

**ATTENTION: INDIVIDUALS WITH VISUAL AND/OR MOBILITY  
DISABILITIES WHO USE PEDESTRIAN RIGHTS OF WAY  
IN THE CITIES OF ANTIOCH, BRENTWOOD, CONCORD, DANVILLE, EL  
CERRITO, MARTINEZ, MORAGA, ORINDA, PINOLE, PITTSBURG,  
PLEASANT HILL, RICHMOND, SAN PABLO AND WALNUT CREEK**

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT  
AND FAIRNESS HEARING**

**\*PLEASE READ THIS NOTICE CAREFULLY  
AS IT MAY AFFECT YOUR RIGHTS\***

The purpose of this notice is to inform you of a proposed settlement of a class action lawsuit brought by Gloria Vaughn, Yvonne White and George Louie against the Cities of Antioch, Brentwood, Concord, Danville, El Cerrito, Martinez, Moraga, Orinda, Pinole, Pittsburg, Pleasant Hill, Richmond, San Pablo and Walnut Creek ("Cities"). The lawsuit, known as Vaughn v. City of Antioch, et. al., Case No. C07-00045, alleges that the Cities violated California Civil Code Sections 54 and 54.1 and other laws by failing to install curb ramps and otherwise provide access to pedestrian rights of way under their jurisdiction. The Cities deny these allegations.

The parties have now reached settlement agreements to resolve the claims in this case. The Court has scheduled a Fairness Hearing on September 16, 2009 to determine if the parties' Settlement Agreements regarding access to pedestrian rights of way should be granted final approval by the Court.

**THIS NOTICE SUMMARIZES THE PROPOSED SETTLEMENTS AND ADVISES YOU OF (1) THE STATUS OF THE LAWSUIT, INCLUDING A STATEMENT OF YOUR RIGHTS WITH RESPECT TO THE PROPOSED SETTLEMENTS, AND (2) YOUR RIGHTS TO OBJECT TO THE TERMS OF THE SETTLEMENTS AND BE HEARD BY THE COURT.**

**INDIVIDUALS COVERED BY THIS LAWSUIT: THE CLASS**

The Court has conditionally certified a Settlement Class defined as all persons with mobility and/or vision disabilities who seek full and equal access pertaining to curb cuts and sidewalks in the pedestrian rights of way in the Cities. Pedestrian rights of way include sidewalks, crosswalks, curb ramps and other pathways used by pedestrians, including pathways used by pedestrians along rights of way owned by the Cities, and pedestrian pathways through parks and parking lots owned by the Cities. Class members include visitors to and residents of the Cities. All people who meet this definition will be bound by the Settlement Agreements if the Agreements are granted final approval.

## **SUMMARY OF THE PROPOSED SETTLEMENTS**

For up to 30 years, the Cities will dedicate a minimum of the equivalent of 5% of their annual gas tax revenues (Sections 2105 and 2106) to ADA Advisory Committee Accounts that will be used exclusively to install compliant curb ramps and remove barriers to make Pedestrian Rights of Way accessible to individuals with vision and/or mobility disabilities. Barrier removal projects will be selected by the ADA Advisory Committees of the Cities with approval by the Director of Public Works, Capital Improvement Director or equivalent of the Cities. The ADA Advisory Committee Accounts will be used for projects such as:

- Installing curb ramps compliant with state and/or federal law (whichever in the best engineering judgment of the Cities provides the higher or most appropriate access standard at the time of construction);
- Providing accessible crosswalks, including developing and maintaining policies for audible pedestrian signals, providing accessible pedestrian controls, and removing abrupt changes in level affecting the path of travel;
- Removing obstacles in the pedestrian rights of way that narrow the pathway to less than 32 inches;
- Removing abrupt changes in level caused by tree roots or deterioration along pedestrian rights of way;
- Removing or providing detectable warnings for overhanging obstacles not detectable by blind pedestrians using a cane;
- Removing excessive cross slopes in the pedestrian rights of way that are perpendicular to the primary direction of travel.

In addition to these projects, the Cities have agreed to ensure that all newly constructed sidewalks and crosswalks, as well as any sidewalks and/or crosswalks that are renovated as part of larger construction projects, are accessible and served by compliant curb ramps. Specific requests from class members for barrier removal projects will receive the highest priority, followed by barrier removal along pedestrian rights of way serving (1) state and local government offices and facilities; (2) important transportation corridors; (3) commercial and business zones; (4) facilities containing employers; and (5) residential neighborhoods. When barriers in the pedestrian rights of way are under the control of entities other than the Cities (for example, transit agencies and local utilities), the parties will work cooperatively with these entities to address such barriers.

## **OBJECTIONS TO THE SETTLEMENTS**

The Court has scheduled a hearing for September 16, 2009 at 9:00 a.m., in the Courtroom of the Honorable David B. Flinn of the Contra Costa County Superior Court, 725 Court Street, Martinez, CA 94553, to determine whether the proposed settlements summarized above are fair and reasonable and should be approved. Class members have the right to attend and voice their support or objections to the settlements at this hearing. If you wish to appear at the hearing in person or through your attorney, you or your

attorney must notify the Court and counsel for the plaintiffs and the defendants in writing, postmarked before September 8, 2009. If you wish to register your objections through the mail, you may do so by mailing your written objections to the Court and counsel for the plaintiffs and defendants, postmarked before September 8, 2009. Correspondence should be directed to the following persons:

<b>For Named Plaintiffs and Settlement Class</b>	<b>For the Court</b>
Morse Mehrban, Esq. Law Offices of Morse Mehrban 12100 Wilshire Blvd., 8 <sup>th</sup> Floor Los Angeles, CA 90005-1206	Honorable David B. Flinn, Dep. 6 Contra Costa County Superior Court 725 Court Street Martinez, CA 94553
<b>For Defendants</b>	
Eugene B. Elliot Bertrand, Fox & Elliot The Waterfront Building 2749 Hyde Street San Francisco, CA 94109	

### RELEASE OF CLAIMS

The proposed Settlements, if granted final approval by the Court, will bind all members of the Settlement Class for the duration of the Compliance Period and will preclude class members from seeking separate declaratory and injunctive relief other than that provided by the Settlement Agreements for violations of the Americans with Disabilities Act and other federal and state laws regarding access to pedestrian rights of way. No Settlement Class member can opt-out of the injunctive relief portion of the Settlement Agreements.

The Named Plaintiffs only have released claims for money damages. The Named Plaintiffs' release of damages claims does not release any claims of any individual class members for non-statutory money damages based on access barriers in pedestrian rights of way. Class members may bring individual actions for personal injury monetary damages at any time during the Compliance Period.

This lawsuit and the proposed settlements are only summarized in this Notice. More detailed information concerning these settlements may be obtained from Class Counsel:

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\* DO NOT DIRECTLY CONTACT THE COURT FOR INFORMATION ABOUT THIS CASE\*