

BEFORE THE ENVIRONMENT AND LAND USE APPEAL TRIBUNAL

Cause No. : 340/13

In the matter of:

MR. RUNJEET UJODHA

Appellant

v.

DISTRICT COUNCIL OF FLACQ

Respondent

In presence of:

MRS. RAJESHREE UJODHA

Co-Respondent

**DETERMINATION**

The Appellant has appealed against the decision of the Respondent for having approved an application for a Building and Land Use Permit (BLUP) made by the Co-Respondent for the conversion of an existing building to be used as general retailer's shop at Royal Road, Laventure. The grounds of appeal as submitted by the Appellant are as follows:

1. The applicant (Mrs. Ujoodha) has no septic tank in the building,
2. There is no barrier between the building and the private road,
3. Noise pollution.

The Respondent stated in its statement of defence that there had been a complaint lodged with the District Council by the Appellant. A hearing was conducted and the Executive Committee decided to grant the application.

The Co-Respondent stated that she would abide by the decision of the Tribunal.

Evidence led by the Appellant is to the effect that the septic tank in relation to the building which is proposed to be converted is located on his land. He had made a request that the building, being now a commercial one, should have its own septic tank. Secondly, the Appellant contends that the proposed general retailer's shop is located opposite his room where there are two windows. This will give rise to direct view from the shop into his house. He had made a request that the Appellant put up an enclosure to prevent any intrusion in his privacy, but this has not been done. Although this was not a ground of appeal, the Appellant also adduced evidence in respect of the nuisance caused by the disposal of waste by the Co-Respondent in their yard.

We note that no submission was made, nor evidence adduced in support of the third ground of appeal, namely, noise pollution.

The cross examination of the Appellant revealed that the respective properties of the Appellant and Co-Respondent were obtained through succession and the Appellant had no objection that the Co-Respondent operates a general retailer's shop. His contention is in relation to the conditions as per his grounds of appeal. He conceded, however, that the responsibility to erect a wall to protect his privacy does not rest on his brother and, being given that he had inherited the house whose privacy is allegedly intruded upon, he, in his capacity as owner, can take necessary measures to put up a wall between the access road and his window. Furthermore, it is noted that the representative of the Council also confirmed that all the required distances from the classified road as well as from the boundary line of the access road had been observed by the Co-Respondent. The BLUP was therefore approved subject to conditions as contained in the permit issued.

In view of the above, the second and third grounds of appeal fail.

As regards the first ground of appeal, the issue of the absence of septic tank for the building, which will now be a commercial one, is addressed by the evidence adduced by the representative of the Respondent. This is to the effect that the construction of a septic tank for the issue of the BLUP was not a requirement being given that the permit applied for was for the conversion of an existing building into a shop. The building already existed and the Co-Respondent was already conducting the business of a video shop in the premises. It is on record that the Appellant had made no objection whatsoever to the issue of that permit. It is also on record that the Co-Respondent has started the construction of a septic for his own building.

In view of the evidence of the representative of the District Council, we find that the septic not having been a requirement at all for the issue of a BLUP to an existing

building, we find no reason to interfere with the decision of the Council on this ground. The first ground of appeal cannot be sustained.

In addition to the above, being given that the issue of waste disposal by the Co-Respondent has been canvassed by the Appellant although is not a ground of appeal, we observe that there is nothing that establishes that the waste as the Appellant attempted to show in Documents A, A1 and A2 emanate from the conduct of the business of general retailer's shop. The Appellant conceded that he has made no complaint whatsoever to the relevant authorities in relation to this nuisance. The onus is on him to do so.

In view of the above, the grounds of appeal raised by the Appellant having failed to be supported, we set aside the appeal.

**Delivered on 4<sup>th</sup> March 2015 by:**

**Mrs. V. Bhadain**  
**Chairperson**

**Mr. P Thandarayen**  
**Assessor**

**Mr. G. Seetohul**  
**Assessor**