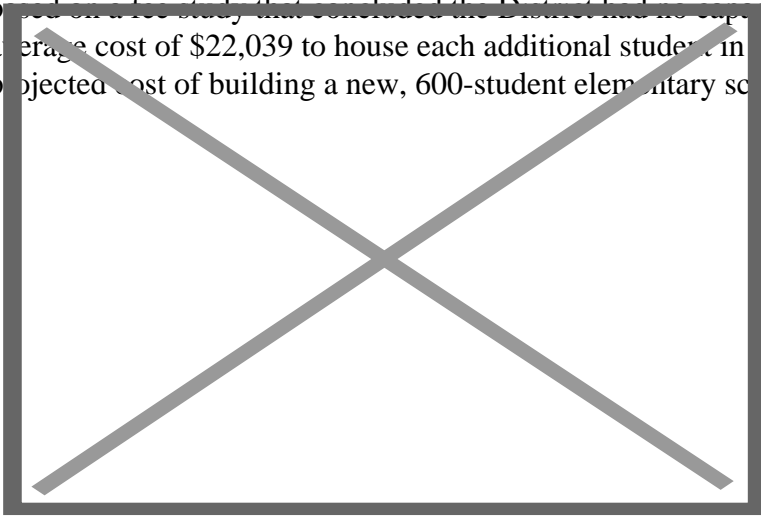


## School District's Fee Study Did Not Contain the Information Necessary to Lawfully Impose Development Fees

The Sixth District Court of Appeal invalidated a school district's Level 1 development fee because the underlying fee study did not properly calculate anticipated growth and included the cost of hypothetical new schools that the district had no plans to build. [Summerhill Winchester v Campbell Union School District](#), No. H043253 (6th Dist., Dec. 4, 2018). The Campbell Union School District adopted a Level 1 development fee based on a fee study that concluded the District had no capacity to accommodate new students and calculated an average cost of \$22,039 to house each additional student in new school facilities. This figure was based on the projected cost of building a new, 600-student elementary school and a 1,000-student middle school.



Petitioner paid the development fees under protest

and sued to recover them, contending that the fee study had failed to calculate anticipated growth from new development or to identify any new facilities that were necessary to accommodate such growth. The court of appeal agreed on both counts and ordered a full refund of the fees. The court found that although the fee study determined the District was already over capacity (and hence would be impacted by any new students from development), the study had failed to calculate the "total amount of new housing projected to be built within the District." Instead, the study simply stated that the amount of new development "would be in excess of 133 residential units." This was inadequate, the court said, because it did not provide the information needed "to determine *whether* new school facilities are needed due to anticipated development." While the Board did not need to identify "specific facilities that would be built," it did need "to decide whether or not new school facilities were needed and, if so, what type of facilities were needed." The court also decided that the Board had improperly assessed the fee based on the cost of new school facilities that were not shown to be necessary to accommodate students from new development. While the fee study based its calculations on the cost of building new elementary and middle schools, there was insufficient evidence either that such schools would be needed to accommodate students from new development or that the District actually planned to build such schools. The District argued that because its enrollment already exceeded its capacity, every additional student generated by new development would necessarily result in a financial impact on the District. The court accepted the validity of this statement but found it did not satisfy the statutory requirement that the "Board demonstrate a *reasonable relationship* between the amount of the fee and the impact of development *on the need for new or reconstructed school facilities.*" (Emphasis added.) The court concluded that the "fee study's use of hypothetical new schools that [the District] was not going to build as the financial premise for calculating the fee was not a reasonable

alternative methodology that could legally support the fee imposed by the Board."

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