

**Notice of Proposed Class Action Settlement
And Final Approval Hearing Date for Court Approval**

Kendall Brasch, et al. v. K. Hovnanian Enterprises, Inc., et al.
Case No. 30-2013-00649417-CU-CD-CXC

THIS NOTICE MAY AFFECT YOUR RIGHTS -- PLEASE READ IT CAREFULLY.

You May be Entitled to Receive Compensation Under a Proposed
Class Action Settlement.

A proposed settlement has been reached between Defendants K. Hovnanian Enterprises, Inc. and K. Hovnanian Companies of California, Inc. (“Defendants”) and Plaintiff Kendall Brasch (“Plaintiff”), on his own behalf and on behalf of the “Settlement Class,” as defined in this notice. The underlying lawsuit, entitled *Kendall Brasch, et al. v. K. Hovnanian Enterprises, Inc., et al.*, Case No. 30-2013-00649417-CU-CD-CXC is presently pending in the Superior Court of the State of California, County of Orange (“Court”) before Hon. Peter J. Wilson in Dept. CX-101.

Hon. Glenda Sanders (ret.) has previously certified this case as class action, based upon Plaintiff’s allegation that Defendants are liable for monetary damages and/or the costs of replacing the copper pipes that were originally installed in certain homes because the pipes have corroded and will inevitably leak, so as to impede the useful life of the copper pipes.

Defendants have denied, and continue to deny, liability for any of the claims asserted in this Action.

YOU ARE SUBJECT TO THIS SETTLEMENT AND POTENTIALLY ENTITLED TO RELIEF IN THIS SETTLEMENT BECAUSE YOU DID NOT OPT OUT OF THE ACTION FOLLOWING SERVICE OF THE CLASS NOTICE IN OR AROUND FEBRUARY 2022.

The Court has preliminarily approved a proposed settlement of this class action lawsuit as being fair, reasonable, and adequate, and falling within the range of possible final approval.

The individuals who may be entitled to participate in this class action are:

(1) All present owners of residential homes in the Class Area whose copper pipe systems have not been replaced by prior owners of the homes; or (2) prior owners of homes in the Class Area who replaced their copper pipe system; provided that with regard to (1) and (2); (a) the homes were constructed by K. Hovnanian (“Builder”) and the homes were substantially completed within (10) years of the filing of the original complaint in this action; and (b) the original purchase agreements were signed by the Builder on or after 01/01/2003, and (c) the SB 800 claims were not released, and (d) the original-purchaser class members were not compelled to arbitration by the Court or have not stipulated to arbitration by agreement of the parties as approved by the Court.

The settlement will provide for a fund of \$1,428,007.00 to cover payments to approximately 151 Class members, settlement administration expenses, attorneys’ fees and litigation expenses, incentives for the Class Representative, and any other related expenses which may be approved by the Court. Each Class member will share equally in the net amount of the settlement fund after deduction of such fees, expenses, and incentives.

To be a member of the Class, you must be a present owner of a home listed on Exhibit A attached hereto (“Class Home”) whose copper pipes were not replaced or epoxy-coated by prior owners, **or** you must be a prior owner of a Class Home who replaced the copper pipes in the home with PEX or epoxy coating. All other individuals in the chain of title for the homes listed on Exhibit A are NOT members of the Class. In other words, there is only one owner in the chain of title who will qualify as a Class Member.

- **If you are a member of the Class, your legal rights are affected whether you act or don’t act. Please read this entire notice carefully.**

Questions? Contact Settlement Administrator, ILYM Group, Inc.
Toll Free Telephone (888) 250-6810; claims@ilymgroup.com

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

If you are a member of the Settlement Class your options are to:

