

City of Detroit
Water and Sewerage Department
735 Randolph Street Detroit, MI 48226

NAME
ADDRESS1
ADDRESS2
CITY, STATE, ZIP

[Customer Number:]

NOTICE OF PENDENCY AND SETTLEMENT OF CLASS ACTION

TO: ALL PERSONS OR ENTITIES WHO OR WHICH ARE WATER CUSTOMERS WITHIN THE CITY OF DETROIT AND ARE EXEMPT FROM THE INDUSTRIAL WASTE CONTROL CHARGE (IWC) YET WERE ASSESSED THE IWC FROM NOVEMBER 13, 2014 THROUGH AUGUST 31, 2017. EXCLUDED FROM THE CLASS ARE DEFENDANT AND IT'S EMPLOYEES.

THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION (THE "COURT") AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION FROM A LAWYER, THIS IS NOT A NOTICE THAT YOU HAVE BEEN SUED. THIS IS TO INFORM YOU THAT A CLASS ACTION HAS BEEN SETTLED FOR THREE HUNDRED THOUSAND DOLLARS (\$300,000) UNDER THE TERMS AND CONDITIONS DESCRIBED BELOW AND THAT ACCORDING TO THE RECORDS REVIEWED BY CLASS COUNSEL AS DESCRIBED BELOW, DEFENDANT'S COUNSEL, DEFENDANT AND THE COURT, YOU FIT INTO THE CLASS DEFINITION SET FORTH ABOVE AND WILL BE DEEMED PART OF THE CLASS UNLESS YOU EXPRESSLY EXCLUDE YOURSELF FROM THE CLASS IN WRITING PURSUANT TO THE INSTRUCTIONS BELOW.

The settlement is subject to Court approval, resolves a lawsuit over whether the Detroit Water & Sewerage Department ("DWSD") can be held liable for restitution and reimbursement of IWC charges that erroneously were assessed Class Members during the time period above set forth. If you are a Class Member, your legal rights are affected by this settlement unless further steps are taken by you. Accordingly, read this notice carefully. This notice is also to inform you that the Court has scheduled a hearing on September 5, 2018 at 2:00 o'clock p.m. to determine whether the settlement should be determined as being fair, reasonable and adequate, whether the plan for allocation of the settlement funds is fair and reasonable and should be approved and whether the attorney fees and costs payable to the attorneys respecting the class under the settlement are fair and reasonable.

BACKGROUND OF THE ACTION

The factual basis of the lawsuit is that the Defendant had been charging IWC charges to entities and persons which or who were exempt from such charge. The Complaint sought to enjoin further charging of IWC charges to those persons and entities making up the class and sought restitution for reimbursement of such charges. The Complaint alleged an exception to governmental immunity under a theory of restitution for involuntary payment, given the lien rights granted the Defendant under Michigan statutes to enforce payment of water and sewage charges. Based on such statutory lien rights, Plaintiffs' lawyers contended that the payments made by Class Members were involuntary. Defendant has defended on the basis of governmental immunity. Further, Defendant claims payments were voluntary and the charges were acceptable over a substantial period of time by all of those parties who make up the Plaintiff Class.

THE REASONS FOR THE SETTLEMENT, PROPOSED SETTLEMENT AND PLAN OF ALLOCATION

Given the extensive discovery that would have to be continued as well as the relative risks inherent in both the Plaintiff(s) position and the Defendant's defenses, Plaintiffs and Defendant agreed to settle the lawsuit. That way they avoid the costs of trial, extensive discovery and complex legal issues as well as appeals by the named parties. Attorneys for Plaintiffs and Defendant have met and communicated in negotiating a resolution and mutually compiling information necessary to determine the extent and breathe of the class and the claims being made. Plaintiffs' lawyers believe that the proposed settlement is fair and reasonable and in the best interest of the class because the settlement creates a Three Hundred Thousand Dollar (\$300,000) settlement fund and avoids considerable risks and delays involved in continuing the lawsuit.

