

School District Developer Fees C.A.S.H. 2008 Fall Conference

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What are Developer Fees?

- ◆ Statutory Mechanism for providing funds to accommodate students resulting from new development in a school district.
- ◆ Level I Developer Fees (1986 AB 2926).
- ◆ Level II/III Developer Fees (1998 SB 50).

Basic Statutory Residential Developer Fee Calculation

- ◆ Student Generation Rate (SGR) * Facility Cost
Square Footage of New Homes
- ◆ Calculation generates a school facility cost per square foot of new residential development.

The “Nexus Requirements”

- ◆ Calculation of existing capacity, enrollment and the need for new facilities for students from new development.
- ◆ Evaluation of local funds and the extent to which District local funds are available to off set the need for facilities for students from new development.

Level I Developer Fees

- ◆ Level I Fees are a capped fee and apply to both residential and commercial/industrial development.
- ◆ Current cap is \$2.97 per square foot for residential development and \$0.47 per square foot for commercial/industrial development.
- ◆ The fee cap adjusts every two years. The next fee adjustment will be in January 2010.

Level I Residential Fees

- ◆ The Statute does not require that specific data be used in calculating the data elements of the "Basic Fee Calculation" or the "Nexus Requirements".
- ◆ As a result, District standards for SGR, facility costs, classroom usage, loading standards, etc. can be used in the Level I developer fee calculation.

Level I Commercial Fees

- ◆ Commercial/Industrial fees are a separate Level I fee designed to offset the impact that new commercial development causes by attracting new workers with students to a school district.
- ◆ When calculating a commercial fee it is important to consider an off set for new workers that may move into a new home and pay a residential fee as well.

Adoption Process and Procedures Level I Fees

- ◆ The fee and corresponding justification report must be adopted at a public hearing.
- ◆ The public hearing must be noticed 10 days before the hearing and a second time at least five days later. Justification documents must be available 10 days before the public hearing.
- ◆ Notice of the hearing and a copy of the justification report need to be mailed at least 14 days prior to the hearing to any party who have filed a written request for the information from the District.

Adoption Process and Procedures Level I Fees

- ◆ The District may be required to notify and provide a copy of the justification report 45 days prior to finalization to local planning jurisdictions (check with your legal counsel).
- ◆ Once adopted, the collection can take effect 60 days after adoption of resolution unless an emergency resolution is adopted by the Board.

Level II/III Developer Fees

- ◆ Set up as a supplement to the Level I residential fee.
- ◆ Specific Eligibility Criteria
 - Statue requires that specific data be used in calculating the data elements needed in the "Basic Fee Calculation" and the "Nexus Requirements".

Level II Developer Fees

- ◆ Intended to represent 50% of the District's school facility cost in the School Facility Program of pupils from new development.
- ◆ Calculation formula based on 50% of State allowable site acquisition, site development and construction costs.

Level III Developer Fees

- ◆ Intended to represent 100% of the District's school facility cost in the School Facility Program of pupils from new development.
- ◆ Effectively doubles the District's Level II fee amount.
- ◆ Same formula as Level II fee, except not reduced by dedicated local funds.
- ◆ State Allocation Board Certification of no State funding required for imposition of Level III fees.

Level II/III Developer Fees Specific Eligibility Criteria

- ◆ The District must have made a timely application to the State Allocation Board for new construction funding and be deemed eligible for new construction funding.
- ◆ The District must prepare a School Facility Needs Analysis and Justification Report.

Level II/III Developer Fees Specific Eligibility Criteria

- ◆ The District must meet two of the following:
 - Substantial enrollment on MTYRE calendars.
 - GO Bond in the last four years that received at least 50 percent plus one of the votes cast.
 - Issued debt equal to at least 15 or 30 percent of bonding capacity.
 - 20 percent of classrooms in relocatables.

Level II/III Developer Fees Specific Calculation Data

◆ Basic Fee Calculation

- SGR based on similar housing units built in the last five years.
- Facility Cost based on the State Grant, Site Development and Site Acquisition costs.
- Square Footage based on information provided by the local planning jurisdictions or market study by an independent third party.

