

STATE OF MICHIGAN
OAKLAND COUNTY CIRCUIT COURT

WILLIAM NOFAR, individually and as
representative of a class of
similarly-situated persons and entities,

Case No. 2020-183155-CZ
Hon. Judge Nanci Grant

Plaintiff,

v.

CITY OF NOVI, MICHIGAN
a municipal corporation,

Defendant.

Gregory D. Hanley (P51204)
Edward F. Kickham Jr. (P70332)
Kickham Hanley PLLC
32121 Woodward Avenue, Suite 300
Royal Oak, MI 48073
(248) 544-1500
Attorneys for Plaintiff and the Class

Thomas R. Schultz (P42111)
Steven P. Joppich (P46097)
Stephanie Simon Morita (P53864)
Rosati Schultz Joppich & Amtsbuechler PC
27555 Executive Drive, Suite 250
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(248) 489-4100
Attorneys for Defendant

Randal S. Toma (P56166)
Randal Toma & Associates PC
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Birmingham, MI 48009
(248) 948-1500
Attorneys for Plaintiff and the Class

ORDER AUTHORIZING CLASS NOTICE

At a session of the Oakland County Circuit Court
held in the City of Pontiac, State of Michigan
on this 21st day of October

PRESENT: Nanci J. Grant
Circuit Court Judge

This matter having come before the Court upon the motion of the Plaintiff for entry of an order authorizing the parties to provide notice of the pendency of this action to the members of the class, and the Court being otherwise advised in these premises:

WHEREAS, on July 21, 2021, the Court entered an order certifying a Class of all persons or entities who/which have incurred or paid charges for water and/or sanitary sewer service (the “Charges”) imposed by the City of Novi (the “City”) at any time since July 1, 2015 and/or who/which incur or pay the Charges during the pendency of this action.

WHEREAS, MCR 3.501(C) states that “[n]otice shall be given as provided in this subrule to persons who are included in a class action by certification ...”, and requires that the Court “determine how, when, by whom, and to whom the notice shall be given; the content of the notice; and to whom the response to the notice is to be sent.”

IT IS ORDERED that the Court finds that the forms of the Notice attached to this Order as Exhibit A and Exhibit B comply with the requirements of MCR 3.501;

IT IS FURTHER ORDERED that no later than 28 days after the entry of this Order, the City shall provide to Plaintiff’s counsel electronic records, in Excel format, of the service addresses of properties in the City that are subject to the Charges;

IT IS FURTHER ORDERED that no later than 28 days after the entry of this Order, the City shall provide to Plaintiff’s counsel electronic records, in Excel format, of any email addresses and/or mobile phone numbers the City has been provided by its water and/or sanitary sewer customers for use in connection with billing them for services at any time since July 1, 2015, if any such records exist and are in the City’s possession.

IT IS FURTHER ORDERED that no later than 56 days after the entry of this Order, Plaintiff shall disseminate the Notice attached as Exhibit A to this Order via U.S. mail to the members of the

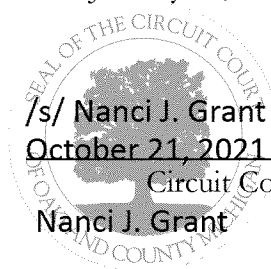
class identified in the service address records Plaintiff received from the City;

IT IS FURTHER ORDERED that no later than 56 days after the entry of this Order, Plaintiff shall disseminate the Notice attached as Exhibit A to this Order via electronic mail to members of the class identified in the email address records Plaintiff received from the City, if any;

IT IS FURTHER ORDERED that no later than 56 days after the entry of this Order, Plaintiff shall disseminate a link to a website where class members can view the Notice attached as Exhibit A to this Order via text message to members of the class identified in the mobile phone number records Plaintiff received from the City, if any;

IT IS FURTHER ORDERED THAT Plaintiffs shall arrange for the publication of the Notice attached as Exhibit B to this Order in the Oakland Press newspaper on two occasions no later than 56 days after the entry of this Order.

IT IS FURTHER ORDERED THAT any class member who does not serve a notice of intent to be excluded from the class on or before January 14, 2022 will be bound by the judgment entered in this case.



Circuit Court Judge
Nanci J. Grant

SL

Approved as to form:

/s/ Gregory D. Hanley
Gregory D. Hanley (P51204)
KICKHAM HANLEY PLLC
Attorneys for Plaintiff

/s/ Steven P. Joppich
Steven P. Joppich (P46097)
ROSATI SCHULTZ JOPPICH & AMTSBUECHLER PC
Attorneys for Defendant

Exhibit A

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

WILLIAM NOFAR, individually and as,
representative of a class of
similarly-situated persons and entities,

Plaintiff,

Case No. 2020-183155-CZ
Hon. Nanci J. Grant

-vs-

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STEPHANIE SIMON MORITA (P 53864)
Attorneys for Defendant
27555 Executive Drive, Suite 250
Farmington Hills, MI 48331-3550
(248) 489-4100

LEGAL NOTICE
NOTICE OF CLASS ACTION

TO: All persons and entities which have paid the City of Novi (the "City") for Water and/or Sanitary Sewer Service at Any Time Since July 1, 2015

You are hereby notified that William Nofar ("Plaintiff") has commenced an action in the Oakland County Circuit Court titled *Nofar v. City of Novi*, Case No. 2020-183155-CZ, presiding Judge Nancy Grant.

