



CITY OF OAK PARK

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City Settles Class Action Lawsuit to Avoid Risk of Future Claim Damages Water lawsuit settlement amounts to \$2,850,000

FOR IMMEDIATE RELEASE

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OAK PARK, MI - The City of Oak Park has agreed to a settlement in the Judy Kish and Joyce Bannon vs. City of Oak Park case to limit the financial risk that a trial could present. This class action lawsuit began in April of 2016. Prior to this settlement, the case was pending in Oakland County Circuit Court after at one time being presented in front of the Michigan Supreme Court.

The lawsuit, brought forth by Royal Oak-based law firm Kickham Hanley P.L.L.C., alleged that a fee charged to Oak Park residents' water bills was illegal. The fee was charged to offset a federal consent decree to help pay for the City's portion of the debt service for bonds issued to pay for the George Kuhn Drain Facility. This drain facility was mandated by the late Judge John Feikens to help manage stormwater and combine sewer overflows. In total, there are 14 communities who were required to pay for their own respective portions of the debt service. Without the construction of this drain facility, residents of the region would have seen an increase in environmental issues.

Nevertheless, the law firm of Kickham Hanley P.L.L.C. developed a business strategy that has been used to sue many southeast Michigan municipalities for the utilization of such fees, which was recently referenced in a Detroit Free Press [article](#).

This settlement agreement comes just days after Oak Park City Attorney John Gillooly, from law firm Garan Lucow Miller P.C., recommended taking this action at the Monday, October 15 City Council meeting, noting that this settlement is the most risk averse outcome for the City given the circumstances.

"I'd love to try the case, but I'd have to take the risk of getting clobbered with \$40 million if things go bad," said Mr. Gillooly Monday evening. "The risk-benefit analysis says cut your losses, stop paying the darn lawyers, and end this nightmare."

The settlement agreement states that the City of Oak Park must pay the sum of \$500,000 on or before seven days after the settlement date, and then subsequently make four \$587,500 payments each year for the next four years, totaling \$2,850,000. The City also has the option to pay upfront within one year of the settlement the amount of \$2,500,000, potentially saving the City \$350,000.

“Unfortunately, this litigation will create an undue setback without actually solving any problems. We have managed our finances very carefully and pride ourselves on fiscal responsibility,” says Oak Park City Manager Erik Tungate. “This settlement will not change the fact that we will still have to comply with the federal judgment requiring us to pay for our portion of the debt service for the bonds. That revenue will need to be found elsewhere now, most likely as a ballot proposal in the near future.”

It is not yet known how much each member of the class will receive from this settlement, as that cannot be determined until it is discovered how many in the class opt-in to receive the payment. As class representatives, Judy Kish and Joyce Bannon will receive \$10,000 each. The law firm of Kickham Hanley will receive one third of the entire settlement, the amount of approximately \$950,000.

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About:

Situated within the southeast corner of Oakland County, the City of Oak Park has a long history of being an integral, inner-ring suburb of Detroit. With approximately 30,000 residents in 5.16 square miles, we pride ourselves on the richness of our cultural diversity and our safe, secure neighborhoods.

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