

# NOTICE OF THE CERTIFICATION OF THE KINGSTON ROAD CLASS ACTION

This Notice may affect your rights. Please read carefully.

## TO CLASS MEMBERS, WHO ARE:

Those persons, excluding Deltera Construction Limited and its officers, directors, servants or agents, who, on Thursday, March 19, 2009:

- (i) rented a condominium, apartment, townhouse or other utilizable space at 3650/3640 Kingston Road, Toronto, Ontario (a "Unit"); or
- (ii) ordinarily resided in a Unit; or
- (iii) were present in a Unit but were not ordinarily resident in that Unit; or
- (iv) owned or had an interest in property located in or on a Unit; or
- (v) owned one or more Units

## CERTIFICATION

A Class Action, court file # 09-375391-00CP, was commenced in the Ontario Superior Court of Justice against Deltera Construction Limited arising from the explosion and fire at 3650/3640 Kingston Road in Toronto on March 19, 2009. The class action alleges that Deltera Construction Limited was negligent in design, construction, maintenance and repair of the of the building, including the underground parking lot at 3650/3640 Kingston Road and that it is responsible for the damages which arose as a result of the explosion and fire which occurred on March 19, 2009.

On December 10, 2010, the Ontario Superior Court of Justice certified the action as a class proceeding and appointed Douglas Charmley, Frederic Nzeyimana and Maureen Molinnus as representative plaintiffs of the Class. The reasons of the Court and a copy of the certification order may be reviewed at [www.kingstonroadclassaction.com](http://www.kingstonroadclassaction.com)

## OPTING OUT

If you are part of the Class described above but do not wish to be included in the Class and do not wish to be bound by any order made in this Class Action, then you must send written notice, stating that you do not wish to participate in the Class Action, by prepaid mail, by fax or by email, before 5:00 p.m. on May 2, 2011 to:

Sarkis Isaac  
Howie & Partners, Chartered Accountants  
3063 Walker Road  
Windsor ON N8W 3R4  
Attention: Kingston Road Class Action  
Tel: 519 250 8663  
Fax: 519 250 1929  
Email: [sarkis.isaac@howieca.com](mailto:sarkis.isaac@howieca.com)

Your notice must state the person's full name, current address and telephone number and must be signed by the person opting out or an authorized representative of the person. If your written request to be excluded from the Class is not received by May 2, 2011 you will be a member of the Class.

A person who does not opt out will be bound by the judgment in the action whether favourable or not. A person who opts out will not be bound by the judgement in the Class Action and will not be eligible for any recovery in the Class Action but may be eligible to pursue an individual claim.

Do not opt out if you wish to participate in the Class Action.

## CLASS COUNSEL FEES AND DISBURSEMENTS

The plaintiffs and plaintiffs' counsel have signed a retainer and fee agreement providing for the payment of Class Counsel fees, disbursements and applicable taxes, only in the event of success in the action, to be paid out of any recovery in the action. Class Counsel will seek to recover a fee of up to one-third of the recovery plus disbursements plus applicable taxes. This agreement is subject to Court approval.

## CLASS COUNSEL

Any questions regarding the Class Action and the certification order should be directed to:

Sharon Strosberg  
SUTTS, STROSBERG LLP  
600-251 Goyeau Street  
Windsor ON N9A 6V4  
Tel: 519 561 6294  
Fax: 519 561 6203  
Email: [sharon@strosbergco.com](mailto:sharon@strosbergco.com)

Ted Charney  
FALCONER CHARNEY LLP  
8 Prince Arthur Avenue  
Toronto ON M5R 1A9  
Tel: 416 964 3408 x221  
Fax: 416 929 8179  
Email: [tedc@falconercharney.com](mailto:tedc@falconercharney.com)

## INTERPRETATION

This Notice is a summary of some of the terms of the certification order. If there is a conflict between the provisions of this Notice and the terms of the certification order, the certification order prevails.

This Notice is approved by the Superior Court of Justice for Ontario.

Any questions about the substantive matters in this Notice should not be directed to the court as its administrative structure is not designed to address this type of inquiry.

GRS J.