

THE TRIBUNAL RESUMES AS FOLLOWS ON FRIDAY 2ND JULY 2004

AT 10.30 AM:

09:27:54 1
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4 CHAIRMAN: Good morning. The Tribunal -- is Mr. Redmond -- Mr. Redmond the
10:39:05 5 Tribunal, I think you have been informed the Tribunal has decided this morning
6 that, having regard to the fact that you have an appeal in the Court of
7 Criminal Appeal on Monday, that it would be, that it wouldn't be appropriate
8 that we hear your direct evidence today, which is in effect the eve of that
9 appeal. I know you have expressed, you have expressed a preference that it
10:39:32 10 would be heard today, but it's a decision we must take ourselves. It is I
11 think, and we are doing it very much in your own interests.

12
13 So you were scheduled to be here in any event to continue your evidence on
14 Tuesday, so in effect what this means is that you will be starting your
10:39:52 15 evidence on Tuesday. All right?

16
17 MR. REDMOND: I thank you for your concern and I accept it.

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19 CHAIRMAN: All right thank you. So the only business today will be your
10:40:04 20 remaining cross-examination of Mr. McLoone.

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22 MR. REDMOND: I will be ready in a few moments, I was discussing things with
23 Ms. Dillon.

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10:40:12 25 CHAIRMAN: All right. Morning Mr. McLoone.

26 A. Morning Chairman.

10:40:19 1

2

MICHAEL MCLOONE RETURNS TO THE WITNESS BOX AND IS FURTHER

3

QUESTIONED BY MR. REDMOND AS FOLLOWS:

4

10:40:29 5

MR. REDMOND: Sorry for the delay?

6

A. That's okay.

7

Q. 1 Just first I'd like to refer to your statement and I think 927.

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Oh, yes Mr. McLoone I was saying your -- on page 927 you say that following on

9

from an early meeting -- following on from this meeting Mr. Gilmartin would

10:42:34 10

call on me on a regular basis, he would ring me and he would remark on progress

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he was making on the various property dealings he was involved in. And at

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other times, sometimes he would be in on his own other times he would be

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accompanied by people such as Mr. Forman and Mr. Sheeran from the bank and

14

possibly Mr. Druker the valuer, is that more or less right?

10:43:03 15

A. He had Mr. Forman with him on a few occasions, he may have had Mr. Sheeran

16

once, I'm not sure. Once. And he never had Mr. Druker.

17

Q. 2 Yes, but as far as he himself is concerned, you know, there was -- he came in

18

frequently?

19

A. Not, and he had the guy with him from Arlington as well, on one occasion.

10:43:28 20

Q. 3 Oh, yes. My cross-examination really relates to Quarryvale only, I have

21

nothing to do with Arlington. You understand that?

22

A. Yes. Well a lot of the meetings he had were in relation to discussions with --

23

Arlington.

24

Q. 4 And I think you gave evidence, I have a reference to it perhaps, to the fact

10:43:55 25

that you were to take particular care of him by your principals, you were to

26

accommodate him?

27

A. That's right.

28

Q. 5 And your principals in that case, they wouldn't have included myself or

29

Mr. Doherty, they were the city people?

10:44:13 30

A. Yes.

- 10:44:14 1 Q. 6 So that would probably be Mr. Morrissey, perhaps Mr. Haughey?
- 2 A. It was Mr. Haughey.
- 3 Q. 7 Mr. Haughey?
- 4 A. Yes.
- 10:44:22 5 Q. 8 Although at the time Mr. McLoone, was your, is your recall Mr. Haughey hadn't
6 got the property functions?
- 7 A. That's right.
- 8 Q. 9 So that while Mr. Morrissey was your managerial head, it was Mr. Haughey said
9 to you "Look after this man", more or less?
- 10:44:46 10 A. Yes.
- 11 Q. 10 Give or take.
- 12 A. Yes, well it was in the presence of Mr. Morrissey.
- 13 Q. 11 Fair enough that's quite legitimate, that's all right. But from your point of
14 view, did that make any difference to your, the fact that Mr. Haughey said
10:45:07 15 that, did it make any difference?
- 16 A. No the difference it made, if any was that this man was going to have, he was
17 going to create a development and employment and there was going to be inwards
18 funds coming in, and it was something we were advised to encourage and that was
19 one of the reasons why.
- 10:45:27 20 Q. 12 That's -- I can accept that and I see no, nothing wrong with it. I just wanted
21 to, you know put it on record that you know, this was in a special negotiation.
22 Now in your statement at 929 you say:
23
24 "I recall that in casual conversation Mr. Gilmartin stated that George
10:45:50 25 Redmond's interventions by introducing Green Property had contributed to a
26 delay".
27
28 But you have said in previous evidence that you never said to Mr, to
29 Mr. Gilmartin that I was in the pay of Green Properties?
- 10:46:14 30 A. No. I didn't -- I think I said to him that you were going on their pay roll.

