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**ENVIRONMENT AND PLANNING
REVIEW TRIBUNAL****RECEIVED**
26 APR 2023**ST. FRANCIS DITCH
FLORIANA****In the Environment and Planning Review Tribunal**

Re: Application EP1474/21 "To carry out waste management activities related to the acceptance and processing of hydraulic waste oils."

Appeal of Martin Gaffarena, applicant

Mr Martin Gaffarena u JT Service Station Ltd f' St Anthony Farmhouse, Gharghur Road, Naxxar, hereby lodges this appeal against the ERA decision of 24th March 2023 communicated to him at a later date, after the 28th March 2023 when the relative letter was sent giving decision notice. The reference is ERA Ref: DN/EP1474/21.

The ERA Board considered on 24th March 2023 that the application had to be refused on the grounds:

- A. The proposed activities are not strictly for personal use as the applicant's business is a commercial one and moreover the applicant can accept waste oil for processing from third parties. And
- B. Due to the environmental pact on the residence, this type of activity is incompatible within a residential area.

The appellant Mr Martin Gaffarena rejects both grounds as unfounded both in fact and in law.

1. Regarding that the premises are for a commercial activity.

With all due respect, it is the Planning Authority that has jurisdiction in such matters and if there is a change of use from that one which is permitted, then it is the Planning Authority that is authorised to take action against the person who made a change of use. Incidentally, the matter has been decided by a full development permission of **5th April 2022, PA/08237/21**, and after having received reports from the engineers, the Water Services Corporation and the Health Directorate conditions. In actual fact, the application before the Planning Authority was, "change of use part of private car garage into filtering use of hydraulic oil for reuse for personal use and not for commercial use Class 5A."

It must be understood that the classification and the conditions imposed by the Planning Authority clearly exclude any jurisdiction of the ERA board to decide that the activity is commercial and not one of private use. This is blatantly clear from the conflict that now exists from this ground of refusing and the full development permission granted more than a year ago.

2. Environmental Impact.

It is rather dubious how the Environmental Health Directorate imposed conditions in the Planning Authority application which was approved and the position taken now by the ERA board. The applicant had obtained the prior consent of all neighbours. It must be underlined that the method used for filtering the oil does not involve any emissions of fumes. It will make less fumes than a Dates Kiosk (Gabbana tal-Imqaret).

Even the idea that this activity is incompatible within a residential area is not substantiated by facts.

Furthermore, there are laws which even with the permission of the Planning Authority and of ERA may impinge on permits already granted if there is any health hazard to people in the vicinity.

It is to be underlined that this decision was reached almost a year after the Planning Authority did not find any objection but granted a permit and ERA in actual fact overstepped its powers and decided either on matters which are reserved to the Planning Authority or took the arbitrary and gratuitous decision the filtering of oil in a garage is incompatible with a residential area. It does not appear that there is any reason given why this type of activity is incompatible. It does not rely on any evidence but is a judgement without any basis of proof.

The filtering of hydraulic oil does not emit fumes or odours. Secondly its flashpoint does not raise any concern of causing a fire. So what makes filtering incompatible with a residential area ?

Wherefore, the appellant humbly prays that the decision of ERA board of 24th March 2023 be revoked and that the permission be granted.



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Martin Gaffarena
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