

Fil-Prim' Awla tal-Qorti Civili



Subbasta 7/2021:

HSBC Bank Malta plc

vs.

Yassine Khaled et

Appartament 306, Tower A1, The Three Towers, Triq I-Ibjar, Paola

Relazzjoni tal AIC Anton Valentino

Jesponi bir-rispett:

1. Introduzzjoni

Illi permezz ta' Rikors tal-24 ta' Frar 2021, is-socjeta' HSBC Bank Malta plc esponiet illi:

1.1

Is-socjeta' esponenti hija kreditrici tal-intimati fis-somma ta' mija u tnejn t'elef, mija tlieta u hamsin Ewro u għaxar cent (Eur 102,153.10), oltre l-imghaxijiet legli bir-rata ta' 8% fis-sena, dekorribbli miss 16 ta' Mejju 2019 sakemm isir il-hlas għas-saldu, dovuta b' sentenza tal-Prim Awla tal-Qorti Civili fl-ismijiet "HSBS Bank Malta plc vs. Yassine Khaled u Elsadi Duaa" deciza fis-26 ta' Novembru 2019 (rikors Mahluf numru 703/2019 GM). Dan l-ammont huwa dovut skond kuntratt ta' self fl-attii tan-Nutar Dr Malcolm Mangion datat 28 ta' Frar 2007 permezz ta' liema l-konvenuti ottjenew self minghand is-socjeta' attrici abiex jakkwistaw proprjeta'.

1.2

Illi l-intimati huma propjetarji ta' appartament, minghajr l-arja tiegħu, internament formanti parti mit-torri magħruf bħala Tower A1, liema torri jifforma parti mill-izvilupp magħruf bħala "The Three Towers", u liema appartament huwa sitwat fil-livell numru 3 (Level 3) u mmarkat internament bin-numru 306, għewwa Triq I-Ibjar, Paola, kif ukoll l-uzu tal-partijiet komuni tat-torri A1;

1.3

U illi għalhekk is-socjeta' esponenti titlob illi l-Onorabbli Qorti tordna l-bejgh bl-irkant tal-propjeta' kif deskritta, tappunta espert tal-Qorti biex jeccedi

fuq il-post u jaghmel il-valutazzjoni tieghu, u biex tordna l-bejgh bl-irkant tal-propjeta imsemmija.

Illi fit-1 ta' Marzu 2021 l-Onorabbli Qorti laqghet it-talba tas-socjeta' rikorrenti, u ordnat illi jigi mahtur Arkitekt u Inġinier Civili bhala espert sabiex jghamel stima tal-propjeta immobbli, inkluzi ritratti tal-fond, pjanta tar-Registru tal-Artijiet, pjanta tal-iskema tal-Awtorita' tal-Ippjanar u r-ragunijiet tal-valutazzjoni.

Illi l-esponent gie mgharrat mid-Deputat Registratur b'ittra ricevuta fit-23 ta' Marzu 2021 illi huwa gie mahtur bhala espert ghal dana l-ghan.

2. Deskrizzjoni tal-fond

Il-fond identifikat fir-Rikors tat- 28 ta' Frar 2021 kien akkwistat meta kien ghadu "shell form" mill-konvenuti permezz ta' kuntratt fl-atti tan-nutar Dr Malcolm Mangion datat 28 ta' Frar 2007, mill-kumpanija "Samirjess Limited" (C 30716), bl-uzu ta' self mill-HSBC Bank Malta plc.

L-esponent acceda fuq il-post, wara notifika permezz ta' ittra rregistrata, fil-5 ta' April 2021 izda ma thallix jidhol peress illi wiehed mill-okkupanti kien marid. Ghalhekk l-esponent acceda ghat-tieni darba fid-9 ta' April 2021.

Il-fond jinstab fit-tielet livell (Level 3) ta' Tower A1, wiehed minn tliet torrijiet mibnijin bejn is-snin 2005 u 2008 fuq sit li jikkupa blokk shiha, liema blokk hija mdawra bit-toroq Triq l-Ibjar, Triq l-Arkata, Triq Ninu Cremona u Triq il-Kanonku Karm Bologna.

L-izvilupp illi Tower A1 jifforma parti minnu jikkonsisti fi tliet livelli ta' "parking" sotterranei, li parti minnhom huma ghola mil-livell tat-triq bl-ghola parti tkun fuq in-naha ta' Triq l-Arkata, Livell 0 ("raised Ground Floor") illi jikkonsisti f'ufficini ta' Transport Malta, u diversi sulari residenzjali; Torri A1 ghandu 12 il-sular residenzjali fuq il-"Ground Floor", u l-ghola Torri ghandu 17 il-sular.

Tower A1 jinstab fuq in-naha tal-Majjistral tas-sit, u l-entrata tieghu tinstab fil-kantuniera bejn Triq l-Ibjar u Triq Ninu Cremona (Dok AV1, Dok AV2).

