

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas

William A. McKinnon, Circuit Court Judge
Case No. 2018-CP-46-02684
Appellate Case No. 2020-000612

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S.C. SUPREME COURT

Home Builders Association of South Carolina, Home Builders Association
of York County, Soni Construction, Inc., Shea Investment Fund 2, LLC, and Shea
Investment Fund 3, LLC,

Appellants,

v.

State of South Carolina and York County,

Respondents.

RECORD ON APPEAL
Vol. 5, Pages 1976-2132

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State	County	Jurisdiction	Total	Non-Utility	Roads	Water	Sewer	Drain	Parks	Library	Fire	Police	Gen Gov	Schools	Other
NC	Chatham	Chatham Co.	\$1,567	\$1,100		\$467									\$1,100
NC	Durham	Durham	\$2,410	\$1,656	\$288	\$302	\$152		\$513						\$1,455
NC	Orange	Orange Co.	\$6,148	\$1,743		\$1,321	\$3,084								\$1,743
NC	Wake	Cary	\$4,224	\$762	\$752	\$1,164	\$2,315								
NC	Wake	Raleigh	\$4,184	\$1,804	\$1,140	\$1,605	\$775		\$864						
NE	Lancaster	Lincoln	\$2,030	\$1,756	\$1,580	\$202	\$72		\$206						
NH	Hillsborough	Manchester	\$1,316	\$1,315							\$146				\$1,169
NH	Merrimack	Concord	\$2,911	\$2,911	\$1,276				\$913						\$922
NH	Rockingham	Salem	\$2,923	\$2,923					\$659		\$641	\$204			\$2,223
NE1	Rockingham	Fremont	\$2,438	\$2,438											\$2,438
NM	Bernalillo	Albuquerque	\$2,290	\$1,830	\$760	\$450	\$230	\$181	\$805				\$104		
NM	Bernalillo	Bernalillo Co	\$2,581	\$2,381	\$918			\$477	\$716				\$248		\$80
NM	Donna Ana	Las Cruces	\$3,118	\$2,766		\$242	\$109		\$2,300						\$458
NM	Lincoln	Ruidoso	\$1,288			\$896	\$342								
NM	Sandoval	Rio Rancho	\$5,303	\$4,158	\$1,887	\$762	\$353	\$1,191	\$832						\$23
NM	Santa Fe	Santa Fe	\$889			\$335	\$554								
NM	Santa Fe	Santa Fe Comty	\$276	\$276									\$276		
NM	Valencia	Los Lunas	\$1,250	\$850		\$188	\$211		\$600						
NV	Churchill	Churchill County	\$4,200	\$4,200	\$2,300				\$1,000						\$800
NV	Clark	Las Vegas	\$3,044	\$1,341	\$825			\$1,703	\$360						\$46
NV	Clark	Mesquite	\$1,053	\$1,053	\$1,007										\$46
NV	Washoe	Reno	\$3,845	\$3,845	\$2,845				\$1,000						
OH	Butler	Middletown	\$500	\$500					\$500						
OH	Delaware	Delaware (city)	\$3,511	\$1,265		\$1,318	\$893		\$767		\$197	\$101	\$230		
OK	Cleveland	Moore	\$1,347	\$647	\$647		\$700								
OR	Clackamas	Clackamas Co.	\$11,861	\$10,418	\$3,847	\$46	\$1,100		\$5,536						\$1,000
OR	Clackamas	West Linn	\$15,491	\$12,290	\$4,181	\$2,048	\$1,153	\$503	\$7,294						\$312
OR	Deschutes	Bend	\$13,413	\$7,825	\$2,813	\$3,616	\$2,272		\$4,712						
OR	Josephine	Grants Pass	\$5,635	\$2,421	\$1,298	\$1,607	\$1,607		\$1,123						
OR	Lane	Eugene	\$5,786	\$3,752	\$1,030		\$2,034	\$346	\$2,375						
OR	Lane	Springfield	\$3,818	\$2,777	\$1,657		\$1,641	\$510							
OR	Marion	Salem	\$5,050	\$4,123	\$1,372	\$541	\$386	\$302	\$2,449						
OR	Marion	Silverton	\$9,057	\$7,767	\$2,178	\$772	\$518	\$2,072	\$3,517						
OR	Multnomah	Portland	\$11,286	\$7,395	\$1,884	\$419	\$3,468	\$328	\$5,087						
OR	Washington	Tigard	\$10,026	\$8,228	\$4,825	\$1,798			\$3,903						
OR	Washington	Washington Co	\$8,557	\$4,825	\$4,325			\$3,732	\$500						
PA	Montgomery	Towamencin Twp	\$1,382	\$1,382	\$1,382			\$1,426	\$583	\$1,000					\$250
SC	Beaufort	Beaufort Co	\$2,382	\$2,382	\$791				\$627	\$889	\$421				
SC	Beaufort	Hilton Head	\$7,911	\$2,471	\$1,281	\$2,400	\$3,040		\$877	\$553					
SC	Berkeley	Mt. Pleasant	\$2,558	\$1,532	\$884	\$457	\$730		\$358		\$231	\$69			\$80

State	County	Jurisdiction	Total	Highway	Water	Sewer	Drain	Parks	Library	Fire	Police	Gen	Gov	Schools	Other
TN	Rutherford	La Vergne	\$4,751	\$2,289	\$543	\$867	\$1,875								\$246
TN	Rutherford	Smyma	\$2,660	\$2,660	\$521							\$181			\$458
TN	Sumner	Padland	\$1,931	\$1,931										\$700	\$907
TN	Sumner	White House	\$779	\$779	\$28							\$12	\$17	\$700	\$25
TN	Williamson	Franklin	\$8,982	\$4,476	\$2,768	\$1,671	\$2,835								\$1,710
TN	Williamson	Madisonville	\$4,354	\$4,354	\$2,354										\$2,000
TX	Brazos	College Station	\$2,422	\$1,646		\$578	\$289								\$1,646
TX	Collin	Allen	\$763	\$400	\$400	\$280	\$83								
TX	Collin	McKinney	\$4,260	\$3,985	\$3,985	\$252	\$23								
TX	Denton	Denton	\$1,191			\$863	\$288								
TX	Tarrant	Arlington	\$2,112	\$1,953	\$870	\$107	\$82								\$1,289
TX	Tarrant	Colleyville	\$2,030	\$1,342	\$1,342	\$691	\$107								
TX	Tarrant	Ft. Worth	\$1,461		\$1,228	\$202	\$31								
TX	Williamson	Georgetown	\$726			\$517	\$209								
UT	Cache	Logan	\$1,202	\$966	\$461	\$30	\$156	\$37				\$100	\$28		\$280
UT	Davis	Layton	\$6,781	\$6,532	\$1,308	\$248		\$3,252	\$1,381			\$331			
UT	Salt Lake	Draper	\$6,093	\$5,003	\$1,202	\$1,082		\$1,161	\$2,463			\$70			
UT	Salt Lake	Salt Lake City	\$3,408	\$3,408	\$249			\$125	\$2,873			\$119			\$41
UT	Salt Lake	Sandy City	\$2,685	\$2,348		\$357	\$129	\$378	\$1,841			\$52			\$38
UT	Salt Lake	West Jordan City	\$8,230	\$3,612	\$1,528	\$2,688	\$1,930	\$509	\$1,301	\$196		\$82			\$82
UT	Salt Lake	West Valley City	\$2,781	\$2,181	\$514			\$181	\$1,379			\$62			\$45
UT	Tooele	Tooele	\$3,891	\$1,438		\$1,623	\$362		\$1,250						\$206
UT	Utah	Payson	\$2,793	\$2,405		\$151	\$242		\$2,000			\$405			
UT	Utah	Provo	\$4,381	\$3,989	\$657	\$1,771	\$205	\$556	\$2,786						
VA	Loudoun	Leesburg	\$9,568			\$3,744	\$5,822								
VA	Stafford	Stafford Co	\$3,888	\$1,385	\$1,385	\$1,610	\$893								
VT	Chittenden	Burlington	\$2,459	\$2,459	\$182			\$596	\$431	\$208	\$42				\$800
VT	Chittenden	Williston	\$2,800	\$2,800	\$546			\$869							\$1,383
WA	Clark	Vancouver	\$8,480	\$4,910	\$1,345	\$1,652	\$1,918		\$1,623						\$2,042
WA	Cowitz	Woodland	\$4,084	\$3,427	\$520	\$324	\$283		\$831			\$1,426			\$570
WA	King	King Co	\$3,650	\$3,650	\$737										\$2,913
WA	King	Bellevue	\$2,286	\$2,286	\$2,266										
WA	King	Bothell	\$6,411	\$5,056	\$3,168	\$1,005	\$949	\$930	\$950						
WA	King	Issaquah	\$12,940	\$12,940	\$5,361				\$4,874			\$1,014	\$154	\$79	\$1,458
WA	King	Kirkland	\$10,027	\$5,643	\$2,311	\$2,195	\$1,988	\$195	\$2,583						\$754
WA	Kitsap	Kitsap Co	\$1,477	\$1,477	\$444				\$911						\$722
WA	Pierce	Pierce Co	\$2,703	\$2,703	\$1,046				\$195						\$1,462
WA	Skagit	Anacortes	\$7,243	\$2,898	\$900	\$2,978	\$1,471	\$1,383	\$616						
WA	Skagit	Burlington	\$5,636	\$3,033	\$1,646	\$2,503	\$478		\$653			\$254			
WA	Snohomish	Snohomish Co	\$4,178	\$4,178	\$1,639				\$626						\$2,113
WA	Thurston	Olympia	\$7,359	\$7,359	\$2,055				\$3,628						\$1,676
WA	Thurston	Tumwater	\$5,620	\$5,620	\$2,124				\$2,413						\$1,083
WA	Whatcom	Bellingham	\$8,228	\$6,315	\$1,185	\$641	\$1,273	\$492	\$3,524						\$1,154
WV	Jefferson	Jefferson Co	\$7,594	\$7,594					\$566			\$629	\$197		\$6,308
WI	Dane	Fitchburg	\$5,930	\$4,457		\$1,073			\$4,457						
WI	Jefferson	Oconomowoc	\$2,438	\$1,861	\$109	\$205	\$572		\$1,310			\$133	\$119		
WI	Ozaukee	Cedarburg	\$3,302	\$1,699		\$1,230	\$373		\$551	\$484		\$654			
WI	St. Croix	Hudson	\$1,528	\$822		\$941	\$385	\$388	\$258						

Summary	Total	Non-Utility	Roads	Water	Sewer	Drainage	Parks	Library	Fires	Police	Gov	Schools	Other
National Average	\$8,870	\$5,484	\$2,201	\$1,367	\$1,777	\$784	\$2,089	\$314	\$347	\$283	\$1,200	\$2,582	\$1,745
Sample Size	270	280	209	151	140	60	183	54	118	52	51	105	86
National Avg w/o CA	\$4,855	\$3,913	\$1,785	\$1,205	\$1,514	\$689	\$1,253	\$258	\$288	\$228	\$309	\$2,635	\$661
Sample Size w/o CA	239	223	172	110	114	38	161	43	102	78	28	88	37
State Average Fees													
AR	\$1,284	\$710	\$771	\$404	\$468	n/a	\$508	n/a	\$288	\$162	n/a	n/a	n/a
AZ	\$4,504	\$9,409	\$1,755	\$1,058	\$1,085	\$208	\$1,185	\$228	\$389	\$308	\$338	n/a	\$897
CA	\$18,558	\$15,555	\$4,420	\$2,337	\$3,808	\$982	\$5,907	\$611	\$657	\$568	\$2,284	\$2,705	\$3,993
CO	\$8,862	\$4,596	\$1,833	\$3,559	\$1,433	\$437	\$2,470	\$781	\$523	\$847	\$663	\$675	\$718
DE	\$8,025	\$762	n/a	n/a	\$5,283	n/a	\$225	\$55	\$522	\$43	\$77	n/a	n/a
FL	\$6,082	\$5,231	\$2,946	\$1,039	\$1,748	\$211	\$839	\$152	\$219	\$223	\$270	\$2,981	\$205
GA	\$1,549	\$1,377	\$778	\$732	\$1,716	n/a	\$359	\$770	\$275	\$110	n/a	n/a	\$1,015
HI	\$5,581	\$3,059	\$1,245	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
IL	\$5,581	\$3,059	\$1,342	\$421	\$4,889	n/a	\$1,233	n/a	\$515	\$227	n/a	n/a	n/a
ID	\$1,288	\$1,268	\$948	n/a	n/a	n/a	\$1,807	n/a	n/a	n/a	n/a	\$201	n/a
IN	\$4,413	\$2,218	\$1,155	n/a	\$2,198	n/a	\$1,061	n/a	n/a	n/a	n/a	n/a	n/a
KS	\$8,355	\$1,493	\$884	\$2,685	\$2,600	\$771	\$491	n/a	n/a	n/a	n/a	n/a	\$76
LA	\$1,585	\$1,074	\$781	n/a	\$1,185	\$583	n/a	n/a	n/a	n/a	n/a	n/a	n/a
MD	\$7,808	\$6,552	\$3,458	\$1,070	\$1,444	n/a	\$729	\$866	\$430	\$222	n/a	\$5,553	\$350
MA	\$837	\$537	\$507	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
MI	\$3,818	\$2,644	\$2,776	\$884	\$280	n/a	n/a	n/a	\$159	n/a	n/a	n/a	n/a
MN	\$3,710	\$1,473	\$130	\$872	\$1,582	n/a	\$589	n/a	n/a	n/a	n/a	\$1,333	n/a
NC	\$2,030	\$1,758	\$1,650	\$202	\$72	n/a	\$206	n/a	n/a	n/a	n/a	n/a	n/a
NE	\$2,397	\$2,397	n/a	n/a	n/a	n/a	\$636	n/a	\$394	\$294	n/a	\$1,566	n/a
NH	\$2,095	\$2,070	\$1,189	\$476	\$308	\$580	\$1,061	n/a	\$394	\$104	n/a	n/a	\$82
NM	\$3,036	\$2,670	\$1,772	n/a	\$1,703	n/a	\$787	n/a	n/a	n/a	n/a	\$900	\$46
NV	\$2,005	\$886	n/a	\$1,318	\$688	n/a	\$534	n/a	\$187	\$101	\$230	n/a	n/a
OH	\$1,347	\$647	\$647	\$709	\$709	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
OK	\$8,052	\$6,467	\$2,838	\$1,356	\$1,797	\$651	\$4,005	n/a	n/a	n/a	n/a	n/a	n/a
OR	\$1,352	\$1,362	\$1,262	n/a	\$1,425	\$529	\$1,000	n/a	n/a	n/a	n/a	n/a	\$250
PA	\$4,301	\$2,062	\$915	\$1,434	\$1,895	n/a	\$537	\$583	\$328	\$89	n/a	n/a	\$50
SC	\$3,910	\$2,748	\$1,242	\$1,129	\$2,355	n/a	\$408	n/a	\$96	\$17	n/a	\$700	\$1,407
TN	\$1,874	\$1,865	\$1,525	\$422	\$133	n/a	\$1,485	n/a	n/a	n/a	n/a	n/a	\$950
TX	\$4,126	\$3,189	\$873	\$786	\$907	\$75	\$1,820	n/a	\$152	\$145	n/a	n/a	n/a
UT	\$8,552	\$1,385	\$1,385	\$2,677	\$3,218	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
VA	\$2,630	\$2,630	n/a	n/a	n/a	n/a	\$783	\$431	\$208	\$43	n/a	\$1,443	n/a
VT	\$5,077	\$4,778	\$1,778	\$1,466	\$1,388	\$892	\$1,741	n/a	\$898	\$184	\$73	\$1,457	n/a
WA	\$7,594	n/a	n/a	n/a	n/a	n/a	\$566	n/a	\$525	\$197	n/a	\$6,306	n/a
WV	\$3,300	\$2,110	\$103	\$621	\$437	\$382	\$2,143	\$270	\$133	\$335	n/a	n/a	n/a

State	County	Jurisdiction	Total	NonAdm	Roads	Water	Sewer	Drains	Parks	Library	Fire	Police	GenGov	Schools	Other
AR	Benton	Bentonville	\$528	\$180		\$101	\$156				\$180				
AR	Benton	Lowell	\$504	\$455		\$48					\$455				
AR	Faulkner	Cotway	\$1,915	\$1,915	\$1,915						\$253	\$338			
AR	Washington	Fayetteville	\$978	\$691		\$155	\$140				\$250	\$360	\$80		
AZ	Cochise	Sierra Vista	\$5,310	\$5,310	\$4,100		\$1,205	\$73			\$820	\$180	\$620	\$570	\$1,028
AZ	Gila	Sedona	\$4,648	\$3,443	\$2,660	\$496	\$819			\$109	\$24	\$430	\$520		\$120
AZ	Maricopa	Avondale	\$1,805	\$1,479	\$318	\$65	\$61				\$243		\$300		\$1,015
AZ	Maricopa	Buckeye	\$7,022	\$5,050	\$4,130	\$1,043	\$929				\$243				
AZ	Maricopa	Chandler	\$243	\$243							\$500				
AZ	Maricopa	Fourie Hills	\$4,409	\$2,890	\$1,080	\$944	\$576			\$29	\$238	\$99			
AZ	Maricopa	Gilbert	\$6,030	\$5,629	\$5,162	\$294	\$207			\$105	\$441	\$238			
AZ	Maricopa	Glendale	\$5,712	\$2,608	\$1,818	\$755	\$854				\$275	\$318			
AZ	Maricopa	Goodyear	\$1,552	\$771		\$223	\$425	\$228			\$47	\$488			\$79
AZ	Maricopa	Mesa	\$6,422	\$5,842	\$4,785	\$223	\$157			\$38	\$371	\$390			
AZ	Maricopa	Peoria	\$6,822	\$3,620	\$3,025	\$1,847	\$1,055				\$773				
AZ	Maricopa	Picnic	\$1,189			\$740	\$449								
AZ	Maricopa	Scottsdale	\$5,274	\$4,737	\$3,958	\$211	\$327								
AZ	Maricopa	Surprise	\$760			\$416	\$334								
AZ	Maricopa	Tempe	\$35			\$35									
AZ	Mojave	Bullhead City	\$809		\$809										
AZ	Mojave	Show Low	\$2,730		\$2,730										
AZ	Pima	Pima County	\$10,672	\$2,730	\$2,730	\$814	\$636					\$447			
AZ	Pima	Marana	\$4,575	\$2,859	\$2,412	\$1,718					\$157	\$321			
AZ	Pima	Oro Valley	\$5,040	\$4,798	\$4,282	\$242			\$38			\$1,740			
AZ	Pima	Tucson	\$14,960	\$14,960	\$13,220	\$242					\$642	\$376	\$332		
AZ	Pinal	Apache Junction	\$8,518	\$8,061	\$6,912		\$457								
AZ	Pinal	Casa Grande	\$721	\$434		\$122	\$125								
AZ	Pinal	Elroy	\$5,071	\$4,432	\$3,441	\$347	\$488		\$176	\$24	\$650	\$427			
AZ	Pinal	Florence	\$4,141	\$3,054	\$1,589	\$478	\$508		\$583	\$111	\$230	\$229			
AZ	Pinal	Queen Creek											\$180		
AZ	Yavapai	Yavapai County	\$2,174	\$1,130	\$870	\$84	\$90								
AZ	Yavapai	Chino Valley	\$2,177			\$1,653	\$524				\$132	\$949			
AZ	Yavapai	Prescott	\$2,087	\$2,087	\$886										
AZ	Yuma	Yuma									\$148		\$228		
CA	Alameda	Fremont	\$9,789	\$9,789	\$8,700	\$1,037	\$1,232						\$5,000	\$360	
CA	Alameda	Hayward	\$6,585	\$6,585	\$3,860		\$1,210	\$1,000	\$1,856					\$540	\$120
CA	Alameda	Livermore	\$5,473	\$5,473	\$4,150		\$685								
CA	Alameda	San Leandro	\$4,080	\$4,080	\$2,720			\$1,310							\$480
CA	Contra Costa	Orinda	\$9,278	\$9,278	\$8,768					\$48	\$572	\$100			\$476
CA	El Dorado	El Dorado Co	\$14,016	\$12,278	\$11,856	\$720	\$520								\$328
CA	Fresno	Clavis	\$8,081	\$8,441	\$7,643		\$550			\$760			\$47	\$540	
CA	Kern	Bakersfield	\$3,443	\$3,443	\$1,700						\$267	\$442			\$472
CA	Los Angeles	Lancaster	\$4,249	\$4,249	\$3,000				\$705	\$309			\$1,100	\$2,050	\$510
CA	Los Angeles	Long Beach	\$15,441	\$14,785	\$13,254		\$6,330	\$530	\$1,740			\$151	\$55		\$770
CA	Monterey	Salinas	\$38,970	\$32,660	\$22,030		\$6,330	\$530	\$1,740				\$1,400		\$770
CA	Napa	St Helena	\$4,525	\$2,695	\$2,350		\$2,229			\$108					
CA	Orange	Brea	\$11,293	\$11,233	\$5,727		\$1,192	\$180							
CA	Pasadena	Rocklin	\$8,570	\$7,478	\$6,188		\$388	\$3,488	\$248	\$840		\$1,570	\$50	\$80	
CA	Sacramento	Citrus Heights	\$19,563	\$19,588	\$9,080		\$388	\$3,488	\$248	\$840		\$1,570	\$50	\$80	
CA	Sacramento	Elvert Grove													

State	County	Jurisdiction	Total	Non-Utility	Roads	Water	Sewer	Drainage	Parks	Library	Fire	Police	Gen Gov	Schools	Other
CA	Sacramento	Sacramento	\$23,400	\$22,310	\$13,621	\$280	\$519	\$193	\$330					\$470	\$7,636
CA	San Bernardino	Highland	\$7,734	\$7,734	\$5,670			\$119			\$1,330	\$167			\$178
CA	San Bernardino	Redlands	\$12,714	\$12,714	\$11,154			\$170		\$110	\$500	\$310			\$460
CA	San Bernardino	Rialto	\$15,715	\$13,701	\$11,132	\$763	\$1,252	\$1,808	\$140		\$250	\$154			\$218
CA	San Diego	Carlsbad	\$11,666	\$10,352	\$5,688	\$513	\$501	\$763						\$3,500	\$420
CA	San Diego	Escondido	\$5,809	\$4,600	\$1,470	\$529	\$1,280	\$700						\$2,130	\$300
CA	San Diego	San Diego	\$21,972	\$20,405	\$18,378	\$903	\$660				\$121			\$860	\$420
CA	San Joaquin	Hart	\$10,119	\$9,385	\$1,169	\$310	\$423	\$6,808	\$406					\$336	\$270
CA	San Joaquin	Ripon	\$28,865	\$21,055	\$18,270	\$3,000	\$4,800	\$2,467	\$1,267		\$1,585	\$200	\$1,297	\$545	\$447
CA	San Luis Obispo	Paso Robles	\$15,661	\$12,630	\$11,010	\$2,350	\$981							\$390	\$1,110
CA	San Luis Obispo	San Luis Obispo	\$19,163	\$17,575	\$7,575	\$1,179	\$408								\$10,000
CA	Santa Barbara	Carpinteria	\$22,005	\$22,005	\$15,860			\$1,781	\$2,740					\$270	\$530
CA	Santa Barbara	Santa Maria	\$12,044	\$9,080	\$5,906	\$1,612	\$1,352		\$24	\$155	\$59	\$365			\$168
CA	Santa Clara	Gilroy	\$23,503	\$19,434	\$16,652	\$657	\$3,322	\$294						\$2,338	
CA	Santa Clara	Palo Alto	\$88,652	\$37,452	\$12,827		\$1,200		\$5,144	\$252		\$557	\$702		\$17,970
CA	Santa Cruz	Santa Cruz Co	\$27,984	\$27,984	\$25,764			\$2,220							
CA	Santa Cruz	Scotts Valley	\$15,526	\$15,526	\$10,840		\$962	\$175				\$3,352	\$167		
CA	Shasta	Redding	\$12,784	\$12,784	\$8,917	\$912	\$1,149	\$568			\$647				
CA	Solano	Veccaville	\$13,354	\$13,354	\$4,955	\$1,852	\$1,650	\$1,577			\$197	\$1,333	\$368	\$880	\$841
CA	Sonoma	Windsor	\$15,125	\$16,125	\$8,790	\$790	\$1,768	\$2,774							\$1,003
CA	Yolo	Davis	\$24,523	\$24,523	\$20,239			\$118	\$856			\$1,078	\$928	\$470	\$534
CO	Adams	Adams Co	\$2,131	\$2,131	\$2,131										
CO	Adams	Commerce City	\$4,808	\$4,808	\$3,223			\$319	\$1,260						\$2,250
CO	Boulder	Boulder	\$13,255	\$9,890	\$2,480	\$2,659	\$715	\$4,120			\$400	\$300	\$140		
CO	Eagle	Eagle Co	\$9,652	\$9,652	\$9,028						\$626				
CO	Eagle	Basalt	\$2,690	\$2,000	\$1,000	\$690									\$1,000
CO	El Paso	Colorado Springs	\$3,552	\$1,024		\$2,044	\$424	\$1,034							
CO	Fremont	Cannon City	\$152	\$152							\$152				
CO	Jefferson	Jefferson Co	\$5,930	\$5,930	\$5,930										
CO	La Plata	Durango	\$4,534	\$3,810	\$3,810	\$558	\$165								
CO	Larimer	Larimer Co	\$8,269	\$8,269	\$8,269										
CO	Larimer	Loveland	\$5,552	\$5,552	\$5,020			\$432			\$260	\$380	\$410		
CO	Larimer	FT Collins	\$15,412	\$13,244	\$11,048	\$1,120	\$1,048	\$1,136			\$284	\$160	\$556		
CO	Mesa	Mesa Co	\$2,647	\$2,647	\$2,557										
CO	Pitkin	Pitkin Co	\$40,045	\$40,045	\$10,710				\$4,100						\$25,235
CO	Weld	Weld Co	\$4,133	\$4,133	\$3,258			\$200						\$537	
CO	Weld	Windsor	\$5,085	\$4,540	\$3,475	\$332	\$518	\$1,164			\$647	\$143			
CO	Weld	Greedy	\$5,971	\$5,575	\$4,525	\$71	\$225	\$95							
DE	New Castle	New Castle Co	\$1,803	\$997			\$1,309				\$163	\$39	\$95		
FL	Alachua	Alachua Co	\$9,050	\$9,050	\$8,974						\$76				\$100
FL	Brevard	Brevard Co	\$232	\$232							\$132				\$100
FL	Brevard	Cocoa	\$434	\$154		\$280					\$54				\$100
FL	Brevard	Melbourne	\$822	\$622							\$54		\$662		\$100
FL	Brevard	Palm Bay	\$391	\$391							\$291				\$100
FL	Brevard	Rockledge	\$154	\$154							\$54				\$100
FL	Brevard	Brevard Co	\$15,152	\$15,152	\$15,152										
FL	Broward	FT. Lauderdale									\$52	\$25	\$47		
FL	Charlotte	Charlotte Co	\$4,755	\$4,755	\$3,597										
FL	Citrus	Citrus Co													

State	County	Jurisdiction	Total	Non-Utility	Roads	Water	Sewer	Drainage	Parks	Library	Fire	Police	Gen Govt	Schools	Other
FL	Clay	Clay Co													
FL	Collier	Collier Co	\$13,776	\$12,958	\$10,247	\$416	\$402				\$749	\$466	\$666		\$697
FL	Columbia	Columbia Co													
FL	Dade	Miami/Dade Co	\$16,747	\$16,747	\$15,634						\$440	\$373			
FL	Dade	Miami	\$16,865	\$16,865	\$15,934						\$227	\$602	\$65		
FL	DeSoto	DeSoto Co													
FL	Flagler	Flagler Co									\$264				
FL	Flagler	Palm Coast	\$7,842	\$6,787	\$6,523	\$438	\$617								
FL	Galveston	Galveston Co													
FL	Glades	Glades Co													
FL	Hardee	Hardee Co													
FL	Henry	Henry Co													
FL	Hernando	Hernando Co	\$1,176	\$1,176							\$394	\$121	\$651		\$10
FL	Highlands	Highlands Co													
FL	Hillsborough	Hillsborough Co	\$9,942	\$3,374	\$3,332	\$294	\$304				\$22				
FL	Hillsborough	Plant City	\$9,218	\$2,601	\$1,562	\$118	\$499				\$593	\$608			
FL	Hillsborough	Tampa	\$2,727	\$3,797	\$3,797						\$477	\$650	\$268		
FL	Indian River	Indian River Co	\$4,285	\$4,285	\$2,652										
FL	Lake	Lake Co	\$4,381	\$4,381	\$3,080						\$1,301				
FL	Lake	Leesville	\$2,101	\$841		\$280	\$380					\$455			
FL	Lee	Lee Co	\$3,789	\$3,789	\$3,442						\$297				
FL	Lee	Bonita Springs	\$12,733	\$12,733	\$12,150						\$573				
FL	Lee	Coconut	\$6,795	\$6,035	\$5,709	\$243	\$468				\$162	\$168			
FL	Lee	Fort Myers	\$4,569	\$3,879	\$3,442	\$854	\$335				\$437				
FL	Levy	Levy Co	\$1,790	\$1,790	\$1,710						\$80				
FL	Manatee	Manatee Co	\$7,796	\$7,796	\$7,152						\$128	\$518			
FL	Marion	Marion Co													
FL	Marion	Marion Co	\$6,795	\$5,795	\$5,159						\$919	\$742	\$551		\$2,054
FL	Monroe	Monroe Co	\$3,338	\$3,338	\$1,168						\$64	\$122			
FL	Nassau	Nassau Co	\$2,252	\$2,252	\$1,287						\$163	\$201	\$311		
FL	Osceola	DeSoto	\$1,800	\$1,800	\$1,752										
FL	Orange	Orange Co	\$4,899	\$4,899	\$4,108						\$297	\$494			
FL	Orange	Ocoee	\$7,374	\$6,246	\$4,846	\$587	\$1,761				\$238	\$165			
FL	Orange	Orlando	\$3,659	\$6,253	\$6,253						\$406				
FL	Orange	Winter Garden	\$6,183	\$6,755	\$7,645	\$183	\$255				\$300	\$570	\$500		
FL	Osceola	Osceola Co	\$12,095	\$12,095	\$11,795							\$67	\$268		
FL	Palm Beach	Palm Beach Co	\$8,463	\$8,463	\$8,188							\$245	\$268		
FL	Palm Beach	Palm Beach Gardens	\$10,652	\$10,652	\$10,189						\$62				
FL	Pasco	Pasco Co	\$7,739	\$7,113	\$7,051	\$294	\$470								
FL	Pineles	Pineles Co	\$3,633	\$3,627	\$3,627	\$66									
FL	Polk	Polk Co													
FL	Polk	Lakeland	\$7,635	\$7,396	\$6,754						\$481	\$781			
FL	Putnam	Putnam Co													
FL	Santa Rosa	Santa Rosa Co													
FL	St. Johns	St. Johns Co	\$5,467	\$5,467	\$3,972						\$128	\$176	\$1,190		
FL	St. Lucie	St. Lucie Co	\$5,716	\$6,716	\$5,322						\$525	\$367	\$512		
FL	St. Lucie	St. Lucie Co	\$8,784	\$7,534	\$5,680	\$544	\$406				\$442	\$254	\$441		\$1,037
FL	Sarasota	Sarasota Co													
FL	Sarasota	North Port	\$656	\$669							\$262	\$268	\$179		
FL	Seminole	Seminole Co	\$2,901	\$2,901	\$2,741						\$160				

