

The Golf Course & *the* Taxi Rank

Two Durban High Court rulings every property owner should read



BEACHWOOD

[2026] ZAKZDHC 62

A matter of time



UMHLANGA

[2026] ZAKZDHC 63

A matter of standing

4 OCTOBER 2026 · BY THE PROPERTY AND LITIGATION TEAM AT RM & ASSOCIATES, ATTORNEYS, NOTARIES AND CONVEYANCERS

A golf course beside the mangroves. A taxi rank outside an apartment block. In the last days of September 2026 the Durban High Court ruled on both, and in each case the applicants left without the order they came for.

The disputes were unrelated. One concerned homes on the Beachwood fairways in Durban North. The other concerned a “temporary” public transport facility on Ridge Road in Umhlanga. The [Sunday Times](#) reported both outcomes in an article dated 02 October 2026.

What joins them is how they were lost. A late challenge, thin evidence, the wrong applicant, a missing party and an unchallenged decision did the damage. Those are the quiet mechanics of litigation against a municipality, and they are the reason this article exists.

The two cases at a glance

	Beachwood	Umhlanga
Judge and date	Olsen J, 30 September 2026	Notyesi AJ, 28 September 2026
Who went to court	A voluntary association and a neighbour	The body corporate of a sectional title scheme
What they wanted	Environmental and planning approvals for a coastal estate set aside	The City ordered to move a temporary taxi and bus rank within three months
Result	Dismissed	Dismissed
Why	Provincial challenge years late; municipal challenge failed in law and for want of evidence	No standing shown; developer not joined; underlying decision never challenged
Costs	No order on the main application. Condonation was granted for the municipal council's decision, with eThekweni Municipality to pay the objectors' costs of that part, and refused for the Provincial Respondents' decisions, with the objectors to pay those respondents' costs. No costs allowed for the annexures.	Each side pays its own

Beachwood: out of time, and no case on the merits

The Beachwood challenge failed in two parts: the attack on the provincial decisions came too late, and the attack on the municipal decisions failed on its merits. The full reasons are in [Friends of Beachwood and Another v eThekweni Municipality and Others \[2026\] ZAKZDHC 62](#), handed down by Olsen J on 30 September 2026.

The property is a little over 42 hectares of Durban North coastline, with Virginia Airport to the north, the Beachwood Mangrove Nature Reserve to the south and the sea to the east. Golf was played there from the early 1930s. In 2017 the Durban Country Club decided to sell it, and Beachwood Investments (Pty) Ltd bought it on auction for R108 million.

The buyer inherited two obstacles. Title conditions registered in 1949 and 1952 confined the land to golf and recreation, and the planning scheme zoned it private open space.

Both fell away over the next six years. The Province granted environmental authorisation in January 2021 and, on appeal, limited building to about nine hectares north of the beach access road, leaving 77% of the land open for now. The City then created a new Beachwood Coastal Estate zone, and its planning tribunal approved 38 subdivisions and removed the old title conditions.

Opposition was loud and organised. Friends of Beachwood told the [Mail & Guardian](#) in 2023 that almost 1 000 formal objections had been lodged, citing sewage capacity, traffic and run-off into the mangroves. The

developer told the same newspaper that the estate would be low-density, covering about 23% of the site and creating 1 500 direct jobs; [Moneyweb](#) now puts the project at R3.5 billion.

The objectors and a neighbour went to court on 9 May 2024. The provincial appeal rulings they attacked dated from October 2021 and August 2022, far outside the 180 days the law allows. The court found no acceptable explanation, refused an extension, and noted that the developer had gone ahead with works on the strength of those approvals. “Affected parties are entitled to rely on the finality of unchallenged administrative decisions,” Olsen J wrote.

The attack on the municipal decisions was heard on its merits and still failed. The court rejected the argument that the old title conditions were a municipal asset that could be given up only under the Municipal Finance Management Act: the land was private, and the conditions benefited neighbouring properties, not the City. Complaints about sewerage, stormwater and roads failed because the objectors never engaged with the specialist reports the City had relied on.

Costs were handled with care. The main application was dismissed with no order as to costs. Condonation was granted for the municipal council’s decision, and eThekweni Municipality must pay the objectors’ costs of that part of the condonation application. It was refused for the Provincial Respondents’ decisions, and the objectors must pay those respondents’ costs of that part. In neither case are costs allowed on taxation for the annexures to the objectors’ affidavits.

Umhlanga: the wrong applicant and a missing party

The Umhlanga application failed at the threshold. In *Body Corporate of Beacon Rock v eThekweni Municipality* [2026] ZAKZDHC 63, delivered on 28 September 2026 and marked reportable, Notyesi AJ held that the body corporate had not shown standing and had left out a necessary party.

Beacon Rock is a sectional title scheme at 21 Lighthouse Road, across from the Oceans development. The [Sunday Times](#) has described it as 113 residential units plus retail and commercial units.

A planning approval granted to Oceans in May 2017 provided for the village’s public transport facility to move underground, beneath Ridge Road. That facility was never built.

