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01 OCT 2021

ENVIRONMENT AND PLANNING REVIEW TRIBUNAL

ST. FRANCIS DITCH  
FLORIANA

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Application Ref: PA/04392/20

Application type: Full development permission

Applicant: Mr Anton Camilleri

Architect: Perit Mark Camilleri

Proposal: To construct 15 garages, 2 car spaces, 3 maisonettes, 13 apartments and 3 penthouses.

Location: Plot 59 to Plot 63, Triq il-Girghien c/w, Triq il-Kan. Karm Bugelli, Birzebbuga

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**Ernesto Bugeja (ID No. 125364M)**

**vs**

**L- Awtorita' tal-Ippjanar**

**Request for Suspension of PA/04392/20 being submitted by Ernesto Bugeja (ID No. 125364M) in conjunction with appeal**

Whereas the appellant humbly submits, and premises as follows:

That contextually with this application, the appellant is filing an appeal from the Planning Commission's decision on the application for full development permission (Ref. No. PA/04392/20), published in the Government Gazette on the 1<sup>st</sup> of September 2021.

That the appellant is a third-party registered objector and interested party for all intents and purposes at law.

That the appellant is hereby requesting the suspension of the execution of the permit in terms of article 33 of Chapter 551 of the Laws of Malta for the following reasons:

1. That the approved application being approved includes excavation and construction directly above a rock-cut chamber that is known to be of heritage value;
2. That failure to suspend the application could result in the loss or damage to these heritage feature of archaeological value which can certainly never be undone nor reversed in any way.
3. That not suspending the execution of the permit will result in an immediate and far greater prejudice to the appellant in comparison to that of the applicant's if the permit was not immediately suspended. In fact, the suspension of the permit does not affect the applicant negatively as the time for the decision of this appeal will be abbreviated by means of the suspension - which will result in a greater degree of legal certainty for the applicant and shortened decision time spans.

4. That the provisions of Chapter 551 of the Laws of Malta require only that "*the prejudice that would be caused would be disproportionate when compared with the prejudice caused by the staying of the actual execution of the permit.*" The legislator has laid down the possibility for appellants to seek a temporary stay of the execution of the permit, without requesting the appellant to show the irremediable harm that will be caused if the execution is not granted. In this, the legislator has distinguished this right of action from that pertaining to the right to request a prohibitory injunction in accordance with Civil Law. Although in the latter cases, the Courts have occasionally held that a prohibitory injunction served to offer protection to a person whose rights would be lost or curtailed irreparably without such a warrant. This is not the case with the remedy being availed of under article 33, Chapter 551 which only requires a comparison of the potential prejudice caused by the granting of the suspension as opposed to it not being granted.

In view of the above the appellant humbly requests this Honorable Tribunal to suspend the execution of the permit under the terms and conditions as it deems fit.



Perit Tara Cassar  
[tara.cassar@gmail.com](mailto:tara.cassar@gmail.com)

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Dr Christopher L. Vella  
[cvella@mb.com.mt](mailto:cvella@mb.com.mt)

Appellant: Ernesto Bugeja, 10, Triq G. Garibaldi, Birżebbuġa