

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND
NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT

**If you are listed in Exhibit 1 to the Settlement Agreement, you may be a Class Member.
Please read this Notice carefully, as it affects your legal rights.**

Oakland County Circuit Court in the State of Michigan authorized this notice.

This is not a solicitation from a lawyer.

- A Settlement has been reached to resolve putative class action lawsuits arising from the claimed Sewage Disposal System Event occurring on or about August 11, 2014 concerning areas in the Cities of Berkley, Clawson, Ferndale, Hazel Park, Huntington Woods, Madison Heights, Oak Park, Pleasant Ridge, Royal Oak, and Troy, Michigan and the claimed Sewage Disposal System Event occurring on or about August 28, 2017 concerning areas in the City of Berkley, Michigan. The Settlement also includes certain properties that may be located in Royal Oak Township, Michigan.
- The Settlement Agreement requires \$11,500,000 to be paid under the terms and conditions of the Settlement Agreement by Defendants. The Settlement Agreement also requires \$1,500,000 in Improvement Measures to be conducted under the terms and conditions of the Settlement Agreement by City Defendants. The Settlement also requires Class Counsel to make deposits from the Settlement Fund to the Sewage Disposal Disbursement Fund under the terms and conditions of the Settlement Agreement.
- The parties have agreed to settle the lawsuits, and this Notice explains the Settlement Agreement, your rights, the potential available benefits, and how to get them. As a Class Member, you have various options that you may exercise before the Court decides whether to approve the Settlement.
- The Court in charge of these cases still has to decide whether to approve the Settlement. Payments will only be made if the Court finally approves the Settlement and after appeals, if any, are resolved.
- Your legal rights are affected whether you act or don't act. Please read this Notice carefully.

Your Legal Rights and Options in this Settlement	
SUBMIT A CLAIM FORM	The only way to get benefits. You must file an appropriate Claim Form no later than April 21, 2021 .
EXCLUDE YOURSELF	<p>If you exclude yourself, you will no longer be a Class Member. This means you will not be eligible for the benefits or relief in the Settlement. It also means that Class Counsel will not be representing you and there are statutes of limitations that may bar your individual claim(s). To exclude yourself, you must follow the procedures outlined in paragraph 11 below. You must request exclusion no later than March 22, 2021.</p> <p>Any Class Member who chooses to be excluded from the Settlement shall have their claims in the lawsuits dismissed without prejudice and without costs or attorney's fees to any party.</p>
OBJECT	<p>Write to the Court about why you do not like the Settlement. You must follow the procedures outlined in paragraph 12 below. You must also file your written objections no later than March 22, 2021.</p> <p>This is the deadline to file an objection to the Settlement. This is not the deadline to file an objection to your approved claim amount determination under the Settlement. That process is described below in paragraph 7.</p>
DO NOTHING	You receive no benefits. You also give up your right to sue the County of Oakland, George W. Kuhn Drainage District, Oakland County Water Resources Commissioner Jim Nash, City of Berkley, City of Clawson, City of Ferndale, City of Hazel Park, City of Huntington Woods, City of Madison Heights, City of Oak Park, City of Pleasant Ridge, City of Royal Oak, and City of Troy about the legal claims asserted in the lawsuits which are the subject of this Settlement.

- 1. WHAT IS THIS NOTICE ABOUT:** This Notice is to inform you of the proposed Settlement of putative class action lawsuits against the County of Oakland, George W. Kuhn Drainage District, Oakland County Water Resources Commissioner Jim Nash, City of Berkley, City of Clawson, City of Ferndale, City of Hazel Park, City of Huntington Woods, City of Madison Heights, City of Oak Park, City of Pleasant Ridge, City of Royal Oak, and City of Troy pending in Oakland County Circuit Court, Michigan.

This Notice is given by Order of the Honorable Phyllis C. McMillen, Oakland County Circuit Court Judge. It summarizes your rights as set forth in the Settlement Agreement.

