Blogs
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California Land Use & Development Law Report

State Allocation Board Approves Level 3 Fees -- CBIA Seeks Injunction

In a move that could result in doubling developer fees overnight in more than 200 school districts, the State Allocation Board last night voted to formally notify the California Senate and Assembly that state funds for new school facility construction are no longer available. The decision, by a 6 to 4 vote, will enable school districts that have adopted Level 2 fees to collect fees at twice the Level 2 rate. Senate Bill 50, which became law in 1998, authorizes school districts to charge developer fees at one of three levels. The base statutory rate, known as the "Level 1 fee," is currently $3.48 for residential development and $0.56 for commercial development. School districts that satisfy certain criteria may charge "Level 2" fees in an amount intended to fund 50% of the cost of providing facilities for students from new residential development. SB 50 authorizes districts that have adopted Level 2 fees to charge fees at a "Level 3" rate if the State Allocation Board certifies that state funds for new school facility construction are no longer available. The Level 3 rate can be up to double the amount of the Level 2 fee adopted by the school district. Over 200 school districts have adopted Level 2 fees. The doubling of such fees could result in developers in some districts paying more than $30,000 in school mitigation for each new home. The SAB's action comes as a deep disappointment to the building industry, which has been actively working to pass a statewide $9 billion school bond currently on the November 2016 ballot. The school bond initiative was sponsored by Californians for Quality Schools – a coalition of the California Building Industry Association and the Coalition for Adequate School Housing, a school district organization. (See our report on the background of the $9 billion bond measure -- $9 Billion School Bond Measure Headed for November 2016 Ballot). The full text of the bond measure can be found **here**. The CBIA is seeking immediate injunctive relief in Sacramento Superior Court to prevent the SAB's action from going into effect. CBIA contends that the SAB's determination that state funds are no longer available is erroneous because over $150 million in funding for new construction approved by the voters in 2006 remains to be apportioned. A court decision on CBIA's request for a temporary restraining order is expected later today.

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