



Your Ref:

FILE COPY

**SUPREME COURT
OF WESTERN AUSTRALIA**

ABN: 70 598 519 443
David Malcolm Justice Centre
28 Barrack Street
PERTH WA 6000
TELEPHONE: 9421 5333
FACSIMILE: 9421 5353

Dear Sir or Madam

**BUCK & Ors v BGC RESIDENTIAL PTY LTD
SUPREME COURT ACTION No. CIV 1878 of 2024**

The Court has fixed a date before which a group member may opt out of the abovementioned representative proceeding.

Please find attached the notice pursuant to the *Civil Procedure (Representative Proceedings) Act 2022 s 25(1)(a)* which has been approved by the Honourable Justice Howard and instructions to be provided to the group members for the purpose of opting out should they wish to.

Yours faithfully

Court Officer
2 September 2025

cc: James Daniel BUCK
Ref: 22225



This instruction notice must be attached to and served with the Opt Out Notice

A group member may opt out of the representative proceeding by written notice by filing a Form 10B in accordance with Order 18A rule 5 of the Rules of the Supreme Court 1971.

Please follow the steps below for filing an opt-out notice online:

1. Complete the attached “Notice of Group Member Opting Out”. Including a wet signature.
2. Go to the eCourts Portal website. It is recommended you access the eCourts Portal using Google Chrome or Microsoft Edge.

<https://ecourts.justice.wa.gov.au/eCourtsPortal/>

3. Click on the link: “Lodge Opt Out Notice”
4. Enter the matter number: 1878/2024
5. Enter the document number: 32730334
6. Enter the ‘Captcha’ Code and click ‘Next.’
7. Enter your full name or organisation name.
8. Enter a mobile number that the Court may contact you on.
9. Enter an email address that the Court may contact you on.
10. Upload your completed “Notice of Group Member Opting Out”.

NOTE: This must be in PDF and only one file can be uploaded. The upload must only contain the Notice of Group Member Opting Out.

11. Click ‘Lodge’.

NOTE: Do not exit out of the browser until lodgment has been completed.



NOTICE OF GROUP MEMBER OPTING OUT

Date of document:

Date of filing:

Filed on behalf of:

Prepared by:

Telephone:

Email:

[*Name of group member*], of [*address*], by this notice opts out of this proceeding under the *Civil Procedure (Representative Proceedings) Act 2022* section 12(2).

[*Signature of group member
or group member's legal practitioner*]

THIS NOTICE IS IMPORTANT – PLEASE READ IT CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS

IMPORTANT NOTICE

This notice relates to a class action which has been commenced in the Supreme Court of Western Australia (**Supreme Court**) against BGC Residential Pty Ltd (**BGC Residential**), J-Corp Pty Ltd (**J-Corp**) and Ventura Home Group Pty Ltd (**Ventura**) (**BGC Class Action**).

The Supreme Court has ordered that this notice be issued for the information of persons who might be Group Members (i.e. members of the class) on whose behalf the BGC Class Action has been brought and who may be affected by the action. “Group Members” are described below. If you are a Group Member, you have three options.

1. **Register** to participate in the class action by no later than 4 December 2025 (see **‘Option 1’ on pages 4-5** below). You should Register to participate if you wish to receive any money to which you may be entitled in the event that there is a successful outcome in the class action by way of settlement.
2. **Opt out** of the class action by 4 December 2025 (see **‘Option 2’ on pages 5-6** below). Opting out will exclude you from the class action, meaning you will not be eligible to receive compensation in the event of a successful outcome, but will keep your right to make your own claim.
3. **Do nothing** by 4 December 2025 (see **‘Option 3’ on page 6** below). If you do nothing (and you have not already registered your claim) the parties, alternatively, the Plaintiffs, will seek an order, which, if made, has the effect that you will remain a group member in the class action, but you may not be entitled to receive any payment or other benefit from a future settlement of or judgment in the class action. If a settlement is reached, the Plaintiffs intend to apply to the Court for an order which, if made, will mean that Group Members who neither opted out nor registered (i.e. “did nothing”) will be bound by the settlement but will not be able to seek any benefit under the settlement. If a settlement occurs, there may or may not be another opportunity to register (this will be a matter for the Supreme Court and there is no guarantee any further opportunity will arise).