State	County	Jurisdiction	Utilities	Other (100000)	Shopping Center	Other	AP	Drain	Parks	Library	Fire	Police	Gen Gov	Schools	Other
			Totals	Non-Util	Roads	Water	Sewer	Drain							
FL	Sevier	Altamonte Springs	\$4,387	\$4,387	\$3,744						\$160	\$423			
FL	Sevier	Winter Springs	\$6,679	\$6,679	\$4,298						\$1,284	\$355	\$762		
FL	Sumter	Sumter Co	\$4,147	\$4,147	\$3,637						\$510				
FL	Volusia	Volusia Co	\$3,080	\$3,080	\$3,080						\$359	\$910	\$1,115		
FL	Volusia	Daytona Beach	\$5,165	\$5,165	\$3,080										
FL	Volusia	Deland	\$3,080	\$3,080	\$3,080										
FL	Volusia	Deltona	\$7,053	\$5,227	\$5,227	\$543	\$1,283								
FL	Volusia	Ormond Beach	\$4,227	\$3,595	\$3,519	\$320	\$312	\$70							
FL	Volusia	Port Orange	\$5,270	\$4,775	\$4,575	\$240	\$246				\$200				
GA	Cherokee	Canton	\$2,844	\$2,844	\$2,258				\$173		\$173	\$43			
GA	Cherokee	Cherokee Co	\$1,338	\$1,338	\$945						\$325	\$158			
GA	Billingham	Billingham Co	\$501			\$213	\$288								
GA	Forsyth	Forsyth Co	\$216	\$216							\$216				
GA	Fulton	Alpharetta	\$4,424	\$4,424	\$4,168				\$14		\$244				
GA	Fulton	Atlanta	\$1,863	\$1,863	\$1,189				\$584		\$183	\$47			
GA	Fulton	Roswell	\$3,053	\$3,053	\$2,718						\$250				\$55
GA	Hall	Hall Co	\$89	\$89											\$89
GA	Henry	Henry Co	\$361	\$361											\$361
GA	Henry	McDonough	\$344	\$344											\$344
HI	Honolulu	Honolulu	\$4,053	\$4,053	\$4,053										
ID	Ada	Boise	\$7,044	\$7,044	\$5,774						\$210	\$50			
ID	Kootenai	Post Falls	\$3,448	\$2,260	\$1,550	\$239	\$947					\$710			
IL	DeKalb	DeKalb (city)													
IL	DuPage	DuPage County	\$915	\$915	\$915										
IL	Kane	Kane County	\$4,413	\$4,413	\$4,413										
IN	Hamilton	Fishers	\$8,683	\$7,121	\$7,121		\$1,568								
IN	Hamilton	Noblesville	\$5,153	\$4,723	\$4,723		\$434								
KS	Johnson	Lenexa	\$4,644	\$4,644	\$3,073			\$1,285	\$121						\$155
KS	Johnson	Olathe	\$3,206	\$1,947	\$1,817	\$605	\$554		\$130						
KS	Johnson	Overland Park	\$1,433	-\$1,433	\$1,433										
LA	IBaton Rouge	Baton Rouge	\$1,652	\$1,044	\$1,044		\$508								
LA	St Tammany	St. Tammany Parish	\$3,033	\$3,033	\$1,833			\$1,170							
MD	Anne Arundel	Anne Arundel Co	\$10,886	\$8,661	\$7,622	\$1,008	\$1,215					\$1,019			
MD	Calvert	Calvert Co	\$1,454	\$110		\$480	\$864								\$110
MD	Carroll	Carroll Co													
MD	Charles	Charles Co	\$2,055			\$719	\$1,345								
MD	Frederick	Frederick Co	\$1,208			\$504	\$704								
MD	Hartford	Hartford Co													
MD	Howard	Howard Co	\$1,150	\$1,150	\$1,150										
MD	Montgomery	Montgomery Co	\$1,962	\$1,140	\$1,140	\$352	\$460								
MD	Queen Anne's	Queen Anne's Co	\$1,140	\$1,140							\$1,140				
MD	St. Mary's	St. Mary's Co													
MO	Clay/Jackson	Kansas City	\$1,458	\$1,458	\$1,458										
MO	Jackson	Lee's Summit	\$1,913	\$1,913	\$1,913										
MT	Gallatin	Bozeman	\$10,674	\$9,898	\$9,523	\$455	\$523				\$373				

State	County	Jurisdiction	Religious	Amusement	Non-Util	Roads	Water	Sewer	Drain	Parks	Library	Fire	Police	Gov	Schools	Other
NC	Chatham	Chatham Co.	\$300				\$300									
NC	Durham	Durham	\$3,833	\$8,450	\$3,450	\$223	\$160									
NC	Orange	Orange Co.	\$1,553			\$674	\$573									
NC	Wake	Cary	\$2,051	\$1,241	\$1,341	\$285	\$476									
NC	Wake	Raleigh	\$4,367	\$2,768	\$2,768	\$854	\$744									
NE	Lancaster	Lincoln	\$3,578	\$3,370	\$3,370	\$189	\$68									
NH	Hillsborough	Manchester														
NH	Merrimack	Concord	\$3,470	\$3,470	\$3,470											
NH	Rockingham	Salem	\$580	\$580							\$420	\$140				
NH	Rockingham	Freemont														
NM	Bernalillo	Albuquerque	\$2,814	\$2,297	\$1,804	\$285	\$222	\$823					\$171			
NM	Bernalillo	Bernalillo Co	\$1,115	\$1,115	\$554			\$383					\$168			
NM	Dona Ana	Las Cruces	\$1,081			\$182	\$114						\$735			
NM	Lincoln	Roscos	\$943			\$814	\$329									
NM	Sandoval	Rio Rancho	\$7,320	\$6,430	\$4,195	\$822	\$388	\$1,430					\$755			\$48
NM	Santa Fe	Santa Fe	\$5,350	\$4,856	\$4,597	\$314	\$140						\$221	\$78		
NM	Santa Fe	Santa Fe County	\$460	\$460				\$460								
NM	Valencia	Los Lunas	\$375			\$146	\$229									
NV	Churchill	Churchill County														
NV	Clark	Las Vegas	\$1,105	\$1,081	\$1,007		\$14									\$94
NV	Clark	Mesquite	\$1,083	\$1,068	\$854											\$84
NV	Washoe	Reno	\$7,611	\$7,611	\$7,611											
OH	Butler	Middletown														
OH	Delaware	Delaware (city)	\$2,980	\$1,194		\$904	\$852					\$389	\$468	\$349		
OK	Cleveland	Moore	\$250	\$250	\$250											
OR	Clackamas	Clackamas Co.	\$1,306		varies		\$1,058								\$250	
OR	Clackamas	West Linn	\$21,260	\$19,096	\$17,109	\$1,404	\$790	\$890								\$1,276
OR	Deschutes	Bond	\$9,735	\$8,896	\$8,896	\$452	\$284									
OR	Josephine	Gresham Pass	\$3,218	\$7,414	\$7,414	\$402	\$402									
OR	Lane	Eugene	\$7,071	\$6,730	\$5,882		\$341	\$384								
OR	Lane	Springfield	\$8,329	\$7,763	\$6,597		\$568	\$1,196								
OR	Marion	Salem	\$9,899	\$9,069	\$8,767	\$385	\$385	\$302								
OR	Marion	Silverton	\$2,388	\$1,350		\$330	\$408	\$1,330								
OR	Multnomah	Portland	\$7,533	\$6,570	\$5,900	\$264	\$934	\$326	\$342							
OR	Washington	Tigard	\$10,052	\$8,302	\$6,958	\$790										\$334
OR	Washington	Washington Co	\$10,214	\$9,483	\$8,988		\$746	\$500								
PA	Montgomery	Towamencin Twp	\$5,109	\$5,109	\$5,109		\$342	\$161	\$500							\$300
SC	Beaufort	Beaufort Co	\$2,374	\$2,374	\$2,319								\$55			
SC	Beaufort	Hilton Head	\$5,606	\$5,636	\$5,636	\$384	\$486									
SC	Berkeley	ML Pleasant	\$4,187	\$3,280	\$2,840	\$187	\$720					\$190	\$120			\$130

State	County	Jurisdiction	Total	Non-Utile	Roads	Water	Sewer	Drain	Parks	Library	Fire	Police	Gen Gov	Schools	Other
TN	Rutherford	Le Vergne	\$1,318	\$942	\$942	\$80	\$296				\$550				
TN	Rutherford	Smyrna	\$1,261	\$1,261	\$711										\$400
TN	Sumner	Portland									\$53	\$81			
TN	Sumner	White House	\$289	\$289	\$165										\$2,180
TN	Williamson	Franklin	\$9,758	\$8,176	\$5,996	\$985	\$992								\$2,000
TN	Williamson	Nolensville	\$2,825	\$2,825	\$825										
TX	Brazos	College Station	\$180			\$123	\$57								
TX	Collin	Allen	\$1,772	\$1,500	\$1,500	\$182	\$80								
TX	Collin	McKinney	\$4,234	\$4,131	\$4,131	\$280	\$93								
TX	Denton	Denton	\$1,835	\$1,393	\$1,393	\$135	\$107								
TX	Tarrant	Arlington	\$2,009	\$1,838	\$1,838	\$339	\$103								
TX	Tarrant	Colleyville	\$2,202		\$1,973	\$189	\$40								
TX	Tarrant	PL Worth	\$596			\$355	\$201								
TX	Williamson	Georgetown													
UT	Cache	Logan	\$691	\$511	\$270	\$39	\$140				\$118	\$83			
UT	Davis	Layton	\$13,488	\$13,342	\$9,700	\$144	\$8,567				\$410	\$257			
UT	Salt Lake	Draper	\$7,119	\$6,907	\$5,859	\$212	\$371								
UT	Salt Lake	Salt Lake City	\$4,128	\$4,128	\$3,280		\$228				\$320	\$300			
UT	Salt Lake	Sandy City	\$1,670	\$1,227		\$423	\$694	\$78			\$322	\$139			
UT	Salt Lake	West Jordan City	\$6,297	\$5,574	\$4,340	\$421	\$302				\$354	\$190			
UT	Salt Lake	West Valley City	\$1,797	\$1,797	\$1,343		\$185				\$158	\$113			
UT	Tooele	Provo	\$788	\$320		\$354	\$124					\$225	\$320		
UT	Utah	Payson	\$604	\$225		\$146	\$233								
UT	Utah	Provo	\$3,283	\$2,852	\$2,365	\$114	\$197	\$508							
VA	Loudoun	Leesburg	\$1,916			\$749	\$1,167								
VA	Stafford	Stafford Co	\$3,700	\$2,088	\$2,088	\$1,104	\$580								
VT	Chittenden	Burlington	\$1,596	\$1,566	\$689			\$392			\$186	\$328			
VT	Chittenden	Wilmington	\$700	\$700	\$700										
WA	Clark	Vancouver	\$9,408	\$8,832	\$6,592	\$373	\$638					\$510			
WA	Cowlitz	Woodland	\$899	\$910		\$225	\$253								
WA	King	King Co													
WA	King	Bellevue	\$4,780	\$4,760	\$4,760										
WA	King	Bothell	\$12,435	\$11,410	\$10,460	\$690	\$335	\$650							
WA	King	Issaquah	\$27,821	\$27,821	\$21,163			\$4,940			\$760	\$912	\$48		
WA	King	Kirkland	\$7,013	\$5,011	\$4,620	\$1,506	\$497	\$391							
WA	Kitsap	Kitsap Co	\$980	\$960	\$580										
WA	Pierce	Pierce Co	\$2,151	\$2,151	\$2,151										
WA	Skagit	Anacortes	\$2,998	\$1,938		\$201	\$1,412	\$1,383							
WA	Strom	Burlington	\$11,807	\$9,828	\$9,608		\$429	\$478			\$219				
WA	Snohomish	Snohomish Co	\$9,099	\$9,828	\$9,828										
WA	Thurston	Olympia	\$5,080	\$5,080	\$5,080										
WA	Thurston	Tumwater	\$5,690	\$5,690	\$5,690										
WA	Whatcom	Bellingham	\$10,476	\$8,638	\$7,132	\$816	\$1,222	\$1,507							
WV	Jefferson	Jefferson Co	\$1,740	\$1,740							\$1,633	\$87			
WI	Dane	Fitchburg				\$1,073									
WI	Jefferson	Oconomowoc	\$1,497	\$808	\$358	\$140	\$549				\$225	\$225			
WI	Ozaukee	Cedarburg	\$924	\$212		\$262	\$391								
WI	St Croix	Hudson	\$2,660	\$873		\$1,480	\$457	\$673							

Summary		Per Capita (2000)		Per Capita (2006)		Per Capita (2006)		Per Capita (2006)		Per Capita (2006)		Per Capita (2006)		Per Capita (2006)		Per Capita (2006)		Per Capita (2006)	
		Total	Non-URH	Roads	Water	Sewer	Drain	Park	Library	Fire	Police	Gen Gov	Schools	Other					
National Average		\$6,346	\$6,165	\$5,605	\$947	\$663	\$1,056	\$915	\$124	\$385	\$408	\$745	\$440	\$1,858					
Sample Size		264	234	202	226	195	61	37	7	117	61	51	15	48					
National Avg w/o CA		\$4,771	\$4,635	\$4,586	\$508	\$510	\$944	\$850		\$350	\$359	\$439		\$1,372					
Sample Size w/o CA		216	196	164	107	110	38	25		101	75	28		31					
State Average Fees																			
AR	4	\$987	\$908	\$1,815	\$178	\$115	n/a	n/a	n/a	\$309	\$368	n/a	n/a	n/a					
AZ	29	\$4,351	\$4,025	\$3,684	\$510	\$235	\$155	\$244	\$85	\$386	\$505	\$275	n/a	\$556					
CA	37	\$15,586	\$14,513	\$10,151	\$1,428	\$1,335	\$1,240	\$1,158	\$176	\$571	\$510	\$1,118	\$454	\$2,743					
CO	17	\$7,892	\$7,333	\$5,126	\$1,158	\$515	\$1,075	\$2,680	n/a	\$355	\$298	\$435	n/a	\$9,435					
DE	1	\$1,803	\$257	n/a	n/a	\$1,205	n/a	n/a	n/a	\$169	\$33	\$95	n/a	n/a					
FL	53	\$5,954	\$5,595	\$5,769	\$318	\$571	\$75	n/a	n/a	\$304	\$372	\$522	n/a	\$465					
GA	10	\$1,493	\$1,693	\$2,235	\$213	\$258	n/a	\$257	n/a	\$230	\$85	n/a	n/a	\$212					
HI	1	\$4,053	\$4,053	\$4,053	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a					
ID	2	\$5,245	\$4,632	\$4,162	\$239	\$947	n/a	n/a	n/a	\$210	\$365	n/a	n/a	n/a					
IL	2	\$2,653	\$2,653	\$2,653	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a					
IN	2	\$3,524	\$5,922	\$5,922	n/a	\$1,071	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a					
KS	3	\$3,084	\$2,675	\$2,108	\$605	\$554	\$1,285	\$125	n/a	n/a	n/a	n/a	n/a	\$165					
LA	2	\$2,377	\$2,024	\$1,439	n/a	\$508	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a					
MD	7	\$2,836	\$2,440	\$3,311	\$513	\$218	\$1,170	n/a	n/a	\$1,140	\$1,019	n/a	n/a	\$110					
MO	2	\$1,885	\$1,885	\$1,885	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a					
MT	1	\$10,674	\$9,896	\$9,523	\$455	\$325	n/a	n/a	n/a	\$573	n/a	n/a	n/a	n/a					
NC	5	\$2,421	\$2,520	\$2,520	\$437	\$590	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a					
NE	1	\$3,578	\$3,370	\$3,370	\$139	\$65	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a					
NH	2	\$2,015	\$2,015	\$3,470	n/a	n/a	n/a	n/a	n/a	\$420	\$140	n/a	n/a	n/a					
NM	6	\$2,426	\$3,040	\$2,750	\$345	\$242	\$712	n/a	n/a	\$468	\$124	n/a	n/a	\$49					
NV	3	\$3,281	\$3,257	\$3,201	n/a	\$14	n/a	n/a	n/a	n/a	n/a	n/a	n/a	\$80					
OH	1	\$2,980	\$1,194	n/a	\$994	\$882	n/a	n/a	n/a	\$385	\$455	\$549	n/a	n/a					
OK	1	\$250	\$250	\$250	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a					
OR	11	\$8,723	\$8,572	\$8,744	\$600	\$576	\$675	\$347	n/a	n/a	n/a	n/a	\$250	\$1,275					
PA	1	\$5,103	\$5,103	\$5,109	n/a	\$342	\$161	\$500	n/a	n/a	n/a	n/a	n/a	\$300					
SC	3	\$4,356	\$3,763	\$3,593	\$285	\$603	n/a	n/a	n/a	\$123	\$120	n/a	n/a	\$130					
TN	5	\$3,089	\$2,695	\$1,725	\$333	\$644	n/a	n/a	n/a	\$302	\$81	n/a	n/a	\$1,527					
TX	5	\$1,780	\$2,133	\$2,101	\$311	\$125	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a					
UT	10	\$3,565	\$3,938	\$3,031	\$234	\$199	\$1,502	\$78	n/a	\$293	\$183	n/a	n/a	n/a					
VA	2	\$2,808	\$2,055	\$2,036	\$271	\$363	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a					
VT	2	\$1,148	\$1,148	\$353	n/a	n/a	n/a	\$332	n/a	\$186	\$329	n/a	n/a	n/a					
WA	14	\$7,538	\$7,351	\$7,528	\$603	\$657	\$542	\$2,705	n/a	\$456	\$912	\$49	n/a	n/a					
WV	1	\$1,740	\$1,740	n/a	n/a	n/a	n/a	n/a	n/a	\$1,653	\$87	n/a	n/a	n/a					
WI	3	\$1,540	\$584	\$558	\$725	\$321	\$673	n/a	n/a	\$225	\$218	n/a	n/a	n/a					

State	County	Jurisdiction	Total	Non-Util	Roads	Water	Sewer	Drain	Parks	Library	Fire	Police	GenGov	Schools	Other
AR	Benton	Bentonville	\$659	\$310		\$191	\$158				\$310				
AR	Benton	Lowell	\$698	\$649			\$49				\$49				
AR	Faithner	Conway	\$1,280	\$1,280	\$1,280										
AR	Washington	Payetteville	\$976	\$881		\$155	\$140				\$233	\$338			
AZ	Cochise	Sierra Vista	\$2,470	\$2,470	\$1,930						\$110	\$430			
AZ	Gila	Sedona	\$2,818	\$2,818	\$1,150		\$1,205	\$73					\$140		
AZ	Maricopa	Avondale	\$2,930	\$1,615	\$158	\$498	\$819			\$50	\$917	\$150	\$100		\$848
AZ	Maricopa	Buckeye	\$1,332	\$1,205	\$137	\$85	\$61		\$182	\$39					\$50
AZ	Maricopa	Chandler	\$6,942	\$4,970	\$4,350	\$1,043	\$329				\$320	\$210			
AZ	Maricopa	Fountain Hills	\$243	\$243							\$243				
AZ	Maricopa	Gilbert	\$4,458	\$2,940	\$650	\$344	\$575			\$700			\$400		\$1,150
AZ	Maricopa	Glendale	\$3,495	\$1,034	\$2,235	\$24	\$207			\$67	\$533	\$39			
AZ	Maricopa	Goodyear	\$2,800	\$1,691	\$787	\$75	\$354				\$54	\$93			
AZ	Maricopa	Mesa	\$1,552	\$771		\$38	\$425	\$238			\$215	\$518			
AZ	Maricopa	Peoria	\$3,224	\$8,734	\$3,515	\$423	\$157		\$4,785		\$142	\$171			
AZ	Maricopa	Phoenix	\$5,423	\$2,221	\$1,391	\$1,847	\$1,055		\$78		\$337	\$355			\$50
AZ	Maricopa	Scottsdale	\$1,889			\$740	\$449								
AZ	Maricopa	Surprise	\$2,024	\$1,487	\$240	\$211	\$327				\$1,247				
AZ	Maricopa	Tempe	\$750			\$416	\$334								
AZ	Mohave	Scottsdale City	\$35			\$25									
AZ	Navajo	Show Low	\$410		\$410										
AZ	Pima	Pine County	\$1,917	\$1,917	\$1,917										
AZ	Pima	Mazatzul	\$7,766			\$314	\$638								
AZ	Pima	Oro Valley	\$3,694	\$1,978	\$1,822	\$1,716						\$156			
AZ	Pima	Tucson	\$4,555	\$4,313	\$3,797	\$242			\$38		\$157	\$271			
AZ	Pinal	Arcadia Junction	\$4,850	\$4,850	\$4,330										
AZ	Pinal	Casa Grande	\$3,895	\$3,542	\$2,261		\$457				\$667	\$112	\$502		
AZ	Pinal	Eloy	\$465	\$178		\$162	\$125					\$178			
AZ	Pinal	Florenca	\$5,277	\$4,439	\$3,141	\$347	\$499			\$170	\$24	\$660	\$437		
AZ	Pinal	Queen Creek	\$3,083	\$2,001	\$679	\$478	\$608		\$52	\$109	\$285	\$90	\$286		
AZ	Yavapai	Yavapai County													
AZ	Yavapai	Chino Valley	\$2,174	\$1,130	\$970	\$84	\$360					\$160			
AZ	Yavapai	Prescott	\$2,177			\$1,553	\$524								
AZ	Yuma	Yuma	\$1,261	\$1,261	\$535						\$258	\$468			
CA	Alameda	Fremont	\$12,477	\$12,477	\$10,766						\$234		\$1,477		
CA	Alameda	Hayward	\$5,629	\$5,629	\$3,000	\$1,037	\$1,232							\$380	
CA	Alameda	Livermore	\$32,060	\$32,060	\$19,641		\$1,210	\$1,000	\$2,669				\$7,000	\$540	\$120
CA	Alameda	San Leandro	\$3,543	\$3,543	\$2,720				\$363						
CA	Contra Costa	Orinda	\$4,030	\$4,030	\$2,720				\$1,310					\$490	
CA	El Dorado	El Dorado Co	\$2,739	\$2,739	\$2,249						\$572	\$100			
CA	Fresno	Clovis	\$7,553	\$6,513	\$5,452	\$720	\$520								
CA	Kern	Bakersfield	\$3,102	\$2,452	\$1,795		\$840							\$470	\$197
CA	Los Angeles	Lancaster	\$3,443	\$3,443	\$1,780									\$540	
CA	Los Angeles	Long Beach	\$3,403	\$3,403	\$2,000						\$325	\$538			
CA	Mortenv	Salinas	\$5,147	\$4,442	\$3,224		\$705	\$348						\$50	\$272
CA	Napa	St. Helena	\$18,940	\$15,170	\$5,650	\$3,310	\$460	\$1,740				\$1,100	\$2,060	\$510	\$4,110
CA	Orange	Eira	\$4,923	\$2,594	\$2,350		\$2,225								
CA	Placer	Rocklin	\$13,424	\$13,424	\$11,410				\$64						\$970
CA	Sacramento	Citrus Heights	\$7,904	\$5,712	\$5,032		\$1,192	\$370						\$340	\$970
CA	Sacramento	Elk Grove	\$14,825	\$11,889	\$7,530	\$388	\$2,569	\$248	\$1,210		\$1,570	\$140	\$200		\$970

State	County	Jurisdiction	Office	2015 Total	2015 Non-Util	2015 Roads	2015 Water	2015 Sewer	2015 Drain	2015 Parks	2015 Library	2015 Fire	2015 Police	2015 Gen Gov	2015 Schools	2015 Other
FL	Clay	Clay Co														
FL	Collier	Collier Co		\$9,159	\$8,332	\$6,763	\$416	\$402				\$668	\$222	\$404		\$280
FL	Columbia	Columbia Co														
FL	Dade	Miami/Dade Co		\$6,609	\$9,500	\$8,900						\$327	\$373			
FL	Dade	Miami		\$6,582	\$9,582	\$8,900						\$336	\$236	\$149		
FL	DeSoto	DeSoto Co														
FL	Flagler	Flagler Co														
FL	Flagler	Palm Coast		\$7,416	\$8,351	\$6,097	\$488	\$617				\$254				
FL	Glades	Glades Co														
FL	Glades	Glades Co														
FL	Hardee	Hardee Co														
FL	Hardee	Hardee Co														
FL	Hendry	Hendry Co														
FL	Hernando	Hernando Co		\$573	\$573							\$171	\$62	\$335		\$5
FL	Highlands	Highlands Co														
FL	Hillsborough	Hillsborough Co		\$2,502	\$1,934	\$1,893	\$264	\$304				\$41				
FL	Hillsborough	Plant City		\$2,438	\$1,815	\$1,281	\$119	\$438				\$282	\$272			
FL	Hillsborough	Tampa		\$3,425	\$3,425	\$3,425						\$229	\$312	\$142		
FL	Indian River	Indian River Co		\$5,004	\$5,004	\$4,521						\$1,501				
FL	Lake	Lake Co		\$5,929	\$5,929	\$2,629						\$343	\$323			
FL	Lake	Eustis		\$2,429	\$636		\$430	\$1,320				\$139				
FL	Lee	Lee Co		\$2,475	\$2,475	\$2,338						\$267				
FL	Lee	Bonita Springs		\$7,394	\$7,394	\$7,097						\$162	\$163			
FL	Lee	Coee Canal		\$3,650	\$2,980	\$2,634	\$243	\$458				\$204				
FL	Lee	Pt. Myers		\$3,290	\$2,540	\$2,356	\$354	\$335				\$80				
FL	Levy	Levy Co		\$898	\$898	\$818						\$133	\$806			
FL	Manatee	Manatee Co		\$2,552	\$2,552	\$1,223						\$80	\$273	\$314		
FL	Manatee	Manatee Co		\$2,944	\$2,944	\$2,277						\$64	\$112			\$2,054
FL	Martin	Martin Co		\$2,814	\$2,814	\$884						\$143	\$177	\$274		
FL	Monroe	Monroe Co		\$1,647	\$1,647	\$1,033						\$25				
FL	Nassau	Nassau Co		\$1,429	\$1,429	\$1,404						\$117	\$109			
FL	Orange	Orange Co		\$3,283	\$3,283	\$3,037						\$235	\$165			
FL	Orange	Orange Co		\$6,409	\$4,081	\$3,681	\$387	\$1,741				\$610	\$600			
FL	Orange	Orlando		\$3,814	\$3,408	\$3,408						\$80				
FL	Orange	Winter Garden		\$6,004	\$5,576	\$4,466	\$163	\$255				\$610	\$600			
FL	Osceola	Osceola Co		\$4,713	\$4,713	\$4,623						\$90				
FL	Palm Beach	Palm Beach Co		\$2,570	\$2,570	\$2,412						\$10	\$149			
FL	Palm Beach	Palm Beach Gardens		\$3,657	\$3,657	\$3,111						\$184	\$214	\$148		
FL	Pasco	Pasco Co		\$1,568	\$913	\$851	\$234	\$410				\$62				
FL	Pinellas	Pinellas Co		\$2,823	\$2,767	\$2,767	\$56									
FL	Polk	Polk Co														
FL	Polk	Lakeband		\$4,790	\$4,790	\$4,293						\$207	\$383			
FL	Putnam	Putnam Co														
FL	Santa Rosa	Santa Rosa Co														
FL	St. Johns	St. Johns Co		\$2,804	\$2,804	\$2,056						\$177	\$72	\$438		
FL	St. Lucie	St. Lucie Co		\$3,713	\$3,713	\$2,735						\$334	\$322	\$302		
FL	St. Lucie	St. Lucie Co		\$4,327	\$3,877	\$3,004	\$544	\$408				\$178	\$102	\$177		\$416
FL	Sarasota	Sarasota Co		\$322	\$322							\$122	\$115	\$65		
FL	Sarasota	North Port														
FL	Seminole	Seminole Co		\$1,944	\$1,944	\$1,872						\$72				

State	County	Jurisdiction	Office	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050
				Trans	Non-Util	Roads	Water	Sewer	Drain	Parks	Library	Fire	Police	Gen Gov	Schools	Other																							
FL	Seminole	Altamonte Springs		\$1,523	\$1,523	\$1,176						\$72	\$276																										
FL	Seminole	Winter Springs		\$7,156	\$7,156	\$4,775						\$1,264	\$366	\$762																									
FL	Sumter	Sumter Co		\$3,389	\$3,389	\$3,269						\$120																											
FL	Volusia	Volusia Co		\$2,310	\$2,310	\$2,310																																	
FL	Volusia	Daytona Beach		\$2,310	\$2,310	\$2,310																																	
FL	Volusia	DeLand		\$2,662	\$2,662	\$2,310	\$0	\$0				\$22	\$30	\$300																									
FL	Volusia	DeFons		\$5,404	\$3,578	\$3,578	\$543	\$1,283																															
FL	Volusia	Ormond Beach		\$3,129	\$2,487	\$2,435	\$520	\$312	\$82																														
FL	Volusia	Port Orange		\$4,114	\$3,519	\$3,419	\$249	\$245				\$200																											
GA	Cherokee	Carters		\$1,377	\$1,377	\$988					\$173		\$173	\$43																									
GA	Cherokee	Cherokee Co		\$1,611	\$1,511	\$651							\$646	\$394																									
GA	Effingham	Effingham Co		\$901			\$213	\$288																															
GA	Forsyth	Forsyth Co		\$88	\$88																																		
GA	Fulton	Alpharetta		\$1,428	\$1,428	\$1,211					\$14		\$188																										
GA	Fulton	Atlanta		\$1,955	\$1,935	\$1,608					\$241			\$18																									
GA	Fulton	Roswell		\$1,526	\$1,526	\$1,176																																	
GA	Hall	Hall Co		\$172	\$172																																		
GA	Henry	Henry Co		\$1,225	\$1,225																																		
GA	Henry	McDonough		\$884	\$884																																		
HI	Honolulu	Honolulu		\$3,403	\$3,403	\$3,408																																	
ID	Ada	Boise		\$4,856	\$4,846	\$4,578						\$210	\$60																										
ID	Kootenai	Post Falls		\$2,026	\$840	\$850	\$239	\$347					\$250																										
IL	DeKalb	DeKalb (city)																																					
IL	DuPage	DuPage County		\$2,114	\$2,114	\$2,114																																	
IL	Kane	Kane County		\$2,717	\$2,717	\$2,717																																	
IN	Hamilton	Fishers		\$3,210	\$2,910	\$2,510		\$600																															
IN	Hamilton	Noblesville		\$1,846	\$1,211	\$1,211		\$434																															
KS	Johnson	Lenexa		\$2,966	\$2,966	\$1,385					\$1,289	\$121																											
KS	Johnson	Olathe		\$2,479	\$1,220	\$1,950	\$805	\$554			\$130																												
KS	Johnson	Overland Park		\$880	\$880	\$880																																	
LA	Bezon Rouge	Bezon Rouge		\$1,403	\$795	\$795		\$608																															
LA	St Tammany	St Tammany Parish		\$3,343	\$3,343	\$2,173			\$1,170																														
MD	Anne Arundel	Anne Arundel Co		\$8,954	\$6,710	\$6,353	\$1,008	\$1,216						\$357																									
MD	Calvert	Calvert Co		\$1,454	\$110			\$490	\$564																														
MD	Carroll	Carroll Co																																					
MD	Charles	Charles Co		\$2,065			\$719	\$1,246																															
MD	Frederick	Frederick Co		\$1,208			\$504	\$704																															
MD	Harford	Harford Co																																					
MD	Howard	Howard Co		\$1,150	\$1,150	\$1,150																																	
MD	Montgomery	Montgomery Co		\$2,087	\$1,275	\$1,275	\$352	\$460																															
MD	Queen Anne's	Queen Anne's Co		\$1,710	\$1,710									\$1,710																									
MD	St. Mary's	St. Mary's Co																																					
MO	Clay/Jackson	Kansas City		\$1,049	\$1,049	\$1,049																																	
MO	Jackson	Lee's Summit		\$848	\$848	\$848																																	
MT	Callahan	Butte		\$5,273	\$4,495	\$4,122	\$453	\$328						\$573																									

