1992

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May 1992

Monday 4	Tuesday 5	Wednesday 6
9.30		
1.00		

May Day (UK)

9.30

1.00

John O'Halloran

John O'Halloran

3.30

John O'Halloran

May 1992

9 - Saturday

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BRIAN O'HALLORAN & ASSOCIATES

ARCHITECTS & PROJECT MANAGERS

Mr Frank Dunlop  
Frank Dunlop & Associates Ltd  
Public Relations  
25 Upr Mount Street  
Dublin 2

Date: 7th July 1997  
Ref.: BOH/ER  
Re: Carrickmines

23 HERBERT PLACE  
DUBLIN 2  
IRELAND

TEL: +353-1-676 4017  
FAX: +353-1-676 2963  
E-Mail: bohaa@indigo.ie

Dear Frank

The following is a summary of our telephone conversation earlier today and of the course of action that is likely to be followed in the next two weeks.

- In my opinion the proposal to locate a surface water catchment area on the land owned by me, Gerard Kilcoyne and Austin Darragh is perhaps a first shot by the Consulting Engineers for the South Eastern Motorway to the Dun Laoghaire Council. There is a real problem and a solution must be found, however locating almost all of the proposed solution on a small land holding whilst ignoring other major adjoining land holdings is unreasonable and indeed unacceptable.
- On a technical level, I asked an Engineer colleague of mine, Jack Kavanagh of Kavanagh Mansfield & Partners to meet with M C O'Sullivan who made the above proposal, a copy of his letter following a meeting on July 3rd is enclosed for your information.
- You will note that the Local Authority has advertised with a view to appointing Consulting Engineers to carry out a general flood study of the Shanganagh River catchment area, M C O'Sullivan may or may not be appointed for that task.

During our conversation earlier today we concurred it is unlikely that this appointment will be made until the early Autumn and following that first results are unlikely for about two months after that.

- Meanwhile the M C O'Sullivan suggested solution will remain on the maps of the area pending the approach that will be put forward by the Consulting Engineers yet to be appointed.
- In the context of all of that you and I agreed that we should press ahead with our submission as if the M C O'Sullivan proposal does not exist and having met the August 22nd deadline you will then assist us in having a motion put before the Council.

BRIAN O'HALLORAN B.Arch. FR.IAI RIBA PETER HANNA B.Arch. FR.IAI RIBA FRANK BUCKLEY A.A.Dip. IRIAI RIBA  
PAUL O'CALLAGHAN B.Arch. M.IAI RIBA NICHOLAS SUTTON B.Arch.Sc. Dip.Arch. M.IAI CYRIL O'NEILL B.Arch. M.IAI  
Project Managers: BRIAN HUTCHINGS Arch. Tech. RIAI (Tech) M.IAI ANDREW O'ROURKE Dip.Arch.Tech. RIAI (Tech).

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BRIAN O'HALLORAN & ASSOCIATES

ARCHITECTS & PROJECT MANAGERS

For my part and before the end of this month I will meet Dermot Drumgoole to find out from him the zoning that he and his colleagues would favour if the lands were to be re-zoned. The purpose of that is to ensure when the motion comes before the Council for debate that the Planners will not speak against the zoning proposed but rather support it in the event of the Members voting for it.

Once again I will arrange that meeting as if the M C O'Sullivan drainage proposal does not exist.

- With a little luck hopefully the Consulting Engineers to be appointed will have devised a drainage solution different to that now being proposed by M C O'Sullivan and the timing of that ideally should be somewhat ahead of the date when our motion would be debated before the Council.
- I accept your recommendation that at this stage the matter should not be drawn to the attention of the Members insofar as the M C O'Sullivan proposal may disappear just as quickly as it was introduced. You will be aware that many many design proposals effecting the construction of the South Eastern Motorway were considered and replaced as the design was developed. The same situation will apply to the resolution of the drainage problem.

I will be in contact with you during the week commencing Monday July 14th on my return from the United States.

Yours sincerely



Brian O'Halloran

cc Austin Darragh  
J G Kilcoyne

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BRIAN O'HALLORAN & ASSOCIATES

ARCHITECTS & PROJECT MANAGERS

Mr Frank Dunlop  
Frank Dunlop & Associates Ltd  
Public Relations  
25 Upr Mount Street  
Dublin 2

Date: 24th October 1997

Ref.: BOH/ER

Re: Lands at Carrickmines  
Motion to Follow Up August 22nd 1997 Rezoning  
Submission  
Dun Laoghaire Rathdown County Council  
Ref. No.: 292A

23 HERBERT PLACE  
DUBLIN 2  
IRELAND

TEL: +353-1-676 4017  
FAX: +353-1-676 2963  
E-Mail: boh@indigo.ie

Dear Frank

In relation to the Motion which you are arranging on our behalf, there are a few steps that I would like to take you through which will confirm the line of approach being taken by us and the relevance of the maps and texts drafts which I am now sending you :

- In the lead up to our rezoning submission to Dun Laoghaire Rathdown County Council on August 22nd I had several 'off the record' meetings with the Council's Senior Planners.

