

STATES OF JERSEY

Corporate Services Scrutiny Panel Lime Grove House: Failure to Complete Transaction Sub Panel

FRIDAY, 9th SEPTEMBER 2011

Panel:

Senator S.C. Ferguson (Chairman)
Deputy D.J. De Sousa of St. Helier
Deputy C.H. Egré of St. Peter

Witness:

Mr. D. Flowers (Former Director, Jersey Property Holdings)
Acting Chief Executive, States of Jersey

Also Present:

Ms. K. Boydens (Scrutiny Officer)

[10:04]

Senator S.C. Ferguson (Chairman):

Good morning, ladies and gentlemen. Welcome to this hearing of the Corporate Services Sub-Panel in to the failure of the Lime Grove transaction. Now if I can refer you to the health warning and I wonder if for the purposes of the transcribers if you could say who you are and what your position is please.

Mr. D. Flowers (Former Director, Jersey Property Holdings):

My name is David Flowers and I am the former Director of Jersey Property Holdings.

Senator S.C. Ferguson:

Is the microphone near enough?

Mr. D. Flowers:

Probably not, is that better?

Acting Chief Executive, States of Jersey:

Acting Chief Executive, States of Jersey.

Deputy D.J. De Sousa of St. Helier:

Debbie De Sousa.

Deputy C.H. Egré of St. Peter:

Deputy Collin Egré.

Senator S.C. Ferguson:

Senator Sarah Ferguson, Chairman.

Ms. K. Boydens (Scrutiny Officer):

Kellie Boydens, Scrutiny Officer.

Senator S.C. Ferguson:

First of all, Mr. Flowers, are you able to tell the Panel why you are leaving and if this is relevant to our inquiry?

Mr. D. Flowers:

Well, as you would have seen from the announcement yesterday, I have decided to leave my role as director of Jersey Property Holdings, having completed 4 years of a 5 year contract, and I intend to return to my family in the UK. I made that decision before the Lime Grove transaction was lost to another party and that decision was thus made before this inquiry started. The parting of ways with the States was by mutual agreement and in my understanding was to be entirely amicable. However, I have read the 2 statements made by Senator Ozouf on his blog, both of which I find disappointing. The blog and the various press statements which repeat the Minister's views have led to a situation where I am rapidly becoming a convenient scapegoat for the Treasury Department's failure to conclude the Lime Grove transaction even though this transaction or this acquisition was lost some 9 months after it left my control. As you know, I am able to speak freely in these hearings. Regrettably I am not able to make any media statements whatsoever outside this forum. I am happy to respond to any questions that you may have following the further evidence of the Minister for Treasury and Resources yesterday.

The Deputy of St. Peter:

Thank you for that. It appears to put into context areas which I think there has been a general public concern over. Yesterday, when we first started talking to the Minister for Treasury and Resources, we discussed the issue of the department that you headed where there was a suggestion that there was an impropriety with yourself in relation specifically to a meal that was taken. We have done our own research and we have found that on the website, on the States' website, there was a code of practice specifically for civil servants. The Panel have reviewed this and can find no impropriety in that area. However, at the meeting yesterday it seemed to be indicated that there was another code of practice specifically which would disallow a negotiator to have a meal. Are you aware of any other code of practice?

Mr. D. Flowers:

I have to say that I am not. Personally I think it is unwise for anybody in the middle of a negotiation to be entertained. However, I believe in this situation, and I did look into it, the meal took place some months after the principal agreement had been reached and I understand that it was at the behest of the vendor and it was to discuss the way forward. If that lunch invitation had been put to me, I would have said that discretion should have been the better part of valour and not to accept it, but it did take place. The person who attended

that lunch made a decision that he wanted to ensure that ... he knew this was going to be a long process, and he wanted to make sure that a satisfactory relationship was built with the vendor. Now the code of practice does say that if an invitation is received, it should not be turned down if it could cause offence. I looked at the materiality of the lunch and I did not think that it was significant. Personally I think that it has been blown out of proportion. It was drawn to my attention initially in January 2011, and I drew it immediately to ... there is a part in the report produced by Hugh McGarel-Groves, the attention of Mr. Ogley who at the time was the Chief Executive, and I also referred it to the Comptroller and Auditor General in the context of other comments that had been made. I have heard evidence that the Comptroller and Auditor General advised the current Acting Chief Executive but certainly no instructions were given to me to take any disciplinary action against that individual in January 2011. I am surprised that this has been brought up as a major issue now, some 7 or 8 months after that event. As this person's line manager, I chose to take what I thought was appropriate action. I was certainly not advised by my superiors to do anything.

The Deputy of St. Peter:

Without compromising anyone's position, what action did you take if you could outline that?

Mr. D. Flowers:

First of all I brought the officer in and I asked him to explain what had happened and why. I checked that the event had been recorded in the hospitality register. I checked what was in his diary and in his diary it says: "Returned to work at 2.15." I asked him about the circumstances and I decided that it was a mistake, in my opinion, but not one which would severely prejudice the negotiations.

The Deputy of St. Peter:

Thank you for clarifying that.

Mr. D. Flowers:

Can I just add one other point and that is that the way in which the negotiation was conducted was such that any outstanding matters in relation to snagging or the upgrade to the power supply which has been talked about would have been in the hands of someone else. It would have been in the hands of the capital project manager.

The Deputy of St. Peter:

When you say someone else, not in the hands of the person who had had a meal?

Mr. D. Flowers:

Absolutely right. So as far as he was concerned, his part in the negotiation had been concluded months before.

The Deputy of St. Peter:

Thank you for clarifying that.

Mr. D. Flowers:

I do have a ... I am aware that Mr. Ozouf was in front of you yesterday and he produced a blog and I thought perhaps it might be useful if I went through that and gave you the responses. Could that be my response? Would that be acceptable?

Senator S.C. Ferguson:

Yes.

Mr. D. Flowers:

This is shorter than his previous blog so hopefully we will be able to get through it reasonably well.

Senator Ozouf said: [Point 1] "I wish to be absolutely clear to the Panel that I was not made aware by Property Holdings the offer prior to have been made on 25th March. This was my principal concern." [Senator Ozouf]

The Minister was aware of and agreed to try and hold Lime Grove House pending the development of the business case. A conditional offer on the basis of a principal price was considered by J.P.H. (Jersey Property Holdings) to be the best way of achieving that objective. I have given evidence to the Panel before that it is very foolish to make a verbal agreement and normally an exclusivity period is secured either by agreeing a principal price or by paying a consideration. If a written offer is not made, in Jersey law a vendor can claim proprietary estoppel which means that they have been led to believe that you would take action and have incurred losses by perhaps allowing another possible vendor to go away. So it is very important to make a conditional offer and set those conditions out.

Point 2: "The Chief Executive was also unaware of the offer being made prior to 25th March." [Senator Ozouf]

[10:15]

The Acting Chief Executive was aware and this is evidenced by the fact that he wanted to check the progress of the negotiations on 31st March and a file note confirms this.

Senator S.C. Ferguson:

There was a certain amount of disagreement about this yesterday. The Chief Executive said that he was in front of the Scrutiny Panel which is obviously evidenced in the Scrutiny Panel records at 10.30 a.m. that morning.

Acting Chief Executive, States of Jersey:

Sorry, Chairman, 10.00 a.m.

Senator S.C. Ferguson:

No, I am sorry. With respect, Mr. Richardson, this is a hearing of Mr. Flowers. You are entirely, as it says in the rules, able to attend and accompany an officer but the degree of tit for tat, with respect, comes back to the Chairman.

Acting Chief Executive, States of Jersey:

I accept that, Chairman, but I am just putting the record straight. It was 10.00 a.m. I attended, not 10.30 a.m.

Senator S.C. Ferguson:

Well, 10.00 a.m., 10.30 a.m.

Mr. D. Flowers:

That is right. This is the file note. I believe in previous evidence that I have indicated that the meeting with Mr. Richardson took place at 10.30 a.m. That is my mistake. It did not take place at 10.30 a.m. and there is no time in this file note. The reason I had 10.30 a.m. in my mind was that I had been told that a team meeting which normally takes place on that day for 10.30 a.m. had to be cancelled because Mr. Richardson had said that he was going to pop in because he wanted to check the progress. Would you like me to read this file note or do you have it?

Deputy D.J. De Sousa:

We have it in front of us.

Mr. D. Flowers:

You have it? Do you need me to read it out?

The Deputy of St. Peter:

It may be worthwhile for the people who are to read it out.

Deputy D.J. De Sousa:

It just clarifies what was said yesterday.

Mr. D. Flowers:

The reason for this file note being produced after the event is because I had a meeting with Mr. Richardson on the, I believe, 14th December at which he raised serious concerns about his knowledge of this transaction. Since I had been advised by my team and the people doing the negotiation that he had been informed, I asked them to verify that to me in the form of a file note and to check their diaries, and so the purpose in this note is to set down the sequence of events relating to the issue of conditional offer for the acquisition of Lime Grove House in March 2010.

“Following agreement from the police service that they wish to pursue the Lime Grove option for relocation for the police service accommodation, I issued a conditional offer [and the person signing this is the officer who made that offer] without prejudice, subject to contract and subject to Ministerial and States approval, to the vendor’s agent, Buckley & Company, on 25th March 2010. I copied this letter to David Flowers, Ray Foster [who is an assistant director in Property Holdings] and Richard Cheal [who is a project manager of

the Capital Programmes Team]. As David Flowers was not available due to sickness following dental surgery the previous week, John Richardson asked to see me for an update on the negotiations on Lime Grove. Ray Foster was also not available. I met with Peter Cameron [he is the principal owner of Lime Grove House] and his agent at 9.30 a.m., on the morning of 31st March 2010 when it was confirmed that subject to the conditions I had stipulated, my offer on behalf of the public for Lime Grove had been accepted and a 6 week exclusivity period granted. This agreement was subsequently confirmed by letter that day. I then met with John Richardson in the Willow Room [and that is in 23 Hill Street which is a few hundred yards away from this building]. He was due to go on holiday over the Easter period and wanted to make sure that matters were progressing with Lime Grove. I advised him that I had just met with the vendor and our conditional offer for £8.75 million had been accepted and we had a 6 week period of exclusivity. I do not recall if I showed the offer letter to Mr. Richardson. I have verified the timing of this meeting with Paul Griffin [who is a qualified valuer who works for Property Holdings] who has confirmed that it was a rare occasion for Mr. Richardson to visit Hill Street and he recalls that the surveyor's meeting had to be cancelled to accommodate John's visit." That is signed by Paul Griffin and Mark Grant.

