

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

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

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**THIRD AMENDED MOTION TO CERTIFY SUIT AS CLASS ACTION**

COMES NOW Plaintiff VTAL Real Estate, LLC. (“Named Plaintiff”) for itself and all others similarly situated members of the classes herein described, and makes and files this Third Amended Motion for Class Certification and shows the Court as follows:

Named Plaintiff reincorporates the class action allegations pursuant to O.C.G.A. § 9-11-23 in the Fifth Amended Complaint filed in this matter as if stated again herein. This case seeks certification of refund claims based on Defendant Mayor and Alderman of the City of Savannah’s (“Defendant” or “the City of Savannah”) illegal and erroneous assessing and collecting fees under the City of Savannah 2021 Revenue Ordinance, Article U. §12 (the “Utility Service Fees Ordinance”) from July 30, 2018 to present and for refund under O.C.G.A. § 48-5-380 (the “Refund Statute”) for illegal taxes levied and collected and/or illegal license fees assessed and collected under the Utility Service Fees Ordinance from July 30, 2016 to present. Four (4) separate fees were assessed to Named Plaintiff based on its proposed renovation of its commercial building. These fees were not authorized by the plain language of the Utility Service Fees Ordinance. Additionally, upon information and belief, these same four (4) fees as well as three (3) additional fees were assessed against certain prospective class members based on the prospective class

members' renovation of commercial or residential buildings. These additional three (3) fees were also not authorized by the plain language of the Utility Service Fees Ordinance.

Based on such class action allegations, the Exhibits to the Fourth Amended Complaint, and supporting information, Named Plaintiff hereby moves for the Court to certify this as a class action on a temporary and permanent basis.

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").

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

Certification of the proposed Refund Classes is appropriate because:

- 1) The potential class members are so numerous that joinder of all members is impractical, satisfying the requirements of O.C.G.A. § 9-11-23(a)(1);
- 2) There are questions of law or fact common to each class member, satisfying the requirements of O.C.G.A. § 9-11-23(a)(2);
- 3) The claims of the representative party are typical of the claims of class members, satisfying the requirements of O.C.G.A. § 9-11-23(a)(3);
- 4) Named Plaintiff will fairly and adequately protect the interests of the class members, satisfying the requirements of O.C.G.A. § 9-11-23(a)(4);
- 5) Certification of the class is appropriate under O.C.G.A. § 9-11-23(b)(1) as the prosecution of separate actions by or against individual class members would create a risk of inconsistent or varying adjudications with respect to individual class members which would establish incompatible standards of conduct for the party opposing the class or adjudications with respect to individual class members which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests;
- 6) Questions of law or fact common to the members of the class predominate over questions affecting only individual members, satisfying the requirements of O.C.G.A. § 9-11-23(b)(3);
- 7) A class action is superior to other methods available for the fair and efficient adjudication of this controversy satisfying the requirements of O.C.G.A. § 9-11-

23(b)(3);

- 8) The law firm of Roberts Tate, LLC along with Manly Shipley, LLP will fairly and adequately represent the interests of the class as Class Counsel; and
- 9) The action is manageable as a class action.

**PRAYER FOR RELIEF**

Therefore, the Named Plaintiff in this action respectfully request the following:

- 1) That the Court issue an order certifying that this action may be maintained as a class action to benefit the classes as defined herein.
- 2) That the Court grant any further relief to which the Named Plaintiff is entitled.

RESPECTFULLY SUBMITTED, this 7th day of February, 2023.

ROBERTS TATE, LLC

MANLY SHIPLEY, LLP

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ATTORNEYS FOR NAMED  
PLAINTIFF

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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 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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ATTORNEYS FOR DEFENDANT

This 7th day of February, 2023.

/s/ James L. Roberts, IV  
James L. Roberts, IV