My last meeting was held for the purpose of finding out in the event of our Motion coming before the Council for debate, what rezoning the Planners would support on our lands should they be asked that question.

- It was suggested to me that our rezoning submission should be in respect of two separate zonings in order to keep our options open - for Residential A or A1 and/or Industrial E or E1.
- Therefore the rezoning submission made by us on August 22nd requested either of these two usages.
- However, a Motion can only be put down for one usage, therefore in order to retain the flexibility suggested by the Planners we must now put down two separate Motions.
- There is a further complication, as you are aware we have recently received notice from the Council of its intention to acquire part of the lands in order to locate a surface water attenuation storage there.

Including land which the Council will also require for the purpose of constructing the Motorway the total will be about 10.25 acres and this will have the effect of reducing the land from 47.1 acres which was stated in our August 22nd rezoning submission to 36.85 acres which now is the case.

BRIAN O'HALLORAN B.Arch, FRIAI AREA PETER HANNA B.Arch, FRIAI AREA FRANK BUCKLEY A.A.Dip, MRIAI AREA  
PAUL O'CALLAGHAN B.Arch, MRIAI AREA NICHOLAS SUTTON B.Arch, So. Dip.Arch, MRIAI CYRIL O'NEILL B.Arch, MRIAI  
Project Managers: BRIAN HATCHINGS Arch. Tech, RIAI (Tech) MARIAT ANDREW O'ROURKE Dip.Arch.Tech, RIAI (Tech).

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BRIAN O'HALLORAN & ASSOCIATES

ARCHITECTS & PROJECT MANAGERS

... We have been advised that we should put down one Motion for the original 47.1 acres and a second for the reduced or net area 36.85 acres.

When you relate that to the earlier stated need to put down separate Motions for flexibility of zoning, this will result in four Motions and as follows :

Motion 1.	Residential A1 for land area	47.1 acres
Motion 2.	" " " " "	36.85 acres
Motion 3.	Industrial E for land area	47.1 acres
Motion 4.	" " " " "	36.85 acres

In respect of each Motion I am sending you a map to which I have fixed a suggested text.

I am also sending you a second copy of each in case you have a need for those and should you require further copies simply get in touch with me.

I understand that notices of Motion must be lodged with the General Purpose Section not later than 5.00 pm on Tuesday October 28th next and that you are confident of meeting that deadline.

Yours sincerely



Brian O'Halloran

Encls.

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*Tom Hand / Home*

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May 1992

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1.10 T.H. MURPHY		

May Day (UK)

9.30 Jan L.
1.10 T.H. MURPHY

John O'Halloran

9.30 Jan L.
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May 1992

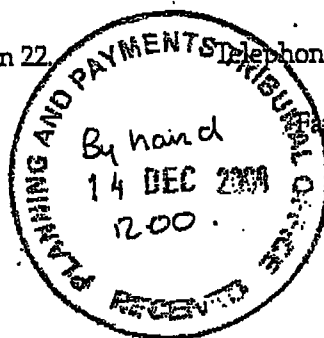
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MARY O'BRIEN & CO.  
SOLICITORS

Mary O'Brien

48 Tower Road, Clondalkin, Dublin 22



Telephone: 01-457 5886  
01-457 5889  
Fax: 01-457 5890  
DX 93006

Tribunal of Inquiry  
Into Certain Planning Matters and Payments  
State Apartments  
Upper Castle Yard  
Dublin Castle, Dublin 2

Our Ref:

MOB/kol

14<sup>th</sup> December 2000

Your Ref:

PTB/68

RE: Tribunal of Inquiry into Certain Planning Matters and Payments  
Our Client - Colm McGrath

Dear Madam,

We refer to previous correspondence herein. We enclose herewith statement of Colm McGrath as follows:

"I did not receive any money from Frank Dunlop either directly or indirectly in connection with the matters listed at a(i),

I did receive a number of unconditional political donations from Frank Dunlop in response to fundraising requests to defray election expenses and the costs of running my full-time constituency office. These ranged in amounts from £500 to £2000 in the form of cash and cheques. Cheques were lodged to my bank account, details of which have been supplied to the Tribunal. Cash was expended on day to day election and constituency expenses.

