

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2289/19P

In the matter between:

INGONYAMA TRUST

APPLICANT

and

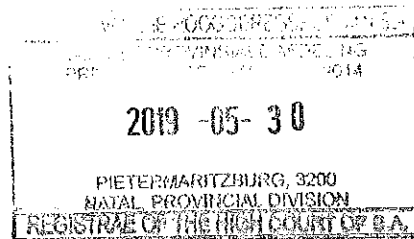
ANDRÉ MARTIN SLADE trading as INNER SPACE
DEVELOPMENTS AND/OR SODWANA BAY GUEST LODGE
(IDENTITY NO. 6206065168 087)

FIRST RESPONDENT

THE UMHLABUYALINGANA LOCAL MUNICIPALITY

SECOND RESPONDENT

AND all other persons who occupy under or
through the First Respondent the premises known
as Portion 12 of the Farm Reserve No. 14, Farm
No. 15834 HV, Sodwana, KwaZulu-Natal



NOTICE OF APPLICATION IN TERMS OF RULE 6(11)

TO: THE REGISTRAR OF THE HIGH COURT
PIETERMARITZBURG

SIRS,

KINDLY TAKE NOTICE that an application will be made on behalf of the abovementioned Applicant on the 10th July 2019 at 09h30 or as soon thereafter as counsel may be heard for an order in the following terms:

1. That the Registrar of this Honourable Court is authorised to issue the Notices attached to the founding affidavit which is attached hereto, marked "X" and "Y".
2. That the said Notices be respectively served on the Umhlkabuyalingana Local Municipality and on the First Respondent and all other unknown persons occupying under or through the First Respondent, the premises known as:

Portion 12 of the Farm Reserve No. 14, Farm No. 15834 HV, in extent more or less 0,58 hectares, Sodwana, in the district council Mbazwane, magisterial district Ubombo, KwaZulu-Natal, held by Applicant in terms of Deed of Transfer No. T14461/2003 ("the premises"), on a date at least fourteen days prior to the hearing of the eviction proceedings;
3. That the costs incurred in respect of this interlocutory application be costs in the eviction proceedings.
4. Further and/or alternative relief.

KINDLY TAKE NOTICE that the attached affidavit of **CARL JOHNSON**, attached hereto, with the annexures thereto, will be used in support of this application.

KINDLY enroll the matter for hearing accordingly.

DATED AT PIETERMARITZBURG ON THIS *30th* DAY OF *May* 2019.



APPLICANT'S ATTORNEY

MASON INCORPORATED
APPLICANT'S ATTORNEYS
THIRD FLOOR, FEDSURE HOUSE
251 CHURCH STREET
PIETERMARITZBURG
(REF: (Ref: Mr. C Johnson/09I001/030)

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO: 2289/19P

In the matter between:

INGONYAMA TRUST

APPLICANT

and

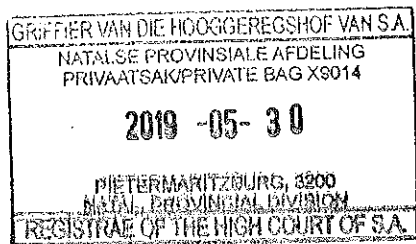
**ANDRÉ MARTIN SLADE trading as INNER SPACE
DEVELOPMENTS AND/OR SODWANA BAY GUEST LODGE
(IDENTITY NO. 6206065168 087)**

FIRST RESPONDENT

THE UMHLABUYALINGANA LOCAL MUNICIPALITY

SECOND RESPONDENT

AND all other persons who occupy under or
through the First Respondent the premises known
as Portion 12 of the Farm Reserve No. 14, Farm
No. 15834 HV, Sodwana, KwaZulu-Natal



FOUNDING AFFIDAVIT

I, the undersigned,

CARL JOHNSON

do hereby make oath and say:

1.

I am a major male attorney of this Honourable Court and I practice as a director of Mason Incorporated, which has its offices at the Third Floor, Fedsure House, 251 Church Street, Pietermaritzburg, KwaZulu-Natal.

2.

The facts and circumstances contained in this affidavit fall within my personal knowledge, save where to the contrary indicated, and are to the best of my belief true and correct.

3.

Mason Incorporated are Applicant's attorneys of record in the main application in terms of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, No. 19 of 1998 ("the Act"). I am duly authorised to bring this application on behalf of Applicant and to depose to this affidavit.

4.

In terms of section 4(2) of the Act it is necessary to serve a Notice of the proceedings on the Respondents at least fourteen days before the date of the hearing of the eviction application.



