

09:53:19 1 **THE TRIBUNAL RESUMED AS FOLLOWS ON FRIDAY**
2 **24TH MARCH 2006 AT 10.00 AM:**
3
4
10:13:00 5 CHAIRMAN: Good morning, Mr. Murphy.
6
7 MR. MURPHY: Good morning, chairman.
8 Mr. Kelleher please.
9
10:13:12 10 **MR. TOM KELLEHER, HAVING BEEN SWORN, WAS EXAMINED**
11 **AS FOLLOWS BY MR. MURPHY:**
12
13 CHAIRMAN: Good morning, Mr. Kelleher.
14 A Good morning.
10:13:55 15
16 Q 1 MR. MURPHY: Good morning, Mr. Kelleher. Thank you for coming in to us at the
17 Tribunal. Mr. Kelleher, I think back in 1993, you were a member of Dublin
18 County Council, is that right?
19 A Yes.
10:14:10 20 Q 2 I am not sure of your dates, when did you first become a member of Dublin
21 County Council?
22 A 1991.
23 Q 3 And are you still a member?
24 A Yes, I am a member of Fingal County Council, which is a derivative of Dublin
10:14:22 25 County Council.
26 Q 4 Dublin County Council from 1991 to 199 --
27 A 1993-1994 it began to split into three other councils.
28 Q 5 All right. And your area I think was in fact Swords, is that right?
29 A That's correct.
10:14:36 30 Q 6 And I think you were and are a member of the Labour Party?

10:14:39 1 A That's right.

2 Q 7 Is that right? Yes. And by way of occupation, Mr. Kelleher?

3 A I am a primary school principal.

4 Q 8 I see. Thank you. Now, Mr. Kelleher, I think maybe you weren't here yesterday

10:14:53 5 but --

6 A That's correct.

7 Q 9 You have got some documentation from us?

8 A I have.

9 Q 10 So I think you probably know what we are dealing with at the moment, the lands

10:15:02 10 at Lissenhall?

11 A That's right.

12 Q 11 And you probably are and probably were quite familiar with those lands, is that

13 right?

14 A Reasonably so, yes.

10:15:13 15 Q 12 Yes. And they were made up of two plots and one plot was owned by, if I can

16 just turn up the map at 650 please. Just for one second, just to identify

17 these. You see that, Mr. Kelleher?

18 A Yes.

19 Q 13 The upper lands which are coloured in blue, these, I will refer to as the

10:15:46 20 Rayband lands because they were owned by a company called Rayband Limited. And

21 they were zoned B at the time, B being agriculture and the lower -- is that

22 right?

23 A Yes.

24 Q 14 And the lower lands are coloured green and these are the Duffy lands because

10:16:05 25 they were owned by Mr. Duffy, and they were zoned G for high amenity, you are

26 familiar with all of that?

27 A Yes.

28 Q 15 All right. Now, the zoning of these two plots which make up the lands at

29 Lissenhall, B, agriculture and high amenity, that was the zoning that they had

10:16:27 30 since the Development Plan of 1983 I think, you don't know?

- 10:16:34 1 A No.
- 2 Q 16 Okay. That is the position. And they retained that categorisation in the 1990
3 draft plan and again, in 1991 when the draft 1991 plan went on public display
4 at the end of 1991?
- 10:16:48 5 A Okay.
- 6 Q 17 Are you aware of any of that?
- 7 A Yes.
- 8 Q 18 All right. So that anyway, at the beginning -- and what I want to bring you up
9 to really is 1993 and this is just the background to it, but at the beginning
10 of 1993, the position is that the upper portion of lands, the Rayband lands
11 were zoned agriculture and the Duffy lands were zoned high amenity and you
12 would have been aware of that at the beginning of 1993 I presume?
- 13 A Yes.
- 14 Q 19 All right. Now, could I bring you please to the motion which is dated 18th
10:17:26 15 March 1993 and it's at page 247. This is the first step in the rezoning
16 process which I'd like to deal with, Mr. Kelleher, and are you familiar with
17 that particular motion?
- 18 A Reasonably so.
- 19 Q 20 Can I just ask you, the documentation you got, would you have had a chance to
10:17:49 20 look at that to read that?
- 21 A Yes, I did, I looked through it.
- 22 Q 21 Yes. And the documents I am referring to, will be referring are in that
23 documentation that you got?
- 24 A Right.
- 10:18:01 25 Q 22 So this particular motion anyway, I think it was lodged to the county council
26 on the 18th March 1993, this is a motion which calls on Dublin County Council
27 to resolve that the lands at Lissenhall be zoned E, that's clear from the
28 motion.
- 29 A Yes.
- 10:18:18 30 Q 23 And that's signed by Christopher Gallagher and Ann Devitt.

- 10:18:22 1 A Right.
- 2 Q 24 You would have received that motion as a member of the council, is that right?
- 3 A Yes, it would have been part of the literature I would have been circulated
- 4 with.
- 10:18:31 5 Q 25 Could I ask you, what was your general reaction, you were probably in receipt
- 6 of loads of motions in that year but in a general way, what was your reaction
- 7 to getting that motion to rezone Lissenhall, to rezone it industrial and signed
- 8 by these two members?
- 9 A Well, I suppose I would have decided, I would have had decided already to vote
- 10:18:51 10 against it on the basis that at the time, it was general policy of the Labour
- 11 group to oppose rezonings in general. And I was of the opinion or I had
- 12 gradually formed the opinion, by the way, if I can say, I was relatively new to
- 13 the process. This would have been my first Development Plan. I would have
- 14 been a councillor for maybe a year and a half or whatever. And the process
- 10:19:21 15 would have been quite new to me.
- 16
- 17 And I would have formed the opinion over a period of time from once the process
- 18 began, that Swords ought to have been, the area I knew best I suppose was the
- 19 Swords area, having lived there for a long time prior to the Development Plan,
- 10:19:44 20 that I felt the development that was taking place was a little bit haphazard
- 21 and I formed the opinion, possibly with others, that Swords ought to have been
- 22 taken out of the plan at the time and a study of the area ought to have been
- 23 performed by the planners in consultation with the public and the councillors.
- 24 With a view to determining the long-term needs of the area from an
- 10:20:12 25 industrial/commercial/residential point of view and that what was happening at
- 26 that particular time was let's say premature and piecemeal. But I think that's
- 27 possibly the way it had happened up to then. So, you know I was neither
- 28 surprised nor alarmed by the motion. I just decided to the best of my
- 29 knowledge to vote against it and did so.
- 10:20:39 30 Q 26 Yes. And I think you took certain steps in relation to what you have just

- 10:20:42 1 outlined about wanting a review of Swords and take it out of the haphazard
2 development and so on and I will come to that in a moment, is that right?
- 3 A That's correct, yes.
- 4 Q 27 All right. But actually from what you say, I gather that even before you got
10:20:57 5 the motion, you were against rezoning in principle, is that right?
- 6 A Yes, I suppose because of the nature of the council at the time, the labour
7 group and its allies were in a minority and generally tended to oppose the
8 major rezoning proposals of the other groups. And generally lost most of the
9 votes as well.
- 10:21:32 10 Q 28 I see.
- 11 A So, it would not have been anything new for us to have opposed that particular
12 motion. But with regard to the Swords area, as I have already said, I was very
13 familiar with it, having lived there and I was raising a family there and that.
14 I gradually formed the opinion that, you know, we should deal with it
10:21:53 15 separately. It was a growing area and it had grown from a very small village
16 in a very small space of time and ought to be looked at separately.
- 17 Q 29 Did the fact that Ms. Devitt and Mr. Gallagher, the late Mr. Gallagher had
18 their names on the motion, would that have conveyed anything to you in relation
19 to the motion or the proposal for rezoning?
- 10:22:16 20 A Not really. I mean I was aware of both of their positions with regard to
21 zoning and that and they would have been, I suppose, more experienced at the
22 business of development zoning than I was. And they were pro, they were more
23 pro development at the time or they had a different view of developing the area
24 than I would have had at the time.
- 10:22:43 25 Q 30 Yes.
- 26 A I felt it was piecemeal at the time.
- 27 Q 31 Yes. Now, if I come on to the steps that you took, page 283 please, you and
28 Councillor Ryan wrote a letter together to Sinead Collins, dated 7th April 1993
29 and this was calling on, I think this is proposing a motion for the next
10:23:12 30 meeting, is that right?

- 10:23:13 1 A Yes.
- 2 Q 32 And in, there's some words missing there now I hope I put them in correctly,
3 but that you are calling on really a suspension of rezoning by County Council
4 and a review to be carried out and that this would go to Fingal County Council,
10:23:31 5 is that right in summary?
- 6 A Yes.
- 7 Q 33 Which is along the lines you outlined about your ideas -- your policy in
8 relation to development in Swords?
- 9 A That's right.
- 10:23:40 10 Q 34 All right. Is that a response to that particular motion or is it a response to
11 a number of rezoning motions?
- 12 A It's a response to all of the rezoning motions really.
- 13 Q 35 Yes. Yes. And this is jointly with Councillor Ryan who, it was a colleague of
14 yours in the Labour Party, is that right?
- 10:24:00 15 A That's right, Sean would have been a more experienced councillor than I was, he
16 had been on the previous council.
- 17 Q 36 Yes and he was a member of the Dail as well?
- 18 A Yes.
- 19 Q 37 If I can bring you on, Mr. Kelleher, please, to a County Council meeting of the
10:24:23 20 17th May 1993 which I think you presumably know you attended that?
- 21 A Yes.
- 22 Q 38 And then if I can bring you please to page 280, and just for the moment, if we
23 can stay on 280, we will be dealing with pages 280, 281 and 282 just for the
24 moment. And in fact if we can turn to 281, your motion came up at this
10:24:51 25 meeting, proposed by Councillor Ryan and seconded by you.
- 26 And this is a motion in terms that I have just outlined that there be no
27 further rezoning of lands in the Swords area in the context of the current
28 Development Plan review, and that there would be a further review and that that
29 would be presented to Fingal County Council, isn't that right?
- 10:25:15 30 A That's correct.

10:25:15 1 Q 39 All right. Now, an amendment was suggested, proposed to that motion which was
2 defeated and when it came to your substantive motion, that was lost as well,
3 isn't that right?

4 A That's correct.

10:25:36 5 Q 40 All right. What was your reaction to that motion being lost?

6 A I can't remember exactly, to be honest with you but I can assume it was a
7 combination of disappointment and, you know, not being unduly surprised.

8 Q 41 Yes. Yes. Exactly, yes. Was this, Mr. Kelleher, this motion to rezone
9 Mr. Gallagher's and Ms. Devitt's motion to rezone Lissenhall, would that have
10 been a controversial motion when it came in and before, we are coming on to the
11 meeting in a second, would you have regarded it as something that would have
12 given rise to controversy or did you expect it to be a straightforward motion
13 and pretty obvious the way it would go or what?

14 A Well I don't recall it being particularly controversial. I think some of the
15 bigger residential zonings would have been more controversial, insofar as I am
16 not quite sure what you mean by controversial.
17 But in my terms, controversial very often involved major public meetings where
18 there was a lot of, you know, antagonism towards rezonings, for instance in
19 some of the other parts of the Swords, in the Rivervalley area, it would have
20 been a very, very strong public resentment against the fact that there were
21 hundreds and hundreds of more houses, thousands of houses coming with no
22 infrastructure basically. So, those rezonings would have been more
23 controversial, if that's what you mean, rather than this one, which didn't
24 seem, it wasn't surrounded by estates or whatever.

10:27:16 25 Q 42 All right. We know and we will find out in a few moments that ultimately, the
26 Lissenhall lands were rezoned and stayed rezoned in the 1993 Development Plan.
27 From the time you got in the motion in March, is that the result you would have
28 expected? You were opposed to it, is that the result you would have expected?

29 A Yes.

10:27:36 30 Q 43 Now, if I may come on to the meeting of the 21st May 1993, and I think you

10:27:44 1 attended this meeting, Mr. Kelleher, you are aware of that, and if we can just
2 turn to page 298 please, and this is, I'm sorry, yes this is Mr. Gallagher's
3 and Ms. Devitt's motion to rezone the lands industrial and it was the taking of
4 the motion was preceded by a motion for an amendment to change it to light
10:28:30 5 industrial I think, is that right?
6 A Correct.
7 Q 44 And that motion, that amendment was passed.
8 A Yes.
9 Q 45 And -- it was passed unanimously, I think?
10:28:43 10 A I can't -- I don't recall.
11 Q 46 If we look at page 236 for a second, halfway down the page, "the forming
12 amendment to motion number 15.13.2.I proposed by Councillor Tipping and
13 seconded by Councillor O'Callaghan was put and was passed unanimously."
14 A Okay.
10:29:02 15 Q 47 You would have voted presumably for that amendment?
16 A Yes.
17 Q 48 That it wouldn't be just industrial simpliciter, it would be light industrial?
18 A Yes, that would be reasonably common practice to this day, in fact, if there's
19 a proposal to zone land for industry in an area in a sensitive area, and either
10:29:24 20 if it runs into a lot of objections locally, or, for instance, if it's likely
21 to be passed in the chamber, I would use -- take the opportunity to maybe amend
22 the motion to change it from industry maybe to science and technology or light
23 industry. So that in my opinion, it would have less consequences for people
24 living around or whatever. That is just an example. I am not saying it's what
10:29:56 25 worked here but it would be common enough practice that people would say okay,
26 look, maybe it's suitable for industry but light industry rather than --
27 Q 49 So that amendment was passed and then the substantive motion was put as follows
28 and the motion was that "Dublin County Council hereby resolves that the lands
29 at Lissenhall Swords bounded in red on the attached mapped and identified by
10:30:22 30 the signatures of the proposers be zoned E and in the light of its proximity to

- 10:30:27 1 G zoned land", that's the Duffy lands I think, the lower lands --
- 2 A Yes.
- 3 Q 50 "And in the light of its proximity to G zoned land that it's use be restricted
- 4 to light industry as defined in the Local Planning Government Development Acts
- 10:30:41 5 and the regulations made there under."
- 6 A Right.
- 7 Q 51 So that motion was put to the members?
- 8 A Yes.
- 9 Q 52 And passed, 49 members in favour and 15 against with two abstentions, isn't
- 10:30:54 10 that right?
- 11 A Yes.
- 12 Q 53 So that the result of that then is that the proposal is that Lissenhall lands
- 13 be rezoned light industrial.
- 14 A Correct.
- 10:31:02 15 Q 54 Is that right?
- 16 A Yes.
- 17 Q 55 Now, I just noticed, Mr. Kelleher, I think you seem to have voted for that, is
- 18 that right?
- 19 A Yes, if that's what the record says.
- 10:31:11 20 Q 56 Yes. For and it lists the councillors and it has T Kelleher, I beg your
- 21 pardon, page 299.
- 22 A Yes, I am happy that I voted for that. Yeah.
- 23 Q 57 All right. Now sorry, I understand you are voting for the motion to go from
- 24 industrial to light industrial but in view of your, what your view was in
- 10:31:35 25 relation to Swords generally and so on, was there a particular reason for
- 26 voting in favour the change to light industrial, the rezoning?
- 27 A Well, that would be quite a common practice. When you don't have the numbers
- 28 in the chamber, you often vote for something that's the lesser of who evils.
- 29 And I mean when I use two evils, I am not necessarily saying it's two evils but
- 10:31:58 30 yes, the lesser of two evils. If you are opposed to X and if by passing X

10:32:06 1 minus Y, you don't get X, then you vote for X minus Y. Whereas if you don't
2 support X minus Y, you end up getting X if that makes sense to you.

3
4 In other words, if my group had voted against the light industry, the chances
10:32:22 5 are that the opposition would have had the numbers to get the heavy industry
6 through whereas, then there would have been no compromise, it would have been a
7 straight vote on heavy industry.

8 Q 58 Please understand I am not making any -- I am just inquiring. Just maybe a bit
9 curious.

10:32:41 10 A Absolutely.

11 Q 59 But once the amendment was passed to go light industrial and the substantial
12 motion was put that maybe Lissenhall be rezoned light industrial, would it not
13 have been sort of logical or consistent that you would have voted with the
14 other councillors who simply opposed that? Because at that stage, it's not
10:32:58 15 that you are going to suddenly be hit with a heavy industrial.

16 A Well you see if the light industry falls, it then goes back to voting on the
17 heavy industry.

18 Q 60 I see. Right.

19 A If that --

10:33:12 20
21 JUDGE FAHERTY: Mr. Kelleher, what Mr. Murphy is asking you, we have passed
22 the motion, the motion is done in relation to restricting it to light industry.

23 It's on to the substantive motion, I think that's the inquiry that's being
24 made, that this is the substantive motion that the lands would be changed from
10:33:28 25 B and G to E light, restricting it to light industry and Mr. Murphy is asking
26 you why did you vote in favour of that rezoning? I think that's the question.

27 A Okay. Which is a different point. Okay.

28
29 JUDGE FAHERTY: Yes.

10:33:42 30 A Presumably because we were happy enough with light industry. I can't remember

10:33:52 1 exactly. Or what they had -- there would have been a certain amount of arguing
2 to and fro. For instance, I don't know why people who wanted heavy industry
3 compromised for light industry. Perhaps there was a certain amount of -- there
4 would be a certain amount of debate on the issue and a certain amount of
10:34:09 5 compromise, I suppose.

6 Q 61 MR. MURPHY: Sorry when I was reading these documents, I kind of assumed you
7 would be on the against and I see that Mr. Ryan is on the against and I'm just,
8 Mr. Ryan, your colleague, voted against the substantive motion, according to
9 page 299.

10:34:24 10 A Yes.

11 Q 62 And it seems that for you, if you were to be consistent there, you would be
12 voting against the light industry because you weren't, the possibility of the
13 heavy industry was gone.

14 A Yes.

10:34:41 15 Q 63 But maybe --

16 A I can't remember the exact details. I might very well have made a strong
17 argument for light industry.

18 Q 64 I see.

19 A You know, during the debate on the light industry, I might very well have made
10:35:06 20 a strong case as to why it should be light industry as opposed to heavy
21 industry on the basis that it would create cleaner industry or more jobs or
22 whatever, making a strong argument for light industry and then I might have
23 felt well, having made a very strong argument for light industry, it would seem
24 a bit inconsistent then to vote against it.

10:35:27 25 Q 65 All right. Would anyone have discussed it with you?

26 A Within the group?

27 Q 66 Yes.

28 A I suppose they would, yes.

29 Q 67 And in relation to your vote there on the substantive vote where you voted in
10:35:43 30 favour of it?

- 10:35:44 1 A Yes, I presume -- well, you know we made up our own minds on most issues, at
2 the same time bearing in mind that we opposed most of the major rezonings but
3 we were still, I mean it's industrial are a free vote.
- 4 Q 68 Yes.
- 10:36:00 5 A There isn't a whip in operation at such.
- 6 Q 69 Yes. Now, all right, so at the end of that day, the 21st May 1993 then, what's
7 going to happen -- the draft plan will have to be displayed again for a month
8 in July I think?
- 9 A Yes.
- 10:36:22 10 Q 70 And Lissenhall will go in as E, light industrial, isn't that right, as a result
11 of that?
- 12 A Yes.
- 13 Q 71 All right. Now, and with you apparently actually in favour of it at this
14 stage?
- 10:36:36 15 A Yes.
- 16 Q 72 Okay. Now, could I just ask you, that particular day, those days presumably in
17 the council would have been fairly hectic I imagine with a number of motions
18 being presented.
- 19 A Yes.
- 10:36:49 20 Q 73 And a number of -- a lot of discussion and a lot of votes being taken and so
21 on, is that right?
- 22 A That's correct.
- 23 Q 74 Now, could I just ask you, Mr. Kelleher, were you ever approached by -- I
24 understand that you would have discussion with your Labour colleagues in
10:37:08 25 relation to and you would have had a certain view in relation to the
26 development and so on within the Labour members of the council, is that right?
- 27 A That's correct.
- 28 Q 75 Would you have also discussed it with other members on the council?
- 29 A Not really, no, maybe other non-Labour independents, members of the DL possibly
10:37:30 30 at the time, but if you are asking me can I discuss with members of the

- 10:37:38 1 opposition, I don't think so, no.
- 2 Q 76 For example, I mean if you were opposed to it and you wanted the thing to go to
3 Fingal County Council with the review, would you not discuss it with others
4 members the council, whatever their party, maybe to try persuade them, suggest
10:37:50 5 to them in the first instance, maybe persuade them they should vote against the
6 particular thing?
- 7 A At the time, as I said to you, I was quite a green councillor, sorry in terms
8 of a new councillor, rather than a Green councillor ... so I wouldn't really
9 have been in a position to negotiate as nowadays I would, most of the
10:38:16 10 negotiation would take place before the meetings in terms of -- but in those
11 days I would have been a relative newcomer and I suppose to a certain extent
12 there wasn't that kind of an atmosphere in the chamber, there wasn't -- well
13 certainly not for the newer people in the chamber.
14
- 10:38:33 15 There wasn't as much -- it was a very big council, I think there were maybe
16 70-odd members, whereas the for instance the present Fingal County Council is
17 24 members and you are more inclined to talk things through before they get to
18 the chamber and then but no, I don't remember trying to persuade any of the
19 opposition.
- 10:38:53 20 Q 77 Did I understand from what you were saying some time earlier that while there
21 was a policy on, if you like, ideology in relation to the development of
22 Swords, there was also really a policy of opposition, you were a minority party
23 in the council and you tended to oppose?
- 24 A Yes, there would always be an element of politics in the chamber anyway and to
10:39:17 25 a greater or lesser degree and if you are beaten regularly in votes, you tend
26 to ...
- 27 Q 78 All right. Mr. Kelleher, did anybody from outside the chamber ever approach
28 you about your vote? In other words lobby you, I am not talking for the moment
29 about money but did anybody ever come to you and present a case to you.
- 10:39:35 30 A With regard to these particular lands, no, not that I can remember.

- 10:39:39 1 Q 79 Maybe other lands?
- 2 A A whole range of other lands.
- 3 Q 80 Yes. There would be nothing unusual about being approached, would there, by
- 4 the owner of the lands?
- 10:39:48 5 A Not at all, it would be very common. I used to have a clinic in those days and
- 6 people would drop in to the clinic and I remember one morning a developer, a
- 7 builder arriving in with a full crew, maybe 20 people, tradesmen, carpenters
- 8 whatever and explained to me if I didn't support something, all of these people
- 9 out of work which I thought was interesting. But it would have been quite
- 10:40:14 10 common that people would have said, look, we are trying to do something here,
- 11 whatever.
- 12 Q 81 Now, would it have been common enough in your experience during the process of
- 13 the 1993 Development Plan, during that process in looking at lands generally
- 14 and rezoning motions generally, not just Lissenhall, would it have been common
- 10:40:32 15 enough for the owner of a land and/or the developer of a land to come up to you
- 16 and say listen, we are interested in rezoning this, we'd like your vote. I am
- 17 not talking about money at all, just talking, just a lobbying.
- 18 A It would have happened. I mean I can't pinpoint circumstances where it did
- 19 happen but and because I have been through two or three development plans in
- 10:40:57 20 the meantime and it is now, you know, it would be very very common practice, I
- 21 don't remember it happening a lot in 1993 and I suppose there was a very common
- 22 perception that Labour were opposed to almost everything at the time anyway.
- 23 And anyway, our votes weren't needed.
- 24 Q 82 And in relation to Lissenhall, can you say were you approached by an owner
- 10:41:24 25 or --
- 26 A I don't think so. I don't think so. I don't ever remember anybody from
- 27 Rayband, I don't recall meeting anybody from Rayband or the Duffys, it doesn't
- 28 ring a bell with me at all. I don't think I was canvassed on those lands.
- 29 Q 83 Or anybody on their behalf.
- 10:41:41 30 A No.

- 10:41:42 1 Q 84 Were you ever in relation to any lands, offered money for your vote?
- 2 A No.
- 3 Q 85 Never?
- 4 A Never.
- 10:41:50 5 Q 86 Now, Mr. Kelleher --
- 6 A Sorry, on one occasion, I was sent a cheque in relation to other lands which I
- 7 duly sent back. It would have been common practice at the time to send it back
- 8 or whatever.
- 9 Q 87 All right.
- 10:42:14 10 A But it was not in relation to these lands, it was in relation to other lands.
- 11
- 12 CHAIRMAN: Sorry Mr. Murphy, Mr. Kelleher, how much was that cheque for?
- 13 A I think it was a very small sum of money, I think it was about 50 euro at the
- 14 time or 50 pounds or whatever.
- 10:42:29 15
- 16 CHAIRMAN: Right.
- 17 A And it was from -- it wasn't from --
- 18
- 19 CHAIRMAN: You needn't say who it was from.
- 10:42:36 20 A All right. Okay. But it --
- 21
- 22 CHAIRMAN: When you are finished your evidence, if you just talk to Mr. Murphy
- 23 and give him a note of the name and the approximate date but just for the
- 24 record but it's a small sum so we are probably not going to show a great deal
- 10:42:57 25 of interest in it.
- 26
- 27 Q 88 MR. MURPHY: Was this during the 1993 review?
- 28 A I am not a hundred percent sure. I think it might very well have been.
- 29 Q 89 That was the only time that you were offered?
- 10:43:09 30 A Yes.

- 10:43:11 1 Q 90 But it was to secure your vote?
- 2 A Well it was along -- I think there was an accompanying letter which would have
- 3 said, you know, dear councillor, we are hoping to rezone the land X Y and Z,
- 4 this is a contribution towards your election or whatever. And I just sent it
- 10:43:29 5 back.
- 6 Q 91 All right. During the meetings in relation to the Development Plan, did you
- 7 ever see Mr. Dunlop around it's council offices?
- 8 A I did.
- 9 Q 92 Yes. Much?
- 10:43:50 10 A On and off.
- 11 Q 93 Yes. Were you kind of aware of him as a presence, as somebody who was there?
- 12 A Well, I suppose I would have recognised him, having seen him on television and
- 13 you know I would have known who he was. I didn't know what he was doing
- 14 exactly.
- 10:44:07 15 Q 94 Yes?
- 16 A Or what his role was at the time. As I said to you, this was my first
- 17 Development Plan, I had been, I was only other a year in the job as councillor
- 18 but I saw him around the place and I recognised him.
- 19 Q 95 Did you ever talk to him?
- 10:44:26 20 A I don't think so.
- 21 Q 96 Right.
- 22 A I don't remember speaking to him. I mean I might have said hello to him but I
- 23 don't remember ever being introduced to him or having a conversation with him.
- 24 I mean my initial reaction is to say no but I don't want you to dig up a piece
- 10:44:44 25 of paper in five minutes but I don't remember having a conversation with him or
- 26 saying hello to him. To the best of nigh knowledge, I have never spoken to
- 27 him.
- 28 Q 97 All right. It follows that as far as you are aware, he didn't lobby you for
- 29 these lands or any other lands.
- 10:44:58 30 A No, no. I don't think so.

- 10:44:59 1 Q 98 But he apparently was there lobbying other councillors in relation to these
2 motions, you are aware of that now?
- 3 A I am.
- 4 Q 99 But are you saying you weren't aware of that, that that was the reason for his
10:45:22 5 presence at the time?
- 6 A I mean I would have been aware that he was lobbying for certain things to
7 happen. I mean there were a lot of people lobbying, there were developers all
8 over the place, there were builders all over the place. It was kind of chaotic
9 really before some of the votes. There would have been -- I mean generally the
10:45:55 10 way we handle it within the Labour group, if somebody wanted to speak about a
11 development or a plan or whatever, we would organise a group meeting and they
12 would come and address the group or maybe part of the group or, I remember a
13 few different developers coming in and making a case as to why their lands
14 should be developed.
- 10:46:19 15 Q 100 Would this be a meeting of the Labour councillors?
- 16 A Yes, they would have come in, each of the parties would have had a room and a
17 meeting room and a developer would come in and say look, you know, I have some
18 lands or a builder, I have some lands in X and there's a huge housing shortage
19 in my area and this land is, I remember in particular -- anyway ...
- 10:46:41 20 Q 101 You remember in particular?
- 21 A Just one guy making a case as to why he couldn't farm the land any more. And
22 you know, it was just a guy making a case for rezoning.
- 23 Q 102 Yes. And so nothing unusual about the developer or the owner coming in or
24 would it be just --
- 10:47:02 25 A Builder owner, developer, combinations of.
- 26 Q 103 And making his case to a councillor or a number of councillors?
- 27 A I -- Mostly in our case they tended to meet a group of councillors or somebody
28 would say maybe a group leader, actually I was group whip at the time, somebody
29 would say that somebody wants to meet us or so you would round up five or six
10:47:24 30 guys and somebody would come in and make a case, whatever.

