

LEGAL NOTICE OF CLASS ACTION SETTLEMENT

PLEASE CAREFULLY READ THIS ENTIRE NOTICE. IF YOU ARE OR WERE
A CUSTOMER OF PASADENA WATER & POWER, YOUR RIGHTS MAY BE AFFECTED

You are receiving this notice by Order of the Los Angeles County Superior Court.

This is not a solicitation from a lawyer. This is not a communication from the City of Pasadena.

IF YOU RECEIVED WATER SERVICE FROM THE CITY OF PASADENA ON PROPERTY LOCATED OUTSIDE CITY LIMITS AT ANY TIME SINCE MARCH 24, 2013, YOUR RIGHTS MAY BE AFFECTED BY THIS CASE.

SUMMARY OF SETTLEMENT

- Within one year of the court's approval of the settlement and following preparation of a water rate study, the City will consider eliminating the surcharge imposed on customers of Pasadena Water and Power (PWP) who reside outside the City of Pasadena for Commodity and Distribution & Customer (D&C) charges. If the City only considers eliminating this surcharge, but does not adopt rates that do so, then the settlement is void, the matter will return to court for trial, and Plaintiffs' attorneys will not be entitled to the attorneys' fees and expenses noted below.
- Within that same one year, the City will consider a Capital Improvements Charge (CIC) differential, if any, imposed on customers of PWP who reside outside the City of Pasadena to be calculated based on bona fide projected costs that the City would not otherwise incur when it makes capital improvements, but for the fact such improvements are located in unincorporated County of Los Angeles. If the City only considers calculating the CIC differential in this way, but does not adopt rates that do so (or that eliminate the differential altogether), then the settlement is void, the matter will return to court for trial, and Plaintiffs' attorneys will not be entitled to the attorneys' fees and expenses noted below.
- The City Council's consideration of these rate changes will take place after the required public notice, hearing and protest procedures required by Proposition 218.
- Plaintiffs' attorneys will be awarded attorneys' fees and expenses of up to \$485,000.
- If the approved rates do eliminate the 25% surcharge, the City agrees it will not adopt a rate differential for Commodity or D&C charges unless the rationale for the differential applies consistently to customer classes without regard to whether the customers are located inside or outside the City limits. The City also agrees not to base any differential on the theory that inside City customers have superior rights to the City's adjudicated groundwater rights.
- Plaintiffs are free to challenge future rates, differentials or surcharges, if any.
- Plaintiffs waive their claim to any past refunds.
- **This settlement affects your legal rights, regardless of whether you act or don't act. Please read this notice carefully!**

WHAT THE LAWSUIT IS ABOUT

The Lawsuit, *Howard Jarvis Taxpayers Association et al. v. City of Pasadena* (Los Angeles Superior Court Case No. BC 550394) was filed by Howard Jarvis Taxpayers Association, Linnea Warren, Thomas Wolfe and Edward Henry ("Plaintiffs") to challenge the 25% surcharge imposed on the Commodity and D&C rates charged by the City of Pasadena for water service to customers who are not residents of the City. Plaintiffs alleged that the 25% surcharge was excessive under Article XIII D of the California Constitution (Proposition 218). Plaintiffs filed the lawsuit on behalf of themselves and all other similarly situated taxpayers. Plaintiffs also seek a refund of the alleged overcharges from March 24, 2013, to the date refunds are paid. Plaintiffs did not originally challenge the 35% surcharge imposed on the CIC charged to customers who are not residents of the City, but after the lawsuit was filed, Plaintiffs alleged that the 35% CIC surcharge was excessive under Proposition 218.

The City of Pasadena disagrees with the Plaintiffs and asserts that its rates comply with Proposition 218 and therefore no refund or other relief is warranted. The Court has not decided who is right.

WHY WAS THIS NOTICE ISSUED?

The Court issued this notice because you have a right to know about the proposed class action settlement which the Court has preliminarily approved and your rights and deadlines to act. If the Court grants final approval, the settlement becomes final pursuant to its terms.

AM I A CLASS MEMBER?

All persons who currently or formerly fit this description are members of the Class:

Property owners and tenants whose owned or rented real property is located outside the boundary of territory incorporated as the City of Pasadena, whose owned or rented real property receives water service from the City of Pasadena, who are subject to the water rates and charges applicable to non-residents, and who have paid said rates and charges at any time since March 24, 2013.

WHAT ARE YOUR OPTIONS IN THIS SETTLEMENT?

