IT-TRIBUNAL TAL-BINI U L-KOSTRUZZJONI

Illum it-18 ta' Ġunju 2026

Rikors numru: BCT/37/2026 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)

Christian Cachia

vs

Awtorita' tal-Bini u l-Kostruzzjoni

It-Tribunal,

Ra l-appell mibgħut mill-Perit Kurt Arrigo li permezz tiegħu huwa talab sabiex id-deċiżjoni tal-Awtorita' ta' nhar it-8 ta' April 2026, li permezz tagħha waqfet it-tkomplija tax-xogħlijiet fis-sit li jinsab fi Kristu Re, 1, 129, Triq il-Qrendi, Żurrieq u kif ukoll imponiet penali amministrattiva ta' elf ewro (€1,000), tiġi revokata fl-intier tagħha. Ir-rikors testwalment jaqra kif ġej:

> *Dear Sir/Madam,*
> *I am hereby formally submitting an appeal in terms of Article 44 of Chapter 623 of the Laws of Malta against the Enforcement Notice with reference BCA/ENF06/0041/2026, dated 08 April 2026, in relation to PA 4158/23.*

This appeal is being filed within the stipulated timeframe of twenty (20) days from notification.

Brief breakdown of events:

1. Clearance to commence works on site was duly issued on 14 January 2026.

2. A Stop Works Order was subsequently issued on 04 February 2026 following an incident on site. All works were immediately halted in full compliance with the said order.

3. On 13 February 2026, a Works Method Statement addressing the removal of danger and mitigation of risks to third parties was formally submitted.

4. The site remained under the control of the Investigating Magistrate until 04 March 2026, during which no works on site were carried out.

5. On 05 March 2026, communication was received authorising the execution of works in accordance with the approved Works Method Statement, to remove danger and prevent damage to third-party property.

6. The architect in charge of the project requested the clearance to continue the demolition works and the re-activation of the site on the 7th of April 2026.

In light of the above sequence of events, it is respectfully submitted that:

• Any works carried out on site following the Stop Works Order were limited to those authorised for safety and risk mitigation purposes. These included the removal of the fallen bobcat, removal of debris around the incident area and as a pre-caution the front rooms slabs were demolished by hand in case this had shifted during the collapse of the machinery and may have moved.

• Such works were undertaken in good faith and in line with instructions and approvals issued by the competent authorities.

• At no point were demolition works carried out unlawfully or without the necessary direction once the Stop Works Order was in force.

• The architect in charge of the project had requested the re-activation of the site on the day of the inspection of the 8th of April when the enforcement was issued. This matter was explained to the BCA officer that once the site had been cleared by the magistrate the clearance of the site should have followed since the initial clearance from the BCA was only issued in January and so the insurance and all the

documentation was still valid and in order. Therefore, full clearance for works should have been issued at that stage.

In view of the above, I respectfully request that the Enforcement Notice and the associated administrative penalty be reconsidered and revoked and the site cleared for works again.

I remain at your disposal to provide any further documentation or clarification required in support of this appeal.
Yours sincerely

Ra r-risposta tal-Awtorita' intimata

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 Dok BCA1 u Dok 274a;
3. Illi jidher ċar li ma kien hemm l-ebda awtorizzazzjoni li jkompli x-xogħol min naħa tal-Awtorita għajr meta kienet ri-attivata tali awtorizzazzjoni;
4. Għaldaqstant fuq dak suindikat, l-Awtorita' appellata qiegħda umilment titlob lil dan l-Onor. Tribunal sabiex tiċħad l-appell odjern;
5. 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 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-appell odjern ġie differit għas-sentenza għal-llum.

Ikkunsidra:

L-appell odjern jittratta xogħlijiet ta' demolizzjoni li seħħew mingħajr l-approvazzjoni bil-miktub tal-Awtorita' intimata.

Il-Partijiet qed jaqblu dwar il-fatti kif seħħew u ċioe li in segwitu ta' inċident li kien hemm fuq is-sit, l-Awtorita' intimata ħarġet *stop notice* sabiex jieqfu kwalunkwe xogħlijiet. Dan anke fid-dawl li kien hemm inkjesta maġisterjali li kienet għaddejja. Wara rikors li kien ġie preżentat quddiem il-Maġistrat Inwkirenti u wara talba li seħħet mill-appellant stess mal-Awtorita', l-appellant kien ġie awtorizzat jagħmel xogħlijiet bħala prekawzjoni kontra ħsarat lil terzi. L-avviż tal-Awtorita' ta' nhar il-5 ta' Marzu 2026 (Min. 267a), kien jispeċifika b'mod dettaljat x'kellhom ikunu x-xogħlijiet li setgħu isiru bħala xogħlijiet ta' prekawzjoni.

