

Dated this _____ day of _____ 1999

This lease has been signed
by Clonard E Rooney *AMM*
02/11/00

ARTHUR ROONEY & ANTHONY ROONEY
t/a ROONEY BROTHERS
(Lessors)

-and-

CLONARD RESIDENTS ASSOCIATION
(Lessee)

LEASE

C.P. Steele LL.B
Solicitor
177 Victoria Street
BELFAST
BT1 4PE



THIS INDENTURE made the day of One thousand nine
hundred and ninety nine

1. PARTICULARS

1.1.1 THE LESSORS

ARTHUR ROONEY and ANTHONY ROONEY t/a ROONEY BROTHERS having their registered office at 454/458 Donegall Road Belfast.

1.1.2 THE LESSEE

CLONARD RESIDENTS ASSOCIATION having its registered office at Kashmir Road Belfast

1.2 THE BUILDING

ALL THAT the building of the Lessors at Springfield Road Belfast shown for the purposes of identification only edged with a blue line on the Plan A attached.

1.3 THE PREMISES

All that part of the Building more particularly defined in the First Schedule together with the right of way comprised in the Second Schedule hereto.

1.4 THE TERM

999 years from and including the day of 1999.

1.5 PERMITTED USER

Use of the Premises is for any purpose provided for by the Articles of Association of Clonard Residents Association and as specifically agreed with the Lessors. Such consent to use shall not be unreasonably withheld by the Lessors. The use of the Premises shall be regulated by the above and such other provisions as hereinafter appear which are designed to protect and ensure the safety and enjoyment of the Lessors and their tenants who occupy the remainder of the building.

1.6 SERVICE CHARGE

The charge payable by the Lessee under Clause 5.13.

1.7 INSURANCE RENT PERCENTAGE

Such reasonable sum as is fairly and properly deemed attributable to the Premises by the Lessor's Insurers.

2. DEFINITIONS

2.1 For all purposes of this Lease the terms defined in Clauses 1 and 2 have the meanings specified therein and hereinafter specified.

2.2 'Interest' means interest during the period from the date on which the payment is due to the date of payment both before and after any judgement at the Interest Rate then prevailing or should the base rate cease to exist such other rate of interest as is most likely comparable with the Interest Rate to be agreed between the parties or in default of agreement to be determined by a Chartered Accountant acting as expert and not as arbitrator appointed by the President for the time being of the Law Society of Northern Ireland on the application of either party if not agreed.

2.3 'Pipes' means all pipes sewers drains mains ducts conduits gutters watercourses wires cables channels flues and all other conducting media and includes any fittings louvres cowls and any other ancillary apparatus.



2.4 'The Plan' means the plan annexed to this Lease.

2.5 'Insurance Cost' means the reasonable and proper sums that the Lessors shall from time to time pay by way of premium for insuring the Building.

2.5.1 the Insurance Rent percentage of the Insurance Cost, and

2.5.2 all or any increase in premium payable by reason of and attributable to any act or omission of the Lessee.

2.6 'Insured Risks' means fire lightning explosion aircraft (including articles dropped from aircraft) riot civil commotion malicious persons earthquake storm tempest flood and such other risks normally insured against in a comprehensive property owners insurance policy in Northern Ireland bursting and overflowing of water pipes tanks and other apparatus and impact by road vehicles and such other risks as the Lessor from time to time in its discretion may reasonably think fit to insure against.

3. INTERPRETATION

3.1 The expressions 'the Lessors' and 'the Lessee' wherever the context so admits shall include the person for the time being entitled to the reversion immediately expectant on the determination of the Term and the Lessee's successors in title respectively and any reference to a superior Lessor includes the Lessors' immediate reversioner (and any superior Lessor) at any time.

3.2 Where the Lessors and Lessee for the time being are two or more persons obligations expressed or implied to be made by or with such party are deemed to be made by or with such person jointly and severally.

3.3 Words importing one gender include all other genders and words importing the singular include the plural and vice versa.

3.4 References to 'the Premises' in the absence of any provision to the contrary include any part of the Premises.

3.5 References to any right of the Lessors to have access to the Premises shall be construed as extending to any superior Lessor and any mortgagee of the Premises and to all persons authorised by the Lessors and any superior Lessor or mortgagee (including agents professional advisers contractors workmen and others).

3.6 Any covenant by the Lessee not to do an act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person.

3.7 Any provisions in the Lease referring to the consent or approval of the Lessors shall be construed as also requiring the consent or approval of any mortgagee of the Premises and any superior Lessor where such consent shall be required but nothing in this Lease shall be construed as implying that any obligation is imposed upon any mortgagee or any superior Lessor not unreasonably to refuse any such consent or approval.

3.8 Reference to 'consent of the Lessors' or words to similar effect mean a consent in writing signed by or on behalf of the Lessors and to 'approved' and 'authorised' or words to similar effect mean (as the case may be) approved or authorised in writing by or on behalf of the Lessors.

3.9 Any references to a specific statute or order include any statutory extension or modification amendment or re-enactment of such statute or order and any regulations or orders made under



such statute or order and any general reference to 'statute' or 'statutes' 'order' or 'orders' includes any regulations or orders made under such statute or statutes order or orders.

- 3.10 References in the Lease to any clause sub-clause or schedule without further designation shall be construed as a reference to the clause sub-clause or schedule to this Lease so numbered.
- 3.11 The clause paragraph and schedule headings do not form part of this Lease and shall not be taken into account in its construction or interpretation.

4. DEMISE

WITNESSETH that in consideration of the covenants on the Lessee's part and conditions hereinafter contained the Lessors hereby demise unto the Lessee the Premises TOGETHER with the rights specified in the Second Schedule but EXCEPTING AND RESERVING unto the Lessors the rights specified in the Third Schedule TO HOLD the Premises unto the Lessee from the day of One thousand nine hundred and ninety nine for the Term SUBJECT to all rights easements privileges restrictions covenants and stipulations of whatever nature affecting the Premises YIELDING AND PAYING therefor unto the Lessors:

5. THE LESSEE'S COVENANTS

The Lessee covenants with the Lessors:

5.1 OUTGOINGS AND VAT

To pay and to indemnify the Lessors against:

5.1.1 All rates taxes assessments duties charges impositions and outgoing which are now or during the Term shall be charged assessed or imposed upon the Premises or upon the owner or occupier of them excluding any payable by the Lessors occasioned by receipt of the rents or by any disposition of dealing with or ownership of any interest reversionary to the interest created by this Lease.

5.1.2 VAT (or any tax of a similar nature that may be substituted for it or levied in addition to it) chargeable in respect of any payment made by the Lessee under any of the terms of or in connection with this Lease or in respect of any payment made by the Lessors where the Lessee agrees in this Lease to reimburse the Lessors for such payment.

5.2 REPAIR AND CLEANING

5.2.1 To repair the interior of the Premises and to keep it in repair excepting damage caused by an Insured Risk other than where the insurance money is irrecoverable in consequence of any negligent act or wilful default of the Lessee and excepting damage whereby compensation for same is payable under the Criminal Damage (Compensation) (Northern Ireland) Order 1977 or any statutory re-enactment or modification thereof for the time being in force.

5.2.2 To clean the interior of the Premises and keep it in a clean neat and tidy condition.

5.3 DECORATION

From time to time whenever considered necessary or desirable by the Lessee to redecorate the interior of the Premises in a good and workmanlike manner and with appropriate materials of good quality to the reasonable satisfaction of the Lessors.



5.4 ACCESS OF LESSOR AND NOTICE OF REPAIR

5.4.1 To permit the Lessors after giving reasonable prior notice to the Lessee (except in case of emergency)

5.4.1.1 To enter upon the Premises for the purpose of ascertaining that the covenants and conditions of the Lease have been observed and performed.

5.4.1.2 To view (and to open up floors and other parts of the Premises where such opening-up is required in order to view) the state of repair and condition of the Premises and

5.4.1.3 To give to the Lessee (or leave upon the Premises) a notice specifying any repairs cleaning maintenance or decoration that the Lessee has failed to execute in breach of the terms of this Lease and to request the Lessee immediately to execute the same including the making good of such opening up (if any).

Provided that any such opening-up shall be made good by and at the cost of the Lessors where such opening-up reveals no breaches of the terms of this Lease.

5.4.2 Immediately to repair cleanse maintain and decorate the Premises as required by such notice.

5.4.3 If within one month of the service of such notice the Lessee shall not have commenced and be proceeding diligently with the execution of the work referred to in the notice or shall fail to complete the work within 3 months or if in the Lessors' reasonable opinion the Lessee is unlikely to have completed the work within such period to permit the Lessors to enter the Premises to execute such work as may be necessary to comply with the notice and to pay to the Lessor the cost of so doing and all reasonable and proper expenses incurred by the Lessors (including reasonable legal costs and reasonable surveyor's fees) within 14 days of a written demand and in default of payment within such period to pay interest at the Interest Rate from the date of demand to the date of actual payment.

5.5 NUISANCE USER ETC.

5.5.1 Not to do nor allow to remain upon the Premises anything which may be or become or cause a nuisance annoyance disturbance inconvenience injury or damage to the Lessor or its tenants or the owners or occupiers of adjacent or neighbouring Premises.

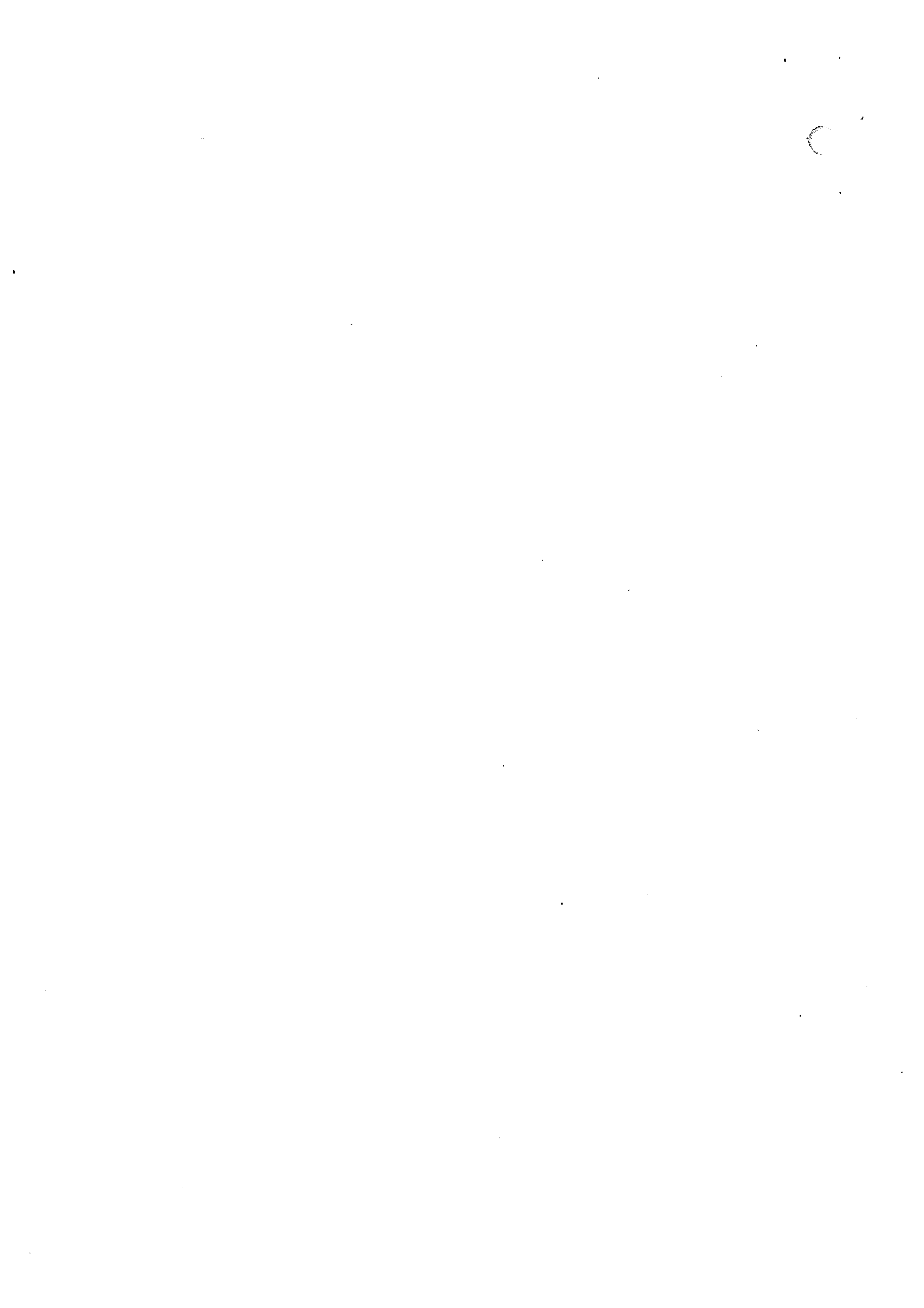
5.5.2 Not without the consent of the Lessors such consent not to be unreasonable withheld or delayed to use the Premises for any purpose other than the Permitted User provided that the Lessors shall not be entitled to any fine or premium as a condition of giving consent to any change of use.

5.5.3 Not to discharge into any of the pipes serving the Premises or any other property any oil grease or other deleterious matter or any substance which might be or become a source of danger or injury to the drainage system of the Premises or the Building.

5.5.4 Not to store or allow to be stored on the Premises or any part thereof any dangerous and/or especially combustible materials without having first complied with all statutory requirements and obligations in relation to the storage of such materials.

5.5.5 Not to obstruct or block or permit to be obstructed or blocked the right of way referred to in the Second Schedule hereto.

5.5.6 The Premises comprised in the Lease form part of the larger premises owned by the Lessors which said premises are being used principally to provide residential accommodation and the Lessee agrees that it will not do, or that it will refrain from doing, any act or thing or carrying on



any activity which can be reasonably construed by the Lessor as inconsistent with the general use and enjoyment of the remainder of the Premises for the purpose of accommodation as aforesaid.

5.6 PLANS, DOCUMENTS AND INFORMATION

If called upon to do so to produce to the Lessors all plans documents and other evidence as the Lessors may reasonably require in order to satisfy themselves that the provisions of this Lease have been complied with.

5.7 YIELD UP

At the expiration or sooner determination of the Term to yield up the Premises in accordance with the terms of this Lease.

5.8 STATUTORY NOTICES ETC.

To give full particulars to the Lessors of any notice direction order or proposal for the Premises made given or issued to the Lessee by any governmental statutory local or public authority within 7 days of receipt and if so required by the Lessee to produce it to the Lessors and without delay to take all necessary steps to comply with the notice direction or order and at the request and cost of the Lessors to make or join with the Lessors in making such objection or representation against or in respect of any notice direction order or proposal as the Lessors shall deem expedient.

5.9 KEYHOLDERS

To ensure that at all times the Lessors have and the RUC have written notice of the name, home address and home telephone number of at least 2 keyholders of the Premises.

5.10 LESSORS' RIGHTS

To permit the Lessors at all times during the Term to exercise without interruptions or interference any of the rights granted to it by virtue of the provisions of this Lease.

5.11 SECURITY

5.11.1 To take all steps and to comply with all requirements which may be reasonable or necessary for the security and safeguarding of the Premises or the Building.

5.11.2 If the Premises are destroyed or damaged in any manner whatsoever to give notice to the Lessors as soon as such destruction or damage shall have occurred.

5.12 TO TAKE PRECAUTIONS

5.12.1 To take all reasonable precautions against frost damage to the pipes in on under or over and serving the Premises.

5.12.2 To take all reasonable care and precautions to avoid water damage to any other part of the Building by reason of bursting or overflowing of any pipe or water apparatus in and serving the Premises.



