

11th August 2010.

The Commissioner of Lands
Mr. Albert Mamo
Government Property Division
Auberge de Baviere
Valletta VLT 2000



Dear Mr. Mamo,

Re. Eighty Two Company Ltd : Tender submitted Adv No 102 for purchase of property situated at No 83, Spinola Road, St. Julians.

Reference is made to the above correspondence and to the meeting held with your goodselves in view of the unreasonable position entertained by the Department in accepting the bid submitted by my clients under the condition that they increase their bid from that submitted to €950,000.00.

As verbally communicated, my clients are contesting the position taken by the Department and are requesting that it reviews its position in view of various facts which seem to have gone unnoticed in the determination of the value attributed to this property.

At the outset it requests that the time-limit imposed by the Department for acceptance of its offer be indefinitely postponed up and until these discussions are concluded and the matter is resolved.

It is pertinent to point out, before discussing the grievances, that a brief statement of facts be outlined for all concerned, including the prospective adjudicating committee, to have a clear understanding of the property's history.

Facts of the case are as follows: My clients purchased this property way back in 1998 from a certain Jean Barbara Riley under the clear understanding that this property was subject to a temporary utile dominium originally of 150 years with 47 of them remaining. Clients also purchased the boathouse underlying the said property from Mrs. Concetta Micallef and the other heirs of the late Anthony Micallef. In the aftermath of the purchase and before commencing development, my clients sought clarification from your Department that firstly all was in order and secondly that he could pay the laudemium and hence be recognised as the lawful owner of the property for the remaining period of 47 years and this before investing in

same and entering into civil obligations with third parties (the enclosed letter dated 9th January 2002 issued by your Department and receipts refer). You will surely appreciate the significant investment made by clients in this property, most notably the cost of acquisition itself and the cost of development of the block of apartments which they built over it.

The Department considered the application and informed my client, back on the 9th January 2002, that all was in order and that he could proceed with the payment of the laudemium in order to be recognised as owner of the property. My client infact paid the laudemium on this property and the matter stopped there. Recently my client tried to redeem this emphyteusis and was informed that the property was infact not his since the temporary emphyteusis had expired before the date on which he had purchased this property.

Discussions were entered into with the Department and the Department decided to regularise the position by issuing a public call for the sale of this property. The only bid was that submitted by my client, who after having taken the professional advice of his architects submitted a bid of €194,000.00. This bid is deemed to be fair and reasonable and remains, to date, always without prejudice to my clients' claims for damages against the Department of Lands. Following the submission of the tender bid, which incidentally was the only submitted bid, my clients received correspondence dated 3rd August 2010, wherein they were informed that their bid would only be accepted if it is increased to the sum of €950,000.00. My clients deem this decision unreasonable.

My clients contest that there are a number of factors which require consideration or reconsideration before determining any compensation if any which should be paid by my clients and these are the following:


1. The valuation made by the Departments architect is unrealistic and inexplicable. It is 500% higher than all other professional valuations obtained by my client. With respect, my client requests that as a start another valuation be obtained by the department to determine the actual value of this property.
2. Following the above, consideration must be made for the fact that the property belongs to my client, was so purchased and held in good faith for more that ten years as established by Civil Law.
3. Above all, one must also consider the fact the considerable investment which my client undertook has raised the value of the plot in question.
4. Consideration must also be given to the fact that my client was recognised by the Department as the lawful owner of the land for the remaining period of the emphyteusis, hence the retraction by the Department is not acceptable or legally possible.

5. Finally and most importantly, the Department had misguided my clients back in 2002, which misguidance led to the investment in question and hence the position it finds itself in today.

In view of the above, we request that the Department gives the above due consideration, further requesting the opportunity, after the above have been addressed, that my client appears in front of the adjudicating committee to verbally present its case, that of not having to pay any further amount. The above is being stated without prejudice to my clients' rights and in the light of attempts to resolve this matter amicably in the shortest time possible.

We await your communication,

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Av. Peter Fenech', written over a light blue horizontal line.

Av. Peter Fenech.

Cc Client.