'ONLY works as per Min 259a may be carried out;

1. *Careful inspection to ensure that no loose of hanging debris.*
2. *Removal of excess accumulated debris by hand and crane to hoist the material out of the site,*
3. *Removal of fallen machinery by crane.*
4. *Removal of any other dislodged/damaged equipment by hand.*
5. *Clearing / cleaning of site.*

Fl-affidavit preżentat mill-Awtorita', jirriżulta li nhar it-8 ta' April ġie skopert li minkejja li kienet għadha fis-seħħ l-*stop notice*, kienu saru numru ta' xogħlijiet li ma kienux awtorizzati li jsiru. Dan wassal għall-avviż mertu ta' dawn il-proċeduri.

Il-Perit Mark Arrigo, li kien inkarigat mix-xogħlijiet jgħid:

Issa, aħna ħassejna li biex, għax aħna meta waqgħet din, jiena ma stajtx nikkonferma jekk meta l-inġenji waqgħu jekk ġibdux xi saqaf ta' ħdejhom jew le allura meta konna qed inneħħu l-periklu, kif kien miftiehem mal-BCA, bl-idejn u l-makkinarju eċċetera, neħħejna iż-żewġ kmamar ta' quddiem ukoll jiġifieri ġiet is-site imbagħad klirjata, fis-sens min-naħa ta' quddiem ħa ngħidu hekk. Issa mbagħad meta sar dak ix-xogħol, bgħatna ittra lil BCA ngħidulhom isma', aħna klirjajna hekk hekk u hekk, naħseb nistgħu niftħu s-site. Onestament ma nafx jekk riedux

xi ħaġa oħra biex jinfetaħ is-site jew le imma ma naħsibx għax meta mbagħad għamilna dan il-petition reġa' nfetaħ is-site jiġifieri li qed ngħid, li qed nipprova ngħid illi fis-sens aħna mxejna in good faith, ma kinetx l-intenzjoni li x'jismu, imbagħad ovvjament irċevejna l-penali.

Kif diġa ġie espress f'sentenzi preċedenti minn dan it-Tribunal, kwalunkwe xogħol għandu jkollu abbinat miegħu l-awtorizzazzjoni tal-Awtorita' intimata. Dan il-każ huwa naqra partikolari għaliex l-appellant kellu avviż sabiex ma jwettaqx xogħlijiet iżda kellu ordni biex jagħmel xogħlijiet ta' prekawzzjoni. L-Awtorita' ħasset li x-xogħol li sar kien imur oltre minn xogħlijiet ta' prekawzzjoni u għal din ir-raġuni għaddiet sabiex ħarġet l-avviż odjern. Minn analiżi tar-ritratti preżentati, huwa evidenti li x-xogħol li sar kien wieħed estensiv u kien imur oltre minn dak li kien permess bħala xogħol ta' prekawzjoni. L-appellant jgħid li dan kien rikjest bħala miżura ta' prekawzjoni addizjonali stante li l-viżibilita' tal-ħsara li saret kawża tal-inċident kienet waħda limitata. Filwaqt li t-Tribunal japprezza din il-posizzjoni, iqis li kien ikun aktar idoneu li l-appellant jitlob l-awtorizzazzjoni sabiex dan ix-xogħol seta' jsir. Huwa evidenti li demolizzjoni ta' soqfa ma kienx wieħed mix-xogħlijiet permessibli u b'hekk sabiex tali demolizzjoni setgħet isir kien meħtieġ l-awtorizzazzjoni espliċita tal-Awtorita'. B'hekk it-Tribunal isib li l-appellant aġixxa bi ksur tal-ordni tal-stop notice u x-xogħlijiet li wettaq ma kienux permessibli bħala xogħlijiet ta' prekawzjoni.

Dan kollu meqjus, it-Tribunal jifhem li l-appellant wettaq l-imsemmija xogħlijiet bħala prekawzjoni iżda seta' aġixxa b'aktar prudenza. Tenut kont ta' dan, it-Tribunal iqis li l-penali amministrattiva imposta għandha titnaqqas sabiex tirifletti dan kollu. Fiċ-ċirkostanzi, it-Tribunal ser ikun qed inaqqas il-penali għas-somma ta' ħames mitt ewro (€500).

Decide

Għaldaqstant it-Tribunal qiegħed jilqa' l-appell in parte sakemm kompattibli mas-suespost u filwaqt li jirriduċi l-ammont tal-penali amministrattiva għal ħames mitt euro (€500) qiegħed jikkonferma l-bqija tal-ordni tal-Awtorita' appellata maħruġa nhar it-8 ta' April 2026.

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