

F I L E D
Clerk of the Superior Court
JUN 22 2007
By: B. TOM, Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

DE ANZA COVE HOMEOWNERS)
ASSOCIATION, INC., a California non-profit)
corporation; ETHEL MURPHY, an individual;)
DORCAS TUROSKI, an individual;)
MILDRED RUBIN, an individual; ROBERT)
RUFFATO, an individual; EILEEN COFER, an)
individual; LISA BOCK, an individual; JAMES)
GIACOLLI, an individual, ON BEHALF OF)
THEMSELVES AND ALL OTHER)
SIMILARLY SITUATED,)

Plaintiffs,

vs.

CITY OF SAN DIEGO, a California)
municipality; CONCORDIA ENTERPRISES,)
INC., a California corporation; HAWKEYE)
ASSET MANAGEMENT, an unknown)
business entity type which is allegedly a wholly)
owned subsidiary of CONCORDIA)
ENTERPRISES, INC.; METROPOLITAN)
PUBLIC SAFETY, a California corporation;)
and DOES 1-50, inclusive,)

Defendants.

CASE NO. GIC 821191

NOTICE OF CLASS ACTION

Judge: Hon. Charles R. Hayes
Dept.: 66

Complaint Filed: November 18, 2003
Trial Date: September 10, 2007

1 **NOTICE OF CLASS ACTION**

2 **TO: All persons who were homeowners and/or residents on October 22, 2003 and**
3 **currently remain homeowners and/or residents or are heirs of homeowners or residents of**
4 **the mobilehome park now known as Mission Bay Park and formerly known as De Anza**
5 **Harbor Resort, located at 2727 De Anza Road, San Diego, California (Park) and who have**
6 **not entered into settlement agreements, and former homeowners or residents and their**
7 **heirs who resided at the Park on October 22, 2003 and voluntarily vacated the premises**
8 **without entering into a settlement agreement.**

9 **This Notice informs you about litigation that affects your rights. Please read this**
10 **entire notice carefully.**

11 **I. CLASS ACTION CLAIMS**

12 This Notice is to inform you of a class action lawsuit that is pending in the Superior
13 Court of California, County of San Diego (“the Court”). The Class certified by Order of the
14 Court is identified below at Section II (“the Class”).

15 In this lawsuit (“the Action”), Plaintiffs allege that California’s Mobilehome Residency
16 law applies and that the City of San Diego violated the law when the City sought to close the
17 mobilehome park and evict De Anza Cove’s homeowners and residents without first conducting
18 a tenant impact report and providing relocation assistance and benefits. Plaintiffs seek monetary
19 damages, an injunction, and other relief. The City of San Diego denies Plaintiffs’ allegations and
20 contends that it acted in accordance with all applicable laws. Specifically, the City of San Diego
21 denies that California’s Mobilehome Residency Law applies to this case and that the City sought
22 to close the park.

23 The Court has now ruled that: (1) the Mobilehome Residency Law applies; (2) the City
24 was under a mandatory duty to comply with the Mobilehome Residency Law; and (3) the City of
25 San Diego violated state law. On May 21, 2007, the City of San Diego filed a petition for review
26 of these rulings by the Court of Appeal, which the Court of Appeal denied. Trial will be
27 conducted by the Hon. Charles R. Hayes beginning on September 10, 2007, where Plaintiffs will
28 seek compensation for Class Members’ relocation benefits, statutory penalties, and other relief.

1 The City disputes Class Members' entitlement to those benefits, penalties, and relief.

2 **II. CLASS CERTIFIED**

3 On October 16, 2006, the Court entered an Order certifying the Action as a class action
4 pursuant to California Code of Civil Procedure section 382. On June 18, 2007, the Court
5 amended its prior orders and found that the following persons or entities are in the certified class
6 ("Class Members"):

7 All persons who were homeowners and/or residents on October 22, 2003
8 and currently remain homeowners and/or residents or are heirs of
9 homeowners or residents of the mobilehome park now known as Mission
10 Bay Park and formerly known as De Anza Harbor Resort, located at 2727
11 De Anza Road, San Diego, California (Park) and who have not entered into
12 settlement agreements, and former homeowners or residents and their heirs
13 who resided at the Park on October 22, 2003 and voluntarily vacated the
14 premises without entering into a settlement agreement.

15 The Court certified this Action to proceed on behalf of Class Members on claims for:
16 (1) Violation of the Mobilehome Residency Law; and (2) Failure to Discharge a Mandatory Duty
17 ("Class Action Claims").

18 **III. LOCATION OF THE ACTION**

19 The Action is pending in the Superior Court of California, County of San Diego. The
20 actual case file can be reviewed in person, during normal business hours, at the office of the
21 Clerk of the Court, Superior Court of California, County of San Diego, 330 West Broadway, San
22 Diego, California 92101. Information about the case is also available for your review on the
23 internet at www.gilardi.com.

24 **IV. STATUS OF COURT PROCEEDINGS**

25 The Action has been litigated actively since it was filed on November 18, 2003. The trial
26 in this action is scheduled to begin on September 10, 2007 at 8:30 a.m.

