

1 THE TRIBUNAL RESUMED AS FOLLOWS ON THE 30TH OCTOBER,  
2 2002 AT 10.30 AM:

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4 REGISTRAR: Applications for legal representation in respect of Carrickmines 1.

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6 CHAIRMAN: Good morning everyone. Before entering on the business of the day,  
7 it is my very great pleasure to welcome my two colleagues to the Tribunal,  
8 Judge Alan Mahon and Judge Faherty, and the reserve member Judge Gerard Keys. I  
9 look forward to a long and pleasant relationship with them and a fruitful one.

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11 And we'll proceed with the matters of the day.

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13 Before actually we take applications, I would like to say the following and  
14 draw attention to the following matters: The first matter is any person who  
15 has a recognised interest which, in the opinion of the Tribunal, may be  
16 affected, will be allowed such representation as is necessary to protect that  
17 interest and such party will be allowed to cross-examine the relevant  
18 witnesses.

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20 2. Proceedings of the Tribunal to be carried out in such a manner as to ensure  
21 the compliance with the requirements of constitutional and natural justice.

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23 3. In cases where representation is not granted, that this not imply any  
24 decision one way or another on the merits of the matters in respect of which  
25 the application for the representation is.

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27 4. Decisions to grant or refuse representation are not final and can be  
28 reviewed at any time by the Tribunal.

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30 5. A decision to grant representation does not imply any guarantee that costs

1 will be awarded -- will be awarded to the person to whom the representation is  
2 granted. In addition, the Tribunal wishes to clearly indicate that save in  
3 exceptional circumstances where the Tribunal decides to make an order directing  
4 costs to a person, the Tribunal will only certify costs of one solicitor, one  
5 junior counsel and one senior counsel.

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7 6. Persons who are granted limited representations will be required to confine  
8 their participation in any proceedings and sittings of matters to those which  
9 affect their own interests.

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11 7. Without fettering its discretion in any way, the Tribunal will indicate  
12 that, in general, where any person or body, whether represented before the  
13 Tribunal or not, has realistically and reasonably incurred any legal expense in  
14 fully and promptly assisting the Tribunal in its work, it would be favourably  
15 disposed to providing for indemnity in respect of such expense.

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17 8. The question of representation should mean that any decision taken as a  
18 result of the applications made today is not in any sense final. Any party who  
19 may not be given representation at this time may renew their application later,  
20 if it subsequently becomes apparent that such representation is warranted.

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22 9. For the purposes of any particular application for representation, the  
23 Tribunal may require a party to make submissions in writing, as to the basis on  
24 which the application for representation is made and may reserve its decision  
25 on the application until the submissions have been considered.

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27 We will now take application for representation and in addition to each  
28 application for representation, I will invite the following information:

29 A: The name of the council making it.

30 B: The name of the instructing solicitor.

1 C: The name and address of each person in the company or company on whose  
2 behalf each application is made.

3 D: Whether the applicant seeks full or limited representation.

4 E: The grounds upon which such representation is sought.

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6 And probably the simplest way to deal with this matter is on seniority of the  
7 counsel.

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9 MR. BIRMINGHAM: Sir, with your permission and members of the Tribunal and  
10 also with the goodwill and blessing of Mr. Allen, who would be entitled to  
11 seniority and Mr. Finlay, with their agreement, if I could make an application  
12 to you?

13

14 My name is George Birmingham and I am instructed by Messrs. Gore & Grimes,  
15 Solicitors. I appear on behalf of Mr. Brian O'Halloran, Dr. Austin Darragh  
16 and Gerard Kilcoyne and will furnish their full addresses in due course, but at  
17 the moment, care of my solicitor's office.

18

19 As the members of the Tribunal will be aware, those gentlemen are the owners of  
20 lands in the Carrickmines area. that land adjoins the land owned by Jackson  
21 Way, which has the subject of some controversy. And that some, a portion of  
22 their land was subject to a rezoning vote of Dublin County Council.

