

## Berkley City Council to Vote on Flooding Class Action Suit Settlement

(City of Berkley, Dec. 21, 2020)

Berkley, MI – The Berkley City Council will be considering a negotiated settlement of longstanding class-action lawsuits pending against the City of Berkley, Oakland County, and 10 other Southeast Oakland County municipalities covering thousands of claims made by homeowners for basement flooding and property damage stemming from the historic rain and flood events that occurred in August 2014 and August 2017.

### **The cases against the City of Berkley are:**

~Deanna Doot et al. v City of Berkley et al. (Doot)

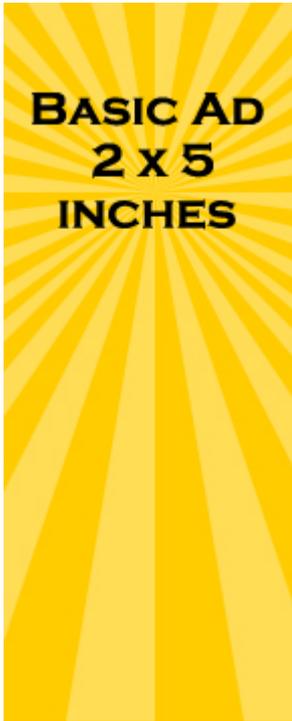
~Hanover Insurance Company v City of Berkley, et al. (Hanover)

~Sheila Jacob v City of Berkley (Jacob)

Berkley received 2,181 claims from property owners relating to the 2014 event and 257 claims for the 2017 event, totaling 2,438 claims, seeking to recover money damages from the City for sewage backups caused, allegedly, by a defectively designed, constructed, maintained, and operated public sewage system.

The money damages demanded from the City of Berkley alone

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exceeded \$22 million dollars. But, after extensive litigation, a unified defense approach and negotiations by the county and municipal co-defendants with the claimants' legal representatives has resulted in a tentative global settlement agreement, covering all the cases and claims against all county and municipal-defendants, in the amount of \$11.5 million, plus \$1.5 million in future sewer system improvements.

The City of Berkley's portion of the \$11.5 global settlement obligation will be about \$385, 308, and Berkley will commit to making \$196,070 of future improvements to the City's

sewer system.

Currently, the City and the other county and municipal co-defendants are considering the proposed settlement agreement for approval by their respective governing bodies.

The Berkley City Council will consider the proposed settlement agreement at its next regular City Council meeting on Monday, December 21, at 7 PM.

### **A Brief History**

Berkley is on what is called a combined sewer system which means it uses a single pipe to collect both storm water (rain) and sanitary (waste) water. The sewer system collects storm and rainwater from the street, as well as, wastewater flows from homes in a single location and flows into the County's system at specific collection points located throughout Berkley.

During the August 2014 flood event, roughly 80% of Berkley households were affected. Around four to six inches of rain fell over a four-hour period, mostly in southern Oakland, Wayne, and Macomb regions. The City of Berkley declared a state of emergency, which was confirmed by the governor due to the

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number of households and multiple counties affected by the event. The governor declared a state of emergency and requested assistance from FEMA. In August 2017, Berkley along with several other local communities in Southeastern Oakland County again experienced extreme rain and flash flooding. However, around three to five inches of rain fell in a two-hour timeframe within Berkley. The fast, strong rainfall exceeded the capacity of the City & County's systems and both



sewer systems had received more water than they were designed to handle. Berkley Streets were designed to hold water to delay its entry into the sewer system during heavy rains. There are no control mechanisms in the City's sewer system. The City's system is entirely gravity-fed with no pumps or valves, meaning there are no switches, valves, pumps, levers, or buttons that need to be pushed to move water out of Berkley. This delay also mitigates system backups.

### **List of Lawsuits**

Berkley's cases are not unique as ten municipalities are facing similar settlements.

Berkley's is believed to be the first to proceed to the point of a City Council vote.

Tina Polk, et al. v. City of Oak Park, et al., Oakland County Circuit Court Case No. 2015-147795-NZ

Chadwell, et al. v City of Madison Heights, et al., Oakland County Circuit Court Case No. 2015-147794-NZ

Helme v. City of Clawson, et al., Oakland County Circuit Court

Case No. 2016-152918-NZ

Kotsis, et al. v City of Royal Oak, et al.,  
Oakland County Circuit Court Case No.  
2016-152906-NZ

Doot, et al. v City of Berkley, et al., Oakland  
County Circuit Court Case No. 2017-157459-NZ

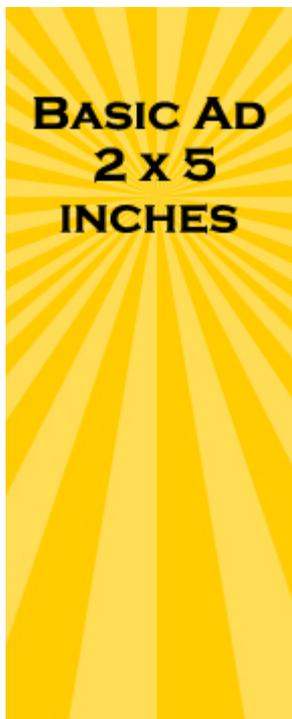
Jones, et al. v City of Ferndale, et al.,  
Oakland County Circuit Court Case No.  
2017-157469-NZ

Barnwell, et al. v City of Troy, et al.,  
Oakland County Circuit Court Case No.  
2017-157537-NZ

Lawler, et al. v City of Hazel Park, et al.,  
Oakland County Circuit Court Case No.  
2017-157534-NZ

Finkelberg, et al. v City of Huntington Woods, et al., Oakland  
County Circuit Court Case No. 2017-157533-NZ

Phillips, et al. v City of Pleasant Ridge, et al., Oakland  
County Circuit Court Case No. 2017-157620-NZ



**Suit from 2017 flood event involving City of Berkley only:**

Jacob, et al. v. City of Berkley, Oakland County Circuit Court  
Case No. 2019-178474-NZ

**What Has the City Done Since the Rain Events?**

The City proactively maintains its sewer system, investing up to \$350,000 per year on sewer structural lining, and the City's Department of Public Works (DPW) regularly cleans, inspects, and monitors sewer line conditions to ensure optimal functionality. To date, the lining has been completed annually for over 20 years with approximately 35% of the system structurally lined.

Approximately 350 restrictor covers have been installed in many of the City's catch basins (not including those installed prior to 2014) to regulate the amount of storm water flow entering the sewer system.

DPW staff is able to systematically inspect all of the public sewer lines over a 3-year cycle. The cleaning process uses high-pressure water inside the pipes to remove any sediment or debris.

The City invested \$670,000 in grant funds to clean and assess the entire sewer system. This also allows the City to proactively identify areas for future lining or pipe replacement, as well as to document conditions and maintenance practices.

There are 50 miles of sewer lines in Berkley. The annual sewer lining program is an important component of the City's preventive maintenance process. To date, approximately 16 miles of sewer pipes have been structurally lined. This can add up to 100 years to the useful life of the pipe.



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The City also conducted a sewer system capacity analysis which has assisted the City by providing a framework for planning and making decisions for future capital improvements. That capacity analysis can be [found here](#).

Residents and community members can tune in using the following information:

Join Zoom Meeting:  
<https://berkleymich.zoom.us/j/94929846645>

Dial by Phone: 1-312-626-6799 Meeting ID: 949 2984 6645

To learn more and stay up-to-date, visit our #Now Trending section on the City of Berkley website <http://www.berkleymich.org>

Oakland County Times is working on connecting with the other cities involved in the suit, and this article will be updated as that info becomes available.

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