27 **V. ATTORNEY'S FEES AND COSTS**

28 If Plaintiffs achieve a recovery for the Class, the Court will be asked to approve payment

1 of litigation expenses and attorney's fees to Class Counsel, which may be required to be paid by
2 the City and/or deducted from the total amount of recovery. If The City of San Diego prevails in
3 the litigation, Class Members will not be responsible for payment of costs or attorney's fees.

4 **VI. CLASS REPRESENTATIVES AND ATTORNEYS**

5 The Court has approved the De Anza Cove Homeowners Association, Inc., Ethel
6 Murphy, Dorcas Turoski, Mildred Rubin, Robert Ruffato, Eileen Cofer, Lisa Bock, and James
7 Giacolli as Class Representatives. The Court has approved the law firms of Tatro & Zamoyski,
8 LLP, 12264 El Camino Real, Suite 400, San Diego, CA 92130 and Thorsnes, Bartolotta &
9 McGuire, 2550 Fifth Avenue, 11th Floor, San Diego, CA 92103 as Class Counsel.

10 **VII. ELECTION BY CLASS MEMBERS**

11 If you come within the Class of persons or entities described in Paragraph II, you have a
12 choice whether to remain a Class Member and have the Class Representatives and Class Counsel
13 identified in Paragraph VI represent you. The choice you make will have consequences that you
14 should understand before making your decision.

15 A. If you come within the Class of persons or entities described in Paragraph II, you
16 automatically become a Class Member unless you request to be excluded from the Class in the
17 manner indicated below. **If you wish to remain a Class Member, you are not required to do**
18 **anything at this time.** By remaining a Class Member, any claims you may have against The
19 City of San Diego relating to your claim for relocation benefits and/or assistance will be
20 determined in this case and cannot be presented in any other lawsuit. As a Class Member, you
21 will be bound by any result attained by the Class Representative on the Class Action Claims,
22 whether favorable or unfavorable.

23 B. If you choose to be excluded from the Action, you must exclude yourself by
24 returning a request for exclusion to the Notice Administrator. The request for exclusion must be
25 mailed to the Notice Administrator and postmarked on or before September 4, 2007. By making
26 the election to be excluded, you will not be bound by any decision in the Action and you may
27 present any claims you have against The City of San Diego by filing your own lawsuit. A
28 request for exclusion must state the case name and number, "De Anza Cove Homeowners

1 Association v. City of San Diego, Superior Court of California, County of San Diego, Case No.
2 GIC 821191,” state “I elect to be excluded as a member of the Class,” and state your name,
3 current address, phone number, and your site address at the mobilehome park. Date and sign
4 your exclusion request and mail the request to the Notice Administrator as follows: De Anza
5 Cove Exclusion Request, c/o Gilardi & Co., LLC, P.O. Box 8060, San Rafael, CA 94912-8060.

6 If you exclude yourself, you cannot participate in any recovery which might be obtained
7 from the City of San Diego through trial or settlement of the Action, Class Counsel will not
8 represent your interests, and you cannot rely on the decisions, rulings, and determinations in the
9 Action, whether or not favorable.

10 **VIII. RIGHTS AND OBLIGATIONS OF CLASS MEMBERS**

11 If you remain a Class Member:

12 A. Plaintiffs will act as your representatives and Tatro & Zamoyski, LLP, 12264 El
13 Camino Real, Suite 400, San Diego, CA 92130, and Thorsnes, Bartolotta & McGuire, 2550 Fifth
14 Avenue, 11th Floor, San Diego, CA 92103 will act as your counsel for the presentation of the
15 Class Action Claims. If you desire, you may appear at any proceeding in person or by an
16 attorney you have selected provided that your counsel enters an appearance on your behalf.

17 B. Your participation in any recovery which might be obtained from The City of San
18 Diego through trial or settlement will depend on the results of the Action. Even if the settlement,
19 judgment, or any decisions, rulings, or other determinations in the Action are favorable or not,
20 you will still be bound unless you exclude yourself from the Action by the exclusion deadline. If
21 no recovery is obtained for the Class you will be bound by that result also.

22 C. The Action will not be dismissed, settled or compromised without approval of the
23 Court, and notice of the proposed dismissal, settlement or compromise will be given to each
24 Class Member who does not request exclusion in the manner the Court directs.

25 D. You may be required as a condition to participating in any recovery to provide
26 evidence of your membership in the Class. You should therefore preserve documents concerning
27 your residency at De Anza Cove Mobilehome Park.

28 E. You may communicate with Class Counsel at the addresses below.

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IX. ADDITIONAL INFORMATION

DO NOT CALL OR WRITE THE COURT OR THE CLERK OF COURT WITH QUESTIONS. If you have questions concerning the matters contained in this Notice, you may contact Class Counsel if you wish or go to www.gilardi.com. If you have any corrections to make or changes of name or address, you should contact the Notice Administrator in writing at: De Anza Cove Notice Administrator, c/o Gilardi & Co., LLC, P.O. Box 8060, San Rafael, CA 94912-8060.

X. REMINDER AS TO TIME LIMIT

If you wish to be excluded from the Class, you must mail a request for exclusion meeting the requirements described in Paragraph VII.B. to the Notice Administrator on or before September 4, 2007. If you wish to remain a Class Member, you are not required to do anything at this time.

Dated this 22 day of June, 2007.

CHARLES R. HAYES

SUPERIOR COURT JUDGE