



**QORTI TA' L-APPELL**

**ONOR. IMHALLEF  
MARK CHETCUTI**

Seduta tad-19 ta' Frar, 2014

Appell Civili Numru. 188/2012

**Emmanuel Mizzi**

**vs**

**L-Awtorita ta' Malta dwar l-Ambjent u l-Ippjanar**

**Il-Qorti,**

Rat ir-rikors tal-appell ta' Emmanuel Mizzi tat-28 ta' Novembru 2012 mid-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tat-8 ta' Novembru 2012 fejn cahad l-appell tal-applikant kontra l-impozizzjoni ta' kundizzjonijiet f'renewal ta' outline development permit PA 5997/94 'site at Triq Omeru, Munxar – to renew permission PB 3601/90 to erect flats and garages for private cars';

Rat ir-risposta tal-Awtorita li sottomettiet li l-appell ghandu jigi michud u d-decizjoni tat-Tribunal konfermata;

Rat l-atti kollha u semghet lid-difensuri tal-partijiet;

Rat id-decizjoni tat-Tribunal li tghid hekk:  
Ikkunsidra:

A. Il-Kummissjoni għall-Kontroll tal-Ambjent u l-Ippjanar, fis-26 ta' Lulju 2011, approvat l-applikazzjoni renewal of outline development permission PA 5997/94 "Site at Triq Omeru, Munxar (ix-Xlendi) – To renew permission PB 3601/90 to erect flats and garages for private cars."

Fost is-sitt kundizzjonijiet hemm s-segwenti:

"4. On the front elevation each of the two blocks of width 15m taken separately, shall not exceed 9.8m in height (including parapet wall) from the lower street level.

5. No structures shall be constructed at roof level.

6. Conditions to prevail over the approved drawings."

B. In-nota tal-Perit Edward Scerri għall-Appellant, ipprezentata fid-9 ta' Settembru 2011, senjatament il-punti segwenti:

"Condition 4 [...]:

The EPC should never have included this condition for more than one reason [...]. The height of the proposed building is already specified on the approved drawings of PB3601/90. Conditions should only be included where a matter is not specified on the drawings. The height of the proposed building is clearly specified in the drawings [...]. This condition is in conflict with the height shown on the approved elevation of PB3601/90. Indeed it would alter the approved elevation substantially. However, this is a renewal application and a renewal application cannot alter the approved drawings of the permit of which a renewal is being sought - it would otherwise be an amendment application.

If the EPC decided to follow policy 2.1 of Policy and Design Guidance 2007, the EPC should have noted that para B.2 of the Introduction of this same document (page 1) specifically states that 'other than the provisions of part

17, this document shall apply to all planning applications validated after the 16th April 2007. All other applications (like ours) validated prior this date shall be assessed by the previous Development Control Policy and Design Guidance (April 2005) whilst provisions of part 17 shall only be applicable to applications submitted on or prior to 3rd August 2006'. Para B.2 of Development Control Policy and Design Guidance April 2005 (page 1) specifically states that this document shall apply to all applications validated after the 18th April 2005. All other applications validated prior this date shall be assessed by the previous Development Control Policy and Design Guidance 2000. Part 2 of this document (Building Heights) specifically refers to height relaxation policies. When this document was formulated, the Temporary Provisions Schemes were still in force. The EPC should therefore not have applied policy 2.1 of Policy and Design Guidance 2007.

Part 17 of Policy and Design Guidance 2000, which is the only part of the document which is applicable to this particular application specifically allows the application of the height relaxation policy for sites where there are commitments (of higher height limitations) in the immediate vicinity and within the same street which have been permitted as three floors on the basis of that policy. As we will be able to prove during the course of this appeal, there are innumerable such commitments.

The site was committed by works already carried out when PB3601/90 was issued. These works consisted in the excavation of the site and some construction works.

