

23 September 2022

**Tribunal ta' Revizjoni  
tal-Ambjent u l-Ippjanar  
Floriana**



*Nru. ta' l-Applikazzjoni:* PA/1159/22

*Lokazzjoni:* 10, Villa Nova, Triq il-Prinjol, Iklin

*Proposta:* To extend backyard party wall to 3.4m and install a louvered structure and change railing of ground floor terrace.

*Ref. Taghna:*

*Ref. Tribunal:*

**Anthony u Josianne Borg and Stephen McCarthy**

**VS**

**L-Awtorita' ta' l-Ippjanar u Charles Bonnici Mompalao**

Appellants Anthony and Josianne Borg and Stephen McCarthy state:-

- I) That in 2018, an application, PA 7032/18, was submitted to approve variations from PA 1535/13.
- II) The Authority rejected this application and the Appellants filed an appeal, which is still pending, so that additional reasons of refusal are added to the decision of the Authority.
- III) Concurrently the Applicant filed a regularisation application RG 1861/19 which was approved, and on which there was an appeal and which appeal was rejected simply because the Tribunal decided that there is no appeal procedure from a RG.

- IV) In 2021 the applicant filed another application PA 5038/21 which was approved by the Authority and the decision published on the 2nd February 2022.
- V) The appellants felt aggrieved by this decision submitted an appeal, which is still pending.
- VI) In 2022 the applicant filed this new application which was approved by the Authority with the decision being published on the 24th August 2022.
- VII) The Appellants feel aggrieved by this decision and are submitting this Appeal.

Attached please find:-

- A copy of the decision (Dok JA1).
- Receipt of Payment of the Appeal fee (Dok JA2).

Appellants respectfully submit:

- 1.1 It is quite clear that the Applicant is abusing of the planning application system by filing different applications to sanction/regularise illegal development.
- 1.2 It is also being noted that immediately after PA 5038/21, application PA 1159/22 was filed intended to:
- To extend backyard party wall to 3.4m and install a louvered structure and change railing of ground floor terrace.**
- 1.3 It must be also noted that in PA 1535/13 the applicants had already obtained a permit which included concessions that went beyond the policy then applicable.

- 1.4 In total disregard of the said permit, the Applicant went ahead and developed his site, and more importantly ignored the conditions binding the site to the neighboring tenement.
- 1.5 The applicant cannot avail himself of a Regularisation procedure and apply to increase the height of a party wall, since it is an agreed principle that once a new development is proposed, the concession obtained through a Regularisation cannot be availed of and any new development must be in line with current policy.
- 1.6 The approved development is clearly in breach of the applicable polices regulating the site and the justification that same guarantees privacy is a travesty since in the same permit the authority is approving a railing at the back of the property which clearly breaches the privacy of the Appellants.
- 1.7 Applicant is attempting to sanction items **previously refused in PA/07032/18**, such as the layout of the back balcony and railing at the back of the terrace, which were **hidden from view** during the regularisation process;
- 1.8 Applicant initially applied to increase height of 3rd party wall to 3.4m, but was asked to respect the topology of the site (slope). Eventually, he filed fresh plans after the application was decided claiming that the height of the boundary wall **had already been approved** during the regularisation process (and through subsequent application PA/5038/21). This is utterly not true and correct since the said wall was never raised to 3.4m – before or after 2016.
- 1.9 Issues of privacy resulting from the development further aggravate the concession given to the applicant in 2013, where he was granted access and use of the terrace even though this went against the policies applicable at that time
- 1.10 The applicant is now requesting an alteration to the terrace (effectively detaching it from the balcony adjoining the bedroom), and hence this proposal ought to be assess on the basis of current policy, namely DC 15 which clearly prohibits the said use.

On the basis of the above, the Appellants request the Tribunal to uphold their appeal and order the Authority to issue the relative refusal.

Respectfully,



**Av. Ian J. Stafrace**  
**9/4 Britannia House**  
**Old Bakery Street**  
**Valletta**

**Witnesses:**

1. The appellants and the appellee and their consultants to testify on the facts of the case.
2. The authority and its officials to testify on the facts of the case.



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