- 10:47:28 1 Q 104 Well now, Mr. Kelleher, were you aware that Mr. Dunlop was engaged in this sort
2 of activity presenting his clients cases to different councillors.
- 3 A But I don't remember him coming to the Labour group.
- 4 Q 105 All right. But you knew in 1993 that he was lobbying councillors on behalf of
10:47:45 5 developers.
- 6 A Well I knew that he was -- well I suppose I did but you know it didn't, insofar
7 as everybody who wasn't a councillor there had a reason to be there and
8 presumably it was to encourage councillors to vote in a certain direction.
- 9 Q 106 Yes. But they would have been for lands -- yes. But he wasn't actually a
10:48:06 10 developer himself or an owner?
- 11 A I wouldn't have been aware of that as such. There were so many shades of
12 lobbyists. I mean as I said to you earlier on, there were builders whom I
13 knew. There were developers that I wouldn't have known very well but gradually
14 got to know afterwards as he came and lobbied in Fingal. There were land
10:48:30 15 owners who he made themselves known as landowners and for instance somebody
16 would come on behalf of an early person or on behalf of somebody who obviously
17 didn't speak as well or whatever. People came on behalf of other people.
18 There was a whole range of --
- 19 Q 107 Could you identify anybody in the same sort of category as Mr. Dunlop, in other
10:48:53 20 words not there is as an owner or builder or developer, somebody who was there
21 as a lobbyist like Mr. Dunlop, can you identify anybody else?
- 22 A There was another chap who had a public relations company. In fact there were
23 a few people like that. A chap called Michael, whose second name I can't
24 remember, he had a public relations company and he -- there were a few people
10:49:21 25 like that. One other chap, he was also public relations person, he had been
26 a member of a political party prior to that and he was at the same business,
27 writing letters on behalf of a client and asking, you know, maybe including a
28 map or whatever.
- 29 Q 108 All right. So on the one hand, you have the developers and the builders but on
10:49:46 30 the other hand also you have Mr. Dunlop and other lobbyists, if I may call them

- 10:49:51 1 that.
- 2 A Yes, that's correct.
- 3 Q 109 And you were aware of that in 1993?
- 4 A Yes.
- 10:49:55 5 Q 110 And can I just ask you and perhaps I am asking you again, but I presume that
6 from what you could see yourself and from your chats with your Labour
7 colleagues, that you would have known that that, you would have had no doubt in
8 your mind that's what Mr. Dunlop was doing. I am not talk being money, I am
9 just talking about presenting the case and lobbying.
- 10:50:16 10 A Yes. Yes. That's true, I suppose.
- 11 Q 111 And after you will, he is a person that you identified from seeing in the paper
12 and at the time vision, the others wouldn't have been as easy recognisable?
- 13 A Except some of the others would have made contact, either walked up to me and
14 spoke to me or whatever but I don't recall meeting Mr. Dunlop or talking to
15 him.
- 10:50:37 15
- 16 Q 112 All right.
- 17 A I may very well have done but I don't recall, whereas I recall meeting the chap
18 called Michael, Hennigan, Heneghan? At some stage stopping me in the lobby and
19 making a case for somebody or other and I recall the other, another chap
10:50:55 20 speaking to me and writing to me on several occasions. He also had a PR
21 company, I think he still has but I don't recall meeting Mr. Dunlop on a one to
22 one basis.
- 23 Q 113 Mr. Dunlop has told the Tribunal that he has paid money on occasions to
24 councillors in return for their vote, to secure their vote.
- 10:51:16 25 A Right.
- 26 Q 114 Were you aware in 1993 that Mr. Dunlop was doing that?
- 27 A No.
- 28 Q 115 Were you aware in 1993 that money was being paid to, councillors were in
29 receipt of money for the purposes of securing their vote?
- 10:51:42 30 A I can't say that I was. I knew cheques -- I mean on one occasion, a member of

- 10:51:53 1 another party held up a cheque in the chamber and said I received this as a
2 political donation or whatever, it's quite a well known incident.
- 3 Q 116 That's well known, that's Mr. Sargent, is it, that was a cheque for how much?
- 4 A I can't remember but I can't say that I know of anybody who got money or I
10:52:14 5 can't say that I know that Mr. Dunlop, that I'm aware that Mr. Dunlop gave
6 anybody money. I would be speculating.
- 7 Q 117 Leaving aside any specific instance just for a second, were you aware that in a
8 general way, there were councillors there in your chamber who were being given
9 money in return for their vote?
- 10:52:37 10 A No, I can't say that I knew interest that at the time.
- 11 Q 118 It seemed to be something that was kind of widely rumoured, widely spoken
12 about, widely published in the press and so on, I am not saying down a specific
13 instance that AB gave money to CD for his vote but in a general way, it seems
14 to have been something that was widely known in 1993, Mr. Kelleher.
- 10:53:03 15 A I am not sure that it was actually. And I am not sure it was widely written
16 about. I think it was afterwards that most of the writing about it took place.
17 But at the time, I am not sure that it was written about and -- I mean it was
18 obvious that there were people more supportive of the developers and who mixed
19 freely with the developers and builders than let's say than I did or that my
10:53:35 20 colleagues did.
21
22 But I don't know if anybody was actually writing at the time that money was
23 changing hands. And I feel that if it been in circulation or widely circulated
24 in newspapers and that, that it would have come up in the chamber on a regular
10:53:52 25 basis.
- 26 Q 119 Was there not a Garda inquiry in around 1993?
- 27 A That was, to the best of my knowledge, that was afterwards, I remember being
28 contacted by the Gardai afterwards in relation to it, but I think the
29 Development Plan was finished at that stage.
- 10:54:09 30 Q 120 Yes. But are you saying, Mr. Kelleher, I appreciate you have already said that

10:54:15 1 you were new in there but you were there since 1991 at this stage, you are
2 there whatever it is, a year, two years, are you saying that you were not aware
3 that money was changing hands and councillors' votes were being secured by the
4 payment of money on behalf of people who had an interest in rezoning lands?

10:54:34 5 A Specifically, yes. I mean I would have been -- I would have felt that there
6 was a general, I suppose, acceptance of the fact that some people's election
7 campaigns would be contributed to. Rather than somebody getting money for a
8 vote on a particular piece of land or whatever. And there was a kind of a
9 general, you know, Labour seemed to do very badly in terms of fund raisers and
10 coffee mornings and golf classics and that, whereas the other parties would
11 have done a lot better but it was -- I suppose I felt it was more like that
12 than somebody getting as it turned out, or as it seems to have turned out 1,000
13 euro or 1,000 pounds for a specific vote or proposal.

14 Q 121 Would you regard that as a substantial sum for securing somebody's vote, would
15 you have regarded 1,000 pounds then or now as a substantial sum?

10:55:35 16 A I certainly would, yes. I suppose I would have to get over the idea of just
17 money being handed over for a vote in the first place and I don't think in some
18 ways it matters what the sum is. Just the idea that you are handed a sum of
19 money for a vote is something I find difficult but 1,000 pounds in 1993 was a
20 considerable sum of money.

10:56:02 21 Q 122 Yes. Would it also be a substantial sum of money as well by way of an
22 electoral expense or a political contribution?

23 A Yes, it would. It certainly would have funded my local government campaign at
24 the time. I think I spent about 800 euro, two years previously in getting
10:56:34 25 myself elected.

26 Q 123 Well I think if I understand you correctly Mr. Kelleher, you understood that
27 the other parties were doing better by way of and I think you are saying, you
28 know, contributions towards their political expenses than the Labour Party.

29 A Yes. We -- the other parties or some of the other parties generally had, they
10:56:51 30 had more money to spend at election time. They had better quality literature

- 10:56:55 1 and they seemed to be more people and maybe they had better policies.
- 2 Q 124 Did you tie that in to people getting money, councillors getting money from
- 3 people who might have had an interest in rezoning?
- 4 A I suppose indirectly.
- 10:57:11 5 Q 125 Yes. I mean it must have been a matter of some resentment to you among your
- 6 Labour colleagues, that there you were not benefiting in any way and not
- 7 getting these contributions and therefore more difficult to run your campaign
- 8 and your political rivals were getting substantial contributions.
- 9 A Well we certainly felt that we weren't, you know, we didn't have successful
- 10 fund raisers. And the other groups did. For one reason or another.
- 11 Q 126 Did you feel that the money they were getting was all legitimate fund-raising?
- 12 A Well I don't know because it has always been a grey area as far as I am
- 13 concerned.
- 14 Q 127 Yes.
- 10:57:58 15 A I didn't know how the system worked. I mean, now I know that people were
- 16 handed sums of money in return for proposing something. If you were asking me
- 17 did I know that was happening at the time, I didn't.
- 18 Q 128 And did you ever did you have any suspicion about it?
- 19 A Not in the in those terms. I felt the political groups were going to gain in
- 10:58:26 20 one form or another but I didn't know people were getting large sums of money
- 21 to propose motions or vote for them.
- 22 Q 129 Mr. Kelleher, could I bring you on then please to the 21st September 1993 and
- 23 this was another meeting of the council which you attended and this is the
- 24 meeting when I think it was, sorry, I beg your pardon, you seconded a motion,
- 10:59:12 25 isn't that right, to have the zoning of the Lissenhall lands changed back to
- 26 their original zoning of agriculture and high amenity?
- 27 A That's correct.
- 28 Q 130 Isn't that right? All right. And who proposed that motion?
- 29 A According to the record, it's Mr. Sean Ryan.
- 10:59:33 30 Q 131 Mr. Ryan. Yes. Can you just tell me, why was that, why did the two of you

- 10:59:38 1 bring that motion?
- 2 A I can't remember the exact details as to why we put that motion.
- 3 Q 132 Yes.
- 4 A And that's about as clear as I can be on it.
- 11:00:00 5 Q 133 Sure.
- 6 A The general -- to be honest, I can't remember, I mean we would have been trying
- 7 to stop as much rezoning as possible or we would have been trying to make it
- 8 as, to ameliorate the rezonings as much as possible and I presume that's why we
- 9 moved that motion.
- 11:00:19 10 Q 134 All right. It does seem to be inconsistent with your vote back in May.
- 11 A Yes.
- 12 Q 135 That doesn't help in in relation to your recollection as to why you did it?
- 13 A No, it doesn't.
- 14 Q 136 No, all right. What you were doing was certainly supporting, if you like, the
- 11:00:36 15 manager because at that time his report was recommending that the council
- 16 should not change the zoning of any substantial area of lands in Swords in the
- 17 context of the present review, isn't that right?
- 18 A That's correct.
- 19 Q 137 That at that particular meeting, the manager's motion and an amendment to it
- 11:00:56 20 failed?
- 21 A Correct.
- 22 Q 138 And -- sorry, Mr. Kelleher, I want to come on to -- yes, I want to come on to
- 23 your motions then and the first motion was the upper lands, the Rayband lands
- 24 which were now going to be voted, rezoned light industrial and you were, you
- 11:01:50 25 seconded the motion to put them back to agricultural, isn't that right?
- 26 A That's correct.
- 27 Q 139 And that motion was proposed by Councillor Ryan.
- 28 A That's right.
- 29 Q 140 Right. Now, sorry, that came up for discussion I think at the end of the
- 11:02:05 30 meeting on the 21st but it wasn't concluded on that date and we move on to the

- 11:02:09 1 22nd September 1993 and you attended that meeting, isn't that right?
- 2 A That's correct.
- 3 Q 141 All right. Now, and the manager was recommending that the, he wanted the same
4 as you I think; isn't that right, to go back to the original zoning?
- 11:02:27 5 A Yes.
- 6 Q 142 But then Councillor Ryan advised the meeting that he wished to withdraw the
7 motion. Do you know the motion to go back to the agriculture, to the Rayband
8 lands, why that was withdrawn?
- 9 A I don't. And I mean, obviously this is the -- I have thought about this when I
11:02:58 10 first got notice of my attendance here and I can't remember why we, either Sean
11 decided to withdraw it, or we decided to withdraw it. I can't remember why.
- 12 Q 143 Yes.
- 13 A I can't remember why. I mean I could speculate if you want me to speculate but
14 if you are asking me do I remember, I don't remember why.
- 11:03:15 15 Q 144 What would your speculation be?
- 16 A We might very well have said that, you know, there's going to be job creation
17 here or light industry isn't the worse thing in the world or at some stage, we
18 might have reacted to the fact that there would have been a regular comment in
19 the chamber, which would have hit the newspapers that Labour opposes
11:03:38 20 everything, Labour anti jobs, Labour anti housing at the time and it seemed
21 very much as if we were at the time. So, you know, occasionally I suppose we
22 might very well have said look, we will accept light industry here and jobs or
23 whatever.
- 24 Q 145 Yes.
- 11:03:55 25 A But I don't remember -- I mean did somebody approach us to do it? No,
26 certainly not me. It wasn't as a result of pressure from anybody.
- 27 Q 146 Yes.
- 28 A From anybody outside. We might have debated it internally and said, you know,
29 let's go with the jobs here or whatever.
- 11:04:12 30 Q 147 Can you remember was it a decision that was made overnight, the day before, the

- 11:04:16 1 21st?
- 2 A I don't, I don't remember the details at all or I don't know if Sean came to me
- 3 and said look, I am going withdraw the motion, you know, are you okay with that
- 4 and I would have said fine. It wouldn't have been a major -- those particular
- 11:04:29 5 lands wouldn't have been a major item in my focus at the time. I would have
- 6 been very much focused on the more controversial residential zonings in the
- 7 Rivervalley area, whatever, so, you know. I would have forgotten about this if
- 8 you hadn't taken me through the detail or if the information I got from the
- 9 Tribunal hadn't kind of raised it again. It wasn't a major item at the time
- 11:04:59 10 whereas some of the other bigger rezonings, and some of the more geographically
- 11 sensitive rezonings raised a lot more hackles at the time. For instance some
- 12 of the lands between Swords and Malahide, and the Rivervalley rezonings and
- 13 some of the others. That's just within our own area.
- 14 Q 148 Why position seems to have changed throughout the voting in Lissenhall, in that
- 11:05:20 15 originally you were against the rezoning, then you voted for light industrial?
- 16 A Yes.
- 17 Q 149 And then you brought the motion to go back to the original and then agreed to
- 18 withdraw that.
- 19 A Yes.
- 11:05:29 20 Q 150 You can't explain that any further?
- 21 A Not really, no, it's --
- 22 Q 151 All right.
- 23 A And that wouldn't be too unusual insofar as positions changed slightly
- 24 depending on arguments or the voting patterns or whatever.
- 11:05:53 25 Q 152 If we go to page 353 then, in relation to the other lands, the Duffy lands
- 26 which were to be rezoned light industrial but then your motion for them to go
- 27 back to high amenity and that was something that I think that had the
- 28 recommendation of the manager, you didn't want the zoning to be changed. And
- 29 you went ahead with that motion though with Mr. Ryan.
- 11:06:17 30 A Yes.

- 11:06:19 1 Q 153 And that motion I think was defeated and a number of similar motions appears
2 from the minutes of the council meetings?
- 3 A That's correct.
- 4 Q 154 Do you know why you withdraw one motion and went with the other one?
- 11:06:31 5 A Well I suppose the high amenity, we would have had a very strong environmental
6 protective attitude to the lands or to the general Swords area at the time.
7 This was far more sensitive in terms of high amenity is something we would have
8 at the time fought tooth and nail for, and I suppose it was far more sensitive
9 land than the other one and we were determined to stick with our argument or
10 maybe make a political point or whatever at the time.
- 11 Q 155 So, Mr. Kelleher, I mean at the end of the day then in September 1993,
12 Lissenhall was going to be rezoned light industrial, what was your feeling
13 about that?
- 14 A I don't remember being devastated at the time. Or I'm sure I was upset that I
11:07:30 15 lost another vote but it was just one of many items in Swords that we were
16 involved in.
- 17 Q 156 Thank you, Mr. Kelleher.
- 18
- 19 CHAIRMAN: Any parties here wish to cross-examine Mr. Kelleher.
11:07:52 20 Mr. Montgomery.
21
- 22 **WITNESS CROSS EXAMINED BY MR. MONTGOMERY AS FOLLOWS**
- 23
- 24 Q 157 MR. MONTGOMERY: Mr. Good morning, Mr. Kelleher, did you know the late
11:08:01 25 Mr. Gallagher?
- 26 A I did.
- 27 Q 158 How well did you know him?
- 28 A I knew him very well.
- 29 Q 159 You know the allegation that's now made in relation to his having accepted
11:08:09 30 bribes?

11:08:09 1 A I do.

2 Q 160 Were you surprised when you first heard them?

3 A Yes.

4 Q 161 Was Mr. Gallagher the sort of man who could be regarded as being totally above

11:08:30 5 board?

6 A Yes.

7 Q 162 Thank you, Mr. Kelleher.

8

9 CHAIRMAN: All right:

11:08:37 10

11 JUDGE FAHERTY: Mr. Kelleher, just one very short question. You said you got

12 a cheque some years ago from a landowner, where it mentioned that they was

13 hoping to rezone lands and I think they enclosed a cheque, I think you said

14 about 50 pounds?

11:08:53 15 A I think it was about 50 pound.

16

17 JUDGE FAHERTY: And referred to as a contribution towards your election

18 expenses or something like that.

19 A That's right.

11:08:59 20

21 JUDGE FAHERTY: You said you sent at that back.

22 A That's right.

23

24 JUDGE FAHERTY: I want to ask you, what motivated you so send back that

11:09:06 25 cheque?

26 A Well I was going to vote against the rezoning anyway and it would have been for

27 one thing would have been totally hypocritical to take a cheque as a political

28 contribution and then go and vote against the rezoning.

29

11:09:18 30 JUDGE FAHERTY: Mmm. Was that the only reason you sent it back?

- 11:09:22 1 A Well it was one very good reason.
2
3 JUDGE FAHERTY: Mmm. Very well. Just one thing, the manager, when you
4 withdraw the motion with Mr. Ryan, I think that was done on the Rayband lands,
11:09:36 5 was it?
6 A That's right.
7
8 JUDGE FAHERTY: That was the B agricultural zoning, is that correct?
9 A That's right.
11:09:45 10
11 JUDGE FAHERTY: And the day before you had supported the manager where he had
12 seemed to run with the idea that you and Mr. Ryan had earlier on in the year,
13 because he was saying to all and sundry to abandon the review as far as Swords
14 was concerned and wait until the new County Council.
11:10:00 15 A Yes.
16
17 JUDGE FAHERTY: That was the net effect of his proposal, his report, wasn't it?
18 A Sorry, would you repeat that?
19
11:10:08 20 JUDGE FAHERTY: The manager's report back in September, the run up to the
21 confirmation, he seemed to -- you had brought a motion way back to abandon the
22 review if you like.
23 A To put the Swords rezonings on hold.
24
11:10:19 25 JUDGE FAHERTY: Yes and do a study and the manager seemed to take on board
26 that because he was suggesting something very similar in September, was he not?
27 And you agreed with him.
28 A Yes. Yes, to the best of my -- yes, I think so that's true, yes.
29
11:10:35 30 JUDGE FAHERTY: Because he said wait and do a study and produce, wait for 18

11:10:40 1 months because the new Fingal County Council was only months away.

2 A That's right.

3

4 JUDGE FAHERTY: That seemed to be the rationale behind his approach. And when

11:10:49 5 that motion was put to adopt his report on the 21st of -- you supported that.

6 A Right.

7

8 JUDGE FAHERTY: Yes. And so obviously you were, but yet you seemed to

9 differentiate then on the next day, you withdrew your motion to dezone the

11:11:07 10 Rayband part of the lands. Is that correct?

11 A That's correct.

12

13 JUDGE FAHERTY: Yes but you had supported that back in May.

14 A Well I was in favour of everything being put on hold until the study took

11:11:21 15 place.

16

17 JUDGE FAHERTY: Yes.

18 A But as it was proceeding, each motion was fought out and voted on as we went

19 along. And if something came up, obviously as I thought in that case, light

11:11:36 20 industry was better than heavy industry and arrived at the conclusion that, you

21 know, we got light industry as a result of people conceding or whatever, if the

22 other side conceded moving from heavy industry to light industry and you know

23 we'd won a battle for jobs as opposed to heavy industry, which was I think that

24 was our logic at the time, then I felt obliged to go vote for it having fought

11:12:02 25 for it and argued for it.

26

27 JUDGE FAHERTY: Very well, thank you.

28

29 JUDGE KEYS: Mr. Kelleher, just one question, would you think it appropriate

11:12:10 30 to accept a cheque described as a political contribution to your expenses where

11:12:19 1 you are being asked to support a motion and where a vote on that motion is
2 pending?

3 A No.

11:12:29 5 JUDGE KEYS: You think it would be inappropriate?

6 A I would, yes.

7
8 CHAIRMAN: Thank you very much, Mr. Kelleher. You are free to go.

9 A Thank you.

11:12:39 10 --

11 **THE WITNESS THEN WITHDREW:**

12
13 MS. DILLON: Mr. Frank Dunlop please, the cross-examination of Mr. Dunlop will
14 resume the next matter.

11:12:54 15

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11:12:54 1 **MR. FRANK DUNLOP, PREVIOUSLY SWORN, CROSS-EXAMINED**

2 **AS FOLLOWS BY MR. HOISIN**

3

4 CHAIRMAN: Good morning, Mr. Dunlop.

11:13:09 5

6 MR. HOISIN: I am going to do the cross-examination next.

7 Q 163 Good morning, Mr. Dunlop, Mr. Dunlop, I appear for Rayband Limited and for Colm
8 Moran, Michael Hughes, Joe Moran, Richard Hayes and Donal Lynch.

9 Mr. Dunlop, just at the outset, I just want to indicate to you my client's

11:13:42 10 position in relation to the matter. And it may assist us in relation to the
11 way we proceed with this cross-examination.

12

13 My clients are not aware of whether or not you made a payment to Councillors

14 Gallagher, Fox or Hand, they are not aware of that and that's going to be a

11:14:05 15 matter for the Tribunal to decide. There's obviously a conflict between you
16 and the representatives for those individuals, some of whom are deceased.

17 Where there is a conflict of fact with you, Mr. Dunlop, is in relation to the

18 meeting which took place between Mr. Colm Moran, Mr. Michael Hughes, at which

19 Tim Collins was present, a meeting with you so you understand that, Mr. Dunlop?

11:14:42 20 A Yes.

21 Q 164 Now, firstly, I just want to go back to the type of business that you operated

22 in the early 1990s and at the time we are dealing with here. How would you

23 describe that business? In general terms, the business of Frank Dunlop &

24 Associates.

11:15:08 25 A A combination of public relations and public affairs.

26 Q 165 And, Mr. Dunlop, you had an enviable array of very blue chip clients, is that

27 correct?

28 A I think that's slightly over the top but I mean I had a good array of clients,

29 yes.

11:15:29 30 Q 166 Perhaps I could just have page 1233 up on the screen. If it's possible to

- 11:15:40 1 rotate that, thank you, and if it's possible to focus in on the right-hand side
2 of that document and maybe even magnify it a little bit more, so that we can
3 see some of the clients there. That's an extract from your cash receipts book,
4 Mr. Dunlop, isn't it?
- 11:16:01 5 A It appears to be, yes.
- 6 Q 167 And if we go through the clients listed along there, we see some very blue chip
7 clients there, don't we?
- 8 A Yes.
- 9 Q 168 There's a wide variety of very well established businesses there in a number of
11:16:21 10 different sectors.
- 11 A Yes.
- 12 Q 169 Some of them are semi-state, some of them are private.
- 13 A That's correct, yes.
- 14 Q 170 And really any PR company would be very, it would be the envy of other PR
11:16:38 15 companies to have that type of -- or public affairs consultancy to have that
16 type of client, isn't that correct?
- 17 A Well that's a matter of judgment for other people.
- 18 Q 171 Now, littered throughout the brief and the documents are memorandums from your
19 secretary with details of the telephone messages that were coming in to you on
11:17:05 20 a daily basis.
- 21 A Yes.
- 22 Q 172 And you obviously were a very busy man with a lot of clients calling you up on
23 a daily basis, isn't that right?
- 24 A Yes.
- 11:17:18 25 Q 173 In fact, when you go through these, I think on average, just from my rough
26 calculation, there appears to be an average of about 20 phone calls a day, 20
27 messages left for you a day. Is that correct?
- 28 A Well I don't know, I haven't done that type of figure but I accept it.
- 29 Q 174 It wasn't a very scientific exercise?
- 11:17:41 30 A I accept your word for it.

- 11:17:43 1 Q 175 And it's a really who is who of Irish business when you go down through that
2 list, it is a wide variety of people telephoning you, is that correct?
- 3 A Correct.
- 4 Q 176 And of course these are only the people who didn't actually reach you at the
11:18:00 5 time, these are the people presumably when you were on another phone call or
6 when you were out of the office that your secretary or receptionist noted,
7 isn't that right?
- 8 A As I explained to Ms. Dillon in many modules ago, in relation to these calls,
9 obviously the calls were taken for two reasons. One, either I wasn't there and
10 the message was left or I was there and could not take the call at the time.
- 11 Q 177 I wasn't at those modules but I understand that would be the reason and
12 obviously that's only a fraction of the calls that you would have engaged in,
13 you were making telephone calls I take it as well yourself, and you were
14 answering them. So you were a very busy man, Mr. Dunlop, at the time, at the
11:18:43 15 height of your profession in the area of business that you had chosen, isn't
16 that right?
- 17 A Yes.
- 18 Q 178 Now, that wasn't by accident that you had got these blue chip clients in or
19 that you were so busy, you were very highly regarded --
- 11:19:03 20 A By accident?
- 21 Q 179 As a skilled, polished, PR man and lobbyist or public affairs consultant, isn't
22 that right?
- 23 A Well I am going to refrain from making comment on that -- I will allow you to
24 make those comments but I won't comment.
- 11:19:22 25 Q 180 It wouldn't an unreasonable suggestion on my part?
- 26 A Well it's gracious of you to make the comment.
- 27 Q 181 Now, emerging out of that, I mean, you would agree with me, I take it, that you
28 wouldn't be getting that type of business, you wouldn't have been as successful
29 with all of these very respectable blue chip clients, this wide array of
11:19:47 30 businesses if your reputation was sullied, if you had anything except a first

- 11:19:55 1 rate reputation, isn't that right?
- 2 A Yes, I think that's legitimate comment.
- 3 Q 182 So the fact that you were making as part of your business, you would make
- 4 payments, corrupt payments to councillors is not something that you would have
- 11:20:18 5 liked your clients would have liked to be known generally around the place, is
- 6 that right?
- 7 A Unless the particular client was involved.
- 8 Q 183 And I think you have stated before, I have seen newspaper comment on it, I
- 9 wasn't present here when you gave the evidence but I think it's well known that
- 11:20:41 10 when it emerged at this Tribunal in April of 2000, when your conversion I think
- 11 as has been referred to or whatever description we put on it, where your
- 12 evidence I think on the 18th April did not make an admission in relation to
- 13 corrupt payments and your evidence on the 19th April did, following this, your
- 14 reputation was essentially in tatters, isn't that right?
- 11:21:17 15 A Well let's deal with one thing first. You use the word conversion. I prefer,
- 16 let's cross the rubicon, the rubicon was crossed on that day. Subsequent to
- 17 that as I attested here and people wouldn't need an IQ of more than whatever
- 18 low percentage you want to put on it to know what happened to my business.
- 19 Q 184 Yes, so, as you say, you don't need a considerable IQ, it stands to reason if
- 11:21:55 20 that type of information got out to your clients, it was going to destroy your
- 21 business, isn't that right?
- 22 A Yes.
- 23 Q 185 Now, we have just been hearing from Councillor Kelleher in relation to the
- 24 Lissenhall project or the rezoning and he indicated that he didn't regard it as
- 11:22:20 25 a particularly controversial rezoning, do you accept that?
- 26 A Well that's what he said, yes.
- 27 Q 186 He is a Labour Party councillor on the ground in north Dublin, in this
- 28 particular area and he said that when he saw the motion, from the outset when
- 29 he saw the motion, he expected that it would be carried. It was the expected
- 11:22:46 30 result, that's what he said, isn't it?

