

# DÁIL ÉIREANN

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## AN COISTE UM CHUNTAIS PHOIBLÍ

## COMMITTEE OF PUBLIC ACCOUNTS

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*Déardaoín, 12 Nollaig 2013*

*Thursday, 12 December 2013*

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The Committee met at 10.00 a.m.

### MEMBERS PRESENT:

Deputy Áine Collins,  
Deputy John Deasy,  
Deputy Robert Dowds,  
Deputy Simon Harris,

Deputy Eoghan Murphy,  
Deputy Gerald Nash,  
Deputy Kieran O'Donnell,  
Deputy Shane Ross.

DEPUTY JOHN MCGUINNESS IN THE CHAIR.

## BUSINESS OF COMMITTEE

**Mr. Seamus McCarthy** (*An tArd Reachtaire Cuntas agus Ciste*) called and examined.

### Business of Committee

**Vice Chairman:** No. 1 on the agenda is the minutes of the meeting of 27 November. Are the minutes agreed to? Agreed. I note that there are no matters arising from the minutes. The minutes of yesterday's meeting will be before the committee at its meeting next week.

No. 3 is correspondence received since the meeting of Thursday, 27 November. No. 3A is correspondence received from Accounting Officers and-or Ministers. No. 3A.1 is correspondence, dated 29 November 2013, from Dr. Ruaidhrí Neavyn, president of Waterford Institute of Technology, regarding further information requested at the meeting of 10 October. The correspondence is to be noted and published.

No. 3A.2 is correspondence, dated 5 December 2013, from Mr. Ray Mitchell, assistant national director, parliamentary and regulatory affairs division, HSE, on foot of further information requested at the meeting of 14 November. The correspondence is to be noted and published.

No. 3B is individual items of correspondence received. No. 3B.1 is correspondence, dated 24 November 2013, from Ms Mary Farrell, Karinya, Johnstown Bridge, Enfield, regarding Headway (Ireland) Limited. The correspondence is to be noted and a copy forwarded to the HSE for a note on the issues raised.

No. 3B.2 is correspondence received on 27 November from an anonymous source regarding Stewarts Hospital in Palmerstown. The correspondence is to be noted and a copy forwarded to the HSE for a note on the issues raised.

No. 3B.3 is correspondence, dated 21 November 2013, from Councillor Paudge Reck, Mullgannon, Wexford, regarding further correspondence related to County Wexford VEC. The correspondence is to be noted and the committee will follow it up with Councillor Reck personally.

No. 3B.4 is correspondence, dated 26 November 2013, from Mr. Seán Ó Foghlú, Secretary General, Department of Education and Skills, regarding the Institute of Technology, Tralee. The correspondence is to be noted.

No. 3B.5 is correspondence, dated 22 November 2013, from Ms Anne Nolan, Montenotte Park Residents Association, regarding concerns about the use of funds allocated for school buildings. The correspondence is to be noted.

No. 3B.6 is correspondence, dated 3 December 2013, from Mr. Ray Mitchell, assistant national director, parliamentary and regulatory affairs division, HSE, regarding St. Catherine's special school. The correspondence is to be noted and published.

No. 3B.7 is correspondence, dated 2 December 2013, from Mr. John O'Brien regarding an outline submission by the FCPS on the penalty points issue. The correspondence is to be noted. Mr. O'Brien has requested to make an oral submission to the committee. We are scheduled to commence the examination of the penalty points issue on 23 January 2014. We can use the material Mr. O'Brien has given to us as it is relevant to the issue of weaknesses in controls. It will be a matter for the committee to invite him to make an oral submission once we have concluded

## COMMITTEE OF PUBLIC ACCOUNTS

the examination of the issue with the Accounting Officer.

I want to return to No. 3B.5, correspondence, dated 22 November 2013, from Ms Anne Nolan, Montenotte Park Residents Association, regarding concerns about the use of funds allocated for school buildings. There is a clear conflict between the residents association and the Department. While the core issue is whether there is a need to build a school, the Committee of Public Accounts can only examine issues where the Comptroller and Auditor General has produced a report on an issue. This matter warrants further investigation and the Comptroller and Auditor General is free to examine it in the context of his audit of the Appropriations Account of the Department of Education and Skills. I will ask the Joint Committee on Education and Social Protection to examine the matter in more detail as it falls within its remit.

No. 3B.8 is correspondence, dated 6 December 2013, from Mr. William Treacy regarding the lack of investigation by the Committee of Public Accounts and the Comptroller and Auditor General of animal welfare issues. The correspondence is to be noted.

No. 3B.9 (a-d) is correspondence received on 9 December from Mr. Lar Bradshaw regarding correspondence to the Comptroller and Auditor General and the Committee of Public Accounts further to meeting the Committee of Public Accounts on 26 June. The correspondence is to be noted. It is relevant to today's meeting. It is not a matter for the Committee of Public Accounts to amend a report of the Comptroller and Auditor General who is entirely independent of the committee. The committee will issue a report at the conclusion of its examination of the DDDA. The issue raised by Mr. Bradshaw can be dealt with in that report. As regards the issue of the circulation of draft reports of the Comptroller and Auditor General, again, given the independence of his office, the issue is not one for the committee.

No. 3C is documents relating to today's meeting. No. 3C.1 is correspondence received on 12 December from Mr. Paul Maloney, former chief executive officer of the Dublin Docklands Development Agency, regarding his opening statement which we will hear shortly. The correspondence is to be noted and published.

No. 4 is reports, statements and accounts received since the meeting of 27 November. No. 4.1 is the annual report and accounts 2011 of Leitrim County Enterprise Board. There is a clear audit opinion in respect of all county enterprise boards. Members can read the remainder of the reports that have been published. The accounts are noted.

No. 5 is the work programme which is on screen.

**Deputy Robert Dowds:** On correspondence, did the Chairman receive an e-mail from me requesting that various other voluntary groups be brought in?

**Clerk to the Committee:** He did. We will deal with it next week.

**Deputy Robert Dowds:** It will be mentioned next week.

**Clerk to the Committee:** Yes.

**Vice Chairman:** It will be on the agenda next week.

**Clerk to the Committee:** That is correct.

**Vice Chairman:** No. 6 is any other business.

**Deputy Simon Harris:** Many issues were raised at the meeting with the Central Remedial Clinic. I seek clarity on exactly where we will go from here in regard to the CRC. I presume we will ask representatives of the Mater Hospital to attend next week's meeting, with representatives of the HSE. On the absence of Mr. Conlon, considering that Mr. Kiely was forthcoming and decent enough to attend yesterday and considering that, from our discussions yesterday and the correspondence circulated by the HSE, we know the HSE had written to the CRC, of which Mr. Conlon was a board member, on more than 20 occasions, telling it not to proceed with his appointment, asking questions about his remuneration and pension, the lack of an open competition for the position and prior approval, I imagine Mr. Conlon's attendance is now more important than ever. I want to know what we are doing about it. Do we intend to formally encourage him to attend and request that he do so or are we intending to go down the compellability route? I know that different views have been expressed by members and that every member is entitled to his or her view, but I reiterate that it is my view that the board of the CRC, in its totality, should resign with immediate effect.

*Deputy John McGuinness took the Chair.*

**Deputy Shane Ross:** I agree with virtually everything Deputy Simon Harris said, but I would go further and say we want to see Mr. Conlon. He has said he is not coming. I do think, therefore, that there is any point in asking him again to do so. We should go straight for compellability powers and look to him to answer questions. There are many questions about him to be answered, into which I will not go, and we should go to the Committee of Procedure and Privileges to ask for these powers. When we seek them, perhaps he might decide to come under the threat of their use, but we should go through with it and take that step because the Committee of Public Accounts cannot be treated in that way, as otherwise it would set a very bad precedent.

The entire board should resign. Deputy Simon Harris has said representatives of the Mater Hospital should come. Last night they issued a statement which goes some way towards explaining what was happening. It does not explain it totally, but it goes some way towards explaining it. However, we need clarity and to talk to them. If the representatives of the HSE are coming next week and they are going to look at the Mater Hospital also, it would be appropriate to have representatives of the hospital here with them at the same time.

**Chairman:** I call Deputy Eoghan Murphy who will be followed by Deputies Kieran O'Donnell and Robert Dowds.

**Deputy Eoghan Murphy:** In addition to that point, I also want to ask about managing our work programme. We have to examine section 38 agencies and their compliancy. While the CRC issue is extremely important and there are many more matters to be examined, we cannot let it dominate our investigation into section 38 agencies. I am wondering if we need to open up a side track for the CRC, while keeping a focus on the other agencies that also have difficulties, as we know, arising from the audit report.

**Deputy Kieran O'Donnell:** I agree with Deputy Shane Ross that during the proceedings yesterday - at 1.44 p.m. to be precise - Mr. Conlon issued a statement which he directed towards the Committee of Public Accounts on foot of my questioning yesterday. I made reference to the fact that he had been overpaid by a top-up payment of €40,000 above the agreed salary level with the HSE and that I believed it should have been refunded to the CRC, rather than the HSE. He wrote back to us to confirm that he would refund the CRC. He issued a statement of which he sent a copy to the PAC. I found it incredible that he would not appear before the PAC yet he issued a statement to the PAC during our hearings yesterday. I would prefer if Mr. Conlon

would do the decent thing and appear voluntarily before the PAC. I agree with Deputy Ross that in terms of the integrity of the process we have no option but to compel the witness to attend. There is a slight contradiction in the fact that he was unwilling to attend the hearing yet he issued a press statement during the hearing itself.

Given that the Mater hospital will appear before the committee next week we need the relevant parties to come before the committee. The Mater hospital has issued a statement in which it indicated that the four parties involved are the Mater hospital, the CRC, the HSE and perhaps the Department of Health. It is important that we invite representatives of the Mater hospital, the Department of Health and the HSE.

This is not a personal issue in terms of the board of the CRC but its continuation as a board is casting a cloud over the fantastic work done by the CRC. It is also casting a cloud over the entire charity sector in terms of fund-raising. The integrity of the overall charity sector is being called into question. The positions of board members are untenable. We had in excess of five hours of hearings yesterday. There comes a point when it is no longer a personal issue regarding individuals but it is about the common good for service users within the CRC, those working in the CRC and the services they provide and the overall charity sector. For those reasons the board must step down with immediate effect.

**Deputy Robert Dowds:** As the person with the closest contact with staff in parts of the CRC I agree with the previous speakers who have called for the resignation of the board. It is really important in terms of the integrity of the CRC that it would happen as soon as possible. I agree with the points made about the knock-on effect on the charity sector generally.

I also agree that Mr. Conlon should be compelled to come before the committee as a witness. I seek clarification in that regard because no one has yet been compelled to come before the committee. I am aware that we are trying to get Mr. Merrigan to appear before the committee. I would like some guidance as to what the situation is in that regard given that one has an implication for the other. Once the committee has established the right to insist on people coming they are less likely to refuse to come when asked.

I sent an e-mail to the PAC asking that other voluntary bodies such as Enable Ireland would be brought before the committee. There is a need for a wider examination of how the voluntary bodies in the health sector are operating. I wish to add my name to the list of members who will ask questions during the course of the meeting.

**Deputy Áine Collins:** I agree with my colleagues. If we are broadening the inquiry to section 38 agencies, could we also extend our remit to section 39 agencies which do similar work but they were reformed? I understand the HSE is due before the committee next week. Before then I would like to ask it what the position is with the interim CEO on foot of yesterday's discussion. An interim CEO should be appointed immediately from outside the staff who were there, as was discussed yesterday. I wish to put the HSE on notice that we require a response in that regard.

**Chairman:** Next Thursday the Department of Health and the HSE will be before the committee. After yesterday's meeting I asked Barry O'Brien to ensure that someone who is knowledgeable about the entire matter on the HSE side would attend. I suggest that we should ask for someone directly connected with the fund to come along as well. Yesterday also, I asked Ms McGuinness for the report of today's meeting and an update on other matters that were discussed at yesterday's meeting. We can ask about the CEO again on Thursday. The relevant

## BUSINESS OF COMMITTEE

witnesses will be present to provide further updates on yesterday's meeting.

In response to Deputy Murphy, following that, we can decide on our work programme in terms of who else we will invite to attend. Let us see the lists that are forthcoming and the information provided by the HSE and the Department of Health next Thursday and then we can decide specifically what we want to do.

There is no report before us on section 39 organisations. I feel strongly that having looked at the section 38 organisations there is a need to look at section 39 organisations as well. We have to deal with that as a committee in order to bring in witnesses. I am supportive of that proposal.

The other matter that was discussed was in relation to Mr. Conlon. I have been following his public comments. I was not aware until Deputy O'Donnell mentioned it that he had released a statement yesterday while the meeting was taking place.

**Deputy Kieran O'Donnell:** It was sent directly to the PAC secretariat.

**Chairman:** I did not see it until now. I have just read it. The clerk made a significant effort to have Mr. Conlon appear before the committee and we have no other option but to seek compellability. We should immediately do so. Deputy Dowds inquired about the compellability process. As I understand it, we must apply to the CPP. If it is the wish of the committee I will ask the clerk to do so today so that we would set the wheels in motion to make that happen as soon as possible because Mr. Conlon is doing untold damage to the sector by his megaphone diplomacy and refusing to appear before the PAC. We will move immediately to secure compellability. We will speak to our legal advisers about framing the letter and making the application.

We have already applied for compellability in terms of the investigation on the SIPTU-HSE fund. As I understand it, we have had no reply to date. Is it two months since we made the application?

**Clerk to the Committee:** Yes, it is.

**Chairman:** I have raised the issue at one or two meetings since then. It is not good enough that the PAC would be stalled in its tracks by another committee of the House. The CPP needs to deal with the application by the PAC for compellability relative to the SIPTU case and our new letter of application relating to Mr. Conlon. I urge the CPP to give us a speedy response on the matter and to allow us to get on with our work.

**Deputy Shane Ross:** Could the clerk make a telephone call rather than just wait for a reply?

**Chairman:** Yes.

**Clerk to the Committee:** To be fair to the CPP, new legislation on compellability was introduced in September. Under its terms, guidelines were to be introduced to deal with the situation. We do not wish to rush into compellability before the guidelines appear because we could end up in the courts. That is the reason we are proceeding with caution in terms of our application on the SIPTU officials and Mr. Merrigan. I will speak again to the CPP. My understanding is that the guidelines are being legally tested as we speak and that they will be ready after Christmas. That is what I was told. My concern is that we do not end up offside. That is the only issue that is delaying the matter.

**Deputy Robert Dowds:** I am interested to hear that. I asked the Central Remedial Clinic,



## COMMITTEE OF PUBLIC ACCOUNTS

CRC, representatives a question about the provision of adult services in the west Dublin area. Would the clerk mind writing a note reminding it that we expect a detailed answer on that?

**Clerk to the Committee:** Absolutely.

**Deputy Robert Dowds:** On a different issue, the Secretary General of the Department of Public Expenditure and Reform promised to give me an answer on possible sales of land by Coillte that may not have been authorised by the Government. That was about two or three months ago and I would like a reply from him.

**Chairman:** On that, the clerk might include in that the recent response from that Department in which all the questions were not answered and all of the information was not given. He might ask him to kindly give us the information we asked for at that meeting because again, it is running into an extended time frame, which is not acceptable to the committee.

On the other issue raised by Deputy Dowds, a number of members asked questions of the CRC yesterday and they were given a commitment that we would have some of that information today. I believe one of them was Deputy O'Donnell's question about the sale of that company, and they said they would give some of the information today. Can we remind them about that?

**Clerk to the Committee:** I will get in touch with them.

**Deputy Simon Harris:** To come back to the issue of the other section 38 agencies, we agreed at our meeting of 27 November that we would invite in the chief executive officers and chairpersons of the boards of section 38 institutions not compliant with the HSE. I have no difficulty with the timeframe the Chairman outlined in terms of having the HSE and the Department of Health in next week but are we envisaging that we will have a programme of work then in January? As the Chairman knows, this debacle is doing untold damage to the disability and the charity sectors and it would be helpful if we knew where we were going or will we still be talking about this in March? Logistically, how will we do it?

**Chairman:** I propose that we would get into it immediately but based on the information we get next Thursday, because the meeting is today, we have asked for the list of the non-compliant ones, where they are non-compliant, what is a top-up and so on. When we narrow it down to the numbers we will know exactly what we need to do and we cannot do that until after the meeting today is reported on next Thursday. We can make a decision at that stage.

We have dealt with the work programme. Our business for next week is as we outlined earlier. We have a sub-group on Tuesday in regard to the National Asset Management Agency, NAMA. On Thursday we will have the meeting, as we described earlier, and we will ask for the representatives of the Mater hospital and the others to come in.

Mr. Maloney has been waiting since 10 a.m. That is partially my fault and I want to apologise to him but before I ask him in I reiterate, on behalf of members, that people should continue to support the charities in terms of the support for the front-line services they offer. While the Committee of Public Accounts in my opinion did an excellent job yesterday and will continue to force the types of reforms that are necessary to restore public confidence in that sector, it is important for them to have that support at this time of the year.

**Deputy Kieran O'Donnell:** One of the tangible issues that will help restore that is that the board of the CRC steps down. That is the reality of the situation on foot of the work done in the Committee of Public Accounts yesterday. This is a collective group but for me it is about

the people up and down the country who are fund-raising for charities, and the service users. Something positive must come out of the proceedings.

**Chairman:** A number of members made that point yesterday. As part of an issue raised by Deputy Dowds earlier, we can ask the board for their response because that is what we were promised yesterday. On foot of what is being said here today, we will ask them when we will get that response.

**Deputy Kieran O'Donnell:** Yes. They committed to come back to us.

**Chairman:** It is clear to them where we all stand on that. I do not want to go back over it again.

**Deputy Eoghan Murphy:** As far as the work of the Committee of Public Accounts is concerned, it is important to note that in 2011 we did extensive work into the Irish Red Cross over our financial and corporate governance issues. Similar issues were raised at the time in terms of people being reluctant to donate to the Irish Red Cross as a result of what was being discovered in our examinations but if I recall, one of the shortcomings we found at the time, and I believe it is in the report, is that the Charities Act had not been brought into force. I would have to look at it again but I think we might have said something to the fact that this should be done. In terms of what has happened in recent weeks and what will continue to be discovered over the next few weeks and months, that legislation must be proceeded with.

**Chairman:** That is the general recommendation that has been spoken about by members. The Act of 2009 needs to be commenced and perhaps a regulator appointed. That might be an immediate message we can send to the Minister.

**Deputy Áine Collins:** To follow on from the earlier comments, the area of corporate governance and the way charities are operated, the United Kingdom has a different model but there is not enough transparency in what is happening in that regard. We certainly need to look at that.

**Chairman:** I ask that Mr. Maloney attend.

### **Special Report No. 77 of the Comptroller and Auditor General - Dublin Docklands Development Authority: Discussion (Resumed)**

**Mr. Paul Maloney** (*former Chief Executive Officer, Dublin Docklands Development Authority*) called and examined.

**Chairman:** Before we begin our meeting I ask members, witnesses and those in the Visitors Gallery to turn off their mobile phones because they interfere with the sound transmission of the meeting. During the meeting yesterday we got numerous calls from RTE asking us to ensure mobile phones are switched off because it had a huge amount of interference as members were speaking.

I advise the witnesses that they are protected by absolute privilege in respect of the evidence they give this committee. If they are directed by the committee to cease giving evidence in relation to a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the par-



liamentary practice to the effect that, where possible, they should not criticise nor make charges against a Member of either House, a person outside the House nor an official by name or in such a way as to make him or her identifiable.

Members are reminded of the provisions in Standing Order 163 that the committee should also refrain from inquiring into the merits of a policy or policies of the Government or a Minister of the Government or the merits of the objectives of such policies.

I welcome Mr. Paul Maloney, former chief executive officer of Dublin Docklands Development Authority, and Ms Eileen Quinlivan, acting chief executive officer of Dublin Docklands Development Authority. I ask the Comptroller and Auditor General to introduce the report.

**Mr. Seamus McCarthy:** At previous meetings, I outlined the financial difficulties of the Dublin Docklands Development Authority in 2010, which was the first year in respect of which my office was required to carry out an audit of the authority's financial statements. The report was compiled in that context, and chapter 2 outlines the nature of the financial difficulties. Chapter 3 provides an overview of the authority's participation in a joint venture with private developers to buy and develop the Irish Glass Bottle Company site in Poolbeg, which was a key factor contributing to the authority's financial position. The final chapter of the report gives an overview of the operation of the authority's planning function. It also outlines the implications for the authority of losing the High Court case concerning the North Quay Investments Limited development in October 2008, and the subsequent revision of the authority's key planning processes.

Given that the focus of today's meeting is the Irish Glass Bottle Company site joint venture, I will briefly mention the key findings in that regard. On 25 October 2006, the authority and its partners in a joint venture company called Becbay Limited submitted a bid of €412 million to acquire the Irish Glass Bottle Company site. Other related expenses brought the total acquisition cost to €431 million, of which €291 million was bank borrowing.

The authority provided equity and loan funding for the joint venture up front, and guaranteed the repayment of a share of the Becbay Limited loans, which were initially provided by Anglo Irish Bank. Following a deal done with the National Asset Management Agency on 27 July 2011, the final cost to the authority of its involvement in the Irish Glass Bottle Company site venture was around €52 million.

During October 2006, the authority's management presented to the executive board of the authority an assessment of the level of investment, benefits and risks of the Irish Glass Bottle Company site project, but there is no evidence that a detailed analysis of those factors, commensurate with the scale of the proposed investment, was carried out. Management advised the board that the property market in 2006 was overheated, but they nevertheless recommended the investment to achieve the authority's strategic objectives in Poolbeg.

The information submitted on 12 October 2006 to support the authority's application to the then Department of the Environment and Local Government to increase its borrowing capacity stated that the value of the site was approximately €220 million. It appears the authority did not formally update the Department when it decided to bid almost double that amount. Consequently, consent by both the then Minister for the Environment and Local Government and the then Minister Finance for increased borrowing and for the authority's participation in the joint venture was evidently given on the understanding that an investment to the value of around €220 million was being contemplated.

