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**Our Ref.
The Secretary,
EPRT
St. Francis Ravellin
Floriana**

Your Ref. ECF 309/15

January 18, 2016

**PA 3600/15
Location: 136, Flat 1, Triq It- Torri, Sliema, Malta
Development: Change of use to a class 4b Art Gallery and Shop and sanction alterations.**

*original
incl. Buldi
levy*

3rd party appeal against Permit PA 3600/15

Dear Sir/ Madam,

I am writing on behalf of Dr David Muscat (ID 345062M), Daria Farr (ID 35545M), Felix Mifsud (ID 173743M), Ekaterina Leskova (ID 73907L), Sonia Psaila Manche (ID 217940M), Louis Spiteri (ID 66875M), Caroline Zammit (ID 599560M), Notary Vincent Miceli (ID 290756M), Dr Herbert Messina Ferrante (ID 92438M), Joan Cherubino, Pricilla Cuschieri and Charles Busuttill (ID 392640M) in order to appeal from the decision of the Malta Environment and Planning Authority of the 17th of December 2015 in respect of the application in caption (PA 3600/15) for the following reasons.

1. The application in its caption states that applicant is requesting a change of use to a "Class 4B art gallery and shop of a disused premises at 136, Flat 1, Triq it-Torri, Sliema". This nomenclature and the plan submitted thereto are totally misleading.

In actual fact, Flat 1 cannot be considered as disused and furthermore, the application in question is not for the whole flat but it is only for part of flat 1 and as per plans submitted, the area intended for development under the application aforementioned does not include the front door of the flat leading to the communal entrance nor has any access thereto being provided whatsoever. In actual fact, flat 1 is one whole apartment and contrary to what is stated by applicant, the whole apartment is owned by one and the same person and the rest of the apartment is not third party property. The application is therefore misleading, particularly the address of property.

This can be verified when one refers to the attached permit plan on site showing that part of ground floor as one unit – refer to PB 3248/88 plan attached with this appeal. There are no permits to split the property subject to this appeal into a commercial unit and a residence at the back, thus CTB documents submitted are incorrect and fraudulent.

2. Application of the CTB concession

The permit has been issued on the strength of Article 1 (vii) of Category B of the Eight Schedule of the Environment and Development Planning Act (Chapter 504) as amended by Legal Notice

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52/13 relating to the creation of additional residential units and the subdivisioning thereof, otherwise referred to as CTB 1194/14. The EPRT must take note that CTB 1194/14, as declared by same applicant refer to property "claimed" to be behind commercial outlet. Strangely enough the application in caption PA 3600/15 has also the same address. This results in a conflict between approved CTB 1194/14 and PA 3600/15.

In the first place, my clients were never made aware of the said CTB application. Furthermore, any such concession should not and could not ever have been granted since the flat was residential and the whole flat at the time was wholly owned by one person and was not used as two separate residential units at any time. Any impression given otherwise was merely simulated and in fact to this very day, appellants have noted that the apartment has not been segregated and it is still one whole flat and not two separate units.

In the second place, as a result of the eventual segregation, without prejudice to the above, if one were to consider the validity of the splitting up under the aforementioned CTB, this is illegal since the apartment at the rear will have absolutely no frontage on an existing street, namely Tower Road. This is in breach of sanitary and MEPA regulations and should not be endorsed. Also the LN 52/13 -(2-vii) states the following:

Provided also that for cases of sub-divisioning of a permitted residential unit into two or more, the provisions of sub-category (vii) shall only be applicable if contractual or other valid proof is provided to the Authority's satisfaction to the effect that by the 29th January 2013 the sub-divisioning had already occurred, AND: (i) that the present owner of the unit is not its original owner; OR (ii) that if the present owner of the unit is still its original owner, the provisions of sub-category (vii) shall only be applicable if the original owner does not still own any unit adjacent to the unit under consideration on the same floor such that these units can be amalgamated into one larger unit.

The spirit of this law MEPA directs prospective applicants to apply the CTB concession when it is irreversible to reconnect the apartment as originally approved (built). If the owner of the back part of property is same owner of front part of property, then the CTB concession does not apply. In this case the owner of the Claimed "Disused area" in front of property could have been restored and converted in its original state since owner of front and back part of property is the same.

3. Incorrect designation of the flat

In the third place, the description and designation of the application is incorrect since Flat 1, 136 Tower Road, Sliema is in fact the apartment through which one can access through the communal entrance at number 136 whereas in fact on the application, there is no such access and applicant is purporting to have direct access onto Tower Road not from door number 136 but presumably from some other number or door which perhaps has not yet been numbered.

4. Bad neighbourliness and property is to remain a residential one

Furthermore, without prejudice to the above, the application will constitute bad neighbourliness since the block is entirely residential as is the immediate vicinity of the area. Whilst conceding that further along the road there are commercial establishments, in this particular block there are no legally permitted commercial establishments and the use of the apartment as an art gallery and shop may probably eventually lead to a wine bar and other commercial uses. This should not be allowed.

The site under the CTB aforementioned, if endorsed is purely for residential purposes and consequently the argument that in 1992 there was a trading licence should if at all, be further proof that the application under the CTB was misleading and should lead to steps being taken by MEPA for the withdrawal thereof.

Yours Truly

Tancred Mifsud A&C.E.

Encl. Copy of building levy
Copy of permit
Copy of site plan
Copy of original plan