- 10:46:19 1 Q. 13 Yes, you said that you understood I was going to take up employment when I went
2 into retirement.
- 3 A. Yes.
- 4 Q. 14 And you also said, would you, you heard that by way of rumour?
- 10:46:34 5 A. Well I don't know whether I heard it by rumour or whether you said it. But I
6 did hear it. It could have been rumour.
- 7 Q. 15 Well was I the sort of man who was given to, you know, telling people about my
8 private life?
- 9 A. No, no.
- 10:46:49 10 Q. 16 No. Well all right you come to terms with Mr. Gilmartin now, and you said in
11 evidence that, I think I can give you the quotes, yes 486/77, question 437.
12
13 "I mean -- this is myself to you "I mean you were quite happy to go along with
14 this open negotiations, you hadn't a clue who he was, what he was" -- I think
10:47:52 15 that should read what he was going to do with the lands, are you serious and
16 your answer was "I hadn't a clue what he was going to do, but he was going to
17 create thousands of jobs".
18 And would you maintain that that was the position that he didn't, it wasn't
19 that he didn't tell you, but that he wouldn't tell you?
- 10:48:21 20 A. I do know initially I may have thought he was going to put shopping there,
21 afterwards I asked him on a number of occasions what he was going to build
22 there and he said "you will see." I didn't know what he was actually putting
23 there until he introduced the brochure he had for the, when he had the
24 presentation in the Berkley Court Hotel.
- 10:48:43 25 Q. 17 Of course that was, when was that 1990, summer 1990 I think, a long time ago.
26 But the reason I ask it is, he was -- you had a good relationship with him, you
27 were friendly and he withheld it, but I don't know whether you were here for
28 the evidence of Mr. Willie Murray?
- 29 A. No.
- 10:49:05 30 Q. 18 Or have you read the transcript of his evidence?

10:49:08 1 A. No I haven't.

2 Q. 19 Well I mean what Mr. Murray, one of the things Mr. Murray said was that himself
3 and Mr. McCarron first met by appointment and recorded in his diary, had a
4 meeting with Mr. Gilmartin in November '88, and that Mr. Gilmartin came in and
10:49:32 5 he was -- I can't remember now from the evidence whether he was accompanied by
6 something, but it was Mr. Murray's clear recollection of the event that
7 Mr. Gilmartin was absolutely forthright about what he was going to do and went
8 through it in detail, I can't remember whether there were maps produced, but in
9 any event, as he was dealing with the Dublin planners and he was launching his
10:49:59 10 proposal and the, there was no hold back.
11
12 Now what happened in the end was that having been, having explained it,
13 Mr. McCarron gave him the usual formal objections that were there, which you
14 know the zoning, all the rest, the fact that there was another -- and what
10:50:19 15 happened then was again Mr. Gilmartin, you know, loud and clear about his
16 position, he said that Mr. Murray used the words that he was going to drive a
17 coach and four through the planning laws, and in any event it mattered little
18 because he was getting assistance and support from people in high places.
19
10:50:44 20 So that I mean, I am just finding it somewhat difficult. I certainly, in '88,
21 I certainly heard from him what he was going to do, the managers at the meeting
22 with the Ministers they heard from him, it's quite -- Sheeran heard from him,
23 but anyway you say -- could we have on the screen please 481/88
24
10:51:27 25 JUDGE FAHERTY: Day 481
26
27 MR. QUINN: I take it it's day 481 page 88.
28
29 MR. REDMOND: Yes, I think it's question 410. This is Mr. Forman giving
10:51:46 30 evidence.

10:51:58 1 Question 410 "So when you were meeting Mr. McLoone" this is to Mr. Forman
2 "Apparently you did fairly frequently, according to Mr. Gilmartin's evidence,
3 he knew what you were about." This is in relation to Quarryvale, "Yes he did,
4 I mean obviously we had earlier meetings as I referred to related to Bachelor's
10:52:28 5 Walk and indeed meetings with him when he was trying to promote our interests
6 in Clondalkin, which was ahead of Quarryvale project.

7 Question: You were going in and out to him, both of you, or whether you went
8 in -- I don't know whether you went in on your own, but Mr. McLoone knew what
9 was about.

10:52:48 10 Answer: Yes"

11
12 And could I also put up, that's what Mr. Forman said about it

13 A. Yes.

14 Q. 20 Could you please put up 488/78. Question number 382. This is the
10:53:18 15 cross-examination of Mr. Paddy Morrissey. When you wrote -- this is question
16 382:

17
18 "When you wrote to Mr. McLoone did you discuss what Mr. Gilmartin had in mind,
19 would you have?

10:53:40 20 Answer: I have no doubt whatsoever that Mr. McLoone was notified that whatever
21 else, the land was not zoned for retail shopping and that the Corporation would
22 use it's influence or use it's best endeavours, or any of these phrases, with
23 the County Council to get the zoning changed" go on. "But Mr. McLoone would
24 have known what was afoot? I mean what Mr. Gilmartin was doing. I mean he was
10:54:23 25 screaming it from the rooftops.

