

Court Upholds Developer Fees on Residential Project that Developer Argued Would Not Generate Students

Vol. 2020, No. 9 | November 18, 2020

The California Court of Appeal recently addressed whether a school district may impose developer fees on a residential construction project even when the developer contends the project will not generate any new district students. (*AMCAL Chico LLC v. Chico Unified School District* (November 5, 2020; 2020 WL 6498638.) The Court held that while a district must prepare required fee studies to support the imposition of fees on new residential construction, the district need not analyze each individual type of residential construction project. The district in this case properly conducted a fee justification study related to the impact of residential construction, so the Court affirmed an order allowing it to collect fees on the project, notwithstanding the developer's contention the specific project would generate no new K-12 students.

Background

School districts may impose developer fees (also referred to as "school impact fees") on commercial and residential development within district boundaries to fund the construction or reconstruction of school facilities necessitated by growth from development.

A residential developer, AMCAL Chico, LLC (AMCAL), constructed a residential apartment complex intended to house university students, located within the boundaries of Chico Unified School District (District). The District imposed residential developer fees on the project, and AMCAL filed a lawsuit seeking a refund, arguing that university student housing would not generate new District students.

Decision

Existing law requires a school district to prepare a developer fee justification study that shows a reasonable relationship between the amount of statutory developer fees and the burden placed on the district by types of development, such as residential development.

Relying on other recent case law, the *AMCAL* court held that the developer fee statutes allow a school district to collect fees on a project if the district has justified the collection of fees on that



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general class of development, e.g. new residential development. The developer fee statutes do not require districts to make individualized determinations for each particular residential project as a condition of levying school impact fees or justify fees on particular types or classes of new residential projects. Therefore, the District could collect developer fees from the AMCAL project despite AMCAL's contention that an analysis of its specific residential project would show the project would not generate new District students.

Impact

Property developers often misunderstand the scope of projects for which a school district may impose developer fees, believing that the specific intended use of a project might exempt it from payment. *AMCAL* reinforces existing case law holding that it is the *type* of project that triggers whether developer fees apply, not the *specific use* the owner has planned.

AMCAL also reinforces the importance of complying with the procedural requirements of the developer fee statutes, such as the need to have sound, well-reasoned developer fee studies in place that meet required *nexus* requirements.

If you have questions about developer fees, please contact a DWK attorney in our Business, Property and Construction group.

Reminder: Don't forget that the deadline for Annual and Five-Year developer fee reports is on the horizon. These reports must be made available for public review by no later than December 27, and approved by the board at the next regularly scheduled public meeting thereafter but not less than 15 days after the information is made available to the public. For more information about developer fee reporting requirements, please contact us.

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