Condition 5 [...]:

In view of the same reasons presented in the previous paragraphs, we cannot understand why this condition is being included, which condition would not allow us to construct stairhoods at roof level. During the course of the EPC sitting, the EPC expressly agreed with my statement during the board that policy 10.3 (stairwells/stairhoods) should be followed with respect to the stairhoods at roof level. It was never concluded by the board that "no structures" shall be constructed at roof level."

C. In-nota responsiva ta' Darren Fava ghall-Awtorita', tal-14 ta' Novembru 2011, inter alia it-tlett punti segwenti:

“5.2.3 Principle behind Condition 4 – Height Limitation  
[...]the limitation was not taken from DC 2007 since the measurement for building heights at two (2) floors with or without basement amounts to 8.5m and 9.4m respectively; whilst development with semi-basement would amount to 10.5m according to policy 2.1.

In spite of the arguments raised by the appellant, the condition is not limiting the appellant from the height limitation of the original permit. In fact, the maximum height limitation imposed is taken from the elevation approved in PB 3601/90; which approved two separate buildings (15m in width each) for three (3) storey developments, each with a height of 9.9m from the lowest street level.

Since this application is a renewal of the original permit, the EPC Board was correct to imply that the maximum permissible height for the building must be 9.9m; since the condition imposed is only descriptive and represents the approved drawings.

5.2.4 Principle behind Condition 5 – Structures at Roof Level

[...] in assessing the plans from PB 3601/90, it is clear that the condition is respecting the limitations of the original permit; and hence no fresh matter is being introduced as a result of this condition.

5.2.5 Other Comments

In the current policy framework (DC 2007) used to regulate development control within the building schemes, the maximum height limitation permissible for development is regulated by policy 2.1. Although this framework allows building heights for three floors to exceed the 9.9m limit as imposed in Condition 4 of permit; the policy is not applicable to the development in concern since this application is a renewal of an approved permit.

In fact, no plans have been approved in this permit since only the site plan is listed as an approved drawing number. The approved drawings for this permit are in fact the plans previously approved in PB 3601/90.

Should the appellant wish to increase the overall height of the development, this must be considered through a fresh Full Development Application.”

D. In-nota ulterjuri tal-Perit Edward Scerri għall-Appellant, ipprezentata fl-ta' Jannar 2012, inter alia l-punti segwenti:

“With due respect, condition 4 runs in conflict with the original permit and with the basis behind a renewal application. The imposition of the 9.9m height limitation severely disrupts the original permit since that 9.9m is not adequate height for a three-storey building which is represented in the original permit. Quite surprisingly, the 9.9m condition as described in the technical part of this reply, actually derives from a two-storey policy rather than a three-storey one. Moreover, the 9.9m condition as described in MEPA's first report does not cater for the street gradient. It must be noted that when permit PA5997/94 there were no levels set for this new street. The condition is made even more incompatible with normal policy application when the 9.9m condition is stipulated from the lower street level.

We again maintain that it was not necessary to include this condition in view that the height is already specified on the drawings forming part of PB3601/90. It is clear that the 9.9m height stipulated by the EPC in this condition derives from DC2007 policy 2.1 in that this policy clearly stipulates a height of 8.5m for two floors without basement and at the same time stipulates a maximum height of 1.4m measured from underneath the basement roof slab up to the lowest finished pavement level. We again insist that this condition alters the approved drawings substantially. This application should have been assessed against Policy and Design Guidance 2000 as explained in our letter of request for appeal, where part 2 of this

document clearly refers to height relaxation policies. Policy 2.1 of Dc2007 should not have been applied.

MEPA's first reply does not address what we stated in our letter of request for appeal that Part 17 of Policy and Design Guidance 2007, which is the only part of this document applicable to this application, specifically allows the application of the height relaxation policy for sites where there commitments of higher height limitations in the immediate vicinity and within the same street which have been permitted as three floors on the basis of this policy. Nor does it address the fact that the site was committed by works already carried out when PB3601/90 was issued.

[...]

