

**NOTICE OF CERTIFICATION OF A CLASS ACTION AND PROPOSED SETTLEMENT
IN THE McCANN ET AL V. CANADA MORTGAGE AND HOUSING CORPORATION
(CMHC) ET AL ACTION (COURT FILE NO. 07-CV-37862)
(HEREINAFTER McCANN)**

PLEASE READ THIS NOTICE CAREFULLY. IT WILL AFFECT YOUR RIGHTS.

1. This McCann class action was certified by the Court on January 23, 2015 by The Honourable Justice Charbonneau, which certification was confirmed on Appeal by the Divisional Court of Ontario dated January 26, 2016.

2. This McCann class action was commenced on April 16, 2007 following an Order of the Ontario Superior Court of Justice requiring a separation from another class action (Nicole Lacroix et al v. Canada Mortgage and Housing Corporation (CMHC) et al Court File No. 99-CV-10694 (Lacroix class action)). The Lacroix action was commenced on July 20, 1999 and certified on consent by Order of the Ontario Superior Court of Justice dated May 4, 2000. The Lacroix action was subsequently amended in 2002 to include the McCann Plaintiffs and to advance additional claims, on which the Plaintiffs moved for certification in 2003. This motion was ultimately dismissed. After a motion for directions in 2006, the McCann Plaintiffs moved for an order severing their claim from the Lacroix Plaintiffs, which order was granted. Because most of the issues in both actions were identical, both actions proceeded together through the many Court appearances up to and including the settlement.

3. The Lacroix class action claims entitlement to receive certain benefit enhancements that were provided by way of a partial refund of contributions by CMHC to CMHC pension plan members, including plan members, deferred vested plan members and retirees, on or after January 1, 1999 (the 1st benefit enhancement) and on or after January 1, 2001 (the 2nd benefit enhancement).

4. This McCann class action claims an interest in only the 2nd benefit enhancement by CMHC from the CMHC pension plan on January 1, 2001. All of the McCann class action members received benefit enhancements from the 1st benefit enhancement on January 1, 1999 because they were, at that time, CMHC employees, but their employment and plan membership with CMHC were terminated before January 1, 2001. Documents relevant to this litigation can be seen on the following website: www.solowaywright.com/cmhc

5. Former CMHC plan members whose employment with CMHC had terminated pursuant to what CMHC described as its Workforce Adjustment Plan (WFA), implemented by CMHC between 1995 and 2002, who elected to receive the commuted value of their pension plan on termination, did not receive the 2nd benefit enhancement. Any former employee who left his or her money in the CMHC pension plan and received the benefit enhancements are not members of either class action.

6. These two class actions (McCann) and (Lacroix) claim from CMHC and from the CMHC pension fund Trustees a return of contributions plus interest, i.e., a share of the 1st and 2nd benefit enhancements which were distributed in 1999 and 2001, which each WFA departing CMHC employee who had elected to leave the CMHC pension plan did not receive.

7. CMHC has advised that there were 183 former CMHC (WFA) employees who took commuted value and were not members of the CMHC pension plan at the time of the 2nd benefit enhancement and therefore did not receive such benefit enhancements. These are the McCann class members who had left their employment with CMHC and elected to leave the CMHC pension plan before January 1, 2001. By comparison, CMHC advises that there were 480 members of the Lacroix class action who did not receive a share of the benefit enhancements following the termination of their employment under the WFA by CMHC, and who elected to leave the CMHC pension plan before January 1, 1999.

8. The McCann and Lacroix class actions were settled on the basis of a payment by CMHC of \$7,090,580.00. From such payment by CMHC are contributions:

- a. Towards the cost of administering this settlement up to \$100,000.00;
- b. Towards class Counsels' legal fees, McCann \$300,000.00 and Lacroix \$500,000.00;
- c. To honoraria for the representative Plaintiffs of both actions, \$20,000.00 to each of the four representative Plaintiffs in the two class actions;
- d. The Lacroix Plaintiffs are to receive \$4,857,911.00 (less 20% for contingency legal fees of Plaintiff's counsel, negotiated between Plaintiffs and their counsel);
- e. The McCann Plaintiffs are to receive \$1,252,688.90 (less 20% for legal fees of Plaintiff's counsel, negotiated between Plaintiffs and their counsel); and
- f. CMHC will withhold from each class member the income tax due to CRA and remit that amount directly to CRA (**please note there may be more taxes owed, which are the responsibility of the class member**).

9. In addition, CMHC will pay the reasonable costs of the Mediator directly to the Mediator, to a maximum total of \$200,000.00.

10. This McCann class action was brought in the names of two former CMHC employees who are the representative Plaintiffs:

Francis (Frank) McCann, 30 Weybridge Drive, Ottawa, ON K2J 2Z7; and

David Guffie, R.R. #3, 2302 Edward Kidd Crescent, North Gower, ON K0A 2T0.

Both are included in the 183 McCann class members identified by CMHC as not having received the 2nd benefit enhancement.

