

FIFTH JUDICIAL DISTRICT COURT, IN AND FOR WASHINGTON COUNTY, STATE OF UTAH

THIS IS A NOTICE OF CLASS ACTION LITIGATION THAT MAY AFFECT YOUR RIGHTS IF YOU PAID RESIDENTIAL IMPACT FEES TO THE WASHINGTON COUNTY WATER CONSERVANCY DISTRICT BETWEEN AUGUST 23, 2012 AND DECEMBER 31, 2017.

The Fifth Judicial District Court authorized this notice, but has made no determination regarding the claims made. This is not a solicitation from a lawyer.

- The Washington County Water Conservancy District ("WCWCD" or the "District") charges impact fees for new construction in Washington County.
- From August 2012 through December 31, 2017, the WCWCD's one-time impact fee for a new single family home was typically between \$5812.00 and \$7417.00.
- In 2013, a number of entities filed a lawsuit claiming that WCWCD charged impact fees that violated the Utah Impact Fee Act.
- The WCWCD asserts that the impact fees charged were lawful and appropriately calculated, have been imposed in order to fairly allocate the costs new development imposes on its systems and that the impact fee funds were legally expended.
- On November 13, 2020, the court entered an order allowing the lawsuit to proceed as a class action for those who paid residential impact fees.
- A class action is a case in which one or more persons sue on behalf of other people who have similar claims. Those people together are a "Class" or "Class Members." You are a potential Class Member because the WCWCD's records indicate that you or your company may have paid an impact fee or signed a promissory note obligating you to pay an impact fee to WCWCD for a residential lot or development between August 23, 2012 and December 31, 2017.
- Your legal rights are affected whether you act, or don't act. Please read this notice carefully.

YOUR OPTIONS AND LEGAL RIGHTS WITH RESPECT TO THIS CLASS ACTION:

A. THE COURT WILL EXCLUDE YOU FROM THE LITIGATION AND THEREFORE FROM THE CLASS IF YOU SO REQUEST WITHIN 30 DAYS BY RETURNING THE ENCLOSED FORM. IF YOU DO NOT RETURN THE FORM, YOU WILL BE INCLUDED IN THE CLASS AND THUS REMAIN ELIGIBLE FOR A REFUND OF THE IMPACT FEE IF ANY REFUND IS MADE.

B. THE FINAL JUDGMENT, WHETHER FAVORABLE TO THE CLASS MEMBERS OR AGAINST THEM, WILL INCLUDE ALL MEMBERS WHO DO NOT "OPT OUT" BY REQUESTING EXCLUSION.

C. ANY POTENTIAL CLASS MEMBER WHO DOES NOT REQUEST EXCLUSION MAY, IF HE OR SHE DESIRES, ENTER AN APPEARANCE THROUGH HIS OR HER OWN COUNSEL.

- This notice more fully explains the potential class members' rights and options-and the deadlines to

exercise them.

- The Court in charge of this case will conduct a trial addressing the parties' claims and defenses and will determine whether Plaintiffs' claims have merit and, if so, the amount of a refund. This may take several years.

COMMON QUESTIONS AND ANSWERS:

Why did I get this notice?

A Class Administrator has completed a preliminary review of fees collected by WCWCD between August 23, 2012, and December 31, 2017. According to those records and other research, the Class Administrator has determined that you or your company may have paid a fee and thus incurred the cost of such a residential impact fee.

What is an impact fee?

Under Utah law, local utilities and municipalities may appropriately impose an impact fee on new development for the cost of providing facilities to serve that new development. Impact fees can be a fair and appropriate way to allow new development to pay its fair share, if the fees are imposed reasonably and legally.

What is this lawsuit about?

In the litigation filed in 2013, the plaintiffs ask the Court to determine if the impact fees charged to new residential development were roughly equivalent to the cost of constructing facilities necessary to serve new development, if the impact fees were imposed in accordance with applicable law, and if the impact fee funds collected were legally spent. If these questions are determined in the plaintiffs' favor, the plaintiffs request that the difference between what WCWCD charged for impact fees, and what it should have charged, be refunded to those upon whom the fees were imposed.

What fees are imposed by WCWCD?

Since 2006, the WCWCD has imposed impact fees on new development within its service area that have or will connect to the WCWCD water system. In October 2006 the impact fee was set at \$4,337.00 for a new residence. The WCWCD scheduled the fee to increase by 5% each year until it was fully implemented. The fee was \$5,812.00 in 2012 and was increased to \$7,417.00 through December 31, 2017. A new fee was approved and implemented as of January 1, 2018.

