

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

**Cause No. : 428/13**

**In the matter of:**

**RAM BEETUL**

**Appellant**

**v.**

**CITY COUNCIL OF PORT LOUIS**

**Respondent**

**DETERMINATION**

Mr. Ram Beetul made an application for a Building and Land Use Permit (BLUP) to the City Council of Port Louis to operate the business of general retailer in his premises situated at NHDC, Pointe aux Sables. His grounds of appeal, as set out in his notice of appeal are that he had followed the required procedures of notification for the proposed business and there had been no objection whatsoever. His contention is that any objection ought to have been made at the time of publication in newspapers and that the objection raised by the City Council is not 'bounded to the facts'.

In his testimony, Mr. Beetul explained that, firstly, he did not propose to start a large scale commercial activity, nor a 'general retailer's activity, but intended to operate a 'tabagie', which requires much less in terms of infrastructure and investment. However, upon the advice of the City Council, he submitted an application for a BLUP in respect of 'general retailer', the reason being that this fell in a broad cluster, which embodied both 'tabagie' and general retailer's activities.

Furthermore, it is the contention of Mr. Beetul that there had been such permits delivered to other persons in the NHDC complex where he resides. He felt that this has been a selective exercise done, to his prejudice. The issue of maintaining the integrity of the residential nature of the housing estate no longer holds being given the number of

such businesses that exist. He also highlighted the fact that the proposed activity would be a means of livelihood for him and his family.

The stand of the City Council is as follows:

1. Objections had been made within delay
2. The application made by the Appellant is not in accordance with the policy of the Ministry of Housing and Lands, which is not to allow commercial or other non-residential development/ activities in the residential units of the NHDC Housing Complex.
3. The proposed activity will generate traffic and would require an amendment to the lease agreement that the Appellant has entered into with the Government for the use of the plot of land solely for residential units of the NHDC Housing Complex.
4. Any permit that the City Council may have given to other commercial activities that operate within the NHDC Housing Complex had been given prior to the policy decision taken by the Ministry of Housing and Lands.
5. Finally, it is the Respondent's stand that there had been objections raised against the proposed activity.

In evidence, the representative who deposed for the City Council did not adduce any evidence on the existence of such objections. He placed reliance on the policy of the Ministry of Housing and Lands, as contained in a letter produced as Document A, to support the stand of the City Council.

We have duly considered the evidence adduced by the Appellant and the representative of the Respondent.

We find that the Respondent has acted in compliance with the instructions received from the Ministry of Housing and Lands, as per Document A, whereby the policy of maintaining the integrity of the residential nature of NHDC housing estates is upheld by the Ministry. There are some exceptions provided for in those guidelines, among others that of activities not requiring the amendment of the lease agreement with the Government.

Having acted in compliance with those instructions, we find no reason to interfere with the decision of the City Council in this case.

However, we wish to highlight the provisions of the Planning Policy Guidance on Industrial Development (PPG I), which allows for small scale enterprises in the home without modification of the dwelling, which are found to be acceptable, on the condition that stringent criteria be imposed so as not to compromise the surroundings of the

residential amenities. The City Council may in future consider the provisions of the Planning Policy Guidance and its impact on such applications.

In the light of the above, the appeal is set aside.

Delivered on 15<sup>th</sup> January 2015-01-15

**V. Bhadain**

**Chairperson**

**P Thandarayen**

**Member**

**G Seetohul**

**Member**