

From: [Notice Administrator](#)
To: [REDACTED]
Subject: Moline Machinery, LLC et al. v. City of Duluth Class Action Notice
Date: Thursday, January 11, 2024 4:04:51 PM

If you paid stormwater service fees to the City of Duluth for nonresidential property from September 8, 2015, to the present, a class action lawsuit may affect your rights.

A class action lawsuit was filed on behalf of Moline Machinery LLC, and Glass Merchant, Inc., d/b/a Walsh Windows (“Plaintiffs”) against City of Duluth (“Defendant”) in the case entitled *Moline Machinery, LLC et al. v. City of Duluth*, Case No. 69DU-CV-21-1668 (6th Jud. Dist. Cnty. of St. Louis, Minn.).

What is this lawsuit about? The lawsuit addresses whether the City of Duluth failed to follow Minnesota law and its own City Code to properly calculate fees charged for stormwater service to owners of nonresidential properties. Plaintiffs allege the City of Duluth failed to charge or undercharged the required fees to certain nonresidential properties as required by City Code. Plaintiffs also allege the City of Duluth has unjustly and unfairly forced other owners of nonresidential property to pay the fees that should have been charged to the underpaying properties.

Duluth contends that its system for setting stormwater charges enables it to cover costs of creating and maintaining a stormwater management system, without collecting more or less than is needed to accomplish that purpose.

Duluth also contends its charges are just and equitable, and authorized by state statute.

Duluth further contends that it has investigated and re-established the primary element of its stormwater rate-setting program.

Duluth further contends that Minnesota law does not entitle companies or persons to pay a stormwater fee and later receive a refund of some or all of what they paid.

This Notice is being provided to you in advance of a trial. No judge or jury has concluded the Plaintiffs’ legal claims are correct or that the City of Duluth did anything wrong. For this reason, there is no money available now, and there is no guarantee there ever will be. If you are a class member, however, you have a choice to make now.

How do I know if I am part of the Lawsuit?

The Court has decided class members are defined as:

All persons and entities who paid stormwater service fees to the City of Duluth for non-residential property from September 8, 2015, to the present, except for those who are exempt as described in the following paragraph.

This class excludes the owners of “waterfront” property who received “waterfront” designation BMP credits, or other discounts related to stormwater service fees before 2021, as identified on the document produced in this lawsuit with Bates number COD0003682, and any person or entity who paid the stormwater service fees for such properties. This class also excludes the owners of multi-family properties who paid stormwater service fees and any person or entity who paid such fees for multi-family properties. This class further excludes the City of Duluth, as well as the judge assigned to this case, any member of the judge’s immediate family, and any person or entity that has previously commenced and concluded a lawsuit against the City of Duluth arising out of the subject matter of this lawsuit. The persons or entities identified in COD0003682, who are owners of “waterfront” property who received “waterfront” designation BMP credits or other discounts related to stormwater service fees before 2021, are identified by name or address in Attachment A accompanying the long-form notice which can be reviewed at www.DuluthStormwaterFeeLitigation.com.

Please call the Notice Administrator’s toll-free telephone number at 1-888-610-9397 if you are not sure if you are a class member.

You have the right to exclude yourself from the lawsuit, class, if you timely submit an exclusion request. The Court will then exclude you from the lawsuit.

What am I giving up by staying in the class? Unless you exclude yourself, you are staying in the class, which means that you cannot sue, continue to sue, or be part of any other lawsuit relating to stormwater service overcharges against the City of Duluth.

It also means that all the Court’s orders will apply to you and legally bind you.

What happens if I do nothing at all? If you are a member of the class and you do nothing, you will remain a member of the class. You will be legally bound by all the decisions the Court makes. You will also have the opportunity to participate in any future settlements or judgments against the City of Duluth in the lawsuit. If the Plaintiffs obtain money or benefits, you may be entitled to a share. Regardless of the outcome of the lawsuit, if you do nothing, and thereby remain in the class, you will never be able to sue (or continue to sue) the City of Duluth about the legal claims in this lawsuit.

How do I exclude myself? If you do not want to be legally bound by the terms of the lawsuit, or if you wish to pursue your own separate lawsuit against the City of Duluth, or if you do not want to be a class member, you must exclude yourself by completing and submitting a written request to the Notice Administrator in the accompanying Exclusion Request Form, stating your intent to exclude yourself from the class (an "Exclusion Request"). Your Exclusion Request must include the following: (1) name and address; (2) a statement that you want to be excluded from the class in *Moline Machinery, LLC et al. v. City of Duluth* ; and (3) your signature. You must mail your Exclusion Request, **postmarked by March 18, 2024**, to: Moline Machinery v. City of Duluth, Exclusion Request, P.O. Box 5683 Portland, OR 97228-5683.

If you exclude yourself, and the class is awarded money or benefits later, you will not be eligible to claim any of that money or benefits. You also will not be legally bound by the Court's judgments if you exclude yourself. You will be able to sue (or continue to sue) the City of Duluth on your own about the legal claims that are involved in this lawsuit, now or in the future, assuming your legal claims are not time-barred or otherwise prohibited (you should consult your own lawyer to make such a determination).

Do I have a lawyer in this case? Yes, the Court has appointed Larson - King LLP and Trial Group North, PLLP as Class Counsel for the class. If you wish to remain a member of the class, you do not need to hire your own lawyer because Class Counsel is working on your behalf. If you wish to pursue your own case separate from this one, or if you exclude yourself from the class, these lawyers will no longer represent you. You may enter an appearance through your own attorney if you so desire. You will need to hire your own lawyer if you wish to pursue your own lawsuit against the City of Duluth.

How do I get more information about the lawsuit? This Notice summarizes the lawsuit and your legal rights. More details are in the Class Certification Order. You can find a copy of the Class Certification Order, other important documents, and information about the current status of the lawsuit by visiting the class website. You may also contact the Notice Administrator toll-free at 1-888-610-9397 or by writing to: *Moline Machinery v. City of Duluth*, P.O. Box 5683 Portland, OR 97228-5683.

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