26 Answer: Of course.

27 Question: Yes that's all." That's the end, no, the only point I'm making
28 Mr. McLoone is that both Mr. Forman and the Assistant City Manager,
29 Mr. Morrissey say that you did know?

10:54:44 30 A. Well they are their assumptions but that is not the fact. Mr. Gilmartin was

10:54:51 1 talking about all the employment he was going to give and I thought that you
2 couldn't create 6 or 7,000 jobs in a shopping centre, so I didn't know exactly
3 what he was going to do. When I did ask him he said "you will see", so I did
4 not know what he was going to put there.

10:55:09 5 Q. 21 Are you saying now in the case of what Paddy Morrissey says there, apart from
6 what else he said, he can't be believed?
7 A. Who can't be believed.

8 Q. 22 Paddy Morrissey?
9 A. I would say Paddy Morrissey can be believed yes.

10:55:22 10 Q. 23 He says of course you knew all about it?
11 A. Well he says that. I don't think -- I think Paddy Morrissey -- Paddy Morrissey
12 may have thought I knew. I did not know. That's an assumption on his part.

13 Q. 24 Well he says that, I mean he says you knew and foreman says you knew and I
14 mean, these are independent witnesses as my point about raising this question
10:55:50 15 is you are the one that said you didn't know?
16 A. I did not know.

17 Q. 25 It is almost inconceivable Mr. Morrissey, Mr. McLoone.
18 A. Well, I did not know what he was going to put there.

19 Q. 26 Okay, you say you didn't know, but there is evidence that -- however I mean,
10:56:05 20 we'll leave it at that. Now the next thing I just want to speak about was land
21 values.
22
23 Your negotiations were Christmas '88 I think, for both pieces of land, sometime
24 at the very end of '88.

10:56:25 25 A. I think in my statement I said '88 but I think it would appear to be '87.

26 Q. 27 Oh no '88, I don't think there is any doubt about it, but your letter to the
27 Corporation after you know, you got agreement when Mr. Morrissey objected to
28 the phasing and Mr, you brought it to Mr. Gilmartin and he said okay, I will
29 pay, you know whatever they want, but that was in at the end of January.

10:57:03 30 A. That was December.

- 10:57:04 1 Q. 28 '89. Do you recall at that time, you know because you have said that
2 Mr. Gilmartin used report to you on the progress, do you record, do you record
3 at that time him informing you that he had made an offer for the Van Hooule
4 lands, you know the Van Hooule lands, don't you?
- 10:57:28 5 A. Yes.
- 6 Q. 29 They were originally Corporation lands?
- 7 A. That's right.
- 8 Q. 30 Yes. That he made an offer for the Van Hooule lands in the sum of 47 and a
9 half thousand per acre?
- 10:57:38 10 A. I don't know what, I think he had agents agenting for him and I think maybe he
11 went to -
- 12 Q. 31 He went to Drukers?
- 13 A. He went abroad as well.
- 14 Q. 32 If we put up 3465? Just while that's up, that's an offer. Actually, the
10:57:57 15 letter is dated the 6th and it refers to discussions sometime earlier, it
16 doesn't say who was involved in the discussions, probably as you say yourself
17 it would have been Druker, but in any event sometime at the end of January he
18 was offering or they were offering on his behalf 47 and a half thousand. He
19 didn't mention that to you?
- 10:58:20 20 A. Well I don't remember, but he may have.
- 21 Q. 33 You don't remember?
- 22 A. He may have, but I would say Van Hooule's though -- it wasn't, like they
23 weren't, they didn't have the property on the market as such.
- 24 Q. 34 The only point I am raising this is here, that it is evidence is that the
10:58:41 25 40,000 that was agreed, that you actually sort of went hard to get it from him
26 and that it was the limit, but here he was a few days, within the period which
27 he had agreed the 40, reluctantly, he was offering 47. And by the way, to
28 understand from the file, that was the opening gambit, do you know what he
29 bought that land for?
- 10:59:06 30 A. I know that the land wasn't for sale and I think that Druker went over to

10:59:10 1 Holland or whatever Van Hooule were from, these were not willing sellers, this
2 would have been a special purchase. Just the same as the offer that Green
3 made, was a special offer as well.

4 Q. 35 Well getting back, do you know what the final settlement was?

10:59:26 5 A. No.

6 Q. 36 Well we were given, the I have had given by Mr. Maguire the other day, he
7 was -- it's put up 2415? That the contract was signed on the 4th April 1989 so
8 here we, and this land is, I mean it's surrounded by Corporation land,
9 surrounded by the land which you were negotiating for at that time?

10:59:57 10 A. I don't think it was surrounded, I don't think it was even touching it.

11 Q. 37 Mm.

12 A. I don't think so.

13 Q. 38 Well I suppose --

14 A. It was adjacent to it but I don't think it was joining it.

11:00:09 15 Q. 39 I have the map number, I didn't intend that we should put it up, but -- I think
16 if Mr. Quinn could assist?