The judgment records the City’s account of why. The developer asked it to share the cost in 2021, the City undertook to carry 70%, and that became unaffordable after the civil unrest and the April 2022 floods. The City also says the underground facility has become inadequate for the public transport needs of the Umhlanga node. Oceans was not a party to the case, so its version was not before the court.

Taxis and buses have used temporary sites instead. The current one, on Ridge Road North, was approved in August 2022, and the City puts the cost of it and the related road upgrade at about R70 million. In September 2023 about 400 taxis blockaded the village over the lack of a proper rank, [TimesLIVE](#) reported.

The body corporate says the rank sits about 75 metres from its main entrance and has brought congestion, security concerns and lower values. It asked for an order compelling the City to move the facility to a permanent site within three months, or failing that to another temporary one.

The City answered that it has been searching since 2021. A site beside the ski-boat site on Autumn Drive was refused after strong local objection, and a proposed regional holding facility at Cornubia, discussed with the taxi industry, was also rejected.

The court dismissed the application on three grounds:

- 1. Standing.** The case was built on the enforcement provisions of SPLUMA. The founding affidavit did not say that the body corporate owned affected property, that it acted for affected owners, or that it relied on section 38 of the Constitution.

2. **Non-joinder.** The underground-facility condition binds Oceans, so any order would affect it. The body corporate was given the chance to join Oceans and did not.
3. **The merits.** The August 2022 decision approving the temporary facility has never been challenged, and so it stands. A court cannot simply relocate a facility that exists under a valid approval, and the City showed that it was consulting and weighing competing interests within its budget. The body corporate also produced no evidence of loss or damage and did not meet the requirements for a final interdict.

The judge quoted a formula endorsed by the Constitutional Court in *Giant Concerts CC v Rinaldo Investments (Pty) Ltd* [2012] ZACC 28: a challenge succeeds only where “the right remedy is sought by the right person in the right proceedings”. Each side pays its own costs: both counsel agreed that the body corporate should not be mulcted in costs, and the judge exercised his discretion accordingly.

What happens next

Both sets of approvals stand, and neither dispute is necessarily over.

At Beachwood, the developer welcomed the ruling and told the **Daily News** that its invitation to engage with neighbours remains open. It also said it had not ruled out taking advice on recovering losses it attributes to the litigation delays. The city manager, according to the same report, welcomed the outcome.

Work on site is under way. **Bizcommunity** reported in April 2026 that FNB had committed R800 million in funding, that earthworks were under way, and that first transfers were expected from the third quarter of 2026.

Two questions remain open. The environmental authorisation for the southern, larger part of the land was suspended on appeal pending further work, so any later phase needs fresh approval. And the objectors may still apply for leave to appeal, which must ordinarily be done within 15 court days of the order. We found no public statement from Friends of Beachwood on its plans at the time of writing.

In Umhlanga, the temporary rank stays where it is. The City accepts that the permanent facility will differ from the approved underground one, and that the approval condition must be formally amended through the Municipal Planning Tribunal, with affected parties able to make representations. That process is where residents, businesses, commuters and the taxi industry will next be heard.

The judgment also marks the roads not taken. The body corporate did not rely on neighbour law, did not invoke section 38 of the Constitution, and did not ask for a declaration that the City’s alleged failure to enforce the SPLUMA condition was unconstitutional. A differently framed case, brought by the right parties, would have to be decided on its own facts.

Seven lessons for anyone taking on a municipality

Read together, the two judgments are a checklist for owners, bodies corporate and ratepayer groups. The principles and authorities below are the ones the two courts applied.

1. **Watch the clock.** Section 7(1) of the Promotion of Administrative Justice Act 3 of 2000 (PAJA) requires a review to be launched without unreasonable delay, and within 180 days of the internal appeal ending. Where there is no internal appeal, time runs from when you learn of the decision and its reasons. Olsen J added that a legality review, in that context, would have had no longer.
2. **Ask early if you need more time.** Section 9 of PAJA lets the parties agree an extension, or a court grant one where the interests of justice require it. Courts weigh the nature of the relief, the extent and cause of the delay, its effect on the administration of justice and other litigants, the reasonableness of the explanation for the whole period, the importance of the issue and the prospects of success (*Aurecon South Africa (Pty) Ltd v Cape Town City* 2016 (2) SA 199 (SCA) para 17, endorsed in *Cape Town City v Aurecon SA (Pty) Ltd* 2017 (4) SA 223 (CC) para 46). The Beachwood objectors asked only after the

respondents took the point. Condonation was refused for the provincial environmental decisions, with costs in favour of the Provincial Respondents, and granted for the Municipal Council decision.