The authority did not obtain its own independent valuation when it was deciding on the bid that Becbay Limited should make for the site.

In the course of the examination, my office also reviewed the management by the executive board of conflicts of interest around the decision to invest in the joint venture. In deciding to purchase the Irish Glass Bottle site, a number of board members disclosed their connections as directors of banks that were providing project finance. The authority took steps to assure itself that its decision-making in the provision of finance was in accordance with its code of conduct.

**Chairman:** Would Mr. Maloney make his opening statement?

**Mr. Paul Maloney:** Thank you, Chairman and members of the committee, for the invitation to this forum. I thank you especially because for four years I have watched aghast as Niamh Brennan issued report after report on the DDDA without ever offering an opportunity for those involved to present their views or have a say. These reports were leaked to RTE when only the Minister and Niamh Brennan had them in their possession, depriving all participants any natural justice in being able to defend themselves and creating overall the most negative one-sided destruction of the reputation of the DDDA and containing the most grievous accusations which have since been withdrawn or discredited.

Therefore, from every perspective, I most welcome the stepping in of the Comptroller and Auditor General and the Committee of Public Accounts. The committee has commissioned a report from the Comptroller and Auditor General which examines in depth all aspects of the DDDA's operations in a balanced, thorough and fair manner and, more importantly, from an independent perspective, and has invited me and other participants to come and be questioned, something I have been denied the past four years. I most wholeheartedly relish this opportunity. I was not obliged to accept this invitation as I am no longer an accountable officer and have not been for many years, but I am here of my own volition because I can no longer stand aside as so much misinformation and untruth have been printed about this deal. I wanted to come here to truthfully and honestly tell you exactly what transpired and why. As I had no institutional backing to come here, I want to thank Mr. McEnery, Mr. John Crawley in the authority and Arthur Cox for helping research the information for today.

In the DDDA, what I experienced was a dedicated staff, a board committed to excellence and a community at one with what we were doing and aspiring to achieve - the total transformation of a run-down, derelict and disenfranchised area and community. What we have achieved has not only been recognised nationally but has been highly respected internationally.

It is said that the membership of the board by directors of Anglo Irish Bank contributed to the unfairly critical comments that the DDDA received. If that is so, then I am here to tell you most truthfully that I never saw an act or comment or interference by an Anglo Irish Bank board member, or any director for that matter, that was not singly focused on what was within the code of conduct for the Docklands board and in the sole interests of the authority's objective.

I have never experienced the private interests of board members being raised by members other than by leaving a board meeting if they believed there was a conflict of interest. The truth is that Mr. Bradshaw, from whom you have directly heard, and his successor Mr. O'Connor, in my view, discharged their duties with utmost propriety and professionalism, and not a scintilla of evidence has ever been brought forward to suggest otherwise.

That Ms Brennan was able to make such completely unsubstantiated accusations without

asking either the board members who served on the board or a single member of the executive who witnessed the entire process for ten years, and without producing evidence, is highly regrettable and deplorable. That the Committee of Public Accounts has rectified to a great extent this injustice through this fair and independent report and through its invitation to members to attend does not absolve the company of the lamentable lack of corporate governance in the Brennan report and commentary.

I reiterate also that while undoubtedly mistakes were made, and I am here to acknowledge and take accountability for those myself, I and the executive also acted with total probity and transparency in all our dealings on the purchase of the IGB with one single objective in mind - the improvement of the economic and social conditions in the area. I believe the files and records utterly reflect that transparency.

First, let me reiterate that I regard the Comptroller and Auditor General's report as fair, independent and, more importantly, fact-based, and completely devoid of the incorrect and unsubstantiated conclusions that are in the Brennan report. I want to deal with two critical aspects. The statement I am about to make has never been published in any media or ever stated anywhere. The report confirms that not one cent of taxpayers' money was ever received or spent by the DDDA, and the DDDA confirmed this to me last week - the Comptroller and Auditor General, of course, finished in 2010. It confirmed to me that it will never request taxpayers' money at any time in the future. It will close the authority and hand a significant sum back to the Exchequer. Is there a single media outlet that has reported that? It is my hope that the committee's report to the Oireachtas will dispel any notion that the DDDA lost taxpayers' money.

Second, with regard to the IGB site or any other project, in the ten years since its inception the DDDA has never received Exchequer funds. As a property company it made a profit of €130 million, lost €52 million on IGB site and made a net profit of €30 million - a gain which it invested in Docklands. There is a table in the written materials showing that. Most of that investment generated €2 billion in foreign direct investment. Even after what happened with the IGB site, there was no bailout of the authority with taxpayers' money - misinformation that has been spread not by this committee but by others - and it has paid off its own debt with its own assets which it continues to sell today. The Comptroller and Auditor General would not have been aware of this as it was not stated in the report, because it has been happening since then. This may be compared to any other private property company. The DDDA was set up by the former Ministers for the Environment and Finance, Deputies Howlin and Quinn - very properly, in my view, as a company that was independent of taxpayers - but it was a property company. If any other company were in that position today, the country would be in a different place.

Thankfully, the Comptroller and Auditor General specifies to this committee two instances in which taxpayers' money was lost, but not by the DDDA. First of all - I thank the Chairman for stating this publicly - the failure to close a loophole in the Landlord and Tenant (Ground Rents) (No. 2) Act 1978 cost the State at least €130 million. In fact, in the last committee meeting with Mr. Bradshaw, the Comptroller and Auditor General raised that to a potential figure of €275 million. This was something that was highlighted by the Law Reform Commission and not acted upon. As I said, I thank the Chairman for highlighting this.

Second, we entered a loan arrangement with a private bank independent of public funds but a State decision in the form of a bank guarantee years later and the nationalisation of banks years later resulted in the loss to the taxpayer on the IGB site. This was a decision that was completely outside the remit of the DDDA. I will leave the judgment on the fairness of all this to others, because we are at this table without having lost taxpayers' funds, and the two in-

stances above are not here. This report was drafted and issued without me or any other member of the former board or executive - that is not a criticism - seeing it or having an opportunity to comment on it. Therefore, I must ask your indulgence to inform the committee about two critical aspects of the report.

In the statement on page 37, which has now been reiterated by the Comptroller and Auditor General, it is stated that I personally, as chief executive, sent a letter to the Department of the Environment stating that we expected to pay only €220 million for the IGB site. That statement is totally untrue. I was not the author of the letter; I did not see the letter before it was sent; I did not sign the letter. I have the letter here; it is not my signature. I have the legally based evidence to prove it.

In preparation for this appearance, I was permitted access to the data room at Arthur Cox, which carried out full discovery on all DDDA correspondence. This had recorded that the letter was produced and sent to only two persons on the executive without circulation to me. That would be normal because in that case I had delegated it to a senior manager with 20 years' experience of dealing with the Department of the Environment. This is very important, Chairman. When the departmental official dealing with ministerial sanction responded, he circulated it only to the two officials who had sent it. All of this is on a legal file. When I saw the letter at a board meeting a week later, I immediately set about correcting its contents. The statement that I am about to make now was not in the Comptroller and Auditor General's report. I brought the matter up at a board meeting and the official who wrote the letter corrected the sale price to €375 million. Who was there? It was the official from the Department of the Environment, Community and Local Government who was not only a member of the board but also the same official who was going to walk into the Minister's office to get that ministerial sanction. Paragraph 8.2 of the board meeting minutes of 24 October states that. Critically, this was in advance of the ministerial approval, which we know was issued by that same official later that day. The Comptroller and Auditor General has stated this was not formal information. I am here to say that, from all my experience of State boards and semi-State boards, I believe the minutes of a board meeting are the most formal legal document, an absolute record of everything that takes place at a board meeting. I have that evidence here to show to the committee. That member after a member of this committee named me as having sent this letter is disappointing. I never produced it and, more important, when I corrected it at the most formal opportunity in advance of the ministerial approval, the official involved acted with total probity. Never was it construed as a deliberate attempt to mislead the Department.

The second major statement is on the financial commitments of the authority. On page 44, at the bottom of the section, it is stated "the authority believed at the time of the signing of the shareholder agreement that its financial commitment would be limited to €35m". It goes on to say in the very next paragraph that the DDDA actually spent €44 million. These statements, taken together, are wholly misleading as they are about entirely different issues. I have brought the evidence to prove it.

I am no longer working in this sector and I work abroad mainly so I spent some time confirming in writing, only last week, what I am about to say regarding the DDDA finance director who holds the records of the authority. The shareholder agreement is divided into two financial commitments, the first concerning borrowing liabilities and the second concerning loan stock or equity. I have produced two simple tables so there will be no dichotomy. The first shows the equity commitment. The equity was the €32.8 million that we said we would spend in the shareholder agreement. We spent exactly €32.8 million. On the interest for the loan, we said

we would spend €9 million. We spent €11.1 million and it was limited to two years, as we said in the shareholder agreement. That is not stated in the report of the Comptroller and Auditor General.

On the cap that is mentioned so many times, the cap did not refer to the above. It referred to the recourse of €26 million that the authority was guaranteeing and the interest again for two years. This came to €35 million. The actual liability increased to €29.1 million but on the basis of a subsequent board decision to make an increase for the decontamination of the site. The interest was €11.1 million, which I will cover later. In other words, based on the evidence I have brought and confirmed, the DDDA did not substantially overextend its commitments.

I accept – this is why I congratulated the Comptroller and Auditor General – that this was not a deliberate statement by the Comptroller and Auditor General. The detail is provided elsewhere in this report, but when it was presented in this manner it was concluded by members and the media that there was considerable over-expenditure based on the cap that was mentioned and in the sequence presented. In short, it is my critical evidence to this committee that liabilities and commitments signed up to in the shareholder agreement were fully adhered to. If not, there are recorded decisions as to why.

I agree with the Comptroller and Auditor General on the issue of interest liability, which he did say increased. During the submission of my evidence, which is complex and comprehensive, I will deal with that.

Other major points to note are that the DDDA paid €20 million per acre for the site when docklands sites had recently been sold for €40 million per acre. In Ballsbridge, sites had been sold for €50 million per acre. The DDDA had obtained an independent valuation only ten months old and it had qualified, professional, nationally certified Royal Institution of Chartered Surveyors, RICS, surveyors to advise it. It is not mentioned in this report. We employed the RICS surveyors. I have the evidence of that.

NAMA has publicly stated that the DDDA was treated the same as all other private bodies. There was no special deal and it paid NAMA with its own assets. It paid its debts with its own assets and it paid off its loans. Today it is in a positive position to hand back the money to the Exchequer after all liabilities, including the IGB, are discharged. There is no taxpayers' money or taxpayers' liability at stake.

Does any member of this committee know why Mr. Moylan, a highly reputable chairman of Mason Hayes & Curran, resigned from his position having completed his report into the DDDA? Only one journalist, from *The Irish Times*, has published the truth behind it. Mr. Moylan has gone on record to say that Ms Brennan tried to change his conclusions on the report because those conclusions did not blame executives. I commend Mr. Moylan on his refusal to cave in to such demands. I very much welcome the proposal of Deputy Donohoe, who is not present today, to open a strand on this report and call Mr. Moylan as a witness.

I thank the chairman for his indulgence. I am proud of every single moment I spent at the DDDA. It involved my working with disadvantaged communities and delivering an architectural and economic legacy to the city and, more important, jobs for the economy. In my current position, I am doing that abroad now. Excluding the many thousands employed in the construction sector, many other jobs were created. I was present the day that Facebook executives visited the docklands to choose between Dublin and other European capitals. It was a highly sought-after prize and they chose it. They chose the very site that the DDDA had developed



with its own funds. Formerly, it was a barren, dilapidated, abandoned site and we now know it as Grand Canal Square and the location of the Bord Gáis Theatre. It was an astonishing achievement for the DDDA, the city of Dublin, the IDA and Ireland. Thousands of jobs are now being created in the area. Independent property analysts state the recovery in the property market is most prevalent in the Docklands area.

What the DDDA left behind will lead recovery in the property and jobs markets. IGB is no ghost site; it is on the doorstep of the hub of this recovery and will be a valuable asset in the recovery. Why did we buy it? The best business case I have ever seen produced to buy a site was made by a multidisciplinary group of professionals, politicians, the local community and government representatives in the docklands as far back as 1997, and in 2003 and 2006. Those concerned pinpointed the business case as to why the site should be bought.

The core business of the DDDA was to purchase, sell and hold property. This was not a once-off, fly-by-night objective. Of course, I regret this investment has ended up as it has. I am here today of my own volition to be fully accountable for any errors that I made. I regret, though, that when others and I limited our liability to 26%, which I regard as highly responsible, handed over a cheque of some €140 million to the port or State and embarked on a mission to deliver social and economic gains to the State, neither I nor my executive board could have foretold that the banks, the Financial Regulator, the Central Bank and others that controlled our financial system would see that almost collapse 18 months later, and that the bank guarantees would see the State taking control of what was private equity risk in the IGB site.

I look forward to answering every question truthfully and honestly to this committee. What I will not do – this has nothing to do with this committee but I must put it on the public record – is take any supposition or proposition that comes from someone who, at this time, served in Ulster Bank for six years and at the end of whose tenure lost billions of euro, let 2,000 staff go and did not in any way-----

**Chairman:** Mr. Maloney referred to that a few times. I think it is unfair. We will conclude at that. Can we publish Mr. Maloney's statement?

**Mr. Paul Maloney:** Yes, please.

**Deputy Eoghan Murphy:** I thank Mr. Maloney for attending. He is not obliged to so it is appreciated. It must be noted we are talking about a series of events that took place seven years ago. No doubt Mr. Maloney has been following the proceedings of the Committee of Public Accounts and how we have dealt with the subject to date. He will have noted the various people who appeared before the committee, including, over the course of this year, former DDDA chairman Lar Bradshaw and the former representative of the Department, Ms Moylan.

We have gone through a series of events that happened in the period from 2 October to 24 October. I want to go through them today with Mr. Maloney because there are still some gaps in our knowledge that I want to try to fill. In order that Mr. Maloney will have the relevant documentation, he should note we are talking about the two letters that issued to the Department on 2 October and 12 October, the board minutes of 3 October, 20 October and 24 October, and two reports that were issued in relation to Poolbeg. One of the reports was in relation to the site, and it was circulated at the meeting on 3 October. The second was in relation to the acquisition, and it was circulated on 20 October. I will touch briefly on Mr. Maloney's statement. Is it correct that he spoke to the authority before he came in here today?



COMMITTEE OF PUBLIC ACCOUNTS

**Mr. Paul Maloney:** I spoke to three groups of people: the authority, Mr. McEnery of the committee, and Arthur Cox who held the records of the authority.

**Deputy Eoghan Murphy:** Did Mr. Maloney speak to any other former board members from when he was CEO?

**Mr. Paul Maloney:** No.

**Deputy Eoghan Murphy:** Okay.

**Mr. Paul Maloney:** I did watch the presentation and the information that Mr. Bradshaw gave to this committee.

**Deputy Eoghan Murphy:** And Ms Moylan?

**Mr. Paul Maloney:** And Ms Moylan.

**Deputy Eoghan Murphy:** And Ms Lambkin?

**Mr. Paul Maloney:** Yes, I researched all of them.

**Deputy Eoghan Murphy:** At a previous meeting of this committee, we heard that there was a July council meeting in July 2006. The council meeting, which was separate from the board, was a meeting with the local interest groups. At that meeting it was suggested that the authority might involve itself in the Poolbeg site, is that correct?

**Mr. Paul Maloney:** That is correct.

**Deputy Eoghan Murphy:** Is that where Mr. Maloney then got authority to approach a potential developer to come in on a bid with the authority?

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** What were Mr. Maloney's riding instructions for that?

**Mr. Paul Maloney:** My riding instructions were to explore the possibility of us purchasing the site in a joint venture. As I said in my statement, that was done as the purchase of this site had been on the agenda for quite some time because the site beside it had been bid upon by the authority in 1997, before I joined. The authority had failed to achieve that site. It had always earmarked the purchase in this area and its master plan had earmarked this site as a development. So my riding instructions were simply to do nothing but explore the possibility.

**Deputy Eoghan Murphy:** How did Mr. Maloney go about doing that?

**Mr. Paul Maloney:** There were two ways we could have done it. One was to purchase it ourselves. I quickly looked at the independent valuation that had been completed and realised that was not possible. The second way was to do it as a joint venture, which was in our Act and we had done it many times before. I discussed with the chairman some names that I would approach. The criteria for choosing those names were - was the developer trustworthy to deliver community gain; was the developer capable of dealing with one of the biggest sites in the city; and was the developer obviously interested in developing such a site? Also, was the developer someone who had a renowned reputation for delivering high quality developments? Those were my criteria and I came up with very few names that would fit them.

**Deputy Eoghan Murphy:** Mr. Maloney had a discussion with the chairman, Mr. Bradshaw.

**Mr. Paul Maloney:** That is right.

**Deputy Eoghan Murphy:** When did that take place?

**Mr. Paul Maloney:** Just before. That would have been September, I would have thought.

**Deputy Eoghan Murphy:** September.

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** Before or after the board meeting in September?

**Mr. Paul Maloney:** After the board meeting in September.

**Deputy Eoghan Murphy:** What were the list of names Mr. Maloney gave to him?

**Mr. Paul Maloney:** The two I can definitely reveal are Seán Mulryan, who was the number one candidate, for various reasons that fit all the categories there. His exemplary developments in London were achieving international acclaim. The No. 2 was Bernard-----. I did not produce a second name until the first one dropped out.

**Deputy Eoghan Murphy:** So when Mr. Maloney had that discussion with Mr. Bradshaw in September, Mr. Maloney produced a couple of names.

**Mr. Paul Maloney:** No, I want to correct that. Just one name at that stage because it was an outstanding candidate.

**Deputy Eoghan Murphy:** Did Mr. Maloney know Seán Mulryan at the time, personally?

**Mr. Paul Maloney:** No. I had never met, heard or seen him, other than on television.

**Deputy Eoghan Murphy:** How did Mr. Maloney approach him?

**Mr. Paul Maloney:** I rang his office and asked if they could get in contact with him. I think some days later he called back because I could not get his private number, and we agreed to meet.

**Deputy Eoghan Murphy:** Where did Mr. Maloney meet him?

**Mr. Paul Maloney:** I think in our offices or his offices. I cannot be certain.

**Deputy Eoghan Murphy:** Can Mr. Maloney remember when that took place?

**Mr. Paul Maloney:** It was some time between the board meeting in September and 3 October.

**Deputy Eoghan Murphy:** When did Mr. Maloney first inform the chairman that he had made contact with Seán Mulryan and that he was meeting him?

**Mr. Paul Maloney:** I would have thought it was within hours of me speaking to him.

**Deputy Eoghan Murphy:** Did Mr. Maloney inform anyone else on the board?

**Mr. Paul Maloney:** No. We had no board meeting until 3 October.

COMMITTEE OF PUBLIC ACCOUNTS

**Deputy Eoghan Murphy:** Did Mr. Maloney inform anyone else on the executive that he was meeting Seán Mulryan?

**Mr. Paul Maloney:** Yes, I informed one of the executives. It was seven years ago, so I cannot tell the Deputy who exactly.

**Deputy Eoghan Murphy:** Would that be in the context of “I’m going to a meeting” or “We are thinking about doing this”?

**Mr. Paul Maloney:** “We are thinking about doing this”. The executive already knew we were thinking about doing it because we had started talking about it in July, so it would have been one of the executives.

**Deputy Eoghan Murphy:** In terms of arranging board meetings, would any substantive communications occur between the board outside of an actual board meeting?

**Mr. Paul Maloney:** Yes, I would have thought so. I was not a member of the board. I am one of the few chief executives who was not a board member. However, the chairman was, as he indicated here, incredibly communicative with all board members, so I had no doubt that he had communicated this to somebody. I established that on 3 October because it was clear to me at that meeting that many people knew what I was raising.

**Deputy Eoghan Murphy:** So when Mr. Maloney raised it on 3 October - and this is one of the things we were trying to clarify earlier - he was talking about Seán Mulryan.

**Mr. Paul Maloney:** No. Seán Mulryan dropped out pretty quickly.

**Deputy Eoghan Murphy:** Seán Mulryan had dropped out.

**Mr. Paul Maloney:** Yes, by 3 October.

**Deputy Eoghan Murphy:** But Mr. Maloney had met him probably towards the-----

**Mr. Paul Maloney:** I had met him towards the middle of September.

**Deputy Eoghan Murphy:** Towards the middle of September.

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** He dropped out pretty quickly. Was that a one-off meeting and he did not seem interested?

**Mr. Paul Maloney:** That was the last time I had met him actually. I had met his staff. He phoned me - he did not meet me - to say he could not proceed with it. His reason was - and I totally understood - that his main focus was London, and still is. To move an operation of that scale, one of the biggest sites in Dublin, he would have to have set up a whole new team in Dublin. I accepted that and immediately rang the chairman to propose a second name.

**Deputy Eoghan Murphy:** Did Mr. Maloney actually meet Mr. Mulryan personally eventually?

**Mr. Paul Maloney:** Yes, at the very first meeting.

**Deputy Eoghan Murphy:** Was it just one meeting?

**Mr. Paul Maloney:** One meeting is all I had with him.

**Deputy Eoghan Murphy:** There was a second meeting with his staff.

**Mr. Paul Maloney:** I think maybe one or two meetings with the staff. I went to their office once with my executive team and they came to our office. That was about exploring valuations.

**Deputy Eoghan Murphy:** Was Mr. Maloney keeping minutes of those meetings?

**Mr. Paul Maloney:** No, because I wanted to report the meeting to the board. I reported it in full. Because it was exploratory and nothing arose from it, we simply dropped the issue with them. That developer dropped out very quickly.