17

18 MR. QUINN: 3574

19 Q. 40 MR. REDMOND: If we can just put it up just to have a look at it. Now you see
11:00:36 20 the old Coldcut Road, the Corporation land is coloured blue and the crossed
21 hatched land is Van Hooule. So as you can see it is entirely surrounded by
22 Corporation land. It's not a major point, I am just you know it's there, when
23 you are talking about land values, obviously they must relate, that's all. But
24 the point I am making about the 65 -- he didn't tell you this, he didn't tell
11:01:05 25 you about the 65,000 he was agreeing?

26 A. He may have. He may have, I can't recall it, but he may have told me that
27 afterwards. But this was after we had agreed, after the other land was gone
28 through.

29 Q. 41 But the point I am making about Mr. Gilmartin, here he is agreeing 65,000 at
11:01:24 30 this time, the end of February and around that time, screaming about his own

11:01:28 1 land being interfered with and that he had paid over the odds for our land,
2 here he is, look at the land --

3 A. Once the rumour went around that he was assembling a site everybody was upping
4 the price.

11:01:43 5 Q. 42 I am only talking about land values. Here he is prepared to pay 65,000 and yet
6 his complaint is that somebody is manoeuvring to shove up the Corporation
7 prices. You say he kept you informed of his property negotiations. Did he
8 tell you --

9 A. He kept me informed of some I would say, not all but some.

11:02:09 10 Q. 43 Did he tell you what moves he was making in relation to the 30 acres at
11 Neilstown, which the Corporation had leased to Merrygrove?

12 A. He never mentioned that to you me never, I think it was years afterwards. I
13 wasn't aware of it. I wasn't aware of it.

14 Q. 44 He never mentioned a single thing about it?

11:02:28 15 A. He never mentioned a single thing about it, no.

16 Q. 45 So that you --

17 A. Until I would say years afterwards. It was years afterwards.

18 Q. 46 Okay. So that he would have, as far as you were concerned any decisions he
19 made in relation to that land, he made them independently and you didn't know
11:02:49 20 the reason or the purpose, in all the time he was talking about and you know,
21 being held up, going into -- when he went into the City Manager in February, he
22 had this, it's -- he took an option on the site, I mean obviously you don't
23 know and I presume you haven't read the transcript of the evidence?

24 A. I have read that transcript, yes.

11:03:12 25 Q. 47 Relating to - yes.

26 A. Yes.

27 Q. 48 Well I certainly didn't appreciate it until I heard the evidence from Mr. Deane
28 here yesterday, but apparently what he did was, he, well of course he disputes
29 this now himself, but he paid 800,000 for an option and the final purchase
11:03:34 30 price of it was something in the region of six and seven million pounds. And I

11:03:43 1 asked Mr. Deane did that mean he was paying 200,000 an acre and he said it did.
2 I mean I am putting it to you now, we have Mr. Gilmartin screaming about you
3 know, he is being shafted, I think is the word that he specially used. We have
4 him here negotiating freely at 65,000. We have -- insofar as the other
11:04:09 5 agreement is concerned Mr. Deane said it was Mr. McLoone, no I beg your pardon,
6 Mr. Gilmartin took the initiative on the seven million thing. Some of it was
7 aimed at holding back a planning application the Neilstown land, but can you
8 understand a man who has entered into a formal agreement to pay 200,000, which
9 you say you wouldn't have allowed him do that, would you?

11:04:40 10 A. I never advised him what he should pay for the land, he came in and discussed
11 various matters with me. But when he did tell me about the Neilstown lands he
12 said that he understood and what I understand what he said was that when he had
13 bought the lands and, or some of the lands in Quarryvale, that Mr. O'Callaghan
14 went to Mr. Gubay and bought his lands, bought the contract off Gubay, this is
11:05:10 15 the one for the Neilstown lands. So that he could, he could stymie him in
16 relation to any development in Quarryvale because it had zonings and that was,
17 this is what he told me, that was sometime, a long time afterwards.

18 Q. 49 Well as you are a valuer, I am only raising these points, you see, you didn't
19 know about the Van Hooole lands and 65,000 was a voluntary offer for the lands,
11:05:41 20 the other one, 200,000, extraordinary, but it does raise this whole question of
21 values. Have you seen the independent valuations of Druker's Lisney's and --

22 A. Yes I have.

23 Q. 50 And the third one was Gunnes?

24 A. Yes.

11:06:06 25 Q. 51 They are all pitching around, I would take the one of Lisney as being the
26 fairest, that was prepared for the bank and not for Mr -- 16 and a half
27 million, which puts the --

28 A. I think it was a conditional valuation, if you read it.

29 Q. 52 Well it was an estimate, it was based on existing zonings it wasn't based on
11:06:28 30 speculation, although they all said, they implied that the motorway was

11:06:33 1 certainly going to shoot up values, but the thing about them is they are all
2 much higher than the value that was agreed, much higher. And the point about
3 it, these valuations are all coming in from Mr. Gilmartin's activities, he
4 agreed with Mr. Deane and Mr. O'Callaghan, he agreed this one with Van Houle,
11:06:57 5 it was his valuers who produced the reports, apart from the one which was
6 produced by the bank. So I mean, they are not coming from -- I am only making
7 the point that when he was arguing about the 40,000, he hadn't a leg to stand
8 on.