Condition 5 - "no structures shall be constructed at roof level"

[...] The condition as worded precludes us from having any form of structures at roof level, including stairhoods when this should not be the case. [...] During the course of the EPC sitting, the Commission had agreed that stairhoods could be constructed provided the policy is applied. Permits applied for and issued in 1994 in the vast majority never included roof plans and roof structures were never shown in elevation."

#### Final Comments

The appellant is stressing that the application should have been processed against the policy guidance DC 2000 rather than DC 2007. Notwithstanding this, the current policy framework to regulate development control must be applied; where building height is regulated under policy 2.1. Although this framework allows building heights for three (3) floors to exceed the 9.9m limit as imposed in Condition 4 of permit; the policy is not applicable to the development in concern since this application is a renewal of an approved permit. In fact, no plans have been approved in this permit since only the site plan is listed as an approved drawing number. As previously explained in the initial report and DPA Report, the approved drawings

for this permit are in fact the plans previously approved in PB 3601/90”

Ikkunsidra ulterjorment:

Il-mertu ta' dan l-appell jirrigwarda appell minn zewg kundizzjonijiet fil-outline development permit PA 5997/94 sabiex jigi mgedded permess precedenti, PB 3601/90, li wasal biex jiskadi. It-talba hi biex ikunu jistghu jinbnew appartamenti u garaxxijiet sottostanti, f' font li jinsab fil-Munxar (ix-Xlendi), Ghawdex.

Fid-dettal, il-proposta tikkonsisti minn zewg blokkok appartamenti kull wahda b'faccata b' tul ta' madwar hmistax il-metru. Iz-zewg kundizzjonijiet jillimitaw l-gholi tal-faccati, inkluzi opramorti, ghal 9.9 metri mill-aktar parti baxxa tat-toroq; u li ma jinbnewx strutturi (addizzjonali) fuq il-livell tal-bejt.

L-aggravji ta'-Appellant jistrieħu fuq il-fatt li galadarba l-Awtorita' qed tillimita l-gholi tal-faccati ghal 9.9 metri, dawn iridu jigi modifikati minn kif inhuma indikati (u precedentement approvati) fil-pjanti tal-permess PB 3601/90 – tant li modifika bhal din hi aktar konsistenti minn amended application milli minn renewal application. Bl-istess mod iridu wkoll jigu modifikati t-trombi tat-turgien minn kif kienu precedentement approvati.

In oltre jargumenta li l-paragrafu B.2 tal-policy 2.1 tal-Policy and Design Guidance tal-2007 (DC 2007) taghmilha cara li applikazzjonijiet li gew validati qabel is-16 t'April 2007 iridu jigu kkunsidrati bil-policies precedenti, cjo'e' dawk tal-2005. Bl-istess mod il-paragrafu B.2 tal-policy relattiva tal-2005 (DC 2005), taghmel riferenza ghad-data tat-18 t' April 2005 u l-policies ippublikati fis-sena 2000. Fl-ahharnett, il-parti tal-Policy and Design Guidance tal-2000 (DC 2000) rilevanti ghal-kaz in kwistjoni (building heights) taghmel riferenza ghal height relaxation policies, formulate fil-perjodu meta t-Temporary Provision Schemes (TPS) kienu ghadhom in vigore. Ghalhekk, skond l-Appellant, il-Kummissjoni kien imissha ddecidiet it-talba tieghu bil-policies li kienu jirregolaw it-TPS u mhux dawk tad-DC 2007.

Jispjega ghalhekk li l-gholi limitu ta' 9.9 metri mhux sufficjenti, partikolarment in vista tal-fatt li t-triq ghandha pendil qawwi u li in ogni caso, 9.9 metri huma aktar konsistenti minn binja fuq zewg sulari milli wahda fuq tlieta.

