

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**If you entered into a residency contract to live at the Vi at Palo Alto prior to January 1, 2017, a proposed class action settlement may affect your rights.**

*The United States District Court for the Northern District of California authorized this notice.*

*This is not a solicitation from a lawyer.*

- Plaintiffs and Class Representatives (“Plaintiffs”) who are residents of the Vi at Palo Alto, and Defendants CC-Palo Alto, CC-Development Group, and Classic Residence Management Limited Partnership (“Defendants”) which are entities affiliated with the Vi at Palo Alto, have reached a Settlement in a class action lawsuit (the “Lawsuit”) entitled *Cork v. CC-Palo Alto, Inc.*, N.D. Cal. Case No. 5:14-CV-00750-EJD (the “Settlement”).
- The Lawsuit contends that CC-Palo Alto is required by statute to maintain entrance fee reserves for some of the residency contracts it entered into with certain Vi at Palo Alto residents. Defendants contend that the statute at issue does not apply, and they deny all claims. However, before the Court made a final determination in this Lawsuit, Plaintiffs and the Defendants reached this Settlement.
- This Notice summarizes the terms of the proposed Settlement. If you wish to participate in this Settlement and receive benefits, you do NOT need to take any action. This Notice, which has been approved by the Court, also describes what you can do to object to the Settlement or to exclude yourself from the Settlement.
- Defendants have agreed to establish and fund a Class Restricted Cash Account, which may be utilized to make entrance fee repayments due to Class Members that do not opt-out of the Settlement (“Settlement Class Members”), and can only be used for this purpose (See question and answer 7, below, for more details).
- This notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement, which can be accessed by:
  - Contacting class counsel at (650) 697-6000
  - Viewing the Court docket in this case, for a fee, through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>. (*Cork v. CC-Palo Alto, Inc.*, N.D. Cal. Case No. 5:14-CV-00750-EJD)
  - Visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 280 South 1st Street, San Jose, California, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.
- Your legal rights are affected whether you act or do not act. Please read this notice carefully.



OPTION	EXPLANATION	DEADLINE
DO NOTHING	If you entered into a residency contract to live at the Vi at Palo Alto which states that some portion of the entrance fee is repayable at the earlier of resale of the unit or ten (10) years after termination of the contract, and the repayable portion of the entrance fee has not yet been repaid, you do not need to take any action if you want to benefit from the Settlement.	N/A
EXCLUDE YOURSELF	You will not be entitled to repayment of your entrance fee from the Class Restricted Cash Account. However, you will not release potential claims against Defendants relating to the subject matter of the Lawsuit.	August 15, 2022
OBJECT TO THE SETTLEMENT	Write to the Court about why you don't approve of the Settlement.	August 15, 2022
OBJECT TO ATTORNEY'S FEES AND/OR EXPENSES	Write to the Court about why you don't like the attorneys' fees and/or expenses that Class Counsel requests be approved.	August 15, 2022
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement.	Hearing: September 15, 2022 at 9:00 a.m.  (Deadline for submitting intention to appear: September 8, 2022)

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still must decide whether to approve the settlement. The Class Restricted Cash Account will be created only if the Court approves the settlement and after any appeals are resolved. Please be patient.

## **BASIC INFORMATION**

### **1. Why did I get a notice?**

If you received this Notice of the Settlement, records show that you entered into a residency contract to live at the Vi at Palo Alto which states that some portion of the entrance fee is repayable at the earlier of resale



of the unit or ten (10) years after termination of the contract and are a member of the class certified by the Court.

The Court ordered this Notice because you have a right to know about a proposed settlement of a class action lawsuit relating to repayment of your residency contract with CC-Palo Alto. You have a right to know about your options before the Court decides whether to approve the Settlement.

This Notice explains the Lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

## **2. What is this lawsuit about?**

Plaintiffs claim, among other things, that the Defendants failed to maintain adequate financial reserves to repay entrance fees for Vi Palo Alto residents when they become due. California law requires that continuing care retirement communities maintain a reserve for residency contracts that meet the definition of “refundable” under the California Health & Safety Code. Plaintiffs assert that nearly all residency contracts offered by the Vi at Palo Alto prior to January 1, 2017 are “refundable” contracts under the Health & Safety Code, and therefore allege Defendants must maintain a reserve for these residency contracts.

Defendants disagree that any of the Vi at Palo Alto residency contracts are “refundable contracts” under the California Health and Safety Code, and therefore do not believe any reserves for entrance fee repayments are required. Defendants are entering into this Agreement to avoid burdensome and costly litigation and to foster a positive relationship with the members of the Class.