9 A. He bought Sharps lands which was aye adjoining the Corporation land for 40,000
11:07:21 10 an acre.

11 Q. 53 The reports all put Sharps lands at a 100,000 an acre for a value. Fair enough
12 he got good value, no one would argue that?

13 A. And he bought Bruton's lands which was in the pivotal position, he bought them
14 which a fine residence on them for 47,000 an acre.

11:07:38 15 Q. 54 That's fair enough, I give him full credit for his ability in negotiating but
16 there is no doubt about it, if you went to other professional valuers took a
17 different view?

18 A. I would say he went to other valuers because he wanted to pump up the value so
19 he could get a financial accommodation.

11:07:56 20 Q. 55 You you can't say that in the case of his entering into a contract for 200,000
21 or for 65,000. Surely --

22 A. I think when I read that, I thought that was over the top.

23 Q. 56 Anyway I am not --

24 A. I would say that he was trying to safeguard what he was trying to do in the
11:08:18 25 other places.

26 Q. 57 I am not being critical of your valuation, but Mr. Morrissey at the time, you
27 have the records there of three meetings that Mr. Morrissey, when -- following
28 the complaints by Mr. Gogarty, Mr. Morrissey and Mr. Haughey, they were
29 obviously going to sort out, there were three meetings. Did you read the
11:08:39 30 minutes of those meetings did they --

11:08:43 1 A. I can't recall but I am sure I did read them.

2 Q. 58 He had three separate meetings if, he had one with Mr. Corcoran, but

3 Mr. Corcoran, you know what's your position -- Mr. Corcoran said he was

4 interested in the lands. Do you accept that? And he had a legitimate interest

11:09:01 5 in the lands?

6 A. He said here yesterday that he had, he wanted to be in on the act or stymie the

7 development and safeguard his own.

8 Q. 59 He put his cards on the table, in other words he wasn't under hand or anything?

9 A. Yes.

11:09:16 10 Q. 60 Mr. O'Callaghan, Mr. Gilmartin, I don't know whether he was feeling uncertain

11 about his offer, but it was at that stage he throughout the option idea, you

12 are aware of that?

13 A. Yes.

14 Q. 61 That he throughout the option idea?

11:09:33 15 A. Well the option came out of the blue to me in a letter, I was surprised.

16 Q. 62 That's fair enough.

17 A. But I understand he had discussions, he obviously had discussions with

18 Mr. Haughey.

19 Q. 63 He had, it's recorded that he discuss it, and seemed to have dropped his

11:09:47 20 original offer and came out with the option. The third interview was with

21 Mr. Callaghan who clarified that had he had entered into an agreement with him.

22 Now it was at that stage that following that and following Mr. Gilmartin's

23 interview with the manager, that he decided, that the decision was made to

24 advertise, and you agreed with that decision, didn't you, at that stage?

11:10:18 25 A. Oh, yes, but an offer came in from Mr. Corcoran I think, in the order of 60,000

26 per acre.

27 Q. 64 Yes.

28 A. And then --

29 Q. 65 But apart from Mr -- yes that's true of course, but apart from that you know,

11:10:37 30 there was the, Mr. Gilmartin's allegation of skullduggery of some sort and you

- 11:10:45 1 know, other matters that the question of entering into the agreement with
2 Callaghan to, you know sort of control the two sites, they were reasons why the
3 site should have been out, put out for public tender, isn't that right? They
4 were genuine reasons?
- 11:11:02 5 A. I don't know when O'Callaghan deal was done, was it done at that time.
6 Q. 66 On the 31st of January 1989?
7 A. 1989? And when --
8 Q. 67 They were put out for tender?
9 A. Was it not '88, was it not '87 that we were selling the land to Gilmartin.
- 11:11:20 10 Q. 68 You were selling the land around --
11 A. January '88.
12 Q. 69 No, no January '89.
13 A. January '89.
14 Q. 70 Yes your reports are January '89?
- 11:11:31 15 A. Sorry.
16 Q. 71 No they were all, it was happening simultaneously all this?
17 A. Yes, yes.
18 Q. 72 So that I mean, the Corporation had no option but to put the lands out to
19 tender. Mr. Feeley agrees that, Mr. Morrissey agrees it, and I would ask you
20 would you not accept it too, just in the circumstances?
- 11:11:46 21 A. Well the fact that there was a higher offer made yes that would have been the
22 only one, but at that particular time, I understand he had contracts for Sharps
23 land which were adjoining lands.
24 Q. 73 Yes but I am not asking questions about Sharps lands that was quite different?
- 11:12:02 25 A. No it's not quite different. The point was that if he had a contract for lands
26 it would be assumed that he was going to have those land and the Corporation
27 and the County Council had a policy, that if you owned adjoining lands you
28 could dispose lands to them without advertising, the same as the Corporation
29 did with Green Property in Blanchardstown.
- 11:12:21 30 Q. 74 Well that wasn't quite the same. If you are making an argument on that, Green