Tower A1 huwa ghandu zewg "lifts" fil-parti l-komuni. Il-partijiet komuni ghandhom "finishes" tajbin, izda fil-gurnata tal-access kienu jehtiegu manutanzjoni normali, inkluz zebgha f'partijiet tal-hitani u tiswija ta' wiehed mill-"lifts".

L-appartament 306 ghandu "gross floor area" interna (kejl inkluzi il-hxuniet tal-hitani esterni u ta' nofs il-hitani komuni) ta' circa 124 metri kwadri, "area" ta' terrazzin accessibbli mil-"Living / Dining room" ta' circa 14.5 metri kwadri, u "area" ta' tliet gallariji miftuha ta' circa 12.5 metri kwadri. Ghalhekk il-qies

("gross floor area") totali tal-fond huwa ta' circa 151 metri kwadri. L-gholi bejn art u saqaf huwa ta' 2.77 metri.

Akkomodazzjoni tinkludi "Living / Dining room", Kcina (separata mill-Living – Dining permezz ta' hajt tal-"gypsum board") u kompluta bl-ghamara "fitted" u "appliances", fliet kmamar tas-sodda, kamra tal-banju u kamra tad-docca "en-suite". Hemm ukoll terrazzin illi taccedi ghalih mill-"Living / Dining room", u fliet gallarijiet miftuha, wahda ghal kull kamra tas-sodda (Dok AV3, Dok AV4, Dok AV5 – pjanti approvati PA 3116/01, fond mhuri bil-kulur ahmar).

Il-fond huwa "freehold".

Il-fond fil-prezent igawdi veduta mit-terrazzin ta' barra l-Living / Dining Room fac-cimiterju tal-Addolorata fil-bogħod u ta' art mhux zviluppata tahtu lejn in-nofs in-nhar (Dok AV6); u tal-parti industrijali tal-Marsa lejn il-punent (Dok AV7), li tinkludi veduta ta' "Green Area" sitwata lejn il-punent fac-cimiterju fil-bogħod, u tas-saqaf ta' "showroom" sitwata lejn il-punent tal-fond, u tas-sistema ta'toroq illi gew mibnija recentament bejn il-Marsa u Santa Lucija.

Il-fond huwa mibni b'hitan tal-"bricks", hlief ghal hajt li jiddividi l-kcina mill-"Living / dining room" li huwa magħmul mill-"gypsum board", u soqfa tal-konkos rinforzati.

L-art fikkonsisti f' madum fac-ceramika griz, hlief ghal-kmamar tal-banju li għandhom madum fac-ceramika ta' daqs izar u kuluriti, u l-hitan u s-soqfa għandhom kisja ta' siment lixx u fibrid abjad. Il-kmamar tal-banju huma kompluti. Il-hitan jidhru li għandhom diversi daqqiet irqaq fil-parti f'isfel tagħhom, probabilmnt rizzultat ta' filqit waqt loġħob tat-tfal, u għalhekk il-kisi għandu bżonn ta' restawr. Is-saqaf tal-kamra tas-sodda principali għandu tebghat ikkawzati bl-ilma li skula fil-passat mill-appartament sovrastanti, liema tebghat huma nixfin u għandhom bżonn jerghu jinzebgħu. Il-madum huwa f'kondizzjoni tajba hlief għal xi madumiet fil-kamra tal-banju li huma mixquqa.

Hemm zewg "airconditioners" fl-appartament.

Ritratti f' Dok AV8 u AV9 juru il-Living / Dining room u l-Kcina.

3. Permessi tal-Awtorita' tal-Ippjanar

Iz-zona fejn jinstab il-fond hija mhurija fis-South Malta Local Plan tal-Awtorita' tal-Ippjanar. Il-pjanta PA2, "Paola South West Policy Map", tindika illi s-sit (immarkat b'kulur ahmar) (Dok AV10) jinstab f'zona indikata bhala "Residential Area", soggetta għal-Policy SMHO 02, li tippermetti diversi uzi:
"Residential;
Residential Institutions;
Hostels;
Small Shops;
Supermarkets;

Offices;
Non-Residential Institutions;
Educational Facilities;
Business and Light Industry;
Taxi Business."

Iz-zona fit-tramuntanta u l-ivant tas-sit hija wkoll "Residential Area" bl-istess possibilitajiet. Iz-zona fin-nofs in-nhar tas-sit, illi t-terrazzin tal-fond ihares fuqu, u illi bhalissa jikkonsisti f'art mhux zviluppata, huwa indikat ghal "Commercial Area / Retail Park", koperta mil-Policy SMCM 06 li tippermetti diversi uzi:

"Dwelling units on upper floors;
Small shops;
Supermarkets;
Showrooms;
Offices on upper floors;
Sale of food and drink;
Business and light industry;
Storage facilities;
Taxi business;
Sale of motor vehicles;
Sale of fuel;
Cleaning of clothes".

