

The Environment and Planning Review Tribunal

Reference: PA/00103/20

Type: Suspension Tribunal

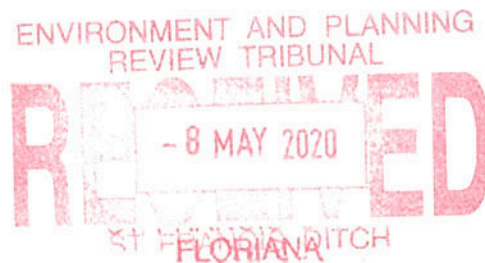
Appellant: Mr. Matthew Aquilina

Applicant: Mr Jonathan Muscat Baron

Location: 449, Triq D' Argens, Gzira

Date: 6th May 2020

Published Government Gazette: 29th April 2020



Proposal: To correct the location of site from that as approved in permit PA 4635/01, to include Class 4C shop into a Class 4B shop (food/beverage goods), to change the material of the shopfront and to sanction minor internal alterations

PA Case Officer: REFUSE

Application Requesting Suspension of Execution of Decision and Permit and Re-Evaluation to another Planning Commission due to discrimination.

That contextually with this application the appellant is filling an appeal from the Planning Commission's decision on the application for full development permission (Ref: PA/00103/20), and the appellant is a third party registered objector and interested person for all intents and purposes at law.

First Reason:

The appellant is requesting a **fair hearing** of the PA by a different planning commission due to discrimination, bias and lack of impartiality shown by the planning commission chairman during the hearing.

Development Planning Act 71(6) and L.N. 162 of 2016 11(1)

Discrimination by the Planning Commission.

During the sitting held on the 10th March 2020 @ 14:32, Perit Simon Saliba Chairperson of the commission asked the objector (Matthew Aquilina) where he lives in public in-front of Perit Anthony Camilleri, Perit Claude Mallia and the Perit Adrian Davison. The objector responded saying that he does not live close to the application however his parents do live close by.

Perit Simon Saliba stated that the objector is right in terms of policy, however once he is not a resident of the overlying property he will not consider his representation, but if he was, he would consider greatly the arguments put forward.

The current Planning Commission's chairperson is discriminating on the basis of the representative's residence. **The objector has full rights to make representations on any planning application as per Development Planning Act 71(6) and L.N. 162 of 2016 11(1) and the representation should be given the same weight from whichever location of Malta this person comes from.**

Second Reason:

Constitution of Malta on the right to secure protection of law.

39 (2) Any court or other adjudicating authority prescribed by law for the determination of the existence or the extent of civil rights or obligations shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other adjudicating authority, the case shall be given a fair hearing within a reasonable time

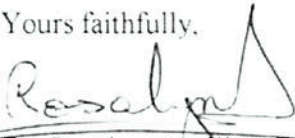
During the second sitting of the planning commission the objector was not given the same rights as the applicant. This can be seen by the refusal by the planning authority **Document B** to accept documents submitted by the objector after the objector highlighted that there was missing documentation and which documentation was not available to the public. The objector was unable to submit a response to this document.

The planning commission also requested an update to the DPA report however the objector was again unable to submit documentation post this report, if one sees PA/07628/19 - Doc 250b, the applicant in this case was allowed to submit documentation post request of a updated DPA report. The planning authority and planning commission seem to be using different

interpretation of the law as they deem fit going directly against the right of equality of arms in terms of law.

This was also stated at the hearing by Chairperson Perit Simon Saliba, who confirmed that he was not able to receive anything from the objector but was willing to accept further documentation from the applicant.

Yours faithfully,

A handwritten signature in cursive script, appearing to read "Rosalyn", written over a horizontal line.

Dr. Rosalyn Aquilina, B.A., LL.D