

Fil-Prim'Awla tal-Qorti Civili



Subbasta 36/19:

TH Construction Limited (C-14183)
u
Tal-Herba Group Limited (C-46790)

vs.

Alison Investments Limited (C-77176),
D.A. Holdings Limited (C-18064) u
Andrew Vaswani (K.I. 166071M)

Relazzjoni tal AIC Anton Valentino

Jesponi bir-rispett:

1. Introduzzjoni

Illi permezz ta' Rikors tad-9 ta' Lulju 2019, il-kumpaniji TH Construction Limited u Tal-Herba Group Limited esponew illi:

1.1

Ir-Rikorrenti huma kredituri tal-intimati fis-somma ta' miljun, mija u tletin elf Ewro (Eur 1,130,000), oltre l-imghaxxijiet skont il-ligi dekorribbli mill-31 ta' Mejju 2018 sakemm isir il-hlas ghas-saldu, dovuta skont kuntratt ta' kostituzzjoni ta' debitu fl-atti tan-Nutar Dottor Roderick Caruana datat 3 ta' Mejju 2018, permezz ta' liema is-socjetajiet intimati Alison Investments Limited u D.A. Holdings Limited ikkostitwew lilhom infushom veri, certi u likwidi debituri a favur tar-rikorrenti, filwaqt li l-intimat Andrew Vaswani iggarantixxa l-obbligu tal-hlas tas-socjetajiet debituri intimati a favur tar-rikorrenti;

1.2

Illi tali kostituzzjoni ta' debitu gie rez ezegwibbli permezz ta' ittra ufficjali bin-numru 2423/18 datata 9 ta' Lulju 2018 ipprezentata fil-Prim' Awla tal-Qorti Civili;

1.3

Illi minkejja li l-intimati gew debitament interpellati sabiex jersqu ghal-hlas, dawn baqghu inadempjenti;

1.4

Illi s-socjeta intimata D.A. Holdings Limited hija propjetarja ta' kumpless fil-Hamrun imsejjah "Daniel's Shopping and Residential Complex", li jikkonsisti

minn kumpless kummercjali, parkegg fuq tliet sulari taht l-art, u tliet livelli ta' zvilupp residenzjali fuq il-kumpless kummercjali;

1.5

U illi ghalhekk jitolbu illi l-Onorabbli Qorti tordna l-bejgh bl-irkant tal-kumpless imsejjah "Daniel's Shopping and Residential Complex", u illi l-Onorabbli Qorti tinnomina perit arkitett sabiex ai termini tal-Kapitolu 12 tal-Ligijiet ta' Malta, jistabbilixxi l-valur tal-imsemmi "Daniel's Shopping and Residential Complex", u tordna l-bejgh bl-irkant tal-propjeta imsemmija.

Illi fit-18 ta' Settembru 2018 l-Onorabbli Qorti laqghet it-talba tas-socjetajiet rikorrenti, u ordnat illi jigi mahtur Arkitekt u Inġinier Civili bhala espert sabiex jgħamel stima tal-propjeta immobbli, inkluzi ritratti tal-fond, pjanta tar-Registru tal-Artijiet, pjanta tal-iskema tal-Awtorita' tal-lppjanar u r-ragunijiet tal-valutazzjoni.

Illi l-esponent gie mgharraf mid-Deputat Registratur b'ittra ricevuta fil-25 ta' Settembru 2019 illi huwa gie mahtur bhala espert sabiex jiddeskrivi u jivvaluta l-fond in kwestjoni.

2. Deskrizzjoni Preliminari tal-fond

Il-fond identifikat fir-Rikors tad-9 ta' Lulju 2019 bhala propjeta ta' D.A. Holdings illi r-Rikorrenti talbu illi jigi mibjugh huwa deskritt bhala:

"... kumpless kummercjali u residenzjali, li jinkludi parkegg taht l-art, fil-Hamrun zviluppat fuq is-sit hawn taht deskritt, imsejjah "Daniel's Shopping and Residential Complex", u li għandu l-istess konfini deskritti hawn għas-sit, u għandu numru kbir ta' entraturi fi Triq San Guzepp, Triq Patri Magri u fuq Trejget San Pietru, Hamrun, u jikkonsisti minn kumpless kummercjali, parkegg taht l-art li jinsab fuq Basement Level minus two (-2), Basement Level minus three (-3) u Basement Level minus four (-4), u tliet livelli ta' zvilupp residenzjali fuq il-kumpless kummercjali;

Illi l-imsemmi kumpless huwa mibmni fuq is-sit, cioe' il-porzjoni diviza ta' art gewwa l-Hamrun okkupat mill-immobbli tal-kejl ta' tliet elef u hames mitt metru kwadru (3,500 m.k.) b' faccata fuq Triq il-Kbira San Guzepp għeli maghrufa wkoll bhala Triq San Guzepp u faccata ohra fuq Triq Parti Magri u ohra fuq Trejget San Pietru, konfinanti mit-Tramuntana ma' Triq il-Kbira San Guzepp għeli maghrufa bhala Triq San Guzepp u in parti ma' propjeta' ta' terzi mhux maghrufa, u mill-lvant ma' Trejget San Pietru u in parti ma' propjeta' ta' terzi mhux maghrufa, imma eskluż il-porzjoni diviza ta' art okkupata mill-fond fil-ground floor level, numru mija u hdax (111) fi Triq il-Kbira San Guzepp, għeli maghrufa bhala Triq San Guzepp, gewwa l-Hamrun, inkluz s-sottosuol u muri bil-kulur blu fuq l-art relattiv tal-akkwist."

3. Accessi

L-esponent acceda fuq is-sit fid-9 ta' Ottubru 2019 fl-10 ta' filghodu, wara illi kien avza lil TH Construction Limited, Tal-Herba Group Limited, Alison Investments Limited, D.A. Holdings Limited, u Andrew Vaswani permezz ta' ittri registrati datati 2 ta' Ottubru 2019.

Ma deher hadd minn dawna l-intimati ghal dana l-access, izda fit-8 ta' Ottubru l-esponent ircieva messagg telefoniku minn Andrew Vaswani fejn qal illi ma setax jattendi ghall-access u talab illi jsir access iehor fl-14 ta' Ottubru. Eventwalment fil-21 ta' Ottubru l-esponent ircieva lura l-ittri registrati li kienu intbghatu lil TH Construction Limited u Tal-Herba Group Limited, b' nota mill-Malta Post illi dawna l-ittri ma setawx jigu mqassmin, u fil-31 ta' Ottubru ircieva lura l-ittra registrata li kienet intbaghtet lil Andrew Vaswani, bl-istess nota.

Ghalhekk l-esponent, kif miftieghem ma' Andrew Vaswani, zamm l-access wahdu, fejn ha konjizzjoni tal-fond u ha qisien necessarij. Il-bini huwa relattivament gdid, bil-"finishes" f'certi zoni ghadhom qeghed in jigu kompletati, u ghalhekk il-kondizzjoni strutturali tidher illi hija tajba, u l-kwalita' genetrali tal-"finishes" hija tajba.

L-esponent zamm access iehor fl-14 ta' Ottubru fl-10 ta' filghodu, fil-prezenza ta' Andrew Vaswani u ta' Reno Zammit li irraprezenta lid-ditta Tal-Herba Group.

L-esponent jixtieq illi jinnota illi fil-messagg telefoniku msemmi ma' Andrew Vaswani, dana qal illi:

"There are no part owners until now as I am the sole owner, 100% shareholder of Alison Investments Limited. D.A. Holdings is owned by Alison Investments, Alison Investments hold the shares of A.A. Holdings".

