

## LEGAL NOTICE

### NOTICE OF CLASS ACTION

**TO: All persons and entities which have paid the Charter Township of Shelby (the “Township”) for Water and/or Sewer Service after May 4, 2012.**

You are hereby notified that an action has been commenced in the Macomb County Circuit Court titled *Staelgraeve v. Charter Township of Shelby*, Case No. 2018-001775-CZ, presiding Judge Michael Servitto, challenging the retail water rates (the “Water Rates”) and the retail sewage disposal rates (the “Sewer Rates”) (collectively the “Rates”) imposed by the Township on citizens who draw water from the Township’s water supply system and who use the Township’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 Township, and seeks to act as a class representative for all similarly situated persons and entities who/which have paid the Rates imposed by the Township. Plaintiff, on behalf of a class of similarly situated persons and entities, contends that the Township has systematically garnered millions of dollars of revenues from its water and sewer customers allegedly in excess of its actual costs of providing water and sewer services by including in the Rates items of expenses it characterizes as “Depreciation” (the “Depreciation Charges”). Specifically, the Depreciation Charges consist of: (i) the cost of servicing the interest on long-term debt related to water and sewer infrastructure improvements; and (ii) the purported amount of depreciation expense associated with the Township’s water and sewer system infrastructure components. Depreciation expenses are non-cash expenses (*i.e.*, the Township does not pay money to “cover” these expenses) and are a measure of the incremental loss in value of water and sewer system infrastructure over the useful life of that infrastructure. The Township depreciates its water and sewer system assets over 50 years. Plaintiff asserts that the Township’s inclusion of the Depreciation Expenses in its Rates: (a) violates the Headlee Amendment of the Michigan Constitution; (b) renders the Rates unreasonable under Michigan common law principles; (c) violates MCL 123.141; and (d) violates Township Ordinance, § 58-151.

Plaintiff seeks a judgment from the Court against the Township which would order and direct the Township to disgorge and refund all water and sewer overcharges to which Plaintiff and the class are entitled and enjoin the Township from overcharging in the future.

The Township maintains that the inclusion of the Depreciation Charges is proper and not unlawful. Thus, the Township denies the Plaintiff's allegations and claims, denies that it has overcharged its customers or any residents, denies that its Rates, in whole or in any part, are unreasonable, and denies that the Plaintiff and those similarly situated have been harmed. As such, the Township contends that it should prevail in the Lawsuit. **The Court has made no rulings concerning the merits of the Lawsuit at this time.**

On January 18, 2019, the Court entered an order certifying the Lawsuit as a class action. You are receiving this Notice because the Township's records indicate that you paid the Township for water and sewer service at some time after May 4, 2012 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 Township alleging the claims contained in Plaintiff's complaint.

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

**If you have paid the Township for water and sewer service between May 4, 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 Township. **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.

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 Macomb County, Michigan. You also may review certain of the Lawsuit documents at [www.kickhamhanley.com](http://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 THE ATTORNEYS FOR DEFENDANT.**

**Attorneys for Plaintiff and the Class:**

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