

From: Commissioner for Environment and Planning [<mailto:cep@ombudsman.org.mt>]
Sent: 28 November 2017 11:02
To: 'atorpiano@kamratalperiti.org' <atorpiano@kamratalperiti.org>
Subject: Case No ER 0056

Case No ER 0056

28 November 2017

Mr Alex Torpiano

E-mail: atorpiano@kamratalperiti.org

Sir

Reference is being made to your complaint which was received at this Office on 22 November 2017.

Attached please find a copy of an e-mail sent to the Chairman, and the Executive Chairman of the Planning Authority.

Please note that a reply from the Planning Authority has not been received to date. You will be kept informed of developments in due course.

Regards

Ms Charlene Azzopardi

PA to Commissioner for Environment and Planning

Encl.

Subject **Case No ER 0056**
From **Commissioner for Environment and Planning**
To **vincent.cassar@pa.org.mt, johann.buttigieg@pa.org.mt**
Copy **'Yoanne Muscat'**
Date **2017-11-24 09:33**

Case No ER 0056

24 November 2017

The Chairman

Planning Authority

E-mail: vincent.cassar@pa.org.mt

The Executive Chairman

Planning Authority

E-mail: johann.buttigieg@pa.org.mt

Sir

This is to inform you that this Office has opened an investigation following a complaint regarding alleged failure by the Planning Authority to abide by law in approving the demolition of ex-Sea Malta building at Xatt l-Għassara tal-Għeneb, Marsa.

A preliminary investigation of the relative file approving the part demolition of this building as per DS 212/17 shows various anomalies in the way this permit was issued and hence merits the **SUSPENSION OF THIS PERMIT WITH IMMEDIATE EFFECT until the Planning Authority makes certain verifications, namely and in the following order of priority:**

1. This permit should be rendered null and void as per article 5(1) of the Subsidiary Legislation S.L.552.05 since a detailed site inspection by a Perit appointed by the Authority was not carried out as per Article 4(3) of the same Subsidiary Legislation.
2. The structural appraisal report (red 3A in DS 212/17) submitted by the applicant's Architect only indicates that "*the building is not structurally sound*" and that "*remedial measures to strengthen the existing building are clearly not financially feasible*" (page 2 of red 3A in DS 212/17) when the same S.L.552.05 allows demolition when strengthening is not possible and not if it is not financially feasible as per Article 2(b).
3. This permit should also be revoked as per Article 80 of the Planning Act since the applicant submitted false information when he declared that the site is not scheduled when in fact it is. This has a material bearing on the processing of this application in the light of Article 2(b)(vi) of the same Subsidiary Legislation.
4. This permit should also be revoked on the basis of error in the face of the record since the structural appraisal report (red 3A) indicates that only half of the back part of the building is affected with "*significant damage*" (page 15 in red 3A in DS 212/17) whereas DS 212/17 allows the demolition of the whole back part of the building (see yellow dotted line red 7c in DS 212/17).
5. In issuing this permit, the Planning Authority did not request the applicant to submit method statements in shoring the abutting buildings and also in ensuring that the demolition of the back part of the building would not lead to further erosion, by the approach of the sea, which erosion might, in future, lead to danger in the front part of the building as well.

I kindly urgently request your attention and your views and action regarding this matter.

Yours sincerely

Perit Alan Saliba

Commissioner for Environment and Planning



OMBUDSMAN

COMMISSIONER FOR ENVIRONMENT AND PLANNING

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