

Annexure 1 - SUPREME COURT OF VICTORIA

TOWERS CLASS ACTION

IDRIS HASSAN

and

HAWA WARSAME

V

STATE OF VICTORIA

(S ECI 2021 00826)

NOTICE OF PROPOSED SETTLEMENT

Please read this notice carefully and consider whether your further action is required. This notice is an important document which contains information that may affect your legal rights.

1. Why are you receiving this notice?

On 19 March 2021, Mr Idris Hassan and Ms Hawa Warsame (**Plaintiffs**), commenced a class action claim in the Supreme Court of Victoria (**Proceeding**) against the State of Victoria (**Defendant**) to challenge:

- the 'lockdown' of people in nine public housing towers located at 9 Pampas Street, 159 Melrose Street, 33 Alfred Street, 76 Canning Street and 12 Sutton Street, North Melbourne, and 120, 126 and 130 Racecourse Road and 12 Holland Court, Flemington (**Estate Towers**) between 4 and 9 July 2020; and
- the continued 'lockdown' of people in the 33 Alfred Street, North Melbourne tower between 10 and 18 July 2020.

The Proceeding is brought by the Plaintiffs on their own behalf, and also on behalf of other people who have similar claims (**Group Members**).

The Plaintiffs say that the Defendant:

- (a) wrongly detained the Plaintiffs and Group Members for up to 14 days in July 2020; and

- (b) wrongly threatened the Plaintiffs and Group Members with physical harm, if they tried to leave the Towers.

The Defendant denies these claims.

The Plaintiffs and the Defendant have reached an agreement to resolve the Proceeding through a settlement without a trial. The proposed settlement will only take effect if it is approved by the Court. If the proposed settlement is approved, it will affect the rights of Group Members.

The Court has ordered that this notice be published for the information of persons who may be Group Members. You are receiving this notice because you may be a Group Member.

2. What is this notice?

This notice contains important information about the proposed settlement including:

- (a) how to determine whether you are a Group Member and may be eligible to participate in the proposed settlement;
- (b) the terms of the proposed settlement and how it will apply to Group Members; and
- (c) what you need to do if you wish to:
 - i. **Register** to participate in the proposed settlement;
 - ii. **Opt out** from the proposed settlement and stop being a Group Member in the Proceeding; or
 - iii. **Object** to the proposed settlement.

It is important that you read this notice carefully because it contains information about what you need to do and may affect your rights.

If there is anything in this notice you do not understand, or if you want further information, you should contact the plaintiffs' legal representative, Clemens Haskin Legal, on (03) 9988 5035 or email info@clemenshaskin.com, or seek your own legal advice.

If you require a copy of this notice in another language, copies are available in Amharic, Arabic, Cantonese, Dari, Dinka, Farsi, Mandarin, Oromo, Simplified Chinese, Somali, Tigrinya, Traditional Chinese, Turkish and Vietnamese at health.vic.gov.au/covid-19-towers from 10 May 2023.

If you are under 18 years of age as at 27 June 2023, or if you are incapable by reason of injury, disease, senility, illness or physical or mental infirmity of managing your affairs in

relation to the proceeding (**Person Under Disability**), please provide this notice to your guardian or personal representative (if you have one). If you are unsure whether you are a Person Under Disability, you may contact Clemens Haskin Legal, seek your own legal advice or have another person do so on your behalf.

3. Who is a Group Member?

You may be a Group Member if you resided or stayed at:

(a) any of the following addresses:

- i. 12 Holland Court, Flemington 3031;
- ii. 120 Racecourse Road, Flemington 3031;
- iii. 126 Racecourse Road, Flemington 3031;
- iv. 130 Racecourse Road, Flemington 3031;
- v. 9 Pampas Street, North Melbourne 3051;
- vi. 12 Sutton Street, North Melbourne 3051;
- vii. 33 Alfred Street, North Melbourne 3051;
- viii. 76 Canning Street, North Melbourne 3051;
- ix. 159 Melrose Street, North Melbourne 3051;

(together, the **Estate Towers**); and

(b) any time from:

- i. about 4.00pm or 4.30pm on 4 July 2020 (or shortly thereafter) until 5.00pm on 9 July 2020 (in the case of 9 Pampas Street, North Melbourne and 159 Melrose Street, North Melbourne) and about 4.00pm or 4.30pm on 4 July 2020 (or shortly thereafter) until 11:59pm on 9 July 2020 in the case of all other Estate Towers; or
- ii. 11.59 pm on 9 July 2020 until 11:59 pm on 18 July 2020 in the case of 33 Alfred Street, North Melbourne.

4. What is the proposed settlement?

The Plaintiffs and the Defendant have agreed to settle the Proceeding. If the proposed settlement is approved by the Court, the Proceeding will be resolved by agreement and a trial will not be held.