11. The claims of McCann class members, who were previously included in the Lacroix class action, have been ongoing for 18 years. The Court refused to accept the Plaintiffs' theory of their claims based upon an allegation that CMHC had "partially terminated" the CMHC pension plan when CMHC implemented its WFA program. If successful this "partial termination" claim could potentially have entitled the McCann and Lacroix class members to a much larger share of the CMHC pension fund surplus. When the Plaintiffs' claims were revised from claiming 'partial termination' of the pension fund to conflict of interest claims based upon a breach of the applicable federal law *The Pension Benefits Standards Act* and the common law, this McCann class action was certified (including breach of trust and fiduciary duty claims previously certified in the Lacroix action, as well as conflict of interest claims), and the Lacroix class action was re-certified (including conflict of interest claims) as amended. The certification process does not amount to a ruling of the merits on the claim. The Mediator's report to the Court, recommending this settlement and other relevant documents, will be posted on the class Counsel's website (see paragraph 4).

12. A settlement of both class actions was reached on March 29, 2017, as part of six days of Mediation, because all parties felt that a reasonable compromise was appropriate given the issues in the claim(s). In particular, the parties accepted that they each had a litigation risk, such that settlement was in the best interests of the class members. Both class actions involve many legal issues, all of which had to be compromised, to achieve a settlement.

13. You are receiving this Notice because CMHC has identified you as a class member in this McCann class action as a vested member of the CMHC pension plan between January 1, 1999 and 2002 who received a Workforce Adjustment package and elected to take the commuted value of your pension plan benefits and left the pension plan, other than a transfer restriction annuity (TRA). Not included in the settlement are former CMHC employees whose pension was not vested and employees who had received

a refund of contributions and could not have remained a member of the CMHC Plan or resigned or departed CMHC for reasons other than attributable to the WFA.

14. The settlement of both class actions was based upon CMHC's formula for enhancing benefits for its remaining employees. For the 2nd benefit enhancement it was 20.5% of the individual pension contributions plus interest up to the date of the 2nd benefit enhancement, net of TRA. The settlement included negotiated calculations for interest and risk assessment of the many legal issues if proceeding to trial. There were no counterclaims in either the McCann or Lacroix class actions. There was a risk of an unfavorable and possibly substantial cost award against any unsuccessful party. Specifically, the McCann class representatives, David Guffie and Frank McCann, would have been personally at risk for a portion of CMHC's significant legal costs should the claim have been dismissed at a trial.

15. There was a contingent fee agreement between the representative Plaintiffs on behalf of the class members and class action Counsel which has been supplemented by this settlement. In general terms class Counsel of this McCann class action will (subject to Court approval and some adjustments) be paid:

- a. \$300,000.00 from the settlement amount;
- b. 20% of the settlement amount of \$1,252,688.90 (less a further credit described below) to be deducted from each member's determined entitlement.

16. During this litigation there were many procedural and substantive Motions. CMHC was obligated to pay costs awarded the McCann representatives and the McCann representatives had to pay costs awarded to CMHC, all of which were paid and received. The balance in class Counsel's trust account which is currently \$34,440.81 will be credited to the legal fees payable by the class members less any further disbursements.

17. You may object to this settlement with the Class Action Administrator for both the McCann and Lacroix litigation by sending a written Notice of your objection and any reason for objecting on or before November 15, 2017 as follows:

CMHC Class Action Administrator
P.O. Box 20187
390 rue Rideau Street
Ottawa, ON K1N 9P4
Toll Free Telephone: 1-866-262-0006
Email: info@cmhcpensionclaim.ca

Website: www.cmhcpensionclaim.ca

18. Unless you opt out of this class action, as explained below, you will receive from the Class Action Administrator a share of the 2nd benefit enhancement settlement as determined by CMHC and approved by the Court. To opt out please complete and send the form on the last page by October 20, 2017. A copy of the OPT out form may also be obtained from the CMHC Class Action Administrator (see paragraph 17 above). The average payout to each McCann class action member is \$6,771.00 less 20% for contingency legal fees to be paid to class action Counsel. The share of any McCann class member who opts out of this settlement, together with the balance of the costs referred to above (less further disbursements) will be added to the \$1,252,688.90 to be paid to the class members and divided among all McCann class members on the same proportionate basis related to each members' pension contributions.

19. All of the provisions of the settlement are subject to Court approval which will be sought on **December 1, 2017 at 10:00 a.m. at the Ontario Superior Court of Justice , 59 Court Street, L'Orignal, Ontario, K0B 1K0**. You may attend. Please advise class Counsel (Soloway, Wright LLP) of your interest in doing so and if you intend to oppose the settlement, **by November 15, 2017**. Notice of this Court Motion and supporting material will be posted on class Counsel's website (see paragraph 4) **on or before October 20, 2017**. Any questions should be directed to the CMHC Class Action Administrator.

If Court approval is obtained you will be bound by this settlement. Any questions related to this settlement may be made, **before November 15, 2017**, to:

Bruneau Group • Groupe Bruneau
P.O. Box 20187
390 rue Rideau Street
Ottawa, ON K1N 9P4
Telephone: 1-866-262-0006 or/ou 613-562-3646
Email: info@cmhcpensionclaim.ca

Website: www.cmhcpensionclaim.ca

20. This Notice is being served by regular mail in accordance with the Order of The Honourable Justice Charbonneau dated Wednesday August 30, 2017 attached hereto as Schedule "A".