

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Butterline v. City of Philadelphia, No. 2:15-cv-01429-JS (E.D. Pa)

IMPORTANT NOTICE OF CLASS ACTION SETTLEMENT

**The Court authorized this Notice.
This is not a solicitation from a lawyer.
You are not being sued.**

PLEASE READ THIS NOTICE CAREFULLY

If your real property was foreclosed and sold in a sheriff sale by the City of Philadelphia (“City”), you may be a class member in a class action against the City. A settlement has been reached in the case *Butterline v. City of Philadelphia*, No. 2:15-cv-01429-JS (E.D. Pa) (“Action”), entitling eligible Settlement Class Members who make a claim to excess proceeds from the sheriff sale that were not returned. This Notice explains: 1) the terms of the Settlement; 2) who is a member of the Class; 3) how to submit a claim for payment; 4) how to request exclusion from the Settlement; 5) how to object to the Settlement; and 6) how to get more information about the Settlement.

You have been identified as someone who may be a “Settlement Class Member” from the City’s sheriff sale data because you may have owned real property in Philadelphia that was foreclosed and then sold in a sheriff sale by the City to the executing creditor (e.g., your mortgage issuer) for an amount in excess of the amount of debt owed. Pennsylvania law requires the Sheriff to distribute excess funds from the sale to the previous owner. If the City did not distribute any excess funds from the sale of your real property to you, you may be entitled to those funds.

IF YOU ARE A CLASS MEMBER, THIS LEGAL PROCEEDING MAY AFFECT YOUR RIGHTS.

HELP IS AVAILABLE TO ASSIST YOUR UNDERSTANDING OF THIS NOTICE. Call (877) 882-1011 toll free for more information.

What Is a Class Action?

A class action is a lawsuit in which one or more individuals bring claims on behalf of other persons or entities. These persons or entities are referred to as a “Class” or “Class Members.” In a certified class action, the Court resolves certain issues, legal claims, and/or defenses for all Class Members in a single action, except for those persons or entities who ask in writing to be excluded from the Class.

What Is this Class Action About?

When a creditor or mortgagee forecloses on a parcel of property in Philadelphia, the Sheriff of the City of Philadelphia sells the property in a sheriff sale. Normally, the previous owner is entitled to any excess proceeds of the sale after any sale costs, mortgages, and liens are settled. But when the executing creditor was the successful bidder at a sheriff’s sale, the City did not always collect the full amount of its bid, and sometimes only required payment of the amount of the judgment and the sheriff’s sale costs. This contrasts with situations in which the successful bidder is a third party to the contract between the mortgagor and mortgagee, where full payment of the bid amount plus the costs was required. The Plaintiffs allege that this practice contravened Pennsylvania law because as a result the Sheriff did not distribute all excess funds, while the City denies any liability. The City has now changed this practice in part as a result of this Litigation.

Individuals who owned real property in Philadelphia that was foreclosed and then sold in a sheriff sale by the City and were not paid excess funds may be entitled to those funds through this Class Action.

You are receiving this Notice because a Settlement of the case has been reached between the Plaintiff, acting on behalf of the Class, and the City. The Court has preliminarily approved the Settlement, including the preliminary approval of a Settlement Class.

The Court is conducting a Settlement Fairness Hearing on September 7, 2022 at 2:00 p.m., before Hon. Juan R. Sanchez in Courtroom 14B, United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Philadelphia, PA 19106 to decide whether to grant final approval of the Proposed Settlement. If there are objections, the Court will consider them. You may attend the hearing but your attendance is not required.

Settlement Terms

As a part of the settlement, the City has agreed to pay each eligible Settlement Class Member who makes a claim out of a Settlement Fund in proportion to the amount of excess proceeds to which they are entitled.

The Settlement creates a Settlement Fund of \$950,000. The Settlement Agreement provides that the City will pay attorneys' fees of up to \$285,000 and litigation expenses not to exceed \$36,000 out of the Settlement Fund. The Settlement also provides Continental DataLogix to be paid to administrate the class in an amount not to exceed \$30,000 and Accident Investigative Resources, Inc. to identify last known addresses of class members in an amount not to exceed \$20,000. The Settlement Agreement further provides that the Class Representative may request a service award of up to \$2,500 from the Settlement Fund, if approved by the Court.

The average undistributed excess proceeds for each Settlement Class Member are \$7,586 according to the City's foreclosure records. Class Members will receive their Actual Damages as defined in the Settlement Agreement from the Fund, or if the Fund cannot accommodate the Actual Damages, they will receive a proportionate sum. If remaining funds exist after administration, the City of Philadelphia will receive a reverter.