You may exercise one of three options: (1) do nothing and be bound by the terms of the settlement, (2) exclude yourself from the settlement, or (3) object to the settlement. If you would like to exclude yourself from the settlement, or if you would like to object to

the settlement, you must do so by **September 11, 2018**. If you stay in the Class, you may, but are not required to, file an objection, but any objections you do wish to file must be in writing and postmarked by September 11, 2018.

On October 11, 2018, at 11:00 a.m., the court will hold a Fairness Hearing to consider whether to issue final approval of the settlement and requested attorneys' fees and expenses of up to \$485,000. You may attend at your own expense, and you may ask to speak, but you are not required to do so. You do not need to appear, in person or through counsel, at the Fairness Hearing for your objection to be considered, and you do not need to file an objection to participate in the Fairness Hearing. If the Fairness Hearing is rescheduled, a notice of the new date or time will be posted on the settlement website.

WHAT DO I HAVE TO DO TO RECEIVE THE BENEFITS OF THE SETTLEMENT?

You do not need to submit a claim or any paperwork to receive the settlement benefits. If following the Proposition 218 public notice, hearing and protest procedures, the City Council eliminates the 25% surcharge on the Commodity and D&C charges and also limits any CIC differential to the costs described above, you will receive the benefit of lower water rates indefinitely.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want to participate in the settlement, and you want to keep the right to sue or continue to sue the City of Pasadena about the water charges at issue in this lawsuit on your own, then you must exclude yourself by submitting online at www.howardjarvisvcityofpasadena.com no later than September 11, 2018, or by U.S. Mail to Howard Jarvis Taxpayers Association et al. v. City of Pasadena, KCC Class Action Services, P.O. Box 404000, Louisville, KY 40233-4000 postmarked no later than September 11, 2018, a completed Opt-Out Form. If you timely opt-out, you will not be legally bound by the settlement or any judgment in this action and you can independently pursue whatever claims you believe you may have outside of the Case.

To pursue your claims separately against the City, you may have to comply with the California Governmental Claims Act (Cal. Gov. Code §§ 900 *et seq* and/or 940 *et seq.*) The Governmental Claims Act has certain timing requirements that could eliminate or reduce the amount you may recover.

OBJECTING TO THE SETTLEMENT

You may only object if you are a Class member and you do not exclude yourself from the settlement. You can object on your own or you may hire a lawyer. You can tell the Court that you don't agree with the settlement or some part of it by sending a letter to the Claims Administrator postmarked **on or before September 11, 2018**, saying that you object to the settlement. Your objection must contain all of the following: (1) a heading referring to: *Howard Jarvis Taxpayers Association et al. v. City of Pasadena* (Los Angeles Superior Court Case No. BC 550394); (2) a statement of the legal and factual bases for your objection; (3) your name, address, telephone number, and email address; (4) copies of water bills dated during the Class Period or other evidence of membership in the Class; and (5) your signature and the signature of your counsel (if you are represented by counsel). The Court will consider your objection. If your objection is mailed in time, you do not have to attend the Fairness Hearing described below.

Any objection to the settlement must be served by first class mail to the Claims Administrator and postmarked no later than September 11, 2018. The address of the Claims Administrator is Howard Jarvis Taxpayers Association et al. v. City of Pasadena, KCC Class Action Services, P.O. Box 404000, Louisville, KY 40233-4000.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing at 11:00 a.m. on October 11, 2018, in Department 6 of the Spring Street Courthouse at 312 North Spring Street, Los Angeles, California 90012, to decide whether the proposed settlement is fair and reasonable. You may attend at your own expense, and you may ask to speak, but you are not required to do so. If the Fairness Hearing is rescheduled, a notice of the new date or time will be posted on the settlement website, www.howardjarvisvcityofpasadena.com. After the hearing, the Court will decide whether to approve the settlement. We do not know how long the decision will take. Please be patient.

GETTING MORE INFORMATION

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. All court records in this litigation, including complete copies of the Settlement Agreement, may be examined during regular court hours at the office of the Clerk of the Court, 312 North Spring Street, Los Angeles, CA 90012. You can also get a copy of the Settlement Agreement by visiting the settlement website at www.howardjarvisvcityofpasadena.com. **DO NOT CONTACT THE COURT DIRECTLY WITH ANY QUESTIONS ABOUT THE SETTLEMENT.**

THE LAWYERS REPRESENTING YOU

The Court has appointed the following Class Counsel to represent the Class:

Timothy A. Bittle
Howard Jarvis Taxpayers Foundation
921 Eleventh Street, Suite 1201
Sacramento, CA 95814

July 11, 2018

The Honorable Elihu M. Berle
Judge of the Superior Court, Dept. 323
Los Angeles County