State	County	Jurisdiction	Office	2015 Total	2015 Non-Utl	2015 Roads	2015 Water	2015 Sewer	2015 Drain	2015 Parks	2015 Library	2015 Fire	2015 Police	2015 Gen Gov	2015 Schools	2015 Other
NC	Chatham	Chatham Co.		\$300			\$300									
NC	Durham	Durham		\$2,089	\$1,706	\$1,706	\$223	\$160								
NC	Orange	Orange Co.		\$1,653			\$574	\$979								
NC	Wake	Cary		\$2,549	\$1,833	\$1,833	\$255	\$475								
NC	Wake	Raleigh		\$3,157	\$2,111	\$2,111	\$596	\$450								
NE	Lancaster	Lincoln		\$3,938	\$3,730	\$3,730	\$139	\$69								
NH	Hillsborough	Manchester														
NH	Merrimack	Concord		\$1,620	\$1,620	\$1,620										
NH	Rockingham	Salem		\$540	\$540							\$370	\$170			
NH	Rockingham	Francon														
NM	Bernalillo	Albuquerque		\$2,455	\$1,859	\$1,708	\$295	\$222	\$194							
NM	Bernalillo	Bernalillo Co		\$1,177	\$1,177	\$723			\$230							
NM	Bernalillo	Las Cruces		\$850			\$182	\$114								
NM	Lincoln	Ruidoso		\$943			\$514	\$229								
NM	Sandoval	Rio Rancho		\$5,783	\$4,855	\$3,094	\$522	\$368	\$1,430							\$36
NM	Santa Fe	Santa Fe		\$3,051	\$2,637	\$2,426	\$314	\$140								
NM	Santa Fe	Santa Fe County		\$335	\$335											
NM	Valencia	Los Lunas		\$375			\$146	\$229								
NV	Churchill	Churchill County														
NV	Clark	Las Vegas		\$1,081	\$1,067	\$993		\$14								\$84
NV	Clark	Mesquite		\$1,078	\$1,078	\$994										\$84
NV	Washoe	Reco		\$3,991	\$3,991	\$3,991										
OH	Butler	Middletown														
OH	Delaware	Delaware (city)		\$3,096	\$1,230		\$904	\$962								
OK	Cleveland	Moore		\$250	\$250	\$250										
OR	Clackamas	Clackamas Co.		\$5,165	\$7,109	\$6,859		\$1,058								
OR	Clackamas	West Linn		\$12,405	\$10,211	\$8,880	\$1,404	\$790								\$851
OR	Deschutes	Bend		\$4,048	\$3,312	\$3,312	\$452	\$284								
OR	Josephine	Grants Pass		\$2,664	\$2,060	\$2,060	\$402	\$402								
OR	Lane	Eugene		\$4,405	\$4,064	\$2,680		\$341	\$384	\$1,000						
OR	Lane	Springfield		\$2,991	\$2,395	\$1,229		\$566	\$1,166							
OR	Marion	Salem		\$3,320	\$2,550	\$2,288	\$385	\$385	\$302							
OR	Marion	Silverton		\$2,338	\$1,360		\$530	\$498	\$1,950							
OR	Multnomah	Portland		\$5,285	\$4,322	\$3,560	\$269	\$394	\$528	\$434						
OR	Washington	Tigard		\$8,397	\$7,637	\$5,869	\$760									\$768
OR	Washington	Washington Co		\$8,115	\$7,389	\$5,869		\$746	\$500							
PA	Montgomery	Towamencin Twp		\$6,549	\$3,274	\$3,274		\$571	\$161	\$500						\$500
SC	Beaufort	Beaufort Co		\$1,320	\$1,320	\$1,265										
SC	Beaufort	Hilton Head		\$4,123	\$3,253	\$3,253	\$384	\$466								
SC	Berkley	Mt. Pleasant		\$2,447	\$1,500	\$1,100	\$167	\$720								

Summary	Office	Police	Fire	Public Works	Water	Sanitation	Drainage	Parks	Library	Police	Fire	Public Works	Schools	Other
	Total	Non-Util	Roads	Water	Service	Drainage	Parks	Library	Police	Fire	Public Works	Schools	Other	
National Average	\$4,636	\$4,214	\$3,403	\$306	\$540	\$291	\$261	\$113	\$339	\$293	\$751	\$240	\$2,109	
Sample Size	254	235	203	127	136	61	37	7	118	51	51	10	49	
National Avg w/o CA	\$3,338	\$3,048	\$2,734	\$591	\$439	\$262	\$299		\$302	\$201	\$285		\$1,912	
Sample Size w/o CA	217	198	166	108	111	38	25		102	75	28		31	
State Average Fees														
AR	\$903	\$730	\$1,280	\$173	\$115	n/a	n/a	n/a	\$417	\$398	n/a	n/a	n/a	n/a
AZ	\$8,069	\$2,512	\$1,960	\$610	\$325	\$153	\$657	\$55	\$452	\$248	\$266	n/a	\$624	
CA	\$11,961	\$10,465	\$6,406	\$1,204	\$1,254	\$938	\$1,263	\$189	\$573	\$527	\$1,315	\$454	\$2,877	
CO	\$6,885	\$6,206	\$3,059	\$1,207	\$315	\$924	\$2,428	n/a	\$374	\$194	\$373	n/a	\$14,263	
DE	\$1,759	\$1,631	n/a	n/a	\$1,306	n/a	n/a	n/a	\$297	\$14	\$142	n/a	n/a	
FL	\$3,423	\$3,159	\$3,212	\$308	\$963	\$82	n/a	n/a	\$223	\$216	\$372	n/a	\$325	
GA	\$1,054	\$1,115	\$1,123	\$213	\$283	n/a	\$143	n/a	\$248	\$132	n/a	n/a	\$523	
HI	\$3,403	\$3,403	\$3,403	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
ID	\$3,438	\$2,843	\$2,583	\$239	\$947	n/a	n/a	n/a	\$210	\$155	n/a	n/a	n/a	
IL	\$2,416	\$2,416	\$2,416	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
IN	\$2,428	\$1,910	n/a	n/a	\$517	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
KS	\$2,102	\$1,882	\$1,125	\$605	\$84	\$1,283	\$126	n/a	n/a	n/a	n/a	n/a	n/a	
LA	\$2,373	\$2,069	\$1,484	n/a	\$578	\$1,170	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
MD	\$2,838	\$2,191	\$2,925	\$973	\$918	n/a	n/a	n/a	\$1,710	\$857	n/a	n/a	\$110	
MO	\$949	\$949	\$949	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
MT	\$5,273	\$4,481	\$4,122	\$455	\$323	n/a	n/a	n/a	\$373	n/a	n/a	n/a	n/a	
NC	\$1,338	\$1,884	\$1,833	\$386	\$523	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
NE	\$3,537	\$3,733	\$3,733	\$139	\$63	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
NH	\$1,080	\$1,080	\$1,620	n/a	n/a	n/a	n/a	n/a	\$370	\$170	n/a	n/a	n/a	
NM	\$1,240	\$2,177	\$1,656	\$346	\$234	\$618	n/a	n/a	\$253	\$41	n/a	n/a	\$36	
NV	\$2,050	\$2,045	\$1,989	n/a	\$14	n/a	n/a	n/a	n/a	n/a	n/a	n/a	\$84	
OH	\$3,095	\$1,830	n/a	\$904	\$562	n/a	n/a	n/a	\$574	\$240	\$516	n/a	n/a	
OK	\$260	\$250	\$250	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
OR	\$6,668	\$4,762	\$4,455	\$800	\$576	\$676	\$734	n/a	n/a	n/a	n/a	n/a	\$250	
PA	\$6,549	\$3,274	\$3,274	n/a	\$571	\$161	\$500	n/a	n/a	n/a	n/a	n/a	\$300	
SC	\$2,630	\$2,038	\$1,873	\$285	\$603	n/a	n/a	n/a	\$123	\$120	n/a	n/a	\$130	
TN	\$2,830	\$2,439	\$1,529	\$333	\$644	n/a	n/a	n/a	\$167	\$57	n/a	n/a	\$1,527	
TX	\$1,445	\$1,513	\$1,614	\$311	\$125	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
UT	\$2,753	\$2,476	\$1,470	\$234	\$189	\$1,412	\$49	n/a	\$257	\$141	n/a	n/a	n/a	
VA	\$3,022	\$2,806	\$2,608	\$927	\$863	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	
VT	\$1,121	\$1,121	\$857	n/a	n/a	n/a	\$322	n/a	\$186	\$329	n/a	n/a	n/a	
WA	\$5,806	\$5,219	\$5,205	\$503	\$671	\$821	\$875	n/a	\$322	\$123	\$48	n/a	n/a	
WV	\$571	\$571	n/a	n/a	n/a	n/a	n/a	n/a	\$548	\$29	n/a	n/a	n/a	
WI	\$1,199	\$476	\$358	\$585	\$302	\$404	n/a	n/a	\$225	\$219	n/a	n/a	n/a	

State	County	Jurisdiction	Total	Non-Bill	Roads	Water	Sewer	Drains	Parks	Library	Fire	Police	Gen Gov	Schools	Other
AR	Benton	Bentonville	\$538	\$190		\$191	\$156				\$190				
AR	Benton	Lowell	\$469	\$420			\$49				\$420				
AR	Faulkner	Conway	\$808	\$808	\$808										
AR	Washington	Fayetteville	\$567	\$272		\$165	\$140				\$117	\$155			
AZ	Cochise	Sierra Vista	\$1,510	\$1,510	\$1,180						\$70	\$260			
AZ	Gila	Sedona	\$2,258	\$2,258	\$720		\$1,205	\$73			\$160		\$100		
AZ	Maricopa	Avondale	\$1,615	\$500	\$100	\$496	\$319		\$130	\$30	\$100	\$80	\$60		\$245
AZ	Maricopa	Buckeye	\$556	\$432	\$127	\$35	\$61		\$45	\$11					\$20
AZ	Maricopa	Chandler	\$4,452	\$2,490	\$2,200	\$1,048	\$929				\$100	\$70			\$20
AZ	Maricopa	Mountain Hills	\$248	\$243							\$243				
AZ	Maricopa	Gilbert	\$2,819	\$1,300	\$470	\$944	\$575						\$200		\$630
AZ	Maricopa	Glendale	\$1,388	\$825	\$721	\$294	\$207		\$23		\$129	\$12			
AZ	Maricopa	Goodyear	\$2,220	\$1,111	\$767	\$735	\$354		\$46		\$185	\$66			
AZ	Maricopa	Mesa	\$1,878	\$1,097		\$335	\$425	\$299			\$215	\$161	\$322		
AZ	Maricopa	Peoria	\$2,650	\$2,070	\$1,948	\$423	\$157		\$15		\$48	\$63			\$49
AZ	Maricopa	Phoenix	\$4,218	\$1,316	\$972	\$1,847	\$1,055		\$22		\$133	\$140			
AZ	Maricopa	Scottsdale	\$1,189			\$740	\$449								
AZ	Maricopa	Surprise	\$1,206	\$569	\$150	\$211	\$327				\$519				
AZ	Maricopa	Tempe	\$750			\$416	\$334								
AZ	Mojave	Buttehead City	\$35			\$35									
AZ	Navajo	Show Low	\$525												
AZ	Pima	Pima County	\$2,113	\$2,113	\$2,113										
AZ	Pima	Marana	\$1,943		\$793		\$514	\$635							
AZ	Pima	Oro Valley	\$2,764	\$1,048	\$383	\$1,716					\$65				
AZ	Pima	Tucson	\$1,564	\$1,322	\$365	\$42			\$38		\$157				\$321
AZ	Pinal	Apache Junction	\$2,830	\$2,530	\$2,280						\$270				
AZ	Pinal	Casa Grande	\$2,718	\$2,261	\$1,385		\$457				\$469	\$70	\$346		
AZ	Pinal	Casa Grande	\$364	\$77		\$162	\$125				\$77				
AZ	Pinal	Elroy	\$2,342	\$1,467	\$1,015	\$347	\$499		\$126	\$18	\$202	\$134			
AZ	Pinal	Florence	\$3,023	\$1,935	\$429	\$478	\$608		\$630	\$128	\$335	\$66	\$338		
AZ	Pinal	Green Creek													
AZ	Yavapai	Yavapai County	\$3,984	\$2,940	\$2,780	\$84	\$960				\$160				
AZ	Yavapai	Chino Valley	\$2,177			\$1,553	\$624								
AZ	Yavapai	Prescott	\$808	\$808	\$339						\$171	\$286			
AZ	Yuma	Yuma													
CA	Alameda	Fremont	\$4,408	\$4,408	\$3,252						\$117		\$739		
CA	Alameda	Hayward	\$4,069	\$4,069	\$1,440	\$1,057	\$1,232							\$350	
CA	Alameda	Livermore	\$19,487	\$19,487	\$11,986		\$1,210	\$1,000	\$1,211				\$3,500	\$840	\$540
CA	Alameda	San Leandro	\$2,513	\$2,513	\$1,190		\$663								\$120
CA	Contra Costa	Orinda	\$4,030	\$4,030	\$2,720				\$1,310					\$190	
CA	El Dorado	El Dorado Co	\$1,520	\$1,520	\$1,430										
CA	Fresno	Clavis	\$3,523	\$2,283	\$1,467	\$720	\$520		\$44		\$672	\$100		\$470	\$328
CA	Kern	Bakersfield	\$2,734	\$2,094	\$1,296		\$640								
CA	Los Angeles	Lancaster	\$2,358	\$2,358	\$670			\$760			\$876		\$47		
CA	Los Angeles	Long Beach	\$1,680	\$1,990	\$1,100						\$122	\$216		\$540	\$472
CA	Monterey	Salinas	\$4,234	\$3,546	\$2,168		\$765	\$909							
CA	Napa	St. Helena	\$14,490	\$3,460	\$3,590	\$4,110	\$620	\$1,740				\$1,100	\$1,260	\$610	\$1,260
CA	Ozama	Brook	\$3,637	\$1,428	\$1,250	\$2,228					\$138	\$40			
CA	Pacific	Rocklin	\$7,027	\$7,027	\$6,951			\$108					\$970	\$340	\$250
CA	Sacramento	Citrus Heights	\$6,322	\$5,180	\$4,440		\$1,322			\$80			\$30		\$670
CA	Sacramento	Elk Grove	\$10,356	\$6,480	\$4,870	\$388	\$3,488		\$410		\$370	\$30	\$30		\$670

State	County	Jurisdiction	Total	Non-Util	Roads	Water	Sewer	Drains	Parks	Library	Fire	Police	GenGov	Schools	Other
CA	Sacramento	Sacramento	\$15,151	\$14,032	\$4,266	\$260	\$819	\$1,890	\$160					\$470	\$7,246
CA	San Bernardino	Highland	\$7,918	\$7,918	\$7,415			\$191			\$60	\$7	\$245		
CA	San Bernardino	Redlands	\$2,622	\$2,622	\$1,612			\$150		\$50	\$240	\$150	\$220		
CA	San Bernardino	Rialto	\$8,866	\$7,843	\$5,729	\$768	\$260	\$1,809	\$120		\$76	\$45	\$53		
CA	San Diego	Carlsbad	\$6,918	\$6,504	\$320	\$613	\$501	\$763					\$3,500		\$420
CA	San Diego	Escondido	\$4,299	\$2,950	\$340	\$629	\$420	\$700					\$1,510		\$330
CA	San Diego	San Diego	\$6,627	\$4,964	\$2,563	\$603	\$660				\$121		\$300	\$420	\$940
CA	San Joaquin	Lodi	\$6,720	\$7,987	\$443	\$310	\$425	\$8,808	\$217		\$180	\$176	\$144		\$39
CA	San Joaquin	Ripon	\$23,200	\$13,467	\$7,366	\$3,000	\$6,733	\$8,000	\$467		\$1,083	\$67	\$559	\$540	\$441
CA	San Luis Obispo	Paso Robles	\$7,271	\$3,640	\$3,760	\$2,350	\$681				\$210	\$30	\$510		
CA	San Luis Obispo	San Luis Obispo	\$18,670	\$12,083	\$7,083	\$1,173	\$408								\$10,000
CA	Santa Barbara	Carpinteria	\$12,346	\$12,346	\$6,030			\$1,761	\$1,890				\$180	\$330	\$45
CA	Santa Barbara	Santa Maria	\$7,358	\$4,394	\$3,220	\$1,612	\$1,352		\$24	\$155	\$59	\$68	\$168		
CA	Santa Clara	Gilroy	\$9,738	\$3,639	\$4,373	\$687	\$5,382	\$173					\$1,123		
CA	Santa Clara	Palo Alto	\$26,332	\$27,132	\$3,335		\$1,200		\$5,144	\$252		\$186	\$234		\$17,970
CA	Santa Cruz	Santa Cruz Co	\$6,402	\$6,402	\$4,182			\$2,220							
CA	Santa Cruz	Scotts Valley	\$11,141	\$11,141	\$6,480		\$682	\$175				\$3,362	\$161		
CA	Shasta	Redding	\$5,756	\$3,756	\$3,805	\$812	\$1,140	\$330			\$318	\$159	\$214	\$330	\$568
CA	Solano	Vacaville	\$6,453	\$8,491	\$2,738	\$1,362	\$770	\$1,577							\$716
CA	Sonoma	Windsor	\$10,876	\$10,876	\$4,827	\$790	\$1,768	\$2,774							
CA	Yolo	Devin	\$2,214	\$2,214	\$480			\$118	\$228			\$280	\$241	\$470	\$402
CO	Adams	Adams Co	\$776	\$776	\$776										
CO	Adams	Commerce City	\$2,725	\$2,725	\$1,146			\$319	\$1,260						
CO	Boulder	Boulder	\$12,185	\$6,780	\$2,460	\$2,689	\$716	\$4,120			\$80	\$60	\$120		\$1,220
CO	Eagle	Eagle Co	\$3,815	\$3,815	\$3,100										\$1,000
CO	Eagle	Basalt	\$2,518	\$2,000	\$1,000	\$518									
CO	El Paso	Colorado Springs	\$3,532	\$1,084	\$2,044	\$424	\$1,024								
CO	Fronton	Canon City	\$152	\$152							\$152				
CO	Jefferson	Jefferson Co	\$1,720	\$1,720	\$1,720										
CO	La Plata	Durango	\$2,687	\$1,963	\$1,963	\$528	\$168								
CO	Larimer	Larimer Co	\$2,716	\$2,716	\$2,716										
CO	Larimer	Loveland	\$1,698	\$1,698	\$870			\$708			\$30	\$40	\$50		
CO	Larimer	Ft Collins	\$6,072	\$3,904	\$2,461	\$1,120	\$1,048	\$1,198			\$71	\$41	\$135		
CO	Monte	Monte Co	\$1,249	\$1,249	\$1,249										
CO	Pitkin	Pitkin Co	\$16,734	\$16,734	\$2,520				\$4,100						\$10,114
CO	Weld	Weld Co	\$2,500	\$2,500	\$2,141			\$200							\$159
CO	Weld	Windsor	\$4,224	\$2,778	\$1,799	\$682	\$513	\$680							
CO	Weld	Greeley	\$1,284	\$1,688	\$1,476	\$71	\$223	\$58			\$118	\$27			
DE	New Castle	New Castle Co	\$1,578	\$272			\$1,306				\$177	\$7	\$58		
FL	Alachua	Alachua Co	\$2,633	\$2,633	\$2,857						\$78				\$34
FL	Brevard	Brevard Co	\$78	\$78							\$78				\$34
FL	Brevard	Cocoa	\$522	\$52		\$260					\$18				\$34
FL	Brevard	Melbourne	\$238	\$238								\$187			\$34
FL	Brevard	Palin Bay	\$52	\$52											\$34
FL	Brevard	Rockledge	\$52	\$52											\$34
FL	Broward	Broward Co	\$2,891	\$2,891	\$2,891										
FL	Broward	Ft Lauderdale													
FL	Charlotte	Charlotte Co	\$1,113	\$1,113	\$1,113										
FL	Citrus	Citrus Co													

State	County	Jurisdiction	Total	Non-UNI	Roads	Water	Sewer	Drainage	Parks	Library	Fire	Police	GenGov	Schools	Other
FL	Clay	Clay Co													
FL	Collier	Collier Co	\$6,392	\$5,574	\$4,339	\$416	\$402				\$949	\$149	\$271		\$176
FL	Columbia	Columbia Co													
FL	Dade	Miami/Dade Co	\$7,234	\$7,234	\$5,527						\$1,324	\$373			
FL	Dade	Miami	\$5,831	\$5,831	\$5,527						\$210	\$107	\$87		
FL	DeSoto	DeSoto Co													
FL	Flagler	Flagler Co													
FL	Flagler	Palm Coast	\$4,587	\$3,532	\$3,268	\$496	\$617				\$264				
FL	Glenn	Glenn Co													
FL	Glades	Glades Co													
FL	Hardee	Hardee Co													
FL	Henry	Henry Co													
FL	Hernando	Hernando Co	\$288	\$288							\$66	\$31	\$168		\$3
FL	Highlands	Highlands Co													
FL	Hillsborough	Hillsborough Co	\$1,571	\$1,003	\$694	\$294	\$304				\$3				
FL	Hillsborough	Pleasant City	\$1,249	\$622	\$278	\$119	\$499				\$199	\$265			
FL	Hillsborough	Tampa	\$1,369	\$1,369	\$1,369										
FL	Hillsborough	Tampa	\$832	\$832	\$832						\$104	\$137	\$51		
FL	Indian River	Indian River Co													
FL	Lake	Lake Co	\$1,606	\$1,606	\$1,606						\$104				
FL	Lake	Lake Co	\$2,127	\$357		\$430	\$1,330				\$189	\$176			
FL	Lee	Lee Co	\$2,054	\$2,054	\$1,969						\$71				
FL	Lee	Sanita Springs	\$6,154	\$6,154	\$5,017						\$137				
FL	Lee	Cape Coral	\$3,336	\$2,699	\$2,310	\$243	\$458				\$162	\$163			
FL	Lee	Fl. Mtns	\$2,777	\$2,687	\$1,963	\$354	\$335				\$104				
FL	Levy	Levy Co	\$789	\$789	\$789						\$80				
FL	Manatee	Manatee Co	\$994	\$994	\$778						\$76	\$142			
FL	Marion	Marion Co													
FL	Martin	Martin Co	\$1,347	\$1,347	\$1,045						\$12	\$135	\$155		
FL	Monroe	Monroe Co	\$2,543	\$2,543	\$408						\$94	\$49			\$2,096
FL	Nassau	Nassau Co	\$901	\$901	\$897						\$73	\$61	\$140		
FL	Okaloosa	Destin	\$894	\$894	\$888						\$6				
FL	Orange	Orange Co.	\$1,790	\$1,790	\$1,622						\$50	\$118			
FL	Orange	Orceee	\$5,224	\$2,396	\$2,496	\$587	\$1,741				\$235	\$155			
FL	Orange	Orlando	\$2,776	\$1,869	\$1,869		\$406								
FL	Orange	Winter Garden	\$2,942	\$2,514	\$1,404	\$163	\$255				\$510	\$500			
FL	Osceola	Osceola Co	\$2,074	\$2,074	\$2,024						\$50				
FL	Palm Beach	Palm Beach Co	\$1,327	\$1,327	\$1,253							\$6	\$61		
FL	Palm Beach	Palm Beach Gardens	\$1,994	\$1,894	\$1,635						\$279	\$19	\$57		
FL	Pasco	Pasco Co	\$1,705	\$1,062	\$1,000	\$234	\$410				\$52				
FL	Pineles	Pineles Co	\$1,470	\$1,414	\$1,414	\$56									
FL	Polk	Polk Co													
FL	Polk	Lakeland	\$845	\$845	\$875						\$100	\$170			
FL	Punam	Punam Co													
FL	Santa Rosa	Santa Rosa Co													
FL	St. Johns	St. Johns Co	\$1,866	\$1,866	\$1,801						\$18	\$31	\$216		
FL	St. Lucie	St. Lucie Co	\$1,011	\$1,011	\$818						\$73	\$45	\$88		
FL	Sarasota	Sarasota Co	\$3,480	\$2,510	\$1,987	\$544	\$496				\$105	\$81	\$108		\$230
FL	Sarasota	North Port	\$216	\$216							\$23	\$77	\$57		
FL	Seminole	Seminole Co	\$768	\$768	\$762						\$6				

State	County	Jurisdiction	Total	Non-Utility	Roads	Water	Sewer	Drain	Parks	Library	Fire	Police	Gen/ovr	Schools	Other
FL	Seminole	Altamonte Springs	\$820	\$820	\$725						\$6	\$89			
FL	Seminole	Winter Springs	\$5,785	\$5,785	\$3,404						\$1,284	\$355	\$762		
FL	Sumner	Sumner Co	\$1,674	\$1,674	\$1,584						\$90				
FL	Volusia	Volusia Co	\$1,220	\$1,220	\$1,220										
FL	Volusia	Daytona Beach	\$1,220	\$1,220	\$1,220										
FL	Volusia	Deland	\$1,489	\$1,489	\$1,220	\$0	\$0				\$51	\$15	\$208		
FL	Volusia	Deltona	\$3,767	\$1,941	\$1,941	\$543	\$1,283								
FL	Volusia	Ormond Beach	\$1,975	\$1,343	\$1,774	\$520	\$312	\$89							
FL	Volusia	Port Orange	\$2,572	\$2,077	\$1,877	\$245	\$245				\$200				
GA	Cherokee	Carton	\$522	\$522	\$134					\$173	\$173	\$43			
GA	Cherokee	Cherokee Co	\$1,082	\$1,082	\$369						\$450	\$258			
GA	Effingham	Effingham Co	\$501			\$213	\$288								
GA	Forsyth	Forsyth Co	\$52	\$52											
GA	Fulton	Alpharetta	\$799	\$799	\$519					\$14	\$272				
GA	Fulton	Atlanta	\$1,253	\$1,253	\$1,023					\$169					\$20
GA	Fulton	Roswell	\$1,055	\$1,055	\$653						\$150				\$119
GA	Hall	Hall Co	\$119	\$119											\$499
GA	Henry	Henry Co	\$489	\$489											\$476
GA	Henry	McDonough	\$476	\$476											
HI	Honolulu	Honolulu	\$2,019	\$2,019	\$2,019										
ID	Ada	Boise	\$3,249	\$3,249	\$2,878						\$213	\$69			
ID	Kootenai	Post Falls	\$1,719	\$530	\$370	\$239	\$947					\$160			
IL	DeKalb	DeKalb (city)													
IL	DuPage	DuPage County	\$1,049	\$1,049	\$1,049										
IL	Kane	Kane County	\$1,769	\$1,769	\$1,769										
IN	Hamilton	Fishers	\$1,782	\$1,652	\$1,622					\$130					
IN	Hamilton	Noblesville	\$1,201	\$767	\$767					\$434					
KS	Johnson	Lenexa	\$3,028	\$3,028	\$1,620				\$1,285	\$121					
KS	Johnson	Olathe	\$3,146	\$1,887	\$1,817	\$605	\$664			\$70					
KS	Johnson	Overland Park	\$1,433	\$1,433	\$1,433										
LA	E Baton Rouge	Baton Rouge	\$1,111	\$503	\$503					\$608					
LA	St Tammany	St Tammany Parish	\$2,132	\$2,132	\$1,254					\$878					
MD	Anne Arundel	Anne Arundel Co	\$6,528	\$4,704	\$4,538	\$1,008	\$1,218					\$168			\$110
MD	Calvert	Calvert Co	\$1,454	\$110			\$480	\$864							
MD	Carroll	Carroll Co													
MD	Charles	Charles Co	\$2,065			\$719	\$1,346								
MD	Frederick	Frederick Co	\$1,208			\$504	\$704								
MD	Harford	Harford Co													
MD	Howard	Howard Co	\$580	\$580	\$580										
MD	Montgomery	Montgomery Co	\$7,162	\$5,350	\$6,350	\$352	\$460					\$1,170			
MD	Queen Anne's	Queen Anne's Co	\$1,170	\$1,170											
MD	St. Mary's	St. Mary's Co													
MO	Clay/Jackson	Kansas City	\$647	\$647	\$647										
MO	Jackson	Lee's Summit	\$743	\$743	\$743										
MT	Gallatin	Bozeman	\$3,419	\$2,682	\$2,609	\$455	\$328				\$271				

State	County	Jurisdiction	Local	Non-Dur	Roads	Water	Sewer	Drain	Parks	Library	Fire	Police	Gen Gov	Schools	Other
NC	Chatham	Chatham Co.	\$300			\$300									
NC	Durham	Durham	\$1,022	\$709	\$709	\$223	\$160								
NC	Orange	Orange Co.	\$1,583			\$574	\$979								
NC	Wake	Cary	\$1,841	\$1,131	\$1,131	\$235	\$476								
NC	Wake	Raleigh	\$8,072	\$1,334	\$1,334	\$913	\$625								
NE	Lincoln	Lincoln	\$2,409	\$2,290	\$2,290	\$139	\$99								
NH	Hillsborough	Manchester													
NH	Merrimack	Concord	\$1,030	\$1,030	\$1,030										
NH	Rockingham	Salem	\$270	\$270							\$70	\$200			
NH	Rockingham	Fremont													
NM	Bernalillo	Albuquerque	\$2,564	\$2,037	\$1,573	\$293	\$222	\$323						\$42	
NM	Bernalillo	Bernalillo Co	\$1,006	\$1,006	\$477			\$383			\$146				
NM	Dona Ana	Las Cruces	\$431			\$182	\$114				\$185				
NM	Lincoln	Ruidoso	\$943			\$514	\$329								
NM	Sandoval	Rio Rancho	\$4,479	\$3,585	\$1,955	\$522	\$358	\$1,430			\$177				\$28
NM	Santa Fe	Santa Fe	\$2,164	\$1,710	\$1,610	\$314	\$140				\$74	\$26			
NM	Santa Fe	Santa Fe County	\$460	\$460							\$460				
NM	Valencia	Las Lunas	\$375			\$145	\$229								
NV	Churchill	Churchill County													
NV	Clark	Las Vegas	\$1,010	\$895	\$912		\$14								\$84
NV	Clark	Mesquite	\$1,181	\$1,181	\$1,097										\$84
NV	Washoe	Reno	\$2,534	\$2,534	\$2,534										
OH	Butler	Middletown													
OH	Delaware	Delaware (city)	\$2,583	\$877		\$904	\$862				\$358	\$155	\$323		
OK	Cleveland	Moore	\$380	\$380	\$380										
OR	Clackamas	Clackamas Co.	\$5,845	\$4,589	\$4,399		\$1,056							\$250	
OR	Clackamas	West Linn	\$12,405	\$10,211	\$8,330	\$1,404	\$790	\$690							\$661
OR	Deschutes	Bend	\$5,178	\$4,443	\$4,443	\$452	\$384								
OR	Josephine	Kanby Pass	\$1,731	\$327	\$327	\$402	\$402								
OR	Lane	Eugene	\$3,024	\$2,683	\$1,685		\$341	\$384	\$613						
OR	Lane	Springfield	\$2,533	\$1,997	\$821		\$368	\$1,168							
OR	Marion	Salem	\$2,495	\$1,724	\$1,423	\$335	\$385	\$302							
OR	Marion	Silverton	\$1,890	\$1,260		\$530		\$1,959							
OR	Multnomah	Portland	\$2,757	\$2,754	\$2,250	\$266	\$694	\$328	\$216						
OR	Washington	Tigard	\$5,779	\$5,016	\$4,682	\$760		\$334							
OR	Washington	Washington Co	\$5,526	\$5,182	\$4,682		\$746	\$500							
PA	Montgomery	Towamencin Twp	\$2,154	\$2,154	\$2,154		\$171	\$161	\$500						\$300
SC	Beaufort	Beaufort Co	\$945	\$545	\$900						\$55				
SC	Beaufort	Hilton Head	\$2,356	\$1,485	\$1,485	\$384	\$495								
SC	Berkeley	Mt. Pleasant	\$1,957	\$1,050	\$700	\$187	\$720				\$190	\$30			\$130

State	County	Jurisdiction	Total	Non-Util	Roads	Water	Sewer	Drain	Parks	Library	Fire	Police	Gen Gov	Schools	Other
TN	Rutherford	La Vergne	\$1,224	\$858	\$858	\$80	\$295								
TN	Rutherford	Smyrna	\$943	\$943	\$747						\$196				
TN	Sumner	Portland	\$400	\$400											\$400
TN	Sumner	White House	\$68	\$68	\$28						\$12	\$18			
TN	Williamson	Franklin	\$5,984	\$5,417	\$3,237	\$885	\$992								\$2,180
TN	Williamson	Nolensville	\$2,585	\$2,585	\$95										\$2,000
TX	Brazos	College Station	\$180			\$128	\$57								
TX	Collin	Allen	\$872	\$800	\$800	\$182	\$80								
TX	Collin	McGrady	\$1,517	\$1,024	\$1,024	\$250	\$83								
TX	Denton	Denton	\$1,222			\$838	\$388								
TX	Tarrant	Arlington	\$715	\$473	\$473	\$135	\$107								
TX	Tarrant	Colleyville	\$2,625	\$2,122	\$2,122	\$389	\$103								
TX	Tarrant	Ft. Worth	\$1,444		\$1,215	\$189	\$40								
TX	Williamson	Georgetown	\$555			\$345	\$201								
UT	Cache	Logan	\$862	\$163	\$59	\$32	\$140	\$78			\$35	\$10			
UT	Devis	Layton	\$11,721	\$11,883	\$2,632	\$144		\$8,957				\$74			
UT	Salt Lake	Draper	\$1,799	\$1,284	\$1,275	\$212		\$228							
UT	Salt Lake	Salt Lake City	\$3,109	\$3,109	\$2,260			\$229							\$300
UT	Salt Lake	Sandy City	\$1,252	\$599		\$431		\$694	\$31						\$84
UT	Salt Lake	West Jordan City	\$2,607	\$1,244	\$770	\$421	\$302	\$934							\$84
UT	Salt Lake	West Valley City	\$1,085	\$1,036	\$818			\$185							\$38
UT	Tooele	Tooele	\$788	\$20		\$364	\$124								\$38
UT	Utah	Payson	\$504	\$225		\$146	\$233								\$225
UT	Utah	Provo	\$1,256	\$845	\$388	\$114	\$157	\$655							
VA	Leechburg	Leechburg	\$1,815			\$749	\$1,167								
VA	Stafford	Stafford Co	\$3,174	\$1,510	\$1,510	\$1,104	\$880								
VT	Chittenden	Burlington	\$1,153	\$1,163	\$246			\$395			\$189	\$329			
VT	Chittenden	Wilton	\$700	\$700	\$700										
WA	Clark	Vancouver	\$2,211	\$1,385	\$1,385	\$378	\$438								
WA	Cowlitz	Woodland	\$999	\$510		\$226	\$263				\$510				
WA	King	King Co													
WA	King	Bellevue	\$6,180	\$6,180	\$6,180										
WA	King	Bothell	\$6,775	\$7,750	\$6,800	\$550	\$385	\$950							
WA	King	Issaquah	\$6,460	\$6,460	\$7,560			\$490			\$238	\$123	\$49		
WA	King	Kidder	\$6,473	\$5,471	\$6,080	\$1,506	\$467	\$391							
WA	Kitsap	Kitsap Co	\$220	\$230	\$230										
WA	Pierce	Pierce Co	\$1,882	\$1,882	\$1,882										
WA	Skagit	Anacortes	\$2,886	\$1,383		\$201	\$1,412	\$1,383							
WA	Skagit	Burlington	\$4,201	\$3,722	\$2,575		\$429	\$478	\$500		\$219				
WA	Snohomish	Snohomish Co	\$1,896	\$1,596	\$1,596										
WA	Thurston	Olympia	\$3,930	\$3,930	\$3,930										
WA	Thurston	Tumwater	\$4,620	\$4,620	\$4,620										
WA	Whatcom	Bellingham	\$5,199	\$3,851	\$1,856	\$816	\$1,222	\$1,507							
WV	Jefferson	Jefferson Co	\$353	\$353							\$338	\$18			
WI	Dane	Fitchburg				\$1,073									
WI	Jefferson	Oconomowoc	\$1,067	\$378	\$78	\$140	\$849				\$102	\$100			
WI	Ozaukee	Cedarburg	\$561	\$212		\$252	\$80								\$212
WI	St Croix	Hudson	\$2,580	\$673		\$1,440	\$477	\$673							

