



FISHERMEN AND FRIENDS OF THE SEA

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Fishermen and Friends of the Sea- FFOS (Applicant) v Environmental Management Authority- EMA (Respondent) CV 2019-02403

Facts

FFOS over a period of over 20 years has been actively involved in the review of environmental impact assessments (EIAs). In doing so, as an NGO, it has availed itself of professional and/or scientific opinion from a wide range of disciplines from surveyors to medical and environmental experts both locally and internationally. As such, FFOS in the past were granted these said EIAs in softcopy on a CD which has become a matter of standard practice until hard copies were provided a few years later which was subject to payment of copying charges by the EMA.

Sometime in December 2018, FFOS requested a copy of an EIA for an integrated resort development -Golden Grove and Buccoo Estates Tobago (CEC0563/2003) from the EMA. FFOS was denied a full copy of the EIA and was informed that they were only permitted to copy *up to* 10% of the document, and this 10% was further subjected to the discretion of the EMA's Librarian. The EMA argued that this newly adopted policy was due to copyright restrictions laid out in the Copyright Act.

In FFOS's view, this restriction on the acquisition of a full copy of the EIA is particularly unjust when the EIA review which FFOS undertakes, requires interdisciplinary input from scientists who are mainly abroad. Without being able to examine all of the multi disciplinary scientific sections of the entire EIA, these international scientists could not effectively assess the environmental and social impacts in a holistic manner. FFOS's ability to meaningfully participate is compromised, thereby crippling FFOS's effectiveness as an active NGO on matters of environmental importance in Trinidad and Tobago.

Court: High Court

Outcome:

High Court

FFOS has applied for leave to Judicially Review and thereby challenge the decision of the EMA to not grant fully copies of an EIA to interested parties. FFOS seeks an order that the EMA's decision, reasons and policy that the EIAs were subject to copyright are wrongful in law and that EIAs should not be subject to copyright in accordance to the following legislation: the EMA Act, the Freedom of Information Act and the Copyright Act.

Justice Devindra Rampersad granted FFOS leave to file for a judicial review which clears the path to challenge the EMA's decision to refuse its numerous requests for copies of EIA reports.

The EMA in response, applied to the High Court for security of cost. This application if it were successful would have forced FFOS to create a bond to cover estimated legal costs. This bond represents security and if FFOS loses the matter, the money from the bond would go to the EMA.

On 6th April 2020, Justice Rampersad dismissed this application for security of costs and ruled that FFOS is acting in the public interest.

No final confirmed outcome is yet identified as it is still an ongoing matter.