11:12:27 1 Property had over 75 per cent of the site and they were, they had a record as
2 property developers, and it was appropriate that the other quarter should be
3 sold. But are you arguing the case that if somebody has a few perches and is
4 adjoining a 60 acre site, that you have a right to sell to him?

11:12:46 5 A. He had 20 acres beside him, and the year before that George Hegarty asked me
6 would I sell the land for 18,000 an acre, he had some -- it was either 18 or 20
7 I thought it was 18 but somebody else said it was 20.

8 Q. 75 So you are still you know, pushing the cause of Mr. Gilmartin and saying --

9 A. I am not pushing any cause, I am pushing the cause that I didn't feel there was
11:13:10 10 anything untoward in dealing with Mr. Gilmartin. But when a higher offer came
11 in.

12 Q. 76 No I don't argue, you have your instructions.

13

14 CHAIRMAN: Wait now Mr. Redmond you must let Mr. McLoone finish

11:13:22 15 Q. 77 MR. REDMOND: Of course sorry.

16 A. When the higher offer came in, then I think it was prudent to put them up for
17 tender.

18 Q. 78 Yes that's fair enough. And you heard Mr, we got the statement very late for
19 it on Mr, what's his name, Corcoran, but you heard his statement, that was more
11:13:43 20 or less what happened as far as you are concerned, he wrote to - did he write
21 to you Mr --

22 A. He did yes.

23 Q. 79 Well one thing I don't understand and I didn't understand it, but is it, was it
24 your evidence that the Corporation did own 300 acres in Blanchardstown there
11:14:04 25 for industrial. Did we, did the Corporation own already own 300 acres at the
26 Fonthill Road?

27 A. Well I don't think we owned 300 acres but we owned a couple of hundred acres of
28 land in that area. In actual fact, I approached Green Property, a Mr. Jim
29 McKenna in relation to the land on Fonthill Road where the industrial estate is
11:14:29 30 there now, which was some years later.

- 11:14:31 1 Q. 80 But some years later, but the question for me is if Corcoran rang, wrote in and
2 said he was looking for industrial land and his letter refers to industrial
3 land, why didn't somebody start, bring him out and negotiate on the hundreds of
4 acres we had there, why -- I can't understand that?
- 11:14:50 5 A. I think the land on the Fonthill Road at that particular time were zoned
6 residential. And the IDA, I think approached Dublin County Council saying they
7 needed a site, a substantial area.
- 8 Q. 81 If it wasn't zoned that's a separate, just reading the evidence, I thought it
9 seemed to be -- but years later they did in fact buy land from the Corporation?
- 11:15:13 10 A. No we did a PPP. I went to Jim McKenna and I asked him to - I think tender for
11 it because they were one of the biggest industrial developers in the country
12 and we did a PPP on the lands on the 100 acres on the Fonthill Road.
- 13 Q. 82 Sorry I don't understand PPP, it was after my time?
- 14 A. Public private partnership.
- 11:15:38 15 Q. 83 I see. I didn't know that. I see. So there is no question about it, there
16 must have been some genuineness about the application.
17
18 Now I could go further into these land values and the risk profiles and all the
19 figures are over 200,000, but I don't think it's going to lead me anywhere.
- 11:16:03 20
21 Just now on the other question, the other question is the question of maps. I
22 think Mr. Lawlor read an extract from the Ove Arup submission, Mr. Higgins made
23 it on their behalf, did you know Mr. Higgins?
- 24 A. No I think I met Mr. Higgins once.
- 11:16:25 25 Q. 84 Fair enough, yes and it's, it more or less said that Mr. Gilmartin had,
26 Mr. Gilmartin had advised him to see you and you know, you knew all the lands
27 and you would give them the various boundaries?
- 28 A. I think that when --
- 29 Q. 85 Boundaries and Folio numbers.
- 11:16:49 30 A. I think that when there was a delay in the closure by Mr. Gilmartin of the

11:16:53 1 Corporation lands, and the boundaries I think, some of the boundaries they
2 weren't able to, they asked the Corporation to peg them out and I think they
3 also, they could not locate the actual boundaries and I may have given
4 Mr. Higgins a copy of a map of the Corporation lands, so he was trying to set
11:17:15 5 them out on them, on the ground, because there was no physical boundaries
6 between them and adjoining lands.