Why is this lawsuit a class action?

The entities who brought this lawsuit paid or signed promissory notes and thus incurred the costs of impact fees to WCWCD from August 23, 2012 through December 31, 2017 and are the named Plaintiffs. WCWCD is the Defendant. A class action allows one court to resolve all the claims more efficiently than if each person who incurred the costs of impact fees to the WCWCD was required to bring his or her own separate lawsuit.

Which impact fees are involved?

Only fees paid for residential lots, homes, and apartments are included in the class action.

What experts have been retained?

Both parties have retained the services of individuals to act as expert witnesses on issues such as impact fees and water development. If permitted by the court, these experts are anticipated to offer opinions in support of the parties' competing positions.

When will the matter be resolved? Once this notice to class members is completed and the thirty (30) day "opt out" period has passed, it is expected that a trial will be held and the issues resolved. It is hoped that this may occur in 2023. If any part of the decision is appealed to an appellate court, the process may take several years more.

Could the lawsuit be settled? Settlement is always an option and is often preferred to a trial. No settlement can occur, however, without the agreement of the parties and approval of the Court. In the event a settlement does occur, both the Class Counsel and the Court are charged by the law to look after the interests of you and the other class members.

How much might the refunds be? Those bringing the claims argue that the fees charged in a given case might be several times the fee that was justified. The WCWCD argues that the fees imposed are still not sufficient to cover the costs new development imposes on its water systems, so the fee could and should have been higher. If the WCWCD prevails, no refund will be paid. You will not be required to pay additional impact fees for your existing home or development in any event.

How can I keep up on the progress? The Class Administrator maintains a website at www.ImpactFeeClassAction.com where you can find current status of the case and copies of the filings as well as other information.

Are case documents on line? Yes, at www.ImpactFeeClassAction.com

Do class members have a lawyer in this case? Yes. The class is represented by the law firms of Kirton McConkie of Salt Lake and St. George and Anderson Call & Wilkinson of Ogden. The Court has determined that the representative parties and their counsel can fairly and adequately protect the interest of the class members who do not opt out.

Can I get my own lawyer? Yes. If you want your own lawyer, you may retain one. For example, you may ask your own lawyer to appear on your behalf before the Court if you want someone other than the Class Counsel to speak for you. However, you will be responsible for any fees which your own lawyer may charge for representing you.

How will the lawyers be paid? The lawyers of the class will be paid a percentage of any recovery received from WCWCD, contingent upon the class prevailing on its claim. Any award of attorneys' fees will be approved in advance by the Court.

What if I opt out of the class? If you opt out of this lawsuit you will not be bound or affected by the result, whether favorable or unfavorable. Among other things, this means that you may not share in any partial refund that the named or opt-in plaintiffs may obtain. You will likewise not be bound by any judgment or decision in favor of WCWCD.

What if I don't opt out? You will become part of the class and will be represented by counsel for

the class and you will be bound by the results of the litigation.

How do I opt out?

On or before the deadline shown on the enclosed forms, which is thirty days from the date the forms were mailed to you, send written notice of your intent to opt out in the form provided herewith to:

Class Action Administrator
c/o Kirton McConkie
301 N. 200 E.
Suite 3A
St. George, UT 84770

Why file the claim now?

If you return the enclosed Class Member Information Form, we will have verified your name, address and amount of the fees you paid, which can expedite any future communications.

What if I do not file a claim now?

If you do not return the Class Member Information Form, we will need to contact you again and the process may be delayed. We also will not have evidence that we have your name, address, and other information correctly entered into our database.

How do I file a claim?

Either do nothing and you will be included in the class, or return the form provided for your use, including information we have obtained about the address of the home or project associated with impact fees you may have paid. If this is correct, sign the form and return it to us at the address above. Please correct any information that is in error.

How can I keep up on the progress?

The Class Administrator will maintain a website at www.ImpactFeeClassAction.com with current status of the case and filings.

Are case pleadings on line?

Yes, at www.ImpactFeeClassAction.com you will find the complaint, answer, motions and memoranda, impact fee documents and other information related to the case, including a decision by the Utah Supreme Court in this matter decided in 2016.

How can I get other information?

Please email your questions to: info@ImpactFeeClassAction.com. The Class Administrator will respond promptly with a return email or telephone call.

