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No. 719: Impact Fees: Truth and Consequences of Bad Policy

By Richard Wagner

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Controversy arising from the basic unfairness of impact fees resurfaced recently in local politics. Durham County, eager to harvest a windfall of revenue to pay for new-school construction, brazenly ignored state law and imposed another fee on developers to pay for growth. Conversely, Cary voters, concerned about a slowdown in growth partly caused by high impact fees, dumped a mayor who practiced “smart-growth” politics.

Not surprisingly, the Homebuilders Association opposed the fees in Durham County and contended that the N.C. General Assembly must specifically approve them before county commissioners vote on the proposal. So much for the law, the commissioners decided before their 4-1 vote Sept. 8, we’re going to take the money anyway.

Leaders in Cary, the NIMBY (not in my back yard) nexus of the Triangle, began to rethink their stratospheric impact fees after the town’s growth rate plummeted below the goal of 4 percent to only 1.7 percent last year. Cary’s impact fees are as much as four times higher than those in the city of Durham and six times higher than those in Raleigh. Mayor Glen Lang, who steadfastly maintained that Cary should maintain its high impact fees, paid for his abrasive style and uninformed policies by suffering a humiliating defeat in October’s election.

Experiences in both localities demonstrate the illegitimacy of most arguments for impact fees. Supporters of the fees say, rightfully so, that newcomers to a city or county should have to pay for the additional services and infrastructure their residency requires.

But some public officials’ definition of a public service, and to what degree newcomers should pay, leaves many developers and citizens crying foul. The problem stems from what Sam Staley of the Reason Public Policy Institute calls “an industrial-sized rubber band,” which can expand to classify almost anything as a public service.

It seems reasonable for a municipality to levy impact fees for basic needs such as roads, water, sewer, and sidewalks. But “over time, impact fees have been extended to many other government service areas where pro-rata infrastructure costs are not easily quantifiable and where the benefits accrue to the users other than the new resident or business,” according to a report the EOP Foundation prepared for the South Carolina Policy Council.

One national study, Staley says, identified more than 22 categories of public services that have been financed by impact fees. Among them are public art, community centers, land for city hall, and low-income housing.
Rather than paying only one impact fee, developers — and consumers eventually — already ante up for a smorgasbord of questionable fees imposed by localities. Nick Tennyson, executive vice president of the Homebuilders Association of Durham and Orange Counties, identifies several levies that builders already pay. Among them are separate fees for the review of plans, recording of plans, review of drainage plans, posting of bonds for stormwater pond reviews, inspections, water-sewer capital facilities, open spaces, parks, and streets.

All of these fees give rise to an obvious question: What have government officials been doing with the general fund, whose revenue from traditional sources is supposed to pay for these services? Beyond the lofty rhetoric over the ostensible need and touted justification for impact fees lies an ugly truth: Too often government tries to live beyond its means.

That’s where impact fees become a politicians’ best friend. “The issue of using impact fees to finance infrastructure improvements is almost always raised in communities experiencing rapid growth. The need for more government revenue often arises because the community did not adequately plan and prepare for growth,” the EOP Foundation’s report said. So, rather than taking the heat for their lack of foresight and facing citizens’ enmity for raising taxes, politicians pass the buck to developers.

And, of course, it is always easier politically to impose impact fees on individuals and businesses who are new to an area than it is to raise taxes on established residents.

Experience teaches us, though, especially when it comes to government, that there is no free lunch. Impact fees exact a sacrifice from somewhere. Developers, if they want to remain solvent, must pass their costs on to consumers. Fees, exactions, construction delays, and regulatory compliance impose sizable additional costs on everyone associated with the process. The fees also encourage developers to construct more expensive housing in less-desirable places.

Home seekers in Cary pay higher prices. So do homebuyers in Durham County. Fewer and fewer families, especially minorities and those with limited incomes, are able to buy homes where impact fees are high.

For these reasons and many others, local officials should pay careful attention to the unintended economic and social consequences created by their use of impact fees.

Cary's leaders are beginning to wake up to the reality that impact fees can quickly turn a growth area into a no-growth area. Economic stagnation and declining overall tax revenue soon follow.

Durham County's commissioners have yet to learn that lesson. Their day of reckoning, no doubt, is just around the corner.

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