



BPC 2001

Perit Roderick Camilleri

Professional Conduct Decision

04/04/2025

127, Sliema Road
Gzira GZR 1633
Malta

t. +356 21314265
e. info@kamratalperiti.org
w. kamratalperiti.org

**Kamra
tal-Periti**

Investigation

The Council of the Kamra tal-Periti, upon learning of media reports about the incident that occurred on 2nd March 2020 leading to the tragic demise of Ms Miriam Pace in Triq Joseph Scolaro Hamrun, immediately opened an investigation to establish whether a perit had acted in a manner which violated the parameters set by the Periti Act, Cap. 390, Article 15 (a), and Subsidiary Legislation 390.01 regulation 5, including:

- a) Dishonesty, misconduct, or gross negligence in the exercise of his profession;
- b) Conduct discreditable to the profession;
- c) Failure to comply with regulations with respect to professional standards or practices.

The Council began its investigation by firstly reviewing all publicly available official documentation accessible on the Planning Authority's online planning portal, including the permit drawings, the site management responsibility summary form at Red 173d, the demolition method statement at Red 173f, and the excavation method statement at Red 173g.

It was noted that the perit-in-charge of the project was Perit Roderick Camilleri (the Respondent) and that a magisterial inquiry had been opened to gather all the evidence and investigate the incident.

On 3rd February 2021, the Council of the Kamra tal-Periti wrote to the Office of the Attorney General (AG) requesting a copy of the magisterial inquiry so it may proceed with the Council could proceed with its investigations. The request was rejected by the AG on 8th February 2021 as the magisterial inquiry documentation had been meanwhile filed into the acts of the criminal case.

The Council filed an application with the Court of Magistrates on 26th February 2021 stating:

“Illi l-esponent għan-nom tal-Kamra tal-Perit ikkomunika mal-Avukat Ġenerali permezz ta' ittra datata 3 ta' Frar 2021 sabiex jingħata aċċess għall-inkjesta għar-raġuni hawn fuq imfissra iżda l-

Avukat Ġenerali wieġeb li l-inkjesta indikata ġiet esebita fil-kawza u għaldaqstant hija parti integrali mill-Atti tal-Kumpilazzjoni u b'hekk ma ingħatax aċċess lill-esponent.

“Illi l-esponent jifhem li n-natura ta’ inkjesta hija waħda sensitività iżda ta’ rilevanza nazzjonali u ta’ rilevanza għall-Kamra tal-Periti li qegħda tagħmel l-investigazzjoni tagħha abbażi tal-Att dwar il-Periti, Kap 390. Għalhekk l-esponent qiegħed jintavola dan ir-rikors sabiex titlob l-Qorti ittih l-aċċess meħtieġa.

“Għaldaqstant l-esponent għan-nom tal-Kamra tal-Perti jitlob lil din l-Onorabbli Qorti sabiex tagħti aċċess għall-inkjesta imsemmija lill-membri tal-Kunsill tal-Kamra tal-Periti u dan sabiex jiehdu informazzjoni rilevanti mill-istess inkjesta u dana taħt kull provvediment li din l-Qorti jidhirlha xierqa u opportuna.”

The AG objected to the Council’s afore-mentioned application on 1st March 2021, stating the following:

“Illi l-esponent ġie notifikat bir-rikors promotur nhar is-sitta u għoxrin (26) ta’ Frar tas-sena elfejn u wieħed u għoxrin (2021) bi tmienja u erbgħin siegħa żmien għal risposta.

“Illi permezz tar-rikors promotur, ir-rikorrent il-Perit Andre Pizzuto għan-nom tal-Kamra tal-Periti qiegħed jitlob lil din l-Onorabbli Qorti sabiex jingħata aċċess għall-inkjesta magisterjali, li tinsab eżebita fl-atti tal-kumpilazzjoni fl-ismijiet fuq premissi. Illi r-rikorrent qiegħed jibbaża t-talba tiegħu fuq il-ħtieġa li l-membri tal-Kunsill tal-Kamra tal-Periti jiehdu informazzjoni rilevanti mill-

istess inkjesta u dan ai fini tal-investigazzjoni li qeghda tiġi kondotta ai termini tal-Att dwar il-Periti, Kapitolu 390 tal-Liġijiet ta' Malta.

“Illi l-esponent jirrelewa fl-ewwel lok li ai termini tal-Artkolu 518 tal-Kodiċi Kriminali, Kapitolu 9 tal-Liġijiet ta' Malta, l-atti u d-dokumenti ta' ġustizzja kriminal ma jistgħu jintwerew lil hadd, lanqas ma jistgħu jingħataw kopji tagħhom, mingħajr permess speċjali tal-Qorti, hlief lill-Avukat Ġenerali, lill-partijiet fil-kawża jew lill-avukat jew prokuratur legali li jkun awtorizzat mill-istess partijiet. Illi għaldaqstant il-kopji mitluba mir-rikorrent f'dan il-każ jistgħu jingħataw biss bil-permess speċjali ta' din l-Onorabbli Qorti.

“Illi fit-tieni lok, l-esponent jirrelewa li r-rikorrent qiegħed jagħmel it-talba tiegħu hekk kif dedotta fir-rikors promotur, sabiex il-membri tal-Kunsill tal-Kamra tal-Periti jieħdu l-informazzjoni rilevanti mill-istess inkjesta. Illi madana kollu l-esponent ifakkar li l-inkjesta maġisterjali in kwistjoni appart li hija ta' natura sensittiva hekk kif indikat mill-istess rikorrent, hija inkesta ferm voluminuża li tikkontjeni r-relazzjonijiet ta' diversi esperti fosthom esperti mediċi, id-depożizzjoni ta' terzi persuni, anke pajżana, stqarrijiet mogħtija lill-Pulizija, kif ukoll informazzjoni oħra li appart min-natura ferm sensittiva tagħha tikkonċerna mhux bixx lil-Periti Roderick Camilleri u Anthony Mangion, iżda ukoll liż-żewġ imputati l-oħra li ma humiex Periti, u li l-każ tagħhom għadu ukoll *sub judice*.

“Illi għaldaqstant in vista tar-raġunijiet suesposti, l-esponent jogħezzjona għat-talba tar-rikorrent hekk kif dedotta fir-rikors promotur.”

In its decree of 11th March 2021, the Court of Magistrates rejected the Council's application.

Almost four months later, the Council took note of the judgement of Magistrate Joseph Mifsud of 1st July 2021, finding the Respondent guilty on all four criminal charges brought against him, namely:

“1. B’nuqqas ta’ hsieb, bi traskuragni, jew b’nuqqas ta’ hila fl-arti jew professjoni taghhom, jew b’nuqqas ta’ tharis ta’ regolamenti, ikkagunaw il-mewt ta’ Maria Assunta Pace, detentrici tal-karta tal-identita’ Maltija bin-numru 0167165M.

“2. U aktar talli fl-istess data, hin, lok u cirkostanzi, u fil-gimghat ta’ qabel, b’nuqqas ta’ hsieb, bi traskuragni jew b’nuqqas ta’ hila fl-arti jew professjoni taghhom jew b’nuqqas ta’ tharis ta’ regolamenti, ikkagunaw hsarat jew hassru jew gharrqu diversi proprjetajiet u/jew oggetti ohra ghad-dannu ta’ Carmelo Pace, Maria Assunta Pace, Carmel Pace, David Zerafa, Rosaria Zerafa, John Sammut, Grace Sammut, Joseph Sammut, il-kumpanija maghrufa bhala ‘Edu Centre Limited’, u/jew diversi persuni ohra.

...

“3. Talli fl-istess data u anke fix-xhur ta’ qabel, gewwa dawn il-Gzejjer Maltin, sabiex jiksbu xi vantagg jew beneficcju ghalihom infushom jew ghal haddiehor, f’xi dokument mahsub ghal xi awtorita’ pubblika, xjentement ghamlu dikjarazzjoni jew stqarrija falza jew taw taghrif falz.

“4. U aktar talli fl-istess data u anke fix-xhur ta’ qabel, gewwa dawn il-Gzejjer Maltin, ghamlu dikjarazzjoni falza għall-ghan tar-regolamenti elenkati fl-Avviz Legali 136/2019.”

