

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

A court authorized this notice. This is not a solicitation from a lawyer.

VTAL Real Estate, LLC v. Mayor and Aldermen of the City of Savannah

If you applied for and received a Commercial or Residential Building Permit in the City of Savannah from July 30, 2016 to present and were assessed and paid Water Tap-in Fees, Sewer Tap-in Fees, Reclaimed Water Fees, Water Additional Fees, Sewer Area Additional Fees, Sewer Site Additional Fees or Treatment Plant Fees for any treatment plant other than the Crossroads Sewage Plant, Georgetown Plant, President Street Plant or the Travis Field Treatment Plant, you may be a Class Member.

Please read this Notice carefully, as it affects your legal rights. You can also visit:

<https://www.Savannahga.gov/VTAL> (the “Main Settlement Webpage”)

Or Call Class Counsel at:

(912) 638-5200

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
Do Nothing	After the Settlement has been approved by the Court, if you paid certain Fees as described herein, you will not be required to do anything to receive your refund. After the Settlement has been approved by the Court, you will receive your refund as explained in this Notice.
Object	Write to the Court and counsel about the fairness of the Settlement.
Go to the Hearing	Ask to speak in Court about the fairness of the Settlement after you have submitted a written objection.

- **These rights and options – and the deadlines and instructions for exercising them – are explained in this Notice.**
- The Court in charge of this case still will decide whether to grant final approval of this Settlement. No refund will be made until after the Court grants final approval of the Settlement, after all appeals, if any, are resolved and after the individual refund determination for each class member is made.

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Basic Information

1. What is the purpose of this Notice?

The purpose of this Notice is to inform you of (a) the existence of a class action lawsuit; and (b) the [Proposed] Consent Judgment on Aggregate Refund and Order (the “[Proposed] Consent Judgment”) which settles the lawsuit (the “Settlement”). The Court authorized this Notice because you have a right to know about the [Proposed] Consent Judgment which settles this class action lawsuit before the Court decides whether to give “final approval” to the Settlement. This Notice explains the nature of the lawsuit that is subject of the Settlement and your legal rights and options.

The class action lawsuit is pending in the Superior Court of Chatham County, Georgia, known as *VTAL Real Estate, LLC v. Mayor and Aldermen of the City of Savannah* (the “Lawsuit”). Judge Lisa Goldwire Colbert, Superior Court Judge, Chatham County is presiding over this Lawsuit.

2. What is this Lawsuit about?

This Lawsuit alleges that the City of Savannah (herein the “City” or “Defendant”) illegally assessed and collected certain fees under the City of Savannah 2021 Revenue Ordinance, Article U (the “Utility Services Fees Ordinance”). The fees at issue are Water Tap-in Fees, Sewer Tap-in Fees, Reclaimed Water Fees, Water Additional Fees, Sewer Area Additional Fees, Sewer Site Additional Fees and Treatment Plant Fees for any treatment plant other than the Crossroads Sewage Plant, Georgetown Plant, President Street Plant or the Travis Field Treatment Plant (collectively the “Fees”) from July 30, 2016 to present. The Lawsuit alleges that these Fees under certain circumstances (see Question No. 5) were not authorized under the Utility Service Fees Ordinance and were assessed by the City to certain Commercial and Residential Building Permit Applicants for both new builds and renovations.

Named Plaintiff filed this Lawsuit on behalf of itself and all similarly situated Commercial and Residential Building Permit Applicants who were assessed and paid these Fees from July 30, 2016 to present.

3. Why is this Lawsuit a class action?

In a class action, one or more people called class representatives or representative plaintiffs sue on behalf of all people who have similar claims. Together, all of these people are called a class and the individuals are called class members. One court resolves the issues for all class members.

4. Why is there a Settlement?

The Court has not decided in favor of Named Plaintiff or the City. Instead, both sides have agreed to a Settlement. By agreeing to the Settlement, the Parties avoid the costs and uncertainty of a trial and related appeals and Class Members received the benefits described in this Notice.

The “Class Representative” appointed to represent the Class and the attorneys for the Class (“Class Counsel”, see Question No. 15) think that the Settlement is best for all Class Members.

Who is in the Settlement?