- 11:22:48 1 A That's what he said. He also left me with the distinct impression that he
2 didn't seem to know very much about it.
- 3 Q 187 Well I think we will let the Tribunal make decisions on whether or not people
4 know those sort of things, your views, Mr. Dunlop, on it are a matter for
11:23:04 5 yourself?
- 6 A As are yours.
- 7 Q 188 Indeed. If we just go and look at the result of the crucial motion in May of
8 1993 which is at page 1186. The motion which was carried on the 21st May 1993,
9 had 49 councillors in favour as we can see from the bottom of the page and 15
11:24:01 10 against and two abstentions. That's correct, isn't it?
- 11 A Yes.
- 12 Q 189 Now, we go on to the following page, 1187, we can see a list of the councillors
13 who voted for the motion and the list of the councillors who voted against and
14 in your examination by Ms. Dillon yesterday, you were taken through each of the
11:24:34 15 councillors and asked whether you may have lobbied them or whether you remember
16 lobbying them or whether you didn't, and you were able to indicate generally
17 that certain people that you certainly wouldn't have lobbied, certain people
18 that you might have lobbied and certain people that you thought you did lobby.
19 I take it there's nothing inherently wrong and it's no surprise that people
11:25:13 20 will attempt to engage in lobbying of councillors when a decision is to be
21 made?
- 22 A No.
- 23 Q 190 In a particular matter?
- 24 A Anybody with even a tangential association with politics, as you know, lobbying
11:25:35 25 is a multi faceted science, it doesn't necessarily involve you going down to
26 Dublin County Council and talking to 78 councillors, it can occur in the most
27 unlikely, pleasant, unpleasant and exceptional circumstances.
- 28 Q 191 In some ways it's part of the democratic process, Mr. Dunlop, isn't it?
- 29 A Oh, yes, it is, yes.
- 11:25:54 30 Q 192 And there's nothing inherently wrong in lobbying?

- 11:25:57 1 A No, nothing whatsoever.
- 2 Q 193 Now, whether it was through your good offices in lobbying some of the
3 individuals who voted for the motion or whether it was because the motion
4 itself was a reasonable one or one that commended itself to these councillors,
11:26:16 5 it appears that there wasn't, there was a substantial majority in favour of
6 this motion, isn't that right?
- 7 A At the end of the day, yes.
- 8 Q 194 And you were somebody who had very good knowledge of the workings of Dublin
9 County Council, isn't that right?
- 11:26:41 10 A Yes, a reasonable knowledge.
- 11 Q 195 And through your political association over the years and your involvement
12 as -- in the public affairs consultancy, you had built up, you had got to know
13 quite an array of the councillors, a very good spread and particularly in Fine
14 Gael and Fianna Fail?
- 11:27:06 15 A I put it the other way around perhaps, Mr. Hoisin.
- 16 Q 196 Fianna Fail and Fine Gael?
- 17 A Well given the background that I had, I worked for two governments of two
18 different formulations. I worked for Fianna Fail and I worked for Fine Gael
19 and so I did have contact with a lot of people.
- 11:27:22 20 Q 197 So in this particular area, you were bringing something to the table which was
21 very desirable from any person's point of view who wanted to lobby, you had
22 knowledge of the workings of the council and you knew a lot of the councillors?
- 23 A Well that's why I was hired by Rayband, they brought me on board was to lobby
24 the councillors. They believed that that was required.
- 11:27:51 25 Q 198 Yes. And it wouldn't be unreasonable for people to think you would use your
26 skill and your experience to lobby those councillors in favour of the motion?
- 27 A It wouldn't be unreasonable, no.
- 28 Q 199 Now, I just want to bring you down to your memory in relation to matters in
29 general, and in relation to the Lissenhall work that you did. Ms. Dillon
11:28:27 30 brought you through this yesterday and you didn't mention Lissenhall initially

- 11:28:34 1 when you were before the Tribunal in April of 2000, it wasn't on your list,
2 isn't that right?
- 3 A That's correct.
- 4 Q 200 And you didn't mention it either when you were in private session with the
11:28:47 5 Tribunal in May of 2000?
- 6 A No, because the private sessions in May of 2000 related to the list prepared in
7 the Tribunal in the box. They followed the schedule.
- 8 Q 201 Well you didn't say that yesterday, Mr. Dunlop, now, you didn't give that as an
9 explanation, when you were asked about it, you said you couldn't really give an
11:29:08 10 explanation, you just didn't remember at that time?
- 11 A Yes, well I am just pointing out to you and it's a subject matter for the
12 Tribunal to either adjudicate on or visit the transcripts of the private
13 sessions, that's how the private sessions were conducted.
- 14 Q 202 Now, when it came to October of 2000, you put in a statement and you said that
11:29:35 15 you had got not less than 5,000 in relation to Lissenhall?
- 16 A Correct.
- 17 Q 203 The statement in October was given after you had had the benefit of what you
18 described as the road map or documentation given to you by the Tribunal?
- 19 A Yes, identifying the areas.
- 11:29:52 20 Q 204 And was, I take it, prepared with a degree of care and study by you of the
21 relevant documentation and I presume of your own records?
- 22 A Of any records available to me at the time, yes.
- 23 Q 205 Yes. Why didn't you at that stage make reference to the amount, at least that
24 you had recorded in the books of Dunlop & Associates as being received by you,
11:30:19 25 by Rayband, rather than the 5,000?
- 26 A The not less than 5,000. Yes, because I think, Mr. O hOisin, and to the best
27 of my recollection we were doing a financial audit of everything in relation to
28 the monies available to me and to my company, personally and otherwise. But
29 having identified the fact that I was involved in Lissenhall, I made the
11:30:47 30 statement I did.

- 11:30:49 1 Q 206 Sorry I don't think you have answered the question.
- 2 A I made the statement that I did not get -- I got not less than 5,000 pounds in
3 relation -- that was my recollection at the time.
- 4 Q 207 Did you have your cash receipts book available to you when you made your
11:31:02 5 statement in October 2000?
- 6 A No. No.
- 7 Q 208 Why not?
- 8 A Because we were anxious to provide to the Tribunal a statement in relation to
9 the road map as distinct from anything in relation to financial details
11:31:17 10 vis-a-vis the company or cash receipts books.
- 11 Q 209 Where was your cash receipts book when you were preparing the statement?
- 12 A I don't know where it was, I think it was in my accountant's.
- 13 Q 210 Well you didn't demur when I said to you that when you prepared the statement,
14 you had the benefit of the road map from the Tribunal, documentation they gave,
11:31:33 15 and your own documentation?
- 16 A Yes.
- 17 Q 211 Now, do you not think that when you were preparing that and it covered payments
18 that you had received, that you would have got a very obvious piece of, a very
19 obvious record, your cash receipts book for the period and you would have been
11:31:56 20 able to see there the two payments that you recorded, one in I think it's July
21 of 1993 or in and around then for the, that's the 12,100 and the payment later
22 in the year for 3,500.
- 23 A 2,025.
- 24 Q 212 Indeed, 2,500 is it?
- 11:32:21 25 A 2,500 plus VAT.
- 26 Q 213 So those figures were available to you in your cash receipts book but you
27 didn't refer to them in your statement?
- 28 A As I recollect, I did not. I made a statement as outlined in October, as is
29 evidenced in October in relation to my involvement with the County Development
11:32:40 30 Plan, in relation to particular development modules, and in relation to my

- 11:32:47 1 contact with councillors.
- 2 Q 214 When did you first look at your cash receipts book in relation to the payments
3 you received from Rayband?
- 4 A That, I couldn't tell you.
- 11:32:58 5 Q 215 Can you give us some idea?
- 6 A I wouldn't even hazard a guess, Mr. Hoisin.
- 7 Q 216 When did you ask your accountants for your books?
- 8 A Well it's not a question of when I asked the accountants for my books. All the
9 books in relation to Frank Dunlop & Associates and Frank Dunlop's personal
11:33:18 10 accounts, the Shefran accounts, the various banks accounts, they were all
11 coordinated between my accountants and my solicitors.
- 12 Q 217 So your solicitors would have had at their disposal, your cash receipts book by
13 request to the accountants at the time of making the statement?
- 14 A Not at the time of the making the statement. No, I didn't say that and it's
11:33:42 15 wrong for you to imply that I said that. We made our statement, we were doing
16 a financial audit, which we did subsequently and which proceeds apace, I can
17 tell you, it's not a matter that is absolutely concluded but everything that we
18 had at our disposal, we made available to the Tribunal.
- 19 Q 218 When did you do the financial audit, when did you commence that?
- 11:34:07 20 A That -- well I think that has been going on since some time in from mid 2000
21 on, I don't know, I can't recollect when it actually started but I was asked a
22 long series of questions about various entries into -- and lodgments into
23 accounts and we had contact with the relevant financial institutions, they gave
24 us information as to what some of the lodgments were and in other instances,
11:34:40 25 they told us they couldn't help us.
- 26 Q 219 What I don't really understand, if the financial audit starts in mid-2000 and
27 you make a statement in October 2000, and if your accountants had these books,
28 it's not as if they are lost or somewhere very remote, your accountants have
29 them you are making a statements, there's a number of different developments
11:35:05 30 referred to in that, you are making a comment about the amount of money you

- 11:35:09 1 received about Rayband, that you don't ask your accountants how much money did
2 I get from Rayband, I don't understand why you wouldn't do that?
- 3 A Well, in the discovery that we made, we discovered the various invoices that we
4 had issued in relation to Rayband. I cannot absolutely say to you, as I have
11:35:29 5 said to you earlier on when we referred to the cash receipts book but
6 definitely, I made the statement, I made in October in the context of
7 identifying that I was involved with Lissenhall and your client that I got not
8 less than 5,000 pounds, that's what I said.
- 9 Q 220 That was inaccurate, wasn't it?
- 11:35:54 10 A Oh it was inaccurate, yes.
- 11 Q 221 And you could have checked the accuracy of it to some extent by checking your
12 cash receipts book?
- 13 A I suppose I could have, yes.
- 14 Q 222 When did you make the discovery we are talking about?
- 11:36:06 15 A Which discover.
- 16 Q 223 The discovery that you made to the Tribunal that you said you included in that
17 invoices that you sent?
- 18 A I can't give you the date, but I mean, we have had to many orders for discovery
19 from the Tribunal it would be impossible to put a date on any particular one.
- 11:36:20 20 Q 224 You don't know when you may the discovery which included the invoices you sent
21 to Rayband?
- 22 A No, but it is readily discoverable.
- 23 Q 225 So you then wrote a list, if we could just go to page 157, you wrote this list
24 which has 10,000 pounds beside Rayband Limited, number 15 there, that was on
11:36:55 25 the 4th February 2003?
- 26 A Yes.
- 27 Q 226 I take it, it was when you were giving evidence to the Tribunal or did you
28 prepare it --
- 29 A No, this was evidence given here in the box.
- 11:37:08 30 Q 227 Yes and did you prepare the list in the witness-box --

- 11:37:11 1 A Yes, no, no, this was prepared in the box.
- 2 Q 228 Now, here you put in 10,000 pounds for Rayband Limited. That sum wasn't
3 accurate either, was it?
- 4 A No.
- 11:37:24 5 Q 229 And why did you put down 10,000 pounds then when the real figure is 27,600-odd?
- 6 A Well there is an invoice for 10,000 pounds plus VAT but I can't absolutely say
7 to you why I put down the 10,000 then but there is a 10,000 pounds invoice plus
8 VAT.
- 9 Q 230 You try to use that, you did use that explanation to Ms. Dillon yesterday to
11:37:54 10 suggest that there was some truth in it but really I think you appreciated very
11 quickly you couldn't stand over that because of course --
- 12 A Are you suggesting there's no invoice for 10,000 plus VAT.
- 13 Q 231 There is an invoice for 10,000 pounds for VAT, putting down 10,000 when you
14 know there are two invoices which makes up essentially the sum of 12 and a half
11:38:17 15 thousand pounds plus VAT means that that figure is not accurate?
- 16 A It seems to escape your memory from yesterday, Mr. O hOisin, that I said to
17 Ms. Dillon when she asked about me about the payment of 12,500 that I did not
18 appreciate that payment came from IFG until such time as the documentation was
19 supplied to me by the Tribunal.
- 11:38:38 20 Q 232 We are talk about Rayband here, Mr. Dunlop?
- 21 A Yes but the payments were made by IFG Securities
- 22 Q 233 Well what then, what payment are you talking about then, the 10,000 pounds
23 here, what payment is that then?
- 24 A That is a payment in relation to the Rayband client that I had in relation to
11:39:05 25 Lissenhall. The cheques that were made payable to me in relation to these
26 lands was made by IFG Securities.
- 27 Q 234 Yes.
- 28 A Is that not correct?
- 29 Q 235 Yes but what, I just want to know, this 10,000 pounds that you are referring to
11:39:21 30 Rayband, which 10,000 pounds is that, or what reference is that to a payment?

- 11:39:26 1 A Well this was I think, if my memory serves me right, this was a request at I
2 think it was Mr. O'Tuathail during evidence some time in 2003, asked that I
3 produce a list in relation to payments made to me by various companies and I
4 put down Rayband because I knew I had worked for Rayband and for Lissenhall and
11:39:55 5 I knew I had got money from them and that was the amount I put down.
- 6 Q 236 But it wasn't an accurate amount.
- 7 A No.
- 8 Q 237 At no stage did you receive 10,000 pounds in that sum.
- 9 A Plus VAT, yes.
- 11:40:12 10 Q 238 Well --
- 11 A Well, an invoice for 10,000 pounds fee plus VAT.
- 12 Q 239 A few minutes ago you indicated that was IFG Securities Limited, obviously the
13 payment was on behalf of Rayband by IFG Securities, so you didn't realise until
14 you saw from the Tribunal the IFG, presumably that's when you got the brief,
11:40:34 15 that that was the money for Rayband. That's what you said I took it a moment
16 or two ago.
- 17 A No, I have never been in any doubt since I made any statement in October 2000,
18 that I acted on on behalf of an entity known as Rayband in relation to the
19 Lissenhall lands. That's not in doubt. Am I correct?
- 11:40:55 20 Q 240 No, it's not.
- 21 A Fine. The payment that was made to me by Rayband came from IFG Securities.
22 Other than in the receipt of the cheques from IFG Securities, I never heard of
23 IFG Securities, I don't know anything about IFG Securities or their
24 relationship with Rayband.
- 11:41:17 25 Q 241 So this 10,000 pound was a reference to the monies that you got from IFG
26 Securities Limited, is it?
- 27 A In relation to the Lissenhall lands, yes.
- 28 Q 242 And is it a reference to the cheque that you got from IFG Securities Limited
29 for 12,100?
- 11:41:33 30 A Yes.

- 11:41:33 1 Q 243 It's a reference to that?
- 2 A As I produced the list in the witness-box on that day, I received, I sent an
3 invoice from Frank Dunlop & Associates to Rayband in the amount of 10,000
4 pounds plus VAT which was for my activities in relation to services in relation
11:41:54 5 to Lissenhall.
- 6 Q 244 Well just for the moment, if we accept that your 10,000 pounds there could be a
7 reference to a payment net of VAT, so that that the 12,100 pounds cheque could
8 be described as a payment for 10,000, just to allow that for the moment, not
9 conceding it but just allow that for the moment. You are not making any
11:42:17 10 reference to the first tranche of the payment which was for 12,500 pounds and
11 you are not making any reference to the third tranche which was for 3,000
12 pounds odd?
- 13 A 3,025.
- 14 Q 245 Yes.
- 11:42:33 15 A That's correct.
- 16 Q 246 So why did you not make reference to those?
- 17 A Well again just not to repeat myself or to have you repeat yourself, I said to
18 Ms. Dillon yesterday when I was asked about the 12,500, one, in relation to a
19 lodgment to my Irish Nationwide Building Society account in the amount of
11:42:59 20 12,500 with the withdrawal of 2,500 in January of 1993 on our request, the
21 Irish Nationwide Building Society told us that they couldn't identify the
22 source of that amount and secondly, the most important point is that I very
23 straight forwardly told Ms. Dillon that I did not realise that that 12,500
24 pounds came from IFG Securities relating to the Lissenhall lands and my client,
11:43:36 25 Rayband.
- 26 Q 247 Why didn't you realise that?
- 27 A I suppose there's lots of things you don't realise, Mr. O hOisin, you know, I
28 don't realise I would be sitting here talking to you ten years ago and I don't
29 realise now probably that I will be sitting here maybe talking to you again in
11:43:56 30 another 10 years.

11:43:57 1
2 CHAIRMAN: Well you won't be sitting here.
3
4 Mr. O hOisin: I just don't understand why you didn't realise at this stage.
11:44:09 5 We are now in 2003, February 2003.
6 A Yes.
7 Q 248 Why you don't realise at this stage that you had received a payment in January
8 2000 for, sorry, January 1993 for 12,500 pounds which you have lodged in the
9 Irish Nationwide?
11:44:29 10 A Well, yes, as I said to you and I refer back to the very beginning in relation
11 to these financial audits, we investigated all of the lodgments to the best of
12 our ability, all lodgments, withdrawals in all accounts, we sought the advice
13 and help of the bank and the building society and whatever.
14 Q 249 And you couldn't attribute this to --
11:44:50 15 A We were told by Irish Nationwide Building Society that they could not attribute
16 it to anything in particular, they couldn't -- they identified others for us
17 but in that particular one, they did not.
18 Q 250 And you couldn't remember it at all?
19 A I had no recollection of it and Ms. Dillon, sorry I beg your pardon, the
11:45:08 20 Tribunal circulated a brief and it wasn't until I received that brief and they
21 identified the 12,500 pounds as being a cheque from IFG Securities. Clearly
22 identifiable as a payment by IFG Securities for my services in relation to the
23 lands at Lissenhall vis-a-vis the client, Rayband.
24 Q 251 But you had no other memory of receiving that payment and the only thing that
11:45:37 25 has assisted you in relation to the matter is seeing a copy of the cheque in
26 the brief?
27 A Correct, made payable to me.
28 Q 252 Very well. That's the first tranche. Now, the third tranche which was on your
29 books, the 3,000 pounds?
11:45:49 30 A Yes.

11:45:50 1 Q 253 Why would you not refer to that? When you were writing down 10,000 here?

2 A That I can't answer you.

3 Q 254 Did you not know about it?

4 A I may well have known about at the time or in the situation in drawing up a
11:46:06 5 list in the box here, I just didn't recall it but I just can't give you an
6 answer as to why I didn't include it on that particular occasion.

7 Q 255 Is it possible that you knew about it and you just decided for whatever reason
8 you were just going to indicate 10,000 pounds?

9 A No, that's not possible. If I had recalled it on that day, I would have
11:46:26 10 included it. As I would have included the 12,500 pounds if I had known about
11 it.

12
13 CHAIRMAN: All right. Mr. O hOisin, we are going to take a break for ten
14 minutes

11:46:52 15

16 **THE TRIBUNAL THEN ADJOURNED FOR A SHORT BREAK**

17 **AND RESUMED AS FOLLOWS:**

18

19 Q 256 MR. O hOISIN: Thank you, Chairman. Mr. Dunlop, what happened between your
12:06:37 20 statement in October 2000 and February 2003 where -- to allow you to move from
21 a position where you received not less than 5,000 to being able to indicate on
22 this document in February 2003 that you received 10,000 pounds?

23 A Well I knew I got -- I knew I got money from Rayband. I knew I had said that I
24 had got not less than 5 originally and as I said to you before the break, I
12:07:19 25 can't absolutely say to you why, other than to say that I had a recollection,
26 residual or otherwise, that there was a fee note or an invoice for 10,000
27 pounds but that's as much as I can help you with that.

28 Q 257 Is it not likely that in the intervening period that you acquainted yourself to
29 some extent with your records showing that you had received a payment or had
12:07:51 30 sent an invoice out for 12,100 which included 2,100 VAT?

- 12:07:59 1 A No, I can't say that that is the case.
- 2 Q 258 You don't know?
- 3 A No. I cannot say that that is the case.
- 4 Q 259 But that be an explanation in some ways why you go from not less than 5,000 to
- 12:08:11 5 a specific figure of 10,000 in that intervening period.
- 6 A Yes, but in the absence of my being able to be categorical about it, I cannot
- 7 say that to you and it would be disingenuous of me to suggest otherwise to you.
- 8 Q 260 And in fairness to you, Mr. Dunlop, we are looking at something that happened
- 9 some considerable time ago and your recollection at the outset in April 2000
- 12:08:38 10 and May 2000 during the interviews wasn't there, indeed you accepted when
- 11 Ms. Dillon said to you yesterday in the transcript that if you hadn't received
- 12 documents from the Tribunal, you might never have recollected the Lissenhall?
- 13 A Yes, I think that is a possibility.
- 14 Q 261 Now, just in relation to the meeting with Mr. Hughes and Mr. Moran, you hadn't
- 12:09:10 15 met these individuals before but you knew Mr. Collins well and he introduced
- 16 you to them, isn't that right?
- 17 A That is correct.
- 18 Q 262 And your memory in relation to the meeting is far from complete, isn't that
- 19 correct?
- 12:09:32 20 A Well I know the meeting took place.
- 21 Q 263 Well let's look at the things you don't remember about the meeting. You
- 22 recollect that you had a meeting with Tim Collins and Colm Moran and some other
- 23 person, isn't that what you indicated?
- 24 A Yes.
- 12:09:52 25 Q 264 And elsewhere, you indicated that you had a meeting involving a group of
- 26 persons?
- 27 A Yes.
- 28 Q 265 So you weren't even clear as to the number of people who were at the meeting,
- 29 isn't that right?
- 12:10:07 30 A Well I think I said in the statement that I had a meeting which was organised

- 12:10:12 1 by Mr. Collins at which Mr. Colm Moran was present and one other person whose
2 identity I could not establish. Or I could not state categorically who it was.
- 3 Q 266 Yes, you did say that but elsewhere, you also said yesterday at question 159,
4 you said "You recollect a meeting at which there was a number of people
12:10:38 5 present" and you used the word group, a group meeting as well. Not at that
6 question but you have used the term a group meeting before?
- 7 A What is a group?
- 8 Q 267 Yes, what is a group?
- 9 A Define a group for me, is it 1, 2, 3, ten?
- 12:11:00 10 Q 268 Can we take it when you refer to a group, it's not clear in your mind exactly
11 how many people are at the meeting?
- 12 A Well I made that clear in my statement. I said that I knew that there was a
13 meeting with Mr. Collins organised by Mr. Collins at which Mr. Colm Moran was
14 present and that one other whose identity I could not establish categorically
12:11:23 15 and I went on to say --
- 16 Q 269 You said at least one other?
- 17 A Yes. And I went on to say that to the very best of my recollection, I do not
18 recollect ever meeting Mr. Duffy.
- 19 Q 270 Yes. But can we agree on this, that you are not clear as to the number of
12:11:45 20 people who were at the meeting?
- 21 A Well I was there, Mr. Moran was there, Mr. Collins was there, and one other
22 person.
- 23 Q 271 At least one other person is what you said in your statement.
- 24 A Yes, yes.
- 12:12:00 25 Q 272 Now, you didn't remember Michael Hughes being present at the meeting?
- 26 A I couldn't absolutely establish that Mr. Hughes was definitively there.
- 27 Q 273 Did you remember Michael Hughes at all at the time you were making your
28 statement in October 2000?
- 29 A No.
- 12:12:21 30 Q 274 Did you remember him -- when did you first remember him or make the connection

- 12:12:28 1 between him and Lissenhall?
- 2 A When I reviewed -- when I came to realise on foot of the documentation supplied
- 3 to me by the Tribunal some time in 2000 that I had been involved in Lissenhall,
- 4 and I went on to establish to the best of my ability who in fact it was that
- 12:12:46 5 was involved in Lissenhall and Rayband with me. And I have to say to you for
- 6 completeness here, it is with the greatest difficulty that I can even, without
- 7 physically identify Mr. Hughes and I only did so this morning when I saw him in
- 8 this room.
- 9 Q 275 You saw him this morning in the room?
- 12:13:11 10 A Well I man I suspect was Mr. Hughes, was Mr. Hughes. That's what who I thought
- 11 it was. I can't remember even physically remember what he looks like.
- 12 Q 276 Well, I can assure you Mr. Hughes hasn't been here this morning?
- 13 A There was a man sitting here this morning and I turned to my solicitor and I
- 14 said I think that's Mr. Hughes, I have never, to this day, I have great
- 12:13:32 15 difficulty in even recollecting what he looks like.
- 16 Q 277 Mr. Hughes is somebody who was mentioned in quite a number of these records of
- 17 telephone messages from your secretary?
- 18 A That's correct.
- 19 Q 278 And I think yesterday there was some reference to the fact that there may have
- 12:13:50 20 been four telephone conversations with him but certainly it was far more than
- 21 that in terms of telephone messages?
- 22 A That's correct.
- 23 Q 279 And yet he is not somebody that you associated, it would seem, with Lissenhall
- 24 when you made your statement in October 2000, or even more recently, not
- 12:14:12 25 somebody you remembered being at this meeting and not somebody that you could
- 26 even recognise?
- 27 A Yes.
- 28 Q 280 Here today.
- 29 A Yes, I have no difficulty whatsoever in saying what I said in my statement is
- 12:14:25 30 that I could not categorically and absolutely say that Mr. Hughes was at the

12:14:30 1 meeting from my recollection. I have the greatest difficulty in even
2 recollecting what Mr. Hughes looks like and I have no difficulty whatsoever in
3 saying to you even here today that a gentleman that I thought was Mr. Hughes, I
4 have no difficulty at all about that. I can't recollect Mr. Hughes at all.

12:14:51 5 Q 281 Mr. Hughes is the main person that you were dealing with in relation to the
6 Lissenhall lands?

7 A Yes and if there was any accuracy in relation to anything in relation to this
8 matter, I don't recollect meeting Mr. Hughes more than, more than a small
9 number of occasions.

12:15:09 10 Q 282 I think Mr. Hughes will say in evidence that he believes he met you, apart from
11 the meeting, on one other occasion that he can remember, which was in the Royal
12 Dublin Hotel or somewhere in the environs of the County Council offices and
13 around the time of the rezoning vote and that you brought him to the pub
14 afterwards, whatever pub is in the vicinity there, I don't know, is it Conway's
12:15:51 15 or what pub we are talking about, and that he was introduced, this was after
16 the vote. That he was introduced to a number of councillors or one or two
17 councillors, he doesn't remember who it was. Would you accept that?

18 A Well as I think I gave testimony yesterday to the effect that Mr. Hughes' name
19 appears in my diary for a meeting in the Royal Dublin Hotel. From
12:16:17 20 recollection, I think it's on the 17th May of 1993, without, if you wish to
21 refer to establish that, but I think that's not best of my recollection. After
22 that, I have no recollection of, I don't know when Mr. Hughes recollected this.

23 Q 283 Mr. Hughes mentioned in his statement that it was in September but there may be
24 some confusion about that because obviously you had your vote in May and then
12:16:44 25 the effort to draw that back in September.