Iz-zona lejn il-punent tas-sit, li fuqa bhal issa hemm "showroom" tal-kmamar tal-banju, huwa mmarkat bhala "Area of Mixed Use", soggett ghal-Policy SMPA 09, li tippermetti l-uzi segwenti:

"Dwellings;
Retail;
Offices;
Storage;
Showrooms;
Supermarkets".

Iz-zona fejn jinstab is-sit, kif ukoll iz-zoni kummercjali imsemmija fil-madwar, huma koperti mil-Pjanta PA3, "Paola Building Heights" (Dok AV11), li timponi illi l-gholi massimu ta' bini ghandu jkun ta' "3 floors plus Semi-Basement", illi kif interpretat mil-Policy Document DC15 ifisser gholi massimu ta' 17.5 metri. Dana jfisser illi, sakemm il-Policies tal-Awtorita' tal-Ippjanar ma jinbidlux, l-gholi tal-bini ta' madwar il-fond, inkluz dak tas-"showroom" ezistenti, jista jilhaq jew jissupera l-gholi tal-livell tal-istess fond, u ghalhekk il-veduta lejn ic-cimiterju tista tigi nieqsa, izda tibqa l-veduta lejn iz-zona lejn il-punent tac-cimiterju li hija mmarkata fuq il-mappa PA1 tal-Pjan Lokali bhala "Green Area".

It-torrijiet illi jiffurmaw it-"Three Towers" inbnew bejn l- 2005 u l-2008 wara li hareg il-permess tal-Awtorita' tal-Ippjanar PA 3116/01, decizjoni tat- 2 ta' Settembru 2004. Ghalhekk dan il-permess hareg qabel il-pubblikazzjoni tal-"Local Plans" fl-2006, u qabel ma harget il-policy tal-Awtorita' fuq "Floor Area Ratio" fl-2014, li formalment bdiet tippermetti bini ta' torrijiet bil-kondizzjoni illi jkun hemm spazju apert ta' certu daqs madwar l-izvilupp.

L-appartament 306 fit-Torri A1 inbena skond il-pjanti approvati, ghal-kemm inbena hajt tal-"gypsum board" li jissepara il-kcina mis- "sitting / dining room". Dan il-hajt huwa permiss mil-ligi tal-lppjanar, peress illi huwa "permitted development" taht Class 1 tal-AL 211/16.

4. Dokumenti tar-Registru tal-Artijiet

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

5. Valuatazzjoni

Wara illi ikkonsidera il-lokazzjoni tal-fond, id-daqs u t-tqassim u l-kondizzjoni tieghu, kif ukoll il-limitazzjonijiet tal-veduti kif diskussi, l-esponent huwa tal-opinjoni illi l-valur tal-fond huwa ta' **Eur 205,000 (Mitejn u hames telef euro)**.

Tant ghandu l-unur li nissottometti ghal-konsiderazzjoni tal-Onorabbli Qorti.

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

15.04.2021

19 APR 2021

Il-lum.....