OPT OUT FORM

WASHINGTON TOWNHOMES V. WASHINGTON COUNTY WATER CONSERVANCY DISTRICT

{NOTE - the capitalized words below represent information that will be inserted into this form from a class member database prior to its being sent to the class member. Each form will include this information already - the class member will not need to provide it, but only to verify it.}

To opt out of the above case, please complete and mail this form, postmarked no later than the RETURN DATE to:

Class Action Administrator
Kirton McConkie Law Firm
301 N. 200 E.
Suite 3A
St. George, UT 84770

{NOTE - the capitalized words below represent information that will be inserted into this form from a class member database prior to its being sent to the class member. Each form will include this information already - the class member will not need to provide it, but only to verify it.}

Property Owner/Payor: NAME

Property Parcel Number or Subdivision Name: ADDRESS

Municipality: CITY, Utah

The Class Administrator's records indicate that you may be associated with the payment of impact fee(s) in the amount of: \$DOLLAR AMOUNT PAID

If your name or address printed above is incorrect, please fill out any information which needs to be corrected below:

Name:

Address:

City: _____ State: ____ Zip: _____

On behalf of myself and/or the company named below I hereby OPT OUT of and DO NOT wish to participate with other members of the class of persons listed as class action plaintiffs in the case of Washington Townhomes, LLC et al. v. Washington County Water Conservancy District, Fifth Judicial District Case No. 130500465.

I understand that no fees or costs will be assessed against me or the company named below as a result of my opting out of this case, and I will not benefit or be bound in any way by the results of this lawsuit. I declare

under criminal penalty of the law of Utah that the above information is correct to the best of my knowledge and that I consent to these terms personally or am authorized on behalf of the above-named company to sign this instrument.

Company Name, if Applicable: _____

Signed: _____ Date: _____

Printed Name: _____ Title, if Applicable: _____

Signed: _____ Date: _____

Printed Name: _____ Title, if Applicable: _____

CLASS MEMBER INFORMATION FORM

WASHINGTON TOWNHOMES V. WASHINGTON COUNTY WATER CONSERVANCY DISTRICT

{NOTE - the capitalized words below represent information that will be inserted into this form from a class member database prior to its being sent to the class member. Each form will include this information already - the class member will not need to provide it, but only to verify it.}

If you do not want to opt out and desire to assist the Class Administrator in making a claim, please complete and mail this form, to:

Class Action Administrator
Kirtan McConkie
301 N. 200 E.
Suite 3A
St. George, UT 84770

YOU DO NOT NEED TO FILE THIS FORM AT THIS TIME TO BE PART OF THE LAWSUIT. IF FURTHER COMMUNICATIONS BECOME NECESSARY, THE CLASS ADMINISTRATOR WILL ATTEMPT TO CONTACT YOU AGAIN.

Property Owner/Payor: NAME

Property Parcel Number or Subdivision Name: ADDRESS

Municipality: CITY, Utah

The Class Administrator's records indicate that you may be associated with the payment of impact fee(s) in the amount of: \$DOLLAR AMOUNT PAID

If your name or address printed above is incorrect, please fill out any information which needs to be corrected below. The address you provide will be the address we use to contact you with regard to any refund:

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Email address: _____ Telephone Number: _____

I declare under criminal penalty of the law of Utah, that on or about DATE I paid or incurred the costs of an impact fee to the Washington County Water Conservancy District in the amount of approximately AMOUNT. The impact fees were paid to develop property located at PARCEL NO. OR SUBDIVISION. I certify that all information submitted in connection with this claim is true, accurate, correct and complete to the best of my knowledge and belief.

On behalf of myself and/or the entity named below, I agree to participate with other members of the class of persons listed as class action plaintiffs in the case of Washington Townhomes, LLC et al. v. Washington County

Water Conservancy District, Fifth Judicial District Case No. 130500465.

I understand that any recovery by class members depends upon the class prevailing in this suit and is subject to the approval of the Court. I understand further that the class' attorneys' fees will be paid as a percentage of the recovery, if at all; that payment is contingent upon the class prevailing in this suit; and, that no fees or costs will be assessed against the refund except as approved in advance by the Court.

Company Name, if Applicable: _____

Signed: _____ Date: _____

Printed Name: _____ Title, if Applicable: _____

4832-4386-5819, V. 1

4850-1392-5366, v.1