The only records of the above are my bank/building society accounts, details of which have been supplied to the Tribunal."

We look forward to hearing from you.

Yours faithfully,

  
MARY O'BRIEN & CO

Tribunal Ref : QV II

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By courier - 2.45pm



COPY

24<sup>th</sup> November 2000

Our Ref: PTB/68

**Strictly Private & Confidential - To Be Opened By Addressee Only**

Ms. Mary O'Brien  
Solicitor,  
48 Tower Road,  
Clondalkin,  
Dublin 22

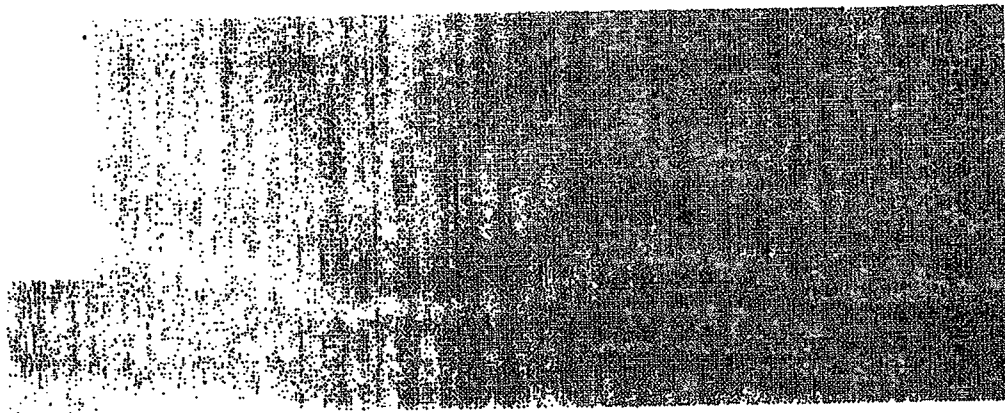
**Re: Tribunal of Inquiry into Certain Planning Matters and Payments**  
**Your Client : Colm McGrath**

Dear Ms O'Brien,

I refer to our previous correspondence.

The Tribunal is investigating the following information which has come to its attention in relation to your client and in respect of which it is the intention of the Sole Member to hear sworn testimony at a public hearing of the Tribunal:-

- (a) That since 1990 Mr. McGrath, directly or indirectly, received money on a number of occasions from Frank Dunlop in connection with:-
  - (i) his support for the proposed re-zoning of land in the Carrickmines valley (owned by Paisley Park Investments Limited and subsequently by Jackson Way Properties Limited);



- (c) That between 1991 and 1995 Mr. McGrath, directly or indirectly, received money on a number of occasions from Owen O'Callaghan and/or Riga

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Limited and/or Barkhill Limited, in connection with his support for the proposed re-zoning of lands at Quarryvale.

*(The Tribunal is aware from your letter of the 27<sup>th</sup> October, 1998, that Mr. McGrath confirmed that in October 1991 he received a sum of £10,000 by way of personal cheque from Owen O'Callaghan and a second contribution in November 1993 in the sum of £20,000 by way of personal cheque from Owen O'Callaghan.)*

I am directed by the Sole Member to request Mr. McGrath to voluntarily furnish to the Tribunal, not later than Thursday, the 14<sup>th</sup> of December next, a detailed written statement setting out his response to the matters set out above including, but not necessarily limited to, whether he, directly or indirectly, received any money from or on behalf of all or any of the above mentioned and whether in connection with the matters set out above or otherwise.

If your client acknowledges that he, directly or indirectly, received any money (hereinafter for convenience described as "payment") from or on behalf of all or any of the above named, please include the following information in your client's detailed written statement in relation to each individual payment:-

1. when, where, by whom and in what manner (by cheque / cash etc.) each such payment was made;
2. the reason or reasons given by the person(s) who made the payment(s) as to why each such payment was made;
3. the facts and circumstances giving rise to and surrounding each such payment;
4. how the monies received in each such payment were dealt with by you;
5. how the monies received in each such payment were accounted for by you;
6. the name, address and account number of all financial institution(s), if any, into which each such payment, or any part, thereof was lodged;
7. whether any written acknowledgment/receipt was issued by you or on your behalf in relation to all or any of the payments. If any such acknowledgment/receipt was issued please furnish a copy thereof;
8. Whether the foregoing was/were the only payment(s) and/or benefit(s) received or sought by you, directly or indirectly, in a planning and/or re-zoning context;
9. If the answer to question (8) is "no" (i.e. if other payment(s) and/or benefit(s) was/were sought and/or received by you in a planning and/or re-zoning context) please furnish full particulars thereof, that is, furnish the information sought in questions 1-7 above in respect of such other payment(s)/benefit(s), if any.