The Court directed this Notice to be sent to you because it is claimed you have previously filed a Written Notice of Claim, pursuant to MCL 691.1419, with one of the Defendants regarding a claimed Sewage Disposal System Event occurring on or about August 11, 2014 concerning areas in the Cities of Berkley, Clawson, Ferndale, Hazel Park, Huntington Woods, Madison Heights, Oak Park, Pleasant Ridge, Royal Oak, and Troy, Michigan, or the claimed Sewage Disposal System Event occurring on or about August 28, 2017 concerning areas in the City of Berkley, Michigan. The Settlement also includes certain properties that may be located in Royal Oak Township, Michigan. If you are listed on Exhibit 1 to the Settlement Agreement, or were otherwise disclosed during the course of the 2014 Actions, the Hanover Cases, or the 2017 Action, you may be a Class Member. If you are a Class Member, the Settlement will affect your rights. You have choices to make before the Court decides whether or not to approve the Settlement.

- 2. WHAT ARE THE LAWSUITS ABOUT:** The 2014 Actions ((1) *Polk, et al. v City of Oak Park, et al.*, Oakland County Circuit Court Case No. 2015-147795-NZ, (2) *Chadwell, et al. v City of Madison Heights, et al.*, Oakland County Circuit Court Case No. 2015-147794-NZ, (3) *Helme v. City of Clawson, et al.*, Oakland County Circuit Court Case No. 2016-152918-NZ, (4) *Kotsis, et al. v City of Royal Oak, et al.*, Oakland County Circuit Court Case No. 2016-152906-NZ, (5) *Doot, et al. v City of Berkley, et al.*, Oakland County Circuit Court Case No. 2017-157459-NZ, (6) *Jones, et al. v City of Ferndale, et al.*, Oakland County Circuit Court Case No. 2017-157469-NZ, (7) *Barnwell, et al. v City of Troy, et al.*, Oakland County Circuit Court Case No. 2017-157537-NZ, (8) *Lawler, et al. v City of Hazel Park, et al.*, Oakland County Circuit Court Case No. 2017-157534-NZ, (9) *Finkelberg, et al. v City of Huntington Woods, et al.*, Oakland County Circuit Court Case No. 2017-157533-NZ, and (10) *Phillips, et al. v City of Pleasant Ridge, et al.*, Oakland County Circuit Court Case No. 2017-157620-NZ) were filed regarding a claimed Sewage Disposal System Event occurring on or about August 11, 2014 concerning areas in the Cities of Berkley, Clawson, Ferndale, Hazel Park, Huntington Woods, Madison Heights, Oak Park, Pleasant Ridge, Royal Oak, and Troy, Michigan. The 2017 Action (*Jacob, et al. v. City of Berkley*, Oakland County Circuit Court Case No. 2019-178474-NZ) was filed regarding a claimed Sewage Disposal System Event occurring on or about August 28, 2017 concerning areas in the City of Berkley, Michigan.

In the 2014 Actions, Plaintiffs seek Economic Damages arising from the Defendants' design, construction, operation and/or maintenance of sewer systems which allegedly caused the claimed Sewage Disposal System Event occurring on or about August 11, 2014. In the 2017 Action, Plaintiffs seek Economic Damages arising from the City of Berkley's design, construction, operation and/or maintenance of a sewer system which allegedly caused the claimed Sewage Disposal System Event occurring on or about August 28, 2017. Sewer systems subject to the 2014 Actions and 2017 Action connect directly and/or indirectly with one another.

The Defendants have denied and continue to deny all charges of wrongdoing or liability arising out of the allegations and claims asserted in the 2014 Actions and the 2017 Action, including towards Plaintiffs or any Class Member.

- 3. WHY ARE THE CLASS ACTIONS BEING SETTLED:** The Court did not decide in favor of Plaintiffs or the Defendants. Instead, both sides agreed to enter into a Settlement Agreement. The Settlement does not mean that any law was broken or that the Defendants did anything wrong. The Defendants deny all legal claims in the 2014 Actions and the 2017 Action. The Representative Plaintiffs and Class Counsel believe the Settlement is in the best interest of all members of the Settlement Class.
- 4. HOW DO I KNOW IF I'M PART OF THE SETTLEMENT:** The Court has decided that the Settlement Class includes any Person, including but not limited to, any Person listed in Exhibit 1 to the Settlement Agreement, or otherwise disclosed during the course of the 2014 Actions, the Hanover Cases, or the 2017 Action, who claims that a Written Notice of Claim regarding the claimed Sewage Disposal System Event occurring on or about August 11, 2014 was served on the County Defendants and/or served on the City Defendant within which the Claimed Address is located or who claims that a Written Notice of Claim regarding the claimed Sewage Disposal System Event occurring on or about August 28, 2017 was served on the City of Berkley.