5.13 SERVICE CHARGE

The Lessor shall from the date of this document and for a period of ten years thereafter be responsible for the maintenance, repair and upkeep of the exterior fabric of the entire building. Thereafter the Lessees shall be responsible for a contribution to the cost of the maintenance, repair and upkeep of the said exterior fabric of the building and of any areas in common usage. The amount of that contribution shall be agreed between the parties and failing such agreement the matter shall be referred to arbitration. The Lessees shall at all times be solely responsible for the maintenance, upkeep and repair of the interior of the building which they occupy.

5.14 Not to assign sub-let or otherwise part with possession of the Premises without the prior written consent of the Lessors such consent not to be unreasonably withheld or delayed.

6. THE LESSORS' COVENANTS

The Lessors covenant with the Lessee:

6.1 QUIET ENJOYMENT

To permit the Lessee peaceably and quietly to hold and enjoy the Premises without any interruption or disturbance from or by the Lessors or any person claiming under or in trust for the Lessors.

6.2 PERFORM SERVICES

6.2.1 To repair and keep in good order repair and condition the Building and every part thereof (repairs for which the Lessee is responsible under the terms of this Lease alone expected).

CLEANING

6.2.2 To clean and keep in a clean and neat and tidy condition the Building and remainder of the site on which the Building is situate except such parts as the Lessee is responsible to clean and keep neat and tidy under the terms of this Lease.

DECORATION

6.2.3 From time to time whenever necessary or desirable for the general appearance of the Building to redecorate the Building (except such parts as the Lessee is liable to decorate under the terms of this Lease) with appropriate materials of good quality to the reasonable satisfaction of the Lessee.

6.3 LESSEES RIGHTS

To permit the Lessee at all times during the Term to exercise without interruption or interference any of the rights granted to it by virtue of the provisions of this Lease.

6.4 SECURITY

6.4.1 To take all necessary and reasonable steps for the security and safeguarding of the Building except such as ought under the Lessee's covenant in that behalf to be undertaken by the Lessee.

6.4.2 If any part of the Building other than the Premises is destroyed or damaged in any manner whatsoever to give notice to the Lessee as soon as the destruction or damage shall have occurred.



6.5 TO TAKE PRECAUTIONS

6.5.1 To take all reasonable precautions against frost damage to the pipes in or under or over any part of the Building not comprised in the Premises or in or under or over, but not serving the Premises.

6.5.2 To take all reasonable care and precaution to avoid water damage to the Premises or any part of the Premises by reason of bursting or overflowing of any pipe or water apparatus in any other parts of the Building or in or under or over, but not serving the Premises.

6.6 FLOOD LOADING

Not to bring or permit to remain upon any other parts of the Building any machinery goods or other vehicles which shall or may strain or damage the Premises.

6.7 ACCESS OF LESSEE AND NOTICE TO REPAIR CLEAN DECORATE ETC.

6.7.1 To permit the Lessee

6.7.1.1 To enter the other parts of the Building accompanied by its surveyors engineers and other professional advisers to conduct such tests upon and make such examination of the Building and its structure as shall in all the circumstances be reasonable including opening up floors and other parts of the Building where such opening up is required in order to carry out a property examination.

6.7.1.2 To give to the Lessor a notice specifying any repairs rebuilding cleansing redecoration and other works that the Lessors have failed to carry out in breach of the terms of this Lease and to request the Lessors immediately to execute the same including the making good of such opening up (if any) provided that any such opening up shall be made good by and at the cost of the Lessee where such opening up reveals no breaches by the Lessors of the terms of this Lease.

6.7.2 Immediately to carry out such repairs rebuilding cleansing decoration and other works to the Building as are required by such notice.

6.7.3 If within one month of the service of such notice the Lessors shall not have commenced and be proceeding diligently with the execution of the works referred to in the notice or shall fail to complete the works within 3 months or if in the Lessee's reasonable opinion the Lessors are unlikely to have completed the works within such period to permit the Lessee to carry out the works and to enter the other parts of the Building as may be necessary to comply with the notice and to pay to the Lessee the cost of so doing.

6.8 INSURANCE

The Lessors shall insure and keep insured the building at
Belfast described at paragraph 1.2.

Springfield Road,

7. PROVISOS

7.1 RE-ENTRY

If and whenever during the Term:

7.1.1 There is a breach by the Lessee of any covenant or other term of this Lease or any documents expressed to be supplemental to this Lease.



The Lessors may re-enter the Premises (or any part of them in the name of the whole) at any time (and even if any previous right of re-entry has been waived) and then the Term will absolutely cease but without prejudice to any rights of remedies which may have accrued to the Lessors against the Lessee in respect of any breach of covenant or other term of this Lease (including the breach in respect of which the re-entry is made).

7.2 EFFECT OF WAIVER

Each of the Lessee's covenants shall remain in full force both at law and in equity notwithstanding that the Lessors shall have waived or released temporarily or permanently revocable or irrevocable a similar covenant or similar covenants affecting any other part of the Building .

7.3 Either party shall be entitled at any time but not more often than once in any period of twelve months to call for a revision of the Insurance Rent Percentage by service of notice in writing on the other part and in the event of the parties failing to reach agreement, the amount of the Insurance Rent Percentage shall be determined by an expert appointed by the President for the time being of the Northern Ireland Law Society or some other person appointed by him if not agreed between the parties and such expert shall determine the Insurance Rent Percentage on the basis of what is fair and reasonable in all the circumstances taking into consideration the rights and obligations of the parties under this Lease.

7.4 In case the Premises or any part thereof or the access thereto shall be destroyed or so damaged by any of the Insured Risks or by any event for which compensation is payable under the Criminal Damage (Compensation) (Northern Ireland) Order 1977 or any statutory re-enactment or modification thereof for the time being in force as to be unfit for occupation or use the Rent and the Service Charge and the Insurance Rent or a fair and just proportion thereof according to the nature and extent of the damage sustained (unless the damage or destruction concerned is due to the negligence or wilful default of the Lessee) shall be suspended and case to be payable until the Premises and/or the access thereto as the case may be shall have been rebuilt or reinstated to be made fit for occupation and use.

8. The Lessor covenants with the Lessee not to use the Lessors premises for any illegal or immoral purpose.

IN WITNESS of which the deed has been executed the day and year first above WRITTEN.

FIRST SCHEDULE

THE PREMISES

All that portion of the first floor of the Building at Springfield Road Belfast aforesaid shown for the purposes of identification only edged red on the Plan B attached comprising the shop units on the ground floor of the Building excluding all structural members thereof but including.

1. The paint paper and other decorative finishes applied to the interior surface of exterior walls, and
2. The floor finishes so that the lower limit of the Premises shall include such finishes but shall not extend to anything below them, and
3. The ceiling finishes so that the upper limit of the Premises shall include such finishes but shall not extend to anything above them, and
4. All additions and improvements to the Premises.



5. All pipes that or in or on and that exclusively serve the Premises.

SECOND SCHEDULE

RIGHTS GRANTED

1. PIPES

The right to the free passage and running (subject to temporary interruption for repair alteration or replacement) of water sewage electricity telephone and other services or supplies to and from the Premises in and through the pipes that now serve the Premises presently laid in or under or over other parts of the Building (in common with the Lessor and all other persons having a like right).

2. SUPPORT

The right of support and protection for the benefit of the Premises as is now enjoyed from all other parts of the Building.

3. ACCESS

- 3.1 The right at any time during the Term and upon reasonable notice except in cases of emergency to enter (or in cases of emergency to break and enter) other parts of the Building.
 - 3.1.1 To inspect the condition and the state of repair of those parts of the Building which the Lessor has covenanted with the Lessee to maintain and repair.
 - 3.1.2 To view the state and condition of and repair and maintain the Premises where such viewing or work would not otherwise be reasonably practicable.
 - 3.1.3 To carry out repairs decorations or any other works to the Premises where such work cannot be conveniently carried out without entering other parts of the Building.
 - 3.1.4 To exercise any of the rights granted to the Lessee by this Lease.
- 3.2 Provided that if through the exercise of these rights the Lessee interferes with the use and enjoyment of the other parts of the Building causing loss to the Lessors or their tenants the Lessee shall compensate the Lessors fully for such loss.
- 3.3. The right of way at all times for the Lessee its tenants and Licensees on foot only to pass and re-pass over and along the areas hatched green on the Plan B attached for business purposes in connection with the Premises.

THIRD SCHEDULE

RIGHTS RESERVED

1. USE OF PIPES

The right to the free and uninterrupted passage and running of water sewage electricity telephone and other services or supplies from and to other parts of the Building in and through the pipes which now are or may during the Term be in under or over the Premises.

2. CONSTRUCTION OF PIPES



The right to construct and to maintain in or under the Premises at any time during the Term any pipes for the benefit of any other part of the Building.

3. ACCESS

3.1 The right at any time during the Term and upon reasonable notice except in cases of emergency to enter (or in cases of emergency to break and enter) other parts of the Building.

3.1.1 To inspect the condition and the state of repair of the Premises.

3.1.2 To inspect cleanse connect to repair remove replace with others alter or execute any works whatever to or in connection with the pipes easements or services referred to in paragraphs 1 and 2 of this Schedule.

3.1.3 To view the state and condition of and repair and maintain the Building where such viewing or work would not otherwise be reasonably practicable.

3.1.4 To carry out work or to anything whatever comprised within the Lessors' obligations in this Lease.

3.1.5 To carry out repairs decorations or any other works to other parts in the Building where such work cannot be conveniently carried out without entering the Premises.

3.1.6 To exercise any of the rights granted to the Lessors by this Lease.

3.2 Provided that if through the exercise of these rights the Lessors interfere with the use and enjoyment of the Premises or by the Lessee or its tenants or undertenants or any of them causing loss to the Lessee or such tenants or undertenants the Lessors shall compensate the Lessee and such tenants or undertenants fully for such loss.

4. SUPPORT PROTECTION ETC.

The rights of light air support protection shelter and all other easements and rights now or after the date of this Lease belonging to or enjoyed by other parts of the Building.

5. SCAFFOLDING

The right to erect scaffolding for the purposes of repairing cleaning or decorating the exterior of the Building notwithstanding that such scaffolding may temporarily interfere with the access to or enjoyment and use the Premises provided that such interference is for the minimum reasonable period and that access to the Premises is not significantly affected thereby.



SIGNED SEALED and DELIVERED
by the said ARTHUR ROONEY and
ANTHONY ROONEY in the presence of:

Cicely P. White
Solicitor
Belfast

Arthur Rooney
Anthony Rooney

PRESENT when the Common Seal of
CLONARD RESIDENTS ASSOCIATION
was affixed hereto:

Mrs. Anne Mc Gray

Mrs. Margaret Johnston



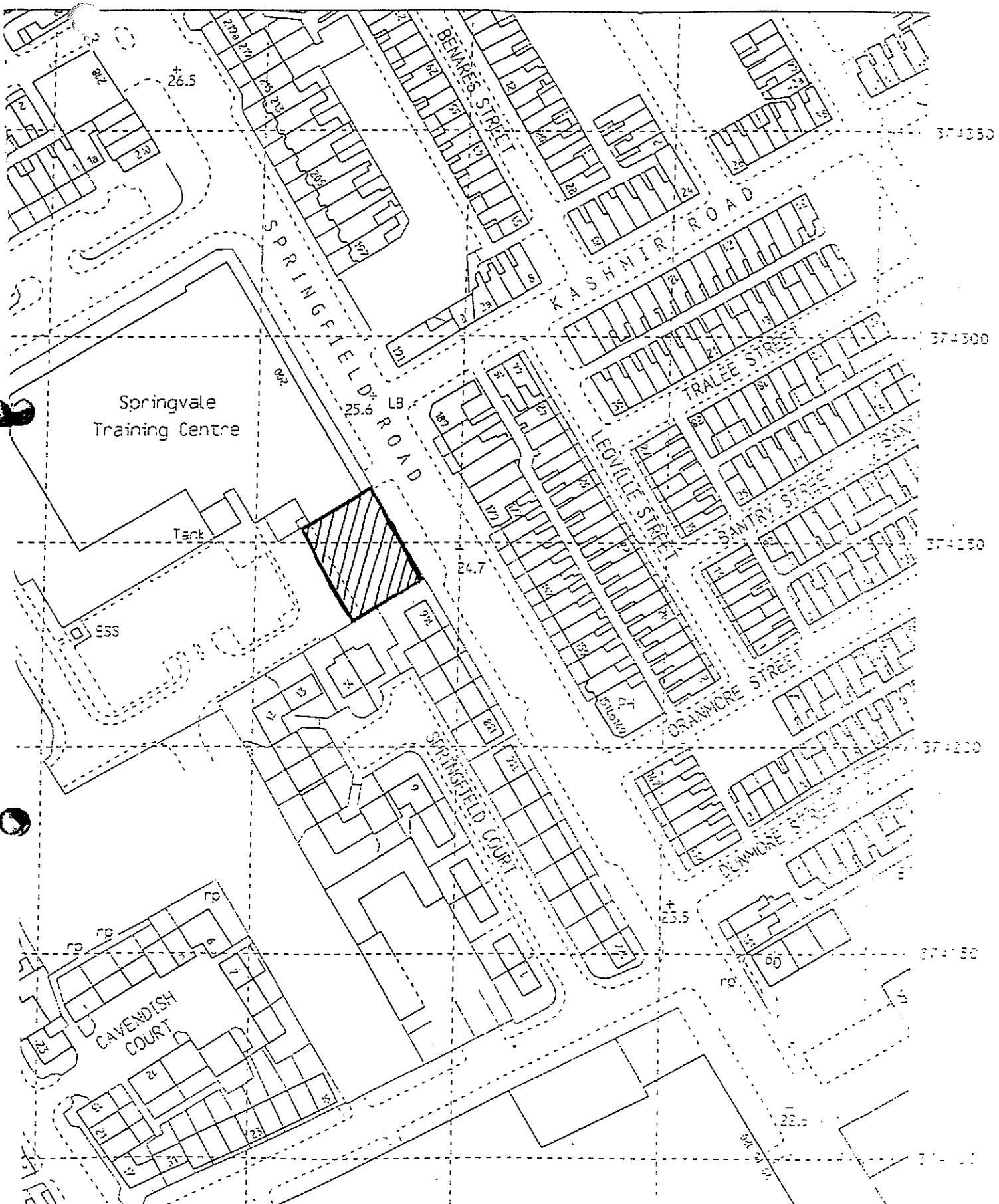


LOCATION MAP

SPRINGFIELD ROAD
LFACT, BT12 7DQ

Information from OSNI basic surveys.

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client: ROONEY BROS. & CLONARD RESID. ASSOC
project: RETAIL & OFFICE DEVELOP. 148-158 SP. RD.
title: LOCATION MAP.

date: 07-98 scale: 1:1250
drawn by: CS checked by:
drawing no: 97-410 F1.0 R1.

9

MBW Greater West Team

Twin Spires Centre
155 Northumberland St.
Belfast BT13 2JF

Tel: (01232) 244535 Fax: (01232) 321699

Memo

TO: George Harris
Departmental Solicitors Office *Your Ref SOL 2524/98/DOE/c*

FROM: John Brogan

DATE: 4 November 1999

RE: Clonard Residents Association and Rooney Brothers

Your minute of 21 October 1999 to Dennis Moffett and our recent telephone conversation on the subject refers.

As you suggested, I asked Ms Drinan, the solicitor representing Clonard Residents Association, for an explanation of her position outlined in her letter of 29 October 1999. I enclose a copy of her response. It is still rather dismissive.

Is this something we should continue to pursue, or is it as you suggested in your minute to Paul Holbrook dated 1 June 1999, primarily a matter for Clonard's solicitor?