5. Am I part of the Class?

You are a member of the Class if you applied for and received a Commercial or Residential Building Permit in the City of Savannah from July 30, 2016 to present and were assessed and paid:

- A. Water Tap-in Fees where no water meter service application was submitted;
- B. Sewer Tap-in Fees where no request for a permit to connect to a sanitary sewer line was submitted; or
- C. Reclaimed Water Fees where no water meter application was submitted; or
- D. Water Additional Fees, Sewer Additional Fees or Sewer Site Additional Fees but were not a new customer as the applicant had an existing water and/or sewer account for the property at the time of submission of the Building Permit Application; or
- E. Treatment Plant Fees for any treatment plants other than Crossroads Sewage Plant, Georgetown Plant, President Street Plant or Travis Field Treatment Plant.

6. What if I am still not sure if I am included in the Class?

After the Administrator calculates the individual refunds for the Class Members, the Class Members’ names who are determined to be entitled to refunds along with the refund each will receive will be posted on the Main Settlement Webpage on the City’s website as described in Question No. 25. You can visit the Main Settlement Webpage on the City’s website (<https://www.Savannahga.gov/VTAL>) where you can search for your name and/or property for which you believe you may be entitled to a refund.

You can also call Class Counsel at (912) 638-5200 to get help.

The Proposed Settlement

7. What are the Settlement Benefits?

If the Settlement is approved by the Court at or after the Fairness Hearing described in Question No. 20, the City has agreed to create an Aggregate Refund Fund in the amount of \$3,500,000.00 (the “Aggregate Refund Fund”). The City will pay the Aggregate Refund Fund as follows:

- (A) \$1,750,000.00 within fourteen (14) days of entry of the Final Approval Order (the “Initial Aggregate Refund Fund Payment”); and
- (B) \$1,750,000.00 on or before the one-year anniversary of entry of the Final Approval of the Consent Judgment (the “Final Aggregate Refund Fund Payment”).

If the Court finally approves this Settlement and if you are entitled to a refund for Fees paid from July 30, 2016 to present you will receive a refund calculated as explained in Question No. 11.

The money in the Aggregate Refund Fund will only be distributed if the Court finally approves this Settlement.

8. How do I receive my refund?

Following the Final Approval of the [Proposed] Consent Judgment settling this Lawsuit (described in Question No. 20), the Administrator will calculate the individual refund amounts. After the Administrator calculates the individual refunds for the Class Members, the Class Members’ names along with the refund each will receive will be posted on the Main Settlement Webpage on the City’s website along with information about how a Class Member can object to individual refund amounts. As deemed appropriate by the Court appointed Administrator, updates as to timing of the individual Class Member refund calculation and payment will also be posted on the Main Settlement Webpage on the City’s website.

If your name is listed as a Class Member on the Main Settlement Webpage, the refund will be mailed to you without the need for you to take any action. (See Question No. 14 for more information).

9. What if my address has changed?

If your address is different from the address listed on the Administrator’s list of Class Members posted on the Main Settlement Webpage, please download and complete the Address Update for Class Member Form from the Main Settlement Webpage. Follow the instructions on the Form and return it to Terry D. Turner, Jr. of Gentle Turner & Benson, LLC, 501 Riverchase Parkway East, Suite 100, Hoover, Alabama 35244.

10. What if I am not listed on the Main Settlement Webpage as a Class Member?

As explained in Question No. 8, following the Final Approval of the [Proposed] Consent Judgment settling this Lawsuit (described in Question No. 20), the Administrator will calculate the individual refund amounts and post the names of the Class Members and the refunds each will receive on the Main Settlement Webpage on the City’s website. There will be a Claim Form on that webpage for any Building Permit Applicant not identified as a Class Member by the Administrator to download, complete and submit according to the directions provided. The Administrator will review the claim and notify the Building Permit Applicant of his findings. The Building Permit Applicant will have fifteen (15) days to object to the Administrator’s findings.

Objections will be heard by a Special Master. The Special Master's findings will be final and binding.

11. How are the refunds calculated?

Following Final Approval of the Consent Judgment, the Administrator is directed to identify the Classes and Class Members and determine the refunds owed.