The key terms of the proposed settlement are:

- (a) The Defendant will pay the settlement sum of five million dollars (\$5,000,000.00) (**Settlement Sum**);
- (b) The Plaintiffs may apply to the Court for an amount to be deducted from the Settlement Sum in recognition of their position as lead Plaintiffs spent representing the Group Members in the Proceeding (**Reimbursement Amount**). Any amount to be paid to the Plaintiffs must be approved by the Court;
- (c) The balance of the Settlement Sum, after payment to the Plaintiffs, will then be distributed to the Group Members who register to participate in the settlement. Each participating Adult Group Member will receive an equal share of the Settlement Sum, with Child Group Members (those being younger than 16 as at 4 July 2020) receiving a 50% of the Adult share.
- (d) Other costs of the Proceeding, including legal costs and the costs of distributing settlement monies, **will not** be deducted from the Settlement Sum. These costs, including the Plaintiffs' legal costs (as approved by the Court) will be paid by the Defendant.

The process for allocation and distribution of the Settlement Sum is described below at 6.

In return for payment of the Settlement Sum, the Plaintiffs and Group Members release the Defendant from the claims as set out in their Amended Statement of Claim dated 24 September 2021, their Reply dated 27 January 2022, and all claims that are in connection with or arise out of or in relation to the subject matter of the Proceeding or the same or similar circumstances (**Claims**).

5. What is the process for approval of the proposed settlement?

As described above at 4, the proposed settlement will only take effect if it is approved by the Court. To decide whether it will approve the proposed settlement, the Court will consider whether the proposed settlement is fair and reasonable and in the interests of the Group Members as a whole, not just the Plaintiffs. This hearing for the approval of this settlement will be held on 24 July 2023 at the Supreme Court of Victoria. Group Members are entitled to attend this hearing.

If you consider that you may be a Group Member and you wish to participate in, opt out from or object to the proposed settlement, you must take action **before** certain dates as ordered by the Court. The actions you may take and the applicable deadlines are described below at 7.

6. What is the process for payment of the Settlement Sum?

If the proposed settlement is approved by the Court, the Settlement Sum will be distributed to the Plaintiffs and Group Members in accordance with terms agreed between the Plaintiffs and the Defendant and approved by the Court (**Settlement Distribution Scheme**). The Court will appoint an administrator to:

- (a) Assess claims made by Group Members in accordance with the Settlement Distribution Scheme; and
- (b) Make payments to Group Members from the Settlement Sum where a claim is established.

The Plaintiffs and the Defendant have agreed to seek the Court's approval for the Secretary of the Department of Health, Professor Euan Wallace AM to be appointed as the **Administrator**. The Administrator will distribute the Settlement Sum in good faith, with due care and skill and in the interests of Group Members as a whole and not as the representative for any individual Group Member.

The Settlement Distribution Scheme sets out the formulae for distribution at clause 8.

A copy of the Settlement Distribution Scheme, which will govern the distribution of the Settlement Sum, is at Annexure A below and online at health.vic.gov.au/covid-19-towers.

7. What actions may Group Members take?

There are three actions you may take in response to this notice. These actions are set out in detail below. If you require translated copies of the below documents, they will be available from 10 May 2023 at:

Online: health.vic.gov.au/covid-19-towers; and
www.clemenshaskin.com;

Hardcopies: the Plaintiffs' legal representatives; and
the administrative offices at Estate Towers:

North Melbourne Housing Office
33 Alfred Street North Melbourne,
Tel: (03) 9326 6377

Ascot Vale Housing Office
12 Churchill Avenue, Ascot Vale
Tel: (03) 9371 6200

Option 1: Register to participate in the proposed settlement

You **must** register to participate in the proposed settlement if you want to receive financial compensation in relation to the Proceeding.

To register to participate in the proposed settlement, you must complete and submit a “**Notice of Claim**” form by **27 June 2023**.

You may complete the Notice of Claim form by:

- (a) Submitting the online form available at health.vic.gov.au/covid-19-towers; or
- (b) Completing the Notice of Claim form at Annexure B of this notice and returning it to the Administrator by:
 - i. Email to: COVID-19-Towers@health.vic.gov.au;
 - ii. Post to:
COVID-19 Towers
50 Lonsdale St
Melbourne Victoria 3000; or
 - iii. Delivery to:
COVID-19 Towers
50 Lonsdale St
Melbourne Victoria 3000

The Administrator will consider the claims of persons who register to participate in the proposed settlement. If the proposed settlement is approved and the Administrator determines that a registered person is a Group Member, payment from the Settlement Sum will be made to that person in accordance with the Settlement Distribution Scheme.