The Council wrote to the AG on 21st July 2021 asking whether the judgement was final or whether an appeal had been filed. In its reply of 27th July 2021, the AG declined to provide this information stating that it was not public information.

The Council wrote again to the AG on 25th August 2021, stating the following:

“Nirreferi għar-risposta tiegħek ddatata 27 ta’ Lulju, 2021, għall-ittra tiegħi.

“Artiklu 518 tal-Kodiċi Kriminali jgħid hekk:

518.L-atti u d-dokumenti tal-qorti ta’ ġustizzja kriminali ma jistgħu jintwerew lil hadd, lanqas ma jistgħu jingħataw kopji tagħhom, mingħajr permess speċjali tal-qorti, hliet lill-Avukat Ġenerali, lill-partijiet fil-kawża jew lill-avukat jew prokuratur legali li jkun awtorizzat mill-istess partijiet; imma dawk l-atti kollha li jkunu nqraw fil-qorti bil-miftuħ, jista’ jarahom kull min irid u jistgħu jingħataw kopji tagħhom, bil-ħlas tad-dritt soltu:

Iżda proċessi verbali u kull xieħda u dokumenti mdaħħlin magħhom għandhom jintwerew, u kopji tagħhom jingħataw, biss fid-diskrezzjoni tal-Avukat Ġenerali u bil-ħlas ta’ dawk id-drittijiet li jistgħu jiġu stabbiliti mill-Ministru responsabbli għall-ġustizzja skont l-artikolu 695” [ENFASI MIŻJUDA]

“Huwa ċar għaldaqstant illi l-Uffiċċju tiegħek għandu s-setgħa diskrezzjona li juri u jagħti kopji tal-proċessi verbali u tax-xieħda u dokumenti li jinsabu fihom.

“B’riferenza għall-aħħar linja fl-ittra tiegħek, nixtieq niġbidlek l-attenzjoni li l-Kamra tal-Periti mhix

“il-pubbliku” – iżda hija organu rikonoxxut mil-liġi u mogħti poteri investigattivi u kważi-ġudizzjarji

skond l-Att dwar il-Periti, Kap 390. Ghalhekk, il-Kamra tal-Periti ma tistax titqiegħed fl-istess keffa tal-pubbliku in ġenerali.

“F’każ li t-talbiet għal informazzjoni fl-ittra tiegħi tal-21 ta’ Lulju 2021, kif ukoll fl-ittra mibgħuta mill-avukat tagħna fit-3 ta’ Frar, 2021, jibqgħu ma jiġux milqugħa, il-Kamra tal-Periti ma jkollhiex alternattiva ħlief li tasal għall-konklużjoni li l-Avukat Ġenerali mhix tikkoopera fl-iżvolġiment ta’ proċeduri investigattivi skond il-Liġijiet ta’ Malta.”

In its reply of 18th October 2021, the AG stated that the Kamra tal-Periti should make its request to the Criminal Appeals Court.

The Council, based on legal advice, decided to pause its investigation to await the outcome of the appeal proceedings before filing further applications with the Courts.

The Council took note of the judgement of the Criminal Court of Appeal presided by Justice Aaron Bugeja dated 28th July 2022, wherein it confirmed the convictions on all four criminal charges brought against the Respondent, partially altering the penalty.

On 2nd August 2022, the Council requested once again access to the *procès-verbal* pursuant to the first proviso of Article 518 of the Criminal Code so the Council of the Kamra tal-Periti could proceed with the disciplinary processes being undertaken in accordance with regulation 5 of Subsidiary Legislation 390.01.

The AG responded on 3rd August 2022, inviting the Council to file an application for the requested documentation with the Criminal Appeals Court.

The Council filed an application with the Criminal Appeals Court on the same date, namely 3rd August 2022, stating the following:

“Illi l-esponent huwa l-President tal-Kamra tal-Periti u qed iressaq dan ir-rikors in rappreżentanza tal -istess Kamra.

“Illi l-Kamra, skont il-funzjonijiet u s-setgħat mogħtija lilha bil-liġi, senjatament Att dwar il-Periti, Kap 390 u l-Legislazzjoni Sussidjarja 390.01, qiegħda twettaq investigazzjoni u proċess ta’ dixxiplina fil-konfront tal-periti akkużati f’dawn il-proċeduri, liema investigazzjoni u proċess ta’ dixxiplina kienu qed jistennew l-eżitu tal-appelli kriminali fuq ċitati.

“Illi wara li ġew deċiżi l-appelli nhar it-28 ta’ Lulju, 2022, l-esponenti nomine talab permezz ta’ email lill-Uffiċċju tal-Avukat Ġenerali sabiex jingħata aċċess b’urġenbza għall-proċès-verbal tal-inkjesta magisterjali, skont l-Artiklu 518(1) tal-Kodiċi Kriminali, u dan sabiex il-Kamra tal-Periti tkun tista’ twettaq dmirha skont il-liġi u tissokta bil-proċeduri ta’ dixxiplina.

“Illi l-Uffiċċju tal-Avukat Ġenerali wieġeb li l-inkjesta indikata għet esebita fl-appelli fuq imsemmija u għalhekk hija biss il-Qorti li tista’ tagħti aċċess għall-proċes verbal tal-inkjesta.

“Illi minhabba li n-natura ta’ tali inkjesta hija ta’ rilevanza nazzjonali u ta’ rilevanza għall-Kamra tal-Periti li qegħda tagħmel l-investigazzjoni tagħha skont il-liġi, qed jiġi intavolat dan ir-rikors.

“Għaldaqstant l-esponent għan-nom tal-Kamra tal-Periti jitlob lil din l-Onorabbli Qorti sabiex tagħti aċċess għall-proċes verbal tal-inkjesta imsemmija kif ukoll, jekk ikun il-każ, għal dokumenti oħra li jiffurmaw parti mill-proċess tal-appell, lill-membri tal-Kunsill tal-Kamra tal-Periti u dan sabiex

jieħdu informazzjoni rilevanti mill-istess inkjesta u dana taħt kull provvediment li din l-Qorti jidhirlha xierqa u opportuna.”

The Criminal Appeals Court presided by Justice Aaron Bugeja decreed in favour of the Council’s application on 25th August 2022 on the following grounds:

- 1. Din il-kawza hija *res judicata* fil-konfront ta` Roderick Camilleri u Anthony Mangion;**
- 2. It-talba qed issir minn Enti li hija fdata mil-Ligi bil-harsien tad-dixxiplina fir-rigward ta` Periti;**
- 3. Stante li kwalunkwe procedura li tista` tkun mehuda mir-rikorrent bl-ebda mod ma tista` tolqot il-proceduri pendenti kontra terzi persuni, stante li dawn m’humix Periti;**
- 4. Li fi kwalunkwe kaz il-meriti tal-vertenzi rispettivi huma differenti; l-kawza pendenti bl-ebda mod ma tista` tintrabat mal-meritu tal-proceduri msemmija mir-rikorrenti; u fi kwalnumkwe kaz ir-rikorrenti tista` tistharreg il-vertenza biss dwar il-Periti li kienu suggetti għall-proceduri konkluzi definittivament quddiem din il-Qorti; u l-ezitu tal-istharrig tar-rikorrenti huwa guridikament distint u separat minn dak li jrid isir fir-rigward tar-terzi li għad iridu jghaddu guri;**
- 5. Hemm il-htiega li biex ir-rikorrenti tkun tista` taqdi sewwa d-dmirijiet statutorji tagħha jkollha l-istampa kollha cara bl-evidenza kollha – dik favur u dik kontra Roderick Camilleri u Anthony Mangion;**

On 26th August 2022, the Respondent appealed the decree authorising the release of the *procès-verbal* to the Council of the Kamra tal-Periti. In its reconsideration, the Criminal Court of Appeal decreed on 5th September 2022 that the appeal should be rejected and that the Council should have access to all the documents it had requested, on the following grounds:

“Stante li l-Kamra tal-Periti:

- (a) għandha rwol statutorju x'taqdi fl-ambitu deontoloġiku tal-professjoni tal-Periti li jmur lil hinn mill-aspetti ta' natura penali decizi mill-Qorti tal-Maġistrati (Malta) u riveduti minn din il-Qorti; u**
- (b) liema rwol jista jeħtieġ stħarriġ t'aspetti oħra tal-imġieba tal-Periti CAMILLERI u MANGION li l-ġudikat penali ma daħalx fihom in kwantu mhux il-forum kompetenti; u li**
- (c) meta tiġi biex tevalwa din l-imġieba tal-Periti CAMILLERI u MANGION b'mod sħiħ u komprensiv fil-parametri ta' dak li tippermettilha l-Liġi, il-Kamra għandu jkollha vizibilita sħiħa tal-fatti kollha f'dan il-każ : kemm kontra daqs-kemm dawk favur l-istess Periti, nonche l-kuntest li fihom dawn il-fatti seħħew.”**

The *procès-verbal* was collected from the Court Registrar on 23rd September 2022.