**Deputy Eoghan Murphy:** They dropped out.

**Mr. Paul Maloney:** They dropped out, yes.

**Deputy Eoghan Murphy:** So Mr. Maloney then informed Mr. Bradshaw that Mr. Mulryan was no longer in the picture.

**Mr. Paul Maloney:** I think within a few hours of being informed, I rang Mr. Bradshaw and we discussed whether we would proceed any further. I said: "I have a second name to propose to you." The reasons I proposed Bernard McNamara were fourfold. I had just joined the authority so I had never met or heard of Mr. McNamara, other than through the media, but I had seen the records of my executive of the joint venture that we had already done in docklands with Mr. McNamara. The first criteria I laid down were trust and development of the community, and he had delivered on both of those. The second was capability - he was the biggest developer in Dublin. The third one was exemplary developments; he had just finished the Shelbourne Hotel and that was highly lauded by many people as a great restoration. So I felt I should put it to the chairman to possibly explore a deal with Mr. McNamara. I felt confident. I had ruled out so many others on those criteria, so I felt that was right.

**Deputy Eoghan Murphy:** Did Mr. Maloney know Mr. McNamara personally?

**Mr. Paul Maloney:** I never met him, never knew him, other than his media profile.

**Deputy Eoghan Murphy:** In that same conversation with Mr. Bradshaw where Mr. Maloney had informed him that Mr. Mulryan was no longer in the picture, Mr. Maloney suggested to Mr. Bradshaw that he would approach Mr. McNamara.

**Mr. Paul Maloney:** Yes. I thought about it before I rang Mr. Bradshaw and said I need a name. That was the name I determined.

**Deputy Eoghan Murphy:** What happened then, when Mr. Maloney got off the phone from Mr. Bradshaw?

**Mr. Paul Maloney:** The chairman said: "We have a board meeting coming up. Try and find out as much as you can about whether this is still a possibility or not." Quite honestly, this was coming close to 3 October and tenders were for the 26th. I was more or less ruling out that this was possible at this stage. We only had 20 days left.

**Deputy Eoghan Murphy:** It was already in October, was it?

**Mr. Paul Maloney:** We were already very close to 3 October, probably just the end of Sep-

tember.

**Deputy Eoghan Murphy:** In his head, Mr. Maloney thought it was not going to be possible to make a bid in time for the deadline.

**Mr. Paul Maloney:** I thought it was very close for such a big, high-profile tender.

**Deputy Eoghan Murphy:** Did Mr. Maloney say that to Mr. Bradshaw?

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** In the phone conversation?

**Mr. Paul Maloney:** He was equally reticent about whether or not we could achieve it in the timescale. We had started too late, basically.

**Deputy Eoghan Murphy:** Then Mr. Maloney approached Mr. McNamara.

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** How did that happen?

**Mr. Paul Maloney:** I rang his office, which was the Grattan business, and asked to meet him. This time I went to meet him in his office with his team in Ballsbridge.

**Deputy Eoghan Murphy:** Does Mr. Maloney know what date that was?

**Mr. Paul Maloney:** I would think close to the end of September, but I cannot be absolutely sure.

**Deputy Eoghan Murphy:** How many meetings did Mr. Maloney have with him prior to the board meeting on 3 October?

**Mr. Paul Maloney:** On 3 October, I would probably have had one meeting with Mr. McNamara and one with my team and his team.

**Deputy Eoghan Murphy:** As a result of those two meetings, Mr. Maloney was satisfied that this was something that could then be brought to the board?

**Mr. Paul Maloney:** I believed I should report to the board all of my dealings to date and also what the issues were. If one looks at 3 October, there are many issues being explored there. I wanted to bring all the issues to the board on a formal record of the meeting.

**Deputy Eoghan Murphy:** I want to come to the minutes and the paper that was there at the board in just a moment. However, was it Mr. Maloney's impression that when he sat down for that board meeting on 3 October the members of the board were already aware that he had had discussions both with Mr. Mulryan and McNamara, or just Mr. McNamara?

**Mr. Paul Maloney:** I would say they did not know who I had had discussions with until that meeting, perhaps, so I wanted to raise it at the meeting. Secondly, it was my impression when I walked into that meeting and raised the issue, that many were aware that we were exploring this possibility.

**Deputy Eoghan Murphy:** The board met on 2 and 3 October, is that correct?

**Mr. Paul Maloney:** I have the minutes of 3 October but not 2 October.

**Deputy Eoghan Murphy:** I am looking at a document here from 2 October on the development side of Poolbeg.

**Mr. Paul Maloney:** I do not have that. If there was a meeting on 2 October, I am not aware of it. If anyone has that, I would like to see it.

**Deputy Eoghan Murphy:** I apologise. The document in question was prepared on 2 October for the meeting on 3 October. Was that meeting held abroad?

**Mr. Paul Maloney:** It does not say it on the documentation but I think it was abroad.

**Deputy Eoghan Murphy:** It was in San Sebastián in Spain.

**Mr. Paul Maloney:** That is correct.

**Deputy Eoghan Murphy:** Before the meeting of 3 October, the authority decided to prepare this paper on the Poolbeg site. The author of that paper is Mr. Mulcahy.

**Mr. Paul Maloney:** Yes, he signed it as author but I was fully involved in the preparation of that paper.

**Deputy Eoghan Murphy:** What is involved when one prepares a paper for the board?

**Mr. Paul Maloney:** As chief executive, one must put all the information and analysis to the board. Notwithstanding the fact we were still at the exploratory stage, one can see I covered everything from tender procedures to valuations to strategies to risks, negatives and positives to SWOT - strengths, weaknesses, opportunities and threats - analyses and planning schemes, etc. We wanted to put out everything we had. I believe we successfully did that.

**Deputy Eoghan Murphy:** Did Mr. Lar Bradshaw ask for this paper to be prepared?

**Mr. Paul Maloney:** No, it was of our own volition.

**Deputy Eoghan Murphy:** The minutes from the meeting of 3 October when the IGB, Irish Glass Bottle, site was discussed, state, “the chief executive briefed the board on the confidential negotiations he had undertaken with the developer who had indicated an intention to bid for this site”.

**Mr. Paul Maloney:** That is correct.

**Deputy Eoghan Murphy:** To clarify, did Mr. Maloney inform the board that this was Mr. Bernard McNamara?

**Mr. Paul Maloney:** No, I did not give his name because he had asked me to keep it confidential because others were bidding for the site. At this early exploratory stage, we both wanted to keep our options open. I had to describe his background to the board members.

**Deputy Eoghan Murphy:** Was it not obvious to them?

**Mr. Paul Maloney:** Ms Moylan’s evidence was that she inferred it. I have no doubt everybody there inferred about whom I was speaking. I had to keep my word but I did not say it. I did give enough information for everyone to know with whom I was speaking.



**Deputy Eoghan Murphy:** The wording of the minutes is interesting. For instance, they state, “a developer who had indicated an intention to bid for this site”. Mr. Maloney approached Mr. McNamara because he thought he would be a good candidate to go into a joint venture with and informed Mr. Bradshaw of that. Mr. Maloney then approached Mr. McNamara. However, the way it is written in the minutes is that the developer had an intention to bid for the site of which the authority was aware and the developer would then welcome the involvement of the authority jointly in the tender. Was Mr. Maloney aware that Mr. McNamara was interested in the site?

**Mr. Paul Maloney:** Yes. When I rang Mr. McNamara, whom I had never met or known, to tell him we were thinking of bidding for this site and we would like to explore the possibility of a joint venture, he told me he was already considering bidding for it. He used the words “I have been looking into that myself”. I worded that exactly as he had said to me so the board would be aware of it.

**Deputy Eoghan Murphy:** There were two meetings with Mr. McNamara and the process was getting on quickly with a deadline of 25 October for the bid. Mr. Maloney prepared a paper for the board on 2 October for the meeting on 3 October, which was held abroad. In that paper, it was quite clear Mr. Maloney was making recommendations. Conclusion 11.1 reads: “Decision - the board has authorised the executive to approach a suitable developer in line with option B, the option being that the authority selects a developer of high calibre of the joint bid.” My point is that there was a conclusion and recommendation already in the paper.

**Mr. Paul Maloney:** Yes, absolutely. What I had to do was to get authorisation from the board, which I had not received to that date, to explore the possibility - it is worded very carefully - “to approach a suitable developer in line with option B”. I believe the Deputy will acknowledge it is not a decision to go with that developer.

**Deputy Eoghan Murphy:** This was to open up the actual bidding process. Is it the case that Mr. Maloney was given authority from the July council meeting to approach a developer to explore the possibility and this was the decision, that he would have formal negotiations with Mr. McNamara?

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** At the beginning of that paper in the summary in paragraph 1, it is stated, “the executive recommends that, if possible, the authority should get involved with development partner or partners in the development of the site if it is to achieve in full measure its objectives under the master plan for the Poolbeg area”. Accordingly, Mr. Maloney, as chief executive officer, was recommending to the board that the authority go ahead and bid for this site.

**Mr. Paul Maloney:** Yes, but it was not a recommendation to proceed to bid.

**Deputy Eoghan Murphy:** No, but it was a recommendation that the authority should get involved.

**Mr. Paul Maloney:** Yes, I acknowledge that.

**Deputy Eoghan Murphy:** It was Mr. Maloney’s brief that he would do this, despite the concerns he might have had with Mr. Bradshaw previously on the phone when he thought this was going too quickly or had started off too late.

**Mr. Paul Maloney:** Yes, but the words are highly caveated with terms such as “if possible”. The caveats are laid out fully in the negatives and possibilities later on in the paper. Essentially, the decision on paragraph 11.1 asked me to explore this possibility. Was I certain that this is what we should do on 3 October? No, I was not.

**Deputy Eoghan Murphy:** When Mr. Bradshaw was before the committee, he said in his evidence that “the executive was clearly and unambiguously recommending that we should proceed with the purchase and that the board acted on that advice”.

**Mr. Paul Maloney:** Yes, but in fairness he was talking about the minutes from 20 October.

**Deputy Eoghan Murphy:** Yes, I will come to those minutes later. By 3 October, was it the case the executive was pushing this strongly to the board?

**Mr. Paul Maloney:** Not the actual bid. What we were pushing - if that is the word the Deputy wants to use with all the caveats - was to explore that possibility.

**Deputy Eoghan Murphy:** At the meeting of 3 October, what discussions were held on the potential valuation of the site?

**Mr. Paul Maloney:** On 3 October, we had obtained an independent valuation in June 2005. We had our own RICS, Royal Institution of Chartered Surveyors, professional surveyors in the authority who updated that valuation for the sub-committee, referred to earlier by the Deputy, of 5 October 2005 to do with the port’s involvement. We had a full valuation from an independent RICS valuer who put into that the entire parameters one would put into valuing a site. It included everything from office investment, income, expenditure, acquisition costs, construction costs, cost of debt, etc. We then asked our professional valuers to extrapolate three parameters, namely, plot ratio, the number of units per hectare and the comparability of sites selling in the area. In my opening statement, I mentioned that sites had just sold for between €40 million to €50 million an acre while we were bidding €20 million an acre. I had a team comprising a barrister who had spent 20 years working with the authority on property engagement, a finance director who had done all the development with IGB, as well as advice from Goodbody and CBRE’s valuation report. In the minutes of 3 October, the Deputy will note we took informal advice from the market.

Putting together all these parameters, I reported on 3 October that the site would vary between €300 million to €350 million in terms of the extrapolation of these parameters. During Mr. Bradshaw’s presentation, the Comptroller and Auditor General stated this was to become practice. These parameters are not put in by some amateur method but into an expensive computer program, the Circle-Time RICS program, which we had on site because we had a full development team. I was able to bring all of these criteria to the board that we were using and explain to it why it would vary.

**Deputy Eoghan Murphy:** I want to come back to the valuation section and stick with the minutes of 3 October and the paper there. This is the first time the board has heard that there is an interested developer which it can approach to go into a joint venture with. A detailed paper is prepared for it relating to the development site of Poolbeg. In paragraph 3.2 of the minutes, it states that after a careful consideration of the proposal and subject to being satisfied that the proposed involvement of the authority in the tender process and the future development of the site would not breach public procurement rules, the board agreed that the executive could open negotiations with the potential tender partner with a view to formulating a joint bid. How

quickly did the executive move to open negotiations with Mr. McNamara?

**Mr. Paul Maloney:** What was the last question?

**Deputy Eoghan Murphy:** How quickly did the executive move to open negotiations with Mr. McNamara?

**Mr. Paul Maloney:** Immediately that day.

**Deputy Eoghan Murphy:** At the same time, the executive then moved to get assurances that it would not be in breach of public procurement rules.

**Mr. Paul Maloney:** Yes, we instructed A&L Goodbody to produce a procurement report. It had one criterion - to do so in advance of any bid by the authority so we were clear on our procurement rules and we did.

**Deputy Eoghan Murphy:** It was in advance of any bid but not in advance of opening negotiations with Mr. McNamara.

**Mr. Paul Maloney:** No, it just was not practical or possible to do. First, the authority had 20 years of doing joint ventures. The entire Bord Gáis site was developed that way. Second, in order to parallel these while not committing the authority to a single commitment, which was very important, we were able to get the procurement advice. It was our desire and final achievement to have that procurement advice before we committed the board of the authority to any decision.

**Deputy Eoghan Murphy:** Am I wrong to interpret that it was looking for that assurance before it actually opened negotiations - subject to being satisfied, etc., the board agreed that the executive could open negotiations?

**Mr. Paul Maloney:** No, because paragraph 3.2 speaks very clearly about that the proposed involvement of the authority in the tender process. That involvement would not come until we made a bid. It was not involvement in open negotiations. I think the board agreed that the executive could open negotiations immediately.

**Deputy Eoghan Murphy:** Immediately.

**Mr. Paul Maloney:** I believe so.

**Deputy Eoghan Murphy:** I do not think that is clear from the minutes.

**Mr. Paul Maloney:** I accept that there may be some interpretation of that but I think if asked, both Mr. Bradshaw and Ms Moylan would agree with that.

**Deputy Eoghan Murphy:** The date of 2 October relates to the first letter to the Department regarding approval for the authority borrowing. So it went ahead and sought approval in respect of this site in that letter on 2 October.

**Mr. Paul Maloney:** Yes. On 2 October-----

**Deputy Eoghan Murphy:** A formal letter comes on 12 October.

**Mr. Paul Maloney:** Correct.

**Deputy Eoghan Murphy:** So what was the authority doing on 2 October?

**Mr. Paul Maloney:** I believe that on 2 October we were asking permission simply to open discussions about our borrowing and bank loans. I am looking for the letter but I think that is all we were doing.

**Deputy Eoghan Murphy:** So the authority was anticipating-----

**Mr. Paul Maloney:** I apologise. There were two letters to the Department. One was 27 September and the other was 12 October so perhaps the Deputy is referring to-----

**Deputy Eoghan Murphy:** I have a letter to Mary Moylan dated 2 October.

**Mr. Paul Maloney:** I acknowledge that letter. Could we go to the end as I am reading it as we go along? This is looking to a facility for borrowing on the €127 million.

**Deputy Eoghan Murphy:** It does not name the IGB site but that is the site Mr. Maloney had in mind when he wrote this letter on 2 October?

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** So he was anticipating a positive decision?

**Mr. Paul Maloney:** No, although this is dated 2 October, we would not have sent it until after the board meeting on 3 October.

**Deputy Eoghan Murphy:** So the authority would have waited.

**Mr. Paul Maloney:** Absolutely, because we had no authority to do this. We just drafted the letter so it would be clear in our minds what we were going to say.

**Deputy Eoghan Murphy:** If the board was successful, the letter could then be sent.

**Mr. Paul Maloney:** Correct, it was not sent until 3 October.

**Deputy Eoghan Murphy:** Was Mr. Maloney anticipating a positive decision by the board?

**Mr. Paul Maloney:** I was anticipating a positive decision to explore, which is all we were doing. We had only 26 days. I was running a parallel process without committing us to anything and this was a parallel process.

**Deputy Eoghan Murphy:** At the beginning of that letter, it says “discussed with you, the authority is now seeing approval”.

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** So Mr. Maloney would have had that conversation with Ms Moylan?

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** What was the purpose of that conversation?

**Mr. Paul Maloney:** This is why I think the letter is just a day out. I think it is 3 October. I think I would have discussed that with Ms Moylan immediately after the board meeting or perhaps just before the board meeting on 3 October, which was in San Sebastian. Therefore, we would have been either talking the night before or just before the board meeting. That is

probably where that came from.

**Deputy Eoghan Murphy:** So is 2 October a typo?

**Mr. Paul Maloney:** I think so. I think 2 October is correct in that it was written on that date but I am certain it was not sent until after the board meeting on 3 October.

**Deputy Eoghan Murphy:** Was Mr. Maloney anticipating a conversation with Ms Moylan?

**Mr. Paul Maloney:** No, I had already discussed things with her. It was either a discussion the night before or the morning of the meeting so the 2 October could be a typo. It was seven years ago.

**Deputy Eoghan Murphy:** I said that at the beginning but I am just trying to get some clarity around the sequencing.

**Mr. Paul Maloney:** I would have discussed with Ms Moylan what we would write because I had never written such a thing before.

**Deputy Eoghan Murphy:** Would Mr. Maloney have had a discussion with Ms Moylan prior to the board hearing about the actual proposal?

**Mr. Paul Maloney:** I do not think so, which is why I think that is a typo. I would never really discuss anything with a board member before a board meeting. I am fairly certain I did not discuss it with her until 3 October.

**Deputy Eoghan Murphy:** We will have to put that down as a typo if it was not Mr. Maloney's practice to discuss those issues before board meetings.

**Mr. Paul Maloney:** I think the Deputy is right.

**Deputy Eoghan Murphy:** I apologise for jumping between documents. It is just that there are a few documents around the same dates. We are moving into the process of seeking ministerial sanction and it is quite important. The Poolbeg site report of 3 October has three different valuations. One states that the tenders will reach €400 million, which is based on informal advice from letting agents. Which letting agents were they?

**Mr. Paul Maloney:** I do not know. I had just joined the authority and asked Mr. Neil Mulcahy, who was director of property. It was probably his suggestion to phone around and see what was happening in the market, which is very important. We had worked with virtually all the property agents in the development of the Bord Gáis site. I had never worked with them and he was familiar with all of them. I believed he phoned probably the top four or five.

**Deputy Eoghan Murphy:** That was where you got the figure of €400 million from.

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** There are two other figures. One is €300 million and is based on a valuation conducted by the authority in 2005, which was the previous year.

**Mr. Paul Maloney:** Yes, and our own valuers extrapolating that valuation, which they put in a document that I have with me. That was extrapolating the different parameters to see how the valuation changes as one changes those parameters.

**Deputy Eoghan Murphy:** The third figure in the Poolbeg site report of 3 October was €350 million, which was based on the price paid for the Readymix site at East Wall. The minutes refer to it at the top of the second page.

**Mr. Paul Maloney:** Yes, I think that is only one of the inputs that would have affected that. That is a comparative price but we also had the Circle Time programme. I have here a figure of €336 million that this programme printed out on 5 October and would have printed out over that period or just prior to it. I do not have access to those now but that is where I would have got them.

**Mr. Paul Maloney:** In preparation for the meeting in San Sebastian on 3 October, Mr. Maloney prepared the Poolbeg site report which contains three valuations. He also prepared a letter he sent after the meeting although it is dated incorrectly which looks to find sanction to enter into this venture and also to increase the borrowing. In that letter, he talked about an expected delivery or return of circa 15%.

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** What did he base that return on?

**Mr. Paul Maloney:** It was the standard return for all valuations of 15% expected by developers to be a return on how you base the valuation.

**Deputy Eoghan Murphy:** Would that be the return to the joint venture or the authority?

**Mr. Paul Maloney:** It would be the joint venture.

**Deputy Eoghan Murphy:** We move from the board meeting on 3 October to another meeting on 20 October. What was the purpose of the letter dated 12 October, to which Mr. Maloney referred in his opening statement?

**Mr. Paul Maloney:** What is clear is that between 3 and 20 October, some e-mails emerged from the Arthur Cox data room. They were from an official in the Department to my team and state that the authority must produce a formal sanction letter for the Minister sanctioned to approve borrowing limits. They spoke to my officials, who had dealt with the Department for a considerable number of years. I instructed them to seek sanction based on what the Department asked us to include in the letter.

**Deputy Eoghan Murphy:** This is the letter of 2 or 3 October.

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** Following that an e-mail exchange commences with instructions on how to go about seeking formal sanction.

**Mr. Paul Maloney:** Yes. It appears from the e-mails that verbal contacts were also made between the official in the Department and my officials.

**Deputy Eoghan Murphy:** Was the departmental official Ms Moylan?

**Mr. Paul Maloney:** No, it was her deputy.

**Deputy Eoghan Murphy:** The letter officially seeking sanction was sent on 12 October. Reference was made to this letter in subsequent minutes.



**Mr. Paul Maloney:** Correct.

**Mr. Seamus McCarthy:** On 4 October 2006 the Department of the Environment, Heritage and Local Government wrote to the Department of Finance to draw the latter's attention to the fact that the authority wanted to extend its borrowing limit. The e-mails to which Mr. Moloney referred, and the engagement, pertained to a request from the Department of Finance that a case be made to support the application for an extension. It may be helpful to know that another party was involved in the discussion.

**Deputy Eoghan Murphy:** I thank Mr. McCarthy for that clarification. Mr. Maloney stated in his opening statement that he did not draft the letter of 12 October.

**Mr. Paul Maloney:** More important, I did not sign it. There is a different signature on the letter.

**Deputy Eoghan Murphy:** Did he know the letter was being issued on the 12th?

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** Who wrote the letter?

**Mr. Paul Maloney:** The property director, Mr. Mulcahy, who subsequently reported it to the board.

**Deputy Eoghan Murphy:** Mr. Mulcahy wrote the letter of the 12th.

**Mr. Paul Maloney:** It is on e-mail tracking, which is on the DDDA's Arthur Cox website, that he copied the letter to Mr. Higgins, who signed it. That would be normal. I would have been dealing with the shareholder agreements' heads of terms. My colleagues who had been dealing with the Department for many years dealt with the issue under discussion. We considered it to be a procedural matter.

**Deputy Eoghan Murphy:** Was it normal that Mr. Maloney did not see the letter?

**Mr. Paul Maloney:** Not necessarily. I delegated the task to them. I knew they would show it to me, and eventually they showed it at the board meeting of the 20th. That is when I saw the figure of €220 million and, of course, I set about correcting it immediately.