L-esponent zamm it-tielet u l-ahhar access fis-6 ta' Novembru fid-9.30 ta' filghodu, fejn ivverifika diversi aspetti tal-bini u ha ritratti.

4. Policies u Permessi tal-lppjanar

4.1 Policies tal-Awtorita' tal-lppjanar:

4.1.1 Il-fond huwa kopert mis- Central Malta Local Plan tal-Awtorita' tal-lppjanar. Il-pjanta HAM1, "Hamrun Area Policy Map", tindika illi parti mis-sit tinsab fl- "Urban Conservation Area" tal-Hamrun ghal-fond ta' circa 12 il-metru minn Triq San Guzepp lejn in-Nofs in-Nhar, soggetta ghal-Policy CG 09;

I-istess parti tas-sit ghal-fond ta' circa 12 il-metru minn Triq San guzepp tinsab fil-"Primary Town Centre", soggetta ghal-Policy CG12;

u il-bqija tas-sit tinsab f'zona deskritta bhala "Residential Area", soggetta ghal-Policy CG07.

Il-pjanta HAM1 hija annessa bhala Dok AV1.

Il-Policy CG09 li tittratta dwar l-"Urban Conservation Areas" tghid illi:

"MEPA shall carry out a rigorous character appraisal of all the streets in the Urban Conservation Areas (UCAs) in the Local Plan area with the following aims:

1. To generally revise and update the UCA boundaries of all settlements further to the revisions to the UCA boundaries as approved in this Plan;
2. To establish a classification of streets according to their conservation value that takes into account the quality of the architecture, streetscapes, open spaces, the location and setting of listed/scheduled buildings and dwelling layouts;
3. To establish a location specific, comprehensive policy framework to guide development proposals within the street hierarchies of the UCAs. In the interim period, development proposals within the designated UCAs will be required to comply with the relevant policies of the Structure Plan and with MEPA's "Design Guidelines: Development Control within Urban Conservation Areas (1995)" unless specific policies in this Local Plan indicate otherwise.
4. To establish a comprehensive policy framework that encourages the sustainable regeneration of declining areas within UCAs; and,
5. To identify measures aimed at mitigating existing negative visual impacts and to enhance the character and appearance of each specific UCA."

Il-Policy CG12 li tittratta dwar il-"Primary Town Centres" tghid illi:

"The acceptable land uses (new uses, extensions to existing uses, and change of uses) within all frontages located within these designated town centres are listed below:

- i. Class 1 (Use Classes Order, 1994) dwelling units on upper floors only.
Proposals for residential development at ground level will only be considered by MEPA provided that the proposed development scheme includes one dwelling unit only. Conversions from existing Commercial Uses at Ground Floor level to new Residential units will not be permitted by MEPA.
- ii. Class 2 (Use Classes Order, 1994) residential institutions on upper floors only.
- iii. Class 3 (Use Classes Order, 1994) hostels.
- iv. Class 4 (Use Classes Order, 1994) retail uses including, shopping malls and speciality shopping, but excluding showrooms, provided they comply with the provisions of MEPA's Interim Retail Planning Guidelines (2003).
- v. Supermarkets provided that they comply with all the provisions of Policy CG17.
- vi. Class 5 (Use Classes Order, 1994) offices.
- vii. Class 6 (Use Classes Order, 1994) Food and Drink, including hot food take-away. However take-aways are not to be allowed above ground level.
- viii. Class 7 (Use Classes Order, 1994) non-residential institutions including interpretation centres. However public halls are to have a floor area that does not exceed 150 sqm.
- ix. Class 8 (Use Classes Order, 1994) educational facilities. .
- x. Class 9 (Use Classes Order, 1994) assembly and leisure.

- xi. Class 11 (Use Classes Order, 1994) business and light industry provided that: • The gross floor area of the premises does not exceed 50 sqm (including storage of materials and/or finished products); • The activity conducted within the premises does not use heavy duty and/or noisy electrical/mechanical (including pneumatic) equipment, and equipment which requires a 3 phase electricity supply; • The activity conducted within the premises does not entail extensive and/or prolonged use of percussion hand tools (eg. hammers, mallets etc); • The activity employs less than 5 people; and • The activity conducted within the premises does not inherently entail the generation of combustion, chemical or particulate by products. Examples of acceptable uses considered by MEPA include tailor, cobbler and computer repair. Moreover, examples of unacceptable uses include carpentry, panel beating, mechanic, mechanical plant servicing and spray painting.
- xii. Class 17 (Use Classes Order, 1994) storage facilities only provided that the gross floor area does not exceed 75 sqm.
- xiii. Taxi Business or for the hire of motor vehicles.
- xiv. Band club and social club.
- xv. Cleaning of clothes in venues where articles are brought by the public, provided that the gross floor area does not exceed 75 sqm.
- xvi. Conference Centre.
- xvii. Indoor shooting range provided that all the conditions of the Guidance on Shooting Ranges are fully adhered to.
- xviii. Bakery and Confectionery with provision for outside catering.

MEPA will support initiatives from public agencies and the private sector that contribute to the enhancement of the external environment of town centres and add to their attraction as a community and retail hub. Proposals for appropriate pedestrianisation schemes, landscaping schemes and traffic management will also be considered favourably. MEPA will strongly encourage the establishment of town centre management initiatives in the primary town centres.”

II-Policy CG07 li tittratta dwar “Residential Areas” tgħid illi:

“The following is a list of acceptable land-uses (new uses, extensions to existing uses, and change of uses) within all frontages located within the RAs.

- i. A mix of Class 1 (Use Classes Order, 1994) terraced residential development as detailed in the DC 2005, Part 3, and in accordance with the specific zoning conditions indicated in the same guidance, unless otherwise stated by a policy in this Local Plan;
- ii. Class 2 (Use Classes Order, 1994) residential institutions, provided that: • they are of a small scale and do not create adverse impacts on the residential amenity of the area; • Class 2 (a) institutions are located in close proximity to a town or local centre; and, • Class 2 (b) nursing homes and clinics are easily accessible from the arterial and distributor road network.
- iii. Class 3 (Use Classes Order, 1994) hostels.
- iv. Class 4 (Use Classes Order, 1994) small shops provided that: • the small shops (of any nature) are not to exceed a total floor area of 50

sqm each, and convenience shops are not to exceed a total floor area of 75 sqm each; • they comply with all the provisions of paras. 1.4.16 to 1.4.18 of the Interim Retail Planning Guidelines (2003); and • they comply with any relevant section of the DC2005 (design, access, amenity, etc.).