The Council reviewed all the documentation and on 26th September 2022 determined that there were sufficient grounds on a *prima-facie* basis to proceed with formal conduct hearings in the presence of the Respondent, and to provide the same Respondent with the right to exculpate himself in line with the Periti Act, Cap. 390, and subsidiary legislation.

Evidence

The Council of the Kamra tal-Periti held five conduct hearings during which the Respondent, Professor Alex Torpiano, Perit Anthony Mangion, Dr Arthur Azzopardi, Dr Mario Buttigieg, Mr Jesmond Muscat, and Mr Keith Cutajar testified under oath.

The hearings were held on 10/10/2022, 27/03/2023, 29/01/2024, 27/05/2024, and 24/06/2024.

Minutes and transcriptions of the hearings were prepared and circulated to the parties.

The Respondent sought permission from the Criminal Court of Appeal to retrieve a copy of the criminal case file and present it to the Council of the Kamra tal-Periti. This request was granted by the Court.

The delay between the second and third hearing was due to the Court Registrar delaying the execution of the Court decree to make the documents available to the Respondent.

Below is a summary of the evidence material to the professional conduct procedures pursuant to the Periti Act:

1. Agreement governing professional relationship between Respondent and his client

The evidence shows that the Respondent entered into a form of barter agreement with the client, whereby he agreed to provide his professional services on the project in exchange for a non-controlling stake in a company set up specifically for the execution of the project.

Indeed, when asked about the nature of the agreement with his client, the Respondent testified as follows:

“AP: Mela Perit tispjegalna ċ-ċirkostanzi kif tqabbadt għal dan il-proġett?

RC: Mela kont imqabbad mill-kumpanija MCZMC, way back in 2019 biex nissottomettu ovvjament l-application biex tiġi approvata mill-planning authority imbagħad isiru, imbagħad wara bdejna l-process biex ikunu jistgħu jibdeu x-xogħlijiet

AP: u ma min kont qed tiddiskuti dan l-ingaġġament tiegħek għal dan il-proġett?

RC: L-aktar li kien jieħu fiesieb, id-developer Malcolm Mallia

AP: Malcolm Mallia?

RC: L-aktar eħe, hu kien l-aktar on board - għax il-kumpanija magħmulha minn sitt individwi oħra però l-aktar hu kien involut fiha Malcolm Mallia

AP: Mela, u tista' tghidilna d-data ta' meta tqabbadt uffiċjalment, iġifieri

RC: Ma niftakarx ta', jekk jekk trid ingibielkom, però ma niftakarx eżatt

AP: Il-ftehim kif intlaħaq, kien verbali, kien bil-miktub?

RC: Le verbali ta'

AP: Verbali

RC: Ifhimni Malcolm Mallia hu wieħed mill-klijenti li kelli qabel iġifieri ... bħala ma kienx hemm kuntratti formali miegħu kien

AP: U x'kien il-baži tal-ftehim, x'kien it terminu, x'kienu?

RC: Il-baži tal-ftehim bażikament kien li peress li naqra proġett kbir flok ħa jħallsuni bħala ħlas, flok ħa jsir fil-bidu jew percentage tal-proġett kollu in phases, nithallas fl-aħħar, 10% mill-proġett, mill-profitt tal-proġett, ħa ngħid hekk

AP: Iġifieri s-shareholding tal-kumpanija,

RC: Mhm

AP: ta' dina MCZMC Developers Limited

RC: 10% 10%. Ma kontx ma kontx direttur però kont just shareholder u s-shareholder l-iskop tiegħu kien biex nithallas minnu fis-sens li jiena flok ħa nithallas bħala Perit ħa nithallas bħala x-shareholder

AP: Imma kif giet ivvalutata l-valur tal-kumpanija mal-fees tiegħek professjonali?

RC: Ma kienx hemm valutazzjoni b'dak il mod ta'. Il-mod kienet li offrewli din l-offerta u peress li nafhom tipo ġieli klijenti, dan mhux ġie l-ewwel darba, dan ma Malcolm Mallia and Co ħa ngħid hekk, ilni naħdem dawn l-aħħar 5 snin magħhom, iġifieri

AP: Iġifieri dina, ġieli saret qabel jew l-ewwel darba li tħallast

RC: Le dik l-ewwel darba le, l-ewwel darba kienet dik

AP: L-ewwel darba li tħallast hekk?

RC: Iva

...

SVL: Iġifieri din il-kumpanija giet imwaqqfa' speċifikament għal dan il-proġett biss?

RC: Iva eżatt, eżatt iva

...

AP: U f'liema mument dħalt bħala shareholder inti, il-mument li twaqqfet jew wara?

RC: Mela twaqqfet biex għamilna l-konvenju, hemmhekk kont dħalt bħala shareholder sal- ... konvenju u imbagħad ovvjament bdejna naħdmu fuq il-pjanti eċċ, eċċ. Ovvjament dan kuncett,

**iġifieri waqt li ahna qed naħdmu ... fuq il-kunċett, huma bħala developer kienu qed jaħdmu biex tigi
ffurmata il-kumpanija biex ikun jista' jsir il-konvenju**

AP: U l-konvenju x'konvenju hu? Tal-?

RC: Konvenju tax-xiri tal-art

...

**AP: Ħa nitkellmu ftit fuq din tax-shareholding. Skond is-shareholding inti qiegħed indikat li x-
shareholding tiegħek huwa Class D, ordinary D shares, ... u li dawn ix-shares [m'għandhomx dritt
għal vot u ma jistax ikun direttur tal-kumpanija, x'inhi r-raġuni?**

**RC: Ngħidlek il-verità l-ewwel darba li kelli kumpanija. Kont qiegħed bħala shareholder u aċċettajt
li nkun shareholder, m'inx direttur, iġifieri dik hi l-verità, l-ewwel darba li qatt kelli kumpanija fuq
ismi**

AP: U kif kont ħa taċċerta ruġek li l-flus, id-dividends

RC: Ibbażata fuq il-fiduċja, nista' nirrispondik mill-ewwel, ibbażata fuq il-fiduċja kienet qiegħda

AP: Iġifieri kieku dawn għamlu telf, inti ma kont tiehu xejn

**RC: Hekk hu. ... Dak riskju tal-proġett u jġifieri dak huwa kull proġett jew taqla' jew titef, iġifieri
mhux bilfors taqla' l-flus u**

AP: Ehe, imma inti x'kien l-interess tiegħek li tidhol għal dit-tip ta' shareholding, x'benefiċċji ħadt minnha inti din?

RC: Heq fl-aħħar mill-aħħar li ndaħhal il-flus hu jiġifieri

AP: Imma kellek stima f'moħħok ta' kemm kont ħa ddaħhal minnha din il- ... għamilt xi kalkoli?

RC: Estimates kellna u mela, kellna estimates

AP: Tista' tgħidilna x'kienu l-estimates?