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| <p>WHAT YOU HAVE TO DO TO QUALIFY FOR A SETTLEMENT PAYMENT</p> | <p><u>For Present Owners of a Class Home.</u> If you presently own a class home, YOU DO NOT HAVE TO DO ANYTHING to receive a share of the Settlement Fund UNLESS a prior owner asserts that they replaced or epoxy-coated the home’s copper pipe systems. IF A PRIOR OWNER SUBMITS A PRIOR OWNER VERIFICATION FORM stating that they replaced or epoxy-coated the entire copper pipe systems in the home, you can receive a share of the Settlement Fund ONLY IF you submit proof sufficient to convince an arbitrator that the home had copper pipe systems in place at the time you purchased it.</p> <p><u>For Prior Owners of a Class Home.</u> If you are a prior owner of a class home, THE ONLY WAY YOU CAN QUALIFY AS A CLASS MEMBER and obtain a share of the Settlement Fund is if you submit a Prior Owner Re-Pipe Form and demonstrate that you replaced or epoxy-coated the entire copper pipe system when you owned the home.</p> <p>See Questions 6-7 and 18, <i>below</i>.</p> |
| <p>WRITTEN OBJECTIONS BY OCTOBER 3, 2023</p> | <p>You may write the Court to say why you do not agree with any aspect of the proposed settlement. You may also attend the final approval hearing to present your disagreement to the Court, whether or not you put your objection in writing See Questions 16-18, <i>below</i>.</p> |

- These rights and options—**and the deadlines to exercise them**—are explained in this notice. Please review the entire notice to ensure that you understand your rights and options. If you have any questions after reading this notice, please contact the Settlement Administrator, ILYM, at (888) 250-6810, or claims@ilymgroup.com or Class Counsel, Bridgford Gleason & Artinian at (949) 831-6611 or mike.artinian@bridgfordlaw.com.
- The Court still has to decide whether to provide final approval of the settlement. Class members who do not opt out will receive a check for a settlement payment only if the Court approves the settlement and after the approved settlement becomes final, including resolution of any possible appeals. Please be patient.

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BASIC INFORMATION

1. Why did I get this notice?

This lawsuit, entitled *Kendall Brasch, et al. v. K. Hovnanian Enterprises, Inc., et al.*, Case No. 30-2013-00649417-CU-CD-CXC, was filed on May 9, 2013 and is presently pending in the Court.

You have received this notice because you have been identified as a potential member of the Class because you are in the chain of title for one of the homes included within the class and Settlement. You are potentially subject to the terms of the Settlement because you did not opt-out of the case when notice was sent to the Class in 2022.

This Court granted class certification in this action. Thereafter, the parties engaged in settlement negotiations that have resulted in this proposed settlement.

The Court has preliminarily determined that the proposed settlement is fair, reasonable, and adequate, and falls within the range of possible final approval. The Court has ordered the parties to mail this notice to the Class members, to inform you about the lawsuit, the proposed settlement, the Court's final approval hearing, and your legal rights and options.

2. What is the lawsuit about?

The lawsuit that is being settled is entitled *Kendall Brasch, et al. v. K. Hovnanian Enterprises, Inc., et al.*, Case No. 30-2013-00649417-CU-CD-CXC. The case is a "class action." That means that the "Named Plaintiff," Kendall Brasch is acting on behalf of all Class Members. Class Members own Class Homes that contain copper pipes that allegedly are inadequate and defective for the water conditions in Ladera Ranch, California. Class Members have claims for violations of standards of residential construction enumerated in California Civil Code section 895, *et seq.*, and various other claims.

Defendants deny all allegations of wrongdoing and of liability, and deny that Plaintiff and the Class are entitled to any recovery. There has been no finding of any violation or wrongdoing by Defendants by any court. The Court has determined that this action may proceed as a class action.

3. Why is this a class action?

In a class action, a "Class Representative" (in this case, Kendall Brasch) sues on behalf of people who have similar claims. All of these people are a "class" or "class members." One court resolves the issues for all class members, except for those who exclude themselves from the class.

4. Why is there a settlement?

The Court did not decide this lawsuit in favor of the Plaintiff or Defendants. Instead, both sides agreed to the settlement. That way, they avoid the cost and risk of further litigation and the people claimed to have been affected will get prompt and certain compensation.

The Class Representative believes that a class-wide settlement is in the best interests of the Class. The Court has preliminarily determined that the proposed settlement is fair, reasonable, and adequate, and falls within the range of possible final approval.

WHO IS IN THE SETTLEMENT?

5. How do I know if I am part of the settlement?

If you have received this notice, you may fall within the Class defined on the first page of this Notice.

You have been preliminarily identified as a potential member of the Class, based upon the fact that you are in the chain of title for one of the Class Homes listed in Exhibit A.

6. If I am a prior owner who replaced the copper pipes in my home, how can I be included in the Settlement?

If you are a prior owner of a Class Home listed in Exhibit A and you replaced your copper pipes with PEX or epoxy coatings, you must fill out and submit a Prior Owner Re-Pipe Form attached hereto and submit it to the Settlement Administrator on or before October 3, 2023.