The Deputy of St. Peter:

The concern that I would have on the validity is it is apparently a very important meeting, and whether that importance is now more relevant because of the recent events or not. Why was that file note not made at the time?

Mr. D. Flowers:

I do not know. I do not know. I cannot understand. In retrospect it should have been but then we do not make file notes of every meeting. It was not a formal meeting. It was John popping in. At that stage, we had no reason to believe that we had anything other than support from Mr. Richardson and Mr. Ozouf to conduct this project. It is only some ... over a year ... well a year and a half, that there appears to be a lack of support following the failure of this transaction.

Deputy D.J. De Sousa:

The Acting C.E.O. (Chief Executive Officer) has said in previous hearings that people often have meetings. He has told us of meetings that he has had that have just been a brief outline and he himself has not made minutes of that as well.

Mr. D. Flowers:

Point 3: "Nor were we advised that the terms of the offer particularly with regard to the responsibilities of the purchaser, the snagging and remedial works." [Senator Ozouf]

I have to agree. The responsibility for snagging could have been communicated better. It is complex. I can go into it and I will go into it later but if I could go through these points, I will come back to that.

Point 4: "The substantive amount of work that we have done in file reviews indicates that I was probably made aware of the offer between the end of April and the beginning of May 2010." [Senator Ozouf]

Now I find that quite surprising bearing in mind that every single communication from Senator Ozouf has been: "I did not know", and now he is saying he did know. That accords with the evidence that it is in our files because there are file notes of records of meetings when the exclusivity period was discussed and the need to extend it, et cetera, and that dates back to May and June and there are also notes of meetings in April. What I have to say is if the Minister for Treasury and Resources now accepts that he was made aware of the offer in April and May 2010, why did he not ask challenging questions at that time if he has concerns now? My recollection is that he did and that J.P.H. provided the price assurance in the form of a further valuation, external valuation. We had one external valuation from C.B.R.E. (CB Richard Ellis) which was refreshed internally. We had our own internal valuers and then the Minister said he wanted a further valuation. That is in the file notes. Now the point is that if the Minister had had any concern with regard to the price or the value, the bid or the valuation at that time, and that is 18 months ago, he could have raised it at that meeting.

The Deputy of St. Peter:

Just to clarify, the Minister was concerned and as a result of that concern another valuation was completed?

Mr. D. Flowers:

Yes, we would have done the valuation anyway but what he said is: "Where is the valuation?" I said: "Well, what we have done is we have used a previous valuation." We have 3 qualified valuers in the department and in fact our panel of surveyors say they often turn to us as valuers because we have a greater perspective for the overall market. So the department is well qualified to do internal valuations and it sprang from a valuation team department. So it is quite normal for organisations such as this to prepare their own internal valuations and then to have that figure verified externally. If that external valuation is significantly different, if a mistake has been made, then that is why we have a conditional offer because we can then go back to the vendor and say: "Well, actually it does not stack up." Certainly the period that the Minister for Treasury and Resources is talking about where he is now saying he did know was within 5 weeks of the conditional offer being made and therefore it was quite appropriate to withdraw that offer if he was not happy. I think the problem that has arisen is that offer was extended and extended over a period of time and then it became more and more difficult to withdraw it because the vendor had been given an expectation, and I had been given an expectation and my team, that the Minister and the accounting office were entirely happy with what was going on.

The Deputy of St. Peter:

How was that expectation put across to you?

Mr. D. Flowers:

Well, it certainly was not questioned and certainly there were meetings that were recorded, and you have got those in the files of 12th May, the record of meetings from 5th May. So the meeting was on the 5th, the record notes were the 12th, and then there was a briefing note on the 4th which specifically states that our bid was £8.75 million although that might vary when the snagging and the power supply issues had been resolved. It also says that the BNP Paribas bid of £8.8 million supported that number.

Point 5: "I wish to make it clear to the Panel that the letter sent to the vendor was not a holding letter as the Chairman has referred to it. It was not either a fairly routine matter which the then Assistant Minister Le Fondré referred to." [Senator Ozouf]

We make conditional offers all the time and as I have explained there is a good reason for making them conditional. We cannot enter in to a binding agreement on any property transaction until that has been approved by the Minister or Assistant Minister, and that it has been exposed to the States for scrutiny for 15 days. It is not possible to make a binding offer. Contracts in Jersey do not become binding until they are passed in the Royal Court. There is no such thing as a binding agreement at exchange. I think if you check with the States' conveyancing officers, they will confirm that this sort of conditional offer is standard.

Point 6: "It was a formal offer, an important offer which should have been properly thought through, evidence communicated to the Minister and the accounting officer. It was not." [Senator Ozouf]

I have said this offer could have been withdrawn during the first exclusivity period if the Minister was unhappy, and he was, as he said, aware of it. I think he may not have been aware of the actual offer before it was made but he was aware that we were required to negotiate an exclusivity period.

"Prior to it having been made, the file note made by the Director of Property Holding states that the offer was made with the full approval of the then Assistant Minister Deputy Le Fondré. If this is so, he did not consult or inform me." For the record, Deputy Le Fondré was aware that we were going to make a conditional bid. He was not aware what that level of that bid would be. It is a matter of negotiation for professionals in the department. He was certainly aware after the event of the level of the bid.

The Deputy of St. Peter:

Could you just confirm that this would be standard practice within the ...

Mr. D. Flowers:

This is standard practice. The way in which Property Holdings either acquires or disposes of property is that it enters into a negotiation with a vendor or a purchaser. It then prepares a business case and that can be ... if it is a small transaction, it would be a fairly small report, and then produces a ministerial decision which it puts to the Assistant Minister or the Minister, generally the

Assistant Minister, for his approval. There have been occasions where we have negotiated a price and the Assistant Minister has not been happy with that price and has asked us to go back and do better. We have done that because the offers are conditional. That is the process.

The Deputy of St. Peter:

How would that compare with a similar process in the United Kingdom?

Mr. D. Flowers:

That is exactly how you work. I mean, it is a little bit more complex here. What would happen in a commercial organisation is that offers, conditional offers, would be made and then they would go to an investment committee and the investment committee would decide if the data supported it whether the deal could go ahead.

The Deputy of St. Peter:

Thank you.

Deputy D.J. De Sousa:

One of the big things that has been raised at the hearings has been the fact that the business case was not up to standard. It was not good enough.

Mr. D. Flowers:

I can come to that or I could deal with it now. I was going to go through these in order but if you want me to jump to that. We felt that using the consultants who had been working on the police project for many years, the quantity surveyors, our own architects, the external agents who were doing development appraisals on that deal, we felt that by 13th October we had sufficient information to put a draft to John Richardson for him to give us feedback as to whether or not he felt there was further information that was required. He did that and we responded. We tried to answer his questions. We had an outline risk analysis in the business case and Mr. Richardson asked for a full risk workshop which we organised with external consultants, Turner and Townsend, which we flew over from the U.K. (United Kingdom) because they are experienced in doing this.

[10:30]

We have worked with them before. That risk workshop had all of the chief officers including Mr. Ogley and Mr. Richardson, and we were there for half a day going through all of the information. I presented all of the valuation material. So we were going through a process of issuing a draft in October and then adding to that to take in to account any concerns which might have been raised but what was coming through very loud and clear, and certainly at the end of the risk workshop, was that no matter what data we were producing in respect of the value of Lime Grove, the Minister had decided already that he was not going to accept that figure, and that was stated openly by Mr. Richardson that his biggest problem was getting the Minister to understand and to accept. He had already formed a view that our bid was too high.

Deputy D.J. De Sousa:
He, as being the Minister?

Mr. D. Flowers:
The Minister for Treasury and Resources.

Deputy D.J. De Sousa:
The Minister for Treasury and Resources.

Mr. D. Flowers:
There is one other point which is that we did, in November, because there were concerns being raised about the business case, we asked for that case to be reviewed by a company called Rowney Sharman, and basically he went through it and he said that apart from reordering some of the information to make it clearer, he found that it was quite sound.

The Deputy of St. Peter:
If we could just stay with this and maintain this particular flow, it was indicated yesterday, quite clearly, by the Treasury that they did not regard that review as being the review of the business case for Lime Grove. It was very clear; there was an insistence that this was only the review of the office strategy.

Mr. D. Flowers:
I think there is some confusion here because ...

The Deputy of St. Peter:
I think there is.

Mr. D. Flowers:
Well, if I show you the front cover of this report for Lime Grove, it refers to it as phase one office strategy. What happened when we started with the police project was that it was a standalone project, but then when we were required to make it self-funding we expanded it to become phase one of a greater rationalisation of the office estate. So it was called phase one office rationalisation. Now that is what Mr. Rowney, not Mr. Sharman, Mr. Rowney ... Mr. Ozouf refers to Rowney Sharman and says that he has the greatest of respect for Mr. Sharman and knows him well. Well his name is Mr. Stewart Rowney, not Mr. Sharman.

The Deputy of St. Peter:
I have to say I am not a great follower of blogs.

Mr. D. Flowers:
Well, neither am I and I do not have one, but no. What Senator Ozouf says is: *"I have to say when I heard that Rowney Sharman had undertaken a detailed review of the Lime Grove business case, I was concerned for a moment that we had missed something. Since asking to see the Rowney Sharman information, I have discovered that no report was issued. The comments that Rowney Sharman made were not on the Lime Grove business case. They*

were on the broader report of the office accommodation strategy.” [Senator Ozouf]

I have said that that is incorrect. Rowney Sharman’s review was phase one the office strategy business case and that was the police project which included the Lime Grove acquisition.