RC: Ma niftakarx kemm kienu għax tant il-proġett warrabtu mal-ġenb”¹

The Council noted that in page 3 of the Memorandum of Association of MCZMC Developers Ltd (C 91511) exhibited in the Magisterial Inquiry in Volume 2 Page 256, the shareholding of the company is summarised as follows:

Share type	No. of shares	Shareholder
Ordinary A (with voting rights)	240 (20%)	Malcolm Mallia
Ordinary A (with voting rights)	240 (20%)	Matthias Mallia
Ordinary B (with voting rights)	240 (20%)	Elton-Joseph Caruana
Ordinary C (with voting rights)	120 (10%)	Christopher Zarb
Ordinary C (with voting rights)	120 (10%)	Simon Zarb
Ordinary C (with voting rights)	120 (10%)	Amanda Muscat
Ordinary D (no voting rights)	120 (10%)	Roderick Camilleri

¹ Transcript of Conduct Hearing held on 10/10/2022 – 1.00 – 9.59 (AP = Andre Pizzuto, RC = Roderick Camilleri, SVL = Simone Vella Lenicker)

Page 4 of the same memorandum lists the company directors as Malcolm Mallia, Matthias Mallia, Elton-Joseph Caruana, Christopher Zarb, Simon Zarb, Amanda Muscat. The Respondent, thus, did not have any control of the company named MCZMC Developers Ltd (C 91511).

2. Structural analysis, instructions, and supervision of works

The Council noted the detailed description of the wall that separated the development site and collapsed building made by court-appointed expert Perit Professor Alex Torpiano. This description outlined the manner in which he believes it was constructed and change in load distributions he believes occurred as the works went along, including the removal of soil at the base of the wall. The Council requested that court-expert present a sketch of the cross-section of the wall as he described it in his report forming part of the magisterial inquiry. This sketch is included in Figure 1.

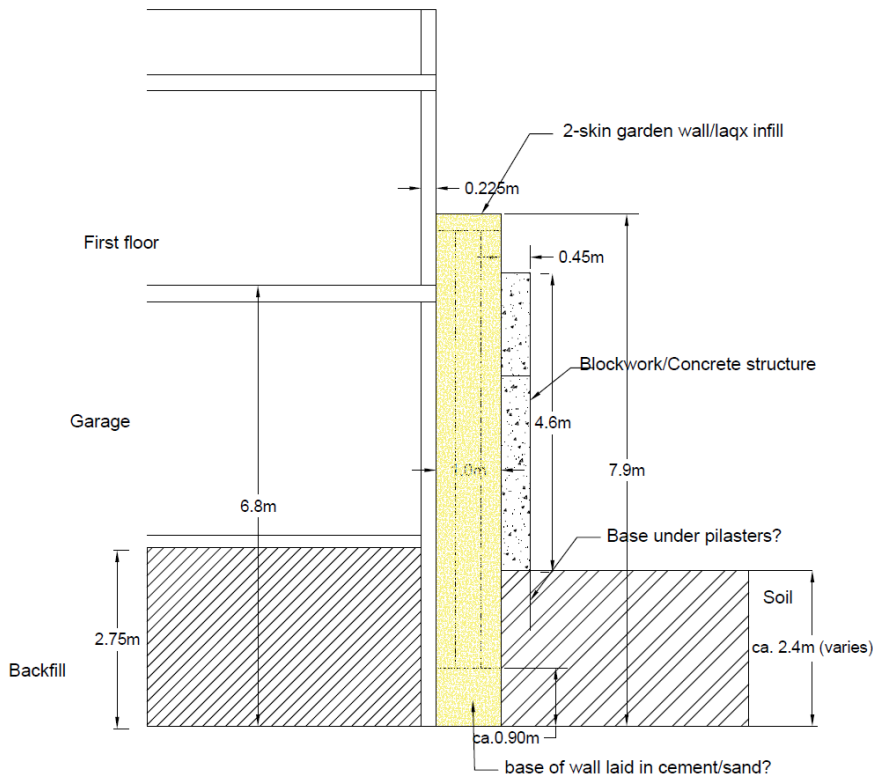


Figure 1 Sketch of cross-section of walls along party-line estimation drawn by court expert Prof. Alex Torpiano

During his testimony, the Respondent presented a cross-section of the same wall based on his analysis and professional assumptions. He also supported this alternative sketch by presenting photographs of the boundary wall he commissioned taken using a drone before the works had started. The respondent's sketch is included in Annex B.

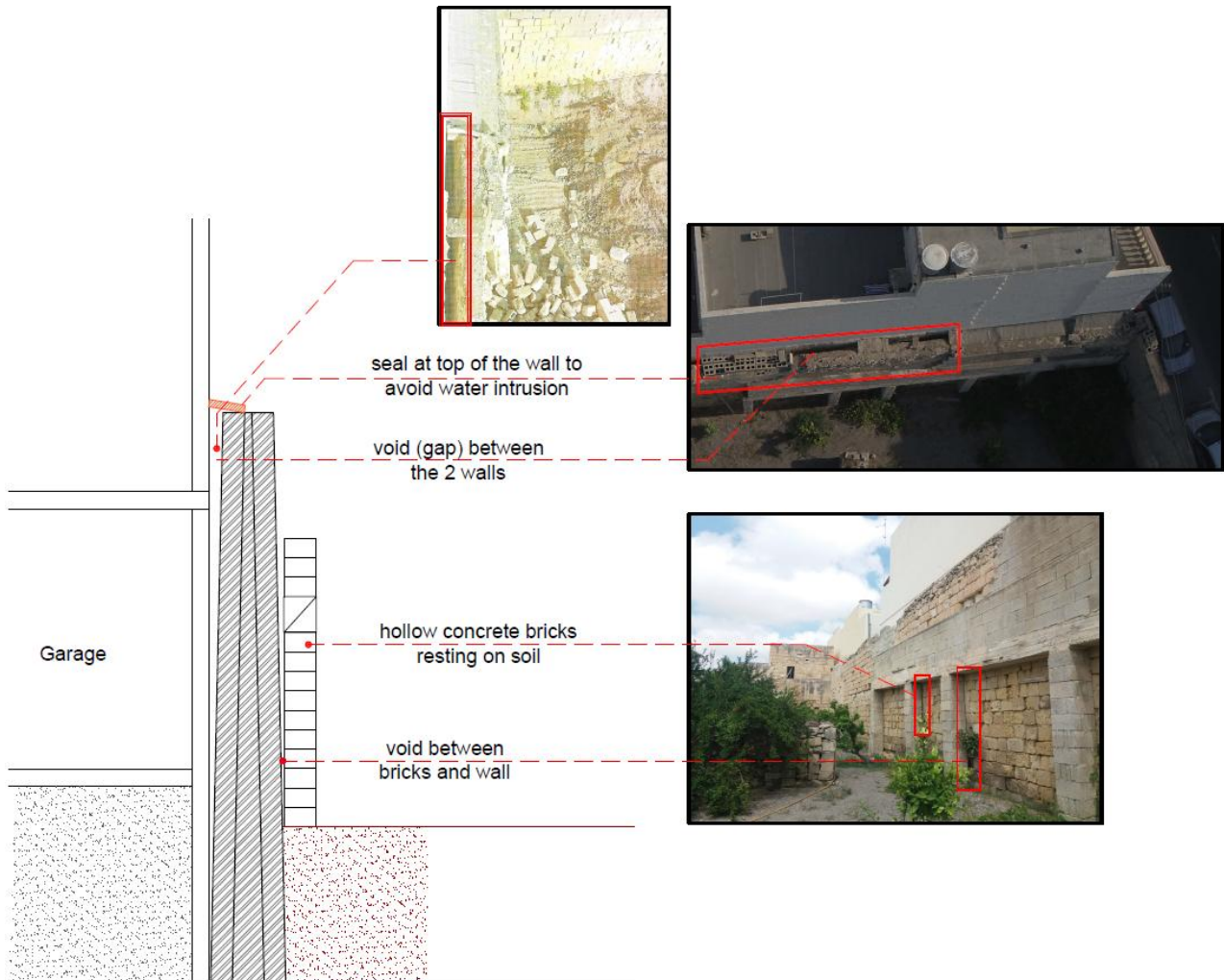


Figure 2 Sketch of cross-section of walls along party-line estimation drawn by Respondent

The Council noted the main differences between the two interpretations of the pre-existing boundary wall being that:

- a) The court-expert's sketch illustrated the wall as double-skin with its external surface being parallel to each other, while the Respondent's sketch illustrates the wall as being wider at the base than at the top (*bit-talut*).
- b) The base of the wall as reconstructed by the court expert was laterally restrained, while in that of the Respondent, the wall was not touching the side wall of the building that eventually collapsed, and was thus not allegedly contributing in a meaningful way to the stability of the lateral wall of the collapsed building.

