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2nd February 2017
Our Ref: 00517/JJP

Environment and Planning Review Tribunal,
Block B,
St. Francis Ditch,
Floriana FRN 1230



Dear Sir,

APPEAL AGAINST the issuing of the Full Development Permission (presently Non-Executable) re PA 02823/16

Proposal – Internal and external changes to sixth floor to convert 1 apartment into 2 apartments and to construct additional new levels from 7th to 8th floor level (3 apartments each floor), 9th floor level (2 apartments) and a penthouse (1 apartment)

Address: 'Navarrino Flats', Triq Stella Maris c/w Trejġet Luzju, Sliema

Applicant: Mr. Eman Castagna; Architect: Mr. Colin Zammit A.&C.E.

I refer to the above application which has been granted as an Non-Executable Development Permission and on my behalf and on behalf of my clients (please refer to the attached list of owners of Navarrino Flats on Stella Maris Street, Sliema), who are owners within the above-mentioned block of apartments, am hereby appealing this decision within the 30day period from 11th January 2017 as indicated, and am registering certain concerns/objections.

I would **again** like to make the following observations, as had been mentioned in my letter dated 21st July 2016 relating to the following:

- a) Clients are concerned re possible and potential damage that may result, due to anticipated possible works that may be carried out,
- b) Clients are also concerned re drawing submissions to the Planning Authority; in accordance with the Development and Control Design Policy, Guidance and Standards 2015, re Art.3.2.3 – Building Heights (Policy P35) and Figure 45 and 46, Art.3.2.4 – Building Heights along Sloping Sites or Streets (Policy P36) and Figure 49 and 50, and Art.3.4.1 - Setback Floors (Policy P39) and Figure 55; drawings as submitted do not cover all scenarios and the Planning Authority is requested to ask for all, such that the above indicated Policies are respected in total,
- c) Clients wish to declare again that their apartments enjoy the right of uninterrupted use of the common parts including the lift/s and the rights of use over the roof, which includes but is not limited to the placing of water tanks and aerals. My clients find it to be extremely inconvenient that Applicant wants to take up all of the roof space area and turn it into private terraces. Furthermore, my clients object to the proposed change to the aesthetics of the block, and this in terms of article 8(3) of the Condominium Act since this will be extremely prejudicial to their rights.
- d) My clients would also like to state again that they never, at no point whatsoever, gave any permission or authority to any person and certainly not to Perit Colin Zammit or to Mr. Eman Castagna to apply for the herein-mentioned development or to prejudice or reduce their rights in VAT No.1178-3201