The Deputy of St. Peter:

I have to say I have just read this. This is quite dismissive. I am looking at paragraph 17. It says: *“I understand that Mr. Sharman took the office strategy home, reviewed it over the course of a weekend.” It almost sounds, excuse me using poor English, gash. [Senator Ozouf]*

Mr. D. Flowers:

No, he reviewed the business case. He made copious notes and then we had a meeting in November and we were going to revise the business case and this, as far as I was concerned, was the process of firming up a draft to a final report for it to go to the Minister, but apparently as a draft it had already gone to the Minister, and that is not the normal way that I work in my office. If people produce a draft, then I support that draft. I identify where the gaps are and help the team to close those gaps. That is not what happened in this instance and we did not eventually receive a final report from Stewart Rowney because there was no point. On 19th November, the project was whisked away from Jersey Property Holdings and the Treasury decided that they were going to take on the conclusion of the acquisition.

Deputy D.J. De Sousa:

Just while we are on the subject of that business case, much has also been made about forecast of the budget and that there were errors within that.

Mr. D. Flowers:

Errors in respect of?

Deputy D.J. De Sousa:

It raised the alarms with the Acting C.E.O.

Mr. D. Flowers:

Well, the valuation, if we deal with the numbers that were in that report, firstly all of the figures were put together by the quantity surveyors who had worked on the project for some time, the capital project manager that had been involved in it for some time, and the Capital Projects Management Team in Jersey Property Holdings, since they took over the control of capital projects for the States, there has been no capital overspend on any project. You can verify that. Whereas before there were significant overruns. So these people are quite cautious. There were concerns raised about the projected values to be achieved from the sale of South Hill and from the ambulance station. The reason for including South Hill in this project was basically we did not have enough money to be able to deliver everything that the police wanted so it was necessary to get some funding and that drew us towards: “Well, how can we realise capital from South Hill and how can we make it a bigger and more positive business case?” So a whole series of property moves were devised.

The development value of South Hill was projected from discussions with the planners who looked at what density might be achieved on that site and we had a development appraisal produced by Buckley & Co. Now, the development appraisal by Buckley & Co. assumed a lower density than the planners at that stage were projecting. The value came out at, I believe, £9.2 million but there was a spread between £10 and £15 million as a possibility. Certainly the discussions we had with the Minister for Planning much later was that he was prepared to accept a much greater density on that site in order that we could devote more of our other sites to affordable and social housing. Now, whether or not we would have been able to achieve the full value of that site was open to discussion, the view that Mr. Richardson, upon advice, was getting was the banks only extending two-thirds of any capital value, development value. That was true but equally there are a lot of investors on the Island who are looking for a place to put their money and our information was that these investors would be more than happy to make up that difference, because the sort of return that you would get from that property project would be significantly more than the extremely low interest rates that are available elsewhere. That was advice that we had in the market. Nevertheless, when we did the risk workshop we were asked by Mr. Richardson to consider 2 scenarios. The first one was catastrophic failure of the Jersey Property market, in other words it was not worth selling. So what we did with the project was to devise what we called a fallback option. That fallback option was if we went for inquiries into the market and we found that we were not getting a reasonable value for South Hill then we would stop the project at a particular stage, so we would acquire and fit out Lime Grove House and we would simply refurbish the existing police facilities on Rouge Bouillon. So we would not build a new police station across the road as we were planning. That is not what the police wanted. They were very, very adamant that they wanted a new custody suite and they wanted a new police station. So they preferred the larger, more expensive option. But we had developed a contingency to cover that situation. The other option which was that we only got part of the money up front, we developed a series of ... a way of re-phasing the project so we would not go into negative cash flow but it would be a more extended programme. All of those options were presented at the risk workshop and the graphs and the reports are all available to you. So I think that we tried to cover off those concerns. As far as the ambulance station site is concerned, the value that came from that site would have been the projected capital surplus that came out of the project. So there or thereabouts, if that site had made £8 million because it had a large amount of private housing, that would have flowed through at the end. If, however, the States had decided, as they subsequently have, that it would all be social housing, it would be very little value. But that is a decision for the States as to how it spends its money. What we really wanted to do, because we were making what we considered to be significant socioeconomic benefit through the scheme, a new police station, a new ambulance station, consolidated offices, savings in operating costs, we wanted any capital proceeds to go forward and kick start the next stage of the process of office rationalisation.

The Deputy of St. Peter:

The process you have just described, this was what was reviewed after phase one of the business case. Was that also reviewed by ... you have got me confused with names now, Mr. Rowney ...

Mr. D. Flowers:

Stuart Rowney of Rowney Sharman. He had looked at the overall office strategy.

The Deputy of St. Peter:

This is what he described to us as being a very robust ...

Mr. D. Flowers:

No, the phase one of the office accommodation strategy, which is what I have described to you, the series of moves, he described as being robust.

The Deputy of St. Peter:

Now, just can we go back to your sheet because I think we jumped.

Mr. D. Flowers:

We did.

The Deputy of St. Peter:

I think we missed something out.

Mr. D. Flowers:

All right, I think we got to point 8.

"We had subsequently discovered that the offer itself was unclear to the extent that valuation is relevant. There was no external valuation made prior to the offer being made and there was no business case which supported that valuation." [Senator Ozouf]

Well, there was an outline business case which was prepared in December 2009 and sent to the police, and you should have a copy of that, which explored the various options. In January 2010 the police were very keen that we should go forward and secure Lime Grove House because they had come to the conclusion it was the best option. As I have said, I have explained the valuation issue. We have our own internal valuers, we are quite capable of assessing the value of the building. We also had the C.B.R.E. valuation which put the value at £9.25 million, headline rent £24 a square foot and yield 7 per cent.

Deputy D.J. De Sousa:

But we do know yesterday, because I questioned the Minister on this, that the valuation has nothing to do with that.

Mr. D. Flowers:

Oh really?

Deputy D.J. De Sousa:

We were told yesterday that the price and the cost of the building should be on the tenant that occupies?

Mr. D. Flowers:

No, look, I am sorry, but this is ridiculous. The R.I.C.S. (Royal Institution of Chartered Surveyors) has a book about that thick, which is called the Red Book, and it has a whole host of valuers. It has a professional training programme. Certainly if valuation was of little importance in the acquisition of property these people would not be in existence, they would not be bothering to train, they would not have an institution. Every organisation that I know of obtains an R.I.C.S. Red Book valuation to get the open market value of a property. I will come on to some of the comments that I have heard, fairly spurious comments, about how to ... that the building had a 50 year life and it is 10 years old so it should be discounted by 20 per cent. That is not ...

Deputy D.J. De Sousa:

But we also had the fact that the tenant or the purchaser would have been AAA ...

Mr. D. Flowers:

Yes, well that is irrelevant because the covenant of the tenant is only relevant if the tenant is in place and you are selling the building ... selling the lease back to an investment institution and they are looking at the likelihood of having that continued income stream.

[10:45]

So if you have a bank ... well it used to be AAA covenant but one is not too sure these days. But if you have something that looks like it is going to be around for a long time and can continue to pay the rent then the value, the yield is affected by that because the yield is what is called an all risks measure of whether or not that tenant is going to be around to pay the rent. So if you are looking ... if you are General Accident, Liverpool Victoria, a pension fund, whatever and you are looking: "Where can I put my money to get a 6 per cent return or 7 per cent return?" then you would look at the covenant of the tenant. But if you are going into buy a building for yourself, then you look for the open market value. The way the valuation is done is that the valuer would look at comparables in the market, he would make adjustments for location, condition and then try to assess what he considers to be the reasonable rent for that building. He would then get the annual rent and then he would apply what is called a yield. He would divide that annual rent by the yield and that gives him a capital value. Really the yield is a measure of if you invested in the building what would your return be? Having achieved that, he then looks at other factors, so would there be an expectation in the market of a rent-free period? Would there be an expectation of the landlord making a contribution to any fitout? Does it have Category A fitout - that is a landlord's fitout - or is it a bare shell? He then deducts any costs and comes out at a net figure. That is the general principle for a market valuation. Now there is a hierarchy of valuations. The first port of call for a commercial building is always open market value. The valuation

of last resort is what is known as depreciated replacement cost. Depreciated replacement cost is used for specialist buildings such as libraries, prisons, schools, things where they are not generally traded in the market. Then what a valuer would do is to work out how much it would cost to build a new one and then he would look at how much the building had depreciated in condition and in functionality. That is called functional obsolescence because basically the world moves on, et cetera. Then he would arrive at a discounted value. Now, what I heard from the evidence being given by Mr. Izatt is that we were mixing up depreciated replacement cost and open market value. Basically you would never look at a commercial office building on a depreciated replacement cost basis.

Deputy D.J. De Sousa:

He also said that he was looking at it as, I believe the term is, a fire sale, that sort of thing.

Mr. D. Flowers:

Well, he did use that expression “distressed purchase”, which is again rather inaccurate because a distressed purchase ... first of all Mr. Izatt described a distressed purchase as being where there are no buyers available, or no other buyers available. That is not correct. A distressed purchase is a forced sale where the vendor has to sell urgently and it is usually when he has to pay back any borrowing or he is going into liquidation. There is no evidence whatsoever that the vendors of Lime Grove are distressed sellers. The reason that I say that is because you only have to look at the deal they have done with State Street where they have allowed a 9 month rent-free period for fitout works to be done. They have allowed 50 per cent rent-free for 3 years, they are not anxious ... they do not need the money. They have sat on the building for 10 years looking for the right occupant. They have had ... they have nearly closed deals 3 times but they wanted to sell the building or let it to a single tenant. They did not want to let it floor by floor. My understanding is that the residential development, the apartments next to the office building, they sold and that funded any borrowing they had on the office building. So they have got no debt, there is no significant depreciation of a shell and core building, and there is no tax being paid ... there is no running costs and there is no inheritance tax. So they can pass the building on to their estate, there is no incentive.

Deputy D.J. De Sousa:

I did raise this with the Minister yesterday in the hearing and was told that ... I cannot remember word for word but we will be able to check with Hansard later on today, but basically I was told: “But nobody would want an empty building.”

Mr. D. Flowers:

Clearly somebody did otherwise we would have bought it.

The Deputy of St. Peter:

All right, where does that put us back on your ...

Mr. D. Flowers:

No idea.

