

COURT FILE NUMBER 2201-01626  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY



PLAINTIFF FTI CONSULTING CANADA INC., in its capacity as Court- \$250  
appointed Receiver and Manager of the assets, undertakings  
and properties of ROXDALE GARDENS LTD.

AND IN THE MATTER OF THE RECEIVERSHIP OF  
ROXDALE GARDENS LTD.

DEFENDANT CANCOM ROXDALE INC.

DOCUMENT **STATEMENT OF CLAIM**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
Torys LLP  
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File Number: 39586-2006

**NOTICE TO RESPONDENT:**

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:**

1. The Applicant, FTI Consulting Canada Inc., was appointed receiver-manager (the “**Receiver**”) over the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof of Roxdale Gardens Ltd. (“**Roxdale Gardens**” or “**Mortgagee**”) pursuant to sections 99(a) and 242 of the *Business Corporations Act*, RSA 2000, c B-9 and section 13(2) of the *Judicature Act*, RSA

2000, c J-2 and 30, and the order granted on June 24, 2021 (the “**Receivership Order**”) by the Honourable Madam Justice M.H. Hollins of the Court of Queen’s Bench of Alberta.

2. Cancom Roxdale Inc. (the “**Defendant**” or “**Mortgagor**”), is an Alberta corporation and the owner of lands (collectively, the “**Lands**”) legally described below, according to the Certificates of Title for the Lands:

PLAN 1821856  
BLOCK 1  
LOT 3  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AREA: 6.76 HECTARES (16.7 ACRES) MORE OR LESS

and

PLAN 1821856  
BLOCK 1  
LOT 4  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AREA: 2.79 HECTARES (6.89 ACRES) MORE OR LESS

3. By a Mortgage made in pursuance of the *Land Titles Act*, and registered in the Land Titles Office for Alberta on April 8, 2020 as Instrument # 202 157 563 against the Lands, the Defendant mortgaged to Roxdale Gardens, the Lands to secure payment of the sum of --- Ten Million Dollars ---- (\$10,000,000) (hereinafter referred to as the “**Principal Sum**”) with interest as in the said Mortgage provided.
4. Through its investigation of the Mortgagee’s banking records, the Receiver has been able to trace a minimum of \$6,899,800 that was advanced by the Mortgagee to the Mortgagor which has been accruing interest with no repayments since the initial advance. For certainty, there is a possibility that the Mortgagee may have advanced further amounts to the Mortgagor which may not have been accounted for given the deficiencies in documents and information unknown to the Receiver.
5. By the said Mortgage, the Defendant covenanted to pay interest to Roxdale Gardens on the said sum at the rate and on the days and times and in the manner mentioned in the said Mortgage.

6. By the said Mortgage, it is provided that on default of payment of the principal or interest or any monies thereby secured, the whole principal shall become payable.
7. The Receiver's investigation and findings indicate that there is a default under the Mortgage relating to the interest payment due on the First Interest Repayment Date (November 15, 2020) – this would trigger the acceleration clause in Section 11 of the Mortgage, requiring the re-payment of the monies secured following non-payment of interest or principal payment.
8. The Defendant has defaulted relative to payment of principal and in payment of interest, which has been demanded by the Receiver pursuant to a demand notice provided to the Defendant, its directors and its shareholders on or about November 3, 2021 (the “**Demand Notice**”) by the Receiver's legal counsel, Torys LLP, but the Defendant has refused and/or neglected to pay same.
9. The Mortgage provides that if there is a default under the Mortgage, the “Mortgagor hereby grants full power, right and license to the Mortgagee to enter, seize and distrain upon the mortgaged premises”, and that “the Mortgagee may sell and dispose of the said lands ... and all the rights, powers and privileges granted to or conferred upon the Mortgagee under and by virtue of any statute or by this mortgage may be exercised; and ... the Mortgagee may sell, transfer and convey any part of the mortgages premises...; and ... the Mortgagee shall be entitled ...forthwith to apply for and obtain the appointment of a receiver of the said lands.” The Receiver, on behalf of Roxdale Gardens, hereby exercises its rights.
10. Default has been made pursuant to the terms of the Mortgage and despite demands made by the Receiver upon the Defendant, the Defendant has refused or neglected to pay the same.
11. While the Receiver assume there was owing to Roxdale Gardens on the Mortgage the sum of \$12,936,712 at November 1, 2021, being comprised of principal, interest, taxes and other charges plus ongoing accruing costs and interest, as noted above, the Receiver has been able to trace a minimum of \$6,899,800 that was advanced by the Mortgagee to the Mortgagor which has been accruing interest with no repayments since the initial advance.

12. The Receiver pleads a real and substantial connection to Alberta, as the claim relates to real property or land in Alberta, all of which the Receiver relies upon as grounds for service of the Statement of Claim.
13. In the opinion of the Receiver the within action ought to be categorized as a standard case and not as a complex case.

### **Remedy Sought**

14. Waiver of Rule 4.16 of the Alberta Rules of Court;
15. A Declaration as to the amount owing under the Mortgage with interest according to the terms of the Mortgage and in default of payment, sale or foreclosure and possession of the Lands;
16. Judgment against the Defendants and each of them in the amount declared to be owing under the Mortgage with interest thereon according to the terms thereof to and including the date of Judgment and an Order granting the Receiver / Roxdale Gardens liberty to forthwith issue execution upon such judgment;
17. An Order for the appointment of a Receiver;
18. An Order for Possession;
19. An Order shortening the redemption period to less than six months or as this Court may deem just;
20. All legal costs and expenses incurred by the Receiver, including those as between a solicitor and his client; and
21. such further and other relief as this Honourable Court may deem just and appropriate.

### **NOTICE TO THE RESPONDENT**

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 lawsuit 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.