



ENVIRONMENT AND PLANNING REVIEW TRIBUNAL

Case Ref: PA/01605/20

Application type: Full development permission

Applicant: Mr Thomas Mifsud

Architect: Perit Mark Camilleri

Proposal: To demolish existing townhouse and to excavate and construct underground reservoir, 1 car space plus 5 street level garages, 6 apartments (3 bedrooms {3} and 2 bedrooms {3}) and 2 penthouses (3 bedroom {1} and 1 bedroom {1}) .

Location: Viva Cristo Re, 130/131, Triq Brighella, Santa Venera

Appellants: Din I-Art Helwa

REQUEST FOR THE SUSPENSION OF EXECUTION OF PERMIT:

Whereas appellant humbly submits and premises as follows:

That appellant is a third-party registered objector and interested organization 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.

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

1. That the demolition of the early 20th century vernacular property in question cannot be easily reversed.

The demolition of the property was never approved by the Superintendence of Cultural Heritage (SCH). Failure to suspend the application would result in the loss of a building of possible architectural 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 demolition and not dismantling of the building. Once demolition commences, the property will be permanently lost and the very purpose of this appeal rendered meaningless.

2. That the tribunal would not be able to scrutinize the property through an onsite inspection and thus be able to verify its architectural and cultural 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 the appellant's in comparison to that of the applicant's 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 missing 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 stay of the execution of the permit, without requesting the appellant to show the irremediable 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 appellant's humbly request this Honorable Tribunal to suspend the execution of the permit under the terms and conditions as it deems fit.



Perit Tara Cassar

Obo: Din I-Art Helwa