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Claimants

-and-

The Government of Republic of KOREA

Respondent

NOTICE OF CORRECTED INTENT TO SUBMIT A CLAIM FOR ARBITRATION UNDER
KOREA-CANADA FREE TRADE AGREEMENT CHAPTER EIGHT

***** , CLAIMANT (E-mail: *****)
***** , CLAIMANT (E-mail: *****)

Statement Required by Article 8.11 of the Korea Canada Free Trade Agreement with respect to the dispute between *****, *****, and the Republic of Korea.

Pursuant to Article 8.20 (1) of “ Korea Canada Free Trade Agreement “(hereinafter referred to as “the Parties”) and with a view to reasonably resolve this dispute through the consultation and negotiations contemplated by the parties Article 8.21, the disputing investor and claimant, *****, *****, respectfully serve the respondents, the Government of the Republic of Korea with this Notice of Intent to Submit a Claim for Arbitration under Chapter Eight of the Parties.

I. Name and Address of Disputing Investor

1. *****, (hereinafter referred to as “****”), his wife *****, (hereinafter referred to as “****”), as claimants, are individual citizens of Canada. Both claimants’ current address is ***** Canada.
2. **** and **** submit this Corrected Notice of Intent to Submit a Claim for Arbitration as an investor on their own behalf.

<RELEVANT FACTS>

3. In June 2006, Claimants **** and ****, as legal permanent residents in Canada, purchased a commercial building located in *****, Jung-gu, Seoul consisting of 192 square meters of land with 3 stories and 1 basement. **** and **** own each 50% interests in their commercial building.
4. In March 2015, **** and **** were naturalized as Canada citizens.
5. **** and ****’s Business License Certificate has shown under Canada citizen name since 2015.
6. In September 2015, under “Foreigner’s Land Acquisition Law” of the Republic of Korea, **** and **** duly registered their Canadian citizen names to Jung-gu municipal government.
7. **** and **** have never given consent to join the Redevelopment Union of ***** zone.

II. Administrative Procedures and Decisions

8. In May 2007, ***** zone, where **** and ****’s commercial property is located, has been designated as Rearrangement Zone to implement planned Rearrangement Project by Seoul City.
9. In December 2016, ***** zone’s Redevelopment Union, organized by its residents, was established.

10. In November 2018, Jung-gu Municipal Government approved the final and official “Business Implementation Permission” to Redevelopment Union of ***** zone.
11. On April 27, 2019, ***** was chosen as the Builder for Redevelopment by Union of ***** zone. (***** is private construction company)
12. On May 10, 2019, a certified public appraiser appraised **** and ****’s commercial property at 3,187,057,920 won.
13. In May 2020, two appraisal firms were requested by Jung-gu Municipal Government, which appraised **** and ****’s commercial building at 2,042,305,000 won.

<CLAIMS RAISED BY **** AND **** PURSUANT TO THE PARTIES>

14. In 2015, the Republic of Korea and Canada Free Trade Agreement was ratified with chapter 8 “Investor State Dispute(“ISD”)”.
15. As stated above in the factual background Jung-gu Municipal Government, both the Seoul City Government and the Korean Government have violated their obligations to **** and ****, Canadian investors under the term of “the Parties”.

III. Investment

16. “The Parties” Article 8.45 Definition of Investment, (g), consists of either tangible or intangible, movable or immovable property, as well as related property rights, such as leases, mortgages, liens, and pledges.
17. The following has been widely accepted by international investment dispute tribunals as typical characteristics of investments:
duration, contribution and assumption of risk. The commercial property at issue has been owned for over fourteen-years with substantial amount of money invested and has been exposed to the fluctuation of the real commercial property market. **** and ****’s commercial property ownership constitutes investment prescribed in “the Parties” and under relevant arbitral decision.

