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

Date: 25.02.2021

Dear Madam,

Appeal with respect to PA/O4475/20

We have been engaged by third parties having properties in Triq Il-Kandlora, Sqaq Nru. 1, Zebbug, to object to PA/O4475/20 which is for the proposed construction of a residential unit. Objection primarily relates to the lack of access this proposal will create in relation to third parties, when they would come to access their property at Triq Il-Kandlora, Sqaq Nru. 1.

A permit for the site in caption has already been approved in accordance to PA/O2776/07, documents attached in Appendix A. The said permit was granted respecting the previous commitment and building line. In fact, this permit relates to the reconstruction of a room/store, as can be seen in the 'existing/proposed plan' herewith attached. One can also note how the previous building line was continuous with the adjacent properties and was not projecting outwards into the existing alley. This plan, which was in fact submitted by the Architect in charge and approved by the Planning Authority, is depicting the correct information vis-à-vis committed façade/building line.

Furthermore, as can be seen in the aerial photo of 1968 (Appendix B herewith attached), one can note how the building line is continuous with the adjacent properties, as depicted in the plans of PA/O2776/07.

The 1998 and 2004 aerial photos depict a building line which slightly projects into the alley, whilst the 2008, 2012 and 2016 indicate a demolished building and therefore open plot.

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The newly submitted drawings as per PA/O4475/20 are proposing to project into the alley by 1.31m (doc 10c), which is significantly more than that seen in the aerial photos. This 1.31m is a projection of ca. 50% into the existing alley.

The existing alley clear width is that of 2.80m between the existing building alignments (indicated in Appendix D). With a projection of 1.31m as being proposed by PA/O4475/20, this width will be reduced to circa 1.49m, which will not allow vehicular access for third parties to access their properties as they currently do today. The minimum width stipulated for rural roads is 250cm. Nevertheless, appellants had accepted a marginally narrower area as already approved in PA/O2776/07. Applicant had let this latter permit for a room/store to lapse, and subsequently submitted PA O4475/20 for the development of a residential unit. It must also be noted that appellants' garage is covered with permit PA 07270/18.

The existing alley constraints and turning circles may be appreciated from the photos attached with Appendix C.

We are also in objection to any building alignment which does not conform to the previous commitment/building alignment, due to the fact that any change in this alignment, which entails the reduction of the existing alley width, will hinder any vehicular access by third parties to their property, something which they have been enjoying forever.

We would also like to point out that when the original building was demolished, part of the alley paving was also removed, and existing foundations of the original façade were covered in concrete. Photos as per Appendix E clearly indicate the difference in material. The soil was found beneath the alley paving and the sand/gravel was found beneath the original façade. This can be confirmed through aerial photos as explained above, where original façade only projected by circa 40cm into the existing alley.

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The argument that permits are always 'subject to third party rights' is not valid because this is a case of public order dealing with access over public land, and not a private matter between two privately-owned properties or competing private interests over the same property. The blocking of public access will inevitably lead to judicial proceedings also involving public entities responsible for public roads, and which have not been involved or consulted during these proceedings. This without prejudice to appellants' intrinsic rights for the full enjoyment of their property.

We are respectfully requesting that the approved permit will be reconsidered for all the justified reasons as mentioned above, and that the Tribunal will revoke the approved permit accordingly.

Regards,



Perit Mark Anthony Muscat
Director



Dr. Tonio Cachia
Avukat

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List of Appendices:

- Appendix A: Approved PA/02776/07 site plan and drawings.
- Appendix B: Aerial photo of 1968 indicating site in question.
- Appendix C: Photographs of Triq Il-Kandlora, Sqaq Nru. 1, Zebbug
- Appendix D: Existing alley width
- Appendix E: Images following demolition of structure
- Appendix F: Letter from Zebbug Local Council dated 29.01.2007

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