

STATE OF MICHIGAN
WAYNE COUNTY CIRCUIT COURT

KELLY GOTTESMAN,
individually, and as representative
of a class of similarly-situated persons
and entities,

Plaintiff,

v.

CITY OF HARPER WOODS,
a Michigan municipal corporation,

Defendant.

Case No. 17-014341-CZ
Hon. Susan L. Hubbard

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**LEGAL NOTICE
NOTICE OF CLASS ACTION**

TO: All persons and entities which have paid the City of Harper Woods (the "City") for stormwater disposal services at any time after September 28, 2011.

An action has been commenced in the 3rd Judicial Circuit Court (Wayne County) titled *Gottesman v. City of Harper Woods*, Case No. 17-014341-CZ, presiding Judge Susan L. Hubbard, challenging mandatory stormwater service charges (the "Stormwater Charges") the City imposes upon owners of real property. Plaintiff brought these claims on behalf of himself and a class of all others similarly situated.

Plaintiff is an individual who owns property in the City and who has paid the Stormwater Charges imposed by the City. Plaintiff contends that: (a) the Stormwater Charges are not proper user fees, but taxes wrongfully imposed by the City to raise revenue in violation of the Headlee Amendment to the Michigan constitution of 1963; (b) the Stormwater Charges violate the Prohibited Taxes By Cities And

Villages Act, MCL 141.91 because the Stormwater Charges are not ad valorem taxes, but are taxes imposed, levied, or collected after January 1, 1964; (c) the Stormwater Charges are unlawful because they are unreasonable; (d) the Stormwater Charges violate the City's own ordinances because they exceed the total costs of the debt retirement and operation and maintenance of the stormwater system; (e) the City has been unjustly enriched by the collection and retention of the Stormwater Charges and/or is required to refund the Stormwater Charges under a theory of assumpsit; and (f) that Plaintiff and those similarly situated have been harmed by the City's collection and retention of the Stormwater Charges.

Plaintiff seeks a judgment from the Court against the City that would order and direct the City to refund all Stormwater Charges to which Plaintiffs and the class are entitled and any other appropriate relief. The City maintains that the City's imposition of the Stormwater is proper and not unlawful. 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 22, 2018, Judge Hubbard entered an Opinion and Order certifying the lawsuit as a class action. You are receiving this notice because the City's records indicate that an individual or entity owning or residing at this property address paid the City's stormwater service charges at some time after September 28, 2011 and is, therefore, a member of the class.

On June 7, 2018, Judge Hubbard granted Plaintiff's motion for partial summary disposition as to Count I of Plaintiff's Complaint, Violation of the Headlee Amendment.

No financial consequences will be suffered by class members if Plaintiffs lose. However, if Plaintiff loses, 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 paid or incurred the City's stormwater service charges at any time between September 28, 2011 to present, then you are a member of the class.

If you are a member of the class, you are bound by any judgment entered in this action, whether the judgment is favorable or unfavorable to the class, unless you exclude yourself from the lawsuit.

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 August 20, 2018 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 may inspect the lawsuit documents during regular business hours at the Office of the Clerk for the 3rd Judicial Circuit Court (Wayne County) at 2 Woodward Ave., Detroit, MI 48226. You may also find additional information concerning the lawsuit 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 OR BY EMAIL, NOT BY TELEPHONE**, to the attorneys for Plaintiffs and the class, below. **DO NOT CONTACT THE COURT OR CLERK OF THE COURT, OR ATTORNEYS FOR DEFENDANT.**

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