IT-TRIBUNAL TAL-BINI U L-KOSTRUZZJONI

Illum it-18 ta' Ġunju, 2026

Rikors numru: BCT/27/2026

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)

Ethel Grima

Vs

L-Awtorita' tal-Bini u l-Kostruzzjoni

Ra r-rikors ippreżentat permezz ta' email mill-attriċi fejn hija premettiet u talbet is-segwenti:

To whom it may concern,

Good afternoon,

I am writing to respectfully contest the administrative fine issued in relation to the construction site under my responsibility, which was reported as being found open on Sunday 8th March 2026, under Planning Authority permit PA/04209/21.

While it is acknowledged that the site access was found open at the time of inspection, I would like to clarify that the site had been properly secured at the end of the previous working day in accordance with normal site procedures. The access gate had been closed and secured with a padlock before the site was vacated. At no point was there any intention to carry out construction works on a Sunday or to disregard the applicable regulatory requirements. In fact, no works were scheduled, no workers were present, and the site remained completely inactive and unattended during that day.

Immediately after the matter was brought to my attention, I personally attended the site in order to investigate the situation and determine the cause of the issue. Upon inspection, it was discovered that the padlock securing the entrance had been broken, as clearly shown in the attached video. This indicates that the site access had been forcibly opened after it had already been properly secured.

Corrective action was taken immediately on the same day. The damaged lock was replaced with a new code-secured padlock and the entrance was properly secured once again, as illustrated in the attached image.

I would also like to emphasise that every effort is consistently made to ensure full compliance withthe regulations and standards established by the Building and Construction Authority. As the appointed Site Manager, I take these obligations very seriously and always strive to ensure that the site operates in accordance with all applicable rules and safety requirements.

In this particular case, the situation appears to have arisen due to interference by third parties.

Considering the location of the site and the fact that it currently consists of a flat and easily accessible surface, it is possible that the gate may have been forced open

by individuals seeking temporary access, potentially for parking. Unfortunately, such circumstances are beyond the direct control of site management once the site has been properly secured.

Given that the site had been secured at the end of the previous working day, that the lock appears to have been broken by unknown third parties, and that immediate corrective measures were taken as soon as the issue was identified, I kindly request that the Authority reconsider the administrative fine issued in this case.

I trust that the above explanation clarifies the circumstances surrounding the incident, and I remain fully committed to maintaining the highest standards of compliance and site management.

Thank you for your time and consideration.

Yours faithfully,

Ethel Grima

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 n sostenn tal-penali amministrattiva qiegħed jkun anness u mmarkat bħala Dok A – Affidavit tal-uffiċjal tal-Awtorita';*

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 u d-depożizzjonijiet tax-xhieda.

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

Semgħa it-trattazzjonijiet finali tal-partijiet.

Ra li l-kawża tħalliet għal-lum għas-sentenza.

Ikkunsidra:

Dan l-appell jittratta l-imposizzjoni ta' penali amministrattiva fl-ammont ta' ħames mitt ewro (€500) minħabba n-nuqqas ta' sigurtà fuq is-sit ta' kostruzzjoni, speċifikament fir-rigward ta' xtiebi li tħallew miftuħa.

L-appellanti tgħid li hija kienet iżżomm ix-xtiebi msakkra permezz ta' katnazz pero' dakinhar tal-ispezzjoni kien sar sgassar tal-istess katnazz. Hi tgħid li filwaqt li huwa minnhu li fil-mument tal-ispezzjoni is-sit kien miftuħ b'aċċess liberu għal kulħadd, hekk kif irċeviet it-telefonata mill-Awtorita' intimata hija ħadet azzjoni immedjata u reġgħet sakkret is-sit. L-appellanti preżentat ritratti in sostenn ta' dan. L-appellanti tgħid ukoll li dan l-isgass sar minn ħaddiema tas-sit aġjaċenti tagħhom sabiex ikun jista' jsir rimi ta' materjal fis-sit mertu tal-kawża.

Min naħa l-oħra l-Awtorita' intimata preżentat affidavit ta' uffiċjal tal-Awtorita' li permezz tiegħu ġew preżentati li juru biċ-ċar li s-sit kien miftuħ u li x-xtiebi ma kienux msakkra.

It-Tribunal jibda bjiex jirrileva li r-regolament applikabbli li jikkonċerna dan l-obbligu huwa naxxenti mil-Leġislazzjoni Sussidjarja 623.08 fejn ir-regolament numru 6(c) tat-Tieni Skeda jipprovdi testwalment:

> *ftuħ għal aċċess fil-barrikati għandhom jinżammu magħluqa f'kull ħin b'xatbiet u magħluqa u msakkra b'xatbiet meta ma jkun hemm ħadd fuq is-sit, u għandhom jibqgħu jinżammu fil-post sat-tmiem tax-xogħlijiet għas-sodisfazzjon talAwtorità. Dawn ix-xatbiet għandhom ikunu ddiżinjati b'mod li jipprevjenu laċċess pubbliku, speċjalment għat-tfal*

It-Tribunal eżamina l-provi ppreżentati, b'mod partikolari r-ritratti prodotti mill-Awtorita'. Minn dawn ir-ritratti, huwa evidenti li x-xtiebi in kwistjoni kienu miftuħa beraħ, u b'hekk is-sit tħalla mingħajr il-protezzjoni meħtieġa, li toħloq periklu ċar għal terzi.

It-Tribunal, filwaqt li ħa in konsiderazzjoni r-raġunijiet mogħtija mill-appellanti, ma jarax b'liema mod jista' jilqa' l-appell. L-obbligu jibqa' tas-site manager li jara li x-xtiebi jkunu msakkra u ma jħallux aċċess liberu. In-nuqqas li jiġi sigur is-sit huwa ksur dirett tar-regolamenti tas-sigurtà. Konsegwentement, it-Tribunal huwa tal-fehma li l-penali kienet ġustifikata u proporzjonata għan-nuqqas misjub.

Decide:

Għaldaqstant, it-Tribunal qiegħed jiċħad l-appell u jikkonferma d-deċiżjoni tal-Awtorita' tal-Bini u l-Kostruzzjoni ta' nhar id-9 ta' Marzu 2026.

Dr Christopher L. Vella Perit Samuel Formosa Inġ. Johan A. Psaila -