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24 The three people for whom I appear are anxious to assist and cooperate with the  
25 Tribunal in any and every way and the representation I seek is limited  
26 representation. That is my application, Your Honour.

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28 CHAIRMAN: Mr. Birmingham, what I propose to do is take all the applications,  
29 rise, determine them and come back presumably in a matter of 15, 20 minutes and  
30 announce a decision, if that's acceptable, rather than having individual

1 applications determined. That's why I think this is a more appropriate way to  
2 deal with the matter. I note your application and will consider it.  
3 Any other applications?

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5 MR. ALLEN: Chairman, my name is Colm Allen, senior counsel. I appear on  
6 behalf of Mr. Frank Dunlop, Frank Dunlop & Associates Limited and Shefran  
7 Limited. I am instructed by Mr. Hugh Garvey, solicitor, of LK Shields,  
8 solicitor. I ask your indulgence, Sir, in relation to the matters of addresses  
9 which I hope you agree can be exchanged between the solicitors in relation to  
10 my client and I am applying, Sir, for limited representation in respect of the  
11 one individual and the two companies whom I have identified to you.

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13 It would be my respectful submission, Sir, that virtually all of the matters in  
14 the module, upon which you and your colleagues are about to embark, affect the  
15 interests of the three parties whom I represent. I think it probably wouldn't  
16 be an exaggeration to say that Mr. Dunlop personally will have a significant  
17 role to play insofar as the giving of the tendering of evidence during the  
18 course and on that basis, Sir, I don't proceed to, I don't wish to take up any  
19 more of your time, unless you feel I need to go further.

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21 CHAIRMAN: I note your application. Thank you.

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23 MR. ALLEN: Thank you, Sir.

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25 CHAIRMAN: Any other applications? Mr. Finlay.

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27 MR. FINLAY: May it please you, Chairman, and members of the Tribunal. My  
28 name is Ian Finlay, senior counsel, I am instructed by Miley & Miley,  
29 solicitors, and I have two applications to make to the Tribunal for  
30 representation.

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The first application relates to Mr. John Caldwell in respect of whom the Tribunal already granted representation for a previous phase of the Tribunal's work. As the Tribunal is aware, Mr. Caldwell has furnished a statement to the Tribunal and his involvement is clear from the documents furnished recently to my solicitors by the Tribunal.

Mr. Caldwell is also one of the ultimate beneficial owners of Jackson Way Properties Limited. So in those circumstances I apply for representation on behalf of Mr. Caldwell. I also apply for representation on behalf of Jackson Way Properties Limited. Jackson Way Properties Limited, as the Tribunal I think is aware, is the owner of certain lands in Carrickmines and it is our understanding that matters relating to those lands owned by Jackson Way will form part of the matters being inquired into by the Tribunal during the phase which is now proposed.

CHAIRMAN: I note your application and will deal with it as indicated.

MR. FINLAY: Thank you, Judge.

CHAIRMAN: Any more applications?

MR. O'CONNOR: Mr. Chairman, my name is Martin O'Connor, barrister, instructed by Mr. Vivian Matthews, solicitor, Dundrum. I appear on behalf of the family of the late Mr. Tom Hand. I am instructed, Mr. Chairman, I will give you names and addresses in due course. Mr. Chairman, the widow's name is Mrs. Anne Hand, the others, Ms. Dolores Hand, a daughter; Mr. Patrick Hand, a son; Mr. Noel Hand, a son; Ms. Ann Hand, a daughter;, and Ms. Patricia Brennan nee Hand, who is a daughter and Mr. Tom Hand junior, who is a son, Mr. Chairman.

1 I am instructed that this segment of the Tribunal may well be dealing with  
2 matters in relation to accusations in relation to money passing to the late  
3 Mr. Hand and I am instructed to seek limited representation insofar as the  
4 interests of the late Mr. Hand may be prejudicially affected, Mr. Chairman.