John Brogan
J Brogan

note
discussed with George Harris.
He is still concerned about the insurance clause omission + would like us to pursue it again with CRA with a view to having it reinstated in full.
B 8/11/99

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FROM: G HARRIS
Departmental Solicitor's Office

DATE: 10 November 1999

To: Mr J Brogan
MBW
Greater West Team
Twin Spires Centre
155 Northumberland St
BELFAST, BT13 2JF

Initials SW-JB

CLONARD RESIDENTS ASSOCIATION AND ROONEY BROTHERS

I refer to your minute of 4 November.

The Department has to pursue the items which I have raised with regard to the lease insofar as the Department is funding this project and requires assurance that its funding is reasonably secure under the title which the Association is to obtain from Rooney Brothers.

I accept what Ms Drinan says with regard to the matter of interest in that there is no rent. It is also in the interest of the Association that the reference to interest rate is deleted with regard to the other payments which ultimately they will have to make to Rooney Brothers for their share of the maintenance.

Whilst it is true that the insurance obligation is on the lessors the lessee may be obliged to pay the insurance rent percentage still referred to at Clause 1(7) although this is obscure as there does not appear to be a direct lessee's covenant to pay the percentage.

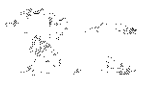
If the insurance is not to be in joint names it may be that the lessees would not recover in the event of destruction of the premises and it may be advisable for them to take out independent insurance and not rely on that taken out by the lessors. To protect the Department's investment it may need to insist on the Association keeping their interest in the premises insured throughout the term and if they are to do so it should be made clear in the lease as to whether or not they are in addition going to have to pay the insurance rent percentage. Under the amended lease the Association also loses out on the benefit of the lessor's covenant to apply insurance monies to the building. It is for these reasons that I would prefer the lease in its original form.

Of the other matters which I have raised concerning the lease I am not so concerned about the drafting of the service charge for maintenance of the fabric and exterior.

I would however wish to see the matter of the permitted user being settled and also as to whether or not the Association is to obtain the benefit of collateral warranties from members of the professional team.


G HARRIS

cc/ Mr B Moffett



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Your Ref. PD/CG

29th November 1999

**Ms P Drinan
16 Donegall Square South
BELFAST
BT1 5JG**

Central Office, Tel: 251455
North Team, Tel: 744022
South Team, Tel: 240117
East Team, Tel: 456822
Greater West Team,
(Twin Spires Office), Tel (028) 9024 4535
(Shankill Office), Tel: 333380

Dear Ms Drinan

CLONARD RESIDENTS' ASSOCIATION – ROONEY BROTHERS

There has been considerable correspondence on the contents of the lease between your client and Rooney Brothers, and I am afraid this is an extension to that.

Our Departmental Solicitor welcomes the re-instatement of the clause 6.8 in relation to insurance, but feels that the matter relating to permitted user (clause 1.5) will still have to be addressed.

He originally referred to it in a memo dated 21st October 1999, which I copied to you. As your client hopes to make a ^{portion} ~~position~~ of the premises available for renting, it is important to clearly specify the permitted use of the premises, as agreed with the lessors, as an annex to the lease itself.

His other remaining concern relates to whether your client is to receive the benefit of collateral warranties from Rooney Brothers' professional team. This is something which we can bear in mind in consultations with Rooney Brothers.

Yours sincerely

**JOHN BROGAN
BRO West Team**

File Note

I copied this to George Harris, and discussed the case at length. He is very satisfied that the insurance clause has been reinstated. In relation to the above, he confirmed again the need to sort out the "permitted user" as an annex to the lease and the collateral warranties prior to start of work.

Brogan 29/11

Making Belfast Work, Greater West Team
Twin Spires, 155 Northumberland Street, BELFAST, BT13 2JF
Tel: (028) 9024 4535, Fax: (028) 9032 1699
E-Mail Address west.mbw@nics.gov.uk

PS He confirmed that it would be in order to issue a final LCO to CPA in advance of the production of the annex. Must get collateral warranties before going on -

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Clonard Residents Association
131 Springfield Road
Belfast
BT13

30

RECEIVED
27 FEB 2001


Gerry McAreevey
Belfast Regeneration Office
European Unit
Brookmount Buildings
42 Fountain Street
Belfast
BT1 5EE

12.05/02/2001

Dear Gerry

Further to your letter of 30/01/01 I have written to Collette-McCabe re your questions, I would hope to have response within a few weeks.

I have written to our solicitor to seek the amendments to the lease arising from the changed building specification.

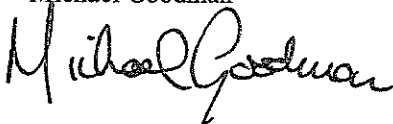
At present we have one tenant, West Belfast Economic Forum who occupy one of the large offices. Clonard Residents intend to move part of its activities to the new offices at future date but as yet we are not sure when that will be..

We are currently assessing our options re the VAT issue and I hope to speak to our accountant this week.

I hope this clarifies the current position if you require any further information please let me know.

Yours Sincerely

Michael Goodman





Clonard Residents Association
131 Springfield Road
Belfast
BT13

copy for DLO
31

Ms. Colette McCabe
Business Advice Unit
Custom House
Custom House Square
Belfast
BT1 3ET

5th February 2001

Dear Colette,

Thank you for your letter of 11/01/01.

I have a number of further queries, which I hope you can help me with and which will help us reach a decision on the way forward.

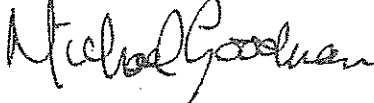
1. Can exemption to VAT be considered retrospectively i.e. back dated to the start of a project?
2. Can the registration process be carried out retrospectively?
3. What possible effects could registration have on the future running of the Association as a charitable organisation?

I appreciate the help already given by yourself and hope that you can help with these questions.

If there is any further information you require please contact me on 07703 255234.

Yours Sincerely

Michael Goodman



P. DRINAN

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DSD

Department for Social Development

Belfast Regeneration Office
European Unit
Brookmount Buildings
42 Fountain Street
Belfast
BT1 5EE

Tel. (028) 90 547824
Fax. (028) 90 251982
Email
Gerry.McAreavey.dsdni.gov.uk

Jeanette Diamond
Departmental Solicitors Office
Victoria Hall
12 May Street
Belfast
BT1 4NL

28th May 2001

Your Ref:
Our Ref: GMA/PRW PR018/91

Dear *Jeanette*

Thank you for your letter dated 22nd May 2001 regarding the charge position for a number of projects aided by the Peace and Reconciliation programme. I would have comment on two of those mentioned:

1. Albert Street

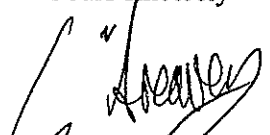
Please see the attached correspondence from the North & West Belfast Health and Social Services Trust regarding the land issues for the project. I have not received any further documentary evidence with regard to this information but would request that further representations be made to Murphy & O'Rawe Solicitors in this matter.

2. Clonard Residents Association

You were quite correct to state that no instruction to proceed had been notified to you. This I presume was due to an assumption on our part that the requirement had been noted by your branch (see attached copy correspondence from G.Harris). This project came very late in the programme to this branch and is of a complicated nature due to the building and occupancy arrangements. In fact, the ownership of the land still remains with the Department. I apologise for any confusion caused in this matter and would hope that this request can now proceed. I assume that sufficient information is already on file to allow you to proceed.

Should you require any further information please contact me on the above number.

Yours sincerely


Gerry McAreavey



FROM: MRS.S.BROADBENT
DEPARTMENTAL SOLICITORS OFFICE,
VICTORIA HALL.

Our Ref SOL.16661/01/DSD/SB

TEL: 51265

TO BRENDAN McCONVILLE,
SPECIAL PROGRAMMES
BROOKMOUNT BUILDINGS.

RECEIVED
13 JUN 2001

Re CLONARD RESIDENTS ASSOCIATION

Further to your instructions in this matter and our telephone conversation today I shall be obliged if you will please let me have a copy of the Association's Constitution/
X Memorandum and Articles of Association so that I can proceed to draft the Mortgage/Debenture.

The draft Lease supplied states that the premises are "the portion of the **first floor** of the Building **comprising the shop units on the ground floor** of the Building. Are you under the impression that it is both the first floor and the ground floor and if not which should it be? The Lease also refers to a right of way shaded green on the map but this is not shown on the map in the file, do you have a map showing the right of way?



S.BROADBENT (MRS)
15 June 2001

X Spoke to Siobhan in West Leam. She will check their files on Clonard residents to see if they have copies of the Constitution etc.

Broadbent 22/6/01.

12345
67890
ABCDEF

34

Our Ref: SOL 2924/98/DOE/GH

FROM: G HARRIS
Departmental Solicitor's Office

DATE: 26 July 2001

To: Mr David Moffett
Comprehensive Development Branch
Belfast Regeneration Office
Brookmount Buildings
42 Fountain Street
Belfast

*okmm
27/07*



TRANSFER OF LAND AT 148-158 SPRINGFIELD ROAD - PART OF FOLIO AN29202

I refer to your minute of 18 June and am pleased to return your file having prepared a copy of same for my own use. Regrettably my legal file is missing.

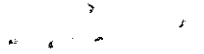
I would propose that we now proceed by entering into the Development Agreement and backdating same but making provision for the payment of the consideration for the transfer at some suitable date during this year.

Entering into the Development Agreement gives the parties some contractual structure to then move on to the granting of the Lease to the Resident's Association. Once the transfer has been made to Rooneys and they have executed the Lease to the Resident's Association then the Department can place the normal debenture mortgage against the Resident's Association's leasehold title.

In order that I may proceed please furnish me with the following:-

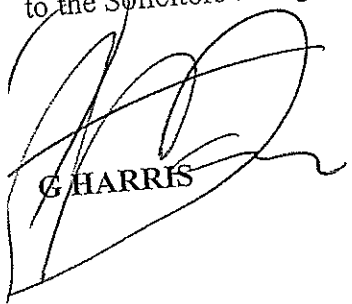
- ✓ 1. Up to date uncertified copy of Folio AN29202 (the name of the registered owner will likely need to be updated and I will attend to this).
- ✓ 2. Up to date copy Land Registry map in respect of Folio AN29202.
- 3. Land Registry approved drawing suitable for the transfer to Rooneys. *which file? The lost one.*
- 4. Land Registry approved drawing suitable for the Lease to the Resident's Association. Perhaps this could be obtained from Rooneys' Architects. I will mention this in my letter to their Solicitors.

*LP 19.
SL 68.
SL 81*



Mr David Moffett (cont'd)

I enclose copies of letters written both to the Solicitors acting for the Resident's Association and to the Solicitors acting for Rooneys.



G HARRIS

Encs

GH-JT1086

2000

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FROM: MRS.S.BROADBENT
DEPARTMENTAL SOLICITORS OFFICE,
VICTORIA HALL.

TEL: 51265

TO BRENDAN McCONVILLE,
BELFAST REGENERATION OFFICE
EUROPEAN UNIT,
BROOKMOUNT BUILDINGS
My ref SOL 1666/01/DSD/SB

Re CLONARD RESIDENTS ASSOCIATION

I acknowledge receipt of your Minute of 16th instant with its enclosures as stated.
Please let me know the name and address of the Company's Solicitors and their
reference if you have it.

I do not consider the description of the premises in the copy Lease to be clear, it
seems to be part of a building and there should be another map "B" with the Deed and
I wish to speak to the Solicitor to clarify the position.

I did try to speak to you but could not obtain any reply.



S.BROADBENT (MRS)
20 July 2001

RECEIVED
24 JUL 2001



Departmental Solicitor's Office

Victoria Hall, 12 May Street, Belfast BT1
Telephone: 028 9025 1251, Fax: 028 9025 1252
Direct Dialling: DX464 NR Belfast

36

Solicitor R F Cole

P Drinan
Solicitors
16 Donegall Square South
BELFAST
BT1 5JG

26 July 2001

Your Ref: PD/CG
Our Ref: SOL 2524/98/DOE/GH

Dear Ms Drinan

**CLONARD RESIDENTS' ASSOCIATION LIMITED - PREMISES AT 148-158
SPRINGFIELD ROAD, BELFAST**

I refer to the above matter and enclose for your information copy of recent letter sent to C P Steele, Solicitor. The letter sets out the present position with the builder developer - Rooney Brothers.

Please confirm that you are agreeable to the matter of proceeding as set out in my letter to C P Steele.

I would be obliged if you would proceed to settle the terms of the Lease with C P Steele. In this regard there are a few matters which trouble me.

1. The description of the premises seems odd as it would suggest that the shops on the ground floor are being included in the Lease to the Residents' Association. My understanding was that the Lease to the Residents' Association was only in respect of the first floor. Do you have copies of the drawings referred to in the draft Lease as A and B.
2. Beyond their covenant not to use the portion of the premises owned by them for any illegal or immoral purposes will it be possible to obtain any restriction on the user to which Rooney Brothers may put their part of the building. There is a note on my file that they might be agreeable to covenant not to use their portion of the premises for an off-licence, pub or fast food outlet all of which could affect the user of the first floor by Clonard and of the portion which they intend to sub-let.
3. The original insurance provisions in clause 6.8 require to be reinstated. The original provisions went to 5 paragraphs and were much more detailed as to the insurance obligation of the lessors. The clause also covered the situations where rebuilding or reinstatement of the building would be prevented or frustrated and placed an obligation

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P Drinan (cont'd)

upon the Lessors to rebuild. I am concerned to protect the investment which the Department has made in the construction of the property.

Please keep me advised as to your progress in settling the terms of the Lease to accommodate the Department's concerns.

The Residents' Association were to obtain collateral warranties from the members of the developer's professional team. Please advise if these were issued and if so furnish me with copies.

Finally, once the Lease has been granted to the Residents' Association the Department will then proceed to secure it's funding for the project against their Leasehold interest by way of the standard Debenture document appropriate to these matters. I will furnish you with a draft of same in due course.

Yours sincerely



G HARRIS

Enc

GH-JT1088

SECRET
NO FORN DISSEM

C

Departmental Solicitor's Office

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Victoria Hall, 12 May Street, Belfast BT1 4NL
Telephone: 028 9025 1251, Fax: 028 9025 1240
Direct Dialling: DX464 NR Belfast 1

Solicitor R F Cole

C P Steele LLB
Solicitor
177 Victoria Street
BELFAST
BT1 4PE

26 July 2001

Our Ref: SOL 2524/98/DOE/GH

Dear Sir

**PROPOSED TRANSFER OF LAND AT 148-158 SPRINGFIELD ROAD - FOLIO AN29202
DEPARTMENT FOR SOCIAL DEVELOPMENT -TO- ARTHUR AND ANTHONY ROONEY AND SUBSEQUENT LEASE ROONEY BROTHERS -TO- CLONARD RESIDENTS' ASSOCIATION**

I refer to the above matter and to telephone conversation with your Mr Steele on 25 July.

I have been advised by my instructing Branch that the building is now virtually completed and the final account has been issued. Indeed the portion of the building to be held under Lease by the Residents' Association ~~for~~ your clients is now ^{partially} ~~apparently~~ sub-let and the group are due to move in. Your clients have also apparently let one of the shop units and are in the process of finishing off the others.

In these circumstances it is imperative that ^{we} now tidy up the paperwork the Department transferring the lands to your clients at the agreed consideration of £20,000 and at the same time your clients granting to the Residents' Association a 999 year Lease of their portion of the building which I understand is to comprise the first floor.

I would propose that we enter into the documentation already prepared with such amendments as are necessary to the development Agreement to reflect the fact that the building has now been completed. I enclose copies of the existing documentation for your information.