Summary	Non-Residential	Residential	Water	Sewer	Drain	Parks	Library	Fire	Police	GenGov	Schools	Other
National Average	\$3,150	\$2,711	\$2,053	\$627	\$421	\$1,057	\$362	\$93	\$211	\$171	\$436	\$440
Sample Size	258	256	205	127	133	60	86	7	117	90	51	15
National Avg w/o CA	\$2,300	\$1,974	\$1,755	\$304	\$496	\$334	\$420	\$47	\$193	\$123	\$175	\$797
Sample Size w/o CA	218	199	166	108	110	39	24	4	101	74	28	30
State Average Fees												
AR	\$595	\$423	\$800	\$173	\$115	n/a	n/a	n/a	\$242	\$155	n/a	n/a
AZ	\$1,933	\$1,409	\$1,041	\$610	\$255	\$159	\$122	\$47	\$205	\$146	\$226	n/a
CA	\$8,160	\$6,947	\$3,445	\$1,325	\$1,282	\$1,378	\$844	\$155	\$321	\$337	\$735	\$454
CO	\$3,959	\$3,317	\$1,634	\$1,139	\$515	\$1,084	\$2,690	n/a	\$180	\$42	\$119	n/a
DE	\$1,578	\$272	n/a	n/a	\$1,306	n/a	n/a	n/a	\$177	\$7	\$88	n/a
FL	\$2,120	\$1,851	\$1,824	\$308	\$563	\$69	n/a	n/a	\$173	\$130	\$174	n/a
GA	\$637	\$652	\$937	\$213	\$283	n/a	\$119	n/a	\$195	\$97	n/a	n/a
HI	\$2,019	\$2,019	\$2,019	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
ID	\$2,483	\$1,890	\$1,675	\$236	\$347	n/a	n/a	n/a	\$210	\$110	n/a	n/a
IL	\$1,409	\$1,409	\$1,409	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
IN	\$1,492	\$1,209	\$1,209	n/a	\$282	n/a	n/a	n/a	n/a	n/a	n/a	n/a
KS	\$2,535	\$2,116	\$1,624	\$605	\$654	\$1,285	\$56	n/a	n/a	n/a	n/a	n/a
LA	\$1,621	\$1,318	\$879	n/a	\$308	\$378	n/a	n/a	n/a	n/a	n/a	n/a
MD	\$2,940	\$2,883	\$3,825	\$613	\$918	n/a	n/a	n/a	\$1,170	\$168	n/a	n/a
MO	\$655	\$655	\$655	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
MT	\$3,410	\$2,632	\$2,609	\$455	\$323	n/a	n/a	n/a	\$27	n/a	n/a	n/a
NC	\$1,572	\$1,058	\$1,058	\$449	\$610	n/a	n/a	n/a	n/a	n/a	n/a	n/a
NE	\$2,498	\$2,230	\$2,230	\$139	\$93	n/a	n/a	n/a	n/a	n/a	n/a	n/a
NH	\$660	\$660	\$1,030	n/a	n/a	n/a	n/a	n/a	\$70	\$200	n/a	n/a
NM	\$1,557	\$1,758	\$1,429	\$369	\$234	\$712	n/a	n/a	\$208	\$34	n/a	n/a
NV	\$1,575	\$1,570	\$1,544	n/a	\$14	n/a	n/a	n/a	n/a	n/a	n/a	n/a
OH	\$2,583	\$917	n/a	\$304	\$822	n/a	n/a	n/a	\$359	\$135	\$323	n/a
OK	\$360	\$360	\$360	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
OR	\$4,580	\$3,720	\$3,441	\$900	\$553	\$575	\$388	n/a	n/a	n/a	n/a	\$250
PA	\$2,154	\$2,154	\$2,154	n/a	\$771	\$161	\$600	n/a	n/a	n/a	n/a	n/a
SC	\$1,752	\$1,160	\$1,025	\$285	\$613	n/a	n/a	n/a	\$123	\$90	n/a	n/a
TN	\$2,036	\$1,710	\$1,091	\$333	\$544	n/a	n/a	n/a	\$104	\$18	n/a	n/a
TX	\$1,156	\$1,055	\$1,037	\$311	\$125	n/a	n/a	n/a	n/a	n/a	n/a	n/a
UT	\$2,470	\$2,183	\$1,169	\$234	\$199	\$1,483	\$31	n/a	\$128	\$145	n/a	n/a
VT	\$2,345	\$1,510	\$1,510	\$927	\$333	n/a	n/a	n/a	n/a	n/a	n/a	n/a
WA	\$927	\$927	\$473	n/a	n/a	n/a	\$36	n/a	\$183	\$325	n/a	n/a
WI	\$4,247	\$3,660	\$8,700	\$689	\$657	\$942	\$495	n/a	\$327	\$123	\$48	n/a
WV	\$356	\$356	n/a	n/a	n/a	n/a	n/a	n/a	\$336	\$18	n/a	n/a
WY	\$1,357	\$421	\$176	\$729	\$382	\$673	n/a	n/a	\$102	\$158	n/a	n/a

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF YORK) CASE NO.: 2018-CP-46-02684

Home Builders Association of)
South Carolina, Home Builders)
Association of York County,)
Soni Construction, Inc., Shea)
Investment Fund 2, LLC, and Shea)
Investment Fund 3, LLC,)

**PLAINTIFFS' SUPPLEMENTAL
MEMORANDUM**

Plaintiffs,)

v.)

State of South Carolina and York)
County,)

Defendants.)
_____)

Plaintiffs Home Builders Association of South Carolina, Home Builders Association of York County, Inc., Soni Construction, Inc., Shea Investment Fund 2, LLC and Shea Investment Fund 3, LLC submit this memorandum supplementing their Memorandum of Law filed September 11, 2019.¹

I. Witnesses for Plaintiffs:

1. Mark Nix
2. Joseph Von Nessen

¹ Plaintiffs inadvertently omitted the sections identifying their witnesses and listing exhibits that are not included in the stipulation. Defense counsel has no objection to this supplement.

3. Mukash Patel
4. John Shea
5. Jenifer Gooch

II. Plaintiffs' Exhibit List

1. March 28, 2018 TischlerBise School Impact Fee Study [Bates York_County_Tischler_Bise 547-577]
2. April 18, 2018 TischlerBise School Impact Fee Study [Bates HBA649-679]
3. Memorandum dated May 4, 2018 from Richard M. Unger [Bates York_County_Tischler_Bise 4099-4102]
4. Email chain between Carson Bise and Audra Miller, May 2018 [Bates York_County_Tischler_Bise 4040-4043]
5. Email chain dated May 11, 2018 [York_County_Tischler_Bise 4056]
6. The Metro Impact of Home Building in York County , NAHB March 2016, [York_County_Tischler_Bise 4057-4077]
7. Memorandum dated May 11, 2018 from James, McElroy & Diehl [York_County_Tischler_Bise 4206-4207]
8. Email dated May 5, 2018 between Carson Bise and Audra Miller [York_County_Tischler_Bise 4208-4210]
9. May 15, 2018 TischlerBise School Impact Fee Study [Bates York_County_Tischler_Bise 4252-4282]
10. June 4, 2018 TischlerBise School Impact Fee Study [Bates York_County_Tischler_Bise [4404-4447]
11. Emails between Carson Bise and Audra Miller re affordability analysis [Bates York_County_Tischler_Bise 4467-4468]
12. Email chain, May 2018 between Carson Bise and Audra Miller, [Bates York_County_Tischler_Bise 4332-4333]

13. June 5, 2018 TischlerBise School Impact Fee Study [Bates York_County_Tischler_Bise 4472-4520]
14. June 5, 2018 TischlerBise School Impact Fee Study [Bates York_County_Tischler_Bise 4533-4579]
15. Letter dated June 12, 2018 from TischlerBise to Fort Mill [Bates York_County_Tischler_Bise 4701-4705]
16. June 12, 2018 TischlerBise School Impact Fee Study [Bates York_County_Tischler_Bise4617-4648]
17. June 14, 2018 TischlerBise School Impact Fee Study [Bates York_County_Tischler_Bise 4669-4700]
18. June 14, 2018 TischlerBise School Impact Fee Study [Bates York_County_Tischler_Bise 5224-5255]
19. July 2018 email chain between Carson Bise and Audra Miller, [Bates York_County_Tischler_Bise 5190-5192]
20. July 7, 2018 email chain between Carson Bise and Audra Miller, [Bates York_County_Tischler_Bise 5193-5194]
21. October 16, 2017 minutes of Finance and Operations Meeting [Ex. 3 to Johnson]
22. National Fee Impact Study 2015 [Ex. 12 to Johnson Depo.]
23. Curriculum Vitae of Joseph Von Nessen
24. RESH Consulting/Joseph Von Nessen Memorandum dated May 1, 2018
25. List of real estate owned by Soni (Ex. 2 to Patel Depo)]
26. Tax Assessor records and deeds for Soni Homes [Exhibits 3, 4, and 5 to Patel depo.]
27. Shea Investments property listing [Ex. 2 to Shea depo.]
28. List of impact fees paid by Shea [Bates HBA 182-188]
29. Deeds of Shea subject to new impact fee [Ex. 4 to Shea depo.]

30. York County Register of Deeds Index for Shea [Ex. 7 to Shea depo]
31. May 10, 2008 letter from Shea to York Planning Commission [Ex. 9 to Shea depo.]
32. Jenifer Gooch Résumé [JG217-218]
33. Metrostudy Quarterly Plan Summary [JB 219-221]
34. Metrostudy Submarket Update Charlotte Summer 2019 [JG 303-380]
35. Metrostudy National Economic Update Charlotte Summer 2019 [JG 227-302]
36. Jenifer Gooch report on impact fee
37. Exhibits to Jenifer Gooch deposition [Transcript and exhibits not yet received by counsel]
38. York County Impact Fee Reports for 2017 and 2018 [Broken down by month] and 2019 [January 1 – September 10].

LEWIS BABCOCK, L.L.P.

s/Keith M. Babcock
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Attorneys for Plaintiffs

Columbia, South Carolina

October 3, 2019

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Home Builders Association of South Carolina,
Home Builders Association of York County,
Soni Construction, Inc., Shea Investment
Fund 2, LLC, and Shea Investment Fund 3,
LLC,

Plaintiffs,

v.

State of South Carolina and York County,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No. 2018-CP-46-02684

**PRE-TRIAL BRIEF AND MEMORANDUM
OF LAW OF DEFENDANT YORK
COUNTY**

Defendant York County (the “County”) submits this pre-trial brief and memorandum of law setting forth its position with respect to Plaintiffs’ declaratory judgment cause of action as set forth in the Amended Complaint and Plaintiffs’ Memorandum of Law. As will be shown below and at trial, the South Carolina Development Impact Fee Act (“Act”) and the ordinances at issue setting an impact fee for school construction in the Fort Mill School District No. 4 of York County (the “District”) are valid and do not impose an exaction or a taking on parties required to pay the impact fee.

I. FACTS

The parties have agreed to a set of stipulated facts and exhibits, which are on file with the Court. The District is small geographically, comprised of roughly fifty square miles.¹ The District includes the towns of Fort Mill and Tega Cay as well as unincorporated areas. It is one of four school districts located within the County.

¹ Facts at ¶ 1, Ex. 1. For purposes of this brief, references to numerical exhibits refer to the Exhibits to the Stipulated Facts. Exhibits to this brief have been given alphabetical designations.

The County imposed an impact fee of \$2,500 for the benefit of the District in 1996 (the “1996 fee”).² There has not been any litigation surrounding the 1996 fee. Since the passage of the 1996 fee, the District has experienced tremendous growth, resulting in a more than 300% increase in the student population within the District.³ The Rule 30(b)(6), SCRCF designees of Soni Construction, Inc., Shea Investment Fund 2, LLC, and Shea Investment Fund 3, LLC agree that the quality of District’s schools has been one of the primary drivers of that growth.⁴

This growth has impacted infrastructure across the board. On April 16, 2016, Councilmember Michael Johnson, who represents the Fort Mill area, proposed a moratorium on rezoning for residential purposes within the unincorporated areas of the Fort Mill Township until December 31, 2016 in hopes of addressing traffic concerns.⁵ The proposed moratorium ordinance was limited in duration (only until the end of 2016) and scope (only applicable to rezoning for residential uses within the unincorporated areas of the Fort Mill Township). Further, the proposed ordinance made clear that it was designed to allow the County time to consider how to address levels of service for transportation infrastructure. In the proposed ordinance, there is also reference to a master transportation plan or the final draft of the 2035 Comprehensive Plan to be presented by the Planning and Development Services Department.⁶ At the May 16, 2016 York County Council (“Council”) meeting, the proposed moratorium did

² Facts at ¶ 2.

³ Facts at ¶ 3.

⁴ Shea Dep. at 19:17-25; excerpts from depositions will be designated and presented at trial in accordance with Rule 32, SCRCF. The subdivisions in which Shea Investment Fund 2, LLC and Shea Investment Fund 3, LLC own property prominently tout District schools as a feature. Shea Dep. at Exs. 5-6.

⁵ Facts at ¶ 4, Exs. 3, 4.

⁶ Ex. 4 at ¶ 2.1.

not pass second reading; however, the 2035 Comprehensive Plan received first reading and was ultimately adopted in July 2016.⁷

A. The 2018 fee

The County's ability to consider and address general infrastructure concerns, such as the transportation concerns raised in the proposed moratorium, is separate and apart from the District's ability to raise funds for new schools. School district funding for capital projects, including new schools, is distinct from funding for operations. Historically, school districts have had very limited means of securing capital funding, which became even more restricted after the passage of Act 388 in 2006. *See* Act 388, Part V, § 4 (amending S.C. Code Ann. § 11-27-110 to prevent future installment contract purchases by school districts); *see also Colleton Cnty. Taxpayers Ass'n v. Sch. Dist. of Colleton Cnty.*, 371 S.C. 224, 233–36, 638 S.E.2d 685, 690–91 (2006) (outlining history of lease-purchase and installment-purchase funding by school districts and discussing change with new language in Act 388).

On June 3, 2016, the Act was amended to add “public education facilities for grades K-12 including, but not limited to, schools, offices, classrooms, parking areas, playgrounds, libraries, cafeterias, gymnasiums, health and music rooms, computer and science laboratories, and other facilities considered necessary for the proper public education of the state's children” to the definition of “public facilities” under the Act. S.C. Code Ann. § 6-1-920. This amendment made it possible for the County to impose an impact fee under the Act to fund new school construction within the District as necessitated by an increased student population.

⁷ Ex. 5 at “Old Business” ¶1; “New Business” ¶ 13. The 2035 Comprehensive plan received third reading on July 18, 2016. Minutes attached as Ex. A. As adopted, the plan includes recommendations relating to transportation infrastructure. Attached as Ex. B.

The District approached the County about implementing an increased impact fee pursuant to the Act in October 2017.⁸ At that time, the District presented projections showing the potential for an increased impact fee to reduce debt millage within the District assuming a hypothetical \$10,000 fee.⁹ This analysis included debt from a then-proposed 2018 referendum.¹⁰ As further shown in that presentation, the total 1996 impact fee collections at that time were \$46,605,000 over twenty years.¹¹ This amount was roughly equal to the cost of one elementary school at that time and is less than half of the amount needed to build a new high school.¹² By way of reference, the District opened nine schools between 2006 and 2017: five elementary, three middle, and one high school.¹³ Thus, the funds generated by the 1996 fee were grossly insufficient to cover the cost of new schools within the rapidly growing District.

As required by S.C. Code Ann. § 6-1-950, Council referred the matter to the York County Planning Commission (“Planning Commission”) to conduct studies and to recommend an impact fee ordinance.¹⁴ The Planning Commission received information on March 29 and April 9, 2018 from TischlerBise, a consultant retained to provide a study and Capital Improvements Plan.¹⁵ On May 14, 2018, the Planning Commission passed two resolutions in connection with its recommendations for an impact fee ordinance.¹⁶ At that time, the Planning Commission considered the TischlerBise School Impact Fee Study and Capital Improvement

⁸ Facts at ¶ 6, Ex. 6.

⁹ York County TischlerBise 38-59, attached as Ex. C.

¹⁰ *Id.* at p. 56.

¹¹ *See id.* at pp. 53, 58.

¹² *See e.g.*, Ex. 12 (Packet p. 17).

¹³ Ex. C at York County TischlerBise 44.

¹⁴ Facts at ¶ 7, Ex. 7.

¹⁵ Facts at ¶ 8, Exs. 8-9.

¹⁶ Facts at ¶ 9, Ex. 10. The April 18 Study provided for a maximum fee of \$18,958 for single family homes and \$12,535 per multi-family unit. Ex. 12 (Packet p. 272).

Plan (“Study”) dated April 18, 2018 and recommended that the fee be set at \$5,038 per new single family detached dwellings and \$2,500 per new multifamily dwelling unit.¹⁷ The \$5,038 figure was the amount originally recommended in 1996.¹⁸

Pursuant to S.C. Code Ann. § 6-1-960, Council considered the recommendations of the Planning Commission over the course of three readings and a duly noticed public hearing.¹⁹ At first reading on May 21, 2018, Council considered the \$5,038/ \$2,500 fee proposed by the Planning Commission. Council was further provided with the resolutions of the Planning Commission, draft ordinances recommended by the Planning Commission (the “Procedures Ordinance” relating to impact fees generally within the County and the “2018 Fee Ordinance” creating a new impact fee for schools within the District), the April 18 Study, and a summary draft of the Study dated April 9, 2018.²⁰

Among other things, the summary includes a discussion of the potential new revenue at various increased fee levels (\$10,000, \$15,000, and \$18,958) and how that revenue could be used to reduce the District’s debt millage after the 2018 referendum.²¹ No collected 2018 fees have been expended to date and no reduction in taxpayer burden has been achieved due to the pendency of this lawsuit.

Second reading and the public hearing occurred on the same night, June 27, 2018. Council considered a packet of written information, together the presentations and comments

¹⁷ *Id.*

¹⁸ *See* Ex. 14 at 1.2.a (Packet p. 8).

¹⁹ Facts at ¶¶ 10-13, Exs. 11-18.

²⁰ Ex. 12 at 6.13.b, 6.14.a (resolutions at Packet pp. 255-57); 6.13.a; 6.14.b (draft ordinances at Packet pp. 241-54, 258-65); 6.14.c (April 18 Study at Packet pp. 266-96); 6.14.d (April 9 summary draft at Packet pp. 297-320).

²¹ Ex. 12 at 6.14.d (Packet pp. 318-20).

from the public as reflected in the minutes.²² Opponents of the fee presented the concerns raised by the Plaintiffs here, and County Staff, the District, and TischlerBise each provided information to Council addressing those concerns.²³ TischlerBise amended its study to better address those concerns and provided a point-by-point response.²⁴ County Staff did not take a position on the amount of the fee, but simply pointed out that the values presented in the Study were the “maximum allowed amounts.”²⁵ At second reading, Council approved several changes to the proposed ordinances and increased the level of the impact fee from \$5,038/ \$2,500 to \$18,158/ \$12,020 (the maximum amount indicated by the Study).²⁶

On July 16, 2018, Council took third reading and passed the Procedures Ordinance and 2018 Fee Ordinance.²⁷ As passed, the 2018 Fee Ordinance sets an impact fee within the District of \$18,158 for each new single family detached dwelling unit and \$12,020 for each new multifamily unit, subject to exceptions provided in the Procedures Ordinance. The 2018 Fee Ordinance incorporates by reference the final Study by TischlerBise dated June 14, 2018.

B. The Study

The County and TischlerBise made every effort to address the concerns raised by the Plaintiffs and other stakeholders with respect to the Study, including revising the Study and the maximum amount in response to certain criticisms.²⁸ As will be argued below, the June 14 Study complies with the requirements of the Act.

²² Facts at ¶ 12, Exs. 13-14.

²³ Exs. 13, 14.

²⁴ Ex. 14 at 2.2.e (Packet pp. 93-97); 2.2.c (Packet pp. 59-90).

²⁵ Ex. 14 at 2.2.a (Packet p. 48).

²⁶ Ex. 13 at p. 7.

²⁷ Facts at ¶ 13, Exs. 15-18.

²⁸ See Ex. 14 at 2.2.a (Packet p. 49); 2.2.e (Packet pp. 93-97); 2.2.c (Packet pp. 59-90)

The Study is thirty pages long. It opens with an Executive Summary that walks the reader through the Act, the methodology used to calculate a maximum allowable fee, and a proposed impact fee schedule for the District.²⁹ The Executive Summary explicitly notes that the County can adopt “amounts that are lower than the maximum amounts shown; however, a reduction in fee revenue will necessitate an increase in other revenues, a decrease in planned capital expenditures, and/or a decrease in the School District’s level of service.”³⁰

From there, the Study analyzes (1) student generation rates and projected enrollment; (2) a capital improvement plan; and (3) an impact fee calculation, which includes an analysis of costs and credits.³¹

With respect to the cost analysis, the Study provides:

The Fort Mill School District is responsible for 100 percent of new school construction costs in the District. For elementary and middle schools, the construction cost assumption is based on estimates developed by the District’s construction management firm, Cumming Corporation, an industry-leading, multi-faceted project management and cost consulting firm. The firm employs registered architects, professional engineers, certified professional cost estimators, among other professionals involved in large-scale construction projects. The cost assumption at the high school level is based on actual costs incurred for the high school currently under construction, which is managed by the Cumming Corporation. As shown in Figure 12, the construction cost assumptions are \$348 per square foot for elementary schools, \$346 per square foot for middle schools, and \$305 per square foot for high schools. Given the discussion above, and comparable school construction costs in the region, these construction cost assumptions are the most accurate and reasonable available at the time of this study.³²

²⁹ Ex. 16 at 8.3.a (Packet pp. 405-08).

³⁰ *Id.* (Packet p. 408).

³¹ *Id.* (Packet pp. 409-26).

³² *Id.* (Packet p. 420).

The Study further provides that the land cost calculations are based on actual purchases by the District.³³ In making the cost calculations, the Study provides that level of service standards are “based on current costs per student for school buildings and land[.]”³⁴

The Study also includes a housing affordability analysis.³⁵ This analysis was revised to address the concerns raised at the Public Hearing and in the written materials presented to Council at that time. The final analysis treats the District as a whole and makes conservative assumptions as to household costs by using the highest cost between the three jurisdictions (Fort Mill, Tega Cay, and unincorporated areas) for purposes of the calculations. As explained in the Study, this approach captures an above average monthly expense for the average home within the District. Of note here, the Procedures Ordinance excludes affordable and retiree housing from impact fees.³⁶

C. The Plaintiffs

1. Home Builders Association of South Carolina and Home Builders Association of York County

These two groups have brought this action to represent the interests of their respective memberships. They do not own property in the District and have not paid any impact fees.³⁷ The organizations are generally opposed to the Act to the extent it permits impact fees for school construction.³⁸

³³ *Id.* (Packet p. 421).

³⁴ *Id.* (Packet p. 425).

³⁵ *Id.* (Packet pp. 427-33).

³⁶ Ex. 19 at § 153.57(F)-(G).

³⁷ Nix Dep. 35:10-16.

³⁸ *Id.* at 14:18-24.

2. **Soni Construction, Inc.**

Soni Construction, Inc. is a commercial contractor.³⁹ It is owned by Mukash Patel.⁴⁰ Mr. Patel owns another business that builds residential projects, Soni Homes, Inc.⁴¹ The last two homes sold by Soni Homes sold for \$600,000 and \$680,000.⁴² Neither business constructs affordable housing or multi-family housing.⁴³

Soni Construction owns no property within the District.⁴⁴ Neither of Mr. Patel's businesses have paid the 2018 fee.⁴⁵ Mr. Patel further testified that he is not seeking compensation in the lawsuit.⁴⁶

3. **Shea Investment Fund 2, LLC, and Shea Investment Fund 3, LLC.**

These are North Carolina LLCs that own real property within the District.⁴⁷ Their 30(b)(6) designee acknowledged that generally the County appraisals for these properties appeared to be in the right range.⁴⁸ Since the passage of the 2018 fee, Shea Investment Fund 2, LLC, and Shea Investment Fund 3, LLC have continued to sell homes at prices ranging from \$463,000-\$686,000.⁴⁹ No Shea entity has built affordable housing in the District.⁵⁰

³⁹ Patel Dep. at 13:2-5.

⁴⁰ *Id.* at 10:15-23.

⁴¹ *Id.* at 13:2-5.

⁴² *Id.* at 13:10-11; 14:2-3. Both of these homes were permitted prior to the implementation of the 2018 fee.

⁴³ *Id.* at 15:15-19; 17:5-6.

⁴⁴ *Id.* at 17:21-23. Soni Homes owned ten lots at the time of Mr. Patel's deposition. *Id.* at Ex. 2. At least one of those lots was jointly owned with Mr. Patel's niece and nephew so they can attend District schools. *Id.* at 23:16-25:3. Mr. Patel testified that generally the County appraisals for these properties appeared to be in the right range and that the value of the unimproved property either had not changed or has increased since the property was last assessed. *Id.* at 19:15-25:13.

⁴⁵ *Id.* at 35:16-18.

⁴⁶ *Id.* at 35:4-15.

⁴⁷ Shea Dep. at 5:23-25; 15:15-17.

⁴⁸ *Id.* at 35:10-13.

⁴⁹ *Id.* at 27:24-28:18.

The Plaintiff entities have not paid the 2018 fee.⁵¹ As testified by their 30(b)(6) representative, their claims here are limited to the properties owned or under contract at the time the 2018 fee was implemented because the additional cost above the 1996 fee was not factored into the cost analysis at the time of that purchase or contract. They are not claiming any damage as to property purchased after the 2018 fee was enacted.⁵²

II. ARGUMENTS⁵³

As reflected in the Stipulated Facts, there is not a dispute that the number of students enrolled within district schools has grown rapidly (a 300+ percentage increase since the 1995-1996 school year) and that the quality of the schools within the District is a driver for that growth.⁵⁴ In addition, there is no dispute that the ordinances at issue followed the correct procedural path for passage under the Act.⁵⁵ Nor is there any attack on the language of the Procedures Ordinance or the 2018 Fee Ordinance. Plaintiffs instead challenge the Act itself, the amount of the 2018 fee, and the portions of the Study relating to whether the cost estimates are based on sound engineering studies and the accuracy of the affordability analysis.

A. Plaintiffs have not presented a justiciable case or controversy as to all or portions of their declaratory judgment claims.

“A threshold inquiry for any court is a determination of justiciability, i.e., whether the litigation presents an active case or controversy. A justiciable controversy is a real and substantial controversy which is ripe and appropriate for judicial determination, as distinguished

⁵⁰ *Id.* at 18:4-6.

⁵¹ *See, e.g.*, Impact Fee Report for 2019 (through 9/10/2019). Instead, those fees have been paid by Shea Builders, LLC.

⁵² *Id.* at 45:21-48:4.

⁵³ The arguments here are limited to the declaratory judgment claim in Plaintiffs’ Amended Complaint. The County reserves any additional arguments and/ or defenses it may have with respect to the takings claim, any damages, and any claim for attorney’s fees.

⁵⁴ Facts at ¶ 3.

⁵⁵ Facts at ¶¶ 7-13.

from a contingent, hypothetical or abstract dispute.” *People’s Fed. Sav. & Loan Ass’n. of S.C. v. Res. Planning Corp.*, 358 S.C. 460, 477, 596 S.E.2d 51, 60 (2004) (internal citations omitted); *Graham v. State Farm Mut. Auto. Ins. Co.*, 319 S.C. 69, 71, 459 S.E.2d 844, 845 (1995) (“A justiciable controversy exists when a concrete issue is present, there is a definite assertion of legal rights and a positive legal duty which is denied by the adverse party.”). South Carolina courts will not “issue advisory opinions on questions for which no meaningful relief can be granted.” *In the Interest of Kaundra C.*, 318 S.C. 484, 486, 458 S.E.2d 443, 444 (Ct. App. 1995).

With respect to the Declaratory Judgment Act, “[d]espite the Act’s broad language, it has its limits. An adjudication that would not settle the legal rights of the parties would only be advisory in nature and, therefore, would be beyond the intended purpose and scope of the Uniform Declaratory Judgments Act.” *Sunset Cay, LLC v. City of Folly Beach*, 357 S.C. 414, 423, 593 S.E.2d 462, 466 (2004); *Power v. McNair*, 255 S.C. 150, 154, 177 S.E.2d 551, 553 (1970); *City of Columbia v. Sanders*, 231 S.C. 61, 68, 97 S.E.2d 210, 213 (1957). *Sunset Cay* goes on to hold that “[a] justiciable controversy is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute or difference of a contingent, hypothetical or abstract character.” 357 S.C. at 423, 593 S.E.2d at 466. (citations omitted).

- 1. Soni Construction, Inc., Shea Investment Fund 2, LLC, and Shea Investment Fund 3, LLC lack standing to pursue this action. In addition, no Plaintiff has paid the impact fee and therefore, no Plaintiff has standing to seek a declaratory judgment as to whether there may have been a taking.**

Standing is “an essential and unchanging part of the case-or-controversy requirement of Article III.” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992). “No justiciable controversy is

presented unless the plaintiff has standing to maintain the action.” *Lennon v. S.C. Coastal Council*, 330 S.C. 414, 415, 498 S.E.2d 906, 906 (Ct. App. 1998).

The Supreme Court has provided a three-part test to establish standing: First, the Plaintiff must have suffered an “injury in fact”—an invasion of a legally protected interest which is (a) concrete and particularized, and (b) “actual or imminent, not ‘conjectural’ or ‘hypothetical.’” “Second, there must be a causal connection between the injury and the conduct complained of the injury has to be “fairly ... trace[able] to the challenged action of the defendant, and not ... th[e] result [of] the independent action of some third party not before the court.” Third, it must be “likely,” as opposed to merely “speculative,” that the injury will be “redressed by a favorable decision.”

ATC S., Inc. v. Charleston Cnty., 380 S.C. 191, 195, 669 S.E.2d 337, 339 (2008) (citing *Lujan*, 504 U.S. at 560–61 (internal citations omitted)).

As shown in the Facts section above, Soni Construction, Inc. does not own real estate in the District, has not applied for any new permits since the 2018 fee was enacted, and has not paid the 2018 fee. It has not suffered any injury and therefore cannot meet any part of the test for standing. Accordingly, it should be dismissed. Similarly, Shea Investment Fund 2, LLC, and Shea Investment Fund 3, LLC have not themselves paid the 2018 fee and should be dismissed from this action.

With respect to the Association Plaintiffs, “[a]n organization has standing on behalf of its members if one or more of its members will suffer an individual injury by virtue of the contested act.” *Charleston Trident Home Builders, Inc. v. Town Council of Town of Summerville*, 369 S.C. 498, 502, 632 S.E.2d 864, 866 (2006). In that case, a similar organization was found to have standing to challenge the validity of an impact fee passed pursuant to the Act based on the president’s affidavit reflecting that its members had paid the fees. With respect to the takings issue, however, the standing analysis should present a different result. As set forth more fully below, regulatory takings cases do not lend themselves to hypothetical scenarios. They must be

determined based on the “particular circumstances of each case.” *Dunes W. Golf Club, LLC v. Town of Mount Pleasant*, 401 S.C. 280, 315, 737 S.E.2d 601, 619 (2013). Here, there are no particular circumstances to be considered as to any particular property and any harm is necessarily hypothetical at this time.

