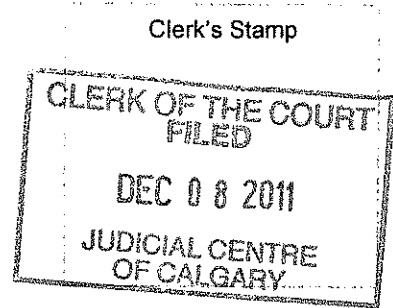


COURT FILE # 1101 - 116748
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF STONESET EQUITIES LTD., STONESET EQUITY DEVELOPMENT CORP., STONESET VISTA DEL LAGO LIMITED PARTNERSHIP
DEFENDANT OCTAGON PROPERTIES LTD., NAVIGATOR DEVELOPMENT CORPORATION, NAVIGATOR INVERMERE DEVELOPMENT CORPORATION, CUSHMAN & WAKEFIELD LEPAGE INC. and BRADLEY KROEKER and MARCO DEDOMINICIS
DOCUMENT STATEMENT OF CLAIM
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT DEMIANTSCHUK LEQUIER BURKE & HOFFINGER LLP
#1200, 1015 - 4 Street South West
Calgary, Alberta
T2R 1J4
Attention: Judy Burke
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e. judy@legalsolutions.ca
Solicitor's file no. 50,490



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.

Note: State below only facts and not evidence (Rule 13.6)

Statement of facts relied on:

1. The Plaintiff STONESET EQUITIES LTD. ("SEL") was a body corporate carrying on business in the Province of Alberta, with an office located at the City of Calgary, in the Province of Alberta. SEL amalgamated with Aqueous Capital Corp. in February 2010 and changed its name to Stoneset Equity Development Corp.
2. The Plaintiff STONESET EQUITY DEVELOPMENT CORP. ("Stoneset") is a body corporate carrying on business in the Province of Alberta, with an office located at the City of Calgary, in the Province of Alberta.

3. The Plaintiff STONESET VISTA DEL LAGO LIMITED PARTNERSHIP ("SVLP") is a body corporate carrying on business in the Province of Alberta, with an office located at the City of Calgary, in the Province of Alberta.
4. The Defendant OCTAGON PROPERTIES LTD. ("Octagon") is a body corporate carrying on business in the Province of Alberta, with an office located at the City of Calgary, in the Province of Alberta.
5. The Defendant NAVIGATOR DEVELOPMENT CORPORATION ("NDC") was a body corporate carrying on business in the Province of Alberta, with an office located at the City of Calgary, in the Province of Alberta and was struck on January 2, 2011. The corporation had no directors and its sole voting shareholder was Octagon Properties Group Ltd.
6. The Defendant NAVIGATOR INVERMERE DEVELOPMENT CORPORATION ("NIDC") is a body corporate carrying on business in the Province of Alberta, with an office located at the City of Calgary, in the Province of Alberta. The sole voting shareholder is Navigator Development Corporation, which has been struck.
7. The Defendant MARCO DeDOMINICIS was, at all material times, a voting shareholder of the Defendant Octagon, which corporation holds shares in the Defendant Navigator Development Corporation ("DeDominicis").
8. The Defendant BRADLEY KROEKER (hereinafter "Kroeker") is so far as is known to the Plaintiff, a resident of the City of Calgary, in the Province of Alberta and at all material times held himself out to be an experienced commercial real estate appraiser employed by or associated with the Defendant CUSHMAN & WAKEFIELD LEPAGE INC. (hereinafter "Cushman Wakefield")
9. The Defendant Cushman Wakefield is a body corporate carrying on business in the Province of Alberta, with an office located at the City of Calgary, and at all material times was in the business of commercial real estate appraisals.
10. The Defendant Kroeker was employed by or is associated with the Defendant Cushman Wakefield and Cushman Wakefield is vicariously liable for the actions of Kroeker.
11. In or about January, 2007 SEL entered into an agreement with the Defendant Octagon whereby SEL agreed to purchase and Octagon agreed to sell the lands legally described as:

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the District of Invermere, in the Province of British Columbia being more particularly known and described as:

PID 009-482-024
Lot 1 District Lot 216 Kootenay District Plan 2133 Except Part Included in
Plans 4188, 9866, 10795 and 12171

