

DR. JOSHUA GRECH

B.A., LL.D., Adv. Trib. Eccl. Melit., M.Juris

The Secretary,
Environment and Review Tribunal,
P.O. Box 172,
Marsa,
Malta

Friday, 26th April, 2019

Dear Secretary,

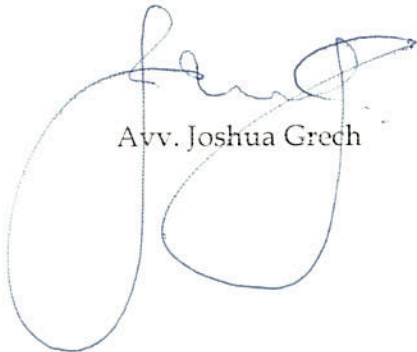
Re: Appeal from PA 1151/17 - Construction of Fireworks Factory

Please find attached an appeal application on behalf of Michael Caruana on behalf of and in representation of Ghaqda tan-Nar 31 ta' Mejju (VO/0904).

Together with this application also, please find attached the payment fee duly paid by the appellant.

Please acknowledge receipt of this appeal.

Best regards,



Avv. Joshua Grech



In the Environment and Planning Review Tribunal

Appeal Number: /2019

Planning Reference Number: PA 1151/17

Location: Site at L-Andar ta' Geriska, Gharb, Gozo

Description: Construction of Fireworks Factory

Appeal Application of Michael Caruana on behalf of and in representation of Ghaqda tan-Nar 31 ta' Mejjju (VO/0904)

By virtue of a decision of the Planning Commission of the 8th March, 2019, the application mentioned above has been approved for the construction of a fireworks factory.

The said application has been approved subject to the condition that:

"The works approved in this development permission shall not commence before the development permit for the country road is issued by the Planning Authority. This country road is needed to ensure suitable access for emergency vehicles to accede to the new fireworks factory."

The appellant would like to lodge its appeal from the decision particularly limited to the condition mentioned above.

The appeal is being lodge based on the following grounds:

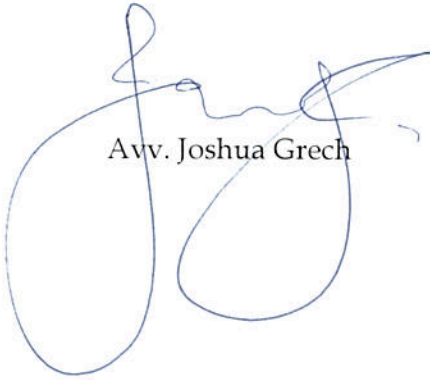
1. The decision of the Planning Commission imposes a condition on the permit holder of applying and obtaining a development permit for the country road by the Planning Authority. This condition imposed on the permit does not have any legal justification and it itself poses a legal impossibility in doing so. This is the case given that the appellant may limit his application to an area over which it has the right to do so. Therefore, the appellant may apply and request a permit over the area which is its property. In imposing a condition whereby obliging the appellant to obtain the permit for the country road would in itself mean that the appellant would have to apply over Government and third-party property. This besides being illegal inherently, does impose a difficulty if not an impossibility in the executability and realization of the permit issued by the Authority;
2. The Planning Commission has justified the imposition of the condition mentioned above so as to ensure suitable access for emergency vehicles. From an analysis of the whole documentation presented in the application process, including also by the Civil Protection Department, it is clear that the area in question does have adequate access ensuring suitable access for emergency vehicles;
3. The appellant is also referring to sub-regulation (5) of regulation 17 of the Development Planning (Procedure for Applications and their Determination) (S.L. 552.13) which establishes that 'where parts of a site or building are illegal, permission

for new development elsewhere on the site or on the building shall not be refused solely because there are illegalities on the site or on the building ...' In this particular case, none of the conditions outlined in the quoted regulation hinders the issuance of the permit given that the illegality is not on the site in question, will not prevent any enforcement action and the applicant is not in any way connected to such illegalities. Therefore, to this end, the imposition on the permit of obtaining the permit for a country road is a camouflage of obtaining a sanctioning of an enforcement action, when such illegality is not in any way connected to the site in question;

Therefore, in view of the above, the appellant is humbly lodging this appeal limitedly against the imposition of the condition referred to above in the Full Development Permission.

The appellant reserves the right to make further submissions and to present any documentation in support of its appeal during the hearing of this appeal.

Attached is a copy of receipt of payment of appeals fee.



Avv. Joshua Grech