Class Members that are listed on Exhibit 2 to the Settlement Agreement are members of **Subclass A**. Subclass A are Class Members listed on Exhibit 2 who claim that a Written Notice of Claim regarding the claimed Sewage Disposal System Event

occurring on or about August 11, 2014 was served on the County Defendants and/or served on the City Defendant within which the Claimed Address is located and who had provided itemized values of their Real Property Damage, Personal Property Damage, and/or Out of Pocket Expense to Class Counsel prior to June 1, 2020.

Any Class Members, including, but not limited to, any Class Members that are listed on Exhibit 3 to the Settlement Agreement, or otherwise disclosed during the course of the 2014 Actions or the Hanover Cases, are members of **Subclass B**. Subclass B are Class Members, including, but not limited to, any Class Members listed on Exhibit 3, or otherwise disclosed during the course of the 2014 Actions or the Hanover Cases, who claim that a Written Notice of Claim regarding the claimed Sewage Disposal System Event occurring on or about August 11, 2014 was served on the County Defendants and/or served on the City Defendant within which the Claimed Address is located and who had not provided itemized values of their Real Property Damage, Personal Property Damage, and/or Out of Pocket Expense to Class Counsel prior to June 1, 2020.

Class Members that are listed on Exhibit 4 to the Settlement Agreement are members of **Subclass C**. Subclass C are Class Members listed on Exhibit 4 who claim that a Written Notice of Claim regarding the claimed Sewage Disposal System Event occurring on or about August 28, 2017 was served on the City of Berkley and who had provided itemized values of their Real Property Damage, Personal Property Damage, and/or Out of Pocket Expense to Class Counsel prior to June 1, 2020.

Any Class Members, including, but not limited to, any Class Members that are listed on Exhibit 5 to the Settlement Agreement, or otherwise disclosed during the course of the 2017 Action, are members of **Subclass D**. Subclass D are Class Members, including, but not limited to, any Class Members listed on Exhibit 5, or otherwise disclosed during the course of the 2017 Action, who claim that a Written Notice of Claim regarding the claimed Sewage Disposal System Event occurring on or about August 28, 2017 was served on the City of Berkley and who had not provided itemized values of their Real Property Damage, Personal Property Damage, and/or Out of Pocket Expense to Class Counsel prior to June 1, 2020.

If you are not sure whether you are a member of the Settlement Class or a Subclass, or have any other questions about the Settlement, please call 800-536-0045. You can also send your questions to Class Counsel by email (info@ldclassaction.com) or by mail at: Liddle & Dubin, P.C., 975 E. Jefferson Ave., Detroit, MI 48207.

5. **SUMMARY OF THE SETTLEMENT:** If the Settlement Agreement is approved by the Court at or after the final fairness hearing described in Section 13 of this Notice, \$11,500,000 shall be paid under the terms and conditions of the Settlement Agreement by Defendants, and \$1,500,000 in Improvement Measures shall be conducted under the terms and conditions of the Settlement Agreement by City Defendants. The Settlement Agreement also requires Class Counsel to make deposits from the Settlement Fund to the Sewage Disposal Disbursement Fund under the terms and conditions of the Settlement Agreement.
6. **HOW DO I OBTAIN A PAYMENT:** To seek compensation from the Settlement Fund, you must do the following:
 - A. **Complete, sign, notarize and date the appropriate Claim Form(s)** (enclosed with these materials). Keep a copy of the completed Claim Form(s); and
 - B. **Mail the appropriate Claim Form(s) and your required supporting documentation no later than April 21, 2021** to the following address: Liddle & Dubin, P.C., 975 E. Jefferson Ave., Detroit, MI 48207. The supporting documentation that must be contained with your Claim Form(s) can be found on the Claim Form(s).