PID 023-101-563
That Part of District Lot 216 Kootenay District Included in Sketch Plan 32521

PID 028-180-828

Lot A District Lot 216 Kootenay District Plan NEP90601

PID 011-197-391

Lot 1 District Lot 216 Kootenay District Plan 4379 Except Part Included in Plan NEP 20624

PID 018-333-176

Lot A District Lot 216 Kootenay District Plan NEP 20624

PID 012-731-064

Lot 2 District Lot 216 Kootenay District Plan 11536

PID 027-128-407

Lot 21 Block B District Lot 216 Kootenay District Plan 1013 Except Plan 8168

PID 027-128-491

Lot 22 Block B District Lot 216 Kootenay District Plan 1013 Except Plan 8168

(the "Lands")

for the sum of \$23 million dollars.

12. The purpose of the acquisition of the Lands by SEL was to develop the Lands into a project known as Stoneset Vista Del Lago (the "Project"). Stoneset Vista Del Lago was to consist of a hotel, condominium units and commercial development in British Columbia.

THE REPRESENTATIONS

13. SEL was induced to enter into the Agreement for Purchase and Sale of the lands and did in fact enter into the Agreement based upon the representations by Octagon and DeDominicis that:
 - a. The lands had an actual value of \$25 million dollars.
 - b. The lands were 12.34 acres more or less in size.
 - c. DeDominicis was a veteran real estate investor.
 - d. The Stoneset Vista Del Lago Project had projected revenues of \$329,465,975.00.
 - e. DeDominicis on his own or through his affiliated companies would use the sale proceeds of \$23 million dollars to finance the development of the project known as Stoneset Vista Del Lago.
 - f. That the plans contained in the Official Community Plan Amendment Request were, apart from amendments applied for, legal to carry out and in compliance with all By-Laws and other regulatory or legal requirements.
14. SEL was further induced to enter into the Agreement for Purchase and Sale of the lands and did in fact enter into the Agreement based upon the written representation by Cushman Wakefield and/or Kroeker, acting on his own behalf or on behalf of Cushman Wakefield that:

- a. The lands had an actual value of \$25 million dollars.
 - b. The lands were 12.34 acres more or less in size.
15. But for the representations of Octagon, DeDominicis, Cushman Wakefield and Kroeker, SEL would not have purchased the lands for \$23 million dollars or at all.
16. The representations of Octagon, DeDominicis, Cushman Wakefield and Kroeker were untrue in that:
- a. The value of the Lands was not \$23 million dollars.
 - b. The Lands were not 12.34 acres more or less in size but 9 acres more or less in size.
 - c. The Lands were not large enough for the proposed Project development and as a result, the Project known as Stoneset Vista Del Lago Development could not proceed.
 - d. The plans contained in the Official Community Plan Amendment Request were not in compliance with the By-Laws and other regulatory or legal requirements.
 - e. DeDominicis failed to use the sale proceeds to finance the development of the Project known as Stoneset Vista Del Lago.
17. The representations were made negligently in circumstances where it was foreseeable that the representations of Octagon, DeDominicis, Cushman Wakefield and/or Kroeker would be relied upon by the Plaintiffs. As a result, the Plaintiffs owed a duty of care to the Plaintiffs to ensure that the representations were true.
18. Based on the representations made by the Defendants Marco DeDominicis, Octagon Properties Ltd. and Cushman Wakefield and/or Kroeker, SEL entered into the Purchase and Sale Agreement with Octagon for the Lands and paid the sum of \$23 million dollars. The sum was paid by way of \$4 million dollars in cash and \$19 million dollars as a Vendor Take-back Mortgage granted to Octagon.
19. As a result of the misrepresentations of the Defendants, Octagon, DeDominicis, and Cushman Wakefield and/or Kroeker, the Plaintiffs have suffered damages including but not limited to the following:
- a. An inability to develop the Lands as the size of the Lands is not large enough for the development proposed.
 - b. An inability to finance the Project as the Lands do not have the value or size represented by Octagon, DeDominicis, and Cushman Wakefield and/or Kroeker.
 - c. Loss of profit as a result of an inability to develop the lands as contemplated.