3. **Run each clock separately.** A project often needs approvals from different authorities under different statutes. Waiting for the last one in order to bring a single challenge was held to be no excuse for missing the deadline on the first.
4. **Put the facts on affidavit.** In motion proceedings the affidavits are both the pleadings and the evidence. Conclusions without facts fail, and so do reports that are mentioned but not annexed and pinpointed. Where a final interdict is sought on paper, disputes of fact are generally resolved on the respondent's version (*Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A)).
5. **Be the right applicant.** Standing must be pleaded and proved. A body corporate is legally distinct from its members, and claiming to represent the owners' collective interests was not enough. At Beachwood, by contrast, an association and a neighbour were held to have standing under section 38 of the Constitution and section 32 of the National Environmental Management Act 107 of 1998.
6. **Join everyone with a direct stake.** A court will not make an order that prejudices a party who is not before it (*Amalgamated Engineering Union v Minister of Labour* 1949 (3) SA 637 (A); *Matjhabeng Local Municipality v Eskom Holdings Ltd* 2018 (1) SA 1 (CC)). If the relief touches a developer's approval, the developer belongs in the case.
7. **Attack the decision, not its consequences.** An administrative decision stands, and has legal effect, until a court sets it aside (*Oudekraal Estates (Pty) Ltd v City of Cape Town* 2004 (6) SA 222 (SCA); *Merafong City Local Municipality v AngloGold Ashanti Ltd* [2016] ZACC 35). An interdict aimed at the results of a decision nobody has reviewed is unlikely to succeed.

A word on costs. The principle in *Biowatch Trust v Registrar, Genetic Resources* 2009 (6) SA 232 (CC) usually shields genuine public-interest litigants from paying the State's costs. It protected the Beachwood objectors on the main application, but not on the unsuccessful condonation application relating to the provincial decisions, and the court rejected the idea that it gives blanket immunity.

What this means on the ground

The practical message depends on where you stand.

- **You own next to open land.** Zoning and old title conditions are not permanent. Section 47 of the Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA) lets a Municipal Planning Tribunal remove, amend or suspend restrictive conditions of title. Read your title deed and the neighbouring zoning, object in writing when notices appear, and keep proof that you did.
- **You sit on a body corporate or homeowners' association.** Before you litigate, pass a proper resolution, identify the scheme's own legal interest, and consider joining affected owners as co-applicants. Gather evidence of real harm, such as valuations, traffic counts and incident logs. Remember that owners fund the fight through their levies.
- **You are buying.** Ask what is planned next door, not only what is there today. Check for pending land development applications and, in a sectional scheme, ask whether the body corporate is in litigation.
- **You are developing.** Approvals gain strength once the review period has passed, but conditions of approval still bind you. If a condition can no longer be met, apply formally to amend it. The Beachwood developer also received no costs order despite winning, because it had been cited only as an interested party and chose to oppose.

Resources

JUDGMENTS

- *Friends of Beachwood and Another v eThekweni Municipality and Others* (D5921/2024) [2026] ZAKZDHC 62 (30 September 2026)
- *Body Corporate of Beacon Rock v eThekweni Municipality* (2025-069780) [2026] ZAKZDHC 63 (28 September 2026)

PRESS REPORTS

- Tania Broughton, *eThekweni ratepayers lose two court battles*, Sunday Times, 2 October 2026
- Roy Cokayne, *High court review of R3.5bn Beachwood development land use approval fails*, Moneyweb, 1 October 2026
- Thami Magubane, *Beachwood Coastal Estate approvals remain in place after court dismissal*, Daily News, 2 October 2026
- FNB backs R800m Beachwood coastal estate deal in Durban North, Bizcommunity, 10 April 2026
- Tania Broughton, *Oceans Mall's lack of public transport facility causing waves for Umhlanga residents*, Sunday Times, 28 November 2025
- Lyse Comins, *Residents oppose R3bn Beachwood Golf Course development*, Mail & Guardian, 12 December 2023
- Tania Broughton and Mfundo Mkhize, *Taxi owners will make waves outside Oceans Mall 'until they are heard'*, TimesLIVE, 19 September 2023

LEGISLATION AND RULES

- Constitution of the Republic of South Africa, 1996, sections 38 and 152
- Promotion of Administrative Justice Act 3 of 2000, sections 7 and 9
- Spatial Planning and Land Use Management Act 16 of 2013, sections 32 and 47
- National Environmental Management Act 107 of 1998, sections 24 and 32
- Local Government: Municipal Finance Management Act 56 of 2003, section 14
- eThekweni Municipality: Planning and Land Use Management By-law, 2016
- Uniform Rules of Court, rule 49(1)(b)

Case authorities named in the text are those applied in the two judgments, cited as they appear there.

Important note

This article is general information and not legal advice. It reflects the two judgments and the press reports listed above as at 4 October 2026, and either judgment may still be taken on appeal. Statements that do not come from the two judgments are taken from the press reports listed under Resources. They include the figures for objections, the development's footprint, jobs, value, funding and timing, the reactions to the Beachwood ruling, the description of Beacon Rock and the 2023 taxi blockade. Those statements are reproduced as reported, and RM & Associates takes no responsibility and accepts no liability for them. Statements attributed to a party are that party's own. Please take advice on your own facts before you act. Cover illustration © Ryan Michael & Associates.

Speak to us before the clock starts running.

Ryan Michael Botsis, Principal Attorney

RM & ASSOCIATES

ATTORNEYS | NOTARIES | CONVEYANCERS

HEAD OFFICE 15 Stanley Grace Crescent, Umhlanga Rocks

BRANCH OFFICE 12 Warrior Road, Hillcrest

031-0300 808 · +27 73 074 7276

info@rmattorneys.africa · www.rmattorneys.africa