**Deputy Eoghan Murphy:** Was that the first time the authority wrote a letter to seek such sanction?

**Mr. Paul Maloney:** No, it would do so every few years. It sought sanction in 1997 and 2003, when it was involved with the Bord Gáis site. I was not there at the time.

**Deputy Eoghan Murphy:** Was Mr. Maloney there in 2003?

**Mr. Paul Maloney:** No, I joined just before this.

**Deputy Eoghan Murphy:** The letters stated that an evaluation prepared by the authority indicates that at a reasonable density of commercial and residential development the value of the site could be in excess of €200 million. That is considerably less than the three figures set out in the paper of 3 October.

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** It went on to estimate a figure of €220 million.

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** Why were those two figures in play on 12 October when Mr. Mulcahy was clearly aware of the higher valuations that were discussed on 3 October?

**Mr. Paul Maloney:** When we raised the issue at the board meeting of the 24th, Mr. Mulcahy made it clear that he put it in because it was the current formal independent evaluation for the authority. The error I noticed - it was obvious that Ms Moylan also saw it as an error - was that the words “in the region of” should not have been used. The word “excess” was used earlier in the letter and it should have been used in this context. It was construed as an error because it simply used the book value. It was also construed that it was in no way meant to be misleading to the Department because the e-mails are clear. The e-mail that immediately came from the departmental official, which is not mentioned in the report of the Comptroller and Auditor General, referred to the process but did not mention the figure. The e-mail was not sent to me because the official knew I was not involved. The assistant secretary, who is a woman of the highest integrity and experience, has confirmed that she was not making a case to the Department or the Minister; she was looking for a borrowing requirement and the sanction to get involved with a joint venture. This is her evidence. Clearly I was not privy at the time but having read her evidence I am now privy to the matter. That is the reason nobody corrected the letter between the 12th and the 24th, when Mr. Mulcahy and I raised it in order to draw her attention to it before ministerial sanction was issued.

This is a critical factor. It was not mentioned in the report of the Comptroller and Auditor General. If the Deputy will indulge me, I will explain why I am so exercised by the matter. For three years, the media claimed that I wrote a letter. There were suggestions of a lack of integrity or attempts to mislead. There is no more formal legal record in any semi-State or State body than the minutes of the executive board’s meetings. One can have all the reports one wants but the minutes are the formal legal record and I draw the attention of the Comptroller and Auditor General to them. I do not want to cast aspersions against him but I have to pull this together. The minutes state that we informed the highest official in the Department that the figure was wrong in advance of receiving ministerial sanction.

I must also emphasise a second issue. Ms Moylan has been very honourable and honest in this regard. She was not only representing the Department on the board; she was also the person in the Department who was responsible for getting ministerial sanction. I am here to correct any suggestion that I did not recognise I was informing the highest official formally and legally that the figure was wrong and must be corrected immediately. The probity and integrity of everybody involved was never such that there was an intention to mislead. This was a highly experienced team on both sides. Ms Moylan clearly stated to the committee that she never saw it as a conflict. She also said - and this is minuted - that she was the same official who was responsible for seeking that sanction. She construed it as building a borrowing case rather than a business case. I apologise for spending time on this issue but I had to make these comments.

**Deputy Eoghan Murphy:** I appreciate that. We have jumped ahead a bit but I will stay with the meeting of 24 October.

**Mr. Seamus McCarthy:** In a letter dated 17 October 2006 the Department of the Environment, Heritage and Local Government responded to the request from the Department of Finance for further detail. Under the heading of “proposed site acquisition” the letter states that

an evaluation prepared by the authority indicates that, at a reasonable density of commercial and residential development, the value of the site would be in the region of €220 million. It stated in respect of the financing requirements that, under this scenario, the joint venture partner would hold at least 51% of the equity, again at a cost of €60 million and that the intention is that the remaining debt financing of approximately €100 million required to complete the acquisition would be secured against the property to be acquired and arranged and borne by the JVC. The significance of that statement is by that stage it had been proposed to set up a 50:50 partnership in the joint venture requiring €120 million to be provided by the partners and a further €100 million to be borrowed, for a total of €220 million. I have to disagree, therefore. While the case was certainly in support of the application to extend the borrowing requirement, it was couched in terms of a venture priced at €220 million. That has to be the construction drawn from the letter sent on the 17th.

**Mr. Paul Maloney:** If I may respond to that, it is important to note that we corrected the figure before the official sought ministerial sanction. Having seen, between the 17th and the 20th, that the wrong figure was being used, we corrected it. The Comptroller and Auditor General stated in his report - I am not casting aspersions - that we did not formally correct that with the Department. I have investigated every document here and spent time doing so. I have found that on paragraph 8.3 of the minutes of the board of 24 October, in advance of sanction, we corrected that figure. Both of us are right-----

**Mr. Seamus McCarthy:** No, I am sorry. We followed the papers that went right up the line. There was a submission on 19 October 2006 to the Minister for the Environment, Heritage and Local Government. Again, it was based on the same information and referred to the value of the site of approximately €220 million. The final recipient was rúnaí Aire, and the secretary to the Minister marked it as follows: "Discussed with Minister. He agreed in principle subject to [I think] approval of Minister for Finance as required."

**Mr. Paul Maloney:** That is correct but Mr. McCarthy is referring to 19 October. I must continually say to Deputy Eoghan Murphy and this committee that we did not bid until 25 October. Ministerial sanction did not issue until 24 October. At 8 a.m. on 24 October I formally and legally informed the same departmental official that there was an error in the €220 million and I corrected it. We do not disagree. I accept Mr. McCarthy's interim letters, but the final legal correction of the authority's position, and Mr. McCarthy refers to a letter from the Department, not the authority, took place at 8 a.m. on 24 October and the Minister's representative said the Minister would issue sanction later that day. In front of this committee she has stated that she recollects and accepts that we corrected the figure on that date. Mr. Bradshaw also said this to the committee. We do not disagree. From my representation I must give true evidence to this committee that I corrected it in advance of ministerial sanction and that is important to the integrity of me and my team. The record I have with me shows that, and Mr. McCarthy does not disagree with paragraph 8.3 of that document of 24 October, does he?

**Mr. Seamus McCarthy:** No, except the reference to the sum looks like a typo. It refers to a valuation of some €250 million. I presume that should be €220 million.

**Mr. Paul Maloney:** Yes, everybody acknowledges that.

**Mr. Seamus McCarthy:** It had been included in the authority's submission to the Minister.

**Mr. Paul Maloney:** I am glad Mr. McCarthy is not correcting my statement that paragraph 8.3 corrects to the ministerial representative that the valuation was now €375 million.

**Mr. Seamus McCarthy:** We have always drawn attention to the fact that the departmental representative on the board was in a position where there was a documentary trail that she had progressed and made recommendations to the Department of Finance and to the Minister that this was the value of the site. I understand that to mean that the Department's sanction was based on those representations. At the same time she was aware, as were all the other members of the board, that a considerably greater sum was being discussed. That is the conflict of interest that any public servant may find themselves in.

**Mr. Paul Maloney:** Mr. McCarthy says it is a conflict of interest, but when Ms Moylan appeared before this committee, which is on public record, did she perceive as a conflict of interest the specific role of being on the board and being the person who was going to the Minister to get that sanction? I think Deputy Eoghan Murphy may have asked the question. She said that no, she did not see it as a conflict because her role was to increase the borrowing, not make a business case. Rather than delay the committee, I came here today to correct the statement in the Comptroller and Auditor General's report which says the Department was not formally informed of the new figure in advance of ministerial sanction. It was. My timing, 8 a.m. on 24 October, meant that official had every opportunity to return to the Department, which she did, and correct it. She honestly said she did not need to because, as Mr. McCarthy correctly said, the borrowing was no longer €100 million but only €50 million, so she did not feel we were exceeding our borrowing limits.

**Deputy Eoghan Murphy:** I take the point but I think it is recognised by the Department as a conflict of interest because those two positions have now been split.

**Mr. Paul Maloney:** Correct, but I am just giving her evidence that she did not see that specific decision as a conflict of interest.

**Deputy Eoghan Murphy:** To step back a little, the letter was sent on 12 October and this communication began seeking sanction on a particular percentage for a particular plot ratio and site mix. On 20 October there was a board meeting but that letter seeking sanction was not discussed.

**Mr. Paul Maloney:** No, and the reference to the Comptroller and Auditor General is in a letter of 19 October by the Department of Environment, Community and Local Government to the Department of Finance would not have been seen by us.

**Deputy Eoghan Murphy:** When the board discussed it at the meeting of 24 October, and it is noted in 8.2 in the minutes, Mr. Bradshaw believed that amounted to formal notification to the Department of the change in circumstance because Ms Moylan was there. Mr. Maloney clearly believes the same. In her evidence Ms Moylan also said she was satisfied that the decision did not contravene what the Minister agreed. She also said that she did not report back from the board to the Department. Does one conclude that she made a judgment call?

**Mr. Paul Maloney:** The Deputy will understand that I can only make my judgment calls on what I did formally and legally.

**Deputy Eoghan Murphy:** What prompted the discussion at the meeting of 24 October?

**Mr. Paul Maloney:** Between 20 and 24 October I had seen the letter was wrong and I immediately asked the official why that figure had been put in because I had not see the letter and did not sign it, nor would I have. Second, I was not going to pick up the phone and ring Mary Moylan in some sort of backyard approach. I believed Ms Moylan and the whole board had to

be formally and legally informed that this mistake was made.

**Deputy Eoghan Murphy:** Is Mr. Maloney referring to the board pack of documentation for 24 October? Is that when he came across the letter?

**Mr. Paul Maloney:** Yes, some where between those dates. Obviously I am not certain which date.

**Deputy Eoghan Murphy:** Does Mr. Maloney see the difficulty in that he did not read the letter before it was sent and yet by 24 October, the day before the bid and the day of sanction, as far as the Department is concerned it is working with the wrong figures because Mr. Maloney had not read the letter.

**Mr. Paul Maloney:** Correct. I accept that and take full accountability. I am not pushing accountability to my officials. I delegated, but the responsibility is mine. I do not want to cast aspersions on any official. I accept full responsibility but my key point is that I had corrected it legally before the ministerial sanction.

**Deputy Eoghan Murphy:** Mr. Maloney informed Ms Moylan when he informed other board members at that meeting on 24 October that there was a mistake in the letter that had gone in on 12 October.

**Mr. Paul Maloney:** Correct.

**Deputy Eoghan Murphy:** Did he receive sanction for the bid on 24 October?

**Mr. Paul Maloney:** At the board meeting she indicated she was still going to issue a letter to spite the new circumstances. She gave evidence to this committee why she decided that.

**Deputy Eoghan Murphy:** Did she indicate to the board that she, acting for the Department, was going to-----

**Mr. Paul Maloney:** Yes. She said that in her evidence to this committee. This was 8 a.m. and the letter issued at approximately 1 p.m. so in that four hours, although she accepted this new information, she still decided to proceed because the borrowing was less than the sanction she had sought from the Minister.

**Deputy Eoghan Murphy:** The board meeting began at 8 a.m. on 24 October. At what time did it conclude?

**Mr. Paul Maloney:** It lasted one hour and ended at 9 a.m.

**Deputy Eoghan Murphy:** Was this a telephone meeting?

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** She was calling from her office in the Department, but said as a member of the board, that the Department will still issue a sanction. How does Mr. Maloney not see that as a conflict of interest?

**Mr. Paul Maloney:** That word conflict, which was used many times in relation to this board, is a matter of the code under which the Department operated. As somebody who has never been in a Department and came in from a completely different sector I had no idea how Department operated. This person was on the board for many years. I had been to the Depart-



ment once or twice and she was clearly one of the highest ranking members there. I assumed, and I think it was fair, that the issues of conflicts and procedures in the Department were all being dealt with while I was oblivious to them. That is not just an assumption. It was the position as I saw it on 24 October.

**Deputy Eoghan Murphy:** Does Mr. Maloney accept retrospectively that there is a conflict when the board is discussing a complete change of circumstances on the deal at a relatively brief board meeting given that the company was going to bid the next day, and a board member is sitting there and says not to worry that she will take care of it?

**Mr. Paul Maloney:** I would accept it was a conflict if the person sitting at the board meeting or on the phone was a different person from the person in the Department who was dealing with the sanction. It may be that it was confidential for her not to say it to that other person because there were several assistant Secretaries General, but she was saying it to herself. She was saying it to the same hat, which was why I did not see it as a conflict. How can one have a conflict in telling oneself information about which one has been told in one role and one has to pass on in another role? I do not see it as a conflict and neither did she.

**Deputy Eoghan Murphy:** That was why the roles had been separated.

**Mr. Paul Maloney:** Correct.

**Deputy Eoghan Murphy:** But she had to seek sanction from the Minister; it was not for her to give sanction.

**Mr. Paul Maloney:** Correct. I do accept now-----

**Deputy Eoghan Murphy:** She also said she had not reported back from the board to the Department.

**Mr. Paul Maloney:** Correct. I now accept, having read her testimony and Ms Tallon's, the Secretary General of the Department, about whose procedures I knew nothing, that there is a conflict in all of this, but at the time the roles were not separate and I had to deal with that reality.

**Deputy Eoghan Murphy:** However, as far as Mr. Maloney is concerned, when he had this discussion during the one-hour teleconference board meeting, he was giving formal notification to the Department.

**Mr. Paul Maloney:** Absolutely; I had no doubt about it.

**Deputy Eoghan Murphy:** What would be considered to be a complete change in circumstances in seeking sanction?

**Mr. Paul Maloney:** I was reassured by the fact that she had said at the meeting - I refer to the minutes of the meeting of 24 October - the circumstances had not changed. Paragraph 3.2 noted what this figure was based on and it was on that basis that the authority would make inquiries. She did not say it there and I do not think it is fair for me to give my recollection at this stage because it was so long ago, but in answer to the Deputy's clear question, I want to give a clear answer, which Mr. Bradshaw also gave. First, I had no doubt my formal notification to the second highest official in the then Department of the Environment, Heritage and Local Government that the circumstances had changed was clear and, second, it was not the first time. At the meeting of 3 October valuations were being given of between €300 million and

€400 million, at which the same person was present; therefore, I was quite comfortable that the Department knew, but I cannot comment on the internal workings of the Department because I was not privy to them.

**Deputy Eoghan Murphy:** Unfortunately, Mr. Maloney cannot be comfortable that the Department knew because of the exchange of the information right up until 19 October-----

**Mr. Paul Maloney:** I accept that.

**Deputy Eoghan Murphy:** -----and because Ms Moylan told the committee that she had not reported back to the Department what had been discussed by the board. I do not know how one manages this because the same person is involved, which is why we are discussing the conflict.

The bid was made the day after the one-hour teleconference meeting on 24 October. Earlier Mr. Maloney said that at the outset of exploratory talks with developers he had felt it was not going to happen because the authority had started too late for this to be successful.

**Mr. Paul Maloney:** I meant that it was my view on 3 October that we had started too late.

**Deputy Eoghan Murphy:** Does what happened between 3 and 24 October not confirm Mr. Maloney's initial fears that the authority was starting too late because it was all so rushed? It had a one-hour teleconference call on 24 October and only then did Mr. Maloney give the correct information to the Department for sanction that would be approved three or four hours later for this venture.

**Mr. Paul Maloney:** No. Let me be clear: it is my evidence that I believe as chief executive officer who had a professional team of valuers, barristers, lawyers and outside help with me that between 3 October and that date I had to my satisfaction examined every issue that needed to be examined. I do not want to go over the Department once again. I have given my evidence on it. However, I am very comfortable that I was in a position to recommend this on 24 October.

**Deputy Eoghan Murphy:** We touched on the valuations. I refer to the board minutes of 20 October. A paper from that meeting entitled, The Site at Poolbeg: Proposal for Acquisition, was adopted by Mr. Mulcahy on 19 October for that board meeting. The paper mentions two valuations. One was €240 million based on the work done by the CBRE in 2005 and the other was €268 million, a recent internal valuation. From where had the internal valuation come?

**Mr. Paul Maloney:** In our internal system, where we had our own RICS valuers and the serpentine programme, we ran a programme using various parameters - I have the evidence - which ran at between €198 million and €350 million. I cannot comment on the two specific figures because my recollection is not there, but the CBRE figure was absolutely correct in 2005. Professional, nationally certified surveyors extended the parameters for us and we produced these for the board. I was absolutely satisfied I had valuations up to €375 million.

**Deputy Eoghan Murphy:** I refer to the letter of 12 October. From where had the figure of €220 million come?

**Mr. Paul Maloney:** It was the original 2005 valuation by the CBRE.

**Deputy Eoghan Murphy:** Three other figures had been mentioned by the mid-October paper - by 12 October - and there are another two figures in the paper of 20 October.

**Mr. Paul Maloney:** Correct.

**Deputy Eoghan Murphy:** The 2005 CBRE figure was €240 million, yet the letter stated the figure was €220 million. I accept that Mr. Maloney did not look at the letter before it was issued and the official had been working off the internal valuations the authority had at the time, yet on 20 October he had an internal valuation for €240 million from the CBRE, but it was not included in the letter.

**Mr. Paul Maloney:** I agree with the Deputy that there is a dichotomy that I cannot explain.

**Deputy Eoghan Murphy:** What was the person's reference points for the letter dated 12 October?

**Mr. Paul Maloney:** The CBRE's valuation

**Deputy Eoghan Murphy:** Not the €240 million valuation.

**Mr. Paul Maloney:** That is why I cannot explain the dichotomy in respect of the figure of €20 million.

**Deputy Eoghan Murphy:** The figure of €268 million is referred to as a recent internal valuation. I must conclude it was furnished after 12 October.

**Mr. Paul Maloney:** Correct.

**Deputy Eoghan Murphy:** The valuation in the letter to the Department dated 12 October was €220 million. There was a figure of €240 million based on a 2005 CBRE valuation and that is sourced in the document of 20 October. There is a valuation of €250 million - a typo - in the minutes of the meeting of 24 October. The next valuation is €268 million, an internal figure mentioned in the document of 20 October, and then there is a figure of €300 million based on the DDDA's internal figure, the source for which is the document dated 3 October. We do not know why that was not referenced in the letter of 12 October. We have a valuation of €350 million based on the site sold in East Wall and the source is the document of 3 October, a figure of €400 million based on the informal valuation by the letting agents, the source for which, again, is the document of 3 October. There is then a valuation of €430 million based on McNamara's work which is referenced in the minutes of the meeting of 24 October. Finally, there is the valuation of €412 million which was made officially by the CBRE after the bid was submitted. There are nine or ten valuations, seven of which were calculated and discussed in a three week period. How does Mr. Maloney explain the inconsistency?

**Mr. Paul Maloney:** I do not think they are inconsistent. I was telling the team, "We need to be certain of our valuations." I was not going to accept one internal valuation and say, "Okay, guys, that's fine." We were finding out new information all the time between 3 and 20 October and I told them to put in every parameter and run other valuations in the circle time programme with the professional valuer. These are not inconsistent; they are developing a valuation based on these parameters changing. I refer to the three parameters. One was plot ratio - we were at a plot ratio of 3:1. The plot ratio we had developed prior to 2005 was 3:1. The plot ratio since in the STZ of Dublin City Council references extensively a ratio of 3:1; therefore, I believed then and I am certain now that it was a very reasonable valuation. The second parameter was 247 units per hectare, the common standard, while the third was what was called "compared" pricing. East Wall is mentioned but so is the site sold on south quay just previously for €40 million an acre. It is not stated here, but it is stated in our recent submissions.

**Deputy Eoghan Murphy:** The authority was running the numbers again and again and it

was looking at the potential of mixed use-----

**Mr. Paul Maloney:** I had to iterate constantly.

**Deputy Eoghan Murphy:** At any point did Mr. Maloney stop and ask what we had requested from the Department?

**Mr. Paul Maloney:** No, because I had been of the view that Ms Moylan had and that we were not submitting to the Department a business case for a valuation, as she has confirmed for the committee. I was of the view that we had simply been asking for approval of the loan of €127 million, as she has confirmed, and the application to the Minister to become a joint venture partner. In the code of conduct between the Minister and the authority issues such as the business case for site development and the commercial case for site development did not require ministerial approval. I was under that impression and, of course, it has been confirmed to me since. I take exactly what the Deputy is saying and accountability for it. It should not have been in the original letter to the Department that we were going to pay €220 million for a site, but I have to reiterate I corrected it in time.

**Deputy Eoghan Murphy:** It is not just the valuation of the site that changed in that period of time; it was also the percentage of the joint venture in which the DDDA would be involved.

**Mr. Paul Maloney:** Correct, but in a positive way. We dropped from 49% or 50% down to 26%.

**Deputy Eoghan Murphy:** When did that take place?

**Mr. Paul Maloney:** That took place at the meeting on 20 October. If the Deputy looks at that meeting, for the first time we were saying: "This is too high for us. Our risk is too great and we will now reduce our take." It was called mitigation of risk. There were four ways in which we could mitigate risk, but the biggest way was to drop from 50% to 26%. When I proposed this to our joint venture partners, I did not believe they would accept it. I believed it was a deal breaker. They accepted that they were going to take 74% of the risk; that really astonished me.

**Deputy Eoghan Murphy:** Mr. Maloney proposed it to McNamara.

**Mr. Paul Maloney:** Absolutely. As my iterative valuations were increasing I realised we were no longer able to fund a 50% take and I proposed 26%. Why? We actually meant 25%, but in company law 26% gives one certain rights in the company; therefore, we settled on 26%. Our joint venture partners were not happy, but they accepted it ultimately. Then I was able to report to the board that we had mitigated the risk in 21 days down to 26%. That is why it is in the board paper of the 20th. Now board members were clear on two things. First, we had mitigated the risk of valuation by sticking to our valuation, which was €375 million - anything above it was their risk. Second, the mitigation rate was 26%. There was a third mitigation - the cap of €35 million, to which I referred in my presentation, was now being placed on the guarantee or recourse loans. Now we are coming to the fact that we do not want to have recourse to the full €290 million in borrowings and we brought it back to €100 million. All of these risk factors with the team I had with me were coming into play. They were not all my ideas - they were coming from everybody on the team - to mitigate our risk.

