

CONSUMER DEFENSE GROUP ACTION

GRAHAM & MARTIN, LLP

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60 Day Notice of Intent to Fairfield Communities Group, Fairfield Apartments LP and Fairfield Residential LLC Under Health & Safety Code Section 25249.6

Consumer Defense Group Action, a California corporation (hereinafter "CDG" or the "Noticing Party") hereby gives Notice of Intent to Sue Under Health & Safety Code Section 25249.5 (the "Notice"), the President/CEO of Fairfield Communities Group, Fairfield Apartments LP and Fairfield Residential LLC (hereinafter referred to collectively as the "violator"), as well as the governmental entities on the attached proof of service. The Noticing Party must be contacted through the following entity: Law Offices of Graham & Martin, LLP, 3 Park Plaza, Suite 2030, Irvine, California 92614.

This Notice is intended to inform the violator that it has violated Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (commencing with Health & Safety Code Section 25249.5) (hereinafter "Proposition 65") by failing and refusing to post clear and reasonable warnings at each of the facilities listed on Exhibit A hereto (which are owned/managed by the violator) (hereinafter "the Facilities") that the violator permits the operation of motor vehicles at the Facilities, which exposes customers, visitors and employees to diesel and gasoline exhaust fumes, which contain benzene, in the areas where such vehicles are allowed to be operated.

Summary of Violation:

Proposition 65 provides that when a party, such as the violator, has been and is knowingly and intentionally exposing its customers, visitors, employees and the general public to chemicals designated by the State of California to cause cancer and reproductive toxicity ("the Designated Chemicals") it has violated the statute unless, prior to such exposure, it provides clear and reasonable warning of that potential exposure to the potentially exposed persons (Health & Safety Code Section 24249.6. Diesel and gasoline exhaust fumes contain benzene, a Designated Chemical.

He violator, in the ordinary course of business, controls much of the conduct and actions of its customers, visitors and employees at each of the Facilities. One of the actions the violator controls is whether or not to allow its customers, visitors and employees at each of the Facilities to operate motor vehicles and the location of such operation at the Facilities.

Over the course of the last year (hereinafter referred to as the "Investigation Period") during litigation against the violator CDG has gathered a great deal of information concerning the Facilities operated by the violator. During those investigations CDG discovered that the Facilities are owned and/or managed by the violator, and that the violator has more than nine employees. Those investigations showed that the violator has chosen to allow its customers, visitors and employees at each of the Facilities to operate motor vehicles in certain areas, the driveways and parking areas.

In the Facilities and areas noted the violator has chosen to allow its customers, visitors and employees to be exposed to diesel and gasoline exhaust fumes containing benzene via the breathing of such fumes (inhalation) and by contact with the skin and clothing (dermal contact). Evidence that the

operation of motor vehicles (and thus exposures to diesel and gasoline exhaust fumes) was taking place at the Facilities, has been seen by the investigators for CDG at the Facilities and admitted during litigation in formal discovery by the violator during the Investigation Period. The investigation by CDG of the Facilities showed that the violator has specifically chosen to ignore the requirements of Proposition 65 and has failed to post clear and reasonable warnings at any of the entrances to the Facilities, in the parking areas, or in the areas leading into the Facilities from the parking areas, so that its customers, visitors and employees, who may not wish to be exposed, can be warned that, upon entering any of those areas, they may be exposed to diesel and/or gasoline exhaust fumes, containing benzene, a chemical known to the State of California to cause cancer and/or reproductive toxicity.

It is clear therefore that for the entire period of time that the violator has owned and/or controlled the Facilities prior to the Investigation Period, the violator has failed to post clear and reasonable warning signs at the Facilities in compliance with Proposition 65. Given that the maximum period of potential liability pursuant to Proposition 65 and Business & Professions Code §17200 (which are the operative statutes pursuant to which a complaint will be filed against the violator) is four years, this Notice is intended to inform the violator that it has been in violation of Proposition 65 from the time period from four years prior to the last date of the Investigation Period noted above, for every day upon which the violator owned and/or controlled any Facility listed on Exhibit A.