Some amendments may be required to the Lease. At present two matters concern:-

1. The description of the premises in the first schedule does not appear to be correct as it seems to suggest that the shop units on the ground floor are to be leased to the Residents' Association.



10

10

C P Steele LLB (cont'd)

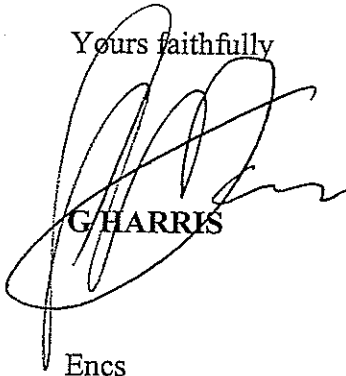
2. The only restriction being placed on the lessor as to its use of the premises appears to be a covenant not to use for any illegal or immoral purpose. My understanding was that your clients would covenant not to use the ground floor for the purposes of a public house, hot food bar or off-licence.

As Pat Drynan is acting for the Residents' Association I have asked her to write to you directly concerning the Lease with a view to having same finally settled.

In the meantime I am getting a copy of the Department's title which is Folio AN29202 together with corresponding Land Registry map also drawing suitable for the Transfer.

Please confirm that your client's architects will provide a drawing suitable for the Lease to the Residents' Association and in due course furnish me with copies of same.

Yours faithfully



G. HARRIS

Encs

GH-JT1087

1-1-81



DSD

Department for
Social Development

From: Gerry McAreavey
Physical Development
Brookmount Buildings

Your Ref: SOL2924/98/DOE

Our Ref: SL81

*Denas, 11/12/02
To note progress.
Gerry*

Tel: (5)47805

Fax: (2)51976

Email: gerry.mcareavey@dndni.gov.uk

Date: 01 February 2002

To: George Harris
Departmental Solicitors Office
Victoria Hall

Re: 148-158 Springfield Road – Rooney Bros/Clonard Residents

Please find enclosed the Land Registry Transfer in favour of Rooney Brothers and a copy receipt for the cheque relating to the above land transfer.

I understand that the Lease between the two parties is already in operation but have not seen a signed copy of it.

Am I correct in assuming that any Debenture against the Title would be for both our contribution and the funding provided through Peace and Reconciliation?

Should you have any queries please contact me on the above number.

Gerry McAreavey
Gerry McAreavey

*no, never seen
any*

3

...

...

10/12/02
Thanks documents signed & sealed
MJC

12/02 11/2/02 File Ref No: SL81

To: Mr. Thompson
(Director/Grade 5)

The attached documents are submitted for your consideration and signature/ sealing (delete as appropriate)

Address of property/land/site:

148-158 Springfield Road, Belfast

Documents attached:

Land Registry Transfer (prepared by DSO)

Brief Background information:

The site in question is part of the Springvale scheme adjacent to the Springvale Training Centre. This was a joint development scheme involving Rooney Bros. as developer/builder and community group Clonard Residents Association. Rooney Bros. were to own the Ground floor of the building and let units to small businesses. Clonard Residents Association were to lease the Upper floor (on a 999-year lease). The capital expenditure was split between Rooney Bros. and Peace and Reconciliation funding for the group. The land was to be legally transferred to Rooney Bros. on completion of the project and on condition that the Lease was executed in favour of the Residents Association. Payment of the outstanding £20,000.00 has only just been received following pressure from both CD branch and Departmental Solicitors Office. I can confirm that the payment has been cleared by Accounts Branch.

red

Criteria

Does the project fit with BRO objectives? Yes/~~No~~

Project was approved through the Peace and Reconciliation Programme

Does the local Area Team support the proposal? Yes/~~No~~

Project originated in the MBW West Team

1. 6. 1944

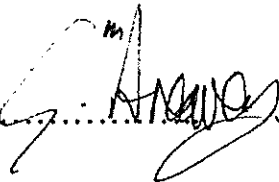
C.

Has all the necessary professional advice been obtained? Yes/~~No~~

Construction Service acted as Project Manager for the funding and DSO organised all legal arrangements

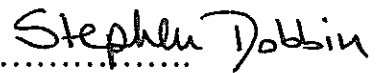
Are the submitted documents in order for execution? Yes/~~No~~

Date... 31/01/02...
(Staff Officer)

Signed... 

I am satisfied that all the required procedures have been followed and that the submitted documentation is in order.

Date... 31/1/02...

Signed... 
Head of Branch (or Deputy)



To: Mr. M Thompson
(Director/Grade 5)

The attached documents are submitted for your consideration and signature/ sealing (delete as appropriate)

Address of property/land/site:

148 – 158 Springfield Road, Belfast.

Documents attached:

Agreement (and counterpart) between DSD, Clonard Residents Association and Rooney Brothers.

Brief Background information:

This tripartite Agreement provides for the transfer of the site to Rooney Brothers for £20K who in turn were to build and ultimately own the premises comprising 4 retail units on ground floor and offices above. Rooney is to lease the offices to Clonard Residents under a 999 year lease free of rental. This Agreement should have been signed in 1999 but because of wrangling between the respective solicitors acting for the other 2 parties it did not happen. The building is already built, some of the retail units are let and Rooney has paid the £20K to DSD for the land.

Criteria

Does the project fit with BRO objectives? Yes

It is within the area of the Springvale Development Scheme and within one of the 10% most deprived areas in Northern Ireland. It will provide physical regeneration and a HQ base for a local community organisation.

Does the local Area Team support the proposal? Yes

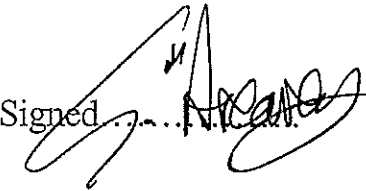
Project originated in Inner West Team. Clonard Residents received funding from Peace II through European Unit. Comprehensive Development have provided only the land.

Has all the necessary professional advice been obtained? Yes

The entire project has been monitored by Construction Service. V&LA set the valuation @ £20K. DSO have inserted covenants to provide for recoupment of funding.

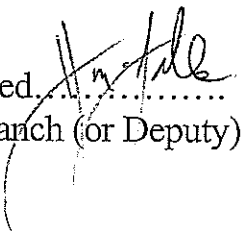
Are the submitted documents in order for execution? Yes

Date. 27/02/02.
(Staff Officer)

Signed 

I am satisfied that all the required procedures have been followed and that the submitted documentation is in order.

Date. 27/2/02

Signed 
Head of Branch (or Deputy)

1000

1000

Department for Regional Development Copy Receipt

715849

Address of Office HQ Accounts
 from CAFFEY'S BAR £ 20,000 00 p
 (including VAT) TWENTY THOUSAND
 appropriate box) Cheque Postal Order Cash in respect of
LAND AT 148-158 SPRINGFIELD ROAD B'FAST
 Signature [Signature] Date 22/1/02
 if VAT included £ p
 RATION NO. GD080

bed
e
/oz

Claire Murray
Accounts Branch - Room 425
Clarence Court

*please ensure
lodgement has cleared.
thanks, Gerry 30/1/02.*

LAND AT 148-158 SPRINGFIELD ROAD, BELFAST - DSD TO ROONEY BROTHERS &
CLONARD RESIDENTS' ASSOCIATION.

Please find enclosed a cheque for £20,000-00 in respect of the sale of the above.
Could you code this to 3947 9090 and send the copy receipts to me.

Thanks
Eugene McCardle

EUGENE McCARDLE
Room 5A
Brookmount Buildings
42 Fountain Street
Belfast
BT1 5EE

Cc Mr. G. Harris (Dept. Solicitors Office. Ref. SOL 2924/98/DOE/GH)

Bank of Ireland 
ANDERSONSTOWN, BELFAST

90-24-42

DEPARTMENT FOR Social Development.
~~Departmental Solicitors Office~~
the sum of Twenty thousand only Stg £ 20,000
1 4/1/02

Date 10th Jan 2002

CAFFEYS BAR



Memo

From: Dennis Moffett,
Comprehensive Development Branch,
Brookmount Buildings,
42 Fountain Street,
Belfast
BT1 5EE

Your Ref: SOL 2924/ 98/ DOE/ GH
Our Ref: CDB/ 56/ 3/ 5

CC:


Tel: 9025 1959
Fax: 9025 1976
Email: denis.moffett@dsdni.gov.uk

Date: 4 March 2002

To : Mr. G.W. Harris,
Departmental Solicitor's Office,
Victoria Hall,
12 May Street,
Belfast.

**148 – 158 SPRINGFIELD ROAD – ROONEY BROTHERS AND CLONARD
RESIDENTS ASSOCIATION**

I herewith return the two copies of the Development Agreement relating to the above which have been sealed as requested.



D.B. MOFFETT

Encs.

C

Dated the day of 2002

DEPARTMENT FOR SOCIAL DEVELOPMENT

WITH

CLONARD RESIDENTS ASSOCIATION
and
ROONEY BROTHERS

AGREEMENT

RF COLE
SOLICITOR
DEPARTMENT OF FINANCE & PERSONNEL
DEPARTMENTAL SOLICITOR'S OFFICE
VICTORIA HALL
12 MAY STREET
BELFAST
BT1 4NL



- 1.4 "Works" means the works which are to be carried out on the Site in accordance with the terms of this agreement and which are briefly described in the Second Schedule
- 1.5 "the Premises" means the Site together with such of the Works as may from time to time have been carried out on the Site
- 1.6 "the Building Documents" means the plans drawings specifications and other documents relating to the Works which are listed in the Third Schedule
- 1.7 "the Certificate Date" has the meaning specified in paragraph 5.6 of the Fourth Schedule
- 1.8 "the Estimated Completion Date" has the meaning specified in paragraph 4.2 of the Fourth Schedule
- 1.9 "the Completion Date" means the date falling five working days after the Certificate Date
- 1.10 "the Transfer" means the engrossed Land Registry Transfer in fee simple free from encumbrances of the Premises in the standard Land Registry form
- 1.11 "the consideration" means the sum of £20,000.00 to be paid to the Licensor as is hereafter provided as the consideration for the execution of this Licence
- 1.12 "the Licensor's Solicitors" means the Departmental Solicitor's Office of Victoria Hall 12 May Street Belfast BT1 4NL
- 1.13 "the Licensee's Solicitors" means C P Steele of 177 Victoria Street Belfast BT1 4PE and P Drinan of 16 Donegall Square South Belfast or such other firm of Solicitors as the Licensee may from time to time notify to the Licensor as being the Licensee's Solicitors for the purposes of this agreement;



- 1.14 "the Architect" means such professionally qualified architect as the Licensee may from time to time appoint;
- 1.15 Words importing one gender shall be construed as importing any other gender;
- 1.16 Words importing the singular shall be construed as importing the plural and vice versa
- 1.17 Where any party comprises more than one person the obligations and liabilities of that party under this agreement shall be joint and several obligations and liabilities of those persons
- 1.18 The clause and paragraph headings in the body of this agreement and in the Schedules do not form part of this agreement and shall not be taken into account in its construction or interpretation
- 1.19 Any reference to a "Clause" shall be to a Clause of this Agreement and any reference to a "Schedule" shall be to a Schedule of this Agreement

2. Works

- 2.1 Immediately on the making of this Agreement vacant possession of the site shall be given to the Licensee and the Licensee and all persons authorised by it (with or without plant and materials) shall have licence and authority to enter upon the Site for all purposes in any way connected with the carrying out of the Works in accordance with the Fourth Schedule and the provisions of the Fourth Schedule shall have effect accordingly;
- 2.2 The Licensee shall hold the Site and the Premises as Licensee of the Licensor from the date of this Agreement subject to the terms of this Agreement

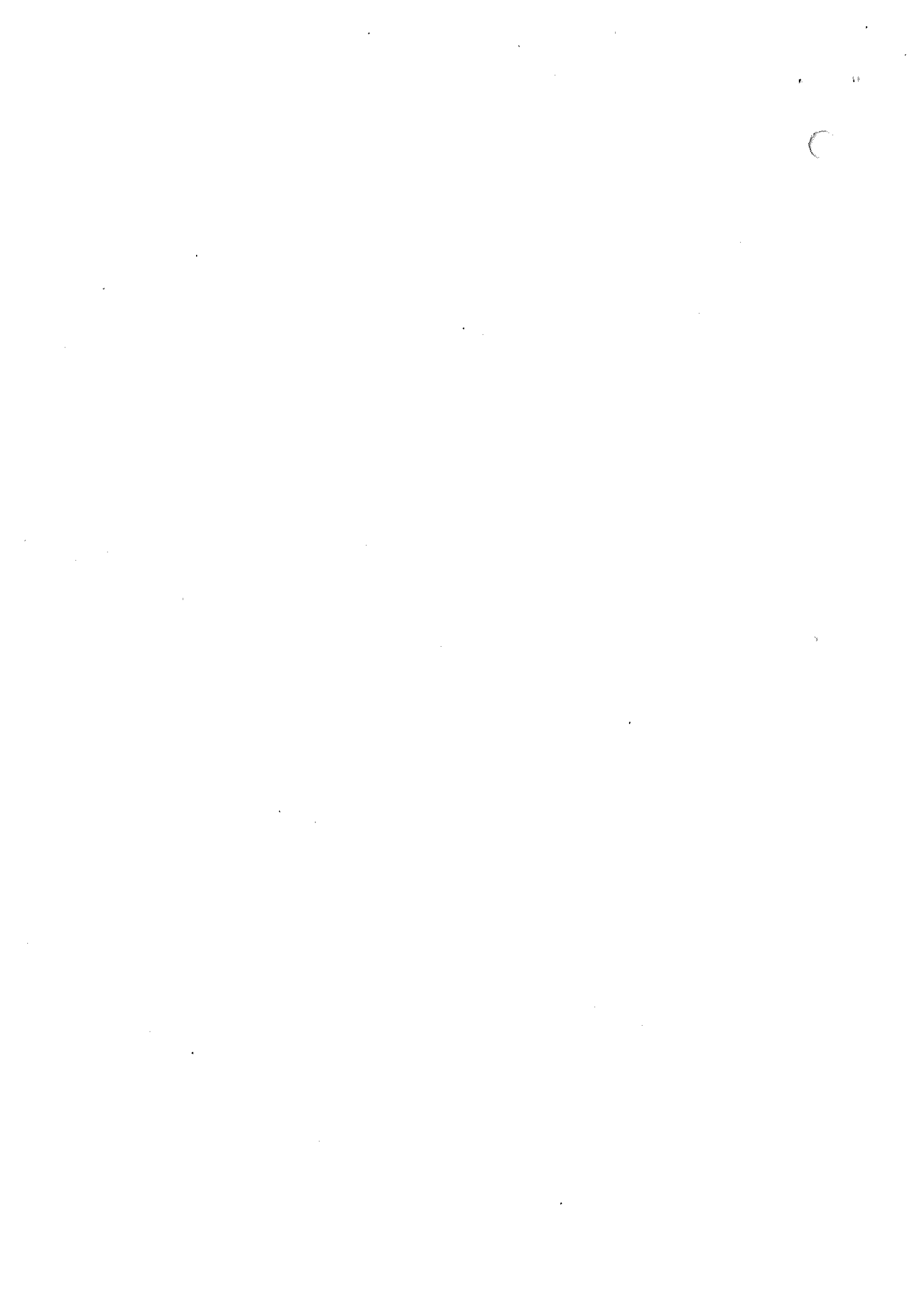


3. Grant of the Transfer

- 3.1 Subject as provided in the Fourth Schedule the Licensor shall execute the Transfer to Rooney Brothers
- 3.2 The Transfer shall be prepared by the Licensee's Solicitors in triplicate and the engrossments delivered to the Licensor's Solicitors not less than five working days before the Completion Date
- 3.3 The Transfer shall be executed by the Licensor on the Completion Date and completion shall take place at the offices of the Licensor's Solicitors Provided Always that the Transfer shall take effect subject to Rooney Brothers at the same time and place executing the Lease in favour of Clonard Residents Association
- 3.4 Subject to the provisions of Clause 3.3 upon completion Rooney Brothers shall become entitled to possession of the Premises under and by virtue of the Transfer but subject to the Lease and the Licensor shall deliver the executed Transfer to Rooney Brothers
- 3.5 Rooney Brothers shall following completion proceed diligently to stamp and register the Transfer and Clonard Residents Association shall likewise proceed to stamp and register the Lease as a burden against the lands transferred