In exchange, the Plaintiff and Class Members who do not exclude themselves from the Settlement agree to give up any claim they have for payment of excess funds. If you are a member of the Class, you can submit a claim to be paid excess funds from the sale of your foreclosed property. Alternatively, you may, if you wish, request to be excluded from the Settlement, which means you are not eligible for payment, and you maintain your right to sue the City individually and separately for payment of excess funds. You may also object to the terms of the Settlement if you comply with the requirements set forth below.

How Do I Know If I Am a Member of the Class?

You may be a member of the class action against the City if you owned real property in Philadelphia that was foreclosed and then sold in a sheriff sale by the City to the executing creditor (*e.g.*, your mortgage issuer). If the winning bid on the property was greater than the mortgages or liens that were settled after the sale, then you may be entitled to the excess proceeds of the sale under this Class Action. If there were no excess proceeds from the sale of your property, you do not have a claim and can ignore this notice. You received this Notice because the City's records indicate you may be a member of the Class.

If I Am a Class Member, What Are My Options?

If you are a Class Member, you have four options.

Option 1: Submit a Claim Form for Payment.

You may submit a Claim Form for payment of your excess proceeds. If you received a Notice in the mail, the Notice included a pre-filled Claim Form. You can submit a claim by filling out and signing the Claim Form and putting the Claim Form in the mail (the Claim Form is addressed and has necessary postage prepaid). If you do not have your Claim Form, you can call (877) 882-1011 or visit www.PhilaForeclosure.com and request that the Settlement Administrator send you a Claim Form as described above (or a blank form that you will need to fill out).

If you submit a Claim Form in the mail, it must be postmarked no later than October 7, 2022.

Option 2: Exclude yourself from the Case.

You have the right to not be part of the Settlement by excluding yourself or “opting out” of the Class. If you wish to exclude yourself, you must do so on or before August 23, 2022, as described below. You do not need to hire your own lawyer to request exclusion from the Class. If you exclude yourself from the Class, you give up your right to receive excess proceeds or any other benefits as part of this settlement, and you will not be bound by any judgments or orders of the Court, whether favorable or unfavorable. However, you will keep your right to sue the City separately in another lawsuit if you choose to pursue one.

To exclude yourself from this lawsuit and/or preserve your right to bring a separate case, you must make a request to be excluded in writing and, with sufficient postage, mail the request to:

Butterline v. City of Philadelphia
c/o Settlement Administrator
P.O. Box 16
West Point, PA 19486

A request for exclusion must be received on or before August 23, 2022.

Your request for exclusion must contain the following:

1. The name of the lawsuit;
2. Your full name;
3. Your current address;
4. A clear statement that you wish to be excluded from the Class, such as: “I request exclusion from the Class”; and
5. Your signature.

The Settlement Administrator will file your request for exclusion with the Court. If you are signing on behalf of a Class Member as a legal representative (such as an estate, trust or incompetent person), please include your full name, contact information, and the basis for your authority. A request for exclusion must be exercised individually and not on behalf of a group.

IF YOUR REQUEST TO EXCLUDE YOURSELF FROM THE CLASS IS NOT RECEIVED BY THE DEADLINE OF AUGUST 23, 2022, YOU WILL REMAIN PART OF THE CLASS AND WILL BE BOUND BY THE ORDERS OF THE COURT IN THIS LAWSUIT AND BY THE TERMS OF THE SETTLEMENT IF IT IS APPROVED BY THE COURT, EVEN IF YOU DO NOT SUBMIT A CLAIM FOR PAYMENT. IF YOU DO NOT WISH TO BE BOUND BY THE DECISIONS OR SETTLEMENT IN THIS CASE, YOU MUST REQUEST EXCLUSION FROM THE CLASS ACTION.

Option 3: Object to the Terms of the Settlement.

The full terms of the Settlement can be found at www.PhilaForeclosure.com. If you think the terms of the Settlement are not fair, reasonable, or adequate to the Class Members, you can file a Notice of Intent to object to the terms of the Settlement. If you object to the terms of the Settlement, you cannot request exclusion from the Settlement. If you object to the terms of the Settlement and your objection is overruled, you will be bound by the terms of the Settlement and all rulings and orders from the Court.

To properly object to the terms of the Settlement, you must send, with sufficient postage, a Notice of Intent to object to the terms of the settlement and to appear at the Fairness Hearing (described above) to the following:

Butterline v. City of Philadelphia
c/o Settlement Administrator
P.O. Box 16
West Point, PA 19486

The Notice of Intent must include the following:

1. The name of the case and case number;
2. Your name, address, telephone number, and signature;
3. The specific reasons why you object to the terms of the Proposed Settlement;
4. The name, address, bar number, and telephone number of any attorney who represents you related to your intention to object to the terms of the Settlement;
5. State whether you and/or your attorney intend to appear at the Fairness Hearing and whether you and/or your attorney will request permission to address the Court at the Fairness Hearing.