Nine: "I would expect all these issues to have been dealt with prior to an offer being made, they were not. This was an initial conditional offer not a binding agreement. [Senator Ozouf]

The vendors and their agents were fully aware of this. They are experienced property people." We kept Buckley & Co. fully informed, they were engaged in doing valuations, they are part of our panel, on other parts of the office strategy, they worked with the States for many years, they knew that it was going to be a long process. I think a lot of the confusion here is borne out of the fact that the comments have been made by people who do not understand property.

Point 10: "In my view this is a serious failing of the handling of an offer to purchase a property with over £8 million of taxpayers' money." [Senator Ozouf]

I am sorry but I have to go back. It is a conditional offer, the Minister was aware of it in April/May, if he had a problem with it or the process then where was the robust challenge. As far as the team was concerned we were doing what we were expected to do.

Deputy D.J. De Sousa:

But we are told that the robust challenge came once the draft business plan was put forward. Mr. Richardson picked up his concerns and went to the Minister and that was where the concerns came in, which was very late November 2010, am I right?

Mr. D. Flowers:

No, 13th October was the delivery of the draft business case but the issue that seems to be at the core of this problem is the Minister does not accept the price being paid. The other matters were matters of detail and matters which could be resolved, but even at the risk workshop on 16th November 2010 it was ... the key issue was the Minister will not accept this figure, he just will not. He is absolutely adamant this is too much. I think that is borne out of advice that was given to him and that advice was wrong. It was ill-founded, it was not supported by evidence and, as we have heard from Richard Law yesterday when he was talking about the way in which Mr. Izatt had arrived at his figure of between £6.5 and 7.5 million for the building it just did not stack up. It does not ... it is not supported by ... it flies in the face of 3 external valuations, it flies in the face of reality, which is what the building went for, because the capital value of the State Street lease on Lime Grove is anywhere between £1 and £3 million more than the Property Holdings bid of £8.75 million. The reason I give you that range is because we do not know for certain who is paying for the Category A fitout. So I have allowed a figure of £2 million in there as the spread between ...

Deputy D.J. De Sousa:

That will be between the vendor and the lessor?

Mr. D. Flowers:

Well, it is not in the published information on the lease, it is done by ... it has been arranged in the form of a side letter which is confidential so we do not know.

The Deputy of St. Peter:

So the minimum you would expect there is your bottom figure of £1 million more and the other £2 million take into account what has just been discussed?

Mr. D. Flowers:

Yes.

Deputy D.J. De Sousa:

While we are on that subject of the price and the advice the Minister got, many people that are here today and you yourself were listening to the hearing yesterday afternoon when the Minister for Treasury and Resources came in ...

Mr. D. Flowers:

I am afraid I was not here yesterday afternoon.

Deputy D.J. De Sousa:

Sorry. Sorry, no it was Mr. Richard Law. My mistake there. Yesterday afternoon when the Minister came in I asked very few questions because I sat and listened. But one question I did push with him towards the end was how did he arrive at the figure of £8.25 million. I never got a satisfactory answer, as we will look back on the transcript when it comes back to us later on today. You said that he was not happy with the price, did he discuss at all with you a price of £8.25 million?

Mr. D. Flowers:

No. No, in fact I had no meetings with the Minister whatsoever in October or November. I would have expected that he would have called upon the most senior person responsible for Property to explain or to try and satisfy his concerns but he did not. The information I have is second-hand and it came from meetings with Mr. Richardson.

Deputy D.J. De Sousa:

So he removed the responsibility of Property Holdings without even having a meeting or writing a letter to you to say that?

Mr. D. Flowers:

No, he had no communication, no discussion, no consultation whatsoever. He had formed a view, in my opinion, on hearsay evidence that the price that was being offered was far too high. Now, I understand the Minister's position and I respect it in that he has to stand up in front of the public and justify the decisions that he has taken.

Deputy D.J. De Sousa:

And other Members.

Mr. D. Flowers:

Yes, he is the ultimate ... or represents the States in terms of the ultimate owners of the property. We are duty bound to give him as much information as we can to give him that comfort. But we have been challenged consistently on the level of detail which we provided in the business case and we produced in total 3 external valuations to support the figure that we put forward. I have not seen any evidence based figures which support a contrary view. So if on the one hand Property Holdings has been required to produce more and more detail, where is the detail that is coming from those other advisers that are influencing the Minister, I am totally confused.

Deputy D.J. De Sousa:

I did try to establish this yesterday because we do know that Mr. Guy Gothard was employed to negotiate at £8.25 million and he was not to go any higher.

Mr. D. Flowers:

Mr. Gothard, as I understand it, was employed not to negotiate.

Deputy D.J. De Sousa:

No, to negotiate the snagging and things like that.

Mr. D. Flowers:

I am sorry, I am wrong. Mr. Gothard was employed not to value because he is not ... with respect to him he is not that experienced in commercial property, that is not his forte, it is retail and residential. But unfortunately because all of the other surveyors on the Island were in one way involved or conflicted then I think Mr. Gothard was chosen and that is fine. But I think he was told what to bid and that was it.

Deputy D.J. De Sousa:

He told us himself, and we have it in transcripts, he was told to offer £8.25 million no more and the only flexibility he said he had to negotiate was in the category A fitout and the snagging and things like that. He said it was very unusual as well to be asked to work in this way. It was not the norm.

Mr. D. Flowers:

Which point are we up to?

The Deputy of St. Peter:

Eleven, I think.

Mr. D. Flowers:

*Eleven: "The important point about the offer is that it generated an expectation that the States were a serious and proper purchaser of this piece of land."
[Senator Ozouf]*

The police were very serious. An appraisal option has been produced in December 2009, this was presented to the Minister for Treasury and Resources in February 2010 when we were indicating that we needed to negotiate an exclusivity arrangement. So my view is that we were serious at that stage and we were just looking for a way of funding this. This was the very best option that the police had. We considered a whole range of different sites. In the past you will be aware that this project was going for 10 years and it was only by the efforts of David Warcup and Barry Taylor from the police, and my team in value engineering their police specification requirements down that this project was able to go forward.

Deputy D.J. De Sousa:

Sorry, can I just ask a question?

Mr. D. Flowers:

Yes, certainly. You are asking a lot of questions today.

Deputy D.J. De Sousa:

I am not so quiet as I was yesterday. No, I listen. That is what I do, as my Chairman will know. It has been said by the Minister for Treasury and Resources, and he reiterated it yesterday when we said the letter that went out with the initial offer was not binding, and he said many times yesterday - and he has said in previous hearings - but it is an expectation and it is the States giving an expectation.

[11:00]

Mr. D. Flowers:

Yes, but, as I have said, we felt that we had the support of our client, which was the police, the budget holder for the project was Ray Foster, who works for me, there was an allocation of £19 million, we had fallback options and we considered that we had been given effectively the nod to go forward with this subject to our finding a funding route which would not cause borrowing. The project would have washed its face as a standalone project but it would have gone into negative cash flow because basically the project that we put forward in April was move the ambulance station over so you have got a combined ambulance and fire station on Rouge Bouillon, then sell the ambulance station site.

Deputy D.J. De Sousa:

That is what I was trying to get at earlier when we were on the business case.

Mr. D. Flowers:

That is what we trying to do but the problem there was that we would have to build the new ambulance station, fit-out Lime Grove before we had the money in from the ambulance station site and the Minister at the meetings in April and May said he was not prepared to go back to the States and ask for more money even for bridging. So we had to find a solution which allowed us to get money upfront to fund so there was no negative cash flow in the whole programme. That is why it was expanded. If you look at it, the way that it was

being expanded you would have ended up with a new ambulance station and combined fire service facilities which was a bonus.

The Deputy of St. Peter:

We have talked about a couple of other agencies along the way, namely the police and the ambulance service, they both have Ministers, were you aware of ministerial support from both those departments?

Mr. D. Flowers:

Yes, we had engaged with both departments. I had meetings with the ambulance service, the fire service and we were collecting their requirements, their detailed requirements. We had meetings with Health, with Anne Pryke; meetings with Home Affairs ...

The Deputy of St. Peter:

The point I am making, this is not isolation, this was an open consultative ...

Mr. D. Flowers:

No, no, no. This was ... yes.

Deputy D.J. De Sousa:

Were they also aware of the price that had been offered of £8.75 million?

Mr. D. Flowers:

No, I do not think they were. The presentations that I gave I think we were very careful to keep that figure confidential because it is confidential and we did not want that to be going out too far in the market.

The Deputy of St. Peter:

I think we move on to an area that we have already covered now, which was the ...

Mr. D. Flowers:

Rowney Sharman.

The Deputy of St. Peter:

Rowney Sharman.

Mr. D. Flowers:

Yes, so 13, 14, 15, 16, 17: *"I had the highest respect for Mr. Sharman. I have spoken to him subsequently in meetings and have confirmed this with him. In fact I have the highest regard for all external firms used by Property Holdings during this project. If the panel have represented anything to the contrary then I must publicly correct that impression."* [Senator Ozouf]

Well, we have talked about that before.

"I also have a copy of the invoice he submitted Property Holdings." [Senator Ozouf]

Yes, that is fine. He did the work in November, as I have said, but then on 19th November the project was taken away from Property Holdings and so ...

Deputy D.J. De Sousa:

How were you informed of that? Was it by email, by meeting?

Mr. D. Flowers:

I received an email on 19th November which said that ... I wrote ... basically I was invited to a meeting on 19th November and then on the morning of that day I received a note from David Warcup to say that the meeting had been cancelled.

Deputy D.J. De Sousa:

Who was the meeting arranged with?

Mr. D. Flowers:

It was a political meeting with the Chief Minister, the Minister for Treasury and Resources, the Minister for Home Affairs, John Le Fondré, et cetera.

Deputy D.J. De Sousa:

Yes, yes. This is the one you sat downstairs in case ...

Mr. D. Flowers:

I turned up at Cyril Le Marquand with the valuer, Paul Harvey from BNP Paribas, just to see if there were any questions that needed to be answered because I had heard that the meeting was going ahead it is just that I was not invited. I then received ... I asked for an update. I wrote to John Richardson at 1.30 p.m. that day saying: "Are you able to let me know the outcome of the meeting?" and the response which I received was: "The political meeting this morning approved in principle the phase one project as outlined in the business case prepared by Jersey Property Holdings."