If your client decides to furnish a detailed written statement in response to this letter I suggest, for convenience and completeness, that it should incorporate his earlier statements to the Tribunal.

If Mr. McGrath chooses not to furnish a statement containing his detailed response in relation to the matters set out above, the Sole Member may decide to issue a summons in early course to compel him to give evidence on oath and/or produce documents at a public sitting of the Tribunal in an effort to establish what, if anything, he knows about the matters referred to herein.

In using the word "indirectly" above, the Tribunal means any indirect payment to your client or for his benefit or at his request and whether such payment was made to a connected person or company (as defined by Section 2(2) of the Ethics in Public Office Act 1995), a financial or other institution or otherwise. For your convenience I enclose herewith a copy of the Amended Terms of Reference.

**Tribunal Ref : QV II**


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This letter and its contents - including the fact that Mr. McGrath is being requested to provide a statement to the Tribunal - is strictly confidential to the Tribunal and must not be disclosed without the prior written consent of the Tribunal.

Unauthorised disclosure by any person of information confidential to the Tribunal, including this letter and its contents, could constitute the offence of obstruction or hindrance of the Tribunal in the performance of its functions and might give rise to criminal proceedings under the Tribunals of Inquiry (Evidence) Acts 1921 - 1998.

Any statement which Mr. McGrath may submit/make to the Tribunal shall be treated as confidential to the Tribunal and will not be given by the Tribunal to any other person save that in the event that the Tribunal decides to call your client to give evidence, a note of the evidence to be given by him will be circulated to any person(s) whose interest may be affected by his evidence shortly before the calling of such evidence. For this purpose your client's statement, if any, may be circulated as a "note" of the evidence you are expected to give.

Yours sincerely,

  
Maire Anne Howard  
Solicitor to the Tribunal

Encls.

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Home Address:  
103, Merrion Park, Blackrock, Co. Dublin.  
Tel: 288 5575

Dear Ms. Gilvarry,

I refer to yours of the 3rd inst. the contents of which I note. I firstly would refer to my interview with Ms. Patricia Dillon in December 1999 and to the subsequent conversation where I recall being asked did I receive anything from Mr. Frank Dunlop. Perhaps you can confirm this telephone conversation and my reply thereto.

I received several legitimate political donations from Mr. Dunlop in connection with me being a candidate in the Dail and Seanad Elections of 1992 and 1993 and in relation to the Seanad Election of 1997 and the Local Election in 1999.

I first met Mr. Dunlop in the mid seventies and then knew him subsequently when I was a T.D. between 1981 and 1987 and when he was a Press Officer to a Minister in the then Government. Mr. Dunlop used to frequently ring me seeking information and clarification regarding Council matters. He was one of dozens of people who made representations to me in the course of the Development Plan then being considered and drawn up by the Councillors. I do not have records of these donations and I believe that most of them were paid by cheque being in the sums of £500 to £1,000 and there was also I believe, a cash donation.

1

Home Address:  
103, Merrion Park, Blackrock, Co. Dublin.  
Tel: 288 5575

Tribunal Ref : QV II

Page No: 1455

17/09/01 12:20  
09 '01 12:23 0035316184567

0035316184567

Pg. 02

Leas-Chathaoirleach Sheanad Éireann  
Teach Laigheann  
Baile Átha Cliath 2  
Fón: 01-618 3209



Leas-Chathaoirleach of Seanad Éireann  
Leinster House  
Dublin 2  
Tel: 01-618 3209

SENATOR LIAM COSGRAVE  
*Leas-Chathaoirleach of the Seanad*

I received these donations solely to be used in connection with my being a candidate in the various elections and to support the campaigns. Mr. Dunlop at all times when he gave me these said that they were political donations to be used in respect of my electioneering work and campaigns and that they had nothing to do with any project to which he may have made representations to me seeking support.

He subsequently at a lunch re-confirmed and re-iterated this I believe in 1998 or 1999. I used to, frequently, along with several other public representations go to lunch with Mr. Dunlop. All these donations were used to help fund the various campaigns and to assist with the expenses normally occurred in the running of the various election campaigns. I am not aware whether any of the cheques were lodged to any bank account or whether they were cashed but it is probable that some were lodged and some cashed. These details should be available from Mr. Dunlop's bank. I possibly acknowledged some of these donations but probably thanked him in person as well. Most of these donations were given during the course of the various campaigns.

I was one of 39 Councillors who supported a Motion co-signed by, I believe, all the elected representatives for that area approving the Manager's recommendation in relation to the lands at Quarryvale. Mr. Dunlop's clients were looking for something substantially different in size.