Within ninety (90) days of Final Approval of the [Proposed] Consent Judgment, Defendant City of Savannah shall provide Administrator with access to all records of the City of Savannah from which the identity and last known contact information including name, mailing address, email and telephone number, payment amount and payment date, can be determined for all of the following applicants:

- (1) All Commercial or Residential Building Permit Applicants who were assessed and paid Water Tap-in Fees where no water meter service application was submitted in conjunction with the building application from July 30, 2016 to present;
- (2) All Commercial or Residential Building Permit Applicants who were assessed and paid Sewer Tap-in Fees where no request for a permit to connect to a sanitary sewer line was submitted in conjunction with the building application from July 30, 2016 to present;
- (3) All Commercial or Residential Building Permit Applicants who were assessed and paid Reclaimed Water Fees where no water meter application was submitted in conjunction with the building application from July 30, 2016 to present;
- (4) All Commercial or Residential Building Permit Applicants who were assessed and paid Water Additional Fees, Sewer Area Additional Fees or Sewer Site Additional Fees but had an existing water and sewer account for the property at the time of the application from July 30, 2016 to present; and
- (5) All Commercial or Residential Building Permit Applicants who were assessed and paid Treatment Plant Fees for any treatment plants other than the Crossroads Sewage Plant, Georgetown, President Street Plant, or Travis Field Treatment Plant from July 30, 2016 to present.

The Administrator will identify the Class Members who are entitled to refunds. For any Class Members in Classes 1 to 5, the Refund shall be calculated as follows:

1. All Class 1 Class Members who submitted Commercial or Residential Building Permit Applicants who were assessed and paid Water Tap-in Fees where no water meter service application was submitted in conjunction with the application from July 30, 2016 to present shall be refunded the pro-rata amount of the Water Tap-in Fee paid;
2. All Class 2 Class Members who submitted Commercial or Residential Building Permit Applicants who were assessed and paid Sewer Tap-in Fees where no request for a

permit to connect to a sanitary sewer line was submitted in conjunction with the application from July 30, 2016 to present shall be refunded the pro-rata amount of the Sewer Tap-in Fee paid;

3. All Class 3 Class Members who submitted Commercial or Residential Building Permit Applicants who were assessed and paid Reclaimed Water Fees where no water meter application was not submitted in conjunction with the application from July 30, 2016 to present shall be refunded the pro-rata amount of the Reclaimed Water Fees paid;
4. All Class 4 Class Members who submitted Commercial or Residential Building Permit Applicants who were assessed and paid Water Additional Fees, Sewer Area Additional Fees or Sewer Site Additional Fees but had an existing water and sewer account for the property at the time of the application from July 30, 2016 to present shall be refunded the pro-rata amount of the Water Additional Fees, Sewer Area Additional Fees or Sewer Site Additional Fees paid;
5. All Class 5 Class Members who are Commercial or Residential Building Permit Applicants and who were assessed and paid Treatment Plant Fees for any treatment plants other than the Crossroads Sewage Plant, Georgetown, President Street Plant or Travis Field Treatment Plant from July 30, 2016 to present shall be refunded the pro-rata amount of the Treatment Plant Fees paid.

The Administrator will calculate interest on the calculated refund from the date of overpayment through the date of final approval of this [Proposed] Consent Judgment and add this amount to the calculated refund for each Class Member. The resulting calculation shall be the refund owed to each Class Member (the “Calculated Refund”).

12. How much will my refund be?

If you are entitled to a refund, your refund will be calculated as explained in Question No. 11. At this time, it is not known how much each individual refund will be. The Administrator will calculate the individual refund amounts after the Final Approval Hearing (see Question No. 20) and after the Court finally approves the Settlement. See Question No. 14 regarding timing of payment.

13. What am I giving up as part of the Settlement?

If the Settlement is finally approved by the Court after the Final Approval Hearing, you will give up your right to sue the City of Savannah and other persons (“Releasees”) as to all claims arising out of any and all claims for the payment of Fees asserted in the Lawsuit related to or arising out of the assessment of Fees on all Commercial or Residential Building Permit Applications as alleged in the Lawsuit from July 30, 2016 to present whether in law or equity (the “Released Claims”).