By providing a Notice of Claim form to the Administrator, you agree that the Administrator will apply the Settlement Distribution Scheme to determine whether you are eligible to compensation from the Settlement Sum. You will be able to seek independent review of the Administrator’s assessment of your eligibility or age, but you will not be able to commence legal proceedings in relation to the Claims or the Administrator’s assessment of your Notice of Claim form.

Option 2: Opt out from the proposed settlement and stop being a Group Member in the Proceeding

You may stop being a Group Member in the Proceeding by choosing to “opt out”. If you opt out from the Proceeding you will not be bound by the

proposed settlement and you will **not** be eligible to receive a distribution from the Settlement Sum. Group Members who opt out can still commence their own independent legal proceedings in relation to the Claims.

The deadline previously set by the Court to opt out of the Proceeding was 1 July 2022. Any person who submitted an “Opt Out Notice” before that date has already opted out.

If you wish to opt out of the Proceeding: The Court has power to allow you to opt out even though the opt out deadline has passed. If you would like the Court to consider allowing you to opt out, you must complete the form titled “Notice of Application to Extend Time to Opt Out by a Group Member”.

You may complete the above Notice by completing the form at Annexure C of this notice or online at health.vic.gov.au/covid-19-towers and returning it to the Supreme Court of Victoria by post or email at the address on the notice by 29 May 2023.

If you have already opted out and you wish to be reinstated as a Group Member: The Court has power to reinstate you as a Group Member. If you would like the Court to consider reinstating you as a Group Member, you must complete a “Notice of Reinstatement of Group Member” by 29 May 2023. You may complete the Reinstatement Notice by completing the form at Annexure D of this notice or online at health.vic.gov.au/covid-19-towers and returning it to the Supreme Court of Victoria by post or email at the address on the form.

If you are unsure whether you have already opted out: You may confirm whether you have opted out by contacting the plaintiffs’ legal representative Clemens Haskin Legal.

Option 3: Object to the proposed settlement

If you are a Group Member you are entitled to make a submission to the Court to say that you agree or disagree that the Court should approve the proposed settlement.

If you think the Court should not approve the proposed settlement, you may submit an objection by completing a “Notice of Objection to Proposed Settlement”. You may complete the Notice of Objection by completing the form at Annexure E of this notice or online at health.vic.gov.au/covid-19-towers and returning it to the Supreme Court of Victoria at the address on the notice.

Any Notice of Objection must be submitted to the Court by 29 May 2023. If you wish to provide evidence or written submissions to support your objection, you must deliver that material to the Court by 13 June 2023.

The Court will consider all Notices of Objection completed on time by Group Members when it considers approval of the proposed settlement at the hearing on 24 July 2023.

You may object to the proposed settlement *even if* you also take Option 1 and register to participate in the proposed settlement.

You may not object to the proposed settlement if you take Option 2 and opt out from the proposed settlement.

IF YOU TAKE NONE OF THE ACTIONS DESCRIBED ABOVE AND TAKE NO ACTION IN RESPONSE TO THIS NOTICE, YOU WILL NOT BE ENTITLED TO PARTICIPATE IN THE PROPOSED SETTLEMENT, UNLESS THE COURT DETERMINES OTHERWISE. Accordingly, if you do nothing and the proposed settlement is approved, the Administrator will not be able to assess your claim and you will not be eligible to receive a distribution from the Settlement Sum. You will also be bound by the proposed settlement and you will not be able to bring a claim against the Defendant regarding the Claims.

8. Completing forms for children, the Person Under Disability and other people who can't look after themselves.

If you have any children who are under 18 years of age as at 27 June 2023 who may be Group Members and who you want to register (Option 1), you will need to include their details in the Notice of Claim form. You do not complete separate Notice of Claim forms for them.

If you want them to apply to opt out of the proceeding (Option 2), you will need to complete a separate Application to Extend Time to Opt Out by a Group Member form for each of them. Any objection (Option 3) may be made on a child's behalf by their parent or guardian.

If you have a guardian or personal representative appointed to look after you, or if you are a Person Under Disability, you will need to pass these documents to them so they can help you decide how to proceed.

9. Where can you get more information about the proposed settlement?

If you want more information about the proposed settlement, you can obtain copies of relevant documents, including the statement of claim, defences and the settlement deed from the Administrator's website health.vic.gov.au/covid-19-towers or from the website of the legal representatives for the Plaintiffs, Clemens Haskin Legal, www.clemenshaskin.com.

Please consider the above matters carefully. If you are not sure whether you are a Group Member or want further information about the action you may take, you should contact Clemens Haskin Legal on (03) 9988 5035 or email info@clemenshaskin.com, or seek your own legal advice.

This notice is published pursuant to Orders made by the Supreme Court of Victoria on 20 April 2023.