



COURT FILE NUMBER 2001- 01887

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF COMPUTERSHARE TRUST COMPANY OF
CANADA c/o MCAP FINANCIAL LIMITED
PARTNERSHIP

DEFENDANTS CENTRE ELEVEN CAPITAL CORP.; and
CENTRE ELEVEN LIMITED PARTNERSHIP

DOCUMENT **STATEMENT OF CLAIM**

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, Computershare Trust Company of Canada c/o MCAP Financial Limited Partnership ("**MCAP**"), is a trust company having an office at the City of Toronto in the Province of Ontario.
2. The Defendant, Centre Eleven Capital Corp. ("**Centre Eleven GP**"), is a corporation having an office at the City of Calgary in the Province of Alberta.

3. The Defendant, Centre Eleven Limited Partnership ("**Centre Eleven LP**", together with Centre Eleven GP, "**Centre Eleven Owners**"), is a limited partnership having an office at the City of Calgary in the Province of Alberta.
4. The Centre Eleven Owners and the Property (as defined below) are currently subject to an omnibus interim receivership pursuant to an Order made by the Honourable Justice K.M. Horner on December 20, 2019 with the style of cause *Sun Life Assurance Company of Canada, et al v Sundance Place II Ltd., et al* (Court of Queen's Bench Action: 1901-18029) ("**Interim Receivership**" and such proceedings, "**Interim Receivership Proceedings**").
5. The Interim Receivership Proceedings are a stop-gap to protect the mortgagees of over 60 commercial rental properties (some of which have been or are in the process of being converted into residential rental properties) located in Calgary owned by the real estate enterprise known as the Strategic Group of Companies. Prior to the Interim Receivership, those properties and their owners were subject to proceedings under the *Companies Creditors' Arrangement Act*, RSC 1985, c C-36, as amended ("**CCAA Proceedings**"). Following termination of the CCAA Proceedings the interim receiver assumed possession of the subject properties.
6. The Interim Receivership Order provides a mechanism for any lender to terminate the Interim Receivership Proceedings in respect of the debtors and their property subject to such lender's security through completing a form of "Termination Certificate" attached as a schedule to the Order and serving and filing such certificate in accordance with the terms of the Interim Receivership Order.

Loan and Security

7. Pursuant to a commitment letter dated May 23, 2014 ("**Commitment Letter**") and a mortgage in writing dated June 11, 2014, as amended ("**Mortgage**"), MCAP advanced \$11,800,000 to Centre Eleven GP ("**Loan**") in respect of the property municipally known as 1121 Centre Street NW, Calgary, Alberta. The property is legally described as:

PLAN CALGARY 3946N
 BLOCK SEVENTEEN (17)
 LOTS FIFTEEN (15) TO NINETEEN (19) INCLUSIVE
 AND THE WESTERLY FORTY (40) FEET THROUGHOUT
 LOTS TWENTY (20) TO TWENTY FOUR (24) INCLUSIVE

("Property")

8. The Property is a 0.6 acre site located at 11th Avenue and Centre Street NW in Calgary's Crescent Heights District. The premises on the property is a five story, 62,843 square foot multi-tenant, class B, office building.
9. MCAP's primary security for the Loan includes:
- (a) a first-ranking mortgage registered on title of the Property as instrument number 141 153 862 on June 20, 2014 ("**Mortgage**");
 - (b) a general security agreement in connection with all present and after-acquired property of the Centre Eleven Owners related to the Property registered under the Alberta personal property registration system ("**PPRS**") as registration number 14060532535 made on June 5, 2014; and
 - (c) a general assignment of rents and leases registered on title to the Property as instrument number 141 153 863 on June 20, 2014.
10. The Interim Receivership Order was also registered on title in favour of Alvarez & Marsal Canada Inc. ("**A&M**"). There are no other mortgages or liens registered on title.
11. The only registrations against the Centre Eleven Owners under the Alberta PPRS are (i) a registration in favour of MCAP; and (ii) a registration in favour of Alvarez & Marsal Canada Inc. ("**A&M**") in connection with the Interim Receivership Order.

Default and Demand

12. The Loan matured on October 1, 2019 at which point the entire outstanding principal balance on the Loan of \$10,333,154.49 became immediately due and owing. Centre Eleven GP failed or neglected to pay this debt and certain other amounts properly due and owing under the Mortgage when they became due on the maturity date.
13. Centre Eleven GP has not made any payments on the Loan since November 1, 2019.
14. As at December 13, 2019, the total amount outstanding under the Loan was \$10,006,484, exclusive of legal costs, fees, and all other amounts properly due and owing and continuing to accrue.

15. 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 the Centre Eleven Owners on December 23, 2019.

Appointment of a Receiver

16. MCAP intends to terminate the Interim Receivership Proceedings in respect of the Centre Eleven Owners and the Property in the manner described in paragraph 6 above.

17. MCAP seeks the appointment of a receiver and manager to manage the Property and to realize on MCAP's security.

18. MCAP's security provides for the appointment of a receiver if the Loan is in default.

19. MNP Ltd. ("**MNP**") has consented to act as receiver of the property, assets and undertaking of the Centre Eleven Owners, including without limitation in respect of the Property.

20. It is just and convenient for a receiver to be appointed in the circumstances.

21. To coordinate the smooth transition from the prior Interim Receivership to the within receivership MCAP, MNP and A&M have already had discussions in respect of the Centre Eleven Owners and the Property. These discussions have included, among other things, property management, transition of accounts, leasing and maintenance and repairs.

Remedy sought:

22. The Plaintiff claims as against the Defendants:

- (a) judgment in the amount of \$10,006,484 due under the Mortgage as of December 13, 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 4.5% 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 all the assets, undertakings and property of the Centre Eleven Owners pursuant to section 243(1) of the *BIA* and section 13(2) of the *Judicature Act*, RSA 2000, c. J-2;
- (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.