**Deputy Eoghan Murphy:** I want to come back to the cap.

**Chairman:** I ask the Deputy to conclude.

**Deputy Eoghan Murphy:** I will conclude, but I would like to come back in.

**Deputy Gerald Nash:** Deputy Eoghan Murphy has covered a considerable amount of ground and I thank Mr. Maloney for his evidence and co-operation with the committee. I ask Mr. Maloney to outline his previous work before he became CEO of the DDDA.

**Mr. Paul Maloney:** My first job was as a captain in the Defence Forces. I served overseas with the Irish Army. After that I had various jobs. As I was a qualified engineer, I had various jobs in the private sector. I then went to the city council and was appointed area manager for the north-east inner city, an area of total dilapidation and hugely disenfranchised. I was involved on a day-to-day basis over that period - I am very proud of this - in pulling down and rebuilding all of the social housing in St. Jude's Gardens, St. Joseph's Mansions and Mountain View Court. I am very proud that all of these areas have left the community there in a better position.

**Deputy Gerald Nash:** Mr. Maloney is an experienced public servant, having worked in the Defence Forces and spent a considerable number of years in the local authority structure within Dublin City Council. I am somewhat surprised that he was not as familiar as he might have been with the structure in the Department of the Environment, Community and Local Government and how it operated, given that he was a long-standing senior official in Dublin City Council. That is an observation and I do not expect him to respond.

Mr. Maloney mentioned - this is referred to in some of the minutes - that he had advised the board that the property market was overheated. He would have been one of the individuals responsible for carrying out a risk analysis of this venture. If the property market was as overheated as he seems to have suggested it was at the time, why did he proceed?

**Mr. Paul Maloney:** If the Deputy does not mind, I will respond to the first comment; I have to do so for the public record.

**Deputy Gerald Nash:** I did not mean it to be disparaging in any way.

**Mr. Paul Maloney:** I accept that.

**Deputy Gerald Nash:** I say that genuinely.

**Mr. Paul Maloney:** In the city council, as the Deputy knows, one reports to a board of councillors. The authority was now a formal semi-State board with DoE representation. It was the first time I had come across this.

As regards the Deputy's very valid point, in a risk analysis - a SWOT, strengths, weaknesses, opportunities and threats, analysis - that we presented probably on 3 October but certainly on the 20th we identified one of the risks. We did not say this was a definitive statement that the property market had overheated and that was it. It was one of the risks we were taking. When we saw that risk, a definite risk, there were two ways of dealing with it. One was not to take part and the second was to mitigate one's risk. If one looks at the four measures since that statement which I now recall was on 3 October in the minutes, we were taking 49% or 50% of the site. I mitigated that risk of a property market in four ways and to this day I stand over this. Why? We had made €52 million profit in that year, 2005. We were entering an agreement at 50%; we could not do this if it was an overheated property market. What I had to ascertain with my team was how to draw down the risk in order that if the property market changed, we would be protected. By reducing our borrowing to €53 million, as it ultimately became, we were clearly within all the parameters of our ability to pay, without going near taxpayers.



The second mitigation was we said the gearing was too high. They wanted 90%, but we said, “No. Get your equity in there. Take it away from the banks and we want it at 70%.”

The third mitigation was we wanted to have a cap on recourse. I believe this forced the banks to reduce it to only €100 million. In the case of a €290 million loan, that was unheard of.

The fourth mitigation was we wanted to ensure our valuations were at the limit to which the authority would go, which was €307 million. Between the 3rd - the statement - and 20th we had mitigated the risk as one would do in a SWOT analysis. I believe if one looks at the figures, notwithstanding the collapse of the financial system and so on and NAMA, had we gone with a loan with Ulster Bank, for example, or RBS, which was the intention at the time - if the Deputy recalls, the first bank approached by Becbay was Ulster Bank or RBS - we would not have had further recourse to the taxpayer. The recourse figure on the site was €100 million, of which we were liable for 26%. All of this was within our ability to deliver.

**Deputy Gerald Nash:** Mr. Maloney has mentioned that initial arrangements for bank back-ing were expected to be with Bank of Scotland. Is that not correct?

**Mr. Paul Maloney:** Royal Bank of Scotland.

**Deputy Gerald Nash:** Very suddenly a decision seemed to have been arrived at to deal with Anglo Irish Bank. Former senior Anglo Irish Bank people were synonymous with the Dublin Docklands Development Board. Based on board minutes when these decisions were taken to seek funding from financial institutions, the interest moved from Royal Bank of Scot-land to Anglo Irish Bank and I believe Bank of Ireland also. Is that correct?

**Mr. Paul Maloney:** That is correct, yes.

**Deputy Gerald Nash:** That bank also happened to have a very senior official on the board.

**Mr. Paul Maloney:** Correct.

**Deputy Gerald Nash:** It has been stated on several occasions at this committee that there was a view, expressed I think by Mr. Bradshaw, Ms Moylan, if my memory is correct, and oth-ers, that there was no conflict of interest. It may be the case that the letter of the law in terms of the code of conduct for directors had been complied with, but I do not share the view that the spirit of the code of conduct had been complied with in any way. Does Mr. Maloney understand how that might seem to the general public and members of the committee? Would he accept that to any observer, given the close involvement of Anglo Irish Bank and Bank of Ireland and the fact that there were people closely associated with these institutions on the board, there would at least have been the appearance of a conflict of interest? It is a little like Lanigan’s Ball here. We had one guy stepping in and another stepping out when the formal decisions were being made, but it does not take a rocket scientist to conclude decisions and discussions would have taken place informally. I venture that happened around the funding measures.

**Mr. Paul Maloney:** I will answer that, but perhaps I am interrupting the Deputy.

**Deputy Gerald Nash:** No, I am happy for Mr. Maloney to respond.

**Mr. Paul Maloney:** This is what has me so exercised and this is why I waited four years to come to this committee. Ms Brennan attended a committee of the Oireachtas and, without a scintilla of evidence, referred to these conflicts. One can have two types of conflict, perceived conflict and actual conflict, in regard to how they are dealt with in one’s code of conduct. Ms

Brennan rode roughshod over corporate governance by saying, without a scintilla of evidence, that these perceived conflicts were suddenly actual conflicts. I reject that. The Deputy may have seen my opening statement and with his indulgence I will repeat it. I never saw an act or omission, interference or any comment made by an Anglo Irish Bank board member or the other directors that, in my view as chief executive who came from outside the authority and from a State organisation, in any way interfered with the process.

The Deputy is correct that there was a perceived conflict and everybody at the meeting acknowledged that, but they dealt with it. All of them declared this to the Ministers involved, Deputies Howlin and Quinn, at the beginning. It was also declared to the entire board. It was stated at the board - I can only go on the evidence given to me - that neither director was involved in actual lending credit committees in their bank. I must be honest, open and transparent in the way I do business, but I must also report how business is done. It is my honest evidence that I never saw that conflict as being an actual conflict until the night before the 24th, when Mr. McNamara told me for the first time that he was switching from Royal Bank of Scotland, RBS, to Anglo Irish Bank.

**Deputy Gerald Nash:** Was that in the context of a meeting or was it over the telephone?

**Mr. Paul Maloney:** It was a meeting between myself and Mr. Bradshaw to discuss the price.

**Deputy Gerald Nash:** Mr. Maloney, Mr. Bradshaw and Mr. McNamara discussed the price on the eve of the board meeting of the 24th.

**Mr. Paul Maloney:** Yes. By the way, what I am saying in evidence here, I have also placed in a legal affidavit before the court, when that was raised through a legal action, namely, that Mr. McNamara said he was switching to Anglo Irish Bank because the Ulster Bank issue was slow and there were only two days left.

**Deputy Gerald Nash:** How did Mr. Maloney feel about that given the involvement of people synonymous with Anglo Irish Bank were on the board?

**Mr. Paul Maloney:** First of all, it was clear to me, because Mr. Bradshaw was with me, that he was as taken aback as I was. We had operated from the 3rd to the 24th, almost, under the assumption that the bank was RBS. I was satisfied that when Mr. Bradshaw reported this immediately at the meeting the next morning at 8, he was as surprised as I was. I am certain he had no knowledge of it and that Mr. McNamara did so for the reasons he enunciated to me, which were that he was getting a more streamlined service from Anglo Irish Bank. It would have been very common, in my knowledge of the time, for developers to approach three or four banks when seeking funding, because it is not just a question of funding, but the fee that banks charge. Therefore, I was not surprised about his switching bank, but was surprised by the lateness of the hour in telling me.

**Deputy Gerald Nash:** Was Mr. Maloney comfortable with it?

**Mr. Paul Maloney:** At the meeting the next morning, much of the meeting was taken up with the perceived conflict and the debate with the board, and that is something we could have done without, because I wanted that meeting to concentrate purely on the valuations. Was I comfortable that the Anglo Irish Bank members of the board did not know about it? I can only say honestly that I was comfortable with that. Do I believe that Mr. McNamara did this because he was going to all the banks - he was developing on many sites - and this was the one from which he thought he would get the best deal? That was my interpretation. I can only tell the

committee my evidence.

**Deputy Gerald Nash:** To interrogate that general point a little further, how would Mr. Maloney describe the culture of the board? It was populated by some very significant players in the Irish and, arguably, the international financial system. There were probably more Gordon Gekkos than Mother Teresas on it at the time. Did Mr. Maloney find it to be an intimidating environment, an environment that was somewhat macho? These were big players in the Irish banking system and Irish business. Mr. Maloney and others on the board had a long track record of positive public service. Did Mr. Maloney find himself in any way in thrall to Seán FitzPatrick, Lar Bradshaw and people like that?

**Mr. Paul Maloney:** With all the conviction I can muster, I can tell the Deputy I was not.

**Deputy Gerald Nash:** Did Mr. Maloney never feel bounced into taking decisions he was uncomfortable with, because of the record these guys had?

**Mr. Paul Maloney:** Absolutely not, and for a number of reasons. First, I am not intimidated by that sort of a reputation and I did not know these people. I only met them at board meetings. Second, every paper that was brought to the board was done by the executive, independent of board members. Mr. Bradshaw, or anybody else, never had an input into that. Therefore, the executive came with independent professional advice. Third, the way the board meetings were conducted, Mr. Bradshaw gave everybody, including the executive, who were not board members, the opportunity to make any comment or objection to whatever decision was being made on the basis of independent professional advice.

I state clearly that every decision that was made in regard to the Irish Glass Bottle site came from the independent professional advice of an executive with 20 years experience. There was no interference from outside, as can be seen in all of the board papers before the committee, not even a telephone call or a conversation. The only conversation was the one I have reported to this committee and that was about who I should approach as a developer. My suggestion - both suggestions - were agreed with and I want to be very clear on my evidence on that.

**Deputy Kieran O'Donnell:** I welcome Mr. Maloney. I want to check on some facts, but will keep my questions direct. I am little confused regarding the valuation. An independent valuation of the site was conducted in June 2005 by CB Richard Ellis Gunne. That valuation was €240 million. Was that the only independent valuation that was completed?

**Mr. Paul Maloney:** Correct.

**Deputy Kieran O'Donnell:** Was the Irish Glass Bottle site the largest investment transaction the Dublin Docklands Development Authority had ever entered into?

**Mr. Paul Maloney:** No.

**Deputy Kieran O'Donnell:** What other transaction of that nature took place?

**Mr. Paul Maloney:** When we bought the Bord Gáis site, we paid 100% of all the equity, approximately €100 million at the time it was bought.

**Deputy Kieran O'Donnell:** This investment was of the order of €375 million. Was it the largest single development of which the Dublin Docklands Development Authority would have been part?

**Mr. Paul Maloney:** Its largest investment, but it was the largest single joint venture.

**Deputy Kieran O'Donnell:** In that regard, would Mr. Maloney not have been involved in every bit of activity concerning it? There are letters here that were sent to the Department. The first letter that went to the Department seeking approval is dated 2 October 2006. Is that correct?

**Mr. Paul Maloney:** Correct.

**Deputy Kieran O'Donnell:** This letter was a p.p. letter and sought sanction for borrowings up to €127 million. What was the basis for that amount of borrowing? It must have been based on a valuation. What was that valuation?

**Mr. Paul Maloney:** The letter was sent on 3 October. As I said, there is an error in the date. On 3 October, we reported to the board that we had valuations between €250 million and €350 million. Those valuations were done by qualified-----

**Deputy Kieran O'Donnell:** I want to direct the questions to follow a particular line.

**Mr. Paul Maloney:** They were based on valuations.

**Deputy Kieran O'Donnell:** The letter sent on 3 October sought a sum of up to €127 million. That was a precise figure. On what valuation was that figure based?

**Mr. Paul Maloney:** It was not based on a valuation. That was based on the authority's legal borrowing limit.

**Deputy Kieran O'Donnell:** With the legal borrowing limit approved, for how much would the DDDA have been able to enter into a transaction? Would it have been €220 million or €375 million, because it had reached its requirement?

**Mr. Paul Maloney:** Correct. I see the Deputy's point, yes.

**Deputy Kieran O'Donnell:** Give me the basis-----

**Mr. Paul Maloney:** Apologies. If we had been able to borrow €127 million, the investment that would have been made, because we were thinking of a 50% investment on that date, would have been double that, which is €354 million.

**Deputy Kieran O'Donnell:** What was the basis of the valuation for €375 million?

**Mr. Paul Maloney:** In terms of what we had done, and I have the document here, we had RICS professional valuers in our property team. We were a property company. They took this valuation, which is the 2005 valuation the Deputy referred to, from CBRE and they extended that valuation by extrapolating three parameters. This is done on a Circle-----

**Deputy Kieran O'Donnell:** When was that done?

**Mr. Paul Maloney:** I would say between 24 September and 3 October.

**Deputy Kieran O'Donnell:** Is Mr. Maloney certain it was done prior to this letter issuing on 3 October?

**Mr. Paul Maloney:** Absolutely, because we reported these figures on 3 October.

**Deputy Kieran O'Donnell:** If that was the case and they were coming up with a valuation of €375 million, why did the DDDA only look for a loan facility that would have allowed it go up to a limit of €350 million?

**Mr. Paul Maloney:** Two reasons. First, we gave a range of valuations from €250 million to €375 million. We did not say to the board that would be the final figure. Second, that was our borrowing limit so we decided to write for our borrowing limit.

**Deputy Kieran O'Donnell:** How did it suddenly arrive at a valuation of €375 million for the site?

**Mr. Paul Maloney:** On 20 October, which is the next meeting to discuss valuations, we had this range of valuation between €250 million and €375 million. We had the comparative figures we had gained that the site could go up to €400 million. At a long discussion at the board meeting of 20 October, 17 days later, the board and the executive decided that the maximum valuation we would go to was the higher end of our own valuations. That was between €250 million and €350 million, and the comparative method we got said it could go up to €400 million. That is the first point. The second point is that on 5 October, I already had a range of valuations even greater than that, dependent on these professional parameters.

**Deputy Kieran O'Donnell:** Mr. Maloney is saying the DDDA entered into a transaction of the order of €375 million and it did not have an independent valuation done.

**Mr. Paul Maloney:** I do not accept that.

**Deputy Kieran O'Donnell:** First, this was the biggest single transaction the DDDA had entered into. Mr. Maloney was its chief executive officer. A letter went to the Department which was a p.p. letter, of which Mr. Maloney had no sight. For that level of investment, should he not have had sight of that letter?

Second, it was generally known that the market was falling, certainly from June or July 2006. It went at the upper end of the range of valuations. Did no one on the board say the DDDA, before it did so, should get an independent valuation done by outside consultants for that level of an investment? Third, did Mr. Maloney advise the board that it should not proceed with this because the market was overheating?

There is a lack of clarity regarding the decision-making process in this. Letters were going out looking for a limit on borrowing that would not have been based around the €375 million. It would only have allowed the DDDA go to a limit of €350 million. The DDDA had no independent valuation. It had letters going to the Department which were not signed by Mr. Maloney but were p.p. letters. I contend that, ultimately, Mr. Maloney should have seen those letters as CEO. That would be his responsibility. He had various board meetings where there was no independent valuation. Did anyone on the board say the DDDA needed an independent valuation and did Mr. Maloney advise that he had concerns about proceeding with this investment in an overheated market?

**Mr. Paul Maloney:** To take the three elements, the first one was that the letter that went to the Department on this particular issue of seeking or borrowing to €127 million did not contain any valuation. That simply looked for an increase in borrowing. We were not saying, even to ourselves at that stage, what was going to be the bid price. This was only 3 October.

Second, as regards valuation, I take the Deputy's point exactly. The independent valuation I



had in June 2005, which would be extant to about October 2005 - it was about a year old - was, with professional surveyors on my team, quite easily extrapolated to the current circumstances.

Third, the Deputy said the property market was falling in July.

**Deputy Kieran O'Donnell:** It is noted that concerns were expressed by the executive to the board about-----

**Mr. Paul Maloney:** About the top of the market.

**Deputy Kieran O'Donnell:** On the day, did Mr. Maloney express that concern about the valuation to the board? Did he have concerns about the €375 million?

**Mr. Paul Maloney:** No. I had no concerns about that because as I said to Deputy Murphy, first, I had run iterations all between 3 and 30 October with professional teams that gave me those valuations and, second, I had, as a result of the concerns the Deputy rightly raises, reduced the risk from 50% down to 26%. I had implemented the cap. Third, we had mitigated with the €35 million cap on recourse. I was satisfied, first, that the iterations we were doing with professional teams were satisfactory and, second, that the mitigation was in place.

I should have said there was another independent valuation, to which the Comptroller and Auditor General referred, which I understand was done three weeks later by the same team, CBRE, which valued it at €400 million.

**Deputy Kieran O'Donnell:** What date was that?

**Mr. Paul Maloney:** I think it was about three weeks later.

**Mr. Seamus McCarthy:** We will get the exact date on it because I think it is significant. I will read it for the Deputy. It states:

After the bid had been submitted, Becbay Ltd. commissioned the valuers CBRE to carry out a formal valuation of the site to support the financing application to Anglo Irish Bank. [It was a requirement for the bank]. Their report placed a value of €412 million on the site as at 3 November 2006.

The Deputy should be aware that was exactly the bid.

**Deputy Kieran O'Donnell:** In terms of the amount put on the value, they valued it at €375 million.

**Mr. Seamus McCarthy:** They valued it at €412 million, exactly the same amount as the bid.

**Deputy Kieran O'Donnell:** That had already gone in.

**Mr. Seamus McCarthy:** Yes.

**Deputy Kieran O'Donnell:** Would Mr. McCarthy regard that as unusual?

**Mr. Seamus McCarthy:** I do not want to comment. They are obviously a professional valuation company and that was their estimate.

**Deputy Kieran O'Donnell:** Was it done to support the bid?

**Mr. Seamus McCarthy:** It was a requirement of Anglo Irish Bank for it to issue funding.

**Deputy Kieran O'Donnell:** The point I am trying to make is that once the €375 million was the amount, Mr. Maloney would have known at that point that his borrowing limit would not have been sufficient to cover that? Am I correct?

**Mr. Paul Maloney:** The Deputy is correct, and that was another factor in reducing our investment down to 26% because we could not have had a borrowing limit and bid for €375 million.

**Deputy Kieran O'Donnell:** Was the DDDA covered by the €127 million limit with the structures it-----

**Mr. Paul Maloney:** Absolutely. Our ultimate borrowing was about €50 million, and we had a limit of €127 million.

**Mr. Seamus McCarthy:** To assist the Deputy, the legislation in relation to the Dublin Docklands Development Authority's capacity to borrow specified a limit of £100 million at the time the legislation was passed, which was equivalent to €127 million. Up to then it had only finance sanction to borrow up to £50 million so what it wanted to do was extend it to the full amount allowed by law.

**Deputy Kieran O'Donnell:** I have two further questions. Did the DDDA go with only one joint venture partner and why did it not, as good practice, have discussions with others at the time?

**Mr. Paul Maloney:** That was because of the three criteria the executive laid down for being a joint venture partner with a State body. These were: No. 1 trust and dependability; No. 2, had to have extensive experience of very high quality developments; and No. 2, had to be capable of doing one of the biggest sites. We had dealt with every developer in docklands and I am not going to name them, but we did not have those criteria met, particularly on the trust, on the community issues and all of those others - we wanted to deliver social housing and so on. So I was very clear that the number of candidates for us was very limited and I do believe the two we selected were the top two.

**Deputy Kieran O'Donnell:** On general procurement rules, was DDDA breaching procurement rules by only going with one individual rather than casting its net to look at a number of persons?

**Mr. Paul Maloney:** No.

**Deputy Kieran O'Donnell:** Why not?

**Mr. Paul Maloney:** No we were not because we got independent procurement legal advice that if you enter a joint venture company in which you have a stake which is below the control of that company, which was 26%, then one is not the contracting authority and, therefore, not breaking procurement rules.

Second, Deputy O'Donnell, I see where you are coming from, in terms of perception - why did I not go around and knock at every developer's door and say, "Would you be interested?", "Would you be interested?"

**Deputy Kieran O'Donnell:** I would not be looking for the DDDA to knock at every door.

I would be asking it to-----

**Mr. Paul Maloney:** Okay.

**Deputy Kieran O'Donnell:** What I am looking at here is corporate governance and asking the questions-----

**Mr. Paul Maloney:** Yes, I accept that.

**Deputy Kieran O'Donnell:** -----that the public would want asked, right?

**Mr. Paul Maloney:** Yes. To me, and to the authority, the number of candidates based on that criteria, which, I think, are very important criteria, was limited.

Secondly, we were in a public tendering situation. Well known other developers who I will not name did actually bid for this as well. It would not have been wise to have gone around the market and indicate who you were going with, who you were touting your business to, what valuations you were thinking of. We had to be very specific.

Third, we did get, between the 3rd and the 20th, highly independent legal advice which confirmed what we were doing was correct.

