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CITIES



## COMMENTS ON THE HCD/TERNER CENTER REPORT:

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### Residential Impact Fees in California

#### Current Practices and Policy Considerations to Improve Implementation of Fees Governed by the Mitigation Fee Act

August 27, 2019

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### GENERAL COMMENTS:

- Our organizations believe the Residential Impact Fees in California report (Report) was well balanced and informative. The recommendations are thoughtful and complex, and the majority of those recommendations deserve more time for discussion than is possible in the last three weeks of session.
- **Our organizations, however, can support moving forward this year with key transparency and accountability recommendations in the Report that have been discussed since January in relation to AB 1483 and previous versions of AB 1484, provided local agencies are given a reasonable timeline for implementation (see specific details below).**
- A development impact fee defrays all or a portion of the cost of public facilities and services reasonably related to a development project. The Report observes that most jurisdictions set fees in an amount that defrays a portion, not all, of the cost of those public facilities.
- The Report notes that there are few alternative funding mechanisms available to localities, particularly given California's restrictions on property taxes and special taxes. While reducing fees might encourage more housing production statewide, the reduction must be balanced with alternative financial support for local facilities and services.
- The Report identifies statewide tax reform and new infrastructure funding programs, as well as reforms to existing financing sources such as Enhanced Infrastructure Finance Districts (EIFDs) to make them more feasible, as options for further exploration. Any longer term adjustments to local fees must be considered in parallel with such measures to ensure that infrastructure throughout the state is able to meet the increased demands of future housing supply. Appropriate time should be provided to carefully consider these issues.
- Several other issues highlighted in the Report are already included in bills that are continuing to move this year including:
  - SB 330 which freezes ordinances, policies, and standards on a housing development project in urban areas to those adopted and in effect when a completed preliminary application was submitted, including a freeze on ordinances, policies and standards relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions unless they are increased as a result of an automatic annual adjustment.
  - SB 13 which prohibits development impact fees on ADUs of fewer than 750 square feet, including school district fees, and any other fees levied by a local agency. For ADUs in excess of 750 square feet, fees would be charged in proportion to the square footage of the primary residence.

**NEAR-TERM CONCEPTS TO BE IMPLEMENTED ON OR BEFORE JANUARY 1, 2022:**

**Transparency**

1. Post on the city or county or special district website:
  - The adopted schedule of fees and affordability requirements, applicable to the housing units in a development project.
  - The jurisdiction's current and previous annual fee reports that are currently required to be the subject of a public hearing.
  - An archive of impact fee nexus studies conducted by the jurisdiction.
2. Confirm that fee/nexus information is available online by requiring cities and counties to provide a link to the information in the annual progress report.
3. Require local agencies to provide an estimate of applicable fees upon an applicant's request (**see draft language below**), or develop a tool for the applicant to use similar to Riverside County's online calculator or City of Roseville's methodology.

**Add S. 65944.5 as follows:**

(a) At the time that an application for approval of a housing development project is deemed complete, the city, county, or city and county shall provide the applicant with an estimate of the amount of development impact fees imposed under the Mitigation Fee Act, and any other fees applicable to the housing development project, provided that the application includes all necessary information required by the calculation.

(b) The actual amount of development impact fees imposed under the Mitigation Fee Act, and any other fees applicable to a housing development project shall be determined at the time payment is required pursuant to section 66007.

**Accountability:**

4. In addition to the written notice that an applicant may submit under existing law to protest a fee, make explicit the ability of applicants to submit information at a public hearing, demonstrating that the proposed fee is not reasonably related to the actual impact of the project for reasons that may include, but are not limited to, the characteristics or features of the project. NOTE: Nothing now prevents applicants from doing this and Section 66020 additionally provides a right of protest to any fee or exaction.

**Amend S. 65940 (a) and add S. 66004.1 as follows.**

S. 65940 (a) Each state agency and each local agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. For housing development projects, as defined by paragraph (2) of subdivision (h) of Section 65589.5, the list shall provide the location on the local agency's internet website of all development impact fees applicable to residential development projects. Each local agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5, and the statement of application required by Section 65943. Copies of the information, including the statement of application required by Section 65943, shall be made available to all applicants for development projects and to any person who requests the information.

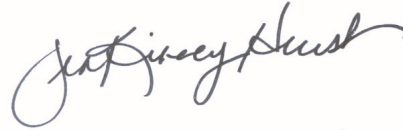
S. 66004.1. A local agency may not collect, extend, or increase any fee from a a housing development project, as defined in paragraph 2 of subdivision (h) of Section 65589.5, unless the the type and amount of the fee, including any fee scale if applicable, was on the local agency's internet website pursuant to S. 65940 (a) at the time that the application for the approval of a housing development project was deemed complete by the local agency.

Should you have any questions about our positions on these concepts, please do not hesitate to contact Christopher Lee (CSAC) at [clee@counties.org](mailto:clee@counties.org), Jean Hurst (UCC) at [jkh@hbeadvocacy.com](mailto:jkh@hbeadvocacy.com), Jason Rhine (LCC) at [jrhine@cacities.org](mailto:jrhine@cacities.org), Tracy Rhine (RCRC) at [TRhine@rcrcnet.org](mailto:TRhine@rcrcnet.org), or Sande George (APA) at [sgeorge@stefangeorge.com](mailto:sgeorge@stefangeorge.com).

Sincerely,



Christopher Lee  
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Jason Rhine  
League of California Cities



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Tracy Rhine  
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