You can also receive Claim Form-A, Claim Form-B, Claim Form-C and Claim Form-D by calling 800-536-0045 or sending an email to info@LDClassAction.com. Claim Form-B and Claim Form-D can also be downloaded at www.LDClassAction.com/flood

Each Subclass A Class Member must file with Class Counsel a Claim Form-A to seek compensation for their Real Property Damage, Personal Property Damage, and/or Out of Pocket Expense arising from their claimed Sewage Disposal System Event occurring on or about August 11, 2014 at the Claimed Address.

Each Subclass B Class Member must file with Class Counsel a Claim Form-B to seek compensation for their Real Property Damage, Personal Property Damage, and/or Out of Pocket Expense arising from their claimed Sewage Disposal System Event occurring on or about August 11, 2014 at the Claimed Address.

Each Subclass C Class Member must file with Class Counsel a Claim Form-C to seek compensation for their Real Property

Damage, Personal Property Damage, and/or Out of Pocket Expense arising from their claimed Sewage Disposal System Event occurring on or about August 28, 2017 at the Claimed Address

Each Subclass D Class Member must file with Class Counsel a Claim Form-D to seek compensation for their Real Property Damage, Personal Property Damage, and/or Out of Pocket Expense arising from their claimed Sewage Disposal System Event occurring on or about August 28, 2017 at the Claimed Address

The appropriate Claim Form(s) has/have been enclosed with this Notice. If you are not sure that you received the correct Claim Form(s), then you must contact Class Counsel immediately to obtain the correct Claim Form(s).

If you fail to cause the appropriate Claim Form(s) and any required supporting documentation to be mailed to Class Counsel by the required deadline, you will not get paid. Causing a Claim Form to be mailed late or without required supporting documentation is the same as doing nothing.

- 7. HOW ARE PAYMENTS CALCULATED:** The amount of compensation paid to a Class Member will be dependent, in part, on the total amount claimed. Accordingly, the amount a Class Member will receive will not be known until after all Claim Forms have been submitted and assessed under the terms and conditions of the Settlement Agreement.

Class Counsel shall determine the approved claim amount for a Class Member who has submitted a appropriate Claim Form(s) based upon the information contained in the Claim Form(s) and the proof of damage documentation included with their Claim Form(s) submission. The approved claim amount shall be calculated under the terms and conditions of the Settlement Agreement.

Any Class Member who submits a timely and valid Claim Form, who meets the requisite documentation requirements described in the Settlement Agreement, shall receive a share of the Settlement Fund under the terms and conditions of the Settlement Agreement.

A Class Member's pro-rata share of the Settlement Fund for purposes of issuing checks to each Class Member Claimant shall be calculated by multiplying the amount attributable to each Class Member Claimant in the Total Amount Claimed by the quotient of the Net Settlement Fund divided by the Total Amount Claimed. The Net Settlement Fund is the value of the Settlement Fund after the deduction of the amount awarded to Class Counsel for attorneys' fees, costs, and expenses, after deduction of the amount awarded to the Class Representatives as Incentive Awards, and after deduction of the amount of the Opt Out Deposit and the amount of the Rejected Claim Deposit to the Sewage System Disbursement Fund under the terms and conditions of the Settlement Agreement.

- 8. HOW LONG WILL IT TAKE TO GET RELIEF UNDER THE SETTLEMENT:** On April 8, 2021, the Court will hold a hearing to decide whether or not to approve the Settlement. The relief provided for by the Settlement may not be implemented until appeals are finished and the Court's order approving the Settlement is upheld.

- 9. WHO ARE THE LAWYERS FOR THE CLASS AND HOW WILL THEY BE PAID:** The Court has appointed the following attorneys to represent you and the other Class Members: Little & Dubin, P.C., 975 E. Jefferson Ave., Detroit, MI 48207 (collectively referred to as "Class Counsel"). You may also contact Class Counsel at (800) 536-0045 or info@ldclassaction.com.

You do not need to hire your own lawyer because Class Counsel is working on your behalf. But, if you want your own lawyer, you may hire one at your own cost.