The Respondent was questioned about the contents of his method statements, and the instructions contained therein as follows:

“AP: fid-demolition method statement inti ktibt “As the property abuts other dwellings on each side, it is not being envisaged that additional propping is required for the facade”. Issa id-domanda tiegħi kienet, iġifieri int qed tgħid li propping ma hemmx bżonn għall-faċċata però għall-appoġġ kien hemm bżonn propping?

RC: Sa fejn rajt jiena dik ma ninsewx method statement huwa qabel ma beda x-xogħol, issa fejn kont qed nara jien ma kienx hemm bżonn

...

AP: Kont tkun preżenti biex tivverifika li ma hemmx bżonn?

RC: Ehe, kont inkun preżenti, iva

AP: Kemm il-darba kont tmur on site?

RC: Skond ix-xogħol kif ikun għaddej għax hu x-xogħol l-ewwel nett ma bediex mil-ewwel u kull darba li ġejt mitlub mill-kuntrattur dejjem mort. Ġejt mitlub anke biex nagħmlu meeting ma' Malcolm Mallia u man-neighbours, u mort ukoll il-ġimgħa ta' qabel eżatt, ġimgħa qabel is-2nd March, aħna konna meeting Rosette Zerafa, Miriam, Carmel Pace u jien u Malcom u ftehmna, ftehmna kollox il-way forward ta' kif għandu jsir ix-xogħlijiet mal-kuntrattur ukoll Ludwig ma' Ludwig ukoll.

AP: Ħa nsaqsik fuqha fil-fatt. Skond ix-xhieda li kien hemm anke tan-nies, tar-residenti li kien hemm jgħixu hemmhekk u anke fix-xhieda tiegħek, inti għidt li, u għadek kif għidt issa, li inti kont qiegħed hemmhekk biex tiddiskuti jew tinnegozja fuq kif kellu jsir ix-xogħol. X'inhil r-raġuni li hassejt li kellek tiddiskuti dwar l-iskavar mal-ġirien?

RC: Mela l-ġirien talbu meeting u jien ma' kelli l-ebda problema biex immur u nispjegalhom hu, iġifieri naħseb meetings hekk tajjeb li jsiru anzi, iġifieri ma inix kontra li nagħmel meetings hekk, huma kellhom ukoll il-Perit tagħhom, dakinhar ma kienx preżenti, però jiena spjegajtilhom kull ma saqsewni.

...

AP: Mela a fol 1042, xhieda ta' Rosaria Zerafa tas-16 ta' Marzu 2020. Hija qalet hekk "il-Perit Camilleri kien qalilna", dina qed nitkellmu fuq il-laqqgħa sewwa "fil-laqqgħa ridna wkoll nkunu nafu x'se jsir u huma kienu qalulna li riedu jinżlu tlett sulari imma qalulna li sular minnhom kienu ġa neħħewhom hamrija, ma nafx liema naħa għax kien hemm diżlivell. Ma niftakarx li tkellimna fuq xi ħaġa li kellha x'taqsam ma' parking. Waqt il-laqqgħa aħna konna staqsejna dwar iż-żewġ piedi u nofs.

Il-Perit Camilleri kien qalilna li ma kienx hemm għalfejn għaliex setgħu jaqtgħu bit-trencher flush mal-ħajt. Aħna kollha għednilhom li bit-trencher setgħu jaqtgħu żewġ piedi u nofs 'il barra. Il-Perit Camilleri kien qal li jekk ikunu żewġ piedi u nofs 'il barra ma kienux se jagħmlu l-ispiza li jgħibu trencher u hu kien qalilna li kienu allura se jħaffru bir-ripper. Miriam kienet hemmhekk qaltli li qisu kien qed jgħidilna li hekk ma nqattgħux flush mal-ħajt, kienu se jdamdmuna. Jiena kont għidtlu li allura l-liġi għalxejn qiegħda. Malcolm Mallia kien insista li biex iġġib it-trencher, kien jiswilhom ħafna flus.”

AP: Mela iġifieri hawnhekk bażikament qed jgħidu, almenu dik hija x'qed jgħidu hawnhekk, almenu l-inferiment minnha li qishom ħassewhom mhedda dawn li jekk huma mhux ħa jħallukom taqtgħu l-ġiex piedi u nofs, ħa tużaw makkinarju iktar inkonvenjenti u iktar li joħloq bħal musmar jew makkinarju ieħor li kien ħa jagħmel vibrations u inkonvenjent aktar qawwi lejn il-ġirien, dik hija

...

AP: Tista' tispjegalna?

RC: Ija mela le. Bażikament bħal meta għidt inti, dak huwa x'fehmu huma sfortunatament. Mela, hemmhekk huma bdew jgħiduli jiena li l-liġi tghidlek ħalli ġiex piedi u nofs u aqta' bis-sega jew bit-trencher, bdew isemmulu magna kbira huma dak il-ħin. Jiena hemmhekk kont qed nfiehmhom x'tgħid il-liġi, jiena dak il-ħin bdejt infiehmhom li l-liġi imkien ma tghidlek jekk tħalli ġiex piedi u nofs, trid taqta' bilfors bis-sega jew bit-trencher. Dak imbagħad għalhekk sar il-meeting biex niftehmu x'ħa jsir ix-xogħol eżatt. Iġifieri huma ħaduha li jien qed ngħidilhom either or, li ma kienx l-iskop. Jien bdejt infiehmhom, għax huma bdew jgħiduli l-liġi tghid hekk, jien bdejt ngħidilhom ehe l-liġi

tghid hekk imma l-ligi bhal ma jaf kulhadd ma tghidlekx halli giex piedi u nofs u aqta' bit-trencher. Allura huma bdew jifhmuha differenti li jien qed qisni qed nimponi fuqhom jien bdejt nispejalhom hemmhekk

AP: ... Huwa veru li inti ghidt ... jekk ha jhallukom taqtghu giex piedi u nofs tuza t-trencher jekk le le

RC: Ma kienx dak ta' l-kliem ta' zgur

AP: Imma din hi, din hi

RC: Ma kienx dak il-kliem, jiena min-naħa tieghi

AP: Hija ripetuta f'diversi xhieda din

RC: Qed infiehem, qed nipprova nfiehem x'tghid il-ligi ghax huma bdew jinsistu, dan tinsix li ghandek erba' min-nies, kulhadd qed jitkellem f'daqqa, min jaqbad bicca minn hawn, min jaqbad bicca min-naħa l-oħra bdejna. Iġifieri ma kienx meeting organizzat fil-verità ghax jiena anke ghidtilhom, ghidtilhom fl-aħħar infatti wara dak il-meeting kollu, il-ftehim kien, ma ninsewx li kien hemm il-kuntrattur magħna biex zgur ikun qed jifhem kollox. Aħna wara dak il-meeting eżatt mhux, waqt dak il-meeting ftehmna li ha ssir trial pit ta' 3 metri bi 3 metri bi 3 metri fond għalissa f'nofs is-site. Iġifieri aħna qed nitkellmu fuq site ta' 1200m2 average. Issa jien ghidtilhom (...) f'nofs is-site jigifieri mhux talli mhux giex piedi u nofs talli qed nitkellmu fuq nofs is-site

AP: U biex kellhom jagħmluha din it-trial pit?

RC: Jistgħu jagħmluha b'excavator għax dan qed nitkellmu fuq nofs is-site. Issa

AP: Imma inti kont taf li hemmhekk kien qed jintrama musmar?