The written reports prepared by the investigators for CDG, prepared contemporaneously with the investigations conducted during the Initial Investigation Period, have been provided to the Office of the Attorney General responsible for Proposition 65 enforcement.

Environmental Exposures:

While in the course of doing business at the Facilities, during the Investigation Period, and for up to four years prior to that time, the violator has been and is knowingly and intentionally exposing its customers and the public to the chemicals listed below and designated by the State of California to cause cancer and reproductive toxicity without first giving clear and reasonable warning of that fact to the exposed persons (Health & Safety Code Section 24249.6). The source of exposure is diesel and gasoline exhaust fumes containing benzene and produced by the operation of motor vehicles which the violator permits at the Facilities. The areas at the Facilities where customers, visitors and employees are being exposed to diesel and gasoline exhaust fumes the apartments and public walkways near to driveways and parking areas, and those driveways and parking areas.

Occupational Exposures:

While in the course of doing business at the Facilities, during the Investigation Period, and for up to four years prior to that time, the violator has been and is knowingly and intentionally exposing its employees to diesel and gasoline exhaust fumes and other chemicals listed below and designated by the State of California to cause cancer and reproductive toxicity without first giving clear and reasonable warning of that fact to the exposed person (Health & Safety Code Section 25249.6). The source of exposure is diesel and gasoline exhaust fumes produced by the operation of motor vehicles which the violator permits at the Facilities. Employees include and are not limited to security personnel, maintenance workers, service personnel and administrative personnel. The areas at the Facilities where employees are being exposed to diesel and gasoline exhaust fumes the apartments and public walkways near to driveways and parking areas, and those driveways and parking areas.

The route of exposure for Occupational Exposures and Environmental Exposures to the Designated Chemical has been inhalation and dermal contact with diesel and gasoline exhaust fumes at the

Facilities. In other words, via breathing and contact with the skin of diesel and gasoline exhaust fumes.

Proposition 65 requires that notice and intent to sue be given to the violator sixty days before a suit is filed. With this letter, CDG gives notice of the alleged violations to the violator and the appropriate governmental authorities. This notice covers all violations of Proposition 65 that are currently known to CDG from information now available to them. CDG reserves the right to amend this Notice to inform the violator of other violations and/or exposures as it gathers further information. With the copy of this amended notice submitted to the violator, a copy is provided of "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary".

Dated: November 4, 2004

By:

**Fairfield Properties
Exhibit A**

1. 22501 Chase Drive, Aliso Viejo
2. 22681 Oak Grove Avenue, Aliso Viejo
3. 2 Enterprise, Aliso Viejo
4. 27662 Aliso Creek Road, Aliso Viejo
5. 28520 Wood Canyon Drive, Aliso Viejo
6. 10801 Lemon Lane, Alta Loma
7. 10655 Lemon Lane, Alta Loma
8. 650 West Broadway, Anaheim
9. 6664 Knott Avenue, Buena Park
10. 20211 Sherman Way, Canoga Park
11. 105 Camino Ruiz #21, Camarillo
12. 5240 Corte Bocina, Camarillo
13. 3402 Calle Odessa, Carlsbad
14. 2475 Del Mar Way, Corona
15. 1018 Vista Del Cerro, Corona
16. 1720 South El Camino Real, Encinitas
17. 200 South Lexington Drive, Folsom
18. 4200 Bay Street, Fremont
19. 415 Herondo Street, Hermosa Beach
20. 22700 Lake Forest Drive, Lake Forest
21. 401 S. Hoover, Los Angeles
22. 505 S. Lafayette, Los Angeles
23. 350 S. Catalina, Los Angeles
24. 535 S. Alexandria Street, Los Angeles
25. 1117 W. Sepulveda Blvd., Los Angeles
26. 4315 W. 182nd Street, Los Angeles
27. 2121 W. 11th Street, Los Angeles
28. 4302 Cassana Way, Oceanside
29. 3901 Mesa Drive, Oceanside
30. 150 W. Foothill Blvd., Pomona
31. 22751 El Prado, Rancho Santa Margarita
32. 19609 Sherman Way, Reseda
33. 8111 Reseda Blvd., Reseda
34. 5880 Fair Isle Drive, Riverside
35. 5925 Sycamoe Canyon Blvd., Riverside
36. 3250 Panorama Road, Riverside
37. 101 Coppervale Circle, Rocklin
38. 701 Gibson Drive, Roseville
39. 4901 Little Oak Road, Sacramento
40. 4400 Elkhorn Blvd., Sacramento
41. 1070 Lake Front Drive, Sacramento
42. 7503 Charmant Drive, San Diego