any way or manner whatsoever,

- e) Furthermore, my clients formally state that they have not given any permission or authority to any person and certainly not to Perit Colin Zammit or to Mr. Eman Castagna to carry out any works whatsoever that will prejudice their herein-mentioned property rights,
- f) Additionally and without any prejudice, my clients also submit that the following issues should be found by the Planning Authority to be objectionable, namely:
 1. Reduced direct access to all parts of the overall block of apartments, including the much reduced roof area on the respective levels for common use as are the property rights of my clients, if at all; the proposed stairs up to the roof and lift up to the respective level as proposed from Triq Stella Maris side as shown in the submitted drawings renders the situation as providing no further access from one side of the roof area on Triq Stella Maris side to the Trejjet Luzju side; a totally unacceptable scenario. My clients all purchased their apartments with the staircase leading up to the existing and present roof level – thereby giving direct access to all, no matter their physical condition - to the present roof level with direct access to the staircase on Trejjet Luzju side. The development as proposed would provide access for my clients to the existing roof level, but which is very much reduced in size, and also in order to get to the uppermost roof level via the lift on Trejjet Luzju side, the only way left is for one to cross via the present bridge in the central service shaft at ground floor level on Triq Stella Maris side and first floor level on Trejjet Luzju side. This is most definitely not acceptable. This will heavily prejudice my clients' rights since access to the roof will be heavily hindered and such access is greatly reduced. This apart from a totally unacceptable scenario whereby the roof area available to my clients is greatly reduced.
 2. The proposed development cannot be considered as being adequate with regards to both of the apartment block's immediate context and streetscape alongside the block on both roads as well as directly opposite on the other side of the relative roads - the proposed additional floors from the sixth floor level up to the tenth floor level (an additional 5 floors) would stand out firmly in an ugly manner, such that the appearance of the proposed block would be out of scale, grotesque and taller than the buildings in the vicinity. There would likewise also be unwarranted and large gaps, to one's right of the block when looking at façade in Triq Stella Maris and to one's left of the block when looking at façade in Trejjet Luzjo. The general streetscape is most obviously going to suffer – **this is going to result in a 10-storey construction on secondary roads, namely Triq Stella Maris and Trejjet Luzjo.**
 3. Lack of parking space – clients claim that there is no underground basement car park level, and therefore a suitable number of parking bays need to be made available for use by residents of the proposed additional residential units. Article 2.6.4 – Parking Provision and Typology (Policy P18) and Annex 1, in accordance with the Development and Control Design Policy, Guidance and Standards 2015 states that ON SITE parking requirement WILL be particularly enforced in residential areas. My clients stress that residents in the locality are already faced with a severe parking problem and this will become even more severe if the above-mentioned application for a development permit for 10No. additional dwelling units is issued. **The Non-Executable Permit itself refers to a shortfall of 14 parking spaces!!**
 4. The Case Officer, Perit Samaria Bezzina's Report (endorsed by Mr. Mark Zammit) had recommended a REFUSAL on the basis that:
 1. The Proposal does not satisfy the criteria of G17 of the Development Control Design Policy, Guidance and Standards 2015 which requires that, where there are different height limitations on either side of a corner building, the building should step down to an acceptable manner on the higher frontage to protect the character and amenity of the street with the lower frontage.

2. The Proposal does not comply with the provisions of Legal Notice 227 of 2016 art. 14(2): Development Planning (Health and Safety) Regulations, 2016, in that additional development along Triq Stella Maris exceeds the maximum street frontage height of 19.2m (three times the width of the street)

On behalf of my clients, it is clear that the above two points raised by the Planning Authority's Case Officer have not been suitably addressed by the Planning Commission in its decision to Grant a Non-Executable permit. Additionally, may I also add that in point No.2 above, one should also add that only Triq Stella Maris has been mentioned; Trejjet Luzjo should be considered as well, and this is in fact narrower.

5. There are further issues re deficiency of natural lighting and air reaching the lower floors due the construction of a further five floors, which are further issues relating to the provisions of Legal Notice 227 of 2016 art. 14(2): Development Planning (Health and Safety) Regulations, 2016. Please refer to these clauses:

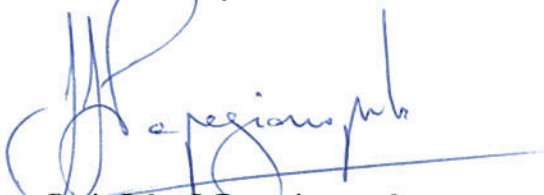
Clause 2.(1) – 'habitable space' means any space larger than six metres squared, excluding bathrooms, circulation space, walk-in wardrobes, domestic stores, engine rooms, lift shafts, garages, games rooms and commercial developments,
Clause 13.(1) – All habitable spaces are to be adequately ventilated and illuminated in accordance with the provisions of this regulation to ensure, in the opinion of the Authority, sufficient ingress of natural light and free circulation of air.

Please note that the Sanitary Engineering Officer, as far as we know, has not been to site and has not contacted any of my clients. Additionally, **no Engineer's Report appears to have been prepared by Applicant**, which we believe is essential and of the utmost importance.

Accordingly, the Planning Authority Appeal's Board is called upon to refrain from taking any further action in regard to the afore-mentioned application unless each of the above points are satisfactorily addressed; this is being declared such that any permit in regard to the above-mentioned Proposal within this property does not in any way prejudice my clients' rights.

Meanwhile, please also be informed that my clients are reserving all rights competent to them at law and that their legal counsel may appear on their behalf.

Yours faithfully,



Perit John J. Papagiorcopulo

Warrant No.: 142

Attach.

crt.AppealPANavarrinoSliema.05

VAT No.1178-3201