

AMENDED this 3 day of April 2018 Pursuant to Rule 3.62.  
Dated the 3 day of April 2018

Form 10  
[Rule 3.25]

Clerk's stamp: CLERK OF THE COURT  
**FILED**  
APR 03 2018  
JUDICIAL CENTRE  
OF CALGARY

CLERK OF THE COURT

COURT FILE NUMBER 1701-08644

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF CENTURION MORTGAGE CAPITAL CORPORATION

DEFENDANTS THE BRIDGES STEPS LIMITED PARTNERSHIP, by its general partner, GIUSTINI BRIDGES INC., GIUSTINI BRIDGES INC., ASSURED DEVELOPMENTS LTD., GIUSTINI DEVELOPMENT CORPORATION, ^ SBG INVESTMENT CORP., 1670749 ALBERTA LTD., 1670759 ALBERTA LTD., CANTERRA CUSTOM HOMES INC., and JORDAN GIUSTINI

DOCUMENT AMENDED STATEMENT OF CLAIM

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Dentons Canada LLP  
Bankers Court  
15<sup>th</sup> Floor, 850 - 2<sup>nd</sup> Street S.W.  
Calgary, Alberta T2P 0R8

Attention: David Mann/Afshan Naveed  
Ph. (403) 268-7097/7015 Fx. (403) 268-3100  
File No.: 570945-1

**NOTICE TO DEFENDANTS**

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:**

The Parties

1. The Plaintiff, Centurion Mortgage Capital Corporation ("**Centurion**") is a corporation registered under the laws of the Province of Ontario and extra-provincially registered in Alberta and carries on business in Ontario and Alberta.
2. The Defendant, The Bridges Steps Limited Partnership ("**The Bridges**") is a limited partnership registered under the laws of the Province of Alberta and carries on business as a residential

property development company in Calgary, Alberta. The general partner of The Bridges is Giustini Bridges Inc.

3. The Defendant, Giustini Bridges Inc. (“**GBI**”) is a corporation registered under the laws of the Province of Alberta and carries on business as a residential property development company in Calgary, Alberta.
4. The Defendant, Assured Developments Ltd. (“**Assured**”) is a corporation registered under the laws of the Province of Alberta and carries on business in Calgary, Alberta.
5. The Defendant, Giustini Development Corporation (“**GDC**”) is a corporation registered under the laws of the Province of Alberta and carries on business in Calgary, Alberta.
6. The Defendant, SBG Investment Corp. (“**SBG**”) is a corporation registered under the laws of the Province of Alberta and carries on business in Calgary, Alberta.
7. The Defendant, 1670749 Alberta Ltd. (“**749**”) is a corporation registered under the laws of the Province of Alberta and carries on business in Calgary, Alberta.
8. The Defendant, 1670759 Alberta Ltd. (“**759**”) is a corporation registered under the laws of the Province of Alberta and carries on business in Calgary, Alberta.
9. The Defendant, Canterra Custom Homes Inc. (“**Canterra**”) is a corporation registered under the laws of the Province of Alberta and carries on business in Calgary, Alberta.
10. The Defendant, Jordan Giustini (“**Giustini**”) is an individual residing, to the best of the Plaintiff’s knowledge, in the Province of Alberta.
11. Servus Credit Union Ltd. (“**Servus**”), not a party to the action, is a financial institution, operating pursuant to the Credit Union Act., RSA 2000, c C-32, which provides financial services throughout the Province of Alberta.

### **The Assignment**

12. As will be discussed further below, Servus assigned all of its right title and interest in the Servus Loan, the Servus Security and the Servus Loan Guarantee (all as plead and defined herein) including the right to enforcement thereunder, to Centurion pursuant to an Assignment Agreement dated June 14, 2017, between Servus and Centurion (the “**Assignment**”).

### The Centurion Loan

13. Pursuant to a Commitment Letter between Centurion and Assured, as later assumed by The Bridges (Assured and The Bridges are collectively the "**Borrower**"), dated August 8, 2014 as amended, from time to time, by letter agreements dated January 28, 2015, June 20, 2016, and side letter also dated June 20, 2016 (collectively the "**Centurion Loan Agreement**"), Centurion agreed to advance the maximum sum of \$12,500,000 to the Borrower (the "**Centurion Loan**") as a second mortgage mezzanine loan in order to provide subordinate mezzanine funding to assist with the financing, construction and development of a six storey, 122 unit, multi-family condominium project (the "**Project**") on lands located at 918 McPherson Square NE, Calgary, Alberta and legally described as:

PLAN 0512930  
BLOCK 7  
LOT 1  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
^  
—

(the "**Lands**").

