

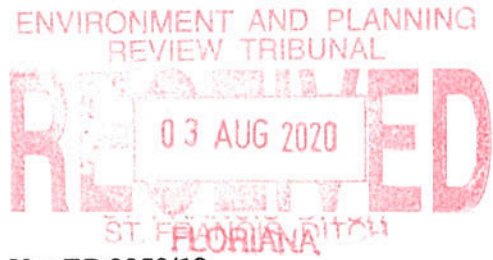
# FARRUGIA X LAW

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**THE SECRETARY**  
**ENVIRONMENT AND PLANNING REVIEW TRIBUNAL**  
**ST FRANCIS DITCH,**  
**FLORIANA**



28<sup>th</sup> July 2020

**Environmental Appeal from Decision No: EP 0050/19**

Dear Secretary,

We have been instructed to submit this appeal from the decision in caption on behalf of Angelina Zammit of G. Camilleri Service Station, Valletta Road, Zurrieq.

The appeal specifically related to only one condition listed on the Environment and Resources Authority's Board Decision of the 10<sup>th</sup> July 2020 whereby the following was decided:

*In the sitting of the 10th July 2020, the ERA Board determined that this application shall be granted for a period of 4 years, for all areas covered in the application excluding the area in Phase B, subject to fulfilment of the following conditions prior to the granting of the permit:*

1. Submission of a Bank Guarantee of €10,100:
2. Submission of a certificate by a warranted engineer, including test reports, for the vapour containment integrity of the Stage I and Stage II vapour recovery systems
3. Submission of a declaration by a REWS Competent Person that all petrol dispensers are in accordance with Schedule VI of SL 549.52, supported by the manufacturer's certificates
4. Submission of a Decommissioning Report by a REWS Competent Person including all receipts and relevant consignment notes for the equipment and materials removed from site.
5. Payment of the accrued fines related to OWK 0036/19 due by the 10<sup>th</sup> July 2020, which amount to €16,950



OUR FEES ARE ESTABLISHED IN ACCORDANCE WITH THE 'GUIDELINES ON FEES TO BE CHARGED BY ADVOCATES FOR SERVICES RENDERED' PUBLISHED BY THE CHAMBER OF ADVOCATES (MALTA) AS WELL AS 'TARIFF E' IN 'SCHEDULE A' OF CHAPTER 12 OF THE LAWS OF MALTA.

*The applicant is to inform ERA upon completion of these conditions so as to proceed with granting of said permit. Failure to fulfil the conditions above, within 30 days, the application shall be referred for dismissal. This letter shall not be construed as a permit to undertake any activity on site.*

Appellant felt aggrieved by the last condition number five (5) above mainly the imposition of the payment of the accrued fines related to OWK 0036/19 due by the 10th July 2020, which amount to €16,950.

This appeal is being made inter alia in accordance with Article 63 of the Environment Protection Act and Article 47 (2) (d) of the Environment and Planning Review Tribunal Act.

The reasons for this appeal are the following:

1. The appellant together with all other petrol stations in Malta and Gozo have an Environmental Directive to follow whereby they need to extensively refurbish their stations. One of the requirements includes the installation of a vapour recovery system which is the crux of the matter.
2. The Environmental and Resources Authority is fully aware that all the petrol stations are in the process of complying with their legal obligations and have been in regular constant with the Malta Chamber of SMEs (GRTU) that represents them.
3. As will be clearly proven during the hearing of this appeal, the Environmental and Resources Authority reached an understanding with the Malta Chamber of SMEs (GRTU) on behalf of its members, including appellant, that in the event of the said petrol stations reaching their environmental deadlines, then the said Authority shall not insist on the payment of the fines. The main reason being that at the moment, the fuel delivery system in Malta makes the operation of a vapour recovery system entirely useless as will be shown during the hearing of this appeal.
4. Nonetheless and to appellant (and other petrol station owner's) surprise the authority arbitrarily went back on its word and instead decided to impose the payment of these astronomical fines as a condition to the environment permit they require to carry out the works.
5. Furthermore, appellant strongly contests the way in which the fines were imposed as is clearly explained by Ing. Ryan Fava's letter to the authority on the 5<sup>th</sup> July 2020 whereby he clearly explains the following:

*"B'referenza għall-ittra li għandha referenza OWK 0036/19 li għandha data ta' 17 ta' Gunju 2020 li ircieva l-klijent tiegħi, timplika multa li apparentament hija marbuta li l-klijent tiegħi qatt ma bagħat xi informazzjoni jew ikkorrisponda ma din l'Awtorita ERA sabiex ikun hemm applikazzjoni ambjentali wara xi ufficjali ta' l-awtorita kienu marru fuq is-sit u jien kont fl' immedjat bagħat korrispondenza dwar dan. Dan ma jirrizultax minnu li l-klijent tiegħi qatt ma' kien f'kuntatt ma' l-awtorita sa mis-sena 2014 meta hekk msejha ERA kienet għadha taqgħa taht id-dipartiment ta' l-ipjanar MEPA.*

*B'mod ufficjali ma ahniex naqblu ma' dik il-multa li qed tigi imposta hekk kif wiehed jara u jhares Iejn il-permess li kien hareg b'referenza PA / 550/15 hemm dokumenti cari li kienu gew imtella fuq is-sit ufficjali tal-planning hekk f'Ottubru tas-sena 2015 mill-Perit ikkoncernat li jagħtu b' prova cara li kien hemm korrispondenzi ma hekk imsejha Ilum ERA.*

6. Moreover appellant together with all other petrol stations in Malta and Gozo that need to complete their refurbishments after being issued with the necessary environment and planning permits, also reached an agreement with the Regulator for Energy and Water Services, a draft of which is being attached hereto, which reflects the holistic approach towards the completion of the mammoth task of upgrading and refurbishing all of Malta and Gozo's petrol stations.

In the light of the above, appellant kindly requests that this Tribunal, after hearing submissions and evidence, orders that decision number EP 0050/19 is confirmed, subject to the removal of condition number five (5) which is the imposition of the fine, and consequently order that the said fine is being waived

Kind Regards

JAN-KARL FARRUGIAL.L.D.

Witnesses:

*Representatives of Appellant*

*Ing. Ryan Fava*

*Representatives ERA*

*Representatives REWS*

*Representatives Enemalta*

*Representatives GRTU*