RC: Le meta sar ix-xogħol ma kontx naf. Issa nispjegalkom ta' meta ntrama l-musmar ukoll jekk tagħtuni ffit ċans jekk jogħġbok. Mela iġifieri dakinhar fl-aħħar tal-meeting il-konklużjoni

RC: kienet din, meta nqalgħu dawn l-ideat differenti ħa ngħid hekk, għidtilhom ejja nagħmlu trial pit, ġibu l-Perit tagħkom, nerġgħu niddiskutu meta jkollna trial pit u nkunu nafu eżatt x'hi blat hawn u l-way forward. Dak il-ħin mort on site stess, infiehem il-kuntrattur, hemm anke l-kameras jekk xi ħadd irid jiċċekkja, infiehem il-kuntrattur stess eżatt fejn iridu jsiru din it-trial pit u minn hemmhekk nerġgħu nitkellmu. Dak kien l-aħħar kliem li tkellimna kemm jiena, kemm in-neighbours u kemm il-kuntrattur, dakinhar kien l-aħħar, minn hemmhekk 'l hemm imbagħad li ġara huwa ...

AP: U x'data kien dan?

RC: Dak kien Monday ta' qabel, jidhirli xi 27th. ... Issa imbagħad ovvjament kien għad fadal minn dak il-ġimgħa kien għad fadal xi clearing works oħra xi jsiru. Iġifieri ahna għidna dakinhar li next week,

però next week ma kienx hemm data fissa. Dan li ġara huwa, Monday morning 2nd March ġabu excavator ġdida litteralment ġol-plastik u użawha l-ewwel darba ġo dik is-site

RC: X'hin bdew iħam- komplew iħammlu, sabu biċċa blat ftit ġholja taħt l-appoġġ eżatt u flok ġħamlu t-trial pit bdew minn hemmhekk bħal ma konna mifthemmin, iddeċidew dawn, ġħamlu ta' moħħhom u marru jqattġħu taħt l-appoġġ u ma ninsewx ma ninsewx il-mod kif qattġħu ma qattġħux skont is-sengħa, Hemm fil- fl-atti? Fl-atti l-mod kif qattġħu 30 pied bogħod bil-musmar stringut kollu 'l barra, dak mhuwiex il-mod kif tqatta', iġifieri kompletament ġħamlu ta' moħħhom hu, meta jien qas biss tajt il-go ahead li jsir excavation hlief din it-trial pit li ftehmna fuqha, iġifieri dan kulħadd kellu, il-go ahead kienet m'ġhand kulħadd prattikament, ġa ssir it-trial pit u nerġġħu nagħmlu l-meeting

AP: Skont ir-relazzjoni tal-Prof Torpiano u anki skont ix-xhieda, sija ta' Nicholas Spiteri u anki [Erbios Hysa] jidher li dan ma ntużax biex isir skavar imma ... intuża biex issir demolizzjoni tal-aħħar tlett filati li kien hemm fil-baži tal-ħajt.

RC: Eħe blat kien hemm hemmhekk, tista' tiċċekjah on site

AP: imma skont hawnhekk, almenu xehdu

RC: imma dak x'qalu huma heq

AP: xehdu huma, huma xehdu li kien hemm 3 filati li kienu aktar iebesin ġħax kien hemm kienu bil-kantun bit-tajn u ma setġħux jaqilġħuh bil-bucket biex jużawh x'imkien ieħor f'site oħra

RC: Xorta qatt ma kellhom jużaw l-excavator ħlief biex jagħmlu t-trial pit ”²

Questioned further on the matter, the Respondent stated:

“MCD: dawn l-aħħar żewġ filati jekk kinux blat jew ġebel jew iebes jew kantun, dawn ma kellhomx jitneħħu jew jitqattgħu għax il-livell predeskritt kien ġa ntlahaq?

RC: le le le, le għax huma kellhom jagħmlu demolition by hand bażikament konna miftehmin, id-demolition by hand ma tneħħix blat ma tneħħix ġebel bil-konkos, eja ngħidu naqgħtu ż-żewġ verżjonijiet, ma tneħħix b’idejk

AP: Imma kif rajt li ma li x-xogħol kien qed isir kif tlabt inti, b’liema mod assigurajt ruhek li x-xogħol kien qed isir kif suppost?

RC: Sakemm rajt jiena, kien qed isir tajjeb infatti ma kien hemm xejn. Sat-27th li jiġi Friday, il-weekend ta’ qabel fil-weekend ma sarx xogħol, affarijiet żgħar saru, ma kien hemm xejn. Sa Monday at 1 o’clock kien hemm id-developer Chris Zarb hemmhekk, u ltaqa’ ma xi neighbours, ħadd ma qallu li hemm problema ta’ xi haġa. Iġifieri dan tipo qed jistrieħ il-bini, qed jiċċaqlaq, hemm xi movimenti, dan kulħadd jaf bħal ma ġara f’każijiet oħra, jibdew jaraw il-kunsenturi, in-neighbours l-ewwel haġa li jagħmlu jirrapportaw il-Perit

² Transcript of Conduct Hearing held on 10/10/2022 – 31.00 – 40.59 (AP = Andre Pizzuto, RC = Roderick Camilleri, SVL = Simone Vella Lenicker)

...

RC: jiena jiena m'għandix rapport wieħed, jiena Friday 27th irċevejt ir-rapport il-condition report min għand Rosette Zerafa, nista' ngħaddihulkom ukoll li qed jikkonferma li l-binja tagħha għadha kif kienet bażikament li ma għandhiex ħsarat, issa dan ix-xogħol

...

AP: Perit kif tista' tapprezza kollass bħal dan ma jsirx bi preavviż iġifieri jekk ħa jaqa' ħa jaqa' b'mod katastrofiku fl-leħña ta' berqa, iġifieri

RC: imma imma għax tkun għamilt intervention, għamilt intervention salvaġġ ħa nsejjaħflu hekk fuqu għax kieku jagħtik avviż ta' xi ħaġa kunsentura, mhux xejn hu"³

The Council also heard the testimony of various witnesses and viewed the footage of the collapse from various angles. The footage shows an excavator with a pneumatic drill attachment extended towards the party-wall moments before the collapse occurred. The causal link between the drill bit striking the party wall and the collapse of the building is undeniable and without question. The use of the excavator in this manner is the direct cause of the building collapsing.

This is corroborated by the testimony of court expert witness Mr Mario Buttigieg, who testified extensively on the markings found on the base of the wall being consistent with the striking of the drill bit.

The Council found particularly concerning that video evidence seen by Mr Mario Buttigieg which he claimed illustrated directly the site with no walls or barriers between the camera and the site was not placed in evidence in Court did not form part of the evidence in the magisterial inquiry nor was it presented by the prosecution, and as a result was not available for the Council to review.

³ Transcript of Conduct Hearing held on 10/10/2022 – 48.00 – 50.59 (AP = Andre Pizzuto, RC = Roderick Camilleri, MCD = Matias Canilleri De Marco)

Further compounding the Council's concern was the witness statement of Dr Arthur Azzopardi about the video footage he presented in evidence before the Council.

“AA: Fil-hard drive, fuq istruzzjonijiet tal-Kamra tal-Periti, assistejt lill-istess Kamra biex ngħaddi kopja elettronika tal-filmati kollha li jinsabu fil-kawża deċiża mill-Qorti tal-Appell Kriminali Pulizija Vs. Perit Tony Mangion u Perit Roderick Camilleri, ilgħaliex ir-reġistratur tal-qorti kien għaddielkom biss kopja elettronika tal-atti, u ma kienx għaddielkom ukoll il-kopja tal-filmati – minn hemmhekk, fl-eżerċizzju biex aħna nippreparaw għal – għas-seduta ta’ llum, ovvjament ergajna dorna għall-filmati, kellimt ukoll lis-Sur Buttigieg dwar l-iskop tax-xhieda tiegħu għas-seduta ta’ llum, fejn, l-istess – il-PL Mario Buttigieg irreferejt għalih bħala “Perit” għax l-esperti tal-Qorti ngħidulhom “Periti,” jiġifieri mhux perit-arkitett bħalkom – fejn infurmani u attirali l-attenzjoni għal dawn il-filmati – filmati li bħala avukati tad-difiża, qatt ma konna rajnihom qabel.