You should read this notice carefully, including the information contained in **‘Section D YOUR OPTIONS’** as it may affect your legal rights.

Any questions you have about the matters in this notice should not be directed to the Supreme Court. If there is anything in this notice that you do not understand, you should use the contact information at Section F of this Notice to make enquiries or seek independent legal advice.

Buck v BGC Residential Pty Ltd (CIV 1878 of 2024)
(“BGC CLASS ACTION”)

A. WHAT IS A CLASS ACTION?

1. A class action is a type of legal proceeding in which claims of a group of persons (referred to as “Group Members”) are brought in a single proceeding.
2. A class action is commenced by one or more persons (who are called the “Plaintiffs” or “Lead Applicants”) on behalf of the Group Members. Unless a Group Member ‘opts out’ (which is explained in more detail below) they are automatically bound by decisions made by the Supreme Court in the class action even if they did not take any active step to join it, and whether or not the decisions are favourable or unfavourable to them. The criteria to be a Group Member is described below.
3. This notice explains how you may register or opt out of the class action, if either of these are the step you want to take. Before explaining this, the notice gives you some more information about the BGC Class Action, so that you can make an informed decision.

B. WHAT YOU NEED TO KNOW ABOUT THE BGC CLASS ACTION

Claims against BGC Residential, J-Corp, and Ventura

4. The BGC Class Action is brought by the Plaintiffs on their own behalf and on behalf of certain persons who entered home building contracts with one of the Defendants (**BGC Home Building Contract(s)**) and have certain claims against them (together, **Group Members**).
5. The Defendants to the BGC Class Action are:
 - (a) BGC Residential Pty Ltd (**BGC Residential**), which trades/traded under the business names BGC Invest, Commodore Homes, Go Homes – The Home Builder, National Homes, and WA Housing Centre;
 - (b) J-Corp Pty Ltd (**J-Corp**), which trades/traded under the business names HomeStart, Impressions, Perceptions, Stratawise, and Terrace WA; and
 - (c) Ventura Home Group Pty Ltd (**Ventura**), which trades/traded under the business names Aussie Living Homes, BGC Residential South West, Smart Homes for Living, Ventura Home Group Pty Ltd, and Ventura SouthWest.
6. The Plaintiffs allege that:
 - (a) various price increases given to the Plaintiffs and Group Members during their home builds were/are invalid;

- (b) various extensions of time related to COVID-19 given to the Plaintiffs and Group Members were/are invalid;
 - (c) various extensions of time unrelated to COVID-19 given to the Plaintiffs and Group Members were/are invalid;
 - (d) various contractual caps on the Defendants' liability to the Plaintiffs and Group Members were/are invalid; and
 - (e) the Plaintiffs and Group Members have suffered various types of loss/damage and are entitled to recover certain sums they have already paid the Defendants.
7. The Plaintiffs further allege that the Defendants contravened the Australian Consumer Law by not finishing the construction of Group Members' homes within the time allowed under their respective Home Building Contracts.
8. The Defendants deny the allegations against them and are defending these claims.

Who is representing the Plaintiffs?

9. The solicitors for the Plaintiffs are Morgan Alteruthemeyer Legal Group (**MA Legal Group**).

Are Group Members liable for any costs?

10. Omni Bridgeway (Fund 5) Australian Invst. Pty Ltd (**Omni**) is funding the class action on a "no-win no-fee" basis. Omni is paying MA Legal Group's fees/disbursements and covering any exposure to pay the Defendants' legal costs if the Plaintiffs are unsuccessful at trial.
11. If the class action is successful, meaning if monetary compensation is received as a result of a settlement with the Defendants or judgment of the Supreme Court, the Supreme Court may be asked to deduct from that compensation the legal costs incurred by MA Legal Group and a funding commission payable to Omni, and then to distribute the balance of the compensation to the Plaintiffs and Group Members. This means that, in the end, the Plaintiffs and all Group Members who receive compensation will have contributed to the legal and funding costs.
12. If the class action is unsuccessful, Group Members will not be liable for any costs.