4. Consideration

The Licensee shall pay the entirety of the Consideration of Twenty Thousand Pounds to the Licensor upon entering into this Licence and in respect of the payment time shall be of the essence



5. Title

As evidence of the right and title of the Licensor to execute the Transfer has been made available to the Licensee before the signing of this agreement the Licensee shall not require any further evidence of or raise any objection requisition or inquiry in respect of the Licensor's title to the Site up to the date of this agreement and the Licensor shall not create or permit the creation of any burden or encumbrance affecting such title

6. Notices

6.1 In this Clause:

6.1.1 "the Licensor's address" means the address of the Licensor show on the first page of this agreement or such other address in Northern Ireland as the Licensor may from time to time notify to the Licensee in writing as being its address for service for the purposes of this agreement

6.1.2 "the Licensee's address" means in respect of Clonard Residents Association 24 Kashmir Road Belfast and in respect of Rooney Brothers 454-458 Donegall Road Belfast or such other addresses in Northern Ireland as the Licensee may from time to time notify to the Licensor as being its addresses for service for the purposes of this agreement

6.2 Any notice or other communication given or made in accordance with this agreement shall be in writing and

6.2.1 shall be sent by registered or recorded delivery post and

6.2.2 shall (in the case of a notice or other communication to the Licensor but subject to clause 6.3.1) be served on the Licensor at the Licensor's address



- 6.2.3 shall (in the case of a notice or other communication to the Licensee but subject to clause 6.3.2) be served on the Licensee at the Licensee's address
- 6.3 Any notice or other communication given or made in accordance with this agreement
- 6.3.1 by or to the Licensor may be given or made in writing by or to the Licensor's Solicitors on behalf of the Licensor
- 6.3.2 by or to the Licensee may be given or made in writing by or to the Licensee's Solicitors on behalf of the Licensee

7. **No trading on site before completion of the Transfer**

The Licensee its servants or agents shall not trade or engage in any commercial activities other than the carrying out of the Works on the Site or the Premises prior to the Transfer to the Licensee without the written authority of the Licensor unless the Licensor is then in default of its obligations to complete the Transfer

8. **Licensee's Indemnity and Insurance**

- (1) The Licensee shall indemnify the Licensor against claims made by any person or corporate body for damage or loss to persons or property arising from the Licensee's building operations on the Site from the date of this Agreement and to such end shall maintain a policy of insurance with a responsible insurance office as is approved of in writing by the Licensor such approval not to be unreasonably withheld or delayed to provide cover against the said damage or loss in the sum of not less than £5,000,000.00 (five million pounds) any one claim and upon the request of the Licensor or its agent or produce for inspection the policy of such insurance or a sufficient extract therefrom and the receipt for the last premium



- (2) Upon executing this Licence the Licensee shall procure that the Works are insured and kept insured for the risks normally insured against by institutional investors in commercial property (to the extent that cover for such risks is available on the insurance market at normal commercial terms having due regard to the location of the Works for the full reinstatement value of the Works and such addition amounts necessary to cover demolition propping and making safe professional fees value added tax and if prior to the completion date the Works are destroyed or damaged by any reason the Licensee shall as soon as is practicably possible to do so lay out all sums recovered under the foregoing insurances in building the Works on the Site in accordance with all necessary statutory consents

9. **Exclusion of Warranty**

It is hereby agreed and declared that the Licensee has satisfied itself as to the suitability of area contour configuration and dimension and specific identity of the Site for the purpose of carrying out the Works and the Licensor gives or makes to the Licensee no warranty or condition as to the suitability of the Site for any particular purpose

10. **User of Site**

- (1) Without prejudice to Clause 7 the Licensee shall not prior to the Transfer (unless the Licensor is in default of its obligation to complete the Lease) use the site or the Premises for any purpose other than for or in connection with carrying out the Works and shall not commit or permit any nuisance to take place on the Site or the Premises
- (2) Any chattels or objects of value found upon the Site resulting from the excavation works will become the property of the Licensor



11. Building operations on site restricted to Works etc

Not to erect or place or permit to be erected or placed on the Site any buildings or other structures apart from the Works and any temporary buildings for site accommodation or other temporary structures or hoardings which the Licensee may reasonably require in carrying out the Works or for the security or screening thereof

12. Signs Notice

Not without the Licensor's written consent (such consent not to be unreasonably withheld or delayed) to erect any exterior sign or advertisement save display notices informing the public of the nature of the Works and the parties involved in carrying out the Works and advertisements for sale and/or letting

13. Minerals etc

To remove and dispose of earthy clay gravel sand or other minerals in or under the Site only to the extent required for the Works to be carried out

14. Clearance of Materials on completion

On completion of the Works to remove from the Site and any adjoining lands roads and footpaths any temporary buildings erected or placed thereon by the Licensee and any other materials and rubbish which have accumulated as a result of the carrying out of the Works

15. Alienation

Not to assign or otherwise part with the whole or any part of the interest in this agreement or in the Premises



16. Re-Entry and Penalties

16.1 Without prejudice to any other available right or remedy and subject to clause 16.2 the Licensor shall be entitled to re-enter the Site and the Premises or any part thereof in the name of the whole on one or more of the following events (whereupon subject and without prejudice to the other provisions of this clause 16 (which shall not determine) this Agreement and the Licensee hereby created shall cease and determine) that is to say:

- a. the Licensee shall fail to commence Work on the site within six months of the date of being given vacant possession of the site
- b. the Licensee shall fail to complete the Works within 60 days after the Estimated Completion Date or if this date is extended by virtue of paragraph 4.4 of the Fourth Schedule within 30 days after the date of such extension or extensions
- c. the Licensee shall in any material respect fail or omit to carry out its fundamental obligations under the Fourth Schedule and does not take all reasonable steps to rectify or commence rectification of such failure or omission within 56 days of being requested by the Licensor in writing so to do
- d. the Licensee shall enter into liquidation whether compulsory or voluntary other than a voluntary liquidation for the purpose of amalgamation or reconstruction or being an individual becomes the subject of any order made under the provisions of The Insolvency (NI) Order 1989



17. Statutory Approvals

For the avoidance of doubt it is hereby agreed by and between the parties that nothing herein contained or implied shall affect the Licensor's rights powers duties and obligations in the exercise of its functions as a Department of Government in Northern Ireland and the rights powers duties and obligations of the Licensor under all public and private statutes bye-laws orders and regulations may be as fully and effectually exercise in relation to the Site and the Works as if the Licensor were not the owner of the Site and this Agreement had not been made by the Licensor

18. Entire Understanding

- 18.1 This agreement embodies the entire understanding of the parties and there are no other arrangements between the parties relating to the subject matter of this agreement
- 18.2 No amendment or modification of this agreement shall be valid or binding on any party unless the same
- 18.2.1 is made in writing
- 18.2.2 refers expressly to this agreement and
- 18.2.3 is signed by the party concerned or its duly authorised representatives
- 18.3 The Licensee shall pay all stamp duty on this agreement and on a counterpart thereof

IN WITNESS whereof the parties have hereunto executed this Agreement the day and year first herein written



FIRST SCHEDULE

The Site

All that piece or parcel of land situate off Springfield Road Belfast and outlined in red on the location map attached hereto being part of the lands comprised in Folio AN29202 Entry No 4

SECOND SCHEDULE

The Works

The construction on the site of a Two storey development comprising 4 retail units on ground floor with community offices on the first floor all in accordance with Detailed Planning Permission dated the 12th day of February 1999 and bearing reference number Z/98/2636 granted by the Department of the Environment for Northern Ireland

THIRD SCHEDULE

The Building Documents

The plans and documents accompanying the application for detailed planning permission described in the Second Schedule together with the plans and drawings attached hereto and initialled by the Licensor and the Licensee

FOURTH SCHEDULE

Provisions relating to the Works

1. Definitions and interpretation

In this Schedule:-



- 1.1 Words and expressions defined in clause 1 of this agreement and in the other paragraphs of this schedule have the meanings specified
- 1.2 Any reference to a paragraph or paragraphs is a reference to the relevant paragraph or paragraphs of this schedule unless the context otherwise appears

2. Approvals

- 2.1 "Planning Permission" means the detailed planning permission for the carrying out of the Works granted by the Town and Country Planning Service of the Department of the Environment (Northern Ireland) on the 12th day of February 1999 under reference number Z/98/2636.
- 2.2 "Approvals" means the Planning Permission and all other approvals consents permissions and license of any governmental department statutory local or other competent authority which may from time to time be necessary to enable the Licensee lawfully to commence and to carry out the Works and each and every stage or phase of the Works and (if the same are destroyed or damaged) to reinstate the Works and "Approvals" shall be construed accordingly
- 2.3 The Licensee shall use all reasonable endeavours to obtain all Approvals which are from time to time necessary for carrying out the Works
- 2.4 The Licensee shall ensure that the Works are designed to comply with the requirements of the Northern Ireland Building and Fire Authority Regulations

3. Carrying out of Works

- 3.1 The Licensee shall commence the Works as soon as reasonably practicable after all necessary Approvals have been obtained to enable the Licensee lawfully to do so and subsequently shall diligently carry out and complete the Works



- 3.1.1 in a good and workmanlike manner and with sound materials of their respective kinds and
- 3.1.2 in accordance with the terms of all Approvals and
- 3.1.3 in accordance with the Buildings Documents with such variations only as are agreed by the parties in writing (the Licensor not to unreasonably withhold or delay its agreement to any variation required by the Licensee)
- 3.1.4 otherwise in accordance with the provisions of this schedule
- 3.2 During the course of construction of the Works the Licensee shall:-
 - 3.2.1 set up and maintain a security fence or hoarding of a pattern and type approved by the Licensor such approvals not to be unreasonably withheld or delayed around the perimeter of that portion of the site in which the Works are currently taking place
 - 3.2.2 work only within the area enclosed by the perimeter fence or hoarding and
 - 3.2.3 not store or keep on the Site during the works any materials liquids or substances of a dangerous combustible explosive or pollutant nature except such as are reasonably necessary to the progress of the Works and are usual in building practice

4. Time for completion of Works

- 4.1 "Delaying Factor" means any non-financial circumstances which despite the use of reasonable efforts are beyond the control of the Licensee and which the Licensee could not reasonably have prevented or avoided
- 4.2 "Estimated Completion Date" means the 18th day of December 2001



4.3 Subject to the provisions of paragraph 4.4 the Licensee shall use all reasonable endeavours to carry out and complete the Works not alter than the Estimated Completion Date

4.4 If on one or more occasions the carrying out of the Works is delayed in consequence of any Delaying Factor then on each such occasions the Licensee shall be allowed such extension of time for carrying out the Works as may be fair and reasonable in all the circumstances and the Estimated Completion Date shall be postponed accordingly

5. Completion

5.1 The Licensee shall give the Licensor not les than fourteen days' notice of the anticipated date for the issue of a Certificate by the Architect that the Works have been practically completed

5.2 As soon as practicable after receipt of such notice confirming such date the Licensor may carry out an inspection of the Works in the company of the Architect and the Licensee in order to allow the Licensor to make representations to the Architect in respect of the proposal to issue such Certificate and the Licensee shall endeavour to agree with the Licensor a list of any incomplete or defective works such list is to be split into

5.2.1 works which the Licensee shall use all reasonable endeavours to procure are completed prior to the issue of such Certificate

5.2.2 minor works (being such as ought not properly to inhibit an architect appointed under a standard form of Building Contract from issuing the



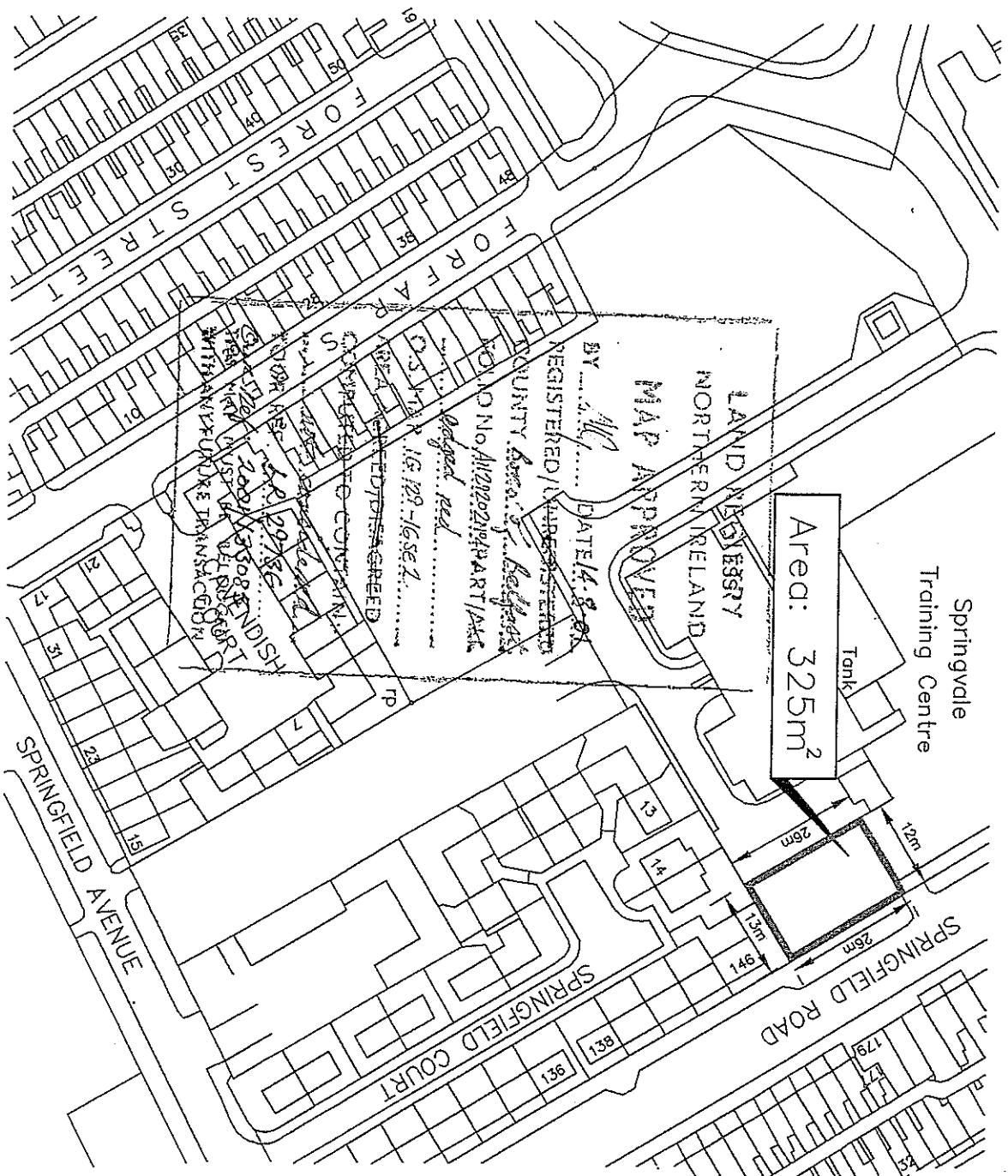
Certificate of Practical Completion thereunder) which will be completed during the Defects Liability Period under such Building Contract (if any)