Plaintiff is challenging the retail water rates (the "Water Rates") and the retail sewage disposal rates (the "Sewer Rates") (collectively the "Rates") charged by the City of Novi ("City") to persons and entities who use the City's public water supply system and/or who use the City's

public sewer system (the "Lawsuit"). Plaintiff has brought this action on behalf of himself and a class of all others similarly situated. Plaintiff is a water and sewer customer of the City, who seeks to act as a class representative for all similarly situated persons and entities that have paid the Rates charged by the City. Plaintiff, on behalf of a class of similarly situated persons and entities, contends that the City has imposed water and sewer rates in excess of the rates that were necessary to finance the actual costs of providing water and sewage disposal services (the "Rates"). Plaintiff contends that the Rates during the period between July 1, 2015 and the present were established in contravention of established water and sewer rate-setting methodologies, and resulted in the accumulation of reserve funds in excess of those necessary to support the City's water and sewer function. According to Plaintiff, by virtue of the Rates, the City has accumulated millions of dollars of unnecessary cash reserves.

Plaintiff asserts that the City's Rates: (a) are unreasonable under Michigan common law principles; (b) violate the Prohibited Taxes by Cities and Villages Act, MCL 141.91, because the Rates constitute disguised "taxes" that have been imposed after January 1, 1964; and (c) violate the City's Charter, Section 13.3, which provides that "[t]he Council shall have the power to fix from time to time such just and reasonable rates as may be deemed advisable for supplying inhabitants of the City and others with such public-utility services as the City may provide". Plaintiff contends that the City is liable to Plaintiff and the Class under theories of unjust enrichment and assumpsit. 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 has denied Plaintiff's allegations in a formal answer filed in Court, stating that the allegations are without merit and are based on inaccurate and incomplete information, and that Plaintiff misunderstands and misconstrues the City's utility rates, the manner in which water and sanitary sewer rates are set, and the City's procedures for accounting for its utility systems and

rates. According to the City, the Rates were set according to accepted methodology and in compliance with Michigan law, and are reasonable and proportionate to the actual costs of providing the services and are thus legal and valid user fees.

The City contends that it doesn't have any excess of monies in its water and sewer fund, and that in fact it doesn't have enough funds considering the size and demands of the system.

The City asserts that "the City" has not been unjustly enriched in any way by its collection of water and sewer charges, since all monies in the City's water and sewer fund have always gone and will continue to go to support permitted and needed public water and sewer projects and will therefore benefit the public and the ratepayers (not "the City"). It is also the City's position that any refund of any of the monies in the water and sewer fund are likely to result in future increases in Rates to the ratepayers (including members of the Class) to pay for required utility system infrastructure projects and improvements, and therefore such refunds will not benefit the public, and that if Plaintiff is successful in securing a refund, millions of previously paid citizen/ratepayer dollars will no longer be available for use on water and sewer infrastructure improvements that are and will be needed in the City.

The Court has made no rulings concerning the merits of the Lawsuit at this time.

On July 21, 2021, 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 some time after July 1, 2015 and are therefore a member of the class.

No financial consequences will be suffered by class members if Plaintiff loses, except that all other 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 July 1, 2015 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 received by Class Counsel no later than December 7, 2021 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.

You are notified that 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. You can also access information and lawsuit documents at the City's website, at www.cityofnovi.org/classaction.

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.

Attorneys for Plaintiff and the Class:

Gregory D. Hanley (P51204)
Jamie Warrow (P61521)
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Exhibit B

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

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The City maintains that its calculation of water and sewer rates has been proper and lawful. The City denies the Plaintiff's claims that it has overcharged its customers, and asserts that the accumulated cash reserves are necessary and have been and will continue to be used to support the City's public water and sewer function, and denies that the Plaintiff and those similarly situated have been harmed. The City also asserts that Plaintiff has mischaracterized the status of the water and sewer fund, and advises that it doesn't have any excess in its water and sewer fund, and in fact it doesn't have enough funds considering the size and demands of the system. 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 July 21, 2021, the Court entered an order certifying the Lawsuit as a class action.

No financial consequences will be suffered by class members if Plaintiff loses, except that all other 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 July 1, 2015 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 received by Class Counsel no later than December 7, 2021 and mailed to: Kickham Hanley PLLC, 32121 Woodward Avenue, Royal Oak, Michigan 48073.

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