

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA**

**NORMAN GUNDEL, WILLIAM MANN, and BRENDA
N. TAYLOR**, individually and on behalf of all those similarly
situated persons,

Plaintiffs,

Case No.: 2017-CA-001446

Section: 11

v.

AVATAR PROPERTIES, INC.,

Defendant.

NOTICE OF PENDENCY OF CLASS ACTION

THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS. PLEASE READ CAREFULLY.

TO: All persons who currently or previously owned a home in Solivita and who have paid a Club Membership Fee under the Club Plan on or after April 26, 2013.

Your rights may be affected by a lawsuit pending in this Court. Norman Gundel, William Mann, and Brenda N. Taylor (the “Plaintiffs” or “Class Representatives”), the individuals bringing this lawsuit, allege the Defendant, Avatar Properties, Inc. (the “Defendant” or “API”), violated Florida Statutes by requiring Solivita Homeowners to pay certain fees for membership in the Solivita Club (the “Club Membership Fee”). API denies these claims and allegations.

The Court has not ruled on the merits of Plaintiffs’ claims or on API’s denials and defenses. Because you have been identified as possibly being an individual or entity who currently owns or previously owned a home in Solivita and paid a Club Membership Fee under the Club Plan on or after April 26, 2013, this notice is to advise you of these events and their potential effect on your legal rights. There will ultimately be a disposition of the claims and defenses raised by Plaintiffs and API in this lawsuit. The purpose of this notice is to inform you of this class action lawsuit and how it may potentially affect your legal rights.

CLASS ACTION RULING

The Court has ruled that this lawsuit may be maintained as a class action, meaning that the claims for declaratory and injunctive relief, and damages can be pursued not only by Plaintiffs individually, but also on behalf of a class consisting of certain other persons who paid a Club Membership Fee. The Court has named Plaintiffs as representatives of the whole class, and their attorneys, Clark and Martino, P.A., Bush Ross P.A., Campbell, Trohn, Tamayo & Aranda, Bajo Cuva Cohen & Turkel, P.A., Kynes, Markman & Felman, P.A., and Crist Legal, P.A. as counsel for the class (collectively referred to as “Class Counsel”). **The class consists of** all persons who currently own or previously owned a home in Solivita and who have paid a Club Membership Fee under the Club Plan on or after April 26, 2013.

This ruling by the Court does not mean that any money or declaratory and injunctive relief will be obtained for class members who paid a Club Membership Fee. These are still contested issues that have not been decided. Rather, the ruling means that the final outcome of this lawsuit—whether favorable to Plaintiffs or Defendant—will apply in a like manner to every class member, that is, those who currently own or previously owned a home in Solivita and paid a Club Membership Fee on or after April 26, 2013, as described above, who do not timely elect to be excluded from the class (see below).

ELECTION BY CLASS MEMBERS

If you fit the above description of a class member, you have a choice whether or not to remain a member of the class on whose behalf this suit is being maintained and litigated. Either choice will have its consequences, which you should fully understand before making your decision.

Option 1: REMAIN A MEMBER OF THE CLASS

If you want to remain a member of the class, you should NOT submit a “Request to Opt Out” and you are NOT required to do anything at this time. By remaining a class member, any claim you may have against API for declaratory relief, injunctive relief, or damages under Florida law arising from the Club Membership Fee will be determined in this lawsuit and cannot be presented in any other lawsuit. If you do nothing before the opt out deadline of **June 13, 2020**, you will have elected to remain a member of the class in accordance with this option.

Option 2: OPT OUT OF THE CLASS

You can exclude yourself from the class by sending a written “Request to Opt Out” to Avatar Class Action, EXCLUSIONS, c/o A.B. Data, Ltd., P.O. Box 173001, Milwaukee, WI 53217 by mail, postmarked no later than **June 13, 2020**. Your written request must include:

- Your name, address, telephone number, and the statement that you want to opt out of the lawsuit;
- The case name and number: *Norman Gundel, et al. v. AV Homes, Inc. et al.*, Case No. 2017-CA-001446;
- A statement that you currently own or previously owned a home in Solivita and paid a Club Membership Fee on or after April 26, 2013; and
- Your signature.

Any questions you have concerning the matters contained in this notice, including any corrections or changes of name and/or address, should not be directed to the Court, but should be directed in writing to the Class Action Administrator, A.B. Data, Ltd., as identified in the “Additional Information” section below.

RIGHTS AND OBLIGATIONS OF CLASS MEMBERS

If you remain a member of this class:

1. Plaintiffs will act as your class representatives for the presentation of the claims against API and for the adjudication of API’s defenses. Class Counsel will act as your legal counsel for the presentation of the claims against API. If you desire, you may also appear with your own attorney, at your own expense. You may also seek to intervene individually, and may advise the Court if at any time you consider that you are not being fairly or adequately represented by Plaintiffs or Class Counsel in relation to this lawsuit.

2. You will be bound by any judgment entered by the Court, whether favorable or unfavorable. Your participation in any recovery that may be obtained from API through trial or settlement will depend on the results of this lawsuit. If the relief requested by Plaintiffs is denied, you will be individually bound by that result also.

3. You will be entitled to notice of any ruling altering the size or definition of the class. You will also be entitled to notice and an opportunity to be heard regarding any proposed settlement or voluntary dismissal of the class claims. For this reason, as well as to participate in any recovery, you are requested to notify A.B. Data, Ltd., the Class Action Administrator, of any corrections or changes in your name and/or address.

FURTHER PROCEEDINGS

As noted, API denies the claims and allegations against it. Because of the pre-trial proceedings that remain to be completed, trial of this lawsuit may not occur until 2021. You may communicate with Class Counsel if you have evidence you believe

would be helpful to establish the class claims, and you may be asked by any of the parties to provide information relevant to the case.

ADDITIONAL INFORMATION

Any questions you have concerning the matters contained in this notice, including any corrections or changes of name and/or address, should NOT be directed to the Court, but should be directed in writing to:

**AVATAR CLASS ACTION
C/O A.B. DATA, LTD.
P.O. BOX 170500
MILWAUKEE, WI 53217
Website: www.SolivitaClassAction.com**

If you decide to remain a member of the class and wish to communicate with Class Counsel as your attorneys in this lawsuit, you may do so by contacting lead Class Counsel:

J. Daniel Clark, Esquire
Clark & Martino, P.A.
3407 W. Kennedy Blvd.
Tampa, Florida 33609
(813) 879-0700

You may, of course, seek the advice and guidance of your own attorney, if you desire at your own expense. The pleadings and other records in this lawsuit may be examined and copied at any time during regular business hours at the Office of the Clerk: Clerk of Circuit Court, Polk County Courthouse, 255 North Broadway, Bartow, FL 33830. **Please do not contact the Court or the Circuit Clerk's Office regarding the matters contained in this notice.**

REMINDER AS TO TIME LIMIT

If you wish to be excluded from the class on whose behalf this lawsuit is being maintained, then following the instructions above, return a "Request to Opt Out" by mail to:

Avatar Class Action, EXCLUSIONS
c/o A.B. Data, Ltd.
P.O. Box 173001
Milwaukee, WI 53217

The "Request to Opt Out" must be postmarked on or before **June 13, 2020**.

Dated: April 14, 2020