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IN THE ENVIRONMENT AND PLANNING REVIEW TRIBUNAL

APPLICATION NUMBER PA/06472/20

LOCATION: 260, TRIQ SAN PAWL, SAN PAWL IL-BAHAR

PROPOSAL: TO CONSTRUCT 5 GROUND FLOOR PARKING SPACES AND OVERLYING 5 APARTMENTS AND 1 RECEDED UNIT

APPEAL APPLICATION OF THE THIRD PARTY OBJECTORS ANTHONY MICALLEF (ID 97062M) AND MARTHESE MICALLEF (ID 83464M)

THE APPELLANTS RESPECTFULLY SUBMIT:

1. That the applicant filed the application in caption on the 5th June 2020.
2. That the appellants registered as third party objectors to the application.
3. That the proposed development was approved by the EPC.
4. The relative decision was published on the 23rd February 2022.
5. The appellants feel aggrieved by this decision and are hereby submitting this appeal.
6. The applicant, Brian Azzopardi, is falsely indicating that he is the owner of the land where the development is to be constructed. In fact, the land in question belongs, at least in part, to the Government of Malta.
7. The Government of Malta had acquired this land from Grazia Borg by virtue of a deed in the acts of Notary Carmelo Farrugia on the 8th March 1938, a copy of which, including the relative plans, is herewith attached and marked as Document 'A'.
8. The Government of Malta had subsequently, by virtue of a deed in the acts of Notary Carmelo Farrugia, dated 24th January 1939 sold to a certain Crocefisso Sapiano a portion of this land, however subject to the condition that the portion which is the

subject of the application in question be used solely for the formation of a garden. In fact, condition c) of that contract reads as follows:

That the remaining portion of the site marked D, E, F, C on the said plan which measures eighty nine decimal point four square yards, shall be utilized for the formation of a garden.

9. From the same plan, it is also immediately evident that a portion of land which lies immediately behind what was 'Ghajn Razul', and is today a niche, was never transferred by the Government of Malta to third parties.

10. A copy of the relative contract, and annexed plan, is herewith attached and marked as Document 'B'.

11. This is further confirmed from another deed in the acts of Notary Joseph Gatt, dated 23rd April 1952, which is herewith attached and marked as Document "C" which was a deed of division between the heirs of Crocefisso Sapiano, whereby the land in question was described as:

Dan il-gnien fih fond daks d-dar u n-naha ta' barra tieghu, gewwa apside, li tilgha mill-livell tat-triq 'il-fuq, hemm l'Ghajn ta' San Pawl milhugha mit-triq.

Dan il-gnien huwa proprjeta' tal-Gvern imma mizmum "bl-Encroachment terms" mad-dar sakemm jibqa' joghgob lill-Gvern.

12. This is further confirmed by a letter issued by the Lands Authority, which is herewith attached and marked as Document "D" stating that:

The portion which is government property consists of Ghajn Razul Fountain and the Authority has no intention to dispose of this site.

13. All of the above contracts are being referred to as no searches were carried out on the deed by virtue of which Mr Azzopardi had supposedly acquired the land subject of the application in question.
14. Additionally, appellants also point out that Mr. Azzopardi has already started developing this site, having already removed the soil, and having already excavated the site while also excavating beneath appellant's property.
15. Despite various assurances by Mr Azzopardi that he would be ensuring that appellant's tenement would remain completely separate from the adjacent tenement, Mr Azzopardi has re-constructed a foundation for their property which now encroaches onto the appellant's tenement, and which is therefore also limiting their possibility of eventually developing our site.
16. That despite these being legally valid objections where were raised initially by the appellants, the Planning Authority failed to take cognisance of them in their entirety and proceeded to issue the relative permit.

In view of the foregoing, and further submissions that the third party objectors reserve to make, the third party objectors call upon this Tribunal to revoke the decision of the Commission and to reject the approval of the said permit, and this under those terms and conditions that the Tribunal may deem appropriate.



AV. CARL GRECH

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Witnesses:

Perit Beppe Piscopo, Representatives of the Lands Authority, Representatives of the Superintendence for Cultural Heritage, Notary Michael Galea, the appellants, consultants and consultees of the appellants, officers of the Authority.

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