l-prezentati mill- Anton Valentino

B/Bla dok 11 dokumenti

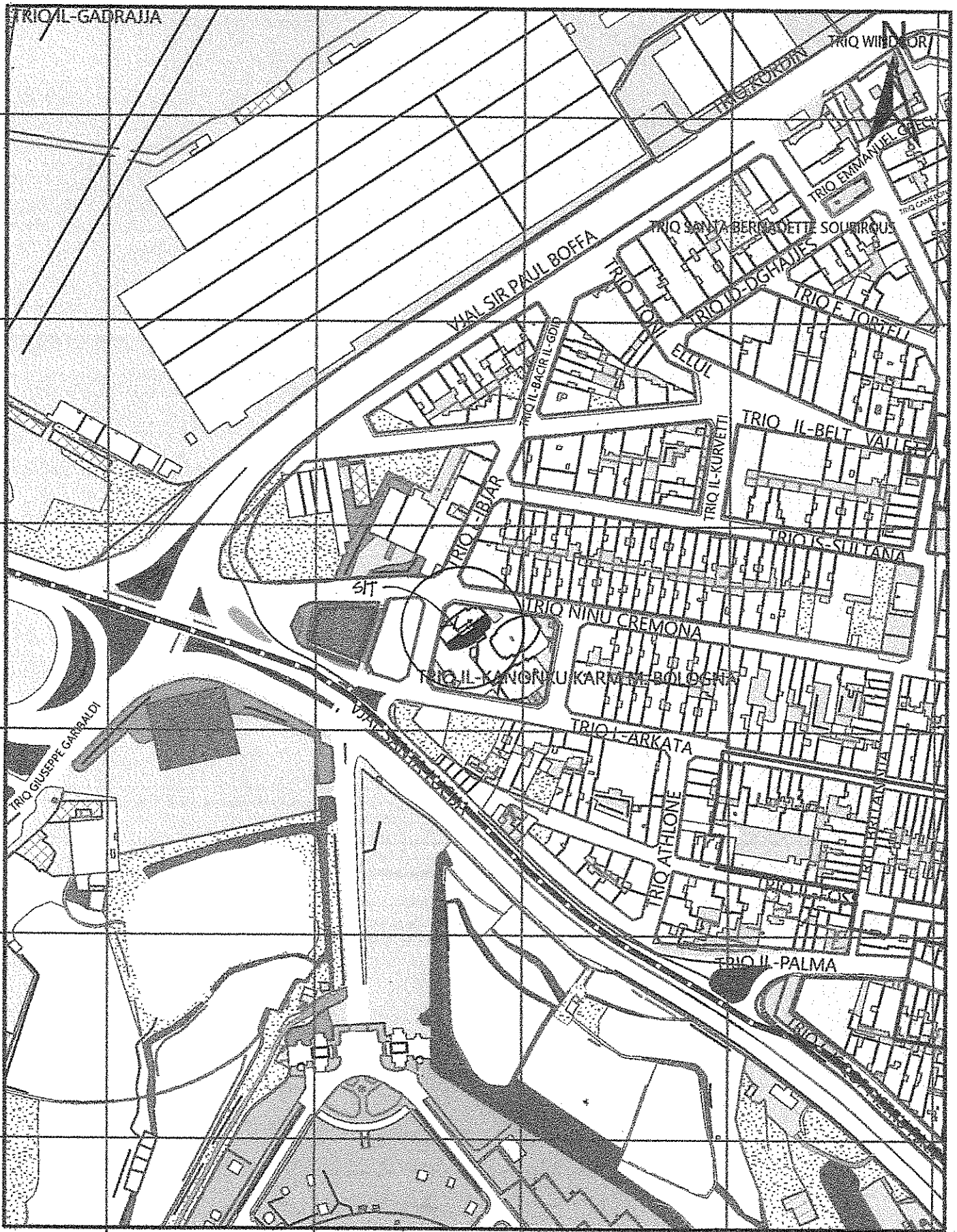
ILLUM 29 ta' April 2021

Anton Valentino

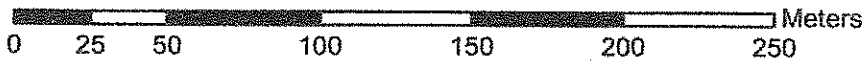
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DEPUTAT REGISTRATUR

Anzaise Sallari
Deputat Registratur
Grati tar-Guvernazzjoni (Malta)



54800 54900 55000 55100 55200



1:2,500

Date Printed: 10/04/2021

Public Geoserver

PA

Dok AVI



Dok AV2



Dok AV6



DOK AV7



DOK AV 8



DOK AV9

SOUTH MALTA LOCAL PLAN



L-Awtoritàà ta' Malta Dinjar L-Ambjent n Il-Pjanjar
 Malta Environment & Planning Authority

