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K A M R A T A L - P E R I T I

To support members of the profession in achieving excellence in their practice of architecture and engineering in the interest of the community

Subject: Proposal regarding Commencement Notice by *Kamra tal-Periti*

Date: 15 November 2018

It is the opinion of the *Kamra tal-Periti* that the Commencement Notice should be just that – a declaration of commencement of works on a site covered by a planning permit. Over time, it has evolved into a form which records the details of the applicant, the perit, the licenced mason and the site manager, however it leaves out a number of other equally important professionals or trades, such as the responsible M&E Engineer, the excavation contractor, the archaeological monitor, the restoration contractor, and others depending on the nature of the work to be undertaken.

The *Kamra* is of the opinion that, since the Commencement Notice marks the stage when construction works commence, then the details above should be submitted to the Building Regulation Office (BRO), together with the Method Statement required by the relative legislation.

In view of the above, it is recommended that a Working Group is set up, composed of representatives of the Planning Authority, the Building Regulation Office, the *Kamra tal-Periti*, the Malta Developers Association, and the BICC. The aim of this Working Group would be to review the Commencement Notice from first principles, and to establish the best way forward in transferring the details of the various trades and professions on site to the BRO, and eventually to the soon to be established Building and Construction Authority.

In addition to the above, the *Kamra tal-Periti* recommends the following changes to the current format of the Commencement Notice and the processes adopted by the Planning Authority:

1. The Commencement Notice should not be required in the case of Regularisation permits, since no new works are proposed. The Authority has informed that this is a requirement imposed by legislation, however Legal Notice 285 of 2016 makes no mention of the Commencement Notice being required. It is presumed that this requirement arises from the fact that a Regularisation permit is considered as a Full Development Permit. The *Kamra tal-Periti* proposes that a legal notice is issued to exempt these permits from the requirement to submit a Commencement Notice.



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2. Section 4 requires the submission of the mason's details, however there appears to be no way for the applicant to ensure that such details are in fact correct, and that the person presenting themselves as a mason is in fact a licenced mason. This difficulty arises from the fact that the Mason's Board has, to date, refused to publish the list of authorised licenced masons, quoting data protection reasons. It is submitted that, just as the list of warranted periti is published annually in the Government Gazette, then so should the list of licenced masons. The *Kamra* therefore requests that the Minister looks into this matter without undue delay, and ensures that any legislative and administrative impediments to the publication of such list are addressed.
3. In addition, the need for a mason is not required for the purposes of Planning Permission, and therefore the notification, where applicable, should be made to the BRO and not to PA. The latter point also applies to the Site Manager.
4. Section 7 of the form requires the perit to declare that *"the applicant / owner, the mason, and the site manager signed this form in my presence"*. Apart from being an impractical requirement, there is no legal obligation for the form to be signed in the presence of the perit, and therefore the *Kamra* requests that this requirement is removed immediately.
5. There is no mechanism for changing the details in the Commencement Notice, for example if the mason or site manager are changed mid-way through a construction project. It is recommended that a mechanism similar to the Change of Architect Form is implemented.
6. Several instances have been reported to the *Kamra tal-Periti*, where the Planning Authority has required the submission of the mason's details even when a mason is not required for the works approved, for example works on external timber apertures, restoration works, excavation works, and dredging works. Legal Notice 162 of 2016 states at Regulation 20 that *"if the perit deems that any of the information required in the commencement notice is not applicable by reason of the specific circumstances or any provision at law, he shall give detailed reasons for not including such information."* Members of the *Kamra* have indicated various instances where such declarations were not accepted by the Authority. This is unacceptable.
7. The form also does not make provision for the phasing of works. In the current market, it is not always possible to line up the mason at the very beginning of a project. For example, if



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the project involves demolition and excavation prior to the construction of a new building, there is no mechanism to notify the Authority of the commencement of the demolition and excavation phases without also providing the mason's details. The discretion afforded to the perit in Legal Notice 162 of 2016 should be extended to similar situations, where the perit is required to make the necessary declarations. Once the construction works start, the identity of the responsible mason can then be submitted.

8. It is also noted that the requirement for the identification of the mason may be somewhat obsolete. Today's buildings are much more complex than the skills which traditionally licenced masons are trained in. We are seeing many buildings which are built entirely in reinforced concrete or steel or other more contemporary materials, and it is ridiculous that the mason is expected to carry the responsibility for such works which he is not qualified to take responsibility for.