C. WHO IS A GROUP MEMBER

13. You are a Group Member if:
- (a) between:
 - (i) 8 February 2019 and 24 July 2024, you (individually or with someone else) entered a Home Building Contract with BGC Residential; or

- (ii) 15 January 2019 and 24 July 2024, you (individually or with someone else) entered a Home Building Contract with J-Corp; or
 - (iii) 20 August 2020 and 24 July 2024, you (individually or with someone else) entered a Home Building Contract with Ventura; and
 - (b) you are not a director, an officer, or a close associate (as defined in s 9 of the Corporations Act 2001 (Cth)) of any Defendant, or a director, an officer, or a close associate (as defined in s 9) of any related entity of any Defendant; or the Chief Justice, a Justice, a Master or Registrar of the Supreme Court of Western Australia or of the High Court of Australia; and
 - (c) you have suffered loss and damage due to any delay in the completion of your home or any price increase under your Home Building Contract.
14. If you are unsure whether you are a Group Member, you should contact MA Legal Group or seek your own legal advice without delay.

D. YOUR OPTIONS

D.1. Option 1 – Register to participate

15. Although you do not have to 'Register' to remain a Group Member (see 'Option 3' below) it is likely that you will need to register your claim to be eligible to receive monetary compensation in any settlement. This is because, upon any in-principle settlement of the BGC Class Action, the Plaintiffs intend to apply to the Court for an order which, if made, will mean that only Group Members who have registered by 4:00pm (AWST) on 4 December 2025 in accordance with this Notice will be permitted to seek any benefit under the settlement (subject to approval of the Supreme Court).
16. If you register for the BGC Class Action, you:
- (a) may be eligible to receive compensation as part of any settlement prior to judgment (provided that it is approved by the Court and you satisfy any eligibility requirements); and
 - (b) will be bound by any resolution of the BGC Class Action (meaning that you will not be permitted to bring any future claims related to the subject matter litigated in the BGC Class Action).
17. When you register you become a "Registered Group Member" and will also receive regular updates regarding the BGC Class Action.

18. However, if you elect to opt out (see 'Option 2' below) before 4 December 2025 you will not be eligible to receive compensation as part of any settlement and will not be bound by any settlement or decisions of the Supreme Court.
19. If you want to register, you can do this by:
- (a) completing the Group Member Registration Form (**enclosed**); or
 - (b) entering into a litigation funding agreement with Omni,
- which are available on Omni's website:
- <https://portal.omnibridgeway.com/cases/register/bgc-class-action-overview/the-sign-up-process>;
20. If you have any difficulty registering, please contact Omni by telephone on 1800 016 464 or by email at bgc@omnibridgeway.com.
21. If you have already completed and returned a litigation funding agreement with Omni and a retainer with MA Legal in the BGC Class Action, you do not have to take any further steps to register your claim. This is because you have already taken the steps necessary to register your claim.

D.2. Option 2 – 'Opt out' and cease to be a Group Member

22. As indicated above, the class action is brought on an 'open' basis which means that all Group Members (as defined) are automatically participants in the class action.
23. Group Members who 'opt out' will no longer be part of the class action and will not be bound by the outcome of it (whether by way of settlement or judgment of the Supreme Court). This means you will not be able to participate in any settlement or obtain any compensation the Supreme Court may order following a trial. On the other hand, you may still pursue your own claim in legal proceedings you commence on your own.
24. If you want to opt out of the class action, you need to complete the Notice for Opting Out of Representative Proceeding (**enclosed**). You must complete and file the notice with the Supreme Court by the 'Opt-Out Date', being no later than 4:00 pm (AWST) on 4 December 2025. You can also download a copy of this notice at:
- https://www.supremecourt.wa.gov.au/B/bgc_class_action.aspx.
25. Each Group Member seeking to opt out should fill out a separate Notice for Opting Out of Representative Proceeding.