“Minn hemmhekk kellimna lill-espert tal-Qorti dwar l-eżistenza ta’ dawn il-filmati, li għal-ewwel anki hu tħawwad, ilgħaliex kien qed jiftakarhom, però ma setgħax isibhom. Minn hemmhekk, il-PL tiegħi Mark Sultana attenda fl-uffiċċju tal-espert tal-informatika Keith Cutajar, fejn wara search li għamel fuq id-database tiegħu tal-filmati tal-każ tas-Sinjura Miriam Pace, skopra li kien hemm dawn il-filmati, però ma jaħdmux AVG media players, dawn jaħdmu bi programm – Pot Player, PlayPot, xi haġa hekk – u meta prova jara għandux filmati ssejvjati li jaħdmu b’din l-app, effettivament sab dawn il-filmati li qed nitkellmu dwarhom. Minn hemm, l-istess Keith Cutajar – u ovvjament, wara li vverifika hu stess il-Qorti, sab illi l-Qorti kienu qegħdin dawn iż-żewġ filmati, però, ovvjament, hadd

ma kellu s-software biex jiftahhom, għamilna l-kopja tagħhom, imbagħad dawk lilek, Perit Pizzuto, għaddejtomlok speċifikament, fuq USB, proprju minħabba s-seduta ta' llum.”⁴

Nevertheless, the Council was able to draw its own conclusions on the evidence that was presented.

3. Documentation pursuant to S.L.623.06

The Council also perused in great detail the condition reports and method statements filed with the BRO by the Respondent, and specifically:

1. Condition report of Garage / showroom, Triq Joseph Abela Scolaro, Hamrun (Red 173a)
2. Condition report of 'RosDav', Antonio Miruzzi Street, Santa Venera (Red 173a)
3. Condition report of 8, Antonio Miruzzi Street, Santa Venera (Red 173a)
4. Condition report of 28, 'El Carmel' Triq Joseph Abela Scolaro, Hamrun (Red 173a)
5. Condition report of 'Doris Garage', Triq Antonio Miruzzi, Santa Venera (Red 173a)
6. Condition report of 18, Triq Antonio Miruzzi, Santa Venera (Red 173a)
7. Method statement for Demolition Works (Red 173f)
8. Method statement for Excavation Works (Red 173g)

The Council also noted that the preparation of condition reports, including the site inspections and drafting, were outsourced to a certain Ishmael Sciberras, who is not a perit and not an employee of the Respondent.

The Council also noted the extensive opinions of the court expert, Perit Professor Alex Torpiano on the method statements, during the Council proceedings.

The following extracts of Prof. Torpiano's testimony were of particular importance for the Council in making its determinations in this case:

⁴ Transcript of Conduct Hearing held on 29/01/2024 – 13.00 – 14.59 (AA = Dr Arthur Azzopardi)

a) On the party-wall stability:

“AA: Mela, at investigation stage of this site mill-Perit Camilleri, seta’ biċ-ċirkostanzi kif kienu, l-Perit Camilleri jkun jaf illi dak huwa 2.75 backfill?”

AT: Jiena ħa nkun ċar u tond, eh – meta taraw ir-rapport tiegħi, jiena il-Perit Camilleri hassejt illi naqas meta ma nvestigax il-kundizzjoni tal-ħajt tal-appoġġ b’iżjed reqqa. Fil-fatt, il-condition report, allavolja ffirmit minnu, m’għamilhiex hu, u m’għamilhiex perit, u allura, żgur min għamilha – ma setax jifhem il-potenzjal, ladarba kien hemm – jiena għbidt l-attenzjoni, wkoll, anki għall-ħajt ta’ wara – mat-triq – Abela Scolaro – illi jirfed it-triq, u naqra investigazzjoni, li jien għamilt f’jumejn, jiġifieri ħaddieħor seta’ jagħmel ukoll, fil-verità, kienet għaliex it-triq kienet mirduma.

AT: Jiġifieri l-livell tat-triq kienet mirduma. Jiġifieri minn dawk is-sinjali – meta torbot dawk is-sinjali ta’ triq mirduma (jiġifieri l-għoli tagħha mhux qiegħed fuq il-blat), ta’ ħajt oħxon li kellu xi struttura li qisha intenzjonata li tirfed, il-kumment tiegħi fir-rapport tiegħi kien illi il-method statement kellu dettall fqir wisq fuq dal-issue, fuq dir- – jiġifieri hija kwistjoni ta’ risk assessment. Il-Perit Camilleri tkellem biss fuq il-fatt illi l-piż vertikali kien ħafif u allura ma kienx ta’ inkwiet, u ma semma xejn il-potenzjal tar-riskju tal-piż orizzontali. S’hemmhekk, jiena, sibt illi l-Perit Camilleri naqas. Il-fatt illi l-ħajt waqa’, ovvjament kien hemm nuqqasijiet ta’ ħaddieħor, u jiena r-rapport tiegħi kien imfassal biex jispjega illi kien hemm diversi nuqqasijiet, ma kienx tort ta’ persuna waħda.

AT: Imma l-Perit Camilleri, fl-opinjoni tiegħi, seta’ fehem – għax hu l-espert illi jrid jarahom dawn l-affarijiet – illi kien hemm ċirkustanzi li – kellha bżonn attenzjoni partikolari. Niġbed l-attenzjoni illi

il- – meta wiehed jantiċipa – jiġifieri jekk inti – ejja nassumu li ma kontx taf li kien 2.75, imma x’kien? Kien 1.5? Kien 0? Kien hemm il-blat miegħu? Jiġifieri ma tantx kienet tagħmel sens ladarba il-ħajt tal-ġnien, jiġifieri on the right hand side ta’ dal-iskizz, kien founded fuq dak il-livell – 2.4 metres taħt il-livell tal-ħamrija. Jiġifieri ma tifhim – ħadd ma ħaffer il-blat biex jinżel 2.4 metres kieku l-blat kien għola. Naħseb jiena, hemmhekk kien hemm bżonn attenzjoni esperta iżjed milli ingħatat.”⁵

b) On the utility of the trial pits as requested by the Respondent during the works:

“AP: L-użu ta’ dak it-tip ta’ inġenju biex isir trial pit huwa proporzjonat, fl-opinjoni tiegħek?

AT: ... Id-domanda tiegħi hija: għaliex kellu jsir trial pit? X’inhu l-iskop tat-trial pit? Kien hemm xi dubju fuq is-saħħa tal-blat? Fil-fatt il-kollass li seħħ m’għandu x’jaqsam xejn mal-kwalità tal-blat. Kien hemm trial pit biex niskopru xi fissures? It-trial pit ma jtiniex indikazzjoni ta’ fissures, għax qiegħed ‘il bogħod mill-ħajt. Jiġifieri jien, personalment, m’iniex konvint fl-utilità tat-trial pit f’nofs is-sit.

AT: Kieku saret tħaffira immedjatament mal-appoġġ, nifimha, għax wiehed irid jifhem. Però imbagħad trid toqgħod attent x’tip ta’ inġenju trid tuża.

AP: U mill-osservazzjonijiet tiegħek, sakemm sar il-kollass ma kien hemm l-ebda trial pit on site, hux hekk?

⁵ Transcript of Conduct Hearing held on 28/08/2023 – 35.00 – 37.59 (AA = Dr Arthur Azzopardi ; AT = Prof. Alex Torpiano).

AT: Le, le. Kienu għadhom, suppost, se jagħmluhom, għadhom ma waslux f'dak l-istadju.”⁶

c) On the contributing role of the deficient method statements towards the collapse:

“AA: Ħa nagħmel l-aħħar domanda, forsi fl-ipotetiku. Ejja, għas-saħħa tal-argument, ngħidu illi r-risk assessment, il-method statement li sar mill-Perit Camilleri kien ta' livell A+, għas-saħħa tal-argument, kieku huwa eżami – però il-ħaddiema Hysa u Nicholas jaġixxu u aġixxew bl-istess mod bħal m'aġixxew dakinhar tal-kollass – dan l-incident kien iseħħ?

