

SETTLEMENT HEARING NOTICE

IF YOU PAID AN ASSESSMENT TO THE SANTA CLARA COUNTY OPEN SPACE AUTHORITY, INCLUDED ON YOUR REAL ESTATE TAX BILL BETWEEN 2002 AND 2008, YOU ARE ENTITLED TO CLAIM A REFUND FROM A LAWSUIT SETTLEMENT.

Who is giving this notice?

The Santa Clara County Superior Court authorized this notice. It is not a solicitation and will not involve any expense or risk to you.

What is this lawsuit about?

- The California Supreme Court has declared the Open Space Authority's District Two Assessment unconstitutional. If you paid this assessment, you are entitled to claim a refund as part of the Settlement of a class action lawsuit brought by taxpayers and taxpayer groups.
- The Open Space Authority has kept in a fund the approximately \$57 million it collected from the District Two Assessment before the Supreme Court's decision, including accrued interest. Following the Court's decision the Authority cancelled the assessment for 2008-09 and all subsequent tax years. Except for interest, the fund is available for the payment of refunds, taxpayers' attorney's fees and litigation expenses, notice expenses, and other costs.
- The Settlement pays full refunds to taxpayers making valid refund claims and avoids the expense, risk, and delay of continuing court proceedings. It also releases the Open Space Authority from liability to taxpayers for both its District One and District Two Assessments.
- The taxpayer's attorneys will ask the Court to approve \$7.4 million in attorney's fees and up to \$75,000 in expenses. The total sum of fees and expenses for more than seven years of legal work represents about 13% of the fund. The fee and expense payment will not decrease the amount of any Class Member's refund unless the total amount of all refund claims uses up the funds available for claims. In that situation, each taxpayer will receive a prorated portion of his or her claim.
- **Your legal rights as a taxpayer are affected whether you act or don't act. Please read this notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

SUBMIT A REFUND CLAIM	The only way to get a refund from the Settlement. You give up your right to sue the Open Space Authority for charging the ongoing District One Assessment and the District Two Assessment.
EXCLUDE YOURSELF	Get no refund from the Settlement. Keep any rights to bring lawsuits challenging the District One and Two Assessments at your own expense. Your rights may be limited by the Open Space Authority’s legal defenses.
OBJECT	Write to the Court about why you don’t like the Settlement or attorney’s fees award.
GO TO A COURT HEARING	Ask to speak in Court about the fairness of the Settlement or the attorney’s fee award.
DO NOTHING	You can decide to do nothing. You are not obligated to file a refund claim. The Open Space Authority will keep your unclaimed refund amount for preservation of parklands and open space. You give up your right to sue the Authority for charging the District One and District Two Assessments.

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.
- The Court in charge of the lawsuit still has to decide whether to approve the Settlement and attorney’s fee request. If the Settlement is approved, refunds will be paid to taxpayers who file valid claims. Payments will be made after any appeals are resolved. Please be patient.

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BASIC INFORMATION

1. Why did I get this notice package?

You may have paid – as part of your annual real estate tax bill – the District Two Assessment imposed by the Santa Clara County Open Space Authority between tax years 2002-03 and 2007-08.

The Court sent you this notice because you have a right to know about a proposed Settlement of a class action lawsuit and all of your options before the Court decides whether to approve the Settlement. This package explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, how to get them, and what you give up in order to get them.

The Court in charge of the lawsuit is the Santa Clara County Superior Court. The lawsuit is known as *Silicon Valley Taxpayers Assn, Inc. v. Santa Clara County Open Space Authority* and *Thompson v. Santa Clara County Open Space Authority*, Consolidated Santa Clara County Superior Court Case Nos. 1-02-CV804474, 1-03-CV000705, and 1-07-CV094261.

2. What is this lawsuit about?

The lawsuit claims that the District Two Assessment violates the taxpayers' constitutional rights. The California Supreme Court declared the assessment invalid, and the Authority ceased collecting the assessment on an ongoing basis. However, the Court did not rule on refunds, or other relief that might be due to taxpayers, or what defenses the Open Space Authority might have to such claims of relief.

3. Why is this a class action?

Class Representative Mary Thompson has sued the Open Space Authority on behalf of a group or class of taxpayers who paid the District Two Assessment. These taxpayers are called Class Members. The Settlement resolves the claims of all Class Members except for those who exclude themselves.

4. Why is there a Settlement?

The Court has not yet decided on taxpayer refunds or other relief that might be due to taxpayers from the invalid assessment. Instead, both sides agreed to a Settlement. In this way, they will avoid the expense and risk of a trial and Class Members will get compensation. The Class Representative and the taxpayers' attorneys think the Settlement is in the best interest of Class Members.