The full text of the of the Release is set forth in Question No. 26. Additionally, a copy of the [Proposed] Consent Judgment can be found on the Main Settlement Webpage on the City’s

website. *You should carefully read the Release and if you have any questions about the release you may contact Class Counsel at (912) 638-5200.*

14. When will I get paid?

On September 15, 2023 the Court will hold a hearing to decide whether to approve the Settlement. If the Court approves the Settlement, the Administrator will begin to verify the individual Class Members who are entitled to refunds and determine the individual amount of the refund to be paid to each Class Member.

The Administrator will endeavor to complete the individual Settlement Class Member refund calculations within 9 months of the entry of the Final Order after the Final Approval Hearing described in Question No. 20.

The Aggregate Refund Fund shall be paid to a Qualified Settlement Fund under Section 468B of the Internal Revenue Code to be identified and established prior to and to be specified in the Final Order (the “VTAL QSF”) to carry out the payment of refunds to individual Class Members. The Final Order will appoint an administrator of the VTAL QSR (the “VTAL QSR Administrator”).

Within thirty (30) days of the later of the expiration of the period for objecting to individual refund amounts or a final ruling by the Special Master on any individual refund calculation, the Administrator shall identify to the VTAL QSF Administrator the amount of refund due each Qualified Class Member (as that term is defined in the [Proposed] Consent Judgment) and the address to which the refund is to be mailed. The VTAL QSF Administrator shall issue refund checks to each Qualified Class Member from available funds in the Aggregate Refund Fund within thirty (30) days of receipt of notice from the Administrator.

Please note that there is often a delay after a Settlement like this is approved. For example, there may be appeals of the Court’s Order approving the Settlement. The relief to the Class Members provided for by this Settlement may not be implemented until appeals are finished and the Court’s Order finally approving this Settlement is upheld. Because of this there could be a delay in payment of the individual refund amounts as provided for in the Settlement.

Please be patient. Updates as deemed necessary will be posted on the Main Settlement Webpage on the City’s website.

The Lawyers Representing You

15. Do I have a lawyer in this Lawsuit?

Yes. The Court decided that the law firm of Roberts Tate, LLC and Manly Shipley, LLP are qualified to serve as Class Counsel and to represent you and all Class Members.

16. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. But if you want your own lawyer, you may hire one at your own cost.

17. How will the lawyers get paid and will there be incentive payments?

Class Counsel has not received any fees for the lawyer and professional time it has devoted to this Lawsuit, nor have they received any reimbursement for any of the out of pocket expenses incurred. For work done through the final approval of this Settlement, Class Counsel will apply to the Court for an award of attorneys' fees not to exceed 40% of the Aggregate Refund Fund plus documented out of pocket expenses incurred from the Aggregate Refund Fund (the "Fee Petition"). The City takes no position on the Fee Petition, will not oppose the Fee Petition and intends to defer such decision to the judgment and discretion of the Court.

In addition, Class Counsel will ask the Court to award to the Named Plaintiff, VTAL Real Estate, LLC, a class service payment from the Aggregate Refund Fund in recognition of its efforts on behalf of the Class (the "Class Service Petition"). Named Plaintiff was prepared to appear and testify at trial on behalf of the Class. The City takes no position on the Class Service Petition, will not oppose the Class Service Petition and intends to defer such decision to the judgment and discretion of the Court.

The amounts to be awarded as attorney's fees, expenses and Named Plaintiff's service award must be approved by the Court. Class Counsel will file the Fee Petition and the Class Service Petition at least twenty (20) days prior to the Final Approval Hearing. You can object to the Fee Petition and the Class Service Petition in compliance with the instructions in Question No. 18.

A copy of the Fee Petition and the Class Service Petition will be posted on the Main Settlement Webpage on the City's website the same day that it is filed with the Court.

Supporting or Objecting to the Settlement

18. How do I tell the Court that I like or do not like the Settlement?

If you are a Class Member, you can tell the Court that you like the Settlement or you can tell the Court that you do not agree with the Settlement or some part of the Settlement. You can object to the entire Settlement or any part of the Settlement. You can give reasons why you do not think that the Court should approve the Settlement. You can also object to the Fee Petition or the Class Service Petition. You can give reasons for the objection and why you think the Court should not approve the Fee Petition or the Class Service Petition.