Key

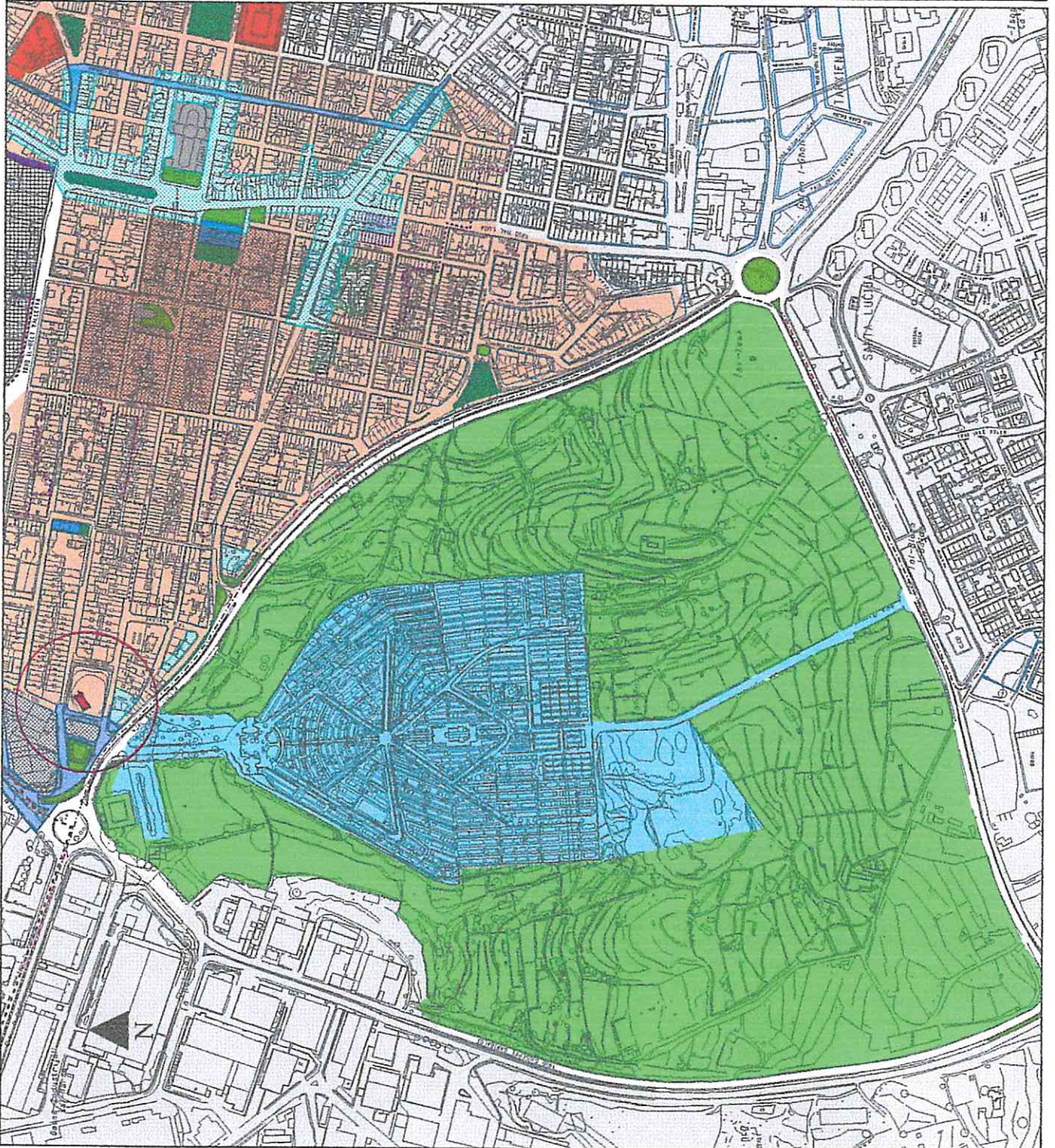
- Limits to Development
- Scheme Alignment
- Local Plan Boundary
- Urban Conservation Area - SMCO 01
- Residential Area - SMBO 02, SMSE 04
- Residential Amenity Improvement Action Area - SMBO 01
- Primary Town Centre - SMCM 01
- Aldoborola Cemetery, Parking and Access Road
- Church, Chapel
- Educational Facilities - SMBO 03
- Social & Community Facilities - SMFA 05, SMBO 04
- Area of Mixed Use - SMFA 09
- Commercial Area / Retail Park - SMCM 06
- Corradino Correctional Facility
- Strategic Open Gap - SMCO 10
- Public Urban Open Space - SMSE 04
- Green Area - SMSE 04
- Open Space Enclaves in UGAs - Private Gardens - SMA 10
- Relocation of Flea Market - SMFA 04
- Area Prone to Flooding - SMFU 01
- Archaeological Site - SMCO 04

Paola South West Policy Map

Scale: 1:4500 Date: July 2006 Map: PA 2

Not to be used for measurement or direct interpretation
 Maps to be used in conjunction with Policy Document.

