



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

Oifig an Cheannasaí Airgeadais, An Roinn Airgeadais,
Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8, Éire

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To: Each Member of the Finance Strategic Policy Committee

20th January 2017

Re: Ballyfermot Leisure Centre

Dear Committee Member,

I refer to the meeting of the Finance Strategic Policy Committee held yesterday (19/01/17), at which it was agreed that the extract from the Statutory Report of the Local Government Auditor in relation to the audit of Dublin City Council's Annual Financial Statements for the financial year 2015 on the above matter would issue to SPC members.

The Statutory Audit report has already been brought to the attention of elected members as an agenda item at the meeting of the City Council held on 5th December (Item 5, Report 344/2016) following consideration at the Audit Committee held on 17th November.

A further report is being prepared by the Law Agent and Assistant Chief Executive with responsibility for the Culture, Recreation and Economic Services Department. This additional report will be circulated to members once available.

Yours sincerely,

Kathy Quinn
Head of Finance
With responsibility for Information
And Communications Technology

Extract from the Statutory Report of the Local Government Auditor in relation to the audit of Dublin City Council's Annual Financial Statements for the financial year 2015:

5.5 Ballyfermot Leisure Centre

As referred to in my previous audit report, the development of the Ballyfermot Leisure Centre was approved in September 2004 and a contract was awarded for the tender sum of €18.2m (including VAT). There were a number of delays and fundamental problems with the execution of the contract and the building was handed over to the Council in 2008.

Claims for additional costs were submitted by the contractor and an arbitration process commenced in 2011. This concluded in July 2016 and a final settlement of €13m was agreed to cover contract and legal costs. The final payment was made in 2016 bringing the total cumulative expenditure to date on this project to €45.5m.

Chief Executive's Response

The Leisure Centre was built per the tender specification, with minimal changes and handed over to the Council in 2008. The contractor then submitted their final accounts claiming €38m plus VAT and interest. This was in addition to the original contract price. This claim was based on variations, delay, disruptions and increased costs.

A conciliation process in 2010 was unsuccessful and an arbitration process commenced in 2011. The contractor reduced the claim to €27m plus VAT. The Council defended the claim and counter claimed in the amount of €6.4m (cost of necessary remedial works to the 7 swimming pools and consequential loss of swimming pool and weather pitches revenue during closure). The arbitration process continued for 5 years up to June 2016, during which time the Arbitrator made a number of determinations.

Following a review of the case and assessing the opinion of our legal counsel and our expert consultants, it was decided that the most financially prudent course of action was to negotiate a settlement with the contractor. A settlement was agreed with the contractor in June 2016 in the amount of €5m plus VAT, representing full and final settlement of their claim and €8m in relation to their costs to date. This settlement was agreed by Dublin City Council against the backdrop of an ongoing arbitration claim potentially lasting a further number of years where ever increasing costs would be incurred by both sides. The settlement represented a significant reduction in the original claim submitted by the contractor.