

PRESS STATEMENT

I am instructed by the owners of the De Paule Band Club, Paola to issue the following Press Release. The owners have won judicial repossession of these premises, after a twenty-year-long battle in the Law Courts.

The Government now intends to pass legislation effectively requisitioning these premises without providing adequate compensation. The bill proposes that the owners would be entitled to a higher rent, yet not reflecting the real rental value of the property, while the Band Club retains possession of the premises. The premises are worth a substantial sum. The owners are also being deprived of the use and enjoyment of this capital.

This proposed legislation is intrinsically and fundamentally, legally, politically and morally incorrect as it rewards persons who breach the nation's own laws. It is also discriminatory as it singles out a section of society and through specific legislation, disadvantages only this section.

The owners understand the government's concern with the contribution made by band clubs to the community. However the owners do not understand, much less agree, that they should alone bear the cost of making these premises available to the club and to society. Since everyone seems to agree that the club contributes to the community, the owners contend that the community should pay for the premises at its current realistic market value.

In line with Government's present reasoning there are of course other similar organizations worthy of consideration due to their contribution to their locality and to society: e.g. the Boy Scouts; The Museum; Football (and all other Sport) Clubs; Political Parties; other numerous philanthropic and charitable Foundations (e.g. Richmond; Marigold; etc). Will the premises they operate from and occupy be similarly privileged? Will the cost of the premises they occupy be borne only by the owners?

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If, as Government now claims, the new legislation is intended to protect the Band clubs as these provide a social service (as say - local clinics; local councils etc) then such a service should be a cost (both as to capital and as to its running) – on the community, and therefore on the Government/national budget.

The principle underlying this proposed legislation (i.e. the burden imposed upon discriminated owners) can be applied to other situations, and to the benefit of specific groups/individuals under the guise (actual or imaginary) of a required and necessary service/contribution (of some sort or other) to society at large. Accordingly an individual's goods (which may also include other forms of property) can be made to (solely) bear the burden of same.

The course of action envisaged by the Bill has been repeatedly condemned by the European Court of Human rights; it is clearly unconstitutional, and it makes a mockery of the judiciary and the rule of law. It also supplants the judiciary's role through "ad hoc" instant legislation; makes the country's laws which govern people's interaction unpredictable, conflicting and irrisory. It has elsewhere been maintained, that proposed legislation which blatantly goes against the provisions of Malta's Constitution and of European Law (as indeed, it is respectfully submitted, is this proposed legislation) should be condemned prior to its enactment. It has been stated that the Judiciary has also such a role in its competence. This would be a time/cost/energy saving exercise and it would also remove false hopes.

The present legislative measure is clearly a vote-catching one but with all due respect it is illusory and the affected voters will sooner or later realise this. It is simply a procrastinating exercise as such legislation goes totally against existing legislation and judicial case law; as the owners intend to ultimately seek redress it is felt that the effect of this legislation will be purely temporary. Retroactive legislation is never encouraged. Much less under the present circumstances after a twenty-year long lawsuit, and with this new legislation going contrary to long standing applicable laws.

Even the proposed legislation has other intrinsic defects: how can one at a moment in time guarantee the future cost of later on putting the premises in question to its pristine

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state, especially when in the interim period the ongoing validity of the guarantee, and the costs involved can be questioned and changed?

The owners are willing to sell the premises at a fair price and they would consider the band club as the preferred bidders, but they are not willing to forego a family heirloom.

The owners expect all members of Parliament to realize that the way proposed by the Bill as regards band clubs is not equitable, and is not in line with the rule of law.

Should the Bill nonetheless go through, then the owners invite H.E. the President of the Republic, as the Guardian of the Constitution, to refuse to sign the ensuing act.

Failing even that, the owners shall have to see what steps they should take, within the law, to safeguard their family's property, as is their constitutional right.



Dr Hugh Peralta

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