

FREQUENTLY ASKED QUESTIONS (FAQ) – ELIJAH DEVELOPMENT CLASS ACTION

IMPORTANT NOTICE

This FAQ is provided for general informational purposes only. It does not constitute legal advice and should not be relied upon as such. Everyone’s circumstances are different, and you should seek independent legal advice.

1. What is this lawsuit about?

This proposed class action concerns allegations that the developers of the Elijah Development misrepresented or failed to properly disclose that the lands are located within a floodplain and subject to flood-related risks.

The claim alleges that this information constitutes a **material fact** that should have been disclosed to purchasers before they entered into contracts to purchase pre-sale units.

2. What is a class action?

A class action is a lawsuit brought by one or more individuals on behalf of a larger group of people with similar claims (the “class”).

Instead of each person bringing their own lawsuit, issues common to all class members are determined together in a single proceeding.

3. What is “certification”?

Certification is a preliminary procedural step where the Court determines whether the lawsuit can proceed as a class action.

At this stage, the Court does **not** decide whether the defendants are liable. Instead, it considers whether:

- there is a viable cause of action;
- there is an identifiable class of two or more persons;
- there are common issues;
- a class proceeding is the preferable procedure; and
- there is a suitable representative plaintiff.

4. Am I part of the class?

You may be a potential class member if you:

- purchased a pre-sale unit in the Elijah Development; and
- entered into your purchase agreement during the relevant time period.

The precise class definition will be determined by the Court if the action is certified. You are not part of the class unless the action is certified, and you are notified.

5. Do I need to do anything right now?

No action is required on your part at this stage for the purposes of this proposed class action.

However, class proceedings can take time, and there is no guarantee that the action will be certified or, if certified, that it will ultimately succeed. In the event that action is not certified, or is unsuccessful after certification, the developer may seek legal remedies against you individually pursuant to the terms of your Contract of Purchase and Sale. You should therefore consider seeking independent legal advice regarding your individual circumstances, including any steps that may be available to you to protect your legal rights.

This may include considering alternative remedies or steps under your Contract of Purchase and Sale, particularly where timelines or contractual obligations may apply.

6. Will I automatically be included in the lawsuit?

If the action is certified, you will generally be included automatically unless you choose to **opt out**.

If you opt out, you will not participate in any recovery from the class action but will retain the right to pursue your own claim independently.

7. What remedies are being sought?

The lawsuit seeks various forms of relief, including:

- rescission (cancellation) of purchase agreements;
- return of deposits paid, with interest;
- damages; and
- other relief as the Court considers appropriate.

The nature and availability of any remedy will depend on the evidence and the Court's findings.

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8. Will it cost me anything to participate?

There is generally **no upfront cost** to you to participate as a potential class member.

Class counsel typically acts on a **contingency fee basis**, which means:

- legal fees are only payable if there is a recovery (through settlement or judgment); and
- any fees must be approved by the Court to ensure they are fair and reasonable.

If there is a successful outcome, legal fees are not charged to class members individually. Instead:

- fees are paid as a percentage (typically ranging from 20 to 33 percent) of the total recovery;
- they are deducted from the total recovery fund before distribution; and
- the remaining amount is distributed among class members in accordance with a Court-approved plan.

In this way, each class member contributes a proportionate share of legal fees through the recovery, rather than paying out of pocket. In some cases, the Court may also award costs in favor of the class, which may offset legal fees.

If there is no recovery, class members are generally not required to pay legal fees.

In addition, certain disbursements (such as court filing fees, expert reports, and notice costs) may be advanced by class counsel or funded through third-party arrangements and are typically only recovered in the event of a successful outcome, subject to Court approval.

Class members are generally not personally responsible for adverse costs awards, although cost rules may vary depending on the circumstances and orders made by the Court.

You should seek independent legal advice if you have questions about how fees or potential costs may apply to your specific situation.

9. What are the risks of participating?

Participation in a class action generally does not require active involvement from class members.

However, individual purchasers remain subject to their own contractual rights and obligations. Depending on your circumstances, you may wish to consider how your Contract of Purchase and Sale and any applicable timelines may affect your position.

Independent legal advice may assist you in assessing your individual situation.

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10. Can I still complete my purchase?

Yes. This proceeding does not prevent you from completing your purchase. However, if you proceed with completing your purchase, you may not be able to participate in this proposed class action.

Each purchaser should decide how to proceed based on their own circumstances and any independent legal advice they obtain.

11. Can I bring my own lawsuit instead?

Yes. You may pursue your own claim independently.

If the action is certified, you will have the opportunity to opt out and proceed separately if you choose.

12. Are you my lawyer?

At this stage, communicating with class counsel or receiving information about the proceeding does **not** create a solicitor-client relationship.

If the action is certified and class counsel is appointed by the Court, class counsel will represent the interests of the class as a whole.

13. Should I get my own lawyer?

You should seek independent legal advice regarding your individual circumstances, particularly in relation to:

- your Contract of Purchase and Sale;
- your rights and obligations; and
- any steps available to you outside of the proposed class action.

14. What happens next?

The next step is certification. If the Court certifies the action:

- notice will be provided to class members; and
- the litigation will proceed to address the common issues.

Class actions can take time to resolve. We cannot guarantee that any resolution under this proposed class action will be reached before the anticipated closing date.

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15. How can I stay updated?

You may contact our office to be added to a list of potential class members and receive updates as the matter progresses.