- v. Supermarkets provided that they comply with all the provisions of Policy CG17.
- vi. Class 5 (Use Classes Order, 1994) offices provided that: • the floorspace does not exceed 75 sqm; • they do not unacceptably exacerbate parking problems in a residential street that already has an acute under provision of parking spaces for residents; and, • they comply with any relevant section of the DC 2005(design, access, amenity, etc.).
- vii. Classes 7 and 9 (Use Classes Order, 1994) non-residential institutions, swimming bath or pool, skating rink, health club, sauna, sports hall, other indoor or outdoor land based sports or recreation uses not involving motorised vehicles or firearms, and interpretation centres, provided the facility: • is of a small scale and does not create adverse impacts on the residential amenity of the area; • is located on land already occupied by buildings and will replace these buildings provided they are not worthy of retention due to their historic/architectural merit and/or their contribution to the character of the area, unless land is specifically allocated for the facility by this Local Plan; and, • the immediate surroundings of the site are already of a mixed use character. Central Malta Local Plan Approved Plan – July 2006.
- viii. Class 8 (Use Classes Order, 1994) educational facilities, provided that access and the character of the area are taken into account and are deemed adequate by MEPA to allow the safe and neighbour compatible use of such facilities. .
- ix. Class 11 (Use Classes Order, 1994) business and light industry provided that: • The gross floor area of the premises does not exceed 50 sqm (including storage of materials and/or finished products); • The activity conducted within the premises does not use heavy duty and/or noisy electrical/mechanical (including pneumatic) equipment, and equipment which requires a 3 phase electricity supply; • The activity conducted within the premises does not entail extensive and/or prolonged use of percussion hand tools (eg. hammers, mallets etc); • The activity employs less than 5 people; and • The activity conducted within the premises does not inherently entail the generation of combustion, chemical or particulate by products. Examples of acceptable uses considered by MEPA include tailor, cobbler, lace making and computer and electronic repair. Moreover, examples of unacceptable uses include carpentry, panel beating, mechanic, mechanical plant servicing, spray painting and bakery. Proposals to convert from existing Class 12 (Use Classes Order, 1994) general industry to Class 11 (Use Classes Order, 1994) business and light industry within designated Residential Areas shall only be considered acceptable by MEPA if all the conditions listed above are adhered to, and provided that it can be proven that the Class 12 Use (general

- industry) operation is a permitted one and the Class 11 Use (business and light industry) operation is actually more neighbourhood compatible than the Class 12 Use operation it intends to replace.
- x. Taxi Business or for the hire of motor vehicles as per para. 6.15 of DC2005."

Fl-opinjoni tal-esponent, il-Policies tas-Central Malta Local Plan ghalhekk jippermettu diversi uzi, inklużi uzi kummerċjali, għaz-zona illi jinsab fiha il-fond in kwestjoni.

4.1.2 Il-fond huwa wkoll kopert mil-pjanta HAM3, "Hamrun Building Heights Limitations Map" tas-Central Malta Local Plan. Il-pjanta HAM3 hija annessa bħala Dok AV2.

Din il-pjanta tindika illi:

Fil-parti tas-sit li tinsab fl-"Urban Conservation Area" għal-fond ta' circa 12 il-metru minn Triq San Guzepp lejn in-Nofs in-Nhar, hemm "height limitation" ta' "3 floors plus 1 recessed floor (without semi-basement)". L-esponent jinterpreta dan l-gholi massimu bħala 4 sulari, illi huwa definit fid-Dokument DC15 (Development Control Design Policy Guidance and Standards 2015 – Annex 2) tal-Awtorita' tal-Ippjanar bħala 19.9 metri mil-livell tat-triq. Għalkemm il-pjanti approvati mill-Awtorita' tal-Ippjanar ma jindikawx l-gholi mkejjel tal-binja, l-gholi skalat mill-istess pjanti approvati juri illi l-gholi tal-bini jista' jeccedi bi ftit dan il-massimu, u għalhekk bir-regolamenti vigenti fl-opinjoni tal-esponent ma tista' ssir l-ebda estenzjoni vertikali.

Fil-bqija tas-sit, li tinstab barra l-"Urban Conservation Area", l-gholi massimu permess mil-pjanta HAM 3 huwa ta' 3 sulari u semi-basement, illi huwa definit fid-Dokument DC15 bħala 17.5 il-metru. Il-pjanti approvati mill-Awtorita' tal-Ippjanar juru illi l-bini kien approvat, u inbena, sa l-istess għoli tal-faccata fuq Triq San Guzepp, u għalhekk anki fuq in-naha ta' wara ma tista' ssir l-ebda estenzjoni vertikali.

4.2 Permessi tal-bini mahruġa mill-Awtorita' tal-Ippjanar:

Il-permessi segwenti inhargu fuq is-sit in kwestjoni:

PA 1654/2005: Multipurpose Complex including Class 9 bingo hall: Approvat 7.5.2007

PA 1553/09: Additional Intermediate Floor to Multipurpose Complex: Approvat 27.7.2010

PA 1553/09 Minor Amendments: Approvat 16.11.2015

PA 2231/2012: To sanction additions and alterations to approved permit plus sanctioning of Change of Use from bingo hall as approved in PA 1654/05 to Supermarket in conjunction with approved Supermarket in same permit: Approvat 10.7.2018

Hemm ukoll Applikazzjoni pendent PA 6686/19: Change of Use from existing approved 4C commercial area in approved commercial complex to a 4D area: "Target Date" ghad-decizjoni 6.12.2019.

L-esponent ezamina l-pjanti mmarkati bhala approvati fid-diversi permessi msemmija, kif mhurija fuq il-"Planning Application Case Details" tal-Awtorita' tal-Ippjanar, u kkonkluda illi l-aktar pjanti recenti huma:

Site Plan: PA 2231/12 No. 1a

Livelli -2,-3 u -4: PA 2231/12 No. 1c*

Livell -1: PA 2231/12 No. 61e

Livell 0: PA 2231/12 No.45b u PA 1553/09 (Minor Amendments) No. 121a

Livell Intermedjarju: PA 2231/12 No. 45c

Livell +1: PA 2231/12 No. 45d*

Livell +2: PA 1654/05 No. 46i**

Livell +3: PA 1654/05 No. 46j**

Livell +4: PA 1654/05 No. 46k**

Elevation: PA 1553/09 (Minor Amendments) No. 82a

Section: PA 1553/09 (Minor Amendments) No. 82b.

Noti:

Pjanti mmarkati * ma humiex mhurija bhala "approved" izda bhala "valid", izda ma hemm l-ebda pjanti ta' l-istess livell immarkati "approved"; dawn huma l-aktar pjanti recenti u ghalhekk l-esponent jassumi illi ma gewx immarkati "approved" bi zball.

Fil-pjanti mmarkati ** hemm zbalji ovgji fin-nomenklatura tal-livelli kkoncernati fuq il-pjanti approvati, u ghalhekk l-esponent ikkorega dawna l-izbalji.

Il-kumplex kif mibni huwa generalment kopert mil-permessi msemmijin, hlief ghal nuqqasijiet importanti bhal:

Livelli -2, -3 u -4: Diversi zoni okkupati minn "plant rooms", "garbage room"

etc. mhux mhurija; varjazzjoni fin-numru u posizzjoni ta' "lifts" u tarag;

varjazzjoni fin-numru ta' "car parking spaces";

Livell 0: Varjazzjonijiet fl-ippjanar tal-hwienet;

Livell intermedjarju: Parti tal-art li mhurija fuq il-pjanta bhala "void" hija

msaqqfa u tiffirma parti minn hanut; varjazzjonijiet fl-ippjanar tal-hwienet;

toilets pubblici mhux skond il-pjanta approvata; il-forma tal-"atrium" li jestendi sal-livell +1 mhux kif approvat;

Livell +1: Tqassim tal-hwienet totalment differenti minn daka approvat;

Varjazzjoni fin-numru u posizzjoni tal-"lifts" u turgien; il-forma tal-"atrium" izghar minn dak approvat; "escalators" mhux mhurijen fil-pjanta approvata;

Livell +2: Varjazzjonijiet fil-forma u kobor tal-"courtyard" centrali; varjazzjonijiet fil-posizzjoni u numru ta' tarag u "lifts"; varjazzjonijiet fl-ippjanar ta' uhud mill-appartamenti, inkluz varjazzjoni fil-proporzjon ta' appartamenti b' 1, 2 jew 3 kmamar tas-sodda;

Livell +3: Varjazzjonijiet fil-posizzjoni u numru ta' tarag u "lifts"; varjazzjonijiet fl-ippjanar ta' uhud mill-appartamenti, inkluz varjazzjoni fil-proporzjon ta' appartamenti b' 1, 2 jew 3 kmamar tas-sodda; gallariji esterni mhux mibnija;

Livell +4: Variazzjonijiet fil-posizzjoni u numru ta' tarag u "lifts"; variazzjonijiet fl-ippjanar ta' uhud mill-appartamenti, inkluz varjazzjoni fil-proporzjon ta' appartamenti b' 1, 2 jew 3 kmamar tas-sodda; gallariji esterni mhux mibnija.