26 A Well the vote was on the 21st May, it was supposed to be on the 18th May and
27 the confirmation vote was on the 22nd September as far as I recollect.

28 Q 284 So, let's get back to the meeting, you don't remember the date of the meeting
29 but I think as you said in your evidence yesterday, you assume it was late 1992
12:17:10 30 by a process of elimination, I think, in reference to the cheque but you also

- 12:17:15 1 said that it was either November or January of, November of 1992 or January of
2 1993. That's what you said yesterday.
- 3 A Yes. What I said was and in my statement either late 1992 or early 1993,
4 Ms. Dillon then in examination, pointed to Mr. Hughes' name appearing in my
12:17:39 5 diary in October and November, I think it was, of 1992.
- 6 Q 285 But I was just seeking to establish you don't remember the date of the meeting
7 but you can try and speculate as to what it is by reference to these documents.
- 8 A Correct.
- 9 Q 286 You don't remember getting a submission or seeing a submission in relation to
12:18:01 10 the rezoning at that meeting?
- 11 A No.
- 12 Q 287 You don't remember getting a map at the meeting or you don't remember whether
13 you were given a map of the meeting or whether you got a map yourself through
14 your own devices?
- 12:18:16 15 A No, what I said was that I could not recollect or state categorically whether
16 it was, I was given a map at the meeting or that I got the map from my own
17 endeavours.
- 18 Q 288 Yes. You don't remember any -- what was agreed in relation to your fees or
19 payment at the meeting?
- 12:18:44 20 A No.
- 21 Q 289 Now, in your recent statement you gave detail in relation to the meeting which
22 was not in your statement in October of 2000 and in that statement, which is on
23 page 2097, you stated "The owners and promoters of the land at Lissenhall at
24 their first meeting with me at my offices requested me to act for them in a
12:19:33 25 lobbying capacity with county councillors to ensure that the said lands were
26 rezoned. As I recollect matters, I was told a submission had been made to the
27 County Development Plan within the required timeframe. This had been done
28 professionally on their behalf by a town planning consultant. Similarly I
29 recollect that the stated preference was more residential zoning but a more
12:19:58 30 realistic was industrial zonings. I confirmed to those present at the meeting

- 12:20:03 1 in my office in relation to the proposal for the rezoning of the lands at
2 Lissenhall, that there would be a requirement for the payment of monies to
3 councillors. I did not name any councillor nor did I specify how many would
4 require payment, I did explain that a signature or signatures could not be
12:20:20 5 obtained easily and that the likelihood was that such a signature or signatures
6 could be obtained and support guaranteed only by the payment of monies at the
7 request of some councillors."
8 That's what you said in your statement at the 21st March this year. Isn't that
9 right?
- 12:20:30 10 A That's correct.
- 11 Q 290 That is considerably more detail that you put in your statement in October of
12 2000?
- 13 A Other than the asterisk.
- 14 Q 291 I appreciate what the asterisk signified but the detail that we are dealing
12:20:49 15 with here was not in your statement in October.
- 16 A Correct.
- 17 Q 292 And we are dealing herewith something which you had no recollection of in
18 earlier in 2000, either in April 2000 or May 2000, isn't that right?
- 19 A Correct.
- 12:21:06 20 Q 293 Now, when you gave your evidence here -- sorry, this statement that you gave,
21 you gave --
- 22 A Which one?
- 23 Q 294 The statement, sorry of the 21st March 2006, you gave, after you had received
24 the brief from the Tribunal?
- 12:21:27 25 A Correct.
- 26 Q 295 After you had seen a lot of documentation and after you had seen a lot of
27 people's statements, isn't that right?
- 28 A Yes.
- 29 Q 296 Very late in the day?
- 12:21:35 30 A On the 21st yes.

- 12:21:38 1 Q 297 And as Ms. Dillon said to you yesterday, after longstanding requests from the
2 Tribunal to you for statements in relation to this.
- 3 A Well I didn't wish to point out to Ms. Dillon or neither do I now want to make
4 an issue of it, but hardly a day passes where I don't get a communication from
12:22:00 5 the Tribunal in one form or another for a statement, extra documentation,
6 further requirements, substantiation of things already said, copies of other
7 documentation or whatever. So dates in relation to requesting statements from
8 me, whether it's six days, six weeks or six months, sometimes have to be put
9 into context.
- 12:22:24 10 Q 298 And you indicated in your statement, I take it in your statement, you attempted
11 to give your best recollection of what happened at this meeting?
12 A In my 21st March statement?
- 13 Q 299 Yes.
14 A Yes.
- 12:22:41 15 Q 300 And you attempted to give all the necessary detail which the Tribunal would,
16 had asked you for?
17 A Yes, to the best of my recollection.
- 18 Q 301 Yes. So why then did you add yesterday, for the first time, additional
19 evidence indicating that it wasn't you who brought up the question of payment,
12:23:09 20 but that it was somebody else on the other side of the table who brought it up
21 at the meeting. Why did you do that yesterday in evidence and not put it in
22 your statement which in itself is delivered at the 11th hour.
23 A Well apart altogether from the postscript there that you add, use the word I
24 confirmed and I pointed this out to Ms. Dillon yesterday, I confirmed to those
12:23:38 25 present at the meeting or ...
- 26 Q 302 Well that's very clever.
27 A And acknowledged was the word I also used.
- 28 Q 303 That's very clever, isn't it, you focused in on the term "I confirmed" now,
29 Mr. Dunlop, you have agreed with me that you attempted in that statement to
12:23:55 30 give all the necessary information to the Tribunal, but you leave out this very

- 12:24:03 1 fundamental piece of evidence which is that, you didn't make reference to the
2 payment to politicians at the meeting, you didn't initiate that but that the
3 people on the other side of the table did. Why was that? Why didn't you put
4 that in your statement?
- 12:24:22 5 A I don't know what school of the English language that you are operating from
6 but the one I operate from and the one I operated from in relation to the
7 preparation of this statement is that I confirmed, you do not confirm something
8 unless something is raised or an issue is raised with you on the basis of
9 either denying or confirming or acknowledging.
- 12:24:43 10 Now, I am not going to get into a semantical disquisition with you.
- 11 Q 304 I know you would like to, Mr. Dunlop.
- 12 A About the word confirm or otherwise, that is what I said.
- 13 Q 305 Mr. Dunlop, it's very clever to use the word, to refer to the word "confirm" in
14 that way but you still haven't answered my question. Which is really very
15 simple. When you said and you agreed with me that you put all the necessary
16 information into the recent statement --
- 17 A Yes.
- 18 Q 306 -- why didn't you put in the very fundamental point that the people you were
19 meeting raised the question of payments for politicians?
- 12:25:27 20 A Well QED, you have already said it is quite clever, I don't accept the fact
21 that it is clever, I am telling you what I said to Ms. Dillon and I am
22 confirming it here to you now. I confirmed to those present.
- 23 Q 307 Mr. Dunlop, you are not answering my question.
- 24 A That's a matter for you to decide whether I am or not, I am telling you what I
12:25:45 25 said in my statement.
- 26 Q 308 We know you use the word "confirmed" and we know that here, you are trying to
27 rely on that word --
- 28 A No.
- 29 Q 309 To indicated that it implies, you are trying to rely on that it to indicate
12:26:00 30 that it implies that it was in response to something. I am not asking you

- 12:26:04 1 anything about that. I am asking you why didn't you say in the statement that
2 somebody on the other side of the table raised the question of payments to
3 politicians or why didn't you put in the information, the evidence that you
4 gave mere yesterday for the first time into the statement?
- 12:26:29 5 A Well, I think it's perfectly implicit in what I said in my statement and as I
6 said I am not going to have a disquisition with you about the meaning of the
7 word confirm.
- 8 Q 310 Mr. Dunlop, if somebody -- if you attend a meeting with a potential client and
9 that client says to you as you said yesterday they said, that they knew that
10 politicians would have to be paid and that they added jocosely that politicians
11 were looking for a lot of money, that is something that any normal person, any
12 reasonable person, would regard as significant, isn't it?
- 13 A I have put into my statement and I said in evidence yesterday --
- 14 Q 311 Is it --
- 12:27:06 15 A What I said I confirmed and what was the import, tone and my recollection of
16 what occurred at that meeting. Now, of what a normal person would or would not
17 do, if we go back to the old canard or the rational man or the reasonable man,
18 I am telling you what I said in my statement and in what I gave in evidence to
19 Ms. Dillon yesterday. It is perfectly, patently obvious.
- 12:27:34 20 Q 312 Please answer the question I asked.
- 21 A Yes. I confirmed.
- 22 Q 313 You are not answering the question. Fist listen to the question and then
23 please answer it. Any normal person would regard the fact or any reasonable
24 person would regard the fact that somebody raised the question of payment to
12:27:56 25 politicians at the meeting with you as significant, would you accept that?
- 26 A No, I don't accept that and that's a statement that you are making.
- 27 Q 314 It's not significant?
- 28 A It's a statement that you are making. You are asking me, you have asked me the
29 question on a number of occasions and I have told you not only why I made the
12:28:12 30 statement I did and the answer I gave in relation to the examination by

- 12:28:17 1 Ms. Dillon.
- 2 Q 315 You are answering questions that I haven't asked. You are answering the
3 questions you would like to answer?
- 4 A Well you have asked me whether any normal or reasonable person would or would
12:28:28 5 not do something. That is completely hypothetical, I am telling you what I
6 have said in both in my statement and in what I said in evidence.
- 7 Q 316 Well let's leave the reasonable person out of the question then for the moment
8 given that you refuse to answer that question. Do you regard the fact that a
9 potential client raised at the meeting a question of payment to politicians,
10 they initiated that, do you regard that as significant?
- 11 A Oh yes, I think that is significant.
- 12 Q 317 Why then did you not put that significant fact and state it properly in your
13 statement?
- 14 A I keep referring you to the statement and I keep referring you to the evidence.
- 12:29:16 15 Q 318 At best, Mr. Dunlop, you can say that you implied it in your statement, I don't
16 accept that that is there but on your reliance of the word confirm, you are
17 indicating that you implied it, why didn't you say it expressly in your
18 statement?
- 19 A I keep going back, I don't know how many times I am going to have to do with
12:29:38 20 with you, Mr. O hOisin, I keep going back to what I said in the statement, I
21 confirmed to those present. You cannot confirm something to anybody present, I
22 can't confirm something to you now, unless you ask me to do so. Or to
23 acknowledge or to identify or to admit that such and such is not the case or is
24 the case.
- 12:30:00 25 Q 319 If you don't answer the questions that I ask, we will prolong this
26 cross-examination unnecessarily, Mr. Dunlop. Do you accept that?
- 27 A No, because I have answered the question at least four times already.
- 28 Q 320 You haven't answered the question, Mr. Dunlop, and any person looking at the
29 transcript of this will realise that. The question I am asking you is this:
12:30:22 30 Why did you not say expressly, not implicitly in the statement, why did you not

12:30:28 1 say expressly in the statement that one of these potential clients raised the
2 question of payment to politicians at the meeting that you had with them.

3 A I have already answered to the question, answered that question in relation to
4 the use of the word "confirm" and in relation to the evidence that I gave.

12:30:47 5 Q 321 Mr. Dunlop, you haven't answered the question and just ignore what you said
6 beforehand for the moment, please answer the question I asked you now.
7

8 CHAIRMAN: Mr. O hOisin, Mr. Dunlop for whatever reason didn't make, put that
9 into the statement.

12:31:03 10

11 MR. O hOISIN: Yes, Chairman, but am I not entitled to ask him why he didn't do
12 that?
13

14 CHAIRMAN: Yes. I mean the only reason he is giving is that the use of the
12:31:13 15 word confirmed, to his mind implied that the issue had been raised elsewhere.
16 I mean I accept that it's capable of two meetings and I think only by which of
17 comment, it might have been expected that he would have said the issue was
18 raised or the question was asked and I confirm but I mean you could argue I
19 suppose until the cows come home.

12:31:46 20

21 MR. O hOISIN: I am getting that feeling here listening to Mr. Dunlop on that.
22 He won't answer the question as to why he didn't say expressly in the meeting,
23 in his statement that this was said at the meeting and he says the use of the
24 word confirm was sufficient.

12:32:01 25

26 CHAIRMAN: Yes. That's his evidence and that's a matter we are going to have
27 to apply your minds to at some stage.
28

29 Q 322 MR. O hOISIN: Yes, chairman. Can I suggest to you, Mr. Dunlop, that the reason
12:32:14 30 you didn't put this into the statement was because you didn't have a

- 12:32:19 1 recollection of this happening, that it didn't happen, and that the first time
2 that it came into your mind to say this was yesterday when you were hear in
3 evidence?
- 4 A No, you can't suggest that.
- 12:32:29 5 Q 323 Sorry, I have just suggested to you.
- 6 A You said can I suggest it, I am saying you can't suggest it, that's my answer.
7 Be careful what you ask and then you will get an answer, Mr. O hOisin, if you
8 ask me can I --
- 9 Q 324 That's very clever?
- 12:32:43 10 A That's about the fifth time you have described me as clever which can be either
11 a compliment or offensive, I am not going to take umbrage one way or the other
12 but if you ask me a question, you have to remember what you ask me and I will
13 answer it. You have already advised me to remember the question you asked me
14 and I have remembered it, you asked me would you not accept. No, I do not
15 accept.
- 12:33:03 16 Q 325 Well, very well then, and I know you have very thick skin so you won't take
17 umbrage on anything I say?
- 18 A Anybody with any association as you well know, Mr. O hOisin, with any
19 association with Fianna Fail has a thick skin and you know that too well.
- 12:33:16 20
- 21 CHAIRMAN: Mr. Dunlop and Mr. O hOisin, I think less comment of that nature.
22 We will move ahead a bit.
- 23
- 24 Q 326 MR. O HOISIN: Yes, chairman, I think that would be wise. Now, I suggest to
12:33:44 25 you, Mr. Dunlop, that you don't have a clear recollection of this meeting or
26 what was said at the meeting. Do you accept that or not?
- 27 A No.
- 28 Q 327 Do you accept that there is quite a number of details about the meeting that
29 you don't remember, is that right?
- 12:34:09 30 A There are certain things about meetings that are vivid that remain in your

- 12:34:14 1 mind, and some of them have been the source of quite extensive investigation
2 and coverage here in this very room. And some very notable statements have
3 been made in this room, that a lot of people will remember. And you know, you
4 remember certain things about meetings. I suggest to you, you are suggesting
12:34:44 5 to me, I suggest to you, you remember certain things about meetings.
- 6 Q 328 Do you or do you not accept that there's quite a lot of detail about that
7 meeting that you don't remember?
- 8 A Yes, there are some details I don't remember, yes.
- 9 Q 329 Thank you. I want to contrast the very clear detail that you have used in
12:35:08 10 other modules in relation to these types of meeting, and particularly the
11 recent module in relation to Ballycullen lands where you used a very colourful
12 phrase or a memorable phrase about "the ways of the world applying", this is
13 not something that you have used in relation to this meeting at all.
- 14 A I didn't realise Mr. O hOisin that so many people read so many of the comments
12:35:28 15 that were made in this room. No, it's not a phrase that I used in this module.
- 16 Q 330 And that phrase, "the ways of the world", is something that you used as far
17 back as October 2000?
- 18 A Yes.
- 19 Q 331 So you had a clear recollection of that meeting, sufficiently clear at least,
12:35:50 20 to use that phrase as far back as October 2000, you used no such phrase, you
21 gave no such detail in relation to this meeting back in October 2000?
- 22 A Well I never suggested I used such a phrase and I never gave such detail.
- 23 Q 332 And it's only yesterday when giving evidence that you give evidence for the
24 first time to the effect that somebody in these potential clients raised the
12:36:21 25 question of payment to politicians at that meeting?
- 26 A Well that is not correct. If you take the statements from October 2000 where I
27 appended an asterisk to the Lissenhall lands and you proceed there from,
28 there's a reason as you know for the appending of the asterisk and you proceed
29 there from. There is a consistency in relation to what I say in relation to
12:36:55 30 your client.

- 12:36:55 1 Q 333 There's a big difference between putting an asterisk there back in 2000 and the
2 evidence which you gave yesterday, isn't that right?
- 3 A No, I wouldn't -- I would not consider.
- 4 Q 334 Considerably more detail involved in what you said yesterday than what you did
12:37:21 5 back in 2000?
- 6 A No, I wouldn't accept that.
- 7 Q 335 Why didn't you give that detail back in 2000?
- 8 A I put an asterisk in relation to the Lissenhall lands in 2000 and I think it's
9 on page 1 of that statement which describes why the asterisk is appended.
- 12:37:32 10 Q 336 You said "Throughout this document the inclusion of an asterisk beside a
11 particular development denotes that monies were given to me in regard to that
12 development in the full knowledge that payment to councillors was required to
13 achieve support."
- 14 A Correct.
- 12:37:48 15 Q 337 That is very different to that general statement, very different to giving
16 considerable detail in relation to the meeting which you gave here yesterday
17 for the first time.
- 18 A In what way?
- 19 Q 338 If Mr. Dunlop, you had a recollection that that was said at the meeting back in
12:38:10 20 October 2000, why didn't you put it into your statement then?
- 21 A Because we put the asterisk with all the developments in relation to the lands
22 that I had in dealing with that the monies were given to me that the developer,
23 donor, client, whatever you want to describe him as, or her, had full knowledge
24 of what I was doing.
- 12:38:32 25 Q 339 You didn't really answer the question there, Mr. Dunlop, but I will pass on
26 from that. What you did do in that statement is to indicate in other instances
27 what happened at meetings, particularly in relation to the Ballycullen one
28 which springs to mind, you mentioned the phrase the "ways of the world" in that
29 statement?
- 12:38:53 30 A I mentioned.

- 12:38:54 1 Q 340 Yes, but when you came to deal with Lissenhall, you put in very little detail
2 there in regard to the meeting with Lissenhall back in October 2000. Now, if
3 you had a recollection along the lines of what you indicated yesterday back
4 then, why didn't you indicate it in the statement?
- 12:39:13 5 A I don't see any inconsistency whatsoever in relation to it. I keep saying to
6 you why the asterisk was appended. If there was no recognition or
7 acknowledgment or knowledge on the part of your client, that asterisk would not
8 be there.
- 12:39:37 9 Q 341 Sorry. You keep on mantra-like, going back to the asterisk, I want to ask you,
10 why, when you were referring to the meeting regarding Lissenhall, in your
11 October 2000 statement, you didn't give the detail that you gave yesterday?
- 12 A Well I didn't give it because the asterisk had been appended.
- 13 Q 342 Well the same could apply in relation to the Ballycullen lands?
- 14 A Yes.
- 12:39:55 15 Q 343 But you gave detail there regarding the meeting?
- 16 A About the ways of the world?
- 17 Q 344 Yes.
- 18 A Yes.
- 19 Q 345 So --
- 12:40:00 20
- 21 CHAIRMAN: Well the question you were being asked which is a reasonable
22 question is, why when you are effectively saying in both instances that the
23 promoters of the project in both instances were aware that money was to be paid
24 to councillors improperly, why give detail in one instance, quite significant
12:40:31 25 detail in one instance as to what transpired at the relevant meeting and give
26 no detail in relation to the other. That's the question as I understand it.
- 27 A Yes. Well as I have tried to indicate, Mr. Chairman, to Mr. O hOisin, I
28 prepared the statement on the basis at the time of what I recollected and on
29 subsequently on requests for further statements or information from the
12:41:03 30 Tribunal. I put in the detail.

12:41:05 1
2 CHAIRMAN: But is it then your evidence that while you had that degree of
3 recollection about the relevant meeting in Ballycullen, you didn't have at that
4 time the recollection that you now say you have in relation to Lissenhall? I
12:41:22 5 am talking about the detail as to what transpired at the meeting when you were
6 being effectively briefed to pay councillors.
7 A Well I wouldn't put it and I never did I think put it as clinically as that,
8 other than to say what I said to Mr. Hoisin, the asterisk would not be there if
9 there was no recognition whatsoever on the part of the client.
12:41:53 10
11 CHAIRMAN: Well for getting for the moment about the asterisk, the detail
12 wasn't there
13 A The no detail wasn't there, I accept that, but the asterisk was there.
14
12:42:04 15 JUDGE FAHERTY: Mr. Dunlop, if you forget the detail, and forget the
16 asterisks, in the November 2004 statement you made in the Ballycullen Beechill
17 Module, you used language, if I recollect, to the effect that after your
18 meeting Mr. Jones and Mr. Hussey, that you came to the conclusion that they had
19 knowledge of what you had to do.
12:42:24 20 A Because of my use of the phrase the ways of the world and their response to
21 that.
22
23 JUDGE FAHERTY: Yes but you concluded, I think your language was you concluded
24 that they had knowledge of what was going to be required.
12:42:37 25 A Correct.
26
27 JUDGE FAHERTY: Now, obviously you have said you can't remember the detail of
28 the meeting in the Lissenhall lands.
29 A Yes.
12:42:44 30

12:42:44 1 JUDGE FAHERTY: But that was, that's one of the core things in your statement
2 obviously and, Ballycullen, Beechill, that you met those landowners and that,
3 you concluded from what had been discussed that they had knowledge of what you
4 would have to do in the course of rezoning, isn't that correct?

12:43:04 5 A Correct.

6
7 JUDGE FAHERTY: You didn't use, in this include any conclusion you had formed
8 as to -- because obviously if you are reading this and on the basis of what you
9 are saying today and yesterday, Mr. Dunlop, you obviously at this meeting
10 concluded that the individuals concerned knew what you had to do, isn't that
11 correct?

12 A Yes, as I pointed out to Ms. Dillon yesterday.

13
14 JUDGE FAHERTY: I am just wondering you didn't put that language into this
15 statement, that you had arrived at a conclusion, you concluded that they had
16 knowledge of what you had to do.

17 A No, because the orientation of the meeting was quite different.

18
19 JUDGE FAHERTY: I see. Sorry for interrupting.

12:43:49 20
21 Q 346 MR. O HOISIN: That's no problem. Can I suggest to you that the only reason
22 that you have indicated that the suggestion of payment to politicians was made
23 by your potential clients is because you realise the problem you have if you
24 initiated it. I suggest that to you, Mr. Dunlop, is that correct or not?

12:44:19 25 A You may suggest it but I'm not following the logic.

26 Q 347 Well do you accept it or do you not?

27 A No, I don't follow the logic, I don't normally answer questions unless I
28 understand fully what you are saying.

29 Q 348 Yes. Well you accepted earlier on, given the very successful business that you
12:44:32 30 had at the time and the reputation that you had which was very important to the

- 12:44:35 1 continued success of that business, that it would be disastrous to that
2 business or would certainly not be in the interests of that business that it
3 would get out that you were making corrupt payments?
- 4 A Oh yes, it would not be good, no.
- 12:44:50 5 Q 349 So therefore for you to bring up the question of making payments to politicians
6 at a meeting with people who are essentially strangers to you, apart from
7 Mr. Collins, the other two individuals, Mr. Moran and Mr. Hughes, would be
8 something which any person would find hard to accept because of Mr. Burke used
9 the term "recklessness" yesterday, I am not using that term but just to remind
10 you, but it it would appear to be certainly foolhardy, given your knowledge of
11 the danger to your business if it emerged that you were making corrupt
12 payments.
- 13 A Well as I responded to Judge Faherty a moment ago in relation to the
14 Ballycullen Module, I came to the conclusion in relation to that particular
15 client as a result of a phrase that I used to them. In this instance, I did
16 not raise the issue as I said yesterday.
- 17 Q 350 Well I want to suggest to you and I'm suggesting it now to you, Mr. Dunlop,
18 that you only brought up the question then instigating it because you wanted to
19 try and defend your position against the allegation that it would be fanciful
20 to think that you would raise the question of making corrupt payments to two
21 strangers at a meeting.
- 22 A That's very involved but the answer, no I wouldn't accept that suggestion.
- 23 Q 351 And you know that by making the suggestion, that they brought it up, you could
24 avoid that conclusion? Your logic, Mr. Dunlop.
- 12:46:37 25 A I am trying to get around it.
- 26 Q 352 Your logic, Mr. Dunlop, is if you say that they instigated the point, then you
27 know it's okay for you to acknowledge it. That they are in the know as you
28 might use the phrase. And therefore there's no danger to your reputation or to
29 the matter getting out. That's why you said they instigated it, isn't it?
- 12:47:13 30 A I am sorry, I don't -- I certainly don't follow the logic of, or the premise of

- 12:47:21 1 that question but that is not, when you are suggesting to me that I suggested
2 this or said this for some other reason than the real reason, that is wrong.
- 3 Q 353 Well I am also suggesting to you that if you had a recollection of this
4 happening, you would have mentioned it at the first opportunity back in October
12:47:44 5 2000, you wouldn't have waited until you gave evidence yesterday at the very
6 least you would have said it in express terms in your statement last week.
- 7 A Again, you are suggesting to me and I am refuting the suggestion.
- 8 Q 354 As I said, Mr. Dunlop, my clients don't know whether or not you made payments
9 to the various councillors, but I just want to ask you one or two questions on
10 that. I think yesterday you said you are likely to have paid Mr. Gallagher on
11 the day that you signed the motion, is that right?
- 12 A Yes.
- 13 Q 355 And when did you pay Mr. Fox and -- Councillor Fox and Councillor Hand?
- 14 A Well I said in relation to Councillor Fox, some time before or after the vote
12:48:33 15 and in relation to Tom Hand, the likelihood was that it was on the 18th.
- 16 Q 356 Ms. Dillon has already brought you through this but you don't remember where
17 you paid Mr. Hand and you are really, you don't know exactly when you paid him
18 but you think it was probably on the day he signed the motion, is that right?
- 19 A Councillor Hand didn't --
- 12:49:02 20 Q 357 Sorry, Councillor Gallagher?
- 21 A Councillor Gallagher, yes.
- 22 Q 358 And it is the fact, it is a fact, isn't it, that you don't have a recollection
23 of standing there or handing over the money to him? You don't have a picture
24 in your head of that?
- 12:49:21 25 A No, I don't have a picture of that in my head, no.
- 26 Q 359 And that's the case also in relation to Councillors Fox and Hand, isn't it?
- 27 A Yes.
- 28 Q 360 I think in relation to Councillors Fox and Hand, you said that essentially any
29 development that was there, they looked for money. That's what you said, isn't
12:49:42 30 it?

- 12:49:42 1 A Yes, with very few exceptions.
- 2 Q 361 Now whilst you didn't accept it, it would seem to follow from the way that your
3 evidence was given yesterday the fact that you don't have a picture in your
4 head, that you are concluding, you are presuming that they asked for money in
12:49:59 5 this case?
- 6 A No, I am not presuming.
- 7 Q 362 Essentially it's supposition on your part?
- 8 A No.
- 9 Q 363 Can you show where the monies came from. Can you show a withdrawal which
12:50:13 10 constituted the money that you paid them?
- 11 A Well we have had this question asked in a variety of forms and it doesn't
12 surprise me that its being asked again now but what I have said consistently
13 is, I would have paid and did pay the people that I paid in relation to their
14 support whether it was signature or otherwise, out of funds available to me,
12:50:36 15 cash funds available to me at the time.
- 16 Q 364 Can you show a withdrawal from the 1st, from the building society account in
17 which you lodged the money?
- 18 A Well, on the day that I lodged the money, I withdrew 2,500, that was in January
19 of 1993.
- 12:50:54 20 Q 365 You were hardly walking around with that money in your back pocket for the next
21 number of months before you gave it?
- 22 A I can't say that I was or I wasn't.
- 23 Q 366 Is that possible, that you could be walking around with thousands of pounds in
24 your back pocket ready to pay one of these councillors?
- 12:51:09 25 A It's quite possible. I am not suggesting that as an absolutely definitive,
26 positive answer to your question but it is quite possible. I did have quite a
27 substantial amount of cash available to me at the time.
- 28 Q 367 As I said, Mr. Dunlop, my clients don't know whether you paid this money or
29 not, so --
- 12:51:29 30 A Well I notice.

