

LEGAL NOTICE

NOTICE OF CLASS ACTION

TO: All persons and entities which have paid the City of Rochester Hills (the “City”) for Water and/or Sewer Service at any time after March 30, 2012.

You are hereby notified that an action has been commenced in the Oakland County Circuit Court titled *Daniel Brunet v. City of Rochester Hills*, Case No. 2018-164764-CZ, presiding Judge Shalina Kumar, challenging the retail water rates (the “Water Rates”) and the retail sewage disposal rates (the “Sewer Rates”) (collectively the “Rates”) imposed by the City on citizens who draw water from the City’s water supply system and who use the City’s sewer system (the “Lawsuit”). Plaintiff has brought these claims on behalf of themselves and a class of all others similarly situated.

Plaintiff is a water and sewer customer of the City, and seeks to act as a class representative for all similarly situated persons and/or entities that have paid the Rates imposed by the City. Plaintiff, on behalf of a class of similarly situated persons and/or entities, contends that the City has systematically garnered millions of dollars of revenues from its water and sewer customers in excess of its actual costs of providing water and sewer services by incorporating into the Rates at least two items of expenses that are allegedly improper. The first is for fire protection services (the “Fire Service Charge”). The second is to accumulate cash reserves (the “Reserve Charge,” collectively, with the Fire Service Charge, the “Charges”).

Plaintiff asserts that the City’s inclusion of the Charges in its Rates: (a) violates a Michigan statute, MCL 141.91, because the Charges constitute disguised “taxes” that have been imposed after January 1, 1964; (b) renders the Rates unreasonable under Michigan common law principles; (c) violates another Michigan statute, MCL 141.118, because the City does not impose a public fire protection charge upon itself, but instead, imposes the entire cost of public fire protection upon its water customers; and (d) violates another Michigan statute, MCL 123.141(3), because the City is selling water to Plaintiff and the Class at a retail rate in excess of the City’s actual cost of providing water service. Plaintiff seeks a judgment from the Court against the City which would order and direct the City to disgorge and refund all water and sewer Overcharges to which Plaintiff and the class are entitled and enjoin the City from overcharging in the future.

The City maintains that the inclusion of the Fire Service Charge and the Reserve Charge in its Rates is proper and lawful. Thus, the City denies the Plaintiff’s claims, denies that it has overcharged its customers, denies that any portion of its charges are unreasonable or a “tax” under Michigan law, and denies that the

Plaintiff and those similarly situated have been harmed. The City contends that it should prevail in the Lawsuit. **The Court has made no rulings concerning the merits of the Lawsuit at this time.**

On March 18, 2019, the Court entered an order certifying the Lawsuit as a class action. You are receiving this Notice because the City's records indicate that you paid the City for water and/or sewer service at any time after March 30, 2012 and are therefore a member of the class.

No financial consequences will be suffered by class members if Plaintiff loses, except that all class members will be barred from bringing an individual action against the City alleging the claims contained in Plaintiff's complaint.

The City has not filed a counterclaim against Plaintiff or the class.

If you have paid the City for water and/or sewer service between March 30, 2012 and the present, then you are a member of the class.

If you are a member of the class, you will be bound by any judgment entered in this action, whether the judgment is favorable or unfavorable to the class.

Class members who wish to exclude themselves from the Lawsuit may write to Class Counsel, stating that they do not wish to participate in the Lawsuit and that they wish to retain their right to file a separate action against the City. **This request for exclusion must be postmarked no later than November 15, 2019 and mailed to: Kickham Hanley PLLC, 32121 Woodward Avenue, Royal Oak, Michigan 48073.**

Whether to remain a member of this class or to request exclusion from this class action to attempt to pursue a separate lawsuit at your own expense without the assistance of the Plaintiff in this Lawsuit is a question you should ask your own attorney. Class counsel cannot and will not advise you on this issue.

If you are a class member, you have the right to intervene in this action as a named party. If you choose to intervene you may become liable for costs and will have similar rights and responsibilities as Plaintiff. Further, you may have counsel of your own choosing and class counsel will not be obligated to represent you.

For a more detailed statement of the matters involved in the Lawsuit, you are referred to papers on file in the Lawsuit which may be inspected during regular business hours at the Office of the Clerk of Circuit Court for Oakland County, Michigan. You also may review certain of the Lawsuit documents at **www.kickhamhanley.com**.

Should you have any questions with respect to this Notice you should raise them with your own attorney or direct them to counsel for the Class, **IN WRITING, NOT BY TELEPHONE**, identified as Attorneys for Plaintiff and the Class, below. **DO NOT CONTACT THE COURT OR CLERK OF THE COURT, OR ATTORNEYS FOR DEFENDANT.**

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