

St Theresa Point First Nation et al v. His Majesty the King
On-Reserve Housing Class Action

Information only. More details on our website:

<https://www.oktlaw.com/services/cases/first-nations-housing-class-action/>





What is this class action about?



In summer of 2023, St. Theresa Point First Nation and Sandy Lake First Nation – with the help of law firms Olthuis Kleeer Townshend LLP (OKT) and McCarthy Tetrault LLP (McCarthy Tetrault) – launched a housing class action in Federal Court, alleging that **Canada has created a crisis in First Nation communities by choosing to underfund housing while also making it hard for communities to fix issues on their own.**

There are two pieces to this claim: **the past and the future.**

THE PAST

Seeking compensation for the First Nation for the loss of community through inadequate housing, as well as compensation for their members who endured those hardships.

THE FUTURE

Formally recognizing Canada's duty to provide adequate funding for on-reserve housing. We're also seeking orders to fund construction and maintenance of housing so communities can enjoy the same standard of living as they can in cities.



What are we asking the court?

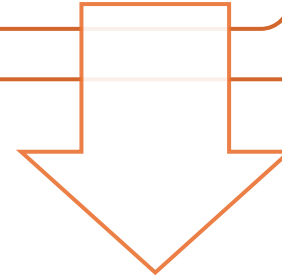
The class action is divided into **two stages**:

Stage 1: Does Canada actually owe a legal duty? ← we are here

- From June 12, 1999 to the present, did Canada owe a legal duty or obligation to Class members to take reasonable measures to provide them with, or ensure they were provided with, or refrain from impeding, access to adequate housing on First Nations reserves?

Stage 2: If the answer to stage 1 is “yes”,

1. Did Canada breach its legal duties or obligations to members of each Impacted First Nation, or limit rights or freedoms enjoyed by those members?
2. Is any limitation on rights or freedoms protected by the Charter saved by Section One (reasonable limits)? If not, are Charter damages available?
3. Can the causation of damages suffered by Impacted First Nations be determined all together?
4. Do limitation periods apply to those claims for damages?
5. Can the Court award a lump sum to everyone?
6. Does Canada’s conduct justify punitive damages, and if so, how much?
7. Should the Court order Canada to take measures to provide, or refrain from impeding, access to adequate housing? If so, what measures?





Who are the Class Members?

This certified class action has two sets of class members:

1. **The First Nation** (who has to opt-in) and
2. **Individuals** (who are automatically included).



First Nations

- Have to opt-in by BCR to be included



Individuals

- Automatically included if their First Nation meets the class definition



Who are the First Nation class members?



- To be an Impacted First Nation, each must be met:
 - ✓ First Nation bands...
 - With lands subject to the *Indian Act* or *First Nations Land Management Act*
 - **Not** located within 50 km of the nearest service centre with year-round road access
 - And meeting at least **one** of the two conditions below:

✓ **At least 30% of members** of the First Nation ordinarily resident on reserve **live in Band-Owned Housing**

- **With a shortfall of two bedrooms or more** relative to the Canada Mortgage and Housing Corporation's National Occupancy Standard; **AND**
- That **requires major repairs**, including defective plumbing or electrical wiring, or structural repairs to walls, floors or ceilings



OR

✓ **At least 70% of members** of the First Nation ordinarily resident on reserve **live in Band-Owned Housing**

- **With a shortfall of two bedrooms or more** relative to the Canada Mortgage and Housing Corporation's National Occupancy Standard; **OR**
- That **requires major repairs**, including defective plumbing or electrical wiring, or structural repairs to walls, floors or ceilings





Who are the Individual Class Members?



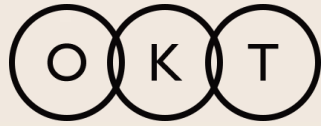
The class includes **all individual members of Impacted First Nations** who ordinarily lived on reserve for at **least one year** between June 12, 1999 to April 30, 2024



The **List of Impacted First Nations** can be found on the OKT website



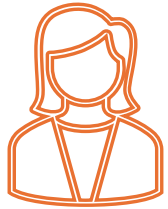
Individual members living on an Impacted First Nation during the Class Period are **automatically included** in the action, unless they opt-out of the action



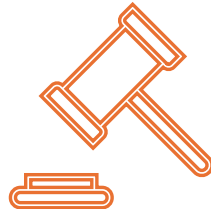
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Opting into the Housing Class Action (for the First Nations Class)





We are currently cross-examining witnesses for the Stage 1 hearing. We may also meet with Canada to discuss a potential settlement.

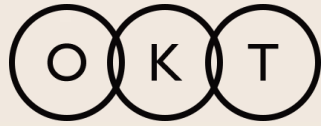


If the class action does not settle before we go to Court, First Nations will have to “opt-in” by **January 28, 2025**.



The Summary Judgment motion, or the Stage 1 hearing, is scheduled for **April 28, 2025**.

- To opt in, First Nations must complete both:
 1. **BCR**
 2. **Retainer agreement**



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If you have questions, please email: HousingCA@oktlaw.com