Ghar-rigward tal-kmamar fuq il-bejt jirrileva li fiz-zmien li kien inhareg il-permess originali ma' kienitx il-prassi li fuq il-pjanti jigu indikati l-strutturi proposti fuq il-bejt, u li ghalhekk il-kundizzjoni relattiva odjerna sejra tillimitalhu l-izvilupp ulterjorment.

L-Awtorita' zammet ferm kontra l-argumenti kollha mressqa mill-Appellant u tirrileva li hawn si tratta minn outline development permit fejn in norma hi li jigu approvati biss site plans u mhux il-pjanti tal-proposta per se. Fil-fatt tispjega li semmaj, il-kundizzjoni tal-gholi limitu ta' 9.9 metri johrog mill-istess pjanti tal-proposta originali, u li ghalhekk kien l-Appellant stess li talab (u illimita ruhu b') dan l-gholi. Targumenta li peress li fil-frattemp dahal fis-sehh il-Pjan Lokali, il-Kummissjoni hasset il-bzonn li sabiex tikkonferma l-permess originali kellha bilfors taghmel din it-tip ta' kundizzjoni sabiex tizgura li ma jkunx hemm ekwivoci ulterjuri.

Tajjed li jigi nutat li fil-fatt il-pjanta tal-proposta originali (PA5997/1994/43A) turi front elevation f' skala 1:50 u b' dizlivell ta' madwar zewg filati bejn blokk w ohra. Ghalhekk, anke jekk jista' jaghti l-kaz li illum tirrizulta pendenza ferm aktar qawwijja fit-triq, din mghandiex tkun ta' ebda tfixkil ghall izvilupp, ghax iz-zewg blokkok huma ddesinjati sabiex jinqraw independentement minn xulxin; u semmaj ser jirrizulta dizlivell aktar qawwi bejniethom, dan xejn ma' jxekkel l-izvilupp kif mitlub u kif sussegwentement gie approvat.

Irid jinghad ukoll li l-istess pjanta turi side elevation, typical fl[oor] u basement, ikoll f'skala 1:100. Ma' hemm l-ebda indikazzjoni ta' roof plan, etc., u fil-mankanza ta' tali livell, wiehed ma' jistax (illum) jippretendi li kemm il-darba l-Awtorita' taghmel kundizzjoni li ma' jistghux jinbnew



strutturi fuq il-bejt, sejra ccahdu minn xi dritt kwezit. Il-prassi hi li kemm il-darba ma' jigix indikat is-sular tal-bejt, allura wiehed jifhem li m'hemmx access ghall-fuq dan il-livell u li l-izvilupp effettivament jispicca fis-sular ta' tahtu. Anke jekk tigi kkunsidrata l-front elevation sottomessa (kif rilevat supra), ma hemm l-ebda indikazzjoni li per ezempju, it-trombi tat-turgien ser jestendi ghal fuq il-livell tal-bejt. Anzi, mill-pjanta tal-faccata jidher car li dawn l-istrutturi ser jieqfu livell mal-opramorta u di konsegwenza, l-Appellant ma' jistax jippretendi li illum jigi kkonfermat dettal fil-permess li qatt ma kellhu - ghax qatt ma' kien talab ghalih.

Ezaminati fid-dettal is-sottomissjonijiet tal-partijiet, johrog car li l-Awtorita' imxiet tajjeb meta ddecidiet li ggedded dan il-permess bil-kundizzjonijiet mertu tal-appell odjern. Anzi, dawn il-kundizzjonijiet la jxekklu u lanqas jillimitaw id-drittijiet kweziti li l-Appellant kien igawdi minnhom meta inhariglu l-permess originali PB 3601/90, u f'ic-cirkostanzi dan l-Appell ma jimmeritax li jigi milqugh.

Ghalhekk, in vista tal-konsiderazzjonijiet kollha hawn fuq maghmula, u fuq kollox sabiex ikun konformi mal-policies tal-ippjanar vigenti, dan il-Tribunal qed jiddisponi minn dan l-appell billi jichad l-istess u jikkonferma il-permess ghall-PA 5997/94 in toto, kif mahrug mill-Kummissjoni ghall-Kontroll tal-Ambjent u l-Ippjanar, fis-26 ta' Lulju 2011.

