

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

Housing Court Department  
Central Division  
No. 21H85CV000072

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**XUE CHEN, RAJEEV TRIPATHI,  
and MONIKA TRIPATHI,  
Individually and on behalf of all others  
similarly situated,**

**Plaintiffs,**

**v.**

**FPACP4 FOUNTAINHEAD, LLC, and  
NORTHLAND FOUNTAINHEAD LLC,**

**Defendants**

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**PRELIMINARY APPROVAL ORDER**

After hearing, and the Court having reviewed the Third Amended Settlement Agreement effective April 18, 2023 (the “Third Amended Settlement Agreement,” or “Agreement”), and good cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Court adopts all defined terms as set forth in the Third Amended Settlement Agreement, which are incorporated herein by reference.
2. The Court has jurisdiction over the subject matter of the Action, the Plaintiffs, the Class Members, and the Defendants.
3. The Court preliminarily approves the terms of the Third Amended Settlement Agreement as being fair, reasonable, and adequate to the Class, subject to further consideration at the Final Approval Hearing described below.

4. The Court preliminarily finds that the Class, as defined in the Third Amended Settlement Agreement (“all persons who between February 10, 2015 and April 18, 2023 (the ‘Class Period’) were tenants at the Property (all such persons to be, collectively, the ‘Class,’ and each person who is included within the Class to be, individually, a ‘Class Member’”) meets, for settlement purposes only, the requirements of Rule 23 of the Massachusetts Rules of Civil Procedure for certification. The Court provisionally certifies the Class for the purposes of settlement and without prejudice to the Parties in the event the Settlement is not finally approved or otherwise does not take effect.

5. The Court hereby appoints the named Plaintiffs as Class Representatives for purposes of entering into and implementing the Settlement. The Court also appoints Charles G. Devine, Jr., Esq., of Devine Barrows, LLP, Kenneth D. Quat, Esq., of Quat Law Offices, and Lei Zhao Reilley, Esq. as Class Counsel.

6. The Court finds that the Notices in the forms attached to the Agreement as Exhibits B and C are reasonably and practicably calculated to notify Class Members of, *inter alia*, the pendency of the Action, the nature of the Action, the relief to be provided, and their rights to object to the Settlement and to appear at the Final Approval Hearing.

7. The Defendants are authorized to provide a class list to the Settlement Administrator.

8. The Court finds that dissemination of the Notice in the manner described in the Agreement is reasonably formulated to reach a substantial percentage of the Class Members and constitutes the best notice practicable under all the circumstances. The Court further finds that dissemination of the Notice in said manner meets the requirements of the Massachusetts Rules of Civil Procedure and the due process requirements of the Constitution of the Commonwealth of

Massachusetts and the United States Constitution and any other applicable law, and shall constitute adequate and sufficient notice to all persons entitled thereto.

9. The Settlement Administrator shall comply with all provisions regarding the substance and delivery of Notice as set forth in Paragraph 7 of the Agreement. No later than ten (10) business days prior to the Final Approval Hearing, the Settlement Administrator shall file with the Court and serve on all Counsel an affidavit of compliance with the Notice plan and procedures.

10. No later than the date when the Summary Notice is mailed, the Settlement Administrator will establish a settlement website, the content of which will include the documents and features specified in Paragraph 7(f) of the Agreement.

11. Any Class Member may object to the proposed Settlement by serving on Class Counsel and Defendants' Counsel a written statement of objection in accordance with Section 9 of the Agreement. Said objections must be delivered no less than thirty (30) days prior to the Final Approval Hearing. Any Class Member who wishes to appear and be heard at the Final Approval Hearing, either in person or through counsel, must so indicate in the objection. The parties will file a list of any unresolved objections with the Court no later than five (5) days prior to the Final Approval Hearing.

12. The Final Approval Hearing shall be held at 2:00 p.m. on October 17, 2023, at 225 Main Street, Worcester, Massachusetts, to finally determine (i) whether the Class should be certified for purposes of the Settlement; (ii) whether the Agreement should be approved as fair, reasonable and adequate to the Class; (iii) whether Class Counsel should be awarded legal fees and expenses in the amounts requested; (iv) whether the Class Representatives should be awarded Service Awards in the amounts requested; and (v) whether the Final Order and Judgment

approving the settlement should be entered. The Motion for Final Approval is to be filed not later than ten (10) business days prior to said hearing, supported by Class Counsel's request for attorneys' fees and expenses and the Class Representative's request for Service Awards. The Court may continue or adjourn the Final Approval Hearing without further notice to Class Members.

13. Pending determination of final approval of the Settlement, the Class Representatives and Class Members are hereby enjoined from asserting, commencing, continuing or prosecuting any of the Settled Class Claims as defined in the Agreement, against Defendants' Released Parties in any action, suit or other proceeding. All proceedings in this Action are stayed, other than such proceedings as are related to the Settlement.

14. The Court retains jurisdiction over the Action to consider all further applications, motions, and/or disputes arising out of or connected with the proposed Settlement.

15. The Court hereby directs the Class Representatives and Defendants to proceed in strict accordance with the terms of the Agreement for the purpose of consummating the proposed Settlement and providing Notice thereof, and hereby authorizes them to take all acts reasonably necessary to consummate the Settlement.

16. The Court may, for good cause, extend any of the deadlines set forth in this Order without further notice to Class Members.

IT IS SO ORDERED.

/s/ Jeffrey M. Winik  
Justice of the Housing Court

Dated: 05/30/2023