

[WWW.NAHB.ORG](http://www.nahb.org)

NATIONAL ASSOCIATION OF HOME BUILDERS

[Home](#) > [Newsroom](#) > Indiana Judge Rules Local Park Impact Fees Invalid

As published in...

NATION'S BUILDING NEWS

[Read the latest issue now!](#)

The Official Online Weekly Newspaper of NAHB

**INDIANA JUDGE RULES LOCAL PARK IMPACT FEES INVALID** [Normal View](#)

**October 27, 2008** - In a major victory for home buyers and home builders in Indiana, a judge has ruled that one local government's park impact fees are invalid because the fees were not determined in a legitimate and fair way.

The [Zionsville Town Council and Plan Commission](#) disregarded a fee proposal that was developed by a professional consultant and unanimously recommended by the parks board and its advisory committee. Instead, the city based its park impact fees on a national average, resulting in fees that were significantly higher.

"This ruling shows once again that local governments cannot make up impact fees out of thin air," said NAHB Chairman Sandra Dunn. "The amount of the fee must be clearly related to the cost of providing infrastructure needed by new residents."

The case, *Builders Association of Greater Indianapolis, Inc. v. Zionsville Planning Commission*, was decided by Special Judge Rebecca S. McClure in the [Boone County Superior Court](#), who ruled in a summary judgment that the park impact fees did not comply with state statutes.

Zionsville officials have not announced whether they will appeal the decision.

The [Builders Association of Greater Indianapolis](#) (BAGI) has gone on record in support of reasonable impact fees as a means of paying for infrastructure needed to support growth.

"Although BAGI is an organization that represents home builders, we also advocate on behalf of new home buyers," said Steve Lains, BAGI's chief executive officer. "In filing this lawsuit against the town of Zionsville, the association is taking action to prevent injustices to home buyers in Zionsville and throughout Central Indiana."

The court noted that the town failed to provide objective standards in its calculation of the impact fee because it did not adequately identify all revenue sources and alternative funding sources available for the construction of new park and recreation infrastructure. It was impossible to ascertain whether the fee represented new developments' proportional share of needed infrastructure improvements.

The court also determined that the impact fee statute did not allow municipalities to adopt a fee based on the national average for park impact fees.

BAGI scored an important victory on the question of whether the association had standing to represent the building community in the impact fee case. The court ruled in February of 2007 that BAGI met the U.S. Supreme Court's three-part test for associational standing.

been collected and place them in an escrow account pending the creation of a valid impact fee.

For more information, e-mail [Blake Smith](#) at NAHB, or call him at 800-368-5242 x8583.

[Subscribe to Nation's Building News](#)