In order for the Court to consider your written comments or objections, all objections to the [Proposed] Consent Judgement settling this Lawsuit or to the Fee Petition or the Class Service Petition must be mailed to the Clerk of Court, Named Plaintiff's Counsel and Defendant's Counsel.

For an objection to be considered by the Court, the objection must be postmarked on or before August 28, 2023 and sent to the Court, Class Counsel and Counsel for Defendant at the following addresses:

Court	Clerk of the Superior Court of Chatham County P.O. Box 10227 Savannah, Georgia 31412
Class Counsel	James L. Roberts, IV, Esquire Roberts Tate, LLC Post Office Box 21828 St. Simons Island, Georgia 31522
Counsel for Defendant	<p>R. Bates Lovett, Esq City Attorney, 6 East Bay Street Gamble Building, 3rd Floor Savannah, Georgia 31401</p> <p>Patrick T. O'Connor, Esquire Patricia T. Paul, Esquire Oliver Maner LLP P.O. Box 10186 Savannah, GA 31412</p>

Additionally, for an objection to be considered by the Court, the objection must also set forth:

- a. The name of the Lawsuit;
- b. Your full name, address and telephone number;
- c. An explanation of the basis upon which you claim to be a Class Member;
- d. All grounds for the objection, accompanied by any legal support for the objection known to you or your counsel;
- e. The number of times the you have objected to a class action settlement within the five (5) years preceding the date on which you file the objection, the caption of each case in which you have made such objection, and a copy of any orders or opinions to or ruling upon your prior such objections that were issued by any court in each listed case;
- f. The identity of all counsel who represented you, including any former or current counsel who may be entitled to any compensation for any reason related to the objection to the Consent Judgment settling this Lawsuit or to Fee Petition and Class Service Petition;

- g. The number of times your counsel and/or counsel's law firm have objected to a class action settlement within the last five (5) years preceding the date you file the objection, the caption of each case in which the counsel or the firm has made such objection, and a copy of any order or opinions related to or ruling upon counsel or the firm's prior such objections that were issued by any court in each listed case;
- h. Any and all agreements that relate to the objection or the process of objecting – whether written or verbal – between you or your counsel and any other person or entity;
- i. The identity of all counsel representing you who will appear at the Final Approval Hearing;
- j. A list of all persons which will be called to testify at the Final Approval Hearing in support of the objection;
- k. A statement confirming whether you intend to personally appear and/or testify at the Final Approval Hearing; and
- l. Your signature (your attorney's signature is not sufficient).

The filing of an objection may allow Class Counsel or Counsel for the City to notice the objecting party to take his or her deposition at an agreed upon location before the Final Approval Hearing, and to seek any documentary evidence or other tangible things that are relevant to the objection. Failure of the objector to comply with the discovery requests may result in the Court striking the objector's objection and otherwise denying that person the opportunity to make an objection or be further heard. The Court reserves the right to tax the costs of any such discovery to the objector or the objector's counsel should the Court determine that the objection is frivolous or is made for an improper purpose.

Any Class Member who fails to object in the manner set forth above will be deemed to have forever waived his or her objections.

19. Can I call the Court or the Judge's office about my objections?

No. If you have questions, you may visit the Main Settlement Webpage on the City's website (<https://www.Savannahga.gov/VTAL>) for more information about the settlement. You may also call Class Counsel.

20. When and where will the Court decide to approve the Settlement?

The Court will hold a Final Approval Hearing at 9:30 a.m. on September 15, 2023 at the Chatham County Courthouse. After the Final Approval Hearing the Court will decide whether to finally certify the Settlement Classes and whether to approve the Settlement. The Court may also decide how much to pay Class Counsel and whether to award a class service payment to Named Plaintiff. Additionally, if no objections are filed, the Court may elect to conduct the hearing telephonically or virtually without further notice to the Class. We do not know how long it will take the Court to make its decision.

Important! The time and date of the Final Approval Hearing may change without additional mailed or published notice.

21. Why is there a hearing?

At the Final Approval Hearing the Court will consider whether to finally certify the Settlement Classes and whether the Settlement is fair, reasonable and adequate. If there are objections that were properly submitted (see Question No. 18) the Court will consider them. At its discretion, the Court may listen to people who have properly filed objections (see Question No. 18) and have asked to speak at the hearing.