Finally, I would repeat that no political donation was received by me on condition or as a result of my support or otherwise in relation to any council matter.

Yours sincerely,

  
SENATOR LIAM COSGRAVE, MCC



01/04/03 15:23  
01-04-03 15:05

EGAN COSGRAVE ; ->633989D ECM

Page 03

**NARRATIVE STATEMENT  
OF  
LIAM T. COSGRAVE**

**Re: Donations from Frank Dunlop.**



I received election donations from Frank Dunlop for the following elections:

November 1992 - General Election.  
January 1993 - Senate General Election.  
July 1997 - Senate General Election.  
June 1999 - Local Elections.

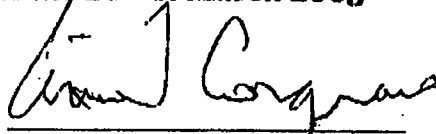
The sum I believe were donated were;

£2,000.00;  
£1,000.00;  
£2,500.00;  
£500.00.

All of these were legitimate political donations. They were used to fund the various campaigns with the various elections expenses incurred. None of them were given in return for any support in respect to any Council vote or promise of support. None of them were connected with any thing to do with Carrickmines Lands or indeed any other lands.

Dated this the 28<sup>th</sup> of March 2003

Signed:

  
LIAM T. COSGRAVE

01/04/03 15:23  
01-04-03 15:05

EGAN COSGRAVE ; ->6339890 ECM

Page 02

**NARRATIVE STATEMENT  
OF  
LIAM T. COSGRAVE**



**Re: Cheques; £2,500.00 and £1,815.00**

---

I received a cheque for £2,500.00 at the time of the Senate General Election in 1997. I believe part of it was lodged into my current account and the balance was utilised during the course of the election campaign paying various expenses. This was a legitimate political donation and was not connected with any vote on Carrickmines or any other matter.

The £1,815.00 cheque received from Frank Dunlop and Associates in September and made out to Egan Cosgrave & Associates was in respect of legal fees for work carried out in respect of an option agreement. The cheque was lodged to the Client Account by me and subsequently withdrawn and utilised by me. Neither the managing partner William Egan or any one else in the office had any knowledge of the transactions with this cheque. The transaction was improper in that VAT and income tax was not paid on the amount. I take full responsibility. This cheque had nothing whatsoever to do with the rezoning of the Carrickmines Lands.

**Dated this the 28<sup>th</sup> of March 2003**

Signed:

  
**LIAM T. COSGRAVE**

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**Page No: 59**

P.O. BOX No. 889  
DAKE ST., DUBLIN 2.

THE OFFICE OF  
PUBLIC WORKS

Page No: 1590

Page No: 29

[illegible]

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Tribunal Ref : FD.DIARY 1992

Page No: 28

June 1992																																																						
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4 Thursday 92 06 04	5 Friday 92 06 05	6 Saturday 92 06 06																																																				
Sunday 92 06 07																																																						
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








































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
















































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














October/November 1997

27 MONDAY	28 TUESDAY	29 WEDNESDAY
		
		
		
		
		
		
		
		
		
		
		
		
		
		
		
		

30 THURSDAY

30 THURSDAY	31 FRIDAY	1 SATURDAY
		
		
		
		
		
		
		
		
		
		
		
		
		
		
		
		
		

2 SUNDAY

2 SUNDAY
















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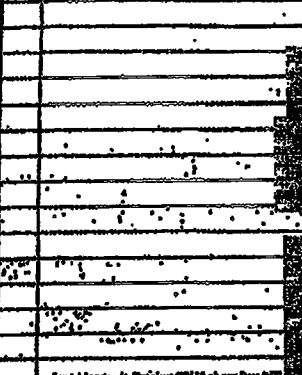
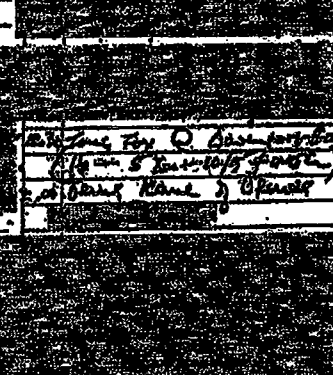

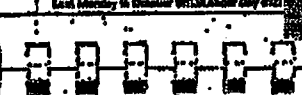
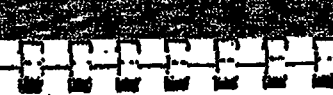
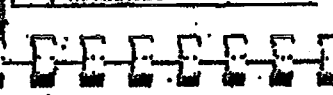
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October/November 1997

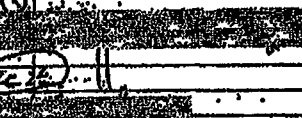
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30 THURSDAY

