

ENVIRONMENT AND LAND USE APPEAL TRIBUNAL

Before: Chairperson

ELAT: 418/13

Sitting of: 1/9/2014

Appellant:

Counsel for Appellant:

Attorney for Appellant:

Respondent:

Counsel for Respondent:

Attorney for Respondent:

Co-Respondent:

Determination.

The present appeal relates to a decision by the Flacq District Council for having rejected an application made by the Appellant for a BLUP for conversion

of part of an existing building
 at ground floor to be used as
 general retailer's shop at Railway Road,
 Bel Air. The reason given by the
 Council is found in a letter dated
 9th April 2013 namely that the
 building has been freshly completed
 and that the applicant has failed
 to produce the relevant permit.

We have duly heard the
 evidence given by the Appellant and
 on behalf of the Respondent. The
 Appellant has stated that he
 in fact has no permit (BLUP)
 for the building which was
 allegedly a residential one constructed
 by his ^{late} mother. He maintained that
 the building shown in the ~~the~~ ^{It} photograph

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ENVIRONMENT AND LAND USE APPEAL TRIBUNAL

Before: Chairperson

ELAT: 4/8/13

Sitting of: 1/9/2014

Appellant:

Counsel for Appellant:

Attorney for Appellant:

Respondent:

Counsel for Respondent:

Attorney for Respondent:

Co-Respondent:

annexed to the statement of defence
 was constructed by his mother and
 not by him, and that it dates
 back to pre-1978, when his mother
 passed away. In cross-examination,
 when confronted with the plan
 submitted to the Council by his son
 in 1997, a plan which was meant

for his son's BLUP but also shows
the adjoining property and hence
shows that the building in lite did
not exist at the time, the
Appellant was unable to give a
plausible answer. The Appellant
has not been able to convince this
Tribunal as being a credible witness.
He could not explain the absence
of the building in lite either in
the plan or in the map [Doc A]
shown to him. His averments have
all been unsubstantiated and since
this is a civil case where the
principle is "he who avers must
prove", we believe he has not
satisfied this standard. On the
other hand, the action of the Council

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Co-Respondent:

has remained unsubmitted and
we therefore find that the case
of the council has been proved.
The appeal is therefore set aside.
NO order as to costs.

V. Chairperson
1/9/14

Assessor
1.9.2014

Assessor
1/9/14