## **3. Why is this a class action?**

In a class action, one or more people, called Class Representatives, sue on behalf of all people who have similar claims (called “Settlement Class Members”). Together, the Class Representatives and the other Settlement Class Members make up the “Settlement Class.” The court resolves the dispute for the Settlement Class, except for those who exclude themselves from the Settlement Class. United States District Court Judge Edward Davila is in charge of this class action.

## **4. Why is there a settlement?**

The Court did not decide the case in favor of Plaintiffs or the Defendants. Instead, both sides agreed to a Settlement. That way, they avoid the cost of a trial, and the Settlement Class Members benefit from the Settlement. The Named Plaintiffs and their attorneys (“Class Counsel”) think the Settlement is in the best interests of the Settlement Class Members.

To see if you are eligible for benefits, you first must determine whether you are a member of the Settlement Class.

# **WHO IS IN THE SETTLEMENT CLASS**

## **5. Who are the Settlement Class Members?**

Subject to the exclusions described below, the Settlement Class Members are all current and former residents of the Vi at Palo Alto who entered into a residency contract which states that some portion of the



entrance fee is repayable at the earlier of resale of the unit or ten (10) years after termination of the contract; and where the repayable portion of the entrance fee has not yet been repaid.

These contracts were not offered after December 31, 2016, and therefore only those who entered into a residency contract to live at the Vi at Palo Alto prior to January 1, 2017, might be class members.

#### **6. Are there exceptions to being included in the Settlement Class?**

The Settlement Class excludes those who opt-out from the Class in the manner described above, Defendants, their affiliates and subsidiaries, and their officers, directors, partners, employees, and agents; class counsel, employees of class counsel's firms, and class counsel's immediate family members; defense counsel, their employees, and their immediate family members; and any judicial officer who considers or renders a decision or ruling in this case, their staff, and their immediate family members.

### **THE SETTLEMENT BENEFITS — WHAT YOU GET**

#### **7. What does the settlement provide?**

The settlement provides for the creation of a Class Restricted Cash Account which may be utilized to make entrance fee repayments to the Settlement Class Members.

If the Court approves the settlement, CC-Palo Alto will establish and fund a Class Restricted Cash Account in an amount equal to 75% of the annual entrance fee repayments actuarially estimated to be due to the Settlement Class Members as detailed in an initial actuarial projections report prepared (by an independent third party) for the calendar year in which the Settlement Date occurs after giving due credit for any prior entrance fee repayments to any Settlement Class Members made in such year. By January 31, in each subsequent year, CC-Palo Alto will fund an amount necessary to cause the Class Restricted Cash Account to contain an amount equal to 75% of the annual entrance fee repayments actuarily estimated to be due to the Settlement Class Members concerning the calendar year in question, with due credit for any prior entrance fee repayments paid to any Settlement Class Member during such year. The current cash held by CC-Palo Alto restricted as to use for repayments of entrance fees established for residency contracts entered into between June 1, 2012 and December 31, 2016 shall be contributed to or credited against the Class Restricted Cash Account, as from time to time in effect.

If any payment reduces the amount in the Class Restricted Cash Account below 50% of the established annual amount of the entrance fee repayments estimated to be due to the Settlement Class Members for the year in question, then within 14 days thereafter CC-Palo Alto is required to replenish the amount of the Class Restricted Cash Account so that its aggregate balance is equal to at least 50% of such established annual amount.

The Class Restricted Cash Account may be utilized only to make entrance fee repayments to the Settlement Class Members when repayments become due.



## **HOW YOU MAY BENEFIT FROM THE SETTLEMENT**

### **8. How can I benefit from the Settlement?**

If you received this Notice of the Settlement, you have been identified as a Settlement Class Member. If you do nothing, the Class Restricted Cash Account may be utilized to make an entrance fee repayment to you when such repayment becomes due. There is no action needed on your part to receive a benefit from the Settlement.

### **9. When would the Class Restricted Cash Account be created?**

Creation of the Class Restricted Cash Account and associated requirements set forth in the Settlement Agreement will not be required until the Court approves the Settlement. The Court will hold a Final Hearing on Thursday, September 15, 2022 at 9:00 a.m., to decide whether to approve the Settlement. The Final Hearing will either take place in Courtroom 4 on the 5th Floor of the San Jose Federal Courthouse located at 280 South 1st Street, San Jose, CA 95113, or it will be held by video conference. If Judge Davila approves the settlement, there still may be appeals. The appeal process can take time, perhaps more than a year. If there is no appeal, the requirements of the Settlement will take effect promptly. Please be patient.