**Deputy Kieran O'Donnell:** I have two quick questions. If the DDDA went ahead with any deal, was it required to get sanction from the then Department of the Environment and Local Government to enable it to proceed with that deal?

**Mr. Paul Maloney:** No.

**Deputy Kieran O'Donnell:** When the DDDA looked for the valuation, when it looked for the increase in the loan facility to €127 million, did the Department come back to the DDDA and ask what was the value in terms of the overall project?

**Mr. Paul Maloney:** I do not recall any particular letter to that effect. I am not obfuscating on this; I just do not know.

**Deputy Kieran O'Donnell:** Under the rules of Dublin docklands, if Dublin docklands-----

**Mr. Paul Maloney:** Not under the rules, no.

**Deputy Kieran O'Donnell:** Under Dublin docklands, who finally indemnified? Was it the State that indemnified Dublin docklands?

**Mr. Paul Maloney:** Dublin docklands was a semi-State commercial body.

**Deputy Kieran O'Donnell:** Ultimately, does it fall back on the State?

**Mr. Paul Maloney:** I cannot honestly say that, but what I can say is the ultimate decision in law, as in the corporate governance and in the rules of procedures with the Department, is that it was up to the board of docklands to make its own commercial decisions because it was not in a Vote of the Exchequer. It was not taking money from the Exchequer.

**Deputy Kieran O'Donnell:** When it came to the deal itself and Mr. Maloney's understanding that Bank of Scotland were to be the financiers of the deal, does he know why Bank of Scotland did not finance the deal? Did DDDA ask, "Why not?"

**Mr. Paul Maloney:** Yes, I did. I asked, “Why did you change from Bank of Scotland to Anglo Irish Bank and, ultimately, to AIB?” Let us not forget, there were two banks: AIB and Anglo. I asked, “Why did you change?”, and the answer I was given is, “We have two or three days left, one is too slow, the fees I am getting for the other are better and we will get quicker decision-making.”

**Deputy Kieran O'Donnell:** Did DDDA ever subsequently find out why Bank of Scotland was unwilling to finance it?

**Mr. Paul Maloney:** No, because it had financed some of the biggest deals. When I mentioned the price in Ballsbridge of €50 million an acre, of course, it had financed the purchase of the Berkeley hotels, so they were in the big game of financing big deals.

What I understood, however, was this mitigation by Anglo to AIB, in other words, it had franchised out 50% of the lending to AIB.

**Deputy Kieran O'Donnell:** Spread the risk.

**Mr. Paul Maloney:** Spread the risk. That that was something that Anglo could do and RBS could not, my understanding is, but I have no direct evidence of that, and I will accept you will expect me only to give factual evidence and, therefore, I cannot answer the question.

**Deputy Kieran O'Donnell:** At what meeting was the bid price of €375 million agreed?

**Mr. Paul Maloney:** The meeting of 20 October.

**Deputy Kieran O'Donnell:** Was that a telephone conference?

**Mr. Paul Maloney:** No. That was a full meeting.

**Deputy Kieran O'Donnell:** What did the DDDA decide at the meeting of 24 October?

**Mr. Paul Maloney:** I am sorry, maybe I misinterpreted. The meeting of 20 October was to fix the maximum price at €375 million. The meeting of 24 October, Deputy O'Donnell is correct, was to finalise that that would be the bid and that the price above that would be paid for and risked by the other partners.

**Deputy Kieran O'Donnell:** At that meeting of 20 October, who was on tele-conference?

**Mr. Paul Maloney:** Everybody was present at that. I do not think there was anyone on conference call at that meeting. I think that was a full meeting of the board. I stand to be corrected, if it is there.

**Mr. Seamus McCarthy:** On 24 October, it was a conference call.

**Mr. Paul Maloney:** But I think he is talking about the 20th.

**Deputy Kieran O'Donnell:** The meetings on both 20 and 24 October were conference calls.

**Mr. Paul Maloney:** No. On the 20th, there were only two on conference call.

**Deputy Kieran O'Donnell:** Where were the others?

**Mr. Paul Maloney:** All present in the office.

**Deputy Kieran O'Donnell:** So everyone was present.

**Mr. Paul Maloney:** Actually, that was probably at the offices.

**Deputy Kieran O'Donnell:** At what meeting did it come up that the deal changed from Bank of Scotland to Anglo?

**Mr. Paul Maloney:** The 24th.

**Deputy Kieran O'Donnell:** The 24 October meeting was the meeting that agreed the bid price.

**Mr. Paul Maloney:** Correct.

**Deputy Kieran O'Donnell:** The 20 October meeting set the limit. What were the circumstances of the 24 October meeting? How did it arise at the meeting that Mr. Maloney was told about Anglo?

**Mr. Paul Maloney:** It arose like this, Deputy. The night before the 24th, I insisted that I would not meet with Mr. McNamara on my own to discuss the final bid price that he was considering. We were now two days in advance of the bid, so I just want to give you the timescale. I insisted that someone attend with me.

**Deputy Kieran O'Donnell:** What date was two days in advance? The 25th was the-----

**Mr. Paul Maloney:** The 25th was the bid.

**Deputy Kieran O'Donnell:** -----bid.

**Mr. Paul Maloney:** This was now the 23rd.

**Deputy Kieran O'Donnell:** Okay.

**Mr. Paul Maloney:** In fact, the day of the 23rd or, perhaps, the day I asked Mr. McNamara to meet to discuss the bid price, I insisted that someone come with me because I thought this was the biggest decision of the authority and the board would need to hear, not just from me but from others, and it was not enough to bring my team. The chairman decided he would come with me. I asked for the chairman because I felt he was reporting to the board.

**Deputy Kieran O'Donnell:** Was it Mr. Bradshaw?

**Mr. Paul Maloney:** Mr. Bradshaw.

We went to meet Mr. McNamara on the night of the 23rd - he could not meet during the day - , the night before that board meeting. At that meeting, about halfway through it, he stated for the first time, to me and, to my knowledge, to Mr. Bradshaw, that he was switching, because he had only two or three days left, to a more streamlined and, perhaps, a risk-spreading bank, to Anglo. That is when I heard it so that on the morning of the 24th-----

**Deputy Kieran O'Donnell:** Was Mr. Maloney aware at that time that AIB would also be involved?

**Mr. Paul Maloney:** No, I was not. He did say they were going to be spreading it to other banks but I did not know who it was.



On the morning of the 24th, at 8 a.m., the chairman started off the meeting by telling exactly what Mr. McNamara-----

**Deputy Kieran O'Donnell:** This was a tele-conference meeting for everyone.

**Mr. Paul Maloney:** A tele-conference meeting.

**Deputy Kieran O'Donnell:** Was everyone on the telephone lines?

**Mr. Paul Maloney:** Except me, I was in the office. There was one other director, I think, Mr.-----

**Mr. Seamus McCarthy:** Mr. McCourt.

**Mr. Paul Maloney:** Mr. McCourt - thank you, comptroller - was there also in the room.

Everybody was immediately informed, and this is why I wanted someone with me meeting McNamara because we now had two people verify exactly the information that was given to us the night before. He confirmed what Mr. McNamara had said, and then it evolved into the issue of conflict, which, of course, has been dealt with previously.

**Deputy Kieran O'Donnell:** Does Mr. Maloney, on mature reflection, believe he should have been more hands-on in the early stage of the process? Is there anything he would have done differently if he were back there again now?

**Mr. Paul Maloney:** Deputy O'Donnell, if you are asking me with hindsight of just the docklands role, I would not do anything differently. However, if you are asking me with hindsight that when I read the ESRI reports, the Central Bank's reports, the governance reports, the economic reports of 2006 - just look at them, not one of those national and international reports were giving me an indication of what was going to happen - so if you are asking me with the hindsight of that would I have done it, of course, not. With hindsight, though - and I answer as honestly as I can on the role I played for which I take full accountability and responsibility - I do not think there is something I did in those 20 days that I would have done differently. I do not believe that because we mitigated our risk with the four factors that I alluded to. At no stage, and right up to today, did we ever use a cent of taxpayers' money in paying off all of that. I am comfortable with that decision. I hugely regret the outcome because of the imploding of the Irish economy and the property market but, on the specific question as to whether I would have done something different in those 20 days, the answer is that I absolutely would not, considering the knowledge I had then. Would I have done something different with the benefit of the hindsight I have now? I would have stopped everything.

**Deputy Kieran O'Donnell:** Let me address one of the key points, namely, the question of whether taxpayers' money was used. Ultimately, the State was underwriting the authority. If a loss is made on a deal - the Comptroller and Auditor General said it was in the order of €52 million - it has an impact on the taxpayer. It is not just-----

**Mr. Paul Maloney:** No.

**Deputy Kieran O'Donnell:** I will finish the point. That the DDDA was seeking to double its borrowing limit would clearly have indicated to me that the proposal was significant and unique, in terms of its content and size, for Dublin docklands. Before the authority entered into the deal, it should have sought an independent valuation - if not one, perhaps two. The independent valuations were based on June 2005 and, effectively, the period after the bid. Is that

correct? Both were by the same company. Things were clearly rushed but it was significant. I ask Mr. Maloney to deal with my first point first, and then my second point.

**Mr. Paul Maloney:** I have written down two points. The first question was on whether we were risking taxpayers' money by investing €52 million. No, we were not. We had just made €130 million on our developments to that date. We made €52 million in 2006. That is what our accounts showed. Subsequently, we still had enormous assets which we continued to sell off. To this very day, all of that has been paid back without any recourse to the taxpayer.

**Deputy Kieran O'Donnell:** To whom did profits go? Did they go to the State?

**Mr. Paul Maloney:** Every profit - I brought the list with me but I will not read it - went into that area. I refer to housing, children, schools and the public realm.

**Deputy Kieran O'Donnell:** If a loss is made, fewer resources are available.

**Mr. Paul Maloney:** I accept that absolutely.

**Deputy Kieran O'Donnell:** To say there is no impact on the taxpayer and the citizens in the area is not totally accurate. If a loss is made on a risky transaction, bearing in mind the large social dimension in the Dublin docklands, fewer resources go back into that area.

**Mr. Paul Maloney:** I accept that, but the Deputy will understand my point that when-----

**Mr. Seamus McCarthy:** To correct the record, Mr. Maloney mentioned that there was not any Exchequer funding for the authority. In Appendix B, on page 61, we draw attention to the fact that €31 million in Exchequer funding was provided to the authority around 2000 to support a programme of capital investments in public amenity projects as part of the implementation of the authority's master plan. The funding was drawn down between 2001 and 2007. Between 2007 and 2009, the authority also received €5.5 million in respect of site subsidy payments to Dublin City Council in respect of affordable housing.

**Deputy Kieran O'Donnell:** That is €37 million.

**Mr. Seamus McCarthy:** It is.

**Deputy Kieran O'Donnell:** What was the structure? Was it to be repaid to the State or was it in the form of capital?

**Mr. Seamus McCarthy:** No. It was to support a programme of capital investment.

**Deputy Kieran O'Donnell:** Clearly, there has been a large State investment in the Dublin docklands. The point I am trying to make is that ultimately the authority was dealing with taxpayers' money.

**Mr. Paul Maloney:** I do not accept that. I wish to counter something that has been said. The capital programmes we were applying to, such as those pertaining to public amenity development and social housing sites, were publicly available for everybody. It was the Government's policy that any housing authority providing social housing was entitled to look for Government funding superficially for those programmes, not for the type of programme or project we are talking about here. I was answering the Deputy very specifically. The actual expenditure on the IGB site was from the funds of the authority and we do not have and did not have recourse to the-----

**Deputy Kieran O'Donnell:** We can beg to differ on that but ultimately if the authority was making losses it had less money to invest in amenities, social infrastructure and housing in the area.

**Mr. Paul Maloney:** Correct.

**Deputy Kieran O'Donnell:** Therefore, it has an impact.

**Mr. Paul Maloney:** It has an impact.

**Deputy Kieran O'Donnell:** Fine.

**Mr. Paul Maloney:** I have covered the second question, on the valuations, extensively. There were two independent valuations but we had professional surveyors extrapolating them. They were trained and certified nationally by the RICS. That is a very common and normal thing for property companies to do, and I stand over that.

**Deputy Kieran O'Donnell:** With due respect, one of the valuations was at the point of the peak, in June 2005, and another was after the bid. This was an incredible, huge investment. I contend that there was a need for an independent valuation to be sought by the board. Looking back, does Mr. Maloney not feel this would have been reasonable? Did anyone on the board say that before a final deal a third party's independent valuation should be sought?

**Mr. Paul Maloney:** I have a two-part answer to that. I accept the Deputy's premise. That we paid off all our debts without recourse to the taxpayer is a very significant issue, notwithstanding the Deputy's point on public gain, which I accept. Second, I accept the Deputy's point that if we had had another valuation, it would, of course, be of great comfort to me sitting here today, but I must counter the point by saying, with all my professional experience, that I have no doubt that had we got a valuation three weeks in advance of what the Comptroller and Auditor General refers to, it would have been in excess of €3.75 million. It would have given comfort from a corporate governance perspective, which I absolutely accept, but it is my absolute contention that the figure would have been around that valuation. Three weeks later, an independent company gave a valuation of €412 million. As the Comptroller and Auditor General said, this is an independent RICS valuation.

**Deputy Kieran O'Donnell:** With due respect, that was after the bid.

**Mr. Paul Maloney:** It is independent.

**Mr. Seamus McCarthy:** Deputy O'Donnell asked about the approval for the joint venture.

**Deputy Kieran O'Donnell:** Correct.

**Mr. Seamus McCarthy:** In the report, we have drawn attention to a requirement in the code of practice for the governance of State bodies under which the authority did have to obtain approval to enter into the joint venture. The sanction that was issued by the Department and the Department of Finance specifically refers to giving permission to enter into the joint venture.

**Deputy Kieran O'Donnell:** Did they put a value on it at the time?

**Mr. Seamus McCarthy:** No. As already discussed, the sanction was based on the submissions that were made. There are two separate points. One is the consent to extend the borrowing limit and the second was in relation to permission to enter the joint venture.

**Deputy Kieran O'Donnell:** When was that granted?

**Mr. Seamus McCarthy:** The Department of Finance issued it on 23 October 2006. The Department of the Environment issued it on 24 October.

**Deputy Kieran O'Donnell:** Did they limit the period for the bids?

**Mr. Seamus McCarthy:** No, but the point I was making is that the information that was presented to them, and which they had available, certainly in the case of the Department of Finance, was such that all that would have been talked about was pricing at about €220 million.

**Deputy Kieran O'Donnell:** Where did the €220 million arise? It is not in the original letter of 3 October.

**Mr. Seamus McCarthy:** In a letter on 12 October.

**Deputy Kieran O'Donnell:** From whom?

**Mr. Seamus McCarthy:** It is the letter that Mr. Maloney referred to in his opening statement which he said was signed *per pro* him.

**Deputy Kieran O'Donnell:** When would the Assistant Secretary, Ms Moylan, have become aware that there was €3.75 million?

**Mr. Paul Maloney:** On the morning of 24 October, before ministerial approval.

**Chairman:** May I change tack a little bit? I am trying to get an idea of what was going on within the DDDA board and Mr. Maloney's staff at that time. We understand what has been happening to the property deal and the intricacies of the valuations and so on, but Mr. Maloney was responsible for the general budget and performance of the company. Looking back on the various reports we have had on the company's activities, what can Mr. Maloney say to explain, for example, the credit card expenses, the travels to Finland, Russia and so on, that were being reported at the time?

**Mr. Paul Maloney:** First of all, I have never seen a report on credit card expenses which were virtually non-existent or only used for travel. I have never seen credit card expenses being submitted to me or a report on that. I did not have one and I do not know where that is coming from.

**Chairman:** There were a number of reports. For example, there is one headline that says that staff and executives spent €500,000 on DDDA credit cards. I am only asking because sometimes these reports can lack full information. I am not saying that this one does but I am just asking, because it was in the public domain, if Mr. Maloney can tell us what was happening there. It specifically refers to a flight to Paris for the World Cup, large quantities of wine purchased for some board meetings, expenses relating to golf outings for board members, €870 spent at a jeweller's shop and €2,200 spent at another location. All of these figures were in the public domain. All of this information was put into the public domain. That is what has caused an awful lot of concern, as to what was going on there at executive level, board level and with the staff. The travel is something that was built up over a number of years, including Finland and Russia. The purchase of caviar and wine in Russia was also mentioned in these reports. There were further reports of the risk committee notes 2006 being missing and not being made available under FOI. All of this was reported. I am trying to establish Mr. Maloney's view on all of that, as CEO. How did this happen?

COMMITTEE OF PUBLIC ACCOUNTS

**Mr. Paul Maloney:** Let me be very clear Chairman, there were no trips to Russia or to the World Cup on my watch. I am shocked to hear that. I never used the credit card.

**Chairman:** What years was Mr. Maloney there for?

**Mr. Paul Maloney:** From 2005 to 2009. I do not know where that came from or who would have gone to Russia.

**Chairman:** This information was obtained under FOI. It says clearly - and it was on Mr. Maloney's watch in 2007 - rugby World Cup and large quantities of wine purchased for board meetings. The analysis here is of credit card receipts that were sought under FOI, so there has to be some truth to it.

**Chairman:** All I can think of is that incorrect dates have been given, because I never sanctioned or approved - no one would have done it - a trip to Russia or the World Cup. I have never heard of that. I can only say that it must have occurred before I was there because it never happened on my watch. I had banned all first class flights and had not allowed any trips unless they were----- There was one board trip a year abroad. That was the board's decision.

**Chairman:** What was the board's annual trip abroad?

**Mr. Paul Maloney:** It had decided, and had done so since 2005, that there would be one trip.

**Chairman:** Who decided?

**Mr. Paul Maloney:** The board.

**Chairman:** Was Mr. Maloney on those trips?

**Mr. Paul Maloney:** No. When I arrived in 2006, I did go on the board trip to San Sebastián.

**Chairman:** Why did it happen?

**Mr. Paul Maloney:** Their take on it was - and Ms Moylan explained why that trip was made - that they were developing a docklands which was to be of international standard and was to be a silicon docks for Dublin and Ireland, which it has turned out to be. To do so we had to compare ourselves to the best so we went to San Sebastián where the port was being moved and a docklands was being regenerated in the very same way. It was a one or two-day trip there.

However, there was certainly nothing about Russia or the World Cup. I absolutely would not have sanctioned that. I never went on what I would regard as a non-business trip and certainly not those distances. I went to rugby matches at my own cost and I have never heard otherwise. Certainly, there were board dinners and I cannot comment on what wine was purchased. There was one board dinner a year and that is why I can only surmise that they are adding ten years of the authority's expenditure in that. I accept the Chairman is giving me dates, but-----

**Chairman:** I am just trying to get the information because the public wants to know who authorised all of this and why was there such a lavish spend. It might inform us as to the culture that existed in that organisation relative to the property development, and the attitude of the board relative to the general activity in the docklands area. When I read the reports I have here, the statements would cover the period 2006 and 2007 when a staff outing cost €2,503. The figure was €5,247 in 2007, all in restaurants. It is hard to put that into context concerning the



job Mr. Maloney was doing. It talks about the use of five-star hotels, top notch restaurants and fine wines. That is the type of information that informed the general public in later years. As they become informed about this, in this way through FOI, it is up to the DDDA to counteract that story. If it is true then let us get down to it and see why they are doing it, but Mr. Maloney is telling us that for that period of 2006 to 2009 none of this happened.

**Mr. Paul Maloney:** From 2006 to 2009, which was my period, no trip was ever sanctioned to Russia or the World Cup. No non-business trip was ever sanctioned.

**Chairman:** None of this happened?

**Mr. Paul Maloney:** No sporting trip was ever sanctioned. If anyone wanted to go on those they paid for it themselves. No first class flights were sanctioned. Second, there was one board dinner a year and one staff dinner a year. That was it. I do not have the figures. I can certainly examine them, write to the committee and talk to the DDDA. However, on my watch there was not a lavish style.

**Chairman:** I will send Mr. Maloney this information.

**Mr. Paul Maloney:** Please do.

**Chairman:** It did appear in the public domain.

**Mr. Paul Maloney:** I would be very pleased to reply to it.

**Chairman:** It was based on information received from the Dublin Docklands Development Authority. I would like to see Mr. Maloney's comments on it.

**Mr. Paul Maloney:** I would like to come back on it.

**Chairman:** I appreciate it is a while ago, so therefore Mr. Maloney might need to reflect on it. However, it certainly gives the impression that there was a very lavish spend on all sorts of activities, including travel to various locations around the world to determine what best possible site they could model this development on.

**Mr. Paul Maloney:** I assure the Chairman that the major ones he has mentioned did not happen on my watch. I do not need to reflect but if the Chairman gives me the information, which I have not seen - I have been working abroad for many years since then - I will definitely use the information to go back to the authority now and formally write to them seeking its records and I will come back to the committee on that. However, there were no business class flights, no flights to sporting occasions and no flights to Russia. None of that was ever allowed or sanctioned on my watch.

**Chairman:** Fine. I will submit the information to Mr. Maloney and will ask him to respond.

**Mr. Paul Maloney:** I promise to do that.

**Chairman:** I think that is very important.

**Mr. Paul Maloney:** I accept the Chairman's point that if that were the case, the perception would be very negative, but I will respond robustly on that.

**Chairman:** During that time, Mr. Maloney would presumably have signed off on credit card purchases.

COMMITTEE OF PUBLIC ACCOUNTS

**Mr. Paul Maloney:** I would have had to sign off on all trips.

**Chairman:** Would those trips have been taken without Mr. Maloney's knowledge?

**Mr. Paul Maloney:** No, absolutely not. That perplexes me. No trip to Russia or to the World Cup took place on my watch. No business class flights took place on my watch.

**Chairman:** When Mr. Maloney took over, did he look at the previous activities of the board?

**Mr. Paul Maloney:** No, I did not. It was not drawn to my attention. The freedom of information request, to which the Chairman referred, was made after I had left.