L-esponent jinnota illi ghalkemm in-numru ta' appartamenti approvati huwa ta' 39, daww mibnjin huma 37.

L-opinjoni tal-esponent, avolja dawn in-nuqqasijiet huma diversi, il-variazzjonijiet jistghu jigu sanzjonati permezz ta' applikazzjoni lill-Awtorita' tal-lppjanar, peress illi ma jidher illi ma hemm xejn illi jmur kontra ir-regolamenti attwali.

5. Deskrizzjoni fizika tal-fond.

Il-fond imsejjah "Daniel's Shopping and Residential Complex" huwa mibni fuq sit ta' forma irregolari u tal-kejl ta' cirka 3,500 metri kwadri fil-livell 0, u ta' cirka 3,540 metri kwadri fil-livelli l-oħra (Pjanta Dok AV3 annessa), kif skalat mill-pjanti tal-binja.

Il-fond għandu faccata twila cirka 31 il-metru fil-livell ta' Ground Floor (Livell 0) fuq Triq San Guzepp, li tikber għal cirka 38 il-metru fil-livelli ta' fuq. L-entratura prinċipali, kif ukoll entratura sekondarja illi tghati għal "lifts" u tarag illi jtilghu għas-sulari residenzjali, u zewg entraturi għal wiehed mill-hwienet tal-kumpless, jinstabu fi Triq San Guzepp. Parti mill-binja f'dina t-triq, b' faccata twila cirka 7 metri, tikkonsisti f'hanut ta' terzi. Fi Triq Parti Magri hemm entratura għal rampa illi tinsel għat-tliet sulari ta' parkegg sotterrani, u entratura oħra immarkata "Un/loading Bay" illi tagħti access għal parti tal-livell 0 fejn jinstabu li "stores" tal-kumpless kummerċjali. U fi Trejqa San Pietru hemm entratura wahda illi tghati għal "substation" tal-Enemalta.

Il-fond huwa mibni fuq total ta' għaxar (10) sulari, inkluzi s-sulari taht il-livell tat-triq.

L-esponent jixtieq jinnota illi jidher illi seta sar bini addizzjonali għal dak indikat fil-permessi approvati, partikolarment fuq Trejqa San Pietru, illi ma jiffurmawx parti mill-propjeta kif deskritta fil-Rikors. Dana l-bini addizzjonali ma giex spezzjonat mill-esponent, huwa kkonsiderat bħala separat mill-fond kif deskritt fir-Rikors u kif mhuri fil-pjanti tal-permessi mahruga mill-Awtorita' tal-lppjanar, u għalhekk ma giex inkluz fil-Valutazzjoni tal-fond.

5.1 Livelli Kummerċjali:

Il-livell 0, illi il-magħor parti tiegħu huwa accessibbli per mezz ta' disa (9) targiet taht il-livell tat-triq, u l-livell Intermedjarju, il-livell +1 u l-livell -1, huma livelli kummerċjali. F'dana l-livell hemm numru ta' hwienet, "stores", "lifts", tarag u zewg "escalators" illi jgongu l-livelli kummerċjali. Dan is-sular kien iddizenjat biex jakkomoda 15 il-hanut ta' qisien diversi. Il-"substation" m' hijiex

accessibbli mil-parti kummercjali. L-"area" ta' dan is-sular huwa ta' cirka 3,500 metri kwadri.

Il-livell -1 jikkonsisti f' "supermarket", inkluz "stores", "lifts" u turgien, "garage" accessibbli mir-rampa illi tghati ghas-sulari l-oħra kummercjali. L-"area" ta' dana s-sular huwa ta' cirka 3,310 metri kwadri.

Il-livell Intermedjarju u l-livell +1 jikkonsistu fi hwienet ippjanati madwar "atrium" miftuh. Partijiet mis-sulari huma uzati għal-"storage" u "workshops", izda dawna l-uzi jidhru illi huma temporanji. Fl-livell Intermedjarju hemm ukoll "toilets" pubbliċi u ufficcju għal-tnekkija tal-kumpless. Is-sular Intermedjarju kien iddizinjat biex jakkomoda 11 il-hanut ta' qisien diversi; l-aħħar pjanta valida għal dana s-sular ma tindikax in-numru ta' hwienet previsti. L-"area" tal-livell Intermedjarju huwa ta' cirka 2,590 metri kwadri; l-"area" tal-livell +1 huwa estimat li huwa ta' cirka 3,400 metri kwadri.

Għalhekk l-"area" totali tal-parti kummercjali, mifruxa fuq l-4 livelli, u inklużi zoni ta' cirkolazzjoni, turgien, "lifts", "toilets", "stores" u kmamar oħra ancillari, huwa ta' cirka 12,800 metri kwadri.

L-esponent jinnota illi meta saru l-accessi, is-segwenti spazji kummercjali kienu mikrija u uzati:

Livell -1: Supermarket li jokkupa is-sular shih;

Livell 0: 7 hwienet

Livell Intermedjarju: 2 hwienet

Livell +1: 8 hwienet.

Hwienet oħra f'dawn is-sulari deheru illi kienu sejrin jifthu fi zmien qasir.

5.2 Livelli għal-"Parking":

Il-livelli -2, -3 u -4 qieghdin għal-parking ta' vetturi tal-klienti, izda jakkommodaw ukoll diversi "plant rooms" u "stores", partikolarment fil-livell -2. Dawna s-sulari huma accessibbli permezz ta' turgien u 6 "lifts".

In-numru ta' vetturi illi jistghu jigu pparkjati huma:

Livell -2: 36

Livell -3: 62

Livell -4: 66.

Għalhekk total ta' cirka 164 il-vettura jistghu jipparkjaw f' dawna s-sulari.

L-esponent innota illi l-magħor parti ta' dawna s-sulari huma attrezzi b' sistema elettroika illi tiddistingwi bejn il-"parking bays" illi huma vojta u dawk illi huma uzati.

L- "area" illi tista tintuza f'kull sular huwa ta' cirka 3,200 metri kwadri, u għalhekk l-"area" totali tal-sulari -2,-3 u -4, inkluz "area" ta' parkegg, "plant rooms", rampi, "stores", "lifts" u tarag etc huwa ta'cirka 9,600 metri kwadri.

5.3 Livelli Residenziali:

Il-livelli +2, +3 u +4 jikkonsistu f' livelli ta' appartamenti, mibnija madwar bitha ta' daqs konsiderevoli. Dawna l-appartamenti ghalhekk jieħdu dawl u arja min dina l-bitha u minn btiehi interni, hlief għal 13 l-appartament illi apparti mill-bitha centrali għandhom twieqi jghatu għal fuq Triq San Guzepp, u 6 oħra illi għandhom twieqi jghatu għal fuq Triq Patri Magri.