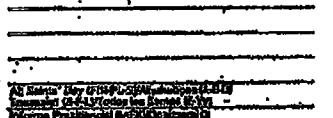
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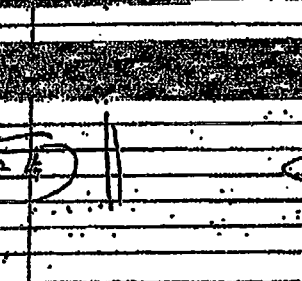
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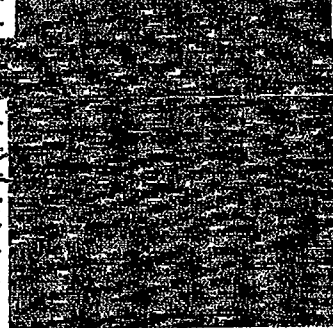
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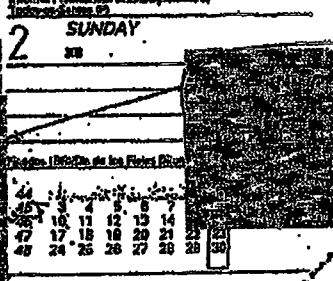


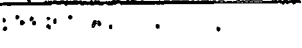




















John O'Halloran PC  
32 Glenfield Close, Rowlagh, Dublin 22.  
Telephone 6262299-086 2658306

---

26 January 2000

Maire Anne Howard  
Tribunal of Inquiry  
State Apartments  
Upper Castle Yard  
Dublin Castle  
Dublin 2

Dear Maire

The following is the information you requested regarding the re-zoning at Quarryvale.

- a) Yes, I did attend several public meetings in Rowlagh, Neillstown, Balgaddy, Palmerstown and Lucan all of which, I believe, were organized by residents groups in those areas; unfortunately, I have no record as to dates etc. I would have addressed some of the meetings if asked to do so by the chair.
- b) I met with Owen O'Callaghan in Rowlagh Community Centre shortly after the 1991 local elections, at his request, when he outlined his proposal for the Quarryvale site. I also met with Mr Corcoran of Green properties who was accompanied by Pat Keating his PR agent. Frank Buckley and Joan Burton, both attended. This meeting took place in Blooms Hotel on a date soon after the local elections. Mr Corcoran was asking that we oppose the Quarryvale proposal because it might affect his own proposed development in Blanchardstown.



was asked by Owen O'Callaghan and Frank Dunlop to support the proposal to re-zone the lands at Quarryvale.

I was lobbied by both Mr O'Callaghan and Mr Corcoran, mostly by letter, Mr O'Callaghan was seeking my support for the re-zoning and Mr Corcoran was asking that I oppose it.

I asked my colleagues in the Labour group not to oppose the proposal. I would, I am sure also have spoken to other members of the Council asking for their support.

- f) I received a political donation of £5,000 from Owen O'Callaghan sometime towards the end of 1993. I also received £2,500 from Frank Dunlop as a contribution towards ms election expenses during the by-election in Dublin West in April 1996.

Yours sincerely



John O'Halloran PC

Tribunal Ref : CARRICK 1

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Tribunal Ref : JC.JW 1

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PAISLEY PARK INVESTMENTS LIMITED

(Incorporated in the Isle of Man, No. 33,261)

Registered Office: 29-31 Duke Street, Douglas, Isle of Man

James Kennedy, Esq.,  
Estate Agent  
22 Weston Park,  
Coolderinagh,  
Lucan,  
Dublin.

11th November 1991

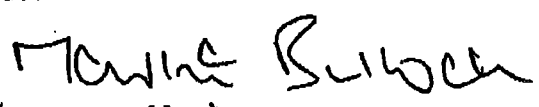
BY FAX

Dear Mr. Kennedy,

Can you please identify a Town Planner who is suitably qualified to prepare a submission to the Planning Authority in respect of the Company' lands for the purposes of the draft Development Plan.

Anyone who you suggest can only be appointed by this Company, and no sub-missions may be made without the prior approval of the company.

Yours sincerely

  
Martin Bullock  
Director

Directors: M. Bullock, R.P. Harker

Tribunal Ref : DLRCC.LIT 1

Page No: 35

PER REGISTERED POST

AIRLE CHONTAE DHUN LAOGHAIRE - RATH AN DUIN  
THE COUNTY COUNCIL OF THE COUNTY OF DUN LAOGHAIRE - RATHDOWN

County Hall,  
Marine Road,  
Dun Laoghaire,  
Co. Dublin.  
Telephone (01) 2054700

ROADS ACT, 1993 AND ROADS AMENDMENT ACT 1998  
LOCAL GOVERNMENT (No.2) ACT, 1960  
SECTION 79 OF THE HOUSING ACT, 1966  
ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919  
DUN-LAOGHAIRE RATHDOWN COUNTY COUNCIL SOUTH EASTERN MOTORWAY SCHEME, 1997

TO: Jackson Way Properties Limited,  
c/o Miley & Miley,  
Solicitors,  
35 Molesworth St.,  
Dublin 2.

