PA 179

Fit-Tribunal ta' Revizjoni ghall-Ambjent u l-Ippjanar

St. Francis Ravelin

Floriana

Application Number:	*PA/168418*
Location:	Ta' Pawlina, Triq Tal-Gebel, Birzebbuga, Malta.
Proposal:	To sanction existing boundary walls and part extension to residence, construct additional room at ground floor and additional room at first floor of residence, open new access from residence to street, closing of vehicular access abutting on street, construct new staircase to internally link both floors and shift services from roof floor of first floor level.

ENVIRONMENT AND PLANNING REVIEW TRIBUNAL RECEIVED 10 MAY 2019 ST FRANCIS DITCH FLORIANA

Edwin Schembri ID 569160(M)

Vs

L-Awtorità tal-Ippjanar

Rikors tal-appell tal-applikant Edwin Schembri ID 569160(M):

Bil-qima jghid:

1. Illi dan huwa appell minn decizjoni ta' rifjut mahruga mill-Awtorita tal-Ippjanar appellata li biha giet rifjutata l-applikazzjoni numru PA/01684/18 intavolata mill-appellanti liema decizjoni giet publikata fl-10 ta' April 2019.

2. Illi l-applikazzjoni in meritu kienet proposta "*To sanction existing boundary walls and part extension to residence, construct additional room at ground floor and additional room at first floor of residence, open new access from residence to street, closing of vehicular access abutting on street, construct new staircase to internally link both*

8. Illi mill-aerial photographs sottomessi lill-Awtorita fid-9 ta' Jannar 2019 liema ritratti jirrisalu ghal bejn 1967 u 1978 tirrizulta b'mod car tali farmhouse. Partikolarment importanti huwa l-fatt li l-bitha ta' wara u l-bini tal-1st floor huma kjarament vizibbli u tali konfigurazzjoni geometrika ta' bini hija kjarament wahda residenzjali. Ghalhekk ghandu jirrizulta bla ebda dubbju illi sit de quo kien farmhouse sa mill-anqas minn 1967. Ir-ritratti prodotti huma prova inkonfutabbli li dan il-bini kien u ghadu residenza legittima gewwa ODZ.

9. Illi di piu l-meters tad-dawl u ilma gew installati fit-2002 wara li l-appellant akkwista l-farmhouse de quo. Mix-xhieda tal-appellant Schembri jirrizulta wkoll illi l-ahhar resident li kien hemm fil-farmhouse qabel it-trasferiment lilu fit-2002 kienet armla avvanzata hafna fl-eta li kienet tghix hajja izolata u kienet tghix go tali farmhouse minghajr dawl u ilma. In fatti hija kienet tikkonsma l-ilma minn reservoir li jinsab taht il-*farmhouse curtilage* stess. Illi dawn il-fatti xehed dwarhom l-applikant stess u din hija prova cara wkoll ta' residenza.

10. Illi dato ma non concesso ix-xhieda sudetta ma titqiesx sufficjenti l-esponenti jsostni illi xorta jibqa l-fatt illi din il-farmhouse tirrizulta li kienet residenza u l-aqwa prova ta' dan sta nel fatt illi l-*geometric layout* tal-binja kif deskritt supra huwa kompatibbli ma binja residenzjali u di piu huwa qed jirriserva d-dritt illi jtella kull prova ohra talvolta ammissibbli skond il-Ligi in rigward dan l-aggravju.

11. Illi ghalhekk id-decizjoni tal-Awtorita li biha rrifjutat il-permess de quo fuq il-bazi li skond hi ma hemmx provi bizzejjed li l-binja kienet tintuza bhala residenza qabel in-1992 hija decizjoni fattwalment u legalment zbaljata u ghalhekk tali decizjoni hija infondata fil-fatt u fid-dritt u jisthoqq tigi revokata.

<u>It-Tieni Aggravju</u>

12. Illi fit-tieni u t-tielet punti tad-*decision notice* l-Awtorita appellata tghid illi:

"2. The proposal cannot be considered further unless the following illegal development is first sanctioned or removed and this in terms of regulation 17 of Legal Notice 162 of 2016. The illegal development consists of the existing concrete passageways at the back of the dwelling. The concrete passageways are also in conflict with Thematic Objective 4.3c and Rural Objective 1.7 of the Strategic Plan for the Environment and Development (2015) since these involve the unnecessary take up of land and increase the formalization of a site located outside development zone.

3. The existing boundary walls proposed for sanctioning run counter to policy 2.9 of theRural Policy and Design Guidance since these exceed the allowable height of 1.2m from the highest level".

13. Illi f'dan ir-rigward bil-qima jinghad illi tali punti huma nfondati fil-fatt u fid-dritt stante li mhux biss l-applikazzjoni tinkludi fiha is-sanzjonar tal-items in kwistjoni izda wkoll stante illi waqt il-laqghat quddiem il-Kummissjoni l-istess items gew debitament indirizzati u l-pjanti mibdula proprju in linea ma dak li talbet l-Awtorita sabiex tali kwistjoni tigi u fil-fatt kienet giet sorvolata.

Ghaldaqstant, l-appellanti, filwaqt li jaghmel referenza ghall-provi kollha gia prodotti quddiem il-Bord/Kummissjoni u filwaqt li jirrizerva d-dritt li jressaq dawk il-provi kollha lilu permessi skond il-ligi, qiehed iressaq dan l-appell quddiem dan l-Onorabbi Tribunal ta' Revizjoni ghall-Ambjent u l-Ippjanar u jitlob bir-rispett lil dan l-Onorabbi Tribunal joghgobu jhassar, jirrevoka u jannulla decizjoni ta' rifjut mahruga mill-Awtorita tal-Ippjanar appellata li biha giet rifjutata l-applikazzjoni numru PA/01684/18 intavolata mill-appellanti liema decizjoni giet publikata fl-10 ta' April 2019 fl-ismijiet premessi bl-ispejjez kontra l-Awtorita.

Av. Noel Bartolo
o. 16 B, Main Street, Attard
e. nbartolo@icloud.com

Perit Nicholas Mallia

Lista tax-xhieda:

1. Ufficjali tal-Awtorita biex jixhdu dwar il-fatti.
2. L-appellant u l-konsulenti u ufficjali tal-entitajiet regolatorji relattivi biex jixhdu dwar il-fatti koncernanti s-sit de quo u persuni li ghandhom informazzjoni dwar dwar resienti passati tal-Farmhouse de quo.
3. Kummissarju Elettorali, Rapprezentant Arms, Rapprezentant Agrikoltura, ID Malta.
4. Xhieda ohra isimhm mhux mgharuf ghal prova tal-fatti.

Av. Noel Bartolo
o. 16 B, Main Street, Attard
e. nbartolo@icloud.com

Perit Nicholas Mallia

Elenku Dokumenti:

1. Kopja tad-decision notice (Doc ES-1)
2. Site Plan Doc ES-2

Av. Noel Bartolo
o. 16 B, Main Street, Attard
e. nbartolo@icloud.com

Perit Nicholas Mallia

Rikorrenti: **Edwin Schembri ID 569160(M)**

Appellata: **Awtorita tal-Ippjanar** St. Francis Ravelin, St. Anne Street, Floriana