Class Counsel has prosecuted this case on a contingency basis. At the final fairness hearing, Class Counsel will be seeking the approval of the Settlement Agreement and requesting the Court for an award of attorneys' fees, costs, and expenses. Class Counsel will request the Court for an award of attorneys' fees of up to 1/3 of the Total Settlement Amount less costs and expenses. The Total Settlement Amount shall mean Thirteen Million Dollars (\$13,000,000) that is computed by adding the Eleven Million Five Hundred Thousand Dollars (\$11,500,000) to be paid under the terms and conditions of the Settlement Agreement by Defendants, and the One Million Five Hundred Thousand Dollars (\$1,500,000) in Improvement Measures to be conducted under the terms and conditions of the Settlement Agreement by City Defendants. Any award for Class Counsel attorneys' fees, costs, and expenses, will be paid from the Settlement Fund.

- 10. WHAT AM I GIVING UP TO STAY IN THE CLASS:** If the settlement becomes final, Class Members who submit an appropriate Claim Form or do nothing at all will be releasing the Defendants, including Defendants' officers, employees, directors, attorneys, affiliates, predecessors, successors, assigns and insurers from all 2014 Claims and 2017 Claims defined in the Settlement Agreement. This means you will no longer be able to sue the Defendants regarding the 2014 Claims and 2017 Claims

described in the Settlement Agreement. It also means that all of the Court's orders will apply to you and legally bind you.

- 11. HOW DO I REQUEST EXCLUSION FROM THIS SETTLEMENT:** If you are a Class Member and if the Settlement Agreement is approved by the Court, then you will be bound by the terms of the Settlement Agreement unless you file a request to be excluded.

To exclude yourself from the proposed Settlement, you must mail a written request for exclusion to Class Counsel at: Liddle & Dubin, P.C., 975 E. Jefferson Ave., Detroit, MI 48207. This request for exclusion must be postmarked no later than **March 22, 2021**.

The request to be excluded must be in writing and signed by the Class Member and must contain the following: the Class Member's full name, address and telephone number and the Claimed Address; and must specifically contain a stated request for exclusion from the prospective Settlement Class and Settlement. They must also provide proof of identification by including a copy of any government-issued photo identification or an equivalent method of identification. Any Class Member's request for exclusion that does not meet these requirements is deemed invalid and ineffective and the Class Member will be considered included in the Settlement Class for purposes of the Settlement.

Any Class Member who chooses to be excluded from the Settlement shall cease to be a Class Member upon the Court's approval of the Settlement Agreement. Any Class Member who chooses to be excluded from the Settlement shall be dismissed without prejudice and without costs or attorney's fees to any party.

- 12. HOW DO I TELL THE COURT THAT I LIKE OR DISLIKE THE SETTLEMENT:** If you are a member of the Class and do not request to be excluded, you can tell the Court you like the Settlement and it should be approved, or that you object to the Settlement or Class Counsel's requests for attorneys' fees, costs, and expenses and class representative Incentive Awards, if you do not like a part of the Settlement. The Court will consider all comments from Class Members.

Class Members desiring to object must file a notice of objection with the Court no later than **March 22, 2021**. You also must send a copy of the objection to Class Counsel and Defendants' counsel at:

Class Counsel	Defendants' Counsel
Liddle & Dubin, P.C. c/o David R. Dubin 975 E. Jefferson Ave. Detroit, MI 48207	Dickinson Wright PLLC c/o Peter Webster & Scott Petz 2600 W Big Beaver Rd Suite 300 Troy, MI 48084 <i>Counsel for the County Defendants</i>
	Goetz Nushaj, PLLC c/o Renis Nushaj 1985 W Big Beaver Rd, Ste 320 Troy, MI 48084 <i>Counsel for the City of Clawson</i>
	Troy City Attorney's Office c/o Lori Grigg Bluhm & Nicole MacMillan 500 W. Big Beaver Road Troy, MI 48084 <i>Counsel for the City of Troy</i>
	Rosati, Schulz, Joppich & Amtsbuechler, P.C. c/o Margaret Debler & Stephanie Simon Morita 27555 Executive Drive, Suite 250 Farmington Hills, MI 48331 <i>Counsel for the City of Madison Heights</i>

