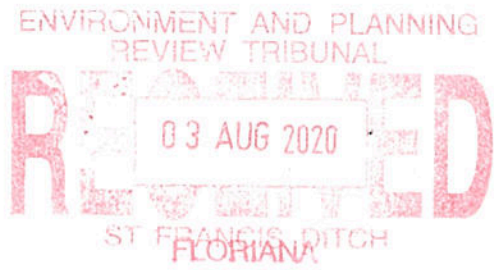




Office Address: No. 221B, Republic Street, Valletta VLT1116, Malta
T/F: (+356) 2133 5763
Office Email: info@farrugialaw.com
Managing Advocate:
Dr. Jan-Karl Farrugia LL.D.
M: (+356) 7942 5733
Email: jkfarrugia@farrugialaw.com



**THE SECRETARY
ENVIRONMENT AND PLANNING REVIEW TRIBUNAL
ST FRANCIS DITCH,
FLORIANA**

28th July 2020

Environmental Appeal from Decision No: EP 0093/19

Dear Secretary,

We have been instructed to submit this appeal from the decision in caption on behalf of Paul Polidao of Sambro Service Station, Eucharistic Congress Road, Mosta.

The appeal specifically related to only one condition listed on the Environment and Resources Authority’s Board Decision of the 10th July 2020 whereby the following was decided:

In the sitting of the 10th July 2020, the ERA Board considered the application favourably for a period of 4 years subject to fulfilment of the following conditions prior to the granting of the permit:

1. Submission of a Bank Guarantee (of €11,850)
2. Submission of a certificate by a warranted engineer, including test reports, for the vapour containment integrity of the Stage I and Stage II vapour recovery systems
3. Submission of a declaration by a REWS Competent Person that all petrol dispensers are in accordance with Schedule VI of SL 549.52, supported by the manufacturer’s certificates
4. Submission of a Decommissioning Report by a REWS Competent Person including all receipts and relevant consignment notes for the equipment and materials removed from site.
5. Submission of a Commissioning Report approved by REWS for the Service Station
6. Payment of the accrued fines related to OWK 0033/19 due by the 10th July 2020, which amount to €16,150

The applicant is to inform ERA upon completion of these conditions so as to proceed with granting of said permit. Failure to fulfil the conditions above, within 30 days, the application shall be referred for dismissal. This letter shall not be construed as a permit to undertake any activity on site.



OUR FEES ARE ESTABLISHED IN ACCORDANCE WITH THE
'GUIDELINES ON FEES TO BE CHARGED BY ADVOCATES FOR SERVICES RENDERED'
PUBLISHED BY THE CHAMBER OF ADVOCATES (MALTA)
AS WELL AS 'TARIFF E' IN 'SCHEDULE A' OF CHAPTER 12 OF THE LAWS OF MALTA.

Appellant felt aggrieved by the last condition number (6) above mainly the imposition of the payment of the accrued fines related to OWK 0033/19 due by the 10th July 2020, which amount to €16,150.

This appeal is being made inter alia in accordance with Article 63 of the Environment Protection Act and Article 47 (2) (d) of the Environment and Planning Review Tribunal Act.

The reasons for this appeal are the following:

1. The appellant together with all other petrol stations in Malta and Gozo have an Environmental Directive to follow whereby the need to extensively refurbish their stations. One of the requirements includes the installation of a vapour recovery system which is the crux of the matter.
2. The Environmental and Resources Authority is fully aware that all the petrol stations are in the process of complying with their legal obligations and have been in regular constant with the Malta Chamber of SMEs (GRTU) that represents them.
3. As will be clearly proven during the hearing of this appeal, the Environmental and Resources Authority reached an understanding with the Malta Chamber of SMEs (GRTU) on behalf of its members, including appellant, that in the vent of the said petrol stations reaching their environmental deadlines, then the said Authority shall not insist on the payment of the fines. The main reason being that at the moment, the fuel delivery system in Malta makes the operation of a vapour recovery system entirely useless as will be shown during the hearing of this appeal.
4. Nonetheless and to appellant (and other petrol station owner's surprise) the authority arbitrarily went back on its word and instead decided to impose the payment of these astronomical fines as a condition to the environment permit they require to carry out the works.
5. Moreover appellant together with all other petrol stations in Malta and Gozo that need to complete their refurbishments after being issued with the necessary environment and planning permits, also reached an agreement with the Regulator for Energy and Water Services, a draft of which is being attached hereto, which reflects the holistic approach towards the completion of the mammoth task of upgrading and refurbishing all of Malta and Gozo's petrol stations.

In the light of the above, appellant kindly requests that this Tribunal, after hearing submissions and evidence, orders that decision number EP 0093/19 is confirmed, subject to the removal of condition number six (6) which is the imposition of the fine, and consequently order that the said fine is being waived.

Kind Regards,

JAN-KARL FARRUGIA LL.D.

Witnesses:

Representatives of Appellant

Ing. Ryan Fava

Representatives ERA

Representatives REWS

Representatives Enemalta

Representatives GRTU