

Hon. Dr Angelo Farrugia
Speaker of the House of Representatives
Parliament of Malta

25th February 2021

RE: Building and Construction Authority Bill

Moviment Graffiti is submitting its feedback to the proposed *Building and Construction Authority Bill* as part of its efforts aimed at guaranteeing a better quality of life to residents around Malta.

In addition to our feedback, we draw your attention to "Reforming Planning and Construction in Malta," a reform document with 134 proposals, some of which directly relate to the construction industry and its regulation. The document can be accessed on our website: www.movimentgraffitti.org/en.

Should you require any clarification regarding our feedback, feel free to email us on info@movimentgraffitti.org.

Kind Regards

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obo Moviment Graffiti

CC: Hon. Minister Dr Aaron Farrugia
Hon. Parliamentary Secretary Chris Agius
Hon. Dr Ian Castaldi Paris, Chairperson, Consideration of Bills Committee
Hon. Anthony Bezzina
Hon. Herman Schiavone

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Parliamentary
Committee //

1/3/21
Speaker
House of Representatives

Feedback on the Building and Construction Authority Bill

Delegation of contractors' register to MDA

Moviment Graffiti opposes the clause allowing the proposed Building and Construction Authority (BCA) to enter agreements with non-governmental entities so as to facilitate its functioning. This is clearly intended to allow the delegation of the contractors' register and licensing to private interest groups such as the Malta Developers Association.

This clause, which gives such lobbies executive power to carry out regulatory duties that should be carried out by the Authority, is completely unacceptable and should be immediately struck off the Bill.

Structure

The proposed structure of the BCA's Board and its Tribunal leaves much to be desired in terms of transparency, efficiency and independence, pointing out that the Board and Tribunal are being given too much discretion to allow a fair process.

The proceedings of the Board are not regulated, meaning that it can operate in an arbitrary manner. All applications with the Board should be made public at the point of application, while directly interested parties such as neighbours should be notified of the application and the public allowed to make submissions before any decision is taken. All Board meetings should be public, in line with Environment Minister's Aaron Farrugia's own pledge for more transparency.

As for the appointment of members on both entities, Moviment Graffiti opposes the notion of Ministerial appointments since this does not guarantee the necessary independence. In this regard, the appointment of members of the Board and Tribunal should include a Parliamentary process.

Building and Construction Codes

The Authority should follow clear guidelines laid down by the law instead of deciding, at its own discretion, what should be implemented or not. The National Building Code should be part of this Bill, and not introduced at a later stage. A National Construction Code, specifically regulating construction processes, should also be included in this law.

Exemptions, Licensing and Complaints

The handling of exemptions is highly problematic, presenting massive loopholes that risk nullifying the Bill itself. Moviment Graffiti laments the total absence of clear and stringent criteria for the granting of exemptions. Provisions are also lacking when it comes to the issuing or revocation of licenses, since the Bill does not list the criteria regulating this process.

Moreover, a transparent and efficient system for public complaints and their investigation needs to be formalised.

Building Permits

The Bill states that the Authority will be issuing building permits, however, what these permits will be issued for and according to which criteria is not clearly stated. The aims, reasons and criteria for such permits must be clearly outlined.

Site Audits and Enforcement

The Bill states that the Authority can find a person to carry out the auditing of sites or inspections, however, there is nothing in the Bill to guarantee that this will actually be done. Moviment Graffiti states that Authority should have a proactive role in the audit and inspection of construction sites, and not a reactive one. Moreover, persons carrying out auditing and inspections should have the necessary competences and be licensed to do so.

Moviment Graffiti is also disappointed at the wording regarding enforcement, where such measures "may be issued" in case of any infringements. The group believes enforcement is not an option, but a key issue, and the Authority should take, without exception, such measures against non-abiding contractors and developers within a time-limit so that an issue does not drag on to the detriment of the general public.

Public Consultation

Moviment Graffiti criticises the fact that the text of the draft Bill was not issued for public consultation, giving lobbies more chance to exert their influence in an underhanded manner while denying citizens and civil society the right to contribute to a much-needed reform of a highly problematic sector.

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