

Departmental Solicitor's Office



Department of
**Finance and
Personnel**

028 9054 2540

2nd Floor, Centre House
79 Chichester Street
Belfast BT1 4JE
Tel: 028 9054 2555
Fax: 028 9054 2540
DX394 NR Belfast1

JOHNSONS

15 JAN 2008

RECEIVED

Messrs Johnsons
Solicitors
DX 405 NR
BELFAST 1

Your Ref: SL/CL/0064440001

Our Ref: LIT 182/07/D1/EQ

Date: *11/1* January 2008

Dear Sirs

APPLICATION FOR JUDICIAL REVIEW BY KINNEGAR RESIDENTS AND OTHERS

I refer to the above in which the Department was awarded its costs. I propose to charge fees as follows:-

| | |
|--|-------------------|
| 1. Departmental Solicitor's Office fee | £3,908.00 |
| 2. B McCloskey QC | £23,375.00 |
| 3. David McMillen BL | £16,930.00 |
| 4. Commissioner's fees | £46.00 |
| TOTAL | £44,259.00 |

I enclose copies of fee notes of Mr McCloskey and Mr McMillen. With regard to how this office's fees were calculated, 23 hours were spent on the case by Mr Quiry, the Head of Litigation whose hourly rate is £124.00; 11 hours were spent by Kevin Brown, Assistant Director of Litigation whose hourly rate is £96.00. The hourly rates are fixed from time to time by the Department of Finance and Personnel as the rates to be charged for work done by Departmental Solicitor's Office for its Client Departments and Agencies. There is no uplift.

Please let me hear from you with regard to your agreement of the above figures within 28 days of the date of this letter. I will then send a bill. If I do not hear from you within this period of time, I will proceed to taxation.

Yours faithfully

K J BROWN
for The Solicitor
Direct Dial: 90542504

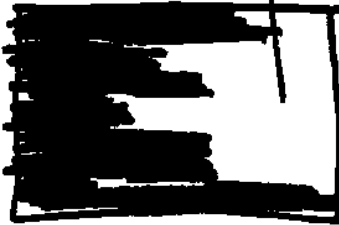


028 9054 2540

KJB-MB-17

[personal data removed]

Bernard McCloskey Q.C.



Attorney General's Chambers,
Room
3rd Floor,
Royal Courts of Justice,
Chichester Street,
Belfast,
BT1 3JP
Tel: 028 9054 6083
Fax: 028 9054 6244
Email: bernard.mccloskey@cront.gov.uk

To: K. Brown, A.S.P.

Case: Kinnear (etc) v AOE - IR

NOTE OF FEES

- | | | | | |
|----|-------------------------|---|--------|---|
| 1. | Contested leave hearing | £ | 1,500 | ✓ |
| 2. | Consultation | } | 300 | ✓ |
| | Skeleton argument | | [nil] | ✓ |
| | Applicant | | 75 | ✓ |
| 3. | | | | |
| 4. | Setting affidavits? | } | | |
| | Advice / directions | | | |
| 5. | Further consultations | | 20,000 | |
| 6. | Sorry on main hearing | } | | |
| | Skeleton argument? | | | |
| | Refresh (4/2) | | 1,500 | ✓ |

Total: £ 23,375

+ VAT @ 17 1/2%

[Redacted] 09 / 11 / 2009

[personal data removed]

David McMillen
Bar Library
Vat No. 617 5328 38

Edmund Quiry
Departmental Solicitor's Office
Solicitors

14 November 2007

Fee Note [1864]

Case Kinnegar Residents and ors - Judicial Review
Client DOE

| Date | Description | Charge |
|------------|--------------------------------|------------|
| 14/11/2007 | Brief | 13 330.00 |
| 14/11/2007 | Refresher x 2 @ 1,000 per diem | 2 000.00 |
| 14/11/2007 | drafting 5 x affidavits @200 | 1 000.00 |
| 14/11/2007 | Consultation x 4 @ 125 | 600.00 |
| | Amount Due | £16,930.00 |
| | V.A.T @17.50% | £2,962.75 |
| | Balance Due | £19,892.75 |
| | Balance Due in | 19,892.75 |

David McMillen

**INV/611/2007
FOI 5375**

DH/HLMcC/CM

19 February 2008

**Ms Ariene Foster MLA
Minister of the Environment
Clarence Court
10-18 Adelaide Street
BELFAST
BT2 8GB**

Dear Minister,

RE: Aarhus Convention/George Best Belfast City Airport

We refer to the letter to you of 17 December 2007 sent on behalf of the five named Residents Groups and Associations and also to the reply to this letter from your Private Secretary dated 21 January 2008 in which your Private Secretary assures the Groups that "the Department will continue to operate openly and transparently in reaching a conclusion on this matter". We can, of course, immediately affirm that the Groups are entirely in favour of such a policy and indeed, since 13 September 2001, their correspondence makes it abundantly clear that their objective throughout has been to convince the Department that, in the interest of justice and of all the people of Northern Ireland, the most open and transparent method of dealing with the very real environmental problems surrounding the City Airport is to hold a Public Inquiry where all the interested parties will have the opportunity to express their views.