B' kollox hemm 37 appartament, illi huma accessibbli minn tarag u "lifts"; skond Andrew Vaswani, 30 minn dawna l-appartamenti kienu mikrijin meta saru l-accessi, għalkemm l-esponent ma setax jara evidenza ta' residenti.

L-appartamenti jikkonsistu f' 23 appartament bi 3 kmamar tas-sodda, 9 appartamenti bi 2 kmamar tas-sodda, u 5 appartamenti b'kamra tas-sodda waħda.

L-appartamenti huma mibnijin bil-"bricks", bil-faccati miksijin, u b'soqfa tal-konkos. Il-kostruzzjoni tat-tliet livelli hija lesta izda li-stat ta' tlestija tal-"finishing" iwarja, minn appartamenti illi għadhom fi stat "shell" għal oħrajn illi huma fi stat avvanzat ta' tlestija u għal oħrajn illi huma kompletament lesti.

Il-kwalita' tal-"finishes", jew lesti jew ipplanati, hija waħda tajba, bil-hitan miksijin bil-gibs, l-art bil-madum taċ-ceramika, bibien ta' barra tal-injam solidu, u aperturi tal-aluminium.

Il-bitha centrali hija pplanata illi tkun imsebbha b'sigar u xtieli, izda meta sar l-access dan ix-xogħol ma kienx għadu sar u għalhekk il-bitha kien għad għanda aspett ta' sit ta' kostruzzjoni.

6. Cnus

Il-propjeta hija rrapportata illi hija libera minn cnus hlief għas-segwenti cnus, annwi u perpetwi, illi kienu dovuti fuq il-propjetajiet originali illi kienu jokkupaw is-sit:

Eur 1.16 dovut fuq bicca art fi Trejjet San Pietru;

Eur 69.88 dovut fuq nru. 38 u nru.40 Triq Parti Magri.

7. Ritratti tas-sit

Diversi ritratti huma annessi ma' dana r-Rapport u mmarkati hekk:

Dok AV 4: Faccata fuq Triq San Guzepp

Dok AV 5: Faccata fuq Triq San Guzepp

Dok AV 6: Faccata fuq Triq Patri Magri

Dok AV 7: Faccata fuq Trejjet San Pietru

Dok AV 8: Livell 0

Dok AV 9: Livelli 0, Intermedjarju, u +1

Dok AV10: Livelli +2, +3 u +4 Bitha Centrali
 Dok AV11: Livelli +2, +3 u +4 Bitha Centrali
 Dok AV12: Appartament fi stat komplut, Livell +2
 Dok AV13: Appartament fi stat Komplut, Livell +2
 Dok AV14: Appartament fi stat "Shell", Livell +4
 Dok AV15: Livell ta' Parkegg -4
 Dok AV16: Livell ta' Parkegg -2

ILLUM 02-12-19
 DEHER IL-PERIT LEGALI/TEKNIKU...
 532451 M... LI HALEF LI QEDA FEDELMENT
 U ONESTAMENT L-INKARIGU MOGHTI LILU
 Gaetana Aquilina
 Deputat Registratur
 DEPUTAT REGISTRATUR
 Qrati tal-Gustizzja (Malta)
 Law Courts (Malta)

8. Dokumenti tar-Registru tal-Artijiet

Il-mappa tar-Registru tal-Artijiet bil-fond immarkat, u l-"Eighth Schedule" huma annessi.

9. Valuatazzjoni

Wara illi ikkonsidera il-lokazzjoni tal-fond, l-użu permess, id-daqs u t-tqassim kif ukoll il-kondizzjoni tiegħu, l-esponent huwa tal-opinjoni illi l-valur tat-tliet partijiet tal-fond huwa ta' circa:

1. Parti Kummercjali (Livelli 0, Intermediarju, -1 u +1):
 Wara konsiderazzjoni tal-lokazzjoni, tat-tul tal-faccata principali, tal-prezenza ta' "parking" faċli, tad-daqs, tal-kwalita' tal-ippjanar u tal-"finishes": Eur 19,000,000
2. Parkegg (Livelli -2, -3 u -4): Eur 3,100,000
3. Parti Residenzjali (Livelli +2, +3 u +4):
 Wara konsiderazzjoni tal-lokazzjoni, tal-ippjanar madwar bitha centrali, tan-numru tal-appartamenti, tal-kwalita' tal-"finishes", tal-istat ta' tlestija tal-appartamenti u tal-bitha centrali meta saru l-accessi: Eur 5,700,000.

Għalhekk fi-opinjoni tal-esponent il-valur tal-fond kollu huwa stamat illi huwa ta' circa Eur27,800.000 (seba u ghoxrin miljun u tmien mitt elf ewro).

Tant għandu l-unur li nissottometti għal-konsiderazzjoni tal-Onorabbli Qorti.