NOTICE TO TREAT

WHEREAS the above Motorway Scheme made and confirmed and deemed to be approved pursuant to the Roads Act, 1993 and Roads Amendment Act, 1998 has become operative and the County Council of the County of Dun Laoghaire-Rathdown has decided to acquire compulsorily the land set out in the Schedule hereto, being land to which the said Motorway Scheme relates. PLEASE TAKE NOTICE that the County Council is willing to treat for the purchase of the several interests in the said land to which the Scheme relates AND the County Council requires to take, for the purposes of the above Scheme, the lands described in the Schedule hereto as by the said Scheme authorised AND HEREBY REQUIRES YOU within thirty five days from the date of service of this Notice to Treat on you to give particulars of your estate in the said lands in the Schedule hereto and the exact nature of the interest in respect of which compensation is claimed and details of the claim for compensation. If you fail to deliver to the Council within thirty five days from the date of service a statement in writing containing such particulars in regard to your interest and the compensation claimed as will enable the County Council to make a proper offer of compensation, you may be deprived of your costs of Arbitration by the Arbitrator who will be appointed to determine the compensation if it is not settled by agreement consequent on this Notice.

SCHEDULE

Plot No. in Scheme    35//    2  
Area (Hectares)        0.0190  
Ordnance Sheet        3456D  
Townland               Carrickmines Great

Dated    14/1/00

-----  
Senior Administrative Officer

**Tribunal Ref : CARRICK 1 STMTS**

**Page No: 18**

COPY

16<sup>th</sup> November, 2001

Our Ref: 1.PTB/127/10

**Strictly Private and Confidential – To be Opened by Addressee Only**

Stephen Miley Esq.  
Miley & Miley  
Solicitors  
35 Molesworth Street  
Dublin 2

Your Client: Mr. John Caldwell



Dear Mr. Miley,

- 1.1 I refer to previous correspondence with Mr Caldwell's former solicitors, Cahill and Company, and to various letters and statements that passed between the Tribunal and the said solicitors. In particular, I refer to the following:-
  - 1.2 The Tribunal's letter of 2<sup>nd</sup> June, 2000 and Mr Caldwell's statement of 4<sup>th</sup> September, 2000 in reply thereto;
  - 1.3 The Tribunal's letter of 19<sup>th</sup> June, 2000 and Mr Caldwell's statement of 4<sup>th</sup> September, 2000 in reply thereto.

4.1 With reference to the Tribunal's letter of 19<sup>th</sup> June, 2000 and 6<sup>th</sup> September, 2000 and Mr. Caldwell's responses thereto dated 4<sup>th</sup> September, 2000 and a letter from Cahill and Company of 19<sup>th</sup> October, 2000, I am directed by the Sole Member to request Mr. Caldwell to answer the following question:

- a) Does Mr. Caldwell now, or did he at any time, either directly or indirectly, have a beneficial or any interest in the lands comprised in Folio 4940, County Dublin, or any part thereof?

[In this regard, I would draw your attention and your client to the fact that on 6<sup>th</sup> November, 2000 Charlie Bird reported on RTE News that he was introduced by Frank Dunlop to Mr. Caldwell as the person who is the owner of the lands at Carrickmines.]

If Mr. Caldwell's answer to Question 4.1a) above is in the affirmative, please furnish full and detailed particulars of the following:

- I. The nature of Mr. Caldwell's interest in the said lands or any part thereof;
- II. The date or dates upon which such interest was acquired
- III. If the interest or any part thereof was subsequently disposed of, when, to whom, and for what consideration was such interest(s) disposed of.
- IV. Whether Mr. Caldwell, directly or indirectly and whether on his own behalf or on behalf of any other person(s), company, trust, partnership, legal or other entity, provided any other monies or benefits to or for any person, including Frank Dunlop (and/or any of his companies) for the purpose of canvassing or making representations to any person(s).

body, organization, council or authority in relation to the said lands or any part thereof, and whether in relation to attempts to secure rezoning, services, planning permission and/or compensation in relation thereto, or otherwise whatsoever.