Deputy D.J. De Sousa:

Yes, we have been through that, have we not? Yes.

Mr. D. Flowers:

It then said: "As the acquisition for Lime Grove enters its final stages it is apparent that you and Mark Grant are potentially conflicted in that you have already put forward an offer to the vendor for Lime Grove." Now, I did write back to say could I please have ... "I do not understand your statement that Mark Grant and I are compromised and would be obliged if you will either explain or withdraw that statement." That is a very serious allegation to make, bearing in mind I believe I have only ever had one meeting with the vendor and that was many, many months before we even started negotiations. So I do not understand how I am conflicted.

Deputy D.J. De Sousa:

That was ...

Senator S.C. Ferguson:

Were you ever given any explanation as to why you were conflicted?

Mr. D. Flowers:

None at all.

Deputy D.J. De Sousa:

That was ... we received that information, if you remember, when the Minister for Treasury and Resources came to us the first time at the back of the statements, the piece he was supposed to have held up.

Senator S.C. Ferguson:

I think there was another political meeting on 13th January. Again, to which the Minister for Home Affairs said he thought you ought to be there because you had the information, and again you were excluded.

Mr. D. Flowers:

I was not aware that meeting was taking place, and also I was not aware that the report that been prepared to brief that meeting had not been shared with me. I subsequently was given a copy about a week after that meeting by Barry Taylor, who said: "Well, have you not seen this?" I said: "No."

Deputy D.J. De Sousa:

What report?

Mr. D. Flowers:

This was a report produced by Mr. Richardson, which I have subsequently reviewed and you should find my comments in the file.

The Deputy of St. Peter:

How do you feel as then a senior civil servant being treated in this particular way without a response to a very serious letter?

Mr. D. Flowers:

Not impressed.

Deputy D.J. De Sousa:

Did this have any influence on your decision, from the opening statement that you made when you came before us today, that you have decided after 4 years of a 5-year contract, to return to the mainland and not renew or extend any contract?

Mr. D. Flowers:

All I will say in that respect is that trying to achieve change in Jersey is very difficult, particularly in the area of property. I have tried very hard over the last 4 years but you require support. If you do not have support then it is really not going to be achievable.

Deputy D.J. De Sousa:

You do not feel you have that support?

Mr. D. Flowers:

I leave that for your judgment. All I can say is it has been very wearing.

Senator S.C. Ferguson:

Shall we get back to the ...

Mr. D. Flowers:

Right. *"I also have a copy of an invoice that Mr. Rowney submitted."* [Senator Ozouf]

He says the risk workshop took place in December but it did not, it took place on 16th November, not December.

Point 20: "In other words, I need to be clear to the panel that my concern about the quality of the business case, which I was being pressurised to sign in October remains absolutely valid." [Senator Ozouf]

Well, that is not the external opinion that we were receiving. No document in the form of a business case is perfect, but I fear that the experience of the States and the officers within the States is that they have generally been developing sites which are in States ownership and therefore it is possible to do extensive feasibility studies, sometimes many of them, before proceeding. If you are trying to join together an external market opportunity with an internal business need then time is of the essence and that is why you have to make the best assessments that you can at the highest level; ensure that there is sufficient contingency, which we felt there was; and then put forward your business case and try and persuade your funding authority that it is the right thing to do. You cannot guarantee the disposal proceeds from a site until it is sold but the contingency that we had was in order for this project to go into a loss-making situation, the value of South Hill would have had to have reduced by about 40 per cent. That was the sort of estimation we did. We also, when we were looking at the space planning of how many people could we fit into Lime Grove, we did not over egg it, there was a reasonable contingency. Later on when the project was being developed up by Mick Heald in greater detail, who was the project director that was brought in, he found that, yes, you could fit more people in and therefore you could reduce the size of the police station and therefore save some money. That is all good stuff and that is what we would have done and it was the Property Holdings team that were supporting him to do that.

Deputy D.J. De Sousa:

But you had not got into that process at the stage when it was removed from you?

Mr. D. Flowers:

No. No, we wanted to get ... there is a lot of store has been made about putting a bid together without a ministerial decision. We could not go to the next stage of agreeing the detailed heads of terms with the vendor, including the issues on snagging and the power supply until we had a ministerial decision. The budget holder, Ray Foster, who is very good at running capital projects, was saying to me: "Look, we cannot really be going out and

spending any more money until we are absolutely confident that Senator Ozouf is going to go ahead with this.” So that was the dilemma we had.

Senator S.C. Ferguson:

How crucial was Lime Grove to the phase one of the office strategy?

Mr. D. Flowers:

Absolutely crucial. Absolutely critical, because basically we had a building which was of the right size and we could move the police in very quickly and we had a whole series of subsequent property moves which would then deliver a capital surplus at the end. A lot of those property moves were being meshed in with C.S.R. (Comprehensive Spending Review) savings. So, for example, the move of Customs and Excise down to Elizabeth Terminal, there was going to be a saving there. The move of bringing together the Planning Department from South Hill and the Environment Department from Howard Davis Farm was going to allow personnel savings, and those were C.S.R. savings and so many other departments were very keen to see this happen. If you look at the analysis from the various reports which I have given you on the office strategy, the total programme, if we had been allowed to proceed it, would have reduced the size of the States office portfolio from 660,000-odd square feet, it would have reduced it by a third. Now every square foot has an operating cost. It would also, because we were proposing to move from old tired premises, which are expensive to operate, not a conducive working environment, if we were proposing to move into new space that would have increased the asset value of the State portfolio by between £70 and £80 million. Those are the sort of numbers that we were looking at. New lamps for old, and it is something which other organisations have been doing for years. You heard evidence from me that during the time that I was at Royal Mail we reduced the standalone office portfolio from 150 to 22 buildings and made cumulative savings over 6 years of £100 million.

Deputy D.J. De Sousa:

That was year on year, was it not?

Mr. D. Flowers:

Cumulative savings of £100 million over the 6 years.

[11:15]

The Deputy of St. Peter:

But that appears to run counter to what the Minister for Treasury was saying where he thought if this went through it could cause a massive capital overspend and be disastrous financially for the Island.

Mr. D. Flowers:

I have to disagree. I think that what was happening was that it was being ... the project at the end of November was being de-risked but, as I noted in one of my comments, was it really being de-risked? because the biggest risk of all, which was failure to acquire Lime Grove, was being totally ignored. When that bid of £8.25 million was put in what risk workshop took place? What risk

analysis have you seen to identify the downside risk of trying to chip £500,000 off the price? Because I have not seen any. There may have been something but I do not know. We ran a full risk workshop with about 30 people there.

Deputy D.J. De Sousa:

We were told though in the earlier hearing from the Minister when the Acting C.E.O. attended, that it was down to the Acting C.E.O. that that risk workshop was ever carried out. Due diligence had not been done before that and a risk workshop had not been put in place.

Mr. D. Flowers:

Well, we carried out a risk assessment and we would not normally get to a full risk workshop until we had done full feasibility studies because it is a matter of detail. But as part of the process of responding to the Acting C.E.O. I organised that risk workshop, I did the presentations and I got all of the people there. Now I do not think that was wrong. What we were being asked to do, though, was fairly drip feed: "Well, now I want you to do this, now I want you to do this ..." Now ...

Deputy D.J. De Sousa:

Whereas you would have done that in the process when the time was right? There is a process that you follow in acquisition?

Mr. D. Flowers:

Yes.

Deputy D.J. De Sousa:

It would have come but it was raised before such time as you would have felt it necessary to do that.

Mr. D. Flowers:

Yes, the risks that were brought out in the risk workshop, the highest risks, were not radically different from the risks that we had identified within Property Holdings which were that the highest risk to this project was failure to acquire Lime Grove. The other risks that we saw were that this could become a bit of a political football because we were trying to achieve a major project at a time when we were moving into elections. We looked at that.

The Deputy of St. Peter:

You talked about the results of the risk workshop, and it highlighted the highest level of risk. Can you just confirm that the loss of Lime Grove was the highest financial risk to the Island?

Mr. D. Flowers:

I have got that ...

Deputy D.J. De Sousa:

There was some 20 risks, was there not?

Mr. D. Flowers:

Yes, there were 20 risks. Let me just get the date of that, when I got the report in. Bear with me. Here it is, this was the report from Turner and Townsend and the top 4 risks ...

The Deputy of St. Peter:

So that is the top 4 out of a total of how many?

Mr. D. Flowers:

Well, there were 31-odd. I have got a risk ...

The Deputy of St. Peter:

That is fine, it just gives us an idea of ...

Deputy D.J. De Sousa:

Some 30-odd, yes?

Mr. D. Flowers:

There is some 30-odd risks. The top risk that was rated as an original score of 25 was political change and political agenda during planning applications, project aspirations versus political aspiration, delay in delivery, planning or environmental consents for South Hill. That would cause severe extension of the programme and that was rated at £3.5 to £4.5 million and a time delay of 12 months. Second, rated at 25 was political agenda, political elections in 2011 may impact on the programme. That was rated at £3.5 to £4 million. The next one was a score of 20. Failure to get price accepted politically for Lime Grove. Market has moved. Agreed price no longer valid, seller pulls out of the deal.

The Deputy of St. Peter:

So this was a risk workshop set by professionals within that field, and all the ...

Mr. D. Flowers:

The effect ... this was number 3, the effect was loss of Lime Grove acquisition - opportunity lost, requirement to find alternative site for the police, delays to the project, additional cost associated with the delays. That was estimated to be a £7 million to £8 million additional cost to the States and a time delay of at least 2 years.

Deputy D.J. De Sousa:

Who was present at the risk workshop?

Mr. D. Flowers:

All of the chief officers and some of their assistants.

Deputy D.J. De Sousa:

The reason I ask this is that the Minister has rebutted that there would be a loss to the States.

Senator S.C. Ferguson:

If we went ahead.