7 Q. 86 But your department would have had information in relation to ownership?
8 A. No.

9 Q. 87 You wouldn't have had it?
11:17:31 10 A. The department wouldn't, my section wouldn't.

11 Q. 88 You showed him a map, you are saying yourself.
12 A. I would have given him a map of the lands that I agreed to sell to
13 Mr. Gilmartin. The lands he tendered for.

14 Q. 89 Well, I think we better put up 481/37 question 156 this is Mr. Higgins
11:17:58 15 statement.
16
17 "Did you ever see a map which showed land ownership within that rectangle.
18 Answer: I did yes.
19 Question: When did you see that map and where did you see it?
11:18:42 20 Answer: I was shown such a map by Mr. McLoone, at the time I was preparing the
21 detailed land maps that you are showing just now.
22 Question: That's Mr. McLoone the chief valuer.
23 Answer: Yes.
24 Question: And what circumstances did Mr. McLoone come to show you that land
11:19:00 25 ownership map?
26 Answer: I was asked about Mr. Gilmartin, about July in 1989 to get in contact
27 with Mr. McLoone and that Mr. McLoone would indicate to me the land boundaries
28 of the various ownerships in the vicinity because he was in possession of that
29 data and that was to save me from the trouble of having to search out all these
11:19:32 30 land ownerships in the Land Registry.

11:19:36 1 Question: Did Mr. Gilmartin when he said that to you, did he give you any map
2 or show you any map which might have, in a general way, given you the land
3 ownerships, leaving aside the specific boundaries etcetera, but in a general
4 way identify land ownership.

11:19:59 5 Answer: I don't recall such a map but I do recall that I had been shown in
6 broad general terms by Mr. Gilmartin that there were a number of landowners".

7
8 Anyway the point about it is he said he got the information from you. That's
9 not your recollection?

11:20:14 10 A. Well he, when would that have been.

11 Q. 90 July of '89.

12 A. July of '89? Yeah well I would have thought I would have given him a map of
13 the lands we were selling to Mr. Gilmartin and on that map it may have shown
14 the sites that were sold off to Van Houle maybe and somebody else, it may have
15 but I have no --

11:20:34 16 Q. 91 But you would also possibly from your negotiations under the two compulsory
17 purchase orders that is the one for the Lucan Road, where the reference was
18 prepared by De Leuw and Chadwicks in '76, and also in relation to the Western
19 Parkway, you would have had some information as a result of those?

11:21:02 20 A. I didn't give him the map that -- I would have given him a map if I had one but
21 I don't think I had any maps showing all the lands ownerships in the area.

22 Q. 92 However, anyway Mr. Gilmartin, you must have said something to Mr. Gilmartin to
23 put him on that track and Mr. McLoone, Mr. Higgins says he did make some
24 progress, so I will leave it at that. That's the map.

11:21:29 25
26 You did clear up here this morning the question that I certainly never had
27 anything to do with Green, but you also said in your evidence that as far as
28 you were concerned, you were not aware of any interference by me. Is that the
29 case?

11:21:58 30 A. It's possible, yes. If I said it, it is.

- 11:22:03 1 Q. 93 Mr. Morrissey who was pressed very hard, very very hard by Ms. Dillon, insisted
2 that I never intervened. There is no question of, about my telephone call with
3 Mr. Corcoran, I admitted it in my statement, my two statements and I got a
4 telephone call, it would have been legitimate for him to ring the County
11:22:30 5 Manager, wouldn't that be so Mr. McLoone?
6 A. Yes, yes, it would yes.
7 Q. 94 If you are looking for land in the County he would say to me have we land. And
8 Mr. Feeley, Mr. Feeley agreed that the answer I gave him, was yes we have and
9 you know, get in touch with the Corporation about it, you would accept that
11:22:46 10 also?
11 A. Yeah but I have a feeling that you said to me one time "I told him and I am
12 glad I did" I have a feeling, I don't know whether it's you know, that you told
13 him -- there would be no harm in that because --
14 Q. 95 It meant competition. It meant competition.
11:23:06 15 A. Well that, it meant competition but you would have told him I would say if you
16 did tell him you would have told him because you felt it was going to effect
17 Blanchardstown.
18 Q. 96 Now, I couldn't see it effecting Blanchardstown, I could see it effecting
19 Neilstown, I couldn't see it effecting Blanchardstown. Never. And even
11:23:27 20 listening to Mr. Corcoran there in his pleas for Blanchardstown, certainly it
21 couldn't effect Blanchardstown. Blanchardstown had it's own hinterland?
22 A. Mr. Corcoran himself said it would effect Blanchardstown.
23 Q. 97 It didn't mean I would agree with it. It certainly would have effected
24 Neilstown, do you agree with that?
11:23:49 25 A. If it was going to be shopping centre it.
26 Q. 98 Of course it would but in any event as far as what I did, you know, you saw no
27 objection. What I did was a very normal thing?
28 A. Yes, yes.
29 Q. 99 I didn't tell the Corporation, I told him if he was concerned about it get in
11:24:07 30 touch. Now, the second thing I would make the point, if I wanted to, the

11:24:14 1 expression wise up Green, or do something to support Green, wouldn't you agree
2 I had no -- I needn't have approved negotiations with Gilmartin, isn't that so?
3 It was my call to approve negotiations.
4 A. Yes.