V. From which account and from what branch were the monies obtained to acquire Mr Caldwell's interest in the said lands.

4.2 Is your client aware whether any other person(s) or legal entity ever provided any money and/or benefit— and whether directly or indirectly – to or for any person, including any politician(s) and/or official(s) in a planning, rezoning or compensation context in relation to the said lands.

If the answer to the foregoing question is in the affirmative, please furnish full details of all such monies and/or benefits, indicating without prejudice the generality of these questions, the following:

- a) The names of all parties concerned;
- b) The amount or amounts of monies and/or benefits given or paid;
- c) The purposes for which such monies and/or benefits were provided.

4.3 Does Mr. Liam Lawlor TD and/or [REDACTED] and/or James Kennedy and whether directly, indirectly or in any manner whatsoever – have any beneficial, legal or equitable interest in the lands (Folio 4940, Co. Dublin - lands owned by Jackson Way Property Limited at Carrickmines) and/or the said company and/or in the assets or any part of the assets thereof? If the answer is in the affirmative in respect of Mr. Lawlor and/or [REDACTED] and/or Mr. Kennedy, please furnish full and detailed particulars of the interest(s) so held.

4.4 Did Mr. Liam Lawlor and/or [REDACTED] and/or James Kennedy at any time in the past - whether directly, indirectly or in any manner whatsoever – have any beneficial, legal or equitable interest in the said lands (Folio 4940) and/or Jackson Way Properties Limited or in the assets or any part of the assets thereof? If the answer is in the affirmative in respect of Mr. Lawlor and/or [REDACTED] and/or Mr. Kennedy, please furnish full and detailed particulars of the interest(s) so

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The Sole Member requests that Mr Caldwell's detailed responses to the fore-going questions/requests for documents be furnished to the Tribunal by 10<sup>th</sup> December 2001.

Yours sincerely,

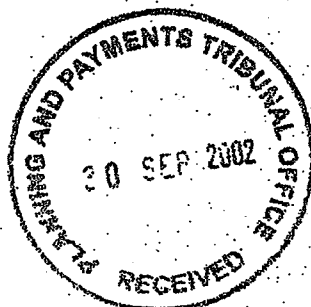


Máire Anne Howard  
Solicitor to the Tribunal

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**TRIAY & TRIAY**  
BARRISTERS - SOLICITORS



Our Ref: AAV/KB/02-1369  
Your Ref: PTB/109

17<sup>th</sup> September 2002

Marie Anne Howard  
Solicitor to the Tribunal of  
Inquiry (Mr Justice Flood)  
State Apartments  
Upper Castle Yard  
Dublin Castle  
Dublin 2  
Ireland

By post & fax: 00 353 16339890

Dear Madam,

**RE: OUR CLIENT MR JAMES KENNEDY**

We have received your letter dated the 31<sup>st</sup> July. Our client's position is as stated in our letter to yourselves of the 26<sup>th</sup> February this year.

In any event, the document enclosed with the letter has no extra jurisdictional effect and is of no legal consequence in this jurisdiction. Mr Kenney will not attend to give evidence.

Yours faithfully,

*Triay & Triay*  
Triay & Triay



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CONSULTANTS: SIR ALFRED J. VASQUEZ C.B.E. Q.C. LL.B. (CANTAB)  
ASSOCIATES: C.J.A. SIMPSON MA LL.B. B. MAGE BA C.J. NAHON LL.B. S.S. PILCHER LL.B. M.A. BERGE LL.B.



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PAGE. 1

Somerton House,  
Lucan,  
Co Dublin  
Tel: 6280507 / Fax: 6241842

Mr Dermot P Coyne,  
Solicitor,  
Liffey Bridge House,  
Lucan,  
Co Dublin

September 9<sup>th</sup> 2002.

Re: Tribunal Letter dated 30<sup>th</sup> August 2002 – Reference 5.PTB/61

Dear Dermot

I reply, herewith, to the Tribunal's letter dated 30<sup>th</sup> August 2002.

I confirm I have not at anytime had any interest directly or indirectly, by way of trust, nominee, agency, partnership, consultancy or any involvement with the companies, namely:-

- Paisley Park Investment Ltd.
- Jackson Way Properties Ltd
- Maskani Management Ltd
- Renzenbrinck Investments Incorporated
- Xenon Ltd
- or
- Lands at Carrickmines, Co. Dublin in folio 4940 County Dublin

The only knowledge I ever had of Paisley Park Investment Ltd and Jackson Way Properties Ltd. is by reading about these companies, mainly in the Sunday Tribune.

Regarding the other three named companies, I never had any knowledge of these companies until receipt of the Tribunal's letter of August 30<sup>th</sup> 2002..

Yours sincerely,

  
Liam A Lawlor  
Lal/ap