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Dok AV 10

SOUTH MALTA LOCAL PLAN



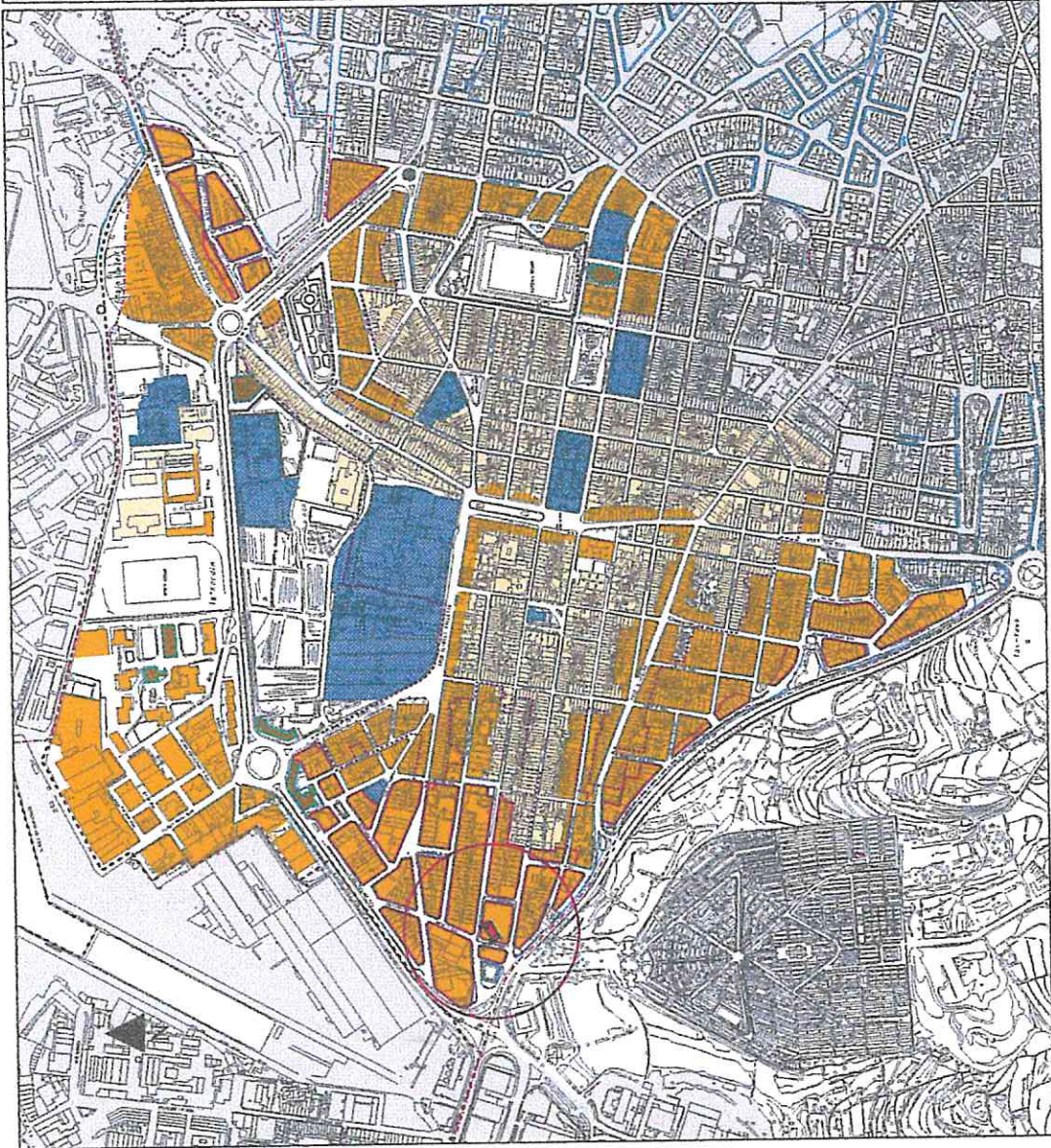
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Midda ta' Ambjent u ta' Pjanjar ta' Ambjent

