

23rd June 2020

**The Environment and Planning Review Tribunal**

*Nru. ta' l-Applikazzjoni:* PA/8184/19

*Lokazzjoni:* Cini 0, Triq Srug, Xaghra, Gozo

*Proposta:* Sanctioning of house as built instead of apartment block and to make additions at ground floor.

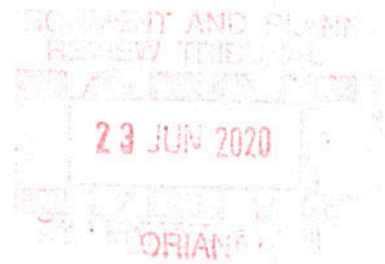
*Ref. Taghna:*

*Ref. Tribunal:*

**Monica Bigeni**

vs

**L-Awtorita' ta' l-Ippjanar**



The appellant respectfully submits:-

- I) The applicant made the submission of this application in 2019.
- II) This application was refused by the Commission and the decision was published on the 3<sup>rd</sup> June 2020.
- III) The appellant feels agrieved by this decision and is hereby submitting this appeal.

Together with this appeal, the appellant is submitting:-

- o A copy of the decision notice (Dok JA1).
- o Receipt of Payment (Dok JA2).

The appellant respectfully submits the following:

- 1.1* The Authority wrongly applied the provisions of the law and policy regulating this site.
- 1.2* The site in question is covered by a legitimate permit and committed site hence, the current permit should have been approved.
- 1.3* On the 14/10/81 the permit was issued for the erection of dwellings with underlying basement as per plans submitted on the 2/1/83
- 1.4* Charges were issued against the permit holder (Michael Cini). At the time, there was no procedure to issue enforcement notices as we know them today. Instead, breaches of permits were tackled through criminal charges. The charges brought against Cini were that he did not follow the PAPB conditions. Reading the judgement of the court of Appeal of the 29/10/87, it transpires that the specific charge was “peress li rrizulta li l-imputat bena meta ma kellux linja, peress li rrizulta ukoll li linja mhiex hierga, anzi lanqas permess ma hemm, ghalkemm meta bena l-imputat permess kien hemm”.
- 1.5* In the same judgement the court states: peress li l-bini illum huwa wieqaf u f’ Jannar 1985 l-imputat baghta applikazzjoni ohra pero permess ma harigx”.
- 1.6* The judgement of the Court of Appeal ordered Cini to “iwaqqa dak kollu mibni”.
- 1.7* PB 130/88/629/71 was submitted after, namely on the 23/11/87 and which application was to erect a store as per fresh plans submitted.
- 1.8* An analyses of the approved plans attached to this permit indicate a store in the corner of the site. The other rooms are not labelled and it seems that an alignment was given.
- 1.9* Reference is made to minute 62 in the file which confirms this – i.e “what applicant is now requesting is a renewal with fresh plans showing a sight addition to existing works”;

*1.10* As such, the use (residential) approved in the original permit was still active and confirmed by the latest permit approved on the 28/4/1988.

*1.11* The site in question is surrounded by similar and identical developments, all of which have been duly notified to the authority, and hence the Authority was duty bound to approve the said permit.

*1.12* The proposed development is in line with the local plan policies regulating the site, and is not contrary to the provisions of the applicable policies.

*1.13* The proposed development satisfies all other applicable criteria and requirements that are necessary for this development to be favourably considered and approved.

In view of the above, and further submissions that the appellant reserves to make, the appellant requests the Tribunal to revoke the decision of the Commission, and consequently order the Authority to issue the relative permit, and this under those terms and conditions that the Tribunal may deem appropriate.

With Respect



**Av. Ian J. Stafrace**

**Witnesses:**

1. Appellants, and consultants and consultees and officers of the Authority to confirm the facts.

**Av. Ian J. Stafrace**  
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