2. Plaintiffs have failed to exhaust administrative remedies under the Procedures Ordinance and the 2018 Fee Ordinance with respect to the portion of the declaratory judgment claim relating to takings.

South Carolina courts have the discretion to dismiss an action where the plaintiff has failed to exhaust administrative remedies. *Stanton v. Town of Pawleys Island*, 309 S.C. 126, 128, 420 S.E.2d 502, 503 (1992). With respect to the general validity challenge, the County acknowledges that *Charleston Trident Home Builders, Inc.* states that exhaustion is not required. 369 S.C. at 502, 632 S.E.2d at 867. However, this ruling is limited to situations where the “issue is one that cannot be ruled on by the administrative body.” *Id.*

The County contends that this general rule does not apply to the takings issue in this case because the administrative body can rule on this issue. The Act provides for an appeal and/ or mediation in the event of “a disagreement related to the impact fee for proposed development.” S.C. Code Ann. § 6-1-1030. The Procedures Ordinance and 2018 Fee Ordinance follow this directive and provide an alternate fee calculation process and appeal right.⁵⁶ Thus, the County has provided an administrative remedy in the event a fee payor believes that the development impact in a particular case is less than that shown in the Study. Therefore, the County contends exhaustion is required in this case.

⁵⁶ Ex. 19 at §§ 153.58-.62, .75, .79.

B. The Act is constitutional.⁵⁷

1. The Standard

Plaintiffs carry a heavy burden in challenging the Act's constitutionality.

A legislative act will not be declared unconstitutional unless its repugnance to the constitution is clear and beyond a reasonable doubt. A legislative enactment will be declared unconstitutional only when its invalidity appears so clearly as to leave no room for reasonable doubt that it violates some provision of the constitution.

Robinson v. Richland Cnty. Council, 293 S.C. 27, 30, 358 S.E.2d 392, 394 (1987) (citing *Univ. of S.C. v. Mehlman*, 245 S.C. 180, 139 S.E.2d 771 (1964)). In construing a statute, "all reasonable doubt must be resolved in favor of the constitutionality of the act. If a constitutional construction of a statute is possible, that construction should be followed in lieu of an unconstitutional construction." *Crow v. McAlpine*, 277 S.C. 240, 242, 285 S.E.2d 355, 356 (1981). As will be argued below, the Act satisfies due process and does not impose any exaction or taking, either on its face or as applied in the County ordinances at issue.

2. The Act

a. The Act is not vague and does not violate due process.

As an initial matter, there are not any First Amendment claims or allegations involving speech raised in the Amended Complaint. Therefore, the Plaintiffs' use of the term "overbroad" with respect to the Act is misplaced. *Town of Mount Pleasant v. Chimento*, 401 S.C. 522, 534, 737 S.E.2d 830, 838 (2012) ("Overbreadth is a challenge predicated on the First Amendment, and cannot be used except where the statute arguably suppresses protected speech or conduct.").

Plaintiffs take the position that the Act is vague and therefore violative of due process because it "sets no limit to the amount of impact fees a governmental entity can charge."⁵⁸ "The

⁵⁷ The County joins in and incorporates by reference the arguments presented by the State of South Carolina with respect to the Act.

concept of vagueness or indefiniteness rests on the constitutional principle that procedural due process requires fair notice and proper standards for adjudication.” *City of Beaufort v. Baker*, 315 S.C. 146, 152, 432 S.E.2d 470, 473 (1993). “A law is unconstitutionally vague if it forbids or requires the doing of an act in terms so vague that a person of common intelligence must necessarily guess as to its meaning and differ as to its application.” *Curtis v. State*, 345 S.C. 557, 572, 549 S.E.2d 591, 598 (2001). The established test for vagueness is whether the statute provides “fair notice to those to whom the law applies.” *Id.* at 571-72, 549 S.E.2d at 598.

Although the Act does not put a dollar ceiling on the amount of any particular impact fee, it is not true that the Act does not set a limit to what can be charged. As set forth in the Act, an impact fee may only be implemented by an entity with a comprehensive plan (S.C. Code Ann. § 6-1-930) after reference to the planning commission for a study and recommended ordinance (S.C. Code Ann. § 6-1-950) and then only after three readings and a duly advertised public hearing (S.C. Code Ann. § 6-1-960).

“The Act provides for the calculation of impact fees in several provisions.” *Charleston Trident Home Builders, Inc.*, 369 S.C. at 507, 632 S.E.2d at 869 (2006)(interpreting the Act to uphold an impact fee). The amount of an impact fee must be based “on actual improvement costs or reasonable estimates of the costs, supported by sound engineering studies.” S.C. Code Ann. § 6-1-930(B)(2). Moreover, an impact fee ordinance must include “an explanation of the calculation of the impact fee.” S.C. Code Ann. § 6-1-940(1). The Act goes on to detail the maximum level at which an impact fee can be set, as follows:

A) The impact fee for each service unit **may not exceed** the amount determined by dividing the costs of the capital improvements by the total number of projected service units that potentially could use the capital improvement. If the number of

⁵⁸ Pl. Memo at 12.

new service units projected over a reasonable period of time is less than the total number of new service units shown by the approved land use assumptions at full development of the service area, the maximum impact fee for each service unit must be calculated by dividing the costs of the part of the capital improvements necessitated by and attributable to the projected new service units by the total projected new service units.

(B) An impact fee must be calculated in accordance with generally accepted accounting principles.

S.C. Code Ann. § 6-1-980 (emphasis added). The Act provides additional limits and considerations for impact fees in S.C. Code Ann. § 6-1-990, which limits fees to the proportionate share of the costs of the project attributable to new development.

Plaintiffs have not alleged that the Act is confusing or that a reasonable person must guess as to the legislative intent. Instead, they contend that the Act fails because it lacks a ceiling. The County contends this was by design. The Act includes the following “public facilities” within its scope:

- (a) water supply production, treatment, laboratory, engineering, administration, storage, and transmission facilities;
- (b) wastewater collection, treatment, laboratory, engineering, administration, and disposal facilities;
- (c) solid waste and recycling collection, treatment, and disposal facilities;
- (d) roads, streets, and bridges including, but not limited to, rights-of-way and traffic signals;
- (e) storm water transmission, retention, detention, treatment, and disposal facilities and flood control facilities;
- (f) public safety facilities, including law enforcement, fire, emergency medical and rescue, and street lighting facilities;
- (g) capital equipment and vehicles, with an individual unit purchase price of not less than one hundred thousand dollars including, but not limited to, equipment and vehicles used in the delivery of public safety services, emergency preparedness services, collection and disposal of solid waste, and storm water management and control;
- (h) parks, libraries, and recreational facilities;
- (i) public education facilities for grades K-12 including, but not limited to, schools, offices, classrooms, parking areas, playgrounds, libraries, cafeterias, gymnasiums, health and music rooms, computer and science laboratories, and other facilities considered necessary for the proper public education of the state’s children.

S.C. Code Ann. § 6-1-920(18). These types of projects vary widely in terms of their system improvement costs, the service area involved, and the type of development that might be subject to an impact fee. Given these variables, the legislature chose to provide a formula rather than a dollar cap, subject to all of the factors and safeguards referenced above. It simply means that a local government has the flexibility to charge a higher fee for higher cost projects, such as new school construction. For these reasons, the Court should find the Act comports with due process and is not vague.

b. The Act protects against takings under certain circumstances not alleged in the Amended Complaint.

The Act also addresses the issue of possible takings.

A developer required to pay a development impact fee may not be required to pay more than his proportionate share of the costs of the project, including the payment of money or contribution or dedication of land, or to oversize his facilities for use of others outside of the project without fair compensation or reimbursement.

S.C. Code Ann. § 6-1-1000. In addition, the Act provides that any fee ordinance must include a means of appeal. S.C. Code Ann. § 6-1-1030. Thus, the Act contemplates scenarios where an impact fee as enacted might result in a taking and provides a remedy in that case.

The Act in and of itself does not trigger the takings clause. It merely provides the framework for local governments to enact generally applicable impact fees. As set forth by the United States Supreme Court,

It is beyond dispute that “[t]axes and user fees ... are not ‘takings.’” *Brown, supra*, at 243, n. 2, 123 S.Ct. 1406 (SCALIA, J., dissenting). We said as much in *County of Mobile v. Kimball*, 102 U.S. 691, 703, 26 L.Ed. 238 (1881), and our cases have been clear on that point ever since. *United States v. Sperry Corp.*, 493 U.S. 52, 62, n. 9, 110 S.Ct. 387, 107 L.Ed.2d 290 (1989); see *A. Magnano Co. v. Hamilton*, 292 U.S. 40, 44, 54 S.Ct. 599, 78 L.Ed. 1109 (1934); *Dane v. Jackson*, 256 U.S. 589, 599, 41 S.Ct. 566, 65 L.Ed. 1107 (1921); *Henderson Bridge Co. v. Henderson City*, 173 U.S. 592, 614–615, 19 S.Ct. 553, 43 L.Ed. 823 (1899). **This case therefore does not affect the ability of governments to**

impose property taxes, user fees, and similar laws and regulations that may impose financial burdens on property owners.

Koontz v. St. Johns River Water Mgmt. Dist., 570 U.S. 595, 615, 133 S. Ct. 2586, 2600–01, 186 L. Ed. 2d 697 (2013) (emphasis added). Thus, this challenge to the Act lacks merit, and the Court should rule in favor of the Defendants on this point.

C. The ordinances are a valid exercise of the County’s power under home rule.

1. The Standard

“[C]ourts have no legislative powers.” *Laird v. Nationwide Ins. Co.*, 243 S.C. 388, 395, 134 S.E.2d 206, 209 (1964). Generally, “all laws concerning local government shall be liberally construed” in the local government’s favor. S.C. Const., art. VIII, § 17; *see also* S.C. Code Ann. § 4-9-25 (“The powers of a county must be liberally construed in favor of the county”). The reason for this deference to local government is the legislature’s “realization that different local governments have different problems that require different solutions. . . . By enacting statutes like § 4-9-25 . . . the General Assembly gave local governments the power to deal with these problems at the local level rather than at the State Capitol.” *Hospitality Ass’n of S.C. v. Cnty. of Charleston*, 320 S.C. 219, 230, 464 S.E.2d 113, 120 (1995). To that end, “[t]he party attacking an ordinance bears the burden of proving its unconstitutionality beyond reasonable doubt.” *Skyscraper Corp. v. Cnty. of Newberry*, 323 S.C. 412, 417, 475 S.E.2d 764, 766 (1996); *Mehlman*, 245 S.C. at 139 S.E.2d at 774 (holding that a legislative enactment will be held invalid only when its invalidity appears so clearly as to leave no room for reasonable doubt).

Since the passage of Home Rule in 1973,

All counties of the State, in addition to the powers conferred to their specific form of government, have authority to enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of these powers in relation to health and order in counties or respecting any subject as appears to them necessary and proper for the security, general welfare, and convenience of counties or for preserving health, peace, order, and

good government in them. The powers of a county must be liberally construed in favor of the county and the specific mention of particular powers may not be construed as limiting in any manner the general powers of counties.

S.C. Code Ann. § 4-9-25. “A local government ordinance conflicts with a State law when its conditions, express or implied, are inconsistent and irreconcilable with the State law.” *Hospitality Ass’n of S.C.*, 320 S.C. at 228, 464 S.E.2d at 119.

Implicit in Home Rule is the realization “that different local governments have different problems that require different solutions.” *Id.* at 230, 464 S.E.2d at 120; *see Robinson*, 293 S.C. at 31, 358 S.E.2d at 395 (“Implicit in the Act is the realization that different counties will have different problems which will require different solutions. To require all counties to use the same means of financing for local improvements would defeat the objective of achieving complete local autonomy.”); *Brown v. Cnty. of Horry*, 308 S.C. 180, 184, 417 S.E.2d 565, 567 (1992) (quoting *Robinson* in affirming county road maintenance fee and ruling “[u]nder Home Rule, a county can impose a service charge, as in the situation here, where it is a fair and reasonable alternative to increasing the general county property tax and is imposed upon those for whom the service is primarily provided.”).

Here, the ordinances in question are specifically authorized by the Act and are therefore valid. Given the general home rule principles referenced above, it is not relevant to this analysis what effect the ordinances in question might have had on the number of building permits issued within the District. There is no law preventing a local government from enacting ordinances that impact growth. Local governments routinely address matters that relate to land use and building costs. Just by way of example, zoning, permit fees, inspections, and building codes can all impact local growth and construction costs, but all are within the purview of local governments. The same is true for impact fees generally.

In addition, if the ordinances comply with the Act, it is not relevant that this fee might be higher than other impact fees in other jurisdictions. As acknowledged by our Supreme Court, home rule expressly contemplates that different local governments will have different problems that call for different solutions. In this case, this is the solution the County has chosen in compliance with state law.

2. The Ordinances

Plaintiffs have not challenged any of the language in the Procedures Ordinance or the 2018 Fee Ordinance. They have not presented any arguments as to the Procedures Ordinance at all. Instead, they have raised concerns as to the amount of and motivation behind the 2018 fee and as to certain specific elements of the Study. Plaintiffs contend these issues amount to a substantive or procedural due process violation. The Amended Complaint and Plaintiff's memorandum refer to due process generally or to violations of Plaintiffs' procedural and/ or substantive due process rights.⁵⁹ The County has done its best to respond to these broad allegations.

Generally, procedural due process requires:

Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty or property interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment of the United States Constitution. *Mathews v. Eldridge*, 424 U.S. 319, 332, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). The fundamental requirements of due process include notice, an opportunity to be heard in a meaningful way, and judicial review. S.C. Const. art. 1, § 22; *Stono River Env'tl. Protection Ass'n v. S.C. Dep't of Health and Env'tl. Control*, 305 S.C. 90, 94, 406 S.E.2d 340, 342 (1991). Due process does not require a trial-type hearing in every conceivable case of government impairment of a private interest. *First Fed. Sav. Loan Ass'n of Waltherboro v. Bd. of Bank Control*, 263 S.C. 59, 65, 207 S.E.2d 801, 804 (1974) (quoting *Cafeteria and Restaurant Workers Union v. McElroy*, 367 U.S. 886, 894, 81 S.Ct. 1743, 6 L.Ed.2d 1230 (1961)). Rather, due process is flexible and calls for such

⁵⁹ Amended Complaint at ¶¶ 38-39.

procedural protections as the particular situation demands. *S.C. Dep't of Soc. Servs. v. Wilson*, 352 S.C. 445, 452, 574 S.E.2d 730, 733 (2002).

Kurschner v. City of Camden Planning Comm'n, 376 S.C. 165, 171–72, 656 S.E.2d 346, 350 (2008). “In order to prove a denial of substantive due process, a party must show that he was arbitrarily and capriciously deprived of a cognizable property interest rooted in state law.” *Sunset Cay, LLC*, 357 S.C. at 430, 593 S.E.2d at 470.

As a prerequisite to any due process claim, the Plaintiffs must show a deprivation of a cognizable property interest. *Dunes W. Golf Club, LLC v. Town of Mount Pleasant*, 401 S.C. 280, 302, 737 S.E.2d 601, 613 (2013). Contemplated future development does not meet this test. *Id.*; *Friarsgate, Inc. v. Town of Irmo*, 290 S.C. 266, 269–70, 349 S.E.2d 891, 893 (Ct. App. 1986) (“[A] contemplated use of property by a landowner on the date a zoning ordinance becomes effective . . . is not protected”). In this case, previously permitted homes or homes for which an impact fee had already been paid are excluded from the reach of the ordinances.⁶⁰ With respect to future development, Plaintiffs have not articulated any cognizable property interest of which they have been deprived. Therefore, any due process claims must fail.

a. The 2018 Fee Ordinance is consistent with the Act.

The 2018 Fee Ordinance was passed after three readings and a public hearing and is authorized by the Act. That should end the inquiry with respect to the motivations in passing the ordinance. There was nothing arbitrary or capricious about the passage of these ordinances, and there has been no violation of substantive due process.

Plaintiffs cannot introduce evidence regarding the intent or motivations of individual Councilmembers because “[m]unicipal records properly authenticated or verified are the only competent evidence of the proceedings of the transactions of governing bodies” *Berkeley Elec.*

⁶⁰ Ex. 19 at § 153.57(E).

Coop., Inc. v. Town of Mount Pleasant, 308 S.C. 205, 208, 417 S.E.2d 579, 581 (1992). As a result, evidence from members of legislative bodies as to legislative matters may not be admitted. *Id.*; *United States v. O'Brien*, 391 U.S. 367 (1968); *Horry Tel. Coop., Inc. v. City of Georgetown*, 408 S.C. 348, 354, 759 S.E.2d 132, 134, (2014); *Bear Enters. v. Cnty. of Greenville*, 319 S.C. 137, 459 S.E.2d 883 (Ct. App. 1995). In addition, the enrolled bill rule applies. Under the enrolled bill rule, when presented with an ordinance that is proper on its face, this Court should not consider prior events in the legislative process. *Med. Soc. of S.C. v. Med. Univ. of S.C.*, 334 S.C. 270, 278, 513 S.E.2d 352, 356-57 (1991), *see Baird v. Charleston Cnty.*, 333 S.C. 519, 535, 511 S.E.2d 69, 77-78 (1999) (acknowledging the enrolled bill rule's applicability in the context of a county ordinance, but finding it not relevant to that case).

Moreover, Plaintiffs' allegations relating to bad faith or pretext are not borne out by the evidence. As set forth above, a 2016 proposed moratorium on residential rezoning within the Fort Mill Township for the remainder of 2016 to study traffic failed to pass when the County took first reading on the 2035 Comprehensive Plan, which also addresses traffic concerns. More than a year later, after the amendment to the Act to include schools, the District approached the County about increasing the 1996 fee under the Act, presenting information showing the revenue implications for a hypothetical impact fee of \$10,000.⁶¹

As required by the Act, Council referred the matter to the Planning Commission and a study was commissioned. There is no evidence that TischlerBise was given any direction that the maximum fee should be any particular amount. As referenced by the Plaintiffs, the Study

⁶¹ There is no evidence supporting the Plaintiffs' allegation that Councilmember Michael Johnson suggested that the fee should be increased to \$20,000.

went through multiple drafts and assessed the maximum fee amount at different levels in different drafts.

In addition, the stipulated exhibits show that Council considered different possible fee levels and that it knew it could select a fee amount less than the maximum amount shown by the Study.⁶² In fact, the amount of the fee changed over the course of the three readings.⁶³ Given this history, there is no indication that the amount of the fee was arbitrarily selected before the Study was commissioned.

Lastly, the amount of the Fee is consistent with the Act. New schools are expensive. Land in the District is expensive. As a result, the impact of new residential development is high, which means the fee calculated under the Act is high. That the maximum amount of an impact fee has increased since 1996 is not a surprise and does not shock the conscience. For all of these reasons, the Plaintiffs have not shown there was a substantive due process violation in this case.

Nor is the timing of the implementation of the fee a basis for invalidating the 2018 Fee Ordinance. Our Supreme Court has previously addressed this issue in upholding a pre-Act impact fee as follows:

Anything new—whether it is a fee, a tax, or any of a thousand other things imposed by government—must take effect on some date. **The fact some individuals may have avoided the new account fee due to astute planning or serendipity is no reason to invalidate an otherwise legitimate fee.** *Cf. State v. Rush*, 305 S.C. 113, 406 S.E.2d 355 (1991) (explaining the logical conclusion of arguing that a change in a criminal statute creates two classes of offenders in violation of equal protection would be that, once Legislature had enacted a statute, it could never amend or repeal it without running afoul of the equal protection clauses).

⁶² *See, e.g.*, Ex. 14 at Packet pp. 48-50; Ex. 16 at Packet p. 408.

⁶³ *Compare* Ex. 11 at p. 7 *with* Ex. 13 at p. 7. Council was also presented with information regarding the 2018 referendum. *See* Ex. 11 at Packet pp. 318-20.

J.K. Const., Inc. v. W. Carolina Reg'l Sewer Auth., 336 S.C. 162, 171–72, 519 S.E.2d 561, 566 (1999) (emphasis added).

As argued herein, the Procedures Ordinance and the 2018 Fee Ordinance comply with the Act. The public was given notice and an opportunity to be heard while the ordinances were considered, and the ordinances provide an avenue for individual fee payors to appeal the impact fees on a case by case basis. Thus, procedural due process has been satisfied.

b. The Study complies with the requirements of the Act as to both the inclusion of an affordability analysis and the cost calculation.

The analysis of the Study is guided by the Act and *Charleston Trident Home Builders, Inc. v. Town Council of Town of Summerville*, 369 S.C. 498, 632 S.E.2d 864 (2006). Under *Charleston Trident Home Builders, Inc.*, the Study must substantially comply with the Act; however, strict compliance is not required. *Id.* at 507, 632 S.E.2d at 869.

Plaintiffs have identified two areas of concern with the Study: the affordability analysis and the cost assumptions. They have not alleged any other concerns with the Study. Moreover, Plaintiffs have not alleged or argued, much less produced evidence or analysis, showing “the various factors challenged would actually result in different fees” as required by *Charleston Trident Home Builders, Inc.*, 369 S.C. at 511, 632 S.E.2d at 871.

With respect to affordability, the Act merely requires that there be a report “which estimates the effect of recovering capital costs through impact fees on the availability of affordable housing within the political jurisdiction of the governmental entity.” S.C. Code Ann. § 6-1-930(A)(2). Plaintiffs concede that this analysis was included in the Study, which was incorporated into the 2018 Fee Ordinance.⁶⁴

⁶⁴ See Pl. Memo at 5-8.

Of note here, affordable housing is excluded from the 2018 fee. Thus, affordable housing as defined in the Procedures Ordinance will not be impacted by the 2018 fee. In addition, the affordability analysis was revised in direct response to the concerns raised at the public hearing stage.⁶⁵ TischlerBise amended the Study to treat the District as a whole in response to criticisms that the analysis was skewed because it only considered the incorporated areas and did not adjust for the population differences between the towns of Tega Cay and Fort Mill.⁶⁶ In doing so, TischlerBise took a “conservative approach when calculating monthly expenditures. For each of the eight expenditure categories, the highest cost between the three jurisdictions [was] applied. As a result, a higher than average monthly cost [was] included in the analysis.”⁶⁷

The purpose of the affordability analysis is to insure that Council considers affordability in the course of evaluating impact fees. The Act does not prohibit impact fees that have a negative effect on housing affordability; it merely requires that Council consider that effect in assessing a new fee. To the extent the Plaintiffs disagree with the assumptions applied in the affordability analysis relating to the cost of homeownership, those assumptions are limited to the affordability analysis and do not factor into the calculation of the impact fee.

With respect to cost assumptions, the Act requires that “[t]he amount of the development impact fee must be based on actual improvement costs or reasonable estimates of the costs, supported by sound engineering studies.” S.C. Code Ann. § 6-1-930(B)(2). *Charleston Trident Home Builders, Inc.* includes the following helpful discussion:

a. Actual costs or reasonable estimates

Trident claims the incremental expansion method does not use “actual costs or reasonable estimates supported by sound engineering studies” as required by § 6–

⁶⁵ Ex. 14 at Packet pp. 96; Ex. 16 at Packet pp. 427-33.

⁶⁶ Ex. 14 at Packet pp. 96.

⁶⁷ *Id.*

1-930(B)(2). As noted above, the method used here is basically a current replacement cost approach. In determining cost, the Tischler Report refers to cost information from “Town staff” and the Marshall & Swift Valuation Service. References to Town staff refer to the Town engineer, Matt Halter, who is a “public engineer.” Halter testified his cost estimates were “based on similar projects [Town] had done in the past or similar equipment [Town] had bought in the past, historic numbers typically.” Halter stated he gave “engineering estimates” for items in the capital improvements plan. We find the calculation of fees was based on reasonable estimates as indicated by Town’s engineer.

b. Sound engineering studies

Trident complains Town’s cost estimates were not based on sound engineering studies as required under § 6-1-930(B)(2).⁴ As noted above, Town’s public engineer, Matt Halter, stated he gave “engineering estimates” for the projected costs of capital improvements. The Tischler Report also references the Marshall & Swift Valuation Service, a national provider of real estate costs.

The Act does not specify what constitutes an “engineering study.” Since Town used its current facilities upon which to base estimated costs, engineering estimates are adequate. Further, Trident has provided no evidence indicating cost estimates would have been different had specific engineering studies been conducted. We find the use of “engineering estimates” and a widely accepted valuation service was adequate to meet the requirement of “sound engineering studies.”

369 S.C. at 509–10, 632 S.E.2d at 870 (footnote omitted).

The Study was prepared by the same firm as the study in *Charleston Trident Home Builders, Inc.* Here, the Study states:

The Fort Mill School District is responsible for 100 percent of new school construction costs in the District. For elementary and middle schools, the construction cost assumption is based on estimates developed by the District’s construction management firm, Cumming Corporation, an industry-leading, multi-faceted project management and cost consulting firm. The firm employs registered architects, professional engineers, certified professional cost estimators, among other professionals involved in large-scale construction projects. The cost assumption at the high school level is based on actual costs incurred for the high school currently under construction, which is managed by the Cumming Corporation. As shown in Figure 12, the construction cost assumptions are \$348 per square foot for elementary schools, \$346 per square foot for middle schools, and \$305 per square foot for high schools. Given the discussion above, and comparable school construction costs in the region, these construction cost

assumptions are the most accurate and reasonable available at the time of this study.⁶⁸

The Study further provides that the land cost calculations are based on actual purchases by the District.⁶⁹ In making the cost calculations, the Study provides that level of service standards are “based on current costs per student for school buildings and land[.]”⁷⁰ Here, TischlerBise relied on the District’s actual cost information where available and estimates provided by the Cumming Corporation. Since the Study “used [the District’s] current facilities upon which to base estimated costs, engineering estimates are adequate” to satisfy the sound engineering study requirement under the rule set forth in *Charleston Trident Home Builders, Inc.* Thus, the Study and the 2018 Fee Ordinance are based on “actual improvement costs or reasonable estimates of the costs, supported by sound engineering studies” as required by S.C. Code Ann. § 6-1-930.

c. The 2018 Fee Ordinance does not impose a taking or an exaction.

Plaintiffs cannot establish that the ordinances at issue impose a taking or exaction. As discussed above, an impact fee does not generally constitute a taking or an impermissible exaction. The ordinances at issue here are a legislatively imposed, generally applicable impact fee. As such, they do not trigger the takings clause. *See Koontz*, 570 U.S. at 615; *Dabbs v. Anne Arundel Cnty.*, 458 Md. 331 (Md. Ct. App. 2018) (finding that legislatively imposed impact fees are not takings and providing lengthy discussion of *Koontz*). Plaintiff has not cited any South Carolina cases finding that an impact fee can constitute a taking under the circumstances alleged here.

⁶⁸ Ex. 16 at Packet p. 420; *see also* Ex. 14 at Packet p. 94 (discussion by TischlerBise responding to criticism relating to engineering studies).

⁶⁹ *Id.* at Packet p. 421.

⁷⁰ *Id.* at Packet p. 425.

For the reasons stated above, there is not a justiciable case or controversy presented on this issue. Plaintiffs have presented only hypothetical, conjectural speculation that there might be a taking.

Should the Court determine that a takings analysis is appropriate; the 2018 fee does not meet the standards for a regulatory taking. “A legislative body does not deny due process simply because it does not permit a landowner to make the most beneficial use of its property.” *Harbit v. City of Charleston*, 382 S.C. 383, 394, 675 S.E.2d 776, 782 (Ct. App. 2009). ““Not all damages suffered by a private property owner at the hands of [a] governmental agency are compensable.”” *Carolina Chloride, Inc. v. Richland Cnty.*, 394 S.C. 154, 170, 714 S.E.2d 869, 877 (2011) (quoting *Kiriakides v. Sch. Dist. of Greenville Cnty.*, 382 S.C. 8, 14, 675 S.E.2d 439, 442 (2009)). In such as case, the question then becomes whether the ordinances deprived a plaintiff of “all economically beneficial use” or whether the ordinances are “the functional equivalent of a taking.” *Dunes W. Golf Club, LLC*, 401 S.C. at 314-15, 401 S.E.2d at 619.

Here, both Mr. Patel and Mr. Shea testified that the property their companies own in the District has retained value and that the use of those properties was not changed by the 2018 fee.⁷¹ They also testified that generally impact fees are passed through to the home buyer.⁷² Thus, there is no indication that the property had been deprived of all economically beneficial use. Therefore, there has not been a categorical taking under *Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 112 S.Ct. 2886, 120 L.Ed.2d 798 (1992).

In determining whether there has been a regulatory taking as described in *Penn Central Transp. Co. v. N.Y. City.*, 438 U.S. 104, 98 S.Ct. 2646, 57 L.Ed.2d 631 (1978), South Carolina

⁷¹ Patel Dep. at 22:8-21, 25:5-13, 34:6-9; Shea Dep. at 35:10-13, 41:1-3, 49:2-12.

⁷² Patel Dep. at 41:18-42:13; Shea Dep. at 33:11-15.

courts consider, on a case by case basis, “the character of the government action, the economic impact of the regulation on the claimant, and the extent to which the regulation has interfered with distinct investment-backed expectations.” *Dunes W. Golf Club, LLC*, 401 S.C. at 315, 737 S.E.2d at 619.⁷³

Here, the County has determined that new residential growth should fund the additional schools necessitated by that growth as permitted by the Act. The 2018 Fee Ordinance applies broadly across all new residential construction within the District. This factor alone should be outcome determinative. As set forth in *Columbia Venture, LLC v. Richland Cnty.*, 413 S.C. 423, 451–52, 776 S.E.2d 900, 915 (2015),

In evaluating the benefits and burdens of a government regulation, “**a taking does not take place if the prohibition applies over a broad cross section of land and thereby ‘secure[s] an average reciprocity of advantage.’**” *Penn Central*, 438 U.S. at 147, 98 S.Ct. 2646 (quoting *Mahon*, 260 U.S. at 415, 43 S.Ct. 158) (noting that the concept of “reciprocity of advantage” is the reason zoning does not constitute a taking and stating “[w]hile zoning at times reduces individual property values, the burden is shared relatively evenly and it is reasonable to conclude that on the whole an individual who is harmed by one aspect of the zoning will be benefitted by another”). Indeed, the Fifth Amendment “prevents the public from loading upon one individual more than his just share of the burdens of government” and provides that only when an individual “surrenders to the public something more and different from that which is exacted from other members of the public, [shall] a full and just equivalent [] be returned to him.” *Id.* at 147–48, 98 S.Ct. 2646 (quoting *Monongahela Navigation Co. v. United States*, 148 U.S. 312, 325, 13 S.Ct. 622, 37 L.Ed. 463 (1893)).

(emphasis added).

Nothing about the ordinances changes the use of any property within the District. They simply make it more expensive to build new residential construction across the District as a whole. The Act and the ordinances provide numerous checks and balances to prevent the impact

⁷³ As previously argued, Plaintiffs’ declaratory judgment claim does not present any individual cases to be assessed under this analysis and therefore should fail for want of a justiciable case or controversy.

fee from exceeding the impact of the average new home within the District. Thus, the character of the action weighs strongly in favor of the County.

With respect to the two remaining factors, no Plaintiff has paid the 2018 impact fee. In assessing investment backed expectations, “[t]he subjective expectations of the [claimant] are irrelevant. The critical question is what a reasonable owner in the [claimant's] position should have anticipated.” *Columbia Venture, LLC*, 413 S.C. at 449, 776 S.E.2d at 914 (citations omitted). Here, an impact fee to fund new schools within the District had been in place since 1996. The Act had been in place since 1999 and was amended to include schools within its list of “public facilities” in 2016. Therefore, there was no reasonable basis for assuming at the time property was purchased that the amount of the impact fee would not be changed at some point in the future.

For all of these reasons, judgment should be entered in the County’s favor as to the takings element of the Plaintiffs’ declaratory judgment claim.

III. WITNESSES & EXHIBITS

See attached at Appendix A and Appendix B. The County reserves its right to amend its witness and exhibit list before trial.

IV. OTHER MATTERS TO BE CONSIDERED AT OR BEFORE TRIAL

The County will file a motion in limine before trial to address its evidentiary concerns.

Respectfully submitted,

By: s/ Sarah P. Spruill
Sarah P. Spruill, SC Bar #68337

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Attorneys for Defendant York County,

October 10, 2019
Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Home Builders Association of South Carolina,
Home Builders Association of York County,
Soni Construction, Inc., Shea Investment
Fund 2, LLC, and Shea Investment Fund 3,
LLC,

Plaintiffs,

v.

