

Court File No. 07-CV-345642  
CP



BETWEEN:

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**JEAN-MARC HADDAD**

Plaintiff

- and -

**THE KAITLIN GROUP LTD.,  
1138337 ONTARIO INC.  
and CCCC DURHAM WEST LTD.**

Defendants

***Proceeding under the Class Proceedings Act, 1992***

**STATEMENT OF CLAIM**

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.


IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the rules of court, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of

Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the rules of court. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

ISSUE DATE: Dec 17, 2007 Issued by   
Local Registrar

Address of court office:

10<sup>th</sup> Floor  
393 University Avenue  
Toronto, Ontario  
M5G 1E6

TO: THE KAITLIN GROUP LTD.  
1029 McNicoll Avenue  
Scarborough, Ontario  
M1W 3W6

AND TO: 1138337 ONTARIO INC.  
1029 McNicoll Avenue  
Scarborough, Ontario  
M1W 3W6

AND TO: CCCC DURHAM WEST LTD.  
1029 McNicoll Avenue  
Scarborough, Ontario  
M1W 3W6

## CLAIM

1. THE PLAINTIFF, JEAN-MARC HADDAD, claims on behalf of himself and on behalf of each member of the Class:

- (a) restitution in an amount to be determined based on the Defendants' revenue and/or profit resulting directly or indirectly from the sale of a portion of the Defendants' land in the Port of Newcastle to 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 in lieu of using such land as described below for a community golf course, plus the financial savings to the Defendants associated with their failure to develop a golf course and other amenities within the Port of Newcastle community and the financial benefit to the Defendants relating to the increased revenues from the sale of homes and/or properties resulting from their misrepresentations described below;
- (b) in the alternative to (a), general and special damages in the amount of \$25,000,000;
- (c) punitive, aggravated, and exemplary damages in the amount of \$10,000,000;
- (d) prejudgment and post-judgment interest pursuant to the *Court of Justice Act*, R.S.O. 1990, c. C. 43;
- (e) any goods and services tax which may be payable on any amounts pursuant to Bill C-62, *The Excise Tax Act*, R.S.C. 1985, as amended or any other legislation enacted by the Government of Canada;
- (f) costs of this action on a substantial indemnity basis, including GST; and,
- (g) such further and other relief as counsel may advise and this Honourable Court may permit.

## THE PARTIES

2. The Plaintiff, Jean-Marc Haddad (“the Representative Plaintiff”), resides in the Town of Newcastle, in the Province of Ontario. The Representative Plaintiff is a representative of a class of persons (“the Class Members”) all of whom purchased freehold homes on land planned, marketed and/or developed by some or all of the Defendants 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. For clarity, condominium purchasers within the Subdivision would not qualify as Class Members nor would purchasers of homes and/or properties on land developed by Kylemore, as defined below.

3. The Representative Plaintiff is an individual residing in Newcastle, Ontario. He purchased a home located at 50 Beecham Crescent, within the Subdivision, from the Defendant, The Kaitlin Group Ltd., on or about May 31<sup>st</sup>, 2001. The Representative Plaintiff sold this home in 2004 and on March 27<sup>th</sup>, 2004 he purchased a home located at 22 Rosemeadow Crescent, within the Subdivision, from the Defendant, The Kaitlin Group Ltd.

4. The Defendant, The Kaitlin Group Ltd., is a company incorporated pursuant to the laws of the Province of Ontario, and carries on business, *inter alia*, as a real estate developer. The Defendant Kaitlin Group Ltd. has its registered office at 1029 McNicoll Avenue in Scarborough, Ontario and lists William J. Daniell as the registered Administrator/Director. The Defendant Kaitlin Group Ltd. was the vendor selling homes within the Subdivision and was at all

material times working in association with the Defendants, 1138337 Ontario Inc. and/or CCCC Durham Ltd. , as the owners/developers of the Subdivision.

5. The Defendant, 1138337 Ontario Inc., is a company incorporated pursuant to the laws of the Province of Ontario, and carries on business, *inter alia*, as a real estate developer. The Defendant 1138337 Ontario Inc. also has its registered office at 1029 McNicoll Avenue in Scarborough, Ontario and also lists William J. Daniell as the registered Administrator/Director. The Defendant 1138337 Ontario Inc. was an owner and/or developer of the Subdivision and was at all material times working in association with the Defendant Kaitlin Group Ltd. as the vendor selling homes within the Subdivision and in association with the Defendant CCCC Durham West Ltd. as an owner/developer of the Subdivision.

6. The Defendant, CCCC Durham West Ltd., is a company incorporated pursuant to the laws of the Province of Ontario, and carries on business, *inter alia*, as a real estate developer. The Defendant CCCC Durham West Ltd. also has its registered office at 1029 McNicoll Avenue in Scarborough, Ontario and also lists William J. Daniell as the registered Administrator/Director. The Defendant CCCC Durham West Ltd. was an owner and/or developer of the Subdivision and was at all material times working in association with the Defendant Kaitlin Group Ltd. as the vendor selling homes within the Subdivision and in association with the Defendant 1138337 Ontario Inc. as an owner/developer of the Subdivision.

7. The business of each of the Defendants, The Kaitlin Group Ltd., 1138337 Ontario Inc. and CCCC Durham West Ltd. (together hereinafter referred

