

## HEARING NOTICE

City of Calgary Privacy Breach Class Action

**Were you an employee of the City of Calgary whose personal information was included in the unauthorized disclosure which occurred on June 14 and 15, 2016 as a result of certain actions by John Doe, then an employee of the City of Calgary?**

*This notice may affect your legal rights. Please read it carefully.*

A class action has been commenced against the City of Calgary (the "City") and John Doe (the "Defendants") on behalf of the following proposed Class (the "Proposed Class"):

**All those persons resident in Alberta and throughout Canada and abroad, who were one of the approximately 3716 persons employed by the City of Calgary and whose personal information was included in the unauthorized disclosure of such personal information, which occurred on or about June 14 and 15, 2016 as a result of certain actions by John Doe, then an employee of the City of Calgary (the "Privacy Breach") excluding all deceased persons and members of the Proposed Class who have Opted Out.**

The City, while not admitting liability, has agreed to a conditional settlement of this lawsuit subject to court approval and certification of the Action, on terms as set out in a settlement agreement dated May 8, 2020, a copy of which is available for viewing on [www.higgertylaw.ca](http://www.higgertylaw.ca) (the "Settlement Agreement"). All capitalized groups of words in this Hearing Notice which are defined in the Settlement Agreement have the same definition in this Hearing Notice.

If you are a member of the Proposed Class, **you will automatically be included** in this class action and are not required to take any further steps at this stage.

### **The Terms of the Proposed Settlement**

Under the Settlement Agreement, members of the Settlement Class will be entitled to payment of the following amounts by the City.

- Each member of the Settlement Class will be paid \$40 as compensation for time spent, inconvenience, upset, anger, and annoyance, less any court ordered deductions from this amount for payment of Class Counsel Fees, in whole or in part.

In addition, subject to the terms of the Settlement Agreement, Qualifying Members of the Settlement Class may claim entitlement to the following further payments if they can prove to

the satisfaction of the Claims Administrator that such member has met all of the Qualification Requirements and has incurred the claimed expenses:

- Up to \$2,000 per person in compensation for general damages for pain and suffering as a result of a compensable mental injury caused by the Disclosure;
- Up to \$500 per person for provable otherwise unreimbursed prescription and/or counselling, and related travel expenses incurred; and
- Up to \$150 per person for provable otherwise unreimbursed costs for documentation to substantiate mental injury.

The above amounts are subject to caps, and may be reduced pro-rata in accordance with the Settlement Agreement if those caps are exceeded. In addition, the above amounts may be reduced pro-rata due to payment of Class Counsel Fees as may be directed by the Court.

Further, the City will pay:

- \$25,000 would be allocated for Claims Administration Costs;
- Up to \$5,000 as an Honorarium for the Representative Plaintiff, if awarded by the Court;
- \$13,880 to be allocated as determined in the proceeding.

Class Counsel Fees would be paid out of the Settlement Fund, in an amount to be determined by the Court, with compensation to members of the Settlement Class adjusted accordingly.

A copy of the Settlement Agreement can be found on Class Counsel's website ([higgertylaw.ca](http://higgertylaw.ca)).

### **Your Right to Opt-Out of the Settlement**

Any person who is a member of the Proposed Class has the right to opt-out of the Action and Proposed Class Proceeding.

Any person who elects to opt-out of the Proposed Class Proceeding must complete and submit by mail, receipted email or delivery to Class Counsel at the below address, a written request to opt-out using the Opt-Out Form attached to this Hearing Notice. The Opt-Out Form must be received by Class Counsel prior to 4:30 pm Mountain Time on February 8, 2021, which shall be the Opt-Out Deadline. If for any reason an Opt-Out Form is sent but not received by Class Counsel, or is unintentionally delayed in delivery to Class Counsel, Class Counsel will be deemed to have received the Opt-Out Form four business days after the date on which it was mailed or sent.

Requests to opt-out shall be sent to Class Counsel at the email or mailing address specified below.

Each request to opt-out must disclose the following information:

- a. Name, address, email address and phone number of the person seeking to opt-out of the Proposed Class Action and Settlement;
- b. If the person seeking to opt-out is a minor, the name of the parent or guardian acting on that person's behalf;

- c. The following statement: “The undersigned (on behalf of the above minor, if applicable) hereby requests exclusion from the Settlement Class and from the Action and Proposed Class Proceeding.”
- d. The signature of the person seeking to opt-out of the Proposed Class Proceeding, or if the person seeking to opt-out is a minor, the signature of the person’s parent or guardian.