Mr. D. Flowers:

Well, I think the figures speak for themselves which are that the second best option after Lime Grove is to find another site and to build an office similar to Lime Grove and to refurbish the police existing police station and that comes out at a figure of about £2 million more in construction costs but you have to find a site and that site has a value and if, for example, you are looking at Green Street car park, which is a possibility, the value of the site which you are building on needs to be taken into account because that site could be used for private residential and in fact that is the most appropriate use and we had put that forward as being the option for Green Street car park to fund the replacement of the car park. So, you need to add anywhere between £2.5 million and £3.5 million for the site value; that is the foregone value of the site.

Deputy D.J. De Sousa:

We have moved on from there because we have been told the States own so many sites there has to be one site that would be suitable.

Mr. D. Flowers:

Well, the States spent 10 years looking for a site within their portfolio. I think there is a misconception that the States has a lot of vacant properties sitting around. Certainly the portfolio is reasonably extensive but most of the buildings - well virtually all of the buildings - are currently in use delivering public services so ...

Deputy D.J. De Sousa:

It has been intimated though J.C.G. (Jersey College for Girls), Sacre Coeur ...

Mr. D. Flowers:

Well, J.C.G. is a site which would not be suitable, in my opinion, for the police station because of the road traffic conditions there. It is an ideal residential site and if it is done properly, and we have certainly worked up schemes for it, it will produce significant regeneration of that part of the town in terms of the houses around it et cetera would be encouraged to regenerate.

Deputy D.J. De Sousa:

Because there is some run down properties there.

Mr. D. Flowers:

If you want to go through the sites I have been through all of them.

Deputy D.J. De Sousa:

No, there is no need to. When you started with this one you read out the words: *"In other words, I need to be clear to the panel [this is the Minister for Treasury and Resources speaking] that my concern about the quality of the business case which I was pressurised to sign off remains absolutely valid"* and the Minister in both hearings yesterday, and the previous one, has said that he had extensive lobbying to a degree that he has never known before.

He had pressures put on him by States Members, either to hurry up and sign, or hang on a minute the price is too high, from the agents, from all over he was being pressurised. Have you ever been involved in an area like this where pressurising of a Minister or a department has been involved at this level?

Mr. D. Flowers:

No. What I will say is that throughout the summer of 2010 we had been holding meetings with P.A.C. (Public Accounts Committee) and virtually all of the Assistant Ministers from the different departments to ensure that they were fully conversant with the project and that when it was presented to the States that it would not receive ill-informed or uninformed opposition and I had heard recently that we had been criticised for doing that, but as far as I am concerned that is openness and transparency. We could not reveal the acquisition price for Lime Grove but we went through the whole project and we were quite happy to take questions. Now, what I received from quite a number of politicians that we presented the scheme to, was that one politician said it was a no-brainer, it was obvious, and that person has property experience. So, it was quite clear to some and to others it appears to have been a complex web of property moves. All I can say is that the extent of lobbying that the Minister might have received is a reflection of the support which the project had and probably as a result of the extensive exposure to the scheme that we had been giving through a process of consultation.

Point 22: "This is more ..." and by "this" it means an allegation that the business case was poor [Senator Ozouf].

Can I just go back, because what Senator Ozouf is saying is that he had thought that if Rowney Sharman had reviewed the business case then he might have had some concerns. Well, Rowney Sharman did review the business case; it was not something else they reviewed. So, that is just one point. He said that ...

Deputy D.J. De Sousa:

We did clear that up slightly earlier.

Mr. D. Flowers:

Okay, he said:

"This is more than demonstrated in the Interim Treasurer's report." [Senator Ozouf]

Now, this is a report produced by Hugh McGarel-Groves, who was an interim manager, who was standing in for the Treasury's role after Ian Black left. Now, I have done extensive work reviewing the Interim Treasurer's report. He has no property qualifications, his report was seriously flawed, it suggested for example that we did not need to build a new ambulance station, we could just park the ambulances in a compound which when presented to the Ambulance Service they almost had a fit. They said: "These vehicles are so full of expensive drugs that they would just get broken into every night."

Deputy D.J. De Sousa:

And the equipment.

Mr. D. Flowers:

And the equipment. Also, the comments that were being made by Mr. McGarel-Groves about valuation were equally flawed because he was again taking an amateur approach.

Deputy D.J. De Sousa:

This is the one that we had 2 reports, was it not? One was very derogatory and ...

Mr. D. Flowers:

There were 3 reports. The first report which was not issued as a draft but was handed to me as the final report contained ... all I can say is that they were allegations which were unfounded and obnoxious.

Deputy D.J. De Sousa:

This rubbished professionals as well, did it not?

Mr. D. Flowers:

It did. I mean, the whole world was wrong according to this report and I had meetings with Mr. McGarel-Groves and he decided that he would still include that particular paragraph but say that he had subsequently learned that his conclusions were wrong. Then his third report, which I thought was just being vicious, the paragraph was taken out entirely but the remainder of the report which, in my view, contained serious inaccuracies and completely discredited the author of that report. In fact I referred that report to the Comptroller and Auditor General and I subsequently had conversations with him about that.

Senator S.C. Ferguson:

His comments on that in fact are up on the website.

Mr. D. Flowers:

Yes:

"Let us be clear there was no implementation plan of Lime Grove, financial appraisal or proper report in October. [Senator Ozouf]"

The elements contained in the draft report and further work to satisfy the Acting C.E.O.'s concerns were undertaken by J.P.H. in November and December." Basically we felt that ...

Deputy D.J. De Sousa:

This was after you had been taken off the case as well, was it?

Mr. D. Flowers:

Well, in the beginning of November we had not but in December we were still being asked to provide information to support the new negotiating team, so

we did. I mean, basically my team had put a huge amount of effort into putting this together ...

Deputy D.J. De Sousa:

Some years. How many years?

Mr. D. Flowers:

Well, the previous years were very frustrating because we could not get the police to change their specification requirements, so value engineering did not seem to work with them but over the previous year my particular team, and it was not just one or 2 individuals it was the whole team, the capital projects team, the financial sections were all making input into making this work.

[11:30]

Deputy D.J. De Sousa:

So, that would have been 2009?

Mr. D. Flowers:

From 2009 to 2010: *"I am advised from the file reviews that we have concluded that there has been a great deal of retrofitting of the whole business case planning in the period of November and December."* [Senator Ozouf]

Well, I would not call that retrofitting. Basically we were issued a draft and we were asked to address the concerns. We never issued it as a final document and I know, for example, that the Comptroller and Auditor General issues reports and he issues them to anybody that is involved in that to check their factual accuracy and he receives their input. I mean, we did not believe that that would be the final business case, so anything which was put in afterwards I do not see a problem with that. I mean, I work like that all the time. I believe that levels of management should support the one below them.

Deputy D.J. De Sousa:

It is a process.

Mr. D. Flowers:

It is a process.

Deputy D.J. De Sousa:

Everybody assists along the way to achieve ...

Mr. D. Flowers:

Yes.

Point 25: "It has come to my attention there are a number of file and briefing notes that were created by Property Holdings in December 2010 which seem to document and justify previous actions, some back as far as March." [Senator Ozouf]

Well, I think there are only 2 file notes. There is one file note that was created on 15th December and I referred to that before and you have that. The other file note was that I was asked by Deputy Le Fondré to give him a timeline in relation to the acquisition of Lime Grove which I put together and I do not see a problem with that.

Point 26: "It is important that the panel is very clear about what the state of knowledge the different parties were at the time of the October rejection of the business case." [Senator Ozouf]

Well, I was not aware it was rejected in October because it was never meant to be presented for ministerial approval until a final report had been produced:

"There has been some evidence to the panel regarding valuation. In my previous statement I made it clear that I had concerns about the price at which the original Lime Grove offer had been made. I made reference to some informal advice that I took in relation to what the appropriate price the States was to pay for this building. I reiterated my remarks to the panel concerning the important issue of what an appropriate offer price should be as opposed to a valuation." [Senator Ozouf]

Deputy D.J. De Sousa:

That is where my questioning came earlier.

Mr. D. Flowers:

Yes. I mean, there is a point here. If you are buying a house there is an offer price which you agree and then if you are borrowing money the bank will come and do a valuation in order to give themselves assurance that there is sufficient value in the property to secure their loan and a lot of cases that valuation is lower than the price that you bid because they will be conservative and certainly I know that the last valuation we obtained in January from Drivers Jonas Deloitte which valued Lime Grove House at £8.45 million was quite conservative because it had identified the headline rent at £22 per square foot whereas 100 yards down the road the Forum was being let for £23.50 per square foot. Now, that makes a big difference on the value and the Forum is by no means comparable to Lime Grove House. It is in a very poor location, it is dark, et cetera.

Deputy D.J. De Sousa:

It is a much older building as well.

Mr. D. Flowers:

A much older building, yes.

Deputy D.J. De Sousa:

I believe it was refurbished?

Mr. D. Flowers:

It was refurbished by Dandara and its upward only rent at £23.50 and it has recently been re-let to ... I cannot remember the name, but it has just recently

been re-let: "I reiterate that the States should not be paying for its own covenant in relation to a leasehold by the States." That observation is simply not correct. I have been through that. That is not the way that it works: "I understand that the Managing Director of the then Waterfront Enterprise Board has given evidence to the panel." I think that evidence has been addressed in some detail by Mr. Law who gave evidence yesterday. We are yet to see any substantial evidence as to how the range of values of £6.5 million to £7.5 million were arrived at because they are at odds with all of the other valuations and they are not substantiated with evidence.

Deputy D.J. De Sousa:

Mr. Richardson did say at yesterday's hearing that he felt that this would probably be the type of thing that S.o.J.D.C. (States of Jersey Development Company), which is the original W.E.B. (Waterfront Enterprise Board), would be involved in.

Mr. D. Flowers:

But then I believe that Mr. Izatt said that it would not.

Senator S.C. Ferguson:

Yes.

Mr. D. Flowers:

That is he said it is not for S.o.J.D.C. Now, point 33 is quite important which is ... and this is Senator Ozouf:

"I explained to the panel that another well-respected local surveyor advised Mr. Richardson and myself of a value in the region of £7.5 million." [Senator Ozouf]

It is totally inappropriate and against the R.I.C.S. code of conduct to give informal advice of this nature. You either do a valuation and you support it with evidence, or you do not offer an opinion because that opinion needs to be evidence-based. If this person is a qualified professional then he is breaching the R.I.C.S. code of conduct. It is rather like a doctor telling you something over the phone without doing a proper examination and we heard yesterday that Mr. Izatt was giving a value on the building without having even inspected it. I mean, the very first thing that you do, if you are going to value a building, is go and take a good look at it.