Anton Valentino
 BA(Arch) BArch(Hons) MSc RIBA A&CE

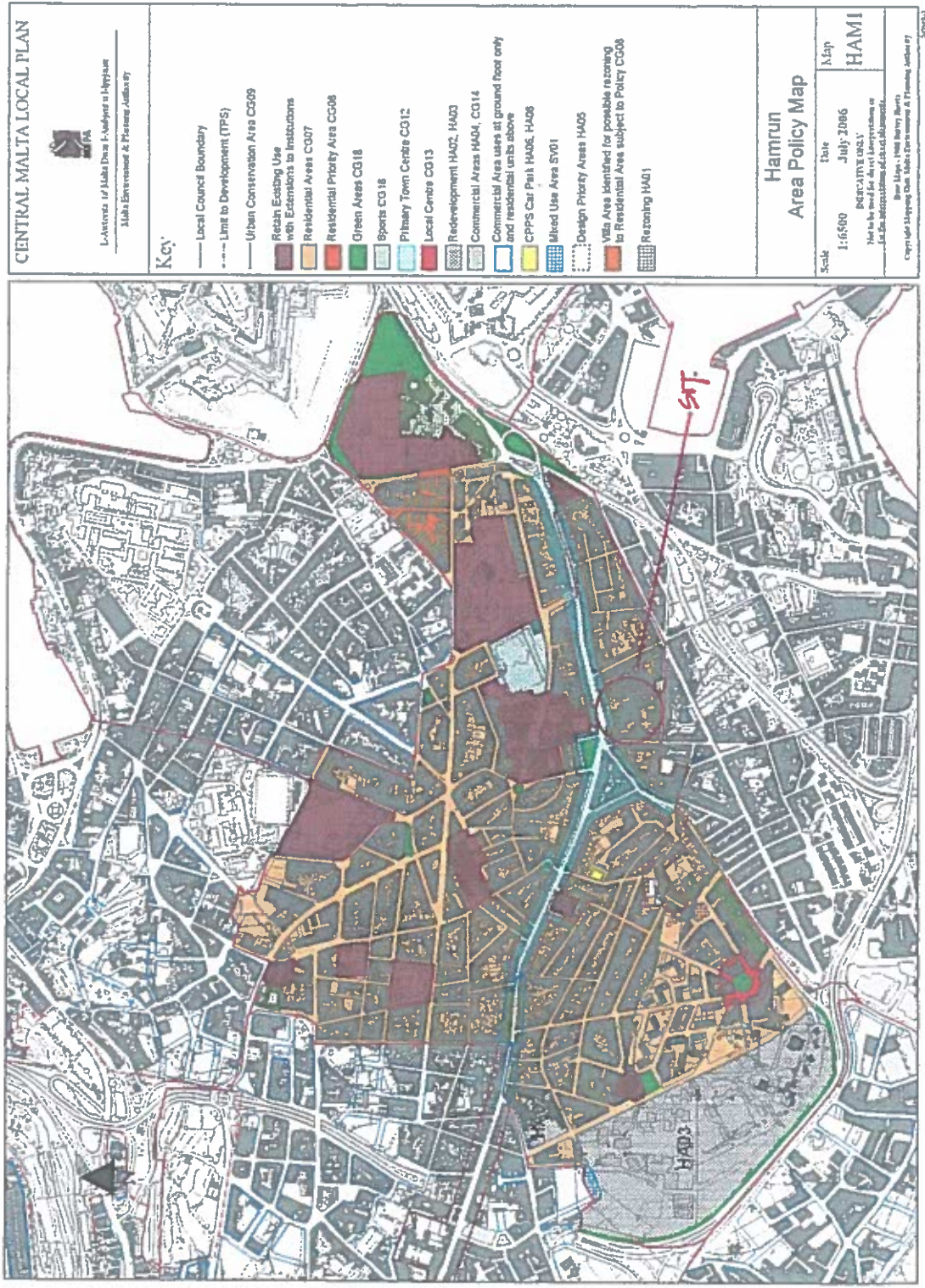
14.11.2019


 Annalise Spiteri
 Deputat Registratur
 Qrati tal-Gustizzja (Malta)

Illum 15 NOV 2019

Ipprezentata mill Alc Anton Valentino

B/Bla dok Syllax (16) dokumenti



CENTRAL MALTA LOCAL PLAN



Local Plan is Subject to Approval
Malta Environment & Planning Authority

Key

- Local Council Boundary
- Limit to Development (TPS)
- Urban Conservation Area CGO9

- Within UCA**
(Without semi-basement)
- 2 Floors
 - 3 Floors
 - 3 Floors Plus 1 Receded Floor CG06

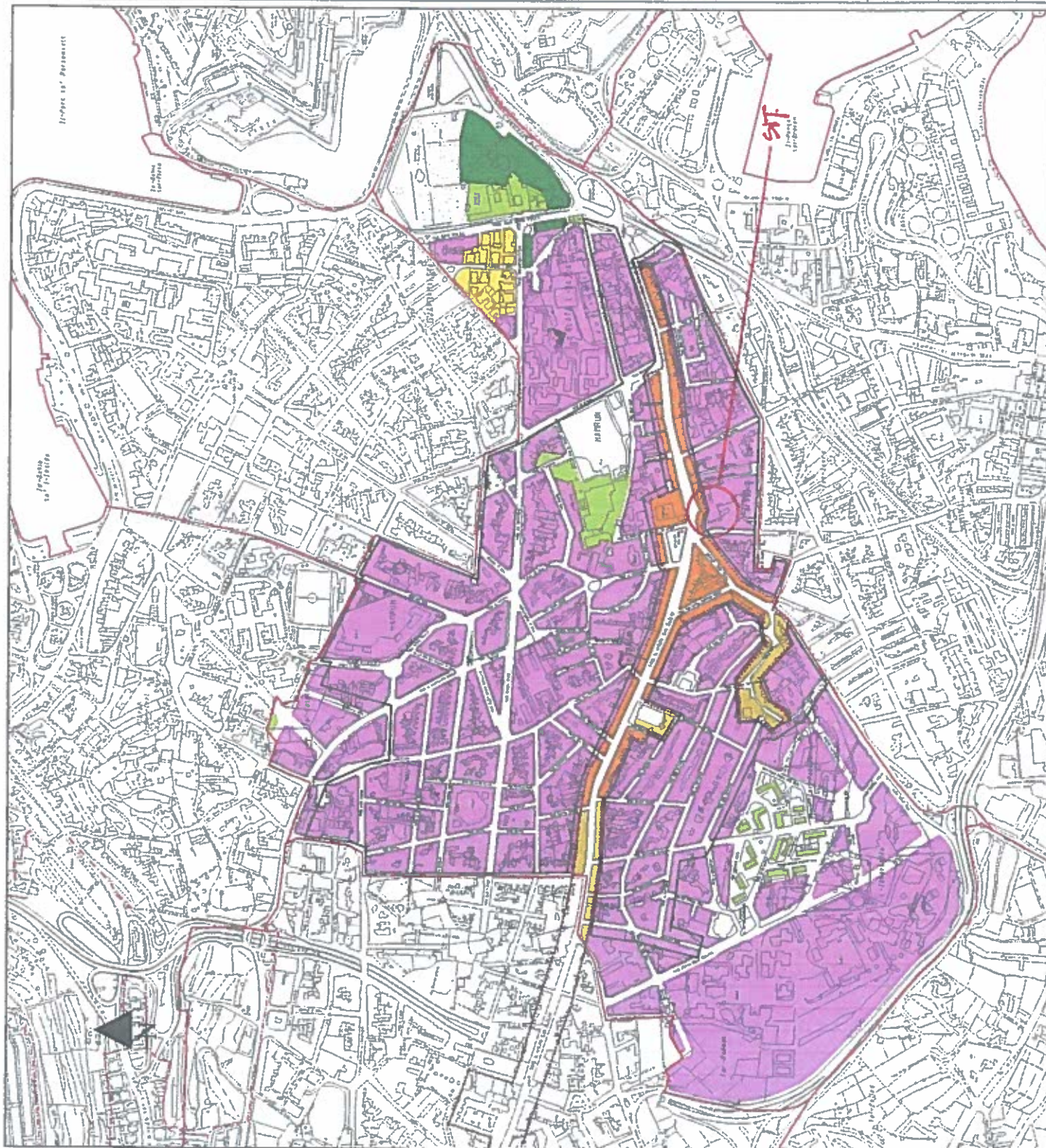
- Outside UCA**
- 1 Floor without semi-basement
 - 2 Floors plus semi-basement
 - 3 Floors plus semi-basement
 - No semi-basement within area enclosed by black line
 - 4 Floors without semi-basement
 - 5 Floors without semi-basement

Hamrun Building Height Limitations Map

Scale: 1:5000
Date: July 2006
Map: HAM3

INDICATIVE ONLY
Not to be used for direct interpretation or for the interpretation of other documents.

