

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT  
IN AND FOR LAKE COUNTY, FLORIDA**

**JAMES RICHARDSON, individually, and  
MICHAEL HOWARD and NANCY HOWARD  
his wife, individually and as a  
Representative of a Class of all similarly  
situated others,**

**Case No.: 2013 CA 400**

**Plaintiffs,**

**v.**

**CITY OF FRUITLAND PARK, a political  
subdivision of the State of Florida,**

**Defendant.**

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**NOTICE OF PENDENCY OF CLASS ACTION**

**To All Potential Members of the Following Class:** Water utility customers of the City of Fruitland Park who have paid police fees, fire fees, or both, to the City of Fruitland Park since the enactment of Ordinance 2009-014 (the "Class").

**THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.**

**YOU HAVE NOT BEEN SUED.**

Water Utility customers of the City of Fruitland Park have sued alleging that the City of Fruitland Park levied illegal taxes in the form of police and fire fees (the "Lawsuit").

The Circuit Court of Lake County (the "Court") has allowed the lawsuit to be a class action on behalf of all City of Fruitland Park utility customers that have paid the police and fire fees.

The Court has not decided whether the City of Fruitland Park did anything wrong. There is no money available now, and no guarantee there will be. However, your legal rights are affected, and you must decide now whether to remain a member of the Class or opt out of the Class.

Your options are explained in this notice. To opt out, you must act before February 28, 2014.

Unless this case is resolved by settlement or otherwise dismissed, Class Counsel must prove the claims against the City of Fruitland Park at a trial. If money or benefits are obtained from the City of Fruitland Park, you will be notified about how to ask for a share of the recovery.

Any questions not answered by this Notice of Pendency of Class Action (the "Notice") should be directed to Class Counsel and not the Court.

## **WHY THIS NOTICE WAS SENT TO YOU**

The City of Fruitland Park has indicated that you are a current or former utility customer of the City of Fruitland Park who have paid a police fee or fire fee and are, therefore, a member of the Class. This notice is being sent to you pursuant to Florida Rule 1.220(d)(2) of Civil Procedure, which requires that, upon the certification of a Class, all members of the Class who can be identified and located be provided with certain information regarding the Lawsuit and their rights.

## **BACKGROUND OF THE LAWSUIT**

Plaintiffs, James Richardson and Michael and Nancy Howard, sued the City of Fruitland Park on February 1, 2013. The Plaintiffs allege that the City of Fruitland Park's enactment of Ordinance 2009-014 (the "Ordinance"), which imposed police and fire fees ("police and fire fees"), is an attempt to levy non-ad valorem taxes in violation of the Florida Constitution. The Plaintiffs are asking the Court to declare the Ordinance unconstitutional and order the City of Fruitland Park to refund all of the police and fire fees it has collected.

The City of Fruitland Park denies the allegations and believes that the Ordinance was properly enacted in accordance with the Florida Constitution and Florida Statutes or that the police and fire fees paid were voluntary payments.

No money or benefits are available now because the Court has not yet decided whether the City of Fruitland Park did anything wrong, and the two sides have not settled the Lawsuit. There is no guarantee that money or benefits will ever be obtained. If they are, you will be notified about how to ask for a share of the recovery.

## **CLASS CERTIFICATION**

On September 12, 2013, the Court ruled that this Lawsuit may be maintained as a class action on behalf of the following Class:

**All those City of Fruitland Park Utility Customers that have paid to the City police, fire or both, police and fire fees since the enactment of Ordinance 2009-014 (the "Class Members").**

The estimated number of Class Members exceeds 3,500 customers. The Court has certified as Class Representatives Michael and Nancy Howard (the "Class Representatives"). The Class Representatives will be seeking relief on behalf of themselves and all Class Members. Bowen Radson Schroth, P.A. has been hired as Class Counsel.

