

2<sup>nd</sup> February 2023



**The Environment and Planning Review Tribunal**

*Nru. ta' l-Applikazzjoni:* RG 4109/18

*Lokazzjoni:* Regent Park Towers BOV Office Triq Borg Olivier, San Giljan

*Proposta:* To Regularise as built

*Ref. Tagħna:*

*Ref. Tribunal:*

**Perit Daniel Grima u Ibrahim Abd El Halim**

**vs**

**L-Awtorita' ta' l-Ippjanar u Raymond Saliba**

The appellant respectfully submits:-

- I) The applicant made the submission of this application in 2018.
- II) This application was approved by the Commission.
- III) The appellant made a request under the provisions of Article 80 of Chapter 552 of the Laws of Malta on the 23<sup>rd</sup> October 2019, requesting the revocation of the said permit.
- IV) The Planning Board discussed the said request and refused the request through a decision taken on the 25<sup>th</sup> February 2021.
- V) The appellants felt aggrieved by the said decision and submitted an Appeal (PAB 96/21).
- VI) Through a decision of the 28<sup>th</sup> June 2022, the tribunal acceded, in part, to the request of the Appellants and:

*“ihassar il-permess odjern, jirrimetti lura l-applikazzjoni lillAwtorita’ fil-fazi inizjali u jordna lill-applikant sabiex fiz-zmien tletin (30) gurnata mid-data ta’ din id-decizjoni jipprezenta site planaggornata li tindika s-sit tal-izvilupp mitlub ghal regolarizzazzjoni li jirrifletti d-declaration of ownership f’dok a fol 1A, u ssirpublikazzjoni mill-gdid skont il-proceduri stabbiliti u wara li tigi processata tigi deciza abbazi tal-informazzjoni aggornata skont il-provedimenti tal-ligi.”*

VII) The application was discussed again by the Commission and the regularisation Permit was re-issued and published on the 18th January 2023.

VIII) The Appellants feel agrieved and are hereby submitting an appeal.

Together with this appeal, the appellant is submitting:-

- Receipt of Payment:

The appellant respectfully submits the following:

- 1.1 It is being immediately declared that this appeal is being submitted as resultant from the proceedings that were already determined by this Tribunal and which emanated from the provisions of Article 80 of Chapter 552 of the Laws of Malta.
- 1.2 It is abundantly clear that the Authority did not follow the clear decision of this Tribunal and wrongly re-issued the Regularisation Permit.
- 1.3 The Commission was informed, by the Case Officer that:

*At docs 120b-120d, Perit uploaded fresh drawings showing extent of right of access, and Notary declaration at doc 120e.*

- 1.4 Document 120e was not and is still not accessible to the Appellants. This issue was declared during the sitting of the Commission and the Appellants requested that this fact is recorded in the records of the sitting. Not only was the request to have access to Doc. 120e rejected, but the Commission also rejected the request to have this matter recorded in the records of the proceedings.
- 1.5 The declaration of ownership was and remains incorrect. The appellant never claimed that the said plans did not show the common areas. What the appellant claimed was that the applicant claimed ownership title on the whole application, when the same applicant was neither the owner nor a part owner of any of the common areas.
- 1.6 The applicant had to declare this and such a declaration would then have brought into effect the further requirements attached to it. All the applicant, who does not even own the site subject of this application did was to now declare that he has a right of passage over Appellants property. If this is the case, and we declare that even this declaration is incorrect, then the consent of the owner of those common areas had to be obtained. The said area is owned by one of the Appellants who never gave his consent.
- 1.7 It is quite clear, even further to jurisprudence, that the Authority, when faced with such a claim, should at least on a prima facie basis assess the claim, and not simply ignore it. The Appellants will prove that the applicant does not own the site in question, let alone having a right of passage on property of one of the Appellants.
- 1.8 This declaration of ownership has a further importance in this case since what has been regularized are door openings and entrances onto common areas not owned by the applicant, and hence, such a matter does have a material bearing on the determination of same.

In view of the above, and further submissions that the appellant reserves to make, the appellant requests the Tribunal to now revoke the decision of the Planning Board to refuse the invocation of Article 80, the decision of the Authority to re-issue the permit, and consequently order the Authority to annul the said permit

under the authority of Article 80 of Chapter 552 of the Laws of Malta, and this under those terms and conditions that the Tribunal may deem appropriate.

With Respect



**Av. Ian J. Stafrace**

**Witnesses:**

1. Appellants, and consultants and consultees and officers of the Authority to confirm the facts.



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