AT: Iva.”⁷

⁶ Transcript of Conduct Hearing held on 28/08/2023 – 54.00 – 55.59 (AP = Andre Pizzuto ; AT = Prof. Alex Torpiano).

⁷ Transcript of Conduct Hearing held on 28/08/2023 – 1:09:59 – 1:10:59 (AA = Dr Arthur Azzopardi ; AT = Prof. Alex Torpiano).

Decision

The Council of the Kamra tal-Periti reviewed all the evidence, deliberated on the merits of the case, and voted on decisions over four council meetings.

First Deliberation Session

The first deliberation session was held during Council Meeting 24.27 Part 2 held on 30th July 2024. The following Members were present:

Perit André Pizzuto (President);
Perit Matias Camilleri de Marco (Vice President);
Perit Ivynne Grixti (Honorary Treasurer);
Perit Nicholas Mallia (Honorary Secretary);
Perit Dr Rebecca Dalli Gonzi;
Perit Philip Farrugia;
Perit Sebastian Grima;
Perit Matthew J. Mercieca.

During this first meeting, the Council deliberated on the following merits:

Merit 1:

Breach of [Directive DIR 01/18](#), which states that it is the “**obligation [of periti] to ensure that any agreement on fees is made in writing, and that services covered by such a fee are clearly outlined**”.

The Council noted that the Respondent had no such agreement, that he had not defined the scope of services to be provided. Worse still, the Respondent failed to attribute a value to the services he was providing. The scope of liability of the Respondent was thus unclear, and thus inconsistent with the Directive.

The Council found the Respondent in breach of failing to comply with Directive DIR 01/18 by seven vote in favour, nil against, and one abstention.

This vote carried given that it exceeded the minimum 2/3 threshold required for a guilty verdict.

Merit 2:

Breach of the First Provision of the [Code of Professional Conduct](#) which states that “[a] **member must not hold, assume or consciously accept a position in which his interest is in conflict with his professional duty**”.

The Council noted that the bartering arrangement did not constitute a conflict of interest, and proceeded to vote as follows: one (1) vote that the First Provision was breached, four (4) votes against, and three (3) abstentions.

The vote on this merit failed.

Merit 3:

Breach of the Second Provision of the Code of Professional Conduct which states that “[a] **member is remunerated solely by his professional fees payable by his clients and/or by his salary payable by his employer. He is debarred from any other source of remuneration in connection with the works and duties entrusted to him. It is the duty of a member to uphold and apply the scale of professional charges payable to architects and civil engineers as per Tariff K of Schedule A to the Code of Organization and Civil Procedure.**”

The Council found the Respondent in breach of the Second Provision of the Code of Professional Conduct for failing to separate his professional engagement from the company shareholding agreement. The Council maintains that these should be governed by two independent contractual arrangements, even if the consideration is substituted by a barter agreement.

The Council found the Respondent in breach by five (5) votes in favour, two (2) votes against, and one (1) abstention.

This vote carried given that it exceeded the minimum 2/3 threshold required for a guilty verdict.

Second Deliberation Session

The second deliberation session was held during Council Meeting 24.32 held on 23rd September 2024. The following Members were present:

Perit André Pizzuto (President);
Perit Iynne Gixti (Honorary Treasurer);
Perit Nicholas Mallia (Honorary Secretary);
Perit Philip Farrugia;
Perit Matthew J. Mercieca
Perit Joeaby Vassallo.

During this second meeting, the Council deliberated on the following merits:

Merit 4:

Failure to comply with regulations with respect to professional standards or practices – deficient demolition method statement.

The Council found that the Respondent failed to draw up a demolition method statement with the professional rigour expected of a warrant holder. The risk assessments and mitigation measures were amateurish and hastily drawn up. This nonchalant attitude to risk, inevitably permeates to all participants in the construction project. While there is no evidence to link the faulty demolition method statement to the building collapse, and consequent demise of Miriam Pace, it is still deficient content-wise in terms of the Fourth Schedule of L.N. 136 of 2019.

The Council found the Respondent in breach by five (5) votes in favour, nil (0) against, and one (1) abstention.

This vote carried given that it exceeded the minimum 2/3 threshold required for a guilty verdict.

Merit 5:

Failure to comply with regulations with respect to professional standards or practices – deficient excavation method statement.

For the same reasons outlined above, the Council found that the Respondent negligent in the drafting of the excavation method statement., which fell short of the requirements set out in the Fifth Schedule of L.N. 136 of 2019.

The Council found the Respondent in breach by five (5) votes in favour, nil (0) against, and one (1) abstention.

This vote carried given that it exceeded the minimum 2/3 threshold required for a guilty verdict.

Third Deliberation Session

The third deliberation session was held during Council Meeting 24.37 held on 11th November 2024. The following Members were present:

Perit André Pizzuto (President);
Perit Matias Camilleri de Marco (Vice President);
Perit Iyvne Gixti (Honorary Treasurer);
Perit Nicholas Mallia (Honorary Secretary);
Perit Sebastian Grima;
Perit Matthew J. Mercieca (who joined from Merit 8 onwards);
Perit Joeaby Vassallo.

During this third meeting, the Council deliberated on the following merits:

Merit 6:

Gross negligence in the exercise of his profession – negligent delegation of professional services.

The Council majority noted that the Respondent had appointed a non-qualified person to inspect the neighbouring properties and draw up the required documentation. The minority position on the Council was that the Respondent was still ultimately responsible for the content of the documentation, and it is his responsibility regardless of who he delegates tasks to.

The Council voted that the Respondent was negligent by four (4) votes to two (2), with one (1) abstention.

Since the 2/3rd vote threshold was not reached, the vote on this merit was inconclusive.

Merit 7:

Dishonesty, misconduct, or gross negligence in the exercise of his profession – blackmailing or strong-arming neighbours into accepting excavation within 760mm of the party wall.

The Council noted the various witness statements given by the neighbours during the public inquiry and during the criminal proceedings, but has not found any conclusive evidence to support such a claim.

The Council dismissed this merit by seven (7) votes to one (1), with no abstentions.

Fourth Deliberation Session

The fourth and final deliberation session was held during Council Meeting 24.38 held on 18th November 2024. The following Members were present:

Perit André Pizzuto (President);
Perit Matias Camilleri de Marco (Vice President);
Perit Iyvonne Gixti (Honorary Treasurer)
Perit Nicholas Mallia (Honorary Secretary);
Perit Prof. Rebecca Dalli Gonzi;
Perit Sebastian Grima;
Perit Philip Farrugia;
Perit Matthew J. Mercieca;
Perit Joeaby Vassallo.

During this third meeting, the Council deliberated on the following merits:

Merit 8:

Failure to comply with regulations with respect to professional standards or practices – deficient condition reports.

The Council reviewed the contents of the condition reports at length and has determined that they fail to meet the standards expected of a warrant holder given that they fail to satisfy all the requirements of the Seventh Schedule of L.N. 136 of 2019, and also fail to adequately appraise the neighbour properties beyond a cursory visual inspection.

The Council has found the Respondent to be in breach by seven (7) votes to one (1), with no abstentions.

This vote carried given that it exceeded the minimum 2/3 threshold required for a guilty verdict.

Merit 9:

Gross negligence in the exercise of his profession – negligent structural analysis.

While the majority of the Council concurred that the structural analysis by the Respondent, particularly regarding the stability of the boundary walls and the role of the soils in maintaining such stability, and the need to phase the works to minimise the risk of instability, the vote was inconclusive given that it did not reach the threshold of a 2/3 majority.

Indeed, four (4) Members found the Respondent to have been grossly negligent, three (3) found him not to have been negligent, while one (1) abstained.

The vote on this merit was inconclusive.

Having taken into account:

- a) the above considerations;
- b) the fact that the respondent has a clean professional conduct record;
- c) the statement by court witness Prof. Alex Torpiano that the building would have collapsed regardless of the quality of the documentation produced by the Respondent;

the Council has determined that the warrant of the Respondent, Perit Roderick Camilleri, be suspended for a period of twenty-eight (28) months from the date of publication of this penalty in the Government Gazette.



Perit Andre Pizzuto
President