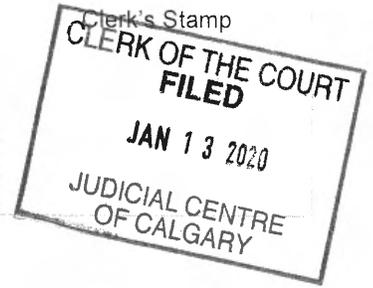


COURT FILE NUMBER 2001 - 00610  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY  
PLAINTIFF(S) MCAP FINANCIAL CORPORATION  
DEFENDANT(S) 1759255 ALBERTA LTD.  
DOCUMENT STATEMENT OF CLAIM



ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
**Cassels Brock & Blackwell LLP**  
Suite 3810, Bankers Hall West  
888 3 Street SW  
Calgary, Alberta T2P 5C5  
Attention: Jeffrey Oliver  
Phone: 403-351-2921  
Facsimile: 403-648-1151

**NOTICE TO DEFENDANT(S)**

You are being sued. You are a defendant.

Go to the end of this document to see what you can do and when you must do it.

**Statement of facts relied on:**

**Parties**

1. The Plaintiff, MCAP Financial Corporation ("**MCAP**"), is a corporation having an office at the City of Toronto in the Province of Ontario.
2. The Defendant, 1759255 Alberta Ltd. ("**175**"), is a corporation having an office at the City of Calgary in the Province of Alberta.

**Loan and Security**

3. Pursuant to a commitment letter dated September 12, 2018, as amended ("**Commitment Letter**"), MCAP advanced a \$2,418,750 mortgage loan ("**Loan**") to 175 in

respect of the property municipally known as 1717 Mountain Avenue, Canmore, Alberta (“**Property**”). The Property is legally described as:

PLAN CANMORE 5263HV  
 BLOCK ONE (1)  
 THE NORTH EAST TWO HUNDRED AND SEVENTEEN (217) FEET  
 OF LOT EIGHT (8)  
 EXCEPTING THEREOUT ALL MINES AND MINERALS

4. The purpose of the Loan was to facilitate the purchase, renovation and repositioning of two buildings located on the Property comprising 45 short- and medium-term rental apartment units, which were previously motel rooms.
5. As at December 10, 2019, the total amount outstanding under the Mortgage was \$2,401,914.80, exclusive of legal costs, fees, and all other amounts properly due and owing and continuing to accrue.
6. MCAP’s primary security for the Loan includes:
  - (a) a first-ranking mortgage registered on title of the Property dated September 20, 2018 as instrument number 181 220 070 registered on October 11, 2018 (“**Mortgage**”);
  - (b) a general security agreement in connection with all present and after-acquired property of 175 related to the Property dated September 20, 2018 registered under the Alberta personal property registration system as registration number 18091925424 made on September 19, 2018; and
  - (c) a general assignment of rents and leases registered on title to the Property dated September 20, 2019 as instrument number 181 220 071 registered on October 11, 2018.
7. The Loan was also guaranteed by Song Song Li and Leef Living Ltd. (collectively, “**Guarantors**”), a director and a shareholder of 175, respectively.
8. There are no other mortgages registered on title and MCAP’s security registration is first in priority.

### **Default and Demand**

9. Events of default occurred and have continued under MCAP's security since November 1, 2019 or earlier when 175 failed to make a regular payment of principal and interest.
10. Additional defaults include, among others:
  - (a) 175 has failed to provide annual financial statements and current rent-rolls as required pursuant to the terms of the Commitment Letter and Mortgage;
  - (b) a material adverse change relating to 175 or the risk associated with the Loan or operation of 175 or the Guarantors has occurred; and
  - (c) as of January 8, 2020, there are tax arrears owing on the Property in the amount of \$8,728.79.
11. MCAP made several requests for the Loan to be brought current, but 175 failed or neglected to do so. MCAP delivered a demand letter and notice of intention to enforce security under section 244 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended ("**BIA**") to 175 and the Guarantors on December 12, 2019. Pursuant to the demand letter MCAP accelerated all amounts due and owing to it under the Mortgage and Commitment Letter in accordance with the terms of its security.
12. The 10-day notice period under section 244 of the *BIA* has expired.
13. Other than a \$29,000 payment made on January 6, 2020, no amounts have been received by MCAP in full or partial repayment of the Loan, accrued interest or other amounts properly due and owing under the Mortgage or Commitment Letter since November 1, 2019.
14. Even if the Loan was not accelerated, such payment would not bring it current.

#### Appointment of a Receiver

15. MCAP seeks the appointment of a receiver and manager to manage the Property and to realize on MCAP's security.
16. MCAP's security provides for the appointment of a receiver.
17. MNP Ltd. has consented to act as receiver of the property, assets and undertaking of 175 related to the Property.
18. It is just and convenient for a receiver to be appointed in the circumstances.

**Remedy sought:**

19. The Plaintiff claims as against the Defendant:
- (a) judgment in the amount of \$2,401,914.80 due under the Mortgage as of December 10, 2019 and any other amounts properly due and owing under the mortgage after such date, together with pre-judgment and post-judgment interest at the rate of 6.2% per year or, alternatively, pursuant to the *Judgment Interest Act*, RSA 2000, c J-1, as amended;
  - (b) a declaration as to the amounts owing under the Commitment Letter and Mortgage with interest according to the terms of the Commitment Letter and Mortgage and in default of payment, sale or foreclosure and possession of the Property;
  - (c) possession of the Property;
  - (d) the appointment of a receiver or receiver and manager over the assets, undertakings and property of 175 related to the Property pursuant to the *BIA*;
  - (e) all legal costs and expenses of this action in accordance with MCAP's security, or in the alternative, costs as this Honourable Court deems appropriate; and
  - (f) such further and other relief as this Honourable Court may deem just.

**NOTICE TO THE DEFENDANT(S)**

You only have a short time to do something to defend yourself against this claim:

20 days if you are served in Alberta

1 month if you are served outside Alberta but in Canada

2 months if you are served outside Canada.

You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's(s') address for service.

**WARNING**

If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late

in doing either of these things, a court may give a judgment to the plaintiff(s) against you.