

**IN THE SUPERIOR COURT OF CHATHAM COUNTY
 STATE OF GEORGIA**

VTAL REAL ESTATE, LLC)	
)	
)	
Plaintiff,)	CIVIL ACTION NO. SPCV21-00789-CO
)	
v.)	
)	
MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH)	
)	
)	
Defendants.)	

**PLAINTIFF’S SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF
 THIRD AMENDED MOTION TO CERTIFY SUIT AS CLASS ACTION**

Plaintiff VTAL Real Estate, LLC. (“Named Plaintiff”) files this Supplemental Memorandum of Law in Support of Third Amended Motion to Certify Suit as Class Action (the “Motion”). In support of its Motion, the Named Plaintiff shows the Court as follows:

I. Statement of Facts

This case involves class action claims based on Defendant Mayor and Alderman of the City of Savannah (“Defendant” or “the City of Savannah”) assessing and collecting fees under the City of Savannah 2021 Revenue Ordinance (the “Revenue Ordinance”), Article U. §12 (the “Utility Fees Ordinance”) and for refund and prejudgment interest pursuant to O.C.G.A. § 48-5-380 (the “Refund Statute”) to recover illegal taxes levied and collected and/or illegal license fees assessed and collected. This is a refund class action under the under the Utility Fees Ordinance and the Refund Statute.

Named Plaintiff filed a Fifth Amended Class Action Complaint (the “Fifth Amended Complaint”) revising the definition of the Classes. Contemporaneously with the filing of this

Supplemental Memorandum, Named Plaintiff filed a Third Amended Motion to Certify Suit as Class Action (the “Third Amended Motion”) revising the definition of the Classes.

A. Classes Defined

Named Plaintiff seeks certification of five (5) classes.

(1) The first class consists of all Commercial or Residential Building Permit Applicants similarly situated who, like Named Plaintiff, were assessed and paid Water Tap-in Fees where no water meter service application was submitted (hereinafter “Class 1”).

(2) The second class consists of all Commercial or Residential Building Permit Applicants similarly situated who, like Named Plaintiff, were assessed and paid Sewer Tap-in Fees where no request for a permit to connect to a sanitary sewer line was submitted (hereinafter “Class 2”).

(3) The third class consists of all Commercial or Residential Building Permit Applicants similarly situated who, like Named Plaintiff, were assessed and paid Reclaimed Water Fees where no water meter application was submitted (hereinafter “Class 3”).

(4) The fourth class consists of 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 were not a new customer (hereinafter “Class 4”).

(5) The fifth class consists of all Commercial or Residential Building Permit Applicants similarly situated who, like Named Plaintiff, 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 (hereinafter the “Class 5”).

The Class 1, Class 2, Class 3, Class 4 and Class 5 are hereinafter referred to as the “Refund Classes”.

As discussed in Named Plaintiff's Memorandum of Law in Support of Motion to Certify Suit as Class Action filed on April 26, 2022, the class members are readily identifiable.

B. Relief Sought as Set Forth in the Fourth Amended Complaint

Named Plaintiff on behalf of itself and prospective class members seek a refund of all Fees illegally assessed and collected under the Utility Service Fee Ordinance from July 30, 2018 to present and all erroneously and illegally levied taxes or voluntarily or involuntarily over paid taxes and/or all erroneously and illegally assessed license fees or voluntarily or involuntarily over paid license fees pursuant to the Refund Statute from July 30, 2016 to present, plus prejudgment interest.

II. Argument and Citation of Authority

Named Plaintiff incorporates as if fully set forth, the Argument and Citation of Authority contained in its Memorandum of Law in Support of Motion to Certify Suit as Class Action filed on April 26, 2022.

III. Conclusion

Based on the reasons set forth herein, in Named Plaintiff's Memorandum of Law in Support of Motion to Certify Suit as Class Action filed on April 26, 2022, Named Plaintiff's Third Amended Motion, and the facts and documentary evidence of record, Named Plaintiff's Third Amended Motion should be granted and the Refund Classes certified under O.C.G.A. §§ 9-11-23(a), 9-11-23(b)(1) and 9-11-23(b)(3). Named Plaintiff has also demonstrated that it will fairly and adequately protect the interests of the Refund Classes and that the law firms of Roberts Tate, LLC and Manly Shipley, LLP will adequately represent the interests of the Classes as Class Counsel. Therefore, Named Plaintiff respectfully requests that its motion for class certification be granted.

Respectfully submitted this the 7th day of February, 2023.

ROBERTS TATE, LLC

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PLAINTIFF

CERTIFICATE OF SERVICE

I, James L. Roberts, IV, of Roberts Tate, LLC attorneys for Plaintiff VTAL Real Estate, LLC., do hereby certify that, on this date, I served a copy of the foregoing PLAINTIFF’S SUPPLEMENTAL MEMORANDUM OF LAW IN SUPPORT OF THIRD AMENDED MOTION TO CERTIFY SUIT AS CLASS ACTION upon the following counsel of record by mailing a copy, postage prepaid to:

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This 7th day of February, 2023.

/s/ James L. Roberts, IV
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