IT-TRIBUNAL TAL-BINI U L-KOSTRUZZJONI

Illum is-16 ta' Ottubru, 2025

Rikors numru: BCT/34/2025 CV

Membri:

Avukat Christopher L. Vella L.L.B., Dip. Not., LL.D.(Melit.)
Perit Samuel Formosa B.E.&A.(Hons), M.Sc. Arch.(Lond), M.Sc.(Env.Pln.& Mgt.), A.&C.E.
Inġ. Johan A. Psaila B. Eng. (Hons.), Pg. Dipl. (Brunel)

Vittorio Bonavia

vs

Awtorita' tal-Bini u l-Kostruzzjoni

It-Tribunal

Ra r-rikors tal-appell ippreżentat mill-appellant fejn huwa premetta u talab is-segwenti:

> *-On 11/02/25 I received an email from Mr Sean Mizzi requesting me to take action in regards to "to ensure a safe passage for pedestrians"*
> *-on the same day I tried communicating with Mr Mizzi by phone to discuss best solution for this passage given that excavation works were still ongoing. Telephone operator left a message for Mr Mizzi to call me back. I never received the call.*
> *-on 08/04/25 I received this fine*
> *-on 09/04/25 I called BCA again asking to speak with Mr Mizzi to discuss this matter and to explain that I am still awaiting a call back from him. Again I did not receive this call.*

-on 06/05/25 I received a call from Brandon
-As I explained to Brandon, I never took action on this as I wanted to discuss with BCA what solution is satisfactory and safe before I implement it. I tried communicating with BCA immediately but never got a reply. Excavation works were on-going, so if I had built a temporary concrete pavement along the boundary wall, this would have been broken with the first truck driving over it, leaving an un-even surface where pedestrians should walk from. As soon as the boundary wall was erected, 2 concrete ramps were built to provide access from the pavement to the walk-way (as seen in attached photo). This to me seemed to be providing a safe passage for pedestrians, given that the walk-way is unobstructed and marked by lines of the previous parking bays. Therefore pedestrians do not need to walk on the road where cars are passing.
-All this was explained to Brandon and he suggested that this walkway along the boundary wall is painted in a different colour following approval from the local council. I agreed with this proposal and I am in the process of requesting clearance from the local council.
I feel that the fine imposed on me is unjust as I immediately tried communicating with BCA to collaborate and improve the situation on site if this was **possible.**

Ra r-risposta tal-Awtorita' li permezz tagħha wieġbet u eċċepiet is-segwenti:

1. Illi l-Awtorità appellata qegħda umilment tissottometti li kwalunkwe deċiżjoni meħuda kienet in konformita' ma dak rikjest mil-liġi, u kwindi korretta f'kull aspett;
2. Illi qegħdin jkunu annessi, u immarkata bħala Dok A "Trial of Events" u Dok B ritratti;
3. Għaldaqstant fuq dak suindikat, l-Awtorita' appellata qiegħda umilment titlob lil dan l-Onor. Tribunal sabiex tiċħad l-appell odjern;
4. Salv eċċezzjonijiet ulterjuri.

Ra l-atti u d-dokumenti kollha.

Ra l-verbali tas-seduti kollha li seħħew quddiem it-Tribunal.

Ra d-deposizzjonijiet tax-xhieda kollha li tressqu quddiem it-Tribunal.

Ra li l-partijiet iddikjaraw l-istadju tal-provi tagħhom magħluq.

Semgħa it-trattazzjonijiet finali tal-partijiet.

Ra li l-kawża tħalliet għall-llum għas-sentenza.

Ikkunsidra:

L-appell odjern jitratta avviż ta' infurzar maħruġ mill-Awtorita' intimata nhar it-8 ta' April, 2025 li permezz tiegħu ġiet imposta penali amministrattiva fl-ammont ta' mitejn u ħamsin ewro (€250). Il-bażi tal-penali in kwistjoni hija li kien hemm '*Nuqqas ta' passaġġ sikur quddiem is-sit'.*

In sostenn tal-appell xehed l-appellant inifsu li stqarr li dak mitlub mill-Awtorita' appellata u ċioe, passaġġ permezz ta' bankina, ma setax isir peress li din kienet ser titkisser bit-trakkijiet li kienu meħtieġa li jaċċessaw is-sit.

Sean Mizzi, bħala rappreżentant tal-Awtorita' intimata xehed ukoll f'dawn il-proċeduri u kkonferma li l-bażi tal-multa hija n-nuqqas ta' bankina fis-sit.

It-Tribunal fela il-provi u r-ritratti preżentati mill-Awtorita' intimata.

L-artiklu rilevanti għal din il-penali huwa artikolu 7 tat-Tieni Skeda tal-Avviż Legali :

7. Il-klijent għandu jiżgura li jkun hemm passaġġ sikur quddiem is-sit. Meta jkun hemm ħtieġa ta' ostruzzjoni tal-bankina pedonali waqt ix-xogħlijiet u tkun approvata mill-Kunsill Lokali, għandha tiġi pprovduta bankina pedonali temporanja li fl-ebda ħin m'għandha tkun ostakolata

It-Tribunal wara li qies ix-xhieda mressqa u r-ritratti preżentati iqis li l-liġi hija ċara dwar l-obbligu li għandu żvilupattur. Iqis ukoll li bankina jew forma ta' passaġġ sigur setgħet issir anke minn aspett tekniku u dan billi parti minnha tkun rampa. B'hekk kien jiġi evitat l-inkwiet

li kellu l-appellant f'każ li kien jagħmel bankina. Fin-nuqqas ta' dan huwa evidenti li kien hemm nuqqas ċar ta' passaġġ sigur.

Għaldaqstant it-Tribunal ser jgħaddi sabiex jiċaħd l-appell odjern.

Decide

Għaldaqstant għal dawn ir-raġunijiet kollha msemmija hawn fuq, it-Tribunal qiegħed jilqa' l-eċċezzjonijiet kollha tal-Awtorita' appellate u qed jiċħad l-appell kif magħmul mill-appellant.

********** VERU KOPJA TAL-ORIGINAL **********

Dr Christopher L. Vella	**Perit Samuel Formosa**	**Inġ. Johan A. Psaila**
Chairperson	Membru	Membru