

Form 3-9

(Rule 3-9)

COURT FILE NUMBER QBG 633 of 2016

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE REGINA

PLAINTIFF(S) MCNALLY ENTERPRISES LTD.

DEFENDANT(S) GOVERNMENT OF SASKATCHEWAN

NOTICE TO DEFENDANT

1 The plaintiff may enter judgment in accordance with this Statement of Claim or the judgment that may be granted pursuant to *The Queen's Bench Rules* unless, in accordance with paragraph 2, you:

- (a) serve a Statement of Defence on the plaintiff; and
- (b) file a copy of it in the office of the local registrar of the Court for the judicial centre named above.

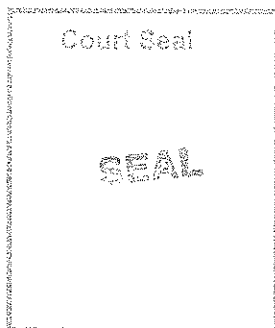
2 The Statement of Defence must be served and filed within the following period of days after you are served with the Statement of Claim (excluding the day of service):

- (a) 20 days if you were served in Saskatchewan;
- (b) 30 days if you were served elsewhere in Canada or in the United States of America;
- (c) 40 days if you were served outside Canada and the United States of America.

3 In many cases a defendant may have the trial of the action held at a judicial centre other than the one at which the Statement of Claim is issued. Every defendant should consult a lawyer as to his or her rights.

4 This Statement of Claim is to be served within 6 months from the date on which it is issued.

5 This Statement of Claim is issued at the above-named judicial centre on the 22 day of March, 2016



W. Seed
Dy. Local Registrar

Local Registrar

STATEMENT OF CLAIM

1. The Plaintiff, McNally Enterprises Ltd., is a corporation duly incorporated under the laws of the Province of Saskatchewan and having an office in the City of Regina, Saskatchewan;
2. The Defendant, Government of Saskatchewan, is designated pursuant to section 14 of *The Proceedings against the Crown Act* and at all material times acted through and was represented by the Minister of Highways and Infrastructures (the "Ministry")
3. The Ministry is empowered to expropriate lands under section 16 of The Highways and Transportation Act, 1997 and is an expropriating authority within section 2 of The Expropriation Procedures Act.
4. The Ministry threatened to expropriate the following lands from the Plaintiff pursuant to section 10 of The Expropriation Procedures Act, namely the South West Quarter of Section 20, Township 17, Range 20 West of the Second Meridian being Parcel 109553777 consisting of 18.088 hectares or 44.70 acres (the "Lands #1") and Parcel 165025447 consisting of 11.356 hectares or 28.06 acres (the "Lands #2"), (together referred to as the "Lands").
5. At the time of the threatened expropriation, the Plaintiff was registered owner of the Lands and was served by the Ministry an Offer of Compensation offering compensation for the Lands #1 of \$9,000.00 per acres including improvements and for the Lands #2 of \$11,000.00 per acres including improvements.
6. On or about February 18, 2010 the Plaintiff obtained an appraisal from Colliers International of Regina, Saskatchewan stating that the fair market value of the Lands was \$38,000.00 per

acre.

7. The Ministry rejected the appraisal value obtained by the Plaintiff and further, the Ministry represented that the appraisal was unrealistic and stated that the appraiser would be reported to its professional organization with a complaint for incompetence in the preparation of the Plaintiff's appraisal.
8. Relying on the representations of the Ministry, the Plaintiff agreed to sell the Lands and did sell the Lands to the Ministry for and at the value as represented by the Ministry.
9. The Plaintiff claims that the Ministry misrepresented the value of the Lands to induce the Plaintiff into the sale to it at a substantially reduced value.
10. The Ministry was under a duty to pay due compensation for the Lands and was guilty of misfeasance in office in exercising that duty by grossly under paying the Plaintiff for the Lands.
11. Further and in the alternative, the Plaintiff relied on that duty combined with the threat of expropriation in accepting a sale price based on the lower value represented by the Ministry with respect to Land #1 of \$9,000.00 per acre and with respect to Land #2 of \$11,000.00 per acre.
12. The Ministry failed to fully compensate the Plaintiff for the Lands and in or about December, 2015, the Plaintiff discovered that the Ministry was aware that due compensation for each of the Lands #1 and Lands #2 was \$38,000.00 per acre and not the values represented by the Ministry which were inaccurate and misleading.

13. The Ministry negligently misrepresented the value of the Lands and knew or ought to have known that the value of the compensation offered to the Plaintiff for the Lands was not due compensation and that the Plaintiff relying on the representations of the Ministry suffered loss thereby.

14. The Plaintiff suffered damages as a result of the Defendant's misrepresentation which it calculates as follows:

Land #1 for bypass public improvement 44.7 acres x \$9,000.00 per acres = \$402,300

Appraised value = \$38,000.00 per acre = \$1,696,600; Loss = \$1,296,300

Land #2 for drainage ditch public improvement 28.06 acres x \$11,000 per acres = \$308,660

Appraised value = \$38,000 per acre = \$1,066,600; Loss = \$757,620

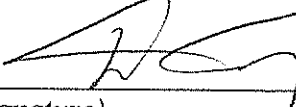
Total loss = \$2,053,920

15. The Plaintiff claims interest pursuant to *The Pre-judgement Interest Act*.

16. The Plaintiff therefore claims the following:

- (a) Damages
- (b) Punitive damages
- (c) Interest pursuant to *The Pre-judgement Interest Act*
- (d) Costs
- (e) Such other relief as counsel may advise and this Honourable Court may allow.

DATED at Regina, Saskatchewan, this 21 day of March, 2016.


(signature)

David G. MacKay
Barrister & Solicitor (Saskatchewan)
2042 Cornwall St.
Regina, SK S4P 2K5

CONTACT INFORMATION AND ADDRESS FOR SERVICE

If prepared by a lawyer for the party:

Name of firm:	MackKay & McLean
Name of lawyer in charge of file:	David G. MacKay
Address of legal firms:	2042 Cornwall Street, Regina, Saskatchewan S4P 2K5 (set out the street address)
Telephone number:	306-569-1301
Fax number (if any):	306-569-8560
E-mail address (if any):	davemackay@mackaymclean.com