- 12:51:30 1 Q 368 I am simply testing your evidence in relation to it?
- 2 A Well I notice that you premised your questions on that and I would just remind
- 3 you that I did say in my statement and I said yesterday and I have never
- 4 suggested otherwise, that I told any of your clients, named any of the
- 12:51:47 5 councillors, named any of the amounts or that I was going to give them specific
- 6 amounts or that I did actually do so.
- 7 Q 369 In fairness to you, Mr. Dunlop, I think your evidence is that the only time
- 8 that the question of payment to politicians came up is you say at the meeting.
- 9 A Yes.
- 12:52:03 10 Q 370 And whilst you spoke to Mr. Hughes on a number of occasions, you have no
- 11 recollection of ever raising questions of payments to councillors?
- 12 A I have no recollection of that and I have already outlined any recollection of
- 13 Mr. Hughes.
- 14 Q 371 And -- sorry, did I say Mr.-- maybe I meant the conversation you had with
- 12:52:26 15 Mr. Hughes, who did -- I say somebody else?
- 16 A No, no, no, I just wanted to make the point that you did say Mr. Hughes but I
- 17 mean I had the meeting where the issue arose, I had many many conversations
- 18 obviously as the telephone records attest to, at least of Mr. Hughes ringing my
- 19 office and of diary evidence of a meeting with Mr. Hughes.
- 12:52:46 20 Q 372 And really, Mr. Hughes is the only person apart from the one meeting I think
- 21 with Mr. Moran that you had, Mr. Colm Moran that you had, you didn't have any
- 22 dealings with anybody else other than Mr. Hughes?
- 23 A And Mr. Collins.
- 24 Q 373 And Mr. Collins.
- 12:52:59 25 A Yes. And Mr. Colm Moran did ring me some time shortly after that.
- 26 Q 374 I see.
- 27 A After the vote.
- 28 Q 375 I see. But as you say, the question, you are not saying there's a question of
- 29 payment to politicians was brought up in any of these conversations?
- 12:53:19 30 A No, I am not suggesting that and never did.

- 12:53:22 1 Q 376 I think you lodged the money into the building society account on the 6th
2 January, isn't that right, the 12,500 pounds?
- 3 A Let me just get the documents. Lodgment docket is dated 6th January, yes and
4 the validation slip.
- 12:53:51 5 Q 377 Yes. Would I be wrong in thinking that you regard the fact that you lodged it
6 into the building society account as some sort of corroboration of the fact
7 that the money had been paid to you for an improper purpose?
- 8 A Well, yes, I mean you could take it as definite that the fact that I lodged it
9 into this account, which is I acknowledged to Ms. Dillon yesterday and have
12:54:19 10 done so on previous occasions, was not a notified account to anybody, including
11 the Revenue Commissioners for purposes to avail me of cash for a variety of
12 purposes, including this.
- 13 Q 378 The improper purpose essentially that in your mind or is it in the, are you
14 saying it was an improper purpose in the mind of the donor or the payor of the
12:54:44 15 money?
- 16 A It's certainly in my mind. In the context of monies going into this particular
17 account, I don't know what knowledge your client have of what I did with the
18 money other than I saw as described in the brief of the Tribunal.
- 19 Q 379 As you know my client, I have indicated the position my clients are saying that
12:55:03 20 completely opposed to the suggestion that there was any question of payment to
21 politicians raised at the meeting and you know that and I appreciate we have a
22 conflict of fact in relation to that which the Tribunal is going to have to
23 resolve?
- 24 A For ease of your job and for ease of my evidence, are we in the three monkeys
12:55:24 25 scenario here in relation to your client, saw nothing, heard nothing and knew
26 nothing? Is that the position that you are adopting with me?
- 27 Q 380 This is a piece of colour, Mr. Dunlop, you are adding in, completely
28 unnecessarily.
- 29 A No. But I mean you are suggesting to me and I just want it absolutely stated
12:55:42 30 clearly, you have said your client, they did not know I gave money to

- 12:55:47 1 politicians, you are saying that your client came to me with a specific
2 purpose, with a specific knowledge of my abilities or the facilities that I
3 provided, with the specific purpose in relation to a specific body of land
4 during the course of the Development Plan to have it rezoned.
- 12:56:09 5 Q 381 MR. O HOISIN: Yes.
6 A And notwithstanding significant public debate in relation to what was or was
7 not going on at Dublin County Council. Significant coverage in relation to
8 votes at Dublin County Council, that there was no knowledge, recognition or
9 identity?
- 12:56:30 10 Q 382 Mr. Dunlop, this is a bit of a role reversal here you are trying to engage in
11 asking me the questions rather than the other way around. But what I
12 appreciate --
13 A You do appreciate I need to understand exactly where you are coming from.
- 14 Q 383 I indicated to you at the very outset and you accepted that?
12:56:47 15 A Fine, okay.
- 16 Q 384 Now, the money was put into the building society account for an improper
17 purpose. You say that improper purpose was so that you could make cash
18 disbursements or payments to politicians, is that right?
19 A Yes.
- 12:57:07 20 Q 385 Was it not also, even on your own evidence, to avoid tax?
21 A This was an account that was not disclosed, at that time, to the Revenue
22 Commissioners. I hasten to add of course and add that subsequently, all of
23 these matters have been discovered to the Revenue Commissioners. But yes, it
24 was a secret account, it was not disclosed to the Revenue Commissioners and it
12:57:33 25 was used for that purpose, not solely but for that purpose in lodging monies
26 that I would have cash available to me as was other accounts that we have
27 already discussed in the Tribunal.
- 28 Q 386 But so that was quite a long answer but you are accepting that the one of the
29 purposes of this account was so that you could essentially hide income from the
12:58:00 30 Revenue Commissioners, isn't that right?

- 12:58:01 1 A Well if you put it as graphically as that, the answer is yes.
- 2 Q 387 And in fact, I appreciate you have made, you have indicated you have made
3 disclosure to the Revenue Commissioners but in fact that's what you said in
4 relation to the 12,500 even on your own evidence, you only disbursed 3,000 of
12:58:22 5 that and the rest of the money was yours.
- 6 A Yes.
- 7 Q 388 And you made a payment you say of 2,000 to Mr. Collins for introducing you to
8 the client.
- 9 A Correct.
- 12:58:39 10 Q 389 At all times, indicating to this and just to ask you to comment so that you are
11 aware of this, Rayband and IFG Securities Limited have kept proper records in
12 relation to these payments, the 12,500 pounds that was paid by cheque, in
13 January 2000, sorry, January 1993, and the other two payments made later that
14 year and that's indicated in their books. You did not keep records in relation
12:59:20 15 to the first payment but you did in relation to the second and third.
- 16 A Correct.
- 17 Q 390 You said yesterday and you touched on this there a moment ago --
18
19 CHAIRMAN: Sorry, Mr. Hoisin, it's just one o'clock, if you are moving on.
- 12:59:37 20
21 MR. O HOISIN: Sorry I am nearly finished, chairman, but I don't want to
22 inconvenience the Tribunal.
23
24 CHAIRMAN: It's just to allow for --
- 12:59:47 25
26 MR. O HOISIN: I appreciate there's pressure in relation to other witnesses.
27
28 CHAIRMAN: If it's only a couple of minutes.
29
- 12:59:52 30 Q 391 MR. O HOISIN: It's only a couple minutes.

12:59:54 1 You said yesterday, Mr. Dunlop, you made reference to parallel universes and
2 you then used a colourful phrase there earlier on in relation to persons giving
3 you money or and in particular, my clients, in relation to your services and
4 this rezoning. Can I suggest to you that given what you said earlier on about
13:00:23 5 your aptitude as a, and your skill and experience in relation to lobbying -- I
6 put it to you and you didn't demur and you accept that that, you indicated
7 that's why they came to me. You had a function to fulfil, a legitimate
8 function to fulfil in relation to lobbying which people were entitled to come
9 to you and pay you money for, isn't that right?

13:00:51 10 A Yes.

11 Q 392 And you weren't the only person providing this lobbying service, Councillor
12 Kelleher earlier on referred to some other people, you may well have been at
13 the top of the market, top of the tree in relation to this but you weren't the
14 only people providing it, it was well recognised --

13:01:12 15 A It's the first occasion, I think, in a long time I have heard anybody in a
16 witness-box admit that there were others lobbying in Dublin County Council in
17 the fashion that I was.

18

19 CHAIRMAN: Well that isn't the case.

13:01:25 20 Q 393 He didn't say that?

21 A He said there was lobbying.

22

23 CHAIRMAN: Wait now, Mr. Dunlop, you want to be here when you add the words in
24 the fashion that you were. The only evidence from Mr. Kelleher is that there
13:01:34 25 were others, he understood, to be engaged in legitimate lobbying.

26 A I stand corrected, chairman. Yes, there were others lobbying in the environs
27 of Dublin County Council like I was.

28 Q 394 MR. O HOISIN: And there's nothing per se wrong with a company coming along to
29 you, a man who is very highly regarded around town as a very successful
13:01:54 30 business, a whole series of blue chip clients to come along to you and ask them

- 13:01:57 1 when he knows all the ropes to assist in getting the rezoning achieved by
2 legitimate lobbying.
- 3 A Per se on the face of it, no.
- 4 Q 395 And the only factor, I mean to suggest that people would be living in a
13:02:22 5 parallel universe if they paid money over to a lobbyist to assist them by going
6 around talking to councillors, you are not suggesting that somebody would be
7 living in cloud cuckoo land or a parallel universe if they thought that that
8 could be done without councillors being paid?
- 9 A You know well, Mr. O hOisin, that that is not what I meant.
- 13:02:45 10 Q 396 But you are not suggesting that?
- 11 A Well I wouldn't suggest it, that is not, that was not the import of my comment.
- 12 Q 397 It was reasonable for somebody, it would be reasonable for somebody to pay
13 money to you as a lobbyist in the belief that it could be done by you talking
14 to councillors, talking to your contacts in Dublin County Council, using your
13:03:14 15 knowledge of the procedures there to achieve the rezoning?
- 16 A I wouldn't dispute that.
- 17 Q 398 And we know that most of the councillors, almost all of the councillors, even
18 on your evidence, voted out any inducement for this rezoning.
- 19 A Correct.
- 13:03:33 20 Q 399 We know from Councillor Kelleher that he didn't have any actual suspicion that
21 people were receiving money and he didn't regard this as a particularly
22 controversial rezoning in Lissenhall?
- 23 A Well, we are sort of leaking back into parallel universe time here again but I
24 mean I heard Mr. Kelleher's evidence.
- 13:03:56 25 Q 400 So really, in relation to my clients, if it was to be accepted that the
26 question of payment to politicians was not raised at the meeting with you, what
27 they did in terms of paying you for your services was not an unreasonable
28 exercise and not something which it was unreasonable for them to believe could
29 be done legitimately?
- 13:04:24 30 A Contingent on the proviso that you established at the outset of that question,

- 13:04:28 1 the answer is yes.
- 2 Q 401 Yes. So it really all boils down to a conflict of evidence between you and my
3 clients as to what was said at this meeting.
- 4 A And isn't that what this Tribunal is about.
- 13:04:38 5 Q 402 Mr. Dunlop, do you regard yourself as a reliable witness?
- 6 A Yes.
- 7 Q 403 If I asked you that question on the 18th April 2000, what would your answer
8 have been?
- 9 A That affords me an opportunity to say to you, Mr. O hOisin, that you and a
10 number of other counsel for clients in this Tribunal have on occasion which
11 surprises me slightly, failed to recognise the essential difference between
12 actually telling a lie and telling something to the best of your belief,
13 believing that that is the case to the best of your recollection.
14
- 13:05:23 15 The question is one of intent. If you had asked me that question in April of
16 2000, after a fairly dramatic series of questions in this Tribunal, I would
17 have said yes, that I had not told the full truth. Since I came in here
18 subsequent to that, to the very best of my ability and I don't want to get
19 hyperbolic about it, but to the very best of my ability and on the -- in the
13:06:13 20 name of the dead, some of whom have been mentioned here, I have told the truth
21 and will continue to tell the truth. On the basis that everything that I am
22 saying here, I believe absolutely, that is my belief. And quite a significant
23 amount of the evidence that has been given in this Tribunal has attested to
24 that.
- 13:06:35 25 Q 404 Mr. Dunlop, the question that I asked is if before the change in your position,
26 i e the 18th April, if I asked you the question on that day, are you a liable
27 witness or do you consider yourself to be a reliable witness, what would your
28 answer be?
- 29 A I would probably would have said yes.
- 13:06:59 30 Q 405 The same answer that you gave today?

13:07:00 1 A Yes.

2 Q 406 But on the 18th April 2000, that answer would not have been correct?

3 A That is correct.

4 Q 407 Is there any reason why your version of events today should be preferred over
13:07:13 5 another witness, without independent corroboration of that.
6
7 MS. DILLON: That's a matter for you sir and this Tribunal. It isn't a matter
8 for Mr. Dunlop and it's not a question he should be asked to answer.
9

10 Q 408 MR. O HOISIN: It's obviously a matter for the Tribunal. I will just conclude
11 on this. Your recollection of the meeting with Mr. Moran and Mr. Hughes is
12 deficient on a whole series of issues which you accept, I am putting to you,
13 Mr. Dunlop, that you don't have a clear recollection of what was said at the
14 meeting or who said it and that therefore your evidence in relation to that
13:08:10 15 meeting is of little or no value.
16 A Well I have given the evidence I have given and I do not resile from that
17 evidence.
18 Q 409 Thank you, Mr. Dunlop.
19 A Thank you. Mr. O hOisin.
13:08:21 20
21 CHAIRMAN: We will sit again at five past two.
22
23 MS. DILLON: I should indicated sir there might be a difficulty, there's a
24 witness fixed for two o'clock who has to be taken, that's Ms. Sinead Collins,
13:08:32 25 the planning witness and there's a witness has to be taken at 3 o'clock, that's
26 Mr. Sean Ryan. Now, in the light of that it's likely that Ms. Collins evidence
27 will run to before three o'clock and I suspect Mr. Ryan will be about 20
28 minutes which would only leave half an hour for the balance of Mr. Dunlop's
29 cross-examination and maybe in the circumstances --
13:08:49 30

13:08:49 1 CHAIRMAN: Well if the other parties by five past two could indicate between
2 them that they will not be longer than, say, between them 15 or 20 minutes
3 cross-examining Mr. Dunlop, then we can continue with Mr. Dunlop, which is
4 which would be our preference.

13:09:07 5
6 MS. DILLON: Yes.

7
8 CHAIRMAN: If that undertaking can't be given and there's no pressure on them
9 to give it, then we would have to consider letting Mr. Dunlop fall back to
10 Tuesday.

13:09:20 11 A May it please you.

12
13 MR. REDMOND: Mr. Redmond on behalf of Mr. Dunlop, the difficulty is that I am
14 otherwise committed on Tuesday and Wednesday of next week and I wouldn't be
15 able to deal with further cross-examination on those days.

13:09:29 16
17 CHAIRMAN: We will have to do our best to --

18
19 MS. DILLON: I will see what we can work out over lunch.

13:09:38 20
21 CHAIRMAN: We will work it out. If you have a difficulty, we will take that
22 into consideration.

23
24 MR. MONTGOMERY: If it's of assistance, my cross-examination won't be more
25 than three or four minutes.

13:09:49 26
27 CHAIRMAN: We will sit about ten past for five past two.

28
29 **THE TRIBUNAL THEN ADJOURNED FOR LUNCH**

13:10:04 30

13:10:04 1

THE TRIBUNAL RESUMED AS FOLLOWS AT 2.05 P.M.:

2

3

MS. DILLON: I understand, sir, that Ms. Collins is going to give evidence now

4

and then that you will resume the cross-examination of Mr. Dunlop at the

14:05:39 5

conclusion of Ms. Collins' evidence.

6

7

CHAIRMAN: All right.

8

9

MS. DALTON: Sinead Collins please.

14:05:47 10

11

SINEAD COLLINS, HAVING BEEN SWORN, WAS EXAMINED

12

AS FOLLOWS BY MS. DALTON:

13

14

CHAIRMAN: Good afternoon, Ms. Collins.

14:06:10 15

16

Q 410 MS. DALTON: Good afternoon, Ms. Collins. I'm just going to take you through

17

your planning statement in relation to the lands at Lissenhall. At the top of

18

your statement it says:

19

14:06:16 20

"Note the term "IP" used throughout this statement refers to the County Council

21

internal pagination on the minutes of the special meetings of the County

22

Council.

23

24

1. From June 1982 to December 1993, I was employed as an administrative

14:06:30 25

officer of the planning department of Dublin County Council. During the period

26

1987 to 1993, I worked on the review of the 1983 Dublin County Development

27

Plan. An outline summary of the Development Plan review process and the format

28

of the Development Plan are attached herewith at appendix 1.

29

14:06:49 30

2. Included among my duties in relation to the review of the Development Plan

- 14:06:56 1 were the following:
2
3 A. To receive and record representations and circulate same to council staff
4 and the elected members of the council.
- 14:07:06 5
6 B. To receive motions which had been submitted by the councillors.
7
8 C. To prepare and circulate the agenda for each special meeting of the council
9 to review the Development Plan.
- 14:07:16 10
11 D. To circulate the manager's reports to the councillors prior to the meeting.
12
13 E. To record the attendances and voting records of councillors at such special
14 meetings and;
- 14:07:27 15
16 F. Prepare the minutes of each meeting.
17
- 18 Motions tabled by councillors in relation to the land zoning were dealt with by
19 written reply in the form of the managers report. Such reports were usually
20 circulated to the members some days before the relevant meeting. As each
21 motion came for decision, the report was presented and discussed. The
22 presentation was usually accompanied by specifically prepared maps projected on
23 on a screen in the council chamber.
- 14:07:38 24
25 Voting was conducted in accordance with the councils standing orders.
26 Frequently a roll call vote was held and when this happened, the minutes of the
27 meeting recorded the votes of the individual councillors.
28
- 29 3. 1983 Dublin County Development Plan (hereinafter referred to as the 1983
14:08:10 30 Development Plan)

14:08:11 1 1983 development was adopted on the 31st March 1983. The lands, the subject
2 matter of the present inquiry by the Tribunal, being approximately 11 hectares
3 at Lissenhall (hereinafter referred to as the Lissenhall lands) were zoned as
4 follows in the 1983 Development Plan.

14:08:31 5
6 Objective B. To protect and provide for the development of agriculture.

7
8 And objective G. To protect and improve high amenity areas."

9
14:08:38 10 The if I could have page 191 please. "The zoning of the bulk of the Lissenhall
11 lands in the 1983 Development Plan are outlined on map 5 of the 1983 plan
12 attached herewith at appendix 2. Also attached herewith at appendix 2 is part
13 of the 1993 Development Plan written statement regarding the land use zonings.
14 The most northern portion of the land was outside map 5 of the 1983 Development
14:09:06 15 Plan. A copy of map 1 of the 1983 Development Plan is attached herewith at
16 appendix 2 with this portion of the lands indicated in red above map 5.

17
18 4. Review of the 1983 plan. The 1990 Draft Development Plan. A review of the
19 1983 Development Plan was initiated by Dublin County Council on the 16th
14:09:25 20 October 1987. A copy of the minutes of the special meeting of the council held
21 on the 16th October 1987, which also gave a summary of the procedure of the
22 review of the plan are attached herewith at appendix 3.

23
24 From October 1987 to January 1989, the elected members considered the working
14:09:44 25 papers presented at a special meeting of the council. The elected members were
26 then considered the Draft Development Plan maps and written statement and the
27 motions relating to the draft maps and the draft written statement. On a
28 number of occasions during the review process, the members were advised that
29 according to standing orders, any variations proposed to the draft written
14:10:07 30 statement and maps would require the submission of a written motion signed by

14:10:08 1 and accompanied where necessary by location map. For inclusion on the agenda
2 of the relevant council meeting. See for example minute reference C/875/89 of
3 the minutes of special meeting of the County Council held on the 20th October
4 1989 attached herewith at appendix 3." Is that all correct so far?

14:10:28 5 A It is, yes.

6 Q 411 "5. Planning application for 120 houses on the Lissenhall lands. On the 8th
7 September 1989 a planning application register reference 89A/1644 was submitted
8 by Pilgrim Associates architects on behalf of Rayband Limited. A copy of the
9 application is attached herewith at appendix 4. Minutes of the meeting of the
10 development coordinating committee, dated the 26th October 1989, note that the
11 application may be the subject of a Section 4 motion and agree that the roads
12 department report to planning for Fingal district committee meeting, planning.
13

14 Minutes of a further meeting of this committee on the 23rd November 1989 note
15 that the roads department are opposed to an access on the Lissenhall dual
16 carriageway but would consider access to the C10 lane is provision is made for
17 the upgrading of that road. The applicant sought permission for 120 houses and
18 for the demolition of a derelict house. The minutes of these meetings are
19 attached herewith at appendix 5.

14:11:32 20
21 This planning application was subsequently withdrawn by Pilgrim Associates,
22 architects. Notification of the applicants withdrawal dated 29th November 1989
23 is attached herewith at appendix 5.
24

14:11:44 25 6. Special meeting of Dublin County Council held on the 15th December 1989.
26 The subject lands are located on map 6 and 30 and were dealt with by the
27 council during the course of the consideration of map 6. The minutes and
28 agenda of this meeting are attached herewith at appendix 6. The agenda of this
29 meeting listed consideration of the draft written statement, relating to the
14:12:05 30 schedule 10 of Swords on map number 6. As one of the items to be considered.

14:12:10 1 However, the meeting did not reach this item, so it was dealt with at the
2 special meeting held on the 19th January 1990.
3

4 7. Special meeting of Dublin County Council held on the 19th January 1990, the
14:12:23 5 minutes and agenda of this meeting are attached herewith at appendix 6. At
6 minute reference C/69/90, the meeting considered the draft written statement
7 and map number 6 relating to the scheduled town of Swords. Mr. E Conway
8 explained it's contents and changes from 1983 County Development Plan.
9 Following discussion to which Councillors Gallagher, Ryan S, Laing, Maher,
14:12:48 10 Devitt, Mulvihill, Wright, Cass, Lawlor and M Lynch contributed. The manager
11 replied to queries raised by the members and the draft written statement for
12 the scheduled town of Swords on map number 6 were noted.
13

14 The word "noted" is used to indicate that the councillors had discuss the
14:13:03 15 matter, had generally agreed with and accepted the contents of the documents
16 document and maps and passed on to other matters without a vote.
17

18 8. The relevant maps of Dublin County Council Draft Development Plan 1990,
19 hereinafter referred to as the 1990 draft plan are I attached herewith at
14:13:22 20 appendix 7."
21

22 If I could have page 215 please. "The bulk of the Lissenhall lands appeared on
23 map number 6." And it's at the top of that map. "They were zoned as follows
24 in the 1990 draft plan.
14:13:35 25

26 Objective B. To protect on provide for the development of agriculture and
27 objective G. To protect and improve high amenity areas.
28

29 9. Submission of motions prior to the public display of the Dublin County
14:13:45 30 Draft Development Plan 1991 (hereinafter referred to as the 1991 Draft

14:13:51 1 Development Plan). In January 1991, the members were circularised and afforded
2 the opportunity to submit motions for insertion on a wrap up agenda for
3 consideration by the council before putting a draft plan on display. By letter
4 dated 18th January 1991 a copy which is attached herewith at appendix 8. The
14:14:11 5 members of the council were advised by the principal officer that motions had
6 to be submitted not later than Friday, 8th February 1991. This deadline was
7 later extended to the 15th February 1991. Motions received after the date were
8 not included on the agenda.

14:14:25 10 Approximately 160 motions were received and were placed on the agenda in area
11 order commencing in Balbriggan in the north of the county moving south through
12 Skerries, Donabate, Swords, Malahide, Sutton, Howth, north suburbs,
13 Blanchardstown and Lucan, Clondalkin and then in a southeasterly direction to
14 the Wicklow border. There were no motions in respect of the Lissenhall lands.

14:14:49 15
16 Consideration of this agenda commenced on the 1st March 1991 and continued on
17 7th March, 21st March, 18th April, 26th April, 2nd May, 16th May, 24th May,
18 30th May, 31st May and 11th June. The first 37 items on the agenda related to
19 the Fingal area and were dealt with at meetings between the 1st March and the
14:15:09 20 18th April 1991.

21
22 10. 1991 Draft Development Plan on display from September 1991 to December
23 1991: The 1991 Draft Development Plan was on public display for the statutory
24 three month period, between 2nd September 1991 to 3rd December 1991. The
14:15:29 25 Lissenhall lands were zoned as follows on maps 6 and 30 of the 1991 Draft
26 Development Plan, copies of which are attached herewith at appendix 9." And if
27 I could have page 217 and 218 please together.

28
29 "Objective B. To protect and provide for development of agriculture and
14:15:49 30 objective G. To protect and improve high amenity areas. The draft written

14:15:54 1 statement, an extract of which is attached herewith at appendix 10, states at
2 paragraph 5.8.121 headed "industry and employment", there are 119 hectares of
3 industrial zoned lands in Swords of which 36 hectares are developed, a
4 considerable amount of the undeveloped lands have planning permission for
14:16:15 5 development. There are therefore sufficient service lands available to
6 accommodate normal demands for the foreseeable future.
7

8 11. Objections and representations for the 1991 Draft Development Plan.

9 During the period of public display from the 2nd September to the 3rd December
14:16:32 10 1991, 23,866 objections and representations were received and 487 requests for
11 oral hearings were facilitated. Representations were received in relation to
12 the Lissenhall lands. Attached herewith at appendix 11 is a document outlining
13 the number of representations received for the 1991 Draft Development Plan.
14

14:16:51 15 Among the representations received was representation number 000366, attached
16 herewith at appendix 12, received on the 3rd December by the council. This
17 representation was made by Manahan & Associates on behalf of their clients,
18 Rayband Limited and Mr. Declan Duffy and objected ed to the proposed B
19 agricultural zoning of the Rayband lands and the proposed G high amenity zoning
14:17:19 20 of Mr. Duffy's lands. The covering lettering requested that the lands be zoned
21 A residential but that the substance of the submission sought E industrial
22 zoning for both applicants' lands.
23

24 An oral hearing in respect of this submission took place on the 26th February
14:17:33 25 1992. A record of this hearing is attached herewith at appendix 13.
26

27 12. Receipt of motion reference number 15 (13) (Q1) on the 18th March 1993 the
28 following motion signed by Councillor Gallagher and Councillor Devitt was
29 received by the council and submitted for inclusion on the agenda, reference
14:17:54 30 number 15 (13) (Q)."

14:17:58 1 If I could have page 237 and 238 together please. "Dublin County Council
2 hereby resolves that the lands at Lissenhall, Swords, bounded in red on the
3 attached map and identified by the signature of the proposers be zoned E, a
4 copy of the of the motion and attached map are attached herewith at appendix
14:18:17 5 14.
6
7 13. Circulation of objections and representations. Copies of all objections
8 and representations were circulated to the members for their consideration at a
9 series of special meetings which commenced in April 1992. The council
14:18:28 10 considered representations on an area basis, commencing from the southern most
11 part of the county to the north, working from map 28 to map 1.
12
13 The Swords area was dealt with under item 15 of the agenda. A copy portion of
14 this agenda entitled consideration of draft therein County Development Plan
14:18:46 15 1991 maps 6 and 7, Portmarnock, Malahide and Swords and objections an
16 representations relating thereto and report on the objections and
17 representations already circulated is attached herewith at appendix 15.
18
19 The Lissenhall lands had the reference number 15, 13, Q.
14:19:07 20
21 14. Special meeting of Dublin County Council on the 17th May 1993: A report
22 on the representations for the area was presented to the meeting of the 17th
23 May 1993. In the course of the report, the manager stated in relation to
24 population, the town is quadrupled in less than 20 years and drainage
14:19:25 25 facilities have been provided to cater for population equivalent of 22,500.
26 The ultimate capacity of the zoned lands is estimated to be in the region of
27 26,500, for which additional sewage treatment facilities would be required.
28
29 It is clear that an upgrading of the treatment plant will be required and
14:19:44 30 studies are currently underway to determine the appropriate capacity for this

14:19:47 1 having regard to the need to protect the receiving waters from pollution.