5.

I will cause to be annexed hereto, the two notices, marked annexures "X" and "Y" respectively, which need to be served on the First and Second Respondents.

6.

It is necessary to bring this application to ask this Honourable Court to authorise the service of these notices on the relevant parties in order to give effect to the Act, as well as the decision of **Cape Killarney Property Investments (Pty) Limited v Mahamba 2001 (4) SA 1222 SCA** and the decision in this Division of **Ubunye Co-operative Housing (Association incorporated under section 21) v J N Mbele & 32 Others** which was brought under Case No. 3754/2005 and in which case the Honourable Mr. Justice Levinsohn delivered a judgment on the 22nd September 2005.

7.

The Honourable Mr. Justice Levinsohn remarked that the application wherein a Court is asked to issue directions in terms of section 4(2) of the Act is in essence an interlocutory application in terms of Rule 6(11).

8.

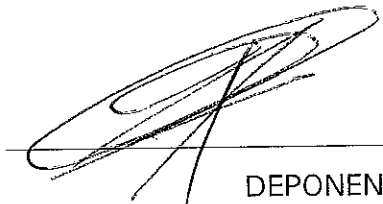
I accordingly respectfully submit that this Application is in line with the Act as well as the decided cases and that it is accordingly necessary to approach the Honourable



Court in this manner to request an order for the authorisation of the issuing of the aforementioned Notices.

9.

I therefore respectfully request this Honourable Court to grant the order as set out in the application in terms of Rule 6(11) to which this affidavit will be annexed. I will thereafter make arrangements for the service of the relevant notices on the First and Second Respondents in order to give effect to the requirements as set out in the Act.


DEPONENT

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to at Pietermaritzburg before me on this 29 day of May 2019 the regulations contained in Government Notice No. R1258 of 21 July 1972 having been complied with.


COMMISSIONER OF OATHS

FULL NAME: Cardice Gwender
BUSINESS ADDRESS: Corner Church and Otto St, PMB
CAPACITY: Checking Officer

CP 2018

Ingonyama Trust v AM Slade t.a Inner Space Developments (Interlocutory) Aff C Johnson Mason 201118

MAGISTRATE'S COURT
PRIVATE BAG X9011
2019 -05- 29
PIETERMARITZBURG 3200
CLERK OF THE COURT

ANNEXURE "X"

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO:

In the matter between:

INGONYAMA TRUST

APPLICANT

and

**ANDRÉ MARTIN SLADE trading as INNER SPACE
DEVELOPMENTS AND/OR SODWANA BAY GUEST LODGE
(IDENTITY NO. 6206065168 087)**

FIRST RESPONDENT

THE UMHLABUYALINGANA LOCAL MUNICIPALITY

SECOND RESPONDENT

AND all other persons who occupy under or
through the First Respondent the premises
known as Portion 12 of the Farm Reserve No. 14,
Farm No. 15834 HV, Sodwana, KwaZulu-Natal

NOTICE IN TERMS OF SECTION 4(2) OF ACT NO 19 OF 1998

TO:

**THE REGISTRAR OF THE HIGH COURT
PIETERMARITZBURG**



AND TO: ANDRÉ MARTIN SLADE

who trades as INNER SPACE DEVELOPMENTS and/or

SODWANA BAY GUEST HOUSE

FIRST RESPONDENT

PORTION 12 OF THE FARM RESERVE NO. 14, FARM NO. 15834 HV,

SODWANA

KWAZULU-NATAL

AND TO: ALL OTHER UNLAWFUL OCCUPIERS WHO CONTINUE TO OCCUPY
UNDER OR THROUGH FIRST RESPONDENT THE PREMISES KNOWN
as:

Portion 12 of the Farm Reserve No. 14, Farm No. 15834 HV, in extent
more or less 0,58 hectares, Sodwana, in the district council Mbazwane,
magisterial district Ubombo, KwaZulu-Natal, held by Applicant in
terms of Deed of Transfer No. T14461/2003 ("the premises")

SIRS,

KINDLY TAKE NOTICE that the Applicant is proceeding with an application for your
eviction as unlawful occupiers of the premises known as Portion 12 of the Farm
Reserve No. 14, Farm No. 15834 HV, in extent more or less 0,58 hectares, Sodwana,
in the district council Mbazwane, magisterial district Ubombo, KwaZulu-Natal, held



by Applicant in terms of Deed of Transfer No. T14461/2003, Kwazulu-Natal ("the premises") in terms of Section 4(1) of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, No 19 of 1998) ("the Act").