State of South Carolina and York County,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No. 2018-CP-46-02684

Appendix A: Witness List of Defendant York County (“County”)

As agreed in the Consent Order Governing Further Proceedings in this matter, the County primarily intends to rely on the previously submitted stipulated facts and exhibits. The County also intends to present deposition designations as allowed by Rule 32, SCRCPP. The County reserves the right to call any witness identified in any party’s discovery responses; however, this appendix reflects those witnesses the County is presently planning to call.

Witnesses the County may call if need arises:

1. Carson Bise

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Home Builders Association of South Carolina,
 Home Builders Association of York County,
 Soni Construction, Inc., Shea Investment
 Fund 2, LLC, and Shea Investment Fund 3,
 LLC,

Plaintiffs,

v.

State of South Carolina and York County,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No. 2018-CP-46-02684

Appendix B: Exhibit List of Defendant York County (“County”)

As agreed in the Consent Order Governing Further Proceedings in this matter, the County primarily intends to rely on the previously submitted stipulated facts and exhibits. The County reserves the right to amend this list as it deems fit between service and the conclusion of the trial in this matter.

EXHIBIT	DESCRIPTION	OBJECTION?
1.	July 18, 2016 County Council Minutes	
2.	York County 2035 Comprehensive Plan	
3.	District Presentation to October 16, 2017 Council Finance and Operations Meeting, York County TischlerBise 38-59	
4.	Impact Fee Report for 2019 (through 9/10/2019)	
5.	Email from L. Lordo to C. Bise dated December 20, 2017 (with attachments), York County 84-120	
6.	Marketing Materials for Habersham and Enclave at Massey, Shea Dep. Exs. 5-6	

EXHIBIT A



YORK COUNTY
COUNTY COUNCIL
MINUTES • JULY 18, 2016



FINAL

County Council Meeting

Agricultural Building
Council Chambers
6 S. Congress Street, York, SC 29745

6:00 PM

District 1 Michael Johnson: Present, District 2 Bruce Henderson: Present, District 3 Robert Winkler: Present, District 4 William "Bump" Roddey: Present, District 5 Christi Cox: Present, Council Chairman District 6 Britt Blackwell: Present, District 7 Chad Williams: Present.

Notice of Meeting

Notice of the meeting was forwarded to members of Council, the news media, to staff, to the York County Library and all branches, to citizens requesting notification and posted to the county's web page.

Oath of Office for newly appointed Board and Commission Members

Creighton Hayes, Hospitality Tax Committee (District 5)
 David Williams, York County Economic Development Board (York County Regional Chamber Representative) **ABSENT**

Appearances

(6:04pm) Beth White with York County Farm Bureau provided Council with a fruit basket in appreciation of their support of agriculture in the County.

CJ Ramsey to address Council regarding the water contamination in the Travis Acres neighborhood. **ABSENT**

(6:05pm) Sheriff Bruce Bryant addressed Council regarding his concerns with the FY16-17 budget and the requested officers not approved for the Sheriff's Office.

Public Forum Session (limited to thirty (30) minutes, two (2) minutes per person)

(6:18pm) Retired Magistrate Bob Davenport requested Council to allow him to keep his County issued radio until Bethesda Fire Department can provide one for him. Public Safety Director Allen Brandon addressed Council and said that the Public Safety Communications department is ok with his request.

Public Hearing(s)

Motion to suspend the rules and move Public Hearing item #6 to Public Hearing item #1 on the agenda.

(6:20pm)

ELECTRONICALLY FILED - 2019 Oct 10 1:42 PM - YORK - COMMON PLEAS - CASE#2018CP4602684

ALLOWED [Unanimous]

MOVANT: Michael Johnson

SECOND: William "Bump" Roddey

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

1. Public Hearing

The following individuals spoke in favor of the proposed ordinance

(6:21pm) Mayor Doug Echols, 759 Sumter Avenue, Rock Hill, South Carolina addressed Council regarding his support for the proposed 4 year staggered terms for County Council members.

(6:24pm) Mayor Gynn Savage, 109 Spring Branch Road, Fort Mill, South Carolina addressed Council regarding her support for the proposed 4 year staggered terms for County Council members.

(6:26pm) Billy Hagner, 1901 Voyager Road, York, South Carolina addressed Council regarding his support for the proposed 4 year staggered terms for County Council members with limited terms of 2 to 3 terms.

(6:30pm) Harvey Harkins, Chairman of the York County Regional Chamber Board addressed Council regarding his support for the proposed 4 year staggered terms for County Council members.

(6:32pm) Margaret Blackwell, 6391 Baker Lane, Lake Wylie, South Carolina addressed Council regarding her support for the proposed 4 year staggered terms for County Council members with limited terms of 2 terms.

(6:33pm) Mike Gettings, 460 Harvest Moon Lane, Rock Hill, South Carolina on behalf of Panther Heating and Cooling addressed Council regarding his support for the proposed 4 year staggered terms for County Council members.

(6:36pm) Marc Howie, 112 Hallett Street, Fort Mill, South Carolina appeared on behalf of the York Electric Co-op addressed Council regarding his support for the proposed 4 year staggered terms for County Council members.

(6:38pm) Will Mitchell, 1044 North Beersheba Road, York, South Carolina appeared on behalf of the Greater York Chamber addressed Council regarding his support for the proposed 4 year staggered terms for County Council members.

(6:41pm) There being no one else interested in speaking for or against the proposed ordinance a motion was made by Council member William "Bump" Roddey and seconded by Council member Michael Johnson to close the public hearing.

ALLOWED [Unanimous]

MOVANT: William "Bump" Roddey
SECOND: Michael Johnson
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

Hold a Public Hearing and Consider amending and Third Reading of AN ORDINANCE TO PROVIDE FOR FOUR-YEAR STAGGERED TERMS FOR MEMBERS OF THE YORK COUNTY COUNCIL, SUBJECT TO APPROVAL IN A PUBLIC REFERENDUM; TO PROVIDE FOR A PUBLIC REFERENDUM ON CHANGING THE TERMS OF OFFICE OF MEMBERS OF THE YORK COUNTY COUNCIL FROM TWO-YEAR TERMS TO FOUR-YEAR STAGGERED TERMS; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.

(6:41pm)

APPROVED [5 to 2]

MOVANT: William "Bump" Roddey
SECOND: Robert Winkler
AYES: Johnson, Winkler, Roddey, Blackwell, Williams
NAYS: Bruce Henderson, Christi Cox

2. Public Hearing

(6:55pm)

There being no one interested in speaking for or against the proposed ordinance a motion was made by Council member William "Bump" Roddey and seconded by Council member Robert Winkler to close the public hearing.

ALLOWED [Unanimous]

MOVANT: William "Bump" Roddey
SECOND: Robert Winkler
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

Hold a Public Hearing and consider 3rd reading of an ordinance "TO AUTHORIZE THE SALE OF A SMALL, UNDEVELOPED PARCEL LOCATED ON SOUTH CAROLINA HIGHWAY 5, IDENTIFIED BY TAX MAP NUMBER 595-04-01-050; TO ENTERTAIN AN EXISTING OFFER TO PURCHASE THE PARCEL; TO AUTHORIZE THE CHAIRMAN TO EXECUTE THE CONTRACT OF SALE AND DEED; TO PROVIDE FOR A PUBLIC HEARING; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO."

(6:56pm)

APPROVED [Unanimous]

MOVANT: Robert Winkler

SECOND: William "Bump" Roddey

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

3. Public Hearing

(6:56pm)

The following individuals spoke in favor of the proposed ordinance

(6:57pm) Jim Bradford, 12 Wright Avenue, York South Carolina addressed Council regarding his support for the proposed ordinance.

(7:02pm) Kris Frazier, 6575 Baker Lane, Lake Wylie, South Carolina addressed Council regarding her support for the proposed ordinance with the new committee members being required to disclose ethics information on the applications.

(7:03pm) There being no one else interested in speaking for or against the proposed ordinance a motion was made by Council member William "Bump" Roddey and seconded by Council member Michael Johnson to close the public hearing.

ALLOWED [Unanimous]

MOVANT: William "Bump" Roddey

SECOND: Michael Johnson

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

Consider third reading of AN ORDINANCE TO AMEND CHAPTER 35 OF THE YORK COUNTY CODE, RELATING TO TAXATION AND FINANCE, SO AS TO ADD NEW SECTION 35.150 ENTITLED "ECONOMIC DEVELOPMENT PROJECT DEVELOPMENT FUND"; TO PROVIDE FOR THE CREATION OF THE FUND AND ITS PURPOSES AND USES; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

(7:03pm)

DEFERRED [Unanimous]

MOVANT: Christi Cox

SECOND: Michael Johnson

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

4. Public Hearing

(7:04pm)

Speak in Favor

(7:05pm) Joe Padilla representing the Home Builders Association of York County addressed Council regarding his support for the proposed ordinance with the changes recommended by the Planning Commission.

There being no one else interested in speaking for or against the proposed ordinance a motion was made by Council member William "Bump" Roddey and seconded by Council member Michael Johnson to close the public hearing.

ALLOWED [Unanimous]

MOVANT: William "Bump" Roddey

SECOND: Michael Johnson

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

HOLD A PUBLIC HEARING AND CONSIDER SECOND READING OF AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF YORK, SOUTH CAROLINA, CHAPTER 155, ENTITLED ZONING CODE, SECTIONS 155.009, DEFINITIONS; 155.571, INITIATION OF AMENDMENT, SUBSECTIONS (B), (C) AND (D); AND 155.572, PLANNING COMMISSION REPORT, SUBSECTION (B); IN ORDER TO AMEND THE DEFINITION OF SITE PLAN; REQUIRE A SITE PLAN AND TRAFFIC IMPACT ANALYSIS BE SUBMITTED FOR ALL APPLICATIONS FOR AMENDMENT (REZONING); TO PRECLUDE THE PLANNING COMMISSION FROM CONSIDERING APPLICATION FOR AMENDMENT (REZONING) UNTIL AN APPLICATION IS COMPLETE; TO ADD TRAFFIC IMPACT FACTORS AS A CONSIDERATION FOR THE PLANNING COMMISSION REPORT; TO PROVIDE FOR A PUBLIC HEARING; TO TAKE EFFECT SEPTEMBER 1, 2016; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.

(7:07pm)

APPROVED [Unanimous]

MOVANT: William "Bump" Roddey
SECOND: Christi Cox
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

5. Public Hearing

(7:08pm)

There being no one interested in speaking for or against the proposed ordinance a motion was made by Council member Michael Johnson and seconded by Council member William "Bump" Roddey to close the public hearing.

ALLOWED [Unanimous]

MOVANT: Michael Johnson
SECOND: William "Bump" Roddey
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

HOLD A PUBLIC HEARING AND CONSIDER SECOND READING OF AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF YORK, SOUTH CAROLINA, CHAPTER 154, ENTITLED SUBDIVISION CODE, SECTIONS 154.029, PRELIMINARY PLAT REVIEW, SUBSECTIONS (B) AND (D); AND 154.030, PRELIMINARY PLAT APPLICATION AND SUPPORTING DATA (REQUIREMENTS), SUBSECTIONS (A)(1) AND (A)(4); IN ORDER TO REVISE PRELIMINARY PLAT REVIEW PROCEDURES BY REQUIRING ALL APPLICATION REQUIREMENTS BE MET BEFORE THE PLANNING COMMISSION MAY REVIEW AN APPLICATION FOR PRELIMINARY PLAT; TO ESTABLISH FINDINGS FOR PRELIMINARY PLAT APPROVAL BY THE PLANNING COMMISSION; TO AMEND THE APPLICATION REQUIREMENTS FOR A PRELIMINARY PLAT TO INCLUDE TRAFFIC IMPACT ANALYSES; CLARIFY THE APPLICATION REQUIREMENTS REGARDING SCDHEC APPROVAL OF SEPTIC SYSTEMS; TO PROVIDE FOR A PUBLIC HEARING; TO TAKE EFFECT SEPTEMBER 1, 2016; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.

(7:09pm)

APPROVED [Unanimous]

MOVANT: Michael Johnson
SECOND: Robert Winkler
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

6. Public Hearing

(7:09pm)

There being no one interested in speaking for or against the proposed ordinance a motion was made by Council member Michael Johnson and seconded by Council member William "Bump" Roddey to close the public hearing.

ALLOWED [Unanimous]

MOVANT: Michael Johnson
SECOND: William "Bump" Roddey
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

HOLD A PUBLIC HEARING AND CONSIDER 2ND READING OF AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF YORK, SOUTH CAROLINA, CHAPTER 154, ENTITLED SUBDIVISION CODE, SECTIONS 154.004, DEFINITIONS; AND 154.037, PLAT APPROVAL PROCESS: STREETS; IN ORDER TO ADD DEFINITIONS FOR AVERAGE DAILY TRIPS, AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS, INSTITUTE OF TRANSPORTATION ENGINEERS, AND TRAFFIC IMPACT ANALYSIS METHODOLOGY GUIDELINES; TO AMEND TRAFFIC IMPACT ANALYSIS REQUIREMENTS IN THEIR ENTIRETY; TO PROVIDE FOR A PUBLIC HEARING; TO TAKE EFFECT SEPTEMBER 1, 2016; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.

(7:10pm)

APPROVED [Unanimous]

MOVANT: Michael Johnson
SECOND: Robert Winkler
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

Old Business

1. Consider 3rd reading of an ordinance "TO ADOPT YORK FORWARD THE 2035 YORK COUNTY COMPREHENSIVE PLAN (AS REVISED AT SECOND READING), INCLUDING THE COMPREHENSIVE LAND USE PLAN MAP, PLAN ELEMENTS, AND APPENDICES, PURSUANT TO THE CODE OF LAWS OF SOUTH CAROLINA, TITLE 6, CHAPTER 29 ENTITLED "SOUTH CAROLINA LOCAL GOVERNMENT COMPREHENSIVE PLANNING ENABLING ACT OF 1994," TO HOLD A PUBLIC HEARING, AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO."

(7:10pm)

Motion to approve third reading of the comprehensive plan ordinance except the component addressing the Urban Services Boundary (USB), as shown on the Future Land Use Map and as set forth in related textual references, which component requires further analysis by Council and, that the US border remain as that as provided on the 2004 Comprehensive Plan as modified through prior action prior to June 20, 2016, so that the Chairman can appoint a 7 person citizen committee to evaluate the overall USB Boundary and in particular address the Dave Lyle Boulevard extension area impacted by the USB, in terms of proper thoroughfare, right-of-way, and utility extensions and in terms of appropriate commercial and agricultural land designations, and thereafter report back to Council no later than the last meeting in October 2016, at which time the Council will address the USB component of the Comprehensive Plan.

APPROVED [Unanimous]
MOVANT: William "Bump" Roddey
SECOND: Robert Winkler
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

2. Rezoning Action: Consider Third Reading:

Case # 16-06
Tax Map # 4560000043
Zoning Request: To rezone from RUD to BD-I
Acres: +/- 0.97 acres
Council District: Two (2) Bruce Henderson
Applicant: John Reid Smith
Owner: Boyd Byrum
Location: 3170 Charlotte Hwy (SC 49) in the York Community
Planning and Development Staff: DENIAL
Planning Commission: APPROVAL (7-0) (Darby (4) Abstain)
Planning Commission Date: May 9, 2016

Staff Recommendation: Denial based on the information prepared by staff outlined in this Planning Commission Report and the findings below:

1. The proposed rezoning is not consistent with the character of the surrounding area.
2. The proposed rezoning is not consistent with the Comprehensive Land Use Plan for the area.
3. The proposed rezoning might be considered spot zoning as there is no commercial zoning in the vicinity and it is not consistent with the land use plan.

(7:17pm)

APPROVED [Unanimous]	
MOVANT:	Bruce Henderson
SECOND:	Robert Winkler
AYES:	Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

3. Rezoning Action: Consider Second Reading:

Case #	16-07
Tax Map #	5350000152
Zoning Request:	To rezone from RC-II to BD-III
Acres:	+/- 9 acres
Council District:	Four (4) William "Bump" Roddey
Applicant:	Brent A. Finley
Owner:	Sherry Stillwell/Estate of Frances Johnston
Location:	1626 Darby Road in the Rock Hill community
Planning and Development Staff:	APPROVAL
Planning Commission:	APPROVAL with condition (8-0)
Planning Commission Date:	May 9, 2016

Staff Recommendation: Approval based on the information prepared by staff outlined in this Planning Commission Report and the findings below:

1. The proposed rezoning request is consistent with the Comprehensive Land Use Plan for the area.
2. The proposed rezoning request is consistent with the character of the surrounding area.
3. The proposed rezoning request is located within a small mixed use node that includes commercial development.

At their May 9, 2016 meeting, the Planning Commission recommended the following condition:

1. Restrict all uses except "ministorage" and permitted accessory uses.

(7:18pm)

Motion to approve with the Planning Commission's recommended condition of restricting all uses except "mini-storage" and permitted accessory uses.

APPROVED [Unanimous]

MOVANT: William "Bump" Roddey
SECOND: Michael Johnson
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

4. Consider Second Reading of AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF YORK, SOUTH CAROLINA, CHAPTER 32, SECTIONS 32.36(A)(1) AND (A)(2) FOR THE PURPOSE OF CREATING STAGGERED THREE YEAR TERMS FOR BOARD MEMBERS SERVING ON THE CULTURE AND HERITAGE COMMISSION; TO SET OUT THE TRANSITION OF SITTING MEMBERS TO THE NEWLY ESTABLISHED INITIAL STAGGERED TERMS; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.

(7:19pm)

APPROVED [Unanimous]

MOVANT: Chad Williams
SECOND: Robert Winkler
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

5. Consider adoption of RESOLUTION CERTIFYING THE PETITION SEEKING THE ESTABLISHMENT OF THE LAKE WYLIE PARKS AND RECREATION SPECIAL TAX DISTRICT AND CALLING FOR AN ELECTION REGARDING THE CREATION OF A SPECIAL TAX DISTRICT TO BE KNOWN AS THE LAKE WYLIE PARKS AND RECREATION DISTRICT

(7:19pm)

APPROVED [Unanimous]

MOVANT: Bruce Henderson
SECOND: Chad Williams
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

New Business

1. Council to consider a request by Solicitor, Kevin Brackett to hire 2 attorney's, 2 investigators and to make a current part-time attorney position into a full-time position.

(7:20pm)

APPROVED [Unanimous]

MOVANT: Michael Johnson

SECOND: Robert Winkler

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

2. Consider approval of nominated applicants for service for Boards & Commissions from the Finance & Operations Committee meeting on June 20, 2016 and June 27, 2016, along with nominations from the floor: Wendi Michael, Library Board (District 1), Alan Abernathy, York County Forever (District 2), Stephen Strokis, Riverview Fire Tax Board, Lonnie Manus, Riverview Fire Tax Board, Manning Kimmel, Rock Hill/York County Airport Commission-4, Pickens Freeman, Rock Hill/York County Airport Commission-2, and Tea Hoffmann, Bethel Fire Tax Board.

(7:20pm)

APPROVED [Unanimous]

MOVANT: Michael Johnson

SECOND: Bruce Henderson

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

3. Consider approval of contract with ADC Engineering, Inc. in a not-to-exceed amount of \$ 26,000.00 for updating the masterplan for Ebenezer Park

(7:21pm)

APPROVED [Unanimous]

MOVANT: Robert Winkler

SECOND: Michael Johnson

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

4. Council to consider approving contract for Tyler Technologies Computer Aided Dispatch (CAD) software upgrade in the amount of \$166,538.

(7:21pm)

APPROVED [Unanimous]

MOVANT: William "Bump" Roddey
SECOND: Robert Winkler
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

5. Council to consider increasing the capital budget for the Rock Hill/York County Airport by \$12,872.50 for a total of \$79,462.50 by transferring the amount from the County contingency fund.

(7:21pm)

APPROVED [Unanimous]

MOVANT: Robert Winkler
SECOND: Chad Williams
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

6. Consider approval of a Venue Agreement with Ficus Tree Productions for the utilization of County properties for staging and logistics related to the filming of the television series Outcast

(7:22pm)

APPROVED [Unanimous]

MOVANT: Chad Williams
SECOND: William "Bump" Roddey
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

7. CONSIDER ADOPTION OF INDUCEMENT RESOLUTION IDENTIFYING A PROJECT TO SATISFY THE REQUIREMENTS OF SOUTH CAROLINA CODE ANNOTATED SECTION 12-44-40, SO AS TO ALLOW INVESTMENT EXPENDITURES INCURRED BY PROJECT CRESCENT (INCLUDING ITS AFFILIATED AND RELATED ENTITIES) TO QUALIFY AS EXPENDITURES ELIGIBLE FOR A FEE-IN-LIEU OF TAXES ARRANGEMENT WITH YORK COUNTY, SOUTH CAROLINA; AND TO COMMIT TO ENTER INTO NECESSARY AGREEMENTS WITH THE COMPANY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; AND OTHER RELATED MATTERS.

(7:22pm)

APPROVED [Unanimous]
MOVANT: Michael Johnson
SECOND: Robert Winkler
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

8. Consider approval of REVISION 2 of the Comprehensive Re-licensing Agreement for the Catawba-Wateree Hydro Project, FERC Project No. 2232 and authorizing the County Manager to sign on behalf of York County and the Ebenezer Park Superintendent to sign on behalf of Ebenezer Park

(7:23pm)

APPROVED [Unanimous]
MOVANT: Chad Williams
SECOND: Michael Johnson
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

9. Council to review and approve the "Agreement for the Establishment and Operation of a Wildlife Management Area".

(7:23pm)

APPROVED [Unanimous]
MOVANT: Chad Williams
SECOND: Michael Johnson
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

10. COUNCIL TO CONSIDER 1ST READING BY TITLE ONLY OF AN ORDINANCE TO AMEND THE CODE OF THE COUNTY OF YORK, SOUTH CAROLINA, SECTIONS 92.30 (FIRE CODE), 150.04(A) (BUILDING CODE), 150.04(B) (RESIDENTIAL CODE), 150.06 (ELECTRICAL CODE), 150.08 (GAS CODE), 150.09 (PLUMBING CODE), AND 150.10 (MECHANICAL CODE); IN ORDER TO INCORPORATE CERTAIN PROVISIONS OF THE FIRE CODE AND CERTAIN ADMINISTRATIVE PROVISIONS OF CONSTRUCTION RELATED CODES AS MODIFIED AND ADOPTED BY THE SOUTH CAROLINA BUILDING CODES COUNCIL FOR MANDATORY ENFORCEMENT BY ALL JURISDICTIONS WITHIN THE STATE OF SOUTH CAROLINA; TO PROVIDE FOR A PUBLIC HEARING; AND TO PROVIDE FOR OTHER MATTERS RELATING THERETO.

(7:23pm)

APPROVED [6 to 1]	
MOVANT:	Michael Johnson
SECOND:	Robert Winkler
AYES:	Johnson, Winkler, Roddey, Cox, Blackwell, Williams
NAYS:	Bruce Henderson

11. Council to consider authorizing the expenditure of up to \$27,500 in York County Forever Commission funds to Nation Ford Land Trust (NFLT) for stewardship, appraisal, and administrative fees for the placement of a conservation easement on approximately 167 acres, located on Mockingbird Lane and Williamson Road in the Rock Hill community, owned by J. Spratt and Sandra H. White.

(7:26pm)

APPROVED [Unanimous]	
MOVANT:	Chad Williams
SECOND:	Robert Winkler
AYES:	Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

12. Rezoning Action: Consider First Reading:

Case #	16-11
Tax Map #	5750000026
Zoning Request:	To rezone from RC-I to BD-III
Acres:	+/- 4.69 acres
Council District:	Two (2) Bruce Henderson
Applicant:	Russell Davey
Owner:	Lake Wylie Partners, LLC
Location:	4581 Charlotte Hwy in the Lake Wylie community
Planning and Development Staff:	APPROVAL
Planning Commission:	APPROVAL (7-0)
Planning Commission Date:	June 13, 2016

Staff Recommendation: Approval based on the information prepared by staff outlined in this Planning Commission Report and the findings below:

1. The proposed rezoning request is consistent with the Comprehensive Land Use Plan for the area.
2. The proposed rezoning request is consistent with the character of the surrounding area.

(7:27pm)

APPROVED [Unanimous]

MOVANT: Bruce Henderson

SECOND: Michael Johnson

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

13. Council to consider rejection of all proposals received for Bid #2353 regarding the construction of a vegetated biobank at Ebenezer Park.

(7:27pm)

APPROVED [Unanimous]

MOVANT: Michael Johnson

SECOND: William "Bump" Roddey

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

14. Council to authorize transfer of funds and award of Bid #2358 regarding road improvements for SC 49/Congress Street/Lincoln Road Intersection improvements and SC 49/Campbell Road Intersection realignment as part of the 2011 Capital Projects Sales and Use Tax Program.

(7:27pm)

(7:41pm) Motion was made by Council member Chad Williams and seconded by Council member Robert Winkler to clarify that the award was made to the low bidder Granite Contracting, LLC of Cornelius, NC for a total cost of \$1,901,673.04.

APPROVED [Unanimous]

MOVANT: Robert Winkler

SECOND: Michael Johnson

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

15. Council to consider rejection of all proposals regarding Bid #2361 for the 2013-2014 C Fund Gravel Road Paving Project.

(7:28pm)

APPROVED [Unanimous]
MOVANT: Chad Williams
SECOND: Michael Johnson
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

16. Council to consider declaring a wrecked 2007 Ford Crown Victoria patrol vehicle as County surplus.

(7:28pm)

APPROVED [Unanimous]
MOVANT: Bruce Henderson
SECOND: Robert Winkler
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

17. Council to Consider approval of a two month lease agreement extension between York County and Michael W. Chase for the Highway 160 East Collection & Recycling Center

(7:29pm)

APPROVED [Unanimous]
MOVANT: Michael Johnson
SECOND: Christi Cox
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

18. Council to consider approval of Rock Hill Utilities Design Fee Reimbursement on the Pennies 2 Project 03-011: McConnells Highway in an amount not to exceed \$83,416.

(7:29pm)

APPROVED [Unanimous]
MOVANT: Chad Williams
SECOND: Christi Cox
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

19. Consider approval of a Designated Facilities Agreement with South Carolina Department of Corrections for the housing of State inmates in the County's Prison facility

(7:29pm)

APPROVED [Unanimous]
MOVANT: Chad Williams
SECOND: Bruce Henderson
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

20. Council to consider approval of an additional allocation of \$1,805,327.23 for a total not to exceed amount of \$4,805,327.23 for the purposes of reimbursing the City of Rock Hill for environmental services, design services, right of way acquisitions, and utility relocations related to Project 11149-006: Cel-River Road as part of the Pennies 3 (2011) Capital Projects Sales and Use Tax Program.

(7:29pm)

APPROVED [5 to 2]
MOVANT: Michael Johnson
SECOND: Chad Williams
AYES: Johnson, Winkler, Roddey, Blackwell, Williams
NAYS: Bruce Henderson, Christi Cox

21. Council to consider approval of Armstrong Glen's Gravel Road Agreement for design of for Pennies 2 Gravel Road Projects Mission Road & Shillinglaw Road.

(7:30pm)

APPROVED [Unanimous]
MOVANT: Robert Winkler
SECOND: Chad Williams
AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

22. Council to consider approval of Mead & Hunt Gravel Road Design Agreement for Pennies 2 Gravel Projects Enon Church Road and Pamela Road

(7:31pm)

APPROVED [Unanimous]

MOVANT: Robert Winkler

SECOND: Chad Williams

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

23. Council to consider authorizing the execution of Contract Amendment #1 in the amount of \$169,633.35 with Keck and Wood Inc. for consulting services related to the Highway 161 Water Booster Pump Station.

(7:31pm)

APPROVED [Unanimous]

MOVANT: Chad Williams

SECOND: Michael Johnson

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

24. Council to consider the approval of STV's engineering contract amendment no. 1 in the not-to-exceed amount of \$30,126.49 for Pennies 3 Program Project 11149-08j: Fort Mill Southern Bypass/Spratt Road Intersection Improvements

(7:31pm)

APPROVED [Unanimous]

MOVANT: Michael Johnson

SECOND: Christi Cox

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

Consent Agenda

(7:34pm)

APPROVED [Unanimous]

MOVANT: Michael Johnson

SECOND: William "Bump" Roddey

AYES: Johnson, Henderson, Winkler, Roddey, Cox, Blackwell, Williams

1. Approval of June 20, 2016 Regular Meeting Minutes

ACCEPTED [Unanimous]
MOVANT: Michael Johnson
SECOND: William "Bump" Roddey

2. Approval of June 20, 2016 Pennies for Progress Committee Minutes

ACCEPTED [Unanimous]
MOVANT: Michael Johnson
SECOND: William "Bump" Roddey

3. Approval of June 20, 2016 Finance & Operations Committee Minutes

ACCEPTED [Unanimous]
MOVANT: Michael Johnson
SECOND: William "Bump" Roddey

4. Approval of June 20, 2016 Transportation Committee Minutes

ACCEPTED [Unanimous]
MOVANT: Michael Johnson
SECOND: William "Bump" Roddey

5. Approval of June 20, 2016 County Council Meeting Minutes

ACCEPTED [Unanimous]
MOVANT: Michael Johnson
SECOND: William "Bump" Roddey

6. Approval of June 27, 2016 Finance & Operations Committee Minutes

ACCEPTED [Unanimous]
MOVANT: Michael Johnson
SECOND: William "Bump" Roddey

7. Approval of June 27, 2016 Special Called Meeting Minutes

ACCEPTED [Unanimous]

MOVANT: Michael Johnson

SECOND: William "Bump" Roddey

Committee and Other Reports

(7:34pm) Zoning Committee Meeting, July 18, 2016, 4:45pm, Chairman Bruce Henderson

(7:38pm) Finance & Operations Committee Meeting, July 18, 2016, 5:30pm, Chairman Michael Johnson

Council Member New/Non-agenda Comments

(7:41pm) Council member William "Bump" Roddey reminded everyone of the Police Meet and Greet scheduled for Tuesday, July 19, 2016 in downtown Rock Hill.

(7:43pm) Chairman Britt Blackwell asked Council and Staff to consider \$100,000 seed money for up to 20 officers that can receive a signing bonus of \$5,000 after all the required training and 1-2 years of service.

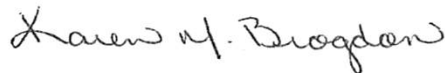
Executive Session

Personnel Matter: Treasurer/Finance Director Interviews and Receipt of Legal Advice

Matters for consideration following Executive Session

Adjourn

There being no further business, the meeting adjourned at 11:33pm.



Karen M. Brogdon, Clerk to Council

For Exhibit B, See R. p. 1667

For Exhibit C, See R. p. 1834

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)
)
Home Builders Association of South)
Carolina, Home Builders Association of)
York County, Soni Construction, Inc., and)
Shea Holmes, LLC,)
)
Plaintiffs,)
)
v.)
)
State of South Carolina, York County,)
Michael Johnson, Allison Love, Robert)
Winkler, William Roddey, Christi Cox,)
Britt Blackwell, and Chad Williams in their)
official capacity as Members of)
York County Council,)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS

C/A No. 2018-CP-46-02684

**PRE-TRIAL MEMORANDUM OF
STATE OF SOUTH CAROLINA**

The State of South Carolina submits this Pre-Trial Memorandum in support of its position pursuant to the Scheduling Order in this case.

BACKGROUND

Plaintiffs challenge the Developmental Impact Fee Act, S.C. Code Ann. §6-1-910, *et seq.* that permits government entities to impose such fees under the clear guidelines of the statute. They contend that the Act is “overbroad and vague and sets no limit to the amount of fees a governmental entity can charge” in violation of their procedural and / or substantive due process rights under S.C. Const. art. I, §III. They further assert that the Act “effects a taking without just compensation” under S.C. Const. art. I, §13, and the Fifth and Fourteenth Amendments of the United States Constitution. The Act contains no such violations.

In particular, Plaintiffs also challenge the York County Ordinance that increased the impact fee for the Fort Mill School District. The State of South Carolina did not enact the

ordinance at issue and does not implement or enforce it.

THE DEVELOPMENTAL IMPACT FEE ACT

Plaintiffs' challenge to the Act is surprising because the Act does the opposite of what they allege. It is neither overbroad nor vague and sets limits to the fees a local government may charge. It does not require local governments to impose a fee. Accordingly, it does not cause an unconstitutional taking or otherwise violate the State and Federal constitutions.

Subject to certain exceptions for special or public purpose districts not pertinent here, the Act bars any governmental entity from imposing a development impact fee unless it has adopted a comprehensive plan or capital improvements plan that is compliant with the Act. §6-1-930. Capital improvements plans are to be adopted by ordinance following public notice and a public hearing. §9-1-960 Among other provisions, §6-1-930 directs the following:

(A)(1) “[b]efore imposing a development impact fee on residential units, a governmental entity shall prepare a report which estimates the effect of recovering capital costs through impact fees on the availability of affordable housing within the political jurisdiction of the governmental entity” . . .