- 26. Each notice must be submitted to the Registry of the Supreme Court of Western Australia through the eCourts portal. To lodge the notice, you will require the matter number (which is CIV 1878 of 2024) and the Folio number (which is 77).
- 27. Any notice received after 4:00pm AWST on 4 December 2025 will not be accepted without leave of the Court.

D.3. Option 3 – Do nothing

- 28. Group Members who do not opt out by 4 December 2025 and have not registered their claim will remain a Group Member in the class action. As indicated above, this means you will be bound by any settlement or determination following a trial.
- 29. If a settlement is reached before judgment, the Plaintiffs intend to apply to the Court for an order which, if made, will mean that Group Members who neither opted out nor registered (i.e. “did nothing”) will be bound by the settlement but will not be able to seek any benefit under the settlement.
- 30. In other words, if you do nothing and have not already registered your claim (in accordance with the procedure set out above) you will remain a Group Member but, if the Court makes the order referred to at paragraph 28 above, you will likely not be able to receive a share of any settlement monies resulting from a settlement reached between the parties in the BGC Class Action. Further, you will be bound by the terms of the settlement (despite not being eligible to participate in the settlement). This means that your right to bring a claim against the Defendants for matters related to the BGC Class Action will be extinguished.
- 31. If there is no settlement prior to final judgment, you will remain a Group Member and will be bound by the final judgment. In the event that the Court finds for the Plaintiffs and Group Members, you will be entitled to obtain compensation and/or damages (if you satisfy the eligibility criteria set down by the Court).

E. FUNDING OF THE BGC CLASS ACTION

- 32. As indicated at paragraph 10 above, the BGC Class Action is funded by Omni. Omni has agreed to pay the costs of the BGC Class Action as it progresses in relation to the common issues. This means that the Plaintiffs and some Group Members (**Funded Group Members**) have entered into a Litigation Funding Agreement (**LFA**) with Omni. Group Members who have not entered into a LFA with Omni Bridgeway are known as unfunded group members (**Unfunded Group Members**). The Plaintiffs and Funded Group Members have also entered into a Conditional Legal Costs Agreement with MA Legal.

Legal costs

33. Funded Group Members and Unfunded Group Members are not, and will not become, liable for any “out of pocket” costs by participating in the BGC Class Action.
34. In litigation, the Court will typically order the losing party to pay a proportion of the legal costs of the successful party (an adverse costs order). In a class action, it is only the Plaintiffs that face the risk of an adverse costs order if the action fails. If the BGC Class Action is unsuccessful, Omni has agreed to indemnify the Plaintiffs against any adverse costs order which may be made against them. As a Group Member, an adverse costs order will not be made against you.
35. However, if the BGC Class Action is successful (that is, if compensation is recovered for Group Members), Omni will be entitled to recover legal costs, disbursements, and other litigation expenses. In the event of a successful outcome, the Plaintiffs will seek an order that these costs be paid out of the total amount recovered for all Group Members. These costs will never exceed the amount of compensation to which you may otherwise become entitled.
36. The Court will assess whether the costs proposed to be deducted are fair and reasonable. You will be given a notice at that time informing you of the amount which is proposed to be deducted and given an opportunity to tell the Court if you agree or disagree with what is proposed.

