



**WITHOUT NOTICE APPLICATION
FOR SERVICE BY A SPECIFIED METHOD**

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE COMMERCIAL DIVISION

CLAIM NO. SU 2021 CD00073



**IN THE MATTER OF THE COMPANIES ACT OF
JAMAICA**

AND

**IN THE MATTER OF AN APPLICATION BY 138
STUDENT LIVING JAMAICA LIMITED FOR
DIRECTIONS PURSUANT TO SECTION 130(2) OF
THE COMPANIES ACT OF JAMAICA**

The Claimant, **138 STUDENT LIVING JAMAICA LIMITED**, a company incorporated under the laws of Jamaica of 2 Castries Drive, UWI Mona Campus, Kingston 7 in the parish of St. Andrew seeks orders that:

1. The Applicant may give notice of these proceedings to its members by publishing:
 - (a) the Fixed Date Claim Form, the Affidavit in Support of the Fixed Date Claim Form, this Order and any other documents filed in these proceedings on the Applicant's website <https://138studentliving.com/> and/or the website of the Jamaica Stock Exchange at www.jamstockex.com; and
 - (b) a notice in a widely distributed national newspaper on two occasions one week apart at least 7 days before the hearing of the Fixed Date Claim Form, indicating that the documents can be found on the said website[s].

2. The first hearing of the Fixed Date Claim Form shall be fixed for a date that is no more than 4 weeks from the filing of this claim.
3. Such further or other relief as this Honourable Court deems just.

THE GROUNDS ON WHICH THE APPLICANT IS SEEKING THE ORDERS ARE AS FOLLOWS:

1. In these proceedings, the Applicant will seek directions from the Court regarding the holding of its next annual general meeting, in light of the COVID-19 pandemic and restrictions likely to be in place pursuant to any order passed under the Disaster Risk Management Act, the current such order being the Disaster Risk Management (Enforcement Measures) (No. 2) Order, 2021 (“the Present Order”).
2. The Applicant is required to have its next annual general meeting under the Companies Act within the next 3 months.
3. The Applicant will all be unable to hold its next annual general meeting in keeping with the provisions of the Companies Act or its Articles of Incorporation during the said period while the COVID-19 pandemic is likely to still be prevalent.
4. The Applicant is listed on the stock exchange operated by the Jamaica Stock Exchange Limited which has consented to it posting the relevant documents on its website.
5. Rule 42.12(1) the CPR provides that where in a claim an order is made which may affect the rights of persons who are not parties to the claim, the court may at any time direct that a copy of any judgment or order be served on any such person.

6. Rule 42.12(2) of the CPR provides that service must be effected in accordance with Part 5.
7. Rule 5.14 of the CPR gives the court the power to make an order for service by a method specified by the court.
8. The shareholders of the Applicant have a right to attend and be heard at its annual general meetings and directions pursuant to section 130(2) of the Companies Act may affect their rights. However, the Applicant has approximately 570 shareholders and therefore it would be impracticable to serve all shareholders personally.
9. The proposed method of service will likely bring the Fixed Date Claim Form, the Affidavit in support of the Fixed Date Claim Form and other documents to the attention of the shareholders and they will likely be able to ascertain the content of the documents.
10. Rules 27.2 (1) and (2) provide that the general rule is that when a fixed date claim form is issued the registry must fix a date, time and place for the first hearing and that date shall not be less than four weeks nor more than eight weeks from the date on which the fixed date claim form is issued unless the court otherwise directs.
11. For the reasons already stated in the preceding paragraphs it is urgent that the first hearing of the Fixed Date Claim Form be fixed for a period no more than four weeks from the date it is issued.

**IT IS NOT INTENDED TO GIVE NOTICE OF THIS APPLICATION
PURSUANT TO RULES 5.14(2) and 21.2(5) OF THE CPR.**

This Application will be heard by a Judge in Chambers on the _____ day of _____ 2021 at the Supreme Court, King Street, Kingston at _____ a.m./p.m.

TAKE NOTICE that at the hearing of this application the Applicant will refer to and rely on the affidavit of Ian Parsard sworn to on February 24, 2021.

The Applicant estimates the likely length of the hearing to be **30 minutes**.

DATED THE 24th DAY OF FEBRUARY 2021

**HYLTON POWELL
APPLICANT'S ATTORNEYS-AT-LAW**

PER: 
_____ **KERRI-ANNE MAYNE**

FILED by **HYLTON POWELL**, Attorneys-at-Law, 11A Oxford Road, Kingston 5 in the parish of Saint Andrew, Attorneys-at-Law for the Applicant whose address for service is that of its said Attorneys-at-Law (Attention: Kerri-Anne Mayne 5683). Telephone: 926-1672; Facsimile: 929-7587.