- 5.3 In the event of the parties agreeing to a list of works pursuant to Clause 5.2.1 the Licensee shall use reasonable endeavours to procure that such works are remedied as soon as practicable in order that notice may be given to the Licensor advising the Licensor of the completion of such works so that the Licensor may inspect such works before the issue of the Certificate of Practical Completion and this procedure shall be repeated as many times as may be necessary until the Licensor shall have confirmed in writing that the works referred to in Clause 5.2.1 have been completed to its reasonable satisfaction
- 5.4 The Licensee shall send a copy of the Certificate of Practical Completion to the Licensor as soon as the same shall have been issued by the Architect
- 5.5 For the avoidance of doubt nothing in this clause 5 shall operate to fetter the discretion of the Architect to issue the Certificate of Practical Completion in relation to the Works
- 5.6 "Completion Date" means the date on which the Architects Certificate of Practical Completion is issued in accordance with this clause 5

PRESENT when the Official Seal)
of DEPARTMENT FOR SOCIAL)
DEVELOPMENT was affixed)
hereto:-)
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)
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)

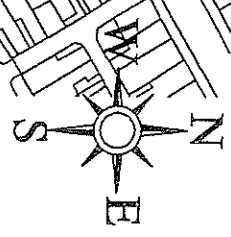
Mike Thomas
Helen McKee





Springvale
Training Centre

Area: 325m²



Based upon the Ordnance Survey of Northern Ireland 1:1250 map of 1996 with the permission of the Director & Chief Executive, © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

CONSTRUCTION SERVICE
New Works Division
Civil Engineering Branch

Hydebank
4 Hospital Road
Belfast BT8 8JJ
Tel: (028) 9025 3253
Fax: (028) 9025 3310

Client
Department for Social Development
Comprehensive Development Branch

Transfer Map:
Land at 148-158 Springfield Road,
Belfast

Drawing
Site Plan

Issued	Date

Scale
1:1250

Ordnance Survey Ref. No.
129-16 SE 2

Reproduced from Ordnance Survey

Drawn by	Date
M.F	August 2001
Verified by	Date
C.S	August 2001

Drawing No.
CDB/SF/15



PRESENT when the Common Seal)
of CLONARD RESIDENTS)
ASSOCIATION was affixed hereto:-)

)
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PRESENT when the Common Seal)
of ROONEY BROTHERS was)
affixed hereto:-)

)
)
)
)
)
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)

GH-BM-2528



Facsimile Cover Sheet

To:	Brendan McConville.
Company:	European Unit.
Fax:	028 90 251982.
From:	Seamus Murray.
Company:	BRO Inner West Team
Phone:	(028) 9024 4535
Fax:	(028) 9032 1699
Date:	29-5-02
Pages including this:	3

Comments: Brendan,

Please see letter from Arthur. This is the move which we had always thought he would make. He has used a bit of poetic licence in reflecting the discussion I had with him. I pointed out very clearly not reflected in his letter that any decision would have to be agreed by our European Unit and CRA. There also appears to be some dispute still ongoing with the new Committee and Arthur. They are still refusing to sign the contract and there are questions being asked about money. If you are content I will set up a meeting between ourselves and CRA to see how they view this proposal. Happy to discuss.

Seamus Murray

21

100





Design & Build Contractors

For The Attention Of:

Sean Murray

Chairman

Clonard Residents Association

148 -158 Springfield Road

Belfast

BT12 7DQ

Tuesday, 21st May 2002

Dear Sean

Subsequent to our two short conversations regarding my concerns reference the Post relationship between Clonard Residents and Rooney Brothers please find enclosed as requested written proposals which may enable Clonard Residents and Rooney Brothers to both feel they have achieved something tangible from this joint venture.

As you are aware Sean, I am conscious of the fact that Clonard now has a new Committee in place. The old committee, led by Michael Goodman, had previously negotiated the contract and lease agreement, which you have obviously sighted by now, through two solicitors. In short £260,000 was paid into Clonard through B.R.O. for a 999-year lease of the second floor. Rooney Brothers paid £20,000 for the land and £240,000 as our share of the Building Costs.

We have since insured the Building and are responsible for the external maintenance of the building. All, I'm sure you are now very much up to speed on.

Francis has made me aware that a number of members of the newly elected committee feel aggrieved with the contract/ deal agreed by the previous committee and believe the residents got the thin end of the wedge, metaphorically speaking. It is to that end Sean that I arranged a meeting with Seamus Murray, B.R.O. two Fridays ago and asked for his assistance in addressing Clonard Residents concerns regarding the joint venture.

454-458 Donegall Road,
Belfast BT12 6HS
Tel: (028) 9020 0812
Fax: (028) 9020 0813
VAT Reg. No. 517 9715 19

C



Design & Build Contractors

He now informs me that a recent representation has been made to him regarding the two derelict houses, previous premises of the Clonard Residents, as a new base. It did confirm Francis opinion that there seems to be some ill feeling in relation to the lease and contract.

He went on to say that B.R.O. could not assist in this instance as they had paid out £260,000 for the second floor of our building, which still has yet to be used as a base for Clonard Residents.

However he felt it might be possible for Rooney Brothers to redirect Clonards monies, namely £260,000 towards the new base if an agreement/ accommodation can be reached with both parties. Namely a dwelling which would give Clonard a totally independent ground floor facility, with a set of upstairs offices which could be leased out to pay for the Development worker/ Rent as previously envisaged in the first contract, so that there is no short fall in rental incomes.

Presently Sean these proposals are fluid and would need a lot of fine tuning by both your committee and Rooney Brothers to bring to fruition, but it is possible. They may offer the best way forward to lance the boil of ill feeling presently felt by some members of Clonard Residents.

If you have any ambiguity regarding any of these proposals please don't hesitate to contact me.

Yours sincerely

Arthur Rooney
Rooney Brothers

Raymond, Falls
Women's
Centre
Please see attached
FAX from Seamus
Murray.

I feel it is now time
to meet with CRA.
Seamus has offered
to arrange

Brandon

Tel: (028) 9020 0812

Fax: (028) 9020 0813

VAT Reg. No. 517 9715 19

Clonard Residents have not yet signed.
Alleged (Money has gone astray).
Hot Food outlet on ground floor
- what is position.

4 11 4

C

Memo

From: Dennis Moffett,
Physical Development Branch,
Brookmount Buildings,
42 Fountain Street,
Belfast
BT1 5EE

Your Ref:
Our Ref: CDB/56/3/5

Tel: 9025 1959
Fax: 9025 1976
Email: denis.moffett@dsdni.gov.uk

Date: 13 September 2002

To: Mr. Gerry McAreavey

**148 – 158 SPRINGFIELD ROAD – ROONEY BROTHERS AND CLONARD
RESIDENTS ASSOCIATION**

1. Please see memo of 30 August 2002 from George Harris, with enclosures about the above, filed under.
2. The lease from Rooney to Clonard - copy in pocket aside – does refer at Clause 5.5.6 to the use being principally to provide residential accommodation. I, like Mr. Harris, am unaware that this was ever the intention. My recollection from the origins of this project was that it was to provide 5 retail outlets at ground level with office accommodation above to include some for Clonard.
3. The other matter of the off licence / hot food outlet is also new to me and Mr. Harris says that it never got on to paper.
4. I don't know whether there is anything we could do to help sort out this wrangle. Could it be that Clonard is now virtually defunct, is looking for a way out and thinks it has found one or two ?

Dennis Moffett

DENNIS MOFFETT

CC:

Dennis 13/9/02
You are quite correct there was never any intention to include residential accommodation. The ground floor was to be used for retail units, the use of a unit for food or alcohol is really a Planning Licence matter. I would be anxious to resolve that we have already received the transfer premium. Maybe a discussion with Equipac would help.
Thanks Gerry 13/9/02

~~*[Handwritten signature]*~~
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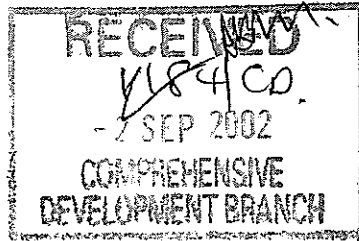
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4
Your Ref: CDB/56/3/5

Our Ref: SOL 2924/98/DOE/GH

FROM: G HARRIS
Departmental Solicitor's Office



DATE: 30 August 2002

To: Denis Moffett *WMM. 04/09*
Comprehensive Development Branch
Brookmount Buildings
42 Fountain Street
Belfast
BT1 5EE

148-158 SPRINGFIELD ROAD – ROONEY BROTHERS AND CLONARD RESIDENTS ASSOCIATION

I refer to the above matter which has now reached an impasse. The situation is that I am holding the executed Transfer in favour of Rooney Brothers pending agreement of the terms of the lease to Clonard Residents Association. It is proving difficult to have the terms of the lease settled.

I enclose copies of recent correspondence that has passed between C P Steele Solicitor and P Drinan Solicitor.

The difficulties remaining with the lease are that it contains a statement at Clause 5.5.6 that the development is being used principally to provide residential accommodation and the lessee therefore agrees that it will not do anything which can be reasonably construed by the lessor as inconsistent with the general use and enjoyment of the development for the purposes of such residential accommodation. To my mind this clause is simply wrong and has always been wrong. As I understand it the original intention was for a development which would have a retailing use on the ground floor and indeed I am not aware if the provision of residential accommodation as the principle use was ever contemplated.

The other matter of contention is that at some stage or other most likely at the very beginning of the proposed development Rooney Brothers may have intimated that they would covenant that none of the properties would be leased as an off licence or hot food premises or any sort of food carryout premises. Rooney Brothers however did not at any stage specifically contract in these terms. I understand that some of the retailing units have been let for such purposes.

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To: Denis Moffett (Cont'd)

I am of the opinion that the Residents Association cannot hold out to have these covenants implemented. Basically the development has been completed as planned and there is no likelihood of Rooney Brothers evicting the present operators of the retail units and submitting to a lease in the terms required by the Association.

As it is your Department's money which has funded the project is there anything you can do to encourage the Association to take up the lease in its present form and operate from the premises so that I may release the transfer and take out a debenture secured against the lease.



G HARRIS

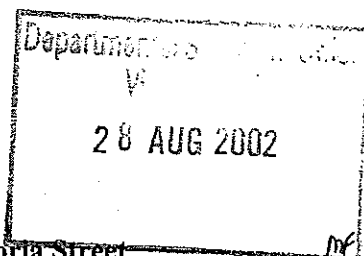
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GH-HT-4124

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C.P. STEELE, LL.B

- Solicitor -



Ciaran P. Steele LL.B

177 Victoria Street
Belfast BT1 4PE
Tele No: (028) 90 435345
Fax No: (028) 90 435346
DX 534 NR Belfast 1
E-mail: Cpsteele LLB@aol.com

Our Ref: CPS/JR

Your Ref: SOL 2924/98/DOE/GH

27th August 2002

Mr. G. Harris
Departmental Solicitor's Office
DX 464 NR
BELFAST 1

Dear Sir

re: Transfer of Land at 148-158 Springfield Road, Belfast
My clients: Rooney Brothers
Other Party: Clonard Residents Association.

Thank you for your letter of 10th July 2002. I apologise for the gross delay in replying to you.

Please find enclosed herein a copy of the most recent letter received by me from Ms. Drinan, Solicitor dated 3rd July 2002.

The situation is that my clients have been endeavouring to resolve this matter directly with a representative of Clonard Residents Association.

Unfortunately it appears that Clonard Residents Association, for some apparent reason, will not or cannot make any decision. Are you aware of any pressure which you can bring to bear on them in order to finalise this matter. My clients wish this transaction to be brought to an end.

I look forward to hearing from you.

Yours faithfully,

C.P. Steele
C.P. STEELE.

Handwritten: LMK TP
28.8.02

to ...
...
...

P. DRINAN SOLICITOR

Padraigin Drinan LI B Notary Public

16 Donegall Square South
Belfast BT1 5JG
Phone (028) 90 322071
Facsimile (028) 90 240495
Email padraigin@btopenworld.com

Our Reference :
Your Reference :

3 July 2002

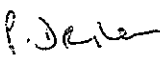
CP Steele Solicitor
177 Victoria Street
BELFAST

Dear Sir

Re: Your client Rooney Brothers
Clonard Residents Association

As you know discussions are going on between my client your client and the funders in relation to this matter. There are matters to be resolved before this can proceed any further. When the parties involved have resolved the issues between them including the defects in the lease and when an agreed amendment has been arranged between them I will be in touch with you.

Yours faithfully


P. Drinan

Ciaran P. Steele LL.B
Received on:
04 JUL 2002

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.....
.....
.....

Memo

From: Dennis Moffett,
Comprehensive Development Branch,
Brookmount Buildings,
42 Fountain Street,
Belfast
BT1 5EE

Your Ref: SOL 2924/98/DOE/GH
Our Ref: CDB/56/3/5

CC:

Tel: 9025 1959

Fax: 9025 1976

Email: denis.moffett@dsdni.gov.uk

Date: 30 October 2002

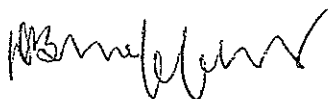
To: Mr. G.W. Harris,
Departmental Solicitor's Office,
Victoria Hall,
12 May Street,
Belfast.

**148 – 158 SPRINGFIELD ROAD – ROONEY BROTHERS AND CLONARD
RESIDENTS ASSOCIATION**

I am sorry that I have not replied earlier to your memos of 30 August and 14 October 2002 about the above.

There was nothing we, in this Branch, could do to attempt to resolve this matter as we have had no direct involvement with either Rooney or Clonard. However, two other Branches of DSD viz. the European Unit which funded this project and the Belfast Regeneration Office Inner West Team have been closely involved with the two parties. These Branches have been aware of the differences between them and have tried to resolve them. In this they have failed as they find the parties very difficult to deal with and the differences between them irreconcilable. The problem seems to be compounded by the fact that the Clonard management committee has changed since the origins of the project.

I am sorry that we have been unable to help in this matter.