As has already been indicated in the earlier correspondence, it would be extraordinary that a proposed significant expansion of the City Airport either by allowing increased seats for sale or a runway extension could be settled without the holding of a Public Inquiry. We do not believe that such a phenomenon could happen in any other country of the European Union (remember that this is an Airport that has been classified by a European Directive as a "City Airport") and indeed from enquiries it would appear that in Commonwealth Countries any potential expansion of consequence of a commercial airport would immediately attract a Public Inquiry.

It seems to us that it would be extremely helpful if you would, at this stage, confirm in writing that your Department accepts and is applying the principles of the AARHUS CONVENTION which we understand was ratified by the United Kingdom on 14 February 2005. The Convention provides (inter alia) that "citizens must have access to information, be entitled to participate in decision

making and have access to justice in environmental matters and acknowledging in this regard that citizens may need assistance in order to exercise their rights".

There are two areas where you may want urgently to review your Department's compliance with the Aarhus Convention. These are:-

- 1 Your Department has sought 100% of its costs against Residents' Group after the conclusion of the recent Judicial Review. This is clearly facing the Residents' Groups with a 'prohibitive' expense and has to be seen as a deterrent to any residential or environmental group seeking remedial action as they are entitled to do. Such an approach must be contrary to the Aarhus Convention. We are supported in this view by Friends of the Earth who contacted us immediately on hearing that your Department had asked for costs.
- 2 There appears to be an agreed but undisclosed deal between the City Airport and your Department on the issue of passenger numbers/seats for sale. Not only is there the uncorrected breach of the Agreement referred to in the letter of 17 December 2007, but fresh evidence for this is attached in the form of an authoritative article quoting senior management of the City Airport. This creates the situation where all future consultations, including those with Belfast City Council and North Down Borough Council, are not going to be meaningful and where Public Participation will not be real.

We are sure you will understand our concerns and the need for an early reply.

Yours faithfully,

JOHNSONS

Enc

Messrs Johnsons
Solicitors
DX 405 NR
BELFAST 1

Your Ref: SL/CL/0064440001

Our Ref: LIT 182/07/C1/KJB

Date 25 February 2008

WITHOUT PREJUDICE SAVE AS TO THE COSTS OF TAXATION

Dear Sirs

APPLICATION FOR JUDICIAL REVIEW BY KINNEGAR RESIDENTS AND OTHERS

I refer to my letter to you of 14 January 2008 and to my subsequent telephone conversation with your Mr McCracken.

During the telephone conversation your Mr McCracken offered £10,000 in respect of Senior Counsel's Brief fee on the ground that the Brief fee marked was too high and in breach of the Aarhus Convention. I have spoken to Senior Counsel concerning this and he has advised me that the Convention does not have effect in domestic UK law and accordingly will not be given effect by national Courts and Judicial Officers including the Taxing Master. His authority for this proposition is R v Secretary of State for the Home Department, Ex Parte Brind (1991) 1AC696 and the decision of the Northern Ireland Court of Appeal in Re Adam's Application (2001) NI 1. Further, he is of the opinion that within the linguistic framework of Article 9(4) of the Convention there was nothing "prohibitively expensive" about these proceedings. Taking into account all the factors in the case the Respondent's legal costs and outlays are perfectly fair and reasonable.

Therefore, if you do not agree the figures I have set out in my letter of 14 January within 7 days of the date of this letter I shall proceed without further notice to have my file prepared and submitted for taxation.

Yours faithfully

K J BROWN
for The Solicitor
Direct Dial: 90542504

LIT 182/07/C1/KJB

SL/CL/0064440001

05 March 2008

Departmental Solicitor's Office
2nd Floor
Centre House
79 Chichester Street
Belfast BT1 4JE

By fax & post
028 90542540

Dear Sir,

**RE: IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW BY KINNEGAR
RESIDENTS AND OTHERS**

We refer to our letter to you of 28 February when we requested an extension of your ultimatum to which we have not yet received a reply.

