

Public Contracts Review Board



In the records of Case 411
relating to MSPP/02/2022 in the
names of:

European School of English
Limited

versus

Malta Strategic Partnership
Projects Limited

URGENT APPLICATION of the contracting authority Malta Strategic Partnership Projects Limited (the “Contracting Authority”)

Humbly submits:

1. This is an application of the Contracting Authority for this Honourable Board to hear this case with urgency and to uphold the requests for case management directions set out in the next paragraph with the purpose of streamlining the urgent hearing of this objection.
2. The Contracting Authority humbly requests this Board to issue a decree ordering:
 - a. this case to be heard with urgency;
 - b. the European School of English Limited appeal should be heard concurrently with the Katari Hospitality JV appeal;
 - c. the proceedings to be heard *exclusively* in person; and
 - d. all witnesses to be heard *viva voce* in person.

(collectively the ‘**case management requests**’).

3. This application is being lodged in terms of Regulation 90(2) of the Public Procurement Regulations which enables the Board to determine the procedure for the hearing of an objection as it deems fit. This article of law is rendered applicable in the Concession Contracts Regulations under Regulation 52(2): *Regulations 80 to 99 of the Public Procurement Regulations shall mutatis mutandis apply to these regulations.*

The Need for Urgency

4. The estimated value of this concession is just over €300 million (exclusive of VAT). It is a concession for the rehabilitation of the Evans Building and its surroundings in Valletta, into a higher quality tourist accommodation with additional facilities. This is an important site that can contribute towards strategic tourism and economic objectives.
5. The commencement of this rehabilitation shall contribute to the regeneration of Valletta with the enhancement of its residential, cultural, and commercial facets. In addition, the concession will generate a significant number of employment opportunities and contribute to the country’s GDP.
6. The Contracting Authority is fully aware that this Board always hears and determines cases in a “rapid” manner, and is mindful of its challenging caseload. They humbly submit that this case, however, needs the Board’s priority.

Concurrent Hearing with Katari Appeal

7. As this Board is aware, two appeals have been filed with respect to the Contracting Authority's decision in relation to the RFP for the Evans Building concession with reference number MSPP/02/2022: the appeal filed by the European School of English Limited (Case 411) and the appeal filed by the Katari Hospitality JV (Case 412).
8. The Contracting Authority submits that it would be most expedient and pragmatic for the two appeals to be heard concurrently in order to make the best use of this Honourable Board's time.

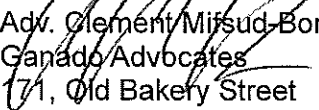
In-Person Proceedings and Witnesses

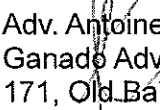
9. Lastly, the Contracting Authority requests this Board to order that any and all hearings and testimonies are held in person at the premises of the Board or at any other premises that this Board may deem fit for the purposes of these proceedings.
10. The significance of this Tender leaves little room for any other method of procedure. Hearing witnesses in-person is necessary to ensure equal access to justice for all parties concerned.
11. Through the onset of the COVID-19 pandemic, we witnessed a growing trend towards remote and virtual proceedings, aided by the desire for convenience and efficiency. Technology has certainly played a valuable role in ensuring continued access to justice, but aspects of the legal process such as the examination of witnesses in this case are best served when conducted in person.

THEREFORE, for the above-mentioned reasons and others which may be brought in due course, the Contracting Authority humbly demands that this Honourable Board orders that:

- a. the proceedings are heard with urgency;
- b. the appeal filed by the European School of English Limited is heard together with the appeal filed by Katari Hospitality JV;
- c. the proceedings are heard *exclusively* in person; and
- d. all witnesses to be heard *viva voce* in person;

save for any declaration, order or decree it deems fit.


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**TODAY, 22 FEBRUARY 2024
VALLETTA, MALTA**