KINDLY TAKE FURTHER NOTICE that the grounds on which the Application will be moved are the following:

- (a) Applicant is the registered owner of the premises;
- (b) The First Respondent and those occupying under or through him, are in occupation of the property;
- (c) Their right to occupation was duly terminated;
- (d) The occupation of the premises is unlawful since they continue to occupy without the consent and without any other right in law to occupy the premises.

KINDLY TAKE FURTHER NOTICE that application for your eviction will be made on the day of 2019 at 09h30, or as soon thereafter as counsel for the Applicant may be heard.

KINDLY TAKE FURTHER NOTICE that you are:



- (a) Entitled to appear before the High Court of South Africa, KwaZulu-Natal Division, Pietermaritzburg, on the _____ day of _____ 2019 at 09h30 or as soon thereafter as the matter may be heard to oppose the Application;
- (b) Entitled to draw to the attention of the Honourable Court at the hearing at the abovementioned place and on the abovementioned date, all relevant circumstances which will establish that the granting of an eviction order as requested would be unfair and unjust and not equitable in the circumstances;
- (c) Entitled to apply for Legal Aid at the offices of the Legal Aid Board, Church Street, Pietermaritzburg, KwaZulu-Natal in order to assist you in the defence of the matter if you so desire.

KINDLY TAKE FURTHER NOTICE that the affidavit of **LUCAS MKHWANAZI**, with the annexures thereto, will be used in support of the Application.

REGISTRAR OF THE HIGH COURT
PIETERMARITZBURG



ANNEXURE "Y"

IN THE HIGH COURT OF SOUTH AFRICA
KWAZULU-NATAL DIVISION, PIETERMARITZBURG

CASE NO:

In the matter between:

INGONYAMA TRUST

APPLICANT

and

**ANDRÉ MARTIN SLADE trading as INNER SPACE
DEVELOPMENTS AND/OR SODWANA BAY GUEST LODGE
(IDENTITY NO. 6206065168 087)**

FIRST RESPONDENT

THE UMHLABUYALINGANA LOCAL MUNICIPALITY

SECOND RESPONDENT

AND all other persons who occupy under or
through the First Respondent the premises
known as Portion 12 of the Farm Reserve No. 14,
Farm No. 15834 HV, Sodwana, KwaZulu-Natal

NOTICE IN TERMS OF SECTION 4(2) OF ACT NO 19 OF 1998

TO: UMHLABUYALINGANA LOCAL MUNICIPALITY
MAIN ROAD, R22
KWA NGWANASE



KWAZULU-NATAL

SIRS,

KINDLY TAKE NOTICE that the Applicant has instituted proceedings for the eviction of the First Respondent and all those occupying under or through him, the premises known as Portion 12 of the Farm Reserve No. 14, Farm No. 15834 HV, in extent more or less 0,58 hectares, Sodwana, in the district council Mbazwane, magisterial district Ubombo, KwaZulu-Natal, held by Applicant in terms of Deed of Transfer No. T14461/2003 ("the premises"), in terms of the provisions of section 4(1) of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, No 19 of 1998) ("the Act").

KINDLY TAKE FURTHER NOTICE that the grounds on which the Application will be moved are the following:

- (a) The Applicant is the registered owner of the property;
- (b) The continued occupation of the property by the First Respondent and all persons who occupy under or through him is unlawful since they occupy the property without any right in law to occupy such property.

KINDLY TAKE FURTHER NOTICE that the First Respondent and all those occupying the premises under and through the First Respondent have been notified that:

- (a) They are entitled to appear before the KwaZulu-Natal High Court, Pietermaritzburg, KwaZulu-Natal, on the _____ day of _____



2019 at 09h30 or as soon thereafter as the matter may be heard to oppose the Application;

- (b) They are entitled to draw to the attention of the Honourable Court at the hearing at the abovementioned place and on the abovementioned date, all relevant circumstances which will establish that the granting of an eviction order as requested would be unfair and unjust and not equitable in the circumstances;
- (c) They are entitled to apply for Legal Aid at the offices of the Legal Aid Board, Church Street, Pietermaritzburg, KwaZulu-Natal in order to assist them in the defence of the matter if she so desires.

KINDLY TAKE FURTHER NOTICE that the affidavit of **LUCAS MKHWANAZI**, with the annexures thereto, will be used in support of the Application.

REGISTRAR OF THE KWAZULU-NATAL HIGH COURT
PIETERMARITZBURG