Level II/III Developer Fees Specific Calculation Data

◆ Nexus Requirements

- Classroom count and capacity based on State School Facility Program calculations.
- Local Funds dedicated to students from new development must reduce facility cost.
- Surplus property must be considered as local funds.

Adoption Process and Procedures Level II/III Fees

- ◆ The District is required to notify and provide a copy of the justification report 45 days prior to finalization to local planning jurisdictions.
- ◆ Once adopted, the Level II/III fee becomes effective immediately and is valid for a maximum of one year.

Adoption Process and Procedures Level II/III Fees

- ◆ The fee and corresponding justification report (SFNA) must be adopted at a public hearing.
- ◆ The public hearing must be noticed 30 days before the hearing. Justification document (SFNA) must be available 30 days before the public hearing.
- ◆ Notice of the hearing and a copy of the justification report need to be mailed at least 45 days prior to the hearing to any party who have filed a written request for the information from the District.

Areas to Watch Out For

◆ Nexus Requirements

- Declining enrollment – make sure you can justify the need for new facilities.
- Cost – Make sure that there is a link between the cost that you are outlining in your developer fee report and the projects that you plan to complete.

Areas to Watch Out For

◆ Basic Fee Calculation

- Make sure you can support the data in your justification reports.
 - Cost information -- For Level II/III make sure you are adhering to the State funding requirements.
 - SGR – For Level II/III make sure that it is based on similar housing units built in the last five years.
 - Average Square Footage – Make sure that it is based on information from the local planning jurisdiction or an independent market report, especially for Level II/III fees.
- ◆ Levy fees only on additions > 500 square feet.

Gray Areas (Consult Your Legal Counsel)

- ◆ Developer Fees and Modernization
 - Check with your legal counsel.
 - It may be possible to use Level I developer fees on modernization if the District's justification for the fee is that existing facilities are inadequate and therefore need to be modernized to adequately house students from new development.
 - Because Level II fees are linked to the State new construction funding program, it is not generally advisable to use them on modernization projects.

Gray Areas (Consult Your Legal Counsel)

- ◆ Level II/III Capacity Adjustments
 - Code requires that the District's capacity be adjusted annually with each update, but is not specific how.
 - Impacts the "Nexus Requirement" – the District's need for new facilities.

Gray Areas (Consult Your Legal Counsel)

- ◆ Level II/III Local Fund Considerations
 - Make sure you are only considering dollars available for new capacity for students from new development.
 - Bond funds restricted to modernizing existing facilities for existing students or for constructing a multi-purpose room for an existing impacted school site probably should not be considered available.

Gray Areas (Consult Your Legal Counsel)

- ◆ Level II/III Local Fund Considerations
 - Local funds borrowed, for example, to acquire a site probably should not be considered available if the District is going to rely on future developer fees to repay the borrowing.
- ◆ Redevelopment/Reconstruction
 - Make sure your justification documents discuss redevelopment and work with your legal counsel on how to assess fees.

AB 2173

◆ Modifies Level II Eligibility Criteria

- "Active participation" in the SFP.
- GO Bond in the last eight years that received at least 50 percent plus one of the votes cast (Currently in the last four years).
- District bonding capacity of less than five million dollars added to the four criteria
- Still need to meet two of the four criteria

◆ Student Generation Rate

- Calculation based on last ten years of data (Currently last five years).

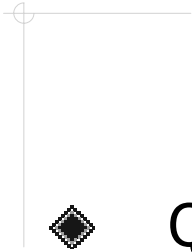
AB 2173

◆ Explicitly States Costs to be Used in Calculation

- Costs include additional SFP funding adjustments.

◆ Adoption Procedure

- Member of the public may request meeting with Board to discuss SFNA fifteen days before Board meeting.
- Board shall hold the meeting no less than five days before Board meeting.



Questions????????????