

Environment & Land Use Appeal Tribunal (ELUAT)



Presented by :
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CHAIRPERSON
ELUAT

Environment & Land Use Appeal Tribunal

- Created by ELUAT Act 5/2012

Jurisdiction of ELUAT

- **Specialized Tribunal (Quasi-Judicial Body)**

Appeals under the following enactments:

- Building Act
- Environment Protection Act 2002
- Local Government Act 2011
- Morcellement Act 1990
- Town and Country Planning Act 1954

Jurisdiction of ELUAT(Cont.)

- By virtue of its Jurisdiction, the ELUAT is called upon to hear appeals on

1. Environmental Matters

- Against decisions of the Minister of Environment (Particularly PER and EIA)
- Notices issued by the Director of Environment
- Decisions of the Director of Environment

2. Land Use Matters (Spatial Planning)

- Building and Land Use applications submitted to local authorities.
- Applications for excisions and morcellement permits submitted to Morcellement Board. (Parcelling of land)

Legislative Instruments

The important instruments for the exercise of the appellate jurisdiction of the ELUAT are:

- Environment and Land Use Appeal Tribunal Act 2012
- Local Government Act (LGA) 2011
- Town and Country Planning Act (TCPA) 1954
- Environment Protection Act (EPA) 2002
- Morcellement Act 1990
- Planning and Development Act 2004

Other important instruments used in the area of land use:

- ◉ National Development Strategy (NDS)
- ◉ Planning Policy Guidance (PPG)
- ◉ Outline Planning Scheme (OPS)

Process of Appeal

- Less formalism
- Less rigidity in procedures
- Room for mediation

The issue of access to Justice

- Locus Standi
- Statement of Concern (newly introduced)

Section 2 of EPA 2002

○ Environment Stewardship

“It is declared that every person in Mauritius shall use his best endeavours to preserve and enhance the quality of life by caring responsibly for the natural environment of Mauritius.”

Relevant Cases:

- *Association of Hoteliers and Restaurants(AHRIM) v/s Ministry of Social Security, National Solidarity and Environment And Sustainable Development and Ors. **ELAT 1502/17***
- *Agir pour L'Environment vs The Minister of Environment, Solid Waste Management and Climate Change and ors **ELAT 1907/19***

Access to the Tribunal in land use matters (spatial planning)

- Locus standi and the status of objectors
- The case of Marie Louise Isabelle Baumann v/s Rivière Du Rempart District Council **2019 SCJ 311**
- Impact of the case of Baumann

Legislative amendment following the decision of Baumann

- **The Finance Act 7/2020 amended the Local Government Act 2011 and added the following definition at Section 117(15)**
- *“person aggrieved”* means a person whose application for an Outline Planning Permission or a Building and Land Use Permit has not been approved by a Municipal City Council, Municipal Town Council or District Council

PROCEDURE BEFORE ELUAT

1. **Mediation**
2. **Injunctions**
3. **Hearing**

Technicalities in Procedure

- Notice of appeal
- Statement of Case
- Statement of Defence
- Statement of Reply

Important issues

- Delay to lodge
- Delay to file SOC and SOD
- Service on parties

Appeals to Supreme Court

Parties dissatisfied with final decisions of the ELUAT may appeal to Supreme Court on the ground that the decision is erroneous in law. (Section 6(1) of ELUAT Act 2012)

Appeals to the Judicial Committee of the Privy Council

- Case:

- Beau Songe Development Limited (Appellant) v The United Basalt Products Limited and another (Respondents)
2018 UKPC 1

- **No energy-related appeal as at date**



THANK YOU