

**IN THE ENVIRONMENT AND LAND USE APPEAL TRIBUNAL**

**In the matter of :**

**Cause No.: ELAT 308/12**

**MR. RAMSARRAN LUTCHMEEPARSAD**

**V.**

**GRAND PORT SAVANNE DISTRICT COUNCIL**

**AND**

**In the matter of :**

**Cause No: ELAT/309/12**

**LA SOCIETE RIRSS ASSOCIATION**

**V.**

**GRAND PORT SAVANNE DISTRICT COUNCIL**

**DETERMINATION:**

The above cases have been consolidated upon agreement of the parties as the subject matter of the appeal in the two cases are the same as they relate to two contiguous properties and the issues in the two cases are the same.

The Appellants in the two appeals had applied to the District Council of Grand Port Savanne for a Building and Land Use Permit for the conversion of an existing ground and first floor of a residence into commercial premises, namely the setting up of a 'Tourist Residence'. The applicationS were rejected by the District Council on the 28<sup>th</sup> November 2012 on the ground that the title deed did not allow such an activity to be conducted in the approved morcellement. The two appeals dated 14<sup>th</sup> December 2012 were lodged against the District Council. The grounds of appeal as contained in the

notice of appeal are that other people in the vicinity are carrying out similar commercial activities and the Appellants wish to carry out such commercial activities legally.

Evidence led by Mr. L. Ramsaran, who deposed on behalf of the Appellants, is to the effect that they had taken loans to purchase the respective properties and they had been informed by the notary that such activities were permissible.

We have taken into account the evidence adduced by Mr. Ramsaran. We have also taken into consideration the evidence of Miss Bosquet, the Head Planner of the District Council, which highlighted the restrictive clauses contained in the title deed. The title deed was produced as Document A. We note that indeed there is a restrictive clause in the title deed which defines the morcellement as being essentially a residential one and that certain activities namely, the construction of hotels, guest houses and night clubs were specifically prohibited.

The fact that there were such other activities in the vicinity has no bearing on the present appeal being given that there is nothing before this Tribunal to show the conditions in which they are operating nor whether they are authorised to do so. In view of the restrictions contained in the title deed as highlighted above, we find no reason to interfere with the decision of the District Council. The appeals in the above two cases are set aside.

**Delivered by:**

**Mrs. V. Phoolchand-Bhadain**

**Chairperson**

**Mr. S. Sakurdeep**

**Assessor**

**Mr. S. Seetonul**

**Assessor**

**Date: 21 June 2013**