If you and/or your attorney intend to request permission to address the Court at the Fairness Hearing, your Notice of Intent must also include the following:

1. A detailed statement of the legal and factual basis for each of your objections;
2. A list of any witness you may seek to call at the Fairness Hearing (subject to applicable rules of procedure and evidence and the discretion of the Court), with the address of each witness and a summary of his or her proposed testimony;
3. A list of any legal authority you may present at the Fairness Hearing; and,
4. Documentary proof of membership in the Settlement Class.

Notices of Intent to object must be received by August 23, 2022. Any Notice of Intent that is not received by the deadline set forth above or which does not comport with the requirements listed above may waive the right to be heard at the Fairness Hearing. If you file a Notice of Intent, you waive the right to request exclusion from the Class and will be bound by any decisions and orders from the Court and by the terms of the Settlement if it is approved by the Court. If you do not want to be bound by the decisions and rulings by the Court and the terms of the settlement, you must file a request for exclusion, not a Notice of Intent.

Option 4: Do Nothing Now. Stay in the Case.

You have the right to do nothing. If you do nothing, you will be bound by the terms of the Settlement and will release any claim against the City for excess proceeds, even if you do not submit a Claim for payment. In other words, if you do nothing, you will give up your right to sue the City and receive nothing in return.

Who Is Representing the Class?

The Court has preliminarily appointed Mark Butterline (the “Named Plaintiff”) to be the representative of the Class. The Court has also preliminarily appointed the following lawyers as Class Counsel for those Class Members:

Daniel C. Levin, Esquire LEVIN SEDRAN & BERMAN 510 Walnut Street, Ste. 500 Philadelphia, PA 19106 (215) 592-1500	William Wilson, Esquire THE LAW OFFICES OF WILLIAM WILSON 20 West Miner Street West Chester, PA 19382 (484) 605-1146	Michael G. Louis, Esquire MACELREE HARVEY, LTD. 17 West Miner Street West Chester, PA 19382 (610) 840-0228
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These lawyers are experienced in handling class action lawsuits, including actions on behalf of insured policyholders.

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If you submit a valid claim for payment, you will not be personally responsible for any fees, costs or expenses incurred by Class Counsel or the Service Award paid to the Named Plaintiff relating to the prosecution of this case.

What Claims Against the City Are Class Members Releasing?

As a part of the Settlement, Class Members agree to release the City and not to sue the City for any claims for payment relating to excess proceeds from a foreclosed property that was sold at a sheriff sale. Unless you request exclusion from the Class, you give up the right to individually sue the City and claim you are owed excess proceeds, even if you do not submit a Claim for payment as part of this Settlement. Specifically, you give up any “Released Claims,” which means and includes any and all known and unknown claims, rights, actions, suits or causes of action of whatever kind or nature, whether *ex contractu* or *ex delicto*, statutory, common law or equitable, including but not limited to breach of contract, bad faith or extracontractual claims, and claims for punitive or exemplary damages, or prejudgment or post-judgment interest, arising from or relating in any way to the sheriff sale of your property. Released Claims do not include any claim for enforcement of the contemplated Settlement Agreement and/or Final Order and Judgment. Released Claims do not include any claims, actions, or causes of action alleging that the City failed to properly calculate the value of excess proceeds according to the terms of the Settlement Agreement.

How Do I Find Out More About This Lawsuit?

If you have any questions about the lawsuit or any matter raised in this notice, please call toll-free at (877) 882-1011 or go to www.PhilaForeclosure.com.

This website provides:

1. The process for requesting a Claim Form;
2. The full terms of the Settlement;
3. Information and requirements for submitting a claim, requesting exclusion, or filing a Notice of Intent to object to the terms of the Settlement;
4. A copy of the Complaint filed by Plaintiff and other important rulings and orders from the Court during the case prior to Settlement; and,
5. Other general information about the class action.

You also may contact Class Counsel, whose contact information is provided above.

Complete copies of the documents filed in this lawsuit that are not under seal may be examined and copied through the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Philadelphia, PA 19106.

PLEASE DO NOT TELEPHONE OR CONTACT
THE COURT OR THE CLERK OF THE COURT REGARDING THIS NOTICE.

IT IS SO ORDERED, HONORABLE JUAN R. SÁNCHEZ
UNITED STATES DISTRICT JUDGE, EASTERN DISTRICT OF PENNSYLVANIA.

DATED: JULY 9, 2022

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