Intention to seek ‘Common Fund Order’

37. In the event of a settlement or judgment in favour of the Plaintiffs, the Plaintiffs intend to apply to the Court for an order that both Funded Group Members and Unfunded Group Members in the BGC Class Action contribute a pro-rata amount to the costs incurred in conducting the proceeding and to pay to Omni a percentage of any compensation to which the Funded Group Members and Unfunded Group Members become entitled as commission for funding the BGC Class Action. These orders are called “Common Fund Orders” (**CFOs**).
38. Group Members will only be liable to contribute to a CFO if there is a successful outcome in the Proceeding. If there is a successful outcome, the amounts payable to Omni by Group Members will be deducted from the settlement or judgment sum (in addition to the reimbursement of reasonable costs incurred) before the balance is then distributed to Group Members.
39. The total amounts deducted for legal costs and the funder’s commission from compensation payable to Group Members by way of a CFO will never exceed the amount a Group Member receives in the event of a successful outcome.
40. The Plaintiffs intend to apply for a CFO for the following reasons:
 - (a) it would be unfair for only those Funded Group Members who entered into an LFA with Omni to be the only Group Members required to pay a commission in circumstances

where all Group Members would benefit from a successful outcome in the BGC Class Action;

- (b) the ultimate percentage commission rate under the CFO must be approved as fair and reasonable by the Court; and
- (c) Group Members who do not want to participate in the Proceeding, or who do not wish to pay a commission to Omni, may opt out of the Proceeding in accordance with Section D.2 above.

- 41. In the alternative, if the Court is not minded to make a CFO, it is open to the Plaintiffs to apply for a “funding equalisation order”. A funding equalisation order is a kind of order that calculates the dollar value of the funding commission payable by Funded Group Members (i.e., those Group Members who have entered into a LFA with Omni) and pro rata that sum over the entire class of Funded Group Members and Unfunded Group Members, so that the commission payable by Funded Group Members to Omni under their LFAs is effectively paid (in equal shares) by all Group Members (including Unfunded Group Members).
- 42. The Court will assess whether any amounts proposed to be deducted from any settlement sum (including legal costs/disbursements and funding costs) are fair and reasonable. You will be given notice at or around the time that a CFO is sought by the Plaintiffs, providing you with further information and giving you an opportunity to tell the Court and/or the Plaintiffs if you agree or disagree with what is proposed.

F. WHERE TO FIND FURTHER INFORMATION

- 43. For further information, please visit:
 - (a) MA Legal’s website:
<https://bgcclassaction.com.au>;
 - (b) Omni’s website:
<https://portal.omnibridgeway.com/cases/register/bgc-class-action-overview>; or
 - (c) Supreme Court of Western Australia’s website:
https://www.supremecourt.wa.gov.au/B/bgc_class_action.aspx
- 44. If you have any questions, you should call Omni Bridgeway on 1800 016 464 or email bgc@omnibridgeway.com and/or seek independent legal advice.
- 45. Please do not contact the Supreme Court for legal advice. If you are unsure whether or not you are a Group Member or if you have any questions regarding the class action, contact Omni

Bridgeway on 1800 016 464 or email bgc@omnibridgeway.com or MA Legal Group on (08) 9336 7511 or bgcclassaction@ma.legal or seek independent legal advice.

Please do not delay in making your decision to register, opt out, or seek further legal advice.

ANNEXURE 1

10B . Notice for Opting Out of Representative Proceeding (O. 18A r. 5)

IN THE SUPREME COURT OF WESTERN AUSTRALIA

REPRESENTATIVE PROCEEDINGS LIST

CIV 1878 of 2024

BETWEEN:

JAMES DANIEL BUCK First Plaintiff

JYOTI GHAI Second Plaintiff

JOHANNES HENDRIK VISSER Third Plaintiff

GAYLE VISSER Fourth Plaintiff

and

BGC RESIDENTIAL PTY LTD (ACN 052 543 450) First Defendant

J-CORP PTY LTD (ACN 009 063 076) Second Defendant

VENTURA HOME GROUP PTY LTD (ACN 093 870 618) Third Defendant

NOTICE OF GROUP MEMBER OPTING OUT

Date of document:

Filed on behalf of:

Date of filing:

Prepared by:

Name:

Address:

Telephone:

Email:

[*Name of group member*], of [*address*], by this notice opts out of this proceeding under the *Civil Procedure (Representative Proceedings) Act 2022* section 12(2).

[*Signature of Group Member or Group Member's legal practitioner*]