The date or location of the Final Hearing may change without further notice. You should check the Court's Public Access to Court Electronic Records (PACER) site at <https://ecf.cand.uscourts.gov> to confirm that the date and location have not been changed.

### **10. What am I giving up to benefit from the Settlement?**

Unless you submit a valid request to be excluded from the Settlement Class, you will be a Settlement Class Member. If you remain a Settlement Class Member, the Class Restricted Cash Account may be utilized to make entrance fee repayments to you; but you can't sue, continue to sue, or be part of any other lawsuit against the Defendants relating to the claims and allegations that were made, or that could have reasonably been made, in this case. It also means that all of the Court's orders will apply to you and legally bind you.

## **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you are willing to forego having the Class Restricted Cash Account be utilized to make entrance fee repayments to you, you will retain the right to sue, or continue to sue, the Defendants on your own about the claims and allegations in this case. However, in that case, you must take steps to get out of the Settlement Class. This is what it means to request to be excluded from or "opt out" of the Settlement Class. (Note that in deciding to opt out of the Settlement Class, you will not forego the right to any entrance fee repayment due to you under the terms of your residency contract with CC-Palo Alto. However, you will not have the right to regard the Class Restricted Cash Account as a source for repayment of your entrance fee.)

### **11. How do I get out of the Settlement?**

To request to be excluded from the Settlement, you must send a letter saying that you want to be excluded from the Settlement Class in *Richter v. CC-Palo Alto, Inc.*, N.D. Cal. Case No. 5:14-CV-00750-EJD. The letter must include the full name, signature, address, email and telephone number of the person or persons that wish to be excluded, as well as the common address of the unit the person opting out resides at (or



resided at) at the Vi at Palo Alto. If you executed your residency contract with another individual (i.e. a spouse), both signatories must opt-out of the Settlement to be excluded.

The exclusion request must be postmarked by no later than August 15, 2022. The exclusion request must be sent to:

Anne Marie Murphy (No. 202540)  
COTCHETT, PITRE & MCCARTHY LLP  
840 Malcolm Road, Suite 200  
Burlingame, CA 94010  
Telephone: 650.697.6000  
Facsimile: 650.692.0577  
Class Counsel

Hilary Weddell (No. 293276)  
McMANIS FAULKNER  
50 West San Fernando Street, 10th Floor  
San Jose, CA 95113  
Tel: (408) 279-8700  
Fax: (408) 279-3244  
Counsel for Defendants

If you are excluded, you will not receive any benefit associated with the Class Restricted Cash Account, and you cannot object to the Settlement. You will not be legally bound by anything that happens in this Lawsuit. You may be able to sue the Defendants in the future about the claims and allegations in this case.

#### **12. If I don't opt out, can I sue the Defendants for the same thing later?**

No. Unless you request to be excluded, you give up the right to sue the Defendants for the claims that this Settlement resolves. Any Class Member that does not request to be excluded will be bound by the class judgment.

### **THE LAWYERS REPRESENTING YOU**

#### **13. Do I have a lawyer in this case?**

The Settlement Class is represented by Anne Marie Murphy of Cotchett, Pitre & McCarthy, LLP which has been appointed by the Court as Lead Class Counsel for the Settlement Class. If you want to be represented by your own lawyer, you may hire one at your own expense.

#### **14. How will the lawyers be paid?**

As part of the Settlement Agreement, Defendants will pay Class Counsel \$1,000,000 for fees and expenses, subject to Court approval. A copy of Class Counsel's Motion for Attorneys' Fees and Expenses will be available after the motion is filed with the Court, and accessible as follows:

- Contacting class counsel at (650) 697-6000



- Viewing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>. (*Richter v. CC-Palo Alto, Inc.*, N.D. Cal. Case No. 5:14-CV-00750-EJD)
- Visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 280 South 1st Street, San Jose, California, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays

## **OBJECTING TO THE SETTLEMENT**

You can tell the Court that you don't agree with the settlement or some part of it.

