



Environment and Planning Review Tribunal

Case Ref: PA/04268/18

Application type: Full development permission

Applicant: Raymond Zammit

Architect: Perit Konrad Bezzina

Proposal: Proposed demolition of existing building excluding facade which is to be retained to accommodate a residential development composed of basement garage level, 23 apartments and Class 4A office.

Location: 12, Triq Santa Venera c/w, Sqaq Santa Venera, Msida, Malta

Appellant: Din I-Art Helwa

APPLICATION REQUESTING THE SUSPENSION OF EXECUTION OF PERMIT :

Whereas appellant humbly submits and premises as follows:

That appellant is a third-party registered objector and interested person for all intents and purposes at law.

That contextually with this application the appellant is filing an appeal from the Planning Commission's decision on the application for full development permission published in the Government Gazette on the 18<sup>th</sup> September 2019

That the appellant is hereby requesting the suspension of the execution of the permit for the following reasons:

- 1) That the demolition of the nineteenth century vernacular building in question cannot be easily reversed. That the demolition of the property was never approved by the Superintendence of Cultural Heritage. Failure to suspend the application would result in the loss of a building of architectural and historical value, which loss cannot be retrieved through reconstruction as the value of the property lies within the authenticity of its current built form and original fabric. The application has been approved as one for demolish and not disassembling of historical building – once demolished the property will permanently lost and the very purpose of this appeal rendered meaningless.
- 2) That the tribunal would not be able to scrutinize the building through an onsite inspection and thus be able to verify its architectural and heritage value if the application were to be rendered executable and the building be demolished whilst the appeal is still underway.
- 3) That not suspending the execution of the permit will result in an immediate and far greater prejudice to appellants in comparison to that of the applicants if the permit was not immediately suspended. In fact the suspension of the permit does not affect the applicant negatively as the time for the decision of this appeal will be abbreviated by means of the suspension – which will result in a greater degree of legal certainty for the applicant and shortened decision time spans.

- 4) That the approved application was based on misleading information and that the appellants should not be prejudiced further because of this shortcoming.
- 5) That the provisions of Chapter 551 of the Laws of Malta require only that *“the prejudice that would be caused would be disproportionate when compared with the prejudice caused by the staying of the actual execution of the permit.”* The legislator has laid down the possibility for appellants to seek a temporary staying of the execution of the permit, without requesting the appellant to show that irreparable harm will be caused if the execution is not granted. In this, the legislator has distinguished this right of action from that pertaining to the right to request a prohibitory injunction in accordance with Civil Law. Although in the latter cases, the Courts have occasionally held that a prohibitory injunction served to offer protection to a person whose rights would be lost or curtailed **irreparably** without such a warrant. This is not the case with the remedy being availed of under Chapter 551 which only requires a comparison of the potential prejudice caused by the granting of the suspension as opposed to it not being granted.

In view of the above the appellants humbly request this Honourable Tribunal to suspend the execution of the permit under the terms and conditions as it deems fit.

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