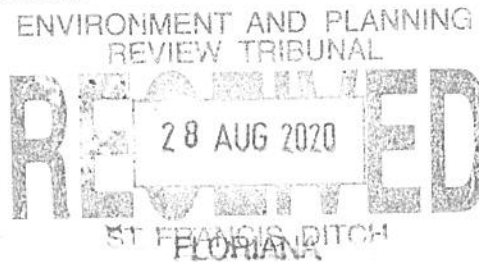


25th August 2020

The Secretary
Environment and Planning Review Tribunal
PO BOX 172,
MARSA,
Malta



Sinjur

Re : PA 68/20**Ceratonia, Alley off, Triq il-Mithna, Qala, Gozo – Construction of a Terraced House**

I am writing in the name of applicant Raymond Tabone of Plot 5, Triq in-Nigret, Qala, Gozo.

In virtue of a decision of the 14th July 2020, this application was refused. The Board decided to refuse this application since in its opinion:

- (i) the proposed development does not have a frontage on a public schemed road, and therefore runs counter to the provisions of policy P33 of the Development Control Design Policy, Guidance and Standards 2015 which specifies that internal residential development cannot be considered unless a new public road is established through the Planning Control (PC) application to allow that an new units front such public road.
- (ii) The proposal also runs counter to the Urban Objective 3 of the Strategic Plan for Environment and Development which aims to protect and enhance the character and amenity of urban areas.

Sender wishes to appeal with respect to this refusal on the basis of the following grounds:

1. FIRST GROUND OF REFUSAL

In virtue of the first ground of refusal, it has been submitted that the Authority could not grant an application with respect to a development that does not have a frontage on a public scheme road, unless a PC application is requested with respect thereof.

However it is humbly submitted that, for some reason, in its grounds of refusal, the Authority did not quote the whole of policy P33. Indeed the said policy starts with a preamble that states that in case of a development that does not have frontage on a public schemed road, one additional internal residential unit shall be accepted to be developed, and only in case further additional units are requested in addition to the first one, that the PC application is required.

In fact policy P33 states:

"Only one additional internal residential unit may be allowed subject to the provision in Policy P27, unless a Planning Control (PC) application is submitted whereby new public roads are formed within the proposal, such that all units within the proposed development front such public road."

It is humbly submitted that on the basis of this policy, this application should have been accepted, and the requirement of the PC application waived with – since the application in question consists of a first additional residential unit that is being requested to be developed as abutting to the alley in question.

2. It is also humbly submitted that Policy 27 referred to above in P33 is also adhered to in the present case, and thus this should have served as an additional basis for the grant of this present application.

In fact P27 provides that developments in such cases are required to be situated with a 30-metre depth from existing building alignment. It is submitted that indeed this requirement is satisfied in this case, as the development in question is situated within 30 metres from the building alignment of an alley marked as 'Triq gdida fi Triq Wied is-Simar' on plan 77C.

3. In the hearing of this application the Board emphasized on the issue as to whether the alley upon which the property in question abuts consists of a private or a public alley, and since it did not result to it that it consists of a public alley, it refused the present application.

It is however humbly submitted that, without prejudice to the issue as to whether that in question consists of a public alley or otherwise, nowhere in the DC15 regulations is a distinction made between public or private alleys for the purpose of granting of permits like those in question. In applicant's opinion, this was a distinction created by the objectors, and accepted by the Board, intended solely to confuse the Board, and eventually lead to the refusal of the application.

In fact, P33 regulates internal residential developments without at any time requiring that such developments abut unto public property.

It is thus submitted that there was no reason for the application in question not to be accepted since all the requirements of the applicable policy were proven as having been satisfied in this case. And the only imaginary obstacle that the Board found to the granting of the permit was based on this distinction between the existence of a public or a private alley.

4. It is also submitted that the Planning Authority has at various occasions issued permits on properties having a frontage on an alley that is not schemed or having an official alignment, and that have circumstances similar to the site in question.

Amongst such permits there are the following that refer to cases in Gozo:

PA 3/2019 -69, Triq Skapuccina, Zebbug, Ghawdex - consisting of a substantial building containing various units;

PA 3483/2019- The Carob, Triq tat-Trux, Sqaq Nru.6 ta' Majsi, Gharb;

PA 4648/2018 - Site at, Sqaq nru.1 fi, Triq Frangisk Portelli, Gharb, Gozo;

PA 469/2012- Site at , Alley in, Triq San Pietru, Gharb, Gozo;

PA 3116/2013 - Site at, Sqaq fi Triq San Pietru, Gharb, Gozo;

PA 4811/2018 - Site at, Alley off, Triq Ghajn Tuta, Kercem, Gozo.

Thus the Authority has accepted that in such circumstances, permits should be issued.

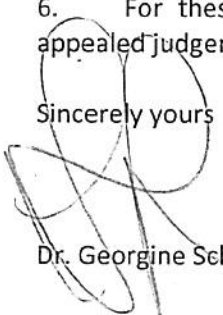
Appellant humbly believes that the Authority should have been consistent in its reasoning and decisions. Through these decisions, the Authority has cause a precedent, upon which it was expected for the present application to be accepted, and the relative permit issued.

5. SECOND GROUND OF REFUSAL

The Board also refused this application since it alleged that proposed application runs counter to the Strategic Plan for Environment and Development which aims to protect and enhance the character and amenity of urban areas. It is however submitted this is totally untrue since the area in question is inundated with properties similar to that being proposed, and if developed, it shall in no manner disturb the character and amenity of the area. Furthermore, as per Case Officer's report, the proposed external design is visually appropriate with the surrounding environment, and thus complies with SPED.

6. For these reasons, my client humbly asks for this Tribunal to revoke the appealed judgement, and authorise the issue of the permit requested.

Sincerely yours



Dr. Georgine Schembri LL.D.