(B)(2) The amount of the development impact fee must be based on actual improvement costs or reasonable estimates of the costs, supported by sound engineering studies.

Section 6-1-980 of the Act caps the fee that may be charged as follows:

(A) The impact fee for each service unit may not exceed the amount determined by dividing the costs of the capital improvements by the total number of projected service units that potentially could use the capital improvement. If the number of new service units projected over a reasonable period of time is less than the total number of new service units shown by the approved land use assumptions at full development of the service area, the maximum impact fee for each service unit must be calculated by dividing the costs of the part of the capital improvements necessitated by and attributable to the projected new service units by the total projected new service units.

(B) An impact fee must be calculated in accordance with generally accepted accounting principles.

Section 6-1-990 also contains the following limits on the fee:

(A) The impact fee imposed upon a fee payor may not exceed a proportionate share of the costs incurred by the governmental entity in providing system improvements to serve the new development. The proportionate share is the cost attributable to the development after the governmental entity reduces the amount to be imposed by the following factors:

- (1) appropriate credit, offset, or contribution of money, dedication of land, or construction of system improvements; and
- (2) all other sources of funding the system improvements including funds obtained from economic development incentives or grants secured which are not required to be repaid.

(B) In determining the proportionate share of the cost of system improvements to be paid, the governmental entity imposing the impact fee must consider the:

- (1) cost of existing system improvements resulting from new development within the service area or areas;
- (2) means by which existing system improvements have been financed;
- (3) extent to which the new development contributes to the cost of system improvements;
- (4) extent to which the new development is required to contribute to the cost of existing system improvements in the future;
- (5) extent to which the new development is required to provide system improvements, without charge to other properties within the service area or areas;
- (6) time and price differentials inherent in a fair comparison of fees paid at different times; and
- (7) availability of other sources of funding system improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers, and special taxation.

Section 6-1-1000 provides that “[a] developer required to pay a development impact fee may not be required to pay more than his proportionate share of the costs of the project, including the payment of money or contribution or dedication of land, or to oversize his facilities for use of others outside of the project without fair compensation or reimbursement.”

Section 6-1-1030 sets forth the following appeals procedure:

A) A governmental entity which adopts a development impact fee ordinance shall provide for administrative appeals by the developer or fee payor.

(B) A fee payor may pay a development impact fee under protest. A fee payor making the payment is not estopped from exercising the right of appeal provided in this article, nor is the fee payor estopped from receiving a refund of an amount considered to have been illegally collected. Instead of making a payment of an impact fee under protest, a fee payor, at his option, may post a bond or submit an irrevocable letter of credit for the amount of impact fees due, pending the outcome of an appeal.

(C) A governmental entity which adopts a development impact fee ordinance shall provide for mediation by a qualified independent party, upon voluntary agreement by both the fee payor and the governmental entity, to address a disagreement related to the impact fee for proposed development. Participation in mediation does not preclude the fee payor from pursuing other remedies provided for in this section or otherwise available by law.

ARGUMENT

As stated in *State v. Neuman*, 384 S.C. 395, 402, 683 S.E.2d 268, 271 (2009):

This Court has a limited scope of review in cases involving a constitutional challenge to a statute because all statutes are presumed constitutional and, if possible, will be construed to render them valid.” *Curtis v. State*, 345 S.C. 557, 569, 549 S.E.2d 591, 597 (2001). “A ‘legislative act will not be declared unconstitutional unless its repugnance to the constitution is clear and beyond a reasonable doubt.’ ” *In re Treatment and Care of Luckabaugh*, 351 S.C. 122, 134–35, 568 S.E.2d 338, 344 (2002) (quoting *Joytime Distributions & Amusement Co. v. State*, 338 S.C. 634, 640, 528 S.E.2d 647, 650 (1999)). “A possible constitutional construction must prevail over an unconstitutional interpretation.” *Curtis*, 345 S.C. at 569–70, 549 S.E.2d at 597.

Plaintiffs have not and cannot meet these strict standards of showing unconstitutionality. The statute provides a formula for the calculation of fees that is proportional to the impact of the development, sets limits on the amount of fees that may be charged and does not in any way effect a taking under State or Federal law.

I**THE ACT DOES NOT EFFECT A TAKING OR ILLEGAL EXACTION****A****The Act Does Not Effect A Taking Because
It Does Not Direct That Impact Fee Ordinances Be Adopted**

“The mere enactment of legislation which authorizes condemnation of property cannot be a taking. Such legislation may be repealed or modified, or appropriations may fail.” *Danforth v. United States*, 308 U.S. 271, 286 (1939)(footnote omitted); *see also, Gorham v. Pub. Bldg. Auth. of City of Providence*, 612 A.2d 708, 715 (R.I. 1992)(“Certainly the Joslin Farm could not have been condemned by multiple authorities upon the statute's passage. Nothing contained therein mandates a taking as of the time of the statute's enactment; rather the appropriate authority is merely given the power to condemn certain parcels whenever it deems it to be necessary.”). Accordingly, the statute at issue does not take property. It simply sets up requirements for ordinances, but does not mandate that impact fees be adopted. Moreover, impact fees, themselves, as discussed below, are not subject to takings analysis.

B**Impact Fees Are Not Subject to Takings Analysis**

As stated by the United States Supreme Court in *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595, 615, (2013):

It is beyond dispute that “[t]axes and user fees ... are not ‘takings.’ ” *Brown, supra*, at 243, n. 2, 123 S.Ct. 1406 (SCALIA, J., dissenting). We said as much in *County of Mobile v. Kimball*, 102 U.S. 691, 703, (1881), and our cases have been clear on that point ever since. *United States v. Sperry Corp.*, 493 U.S. 52, 62, n. 9 (1989); *see A. Magnano Co. v. Hamilton*, 292 U.S. 40, 44 (1934); *Dane v. Jackson*, 256 U.S. 589, 599 (1921);

Henderson Bridge Co. v. Henderson City, 173 U.S. 592, 614–615 (1899). This case therefore does not affect the ability of governments to impose property taxes, user fees, and similar laws and regulations that may impose financial burdens on property owners.

The parties agree that the impact fee is not a tax. Whether it is a user fee need not be decided because the impact fee should fall under the above reference to “similar laws and regulations that may impose financial burdens on property owners” which are not takings. *Koontz* was cited for this point in a Maryland case holding that “[i]mpact fees imposed by legislation applicable on an area-wide basis are not subject to *Nollan* and *Dolan* scrutiny.” *Dabbs v. Anne Arundel Cty.*, 458 Md. 331, 357, 182 A.3d 798, 813, *cert. denied sub nom. Dabbs v. Anne Arundel Cty., Md.*, 139 S. Ct. 230 (2018).¹ Some law review articles have reached similar conclusions.² The Maryland Court affirmed the decision of the Court of Special Appeals that the takings clause did not apply to the impact fee at issue in that case. *Dabbs v. Anne Arundel Cty.*, 232 Md. App. 314, 334, 157

¹ “*Nollan v. California Coastal Comm’n*, 483 U.S. 825 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374, 1994), held that “a unit of government may not condition the approval of a land-use permit on the owner’s relinquishment of a portion of his property unless there is a ‘nexus’ and ‘rough proportionality’ between the government’s demand and the effects of the proposed land use.” *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595, 599 [*supra*]. *Dabbs* 182 A.3d at 806.

² “Legislatively determined impact or assessment fees, established outside the land-use permitting context, should not be subject to *Nollan/Dolan* scrutiny and should instead be tested under the applicable state law review standard” Shelley Ross Saxer, *When Local Government Misbehaves*, 2016 Utah L. Rev. 105, 166 (2016).

Koontz’s heightened scrutiny should apply only to “the special context of land-use exactions” during a permitting process--when there are administrative, individualized, monetary exactions, designed to replace a physical exaction--rather than extend to all regulatory monetary obligations. Legislatively determined monetary conditions (such as impact fees) are distinguishable and should be governed by state law review standards, such as deferential review, statutory review, or the dual rational nexus test. (emphasis added).

Keeping Current-Property, Prob. & Prop., September/October 2016, at 14, 17–18.

A.3d 381, 393 (2017).³ Accordingly, the Act does not create a taking under Federal or State law.

Of further guidance here is authority regarding assessments for street improvements under State law. As stated in *Newton v. Hanlon*, 248 S.C. 251, 260, 149 S.E.2d 606, 611 (1966):

It has long been recognized that the legislature has inherent power to authorize assessment of property within a special taxing district for the purpose of defraying in whole or in part the cost of constructing local improvements. *Evans v. Beattie*, 137 S.C. 496, 135 S.E. 538; *Rutledge v. Greater Greenville Sewer District*, 139 S.C. 188, 137 S.E. 597; *Distin v. Bolding*, 240 S.C. 545, 126 S.E.2d 649. In *Evans* and *Rutledge* the challenged assessment was in the form of an ad valorem tax; in *Distin* it was a sewer service charge in addition to the ad valorem assessment. In our opinion the frontage assessment here challenged involves no different principle and presents no violation of the constitutional provisions which the appellants invoke. For, as pointed out in the circuit court's decree, the particular basis to be employed in apportioning a special assessment is a matter for determination by the legislature and is immune from attack on constitutional grounds unless it is palpably arbitrary. The general rule, as stated in 48 Am.Jur., Special or Local Assessments, Section 67, page 622, is that 'the front footage of property on a street on or in which a public improvement is constructed may be made the basis of apportionment of a special or local assessment to finance such improvement without constituting a taking of property for a public use without compensation, a deprivation of property without due process of law, or in any other respect a violation of the Fourteenth Amendment or of any other part of the Federal Constitution.' (emphasis added).

Newton v. Hanlon, 248 S.C. 251, 259–60, 149 S.E.2d 606, 611 (1966). See also, *Hedeman v. Postell*, 250 S.C. 515, 522, 159 S.E.2d 230, 233 (1968) (“Our holdings in *Newton v. Hanlon*, *supra*, are therefore equally applicable to the legislation here involved and sustain the validity of the provisions which authorize the imposition of front foot assessments against the abutting properties to defray the cost of installing the water lines.”); 48 Am.Jur., Special or Local Assessments, Section 67, page 622. When the above apportionments of street assessments are

³ “[T]he impact fees at issue here were imposed by legislative enactment, and do not require landowners to deed portions of their property to the County. Moreover, appellants cannot claim ‘that the impact tax’ here ‘compel[s] the property owner to suffer a physical “invasion” of his property,’ or ‘denies all economically beneficial or productive use of land.’ Id. at 40–41, 650 A.2d 712. Therefore, as the Court of Appeals concluded in *Waters Landing*, we similarly hold that ‘the Takings Clause being inapplicable, Dolan does not affect our decision.’ Id. at 41, 650 A.2d 712.” *Dabbs v. Anne Arundel Cty.*, 157 A.3d at 393. (emphasis added).

valid under State law, the statutory provisions for proportional impact fees are constitutional also.

Although Plaintiffs alleged that they are deprived of economically viable use of their property, the allegations are made as to the Ordinance, not the statute.⁴ The statute deprives them of nothing because it does not require that any fee be adopted. Moreover, the fee statute at issue here is not “palpably arbitrary.” *Newton*. Instead, quite to the contrary, the statute sets forth a strict set of detailed requirements for the adoption of a fee, as discussed above, from planning to proportionality. Therefore, consistently with *Koontz*, the Act does not effect a taking under State law.

Plaintiffs have not alleged that its property will have no value with the assessment of an impact fee imposed in accordance with the statute. *BellSouth Telecommunications, Inc. v. City of Orangeburg*, 337 S.C. 35, 45, 522 S.E.2d 804, 809 (1999).⁵ See also, *Sea Cabins on Ocean IV Homeowners Ass'n, Inc. v. City of N. Myrtle Beach*, 345 S.C. 418, 430, 548 S.E.2d 595, 601 (2001).⁶ Therefore, they cannot establish a taking under State as well as Federal law.

⁴ Plaintiffs cite *Byrd v. City of Hartsville*, 365 S.C. 650, 660, 620 S.E.2d 76, 81 (2005) as to temporary loss of part of the economically viable use of property, but it is a zoning case, not a fee case such as the instant suit. Under *Newton*, the impact fee statute is not a taking.

⁵ “*BellSouth* contends the forced imposition of the franchise fees constitutes a taking of property without just compensation in violation of due process. There is no evidence the imposition of these fees will force BellSouth to abandon its franchise or that its property would retain no value if the franchise is terminated. BellSouth has failed to show a taking in this case. See *Long Cove Club Assoc. v. Town of Hilton Head Island*, 319 S.C. 30, 458 S.E.2d 757 (1995) (no taking of personal property if property retains some value).” *Id.*

⁶ “[I]f state law so regulates property that it loses all economic value, there is a taking for which just compensation is due. See *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992) (taking occurs where owner of real property has been called upon to sacrifice all economically beneficial or productive use of property in the name of the common good).” *Id.*

B**The Act Does Not Effect A Taking Under *Nollan / Dolan* Scrutiny**

Nollan / Dolan scrutiny does not even apply here. “*Nollan v. California Coastal Comm’n*, 483 U.S. 825(1987), and *Dolan v. City of Tigard*, 512 U.S. 374 (1994) held that a unit of government may not condition the approval of a land-use permit on the owner’s relinquishment of a portion of his property unless there is a ‘nexus’ and ‘rough proportionality’ between the government’s demand and the effects of the proposed land use.” *Koontz*, 570 U.S. at 599. *Koontz* held that *Nollan / Dolan* scrutiny must be applied to a Florida water management district’s denial of land use permits unless the applicant either deeded a conservation easement or funded mitigation projects on public property. *Anne Arundel* distinguished generally applicable impact fees, such as those permitted by the South Carolina Act, from the application conditions for a specific piece of property at issue in *Koontz*. Citing numerous cases in its footnote 21, *Anne Arundel* concluded that “[i]mpact fees imposed by legislation applicable on an area-wide basis are not subject to *Nollan* and *Dolan* scrutiny.” 182 A. 3d at 813. Here, the Act is a decision of our General Assembly applicable statewide, permitting the adoption of impact fees when the conditions set forth in the Act are met. As such, the statute is not subject to *Nollan / Dolan* scrutiny.

Even if, *arguendo*, *Nollan / Dolan* scrutiny applied here, the Act would more than satisfy that requirement of a “nexus” and “rough proportionality.” *Koontz*, 570 U.S. at 599. The Act expressly requires proportionality. As set forth above, §6-1-990 (A) states that “[t]he impact fee imposed upon a fee payor may not exceed a proportionate share of the costs incurred by the governmental entity in providing system improvements to serve the new development.” Section B of that section sets forth factors that must be considered in “determining the proportionate

share.” As stated in *Koontz*, “state law normally provides an independent check on excessive land use permitting fees” (570 U.S. at 618). The Developmental Impact Fee Act provides such a check and meets *Nollan / Dolan* standards.

C

A Fixed Cap Is Not Required For Impact Fees But The Legislation, In Effect, Sets A Cap Based Upon Proportionality And Other Factors

The crux of Plaintiffs’ claim that the Developmental Impact Fee Act is unconstitutional is their contention that it lacks “a definitive dollar-amount cap.” Their claim fails because they cite no authority requiring a fixed dollar cap for such fees, and such a cap is not required. Instead, as outlined above, the fees are capped in effect in that the legislation imposes a structure that necessarily ensures that the fee will be proportional to the actual impact on reasonable services. In addition to the capital improvements plan that must be developed, the Act imposes the following limits on the fee:

- The amount of the development impact fee must be based on actual improvement costs or reasonable estimates of the costs, supported by sound engineering studies. §6-1-930 (B)(2)
- Section 6-1-980 of the Act caps the fee that may be charged under the following formula:
 - (A) The impact fee for each service unit may not exceed the amount determined by dividing the costs of the capital improvements by the total number of projected service units that potentially could use the capital improvement. If the number of new service units projected over a reasonable period of time is less than the total number of new service units shown by the approved land use assumptions at full development of the service area, the maximum impact fee for each service unit must be calculated by dividing the costs of the part of the capital improvements necessitated by and attributable to the projected new service units by the total projected new service units.
- Section 6-1-990 also contains the following limits on the fee:
 - (A) The impact fee imposed upon a fee payor may not exceed a proportionate share of the costs incurred by the governmental entity in providing system improvements to serve

the new development. The proportionate share is the cost attributable to the development after the governmental entity reduces the amount to be imposed by the following factors:

- (1) appropriate credit, offset, or contribution of money, dedication of land, or construction of system improvements; and
 - (2) all other sources of funding the system improvements including funds obtained from economic development incentives or grants secured which are not required to be repaid.
- Section 6-1-1000 provides that “[a] developer required to pay a development impact fee may not be required to pay more than his proportionate share of the costs of the project, including the payment of money or contribution or dedication of land, or to oversize his facilities for use of others outside of the project without fair compensation or reimbursement.”

Therefore, although the statute does not impose a fixed dollar amount as a cap, the Act sets a cap based on proportionality in that the fee must be a proportionate share of the cost of system improvement and numerous factors are components of that calculation. Applicable case law does not require more of a cap.

II

OVERBREADTH DOCTRINE DOES NOT APPLY

The overbreadth doctrine does not apply to this case because Plaintiffs raise no First Amendment claims. “Overbreadth is a challenge predicated on the First Amendment, and cannot be used except where the statute arguably suppresses protected speech or conduct.” *Town of Mount Pleasant v. Chimento*, 401 S.C. 522, 534, 737 S.E.2d 830, 838 (2012).

III

THE ACT IS NOT VAGUE

The party seeking to invalidate the statute has the burden of proving beyond a reasonable doubt that the statute violates some provision of the constitution”. *Town of Mount Pleasant v. Chimento*, 401 S.C. 522, 541, 737 S.E.2d 830, 842 (2012). Plaintiffs point to no part of the

statute that they consider confusing or “vague.” The statute is clear on its face.

“[W]hen raising a claim of unconstitutional vagueness, the litigant must demonstrate that the challenged statute is vague as applied to his own conduct, regardless of its potentially vague application to others. *S.C. Dep't of Soc. Servs. v. Michelle G.*, 407 S.C. 499, 507, 757 S.E.2d 388, 393 (2014). Plaintiffs do not allege that the statute is vague as to them, but even if they did, their argument fails. As the Supreme Court has stated regarding other legislation, “a person of reasonable intelligence would understand the statute.” *Town of Mount Pleasant v. Chimento*, 401 S.C. 522, 535, 737 S.E.2d 830, 839 (2012). Although not ruling on vagueness, the Supreme Court certainly appears to have understood how the Act at issue operates as in the following:

“[t]he [Developmental Impact Fee] Act provides for the calculation of impact fees in several provisions. Section 6–1–940(1) requires that the ordinance include an explanation of the calculation of the fee. Section 6–1–930(B)(2) provides that the amount of the fee “must be based on actual improvement costs or reasonable estimates of the costs, supported by sound engineering studies.” Section 6–1–990 limits the impact fee to a proportionate share of the cost of improvements. Finally, § 6–1–980 provides . . . [for calculation of the impact fee including the provision that] [t]he impact fee for each service unit may not exceed the amount determined by dividing the costs of the capital improvements by the total number of projected service units that potentially could use the capital improvement.”

Charleston Trident Home Builders, Inc. v. Town Council of Town of Summerville, 369 S.C. 498, 507–08, 632 S.E.2d 864, 869 (2006).

Reasonable certainty in the enactment of statutes is required, and a statute which is so vague or indefinite that it cannot be executed will be declared void. *Gould v. Barton*, 256 S.C. 175, 185, 181 S.E.2d 662, 666 (1971). The Act clearly meets these standards of “reasonable certainty.”

IV

THE ACT DOES NOT VIOLATE THE DUE PROCESS CLAUSE

The only reason that Plaintiffs give for the Act's alleged violation of due process in the Amended Complaint is the absence of a monetary cap, overbreadth and vagueness all of which are addressed above. Although their Memorandum raises the theoretical specter of fees of "40%, 50%, or any number"(p. 12), such fees have no grounding in the workings of the statute. "The impact fee imposed upon a fee payer may not exceed a proportionate share of the costs incurred by the governmental entity in providing system improvements to serve the new development." The fee at issue in this case does not come anywhere close to the levels about which Plaintiffs speculate.

V

THE STATE OF SOUTH CAROLINA DID NOT ENACT THE ORDINANCE AT ISSUE AND DOES NOT IMPLEMENT OR ENFORCE IT.

Plaintiffs have failed to state facts sufficient to constitute a cause of action as to the State as to the Ordinance. The State did not enact the ordinance, require its passage or enforce it. The State did not adopt the ordinance at issue. York County did. Therefore, Plaintiffs have stated no cause of action against the State as to the Ordinance.

VI

OTHER DEFENSES

The State's Answer preserves defenses of lack of standing, failure to exhaust administrative remedies and various equitable defenses. To the extent that the Defendant York County establishes any of these defenses, they would also apply to defeat Plaintiffs' declaratory judgment claim against the State. The State preserves all of those defenses.

The State's Answer sets forth several affirmative defenses some of which are applicable

to Plaintiffs' damage claims that are not being addressed in the declaratory judgment phase of this case. The State preserves all of those defenses if any issues remain in this case after this Court rules on the declaratory judgment claim.

WITNESSES AND EXHIBITS

Because the issue as to the State is the question of law as to the validity of the statute, the State does not plan to call witnesses or introduce exhibits at the trial of the declaratory judgment phase of this case; however, to the extent necessary, the State reserves the right to rely on any exhibits and witnesses offered by the Defendant York and the stipulation of the Plaintiff and York. The State also reserves the right to add exhibits and witnesses before trial.

OTHER MATTERS FOR CONSIDERATION

The State reserves the right to join in any motions made by York such as motions in limine.

CONCLUSION

For the foregoing reasons, the State of South Carolina respectfully requests that this Court grant judgment to the State as to Plaintiffs' declaratory judgment claim and uphold the validity of the Developmental Impact Fee Act.

Respectfully submitted,

/s J. EMORY SMITH, JR.
S.C. Bar No. 5262
Deputy Solicitor General

[Signature block continues next page]

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October 9, 2019

ATTORNEYS FOR THE DEFENDANT STATE

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF YORK)	CASE NO.: 2018-CP-46-02684
)	
Home Builders Association of)	
South Carolina, Home Builders)	
Association of York County,)	
Soni Construction, Inc., Shea)	
Investment Fund 2, LLC, and Shea)	
Investment Fund 3, LLC,)	
)	
Plaintiffs,)	PLAINTIFFS' MEMORANDUM
)	IN REPLY TO THE BRIEF
)	OF YORK COUNTY
v.)	
)	
State of South Carolina and York)	
County,)	
)	
Defendants.)	
_____)	

Plaintiffs Home Builders Association of South Carolina, Home Builders Association of York County, Inc., Soni Construction, Inc., Shea Investment Fund 2, LLC, and Shea Investment Fund 3, LLC, submit this Memorandum in reply to the Brief of Defendant York County (“York”).

I. ARGUMENT¹

A. Plaintiffs have standing to challenge the Ordinances and the Act.

York first asserts that there is no justiciable case or controversy because the defendants have no standing. York claims that while Shea Investment Funds 2 and 3 (collectively “Shea”)

¹ Plaintiffs’ also incorporate by reference the additional arguments made in in the Memorandum in Reply to the Brief of the State.

own property in the district subject to the impact fee, the impact fees were actually paid by Shea Builders, LLC.

In his deposition, John Shea testified that they had “gone back and forth on that” indicating the fees were paid by either the Investment Fund LLCs or Shea Builders. Exhibit 2 to Mr. Shea’s deposition clearly shows property owned by Shea for which the impact fee has been paid. In other words, there is no dispute that multiple properties owned by Shea prior to the passage of the impact fee ordinance at issue in this case are subject to the new impact fee, regardless of which Shea entity pays it. That fact alone is sufficient to convey standing for a declaratory judgment. The South Carolina declaratory judgment act only requires that “Any person interested under a deed, will, written contract or other writings constituting a contract or whose rights, status or other legal relations are affected by a **statute, municipal ordinance, contract or franchise may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.**” S.C. Code Ann. § 15-53-30 (emphasis added). Obviously, Plaintiffs’ rights are affected by the Act and the Ordinances in this matter. Moreover, even if Plaintiffs have not been injured by paying the fee yet, standing can be conveyed when “there is immediate danger a direct injury will be sustained.” *Sloan v. Wilkins*, 362 S.C. 430, 436, 608 S.E.2d 579, 582–83 (2005). In order to build on any of their lots, Plaintiffs will have to pay the impact fee and thus, they are in immediate danger of direct injury. Prior to the new impact fee, many home builders already had developments in progress, with costly infrastructure in place. The home builders obtained as many permits as possible under the

old impact fee, but some lots were subject to the new fees. With infrastructure already in place, these developers had no choice but to continue the development by paying increased impact fees, sustaining direct injury.

In addition, other members of the Home Builders Association of South Carolina and Home Builders Association of York County, Inc. have paid the new impact fee. Thus, these two plaintiffs have associational standing. “An organization has standing on behalf of its members if one or more of its members will suffer an individual injury by virtue of the contested act.”

Charleston Trident Home Builders, Inc. v. Town Council of Town of Summerville, 369 S.C.

498, 502, 632 S.E.2d 864, 866 (2006). York argues that the associational standing cannot apply

in the context of a taking. Relying on Dunes W. Golf Club, LLC v. Town of Mount Pleasant,

401 S.C. 280, 315, 737 S.E.2d 601, 620 (2013), York claims that a taking must be determined

based on the on the “particular circumstances of each case.” However, that case involved a

zoning ordinance which imposed land-use restrictions on all golf course properties in Mount

Pleasant, permitting only recreation and conservation uses. Dunes West, 401 S.C. at 287, 737

S.E.2d at 604. Dunes West sought rezoning to carve out certain parcels as home sites, and the

request was denied. That case did not involve a uniform fee applicable to all property in the area,

but instead considered the effect of the ordinance on a specific use by a one specific developer.

Moreover, that case did not address associational standing. The Dunes West case does not apply

to this matter.

Finally, Plaintiffs have standing under the “Sloan” line of cases. Generally, “a private individual may not invoke the judicial power to determine the validity of an executive or

legislative act unless the private individual can show that, as a result of that action, a direct injury has been sustained, or that there is immediate danger a direct injury will be sustained.” Sloan v. Wilkins, 362 S.C. 430, 436, 608 S.E.2d 579, 582–83 (2005); Sloan v. Dep't of Transp., 379 S.C. 160, 169, 666 S.E.2d 236, 241 (2008). However, “the rule [of standing] is not an inflexible one.” Thompson v. South Carolina Comm'n on Alcohol & Drug Abuse, 267 S.C. 463, 467, 229 S.E.2d 718, 719 (1976). Our courts have repeatedly held that “[s]tanding may be conferred upon a party when an issue is of such public importance as to require its resolution for future guidance.” Sloan v. Dep't of Transp., 379 S.C. 160, 170, 666 S.E.2d 236, 241 (2008)(internal quotations omitted); Sloan v. Greenville Cty., 356 S.C. 531, 548, 590 S.E.2d 338, 347 (Ct. App. 2003). The impact fee at issue is the first school impact fee imposed after the 2016 amendments to S.C. Code 6-1-910, et seq., and other counties are considering similar ordinances. Gooch Dep. 76:16-21. Thus, the issue is one of great public importance and a ruling is needed for future guidance.

B. Plaintiffs are not required to exhaust administrative remedies.

York next argues that that Plaintiffs have failed to exhaust administrative remedies. In Charleston Trident Home Builders, Inc. v. Town Council of Town of Summerville, 369 S.C. 498, 632 S.E.2d 864 (2006), the court found that the plaintiff was not required to exhaust administrative remedies prior to challenging town's development impact fee ordinance where administrative relief provided for in the ordinance did not extend to the right to challenge the validity of the ordinance itself. While York acknowledges the Charleston Trident holding, it argues that that ruling was limited to situations that cannot be ruled upon by an administrative

body. York does not explain how an administrative body in this case can address Plaintiffs' challenge to the validity and constitutionality of the Ordinances and the Act. In fact, Charleston Trident actually addressed the issue, finding no exhaustion requirement "where administrative relief provided for in the ordinance did not extend to the right to challenge the validity of the ordinance itself." Charleston Trident Home Builders, Inc. v. Town Council of Town of Summerville, 369 S.C. 498, 632 S.E.2d 864 (2006). In addition, as our Supreme Court has previously recognized:

Generally, the legislature will not require a futile act. Thus, a generally recognized exception to the requirement of exhaustion of administrative remedies exists when a party demonstrates that pursuit of them would be a vain or futile act.

Ward v. State, 343 S.C. 14, 19, 538 S.E.2d 245, 247 (2000). In Ward, the court held that "[r]equiring a party to go before an agency or ALJ who cannot rule on the constitutionality of a statute would be a futile act." Id. Here, requiring Plaintiffs to seek an appeal and/or mediation for an impact fee that Plaintiffs assert is invalid and unconstitutional would be futile.

C. The Act is both constitutionally overbroad and vague.

In their initial Memorandum, Plaintiffs set forth in detail the constitutional violations at issue here (see Plaintiffs' Memorandum, pp. 9-14), and those arguments are incorporated herein. In addressing those arguments, York asserts that the Act here cannot be constitutionally overbroad because Plaintiff has not asserted any First Amendment claims. However, as noted in the Yale Law Journal, overbreadth can arise in other contexts:

The Court, in the not-too-distant past, has rested squarely on overbreadth grounds in holding statutes that infringe too far on fundamental rights to be facially invalid. See, e.g., Planned Parenthood of Mo. v. Danforth, 428 U.S. 52, 81-84 (1976) (upholding facial challenge to state statute regulating abortion); Aptheker

v. Secretary of State, 378 U.S. 500, 516 (1964) (finding overbreadth analysis proper where a statute encroaches on the right to travel, a personal liberty protected by the Bill of Rights").

Fallon, Richard J. Making Sense of Overbreadth, 4 Yale Law J. 100, Fn 29 (1991). Of course, the right to own property without it being taken by the government is a fundamental right as set forth in the Due Process Clause of the United States Constitution.

York's argument that the Act is not vague because it provides a formula for an impact fee must also fail. Under the tenets of due process, an ordinance is unconstitutionally vague under a void-for-vagueness analysis when it does not clearly define what acts are prohibited under it.

Viviano v. Sandusky, 2013-Ohio-2813, 991 N.E.2d 1263.

Here, on its face, the Act does not define a maximum fee. York claims that, under the Act, the fee has to be limited to the proportionate share of the costs of the new project. However, York does not dispute that there is no cap as to the dollar amount or percentage of increase in the fee. York claims this was "by design" to allow counties flexibility; however, in effect, the Act allows counties to have an impact fee in an unlimited amount. This "design" is the cause of the vagueness.

D. Home rule does not allow a county to impose excessive and arbitrary fees that effect a taking.

While the Home Rule Act may give counties broad powers, it does not permit a county to impose an arbitrary and excessive fee or effect a taking. In fact, one of the cases York cites as affirming a county road maintenance fee notes that the fee is permitted "*where it is a fair and reasonable alternative* to increasing the general property tax...." Brown v. Cty. of Horry, 308

S.C. 180, 181, 417 S.E.2d 565, 566 (1992). Here, the impact fee (one of the highest in the nation) increased 700% and is clear not a “fair and reasonable” fee.²

E. York failed to substantially comply with the requirements of the Act.

York County claims that it has substantially complied with the Act and thus, the Ordinance is valid. York argues that the housing affordability analysis was included to insure that York County Council considered that factor in passing the Ordinance. However, as shown the testimony of Carson Bise (and the multiple drafts of the Study), Tischler Bise manipulated the data on affordability. As set forth in detail in Plaintiffs’ initial Memorandum, the Tischler Bise Study had eight drafts before the final one. In the first two drafts, the Study included an analysis of housing affordability (both with and without the imposition of an impact fee), but the analysis was skewed because it included both Fort Mill and Tega Cay, and Tega Cay has, *inter alia*, a higher income than Fort Mill. Moreover, none of the eight drafts which determined the maximum amount of impact fees were based on or supported “by sound engineering studies” as required by S.C. Code Ann. § 6-1-930(B)(2). In the draft of the Study that carved out the housing affordability analysis into three separate sections – Fort Mill, Tega Cay, and unincorporated York County—the cost burden for both owner-occupied housing and renter-occupied housing significantly increased. For no reason that Mr. Bise could explain, the affordability analysis was then combined in the later drafts, thus giving the impression that the affordability analysis was

² The York County Council did not even consider gradually phasing in the increase.

manipulated to have a lower cost burden. Thus, York County Council did not have the true picture of the impact fee's effect on housing affordability.