### **Ikunsidrat**

L-aggravji tal-appellant huma s-segwenti:

1. It-Tribunal naqas li jinkwadra l-applikazzjoni ta' renova fl-isfond taz-zmien li fih inhareg il-permess cioe fl-1990 u l-ligijiet applikabbli f'dak iz-zmien b'mod li ebda ligi sussegwenti ma jista' jkollha effett fqu dritt kwezit sal-permess moghti;
2. It-Tribunal ma rriferiex liema policies rigward l-gholi permissibbli huma applikabbli ghal kaz odjern cioe Policy and Design Guidance 2007, Policy and Design Guidance 2005 jew Development Control Policy and Design Guidance 2000 li jsemmi d-DC 1/88 bhala applikabbli ghal k az;

3. Il-kundizzjonijiet godda ibiddu sostanzjalment l-permess originali wara li l-applikant kien già beda xoghol ta' kostruzzjoni a bazi tal-permess originali u l-Awtorita kienet konsapevoli ta' dan tant li f'kundizzjoni 6 tghid li l-kundizzjonijiet jipprevalu fuq il-pjanti approvati tal-permess originali u dan jincidi fuq id-dritt kwezit tal-applikant b'permess validu ai termini tal-artikolu 69(1)(a)(ii) tal-Kap. 504;

4. Id-decizjoni tat-Tribunal hi motivata fuq dispozizzjonijiet zbaljati billi hawn si tratta ta' full development permission mhux outline development permission kif isostni t-Tribunal fejn hemm apprezzament ta' principji differenti;

5. It-Tribunal naqas li jikkunsidra l-aggravju tal-commitment qua sostenibilita tal-kundizzjoni 4 maghmula mill-Awtorita;

6. It-Tribunal naqas li jikkunsidra l-aggravju a rigward tal-kundizzjoni numru 5 fejn fiz-zmien li nhareg il-permess originali, il-konswetudni dwar prezentazzjoni ta' pjanti u skemi kienet differenti u illi in kwantu tromba ta' tarag dawn kienu impliciti u ma jigux murija u ma jfissirx b'daqshekk li ma kienx pjanat access ghal bejt.

### **L-ewwel aggravju**

Il-Qorti tqis illi dan l-aggravju ma hux inkwadrat fil-gudikat tat-Tribunal. Jibda biex jinghad pero illi l-applikazzjoni in konsiderazzjoni cioe PA 5997/94 hi renewal application ta' permess ta' zvilupp mahrug PB 3601/90. It-Tribunal erronjament f'diversi partijiet tad-decizjoni jiddeskrivi l-applikazzjoni bhala 'outline permit' biex jiggedded il-permess PB 3601/90. Dan mhux il-kaz ghax it-tigdid li qed jintalab jirregwarda permess ezistenti bil-kundizzjonijiet li jinsabu fih.

Dak li kellu jaghmel it-Tribunal hu li allura jqis jekk il-kundizzjonijiet msemija fit-tigdid approvat mill-Awtorita kienux inaqqsu mid-dritt li kellu l-applikant fil-permess approvat la darba l-Awtorita ghogobha tapprova t-tigdid. Hi l-fehma tal-Qorti a prescindere mill-liema policy hi applikabbli skond ma jsostni l-appellant, illi f'tigdid, kemm il darba ser jigi approvat, ghandu jkun konformi mal-permess originali. Permess originali igorr mieghu l-obbligu