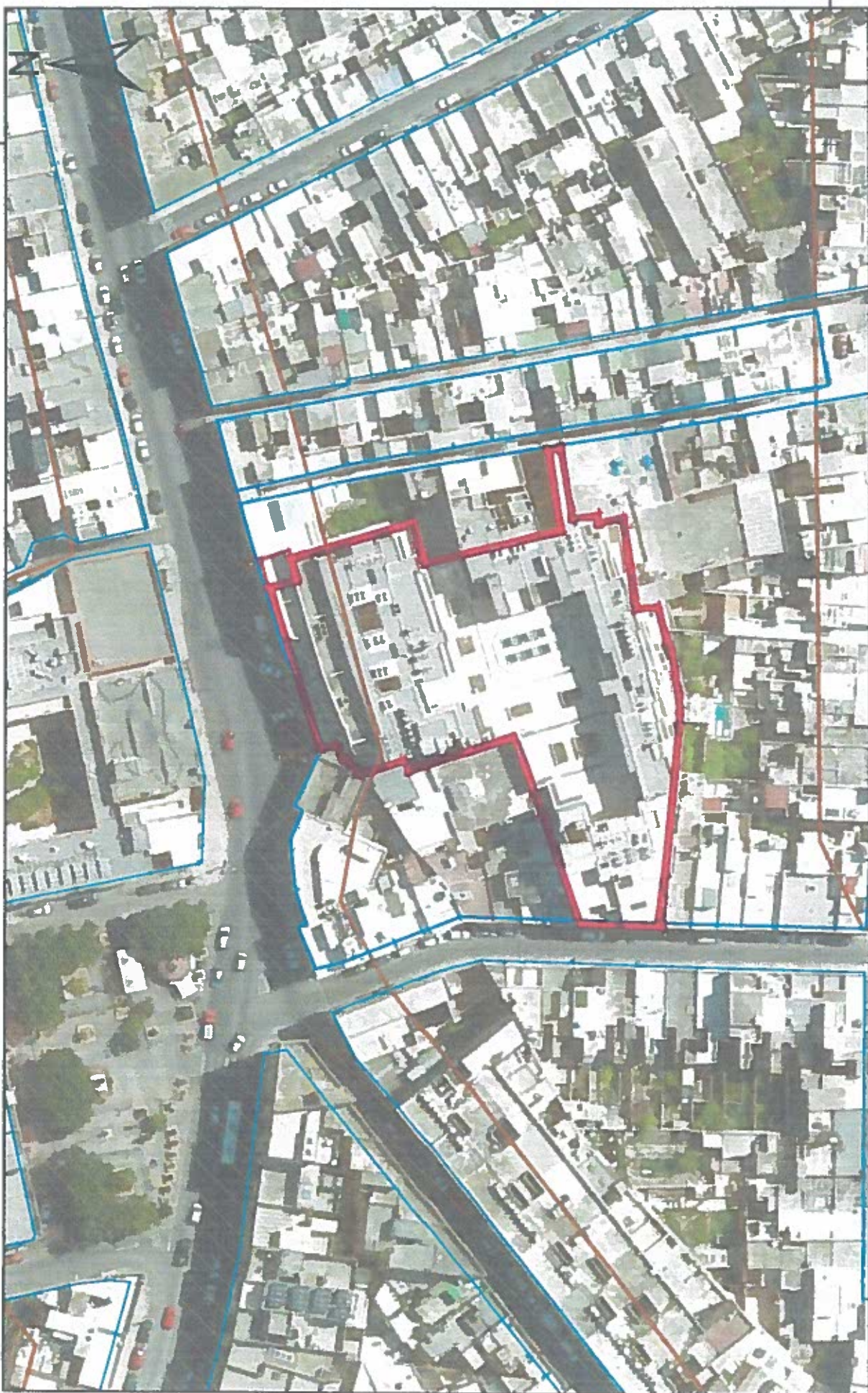
Base Map: 1988 Survey Sheet
Copyright Mapping Unit, Malta Environment & Planning Authority



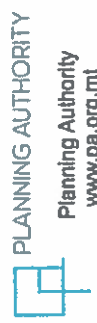
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PLANNING AUTHORITY
Planning Authority
www.pa.org.mt

Date Printed: 09/11/2019



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Data Captured from: 1988, 1994, 1998, 2004 & 2008 aerial photography and updates from 2012 orthophotos.
Truncated U.T.M. Coordinates. Levelling Datum M.S.L. (Mean sea level). Contours when shown are at 2.5m vertical interval. Not to be used for interpretation or scaling of scheme alignments
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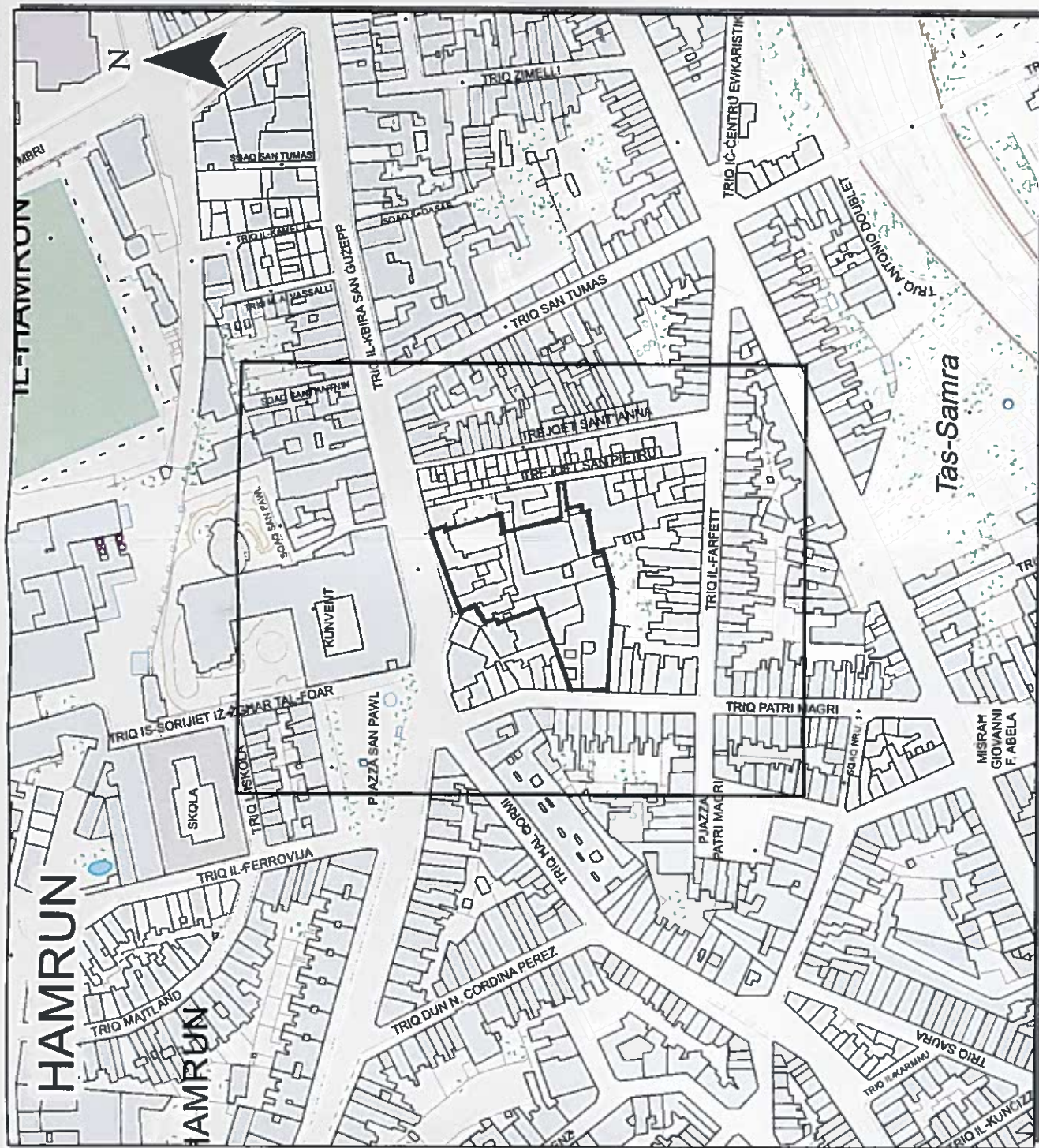
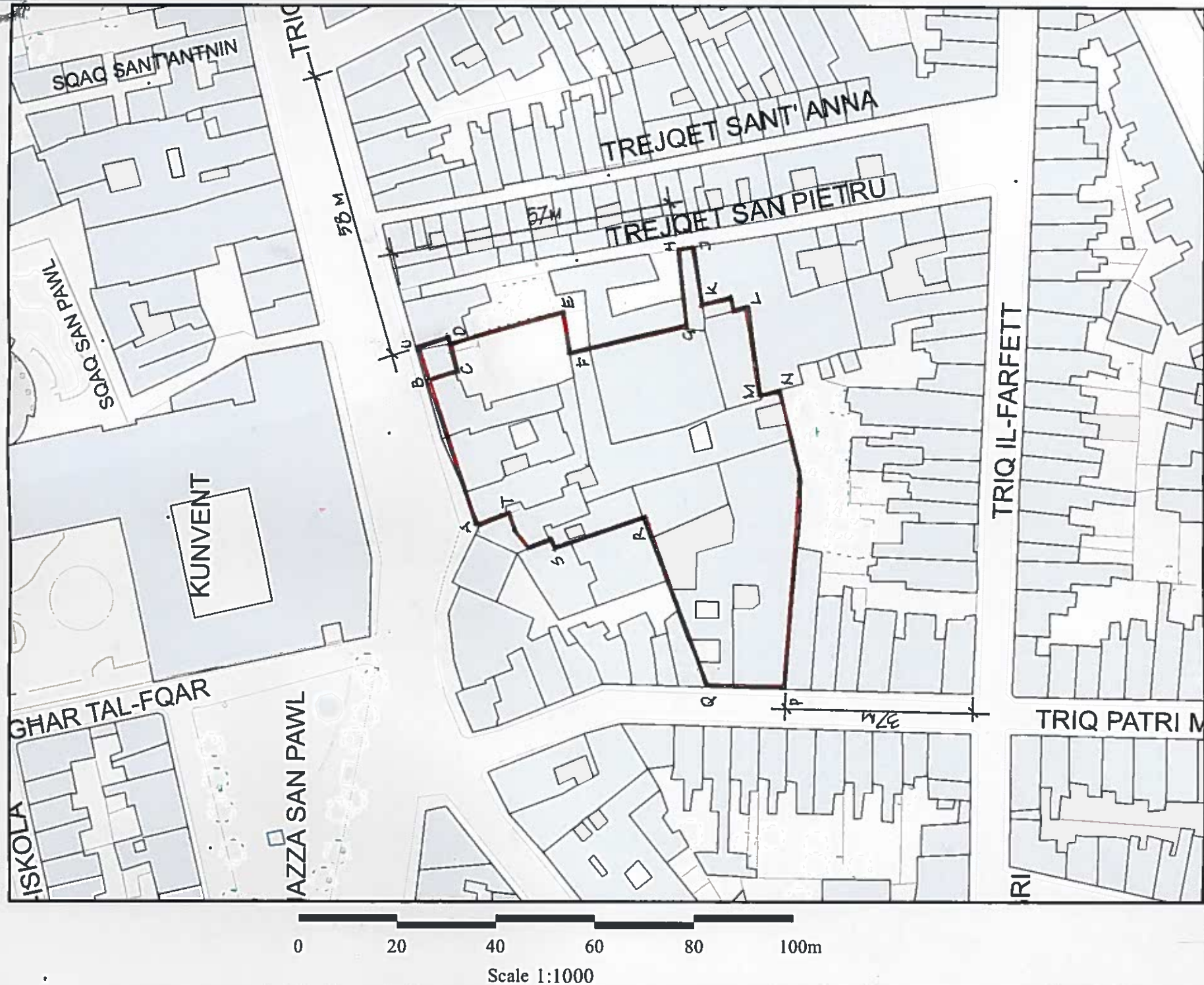












