

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

**ELAT 2311/26**

**In the matter of:**

**Keshwaree Mussafeer**

**Appellant**

**v/s**

**District Council of Riviere du Rempart**

**Respondent**

**RULING**

1. The present appeal is against a decision of the District Council of Riviere du Rempart (hereinafter referred to as “the Council”), for having rejected an application made by the Appellant for a Building and Land Use Permit (hereinafter referred to as “BLUP”) for the proposed conversion of a building at ground and first floors to be used as Tourist Residence (6 units) at corner Mirabella and Coastal Road, St. Francois, Calodyne.
2. The Respondent raised a preliminary objection in their Statement of Defence [‘SOD’] is as follows:
  - A. The Respondent avers that the present appeal has been lodged outside the delay prescribed by law.
  - B. The Respondent therefore moves that the present appeal be set aside or dismissed.

## I. Chronology of main events

3. The grounds of refusal were communicated to the Appellant on the NELS platform on 16<sup>th</sup> February 2026. This is set out in the Notice of Appeal of the Appellant and evidence of the electronically generated refusal letter with the date is annexed to the Notice of Appeal.
4. The Appeal was duly received at the registry of the Tribunal on 9<sup>th</sup> March 2026. The record and stamp of the Tribunal bear evidence to that.
5. The contention of the Respondent is that the appeal was lodged one day outside the statutory time frame. The Appellant who was present before the Tribunal, following remarks from the Bench as to the nature of the preliminary objection in law, stated that she would not wish to be legally represented for the purposes of the Argument and that representative was Mr. Ramdass Appadoo who would put forward her case. Mr. Appadoo contested same and stated that the delay expired on a Sunday and that he was entitled to lodge the appeal on the following working day, which was a Monday. We have duly considered the submissions of both parties.

## II. The Law

6. **Section 5 (4) of the Environment and Land Use Appeal Tribunal Act 2012** ['**ELUAT Act**'], as amended, provides
  - (a) *Every appeal under section 4(1) shall, subject to paragraph (b), be brought before the Tribunal by depositing, with the Secretary, a notice of appeal in the form set out in the Schedule, setting out the grounds of appeal concisely and precisely, not later than 21 days from the date of the decision under reference being notified to the party wishing to appeal.*
7. The **Public Holidays Act 1968** provides that Sundays are scheduled as public holidays.

8. **Section 38 (1) (a) and (d)** of the **Interpretation and General Clauses Act [IGCA]** provides as follows in relation to the computation of time:

*"In computing time for the purposes of any enactment or document-*

*(a) Where the time limited for the doing of an act expires or falls on a Saturday or a public holiday, the act may be done on the following day that is not a public holiday; ...*

*(d) where there is a reference to a period of time specified to run from a given date, the period of time so specified shall be calculated so as to include the given day."*

### III. Application to the facts

9. These two provisions of **section 38(1) IGCA** are of direct application to the present case. **Section 38(1)(d)** governs the starting point of the 21-day period — namely, that the day of notification is included in the count. **Section 38(1)(a)** governs what occurs where the last day of the period falls on a Saturday or a public holiday.
10. It follows, as a matter of express statutory provision, under the **Public Holidays Act 1968** that every Sunday in Mauritius is a public holiday. The consequence of it, when read in conjunction with **section 38(1)(a) of the IGCA**, is that where the time limit for the doing of any act expires on a Sunday, the "act" may be done on the following Monday, provided that Monday is not itself a public holiday.
11. **Section 5(4)(a) of the ELUAT Act** provides that a notice of appeal is to be deposited *"not later than 21 days from the date of the decision under reference being notified to the party wishing to appeal."* It follows that the statutory period of 21 days begins to run from the date of notification. In the present case, the decision was notified on the 16<sup>th</sup> February 2026. As the prescribed period is expressed to run from a given date, that date must be included in the computation of time pursuant to **section 38(1)(d) of the IGCA**. Accordingly, the 21-day period expired on Sunday 8<sup>th</sup> March 2026. It being a Sunday qualifies as a public holiday. However, by virtue of **section 38(1)(a) of the IGCA**, where the last day for doing "an act" falls on a Sunday or public holiday, the act may be done on the next day that is not a public holiday. The Tribunal takes judicial notice that Monday 9<sup>th</sup> March 2026, was not a public holiday.

12. The Appellant was therefore entitled to lodge her appeal on that date and we find that the appeal has been filed within the statutory time frame as extended by law and is accordingly receivable *ratione temporis*. The motion of the Respondent is accordingly set aside and the case is to proceed.

Ruling delivered on 30<sup>th</sup> June 2026 by

**Mrs. J. RAMFUL JHOWRY**

**Ag. Chairperson**

**Mrs. R. RUHOMUTALLY**

**Member**

**Mr. V. BISSESSUR**

**Member**