

Paul Maloney

18/12/13

**Re : Attendance at Public Accounts Committee 12<sup>th</sup> December last**  
**DDDA Comptroller and Auditor General Report**

Dear Chairman

Public Accounts Committee

I thank you once again for the opportunity to appear before the public accounts committee last week.

I gave an undertaking that I would revert to you on a number of issues which arose at that meeting.

1. C&AGs Report Para "Conclusion –Cost Control " page 40 Report on Dublin Docklands Development Authority
2. **(a) As stated by me at the committee the statement by the CAG in this Paragraph that the" the authority believed at the time of the signing of the shareholder agreement that its financial commitment would be limited to €35m" is incorrect .I stated that I would supply information to the Committee and to the Comptroller to support my assertions.**

I refer to the minutes of the Board Meeting DDDA of 20<sup>th</sup> October 2006 Para 4.6 "Funding" of Heads of Terms [precursor to Shareholders agreement] which states that "...the Parties shall provide guarantees strictly pro rata to their ordinary shareholdings in the JVCO provided always that the total recourse to the JVCO shareholders under such guarantees shall not exceed €35m".

This cap clearly refers to recourse funding and not to Equity which is an entirely separate financial commitment.

(b) I refer to the FIRST SCHEDULE of the Shareholders Agreement which states that " the Equity Funding of the Authority is €32.08m.". As the CAG already has stated the interest was a minimum €7m, totalling €39m; then the total financial commitment cap could not have been €35m in the Shareholders agreement.

Interest	€9m	€ 11.1*
Total CAP	€35m	Total € 41.2m

\*2 years interest on Beckbay Loan /2 year Window pre Development

# Board decision increase for Decontamination Site

8. I did not have any prior access to expenses records prior to my appearance and the item was not on the agenda. I incorrectly stated I did not have a credit card as I had no recollection of it at the end of 3 ½ hours discussing IGB and 4 ½ years since I left the DDDA ; I now recollect that I did have one; however I have had no access to those records for

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3. Furthermore, Paragraph 2.3 of the Shareholders agreement is clearly unambiguously referring to “total aggregate liabilities” of the DDDA” being capped at €35m” ; Again it is located under the heading “Funding of the Company” and of course funding of Becbay only refers to recourse and interest financing and does not refer to or include the equity in First Schedule.
4. In addition Board Papers dated 2<sup>nd</sup> November 2006 and submitted to the Executive Board meeting on 2<sup>nd</sup> November 2006 states in Para. 3 “BANK FUNDING” that the Heads of Agreement “ clearly limit the ability of the Authority in respect of any funding or guarantee or any other security beyond €35m “ This is clearly stated under bank funding and in no way could be reasonably construed to include equity funding.
5. I therefore submit that my submission to the PAC ,as denoted below , is correct and should be re-examined by the PAC and checked with the DDDA with whom I have been in correspondence.

**I understand that this chapter [Chapter 3 CAG DDDA Report] was not commented upon or corrected by the DDDA at the time for legal reasons and the Comptroller was informed of this. The Comptroller proceeded to publish without their comment. Therefore I request the PAC now formally asks the DDDA to comment on this section which would be definitive and independent.** My summary of the correct position in my view is as follows;

6. DDDA - TABLE OF FINANCIAL COMMITMENTS and LIABILITIES SHAREHOLDERS AGREEMENT

Financial Commitments Shareholders Agreement		Actual Spend
Equity	€32.8m	€32.8m
Interest	€9m	€11.1m*
Total	€41.8m	€43.9m

Financial Liabilities Shareholders Agreement		Actual Liability
Recourse	€26m	€29.1#
Interest	€9m	€ 11.1*
Total CAP	€35m	Total € 41.2m

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almost 5 years and if you wish to send them to me for my comment , that something I will be pleased to do.

9. The C&AG stated that the Authority received over €30 m in capital funding over its lifetime and this is correct ; however on checking I can now reveal that this was for capital works on social housing and public domain and this infrastructure is being handed back to the state valued at multiple times the subsidy that the State gave to DDDA to deliver these projects.

This is not State subvention funding of the DDDA but a subsidy investment by the state in public infrastructure and the balance of funds to deliver this infrastructure was paid from DDDAs own funds.

I am forwarding this correspondence also to the C&AG.

Thank you once again for the opportunity to address these issues to you.

Yours Sincerely

Paul Maloney

Cc Mr. Mc Carthy

Comptroller and Auditor General