## **RIGHT TO SEPARATE COUNSEL**

You have the right to hire your own attorney and unless you retain your own counsel to enter an appearance on your behalf, you will be represented by Class Counsel. If you choose to hire your own attorney, you will have to pay that attorney.

**ATTORNEY FEES**

As a Class Member, you will not be directly charged by Class Counsel to represent you in this Lawsuit. In the event of a judgment in favor of the Class in this Lawsuit and an award of the refund of the fees, Class Counsel will apply to the Court for payment of reasonable attorneys' fees and costs from the City of Fruitland Park and may be awarded the fees and costs from a common fund if ordered by the Court.

**YOUR OPTIONS**

The Court has not decided the merits of the Lawsuit. The purpose of this Notice is to advise you of the existence of this Lawsuit and how it may affect your rights. You have to decide whether to stay in the Class or ask to be excluded before the trial, and you have to decide this now. Your options regarding this lawsuit are as follows:

<p><b>To remain in the lawsuit you are not required to do anything</b></p>	<p>By doing nothing, you will remain a member of the Class. Your interests will be represented by Class Counsel and you will be bound by the outcome of this Lawsuit. In the event of a favorable judgment, you will share in the recovery. In the event of an unfavorable judgment, you will be precluded from bringing the same or similar claims against the City of Fruitland Park on your own behalf. You will be entitled to notice of and an opportunity to be heard regarding any proposed settlement or dismissal of this Lawsuit. You will be entitled to share in settlement proceeds obtained on behalf of the Class.</p> <p><b>If you want to remain a member of the Class, you should NOT sign the "Request for Exclusion From Class" form.</b></p>
<p><b>To opt out of the lawsuit</b></p>	<p>By opting out of the Class, your interests will not be represented by Class Counsel and you will not be bound by the outcome of this Lawsuit unless you seek to intervene in this Lawsuit. In the event of a favorable judgment, you will not share in the monetary recovery. In the event of an unfavorable judgment, you may still assert the same or similar claims you have against the City of Fruitland Park. You will not be entitled to notice of or an opportunity to be heard regarding any proposed settlement or dismissal of the Lawsuit.</p> <p>If you want to be excluded from the Class, you must complete the enclosed form ("Request for Exclusion From Class") and return it by mail, <b>postmarked no later than February 28, 2014</b>, to:</p> <p style="padding-left: 40px;">Bowen Radson Schroth, P.A. 600 Jennings Avenue Eustis, Florida 32726</p> <p>If you request exclusion on behalf of any person or entity other than yourself, you must state your legal authority to execute the request on behalf of that other person or entity.</p>

## **FURTHER COURT PROCEEDINGS**

The City of Fruitland Park denies the Plaintiffs' allegations and denies that Plaintiffs are entitled to any recovery. You may communicate with Class Counsel if you have any evidence you believe would be helpful to establish the Class claims, and you may be asked by the parties to provide information relevant to the case.

If it becomes necessary to hold a trial in order to resolve this class action, there is no guarantee that the Plaintiffs will win, or that they will get any money for the Class. You do not need to attend the trial. Class Counsel will present the case for the Plaintiffs, and the City of Fruitland Park will present its defenses. You or your own attorney are welcome to attend at your own expense.

## **ADDITIONAL INFORMATION**

If the Plaintiffs obtain any money or benefits as a result of this class action, you will be notified about how to participate in the recovery. We do not know how long this will take.

Any questions you have concerning the matters contained in this Notice should NOT be made to the Court, but should be directed in writing to:

Bowen Radson Schroth, P.A.  
600 Jennings Avenue  
Eustis, Florida 32726

## **REMINDER AS TO TIME LIMIT**

If you wish to be excluded from the Class, you must return a completed "Request for Exclusion From Class" form to Class Counsel by mail **postmarked no later than February 24, 2014**.

Dated: October 14, 2013

BY ORDER OF THE COURT  
FIFTH JUDICIAL CIRCUIT IN AND FOR  
LAKE COUNTY, FLORIDA