DENNIS MOFFETT



Dated the day of 2002

DEPARTMENT FOR SOCIAL DEVELOPMENT

WITH

CLONARD RESIDENTS ASSOCIATION
and
ROONEY BROTHERS

AGREEMENT

R F COLE
SOLICITOR
DEPARTMENT OF FINANCE & PERSONNEL
DEPARTMENTAL SOLICITOR'S OFFICE
VICTORIA HALL
12 MAY STREET
BELFAST
BT1 4NL

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1000
1000



- 1.4 "Works" means the works which are to be carried out on the Site in accordance with the terms of this agreement and which are briefly described in the Second Schedule
- 1.5 "the Premises" means the Site together with such of the Works as may from time to time have been carried out on the Site
- 1.6 "the Building Documents" means the plans drawings specifications and other documents relating to the Works which are listed in the Third Schedule
- 1.7 "the Certificate Date" has the meaning specified in paragraph 5.6 of the Fourth Schedule
- 1.8 "the Estimated Completion Date" has the meaning specified in paragraph 4.2 of the Fourth Schedule
- 1.9 "the Completion Date" means the date falling five working days after the Certificate Date
- 1.10 "the Transfer" means the engrossed Land Registry Transfer in fee simple free from encumbrances of the Premises in the standard Land Registry form
- 1.11 "the consideration" means the sum of £20,000.00 to be paid to the Licensor as is hereafter provided as the consideration for the execution of this Licence
- 1.12 "the Licensor's Solicitors" means the Departmental Solicitor's Office of Victoria Hall 12 May Street Belfast BT1 4NL
- 1.13 "the Licensee's Solicitors" means C P Steele of 177 Victoria Street Belfast BT1 4PE and P Drinan of 16 Donegall Square South Belfast or such other firm of Solicitors as the Licensee may from time to time notify to the Licensor as being the Licensee's Solicitors for the purposes of this agreement;



- 1.14 "the Architect" means such professionally qualified architect as the Licensee may from time to time appoint;
- 1.15 Words importing one gender shall be construed as importing any other gender;
- 1.16 Words importing the singular shall be construed as importing the plural and vice versa
- 1.17 Where any party comprises more than one person the obligations and liabilities of that party under this agreement shall be joint and several obligations and liabilities of those persons
- 1.18 The clause and paragraph headings in the body of this agreement and in the Schedules do not form part of this agreement and shall not be taken into account in its construction or interpretation
- 1.19 Any reference to a "Clause" shall be to a Clause of this Agreement and any reference to a "Schedule" shall be to a Schedule of this Agreement

2. Works

- 2.1 Immediately on the making of this Agreement vacant possession of the site shall be given to the Licensee and the Licensee and all persons authorised by it (with or without plant and materials) shall have licence and authority to enter upon the Site for all purposes in any way connected with the carrying out of the Works in accordance with the Fourth Schedule and the provisions of the Fourth Schedule shall have effect accordingly;
- 2.2 The Licensee shall hold the Site and the Premises as Licensee of the Licensor from the date of this Agreement subject to the terms of this Agreement



3. Grant of the Transfer

- 3.1 Subject as provided in the Fourth Schedule the Licensor shall execute the Transfer to Rooney Brothers
- 3.2 The Transfer shall be prepared by the Licensee's Solicitors in triplicate and the engrossments delivered to the Licensor's Solicitors not less than five working days before the Completion Date
- 3.3 The Transfer shall be executed by the Licensor on the Completion Date and completion shall take place at the offices of the Licensor's Solicitors Provided Always that the Transfer shall take effect subject to Rooney Brothers at the same time and place executing the Lease in favour of Clonard Residents Association
- 3.4 Subject to the provisions of Clause 3.3 upon completion Rooney Brothers shall become entitled to possession of the Premises under and by virtue of the Transfer but subject to the Lease and the Licensor shall deliver the executed Transfer to Rooney Brothers
- 3.5 Rooney Brothers shall following completion proceed diligently to stamp and register the Transfer and Clonard Residents Association shall likewise proceed to stamp and register the Lease as a burden against the lands transferred

4. Consideration

The Licensee shall pay the entirety of the Consideration of Twenty Thousand Pounds to the Licensor upon entering into this Licence and in respect of the payment time shall be of the essence



5. Title

As evidence of the right and title of the Licensor to execute the Transfer has been made available to the Licensee before the signing of this agreement the Licensee shall not require any further evidence of or raise any objection requisition or inquiry in respect of the Licensor's title to the Site up to the date of this agreement and the Licensor shall not create or permit the creation of any burden or encumbrance affecting such title

6. Notices

6.1 In this Clause:

6.1.1 "the Licensor's address" means the address of the Licensor show on the first page of this agreement or such other address in Northern Ireland as the Licensor may from time to time notify to the Licensee in writing as being its address for service for the purposes of this agreement

6.1.2 "the Licensee's address" means in respect of Clonard Residents Association 24 Kashmir Road Belfast and in respect of Rooney Brothers 454-458 Donegall Road Belfast or such other addresses in Northern Ireland as the Licensee may from time to time notify to the Licensor as being its addresses for service for the purposes of this agreement

6.2 Any notice or other communication given or made in accordance with this agreement shall be in writing and

6.2.1 shall be sent by registered or recorded delivery post and

6.2.2 shall (in the case of a notice or other communication to the Licensor but subject to clause 6.3.1) be served on the Licensor at the Licensor's address



- 6.2.3 shall (in the case of a notice or other communication to the Licensee but subject to clause 6.3.2) be served on the Licensee at the Licensee's address
- 6.3 Any notice or other communication given or made in accordance with this agreement
- 6.3.1 by or to the Licensor may be given or made in writing by or to the Licensor's Solicitors on behalf of the Licensor
- 6.3.2 by or to the Licensee may be given or made in writing by or to the Licensee's Solicitors on behalf of the Licensee

7. **No trading on site before completion of the Transfer**

The Licensee its servants or agents shall not trade or engage in any commercial activities other than the carrying out of the Works on the Site or the Premises prior to the Transfer to the Licensee without the written authority of the Licensor unless the Licensor is then in default of its obligations to complete the Transfer

8. **Licensee's Indemnity and Insurance**

- (1) The Licensee shall indemnify the Licensor against claims made by any person or corporate body for damage or loss to persons or property arising from the Licensee's building operations on the Site from the date of this Agreement and to such end shall maintain a policy of insurance with a responsible insurance office as is approved of in writing by the Licensor such approval not to be unreasonably withheld or delayed to provide cover against the said damage or loss in the sum of not less than £5,000,000.00 (five million pounds) any one claim and upon the request of the Licensor or its agent or produce for inspection the policy of such insurance or a sufficient extract therefrom and the receipt for the last premium



- (2) Upon executing this Licence the Licensee shall procure that the Works are insured and kept insured for the risks normally insured against by institutional investors in commercial property (to the extent that cover for such risks is available on the insurance market at normal commercial terms having due regard to the location of the Works for the full reinstatement value of the Works and such addition amounts necessary to cover demolition propping and making safe professional fees value added tax and if prior to the completion date the Works are destroyed or damaged by any reason the Licensee shall as soon as is practicably possible to do so lay out all sums recovered under the foregoing insurances in building the Works on the Site in accordance with all necessary statutory consents

9. **Exclusion of Warranty**

It is hereby agreed and declared that the Licensee has satisfied itself as to the suitability of area contour configuration and dimension and specific identity of the Site for the purpose of carrying out the Works and the Licensor gives or makes to the Licensee no warranty or condition as to the suitability of the Site for any particular purpose

10. **User of Site**

- (1) Without prejudice to Clause 7 the Licensee shall not prior to the Transfer (unless the Licensor is in default of its obligation to complete the Lease) use the site or the Premises for any purpose other than for or in connection with carrying out the Works and shall not commit or permit any nuisance to take place on the Site or the Premises
- (2) Any chattels or objects of value found upon the Site resulting from the excavation works will become the property of the Licensor



11. **Building operations on site restricted to Works etc**

Not to erect or place or permit to be erected or placed on the Site any buildings or other structures apart from the Works and any temporary buildings for site accommodation or other temporary structures or hoardings which the Licensee may reasonably require in carrying out the Works or for the security or screening thereof

12. **Signs Notice**

Not without the Licensor's written consent (such consent not to be unreasonably withheld or delayed) to erect any exterior sign or advertisement save display notices informing the public of the nature of the Works and the parties involved in carrying out the Works and advertisements for sale and/or letting

13. **Minerals etc**

To remove and dispose of earthy clay gravel sand or other minerals in or under the Site only to the extent required for the Works to be carried out

14. **Clearance of Materials on completion**

On completion of the Works to remove from the Site and any adjoining lands roads and footpaths any temporary buildings erected or placed thereon by the Licensee and any other materials and rubbish which have accumulated as a result of the carrying out of the Works

15. **Alienation**

Not to assign or otherwise part with the whole or any part of the interest in this agreement or in the Premises



16. Re-Entry and Penalties

16.1 Without prejudice to any other available right or remedy and subject to clause 16.2 the Licensor shall be entitled to re-enter the Site and the Premises or any part thereof in the name of the whole on one or more of the following events (whereupon subject and without prejudice to the other provisions of this clause 16 (which shall not determine) this Agreement and the Licensee hereby created shall cease and determine) that is to say:

- a. the Licensee shall fail to commence Work on the site within six months of the date of being given vacant possession of the site
- b. the Licensee shall fail to complete the Works within 60 days after the Estimated Completion Date or if this date is extended by virtue of paragraph 4.4 of the Fourth Schedule within 30 days after the date of such extension or extensions
- c. the Licensee shall in any material respect fail or omit to carry out its fundamental obligations under the Fourth Schedule and does not take all reasonable steps to rectify or commence rectification of such failure or omission within 56 days of being requested by the Licensor in writing so to do
- d. the Licensee shall enter into liquidation whether compulsory or voluntary other than a voluntary liquidation for the purpose of amalgamation or reconstruction or being an individual becomes the subject of any order made under the provisions of The Insolvency (NI) Order 1989

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17. Statutory Approvals

For the avoidance of doubt it is hereby agreed by and between the parties that nothing herein contained or implied shall affect the Licensor's rights powers duties and obligations in the exercise of its functions as a Department of Government in Northern Ireland and the rights powers duties and obligations of the Licensor under all public and private statutes bye-laws orders and regulations may be as fully and effectually exercise in relation to the Site and the Works as if the Licensor were not the owner of the Site and this Agreement had not been made by the Licensor

18. Entire Understanding

18.1 This agreement embodies the entire understanding of the parties and there are no other arrangements between the parties relating to the subject matter of this agreement

18.2 No amendment or modification of this agreement shall be valid or binding on any party unless the same

18.2.1 is made in writing

18.2.2 refers expressly to this agreement and

18.2.3 is signed by the party concerned or its duly authorised representatives

18.3 The Licensee shall pay all stamp duty on this agreement and on a counterpart thereof

IN WITNESS whereof the parties have hereunto executed this Agreement the day and year first herein written

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FIRST SCHEDULE

The Site

All that piece or parcel of land situate off Springfield Road Belfast and outlined in red on the location map attached hereto being part of the lands comprised in Folio AN29202 Entry No 4

SECOND SCHEDULE

The Works

The construction on the site of a Two storey development comprising 4 retail units on ground floor with community offices on the first floor all in accordance with Detailed Planning Permission dated the 12th day of February 1999 and bearing reference number Z/98/2636 granted by the Department of the Environment for Northern Ireland

THIRD SCHEDULE

The Building Documents

The plans and documents accompanying the application for detailed planning permission described in the Second Schedule together with the plans and drawings attached hereto and initialled by the Licensor and the Licensee

FOURTH SCHEDULE

Provisions relating to the Works

1. Definitions and interpretation

In this Schedule:-

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1.1 Words and expressions defined in clause 1 of this agreement and in the other paragraphs of this schedule have the meanings specified

1.2 Any reference to a paragraph or paragraphs is a reference to the relevant paragraph or paragraphs of this schedule unless the context otherwise appears

2. Approvals

2.1 "Planning Permission" means the detailed planning permission for the carrying out of the Works granted by the Town and Country Planning Service of the Department of the Environment (Northern Ireland) on the 12th day of February 1999 under reference number Z/98/2636.

2.2 "Approvals" means the Planning Permission and all other approvals consents permissions and license of any governmental department statutory local or other competent authority which may from time to time be necessary to enable the Licensee lawfully to commence and to carry out the Works and each and every stage or phase of the Works and (if the same are destroyed or damaged) to reinstate the Works and "Approvals" shall be construed accordingly

2.3 The Licensee shall use all reasonable endeavours to obtain all Approvals which are from time to time necessary for carrying out the Works

2.4 The Licensee shall ensure that the Works are designed to comply with the requirements of the Northern Ireland Building and Fire Authority Regulations

3. Carrying out of Works

3.1 The Licensee shall commence the Works as soon as reasonably practicable after all necessary Approvals have been obtained to enable the Licensee lawfully to do so and subsequently shall diligently carry out and complete the Works



- 3.1.1 in a good and workmanlike manner and with sound materials of their respective kinds and
- 3.1.2 in accordance with the terms of all Approvals and
- 3.1.3 in accordance with the Buildings Documents with such variations only as are agreed by the parties in writing (the Licensor not to unreasonably withhold or delay its agreement to any variation required by the Licensee)
- 3.1.4 otherwise in accordance with the provisions of this schedule
- 3.2 During the course of construction of the Works the Licensee shall:-
 - 3.2.1 set up and maintain a security fence or hoarding of a pattern and type approved by the Licensor such approvals not to be unreasonably withheld or delayed around the perimeter of that portion of the site in which the Works are currently taking place
 - 3.2.2 work only within the area enclosed by the perimeter fence or hoarding and
 - 3.2.3 not store or keep on the Site during the works any materials liquids or substances of a dangerous combustible explosive or pollutant nature except such as are reasonably necessary to the progress of the Works and are usual in building practice

4. Time for completion of Works

- 4.1 "Delaying Factor" means any non-financial circumstances which despite the use of reasonable efforts are beyond the control of the Licensee and which the Licensee could not reasonably have prevented or avoided
- 4.2 "Estimated Completion Date" means the 18th day of December 2001



4.3 Subject to the provisions of paragraph 4.4 the Licensee shall use all reasonable endeavours to carry out and complete the Works not later than the Estimated Completion Date .

4.4 If on one or more occasions the carrying out of the Works is delayed in consequence of any Delaying Factor then on each such occasions the Licensee shall be allowed such extension of time for carrying out the Works as may be fair and reasonable in all the circumstances and the Estimated Completion Date shall be postponed accordingly

5. Completion

5.1 The Licensee shall give the Licensor not less than fourteen days' notice of the anticipated date for the issue of a Certificate by the Architect that the Works have been practically completed

5.2 As soon as practicable after receipt of such notice confirming such date the Licensor may carry out an inspection of the Works in the company of the Architect and the Licensee in order to allow the Licensor to make representations to the Architect in respect of the proposal to issue such Certificate and the Licensee shall endeavour to agree with the Licensor a list of any incomplete or defective works such list is to be split into

5.2.1 works which the Licensee shall use all reasonable endeavours to procure are completed prior to the issue of such Certificate

5.2.2 minor works (being such as ought not properly to inhibit an architect appointed under a standard form of Building Contract from issuing the

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Certificate of Practical Completion thereunder) which will be completed during the Defects Liability Period under such Building Contract (if any)

- 5.3 In the event of the parties agreeing to a list of works pursuant to Clause 5.2.1 the Licensee shall use reasonable endeavours to procure that such works are remedied as soon as practicable in order that notice may be given to the Licensor advising the Licensor of the completion of such works so that the Licensor may inspect such works before the issue of the Certificate of Practical Completion and this procedure shall be repeated as many times as may be necessary until the Licensor shall have confirmed in writing that the works referred to in Clause 5.2.1 have been completed to its reasonable satisfaction
- 5.4 The Licensee shall send a copy of the Certificate of Practical Completion to the Licensor as soon as the same shall have been issued by the Architect
- 5.5 For the avoidance of doubt nothing in this clause 5 shall operate to fetter the discretion of the Architect to issue the Certificate of Practical Completion in relation to the Works
- 5.6 "Completion Date" means the date on which the Architects Certificate of Practical Completion is issued in accordance with this clause 5

PRESENT when the Official Seal)
of DEPARTMENT FOR SOCIAL)
DEVELOPMENT was affixed)
hereto:-)
)
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)
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)

Mike Thompson
Helen A. Kee

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PRESENT when the Common Seal)
of CLONARD RESIDENTS)
ASSOCIATION was affixed hereto:-)

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PRESENT when the Common Seal)
of ROONEY BROTHERS was)
affixed hereto:-)

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GH-BM-2528



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michael flanigan solicitors

207 Falls Road, Belfast BT12 6FB
Tel: 028 9023 3309
Tel & Fax: 028 9031 1393
Email: michael@michael-flanigan.com
DX 4002 NR BELFAST 17

My Ref:

Your Ref:

Date:

MF/TB/CON 1408

12/11/02

Departmental Solicitors Office
Victoria Hall
12 May Street
BELFAST BT1

Dear Sirs,

Re: Your Client: Department for Social Development
My Clients: Rooney Brothers
Premises: 148-158 Springfield Road, Belfast


I refer to previous correspondence and can confirm that I act on behalf of Rooney Brothers. You will be aware that this site was purchased some considerable time ago by my clients in the sum of £20,000.00 from your client.