7. If I am a prior owner who did NOT replace the copper pipes in my home, am I included in the Settlement?

No. The Class Members are only those individuals who: (a) presently own a Class Home and whose copper pipes were not replaced with PEX or epoxy coating by a prior owner; or (b) previously owned a Class Home and replaced the copper pipes in the home with PEX or epoxy coatings. There is only one owner in the chain of title who will qualify as a Class member.

THE SETTLEMENT BENEFITS—WHAT DO I GET?

8. What does the settlement provide?

Defendants will establish a settlement fund totaling \$1,428,007.00. The settlement fund will provide payment for the following: (a) payments to the Class members, (b) the expense of administration of the settlement incurred by the Settlement Administrator, (c) any incentive awarded to the Class Representatives, and (d) any attorneys' fees and litigation expenses awarded to Class Counsel. After payment of settlement administration expenses, the Class Representatives' incentives, and Class Counsel's attorneys' fees and expenses, the entire remainder of the settlement fund will be distributed to the Class members, in equal shares.

The parties will request Court approval for the payment of expenses actually incurred by the Settlement Administrator from the settlement fund, up to a maximum of \$19,550.00. An incentive award on behalf of the Class Representative will be requested in an amount not to exceed \$10,000.00 for his efforts. Class Counsel will request an award of attorneys' fees not to exceed 33 1/3% of the Settlement Fund (*i.e.*, \$476,002.33) and litigation expenses not to exceed \$100,000.00. Any such amounts to be paid from the settlement fund must first be approved by the Court as being fair and reasonable, and will not exceed these maximum amounts.

The following example is provided for demonstration purposes, based upon the maximum requested amounts for settlement administration expenses, the Class Representative incentives, and Class Counsel's attorneys' fees and litigation expenses. It must be emphasized, however, that the Court will make the final determination of such amounts:

The proposed settlement fund is \$1,428,007.00. There are 151 Class Homes. If the Court approves the maximum permissible request for settlement administration expenses (\$19,550.00), the Class Representative's incentives (\$10,000.00), and Class Counsel's attorneys' fees and litigation expenses (\$576,002.33), the net settlement fund amount would be \$822,454.67. Each of the 151 Class members would receive approximately \$5,446.71.

These figures could change depending on the Court's order granting final approval of the Settlement.

The complete terms of the settlement are set forth in the Settlement Agreement. The Settlement Agreement can be viewed on the Settlement Administrator's website, www.braschcopperpipeclassaction.com. You may also obtain a copy of the Settlement Agreement, free of charge, by contacting the Settlement Administrator at 888-250-6810, toll-free, or by e-mail at claims@ilymgroup.com.

9. What am I giving up in exchange for the settlement benefits?

If the settlement becomes final, each Class member will be releasing Defendants from all claims, demands, rights, liabilities, suits, matters, obligations, damages, losses, costs, actions and causes of action of every nature and description whatsoever, in law or equity, known or unknown, against Defendants and Plaintiffs' Released Parties that arise from the installation or use of copper pipes in the Class Homes and any alleged violations of California Civil Code section 895 *et seq.* arising from the copper pipes. Without limiting the foregoing, and for clarification, excluded from the Settled Class Claims are any *other* construction defects or *other* claims relating to the construction of the Class Homes, against any parties, including Defendants, which are not alleged in the Action.

The precise terms of the settlement's "release," which defines the claims given up by the Class in exchange for payment of settlement benefits, are set forth in the Settlement Agreement. The Settlement Agreement can be viewed on the Settlement Administrator's website, www.braschcopperpipeclassaction.com. You may also obtain a copy of the Settlement Agreement, free of charge, by contacting the Settlement Administrator at 888-250-6810, toll-free, or by e-mail at claims@ilymgroup.com.

As a member of the Class, all of the Court's orders will apply to you and will be legally binding on you, including the Court's decision whether to finally approve this settlement and the judgment entered in the lawsuit.

HOW TO GET A PAYMENT

10. How can I receive my settlement payment?

If you are a prior owner who has replaced the copper pipes with PEX or epoxy coatings, you must submit the Prior Owner Re-Pipe Form to the Settlement Administrator by October 3, 2023.