22. Do I have to come to the hearing?

No. Class Counsel will present the [Proposed] Consent Judgment settling this Lawsuit to the Court. You or your own lawyer are welcome to attend at your expense, but you are not required to do so. If you make an objection, you do not have to come to Court to talk about it. As long as you mailed or otherwise submitted your written objection according to the instructions (including the deadlines) in Question No. 18, including all of the information required, the Court will consider it.

23. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must mail or otherwise submit an objection according to the instructions (including the deadlines) in Question No. 18. The Court, in its discretion, may determine which, if any, of the Class Members who properly submitted an objection and requested to be heard at the Final Approval Hearing will be entitled to appear and be heard.

If you wish to present evidence at the Final Approval Hearing you must identify any witnesses you may call to testify and any exhibits you intend to introduce as evidence at the Final Approval Hearing in your written objection (see Question No. 18).

24. Can I exclude myself from the Settlement?

No. You do not have the right to exclude yourself from the Settlement, but you do have the right to object to the Settlement in writing (see Question No. 18).

Getting More Information about the Settlement

25. How do I get more information?

Visit the Main Settlement Webpage on the City's website at <https://www.Savannahga.gov/VTAL> where you can find claim forms, information on the Lawsuit and the Settlement, and documents such as the Complaint filed by Named Plaintiff and the [Proposed] Consent Judgment.

You may also call Class Counsel at (912) 638-5200 or write Class Counsel at:

James L. Roberts, IV, Esquire
ROBERTS TATE, LLC
Post Office Box 21828
St. Simons Island, Georgia 31522

PLEASE DO NOT CALL OR WRITE TO THE JUDGE CONCERNING THIS LAWSUIT OR THE SETTLEMENT. PLEASE DO NOT CALL THE CLERK OF COURT. EXCEPT FOR SUBMITTING OBJECTIONS IN ACCORDANCE WITH THE INSTRUCTIONS PROVIDED IN QUESTION NO. 18, PLEASE DO NOT WRITE TO THE CLERK OF COURT CONCERNING THIS LAWSUIT OR THE SETTLEMENT.

Full Text of the Settlement

26. What is the full text of the Release for the Settlement?

A. Released Claims

Named Plaintiffs and Class Members agree to release and forever discharge, and by this Agreement do, for themselves, their heirs, executors and administrators, release and forever discharge Defendant, its past, present and future parent and affiliate corporations, offices and departments, and their respective past, present and future divisions, subsidiaries, affiliates and related governmental entities and their successors, assigns, directors, officers, employees, attorneys, agents and representatives, personally and as directors, officers, employees, attorneys, agents, or representatives (collectively, the “Releasees”), of and from all manner of action and actions, causes and causes of action, sums of money, covenants, contracts, controversies, agreements, promises, damages (including, but not limited to, attorneys fees), claims and demands for the payment of fees asserted in the Lawsuit related to or arising out of the assessment of fees on all commercial or residential building permit applicants as alleged in the Lawsuit from July 30, 2016 to present whether in law or in equity (the “Released Claims”).

B. Effect of Failure to Grant Final Approval

In the event that the Court fails to enter an Order granting Final Approval to this [Proposed] Consent Judgment, the Lawsuit shall resume, this [Proposed] Consent Judgment and any Order granted pursuant to this [Proposed] Consent Judgment, including but not limited to the Preliminary Approval Order shall have no res judicata or collateral estoppel effect and shall be of no force or effect, and the Parties’ rights and defenses shall be restored without prejudice as if this [Proposed] Consent Judgment had never been entered into unless either: (1) Named Plaintiff and Defendant agree in writing to a modification of the [Proposed] Consent Judgment and obtain approval of the [Amended Proposed] Consent Judgment with such agreed to modification, or (2) Named Plaintiff and Defendant successfully obtain reversal of the decision denying entry of the Order granting Final Approval to this [Proposed] Consent Judgment after reconsideration or appellate review.

C. Continuing Jurisdiction

The Court shall retain jurisdiction over the interpretation and implementation of this [Proposed] Consent Judgment, as well as any matters arising out of, or related to, the interpretation or implementation of this [Proposed] Consent Judgment.