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6 I understand that in the last part of the Tribunal, the late Mr. Hand's name  
7 appeared and he was represented by the late Mr. Chris Mullane, Mr. Chairman.  
8 And that's my application, Mr. Chairman.

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10 CHAIRMAN: I note your application and will deal with it.

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12 MR. COSGROVE: Mr. Chairman, Noel Cosgrove is my name, instructed by Patrick  
13 Downey & Company making a limited application in respect of Brian O'Flanagan,  
14 who is an architect. The address will be furnished to you in due course,  
15 Mr. Chairman.

16  
17 He worked with D. McCarthy & Company and was involved in the preparation of  
18 maps and draft letters in relation to Carrickmines and he has furnished a  
19 statement and Affidavit of Discovery to the Tribunal. On that basis, he  
20 wishes to cooperate fully with the Tribunal and I am applying for limited legal  
21 representation in his respect.

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23 CHAIRMAN: I note your application. Any other applications?

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25 MR. DULLEY: Chairman, my name is Martin Dulley, senior counsel, and I am  
26 making an application on behalf of John O'Halloran, who is a former Dublin  
27 county councillor. My instructing solicitors are Cullen & Company, solicitors.

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29 It is clear from the correspondence received from the Tribunal by  
30 Mr. O'Halloran, certain allegations will be made concerning Mr. O'Halloran and

1 in those circumstances I am looking for limited representation on  
2 Mr. O'Halloran's behalf.

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4 CHAIRMAN: Very good. We'll note your application. Any further applications?

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6 MR. CREEGAN: Mr. Chairman, my name is Conor Creegan, barrister, I represent  
7 Councillor Liam Cosgrave and we are making an application for limited  
8 representation. Councillor Cosgrave has an interest in this module. We are  
9 instructed by Egan Cosgrave.

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11 CHAIRMAN: Very good, I note your application. Yes? Further applications?

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13 MR. COSTELLO: Chairman, Sean Costello is my name, solicitor, and I have been  
14 asked to make an application on behalf of Councillor Tony Fox, his address is  
15 with the Tribunal. The Tribunal will be aware that certain matters pertaining  
16 to the current module directly affect and concern him and they are matters  
17 which have arisen in relation to documentation etcetera, received from the  
18 Tribunal. I make the application for limited representation on his behalf.

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20 CHAIRMAN: Very good. Any further applications?

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22 MR. MARTIN: Mr. Chairman, David Martin, Gore & Grimes. I represent Mr. Brian  
23 Meehan who has provided a statement to the Tribunal. I am applying for limited  
24 representation on behalf of Mr. Meehan.

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26 CHAIRMAN: Yes. Any further applications?

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28 MR. DELAP: Mr. Chairman, my name is Antoin Delap from Edge Manning,  
29 solicitors. I have been instructed by Senator Don Lydon, who is affected by  
30 some of the allegations made, and is anxious to protect his good name and

1 reputation. I am instructed to apply for limited legal representation.

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3 CHAIRMAN: Very good. Any further applications?

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5 MS. LENIHAN: Mr. Chairman, my name is Anita Lenihan, instructed by John  
6 Rochford of John Rochford & Company. I make this application on behalf of  
7 Laurence Butler, MCC, we are seeking a form of limited representation.

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9 The explanatory memorandum re: the rezoning module transmitted by the Tribunal  
10 to Mr. Butler's solicitor indicating the next public module of the Tribunal is  
11 concerned with the Carrickmines 1 lands and as Mr. Butler was a member of the  
12 Dun Laoghaire/Rathdown County Council and prior to that Dublin County Council  
13 during the relevant period, he was a member of the elected body, and voted on  
14 the motions pertaining to these matters, as such we submit that he requires  
15 some representation here before the Tribunal.

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17 CHAIRMAN: I note your application. Any further applications?

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19 MR. FITZPATRICK: Chairman, my name is Aidan Fitzpatrick. I am of Thomas  
20 Montgomery & Sons, solicitor, making an application for limited representation  
21 on behalf of the late Cyril Gallagher, councillor, chairman of Fingal County  
22 Council at the relevant time. I understand limited representation was  
23 previously granted and my application is for continuation of that  
24 representation.