NEGLIGENCE

20. Further or in the alternative, the Defendant Cushman Wakefield and/or Kroeker undertook the appraisal of the lands in circumstances where they knew or ought to have known that it was foreseeable that a third party including the Plaintiffs would rely upon the accuracy of the appraisal.
21. In the circumstances, Cushman Wakefield and/or Kroeker or both owed a duty of care to the Plaintiffs to undertake to prepare an accurate appraisal of the lands.
22. In breach of the duty of care Cushman Wakefield and/or Kroeker or both were negligent in their assessment estimation of the value of the lands particulars in which negligence are as follows
 - a. Cushman Wakefield and/or Kroeker or both failed to independently investigate the size of the lands;
 - b. Cushman Wakefield and/or Kroeker or both failed to inspect relevant and material documents to determine accurately the size of the lands;
 - c. Cushman Wakefield and/or Kroeker or both failed to use all reasonable and commercial efforts to determine the actual size of the land;
 - d. Cushman Wakefield and/or Kroeker or both failed to use appropriate comparables in determining the size of the land.
 - e. Such other further and other negligence as may be proven at trial.
23. As a result of the negligence of the Defendants Cushman Wakefield and/or Kroeker or both the Plaintiffs have suffered losses including but not limited to the following:
 - a. An inability to develop the Project as the size of the lands is not large enough for the Project proposed.
 - b. An inability to finance the Project as the lands do not have the value or size represented by Cushman Wakefield and/or Kroeker or both.
 - c. Loss of profit as a result of the inability to develop the Project as contemplated.

BREACH OF CONTRACT

24. Further, on or about May 15, 2007 SEL and NDC, the nominee of Octagon, entered into a Joint Venture and Management Agreement pursuant to which it was agreed in writing as follows:
 - a. Stoneset Vista Del Lago Project, NDIC would have a 35% interest in the project.
 - b. The contribution of NIDC to earn its 35% interest in the project would be its ability:

- i. to obtain mortgage financing secured against the Lands to finance the cost of the development of the project until conventional mortgaging could be secured
- ii. to obtain favourable terms on the Project financing secured against the Lands
- iii. to provide the personal guarantees of its principals to obtain the various forms of financing
- iv. to cause its affiliated company NDC to enter into the management contract and perform its responsibilities as development manager on behalf of the Joint Venture.

25. In breach of the Agreement between the parties NDC:

- a. Failed to obtain mortgage financing to finance the costs of the development of the Project;
- b. Failed to obtain favourable terms on the Project financed and secured against the lands;
- c. Failed to provide personal guarantees of its principals.

26. In or about February of 2008, SEL entered into an agreement with NDC and NIDC pursuant to which NDC agreed to:

- a. Act as project manager for each phase of the Stoneset Vista Del Lago Project;
- b. Obtain development approvals for the Project;
- c. Obtain subdivision implementation to all for the Project;
- d. Performed physical work and general management of the lands;
- e. Enter into contracts with the consultants and sub-contractors for the work required to design the buildings for the initial phases of the Project;
- f. Pay for the work performed by the various consultants on the Project.

27. In breach of the Agreement between the parties NIDC:

- a. Failed to act as project manager;
- b. Failed to obtain the required development permits for the Projects;
- c. Failed to obtain subdivision implementation for the Projects;
- d. Failed to provide the physical work and general management of the Lands;
- e. Failed to enter into contracts with the consultants and sub-contractors for the work required to design the buildings for the initial phases for the Project;

- f. Failed to pay for the work performed on the Project by the various consultants and sub trades. As a result of which the Plaintiffs paid the sub trades from their own resources.
28. As a result of the breach of the Agreements by NDC and NIDC the Plaintiffs have suffered damages, including but not limited to the following:
- a. Loss of profit due to an inability to develop the Project.
 - b. Monetary damages in the amount of \$22 million dollars or such other amounts that may be proven at trial for amounts paid to sub trades and to Octagon to reduce the indebtedness on the Vendor Take-back Mortgage.

Remedy Sought

29. Damages for misrepresentation and breach of contract in the amount of \$25 million dollars or such other amount that may be proven at the trial of this action.

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 601 - 5 Street SW, Calgary, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff(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.