WHO IS IN THE SETTLEMENT?

To see what this Settlement will mean for you, you have to determine if you are a Class Member.

5. How do I know if I am a class member?

The Court has determined that anyone who fits the following description is a Class Member: Any person who paid the District Two Assessment between 2002-03 to 2007-08. If you were a real estate taxpayer during this time who lived in the Open Space Authority's territory within Santa Clara County, you probably paid this assessment and are a Class Member.

THE SETTLEMENT BENEFITS – WHAT YOU GET

6. What does the Settlement provide?

The Open Space Authority collected and kept the District Two Assessment in a fund while the lawsuit was going on. As of June 30, 2008, the fund had approximately \$51,395,189 in collected assessments, plus \$5,663,258 in accrued interest. Under the Settlement, taxpayer refunds, attorney's fees, litigation expenses, and class administration expenses will be paid from the fund. The Open Space Authority will retain the accrued interest and will keep any unclaimed money for open space and parklands preservation.

All Class Members who send in valid claims will receive a full refund of their District Two Assessment payments. The fee and expense payment will not decrease the amount of any Class Member's refund unless the total amount of all refund claims uses up the funds available for claims. In that situation, each taxpayer will receive a prorated portion of his or her claim.

You should consult with your tax advisor regarding any possible income tax implications of receiving an assessment refund under this Settlement.

THE SETTLEMENT BURDENS – WHAT YOU GIVE UP

7. What do I give up to be part of the Settlement?

Whether or not you choose to file a refund claim, if you do not exclude yourself from the Settlement you will automatically give up your rights to sue the Open Space Authority for both the District Two Assessment and another Open Space Authority assessment known as the District One Assessment.

The District One Assessment was approved by voters and first imposed in 1994, before Proposition 218 (a constitutional provision that changed the law governing real estate assessments) became effective. It imposes a \$12 per year assessment on single-family homes and higher amounts for other properties. The California Courts decided that the District One Assessment was valid and could be legally collected in a lawsuit brought by taxpayers entitled *Coleman v. Santa Clara County Open Space Authority*, Sixth District, Appeal Case No. H014730, filed October 20, 1997. Review of that decision was denied by the California Supreme Court and the United States Supreme Court. It has been renewed annually by the Open Space Authority and paid by taxpayers since 1994.

Unless you exclude yourself, you will continue to be a class member. This means you can't sue the Open Space Authority for either the District One or District Two Assessments. You will permanently give up your right to challenge both the District One and District Two Assessments. It also means that all of the Court's orders and the judgment in this lawsuit will apply to you and legally bind you. And you will waive any rights under Civil Code § 1542, which provides,

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her Settlement with the debtor.

IF YOU DO NOTHING

8. What happens if I do nothing at all?

If you do nothing, you'll get no refund from this Settlement. But, unless you exclude yourself, you won't be able to claim a refund, start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Open Space Authority regarding either the District One or Two Assessments – now or in the future.

Any unclaimed refunds will be retained by the Open Space Authority to preserve parklands and open space within the Authority's borders in Santa Clara County.

HOW YOU GET A REFUND – SUBMITTING A CLAIM FORM

9. How can I get a refund?

To qualify for a refund, you or your guardian, administrator, executor, or authorized legal representative must send in a refund claim. A refund claim form is attached to this notice. You may also submit a claim form on the Internet at www.SVTAvOSA.com or by calling 1-888-284-9087. Read the instructions carefully, fill out the form, and mail it postmarked or send it electronically no later than September 23, 2009. You will need to place first-class postage on any mailed refund claim.

10. When would I get my refund?

The Court will hold a hearing on July 31, 2009 at 9:00 A.M. to decide whether to approve the Settlement. If the Court approves the Settlement, refunds will be made within fifteen (15) days of receipt of valid claims or the Court's final order approving the Settlement, whichever is later. Please understand, there may be appeals that would delay the refunds. Resolving them may take time – perhaps more than a year. Please be patient.

EXCLUDING YOURSELF FROM THE SETTLEMENT – SUBMITTING AN EXCLUSION REQUEST

If you don't want a refund from this Settlement, but you want to keep your rights, if any, to sue the Open Space Authority on your own, then you must take steps to get out. This is called excluding yourself – or is sometimes referred to as opting out of the Settlement.

11. How do I exclude myself from the Settlement?

To exclude yourself from the Settlement you must send a letter stating your desire to be excluded. The letter must be signed, and must legibly state your name and address(es). You must mail your letter, postmarked no later than July 25, 2009 to:

Silicon Valley Taxpayers Assn. v. Santa Clara County Open Space Authority
c/o The Garden City Group, Inc.
P.O. Box 9385
Dublin, OH 43017-4285

If you ask to be excluded, you will not get any Settlement payment and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue the Open Space Authority at your own expense regarding the District One and Two Assessment, but your suit may be dismissed, reduced, or limited because of legal defenses available to the Open Space Authority. These defenses may include, but are not necessarily limited to claims-filing requirements or deadlines, statutes of limitation, judgments in other lawsuits, and others.