Even though Defendant contends that it is not liable and would be protected under existing law, settlement means that Defendant does not have to continue to spend money, time and effort on a lawsuit when it can give money to class members instead and resolve their claims.

SETTLEMENT BENEFITS - WHAT YOU GET

Defendant has agreed to create a Three Hundred Thousand Dollar (\$300,000) fund to settle the lawsuit. All of this money will be paid out by way of credit and cash as described hereinafter. The costs of administrating the settlement are to be borne exclusively by the Defendant including necessary notices to class members and generation of data approved by Class Counsel for purposes of allocating the credits to Class Members. The amount approved by the Court for Class Counsel's fees and expenses for their efforts on behalf of the class and incentive fees to named Plaintiffs will be the only sum deducted from the fund. The Class Counsel has not received any payment for his services in connection of the initiation of this litigation, nor has he been reimbursed for his out of pocket expenses. Class counsel will seek attorney fees and reimbursement of out-of-pocket expenses in the amount of \$100,000, which is one-third of the settlement fund and covers both fees and costs. Class counsel will also seek an incentive fee of \$5,000 for each of the named Plaintiffs as class representatives. From the net remaining fund of \$190,000, credits will be issued to all of those persons who make up the class excluding those Class Members who opt out as provided below. The credits will be determined as follows: The formula for that determination will be by taking the entire amount of the improper IWC charges covered by this settlement for the period of time covered by the settlement, determine each meter's percentage of that charge since November 13, 2014 through August 31, 2017 and then take that meter's percentage against \$190,000 to determine the credit applicable to each meter. For example, the entire amount of the IWC charges is \$488,270.50. If a meter's charge represents .10% of that amount, then .10% times \$190,000 would be \$190 representing the amount available to the owner of exempt property to which the meter is applicable.

Payments will not be made unless and until the Court grants final approval to the settlement and a Final Approval Order has been completed and entered and not appealed from. Any amounts that otherwise would have been available to Class Members who opt out of the class, will be disbursed by credits to all remaining settlement class members in conformity with the same formula as above set forth. The Defendant DWSD will have a list of Class Members and an estimate of the total credits available on a per meter basis to eligible Class Members. It can be found at www.detroitmi.gov/dwsd.and/or whatever other website is chosen by the City for such posting. It is an estimate since, if an eligible Class Member opts out that Member's credits will be allocated to the whole class per the formula above. This same list is also available for review at the Law Offices of Mark K. Wasvary, P.C., 2401 W. Big Beaver Rd, Suite 100, Troy, MI 48084.

If you do not exclude yourself from the settlement, you will receive a credit as soon as the next billing following final approval and judgment in this case. The Court will hold a hearing on September 5, 2018 at 2:00 p.m. to decide whether to approve the settlement. Please note, however, if this settlement is approved it is possible that there might be an appeal by someone, therefore please be patient.

Unless you exclude yourself, you are staying in the class. That means you will give up any claims relating to the lawsuit and cannot individually sue the DWSD for charging the IWC charge to you. The United States District Court for the Eastern District of Michigan, Southern Division is in charge of the case and the case is known as "Abbott, et. al. v City of Detroit, Water and Sewerage Department, Case No. 17-10761" (the "Lawsuit").

The people who sued are called the Plaintiffs and the City of Detroit is called the Defendant.

EXCLUDING YOURSELF FROM THE CLASS,

If you do not want credits from this settlement and instead want to keep your claims and right to sue the City of Detroit on your own, then you must take steps to get out of the class. This is called "excluding yourself from or opting out of the class".