**Chairman:** Did Mr. Maloney find a peculiar culture around all of this travel?

**Mr. Paul Maloney:** No.

**Chairman:** Even at that stage, there was no acceptance of that type of activity.

**Mr. Paul Maloney:** Absolutely.

**Chairman:** Accordingly, credit cards would not be used widely.

**Mr. Paul Maloney:** Yes. There was one business a trip a year by the board for the purposes I have outlined. That was it.

**Chairman:** Did Mr. Maloney find it peculiar for the board to pack its bags and head to San Sebastián and other places, even though it was only one visit?

**Mr. Paul Maloney:** As I said to Deputy Gerald Nash, I had only worked on the Dublin scene and judged Dublin's development by comparison to international cities. It was very valuable to me to see what had been done in Hamburg and San Sebastián. If one looks at Grand Canal Dock now and the Bord Gáis theatre designed by Daniel Libeskind, this is a location which will allow NAMA, as it told the committee, to get back its investments in the area. The docks are an international hub for Facebook and Google. Owing to these international trips, we were able to bring that design back.

**Chairman:** Is Mr. Maloney claiming that before his arrival and during his tenure at the authority, it was run as a financially tight ship.

**Mr. Paul Maloney:** I cannot say before my arrival because I did not investigate that issue. It did not emerge as an issue.

**Chairman:** Who was there before Mr. Maloney?

**Mr. Paul Maloney:** The chairman, Mr. Bradshaw, was there before me for six years. Every member of the management staff was there before me. I was the last management member there. At no stage was any alluding to over-expenditure brought to my attention. I did make it clear early on that business or first class flights were not allowed. I had come from Dublin City Council.

**Chairman:** Why was it necessary for Mr. Maloney to make that clear?

**Mr. Paul Maloney:** When preparing for my first visit to Hamburg to visit its docklands development, HafenCity, I was asked if I wanted a first class or an economy class ticket. I replied

I would travel economy class there and back.

**Chairman:** Were business class arrangements widespread before this?

**Mr. Paul Maloney:** None took place during my time there. I do not know. I can only give the Chairman evidence of what I saw. If he can give me the evidence to which he is alluding, I will definitely investigate it and can come back to him.

**Chairman:** I cannot give Mr. Maloney the evidence. I am seeking it.

**Mr. Paul Maloney:** I will get the evidence for the Chairman.

**Chairman:** I am giving the outline of media reports after 2009. I would like Mr. Maloney to comment on them as they seem to reflect on part of his tenure at the authority. I ask for his indulgence and that he send it to the committee.

**Mr. Paul Maloney:** I will do that.

**Chairman:** I thank Mr. Maloney.

**Deputy Eoghan Murphy:** I would like to continue on the minutes of the meeting of 24 October.

The sanction that came from the Department of the Environment, Community and Local Government which had come through the Department of Finance re ministerial approval of property acquisitions in the Dublin docklands stated there was approval for borrowing by the authority up to the statutory limit of €127 million. It also stated, with the consent of the Minister for Finance, the Department was giving approval for the taking by the authority of a shareholding in a joint venture company.

When Mr. Maloney met Mr. McNamara on 23 October, he brought Mr. Lar Bradshaw, the chairman, because he believed this was the biggest decision for the board to make. The minutes state, “The executive recommends that the authority should make a joint bid”. Earlier we discussed the meeting of 3 October when the executive recommended formal negotiations be opened on making a bid.

**Mr. Paul Maloney:** Yes, but with normal caveats.

**Deputy Eoghan Murphy:** However, on 23 October, Mr. Maloney was recommending a joint venture.

**Mr. Paul Maloney:** Again with a number of caveats, as stated in paragraph 1.03.

**Deputy Eoghan Murphy:** Yes. The recommendation involved taking a 26% stake with a bid between €275 million and €375 million. Was there any voice of dissent on the board?

**Mr. Paul Maloney:** None; not one.

**Deputy Eoghan Murphy:** At the meeting on 24 October, was there any hesitation or dissent at board level?

**Mr. Paul Maloney:** No, the only hesitation was on the additional bid the other venture partner was about to make above our bid.

**Deputy Eoghan Murphy:** Was the hesitation on whether the bid was the best one?

**Mr. Paul Maloney:** No. Our bid, valuations and limit were €375 million. It was about ensuring any bid above that figure was totally at the risk of the other party.

**Deputy Eoghan Murphy:** In the recommendation Mr. Maloney made at the 20 October meeting, he spoke about a range between €275 million to €375 million for the bid. That is a significant variation. Why was that the case?

**Mr. Paul Maloney:** It was significant because, in coming to a final decision of what the bid would be, we had the valuations referred to and did not know who we were bidding against. At the end of the day, one is not bidding on a valuation but beating other bidders. These are public minutes and, under freedom of information legislation, they could have been a public document the next day. Therefore, we had to be careful not to show anyone else what the exact bid would be.

**Deputy Eoghan Murphy:** It seems that the authority picked the range, but it was up to Mr. McNamara what the final bid would be.

**Mr. Paul Maloney:** No. Although we had picked a range on 20 October, by 24 October we were absolute on our limit, which was €370 million. There were no further ranges after this. At the board meeting on 20 October the decision was made to fix at €375 million.

**Deputy Eoghan Murphy:** Yes. How was this communicated to Mr. McNamara?

**Mr. Paul Maloney:** When Mr. Bradshaw and I went to meet him, we asked him for his thoughts on it. He said it should be over €400 million. We said absolutely not as we were at a limit of €375 million.

**Deputy Eoghan Murphy:** The limit of €375 million was decided on 20 October and the bid was made on 25 October. The authority waited until 23 October to inform Mr. McNamara of the upper bid limit.

**Mr. Paul Maloney:** Yes, we asked for that meeting.

**Deputy Eoghan Murphy:** Would Mr. Maloney not have thought of informing him by telephone sooner?

**Mr. Paul Maloney:** No, as I said, I wanted the full board to be aware that we were entering legal and financial territory. I wanted someone with me. I wanted no telephone calls. If you look at these records, everything is recorded. I have no telephone calls here. I wanted someone with me to inform Mr. McNamara what the decision of the board of 20 October was.

**Deputy Eoghan Murphy:** Just to be absolutely clear, the meeting of 23 October was arranged at Mr. Maloney's instigation and not Mr. McNamara's?

**Mr. Paul Maloney:** My request, absolutely.

**Deputy Eoghan Murphy:** When was that meeting requested?

**Mr. Paul Maloney:** It was 8 a.m. on Friday 20 October. I would probably have rung him on that day and asked him whether he was available on the Monday, which would have been 22 October.

**Deputy Eoghan Murphy:** Monday was 23 October.

**Mr. Paul Maloney:** It was the next available date.

**Deputy Eoghan Murphy:** So Mr. Maloney spoke to Mr. McNamara on the telephone on 20 October?

**Mr. Paul Maloney:** I probably spoke to his secretary rather than him.

**Deputy Eoghan Murphy:** There was no attempt by Mr. McNamara to get in touch with Mr. Maloney over the course of the weekend in respect of any information on his side of the table?

**Mr. Paul Maloney:** Absolutely not.

**Deputy Eoghan Murphy:** He was having discussions with his bank and things were changing.

**Mr. Paul Maloney:** Absolutely.

**Deputy Eoghan Murphy:** So Mr. Maloney arranged the meeting with Mr. McNamara and invited Mr. Bradshaw along on 23 October. We have already been through the discussions Mr. Maloney had there. We heard Mr. Bradshaw's reaction to the bid exceeding €400 million. He was surprised by that at the time.

**Mr. Paul Maloney:** I would not say we were surprised because in our heads, we had seen valuations of €400 million. We were very resolute that we were not going beyond €375 million.

**Deputy Eoghan Murphy:** In that meeting with Mr. McNamara, the two issues that were discussed were the bid figure and the change in the lending circumstances for Mr. McNamara's side.

**Mr. Paul Maloney:** Yes.

**Deputy Eoghan Murphy:** Would it be fair to say that more time was devoted to talking about the change in his lending circumstances?

**Mr. Paul Maloney:** No, most of the time it was about the valuation.

**Deputy Eoghan Murphy:** It appears that once you hear this information from Mr. McNamara, there will be conflicts of interest. Mr. Bradshaw has one immediately.

**Mr. Paul Maloney:** Perceived.

**Deputy Eoghan Murphy:** Perceived or actual - that is a point of debate. There will be another one relating to the board and Seán Fitzpatrick and Mr. Declan McCourt.

**Mr. Paul Maloney:** I should add that we had already decided that the board meeting was going to be at 8 a.m. the next morning.

**Deputy Eoghan Murphy:** That was already happening.

**Mr. Paul Maloney:** That was already happening.

**Deputy Eoghan Murphy:** As Mr. Bradshaw said and perhaps Mr. Maloney said in his opening statement, documentation was already prepared.



**Mr. Paul Maloney:** Correct.

**Deputy Eoghan Murphy:** In this meeting and previous meetings, we have gone through how that actual conflict of interest was dealt with in the course of the meeting the next morning - the telephone conference call. Did Mr. Maloney and Mr. Bradshaw have a discussion either with Mr. McNamara or following that meeting about this perceived conflict of interest?

**Mr. Paul Maloney:** No, absolutely not. We left immediately after the meeting.

**Deputy Eoghan Murphy:** You left but did not talk about it?

**Mr. Paul Maloney:** Absolutely, there was no discussion.

**Deputy Eoghan Murphy:** The first discussion was at 8 a.m. the next morning?

**Mr. Paul Maloney:** It was at 8 a.m. the next morning. On leaving on Monday night, the chairman said that he would raise the issue of this new development immediately at the beginning of the meeting. I had no discussion on it.

**Deputy Eoghan Murphy:** Would it be fair to say or assume that Mr. Declan McCourt was hearing about this change for the first time?

**Mr. Paul Maloney:** I am absolutely certain he was hearing about it for the first time.

**Deputy Eoghan Murphy:** And Mr. Seán FitzPatrick as well?

**Mr. Paul Maloney:** To my knowledge, yes.

**Deputy Eoghan Murphy:** Mr. Maloney is not aware of any contacts between Mr. McNamara and either of those two individuals prior to that meeting on 24 October?

**Mr. Paul Maloney:** No, nor would I have entertained it.

**Deputy Eoghan Murphy:** Did anyone talk about objective bias at that meeting on 24 October?

**Mr. Paul Maloney:** No, they talked about perceived and actual conflict of interest. Those were the two words used.

**Deputy Eoghan Murphy:** But not the word “objective”?

**Mr. Paul Maloney:** The word “bias” was not used.

**Deputy Eoghan Murphy:** That was not discussed. In respect of the minutes of the meeting of 24 October, paragraph 5.2 states that the authority’s valuation is suggesting a reasonable figure at €375 million. If we look at paragraph 8.1, we can see that the board agreed that the tender bid should be in the sum of €411 million.

**Mr. Paul Maloney:** Yes, that is correct.

**Deputy Eoghan Murphy:** The executive is recommending €375 million and the board arrives at €411 million. I have two questions. How did we get from €375 million to €411 million? Are the minutes making a distinction between what the executive thought was appropriate and what the board thought was appropriate?

**Mr. Paul Maloney:** Could the Deputy repeat the first question?

**Deputy Eoghan Murphy:** The first question was how did we move from €375 million to €411 million?

**Mr. Paul Maloney:** Would the Deputy mind if I took that question on its own?

**Deputy Eoghan Murphy:** No.

**Mr. Paul Maloney:** At the meeting with Mr. McNamara on the night of 23 October, we reiterated that the maximum price we would go to was €375 million. He actually talked about a price that was greater than that - €437 million. It is at the bottom of that page. We thought that was ludicrous and should not be done. He then said he would bring it back to €411 million. These were his statements. What we were bringing back to the board was that we stuck resolutely to €375 million and he had moved from €437 million down to €411 million. It was his choice why he picked €411 million. That is where the figure appeared from.

**Deputy Eoghan Murphy:** Is Mr. McNamara making a distinction in the minutes between the executive and the board and what they thought was an appropriate bid? If the board is saying that Mr. McNamara can go to €411 million-----

**Mr. Paul Maloney:** I see the Deputy's point. We are not deliberately making that distinction.

**Deputy Eoghan Murphy:** At the time, the board was not in dispute with the executive.

**Mr. Paul Maloney:** No.

**Deputy Eoghan Murphy:** Paragraph 8.1 states that if Mr. McNamara had some additional information which convinced him the bid should be increased, the board agreed that he could be allowed to increase the bid as he sought fit up to a maximum of €437 million. What does that mean?

*Deputy Kieran O'Donnell took the Chair.*

**Mr. Paul Maloney:** When we reported back that his initial concept was €437 million, we did not delve into what the parameters to get to that figure were except for his valuations.

**Deputy Eoghan Murphy:** You did not go into the details of why he came up with €437 million. It was his valuation.

**Mr. Paul Maloney:** He just gave his valuations, which we did not agree with. Therefore, when the board asked how he came up with €437 million, we said he got it from own valuations, of which we did not have a copy at the time. The board said that he could be allowed to increase it if he had information from those valuations, which we patently did not have in our valuation because it was €375 million. It was up to him to make that bid, which he ultimately did not do. I presented the reasons that we were limiting it to €375 million to him. I think that caused him to rethink his valuations.

**Deputy Eoghan Murphy:** If one looks at the figure communicated to the Minister, which we accept was a mistake and which was rectified but in my opinion only at the eleventh hour on 24 October, we are a long way from €220 million and even €375 million. We are talking about a figure like €437 million. When Mr. Bradshaw was before us, he put it that 50% of a large

number was the same as 25% of a small number so it was not really an issue in terms of what the board was entering into. In respect of this particular deal in terms of the potential exposure which we touched upon briefly earlier, we had moved from a 49% share holding in a joint venture potentially worth €220 million to a 26% share holding in a venture now worth around €400 million - the final bill was €411 million or €412 million. I will not put words in Mr. Bradshaw's mouth but he was saying that in terms of the borrowing facility, we were still dealing with the same amount of money that was needed.

**Mr. Paul Maloney:** Of course, we were dealing with 50% because the borrowing at 50% of €220 million is €110 million. Our borrowing is now down to €50 million. It is not the same. It is considerably reduced.

**Deputy Eoghan Murphy:** He was making the point that 25% of €400 million was going to come in at around-----

**Mr. Paul Maloney:** It was not 25% of €400 million. I am surprised to hear that point. It was 25% of €375 million.

**Deputy Eoghan Murphy:** We were talking in rough figures but he did make the point that in terms of what was being sought in terms of sanction from the Department, even though the size of bid had increased dramatically, it was basically the same thing because the percentage that was being taken in a joint venture had decreased.

**Mr. Paul Maloney:** To be fair, I think Ms Moylan made that point on her ministerial sanction. I was not aware that Mr. Bradshaw made it because-----

**Deputy Eoghan Murphy:** I was confusing the two transcripts.

**Mr. Paul Maloney:** I think so. I do not think Mr. Bradshaw would have said that.

**Deputy Eoghan Murphy:** Does Mr. Maloney accept Ms Moylan's view on that?

**Mr. Paul Maloney:** I accept that this was her reasoning and that this was what she put to this committee.

**Deputy Eoghan Murphy:** I will move to what happened after the meeting on 24 October. The bid was made on 25 October at €412 million. When did Mr. Maloney learn of that figure?

**Mr. Paul Maloney:** I learned about it on the morning of 25 October.

**Deputy Eoghan Murphy:** How did he learn of that figure?

**Mr. Paul Maloney:** I communicated to Mr. McNamara the absolute position of the board. That was a telephone call because time was very short.

**Deputy Eoghan Murphy:** Was it a telephone call with Mr. McNamara or his staff?

**Mr. Paul Maloney:** It was directly to Mr. McNamara. I rang his staff and they put him through. I said the board had made a decision and that we would not be bidding over €375 million because he continued to exhort us to do that and we would not do so.

**Deputy Eoghan Murphy:** How did he continue to do that?

**Mr. Paul Maloney:** When we met him the night before, he said he wanted to bid €437 mil-

lion and we were 26% so he wanted us to go with him. We said absolutely not, we were mitigating our risk to €375 million. I remind the Deputy that it was only the chairman and me on the previous night and I had to give him a board decision. I rang him to confirm that the board had mitigated the risk to €375 million and we were not moving. To be fair, I would have made it clear to him, despite what the Deputy read, that €411 million was really his risk. My intimation from the previous night was that all he was going to go to was €411 million. Subsequently he went to €412 million. I do not know where there is a difference. I communicated to him the board position that was given to me at 8 a.m. or 9 a.m. that morning.

**Deputy Eoghan Murphy:** When did he tell Mr. Maloney that he was going back? The bid was at midday on the 25th.

**Mr. Paul Maloney:** I do not have the time.

**Deputy Eoghan Murphy:** When did he tell Mr. Maloney his bid figure?

**Mr. Paul Maloney:** During that call.

**Deputy Eoghan Murphy:** He said he would go to €412 million.

**Mr. Paul Maloney:** I would have made it clear that was what we expected as the maximum.

**Deputy Eoghan Murphy:** Did Mr. Maloney inform the board of that?

**Mr. Paul Maloney:** That day was the bid. I would probably not have relayed the information to the entire board but I informed Mr. Bradshaw.

**Deputy Eoghan Murphy:** Mr. Maloney informed Mr. Bradshaw that he had agreed with Mr. McNamara -----

**Mr. Paul Maloney:** Not that I had agreed but that he agreed his risk would not go above €411 million because ours was already set.

**Deputy Eoghan Murphy:** When did Mr. Maloney learn that the bid had been successful?

**Mr. Paul Maloney:** I do not have that information but in the normal course of events the assessment of tenders would have taken approximately one week. I am assuming this but if it is important for me to be accurate I would have to examine the records.

**Deputy Eoghan Murphy:** Mr. Maloney would have learned that the bid was successful after a week.

**Mr. Paul Maloney:** I would think it took that long to assess the tenders.

**Deputy Eoghan Murphy:** There was a normal board meeting on 2 November. The telephone conference on the 24th was exceptional in terms of finalising the bid. In the November meeting, the board approved and amended the minutes from the three October board meetings. The IGB site was discussed in that meeting according to paragraph 6.1 of the minutes. A paper was circulated on 1 November but then it emerged that Derek Quinlan had become involved in the venture. Can Mr. Maloney tell me about that?

**Mr. Paul Maloney:** It appears we were aware the bid was successful by that stage. I cannot be sure from a brief perusal of the minutes but that would probably have already been given to us as a decision.

**Deputy Eoghan Murphy:** I could not find that anywhere.

**Mr. Paul Maloney:** In paragraph 1 of the board paper of 2 November it is stated that a bid was tendered for €411 million and this was accepted. To the best of my recollection, in being informed that it was successful I would have either met Mr. McNamara or he would have informed about the bid. As he was the bidder, he was not under our heading. I am fairly certain that within a day or so he rang back to say that he wanted to mitigate his risk by bringing in a third partner, Mr. Derek Quinlan, and we immediately informed the board about this.

**Deputy Eoghan Murphy:** Mr. Maloney immediately informed Mr. Bradshaw.

**Mr. Paul Maloney:** No, at this stage I think we were at the board meeting. It is stated in the paper that the information was circulated to the board for its 2 November meeting. It was probably circulated on 31 October or 1 November. I do not think I ‘phoned Mr. Bradshaw; I simply circulated the information.

**Deputy Eoghan Murphy:** Was there any discussion with Mr. Bradshaw or any of the board members regarding the involvement of Mr. Quinlan in advance of the board meeting of 2 November?

**Mr. Paul Maloney:** None.

**Deputy Eoghan Murphy:** What was the board’s reaction to the news?

**Mr. Paul Maloney:** The positives and negatives are indicated in paragraphs 2.2 and 2.3.

**Deputy Eoghan Murphy:** I have not yet seen that paper.

**Mr. Paul Maloney:** To correct what I said earlier, according to paragraph 2.2, the executive advised that on Tuesday, 24 October Mr. McNamara had expressed his wish to pass some of his shareholding to a consortium led by Derek Quinlan. The minute states that the executive resisted this on the basis that no decision had been taken by the board. In other words, Mr. McNamara asked me on the 24th whether he could bring in Derek Quinlan in advance of the bid but we refused the request on the grounds that the board had not discussed it.

**Deputy Eoghan Murphy:** Mr. McNamara told Mr. Maloney that he wanted to involve Mr. Quinlan in advance of the bid.

**Mr. Paul Maloney:** Yes, later on the same day as the board meeting of the 24th. He suddenly sprung it on us that he would like to bring in Derek Quinlan but I said “No”.

**Deputy Eoghan Murphy:** Did he approach Mr. Maloney or had Mr. Maloney contacted him to discuss the bid?

**Mr. Paul Maloney:** It was probably the same telephone conversation in which we discussed the board decision on the €411 million.

**Deputy Eoghan Murphy:** Mr. Maloney thinks that conversation took place on the 24th, the day before the bid.

**Mr. Paul Maloney:** I am sorry, I am now correcting myself.

**Deputy Eoghan Murphy:** That is fine.



**Mr. Paul Maloney:** I resisted the request on the basis that the board was not aware of it or party to it. According to the minutes, the executive agreed it would bring the matter to the board at the first opportunity, which was 2 November. The paper also highlighted the positives and negatives of Mr. Quinlan coming in. In respect of the negatives, we had already been dealing for the previous 20 days with one joint venture leader, Mr. McNamara, and we were comfortable with that. We were now being asked to deal with another investor about whom I knew nothing and, therefore, I had to consider the criteria I applied to the other investor before making a recommendation to the board.

**Deputy Eoghan Murphy:** Did it worry Mr. Maloney that it happened at the very last moment?

**Mr. Paul Maloney:** It worried me because I had never heard of Mr. Quinlan. I immediately said “No”.

**Deputy Eoghan Murphy:** Did it undermine Mr. Maloney’s trust in Mr. McNamara?

**Mr. Paul Maloney:** No, because just like Anglo Irish Bank franchised out its risk to AIB, given that we had 26% and he had 74% it made sense that he would seek to franchise out one of the biggest deals he had made. It made sense when he explained it to me and I became slightly more comfortable. I was totally uncomfortable when I was first informed about it on the day we were to bid, and I rejected it.