12. If I don't exclude myself, can I sue the Santa Clara Open Space Authority outside of this lawsuit?

No. Unless you exclude yourself, you give up any right to sue the Open Space Authority regarding the District One and District Two Assessments. You must exclude yourself from *this* Settlement and lawsuit in order to bring or continue your own lawsuit. Remember, your request for exclusion must be postmarked by July 25, 2009.

13. If I exclude myself, can I get a refund from the Settlement?

No. If you exclude yourself, do not send in a claim to ask for a refund. If you do, your refund claim will be denied. You may hire your own lawyer at your expense to represent you in seeking a refund or filing your own lawsuit.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

The Court has approved the Law Offices of Tony J. Tanke of Davis, California, to represent you and other Class Members. This lawyer is called the Class Counsel. You will not be charged for his law firm's work. If you want to be represented by your own lawyer, either in this lawsuit or any other legal matter, you may hire one at your own expense.

15. How will the lawyers be paid?

The Settlement includes payment of \$7.4 million dollars in attorney's fees and up to \$75,000 in expenses to Class Counsel. Class Counsel will ask the court to permit him to pay from the fee-and-expense payment a \$5,000 incentive fee to Class Representative Mary Thompson, a \$5,000 incentive fee to Plaintiff Silicon Valley Taxpayers Association, and approximately \$500,000 to two other lawyers who assisted in the lawsuit. Class Counsel's fees will provide compensation to him for investigating the facts and law, litigating the case for seven years through the California Supreme Court, and negotiating the Settlement. The Court will independently rule on the reasonableness of attorney's fees and expenses. The fee and expense payment will not decrease the amount of any Class Member's refund unless the total amount of all refund claims uses up the funds available for claims. In that situation, each taxpayer will receive a prorated portion of his or her claim.

OBJECTING TO THE SETTLEMENT OR ATTORNEY'S FEE AWARD

You can tell the Court that you don't agree with the Settlement or some part of it.

16. How do I tell the Court that I don't like the Settlement or attorney's fee award?

If you're a Class Member, you can object to the Settlement if you don't like any part of it, including the tax refund, attorney's fees, or other provisions. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to the *SVTA v. OSA* Settlement in Consolidated Case No. 1-02-CV804474. Be sure to include your name, address, telephone number, your signature, and the reasons you object to the Settlement. Mail the objection to these three different places so that it is received no later than July 20, 2009:

Court	Class Counsel	OSA's Counsel
Clerk Santa Clara County Superior Court 191 N. First Street San Jose, CA 95113-1090 Re: 1-02-CV804474	Tony J. Tanke Law Offices of Tony J. Tanke 2050 Lyndell Terrace Suite 240 Davis, CA 95616	James R. Parrinello Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP 2350 Kerner Blvd., #250 San Rafael, CA 94901

17. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you remain a Class Member. Excluding yourself is telling the Court that you don't want to be a Class Member. If you exclude yourself, you may not object because the Settlement no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend the hearing and ask to speak, but you don't have to do so to receive a refund or exclude yourself from the class. The Settlement, including the attorney's fees provisions, will be approved or disapproved as a whole.

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

The Court will hold a Fairness Hearing at 9:00 AM on July 31, 2009 in Department 17C located at 191 N. First Street, San Jose, CA 95113 before Judge Jack Komar. The Court will listen to people who have asked to speak at the hearing. If there are objections to the Settlement, the Court will consider them. After this hearing, the Court will decide whether the Settlement, including the refund and fee-and-expense provisions, is fair, reasonable, and adequate.

19. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also hire your own lawyer to attend the hearing, but it's not necessary.

20. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *SVTA v. OSA*, Consolidated Case No. 1-02-CV804474." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be received no later than July 20, 2009, and be sent to the three addresses listed in Question No. 16. You cannot speak at the hearing if you have excluded yourself.

GETTING MORE INFORMATION

21. Are there more details about the Settlement?

This notice summarizes the proposed Settlement. More details are included in the Settlement Agreement. You can get a copy of the Settlement Agreement by calling the Claims Administrator at 1-888-284-9087 or by visiting www.SVTAvOSA.com.

22. How do I get more information?

You can call the Claims Administrator at 1-888-284-9087 toll-free.

Dated June 12, 2009

Clerk of the Santa Clara County Superior Court