Deputy D.J. De Sousa:

Which Mr. Law told us yesterday morning he did do.

Mr. D. Flowers:

Yes, and it is the first thing you do. If Mr. Izatt had visited the building he would have found that it is not just shell and core, the core is finished with marble finishes.

Deputy D.J. De Sousa:

To a very high standard.

Mr. D. Flowers:

A very high standard.

Deputy D.J. De Sousa:

Even the lifts, the toilets, the stairs.

Mr. D. Flowers:

Yes, they are all there.

Senator S.C. Ferguson:

Were you aware at this time, which is October/November/December, that every time you gave information to Mr. Richardson it was just being emailed straight on to Stephen Izatt?

Mr. D. Flowers:

No.

Senator S.C. Ferguson:

Thank you.

Mr. D. Flowers:

No, I was not. Although the very first meeting that I had with Mr. Richardson on the business case he had apparently received information ... he did tell me that he had had information from W.E.B. which was that the building could be bought for at least £2 million less and that a building could be constructed on Green Street car park for ... I think it was between £5 million and £6 million.

Deputy D.J. De Sousa:

The other thing is, just before we move on, the valuation as well it was also brought into question the fact that even Mr. Richardson himself has been to the building and there is water ingress and that is an issue. There was water coming in through a certain wall. Mr. Law as well mentioned it: "It is probably in the build." That was your statement yesterday. We will verify it with the transcript later. So, quality of this, would it bring down the value?

Mr. D. Flowers:

No, because the way in which the deal was structured was that we had a bid of £8.75 million, the vendors came back and said: "Well, you have explained to us that you have allowed £1.5 million for your Category A fit out and we believe that any snagging or defects and power supply can be contained within that £1.5 million." So, that was to be demonstrated. Now, if on further examination of the building it was found that the snagging or water ingress, or whatever, was going to cost significantly more together with the Category A fit out then the landlord, the vendor, would have to pay for that and that is exactly what was done in the final negotiation. I do not have a problem with the way that the negotiation took place in July, except for the fact that there was a push back on the snagging and the power supply and an attempt to reduce the headline price by £500,000. Now, the vendor and the vendor's agents ... Jersey is a very small market and they know ...

Deputy D.J. De Sousa:

The Minister has said that as well.

Mr. D. Flowers:

Yes, they know what valuations had been carried out and they know what those figures are because Drivers Jonas Deloitte, because they are not based in Jersey, had to speak to all the local valuers to get their comparables. So, here you have a situation where you have 3 valuations which are saying, if you average them, it is around about £8.75 million for the building and you then have the States coming in and saying: "Well, all those defects and everything they are all down to you. We not going to negotiate on that and we want £500,000 off the price." I mean, that really does look like an attempt at a win-lose situation, which is never good in a business situation.

Deputy D.J. De Sousa:

But we were also told that the Minister completely lost confidence in some dealings with Jersey Property Holdings; that there was a breakdown in communication and professionalism and that the issue of the Category A fit out and the snagging was not carried out professionally, it was not dealt with in the right way.

Mr. D. Flowers:

Well, all I can say is that in any property transaction there are matters which need to be resolved at detailed heads of terms. So, if you are buying a house, and I will give you the same analogy, you put in a bid for a property and then you send a surveyor in who will do his level best to find everything that is wrong with the property, so he covers his professional indemnity insurance. You then go back with a schedule of works and say to the vendor: "Well, hang on a minute I have to pay £15,000 to sort these all out, we are going to have to talk again about the price." Now, you do that after you have had your valuation from your mortgage provider and you have all of the facts. Now, what we had done, or what my team had done, is negotiate a headline price to secure an exclusivity period. There had been some quite normal wrangling about what exactly was going to be included and there was a mechanism which would cover that which was if it could be contained within the £1.5 million we have for the Cat A fit out then everything is fine. If it cannot then it is exactly the same as the surveyor's report on your house, then you go back and you say: "Well, that is down to you. You fix that or you reduce the price." It is a very straight forward process.

The Deputy of St. Peter:

An allied comment here. It appeared when we heard it from Mr. Izatt that there was a huge sway in the figure for the dilapidations. When you talk about your house it would be like someone saying: "Actually, it is £15,000 to deal with the dilapidations but it is range between £15,000 and £200,000." The figures we were given were dilapidations of £400,000 ranging from £250,000 to £750,000.

Mr. D. Flowers:

Well, I have not seen those figures and certainly as far as any liability for the public is concerned that would be a matter for final negotiation. It is not something that was evident at the time that we were dealing with it. It would be a matter for final negotiation and we could only do that when we had a ministerial decision from the Minister for Treasury and Resources. Now, that is what he eventually gave to Mr. Richardson which is: "I authorise you to negotiate up to £8.75 million for this building." He then told the valuer, Guy Gothard, £8.25 million.

Deputy D.J. De Sousa:

£8.25 million and no more.

Mr. D. Flowers:

No more, but basically the ministerial decision, as I understand it, said £8.75 million. Now, yes, if those ... I am yet to understand if the concerns regarding water ingress are significant. It could be that the seals have gone around some of the windows. It is exposed. You have a building that has been there for 10 years that is empty. Certainly Mr. Law gave evidence that in his opinion there was not anything that he could see that was significant but then these are matters that come out when you engage surveyors to do the detailed work. But if we had started to send surveyors in and negotiated final heads of terms without a ministerial decision you would be castigating me even more, or the Minister would be saying: "Well, look at all this. They have raised the expectation of the vendor without my consent."

Deputy D.J. De Sousa:

So, really it goes back to the fact that there is a process.

Mr. D. Flowers:

Yes.

Deputy D.J. De Sousa:

You follow the process through and arrive at a time and point when you would do a certain thing.

[11:45]

Mr. D. Flowers:

Yes. I think we are down to point 33, point 34. So, Senator Ozouf is going to disclose in confidence the other people that approached him regarding information. I cannot comment on that.

Then *point 35*: "*The J.E.P. (Jersey Evening Post) has helpfully asked 4 questions which get to the heart of the issue; either the Treasury Department was pointlessly procrastinating, or it was dealing with a hopeless project. I have clearly demonstrated that the business case presented to me in October and the way in which the offer process was handled were both seriously flawed. What my department performed avoided a flawed project from progressing and saving millions.*" [Senator Ozouf]

Well, there was no saving because the deal was lost. So, you cannot save millions if the opportunity for saving was lost.

Deputy D.J. De Sousa:

There is also a delay in the delivery of a police station fit for purpose.

Mr. D. Flowers:

Yes, 2 to 3-year delay:

“Either the department knew about the initial £8.75 million offer or they did not. I clearly demonstrated that outside of Property Holdings and the Assistant Minister the department was not aware of the initial offer, in my case until at least 5 weeks later.” [Senator Ozouf]

Well, I believe from the evidence of my own sitting in front of the Minister that he was aware that we were going to secure exclusivity and he was told as soon as possible after we had. There was a time delay between 31st March and the initial briefing with him because the Easter holidays intervened but we got to him as soon as we could and, I mean, he is a busy man but we got an audience as soon as we could and it is evidenced that we had explained the exclusivity and he challenged us on the valuation. If there was a problem at that time he could have said to us: “Withdraw your offer. I really do not like this. I am not happy with it.”

Deputy D.J. De Sousa:

The Minister has also said yesterday that because the initial offer was made of £8.75 million it made the department’s position much more difficult when they went in with the offer of £8.25 million, so no offer should have been made in the beginning.

Mr. D. Flowers:

Right. Well, let us go back to, what is the States objective in buying property? Is it to pay a fair price, a fair open market price?

Deputy D.J. De Sousa:

Which is what he said yesterday.

Mr. D. Flowers:

Well, the fair open market price is the valuation that was put forward at £8.75 million because there are 3 external valuers who said that is the fair open market price. So, if that is the objective of the States then why would the States want to go back and try and shave £500,000 off the price? I can certainly understand that if there were more defects than were originally apparent that the vendors should be brought to task and pay for those, but it really is throwing caution to the wind to try and get an additional £500,000 off. Why would the public want to be trying to drive a win-lose deal?

Deputy D.J. De Sousa:

What the Minister said yesterday was the same as you just said, should we be paying a fair open market price, or should we be getting the best value for the taxpayer?

Mr. D. Flowers:

Well, I do not believe that ... certainly if the public behaves in a fashion where it is continually trying to obtain property at less than market price then nobody will want to deal with it because they will just go to the alternatives in the market. This is something that, in my experience in Royal Mail and in other companies, you do pay a fair market price, particularly if you are told and you have evidence as we did in March 2010 that State Street were still negotiating for that building. That was before they looked at the Swanson building. We were asked for our best and final offer. Now, there are ways of negotiating; one way is to start low and then move your figure towards. So, it is called positional bargaining. The other way ... but as soon as you move the other party will know that you will move. The other way is simply to put a figure on the table and say: "That is it. There is no further negotiation." That is what was done. So, that is our figure, that is what we assessed it as, that is what we believe is a fair open market value.

Deputy D.J. De Sousa:

That was done on the valuations.

Senator S.C. Ferguson:

There have been suggestions that the Jersey Property Holdings' offer was not ... it was a serious offer from J.P.H. side but perhaps the vendors were not taking it seriously and were using you as a sort of runner for ...

Mr. D. Flowers:

Stalking horse.

Senator S.C. Ferguson:

Thank you. A stalking horse.

Mr. D. Flowers:

I certainly do not believe that. I believe that they were very serious about dealing with us. I know that State Street went to the Swanson building and agreed heads of terms with Dandara and there were particular issues with that contract in June/July of 2011 which caused them to decide not to proceed. No doubt they had made a conditional offer and agreed heads of terms and then they pulled away from it. It happens.

Senator S.C. Ferguson:

But in the original picture it was unlikely that you would have been given an exclusivity period if you were being used as a stalking horse surely?