14. By the terms of the Centurion Loan Agreement, the parties have agreed that (among other things):

- (a) the Centurion Loan is a term loan which expires on November 1, 2017;
- (b) the Centurion Loan is repayable at the end of the term, or the date payment is demanded following the occurrence of an event of default;
- (c) interest will accrue on the Centurion Loan, at the rate of 11.5% per annum until September 15, 2016 and thereafter at 15% per annum, compounded monthly for the remainder of the term;
- (d) GBI, GDC, ^ SBG, 759, 749, and Giustini ^ will execute and deliver certain, guarantee, security and other documents in favour of Centurion; and
- (e) the Borrower will pay all legal costs in connection with enforcement of the Centurion Loan Agreement.

15. Centurion has made advances to the Borrower under the Centurion Loan Agreement and the Borrower is accordingly indebted to Centurion.

### The Centurion Loan Security

16. In accordance with, and to secure all obligations owing to Centurion under the Centurion Loan Agreement, the following security was granted to Centurion:

- (a) a collateral mortgage by GBI in respect of the Lands, under the Alberta *Land Titles Act*, dated January 15, 2016 and registered in the Alberta Land Titles Office on February 17, 2016 as instrument number 161 044 421 (the "**Centurion Mortgage**");
- (b) a general security agreement, dated January 15, 2016, charging all of the present and after-acquired personal property of GBI situated on, annexed to, comprised in, pertaining or relating to, or used in connection with the Lands (the "**GSA**");
- (c) an assignment of rents, dated January 15, 2016, and registered in the Alberta Land Titles office as instrument number 161 044 242, whereby GBI assigned to Centurion all of its rights, title, interest and benefits to all rents and leases relating to the Lands (the "**Assignment of Rents**");
- (d) an assignment of leases, dated January 15, 2016, and registered in the Alberta Land Titles office as instrument number 161 044 242, whereby GBI assigned to Centurion all of its rights, title, interest and benefits to all leases and rents thereunder relating to the Lands (the "**Assignment of Leases**");
- (e) an assignment of project agreements, dated January 15, 2016, whereby GBI assigned to Centurion all of its rights, title, interest and benefits (but not liabilities or obligations) under any and all development plans, zoning, designs, performance bonds, contract and agreements, warranties, deposits, and purchase agreements in respect of the construction and development of a condominium project on of the Lands (the "**Assignment of Contracts**");
- (f) an environmental indemnity agreement, by GBI, GDC and SBG, among others, dated January 15, 2016 (the "**Environmental Indemnity**");
- (g) an assignment of insurance, dated January 15, 2016 ("**Assignment of Insurance**"); and
- (h) a deposit agreement, dated January 15, 2016 (the "**Deposit Agreement**") whereby GBI provided a deposit of \$2,500,000.00 deposit to Centurion as further security for the Centurion Loan.

(collectively the "**Centurion Loan Security**").

17. The Centurion Mortgage explicitly incorporates the terms of the Centurion Loan Security and the Centurion Loan Agreement, including the rates of interest, terms of repayment and terms of default. The Centurion Mortgage states that if default should be made by GBI under any security other than the Centurion Mortgage, the same shall constitute a default under the Centurion Mortgage.
18. Pursuant to the terms of the Centurion Mortgage, the Borrower agreed to pay Centurion's solicitor and own client costs in connection with the enforcement of the Centurion Mortgage.

#### **The Centurion Loan Guarantee**

19. To further secure repayment of the Centurion Loan and the Centurion Mortgage, GDC, ^ SBG, 749, 759 and Giustini ^ (collectively the "**Centurion Loan Guarantors**") each unconditionally guaranteed to Centurion the payment, on demand, of the present and future obligations of GBI to Centurion, together with all interest, costs, charges and expenses of Centurion (including legal fees on a solicitor and client basis), pursuant to written guarantees, each dated January 15, 2016 (collectively the "**Centurion Loan Guarantee**").
20. Under the Centurion Loan Guarantee, the Centurion Loan Guarantors assigned and postponed all debts of GBI owed to the Centurion Loan Guarantors to and in favour of Centurion.
21. It is a term of the Centurion Loan Guarantee that, upon default, the Centurion Loan Guarantors shall be liable to Centurion as principal debtor and that Centurion shall not be bound to exhaust its recourse against GBI before being entitled to seek and receive payment under the Centurion Loan Guarantee.
22. The Centurion Loan Guarantee constitutes a just debt of the Centurion Loan Guarantors to Centurion, which is concurrently due and owing to Centurion.