If you decide to exclude yourself from the class, you may hire your own lawyer at your own expense, Class Counsel cannot and will not represent class members who exclude themselves from the settlement. To exclude yourself from the class you must send a letter by first class mail stating that you want to be excluded from "Abbott, et. al. v City of Detroit, Water and Sewerage Department, Case No. 17-10761". Be sure to include your name, address, telephone number, account number and your signature as well as the date. To be valid an exclusion request must be

received no later than July 17, 2018 by the Class counsel and a copy to Defendant's counsel at:

Class Counsel

Mark K. Wasvary, P.C.
2401 W. Big Beaver Rd., Suite 100
Troy, MI 48084

Defendant's Counsel

Michael M. McNamara
Fausone Bohn, LLP
41700 W. Six Mile Rd., Suite 101
Northville, MI 48168

If you ask to be excluded from the class, you will not receive any settlement credit and you can not object to the settlement. If you exclude yourself you will not be legally bound by anything that happens in this lawsuit.

The law firm that brought the lawsuit has been representing you and other class members, this lawyer is called Class Counsel and is Mark K. Wasvary from Mark K. Wasvary, PC. You can send any questions you might have to him by contacting him at:

Plaintiffs Counsel

Mark Wasvary, Esq.
Mark K. Wasvary, P.C.
2401 W. Big Beaver; Suite 100
Troy, Michigan, 48084

Class Counsel has worked on this case so far without receiving any payments at all for his work or his out-of-pocket expenses. Class Counsel will ask the Court for attorney fees plus reasonable out-of-pocket costs and expenses of up to one-third of the settlement fund for all of the work on the case. Defendant and Defendant's counsel have agreed that the fees are fair and reasonable under the circumstances and will not oppose the request. The fees are tied to the settlement agreement and if not approved, the settlement will not be consummated. The payment of the fees will come out of the settlement fund.

OBJECTIONS TO SETTLEMENT

If you wish to object to the settlement rather than excluding yourself, you must file a written objection with the Civil Clerk's Office, United States District Court for the Eastern District of Michigan, Theodore Levin U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226. Your objection must be postmarked by July 17, 2018, and must refer to the name and number of this case (*James Abbott, et al v. City of Detroit, et al*, Case No. 17-cv-10761). You must also serve copies of your objection on Class Counsel and Defendant's attorney (at the addresses above), postmarked by the same date. Your objection must include your name, street address, all attorneys who assisted you in the preparation and filing of your objection, a list of all other class action cases in which you or your counsel have filed objections to settlements, and a statement of the reasons why you believe the Court should find that the proposed settlement is not in the best interests of the Settlement Class. It is not sufficient to simply state that you object; you must state the reasons why you believe the settlement should not be approved. Additionally, if you want the Court to consider your objection, then you must also appear at the final approval hearing in Room 100 in the United States District Court for the Eastern District of Michigan, Theodore Levin U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226, on September 5, 2018, at 2:00 p.m. YOU ARE NOT REQUIRED TO ATTEND THIS HEARING UNLESS

YOU OBJECT TO THE SETTLEMENT.

A class member may enter an appearance through an attorney, if the member so desires.

COURT'S FAIRNESS HEARING

The Court will hold a final fairness hearing to decide whether to approve the settlement On September 5, 2018, at 2:00 p.m., in Room 100 in the United States District Court for the Eastern District of Michigan, Theodore Levin U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226. At that hearing, the Court will hear any timely and properly-filed objections and arguments about the settlement. You are **not** required to attend this hearing unless you object to the settlement. The hearing may be continued to a future date without further notice.

IF YOU DO NOTHING AT ALL, YOU WILL BE CONSIDERED PART OF THE SETTLEMENT CLASS AND YOU WILL RECEIVE CREDITS FROM THE SETTLEMENT-GETTING MORE INFORMATION

This notice summarizes the most important aspects of the proposed settlement. For more detailed information, the complete Court file in the lawsuit is available on the Court's public website pacer.gov. A complete copy of the Settlement Agreement and Order Preliminarily Approving Class Action Settlement is available on Class Counsel's website wasvarylaw.com. Should you have any questions in respect to this notice, the proposed settlement, or the litigation generally please address your request to Class Counsel for the class or to your own attorney. Do not contact the Court regarding these questions.

Dated: April 20, 2018

**BY ORDER OF THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION**

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