2

3 Pending the determination of the appropriate size of the enlarged treatment

4 plant, it would be premature to zone substantial areas of additional lands at

14:19:58 5 Swords. If at the stage, when the size of the plant has been determined a

6 significant expansion of Swords is possible, the location of additional lands

7 to be zoned should be the subject of a detailed planning study.

8

9 It is recommended that no change be made in zoning.

14:20:13 10

11 It is recommended that the existing development strategy for Swords be

12 continued and that no further lands be zoned at this time except for instances

13 where commitments to date so dictate.

14

14:20:25 15 The following motion was proposed by Councillor S Ryan and seconded by

16 Councillor Kelleher. Dublin County Council hereby resolves not to zone any

17 further lands in the Swords area in the context of the current Development Plan

18 review. However, given the attractiveness of Swords for residential and

19 industrial purposes, we hereby direct the manager to set in motion arrangements

14:20:44 20 to further review the Development Plan for Swords and to be presented to the

21 new Fingal County Council within 12 months of the adoption of this plan and in

22 presenting this to take cognizance of reports already commissioned by the

23 council on: A. Capacity and operation of the existing sewage system.

24 B. Proposals for the extension of the system.

14:21:04 25 C. Broadmeadow Estuary.

26 D. Detailed roads plan for the area currently being drawn up by the council's

27 road engineers.

28

29 The following amendment in the names of Councillors O'Callaghan, Billane,

14:21:19 30 Tipping was proposed by Councillor O'Callaghan and seconded by Councillor

14:21:22 1 Billane. That motion number 1513I be amended by deleting all words after the
2 word review on the third line. Following discussions to which Councillors S
3 Ryan, Kelleher, Cass, Tipping Devitt, Higgins Gilbride and McGennis
4 contributed, the manager replied to queries raised by the members. The
14:21:42 5 amendment was put and lost by 43 votes to five with four abstentions. The
6 record at the vote is at page 615 IP of the minutes of the meeting.

7
8 The substantive motion was put and lost by 35 votes to 17 with one abstention,
9 the record of the vote is at page 615 IP of the minutes of the meeting.

14:22:02 10
11 Motion 1513Q. The motion in respect of the Lissenhall lands was not dealt with
12 at this meeting. The minutes of this meeting are attached herewith at appendix
13 16 together with the motion and amendment."

14
14:22:15 15 -- page 285 and 286 together please. "15. Special meeting of Dublin County
16 Council on the 21st May 1993. Motion 1513Q. Motion in respect of the
17 Lissenhall lands was reached at the meeting of the 21st May 1993 when it was
18 proposed by Councillor Gallagher, seconded by Councillor Devitt. On amendment
19 to the motion in the following terms was proposed by Councillor Tipping,
14:22:41 20 seconded by Councillor O'Callaghan to add the words and "in light of its
21 proximity to G zoned land that its use be restricted to light industry as
22 defined in the Local Government Planning and Development Acts and the
23 regulations made thereunder."

24
14:22:58 25 This amendment was passed unanimously. The motion was amended and then put and
26 passed by 49 votes in favour,15 votes against and two abstentions. Details of
27 this vote are given on page 644 of the minutes. IP.

28
29 The minutes of this meeting together with the original motion and map on the
14:23:21 30 said proposed amendment are attached herewith at appendix 17."

14:23:21 1
2 Is all of that correct, Ms. Collins?

3 A It is. Yes.

4 Q 412 "16. A special meeting of Dublin County Council on the 1st June 1993. At a
14:23:29 5 special meeting of the council on the 1st June 1993, the managers report on
6 preservation and conservation structures was considered, IP713, list 2 is
7 defined as follows.
8
9 It is the intention of the council in the event of an application being made
10 for permission to alter or demolish any of the buildings or other structures
11 specified in this two to consider the consider the preservation of such
12 buildings or other structure and refuse permission where the council decides
13 such structure should be preserved.
14

14:24:01 15 List 2 is contained in schedule 4 of this written statement. Included in the
16 list of additional items recommended for inclusion in list 2 was reference
17 number 38, Lissenhall Bridge. This became change number 43 on map 6 of the
18 1993 amendments to the 1991 Draft Development Plan. A copy of map 6 is
19 attached herewith at appendix 19."

14:24:20 20
21 That's page 654 please ...
22
23 "The minutes of this meeting are attached herewith at appendix 18.
24

14:24:27 25 17. Public display from the 1st July 1993 to the 4th August 1993 of the Dublin
26 county Draft Development Plan 1993, amendments to the 1991 Draft Development
27 Plan. As already stated the 1991 Draft Development Plan map 6 and 30 appendix
28 9, showed the Lissenhall lands zoned B and G. The decision of the council to
29 pass the substantive motion, 1513Q1 at the meeting on the 21st May 1993 had the
14:24:55 30 effect of amending the proposed zoning to E, light industrial. The amendment

14:24:59 1 of the draft plan was put on public display in July 1993 as changes 2A, B to E
2 light industry, and 2B, G to E, light industry. On map 6. And changes 4A, B
3 to E light industry and 4B, G to E light industry on map 30.

14:25:19 5 A copy of map 6 and 30 of the 1993 amendments to the 1991 Draft Development
6 Plan are attached herewith at appendix 19.

7
8 Paragraph 5.8 of the written statement containing the proposed amendments to
9 the Swords scheduled town was also amended. As was schedule number 4. A copy
14:25:38 10 of these amendments is also attached herewith at appendix 20.

11
12 18. Consideration of the proposed amendments to the 1991 Draft Development
13 Plan. Special meetings of the County Council were held in September 1993, copy
14 of the portion of this agenda are relevant to Lissenhall lands and entitled
14:25:56 15 "Consideration of proposed amendments to draft Dublin County Development Plan
16 1991" is attached herewith at appendix 21. The Lissenhall lands were at items
17 5.2A and 5.2B on map 6.

18
19 19. Special meeting of Dublin County Council on the 16th September 1993. The
14:26:16 20 council commenced consideration of the proposed amendments in the Swords area
21 on the 16th September 1993 when a general report which had been circulated in
22 advance of the meeting was read. The report concluded by recommending that the
23 council should not change the zoning of any substantial areas of land in Swords
24 in the context of the present review but that a study should be set in train
14:26:36 25 for the purpose of presenting a report or reports addressing the issues listed
26 above with a view to adopting a coherent plan for the area within a year of the
27 setting up of the new Fingal County Council.

28
29 A motion proposed by Councillor Gallagher, seconded by Councillor Devitt, that
14:26:52 30 consideration of the map 6 be deferred to the next meeting on the 21st

14:26:57 1 September was passed unanimously. The minutes of the meeting with attached
2 herewith at appendix 22.

3
4 20. Special meeting of Dublin County Council on the 21st September 1993: At
14:27:08 5 the meeting of the 21st September an addition to the report from the manager
6 was considered, this report stated, in the event of the members wishing to zone
7 extra lands pending such a report, it is considered that any such extra zoning
8 must be kept to a minimum so as no to cause Swords to grow in such a manner or
9 to such an extent as to further overload the road system, sewage system works
10 or community infrastructure.

11
12 The maximum extra zonings which could be accommodated in such an interim basis
13 would be for an additional 2,000 population equivalent. If all of this were
14 applied to residential zoning, it would mean a maximum of 500 houses. The
14:27:43 15 report concluded by saying that the least difficult way to achieve this would
16 be to zone 65 acres of land in other areas of Swords. Which were listed in the
17 report.

18
19 A motion received by the council on the 16th September, the date of the meeting
14:27:57 20 mentioned above, proposed by Councillor Boland, seconded by Councillor Maher,
21 the managers report as amended by the addition to the report be adopted, was
22 put and defeated by nine votes in favour and 60 against.

23
24 Details of the vote were given on page 1009 IP of the minutes. It is then
14:28:19 25 proposed by Councillor Boland, seconded by Councillor Maher that the managers
26 report of the 16th September 1993 be adopted. This motion was defeated by 30
27 votes in favour, 38 against and one abstention. Details of this vote are given
28 on page 1010 IP of the minutes.

29
14:28:35 30 Consideration of the various amendments of the draft plan then commenced. The

14:28:39 1 manager recommended that change 2A, B to E be deleted. The following motion
2 received by the County Council on the 6th August was proposed by Councillor S
3 Ryan and seconded by Councillor Kelleher." At page 331 please.

14:28:53 5 "Dublin County Council hereby resolves that the lands referred to as 2A on map
6 number 6 of the Dublin County Council Draft Development Plan review 1993
7 amendments be zoned B to protect and provide for the development of
8 agriculture. But following discussion, the time allowed for the meeting
9 expired.

14:29:14 10
11 The minutes of this meeting together with both motions are attached herewith at
12 appendix 23.

14 21. Special meeting of Dublin County Council on the 22nd September 1993.
14:29:24 15 Discussion of the matter resumed at the meeting of the 22nd September 1993.
16 Following further discussion, the motion proposed by Councillor Ryan at the
17 meeting of the 21st September 1993 in respect of the lands, the subject of
18 change 2A was withdrawn by him. Change 2A on map 6, 4A on map 30 was then
19 confirmed and the site was zoned E to provide for industrial and related uses,
14:29:51 20 light industry, in the 1993 Development Plan.

21
22 Change 2B on map 6, 4B on map 30 G to E was then considered, IP page 1015. The
23 manager recommended that it be deleted. The following motion was proposed by
24 Councillor S Ryan and seconded by Councillor Kelleher. Dublin County Council
14:30:07 25 hereby resolves that the lands referred to as 2B on map 6 of the Dublin County
26 Council Draft Development Plan review 1993 amendments be zoned G to protect and
27 improve high amenity areas. This motion was put and defeated by 29 votes in
28 favour, 33 against and no abstentions. Details of this vote are given on page
29 1020 IP of the minutes.

14:30:29 30

14:30:29 1 The following motion in the names of Councillors D Tipping, D O'Callaghan, C
2 Breathnach, E Gilmore and M Billane was proposed by Councillor Tipping and
3 seconded by Councillor O'Callaghan.
4

14:30:40 5 This council resolves that the lands referred to at map 6 change number 2B in
6 the public display of the proposed amendments to the County Dublin draft plan
7 1991, revert to its former proposed zoning as shown in draft maps displayed in
8 September-December 1991. This motion was put and defeated by 29 votes in
9 favour, 33 against and no abstentions. Details of this vote are given on page
10 1021 IP of the minutes.
11

12 The following motion was proposed by Councillor J Higgins and seconded by
13 Councillor G O'Connell: Dublin County Council resolves that the lands at
14 Lissenhall, Swords, identified as change number 2B on map 6 of the proposed
15 amendments to the 1991 Draft Development Plan be zoned G, to protect and
16 improve high amenity areas. The motion was put and defeated by 29 votes in
17 favour, 33 against, details of the vote are given on pages 1022 IP of the
18 minutes.
19

14:31:22 20 Change 2B was then confirmed at Lissenhall lands were zoned light industrial in
21 the 1993 Development Plan. Detailed map attached herewith at appendix 27.
22

23 The minutes of the meeting together with at motions referred to are attached
24 herewith at appendix 24. Note, although the changes appeared on both map 30
14:32:04 25 and map 6 of the Draft Development Plan, the changes were dealt with only in
26 the context of map 6. A list of the 1993 amendments to maps 30 and 6 are
27 attached herewith at appendix 25.
28

29 22. Special meeting of Dublin County Council on the 24th September 1993: At
14:32:16 30 page 1077 IP of the minutes of this meeting, attached herewith at appendix 26,

14:32:22 1 change 43, the addition of Lissenhall Bridge to list 2 was confirmed. This
2 amendment is indicated on map 6 of the 1993 Development Plan with a triangle
3 containing the numbers 2 over 38. (attached herewith at appendix 27)
4

14:32:39 5 At this meeting, consideration of the various amendments to the draft plan, map
6 6 Swords continued, during the course of the said meeting, a motion was
7 proposed by Councillor Gallagher and seconded by Councillor Wright. The motion
8 proposed the following: "That the manager be requested to prepare and submit
9 to the Fingal County Council a draft variation of the new Dublin Development
10 Plan as it affects the Swords area. This draft variation should be made
11 available to the council before the 30th April 1994 to allow time for
12 discussion and necessarily public display with a view to having the variation
13 in effect before the 31st of December '94.
14

14:33:22 15 Minute C/792/93 refers

16 The motion was put and passed unanimously. Details of this vote are given on
17 page 1078 and 1079 of the minutes.
18

19 23. Dublin County Development Plan 1993: In summary, the amendments in
14:33:40 20 respect of the Lissenhall lands were confirmed at the meeting of the council on
21 the 22nd September 1993, appendix 24. The council decided to rezone the
22 Lissenhall lands E light industrial.
23

24 The Dublin County Development Plan 1993 was adopted by the council at a
14:33:58 25 specific meeting on the 10th December 1993. A copy of a portion of the minutes
26 of this meeting are attached herewith at appendix 29. A copy of maps 6 and 30
27 of the Dublin County Development Plan 1993 are attached herewith at appendix 30
28 and an extract from the Dublin County Development Plan 1993 written statement
29 regarding the amendments made to the Swords area is attached herewith at
14:34:20 30 appendix 28." And I think you signed that and it's dated 1st March 2006?

14:34:24 1 A That's correct.
2 Q 413 Is all of that correct, Ms. Collins?
3 A It is.
4 Q 414 Thank you.

14:34:29 5
6 CHAIRMAN: Thank you very much, Ms. Collins. Now, Mr. Dunlop.

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CONTINUATION OF CROSS-EXAMINATION OF

FRANK DUNLOP BY MR. REYNOLDS

MS. DILLON: I think Mr. Montgomery is going first.

CHAIRMAN: Yes.

MR. REYNOLDS: I think, Mr. Chairman, it's just been changed. Mr. Chairman, before I commence cross-examination, there's a matter that's been brought to my attention that I was remiss in yesterday, I am actually acting for Tim Rowe as well as Tim Collins and I didn't seek limited representation.

CHAIRMAN: We will grant representation for both.

Q 415 MR. REYNOLDS: I am obliged.

Mr. Dunlop, my colleagues have covered most of what I was going to ask you, so I won't keep you terribly long. Just a couple of questions, your INBS, Irish Nationwide Building Society account.

A Yes.

Q 416 Which you called your war chest, I think?

A ONE of.

Q 417 One of war chests. You lodged the cheque that you received in January 1993, 12,500 to that account, isn't that right?

A That is correct, yes.

Q 418 And I think you admitted this morning that it wasn't returned at the time or when it should have been for income tax, corporation tax or VAT?

A Correct.

Q 419 Now, Mr. Michael Hughes in his statement at page 1892, the middle paragraph, "At the end of the meeting, Mr. Dunlop said his fee was 12,500 punts at the outset with a further 12,500 to be paid if the rezoning was granted", i.e. a

- 14:36:43 1 success fee, if you like?
- 2 A Yes.
- 3 Q 420 Okay. And we know from the payments that you received 12,500 which you put in
- 4 the INBS account and then you received 12,500 plus VAT later on that year.
- 14:37:02 5 A No. I got 12,500, I got 10,000 plus VAT and then I got 2,500 plus VAT, there
- 6 were three payments.
- 7 Q 421 But I'm saying in total you received 12,500 and 12,500 plus VAT?
- 8 A Accumulatively, yes.
- 9 Q 422 The first 12,500 pound payment you don't remember?
- 14:37:28 10 A No, I don't recall that.
- 11 Q 423 Okay and at no stage of these proceedings have you had a recollection of that?
- 12 A No, other than as I said to Ms. Dillon yesterday I think it was.
- 13 Q 424 When the cheque was produced to you?
- 14 A No, when the cheque was produced to me in the brief, not yesterday. When it
- 14:37:44 15 was evidenced by Ms. Dillon in the brief that this was a cheque from IFG
- 16 Securities.
- 17 Q 425 Okay. So therefore would you say it's fair to assume that when you received it
- 18 or when you requested it, you had no intention of putting it through Dunlop &
- 19 Associates Limited for two reasons, one, it was payable to Frank Dunlop
- 14:38:08 20 personally, and secondly, there was no VAT on it.
- 21 A Correct.
- 22 Q 426 So it's a fair assumption that it was intended for one of the war chest
- 23 accounts.
- 24 A Yes and I think just in ease, you will find that the cheques are payable, all
- 14:38:24 25 of the cheques are payable to Frank Dunlop.
- 26 Q 427 The fact that it was 50-50, does that have a significance?
- 27 A Sorry?
- 28 Q 428 The fact that you wanted 50 percent up-front and 50 percent as a success fee,
- 29 does that have a significance? Was that the norm?
- 14:38:51 30 A Not particularly, I wouldn't say that that was the norm, it is not an absolute

- 14:38:56 1 norm but it depended on the circumstances.
- 2 Q 429 Well a norm doesn't have to be absolute?
- 3 A Correct.
- 4 Q 430 Statistically would it be correct more often than not that it would be 50/50?
- 14:39:12 5 A Statistically it would be correct to say you would look for an upfront payment,
6 and a success fee, but not always.
- 7 Q 431 Okay. But generally you would look for a success fee?
- 8 A I shouldn't say yes, I should say that I didn't always look for a success fee.
9 I wasn't always paid a success fee. Some times I did look for a success fee
14:39:35 10 and didn't get it.
- 11 Q 432 Okay. Can we take it generally you would look for a success fee, whether you
12 got it or it was agreed or not, generally?
- 13 A If the occasion demanded, yes.
- 14 Q 433 Would it also generally be the practice then that the first payment would be
14:39:49 15 the off the books payment and the second payment, which is the success fee,
16 would be on the books?
- 17 A Well it depended again in each particular circumstance.
- 18 Q 434 But it wouldn't be unusual?
- 19 A It would not be unusual but it doesn't mean that it was the usual practice
14:40:05 20 either.
- 21 Q 435 So rather than call these accounts war chest, would it be fair to say they were
22 tax evasion accounts?
- 23 A Well, you can use that description because I have sued that description myself
24 but it is not the totality.
- 14:40:24 25 Q 436 Why I say that in this instance you received 12,500, you paid out 3,000 in
26 bribes, so your profit was about 75 percent?
- 27 A If that is the calculation. If that is the mathematical calculation.
- 28 Q 437 Roughly.
- 29 A Yes.
- 14:40:41 30 Q 438 So more of the money would be undeclared income rather than funds for illicit

- 14:40:49 1 payments?
- 2 A Yes, if you follow that logic.
- 3 Q 439 But you don't find a flaw in that logic?
- 4 A No but I'm just thinking through the logic but I mean, you are positing to me a
- 14:41:02 5 hypothetical scenario and I am just answering.
- 6 Q 440 So is it possible then that if one were to examine your invoices, where you
- 7 issue invoices for success fees or after the event, it's quite likely there's a
- 8 similar payment under the counter prior to that?
- 9 A No, that wouldn't follow.
- 14:41:36 10 Q 441 Why?
- 11 A Because as I said to you earlier on, it wouldn't, it's not particularly the
- 12 norm that there would be 50 percent. It depends on the given scenario and the
- 13 given module in Dublin County Council.
- 14 Q 442 You have said to the Tribunal, acknowledged this morning and indeed yesterday
- 14:42:11 15 and in your statements that you have bribed public officials, you now say in
- 16 this statement that you gave to the Tribunal on the 21st, dated the 21st March
- 17 that you conspired with other people to bribe public officials?
- 18 A Yes well I just for clarity, public officials is a specific terminology.
- 19 Q 443 Sorry, councillors, is that better?
- 14:42:36 20 A I would prefer if you use the word councillor, I have never --
- 21 Q 444 In fact what I will do is, you conspired to corrupt?
- 22 A Yes.
- 23 Q 445 Okay. This morning, when you were being cross-examined by my colleague, Mr. O
- 24 hOisin, you acknowledged that you would have been untruthful to this Tribunal
- 14:42:55 25 in 2000 and prior to that.
- 26 A Yes.
- 27 Q 446 So basically you are a cheat, you are a liar, and you are an un-prosecuted and
- 28 unconvicted criminal, is that correct?
- 29 A That's a statement that you are making.
- 14:43:18 30 Q 447 It's a question.

14:43:18 1 A Well I have given evidence in this Tribunal to the effect that I did not tell
2 the truth and I have given evidence this morning to the effect that all of the
3 evidence that I have given subsequent to that date, to the very best of my
4 recollection, knowledge and ability is what I believe to be the truth.

14:43:38 5 Q 448 We will come to your pauline conversion in a moment, just go back to the
6 statement I made and asked whether you agreed with it or not. In the year
7 2000, prior to the 18th April, you or were an acknowledged liar, cheat and
8 unconvicted, un-prosecuted criminal, isn't that correct?

9 A I have already answered that question in the context that --

14:44:03 10
11 CHAIRMAN: Just the term un-prosecuted, unconvicted criminal, on the basis you
12 are only a criminal if you are convicted.

13
14 MR. REYNOLDS: I use the words advisedly, I used the words carefully because I
15 used the word criminal in the sense of sun who as committed a crime, that's why
16 I prefaced it with both un-prosecuted and unconvicted.

17
18 CHAIRMAN: I don't think, if a witness has a difficulty or a reluctance to
19 admit to having committed a crime, for fear of in some way implicating himself
20 in the commission of a crime, then I think it's reasonable for the witness to
21 decline to answer that particular --

22
23 MR. REYNOLDS: With respect chairman I prefaced the word criminal correctly I
24 believe, I don't believe I am creating any prejudice against the witness and by
25 his own acknowledgement, he has committed crimes.

26
27 CHAIRMAN: Well he has told lies under oath and he has misled the Tribunal.

28
29 MR. REYNOLDS: And he has given evidence this morning and yesterday.

14:45:17 30

- 14:45:17 1 CHAIRMAN: But if it is to be put to him he has committed a crime, when the
2 particular offence that he is alleged to have committed really should be put to
3 him.
4
- 14:45:26 5 MR. REYNOLDS: I did, Mr. Chairman, conspiracy to corrupt.
6
- 7 CHAIRMAN: Yes, but I mean you are assuming that Mr. Dunlop knows the
8 particular provisions that you are referring to. I mean we are talking about
9 specific terminology here and Mr. Dunlop has not been convicted of committing a
10 crime.
11
- 12 MR. REYNOLDS: I will defer to the Tribunal and move on. I think the point is
13 made. Now, you gave us a dissertation on your honesty this morning subsequent
14 to your pauline conversion, we may just examine that briefly, if we can. May
15 2000, private interviews held in Dublin Castle, 24th May 2000. You mentioned
16 Tim Collins, you mentioned Mr. Moran, no mention whatsoever of Lissenhall. You
17 had forgotten about the whole project? Is that correct?
18 A In answer to your question and in answer to a previous question on that matter,
19 the answer is one, yes, I did not recollect it and two, the private sessions,
14:46:53 20 as you well know, having been here for a number of days, were following the
21 outline of my statement in relation to the list of contributors.
22 Q 449 You had forgotten about Lissenhall in April as well prior to the May one?
23 A I didn't list Lissenhall in the box in April.
24 Q 450 That's correct.
14:47:15 25 A That's correct.
26 Q 451 Okay. So you had overlooked the whole development.
27 A Yes.
28 Q 452 Right. Now, in October 2000, you gave this figure of not less than 5,000 so
29 you were indicating that your income from that was 5,000?
14:47:33 30 A Not less than.

- 14:47:34 1 Q 453 I don't accept your qualifying it by not less, because I would suggest that by
2 using not less, it's just an attempt to provide yourself with wriggle room when
3 the truth would emerge.
4
- 14:47:47 5 MR. REDMOND: Mr. Chairman, on behalf of Mr. Dunlop, I would be grateful if my
6 colleague would limit himself to questions rather than making submissions which
7 are conclusions drawn on the basis of statements made.
8
- 9 CHAIRMAN: Well he is entitled to put to the witness that he is attempting to
10 give himself wriggle room as he suggested.
11
- 12 MR. REDMOND: Well I would invite you, chairman, to describe how, what my
13 friend has just said qualifies as a question.
14
- 14:48:02 15 CHAIRMAN: Well all right, if you --
16
- 17 Q 454 MR. REYNOLDS: I will rephrase the question. Did you use the phrase at least
18 5,000 to provide yourself with wriggle room?
19
- 20 A No.
14:48:27 21
- 22 Q 455 Okay. Thank you. Now, February 2003, you put forward the figure of 10,000.
21 A Yes.
22
- 23 Q 456 Can you tell us where that figure came from, I think you tried this morning and
24 referred to an invoice for 10,000?
25
- 26 A I have answered that question twice, to Ms. Dillon and Mr. O hOisin this
14:48:55 27 morning but I don't have any difficulty. I was asked by Mr. O'Tuathail here in
28 February of 2003 in the box, to provide an indication of monies received from a
29 variety of people and I put down 10,000 pounds.
30
- 14:49:23 30 Q 457 Bearing in mind what you told us this morning about your attempts since 2000 to
tell the truth and not mislead the Tribunal and answer questions truthfully,
and bearing in mind that by 2003, you had remembered Lissenhall, that it did

- 14:49:29 1 exist and that you had been involved in it, did it not occur to you that you
2 had probably received some of your tax evasion money on that project?
- 3 A Well it obviously didn't because I didn't put it down.
- 4 Q 458 But would you not consider it strange that it didn't occur to you?
- 14:49:48 5 A Not in the box in the context of providing a list. No.
- 6 Q 459 You were providing a list of monies you had received from people?
- 7 A To the best of my recollection.
- 8 Q 460 Now, it's not as if this payment of 12,500 in Lissenhall was a one off, you had
9 received monies into your war chest/tax evasion account on other projects, is
10 that correct?
- 11 A Yes and I have already said to you in relation to the receipt of the 12,500 --
- 12 Q 461 Okay, so if you were going to be fully honest when you were in the box in
13 February 2003, could you not have said or should you not have said that the
14 figure of 10,000 comes from mind but it is possible that I received monies
15 which I didn't declare and are in my tax evasion account, wouldn't that have
16 been more honest?
- 17 A Well that didn't occur to me. And as I was saying while you asked the second
18 question, I have already said to both Ms. Dillon and Mr. O hOisin that in
19 relation to the payment of the 12,000 in January of 1993, despite our efforts
14:50:58 20 or my efforts with the Irish Nationwide Building Society to establish the
21 source of it, that source was not confirmed until I received the brief from the
22 Tribunal in relation to IFG Securities.
- 23 Q 462 Yes. But you see I don't accept that as a sufficient answer. For the simple
24 reason you had received quite an amount of funds from various sources on
14:51:24 25 various projects and you had put them into your tax evasion account. Now,
26 surely you should have indicated to the Tribunal on that occasion that there
27 was a possibility that some funds in connection with Lissenhall had been lodged
28 in one of those war chest accounts or tax evasion accounts.
- 29 A Well you are posing, you know, what I should or doesn't --
- 14:51:50 30 Q 463 I am putting a question to you?

