

## **NOTICE OF CLASS ACTION LAWSUIT**

You may be affected by a class action lawsuit about whether the San José Municipal Water System overcharged its customers for water services.

The lawsuit is called *Plata v. City of San José*, No. 1-14-CV-258879, and is in Santa Clara County Superior Court. The Court decided this lawsuit should be a class action, with Raymond and Michelle Plata as representatives suing on behalf of a “class,” or group of people, that could include you. This notice summarizes your rights and options before trial. If you are included in the class, you have to decide either to stay in the class and to be bound by whatever results, or to ask to be excluded and keep your right to sue the City of San José. There is no money available now and no guarantee that there will be.

### **Are You Affected?**

Those who were San José Municipal Water Services customers at any time from July 1, 1997 through the present are potential class members. This includes those who were customers at any time during this time frame. Those who have received water services from Great Oaks Water Company or San Jose Water Company are NOT included.

### **What is this Case About?**

Approximately 10% of San José residents receive water services provided by the City of San José. The remainder of the City receives water services from private companies. Proposition 218, which amended the California Constitution, limits the use of revenues from charges for property-related services, such as certain water services, that are provided by public entities. Under Proposition 218, these revenues may not exceed the funds required to provide that service.

Plaintiffs contend that since July 1, 1997, the City violated Proposition 218 by allegedly charging San José Municipal Water customers more than the cost of providing water services. They claim that the City improperly transferred excess charges amounting to over \$30 million from the Municipal Water Fund to the General Fund. Plaintiffs contend that these funds should have remained in the Municipal Water Fund rather than being used for General Fund purposes. Plaintiffs ask either that San José Municipal Water customers receive a refund for the amounts they contend they were overcharged or that the allegedly excess amounts be transferred from the City's General Fund to the Municipal Water Fund.

The City of San José denies that it has violated Proposition 218 or that it has charged San José Municipal Water customers more than the cost of providing water services. The City of San José asserts that it has followed the law and denies that it has improperly transferred funds from the Municipal Water Fund to the General Fund.

The Court has not decided whether the class or the City of San José is right. The lawyers for the class and the City of San José will have to prove their claims when the case goes to trial.

### **Who Represents You?**

The Court has approved the law firm of McManis Faulkner of San José to represent you as class counsel. You do not have to pay class counsel, or anyone else, to participate. Instead, if the class is awarded money or benefits as a result of this lawsuit, class counsel may ask the Court for attorneys' fees and costs, which would be paid by the City of San José or out of any money recovered, before giving the rest to the class. You may hire your own lawyer instead of being represented by class counsel.

### **What Are Your Options?**

You have a choice of whether to stay in the class or not, and you must decide this now. If you stay in the class, you will be legally bound by all orders and judgments of the Court, and you will not be able to sue, or to continue to sue, the City of San José – as part of any other lawsuit – for alleged overcharges or improper transfers of fund from the Municipal Water Fund to the General Fund that occurred since July 1, 1997. If money or benefits are obtained, you will be notified about how to obtain a share. To stay in the class, you do not have to do anything now.

If you ask to be excluded from the class, you cannot receive any money or benefits from this lawsuit, if any are awarded, but you will keep any rights to sue the City of San José for these claims, now or in the future, and will not be bound by any orders of judgments of the Court. To ask to be excluded, send an email by June 1, 2017, to [MuniWater.OptOut@sanjoseca.gov](mailto:MuniWater.OptOut@sanjoseca.gov) and [water@mcmanislaw.com](mailto:water@mcmanislaw.com) that says you want to be excluded from *Plata v. City of San José*. Include your name, address and telephone number. You can also ask to be excluded by mailing your request to both of the following addresses:

Office of the City Attorney  
Re: Plata v. City of San Jose Case  
200 East Santa Clara Street, 16th Floor  
San Jose, CA 95113

McManis Faulkner  
Re: Plata v. City of San Jose Case  
50 W. San Fernando Street, 10<sup>th</sup> Floor  
San Jose, CA 95113