43. 10603 Drabney Drive #7, San Diego
44. 10024 Paseo Montril, San Diego
45. 11760 Westview Parkway, San Diego
46. 7110 Shoreline Drive, San Diego
47. 13103 Kellam Court #7, San Diego
48. 8895 Caminito Plaza Centro, San Diego
49. 3030 Suncrest Drive, San Diego
50. 7194 Schilling Avenue, San Diego
51. 10931 Gerana Street, San Diego
52. 5765 Mt. Alifan Drive, San Diego
53. 13006 Signature Point, San Diego
54. 10918 Evening Creek Drive Eats, San Diego
55. 760 North 7th Street, San Jose
56. 5210 Monterey Road, San Jose
57. 117 W. Sepulveda Blvd., Torrance
58. 20707 Anza Avenue, Torrance
59. 3724 Spencer Street, Torrance
60. 16331 McFadden Avnue, Tustin
61. 1602 Nisson Road, Tustin
62. 28160 McBean Parkway, Valencia
63. 16640 Sepulveda Crest, Van Nuys
64. 15454 Sherman Way, Van Nuys

CERTIFICATE OF MERIT
Health and Safety Code Section 25249.7(d)

I, Anthony G. Graham, hereby declare:

1. This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

2. I am member of the State Bar of California, a partner of the law firm of Graham & Martin, LLP, and attorney for noticing parties Consumer Defense Group and The McKenzie Group.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposures to the listed chemicals that are the subject of the action.

4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Irvine, California on November 4, 2004.

CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 3 Park Plaza, Suite 2030, Irvine, California 92614.

I SERVED THE FOLLOWING:

- 1.) 60-Day Notice of Intent to Sue Under Health & Safety Code Section 24249.6;
- 2.) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (*only sent to violators*); and
- 3.) Certificate of Merit;
- 4.) Supporting documents (*only sent to Office of Attorney General*)

by enclosing a true copy of the same in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the United States mail with the postage fully prepaid:

Date of Mailing: November 4, 2004

Place of Mailing: Irvine, California

NAME AND ADDRESS OF EACH PERSON TO WHOM DOCUMENTS WERE MAILED:

President/CEO
Fairfield Communities Group
Fairfield Apartments LP
Fairfield Residential LLC
5510 Morehouse Drive, Ste. 200
San Diego, CA 92121

California Attorney General
(Proposition 65 Enforcement Division)
1515 Clay Street, 20th Floor
Oakland, CA

Los Angeles County District Attorney
210 W. Temple Street, 18th Floor
Los Angeles, CA 90012

Orange County District Attorney
700 Civic Center Dr. W., 2nd Fl.
Santa Ana, CA 92701

Riverside County DA
4075 Main St., 1st Fl.
Riverside, CA 92501

Sacramento County DA
P.O. Box 749
Sacramento, CA 95812

San Diego County District Attorney
330 Broadway
San Diego, CA 92101

San Diego City Attorney
1200 3rd Ave. Ste. 1620
San Diego, CA 92101

Los Angeles City Attorney
200 N. Main St. N.E.
Los Angeles, CA 90012

San Mateo District Attorney
1050 Mission Road
South San Francisco, CA 94080

Santa Clara County DA
2645 Zanker Road
San Jose, CA 95134

San Jose City Attorney
151 W. Mission St.
San Jose, CA 95110

San Bernardino County DA
316 N. Mountain View Av.
San Bernardino, CA 92415

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: November 4, 2004