#### **The Servus Loan**

23. Pursuant to a Credit Facility Letter dated February 5, 2015, as amended, restated and replaced by a Amending Credit Facility Letter between Servus and The Bridges dated, July 19, 2016 (collectively the "**Servus Loan Agreement**"), Servus agreed to advance the maximum sum of \$30,000,000 to The Bridges (the "**Servus Loan**") in order to facilitate construction of the Project on the Lands.
24. By the terms of the Servus Loan Agreement, the parties have agreed that (among other things):

  - (a) the Servus Loan is a demand loan, repayable on demand; or

- (b) prior to demand, the Servus Loan, would be repayable with monthly accrued interest due on the first of each month with the principal to be repaid in full within 18 months of the first advance;
- (c) interest will accrue on the Servus Loan at Servus' Prime Lending Rate plus 1.75%, floating, before and after maturity, default and judgment;
- (d) GBI, GDC, ^SBG, 749, 759, Canterra and Giustini ^ will execute and deliver certain security and other documents in favour of Servus; and
- (e) The Bridges will pay all solicitor and client costs of Servus in connection with enforcement of the Servus Loan Agreement.

25. Servus has made advances to The Bridges under the Servus Loan Agreement and The Bridges is accordingly indebted to Servus, which indebtedness has been assigned to Centurion pursuant to the Assignment.

#### The Servus Loan Security

26. In accordance with, and to secure all obligations owing to Servus under the Servus Loan Agreement, the following security was granted to Servus, which security has been assigned to Centurion pursuant to the Assignment:

- (a) a collateral mortgage by GBI in respect of the Lands, under the *Alberta Land Titles Act*, dated May 26, 2016 and registered in the Alberta Land Titles Office on June 9, 2016 as instrument number 161 133 364 (the "**Servus Mortgage**");
- (b) a general security agreement, dated May 26, 2016, charging all of the present and after-acquired personal and real property of GBI in favour of Servus (the "**GBI Servus GSA**");
- (c) a general security agreement, dated May 26, 2016, charging all of the present and after-acquired personal and real property of The Bridges in favour of Servus (the "**The Bridges GSA**");
- (d) a general assignment of rents and certain leases, dated May 26, 2016, and registered in the Alberta Land Titles office as instrument number 161 133 365, whereby GBI assigned to Servus all of its rights, title, interest and benefits to all rents and leases relating to the Lands (the "**Servus Assignment of Rents**");
- (e) an assignment of construction contract, dated August 9, 2016, whereby The Bridges assigned to Servus all of its rights, title, interest and benefits (but not liabilities or

obligations) under any and all construction contracts and plans entered into, or obtained, by The Bridges in respect of the construction and development of the Lands (the "**Servus Assignment of Contracts**");

- (f) an environmental indemnity agreement granted by The Bridges, GBI, GDC and SBG, among others, dated May 26, 2016 (the "**Servus Environmental Indemnity**"); and
- (g) an account set off agreements, dated May 26, 2016 and July 21, 2016 granted by The Bridges in favour of Servus;

(collectively the "**Servus Loan Security**").

### **The Servus Loan Guarantee**

- 27.** To further secure repayment of the Servus Loan, GBI, GDC, ^ SBG, 749, 759, Canterra and Giustini ^ (collectively the "**Servus Loan Guarantors**") each unconditionally guaranteed to Servus the payment, on demand, of the present and future obligations of The Bridges to Servus, limited to the sum of \$30,000,000, together with all interest, costs, charges and expenses of Servus (including legal fees on a solicitor and client basis), pursuant to a written guarantee, dated May 26, 2016 ("**The Servus Loan Guarantee**").
- 28.** Under the Servus Loan Guarantee, the Servus Loan Guarantors assigned and postponed all debts of The Bridges owed to the Servus Loan Guarantors to and in favour of Servus.
- 29.** It is a term of the Servus Loan Guarantee that, upon default, the Servus Loan Guarantors shall be liable to Servus as principal debtor and that Servus shall not be bound to exhaust its recourse against The Bridges before being entitled to seek and receive payment under the Servus Loan Guarantee.
- 30.** The Servus Loan Guarantee constitutes a just debt of the Servus Loan Guarantors to Servus, which debt has been assigned to Centurion pursuant to the Assignment.
- 31.** The Centurion Loan together with the Servus Loan is hereinafter the "**Loan**", which Loan is a just debt due and owing to Centurion.
- 32.** The Centurion Loan Agreement together with the Servus Loan Agreement is hereinafter the "**Loan Agreement**".
- 33.** The Centurion Loan Security together with the Servus Loan Security is hereinafter the "**Security**".

