

**STATE OF MICHIGAN
INGHAM COUNTY CIRCUIT COURT**

JAMES HEOS,
individually and as representative
of a class of similarly-situated
persons and entities,

Case No. 20-199-CZ
Hon. Wanda M. Stokes

Plaintiff,

v.

CITY OF EAST LANSING,
a municipal corporation,

Defendant.

Gregory D. Hanley (P51204)
John J. Premo (P55393)
Edward F. Kickham Jr. (P70332)
Kickham Hanley PLLC
32121 Woodward Avenue, Suite 300
Royal Oak, Michigan 48073
Counsel for Plaintiff

Charles E. Barbieri (P31793)
Michael Homier (P60318)
Laura Genovich (P72278)
Brandon M. H. Schumacher (P82930)
Foster Swift Collins & Smith, PC
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Lansing, MI 48933
Counsel for Defendant

Andrew Abood (P43366)
Abood Law Firm
246 E Saginaw Street, Suite 100
East Lansing, MI 48823
Counsel for Plaintiff

**LEGAL NOTICE
NOTICE OF CLASS ACTION**

TO: All persons and entities in the City of East Lansing, Michigan (the “City”) who/which are electric customers of the Lansing Board of Water and Light (the “LBWL”) and who/which paid or incurred electrical service franchise fees (the “Franchise Fees”) at any time since June 6, 2017 (the “Class”)

An action has been commenced in the 30th Judicial Circuit Court (Ingham County) titled *Heos v. City of East Lansing*, Case No. 20-199-CZ, presiding Judge Wanda M. Stokes, challenging mandatory electrical service franchise fees (the “Franchise Fees”) imposed upon electrical customers who receive service from the Lansing Board of Water and Light (“LBWL”). Plaintiff brought these claims on behalf of himself and a class of all others similarly situated.

Plaintiff owns improved real property situated in the City of East Lansing, Ingham County, Michigan and have incurred and paid the Franchise Fees. Plaintiff contends that: (a) the Franchise Fees 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 Franchise Fees violate the Prohibited Taxes By Cities And Villages Act, MCL 141.91 because the Franchise Fees are not ad valorem taxes, but are taxes imposed, levied, or collected after January 1, 1964; (c) by imposing the Franchise Fees, the City has violated state equal protection guarantees; (d) the City has imposed the Franchise Fees in violation of the Foote Act; and (e) that Plaintiff and those similarly situated have been harmed by the City's collection and retention of the Franchise Fees. Plaintiff seeks a judgment from the Court against the City that would order and direct the City to refund all Franchise Fees it has received from Plaintiff and the class and award any other appropriate relief.

The City maintains that the Franchise Fees paid to LBWL and remitted to the City are proper and lawful. 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 August 5, 2020, Judge Stokes entered an Order certifying the lawsuit as a class action. You are receiving this notice because the records indicate that an individual or entity owning or residing at this property address paid the electrical service Franchise Fees at some time after June 6, 2017 and is therefore a member of the class.

No financial consequences will be suffered by class members if Plaintiff loses. 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 electrical service Franchise Fees at any time between June 6, 2017 and the 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 received no later than**

March 29, 2021 and mailed to: Kickham Hanley PLLC, 32121 Woodward Avenue, Royal Oak, Michigan 48073. The request for exclusion can also be emailed to KHTEMP@kickhamhanley.com.

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 30th Judicial Circuit Court (Ingham County) at 313 W. Kalamazoo St., Lansing, MI 48933. 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 Plaintiff and the class, below. **DO NOT CONTACT THE COURT OR CLERK OF THE COURT, OR ATTORNEYS FOR DEFENDANT.**

Attorneys for Plaintiff and the class:

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