



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

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

DECISION re Disclosure of Documents

OF

THE SOLE MEMBER
Mr. JUSTICE FEARGUS M. FLOOD

Wednesday 13th January 1999 at 2.15pm

This Tribunal in the course of its investigation has received in confidence a considerable volume of material. As with all Tribunals, material is provided on the basis that its confidentiality will be maintained. It is only when a particular document has been found by me to be relevant to an issue before me that it is circularised to persons other than the source from which the document emanated. The confidentiality of the documents, which are deemed not to be relevant to the issues before the Tribunal, remains.

Application has been made to me by Mr. Cooney S.C. for sight of all the documents, which have been discovered by Mr. Gogarty to the Tribunal. Compliance with this request would pose difficulty in principle for the Tribunal as the Tribunal has already considered all of the documentation in question and has determined which of the documents discovered are relevant at present to the issues. It follows that

the documents which have not been deemed relevant retain their confidential status. Compliance with the request would of necessity breach the confidence of the party who had provided this documentation.

I am happy to note that the parties themselves have now agreed to waive their respective entitlements to insist upon the documentation provided to the Tribunal remaining confidential subject to certain agreed safeguards.

Mr. Gogarty's discovered documents will be made available for inspection by Mr. Murphy's lawyers and Mr. Bailey's lawyers and reciprocal rights will be provided to Mr. Gogarty's lawyers in respect of their (discovered) documents. The documents shall be inspected by the respective lawyers only at the offices of the Tribunal. They have undertaken to the Tribunal

to maintain the confidentiality of the documents considered by them.

In the event that the legal representatives for any of these parties believe that any particular document is material to the issues before me I shall consider the request of such party to have such document introduced in evidence before the Tribunal.

Should I accede to the request, the document will be copied and circulated to all parties who may be affected by its content.

This process will not hinder the Tribunal from continuing to hear the evidence of Mr. Gogarty which will resume at 10.00am tomorrow morning.

I would like to thank the parties and their legal representatives for their pragmatic approach to this problem.