Since our correspondence we have realised that we have not yet received a reply from the Minister of the Environment to our letter of 19 February 2008 raising issues which are relevant to the costs situation. We enclose a copy of this letter for your information.

We would be most grateful therefore if you would encourage the Minister to let us have a reply to our letter as soon as possible so that we may finalise negotiations with you.

We look forward to hearing from you.

Yours faithfully,

JOHNSONS

Departmental Solicitor's Office



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Belfast BT1 4JE
Tel: 028 9054 2555
Fax: 028 9054 2540
DX394 NR Belfast1

Your Ref: SL/CL/0064440001

Our Ref: LIT 182/07/C1/KJB

Date *7/3* March 2008

Dear Sirs

APPLICATION FOR JUDICIAL REVIEW BY KINNEGAR RESIDENTS

I have today sent my papers to Ms Patricia Kerr to have my costs taxed.

Yours faithfully

K J BROWN
for The Solicitor
Direct Dial: 90542504



Telephone: +44 (0) 28 9024 0183
(10 Lines)

Fax: +44 (0) 28 9031 3300

DX 405 NR
BELFAST 1

JOHNSONS SOLICITORS

JOHNSON HOUSE
50/56 WELLINGTON PLACE
BELFAST BT1 6GF.

Partners
W.P. Tweed
J.S.R. Marshall
M.W. McKee
K.A. Chambers
D.J. Craig
D.L. Holley
S.M. Kerins

Solicitors
G.W. Strahan
S.B. Loughran
C.E. Hamner
A.L. McClung
C.A. Rooney
R.D.T. Craig
G.H. Liddy
D. McPhillips
J.O. Ead

Your Ref: LIT 182/07/C1/KJB

Our Ref: SL/CL/006440001

12 March 2008

Departmental Solicitor's Office
2nd Floor
Centre House
79 Chichester Street
Belfast BT1 4JE

By fax & post
028 90542540

Dear Sirs,

RE: IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW BY KINNEGAR RESIDENTS AND OTHERS

We were disappointed to receive your letter of 7th March 2008 informing us that you had sent your papers to Ms Patricia Kerr to have your costs in this matter taxed.

Your letter totally ignores our letters to you of 28th February and 5th March 2008 and the fact that we have not received a reply from the Minister of the Environment to our letter to her of 19th February 2008 in which the costs issue was raised. Surely this imperious attitude on the part of the Department is wholly contrary to the goals of the Aarhus Convention and quite unfair to a group of Residents Associations who are merely seeking to protect, preserve and improve the state of the environment to ensure sustainable and environmentally sound development.

We would also remind you that in our initial oral discussions in relation to costs we made it very clear that the only items which were in dispute were the amounts of Counsel's fees and we would have thought therefore that with some common sense in negotiation a settlement satisfactory to all parties could have been attained. However, as you appear unwilling to continue dialogue we wish to make an unconditional offer of £20,000.00 (plus VAT) and £15,000.00 (plus VAT) in settlement of Senior and Junior Counsel's fees respectively. All other items in your Account are acceptable.

Please acknowledge receipt of our letter and confirm that it is understood that our offer is made in accordance with the "Calderbank" principle.

Yours faithfully,


JOHNSONS



Dublin Office: 4 Harbourmaster Place IFSC Dublin 1

From the office of the
Minister of the Environment



Department of the
Environment

www.doeni.gov.uk

Johnsons Solicitors
Johnson House
50-56 Wellington Place
Belfast
BT1 6GF

DoE Private Office
Room 717
Clarence Court
10-18 Adelaide Street
BELFAST
BT2 8GB

Telephone: 028 9054 1166

Email: private.office@doeni.gov.uk

Your reference: DH/HLMcC/CM

Our reference: COR/139/08

28th March 2008

Dear Sir -

Thank you for your letter of 19th February 2008 about the on-going review of the Planning Agreement at George Best Belfast City Airport (GB BCA). The Minister has read your letter and asked me to reply.

The Minister has been advised that, in view of the already extensive correspondence with Johnsons Solicitors and the residents' groups on the matter of a Public Inquiry and intensification of use at GB BCA, including the recent, lengthy Judicial Review proceedings, there is nothing the Department can usefully add in order to be helpful on these issues.

The Minister can confirm that the UK ratified the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention) on 24th February 2005. In line with the Convention's procedures, the UK became a full party to the Convention 90 days after this date in May 2005. The Minister agrees that the Convention is an important measure to ensure environmental democracy internationally throughout the UNECE region and that our open, helpful and transparent procedures in relation to this review are in line with the intention of the Convention.

