

## **CERTIFICATION NOTICE**

### **NOTICE TO PORT OF NEWCASTLE HOMEOWNERS**

#### **CERTIFICATION OF THE PORT OF NEWCASTLE HOMEOWNERS' CLASS ACTION**

**Read this notice carefully as it may affect your rights**

#### **THE CLASS ACTION**

This notice is directed to all individuals who are or were purchasers of freehold homes from the Kaitlin Group Limited and/or 1138337 Ontario Inc. within a residential community known as the Port of Newcastle, located in Newcastle, Ontario.

#### **THE CERTIFICATION ORDER**

On December 10<sup>th</sup>, 2008, Justice Perell of the Ontario Superior Court of Justice certified the action Haddad v. The Kaitlin Group Ltd. et al, file 07-CV-345642 CP (the "Class Action") as a class proceeding and appointed Jean-Marc Haddad as a representative plaintiff of the Class defined as follows:

All persons purchasing freehold homes directly from the Defendants, The Kaitlin Group Ltd. and/or 1138337 Ontario Inc., within a residential community known as the Port of Newcastle, located in Newcastle, in the Municipality of Clarington, in the Region of Durham, Ontario (the "Subdivision") on or before October 5, 2007, excluding, for clarity, condominium purchasers within the Subdivision and purchasers of homes and/or properties on adjacent land developed by Kylemore Homes Ltd. and/or Kylemore Communities (West Village) Ltd. and/or Kylemore By The Lake Ltd. and/or another related company operating under the name of Kylemore Communities.

If you are a member of the Class, your rights will be affected.

Each member of the Class who does not opt out of the Class Action will be bound by the terms of any judgment or settlement in the Class Action whether favourable or not. He or she will be entitled to share in the amount of any award or settlement recovered in the Class Action.

The claim seeks damages and/or restitution for the Class associated with alleged representations made by The Kaitlin Group Ltd. and/or 1138337 Ontario Inc. relating to amenities that would be available within the Subdivision.

**CLASS MEMBERS MUST OPT OUT IF THEY DO NOT WISH TO PARTICIPATE  
IN THE CLASS ACTION**

*Class Members* who wish to participate in the Class Action need not do anything at this time. They are automatically included in the Class Action.

Any *Class Member* who wishes to opt out of the Class Action must do so **on or before May 29, 2009** by sending a written election signed by the *Class Member* stating that he or she opts out of the Class Action. The written election should be sent by mail, fax or email to:

**Thomson, Rogers**  
**c/o Darcy R. Merkur**  
Barristers and Solicitors  
390 Bay Street, Suite 3100  
Toronto, Ontario  
M5H 1W2  
Toll free: 1-888-223-0448  
Fax: 416-868-3134  
[dmerkur@thomsonrogers.com](mailto:dmerkur@thomsonrogers.com)

No *Class Member* will be permitted to opt out of the Class Action after May 29, 2009.

No person may opt out a minor or a mentally incapable person without permission of the court after notice to The Children's Lawyer or the Public Guardian and Trustee, as appropriate.

## **LEGAL FEES AND DISBURSEMENTS**

Counsel has entered into an agreement with the representative plaintiff with respect to legal fees and disbursements. The agreement provides that counsel will not receive payment for their work unless the Class Action is successful or costs are received from the defendants. The agreement, which must be approved by the Court to be effective, provides for a contingency fee of 20% of the amount recovered in the Class Action in addition to any contribution by the defendants towards the plaintiff's legal costs and disbursements.

Members of the Class will **not** be personally liable to pay counsel any legal fees or disbursements.

## **ADDITIONAL INFORMATION**

Any questions about the matters in this notice should NOT be directed to the court because its administrative structure is not designed to address this type of inquiry. The certification order and other information may be obtained by visiting the website at: [www.thomsonrogers.com](http://www.thomsonrogers.com) under the heading "Port of Newcastle Homeowners' class action".

Questions for counsel should be directed by email, fax or telephone to:

**Darcy R. Merkur**  
**Thomson, Rogers**  
Barristers and Solicitors  
390 Bay Street, Suite 3100  
Toronto, Ontario  
M5H 1W2  
Toll free: 1-888-223-0448  
Fax: 416-868-3134  
[dmerkur@thomsonrogers.com](mailto:dmerkur@thomsonrogers.com)

## **INTERPRETATION**

This notice is a summary of terms of the certification order. If there is any conflict between the provisions of this notice and the terms of the certification order, the certification order shall prevail. The certification order may be reviewed at the website: [www.thomsonrogers.com](http://www.thomsonrogers.com) under the heading "Port of Newcastle Homeowners' class action".

This notice was approved by Justice Perell of the Ontario Superior Court of Justice.