If you are a present owner and no prior owner submits a Prior Owner Re-Pipe Form, you do not need to do anything to participate in the settlement. You will then receive your settlement payment if the Court grants final approval of the settlement, and that approval becomes final.

In the event a prior owner submits a Prior Owner Re-Pipe Form stating that the prior owner has replaced the homes' copper pipes with PEX or epoxy coating, then the Settlement Administrator shall provide you with written notice: (a) that a prior owner has submitted a Prior Owner Re-Pipe Form stating that the prior owner replaced the homes' copper pipes with PEX or epoxy coating; and (b) the present owner has 30 days within which to submit a written verification that the home had copper pipes (without any epoxy coating) at the time the present owner obtained title to the home.

In the event that there is a dispute between the prior and present owner as to whether a prior owner had replaced the copper pipes with PEX or epoxy coating, then the two homeowners shall submit proof supporting their claims to the Settlement Administrator who shall forward such writings to Ross Feinberg of JAMS who: (a) shall serve as arbitrator of the dispute; and (b) whose determination of those competing claims shall be binding. The costs for Mr. Feinberg's services shall be deemed a "cost" that shall be deductible from the Settlement Fund.

Please contact the Settlement Administrator at the telephone number or email address on the bottom of each page of this notice if this notice was not mailed to your current address, or if you currently have any plans to move, to ensure that your current address is used.

11. When will I get my payment?

Settlement payment checks will be mailed to the Class members only after the Court grants "final approval" of the settlement, and, in some cases, after the time for any appeal has ended and any appeal has been resolved. The earliest possible date that settlement payment checks can be mailed is March 6, 2024, or 90 days after the date presently set for the final approval hearing.

THE LAWYERS REPRESENTING YOU

12. Do I have a lawyer in the case?

Yes. The Court has designated the law firms of Bridgford, Gleason & Artinian, Kabateck LLP and McNicholas & McNicholas LLP to represent the Class as “Class Counsel.” Except for any attorneys’ fees and litigation expenses which may be approved and awarded by the Court, to be paid exclusively from the settlement fund, you will not be charged for these lawyers. These lawyers will not seek to recover any fees or expenses except from the settlement fund, as described in this notice. If you want to be represented by another lawyer with respect to this lawsuit or settlement, you may hire one at your own expense.

13. How will the costs of the lawsuit and settlement be paid?

Class Counsel will make an application to the Court for an award of attorneys’ fees and litigation expenses in a combined amount not to exceed \$576,002.33, for their efforts and expenses incurred in litigating this action and obtaining the settlement. Class Counsel have agreed to divide the fees awarded by the Court based upon their agreement.

Class Counsel will also make an application to the Court for an incentive award for the Class Representative, in an amount not to cumulatively exceed \$10,000.00, for his personal efforts and contributions on behalf of the class in litigating this action for nine years and obtaining the settlement.

Class Counsel will also make an application to the Court for approval of the costs of settlement administration to be paid to the Settlement Administrator for its work administering the settlement, up to a maximum amount of \$19,550.00.

The actual amount of any such fees, expenses, and incentives, whether in the full amounts requested or in some lesser amounts, will be determined by the Court. The Court must approve the amounts as being fair and reasonable, and cannot exceed the foregoing maximum amounts. Class Counsels’ fees and expenses, the Class Representative’s incentive, and the costs of settlement administration, all as may be approved and awarded by the Court, shall be paid out of the settlement fund.

OBJECTING TO THE SETTLEMENT

14. How do I tell the Court if I don’t agree with the settlement?

If you are a Class member, you can object to the settlement if you don’t agree with any part of it and don’t think the settlement should be approved. You must give reasons why you think the Court should not approve it.

To object, you must either: (1) appear in person or through counsel at the Final Approval Hearing (the details of which are on page 10 of this Notice) and state in detail the basis for your objection; or (2) submit a written letter to the Settlement Administrator by mail, postmarked by the deadline below, stating that you object to the settlement in *Kendall Brasch, et al. v. K. Hovnanian Enterprises, Inc., et al.*, Case No. 30-2013-00649417-CU-CD-CXC, Superior Court of the State of California, County of Orange, and stating the reasons why you think the Court should not approve the settlement. Your writing must also include: (a) your name, address, and telephone number and signature; (b) a detailed statement of your specific objections; and (c) a detailed statement of the grounds for such objections.