Any person who validly opts-out shall be excluded from the Settlement Class and the Action, including the Proposed Class Proceeding, shall have no rights with respect to the Settlement Agreement, and shall not be bound by it.

Any person who falls within the Proposed Class, and who has not validly opted-out of the Proposed Class Proceeding, shall be deemed to have elected to participate in the Settlement Agreement and in the Proposed Class Proceeding, and shall be for all purposes a member of the Settlement Class for the duration of the Action.

ANY JUDGMENT OBTAINED ON THE COMMON ISSUES FOR THE PROPOSED CLASS, WHETHER REACHED BY SETTLEMENT OR NOT, WHETHER FAVOURABLE OR NOT, WILL BIND ALL CLASS MEMBERS WHO DO NOT OPT OUT OF THIS ACTION.

### **The Approval and Certification Hearing and Your Right to Participate**

An Application to approve the settlement and certify this Action as a class proceeding is scheduled to be heard on February 10, 2021 at 2:00 pm at the Court of Queen’s Bench of Alberta in Calgary, Alberta at 601 5 St SW. Class Counsel will also seek to confirm their appointment as Class Counsel and ask the Court to approve an award of fees and disbursements for their work in achieving the settlement.

If you agree with the proposed settlement and wish to participate in it, you do not have to do anything at this time. If the Court approves the settlement, a notice will be published setting out the procedures for submitting a claim.

If you disagree with the proposed settlement, you have the right to object. To object, you must deliver a letter to Class Counsel by February 8, 2021 or appear in person at the hearing to oppose the approval of the settlement and certification of the Action. Your letter must include your name, contact information, and a brief statement of the nature and reasons for your objection.

### **What are the Financial Consequences?**

No class member, other than the Representative Plaintiff, will be liable for costs.

Class Counsel has entered into an agreement with the Representative Plaintiff with respect to legal fees and disbursements. This agreement provides that counsel will not receive payment for their work unless and until the class action is successful or monies are recovered from the Defendants. The agreement must be approved by the Court.

**FOR MORE INFORMATION, TO MAKE INQUIRIES ABOUT AND/OR TO  
OPT OUT OF THIS ACTION, PLEASE CONTACT CLASS COUNSEL AT:**

**HIGGERTY LAW**

Attention: Patrick Higgerty, Q.C.

Suite 101, 440-2nd Avenue S.W.,

Calgary, AB T2P 5E9

Tel: 403-503-8888 Fax: 587-316-2260

Email: [info@higgertylaw.ca](mailto:info@higgertylaw.ca)

For further information go to [www.higgertylaw.ca](http://www.higgertylaw.ca)

**Schedule A to Exhibit A**

**OPT OUT FORM**

City of Calgary Privacy Breach Class Action  
(Terrance Cook v City of Calgary, Court File No.:

*This is not a Claim Form. Submitting this form excludes you from participation in the class action and the proposed settlement of the class action. Do not use this form if you wish to receive compensation under the proposed settlement.*

**You only need to file an Opt-Out Form if you wish to retain the right to pursue an individual action. If you do not wish to pursue an individual action and do not wish to file a claim for compensation under the settlement, you do not need to complete this form.**

The following member of the Proposed Class is requesting to opt-out of and be excluded from the Settlement Class, and from participation in the Action and Proposed Class Proceeding:

Name:

Current Address:

Email Address:

Phone number:

Date of Birth:

If the above person is a minor, the name of the parent or guardian acting on that person's behalf:

The undersigned (on behalf of the above minor, if applicable) hereby requests exclusion from the Settlement Class and from the Action and Proposed Class Proceeding.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print name of Signatory: \_\_\_\_\_

To opt-out of the Class Action, you must sign and deliver this form to Class Counsel at the address below received or postmarked no later than February 8, 2021:

**HIGGERTY LAW**

**Attention: Patrick Higgerty, Q.C.**

Suite 101, 440-2nd Avenue S.W.,

Calgary, AB T2P 5E9

Tel: 403-503-8888 Fax: 587-316-2260

Email: [info@higgertylaw.ca](mailto:info@higgertylaw.ca)

For further information go to [www.higgertylaw.ca](http://www.higgertylaw.ca)