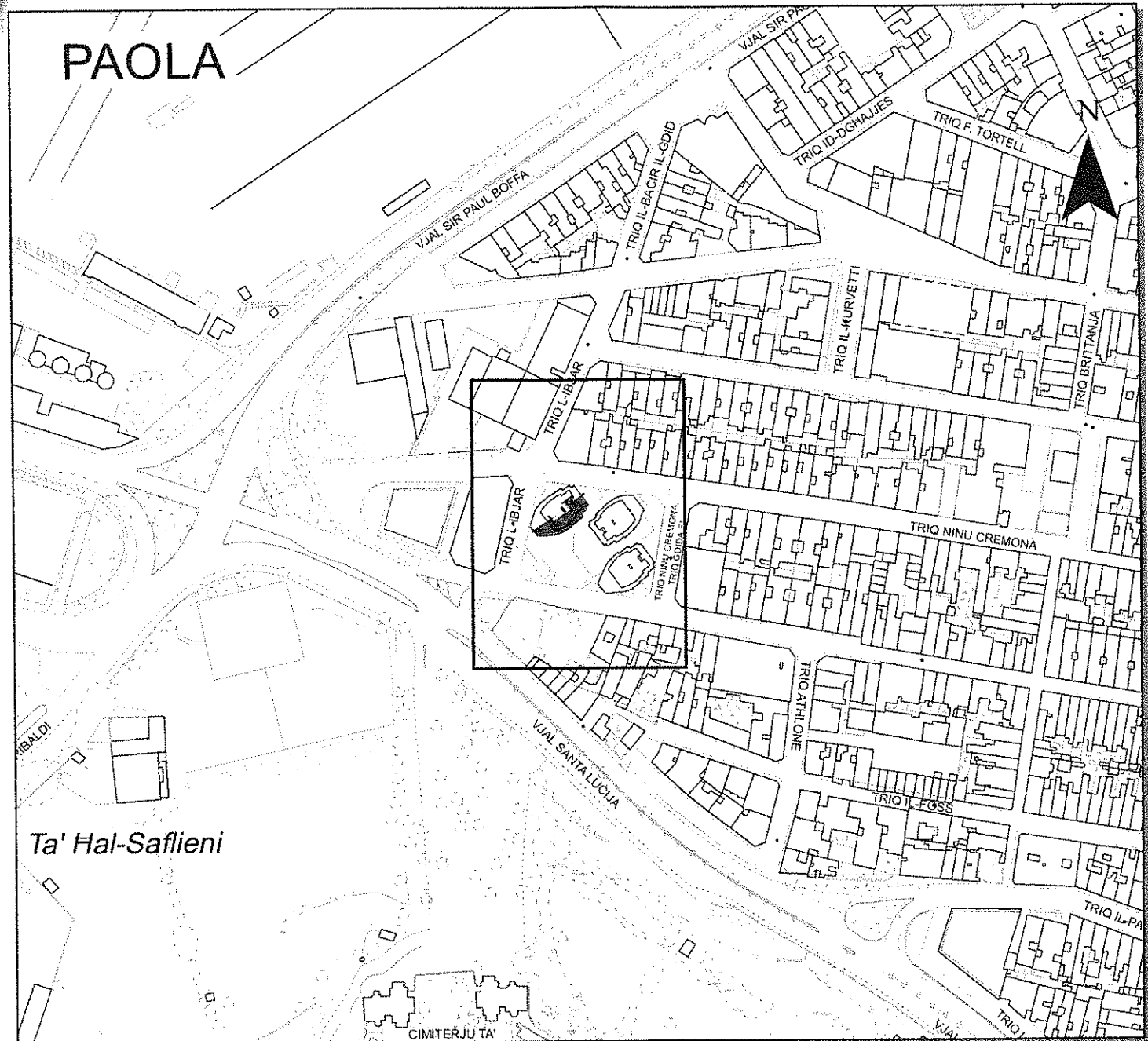
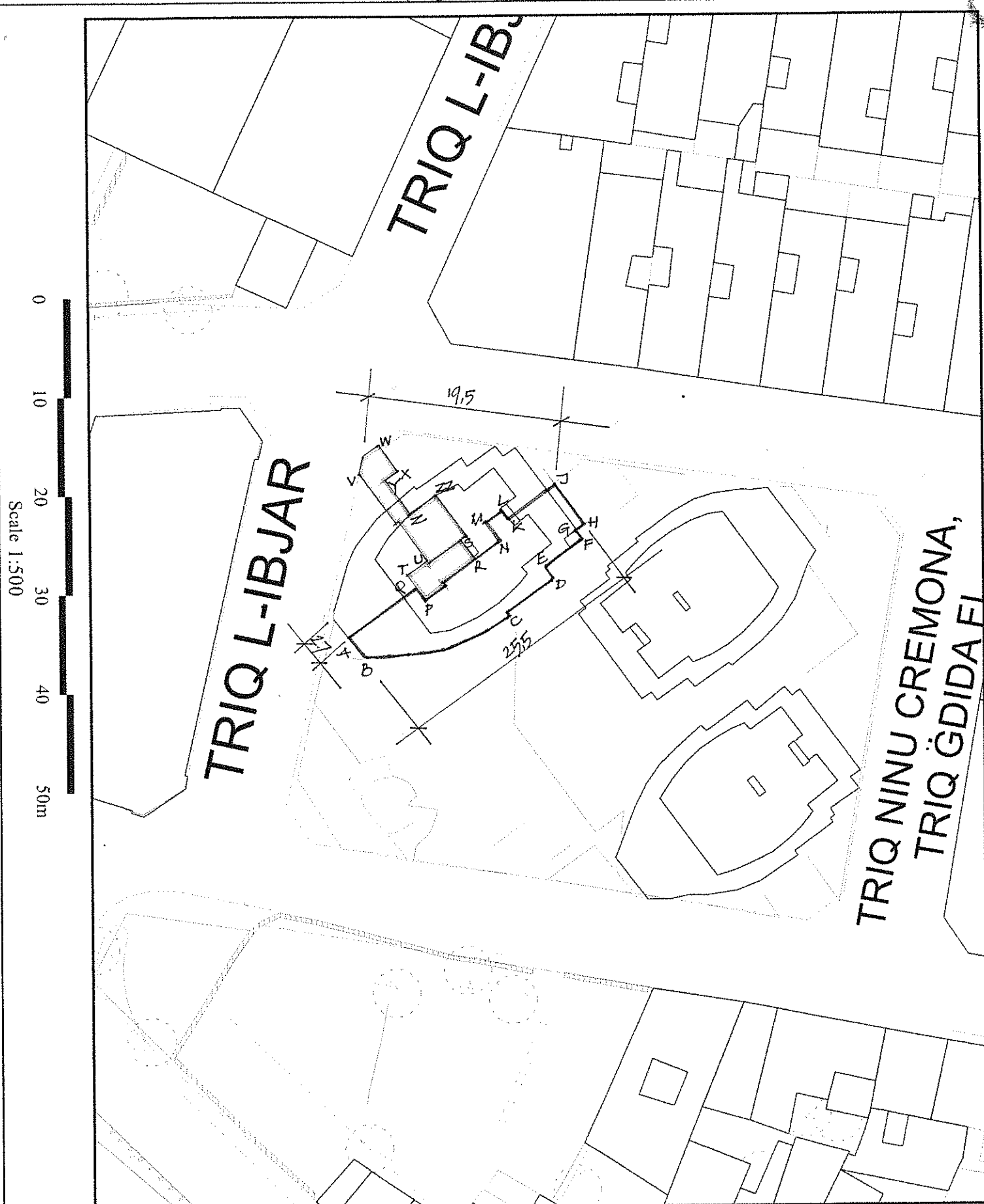
Key

- - - - - Land to Development
- Scheme Alignment
- Local Plan Boundary
- Urban Conservation Area
- 1 Floor
- 2 Floors
- 3 Floors plus basement - subject to Policy SAK00-01
- 4 Floors plus semi-basement
- 5 Floors plus basement
- Not to exceed existing height
- As per Policies SAKPA 05 & SAKPA 06

Remarks: Height limitations shall not be applicable to mandatory green spaces, urban open spaces, courtyard, front or back gardens or other open space ancillary to urban development.