34. The Centurion Loan Guarantee together with the Servus Loan Guarantee are hereinafter the “**Guarantees**”.

35. The Centurion Loan Guarantors together with the Servus Loan Guarantors are hereinafter the “**Guarantors**”.

#### **Default**

36. Pursuant to the terms of the Loan Agreement, nonpayment of the principal when due or nonpayment of interest when due, among other things, is an event of default (“**Event of Default**”).

37. Upon the occurrence of an Event of Default, Centurion has the right to accelerate payment of principal, accrued interest, expenses or other amounts due under the Loan.

38. The Borrowers and GBI have each committed an Event of Default for failure to pay amounts due when owing under the Loan and Security, (the “**Default**”), which Default is continuing.

#### **Demands**

39. As a result of the Default, on or about April 10, 2017, Centurion (through its then legal counsel, Borden Ladner Gervais (“**BLG**”)) demanded payment from GBI of all amounts due pursuant to the Centurion Mortgage. Concurrent with this demand, Centurion delivered to GBI a Notice of Intention to Enforce Security under section 244(1) of the *Bankruptcy and Insolvency Act* (Canada) (a “**NOI**”).

40. On or about April 10, 2017, Centurion (though its then legal counsel, BLG) demanded payment by the Centurion Loan Guarantors of all amounts due and owing pursuant to the Centurion Loan Guarantee.

41. As a result of the Default, on or about May 29, 2017, Servus (through its then legal counsel, Miller Thompson (“**MT**”)) demanded payment from The Bridges of all amounts due pursuant to the Servus Loan Agreement and the Servus Loan Security. Concurrent with this demand, Servus delivered to The Bridges a NOI.

42. On or about May 29, 2017, Servus (though its then legal counsel, MT) demanded payment by the Servus Loan Guarantors of all amounts due and owing pursuant to the Servus Loan Guarantee.

43. Notwithstanding these demands, the Defendants each have refused or neglected and continue to refuse or neglect to repay the amounts owed by them to Centurion in accordance with the Loan Agreement, the Security, the Guarantees and the Assignment.



44. Pursuant to the Servus Mortgage, the Centurion Mortgage, the GSA, the GBI Servus GSA, The Bridges GSA, the Guarantees and other agreements between the parties, Centurion is entitled to costs, on a solicitor and client basis.

45. As of June 20, 2017, the indebtedness totals \$17,057,390.35 plus accrued and accruing interest, costs and expenses due to Centurion pursuant to the terms of the Loan Agreement and Security, (the "Indebtedness") broken down as follows:

A. **The Centurion Loan**

Principal – as of June 20, 2017	\$13,161,842.69
Interest from June 1, 2017 to June 20, 2017	\$108,179.53
Discharge Admin Fee	\$250.00
<b>Total:</b>	<b>\$13,270,272.22</b>
Per Diem Interest effective June 20, 2017	\$5,408.98

B. **The Servus Loan**

Term Loan

Principal – as at June 14, 2017	\$4,804,931.00
Interest Arrears – as at June 14, 2017	\$7,615.49
<b>Total:</b>	<b>\$4,812,546.49</b>
Per Diem Interest effective June 14, 2017 @ 4.45%.	\$585.81

Cost Account – Loan 2

Principal – as at June 14, 2017	\$15,907.30
Interest Arrears – as at June 14, 2017	\$16.63
<b>Total:</b>	<b>\$15,923.93</b>
Per Diem Interest effective June 14, 2017 @ 4.45%.	\$1.94

Less Balance	(\$1,044,878.79)
<b>Servus Total:</b>	<b>\$3,783,590.63</b>

**TOTAL:** **\$17,057,390.35**

(includes per diem on Servus Loan from June 14, 2017 to June 20, 2017 of \$3,526.50)

C. **LEGAL COSTS (to be determined)**

46. Pursuant to the Servus Mortgage, the Centurion Mortgage, the GSA, the GBI Servus GSA and The Bridges GSA Centurion maintains various rights to enforce recovery of the Indebtedness, including the right to appoint or apply to this Honourable Court to appoint a receiver and manager over any or all of the property, assets and undertaking of GBI and The Bridges.
47. It is a term of the agreements between the parties that the Indebtedness shall continue to accrue interest on all amounts outstanding at the rate set forth in the agreements, before and after default and judgment. In the alternative, Centurion pleads and relies on the provisions of the *Judgment Interest Act*, RSA 2000 c J-1, as amended, respecting interest on the sums due and owing to Centurion.
48. The Plaintiff believes the nature of this claim is not one that will or is likely to result in an agreement between the parties, and that a Dispute Resolution Process would not be beneficial or would be futile. A decision of this Honourable Court is necessary and desirable in the circumstances.
49. The Plaintiff proposes that the trial of this action be held at the Court House, in the City of Calgary, in the Province of Alberta, and the Plaintiff does not anticipate that the trial of this action will exceed 25 days in length.