25

26 CHAIRMAN: I note your application. Thank you. Any further or other  
27 applications?

28 May I take it that all parties present here who want to make applications have  
29 now made them? Mr. Gallagher, do you want to say anything on behalf of the  
30 Tribunal?

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MR. GALLAGHER: Sorry, no, Sir, nothing at this stage.

CHAIRMAN: In these circumstances then we'll rise for -- we'll sit again at half past 11, that's the simplest way to put it. We should by then have determined if there is anything --

MR. GALLAGHER: Thank you, Chairman.

THE TRIBUNAL HEARING THEN ADJOURNED FOR A SHORT BREAK  
AND RESUMED AGAIN AS FOLLOWS:

REGISTRAR: This is the decisions in relation to application for legal representation.

CHAIRMAN: Now, the decisions are not necessarily in the same order as the applications were made, they are in the order in which I have them on a pre-printed list of names.

Mr. John Caldwell and Jackson Way: Granted.

Councillor Liam Cosgrave: Granted.

Mr. Austin Darragh, Mr. O'Halloran and Mr. Kilcoyne, as a group: Granted, and it is one single order covering the three.

And Mr. Frank Dunlop insofar as he applied as Frank Dunlop and Dunlop & Associates: Granted.

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Insofar as he makes an application as Shefran Limited, I think I require counsel and solicitor to set out the grounds in writing to us on which that application is based and reserve a decision on it until I have seen that application and the basis of it.

MR. ALLEN: Very good, Chairman.

CHAIRMAN: Councillor Tony Fox: Granted.

Councillor Cyril Gallagher. This is going to be granted but I want, or the Tribunal will require that the solicitor concerned to forthwith set out the names of the individual members of the family to which that order dates -- sorry that wasn't the one in which there were several --

Councillor Thomas Hand, I think in that instance the individual members of the family were set out, if they weren't, will you please do so in writing and hand them into the Registrar.

Councillor Don Lydon: Granted.

Brian Meehan: Granted.

Mr. John O'Halloran, Councillor: Granted and Mr. Brian O'Flanagan: Granted.

In relation to Mr. Laurence Butler, the Tribunal is declining that application at this point in time. You are perfectly at liberty to apply at a later date, it does not appear to be relevant at this point in time.

I think that covers all the applications that were made.

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MR. O'CONNOR: Mr. Chairman, I beg your pardon, in relation to Councillor Mr. Tom Hand I don't believe whether you said limited representation was granted or not?

CHAIRMAN: I did yes, but I require the names and addresses of the individual members of the family, and in particular who is the personal representative. This is information which should be in the information furnished. Would you please have that forwarded to the Tribunal, to the Registrar?

MR. O'CONNOR: Yes, Mr. Chairman, I am obliged.

MR. FITZPATRICK: Mr. Chairman, do I take it the same applies to councillor Cyril Gallagher, it was granted but to get in the individual names?

CHAIRMAN: Yes, it does. If possible could we have that facility today or at the latest tomorrow morning?

MR. FITZPATRICK: Yes, Chairman.

CHAIRMAN: Mr. Gallagher, any other matters?

MR. GALLAGHER: No, Sir. You might care to give some indication as to when the Tribunal will sit again or a date before which it will not sit.

CHAIRMAN: I think the best way to put it is that we would endeavour to be up and running in the second half of the month of November, I think one could say definitively that will not take place before the 19th, while I am not saying the 19th will be the date, but we'll advise in the press and on the internet and indeed any person that is involved will be notified in writing, the

1 solicitors will be notified of the precise date.

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3 Any other aspect? Anything else?

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5 Very good then. Adjourned then until the next date which will be fixed to  
6 re-assemble.

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8 THE TRIBUNAL THEN ADJOURNED UNTIL A DATE YET TO BE FIXED

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