

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board opened by expressing this Board's displeasure in seeing the Appellant not being represented by a Lawyer since the latter would know exactly how the procedure is run out. Dr Cassar told also the Appellant that he has the right to raise his complaints briefly.

Dr Joseph Zammit, the Legal Representative for Floriana Local Council noted that another Appeal for this Tender was filed before the Governance Board.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board replied that this Board will still treat the Objection filed by Mr Brincat.

Dr Joseph Zammit, the Legal Representative for Floriana Local Council pointed out that the fact that Mr Brincat has submitted his offer together with his wife, Ms Raisa Brincat Newell but that on the other hand he has filed his objection alone renders the Appeal null and void.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board stated that this Board still would like to hear this Appeal, on the other hand he told Mr Brincat, the Appellant that he had already made a mistake to come by himself and not with Ms Brincat Newell since if both had submitted a joint Bid for this Tender, they had to come both for the Public Hearing.

Following this statement, Dr Anthony Cassar, the Chairman of the Public Contracts Review Board, invited Mr Brincat to raise his submissions before this very same Board.

Mr Chris Brincat, the Appellant, opened by apologising for his wife's absence since she couldn't arrange with her work's leave. He then submitted that the Expression of Interest required the Bidders to submit an amount of money, a Food Handling Certificate, a Bid Bond and a Police Conduct.

With regards the Food Handling Certificate, the Appellant said that he had submitted his wife's certificate since she will take care of the kiosk.

With regards the Bid Bond, Mr Brincat had a document with him which was signed by himself and Ms Raisa Brincat Newell, his wife.

With regards the Police Conduct, the Appellant explained that he was aware that he had a case before the Hon Court of Justice in November 2016 which led to Mr Brincat being given a fine and a suspended sentence but when he went to collect the Police Conduct from the Depot, it resulted that the Conduct came out clean. Mr Brincat submitted the Police Conduct together with his wife's.

Dr Anthony Cassar, the Chairman of the Public Contracts Review Board said that this Board listens to Objections related to Tenders. Technically, the latter could have decided not to hear this case since in order for an Objection to be filed, a certain procedure had to be followed.

Dr Joseph Zammit, the Legal Representative for Kunsill Lokali Floriana submitted that this Appeal is null since it wasn't made by both Joint Bidders. Ms Raisa Brincat Newell did not appear anywhere in this Appeal.

With regards the Food Handling issue, Dr Joseph Zammit said that the Tender did not provide any exemptions regarding the submissions of certificates and thus the Appellants should have submitted two Food Handling Certificates just as they did submit two Police Conducts.

The Local Council's Legal Representative continued by saying that with regards the Bid Bond, his clients look at who does the latter covers. The Bid Bond should have been issued on both with both signing it.

With regards the Police Conduct issue, Dr Joseph Zammit argued that Mr Brincat has already admitted that it did not reflect his real situation both in his Appeal and during the Public Hearing and that before the law, ignorance was not an excuse.

At this stage, the Public Hearing was adjourned to Tuesday 4 July 2017 at 09:00 wherein the Public Contracts Review Board will transmit the decision taken for this Objection verbally and then distribute a hard copy of the same to all parties concerned.

This Board,

Having noted this Objection filed by Mr Chris Brincat & Mrs Raisa Brincat Newell (herein after referred to as the Appellant) on 19 May 2017, refers to the Contentions made by the latter with regards to the award of Tender of Reference FLC/T/03/2017 listed as Case No 1058 in the records of the Public Contracts Review Board, awarded by Kunsill Lokali Floriana (herein after referred to as the Contracting Authority).

Appearing for the Appellant: Mr Chris Brincat

Appearing for the Contracting Authority: Dr Joseph Zammit

Whereby, the Appellant contends that:

- a) **The Tender Document requested a Food Handling Certificate, a Bid Bond and a Police Conduct. In this regard, he insisted that a Food Handling Certificate in the name of Ms Raisa Brincat Newell, a Bid Bond which was signed by both Appellants and a Police Conduct Certificate was submitted.**

This Board also noted the Contracting Authority’s “*Letter of Reply*” dated 26 May 2017 and its verbal submissions during the Public Hearing held on 22 June 2017, in that:

- a) **The Local Council maintains that the Appellant has sent only one “*Food Handling Certificate*” and since both Mr Chris Brincat and his wife were handling Food Certificate in both names, certificates for both were requested. With regards to the Bid Bond, this should have been issued in both names whilst with regards to the Police Conduct; Mr Chris Brincat admitted that due to circumstances, this should not have been issued as “*a clean record status report*”.**

This Board, after having treated the merits of this case, arrived at the following conclusions:

a) This Board notes that the offer of interest was submitted by Mr Chris Brincat and Mrs Raisa Brincat Newell. At the same instance, the Objection was made by Mr Chris Brincat only. It is important that the Appellant is aware of the fact that whoever submits an Objection must be the same person/persons who were involved in the Evaluation process.

In this particular case, the offer was submitted by Mr Chris Brincat and Mrs Raisa Brincat Newell jointly whilst the Objection did not, in any way, represent the same Bidders in the first place.

This Board declares that the Objection is null and void. However, it was noted that the Appellant was far from aware of the correct procedure to be followed in the submission of this Appeal and in this regard, this Board recommends that the deposit paid by the Appellant should be refunded.

Dr Anthony Cassar
Chairman

Dr Charles Cassar
Member

Mr Carmel Esposito
Member

30 June 2017