ta' zvilupp skond it-terminu li fih l-Awtorita tkun rabet lil applikant li jitermina l-izvilupp. F'kaz li dan ma jkunx gie ezegwit fiz-zmien, il-permess ma jibqax operattiv u jitlef l-effetti tad-drittijiet akkwistati bih. Pero l-ligi tistabilixxi mekkanizmu fejn l-applikant jista' jitlob li l-permess li wasal biex jiskadi, jiggdedd. F'dan il-perjodu ta' konsiderazzjoni tat-talba ta' tigidid, l-istess hajja tal-permess u drittijiet akkwistati jibqa' sospiz sakemm l-Awtorita tiddeciedi mod jew iehor. Jekk l-Awtorita tqis li t-tigidid ma ghandux jigi permess allura l-permess ikun waqa' u d-drittijiet akkwistati mill-applikant bil-permess li tieghu intalab tigidid jitqiesu li gew estinti. Jekk invece l-Awtorita tiddeciedi li l-permess ghandu jiggdedd, allura d-dritt gia akkwistat bil-permess qed jigi prorogat ghal zmien ulterjuri. Pero f'dan il-kaz mhux permess ghall-Awtorita illi tbiddel minn dak il-permess gia moghti u issa mgdedd. Altrimenti jkun intilef l-iskop tat-tigidid u l-applikazzjoni trid tinqara bhala wahda ta' tibdil fi zvilupp li jirrekjedi proceduri diversi.

Il-kompitu tat-Tribunal, la darba gie akkolt it-tigidid mill-Awtorita, kellu jkun wiehed li jezamina jekk il-kundizzjonijiet li l-mentha dwarhom l-applikant kienux fil-fatt devjazzjoni minn, jew impozizzjoni ta' kundizzjonijiet ohra fil-permess originali.

Il-Qorti pero ma tqis illi t-Tribunal applika xi policies b'mod retroattiv, kif qed jigi allegat. Din hi kwistjoni li l-Qorti mhix ser tikkonsidra ghax it-Tribunal ma bbazax id-decizzjoni tieghu fuq policy jew ohra izda biss jekk il-kundizzjonijiet imposti mill-Awtorita kienx jirrispekkjaw il-permess originali. Tant hu hekk illi l-istess Tribunal ighid illi l-kundizzjonijiet imposti la jxekklu u anqas inaqqsu d-drittijiet kweziti tal-appellant.

Ghalhekk, kif impostat, dan l-aggravju ma jisthoqqlux jigi milqugh.

### **It-tieni aggravju**

Dan l-aggravju wkoll ma fih ebda mertu ghax dak li ghamel it-Tribunal hu li ggustifika l-kundizzjoni tal-gholi kif

inserirta fit-tigdid mill-iskala fil-pjanti approvati mal-permess approvat u qal li dan l-gholi hu dak li fil-fatt gie approvat fil-permess tal-1990. Kwindi ma kien hemm ebda bzonn ta' referenza ghal xi policy partikolari.

Dan l-aggravju wkoll ma fihx mertu.

### **It-tielet u s-sitt aggravji**

Dawn huma aggravji li jolqtu direttament il-mertu ta' din il-vertenza. Kif gia nghad it-Tribunal kellu quddiemu sitwazzjoni ta' approvazzjoni ta' tigdid. Din l-approvazzjoni kellha ssegwi skrupolozament il-permess li tieghu kien qed jinghata l-permess ta' tigdid. Kull tibdil fil-parametri tal-permess jekk qed jintalab tigdid biss hi vjolazzjoni tal-ispirtu ta' talba ghal tigdid u ma ghandhiex tigi permessa. Jekk it-tigdid jitqies mhux permissibbli mill-Awtorita ghar-ragunijiet moghtija minnha allura r-risposta tista' tkun biss fin-negattiv izda mhux approvazzjoni b'tibdil ta' kundizzjonijiet.

