

Information regarding Stormwater Utility Class Action Lawsuit

As a property owner in the City, you may have received a “Notice of Class Action” in connection with a lawsuit that was brought against the City, challenging the City stormwater utility ordinance. *Macomb Retail Center, LLC, et al v City of Roseville* (Macomb County Circuit Court No. 2019-005299-CZ) is a class action lawsuit brought on behalf of all property owners in the City, challenging the City’s stormwater utility charge. Plaintiffs (Macomb Retail Center, LLC and Twelve Mile Commercial, LLC) on behalf of the class, allege that the charge imposed on property owners within the City is an unlawful tax in violation of the Headlee Amendment to the Michigan Constitution (Const Art 9, § 31). The City, however, maintains that the storm water utility fee is authorized by the City’s Charter, the Michigan Revenue Bond Act, and further, that the stormwater service charge complies with the criteria for a valid user fee under Michigan law.

The City assesses property owners based on a methodology that calculates the amount of storm water runoff from properties within the City. In 2019, the City began assessing the stormwater service charges to address: (1) certain storm water related costs imposed by Macomb County, (2) the unfunded mandates in connection with the City’s stormwater permit obligations (regulated by the State of Michigan), (3) implementation of the City’s storm water management plan (also mandated by the State of Michigan) and (4) other stormwater related costs.

In July 2021 the City and Plaintiffs entered into a settlement agreement which was approved by the Macomb County Circuit Court and resolved the lawsuit. In accordance with the settlement, the City will continue to impose the current rates and methodology of its Stormwater Utility Ordinance through September 30, 2021. Beginning October 1, 2021 and through September 20, 2028, the City intends to continue to impose its stormwater charges to pay for the costs the City actually incurs in connection with operations, maintenance and improvement of the storm sewer system, and further account for and reduce the revenue requirements associated with stormwater runoff originating from impervious areas represented by the City’s streets and roads, and roads and highways controlled by the State of Michigan and Macomb County.

Should you have any questions with respect to the LEGAL NOTICE – NOTICE OF CLASS ACTION of the proposed settlement of the lawsuit, generally, you should raise them with your own attorney or direct them to the legal counsel for the Class – IN WRITING (at Kickham Hanley, PLLC, 300 Balmoral Centre, 32121 Woodward Ave., Royal Oak, MI 48073) OR BY EMAIL TO KHTEMP@KICKHAMHANLEY.COM – NOT BY TELEPHONE, identified as Attorneys for Plaintiffs, listed in the Notice. DO NOT CONTACT THE COURT, THE CLERK OF THE COURT, THE DEFENDANT (CITY OF ROSEVILLE) OR THE ATTORNEYS FOR THE DEFENDANT – CITY OF ROSEVILLE.