Gvern ta' Malta

Pjanta tas-Sit 1:2500 Site Plan

Government of Malta

Registru ta' l-Artijet

Land Registry

Casa Bolino, 116, Triq il-Punent, Valletta

Nru tal-Mappa: 14017 E

Pozizzjoni Centrali: x = 54152

Map Number:

Centre Coordinates: $y = 71568$

Perit:

Summary.

Qies (metri kwadri):

Area (square metres):

DANIEL'S SHOPPING AND RESIDENTIAL COMPLEX TUDOR SAN GUZEPP, HAMRUN
OWNERSHIP AT LEVEL 0 : ABCDEFGHJKL MNPQRSTA
OWNERSHIP AT OVERLAPPING AND UNDERLAPPING LEVELS : AUBDEFGHJKL MNPQRSTA

Timbru tal-Perit:
Architect's Stamp:

Anton Valentino
rch), BArch(Hons), MSc, RIBA, A&CE

OWNERSHIP AT LEVEL 0 : ABCDEFGHJKLMNPQRSTA
Scale 1:1000
OWNERSHIP AT OVERLAPPING AND UNDERLYING LEVELS : AUBDFGHIJKLMNPQRSTA

31 Madiena Road, Madiena, Malta

00356 99403744

antonvalentino@onvol.net

Dritt imhallas
Fee Paid

LR 134402

**PART III
EIGHTH SCHEDULE**

Physical Attributes of Immovable Property

Locality HAMRUN

Address "DANIEL'S SHOPPING AND
RESIDENTIAL COMPLEX"
TRQ SAN GUEPP

Total Footprint of
Area Transferred * 3510 sq.mt.

Tick where applicable
(Tick one box in each case except where indicated otherwise)

Type of Property	☐ Villa	☐ Semi-Detached	☐ Bungalow	☒ Flat/Apartment	
	☐ Penthouse	☐ Mezzanine	☐ Maisonette	☐ Farmhouse	
	☐ Terraced House	☐ Ground Floor Tenement	✓ COMMERCIAL		
Age of Premises	☒ 0-20 years	☐ Over 20 years	☐ Pre WW2		
	Surroundings	☐ Sea View	☐ Country View	☒ Urban	
		Environment	☐ Quiet	☒ Traffic	☐ Entertainment
☐ Industrial					
State of Construction	☐ Shell		☒ Semi-finished **	☐ Finished ***	
	Level of Finishes	☒ Good	☐ Adequate	☐ Poor	
		Amenities <i>Tick as many as appropriate</i>	☐ With Garden	☐ With Pool	☒ With Lift
☐ No Garage			☐ One Car Garage	☐ Two Car Garage	☒ Multi Car Garage
Airspace	☒ Ownership of Roof		☐ No Ownership of Roof	☐ Shared Ownership	

* Includes all lands and gardens but excludes additional floors, roofs and washrooms

** Includes plastering, electricity, plumbing and floor tiles

*** Includes ** plus bathrooms and apertures

Date: 9.11.2019

Perit's Signature: 

Warrant Number: 91

Rubber Stamp:

Anton Valentino
BA(Arch), BArch(Hons), MSc, RIBA, A&CE
Architect
31 Madliena Road, Madliena, Malta
00356 99403744
antonvalentino@onvol.net

Fil-Prim Anla tal-Qorti Civili



Subbasta 36/19

TH Construction Limited C-1418;

u
Tal-Hebba Group Limited C-46;

vs.

Mison Investments Limited C-7717
et.

Nola Addizzjoni tal-A/C Anton Valentino

Fil-paragrafu 9 ("Valutazzjoni") tal-Kelazzjoni
datata 14.11.2019, l-aktar sentenza ta' tria
tagħra:

"Għallhekk il-opinjoni tal-esponent il-
valur tal-fond kollu huwa stmat li
huwa ta' Eur 27,000,000 (seba u
għoxrin miljun u tnein mitt elf euro)."


Annalise Spiteri
Deputat Registratur
Qorti tal-Gustizzja (Malta)



19.11.2019.

ANTON VALENTINO A+CE

Illum 19 NOV 2019

Ipprezentata mill A/C Anton Valentino

bla dok/b dokumenti

Illum...