**Remedy sought:**

50. The Plaintiff respectfully seeks:
- (a) a declaration as to the amount owing under the Centurion Mortgage, with interest accruing according to the terms thereof and, in default of payment, sale to the Plaintiff or otherwise, or foreclosure and possession of the Lands;
  - (b) a declaration as to the amount owing under the Servus Mortgage, with interest accruing according to the terms thereof and, in default of payment, sale to the Plaintiff or otherwise, or foreclosure and possession of the Lands;
  - (c) an Order for Possession;
  - (d) an Order for the appointment of a receiver and manager over any or all of the undertaking, property, and assets of The Bridges and GBI;

- (e) a Preservation Order allowing the Plaintiff or its duly authorized agent to be at liberty to enter the Lands for the purposes of doing any and all things necessary to preserve the property, and for an Order that the Plaintiff shall not be considered a mortgagee in possession or trespasser;
- (f) in the alternative, immediate foreclosure and possession of the Lands;
- (g) an Order shortening the period of redemption to less than six (6) months or as this Honourable Court may direct;
- (h) a declaration that the Defendants are in default of their obligations to Centurion under their respective agreements;
- (i) Judgment against The Bridges in the sum of \$17,057,390.35, or such other amount as may be awarded, plus interest thereon as set forth in the Loan Agreement or, in the alternative, as set forth in the *Judgment Interest Act*, RSA 2000, c J-1, as amended;
- (j) Judgment against GBI in the sum of \$17,057,390.35, or such other amount as may be awarded, plus interest thereon as set forth in the Loan Agreement or, in the alternative, as set forth in the *Judgment Interest Act*, RSA 2000, c J-1, as amended;
- (k) Judgment against Assured in the sum of \$13,270,272.22, or such other amount as may be awarded, plus interest thereon as set forth in the Loan Agreement or, in the alternative, as set forth in the *Judgment Interest Act*, RSA 2000, c J-1, as amended;
- (l) Judgment against GDC in the sum of \$17,057,390.35, or such other amount as may be awarded, plus interest thereon as set forth in the Guarantees or, in the alternative, as set forth in the *Judgment Interest Act*, RSA 2000, c J-1, as amended;
- (m) Judgment against SBG in the sum of \$17,057,390.35, or such other amount as may be awarded, plus interest thereon as set forth in the Guarantees or, in the alternative, as set forth in the *Judgment Interest Act*, RSA 2000, c J-1, as amended;
- (n) Judgment against 749 in the sum of \$17,057,390.35, or such other amount as may be awarded, plus interest thereon as set forth in the Guarantees or, in the alternative, as set forth in the *Judgment Interest Act*, RSA 2000, c J-1, as amended;
- (o) Judgment against 759 in the sum of \$17,057,390.35, or such other amount as may be awarded, plus interest thereon as set forth in the Guarantees or, in the alternative, as set forth in the *Judgment Interest Act*, RSA 2000, c J-1, as amended;

- (p) Judgment against Canterra in the sum of \$17,057,390.35, or such other amount as may be awarded, plus interest thereon as set forth in the Guarantees or, in the alternative, as set forth in the *Judgment Interest Act*, RSA 2000, c J-1, as amended;
- (q) Judgment against Giustini in the sum of \$17,057,390.35, or such other amount as may be awarded, plus interest thereon as set forth in the Guarantees or, in the alternative, as set forth in the *Judgment Interest Act*, RSA 2000, c J-1, as amended;
- (r) and Order waiving Rule 4.16 of the *Alberta Rules of Court*;
- (s) interest on all amounts outstanding in accordance with the agreements of the parties or, in the alternative, interest as set forth in the *Judgment Interest Act*, RSA 2000 c J-1, as amended;
- (t) costs of this action on a solicitor and own client, full indemnity basis;
- (u) such further and other relief as this Honourable Court deems just.

#### **NOTICE TO THE DEFENDANTS**

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 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 against you.