In relation to your comments about costs, the Minister would remind you that this was a matter for the courts and in reaching his decision whereby he exceptionally awarded the Department costs, the Learned Judge clearly took into account all the relevant facts of the legal challenge.

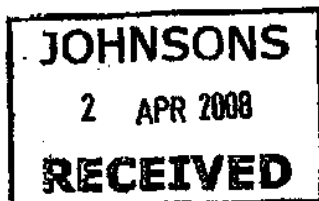
Finally, the Minister would like to refute your unsubstantiated allegation of an "undisclosed deal between the City Airport and the Department". You would need to take up your reliance on the associated City Airport article with its senior management. However, on a simple reading of the article it would appear that the reference to a "deal" is merely a comment concerning the recommendation of the EIP panel, linking the increase in seats for sale to the installation of a noise and track-keeping system.

The Minister hopes that you find this letter helpful in clarifying the position.

Yours sincerely,



GLYNIS AIKEN
Private Secretary to Arlene Foster MLA
Minister of the Environment



Departmental Solicitor's Office



Department of
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Messrs Johnsons
Solicitors
DX 405 NR
BELFAST 1

2nd Floor, Centre House
79 Chichester Street
Belfast BT1 4JE
Tel: 028 9054 2555
Fax: 028 9054 2540
DX394 NR Belfast1

Your Ref: SL/CL/0064440001

Our Ref: LIT 182/07/C1/KJB

Date: *1st* April 2008

WITHOUT PREJUDICE SAVE AS TO THE COSTS OF TAXATION

Dear Sirs

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW BY KINNEGAR RESIDENTS AND OTHERS

I refer to your letter of the 12th March 2008 and note what you say in the third paragraph thereof. To settle this matter I am prepared to recommend to my client that it accept £21,000 plus VAT and £16,000 plus VAT in settlement of Senior and Junior Counsel's fees respectively. I accept your client's offer in respect of the other items in my proposed bill.

Yours faithfully

A handwritten signature in black ink, appearing to read 'K J Brown'.

K J BROWN
for The Solicitor
Direct Dial: 90542504



ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

99912/KJB/MCK

Departmental Solicitor's Office



Department of
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2nd Floor, Centre House
79 Chichester Street
Belfast BT1 4JE
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Fax: 028 9054 2540
DX394 NR Belfast1

Your Ref: SL/CL/0064440001

Our Ref: LIT 182/07/C1/KJB

Date 24th April 2008

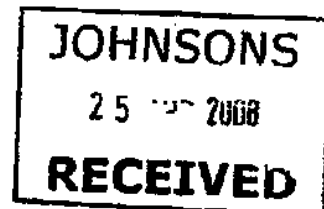
Dear Sirs

KINNEGAR RESIDENTS' ASSOCIATION

I refer to my telephone conversation with Sara Loughran of your office of 8 April 2008 and enclose a note of my costs as agreed. Please ensure that your cheque is made in favour of "Department of the Environment". I await receipt of same in early course.

Yours faithfully

K J BROWN
for The Solicitor
Direct Dial: 90542504



PRINTED IN IRELAND

Telephone 90542522

Date: 2008

Dr. to DEPARTMENT OF THE ENVIRONMENT
C/O DEPARTMENTAL SOLICITOR'S OFFICE,
CENTRE HOUSE, 79 CHICHESTER STREET,
BELFAST BT1 4JE

VAT Reg No: GD 080

| Date | APPLICATION FOR JUDICIAL REVIEW BY KINNEGAR RESIDENTS ACTION GROUP AND OTHERS | Outlay | | Professional Charges | | VAT | |
|---|--|-------------------|---------------|----------------------|----|-------|--------|
| | | £ | | £ | | Rate% | Amount |
| 2007 to 2008 | Professional fee B McCloskey QC D McMillen BL Commissioner's fees | 24,087 | 50 | 3,908 | 00 | | |
| | | 20,500 | 00 | | | | |
| | | 17,625 | 00 | | | | |
| | | 15,000 | 00 | | | | |
| | | 46 | 00 | | | | |
| Dated <u>7th</u> day of <u>April</u> 2008 | | | | | | | |
| Signed: <u>O Paulin</u> The Solicitor | | | | | | | |
| | | 41,758 | 50 | 3,908 | 00 | | |
| | Professional Charges | 3,908 | 00 | | | | |
| | TOTAL | 45,666 | 50 | | | | |

39454.00.