F'dan il-kaz l-Awtorita dehrilha illi ghandha tispecifica l-gholi massimu tal-binja ta' tlett sulari. L-gholi kien jidher prezumibilment mill-pjanti 'to scale' tal-permess u kwindi l-Awtorita ma kellha ebda jedd li tispecifica oltre. Hi kienet qed iggedded dak approvat. Darba li ssir il-binja fit-terminu, sta ghal partijiet koncernati li jaslu ghal konkluzjoni tagghom jekk il-binja tirispekkjax il-permess. Tigdid ma ghandux bzonn kjarifika, kif allegat mill-Awtorita b'gustifikazzjoni tal-kundizzjonijiet imposti. Il-permess ghadu li kien u ghalhekk l-Awtorita kellha tapprova l-permess sic et simpliciter jekk ma kellhiex oggezzjonijiet ghat-tigdid. Id-dritt kwezit qabel l-iskadenza tat-terminu tal-permess, sospiz pendent t-tigdid rega' kompla fis-sehh mat-tigdid. Jekk fil-futur l-Awtorita tqis li l-izvilupp ma jirrispekkjax dak approvat fil-permess PB 3601/90 tiehu l-mizuri li jidhrilha izda kjarifika preventiva mhix gustifikata. Bl-istess mod mhux gustifikat li t-Tribunal jaghmel osservazzjonijiet dwar il-bejt minghajr ma jqis illi ma kien hemm ebda kundizzjoni dwar strutturi fuq il-bejt tal-izvilupp fil-permess originali, u kwindi l-Awtorita dahlet kundizzjoni li ma tidhirx fil-permess originali. In oltre t-

Tribunal zbalja doppjament ghax ikkonsidra u interpreta l-pjanti tal-izvilupp originali minghajr ma kkunsidra l-aggravju tal-appellant illi fiz-zmien tal-permess originali t-tromba tat-tarag ma kienux jigu indikati izda kienu jkunu 'implicitly understood' u l-konsegwenzi li johorgu minn tali argument. Dan l-argument lanqas messu qam quddiem it-Tribunal billi l-obbligu tat-Tribunal kien li jivverifika biss jekk l-impozizzjoni tal-kundizzjonijiet kienux qed jimpingu fuq il-permess originali u mibdul anki permezz ta' interpretazzjoni unilaterali soggettiva tal-Awtorita ta' dak li tieghu qed jintalab tigidid.

Aktar minn hekk din il-Qorti wkoll tirrileva illi t-Tribunal naqas li jqis jekk kundizzjoni fejn l-Awtorita isostni li l-kundizzjonijiet imposti jipprevalu fuq il-pjanti approvati hi fiha nfisha tibdil ta' permess u kwindi mhux si tratta izjed ta' tigidid cioe approvazzjoni mill-gdid ta' dak gia approvat.

Ghalhekk dawn l-aggravji qed jigu milqugha.

### **Ir-raba aggravju**

Dan l-aggravju mhux qed jigi milqugh peress illi irrizulta car li dan kien zball dattilografu tat-Tribunal ghax is-sustanza tad decizjoni kienet tირrigwarda biss jekk il-kundizzjonijiet fil-permess ta' tigidid kienux leciti jew le.

### **Il-hames aggravju**

Dan l-aggravju wkoll mhux qed jigi milqugh peress illi f'dan il-kaz il-kwistjoni mhix dwar l-effetti o meno ta' commitment fiz-zona izda jekk kienx lecitu l-impozizzjoni ta' kundizzjonijiet f'talba ghal tigidid. Tali aggravju seta' kien relevanti kieku kien hemm cahda ta' tigidid li timpingi fuq xi kwistjoni ta' allegat commitment fiz-zona.

### **Decide**

Ghalhekk il-Qorti taqta' u tiddeciedi billi tilqa' l-appell ta' Emmanuel Mizzi u kwindi tirrevoka d-decizjoni tat-Tribunal ta' Revizjoni tal-Ambjent u l-Ippjanar tat-8 ta' Novembru 2012, u in linea mal-aggravji milqugha tირrinvoja l-atti lura

Kopja Informali ta' Sentenza

lit-Tribunal biex jerga' jiddeciedi l-kaz mill-gdid. Spejjez ghall-Awtorita.

**< Sentenza Finali >**

-----TMIEM-----