- 14:51:52 1 A I didn't, is the answer.
- 2 Q 464 With regard to the meeting that you had with Tim Collins, Mr. Moran and
3 Mr. Hughes, your evidence on the 21st March, you didn't even know the number of
4 people that were at that meeting?
- 14:52:19 5 A Correct.
- 6 Q 465 If there's some piece of paper was produced to show that there were seven
7 people at that meeting, would you contradict it?
- 8 A If there was a piece of paper to produce there were seven people present and
9 that was categorically proven, fine.
- 14:52:35 10 Q 466 You would accept that?
- 11 A Certainly.
- 12 Q 467 Do you still maintain as per your statement of the 21st March that it was the
13 people, to use your phrase, on the other side of the table, that indicated
14 councillors would have to be paid?
- 14:52:53 15 A Yes.
- 16 Q 468 You see I go along to a great extent with my friend, Mr. O hOisin and
17 Mr. Burke, when they say that's highly unlikely you were meeting people for the
18 first time, Mr. O hOisin brought you through your list of clients at the time.
19 It's highly unlikely, I would suggest to you, that you would indicate a
20 willingness to commit a criminal offence, to bribe a councillor, to people that
21 you had never met before. You can't even remember the number of people there
22 were.
- 23 A I know your client, Mr. Collins, was there.
- 24 Q 469 That's correct.
- 14:53:35 25 A Right. Notwithstanding the fact as I understand it that Mr. Collins may not
26 remember being there present or in fact initially denied that he was present,
27 Mr. Collins and Mr. Moran and as I said in my statement, I could not
28 categorically state and identify another person and I think I used the phrase
29 at least. As to the second part of your question, in relation to whether or
14:54:05 30 not I would or would say to complete strangers, the circumstances that obtained

- 14:54:12 1 were that this matter was raised by the other side of the table and I have said
2 that, I don't know how many times over the course of the last --
- 3 Q 470 That's not accepted by anyone but yourself.
- 4 A Well I understood that's what Mr. O hOisin was saying to me too and that's why
14:54:29 5 I made the remark that I did, that it doesn't obviously serve anybody else's
6 interest to admit to that.
- 7 Q 471 Mr. Dunlop, I haven't been in these rooms as long as you have and maybe you can
8 help me with a matter. I was in briefly last week during the Duff lands Module
9 or for part of the Duff lands Module. There was a conflict of evidence, if I
14:55:01 10 remember correctly between yourself on one part and Robert White on the other.
11 He was saying that the relationship between yourself and himself ended not too
12 long after it began, you maintained that it carried on for a significant period
13 beyond that, is that correct?
- 14 A Yes, I said that it carried on for longer than he thought it was.
- 14:55:26 15 Q 472 For a significant period, I think about a year and a half longer, is that
16 correct? To support that, you referred to diaries.
- 17 A Yes.
- 18 Q 473 Now, I know there's a controversial see over these diaries and it's going to be
19 revisited again I understand.
- 14:55:42 20 A This day week.
- 21 Q 474 But would my reading be correct if I said that if it turns out that the mistake
22 with the diaries was a carry over from one year to the next, that that would
23 support your contention that the relationship carried on longer than he did,
24 would that be fair?
- 14:56:09 25 A Well --
- 26 Q 475 That the controversy over the diaries merely results from a mix up over
27 carrying over from one year to the next, which I think is what was put forward.
- 28 A Well I am loath to enter into --
- 29 Q 476 I am not saying whether that's the case or not, what I'm saying if it
14:56:28 30 transpires that that is the case, that would support your contention that the

- 14:56:34 1 relationship carried on for about a year and a half after Robert White said it
2 did?
- 3 A Yes well, I cannot say yes or no to that because that is a module that's still
4 up --
- 14:56:43 5 Q 477 It's a simple question, will it support your argument or not?
- 6 A I cannot say yes or no, I don't have the documents in front of me and it's a
7 module that's not yet completed and the matter is being revisited next week.
- 8 Q 478 And if it's found that you were wrong and you referred to the wrong diaries and
9 that it supports, it would then support Robert White's contention, is that
10 correct?
- 11 A Let's be in no doubt about one matter, if I am wrong, I am wrong, I have no
12 difficulty whatsoever. I have said that a thousand times here. You have said
13 that this is your, you are a newcomer to the Tribunal and you have just, I am
14 just quoting yourself, I was trying to think of the exact word you used but as
15 far as I am concerned, if I make a mistake, I will admit to the mistake. I
16 don't have the slightest difficulty about that.
- 17 Q 479 You see my learned friend, Mr. Burke, yesterday said he felt a pattern with
18 regard to your evidence was emerging and I would go along with that but I would
19 see a slightly different pattern. When pieces of paper are produced, you sit
20 back and create a scenario to tie in with those. And that's what you have done
21 in this module. Maybe it's what you did with regard to the diaries, that
22 remains to be seen. But you underestimated all the way along the monies you
23 received on this project, you say through poor recollection. So be it. But
24 each time paper was given to you, you created a scenario from that.
- 14:58:28 25
26 In her cross-examination yesterday, Ms. Dillon produced telephone records upon
27 telephone record, upon telephone record. You had a narrative almost with every
28 page. Not a definite narrative but probably this, probably that, it would have
29 been the other. You are not giving evidence, you are saying what may have
30 happened and I am suggesting that by doing that, you are giving yourself even
- 14:58:55

- 14:59:05 1 more wriggle room than the "At least 5,000" would you agree with that?
- 2 A Certainly not. And to just in response also, you are not suggesting to me, are
- 3 you, that none of those telephone calls took place? You are not suggesting to
- 4 me, are you, that your client did not call me? You are not suggesting to me,
- 14:59:28 5 are you, that any of the calls that are registered into my office came from the
- 6 people that they are identified as? You are not suggesting any of that?
- 7 Q 480 Sorry, was any of that contained in my question?
- 8 A The import of what you were saying
- 9
- 14:59:45 10 CHAIRMAN: Sorry the question that I understand what you are putting to
- 11 Mr. Dunlop is to the effect that you are suggesting to him that he was
- 12 purposely being vague about his replies in relation to the telephone messages.
- 13 But he has raised the issue, if he is to answer that, is it on the basis that
- 14 your client takes --
- 15:00:10 15 Q 481 MR. REYNOLDS: I make no such suggestion, Mr. Chairman.
- 16 A Thank you for the clarification, on that basis, I answered each question that
- 17 was put to me by Ms. Dillon to the best of my ability.
- 18 Q 482 Perhaps you missed my real question. What I was saying was on no occasion did
- 19 you say yes, he rang for A or he rang for B, you always said he rang probably
- 15:00:32 20 in connection with A or that would have been in connection with B?
- 21 A No, I think if you visit the transcript --
- 22 Q 483 Oh I have?
- 23 A Ms. Dillon put the question is it likely or is it probable, is that possible,
- 24 or whatever. And I said in each instance in reply that there were a number of
- 15:00:55 25 issues obtaining at that time with your client, if we stick with your client
- 26 for a minute, Mr. Collins, that Mr. Collins and I had a relationship which
- 27 spanned --
- 28 Q 484 Mr. Dunlop, I asked you a question?
- 29 A Which spanned a number of ...
- 15:01:10 30 Q 485 The answer was yes or no?

- 15:01:12 1 A Which spanned the number of --
- 2 Q 486 It is not.
- 3
- 4 MR. REDMOND: Again on behalf of Mr. Dunlop, it is not for counsel to direct
- 15:01:19 5 what answer the witness can give, he is entitled to answer subject to direction
- 6 from the Tribunal, not to counsel asking questions.
- 7
- 8 MR. REYNOLDS: With respect to my friend, he is entitled to answer the question
- 9 he was asked and not some question he wishes to answer.
- 15:01:31 10
- 11 CHAIRMAN: I don't think it's necessarily a yes or no question. You are
- 12 asking him did he provide some sort of vague response in relation to each
- 13 particular telephone --
- 14
- 15:01:46 15 MR. REYNOLDS: Well I will rephrase it, Mr. Chairman, were you being purposely
- 16 vague in your answers rather than giving definite answers?
- 17 A Each answer given was given to the best of my ability and recollection.
- 18 Q 487 Okay. Thank you. By your own admission in April 2000, you couldn't remember
- 19 the project at Lissenhall, isn't that correct?
- 15:02:16 20 A Correct.
- 21 Q 488 By your own admission in May of 2000, you couldn't remember the project
- 22 Lissenhall?
- 23 A Yes, correct.
- 24 Q 489 By your own admission in October of 2000, you believed you had received about
- 15:02:31 25 5,000 on Lissenhall.
- 26 A Not -- less than 5,000.
- 27 Q 490 Not less than or at least 5,000. February 2003, 10,000. You can't remember
- 28 Michael Hughes being at a meeting, yet he was the person that kept ringing you
- 29 to find out how it was progressing and you can't remember that he was at the
- 15:02:56 30 meeting?

- 15:02:58 1 A He was the person who kept ringing me in relation to the matter progressing and
2 your client, Mr. Collins, both of them. No, I have said quite definitively
3 that I could not absolutely and categorically say that I recall Mr. Hughes
4 being at the meeting.
- 15:03:15 5 Q 491 Do you recall who had the map and was explaining the property to you?
6 A No.
7 Q 492 That would have been Mr. Hughes.
8 A Well I am not so sure that that is the case because I don't have a definite
9 recollection. I did say that I do not, I could not absolutely say one, that I
15:03:36 10 was given the map at the meeting by any of the people present at the meeting
11 and secondly I had been told that a submission had been made in relation to the
12 development but that I did not recollect ever getting a copy or seeing that
13 submission.
14 Q 493 You said yesterday in evidence that my client, Tim Collins, rang you to arrange
15:03:55 15 the meeting.
16 A Yes.
17 Q 494 And he said he was bringing people in connection with Lissenhall and you had a
18 brief discussion about it on the telephone?
19 A Yes.
15:04:07 20 Q 495 That was your evidence yesterday, is that correct?
21 A In response to Ms. Dillon, what I said was that the meeting was arranged by Tim
22 Collins, that the likelihood was that a meeting, that this was done by a
23 telephone call from Tim Collins who would and did subsequently ring me in
24 relation to other matters, to bring people to me.
15:04:29 25 Q 496 Okay. Now, did you ask him on the telephone was a submission made?
26 A I don't recollect that I did.
27 Q 497 Is it quite likely that you did?
28 A It's possible.
29 Q 498 Is it likely, because yesterday in your evidence you were saying that there was
15:04:48 30 no point in you speaking to people if a submission wasn't made?

- 15:04:50 1 A Correct.
- 2 Q 499 So surely you would have said that to Tim, is there a submission made,
3 otherwise there's no point in you arranging the meeting?
- 4 A Tim himself would be aware there was no point coming near me unless a
15:05:03 5 submission had been made.
- 6 Q 500 So why in your evidence yesterday are you so definite or were you so definite
7 that you explained to them that a submission had to be made and that that was
8 imperative?
- 9 A Well that is the procedure, I mean you cannot -- Sorry I was going to use an
15:05:20 10 analogy and again I realise that you haven't been here before.
- 11 Q 501 Use the analogy, I will try and catch up?
- 12 A To get to the dance; you need the ticket. You can't get to the dance unless
13 you have a submission made. You cannot put in a motion for the rezoning of
14 land in the course of a Development Plan in Dublin County Council as it then
15:05:42 15 was, it may well have changed since, I don't know. Unless you had, there was a
16 submission which the council officials could adjudicate on for a recommendation
17 or otherwise.
- 18 Q 502 Yes, we have accepted that point. You made that point eloquently yesterday and
19 no one has contradicted you on it but a moment ago you agreed with me that it
15:06:06 20 was likely that you would have asked if Tim Collins or Tim Collins would have
21 known that a submission was required?
- 22 A Well I have no doubt that Tim Collins knew that a submission was required, I
23 have no doubt about that at all.
- 24 Q 503 So if there was no submission, there was no point in having a meeting?
- 15:06:20 25 A There was no point in having a meeting.
- 26 Q 504 So therefore why would you start telling them about a submission at a meeting?
- 27 A Obviously the question of a submission came up at the meeting.
- 28 Q 505 Would that not be taken as read over the meeting began?
- 29 A Not necessarily, no.
- 15:06:34 30 Q 506 I suggest it would, otherwise there was no point in having a meeting, and Tim

- 15:06:39 1 Collins as you say would have known that, you would have known that.
2
3 Earlier on when I was asking you questions about the tax evasion account, I
4 said that you received 12,500, you paid bribes of 3,000, that gave you a profit
15:07:07 5 margin of 75 percent, isn't that correct, roughly?
6 A Based on your maths.
7 Q 507 I am not asking to confirm the percentage.
8 A Based on your mathematics it.
9 Q 508 It's an approximation? Why didn't you contradict me.
15:07:22 10 A Why not? Why would I.
11 Q 509 Well your evidence now is you also paid 2,000 to Tim Collins, that would have
12 come off the bottom line surely?
13 A The payment to Tim Collins was made late in 1993.
14 Q 510 Yes. So why didn't you contradict me? Your profit, according to you now, was
15:07:45 15 not 75 percent?
16 A Well I mean I don't see any inherent contradiction, we are talking about, you
17 put to me in relation to payments to, bribes of councillors of 2,000 pounds out
18 of the monies that I received. I have already made a statement to the effect
19 that I gave Tim Collins 2,000 pounds towards the end of 1993.
15:08:06 20 Q 511 That and would come off the bottom line of this project, it was cash you
21 specify it was cash?
22 A I am glad that's acknowledged.
23 Q 512 It's not acknowledged.
24 A Well you said it was cash.
15:08:14 25 Q 513 According to your statement it was cash. Like I said, you specified cash. So
26 would that not reduce your profit margin again by 2,000?
27 A Yes, it would.
28 Q 514 Why did you contradict me?
29 A I am not in the business of contradicting you in relation to whether or not I
15:08:34 30 made a payment to Tim Collins. Tim Collins came to me and after a mutual

- 15:08:40 1 discussion about a fee for the introduction of the client, I agreed to him give
2 him money.
- 3 Q 515 Is it the same reason that you didn't contradict Ms. Dillon, when yesterday she
4 said "If your initial figure was correct, Mr. Dunlop, let us say the amount you
15:08:58 5 received was 5,000 pounds", you interjected "not less than". "But the sum is
6 5,000 pounds, isn't that right? Yes.
- 7 Q: And there had been no other evidence, your expenses associated with the
8 rezoning were 3,000 pounds because that's what you paid out you are saying in
9 bribes?
- 15:09:11 10 A: Correct.
- 11 Q: So that your net profit was 2,000 pounds, correct."
12 You didn't contradict Ms. Dillon either?
- 13 A On the basis of the premises of the question, of the payment of 5,000 pounds.
- 14 Q 516 You say your net profit was 2,000 pounds. That's not correct.
- 15:09:29 15 A Read out what Ms. Dillon said to me again. On the basis of --
- 16 Q 517 "Your expenses associated with the rezoning were 3,000 pounds because that's
17 what you said out in bribes? Correct. So that your net profit was 2,000
18 pounds?"
- 19 A Yes, and what's the premises of that question. What figure is she premising
15:09:46 20 that on.
- 21 Q 518 The 5,000?
- 22 A Correct.
- 23 Q 519 Yes. And then she moves on, "If your second figure was correct, Mr. Dunlop,
24 the profit, the amount that you had paid was 10,000 pounds, your expenses are
15:09:59 25 3,000 so your net profit is 7,000, isn't that right? Correct again." And
26 then where he move to the real figure of 27,625.
- 27 A Correct.
- 28 Q 520 Which is probably not a fair figure because it would be, that would include
29 VAT, wouldn't it?
- 15:10:15 30 A The VAT element was on the two invoices issued.

- 15:10:20 1 Q 521 Yes, but your net receipt was 25,000, isn't that right?
- 2 A Net receipt was 25,000 pounds.
- 3 Q 522 12,500 under the counter?
- 4 A 10,000 and 2,500.
- 15:10:36 5 Q 523 Yes. 12,500 and 12,500 under the counter to use the colloquialisms.
- 6 A Yes.
- 7 Q 524 So 25,000 so, your profit should have been 22,000 really. But you don't
- 8 contradict any of those yet you come along now and you say on the 21st March
- 9 this year, low and behold, there's a payment to Tim Collins which has never
- 15:11:01 10 been mentioned at any stage before.
- 11
- 12 Can you say why it was never mentioned before?
- 13 A Well it wasn't mentioned here before, it was mentioned elsewhere before to my
- 14 solicitor. But one, I said to Ms. Dillon yesterday Mr. Collins is not a
- 15:11:15 15 politician, notwithstanding the fact that he is closely associated with
- 16 politics.
- 17 Q 525 You see I don't accept that answer as answer?
- 18 A Well, can I answer? Number two.
- 19 Q 526 Go ahead with number two. I didn't know there was a number two, it was only
- 15:11:27 20 number one yesterday.
- 21 A Number two, first of all, he is not a politician. Secondly, the payment was
- 22 made in circumstances that I outlined to you or outlined here yesterday and I
- 23 don't have a difficulty with, I didn't have a difficulty with and I don't now
- 24 have a difficulty with giving Tim money for bringing a client or at his
- 15:11:50 25 request. I don't have any difficulty about that. And it is not a corrupt
- 26 payment in my view. It's a payment to Tim Collins.
- 27 Q 527 No one is suggesting it is.
- 28 A Yes.
- 29 Q 528 In the private interviews back in May 2000, you referred to Tim Collins.
- 15:12:11 30 A Yes.

- 15:12:13 1 Q 529 His role Ambrose Kelly project, he used to marry up people with property,
2 buyers with sellers, land with purchasers, land with -- that sort of thing,
3 right.
- 4 A That appeared to be his role, yes.
- 15:12:29 5 Q 530 He came to me on a number of occasions, you even mentioned Mr. Moran. You then
6 go on to say that yourself, Tim and some other people from Walsh Maguire, you
7 were going to put in or you did put in, it's not clear, 5,000. Now, you spoke
8 in some detail about Tim Collins there. You gave evidence yesterday that it
9 was a one off payment, that there were none before or since. So why did it not
10 occur to you to mention that? I mean it would have seemed natural in the flow
11 of conversation you were having in these private interviews?
- 12 A Well it doesn't appear to me to be natural in the flow of conversation in those
13 interviews.
- 14 Q 531 Well I mean you were saying that Tim Collins introduced people to you?
- 15:13:20 15 A Yes, he did.
- 16 Q 532 It would have been natural to say well and on one occasion, I actually paid him
17 an introduction fee?
- 18 A It doesn't strike me in any way as odd or contradictory. I mean I have already
19 said Tim asked and I acceded.
- 15:13:39 20 Q 533 I am just making the point, you can agree or disagree, it's a wee bit odd it's
21 not mentioned anywhere until your letter or sorry your statement of the 21st
22 March.
- 23
- 24 You see I put it to you that the evidence you are giving to the Tribunal,
15:14:00 25 particularly in connection with this module, is based upon disclosure that the
26 Tribunal has provided you with and you have spun a story around that
27 disclosure. And every now and again, to deflect attention from yourself or for
28 whatever reason, you have thrown in something that's mischievous or in actual
29 fact with regard to this meeting you saying that it was mooted by the other
15:14:33 30 people that councillors would have to be paid, that's being malicious, I would

- 15:14:38 1 suggest to you. I take it you don't agree?
- 2 A I don't agree with that.
- 3 Q 534 Okay. Mr. Dunlop, I have enjoyed this afternoon, thank you very much. We must
4 do this again some time. But one parting compliment --
- 15:15:16 5
- 6 MS. DILLON: I don't think it's for my friend, he is here as counsel to the
7 witness -- counsel to a person who is going to give evidence and if
8 Mr. Reynolds has a question, he should put a question to the witness.
9
- 15:15:26 10 CHAIRMAN: We were going to wait and see what he says.
11
- 12 MR. REYNOLDS: Mr. Dunlop, I would suggest to you that your testimony is *blandae*
13 *mendacia lingua*. You may agree or disagree.
- 14 A It's nice now and again to hear a piece of Latin but I disagree.
- 15:15:51 15 Q 535 Thank you.
16
- 17 CHAIRMAN: Mr. Montgomery.
18
- 19 **WITNESS CROSS EXAMINED BY MONTGOMERY AS FOLLOWS:**
- 15:16:01 20
- 21 Q 536 Good afternoon, Mr. Dunlop. Mr. Reynold has dealt with this scenario and I
22 want to see can I tease out a little further. Without going into the detail of
23 dates, it seems to me from the evidence already given and from the answers
24 given by you to Ms. Dillon that we may take that Lissenhall project was
15:16:40 25 something that had slipped your mind in totality until such time as you had in
26 your own words crossed the rubicon in documentation from the Tribunal was
27 furnished to you by way of discovery?
- 28 A That's not quite accurate, Mr. Montgomery, I accept your phrase crossing the
29 rubicon, I used it myself this morning. In relation to the Lissenhall lands,
15:17:08 30 the first recognition by me of involvement in the Lissenhall lands was in

- 15:17:14 1 October, sorry, December 2000 when I made my narrative statement, after it was
2 agreed that the road map in relation, that I requested, road map in relation to
3 what had occurred in Dublin County Council was provided.
- 4 Q 537 That's precisely what I put to you, it wasn't until after data or documentation
15:17:37 5 was furnished to you.
- 6 A Correct.
- 7 Q 538 That you were suddenly as it were, struck by the light and everything
8 surrounding the Lissenhall project fell into place.
- 9 A The recognition of my involvement in Lissenhall came from the fact that the
15:17:56 10 documentation in relation to Lissenhall from Dublin County Council was supplied
11 by the Tribunal.
- 12 Q 539 But the detail of your involvement in what you knew or what you didn't know or
13 what you did or didn't do would not have been contained in the documentation
14 furnished by the Tribunal but could only have come from your own memory?
- 15:18:18 15 A Correct and any other documentation that I had in relation to Lissenhall or
16 Rayband.
- 17 Q 540 But you have already acknowledged that many of the things surrounding not just
18 Lissenhall, other matters touching on different and other modules, your
19 recollection isn't particularly wonderful.
- 15:18:41 20 A Well, I don't know what phrase you would use but I said this morning and I will
21 just say it again, that what I say here in relation to what I recollect is what
22 I believe to be correct in relation to my involvement with anything to do with
23 Dublin County Council.
24 I have made it absolutely clear and I have just done so again with Mr. Reynolds
15:19:07 25 that if a situation arises whereby I am wrong, there is no, I have no
26 difficulty -- I made that clear from the outset, that --
- 27 Q 541 I think we all accept that.
- 28 A Yes, thank you.
- 29 Q 542 But you see what I have to put to you is that because Mr. Gallagher
15:19:27 30 unfortunately is no longer with us, he is not in a position to disagree with

15:19:32 1 any of the statements or evidence given or made by you. And consequently, it
2 is up to, insofar as I can, up to me to try and elicit from you precisely the
3 evidence that the Tribunal must consider and the difficulty I have so far is
4 that not just I must say in this module but now as we are dealing with this
15:20:01 5 module is in relation to your recollection as to how you dealt with
6 Mr. Gallagher.

7
8 We have your statement that you bribed him with 1,000 pounds. But you don't
9 appear to be in a position to say A. When you discussed with, the matter
15:20:18 10 generally with him, B. When you asked him as to whether he was prepared to
11 propose the motion, C. As to when it was discussed, and decided that there
12 would be a fee charged, D. The amount of the fee, and also when and where it
13 would be paid.

14 Now, we don't have any evidence so far about any of those and I am just
15:20:43 15 wondering, can you assist in some way?

16 A Well as I replied to Ms. Dillon yesterday morning, when she asked me when I
17 would have approached Cyril Gallagher in relation to this matter and let the
18 transcript show the exact words but in summary, it is to the effect that at
19 some stage after I was engaged by Rayband, I would have approached Cyril.

15:21:15 20
21 There were many matters going on at Dublin County Council at that time. I had
22 arrangements with Cyril Gallagher from time to time to meet him in specified
23 places. I rarely -- or an opportunity was rarely missed for the two of us not
24 to meet together with the environs of Dublin County Council. I asked him to
15:21:42 25 sign the motion, otherwise the motion could not have been signed. And I have
26 yet to hear anyone suggest that somebody else obtained his signature. And I
27 have outlined the circumstances in which a discussion took place where he would
28 sign for a specific sum and did so and I paid him.

29 Q 543 Mr. Dunlop, with respect, we are back to would have, in effect was, I don't
15:22:15 30 want that. I want specifics. Did you or did you specifically go to

- 15:22:21 1 Mr. Gallagher and say look, I want your assistance in this project?
- 2 A I already gave evidence to Ms. Dillon on that point. I went to him
- 3 specifically because he was from the Swords area.
- 4 Q 544 Yes and I want to know when you went to him, I want to know the date and the
- 15:22:34 5 place?
- 6 A No, I cannot give that date or that specific date and place.
- 7 Q 545 So I may take it it's fair to say you don't remember?
- 8 A I have met your client.
- 9 Q 546 I put a question to you, is it fair to say that you don't remember?
- 15:22:51 10 A No, I cannot give you the exact time and date.
- 11 Q 547 In other words you don't remember?
- 12 A I have already said that I cannot give you the exact time and date other than
- 13 in the circumstances that I outlined to you, to Ms. Dillon yesterday, and in
- 14 the circumstances that I have already given evidence in another module, in two
- 15:23:05 15 other modules in relation to my relationship with your, the client, your
- 16 deceased client.
- 17 Q 548 I have taken you through that. But what I'm specifically saying to you here,
- 18 or asking you rather than saying is to you is that you should, if you are
- 19 blackening the name of a person that can't answer for himself, you should be in
- 15:23:27 20 a position to stand over how you are doing it and you have give us absolutely
- 21 nothing factual, you are not in a position to prove payment. You are not in
- 22 the position to prove anything other than that he signed the motion.
- 23 A Yes.
- 24 Q 549 And you are now telling us you can't remember anything else?
- 15:23:44 25 A Yes. Well just on the point about blackening --
- 26 Q 550 No, sorry.
- 27 A I am entitled to answer the question, Mr. Montgomery.
- 28 Q 551 I asked a specific question?
- 29 A Well I will answer it the way I wish to answer it. Is that clear.
- 15:23:57 30 Q 552 The chairman will decide on --

15:23:59 1 CHAIRMAN: Wait now. Just answer the question that Mr. Montgomery asked you.
2 He asked you about the specifics of it.

3 A And I have already told him, chairman, that I cannot tell him the date, the
4 exact date on which I met his client, one to discuss the issue, one in relation
15:24:22 5 to payment for his signature, and two, the date of the payment.
6

7 CHAIRMAN: But are you saying that you have an actual recollection of meeting
8 him in relation to this particular project?

9 A Yes, as with many other projects.

15:24:40 10

11 CHAIRMAN: No, no, forget about the other projects. I mean is it your
12 evidence that you actually remember a conversation with him in relation to
13 Lissenhall?

14 A Yes, asking him to sign.

15:24:53 15

16 CHAIRMAN: Yes. And but Mr. Montgomery was asking could you say, when that
17 took place or where that took place, where the meeting took place

18 A Yes, with respect, chairman, I did say that no, I could not give him the date
19 and as to the venue, I endeavoured to the best of my ability to explain the
15:25:20 20 circumstances in which I normally met Mr. Montgomery's client.

21 Q 553 MR. MONTGOMERY: When Ms. Dillon was examining you in relation to the payments
22 you allegedly made to Councillors Fox and Hand, you were again somewhat vague,
23 if I can use that term, in your response. That was in relation to question 63
24 and your response to it.

15:26:04 25

26 Your response was "I wouldn't accept the generality of that statement. I was
27 requested by both Councillor Hand and Councillor Fox in relation to
28 virtually -- and I am using the word virtually for convenience sake --
29 virtually every single time I approached for them support and they asked for
15:26:23 30 and received money from me."

15:26:25 1 Then you went on to say some few questions later "that whilst you know you paid
2 these councillors on occasions, you weren't in a position to remember every
3 particular development or every particular matter that was being dealt with.
4 You went on to say Councillor Fox was and I don't want to be dismissive about
15:26:56 5 this, but he was one of my regulars, he was one of the people I always went to
6 and sought his support." Would you like to tell us what you meant by the term
7 regulars and who the other regulars were?

8 A Well they were councillors in the context of the Development Plan. And in the
9 context of obtaining support for a particular development and in the case of
15:27:25 10 the two councillors that you mentioned, Councillor Fox and Councillor Hand, I
11 said what I said yesterday and the contact that I had with him is evidence to
12 the effect that we were in regular contact in relation to matters vis-a-vis
13 Dublin County Council an the Development Plan.