If you wish the Court to consider any records in support of your objection, you must enclose copies of such records with the written objection, or personally provide them at the time of the Final Fairness Hearing, or if the subject records are not in your possession, custody, or control you must identify those records, and the person(s) whom you believe has possession of them.

Your written objection, and any supporting records, must be mailed to the Settlement Administrator, postmarked no later than **October 3, 2023** addressed to:

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| SETTLEMENT ADMINISTRATOR |
| ILYM Group, Inc. P.O. Box 2031 Tustin, CA 92781 |

You cannot object to the settlement by telephone, electronic mail, or any other method except by mail, in the manner described in this notice.

An objector is not required to retain an attorney in order to object to the Settlement, but may do so if desired, at the objector's own expense. If the objector submitting the objection is represented by an attorney, the objection must comply with the additional requirements set forth in the Court's Order Granting Preliminary Approval of Class Action Settlement, a copy of which is available without charge from the Settlement Administrator.

If you do not properly submit a timely written objection and fail to appear at the Final Fairness Hearing to state your objection, your objection will be deemed waived and will not be considered by the Court.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to give final approval to the settlement, and to consider any objections to the settlement. If you have properly filed a timely objection, you may attend and you may ask to speak, but you are not required to do so.

15. When and where will the Court decide whether to approve the Settlement?

The Court will hold a final approval s hearing at **2:00 pm** (PST) on **December 7, 2023**, in Department CX101 of the Orange County Superior Court, Civil Complex Center, located at 751 West Santa Ana Boulevard, Santa Ana California 92701. The hearing may be moved by the Court to a different date or time without additional notice. At the hearing, the Court will consider whether the settlement is fair, reasonable and adequate, and in the best interests of the Class. If there are objections, the Court will consider them. The judge will only listen to people who have properly submitted a timely objection, and timely and properly requested to speak at the final approval hearing (*see* Questions 18-19, below). After the hearing, the Court will decide whether to approve the Settlement. We do not know how long it will take after the hearing for the Court to issue a ruling.

16. Do I have to come to the hearing?

No. Class Counsel and counsel for Defendant will answer any questions the judge may have. If you submitted an objection, you do not have to come to the final approval hearing to talk about it, but you have the right to do so. Although no Class member is required to attend the hearing, it is open to the public and anyone who wishes is free to attend at their own expense.

17. May I speak at the hearing?

Any Class member may ask the Court for permission to speak at the final approval hearing in support of the objection.

Pursuant to the Court rules that are then in effect, there might be an option to appear by Zoom or other electronic means authorized by the Court. <https://www.occourts.org/directory/civil/complex-civil/calendar-schedule/civil-panel-schedule.html>.

IF YOU DO NOTHING

18. What happens if I do nothing at all?

If you are a Class member and do nothing, and the settlement is approved and that order becomes final, you will be legally bound by the settlement. You will receive the settlement payment due and you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants about the claims in this case.

GETTING MORE INFORMATION

19. How do I get more information?

This notice is a summary of the settlement. For more information about this case, and to review key documents pertaining to the proposed settlement and the action, you may visit the settlement website, contact the Settlement Administrator, or contact Class Counsel, all at no charge to you.

To Visit the Settlement Website:

www.braschcopperpipeclassaction.com

To Contact the Settlement Administrator:

Toll Free Number: (888) 250-6810

Email: claims@ilymgroup.com

Contact the Attorneys for the Class:

Richard K. Bridgford, Esq.
Michael H. Artinian, Esq.
Bridgford, Gleason & Artinian
26 Corporate Plaza, Suite 250
Newport Beach, CA 92660
mike.artinian@bridgfordlaw.com

Richard L. Kellner, Esq.
Kabateck LLP
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Los Angeles, CA 90017
rlk@kbklawyers.com

You may also visit the Court's website to obtain access to the documents that have been filed in this case at www.occourts.org/online-service and then enter the case number (30-2013-00649417) and the year of filing (2013), and then select the document that you want to obtain. There is a fee to purchase a document for viewing.

PLEASE DO NOT CONTACT DEFENDANTS OR THE COURT WITH ANY QUESTIONS.

Dated: August 4, 2023

Honorable Peter Wilson
JUDGE OF THE SUPERIOR COURT