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PA

The Secretary
Appeals Board
St Francis Ravelin
Floriana



21st August 2017

Appeal against refusal of PA 2586/17
UCABS Malta, Vincenti Buildings, 19, Old Bakery Street, Valletta

The reason for refusal given by the Planning Authority was that the existing offices and dwellings located in this block do not have separate access points.

Access to the proposed office is via a secondary entrance located at level 0, accessible from Old Bakery Street. The main entrance to the block, used by the residents, is on the second level which is accessed from Strait Street. This is validated by the location of the resident's letter boxes (Apts 16, 19, 23) which are located on the second level in the main entrance hall (Refer to the attached images). Therefore, it is very clear that the board failed to analyze the plan of the common area which clearly shows two (2) entrances. Furthermore, and with all due respect, the board failed to note that all the units forming part of the said block in Vincenti Buildings are offices except for three (3) units which are residential.

Attached is an affidavit signed by the previous owners confirming that the property was previously used as an office. That being said, the proposed office shall remain indicative to it's previous commitment.

The proposed use of a diving centre has already been given an informal approval by the Malta Tourism Authority. The business proposed is a major tourism attraction as it will introduce a new way of diving to Malta. The said approval was granted since no cylinders or diving equipment will be stored at the property. The property will solely be used as a head office for the applicant company UCABS Limited and in this regard the flow of customers coming in and out of the building will be minimal. That being said, the head office is of fundamental importance for the operations of the company as the company cannot start operating without an office in terms of law. The diving equipment and cylinders will be stored on a boat which will be licensed accordingly.

This large six storey block is scheduled as a Grade 3 Office Building and predominantly used as offices. On these grounds alone the application should be regarded favourably were office establishments should be encouraged. It must be noted that the application was at first instance set for approval based on the scheduling of the block. Furthermore, the Planning Authority has also granted similar permits (PA 5891/07, PA 198/09 and PA 4624/10) for change of use to offices in the Vincenti Buildings Complex.

In these circumstances, the appellant company submits that the legal principle of *ceribus parimus* should be applied and therefore the application should be approved. Since the approval of the permits mentioned above, there were no significant changes to the laws and regulations which may justify the Authority's change in its decisions. The reasons of refusal were already considered in previous applications and the decision of the Authority was to approve applications for offices at Vincenti Buildings.

In this respect, local jurisprudence has stated that the Planning Authority should treat similar cases in a consistent manner to avoid discrimination on applicants. This was reaffirmed by the Court of Appeal in its Inferior Jurisdiction in the case *Vella et vs DCC* decided on the 10th December 2008 where it was held that:

'Applikazzjonijiet simili jirrikjedu trattament identiku. Id- decizjonijiet f'dan irrigward, u l-konsiderazzjonijiet li jwasslu ghal dawn id-decizjonijiet neessarjament jehtieg li jkun konsistenti. l-inkonsistenza ghandha bhala konsegwenza l-kontestazzjoni gustifikata, id-diskriminazzjoni, l-inegwaljanza, u mill-aspett soggettiv tal-applikant, l-ingustizzja',

Therefore, based on the above submission only, and the fact that other applications for a change of use of an apartment to an office in the same Vincenti Buildings Complex were approved, the appellant contends that this application should be approved so as to avoid discrimination between applicants.



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