14 Q 554 So I take it every time you approached a councillor whom you knew or whom you
15:27:56 15 had previously bribed, you discussed on an individual basis each item as to how
16 much would be charged for such, for which particular request you were then
17 arriving with or was there a fixed amount?

18 A Well no, I have already said a number of modules ago, that the issue is an
19 issue that involves two people, it's not a question of somebody deciding like
15:28:29 20 me saying to a councillor there's money, please support me. It's a question of
21 a request. That's number one. So if I approach somebody and they ask for
22 money in relation to a particular development, a discussion ensues. A
23 discussion follows.

24 Q 555 Was there a tariff for the bill of fare that's in dispute?

15:28:56 25 A In general terms, in general and it didn't absolutely always apply in general
26 terms, and it was subject to negotiation and was the subject of negotiation
27 that people would support or sign for specified amounts.

28 Q 556 Well if I can move from that element to a different matter. As I said in the
29 last question, you have used the phraseology, one of my people, you have also
15:29:29 30 used the phrase I know the people involved, you have now effectively said who

15:29:33 1 they were, not by name but by what was done, in light of this and in light of
2 your already giving evidence of your closeness or friendship with Mr. Cyril
3 Gallagher can you explain to us why there appears to be an almost complete
4 absence of Mr. Gallagher's name from your diaries, which were gone through in
15:30:04 5 detail in the last few days for almost 14 or 15 months, we saw virtually every
6 page of your diaries and the Gallagher name occurs, if my memory serves me
7 correct, once, maybe twice whereas all other councillors' names appears once
8 twice or more per day almost.

9 A Yes. I can't absolutely say to you, Mr. Montgomery, how many times Cyril's
15:30:29 10 name appears in the diary but it does appear. I am not going to say once or
11 twice but it does appear on occasion. The arrangements that I had with Cyril
12 Gallagher would normally, were that I met him in the environs of Dublin County
13 Council and/or if circumstances arose whereby I would collect him at his house
14 and bring him, I would meet him locally and bring him to his, to a restaurant
15:30:56 15 or hotel or a meal and sit down and discuss matters. Now, I did that on quite
16 a number of occasions.

17 Q 557 I am prepared to accept you certainly did it once or twice but I am also
18 conscious of the fact that Mr. Gallagher was extremely adamant in his denial of
19 any corrupt relationship between the two of you. And consequently, I have to
15:31:20 20 repeat the question, his name is not one that figures regularly in your diary
21 and it would seem to me that given the amount of entries in your diary and the
22 number of phone calls received, which were again listed on a daily basis
23 almost, where you might have found the time to have this, are you telling us
24 frequent luncheon meetings with Mr. Gallagher?

15:31:45 25 A No, I can't put a figure on the number of times but certainly I met Cyril
26 Gallagher in a number of locations, both locally in his own area and elsewhere
27 and as I said to you, he was a very regular attender at Dublin County Council
28 and --

29 Q 558 We know that.

15:32:04 30 A Because his occupation allowed him to do that and I met him there. It was

- 15:32:09 1 hardly a day in relation to the Development Plan that I would not have a
2 conversation, however minimally, with Cyril.
- 3 Q 559 Nevertheless, notwithstanding the fact that you can't be more specific in
4 relation to the time, place and method of payment, well we know the method was
15:32:33 5 cash, but the time and place of payment to Mr. Gallagher?
- 6 A Yes, the method was cash, you are quite right. But no, and again I say to you
7 quite straightforwardly, I cannot absolutely give you time and venue in the
8 instance that we are talking about but given the regularity with which I met
9 him, I met him in, by arrangement or, as in this particular instance, there is
10 an entry in his diary for this particular meeting, for a particular meeting on
11 the 18th May.
- 12 Q 560 But you see, Mr. Dunlop, in the evidence that you have given throughout this
13 particular module, both in relation to payments received and payments made,
14 other than the 3,000 to the three councillors, you are being extraordinarily
15:33:29 15 vague and in relation to the payment of the three councillors, you are not in a
16 position to give any information to take the matter further other than your own
17 word that you paid them?
- 18 A I don't accept that it's for others to adjudicate on that.
- 19 Q 561 I am not asking you to adjudicate, I am asking you to explain why that is.
- 15:33:52 20 A I have given the evidence to the Tribunal to the best of my ability and
21 recollection, as I outlined this morning, and that is my evidence.
- 22 Q 562 So that if I were to suggest that once the cat came out of the bag, is the
23 phrase you have used in a different context to this module, and you realised
24 you were going to have to be answerable to the revenue for the monies in your
15:34:16 25 war chest, would I be possibly incorrect in suggesting that the moment you
26 realised this, you immediately had to set to and see what expenses you might
27 set against various monies that were lodged?
- 28 A Yes, you would be totally incorrect.
- 29 Q 563 And would I be completely incorrect to say everything else is fabrication in
15:34:36 30 your evidence?

15:34:37 1 A You are completely incorrect.

2 Q 564 Thank you, Mr. Dunlop.

3

4 CHAIRMAN: Thank you.

15:34:41 5

6 THE WITNESS WAS CROSS-EXAMINED AS FOLLOWS BY MS. SMITH:

7

8 Q 565 Chairman, Mr. Dunlop, good afternoon, I appear on behalf of Councillor Tony Fox

9 instructed by Sean Costello & Company, solicitors, and I have a few questions

15:34:48 10 for you, Mr. Dunlop. On previous occasions, Mr. Dunlop, you were

11 cross-examined by my colleague, Mr. Breffni Gordon, on behalf of Councillor

12 Tony Fox.

13 A Yes.

14 Q 566 And on a number of occasions he put it to you that you were a liar, Mr. Dunlop,

15:35:05 15 didn't he?

16 A He did.

17 Q 567 And you have accepted here today that in advance of the admonition you received

18 from the then Chairman of the Tribunal, Mr. Justice Flood, that you were in

19 fact telling lies before April of 2000 to the Tribunal, are in fact your own

15:35:23 20 words, you had not told the full truth?

21 A Correct.

22 Q 568 Is that not another way of saying you were telling lies, that that you had

23 misled the Tribunal in advance of April 2000?

24 A I have absolutely no difficulty, Ms. Smith, in saying, as I did attest before

15:35:39 25 to your colleague, in saying that I did not tell the truth.

26 Q 569 Is it not the case, Mr. Dunlop, that in the context of this module, that you

27 have again told lies to the Tribunal?

28 A No.

29 Q 570 Well let's go through the sequence of events and I know this has been put to

15:35:55 30 you by my colleagues over this morning's evidence and this afternoon but if we

15:36:00 1 just start at the beginning in relation to your evidence. Initially, when you
2 were asked in April of 2000 to give evidence in relation to developers or
3 amounts of money that you may have been paid or that you may have paid over in
4 private session, you didn't mention Lissenhall, is that correct?

15:36:17 5 A That's correct.

6 Q 571 In your first narrative statement is when you first actually referred to
7 Lissenhall, isn't that correct?

8 A December 2000.

9 Q 572 And in that first narrative statement, you say you were paid not less than
10 5,000 pounds.

11 A Correct.

12 Q 573 That's correct. And in February of 2003, on questioning from Mr. O'Tuathail,
13 you accepted you were paid 10,000 pounds from Rayband Limited, isn't that
14 correct?

15:36:41 15 A Correct.

16 Q 574 And then in March of this year, the 21st March 2006 not so long ago, you
17 accepted that you were paid in the region of 27,625 pounds, isn't that correct?

18 A Correct.

19 Q 575 Do you accept that there's a very substantial difference in the first instance
15:36:56 20 between your first narrative statement in 2000, and your second narrative
21 statement in relation to Lissenhall in March 2006?

22 A In relation to amounts, yes.

23 Q 576 In relation to amount. You don't accept in effect when you referred to the
24 first figure, that you referred to, the 5,000, not less than 5,000, you were
15:37:12 25 lying to the Tribunal?

26 A No, I was giving my estimation of what I had received.

27 Q 577 Your estimation. Do you, or can you recollect, Mr. Dunlop, what the national
28 average wage in or about 1993 would have been, just off the top of your head,
29 if you could?

15:37:28 30 A I haven't a clue.

- 15:37:29 1 Q 578 Okay. So if I were to say to you it was approximately 13,000 pounds in or
2 about 1993, that was the national average wage, you couldn't dispute that,
3 could you?
- 4 A Well I wouldn't dispute it, I am sure you have done some research on it.
- 15:37:43 5 Q 579 Well I am putting it to you anyway, Mr. Dunlop, that that would have been in or
6 about approximately the national average wage in 1993. That's 13,000 pounds.
- 7 A Hmm.
- 8 Q 580 Which is a significantly lesser sum than the full amount you say you were paid
9 now that you said in March 2003 in relation to these lands, 27,000, in fact,
10 that's over twice the national average wage in 1993.
- 11 A The national average wage in 1993.
- 12 Q 581 Or in 1993. The money you now accept that you have accepted before the
13 Tribunal that you were paid is 27,625, the national average wage was 13, so we
14 are saying the money you now accept would have been approximately over twice
15 the national average wage?
- 15:38:26 15 A Yes. I thought you were putting it the other way, you are correct, yes.
- 16 Q 582 But in accepting what you say is your best recollection, can you account for
17 the very real difference in relation to your evidence, the different figures
18 that you have given throughout the period of this Tribunal in relation to
19 Lissenhall, can you explain to this Tribunal, given the amounts of monies we
15:38:44 20 are talking about, how you could have at the first instance when asked about
21 this module referred to the sum of not less than 5,000, given the context in
22 which the monies that you were paid in 1993 would have amounted to, given the
23 national average wage. Can you explain to the Tribunal how you could have, to
24 the best of your recollection, gotten it so wrong?
- 15:39:13 25 A Yes. I think I attempted to do previously, but I have no difficulty doing it
26 again and that is, that in the time that, at the time I made that statement in
27 relation to, in December 2000, in which I used that phrase, that was my belief.
28 When I was asked by Mr. O'Tuathail the exact circumstances escape me as to why
29 I was actually producing that list in the box at that time in February 2003, I
15:39:36 30

- 15:39:45 1 put down 10,000 pounds. And as I have said to Ms. Dillon yesterday, and to
2 Mr. Reynolds and to Mr. O hOisin and I freely say to you now, that in the
3 context of the 12,500 pounds, the initial payment, for which I don't have an
4 invoice extant and I have not yet seen one, that until such time as the
15:40:10 5 Tribunal showed to me, notwithstanding my efforts to find out what the 12,500
6 was for in the lodgment, I did not realise it was from IFG.
- 7 Q 583 With respect to you, Mr. Dunlop, in relation to the efforts you went to find
8 out what monies, it's already been put to you by my colleague, Mr. O hOisin,
9 that when you prepared your narrative statement, the very first one, you would
15:40:33 10 have had documentation available to you, wouldn't you, your own documentation?
- 11 A I would have had some documentation.
- 12 Q 584 There was some you said were with your accountants?
- 13 A Correct.
- 14 Q 585 So you didn't do your best in prepare can the first narrative statement to
15:40:45 15 establish what monies you may have been paid by Lissenhall by the developers or
16 promoters of Lissenhall?
- 17 A No, but I put down to the best of my recollection that I received a sum of
18 money of not less than 5,000.
- 19 Q 586 Well, I have to put it to you, Mr. Dunlop, you are still at this point in time
15:40:59 20 in March 2006, telling lies to the Tribunal?
- 21 A Well I absolutely reject that.
- 22 Q 587 In relation to the allegation of corruption that you have made against my
23 client, Councillor Fox, you are aware, Mr. Dunlop, I think you have actually
24 answered this question on previous occasions, Councillor Fox was pro
15:41:16 25 development?
- 26 A Oh, yes.
- 27 Q 588 You are also aware clearly given the evidence that has been gone through in the
28 last two days that there were a number of councillors in favour of the
29 Lissenhall motions, some 49 in favour?
- 15:41:29 30 A Ultimately.

- 15:41:30 1 Q 589 And in light of that, Mr. Dunlop, you have maintained that you paid Councillor
2 Fox 1,000 pounds?
3 A Yes.
- 4 Q 590 Can you, Mr. Dunlop, tell the Tribunal when you made that payment?
15:41:42 5 A What I said and what I still say to you now is that the payment was either made
6 before or after the vote but I cannot give you an exact date.
7 Q 591 Mr. Dunlop, you are being vague, with respect, again. I am asking a simple
8 question. Either you can say when or you can't say when. Specifically, can
9 you say when you paid Mr. Fox 1,000 pounds in relation to Lissenhall?
15:42:04 10 A No, I have just answered that, I have said no, I cannot give you an exact date
11 and time or place.
12 Q 592 Can you give me an exact -- you can't give me, you said you can't give me an
13 exact place. You have led me to my next question, where. You can't answer
14 that question either?
15:42:20 15 A Other than what I have said in relation to my statement.
16 Q 593 Can you give a specific account of how you paid Councillor Fox in relation to
17 Lissenhall?
18 A Your client was always paid in cash, on quite a number of occasions.
19 Q 594 That's again, Mr. Dunlop, a general statement. Can you remember specifically
15:42:41 20 if you paid councillor -- it's your evidence that you did -- can you remember
21 specifically in that form you may have paid him in relation to Lissenhall?
22 A In cash.
23 Q 595 That's what you are saying, specifically you have a recollection of paying him
24 in cash?
15:42:52 25 A I certainly never gave your client a cheque.
26 Q 596 I'm asking you in relation to this module, Mr. Dunlop, do you have a specific
27 recollection of handing Councillor Fox 1,000 pounds in cash?
28 A I gave your client 1,000 pounds in cash for this, for his support for this
29 module.
15:43:09 30 Q 597 Do you have a specific recollection of doing so?

- 15:43:12 1 A Yes, I have a specific recollection of giving your client money on many
2 occasions, including this one.
- 3 Q 598 So you now remember handing him cash, is that what you are saying to the
4 Tribunal?
- 15:43:22 5 A Yes, I gave him cash and I have already said that in my statement.
- 6 Q 599 Do you have any documentary support of what you allege you paid to Councillor
7 Fox, Mr. Dunlop?
- 8 A No.
- 9 Q 600 There is, in fact, though, documentary support of a relationship that existed
10 between you and Councillor Fox that has previously been referred to before this
11 Tribunal, it's Texas Homecare, do you recall that matter?
- 12 A Yes, I do.
- 13 Q 601 That development that he may have had some contact with you in relation to, in
14 or about the time of this motion, we have already and you have already accepted
15 in fairness to you, it was a legitimate contact, there was no form or no
16 suggestion there was any type of payments of monies, that Councillor Fox was in
17 fact dealing with you in an up-front legitimate manner as a councillor, hasn't
18 been accepted by you?
- 19 A Two issues there, yes, you say in or around the time of this motion, you will
15:44:15 20 outline the dates there for me?
- 21 Q 602 In relation to Texas Homecare.
- 22 A Yes, the dates?
- 23 Q 603 It has been put to you, I think it was early 1990s and into 1991?
- 24 A You said at this time, in or around this time.
- 15:44:25 25 Q 604 Early 1990s.
- 26 A That's different, two years different.
- 27 Q 605 I put to you, Mr. Fox will give details of the timeframe he dealt with you in
28 relation to Texas Homecare, but I am putting it to you that there is no
29 documentary evidence to support your allegation that you paid Councillor Dunlop
15:44:44 30 1,000 pounds in relation to Lissenhall, is that correct?

- 15:44:46 1 A Well I am not a councillor and I never hope to be a councillor, you mean
2 Councillor Fox?
- 3 Q 606 Councillor Fox.
- 4 A Sorry, Ms. Smith, I don't mean to be nasty.
- 15:44:55 5 Q 607 I'm sure you don't.
- 6 A I have already said that in answer to your question, no, I cannot give you any
7 documentary evidence to sustain what I have said to you in relation to your
8 client.
- 9 Q 608 Yes but in contrast to that, Mr. Dunlop, I am putting to you the one piece of
10 objective evidence that has been opened to the Tribunal previously of a
11 relationship between you and Councillor Fox which was legitimate and there's
12 documentary evidence to support that?
- 13 A There's documentary evidence, yes, there's correspondence between us and
14 there's documentary evidence in relation to the particular client and there is
15 documentary evidence in relation to, if my memory serves me correctly,
16 residents' meetings.
- 17 Q 609 In relation to Texas Homecare?
- 18 A In relation to the locality, in relation to the location of Texas Homecare, in
19 Tony's back yard.
- 15:45:43 20 Q 610 And in contrast to that, your evidence in relation to this module, and
21 certainly others, relates to payments that are somewhat, to say the least,
22 vague, certainly there is no documentary evidence to support them, do you
23 accept that contention?
- 24 A There is no documentary evidence to support them, yes. There is, however, and
15:46:03 25 we have gone through this, I don't wish to --
- 26 Q 611 Well I'm just asking you questions, Mr. Dunlop, in relation to Lissenhall, if I
27 may.
- 28 A You are right, we don't want to enter documentary evidence in relation to
29 payments otherwise to your client.
- 15:46:14 30 Q 612 Well I am dealing with this module and if you have documentary evidence in

15:46:18 1 relation to payments that are before this Tribunal to my knowledge, Mr. Dunlop?

2 A We dealt with it in another module to relation to another diary entry in
3 relation to payment in a specific location.

4 Q 613 With respect, that diary entry you were referring to was at best a formula you
15:46:36 5 yourself wrote up and it was contradicted firmly in questioning you, that
6 actual formula in your diary, you say, referred to a payment. That's your
7 evidence. That's not, it will be said by Mr. Fox and it will said in the
8 context of that module evidence of a payment.

9
10 CHAIRMAN: Well you are quite correct, it's not documentary, it's of a
11 payment.

12
13 MS. SMITH: It's an entry in a diary.

14 A Yes.

15:47:02 15 Q 614 Mr. Dunlop, I have to put it to you that Councillor Fox has said consistently
16 and will say in evidence before this Tribunal that he never received any monies
17 from you, be it political contributions or otherwise, at any stage in the
18 context of any of the modules that will be opened before this Tribunal. I have
19 to formally put it to you, Mr. Dunlop. I am also putting it to you that your
15:47:28 20 evidence has been total and utter lies that will be contradicted by Councillor
21 Fox in evidence when he is called to give evidence before this Tribunal. I
22 have nothing further, chairman.

23
24 CHAIRMAN: All right. Thank you. Now, Mr. Reynolds, have you any questions?

15:47:48 25
26 MR. REDMOND: Mr. Redmond, chairman. I have no questions in re-examination,
27 chairman.

28
29 CHAIRMAN: All right. I just have one. Sorry?

15:47:55 30

15:47:55 1 MS. DILLON: I have no questions for Mr. Dunlop.

2

3

CHAIRMAN: All right. Just very briefly, Mr. Dunlop, in relation to the meeting that you had with Mr. Moran, Mr. Collins and possibly Mr. Hughes when

4

15:48:10 5 you were being briefed in relation to this project, it's your evidence that

6

they raised with you or they said something to the effect as you understood it

7

that they were aware of the practice of the need to bribe councillors?

8

A Payments would have to be made to councillors.

9

15:48:33 10 CHAIRMAN: And now and you said that you confirmed that to them?

11

A I confirmed that to them, yes.

12

13 CHAIRMAN: Why wasn't there a discussion, if that is the case, why wasn't

14 there some discussion between you then, given that there was no need to keep

15:48:51 15 that aspect of your work a secret, at that particular meeting. Why wasn't

16 there some discussion at that meeting as to who you were going to pay or the

17 fact that you were going to pay X pounds or possibly something said to the

18 effect that you might need to return to them for more money. I mean it was an

19 open subject at that stage, so why wasn't there more discussion as to what was

15:49:30 20 to be paid or possibly reasons given by you to justify your fee, given that

21 there were to be these outgoings?

22 A Well I can't answer that question. I can't say, give a reason as to why there

23 was no further discussion. I did say in my statement that there wasn't. I

24 didn't mention who I would have to pay. I didn't identify how much I would

15:49:58 25 have to say to pay and I think it was just a mutual acknowledgment between the

26 two sides that this was the way we were proceeding but I certainly have no

27 recollection of any questions being put to me about who money should be given

28 to or --

29

15:50:18 30 CHAIRMAN: But did you at that stage know or believe you knew who you would

- 15:50:23 1 have to pay?
- 2 A Well I knew that certainly, this is late 1992, early 1993, I knew that there
- 3 was certain people that I approached if I approached and would need to approach
- 4 to ascertain their support or otherwise, that yes, he would be asked for money.
- 15:50:39 5
- 6 CHAIRMAN: But you didn't know how many you might have to pay?
- 7 A No.
- 8
- 9 CHAIRMAN: Or you didn't know the amounts that would have to be paid?
- 15:50:46 10 A No.
- 11
- 12 CHAIRMAN: And is it not strange therefore that you wouldn't have said to
- 13 these people who apparently were on the same wavelength as yourself in relation
- 14 to the practice of paying councillors, isn't it strange that you wouldn't say
- 15 to them, I don't know how much this is going to cost, so I may have to get more
- 16 money or I may have to be repaid whatever I have to pay out of a fee?
- 17 A Yes, I can accept the logic and rational position that that would seem strange
- 18 but I mean I certainly did not discuss with them or say to them that X Y or Z
- 19 councillor would have to be paid X Y or Z amount and they did not, in ease of
- 15:51:34 20 their position say that we know you have to pay X Y or Z.
- 21
- 22 CHAIRMAN: Are you saying there was no discussion at all or reference to the,
- 23 even the approximate sum of money that would have to be expended?
- 24 A No.
- 15:51:50 25
- 26 CHAIRMAN: So after, if somebody had interviewed these three or four gentlemen
- 27 after the meeting and they were asked how much did Mr. Dunlop say he might have
- 28 to pay, they wouldn't have had a clue?
- 29 A Other than any discussion that took place in relation to fees.
- 15:52:05 30

15:52:05 1 CHAIRMAN: No, no --

2 A No, in relation to -- you are quite right.

3

4 CHAIRMAN: But if they were to be asked immediately after the meeting how much

15:52:13 5 did Mr. Dunlop indicate or do you have any idea how much the councillors will

6 have to be paid?

7 A They could absolutely --

8

9 CHAIRMAN: They wouldn't have had a clue.

15:52:20 10 A No, no, they would have been able to put their hands on their hearts and said

11 we don't know.

12

13 CHAIRMAN: And is that not strange that businessmen who were facing this

14 expense would leave a meeting without even inquiring as to -- what that

15:52:40 15 expenses might be?

16 A Well no --

17

18 CHAIRMAN: If they knew as you said.

19 A Well with respect, if you put it into context, in the context of the

15:52:52 20 appreciation in value of what they were going to get for any expenditure was

21 phenomenal.

22

23 CHAIRMAN: Yes but there was no agreement between you, there was an agreed

24 fee --

15:53:04 25 A There was an agreed fee but there was no discussion in relation to either the

26 identity of councillors to be paid, the amounts in question, if it arose, and

27 the only way that that would be established is when I approached the

28 councillors and they asked me.

29

15:53:23 30 CHAIRMAN: All right.

15:53:24 1 A But the amounts of money in relation to, the amounts of money in relation to
2 fees, the point I make to you is minimal in the context of the appreciated
3 value.

15:53:40 5 JUDGE FAHERTY: Just one matter, Mr. Dunlop, could I have page 1187 please. I
6 just want to ask you Mr. Dunlop, just regarding your evidence as you have named
7 three councillors at this particular module and I just really want to ask you
8 how you have said that previously that you recalled payments made to
9 councillors by looking at the road map and the particular developments and the
10 module and the rezonings.

15:54:10 11 A Yes.

13 JUDGE FAHERTY: And I just want to ask you, you have said in evidence that you
14 have asked Cyril Gallagher, the late Mr. Gallagher to sign the motion and that
15 you that you hid him for his signature.

15:54:21 16 A Yes.

18 JUDGE FAHERTY: Of the councillors you say you approached a great many
19 councillors, regarding this module, the Lissenhall lands, not just Mr. Fox, the
15:54:34 20 late Mr. Hand and the late Mr. Gallagher, and you named them yesterday or
21 indicated to Ms. Dillon, is that correct?

22 A Well I indicated in fairness to Ms. Dillon judge when she read out the names
23 what the likelihood or the probability of speaking to them and that was an
24 indication of my regular contact.

15:54:50 25
26 JUDGE FAHERTY: Yes. Yes. And I just wanted to ask you, obviously
27 Mr. Gallagher, the late Mr. Gallagher signed the motion so if you like there's
28 a link to the motion there almost immediately, and we know that obviously the
29 others, himself and the others voted for it but so did a great many others and
15:55:07 30 really my question is this, if you look at the people who voted for the motion,

15:55:11 1 Mr. Dunlop, cited there are a number of councillors, against whom you have made
2 allegations in other modules and in respect of whom you have given evidence, is
3 that correct?

4 A Yes.

15:55:24 5
6 JUDGE FAHERTY: And I just want to ask you, you have said I think in the
7 Ballycullen and indeed earlier modules that people, you would pay upon request
8 for money either for signature or a vote.

9 A Yes.

15:55:42 10
11 JUDGE FAHERTY: Now, in that list I am not going to isolate any particular
12 name but you can look at the list and we know the module you have been in
13 prior. How can you know in this particular module, how can you say it was only
14 Mr. Fox and Mr. Hand and I will leave Mr. Gallagher to the side for the moment
15 or indeed Mr. Gallagher but that asked you for money because you have named all
16 of those individuals previously.

17 A Yes.

18
19 JUDGE FAHERTY: You see what I'm asking you. What in the road map assisted
15:56:14 20 you or what assisted you in being able to say categorically that you only paid
21 three councillors in the context of the Lissenhall rezoning?

22 A Yes, well I think I did say, judge, earlier on, I think it was to Ms. Dillon
23 or, yes, I think it was Ms. Dillon, first of all, payments were made on
24 request.

15:56:41 25
26 JUDGE FAHERTY: I accept all of that, Mr. Dunlop.

27 A And secondly, in relation to Councillor Fox and Councillor Hand, I think I did
28 say that with very few exceptions and in fact in some instances none, that
29 their support or signature or whatever was given on foot of monies and monies
15:57:03 30 were paid in each instance and there were, if my memory serves me right,

15:57:10 1 subject to correction, something of the order of 16, 17 or 18 developments in
2 which I was involved.
3
4 JUDGE FAHERTY: Yes. But my question is this, do I take it or can the Tribunal
15:57:21 5 take it in the context of the people whom you have alleged you have paid in
6 other modules, that they didn't ask you for money in this module?
7 A Correct.
8
9 JUDGE FAHERTY: Is that what you are saying?
15:57:35 10 A Yes.
11
12 JUDGE FAHERTY: Thank you.
13
14 CHAIRMAN: All right. Anything arising?
15:57:43 15
16 MS. DILLON: Yes, sir, there is one other witness waiting but obviously won't
17 be reached today and if it's agreeable, we will put Mr. Ryan in for next
18 Friday.
19
15:57:53 20 CHAIRMAN: All right. Thank you very much, Mr. Dunlop. We are sitting on
21 Tuesday at 10.30.
22
23 MS. DILLON: That's correct, sir. Yes, sir.
24
15:58:02 25 MR. BURKE: Mr. Burke for Mr. Hand's estate. Mr. Chairman, I gather inquiries
26 are being made on the Tribunal on foot of the matter I raised yesterday, the
27 off the record discussions. It may therefore become necessary to invite
28 Mr. Dunlop back, am I correct in that understanding?
29
15:58:18 30 CHAIRMAN: Certainly, any party may apply to bring any witness back and

15:58:23 1 certainly if there was a good reason, they will be brought back.

2

3 MR. BURKE: Greatly obliged, thank you, chairman.

4 A Thank you chairman.

15:58:29 5

6 **THE TRIBUNAL ADJOURNED UNTIL TUESDAY 28TH MARCH AT 10.30:**

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