IV. Consent

18. As Canadian citizens, **** and ****’s consent requirement is satisfied under “the Parties”, Article 8.24: Consent for Arbitration which states as follows:
 1. Each Party consents to the submission of a claim for arbitration in accordance with the procedures set out in this Agreement.
 2. The consent given in paragraph 1 and the submission by a disputing investor of a claim for arbitration shall satisfy the requirement of:
 - (a) Chapter II of the ICSID Convention and the ICSID Additional Facility Rules for written consent of the parties; and

(b) Article II of the New York Convention for an agreement in writing.

V. Expropriation

19. **** and ****'s commercial building was classified as an Expropriation Object in violation of the Parties, Article 8.11.1(a).2(b) EXPROPRIATION AND COMPENSATION, which states as follows:

1. A Party shall not expropriate or nationalize a covered investment, directly or indirectly, through a measure equivalent to expropriation or nationalization (hereinafter referred to as “expropriation”), except:

- (a) for a public purpose;**
- (b) in a non-discriminatory manner;**
- (c) in accordance with due process of law; and**
- (d) on payment of prompt, adequate, and effective compensation.**

2. The compensation referred to in paragraph 1(d) shall:

- (a) be paid without delay;**
- (b) be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place (“the date of expropriation”);**
- (c) include interest at a commercially reasonable rate accrued from the date of expropriation until the date of payment;**
- (d) not reflect any change in value that occurs as a result of prior knowledge of the intended expropriation; 30 For greater certainty, Article 8.11.1 shall be interpreted in accordance with Annex 8-B.**
- (e) be fully realisable and freely transferable; and**
- (f) be payable in a freely usable or freely convertible currency.**

20. In September 2015, **** and **** reported as Canadian citizens to Jung-gu Municipal government by Foreigner’s Land Acquisition Law. However, in November 2018, they approved the official Business Implementation Permission to Redevelopment Union of ***** zone in violation of the Parties, Article 8.11.

21. ***** zone’s Redevelopment Project, approved by Seoul city and Jung-gu municipal government, is not for a “Public Purpose” because its main purpose is the re-construction for private citizens seeking the improvement of old residence conditions.

22. Seoul city and Jung –gu municipal government as public entities, after an initial decision, assigns the redevelopment project to private entities including the Redevelopment Union which is organized by residents and a private construction company.

23. **** and ****'s commercial property is located in very close proximity (only a few meters away) from Subway Station. Thus, there is no need for it to be redeveloped for the reinstatement of urban function and the revitalization of commercial zone as location of this commercial property has very good

infrastructure such as, but not limited to, roads, electricity supply, gas supply, water system and small plaza.

- 24. **** and ****’s property has existed for decades as a commercial building, and not as a dwelling/residence. Nevertheless, Seoul city and Jung-gu municipal government have arbitrarily classified this commercial property as a target of redevelopment, under the title of “Residential Environment Improvement Projects for Old House Residents”, which does not accurately reflect the purpose of this redevelopment.

VI. Relief Sought

- 25. As a result of above violation of “the Parties”, **** and **** have suffered a tremendous amount of loss in rent income and property right limitation since the ***** zone Redevelopment Project.
- 26. Two appraisal firms, which were requested by Jung-gu Municipal Government, estimated **** and ****’s commercial property solely as the official land value, without considering the fair market value. Consequently, the “fair market value” has not been reflected.
- 27. Under “the parties” Article 8.11.2(b), the Korean government is obliged to compensate for the fair market value of the expropriated investment immediately before the expropriation took place (“the date of expropriation”).

VII. Consultation and Negotiation

Under “the parties” Article 8.11.2(b), both **** and **** demand the Korean government to compensate for the amount equivalent to the fair market value of the commercial property.

VIII. Submission of a Claim to Arbitration

Under the circumstances that consultations and negotiations are both unsuccessful, **** and **** will submit, in their own right, a claim for arbitration pointing out the violation of the Parties, Article 8.11.1(a), 2(b) and the irrationality of the Republic of Korea’s the official land value which has not reflected the “fair market value”.

Date June 15, 2020

Signature of *****