11:24:30 5 Q. 100 That's fair enough. The second thing is, if I wanted it, you know, to stymie
6 Mr. Gilmartin, I would have moved much earlier. I wouldn't have left it until
7 March. I would have moved and said, wrote, and said something to him before
8 negotiations started. Do you accept that too, if I, you know if, I was of that
9 mind?

11:24:53 10 A. How would you have known what Gilmartin was up to.

11 Q. 101 Sorry.

12 A. How would you know what Gilmartin's intentions were.

13 Q. 102 But sure I knew, he told everybody. I knew his intentions, we all knew. We
14 all knew he was going for the shopping centre and the managerial decision was
11:25:10 15 well we'll see how, you know, he has his problems, we'll see what we are going
16 to get for the lands?

17 A. Sure the lands were zoned industrial and residential.

18 Q. 103 I know that. That was made clear. I read you what Mr. Morrissey said, that it
19 was zoned for that reason. The Corporation may have had other reasons,
11:25:27 20 Councillor Burke, you didn't hear Councillor Burke?

21 A. No.

22 Q. 104 Councillor Burke made the point, would you agree with this, that the
23 Corporation were in serious deficit and overdraft and you know, if there was
24 this piece of land there that was doing nothing, it had, you know had a
11:25:48 25 function to raise money, would you accept that?

26 A. No.

27 Q. 105 Okay. That's fair enough. You don't accept that. But anyway, insofar as my
28 action after the telephone call I got, it was quite, you accept it was quite
29 legitimate what I did, I just told him to write and etcetera?

11:26:10 30 A. Yes.

- 11:26:10 1 Q. 106 Yes. That's fair enough. And you didn't, you didn't -- Mr. Gilmartin also
2 said that I was blackening your name. Do you recall him saying that I was
3 blackening your name?
4 A. I don't but he may have. Is it in his statement is it or --
- 11:26:38 5 Q. 107 He said in evidence here. He said --
6 A. In what manner like, in what manner.
7 Q. 108 He said I was accusing you and him of a cosy deal and I was blackening your
8 name?
9 A. Well there was no cosy deal as far as I was concerned.
- 11:26:55 10 Q. 109 Of course there wasn't. I appreciate that Mr. McLoone. How long did you and I
11 work together?
12 A. Well I suppose for, well I am 35 years there.
13 Q. 110 That's true and I had the greatest respect for you. Just one final thing
14 before we close and I apparently, it was Judge Keys took that something I said
11:27:23 15 was impugned your professionalism and I withdrew it.
16 Before you leave the stand, I do feel that in the case of Mr. Morrissey, whom
17 we both worked for, for 30 or 40 years, it was said by Mr. Gilmartin that you
18 know, you attributed weakness to Mr. Morrissey. I really feel that should be
19 withdrawn. It's not true. I do feel you owe it to the man to withdraw that?
- 11:27:59 20 A. Well I do feel that, and I did say, I do feel that you could talk him around
21 into your way of thinking, you know? I did feel. When I said about the
22 Castaheany lands at the time, you talked him into those and Morrissey didn't
23 want to buy them, that was the rumour in the Corporation.
24 Q. 111 Whatever about individual.
- 11:28:19 25 A. You know.
26 Q. 112 Whatever about individual things, he certainly wasn't a weak man, he was a very
27 fine manager?
28 A. He was yeah. But I would say you were able to manipulate him, like in your own
29 way kind of. You could get him to think.
- 11:28:33 30 Q. 113 Well all I am asking you, in public, to withdraw the general statement that

11:28:40 1 it's untrue, totally untrue.

2 A. What is totally untrue.

3 Q. 114 That he was a weak man?

4 A. Well I would say, I would withdraw the fact that he was a weak man but I would

11:28:52 5 say you were able to get your way with him.

6 Q. 115 You have attributed qualities to me that I don't seem to possess, but I do feel

7 just as Judge Keys rightly asked me to withdraw what I impugned, I think you

8 should do the same, for the record. That's all the questions.

9

11:29:14 10 CHAIRMAN: Have you any further questions?

11

12 MR. REDMOND: No

13

14 CHAIRMAN: Thank you very much. All right well adjourn until --

11:29:23 15

16 MR. QUINN: No questions.

17

18 CHAIRMAN: Thank you very much Mr. McLoone. I am sorry you had to come back

19 so often.

11:29:29 20 A. Okay thank you.

21

22 **THE WITNESS THEN WITHDREW.**

23

24 MR. QUINN: They are the availability witnesses for today.

11:29:35 25

26 CHAIRMAN: All right.

27

28 **THE TRIBUNAL THEN ADJOURNED UNTIL TUESDAY 6TH JULY 2004**

29 **AT 10.30 AM.**

30