	Rosati, Schulz, Joppich & Amtsbuechler, P.C. c/o Margaret Debler 27555 Executive Drive, Suite 250 Farmington Hills, MI 48331 <i>Counsel for the City of Huntington Woods</i>
	Plunkett Cooney, PC c/o Laurel McGiffert 150 W. Jefferson, Suite 800 Detroit, MI 48226 HAFELI STARAN & CHRIST, P.C. c/o John Staran 2055 Orchard Lake Road Sylvan Lake, MI 48320 <i>Co-Counsel for the City of Berkley</i>
	Cummings, McClorey, Davis & Acho PLC c/o Timothy Ferrand 19176 Hall Road, Suite 220 Clinton Township, MI 48038 <i>Counsel for City of City of Ferndale, City of Hazel Park, City of Royal Oak, and City of Pleasant Ridge</i>
	Garan Lucow Miller, P.C. c/o John Gillooly 1155 Brewery Park Boulevard, Suite 200 Detroit, MI 48207 <i>Counsel for the City of Oak Park</i>

Objections must be in writing and signed by the Class Member and must contain the following: the Class Member's full name, address, and telephone number; and, must identify with reasonable particularity the basis for the objection and attach all documentation they intend to present to the Court in support of its, his, or her position. The objection must be in the form of a declaration or be in the form of an affidavit duly signed under penalty of perjury before a notary public. If an objection is submitted by someone purporting to represent a Class Member, the objection must have attached sufficient documentation of the person's identity and legal authority to represent the Class Member or the objection is deemed invalid and ineffective.

Objections that do not meet the requirements set forth above are deemed invalid and ineffective. Class Counsel and Defendants' Counsel reserve the right to challenge the validity and grounds of any objection.

If you do not submit a written objection to the Settlement or the application of Class Counsel for Incentive Awards or attorneys' fees, costs, and expenses in accordance with the deadline and procedure set forth above, you will waive your right to be heard at the final fairness hearing and to appeal from any order or judgment of the Court concerning the lawsuits.

Please note that this is the deadline to file an objection to the Settlement. This is **not** the deadline to file an objection to your approved claim amount determination under the Settlement. That process is described above in paragraph 7.

- 13. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT:** The Court will hold a final fairness hearing on **April 8, 2021 at 8:30 am** at the Oakland County Circuit Court, 1200 N Telegraph Rd, Pontiac, MI 48341, Courtroom 3C, Third Floor or as otherwise directed by the Court, circumstances permitting. This hearing and any other hearing in the case may be held virtually, or on a different date, depending on the state of the COVID-19 pandemic, and interested parties should check www.LDClassAction.com/flood for details of the hearing.

At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court may listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel or whether to approve Incentive Awards. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long it will take for the Court to make its decision.

You do not have to attend the hearing. Class Counsel will answer questions the Court may have. But, you are welcome to come at your own expense provided you have not excluded yourself from the Settlement. If you send an objection, you do not have to come to Court to talk about it. As long as you timely send your written objection, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

- 14. WHAT HAPPENS IF I DO NOTHING AT ALL:** If you do nothing at all, and are a member of the Class, you will be bound by the Settlement if the Court approves it.
- 15. ARE MORE DETAILS ABOUT THE SETTLEMENT AND MY RIGHTS UNDER THE SETTLEMENT AVAILABLE:** This Notice is a summary and does not describe all details of the Settlement. More details are in the Settlement Agreement. For a complete, definitive statement of the Settlement terms, refer to the Settlement Agreement at www.lidclassaction.com by choosing Select Case Keyword "August 2014 Settlement" from the right-hand menu. You may also contact Class Counsel at (800) 536-0045 or info@lidclassaction.com for more details of the lawsuit.

Copies of all pleadings and papers filed in the lawsuit are also available for inspection and copying during regular business hours at the Office of the Clerk of the Court, Oakland County Circuit Court, Michigan.

PLEASE DO NOT CONTACT THE COURT WITH QUESTIONS ABOUT THIS NOTICE.

Dated: January 21, 2021

Honorable Phyllis C. McMillen