Mr. D. Flowers:

Yes, I overlooked that point. Certainly you are right that we would not have been given an exclusivity period. I think that at that time the vendors were very keen to do a deal with us for the police station. They had dealt with one

of my predecessors in Property Holdings when I believe the States were looking at moving people from South Hill into Lime Grove. Certainly the relationship that we had with Buckley & Co. was that they knew us and they trusted us and I think that they have given evidence to that effect. There is no question from Buckley & Co. that we misled them and there is no question in my mind that the vendors misled us. Property works on trust. You learn that very quickly that you do not break that trust and you do have as much transparency as possible otherwise people just do not want to deal with you and trying to get one over on somebody in a deal just comes back at you.

Deputy D.J. De Sousa:

But the Minister has said that he had lost all confidence in the department of Jersey Property Holdings and that things were not handled professionally.

Mr. D. Flowers:

Well, that is his opinion. It is certainly not mine and I am not sure upon what evidence he bases that because my line of communication politically was through Deputy Le Fondré and operationally through the Acting Chief Executive Officer. Now, I am not sure how the communications that we put to the Acting Chief Executive were reaching the Minister. I certainly know that we were not getting very much coming the other way in terms of direction. I am very firmly of the view that the Minister was badly advised by others who were not conversant with the full facts and I think he was very concerned that he was going to be publicly exposed in buying a building at a figure which was too high. That is what I believe is behind his concerns. All of the other matters could and should have been resolved over a period of time. The issue is, did we have time to wait before we moved ahead with closing the deal on Lime Grove? As it was, that delay was just pushed too far. If we had secured that building in July then State Street would not be occupying it. State Street from the time that they dropped their deal with Dandara took, I believe, 2 months to close the deal. There should not be a problem. They do not seem to be concerned about water ingress.

Deputy D.J. De Sousa:

But they are leasing it, not buying it.

Mr. D. Flowers:

That is fine, and neither does the vendor and he is dealing with any of the issues. Those issues will get fixed and you will have State Street in that building and in a year's time this will all just be history. Unfortunately it is a lost opportunity for the States.

Deputy D.J. De Sousa:

And therefore the taxpayer of the Island. Would you go so far as to say that?

Mr. D. Flowers:

Yes:

“Taxpayers have lost out between £5 million and £8 million or they have narrowly avoided a capital overspend.” [Senator Ozouf]

Well, I do not believe any savings have been made. The original phase one case had projected operational savings of up to £1 million a year. That is the original case. To delay 9 months to save £350,000 when you are losing £750,000 appears to be a complete nonsense. Lime Grove House was the preferred solution from both an operational and financial perspective. The Lime Grove building has been there 10 years. It does have some evidence of water penetration. It does have facades that need to be cleaned but if you walk around the building it is fine and I do not think that there are any serious problems with that building that cannot be resolved and I come from a background of building buildings, not just buying and selling them.

Senator S.C. Ferguson:

Thank you.

Mr. D. Flowers:

“Property Holdings Department were doing a good job or they basically had gone rogue and could not be trusted.” Then: “My evidence of the unprofessional approach related to Property Holdings after et cetera is clear. Faced with that evidence I had every right to question what I was being presented with. I am glad I did so. I believe Islanders will be glad I did so.”
[Senator Ozouf]

In my opinion the Minister made a foolish gamble and lost. Basically to give the negotiator the task of reducing the headline price by that amount was a gamble. The time delay in getting all this further information was a gamble and on 6th April 2011 I wrote to the Deputy Chief Executive. This is an email to John Richardson and it is copied to Mick Heald, Ray Foster and Mark Grant. It is dated 6th April 2011: “John, I refer to our meeting yesterday regarding next steps and progressing various strands of the proposed office strategy. I understand that a political meeting took place last week while I was on leave and it was agreed that the disaggregated proposal [that is the fall back option that I talked about] for the police headquarters project would be progressed and that the Treasurer stated that the project shortfall of £2 million would be provided from future capital allocations. I would be grateful if you would let me have a copy of the minutes of that meeting. In order to proceed with this project I understand it is your intention to reopen negotiations with the vendors of Lime Grove House [that is April so the project was taken over in November, so 5 months]. While it is important to explore any possible cost saving to the public in the execution of this project I am concerned that the risks of pursuing this course of action far outweigh the potential gain. As you are aware from my recent report we now have 3 external valuations and one internal assessment for the value of Lime Grove House, all of which are broadly in agreement with the current conditional agreed offer of 8.75. The agents acting for the vendors of Lime Grove will be aware that we have obtained a further valuation of the building as they were along with other local agents apparently contacted to provide market comparables. They will probably also be aware that there is no material difference in valuations. By further concentrating police functions in Lime Grove it is now possible to re-provide the remaining police station requirements together with a new ambulance station and fire rescue services

on the existing Rouge Bouillon site [I do not think I need to go into that]. In my view this leads to a position where the public's need to acquire Lime Grove is now greater than the vendor's need to sell it to us.

[12:00]

As I pointed out at our meeting the possibility of a lease deal with State Street Bank remains an option for Lime Grove. While heads of terms have been agreed with States Street and Dandara for the Swanson building the lease is yet to be passed." I then go into an analysis of the rent situation and how State Street would benefit significantly from a reduced rent because of the level of the Swanson building.

Deputy D.J. De Sousa:

Which is what we know they have.

Mr. D. Flowers:

Yes: "I therefore urge caution in dealing with the vendors as their position may have hardened significantly. Finally, I would counsel against reducing the headline price by accepting responsibility for completing the snagging and defects in the building as this would expose the public to any inherent defects liability which in the current heads of terms would remain with the vendor." Now, that last paragraph has been quoted and I would stand by that which is that even if you paid for the defects, or you pay for half of the defects, or whatever, the landlord or the vendor should do them in order that the liability for the shell remains with them. It is unwise to do them yourself.

Deputy D.J. De Sousa:

If you do them the responsibility would move to you.

Mr. D. Flowers:

Yes. That came to the end of Senator Ozouf's latest blog but I do not know whether there is ...

Senator S.C. Ferguson:

There are a couple of things that have arisen over the last few days. On 12th April you sent an email to 2 of your staff.

Mr. D. Flowers:

Yes.

Senator S.C. Ferguson:

You talk about the snagging and the upgrade and so on, and the Cat A fit out and so on and the phrase that keeps being quoted to us is: "All in all very messy and totally unsatisfactory."

Mr. D. Flowers:

Yes. Well, the reason I said that I thought it was very messy and very unsatisfactory is because we had a situation where there was an attempt to negotiate on both the defects and power supply and to reduce the headline

price by £500,000 and State Street coming back into the market. I felt that that was extremely messy and that basically the deal would fall over and that is when I said that I am standing on the sidelines waiting for the train to crash. Because it was almost inevitable that the vendor was going to walk away. He now has a complete breach of trust in that the States are now trying to get a better deal than an open market value - significantly better - and he knows that State Street are around. So, I would be instructing my agent to go and talk to them and get a deal.

Deputy D.J. De Sousa:

But it has been intimated to us on several occasions that the quote of that is about the department; that the dealings of the department are all very messy. Your department, Property Holdings.

Mr. D. Flowers:

No, if you look at it what it says is that the whole situation is very messy and my concern is that Property Holdings would get the blame and that is what has happened. Basically I do not think the transaction was being conducted properly. I think the delays were too long and I think the attempt to reduce the price was very foolish.

Senator S.C. Ferguson:

Just one small question. It is just a procedural matter which I am probably a little vague about, when did you stop being the accounting officer?

Mr. D. Flowers:

I stopped being the accounting officer in ...

Acting Chief Executive, States of Jersey:

I can help. November 2009.

Mr. D. Flowers:

Yes, November 2009. That is correct.

Senator S.C. Ferguson:

All right. Debbie?

Deputy D.J. De Sousa:

I think everything I have written down has been dealt with.

Senator S.C. Ferguson:

I am glad you can read it. Is there anything else you would like to say, Mr. Flowers?

Mr. D. Flowers:

Probably lots, but everybody has been here a long time. I would like to say that the failure to acquire this building is a major disappointment to the officers in Property Holdings and to the police service and I believe that people generally come to work trying to do a good job and I have a positive opinion of

my staff and I try to support them. I do not see that being reflected elsewhere in the States. I do not believe that support has been given.

Senator S.C. Ferguson:

Thank you very much indeed, Mr. Flowers.

Male Speaker:

Chairman, I know the protocol and I would not butt in ...

Senator S.C. Ferguson:

Yes, and I have an extra brick in my handbag just for you!

Male Speaker:

It is only while Mr. Flowers still has privilege and the transcripts are still going ...

Senator S.C. Ferguson:

No, I am sorry. I am sorry, you cannot ...

Male Speaker:

I just want to know why he cannot talk to the media. It is a fair question.

Senator S.C. Ferguson:

He did say at the beginning of the ...

Male Speaker:

He did not. He did not say why he was unable to talk to the media.

The Deputy of St. Peter:

Sadly the problem here is very simple. The way the process runs here, we always talk from the table and regrettably we cannot have people ...

Male Speaker:

I understand that.

The Deputy of St. Peter:

We have to stick to those rules quite rigidly. They are there for a reason.

Male Speaker:

This question will never get asked is what I am saying. He will not have privilege.

Deputy D.J. De Sousa:

It was probably a failure of us not to ask the question.

Mr. D. Flowers:

Which question? Why can I not ...?

Deputy D.J. De Sousa:

Why can you not speak outside of here?

Male Speaker:

To the media.

Deputy D.J. De Sousa:

To the media.

Mr. D. Flowers:

Because I am bound by confidentiality.

Deputy D.J. De Sousa:

By your contract?

Mr. D. Flowers:

Yes, and that unfortunately is the position most civil servants find themselves in is that they are subject to criticism from a political perspective without the right of reply.

The Deputy of St. Peter:

I think that covers it.

Deputy D.J. De Sousa:

I am sorry, I did not ask it, but we were trying to get everything in and it is very difficult to remember everything.

Mr. D. Flowers:

Thank you very much.

Senator S.C. Ferguson:

Thank you very much for your strength of mind.

[12:08]