**Deputy Eoghan Murphy:** Mr. Maloney would be aware that he was going to try to involve Mr. Quinlan if the bid was successful.

**Mr. Paul Maloney:** Absolutely.

**Deputy Eoghan Murphy:** Did he not feel obliged to inform the board members about the moving chairs at this late stage? I take his point that he resisted but the request was likely to change the relationship post-agreement.

**Mr. Paul Maloney:** I thought when I said “No” that the issue would not emerge again. Perhaps that was naive but I honestly did not think of that between 24 October and 2 November. It was not uppermost in my mind. Finalising the heads of terms was uppermost in my mind so as to ensure that our conditions and criteria were set out. I questioned the proposal and I stated there were negative aspects. I wanted the board to know that I was uncomfortable.

**Vice Chairman:** Is Mr. Maloney telling us he did not know who Derek Quinlan was?

**Mr. Paul Maloney:** I had never heard of him.

**Vice Chairman:** He was one of the biggest property developers around.

**Mr. Paul Maloney:** I had never heard of him. When the name came up, it simply went over my head. I had been working on social regeneration in the north east city and had been dealing with all the tax incentive sites and the social blocks in those areas. The name of Derek Quinlan did not cross my desk on even one occasion.

**Vice Chairman:** Mr. Maloney told us that he dealt with all the large developers.

**Mr. Paul Maloney:** My team did. I had only just arrived.

**Vice Chairman:** Is it possible that vanity took over from sound commercial judgment on

Mr. Maloney's part? This was an enormous regeneration project. How long was he in his position when the project commenced?

**Mr. Paul Maloney:** I think I had been in it for three months.

**Vice Chairman:** When did he join the DDDA?

**Mr. Paul Maloney:** Excuse me, I had been in the job for one year. I had never heard of Mr. Quinlan, who had never developed projects in the docklands prior to that point.

**Vice Chairman:** Was Mr. Maloney in the position when the evaluation was received in June 2005?

**Mr. Paul Maloney:** No, I think I arrived just after that.

**Vice Chairman:** I draw the committee's attention to a key point. Had this project not gone ahead, additional funding of €52 million would have been available to the Dublin docklands for projects and amenities for people in the area. Any money the DDDA earns in its final incarnation goes back to the Exchequer. The whole thing appears to have been enormously rushed. When things are rushed, normally alarm bells go off in people's heads and they pull back. Did it not strike Mr. Maloney that all these different things were happening? Different banks were being brought in. This is not personal about anybody. Different developers were being brought in at the eleventh hour. There were variations in value and differences in letters going to the Department and property valuations. Did it not strike Mr. Maloney that he should pull back from this? It was an enormous project. Did it become a vanity project for Mr. Maloney?

**Mr. Paul Maloney:** Absolutely not. I will address the issues the Deputy raised that might have raised the alarm with me. A developer coming in, the number of banks and the number of valuations are entirely consistent with what one would do in seeking a development in any case. This would be normal. There was nothing abnormal about it.

**Vice Chairman:** There was nothing normal about the size of this project. It was valued at €400 million. It was clearly a high-risk project.

**Mr. Paul Maloney:** Could I finish my answer? Another developer was brought in at the last moment but we rejected that immediately. There was no rushing. There was no rushing in the 21 days of evaluation we did between 3 and 24 October. Nothing in the documentation here suggests that an issue was missed because of a rush. These were professional assessments of what we were getting into. I do not know where the Deputy got the phrase "vanity project". It is an extraordinary-----

**Vice Chairman:** I appreciate that Mr. Moloney has come before us, but obviously he will appreciate that the robustness of argument will always stand up, so we have to put questions. I always come back to the return. Did DDDA get any projections on the level of profit it would make from the project if it was going ahead?

**Mr. Paul Maloney:** Yes; all the valuations contained a level of profit.

**Vice Chairman:** What was that level?

**Mr. Paul Maloney:** It was 15% of the value of the development.

**Vice Chairman:** Did the DDDA do any due diligence on that? DDDA was a minority

shareholder in this proposal.

**Mr. Paul Maloney:** Absolutely, because the best business case one can do in purchasing property is professional evaluations based on-----

**Vice Chairman:** Who carried that out for DDDA?

**Mr. Paul Maloney:** We had a professional independent valuation in 2005. On our team we had professional, certified surveyors from the Royal Institution of Chartered Surveyors, RICS.

**Vice Chairman:** That is on the value of the property, but who actually sat down and crunched the figures?

**Mr. Paul Maloney:** The trained valuers on our property team, who had been valuing property for ten years. This was a property company that had been operating for ten years and had previously developed the biggest site in the docklands itself and made a profit of €130 million on it. There was a lot of experience here. It was not vanity. It was a very experienced team.

**Vice Chairman:** The eventual cost of the project was €412 million, and at 15% the DDDA was looking at a profit of €62 million, but it ended up with a loss-----

**Mr. Paul Maloney:** It was not 15% of the sum paid for the site but 15% of the entire development, because what we have not mentioned is development funding.

**Vice Chairman:** What was the projected profit?

**Mr. Paul Maloney:** I do not have it in front of me but it was something of the order of €200 million to €300 million. That is the total profit out of the final extruded development over a number of years.

**Vice Chairman:** How much would the DDDA-----

**Mr. Paul Maloney:** Twenty-six percent.

**Vice Chairman:** Twenty-six percent of €200 million. So it was projecting €52 million, which, ironically, was the figure it lost. There was a turnaround of €104 million.

**Mr. Paul Maloney:** No. Profits come after expenditure. One gets one's equity back-----

**Vice Chairman:** No. What I am more interested in is the fact that €52 million was lost on the project. When DDDA was examining the project, what net profit did it project would come in?

**Mr. Paul Maloney:** Having paid off our investment of €52 million, we projected that another €50 million would come in to DDDA.

**Vice Chairman:** A profit of €50 million.

**Mr. Paul Maloney:** This was a company that ploughs its profits back into development. Our profit was not in cash. Our profit was that 20% of this site would be social and affordable housing, taken out of our profits. All of the developments we insisted on for the site - for example, a €10 million community investment - were taken out of our profits. Our net profit might have been €52 million cash, but our profit to the State, community and area was multiples of that. That is what we were interested in, not the cash profit. If we had broken even on the

site, which was not our intention, there would still have been enormous profit in what we gave to the community. That is where we were coming from.

**Vice Chairman:** Okay. Will ten minutes be sufficient for Deputy Eoghan Murphy?

**Deputy Eoghan Murphy:** I will try and get there in ten minutes. Mr. Maloney said he had been waiting four years so I want to give him the fullest opportunity to put everything on the record that he wants to. Mr. Moloney discussed Mr. Derek Quinlan at the meeting of 2 November and again on 7 December, but this time in the context of Derek Quinlan being part of the consortium and lending having been arranged. Was that the period of time in which the board agreed it would be acceptable based on the conditions regarding the authority's own shareholdings not being diluted?

**Mr. Paul Maloney:** Yes. It was in that period that the board found it acceptable. I do not think the committee has the paper of 2 November. It gave the positives and negatives of that, and the note reads: "Following discussion of all issues involved the board agreed they would have no objection to Bernard McNamara disposing of his 33%." That followed an hour-long discussion. However, the board was not prepared to agree to a dilution of its currently agreed 40% for directors. This was crucial. The board would agree to an increase in the number of directors, etc. The board could see the value of a mitigation of risk, but we had already agreed the heads of terms which confirmed our community gain and planning issues, so Mr. Quinlan could not dilute those heads of terms. The criteria we had set down were already set in stone. That made the board more comfortable about Mr. Quinlan coming on board, because he could not have had an effect on our criteria as laid down in that multiple document. However, he might have had an effect on the dilution of our 26%, which we resisted.

**Deputy Eoghan Murphy:** We then move to the period from January 2007 and the minutes of the board meetings throughout that year. There is a brief mention in January and February, something to do with a bank guarantee, which is redacted in the minutes I received. Would the DDDA normally redact minutes of board meetings?

**Mr. Paul Maloney:** Very seldom.

**Deputy Eoghan Murphy:** But elements would be redacted for the public record?

**Mr. Paul Maloney:** I can only think that if there was something of a very commercially sensitive nature-----

**Deputy Eoghan Murphy:** In February's minutes there is a paragraph on the bank guarantee and that is redacted. In March there is a paragraph on capital gains tax that is completely redacted. In April there is an update on tax planning. In May's board meeting a complaint to the Standards in Public Office Commission, SIPO, is mentioned. That was regarding a conflict of interest. Does Mr. Maloney remember the details of that?

**Mr. Paul Maloney:** Yes. Was it regarding the IGB site?

**Deputy Eoghan Murphy:** No. Mr. Bradshaw may have dealt with it. With regard to Mr. Bradshaw, in advance of my arrival on the board and the board of Anglo and so on, I do not have the details. During my time there, SIPO had made a judgment on it that said the claim was not upheld.

**Deputy Eoghan Murphy:** That was in regard to Mr. Bradshaw in terms of his position on

the board of Anglo Irish Bank.

**Mr. Paul Maloney:** I believe so in regard to that but I do not want to, in fairness, go too far into that because he has his opportunity here.

**Deputy Eoghan Murphy:** We do not have the time either. There is nothing in the minutes of board meetings for May, June or July. There was no August meeting and then there is nothing in the minutes for September, October and November on this deal. The board did not discuss this between May and November 2007. Is that not unusual given how significant was the deal? The DDDA had just completed it.

**Mr. Paul Maloney:** No, because we were into what paragraph 3.2 of the heads of terms say on the planning stages and until real hard facts and information emerged from that, there was no particular issue to bring to the board and that may explain that.

**Deputy Eoghan Murphy:** The deal appears back in the minutes of the board meeting in December 2007 in the context of site clearance and remediation works but, unfortunately, the minutes I have are partly redacted.

**Mr. Paul Maloney:** I can think of no reason at this stage the Deputy should have redacted minutes.

**Deputy Eoghan Murphy:** In January 2008, issues requiring ongoing funding for remediation works are noted in the minutes. It is asked that IGB be placed back on the agenda for all future meetings. Why was that? Somebody said at that meeting we must discuss this issue at all future board meetings.

**Mr. Paul Maloney:** Because now we were coming to the implementation of the heads of terms under planning and that included remediation. We now had issues that we were going to bring to every meeting at that stage.

**Deputy Eoghan Murphy:** Were people worried at that point in time?

**Mr. Paul Maloney:** At the beginning of 2008, the Deputy may remember the emergence of what was happening in the market was worrying a lot of people.

**Deputy Eoghan Murphy:** What was the cost of remediating the site and financing that?

**Mr. Paul Maloney:** There was a full board discussion and board paper on that. In the valuations we had done, there was a €60 million allocation for remediation so we always knew it was an issue. I cannot recall anything unusual in that discussion unless there is something the Deputy wants to raise with me.

**Deputy Eoghan Murphy:** The site was back in the minutes of the board from January but most of the records I have are redacted. Perhaps Mr. Maloney might come back to the committee in his formal correspondence with us if he has the board minutes. He could forward them or at least explain why the redactions are there.

**Vice Chairman:** We can ask the DDDA directly for that.

**Deputy Eoghan Murphy:** The final issue I would like to raise, which was discussed in detail with Ms Moylan and the Comptroller and Auditor General, is the time period liability cap of two years, which was then lifted when the guarantee was renegotiated. What happened?



**Mr. Paul Maloney:** First, the cap was for a liability relating to a €26 million recourse loan and two years of interest. We paid a €29 million recourse guarantee and we said we would pay two years interest and we stopped paying after two years interest. The way it is presented in the Comptroller and Auditor General's report, with which I disagree, it looks like the cap was on the investment the authority was making. The investment was in two tranches: first, its liability for the loan, which was €26 million plus interest and, second, the €32 million in equity it put into the company. That is clear in the shareholders agreement but the way it is worded and has been reported by some members of the press is that we had capped everything at €35 million. I know that the Comptroller and Auditor General in other parts of the report has clarified that but that is why I opened with those two sentences in my statement.

However, the Comptroller and Auditor General is absolutely right that we set two years of paying interest because paragraph 3.4 of the shareholders agreement says that planning would take two years. There was a limit placed on planning for two years because for every development if one buys, as in this case, an unplanned or unzoned site, one has a period after which one gets planning when the equity and value of the site changes and one creates value. The intention, which is in the shareholders agreement, is that this value would be created after two years. One then had two means of getting equity and paying interest.

**Vice Chairman:** What was the zoning of the land when it was purchased?

**Mr. Paul Maloney:** It was zoned high amenity, residential, commercial. It had all of that.

**Vice Chairman:** Was there a question over its zoning?

**Mr. Paul Maloney:** No, the zoning was absolutely fine but no one had attempted to go for planning. When we had set a two year timescale for interest-----

**Vice Chairman:** Was any preplanning done before a bid was made on the site?

**Mr. Paul Maloney:** No, we had 20 days. We could not.

**Vice Chairman:** But that only involves picking up the telephone to call the planners.

**Mr. Paul Maloney:** We were the planners for the site. We had a master plan extensively dealing with all the infrastructure, amenities and the issues to do with that site.

**Vice Chairman:** It was a Part 8 development. The DDDA was giving itself permission.

**Mr. Paul Maloney:** Correct and that is why I said to the Comptroller and Auditor General that this was our business case. We had that done. When it came to the two years interest - the Comptroller and Auditor General is absolutely correct on this - we set a two year limit on paying that interest. We did and we stopped because after the two years when planning would come, we would then create value or release equity. There are two ways to do that. The bank would accrue the interest and we would not pay until the final development was in place or the second method, which was discussed many times, was to start divesting ourselves of parcels because it was a huge 26-acre site. That is why we set two years.

It was never intended - and that is why we did not break that cap - that after two years, we would stop paying and someone else would pay our 26% of the interest because if that was the case, our two partners would have turned around and said: "We're paying 74% of our proportion. You have a liability for your 26%." We never divested ourselves of the ultimate liability although I totally acknowledge that the Comptroller and Auditor General has correctly written

that is there but the other paragraphs have to be taken into account.

I refer to a third paragraph in the shareholders agreement. The reason the cap was put in is that any development costs - it costs several hundred million to develop a site of this magnitude - would only come from our partners. The DDDA was setting a cap that would not involve itself in that, to which we also clearly adhered. Deputy Murphy asked why we extended that for another two years. Our liability was always there; we decided not to pay any further. The Comptroller and Auditor General mentioned correctly that we increased the liability over those two years to €8.5 million. We did not pay it. I totally accept it is a liability based on the actual facts that we were always liable for 26% of our interest. That is where that comes from.

**Deputy Eoghan Murphy:** I thank Mr. Maloney for that clarification. The Comptroller and Auditor General in his findings criticised the record keeping related to these events. Has Mr. Maloney a comment on that?

**Mr. Paul Maloney:** I disagree basically because he has not acknowledged my opening statement that the minutes of the board meeting are the most comprehensive legal record one can find in any semi-State company.

**Deputy Eoghan Murphy:** I thank Mr. Maloney.

**Mr. Seamus McCarthy:** I agree that the minutes of the board are the most important record but I do not feel that the minutes of the DDDA give an adequate reflection of all the issues involved.

**Mr. Paul Maloney:** We will disagree on that.

**Mr. Seamus McCarthy:** We will disagree. I would like to make a few other points about what Mr. Maloney raised in his opening statement, one or two of which are tangential to the core issue we have been discussing. I would like to draw the committee's attention to the financial position of the DDDA at the end of 2012. I drew attention in my audit certificate to the dissolution of the authority, which is planned, and to a deferred pension funding asset being recognised in the financial statements as follows:

I draw attention to note 16 to the financial statements and to the recognition as at 31 December 2012 of an asset of €8.4 million in respect of deferred pension funding.

The recognition of the asset reflects the Department of Public Expenditure and Reform's statement in July 2013 that the State will bear the authority's pension liabilities on its dissolution. The balance sheet of the authority at that date shows total assets less current liabilities of €5 million, which means, had the authority ceased to exist on 31 December 2012 and succeeded in disposing of all its assets and clearing all its liabilities, there would be a net €5 million to return to the Exchequer. However, the Exchequer is taking on €8.4 million of pension liabilities into the future - that is an estimate of what those liabilities will be. If one likes, that transfers with the surrender of the assets. So there is actually a net Exchequer cost in relation to that. I do not want to make a big point around----

**Mr. Paul Maloney:** The Comptroller and Auditor General is absolutely correct; that is 2010.

**Vice Chairman:** We will let the Comptroller and Auditor General conclude, and then I can call Mr. Maloney.

**Mr. Seamus McCarthy:** I do not want to make a big point about it, but it is important that the committee be aware of it because the 2012 financial statements will be before it. I believe it is scheduled for February.

**Vice Chairman:** I seek clarification on that. What is the net effect? What is the State taking on its balance sheet in terms of DDDA at the end of December 2012?

**Mr. Seamus McCarthy:** The estimate would be a net €3.4 million.

**Vice Chairman:** Deficit?

**Mr. Seamus McCarthy:** Deficit.

The other point to make is about the cost of the Glass Bottle site venture. Mr. Maloney has pointed out that the shareholder equity and loans that were provided and the interest paid amounted to just under €44 million. However, there was a more extended liability, as he outlined. A settlement was done with NAMA and the result was that assets with a value of, I think, €7.8 million were transferred to NAMA. So to get the overall cost to the DDDA of the venture one has to add the two things together, which gives a figure of €52 million. So it is not inconsistent with what Mr. Maloney has presented. I say this just in case there is any confusion about that.

I would also like to draw attention to the heads of agreement, a paper which was presented to the executive board of the authority on 2 November. It outlines the shareholdings or share distribution between the authority at 26% and the other partners at 74%. It goes on to state:

All rights, interests, liabilities, obligations, responsibilities and risks, and all costs incurred or losses shall, except as expressly agreed otherwise, be shared and borne in such proportions, provided always that the total recourse to the DDDA under any loans to the joint-venture company, guarantees or any account whatsoever in respect of the acquisition of the company or otherwise shall not in aggregate exceed €35 million.

This was considered by the board on that day. That is the basis of our statement in the report that the authority believed at the time that it was giving approval for the signing of the shareholders' agreement that its financial commitment would be limited to €35 million. I certainly accept that the shareholders' agreement that actually was signed subsequently did extend that liability, but I am just drawing attention to that in the context of the records kept by the DDDA.

**Mr. Paul Maloney:** The €3.5 million deficit that the authority could be handing back to the Exchequer is by no means finalised. Why? Because today it continues to sell what are increasingly valuable assets - they are highly sought after now. What is happening in the docklands property market is quite extraordinary. That final figure - next February we will know of that. I believe it will not be a deficit, but I defer to the accounts in February of next year.

**Mr. Seamus McCarthy:** I accept that.

**Mr. Paul Maloney:** I thank the Comptroller and Auditor General.

On the figure of €35 million, we all agree now that it was a funding guarantee liability to do with recourse and interest. At the time of the shareholders' agreement, the €32 million for equity was also in that shareholders' agreement. The authority knew it had the €35 million liability plus the €32 million equity. Does the Comptroller and Auditor General accept that?

**Mr. Seamus McCarthy:** No, I do not.

**Mr. Paul Maloney:** So he is saying that the authority did not know it was paying equity even though two minutes of the meeting showed it had to pay equity.

**Mr. Seamus McCarthy:** Can Mr. Maloney refer me to the position in the heads of agreement?

**Mr. Paul Maloney:** I can, and I have evidence of this. I do not want to take up the time. I believe, honestly, the Comptroller and Auditor General is fundamentally wrong in this and will prove this. I came back from abroad to spend time looking at all these files and I will produce the evidence. More importantly, I asked to communicate with the Comptroller and Auditor General to clarify. He correctly said he could not clarify anything with me in advance of this meeting. I understand he could not. Therefore, I went to the next source of all the information, the DDDA current director of finance. I asked him to set down for me that table; he has done so. I will submit the table. It shows unequivocally that at the time of the shareholders' agreement - which is as the Comptroller and Auditor General stated - the financial commitments of the authority were twofold: one, the recourse funding cap of €35 million - we both agree on that; and two, as he has in his document - I have asked him to confirm for me in writing and he has, and I asked him to confirm it in writing to the Comptroller and Auditor General and he said he would do so-----

**Vice Chairman:** We suggest that the clerk might link up and we can get it independently verified by the DDDA.

**Mr. Paul Maloney:** I thank the Vice Chairman.

I wish to make a final statement before we go.

**Vice Chairman:** That is in order.

**Mr. Paul Maloney:** I cannot emphasise enough that I would spend ten hours here if the committee members wanted me to because for four years I have been denied any access to the Brennan reports that were being produced - that is, I, the chairman or the previous executive. That is not governance. What the Committee of Public Accounts has shown to the media here is that the way to do it - I congratulate the Comptroller and Auditor General - is to obtain an independent report to get the facts - we might disagree on some of them, but it is independent - and then to bring everybody in and question them and have them be accountable. This is the right way, in regard to the democratic functions of this State, to do it and I congratulate the committee on that.

I only ask for the following. Ms Brennan has said she will not appear before the committee before everybody else appears. Here is a person who has had every chance to write every report and I am here before the committee. Therefore, I would like to come back here when Ms Brennan appears so that I am here to correct the record, to ensure that my evidence is heard and to ensure that no further misinformation is given.

Overall, I thank the Comptroller and Auditor General and I thank the committee members for their patience today. I think their questioning has been very fair and rightly rigorous. I thank the Vice Chairman.

**Vice Chairman:** The committee will obviously consider Mr. Maloney's request and we

## COMMITTEE OF PUBLIC ACCOUNTS

thank him for appearing before us. At a macro level it has cost the State €52 million. We may differ, but generally, from the evidence we have received, I feel there was lack of cohesion in decision making, independent property evaluation and proper due diligence. Clearly, it was rushed. However, the committee will continue to discuss the matter. We will consider the DDDA's 2012 accounts on 6 February 2014. I again thank Mr. Maloney for appearing before the committee.

*The witnesses withdrew.*

The committee adjourned at 2.30 p.m. until 10 a.m. on until Thursday, 19 December 2013.