### **15. How do I tell the Court that I don't like the Settlement?**

You can ask the Court to deny approval of the Settlement by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, the Settlement will not move forward and the lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the Settlement Agreement must be individually and personally signed by the Settlement Class Member submitting it (if the Settlement Class Member is represented by their own attorney, the objection must also be signed by their attorney), and must include:

- The objecting Settlement Class Member's full name, address, and email and telephone number;
- A written statement describing with particularity all grounds for the objection, accompanied by any factual or legal support for the objection;
- Copies of any papers, briefs, or other documents upon which the objection is based;
- The name, address, email address, and telephone number of any attorney(s) representing the objector; and
- A statement indicating whether the objector and/or his or her counsel intends to appear at the Fairness Hearing and, if so, a list of all persons, if any, who will be called to testify in support of the objection.

All written objections and supporting papers must (a) clearly identify the case name and number (*Richter v. CC-Palo Alto, Inc.*, N.D. Cal. Case No. 5:14-CV-00750-EJD), (b) be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 280 South 1st Street, San Jose, CA 95113, or by filing them in person at any location of the United States District Court for the Northern District of California, and (c) be filed or postmarked on or before [DATE], Pacific Time.

If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.



## 16. What's the difference between objecting and requesting exclusion?

If you object, you are telling the Court that you disagree with something in the Settlement. You can object only if you *stay in* the Settlement Class. If you object but the Court still approves the Settlement, you will be bound by the Settlement and can receive the benefits it provides.

If you request exclusion, you are telling the Court that you don't want to be part of the Settlement Class. You would then have no basis to object because the Settlement would no longer affect you.

## **THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the Settlement. You may attend, and you may ask to speak, but you don't have to.

## 17. When and where will the Court decide whether to approve the Settlement?

The Court is scheduled to hold a Final Hearing at 9:00 a.m. on September 15, 2022, at the United States District Court for the Northern District of California, San Jose Division, Courtroom 4 on the 5th Floor of the San Jose Federal Courthouse located at 280 South 1st Street, San Jose, CA 95113. If the Court holds the hearing by video conference, instructions to join the conference will be found at <https://cand.uscourts.gov/judges/davila-edward-j-ejd/>.

At the Final Hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Davila will listen to Settlement Class Members who have asked to speak at the hearing. The Court will also consider how much money to award Class Counsel in fees and expenses. After the Final Hearing, the Court will decide whether to approve the Settlement and will rule on Class Counsel's Motion for Attorneys' Fees and Expenses.

We do not know how long these decisions will take. The date of the Final Hearing can change without further notice. Please check <https://cand.uscourts.gov/judges/davila-edward-j-ejd/> for further updates.

## 18. Do I need to come to the Final Hearing?

No. Class Counsel will answer questions about the settlement that Judge Davila may have. But you are welcome to come at your own expense. If you send an objection, you don't need to come to the Final Hearing. As long as your written objection was received on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

## 19. May I speak at the Final Hearing?

You may ask the Court for permission to speak at the Final Hearing. To do so, you must send a notice stating that you intend to appear and speak at the Final Hearing in *Richter v. CC-Palo Alto, Inc.*, N.D. Cal. Case No. 5:14-CV-00750-EJD. You must include the case name and number, your name, mailing address, email address, telephone number, and your signature. Your notice must be filed with the Clerk of the Court either by mailing it to the Class Action Clerk, United States District Court for the Northern District of



California, 280 South 1st Street, San Jose, CA 95113, or by filing it in person at any location of the United States District Court for the Northern District of California.

Your notice of intention to appear must be filed or postmarked on or before September 8, 2022,. You cannot speak at the Final Hearing if you requested to be excluded from the Settlement Class.

## **GETTING MORE INFORMATION**

### **20. Are there more details about the Settlement?**

This Class Notice summarizes the proposed Settlement. More details are in a Settlement Agreement. Copies of the Settlement Agreement and the pleadings and other documents relating to the case, including motions for approval of the Settlement and awards of Attorneys' Fees and Expenses, are on file at the United States District Court for the Northern District of California, San Jose Division.

In addition, you can access the Court docket in this case, for a fee, through the Court's PACER system at <https://ecf.cand.uscourts.gov>. You can also visit the office of the Clerk of the Court for the United States District Court for the Northern District of California, San Jose Division, located at 280 South 1st Street, San Jose, CA 95113, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays. You should contact them by phone at (408) 535-5363 to verify that the building is open on the day you intend to visit.

### **21. How do I get more information?**

You may also contact Class Counsel from Cotchett, Pitre & McCarthy at 650-697-6000 and ask to speak to Anne Marie Murphy.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR ABOUT THE CLAIM PROCESS.**