Paola	
Building Heights	
Scale: 1:5500	Date: July 2016
Map: PA 3	
<p>Not to be used for measurement or direct interpretation Maps to be used in conjunction with Policy Document Date: 2016 - from survey sheets copyright: Department of Planning Authority Paola Building Heights Map 2016</p>	





Pjanta tas-Sit 1:2500 Site Plan

306, TOWER Δ1, THE THREE TOWERS, TRIQ L-IBJAR, PAOLA
 Scale 1:500

OWNERSHIP AT LEVEL +3 : ABCDEFGHJKLMNOPQA
 COMMON AREA AT LEVEL +3 : RSTPR
 COMMON AREA AT LEVEL 0 : RPTUVWXYZZZSR

Aġenzija ghar-Registrazzjoni tal-Artijiet
 116, Casa Bolino, Triq il-Punent, Il-Belt Valletta



Land Registration Agency
 116, Casa Bolino, Triq il-Punent, Il-Belt Valletta

Nru tal-Mappa: Map Number:	207588 E	Pożizzjoni Ċentrali: x = 54980 Centre Coordinates: y = 70144	Parti min S.S.: Extracted from S.S.:	5470	Data: 09/04/2021 Date:
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Perit:
Architect:

Anton Valentino

Timbru tal-Perit:
Architect's Stamp:

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

Qies (metri kwadri):
Area (square metres):

151
 INCLUDING TERRACES

Firma ta' l-Applikant:
Applicant's Signature:

LR 202916

Dritt imhallas
Fee Paid



EIGHTH SCHEDULE

PHYSICAL ATTRIBUTES OF IMMOVABLE PROPERTY	
Locality	PAOLA
Address	APARTMENT 306 TOWER A, THE THREE TOWERS, TRIQ L-IBJAR
Total Footprint of Area Transferred *	151

TICK WHERE APPLICABLE (Tick one box in each case except where indicated otherwise)				
Type of Property	<input type="checkbox"/> Villa	<input type="checkbox"/> Semi-Detached	<input type="checkbox"/> Bungalow	<input checked="" type="checkbox"/> Flat/Apartment
	<input type="checkbox"/> Penthouse	<input type="checkbox"/> Mezzanine	<input type="checkbox"/> Maisonette	<input type="checkbox"/> Farmhouse
	<input type="checkbox"/> Terraced House	<input type="checkbox"/> Ground Floor Tenement		
Age of Premises	<input checked="" type="checkbox"/> 0-20 years	<input type="checkbox"/> Over 20 years	<input type="checkbox"/> Pre WWII	
Surroundings	<input type="checkbox"/> Sea View	<input type="checkbox"/> Country View	<input checked="" type="checkbox"/> Urban	
Environment	<input type="checkbox"/> Quiet	<input checked="" type="checkbox"/> Traffic	<input type="checkbox"/> Entertainment	<input type="checkbox"/> Industrial
State of Construction	<input type="checkbox"/> Shell	<input type="checkbox"/> Semi-Finished**	<input checked="" type="checkbox"/> Finished***	
Level of Finishes	<input type="checkbox"/> Good	<input checked="" type="checkbox"/> Adequate	<input type="checkbox"/> Poor	
Amenities <small>Tick as many as appropriate</small>	<input type="checkbox"/> With Garden	<input type="checkbox"/> With Pool	<input checked="" type="checkbox"/> With Lift	<input type="checkbox"/> With Basement
	<input checked="" type="checkbox"/> No Garage	<input type="checkbox"/> One car Garage	<input type="checkbox"/> Two Car Garage	<input type="checkbox"/> Multi Car Garage
Airspace	<input type="checkbox"/> Ownership of Roof	<input checked="" type="checkbox"/> No Ownership of Roof	<input type="checkbox"/> Shared Ownership	

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

*** Includes ** plus bathrooms and apertures

** Includes plastering, electricity, plumbing and floor tiles

Date: <u>15/4/2021</u>	Perit's Signature: <u></u>
Warrant Number: <u>91</u>	Rubber Stamp: Anton Valentino BA(Arch), BArch(Hons), MSc, RIBA, A&CE Architect 31 Madiena Road, Madiena, Malta 00356 99403744 antonvalentino@onvol.net