I note from correspondence that the Transfer deed to my clients has been sealed by the Department for Social Development, however, despite a considerable body of correspondence that document has not yet been released to my clients. While I am conscious of the fact that there is some minor dispute over the terms of a lease between Clonard Residents Association and my clients, I can see no basis upon which your client should withhold the Transfer deed to Rooney Brothers having already been paid in full the entire purchase monies.

I should be obliged if you would now forward the Deed of Transfer to this office by return.

Please note that in the absence of a satisfactory reply to this letter, my clients will have no alternative but to seek specific performance of the contract between our respective clients.

Yours faithfully


MICHAEL FLANIGAN

LGTP+M
15-11-02

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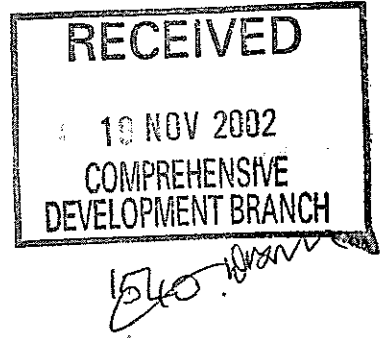
Your Ref: CDB56/3/5

Our Ref: SOL 2924/98/DOE/GH

FROM: G Harris
Departmental Solicitor's Office

DATE: 18 November 2002

TO: Denis Moffett
Comprehensive Development Branch
Brookmount Buildings



148-158 SPRINGFIELD ROAD – ROONEY BROTHERS AND CLONARD RESIDENTS ASSOCIATION

I refer to the above matter and enclose copy of letter of 12 November received from Michael Flanigan, Solicitor, together with a copy of my reply.

I am of the opinion that the Department's position in this matter is untenable.

The position on the ground is that the building has been completed. The first floor is available for the Residents Association and Rooney Brothers are prepared to grant them a long Lease in respect of same. The dispute now centres on the terms of that Lease.

A draft Lease was executed and accepted by the Residents Association back in 1999. That draft contains the curious provision in Clause 5.5.6 stating that the premises are being used principally to provide residential accommodation and the Lessee covenants to refrain from doing anything or carrying on any activity which would be inconsistent with the general use and enjoyment of the remainder of the premises for residential accommodation. I believe that this condition has been inserted in error through copying from some unrelated precedent. The Lease does not contain any corresponding Lessor's covenant restricting the use of the ground floor to residential accommodation. The provision is therefore ineffectual against the Lessor.

I am not aware of any other documentation or agreement by the Developer agreeing to restrict the use of the ground floor premises. In particular P Drinan, Solicitor, for the Residents Association believes that it was made clear to the Developer that there was to be a covenant that the ground floor would not be leased for use as an off licence or hot food premises or any sort of food carry out premises but I do not know if there is any contractual basis to support this.

Unless there is some contractual basis for holding Rooney Brothers to a Lease containing such a covenant and a contractual basis which would stand up in court the Department will have to proceed to release the Transfer to Rooney Brothers. It would be a waste of effort and money on the Department's part were it to be drawn into any litigation which it would be unlikely to win.

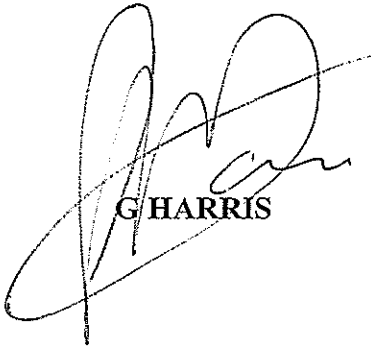
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Provided that the other matters in the Lease are agreed to by Rooney Brother being the question of the insurance and the small technical point about the Lease referring to a nominal rent then we should try to wind up this transaction on that basis and not be concerned about the covenant restricting user on the ground floor. I believe that there are already tenants occupying the ground floor for the purposes to which the Association objects and to that extent it is a fait accompli.

I await having your views on the matter before I contact the Association's Solicitor concerning the letter from Michael Flanigan.



G HARRIS

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GH/EC(3112)

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michael flanigan solicitors

207 Falls Road, Belfast BT12 6FB
Tel: 028 9023 3309
Tel & Fax: 028 9031 1393
Email: michael@michael-flanigan.com
DX 4002 NR BELFAST 17

My Ref: MF/CG/CON 1408 Your Ref: SOL 2924/98/DOE/GH Date: 19-11-02

Departmental Solicitor's Office
DX 464 NR
Belfast 1

Dear Sirs


RE: Your Client : Department for Social Development
My Client : Rooney Brothers
Premises : 148-158 Springfield Road, Belfast

I refer to your letter of 18th November 2002 and enclose herewith a copy of the counterpart lease which has been executed by both my clients and Clonard Residents Association.

I should be obliged to receive a copy of the Development Agreement that you have referred to however even if such agreement is subject to my client executing a Lease in favour of the Residents Association it is clear from this document that that has already been done. I have been instructed to object to your holding the Deed of Transfer in escrow as this would only apply if in fact there was some outstanding aspect of completion which existed between our respective clients.

It is clear from your own letter that there is no outstanding issue between your clients and ours in relation to the purchase of the site and therefore the only outstanding aspect is the delivery of the Transfer Deed to the purchaser. I must therefore ask that the Transfer Deed now be released to this office within seven days of receipt of this letter, failing which I will have no alternative but to issue proceedings against your client and that use will be made of this correspondence to fix the Department with the costs of those proceedings.

Yours faithfully


Michael Flanigan

Enc

LXMGTP
2011-02
Departmental Solicitors Office
20 NOV 2002

Handwritten marks and scribbles in the top left corner.

A small handwritten mark or character in the top right corner.

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Michael Flanigan
Solicitors
207 Falls Road
BELFAST
BT12 6FD

21 November 2002

Your Ref: MF/CG/CON1408
Our Ref: SOL 2924/98/DOE/GH

Dear Sirs

**DEPARTMENT FOR SOCIAL DEVELOPMENT AND ROONEY BROTHERS
PREMISES: 148-158 SPRINGFIELD ROAD, BELFAST**

I refer to your letter of 19 November and as requested by you I enclose my file copy of the development Agreement. The engrossed form and counterpart was sent to CP Steele LLB, Solicitor on 8 March 2002 for execution by Rooney Brothers and the Resident's Association.

At clause 3.3 on page 4 of the development Agreement provision is made for the transfer to take effect subject to your clients at the same time executing the Lease in favour of Clonard Residents' Association. Normally the Lease would have been defined in the Agreement and a draft annexed thereto. Unfortunately I was not able to do this at the time as there was still a difference of opinion between your clients and the Residents' Association concerning the precise terms of the Lease.


When the development Agreement was sent out to CP Steele we were both aware of the draft form of Lease which had been signed by both your clients and the Residents' Association. The Lease however at clause 5.5.6 contains the strange recital that the premises are being used principally to provide residential accommodation which apparently is not the situation. Moreover this recital is not reflected in a positive covenant by the Lessor to use the premises only for residential accommodation and to that extent it is not effective and it is possible it may simply be in the Lease as an error.

Quite apart from the oddity of 5.5.6 the responsibility for insurance needs to be clarified in the Lease. My understanding is that your clients are to ensure the whole of the building and that the Residents' Association are not responsible for the payment of any part of the insurance for the first 10 years. The interest of the Residents' Association should be noted on the policy but the payments would be made by your clients. To some extent this may be already reflected in the Lease if you study the provisions concerning the service charge at 5.13 and the insurance provision at 6.8 but it does need clarification.

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Michael Flanigan (cont'd)

Furthermore the Lease should refer to the premises being let to the Association at a peppercorn rent.

Ms P Drinan, Solicitor for the Association is of the opinion that it was part of the agreement between the Association and your clients that none of the ground floor properties were to be leased as either an off-licence, hot food premises or any sort of food carry out premises as this would be inconsistent with the general use and enjoyment of the remainder of the premises to be let to the Association. I am unable to comment on that position.

I would be most obliged if you would stay your hand with regard to issuing proceedings until I have heard from my instructing branch. I have asked my instructing branch to give me an early response and would hope to be in a position to contact you about this by the first week of December at the latest. I believe that it should be possible to complete this transaction without recourse to the courts.

Yours faithfully



G HARRIS

Enc

cc: Mr Denis Moffett

GH-JT4971



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Memo

From: Dennis Moffett,
Physical Development Branch,
Brookmount Buildings,
42 Fountain Street,
Belfast
BT1 5EE

Your Ref:
Our Ref: CDB/56/3/5

CC:

Tel: 9025 1959
Fax: 9025 1976
Email: denis.moffett@dsdni.gov.uk

Date: 21 November 2002

To: Mr. Gerry McAreavey

148 – 158 SPRINGFIELD ROAD - ROONEY BROTHERS AND CLONARD RESIDENTS ASSOCIATION

1. Please see memo of 18 November 2002 from Mr. George Harris, DSO about the above with enclosures, filed under.
2. I note that Rooneys have changed their solicitor. My earlier research indicated that Brendan McConville, Ian Snowden and previously Seamus Murray had attempted to resolve the differences between Clonard and Rooney but to no avail. I don't know that there is anything we can do. The matter is basically a legal one. Mr. Harris seems to be seeking our approval to his proceeding along the lines suggested in his penultimate paragraph.



DENNIS MOFFETT

*Dennis, Please instruct DSO.
I would suggest that we have no alternative other than to accept DSO advice and proceed with the transfer. The difficulties with the terms of the lease are for Clonard Residents and Rooney Bros to resolve and would not be sufficient for us to withhold the land. Particularly given that the Department has been in receipt of the entire transfer premium for some time.
To my knowledge there was never any restriction on the use of the commercial units.*

D 22/11

10-11-12

10-11-12

Departmental Solicitor's Office

Victoria Hall, 12 May Street, Belfast BT1 4NL
Telephone: 028 9025 1251, Fax: 028 9025 1240
Direct Dialling: DX464 NR Belfast 1

Solicitor R F Cole

Michael Flanigan
Solicitor
207 Falls Road
BELFAST
BT12 6FB

18 November 2002

Your Ref: MF/TB/CON1408
Our Ref: SOL 2924/98/DOE/GH

Dear Sirs

**ROONEY BROTHERS and DEPARTMENT FOR SOCIAL DEVELOPMENT
PREMISES 148-158 SPRINGFIELD ROAD BELFAST**

I refer to your letter of 12 November about which I am taking instructions.

The difficulty as you are aware lies in settling the terms of the Lease between your clients and Clonard Residents Association.

The matter was to have been covered under the terms of a Development Agreement the engrossments of which I sent to C P Steele, Solicitor, on 8 March 2002. This Agreement was to have been entered into by the Department and also by the Residents Association. I understand that your clients have executed the Agreement but presume that the Residents Association has not yet done so as agreement has not yet been reached with your clients concerning the Lease. The problem appears to be that the Association believe that your clients should covenant that none of the ground floor properties will be leased off as an off licence or hot food premises or for any sort of carry out, fast food premises.

You will see from the Development Agreement that the granting of the transfer is subject to your client's executing the Lease in favour of the Residents Association and hence the present impasse.

As so much has already been achieved I would hope that it should prove possible to resolve the impasse without resort to the Courts.

I shall write to you again as soon as ever possible with the Department's proposals.

In the meantime I confirm that I hold the executed Transfer in escrow and I enclose a copy of same for your information.

Yours faithfully

G HARRIS

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GH/EC(3111)



*The Departmental Solicitor's Office is a Directorate within
the Department of Finance and Personnel*



INVESTOR IN PEOPLE

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Memo

From: Dennis Moffett,
Comprehensive Development Branch,
Brookmount Buildings,
42 Fountain Street,
Belfast
BT1 5EE

Your Ref: SOL 2924/98/DOE/GH
Our Ref: CDB/56//3/5

CC:

Tel: 9025 1959

Fax: 9025 1976

Email: denis.moffett@dsdni.gov.uk

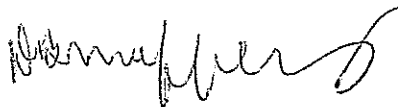
Date: 27 November 2002

To: Mr. G.W. Harris,
Departmental Solicitor's Office,
Victoria Hall,
12 May Street,
Belfast.

**148 – 158 SPRINGFIELD ROAD – ROONEY BROTHERS AND CLONARD
RESIDENTS ASSOCIATION**

I refer to your memos of 18 and 21 November 2002 about the above, with enclosures.

We concur with your advice that the transfer should now proceed.



DENNIS MOFFETT

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Your Ref: CDB56/3/5
Our Ref: SOL 2924/98/DOE/GH

Mr. McHale

Please see mis. further memo from Mr. Harris DSO with new correspondence between himself and Michael Flanigan - representing Reaney's. I agree with Mr. Harris and would refer to my comments of 22/11/02. We should endeavour to resolve asap - 25/11/02.

FROM: G HARRIS
Departmental Solicitor's Office

DATE: 21 November 2002

To: Denis Moffett
Comprehensive Development Branch
Brookmount Buildings
42 Fountain Street
Belfast

148-158 SPRINGFIELD ROAD - ROONEY BROTHERS AND CLONARD RESIDENTS' ASSOCIATION

I refer to my minute of 18 November and enclose copies of further correspondence which I have had with Michael Flanigan, Solicitors.

Please let me have your early instructions in the matter.

As advised earlier I believe that the Department's position is untenable.

It would be best to bring this transaction to a conclusion by granting Rooney Brothers their transfer and they in turn granting the Association their Lease. The Lease will have to be amended by deleting clause 5.5.6 as to my mind it has been clearly inserted in error and without being backed up by a positive covenant on the Lessor restricting the use to which the Lessor can put the property it is meaningless.

The Lessor will simply not agree to any restrictive covenant on the use of the ground floor and we must be content with whatever protection the planning laws will give. There appears to be no contractual obligation upon Rooney Brothers that I am aware of which would force them to accept a restrictive covenant. We should concentrate on having the other items in the Lease corrected being the need for the insertion of a nominal rent and having the position on insurance clarified.

[Handwritten signature]
G HARRIS
Encs

RECEIVED
25 NOV 2002
COMPREHENSIVE
DEVELOPMENT BRANCH

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Memo

From: Dennis Moffett,
Comprehensive Development Branch,
Brookmount Buildings,
42 Fountain Street,
Belfast
BT1 5EE

Your Ref: SOL 2924/98/DOE/GH
Our Ref: CDB/56//3/5

CC:

Tel: 9025 1959

Fax: 9025 1976

Email: denis.moffett@dsdni.gov.uk

Date: 28 November 2002

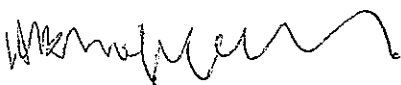
To: Mr. G.W. Harris,
Departmental Solicitor's Office,
Victoria Hall,
12 May Street,
Belfast.

**148 – 158 SPRINGFIELD ROAD – ROONEY BROTHERS AND CLONARD
RESIDENTS ASSOCIATION**

I refer to our telephone conversation yesterday afternoon about the above and have made some enquiries in the meantime.

Clonard have moved into part of the upper floor. It seems that they are not as large an organisation as formerly and did not require all the space. They have sub-let accommodation surplus to their requirements to West Belfast Economic Forum and Whitefort Inns. Our approval of this was not sought nor would we have considered it necessary. We feel that the approval of our European Unit would have been more appropriate as they funded the project. Apparently they have been aware of the sub-letting for some time. Rent is presumably paid but we have no knowledge of rental levels or agreements.

Whilst this information is scanty I hope it is of some assistance to you.



DENNIS MOFFETT

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