“Substantial compliance requires compliance in respect to the essential matters necessary to assure every reasonable objective of the statute.” Sabatini v. Jayhawk Const. Co., Inc., 520 P.2d 1230, 1234 (Kan.1974), cited with favor in Responsible Econ. Dev. v. Florence Consol. Mun. Planning Comm'n, No. 2005-UP-584, 2005 WL 7084861, at *4 (S.C. Ct. App. Nov. 16, 2005). It is apodictic that substantial compliance cannot meet the objectives of the Act when it includes a study in which data has been manipulated.

York also asserts that it has substantially complied with the Act's requirement that the report/fee be based on “sound engineering studies.” York relies on Charleston Trident, *supra*. However, in that case, it was clearly stated that the cost estimates were provided by “the Town engineer.” Id., 369 S.C. at 510. Here, Mr. Bise provided no cost estimates by an engineer that formed the basis for the Study.³ In fact, he acknowledged there was no engineering study done specifically for the Study. Bise Dep. 51:20-52:9. The only documents York has submitted since that time are two studies done for 1996 impact fee and some estimates from Cumming Construction done in anticipation of the 2018 bond referendum.⁴ However, neither the 1996 studies nor the bond referendum analysis are sufficient to comply with the Act's requirement of “sound engineering studies.” York's to comply with state law in passing the ordinance

³ In the deposition subpoena to Mr. Bise, Plaintiffs requested that he bring his entire file to the deposition. Mr. Bise failed to do so, but provided his file a week or so later. No engineering reports or estimate were included in that production.

⁴ These information was not provided until September 17, 2019 (after Plaintiffs had submitted their initial Memorandum).

constitutes a violation of procedural due process. (*Cf.* “...the concept that it is unlawful for an agency to fail to follow its own rules is basically rooted in procedural due process...” Effect of procedural rules, Michigan Administrative Law § 4:22).

F. The Ordinance does impose a taking on home builders.

Finally, the impact fee does impose a taking and/or an extraction in violation of the state and federal Constitutions. Contrary to York’s claim, the home builders’ use of their property has been negatively affected by the imposition of the 2018 fee. In fact, Plaintiffs’ expert Jenifer Gooch⁵ provided a report that explained: “Currently, Fort Mill’s new home units under construction has dropped 21.8% from the 1Q to 2Q of 2019 and is down 28.7% year over year.” Gooch Dep. Ex.5. Ms. Gooch also testified at her deposition that either the consumer or the builder ultimately has to pay the impact fee and that “[r]ight now the builder is paying it.” Gooch Dep.87:5-8. While York claims that the impact fees are passed on the home buyers, that is not accurate where the fee is an excessive amount as in this case. As Ms. Gooch explained: “The effect of the impact fee has been felt most severely amount the builders who were in the middle of development when the district implemented the fee. As of 3Q19, there are 181 available floor plans in 19 active communities, only 19 plans have raised prices enough to cover the entire impact fee (slide 43). The average new home added \$5,670 to its list price over the last twelve months leaving the rest of the fee to be paid for by the builder.” Gooch 3Q Report.

⁵ Ms. Gooch has a Masters of Science in Real Estate Development and Finance and is the Regional Director for Metrostudy/Myers Research, a national residential real estate data provider. As part of employment, Ms. Gooch analyzes the Charlotte and surrounding areas new home market. Gooch Dep. Ex. 2.

York also incorrectly asserts that there has been no interference with the investment based expectations of the home builders because an impact fee had been in place since 1996. Of course, that fee was set at \$2500.00 and remained that way until 2018. The expectations of the builders are economically based and a 700% increase in the impact fee is obviously not a reasonable expectation.

For all of the reasons herein, and in the original Memorandum submitted by Plaintiffs, declaratory judgment should be entered in Plaintiffs' favor.

II. ADDITIONAL EXHIBITS FOR TRIAL

Jenifer Gooch's report and presentation on the New Home Market Update, 3rd Quarter of 2019.

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November 1, 2019

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)
)
Home Builders Association of)
South Carolina, Home Builders)
Association of York County,)
Soni Construction, Inc., Shea)
Investment Fund 2, LLC, and Shea)
Investment Fund 3, LLC,)
)
Plaintiffs,)
)
v.)
)
State of South Carolina and York)
County,)
)
Defendants)
_____)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2018-CP-46-02684

**PLAINTIFFS' MEMORANDUM
IN REPLY TO THE BRIEF
OF STATE OF SOUTH
CAROLINA**

Plaintiffs Home Builders Association of South Carolina, Home Builders Association of York County, Inc., Soni Construction, Inc., Shea Investment Fund 2, LLC, and Shea Investment Fund 3, LLC, submit this Memorandum in reply to the Brief of Defendant State of South Carolina.

I. ARGUMENT¹

A. The South Carolina Development Impact Fee Act is the enabling legislation that effects the taking.

¹ Plaintiffs' also incorporate by reference the additional arguments made in in the Memorandum in Reply to the Brief of York County.

The South Carolina Development Impact Fee Act, S.C. Code 6-1-910, et seq. (“the Act”) creates the taking by enabling counties to impose excessive and capricious impact fees. The State tries to distance itself from the taking, claiming that it did not require counties to impose impact fees, but that it only allowed them to do so. However, permissive legislation can still be unconstitutional. Cf., Williams v. Blue Cross Blue Shield of N. Carolina, 357 N.C. 170, 190, 581 S.E.2d 415, 429 (2003) (court rejected claim that because the legislation merely gave county the option of adopting an ordinance, it was valid). Without the Act, York County (“York”) would not have been able to impose a school impact fee. Thus, as the mechanism by which a taking has been effected, the Act itself is unconstitutional.

B. The impact fee is subject to a takings analysis.

Citing Koontz v. St Johns River Water Mgmt. Dist., 570 U.S. 595 (2013), the State claims that impact fees are not subject to a takings analysis. (State’s Brief, p. 6). The State claims that impact fees fall into the category of “similar laws and regulations that may impose financial burdens on property owners” for which governments have unfettered power to impose. The State’s argument is based on a Maryland case that stated *Nollan/Dolan*² scrutiny did not apply to an impact fee and the opinion of author of a law review article. However, in Koontz v. St Johns River Water Mgmt. Dist., 570 U.S. 595 (2013) – the case upon which the Maryland case relied – did not necessarily go that far. In fact, the court in Koontz stated: “The government’s demand for

² Nollan v. California Coastal Comm’n, 483 U.S. 825 (1987) and Dolan v. City of Tigard, 512 U.S. 374 (1994) are cases involving takings or extractions which held that the government may not condition the approval of a land use permit on the surrender of a portion of property unless the government can show there is both a “nexus” and “rough proportionality.” Because they are well-known in takings matter, often the abbreviated reference to “Nollan/Dolan” is used.

property from a land-use permit applicant must satisfy the *Nollan/Dolan* requirements even when its demand is for money.” Koontz, 570 U.S. at 597. That case also noted:

Finally, we disagree with the dissent's forecast that our decision will work a revolution in land use law by depriving local governments of the ability to charge reasonable permitting fees. Numerous courts—including courts in many of our Nation's most populous States—have confronted constitutional challenges to monetary exactions over the last two decades and applied the standard from *Nollan* and *Dolan* or something like it.

Id. at 618 (internal citations omitted). The majority in Koontz did not address the issue of whether legislatively applied exactions were also governed by *Nollan/Dolan*. Professor John Echeverria notes: “The majority opinion in Koontz is pointedly silent as to whether the ruling applies only to *ad hoc* fees or applies to fees imposed through general rules as well.” John D. Echeverria, Koontz: The Very Worst Takings Decision Ever?, 22 N.Y.U. Envtl. L.J. 1, 54 (2014). Thus, the State’s argument should be rejected; a legislatively imposed impact fee can be considered a taking.

The State also tries to distinguish this case from other takings cases in several other ways, noting, for example, that this case is different than where a government conditions a land-use permit on an owner’s relinquishment of a portion of his property. However, the majority in Koontz stated: “The government's demand for property from a land-use permit applicant must satisfy the *Nollan/Dolan* requirements even when its demand is for money.” Id. at 570. Therefore, even though the Plaintiffs’ real property is not being taken, a monetary exaction can also qualify as a taking.

While the State claims the necessary “nexus” and “rough proportionality” requirements under *Nollan/Dolan* are present, it ignores the fact that the new impact fee, with a 700% increase

over the old fee, will constrain the supply of new housing by pricing Plaintiffs out of the market. This increase is so egregious it shocks the conscience and by its mere unreasonableness it cannot comply with the *Nollan/Dolan* standards. As Plaintiff argued in their initial Memorandum, an assessment, fee or tax may be a taking if:

[T]he exaction is a flagrant abuse, and by reason of its arbitrary character is mere confiscation of particular property. **The abuse might also arise from unreasonable or excessive fees.**

Beechwood Devp., LLC, a Wisconsin limited liability company v. Olympus Terrace Sewer Dist., No. C05-0745-MJP, 2005 WL 1950255, at *3 (W.D. Wash. Aug. 15, 2005) (internal citations omitted, emphasis added).

D. The purported “cap” in the Act is insufficient.

The State claims that the Act sets up a structure so that the fee will be “proportional to the actual impact on reasonable services.” However, the counties are still provided with unfettered authority. In other words, as long as the counties claim costs of a certain amount (based on data which can be manipulated), there is no limit on the amount of the fee. The State does not dispute that the impact fee could be even higher than the \$18,758 fee imposed in this case.

E. The Act is both constitutionally overbroad and vague.

In their initial Memorandum, Plaintiffs set forth in detail the constitutional violations at issue here (see Plaintiffs’ Memorandum, pp. 9-14), and those arguments are incorporated herein. In addressing those arguments, the State asserts that the Act here cannot be constitutionally overbroad because Plaintiff has not asserted any First Amendment claims. However, as noted in the Yale Law Journal, overbreadth can arise in other contexts:

The Court, in the not-too-distant past, has rested squarely on overbreadth grounds in holding statutes that infringe too far on fundamental rights to be facially invalid. See, e.g., *Planned Parenthood of Mo. v. Danforth*, 428 U.S. 52, 81-84 (1976) (upholding facial challenge to state statute regulating abortion); *Aptheker v. Secretary of State*, 378 U.S. 500, 516 (1964) (finding overbreadth analysis proper where a statute encroaches on the right to travel, a personal liberty protected by the Bill of Rights").

Fallon, Richard J. *Making Sense of Overbreadth*, 4 *Yale Law J.* 100, Fn 29 (1991). Of course, the right to own property without it being taken by the government is a fundamental right as set forth in the Due Process Clause of the United States Constitution.

The State also argues that the Act is not vague because it is capable of being understood by a reasonable person. However, the vagueness is due to the absence of a monetary cap. The State argues that the absence of a monetary cap is not constitutionally vague (or overbroad) because the Act provides a formula to compute the fee. Under the tenets of due process, an ordinance is unconstitutionally vague under a void-for-vagueness analysis when it does not clearly define what acts are prohibited under it. *Viviano v. Sandusky*, 2013-Ohio-2813, 991 N.E.2d 1263. Here, there is no clear delineation of what fee would be prohibited as excessive. The State claims that, under the Act, the fee has to be limited to the proportionate share of the costs of the new project. However, the State does not dispute that there is no cap as to the dollar amount or percentage of increase in the fee. As such, the Act is inherently vague and allows a county to impose any amount fee as long as the county purports to have data justifying the costs—regardless of the impact on the builders and their property.

For all of the reasons herein, and in the original Memorandum submitted by Plaintiffs, declaratory judgment should be entered in Plaintiffs' favor.

II. ADDITIONAL EXHIBITS FOR TRIAL

Jenifer Gooch's report and presentation on the New Home Market Update, 3rd Quarter of 2019.

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Attorneys for Plaintiffs

Columbia, South Carolina

November 1, 2019

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Home Builders Association of South
Carolina, Home Builders Association of
York County, Soni Construction, Inc., Shea
Investment Fund 2, LLC, and Shea
Investment Fund 3, LLC,

Plaintiffs,

v.

State of South Carolina and York County,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No. 2018-CP-46-02684

**MOTION IN LIMINE OF DEFENDANT
YORK COUNTY**

Pursuant to Rule 104 and Rules 401-403, SCRE, Defendant York County (the “County”) hereby moves the Court for an order or orders excluding from the trial of this action all documentary evidence, witnesses, or testimony relating to the following:

1. Testimony or evidence purporting to show the intent of individual Council members with respect to the ordinances at issue. The County asks that this Court bar Plaintiffs from introducing evidence regarding the intent or motivations of individual Councilmembers because “[m]unicipal records properly authenticated or verified are the only competent evidence of the proceedings of the transactions of governing bodies” *Berkeley Electric Cooperative, Inc. v. Town of Mount Pleasant*, 308 S.C. 205, 208, 417 S.E.2d 579, 581 (1992). As a result, evidence from members of legislative bodies as to legislative matters may not to be admitted. *Id.*; *United States v. O'Brien*, 391 U.S. 367 (1968); *Horry Tel. Co-op., Inc. v. City of Georgetown*, 408 S.C. 348, 759 S.E.2d 132, (2014); *Bear Enterprises v. County of Greenville*, 319 S.C. 137, 459 S.E.2d 883 (Ct. App. 1995).
2. Any evidence barred by the enrolled bill rule. Under the enrolled bill rule, when presented with an ordinance that is proper on its face, this Court should not consider prior events in the legislative process. *Medical Soc. of South Carolina v. MUSC*, 334 S.C. 270, 513 S.E.2d 352 (1991), *see Baird v. Charleston Cty.*, 333 S.C. 519, 511 S.E.2d 69 (1999) (acknowledging the enrolled bill rule’s applicability in the context of a county ordinance, but finding it not relevant to that case).
3. Legal opinions. Matters of law are not appropriate for trial testimony. *Dawkins v. Fields*, 354 S.C. 58, 65, 580 S.E.2d 433, 437 (2003); *O’Quinn v. Beach Associates*, 272 S.C. 95, 107, 249 S.E.2d 734, 740 (1978). Pursuant to Rules 701, 702, and 704, SCRE,

the Defendants hereby move to exclude any testimony that would amount to a legal opinion.

4. Jennifer Gooch’s testimony should be excluded, or in the alternative, limited. Ms. Gooch is a purported expert as to the general “effect of the increase of the Fort Mill impact fees.” The proposed testimony must be excluded for lack of relevance and because it fails to meet the standards of Rules 403 and 702, SCRE. *See State v. White*, 382 S.C. 265, 676 S.E.2d 684 (2009) (“Nonscientific expert testimony must satisfy Rule 702, both in terms of expert qualifications and reliability of the subject matter.”). To the extent the Court allows Ms. Gooch to testify, any testimony relating to additional data and opinions produced after her deposition should be excluded.

5. Joseph Von Nessen may not present expert testimony. Dr. Von Nessen has not been identified as an expert in this matter, and therefore may not present testimony beyond his knowledge of the facts of this case.

6. General impact testimony. To the extent any witness seeks to provide general testimony about the after the effects of the Ordinances at issue or impact fees generally, such testimony should be excluded as irrelevant on the Declaratory Judgment claim.

The County reserves its right to present additional memoranda and arguments at the hearing on this matter.

Respectfully submitted,

By: s/ Sarah P. Spruill
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Forrester v. Smith & Steele Builders, 295 S.C. 504, 508, 369 S.E.2d 156, 158 (Ct.App. 1988).

Finally, the Court of Appeals has indicated that "delay alone, regardless of its length, is not enough to bar [a proposed amendment] if the other party is not prejudiced." *Potomac Leasing Co. v. Bone*, 294 S.C. 494, 497, 366 S.E.2d 26, 28 (Ct.App. 1988). Rule 17 states that each action shall be prosecuted in the name of the real party in interest.

Here, there was no bad faith and Defendants will not be prejudiced by the addition. Plaintiff Soni Construction, Inc. constructs commercial properties while Soni Homes, Inc. owns land in the Fort Mill School District No. 4 and constructs residential property. Both companies are solely controlled by Mukash Patel. Prior to October 2019, Soni Homes had not paid any increased impact fees as approved by Defendant York County in 2018.¹ However, Soni Homes has now paid the increased fee for the construction of a single-family residence and expects to pay one or two more in the coming weeks. The relationship between Soni Construction, Soni Homes, and Mr. Patel, (as well as property owned and impact fees paid or not paid) was fully explored by Defendants in Mr. Patel's August 2, 2019 deposition (Attachment 1 - Patel Dep. Excperts, pp. 9:14-18; 10:21-23; 12:23-13:5; 17:15-18:8; 35:16-18; Ex. 2). Thus, there will be no surprise or prejudice to Defendants by granting the Plaintiffs' motion to substitute Soni Homes as Plaintiff in place of Soni Construction (Attachment 2 – proposed Second Amended Complaint). In addition, Mr. Patel/Soni Homes have an interest in this matter and should not be impeded from protecting it.

¹ Soni Construction has also not yet paid the fee but is also subject to the fees for any commercial, multi-family construction.

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Attorneys for Plaintiffs

Columbia, South Carolina
December 5, 2019

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF YORK

- - -

Home Builders Association of South Carolina, Home Builders Association of York County, Soni Construction, Inc., and Shea Homes, LLC,	:	
	:	
Plaintiffs,	:	Civil Action No.:
	:	2018-CP-46-02684
vs.	:	
	:	
State of South Carolina and York County,	:	
	:	
Defendants.	:	

30 (b) (6) DEPOSITION OF SONI CONSTRUCTION
(Given by Mukesh Patel)

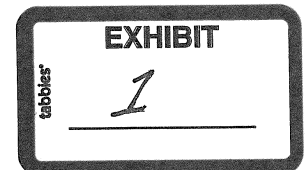
DATE TAKEN: July 31, 2019

TIME BEGAN: 1:30 p.m.

TIME ENDED: 2:35 p.m.

LOCATION: York County Government Center
6 South Congress Street
York, South Carolina

REPORTED BY: Tami I. Watters, RPR, CRR
EveryWord, Inc.
P.O. Box 1459
Columbia, South Carolina 29202
(803) 212-0012



ELECTRONICALLY FILED - 2019 Dec 05 11:00 AM - YORK - COMMON PLEAS - CASE#2018CP4602684

1 India.

2 Q Okay.

3 A In '78.

4 Q Okay.

5 A And I'm doing construction since -- and I
6 was employed by a firm in New York, and I moved
7 with my company, which was located in Lancaster.
8 And since 1987-88, I've been doing construction.

9 Q Okay. And when your company brought you
10 to Lancaster, have you lived in York County or did
11 you start out in Lancaster?

12 A I've lived in York County since the day I
13 moved in South Carolina.

14 Q Okay. And you mentioned that you'd been
15 in construction since the eighties. Can you tell
16 me the names of your construction-related
17 businesses?

18 A Soni Construction and Soni Homes.

19 Q Any others?

20 A No. There are companies not related to
21 construction.

22 Q Okay. Any other companies related to
23 home building in any way?

24 A No.

25 Q Okay. Are your businesses -- where are

1 they located?

2 A Fort Mill.

3 Q Okay. And do you have -- city of
4 Fort Mill?

5 A No. It's in the county.

6 Q Do those businesses have York County
7 business licenses?

8 A York County don't require business
9 license. Just by the state. City of Fort Mill
10 does.

11 Q And are you a licensed contractor?

12 A Yes, I am.

13 Q And how long have you held that license?

14 A I would say 25 plus years.

15 Q Okay. And your businesses, are you the
16 sole owner of those businesses?

17 A Yes, I am.

18 MR. BABCOCK: Let her finish before you
19 answer.

20 BY MS. SPRUILL:

21 Q You don't have any partners or other
22 owners in those businesses?

23 A No.

24 Q Tell me generally, what do you know about
25 the numbers of students attending schools in the

1 Q And when you say "in Charlotte" ...

2 A Because of the proximity of Charlotte.

3 Q Gotcha. What do you know about the
4 average -- just your estimate, what would be your
5 estimate of the average price of a new home in the
6 Fort Mill school district?

7 A I would say between 250, 2 million plus.

8 Q Okay. And has that price --
9 In the time you've been in the
10 construction business here in the York County area,
11 has that price increased over time?

12 A Yes.

13 Q And in your memory, did home prices take
14 a tumble in 2008-2009 with the general recession
15 that was experienced across the country?

16 A Dramatically.

17 Q And have those prices recovered?

18 A Not yet.

19 Q Not yet. What percentage --
20 How much room is there left before they
21 recover?

22 A I would say 10 percent.

23 Q And you mentioned two businesses and the
24 home business, Soni Construction and Soni Homes.

25 Do those two companies do the same thing?

1 A No.

2 Q So tell me what the distinction is
3 between those two companies.

4 A Soni Construction does commercial work
5 and Soni Homes does residential.

6 Q And when was the last time Soni Homes
7 sold a new home in the Fort Mill school district?

8 A Approximately 30 days ago.

9 Q Okay. What do you remember --
10 What was the sales price?

11 A 680.

12 Q And do you know -- I don't expect you to
13 know the exact street address, but can you tell me
14 roughly where the home is located?

15 A 981 Abilene Lane.

16 Q Wow. Excellent. And how long had that
17 house been under construction?

18 A Year and a half.

19 Q Do you know when the building permit was
20 pulled for that house?

21 A Don't exactly know, but I believe it's
22 2017. Late 2017.

23 Q Okay. And prior to the house at
24 981 Abilene Lane, when was the last home sale prior
25 to that?

1 A Yes.

2 Q And are those within the Stanton Heights
3 subdivision we were just talking about?

4 A Yes.

5 Q What about the Farm Lake Lane address?
6 What is that?

7 A That's a house under construction.
8 That's where I may decide to move in.

9 Q That's the one you were telling us you
10 were working on?

11 A Yes. Correct.

12 Q And what is that Chesterfield Canal?

13 A It's a lot I owned for the last 20-plus
14 years.

15 Q Okay. And I see that there is an et al.
16 there.

17 A Yeah. I had to give part ownership to my
18 sister.

19 Q Okay. And how did that come to be?

20 A She just wanted. I decided to do that
21 out of the goodness of my heart.

22 Q Okay.

23 A Without any consideration.

24 Q I've got the -- I've got the deed. We'll
25 talk about that in a minute.

1 first question is: Is there any relief you want
2 that isn't asked for in the complaint?

3 A Define relief, please.

4 Q The complaint asks for -- essentially
5 asks for the Development Impact Fee Act be declared
6 unconstitutional, the York County ordinance be
7 declared unconstitutional, and for damages for a
8 taking with respect to the impact fee.

9 Is there any -- and those are -- there
10 may be some other things in there, but that's
11 essentially the relief sought in the complaint.

12 Is there anything else you're looking for
13 as relief?

14 A No. We're not looking for compensation
15 or anything like that.

16 Q And has either Soni Construction or
17 Soni Homes paid the 2018 impact fee?

18 A No.

19 Q And the house you mentioned that was
20 currently under construction --

21 A That was permitted prior.

22 Q And that was my question. So that was
23 permitted under the \$2,500 fee that was in place
24 prior.

25 A Uh-huh.

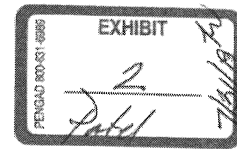
Parcel Results

Parcel ID #	Owner *	Property Address #	Legal Description #	Map
0317000135	SCHEIDT HOMES INC	2644 FARMHOUSE LN	LOT 91 PH 1-B CARDINWOOD DR	M40
2290221017	SCHEIDT HOMES INC	888 ABBLENE LN	LOT 9 STANTON HEIGHTS MAP# 2	M40
2290221038	SCHEIDT HOMES INC	894 ABBLENE LN	LOT 8 STANTON HEIGHTS MAP# 2	M40
2290221059	SCHEIDT HOMES INC	935 ABBLENE LN	LOT 28 STANTON HEIGHTS MAP# 2	M40
2290221087	SCHEIDT HOMES INC	919 ABBLENE LN	LOT 29 STANTON HEIGHTS MAP# 2	M40
2290221058	SCHEIDT HOMES INC	912 ABBLENE LN	LOT 30 STANTON HEIGHTS MAP# 2	M40
2290221019	SCHEIDT HOMES INC	900 ABBLENE LN	LOT 9 STANTON HEIGHTS MAP# 2	M40
2290221060	SCHEIDT HOMES INC	895 ABBLENE LN	LOT 9 STANTON HEIGHTS MAP# 2	M40
2290221041	SCHEIDT HOMES INC	882 ABBLENE LN	LOT 9 STANTON HEIGHTS MAP# 2	M40
2290221003	SCHEIDT HOMES INC ET AL	334 CHESTERFIELD CANYN	LOT 6 GRINGLEY ON THE HILL SUB	M40

11/11/2019 11:00 AM



ELECTRONICALLY FILED - 2019 Dec 05 11:00 AM - YORK - COMMON PLEAS - CASE#2018CP4602684



STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)
)
Home Builders Association of)
South Carolina, Home Builders)
Association of York County,)
Soni Homes, Inc., Shea)
Investment Fund 2, LLC, and Shea)
Investment Fund 3, LLC,)
)
Plaintiffs,)
)
v.)
)
State of South Carolina and York)
County,)
)
Defendants)
_____)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2018-CP-46-02684

**SECOND
AMENDED COMPLAINT**
(Jury Trial Requested)

Plaintiffs Home Builders Association of South Carolina, Home Builders Association of York County, Inc., Soni Homes, Inc., Shea Investment Fund 2, LLC and Shea Investment Fund 3, LLC respectfully bring this action against State of South Carolina and York County, and would show this Court the following:

PARTIES - PLAINTIFFS

1. Plaintiff Home Builders Association of South Carolina is a non-profit corporation organized and existing under the laws of South Carolina. Plaintiff’s members are builders of residential homes in South Carolina, including York County and the town of Fort Mill.
2. Plaintiff Home Builders Association of York County, Inc. is a non-profit corporation organized and existing under the laws of South Carolina. Plaintiff’s members are builders of residential homes in York County, South Carolina, including the town of Fort Mill.

3. Plaintiff Soni Homes, Inc. is a corporation organized and existing under the laws of South Carolina. Soni Homes is a land owner and homebuilder with residential developments in York County that are subject to the impact fee ordinance passed by York County.

4. Plaintiff Shea Investment Fund 2, LLC and Shea Investment Fund 3, LLC (collectively “Shea”), are limited liability companies organized and existing under the laws of South Carolina. Shea is a land owner and homebuilder with residential developments in York County that are subject to the impact fee ordinance passed by York County.

PARTIES – DEFENDANT

5. Defendant State of South Carolina ("South Carolina"), through the General Assembly, enacted the South Carolina Development Impact Fee Act (S.C. Code 6-1-910, et seq.), the validity and constitutionality of which is challenged in this action.

6. Defendant York County is a governmental division of the State and, through the York County Council, enacted an impact fee ordinance on July 16, 2018, the validity and constitutionality of which is challenged in this action.

JURISDICTION AND VENUE

7. This Court has jurisdiction over these matters pursuant to S.C. Constitution Art. V, § 11. Furthermore, jurisdiction and venue are appropriate in this court as the Defendants reside in York County and the acts and omissions that are the subject of this Complaint took place in York County.

FACTS

8. The South Carolina Development Impact Fee Act., S.C. Code §9-1-910, et seq. (“the Act”) allows a “governmental entity that has a comprehensive plan, as provided in Chapter 29 of

this title, and which complies with the requirements of this article [to] impose a development impact fee....” S. C. Code § 6-1-930.

9. The Act enables governmental entities to impose a development impact fee for each unit of housing in a project where an individual building permit or certificate of occupancy is issued. S.C. Code §6-1-940(A)(1).

10. The amount of the development impact fee must be based on actual improvement costs or reasonable estimates of the costs, supported by sound engineering studies. S.C. Code § 6-1-930(B)(2).

11. To begin the process for adopting an impact fee ordinance, the governmental entity must direct the local planning commission to conduct studies and recommend an impact fee ordinance. S.C. Code § 6-1-950(A).

12. The only limitation on the amount of the fee is that the amount imposed on the payor “may not exceed a proportional share of the costs incurred by the governmental entity in providing the system improvements to serve the new development.” The proportionate share is the cost attributable to the development after the governmental entity reduced the amount to be imposed by:

(1) appropriate credit, offset, or contribution of money, dedication of land, or construction of system improvements; and

(2) all other sources of funding the system improvements including funds obtained from economic development incentives or grants secured which are not required to be repaid.

S.C. Code § 6-1-990.

13. However, as long as the statutory factors are used, there is no cap on the amount of fee to be charged, despite the fact that statutory caps are quite typical. Because the delegation of

authority under the Act is so great, each governmental entity or subdivision passing an impact fee ordinance has great leeway in determining the amount of an impact fee, but little or no restriction on the amount.

14. In the last several years, Fort Mill, South Carolina, located 20 miles south of Charlotte, North Carolina, was one of the nation's fastest-growing cities, according to data from the U.S. Census Bureau. From 2010 to 2017, the City's population increased by 49.75 percent.

15. In 2016, Michael Johnson, a York County Council member, proposed a moratorium on new residential building in the Fort Mill area. That proposal was voted down in May 2016. York County Council then turned its attention to raising the impact fees for new development, which was really a pretext for a moratorium on building.

16. For years, the impact fees for the Fort Mill School District No. 4 in York County were \$2,500. On July 16, 2018, York County Council passed an ordinance which raised the impact fee to \$18,958.00 for new single family dwelling unit and to \$12,535.00 for a multi-family dwelling unit. This constitutes an increase of over 700 percent.

17. York County has studies that purportedly support the amount of the impact fee. The person in charge of that Study was Carson Bise, an economist with the company Tischler Bise. Mr. Bise admitted that the amount of \$18,958.00 for new single family dwelling unit and of \$12,535.00 for a multi-family dwelling unit was the *maximum* impact fee that could be imposed but not required. From the minutes of York County Council, it does not appear that there was any discussion or consideration of adopting an impact fee in an amount lower than this maximum amount determined by Mr. Bise.

18. Even though the South Carolina Act does not limit the amount of fees, the Tischler Bise Study used a benchmark thirty percent when analyzing the affordability of housing, both with and without the imposition of the impact fee. The U.S. department of Housing and Urban Development (“HUD”) set this benchmark by defining cost-burdened families as those who pay more than 30 percent of their income for housing and who may have difficulty affording necessities such as food, clothing, transportation, and medical care. According to Mr. Bise, who prepared the Study, to qualify for a mortgage, a borrower’s housing burden cannot exceed a certain percent and housing costs over thirty percent qualify as overly burdened.

19. The impact fees determined by the Tischler Bise Study were not based on or supported “by sound engineering studies” as required by S.C. Code § 6-1-930(B)(2).

20. In addition, many of the assumptions in the Tishcher Bise Study are wrong. For example, Joey Von Nessen, Research Economist from the University of South Carolina, appeared at the June 27, 2018 Special Meeting of the York County Council to address the April 2018 draft of the Study. In his presentation, Mr. Von Nessen explained that:

the TischlerBise Study [commissioned by School District] makes unrealistic assumptions that do not reflect the realities of York County, South Carolina.
Assumption 1 - 20% down payment. Assumption 2- 4.25% interest rate.
Assumption 3 - \$78,652 median household income.

21. Mr. Von Nessen’s report, which was submitted to the York County Council for the Special Meeting of June 27, 2018, noted that the Tischler Bise Study (“the Study”) combined the communities of Fort Mill and Tega Cay (and omitted unincorporated York County), thereby masking the cost burden imposed on Fort Mill, which has a significantly lower median income than Tega Cay. Mr. Von Nessen’s Report also indicated that the Study failed to assess the effects the impact fee would have on affordable housing, which are significant due to increased builder

costs of lumber. He noted that “[t]his increase in builder costs, combined with the potential *additional increase in costs* associated with the proposed impact fees are likely to constrain the supply of new housing by pricing some builders out of the market.”

22. The Tischler Bise Study had eight drafts before the final one. In the first two drafts, Tischler Bise included an analysis of housing affordability (both with and without the imposition of an impact fee), but the analysis was skewed because included both Fort Mill and Tega Cay, and Tega Cay has, *inter alia*, a higher income than Fort Mill.

23. After Mr. VonNessen’s report was provided, the Tischler Bise Study separated out the housing affordability analysis into three separate sections – Fort Mill, Tega Cay, and unincorporated York County-- in the Study dated June 4, 2018. When analyzed individually, the household income decreased for Fort Mill. In addition, the cost burden for both owner-occupied housing and renter-occupied housing significantly increased. In fact, the owner-occupied housing cost burden for Fort Mill increased to 31.9% *before* the imposition of impact fees and increased to 33.5 percent after the imposition of impact fees. This increase exceeds the 30% HUD benchmark utilized by Tischler Bise in determining the appropriateness of the amount of the impact fees. The South Carolina Development Impact Fee Act does not prohibit an impact fee that exceeds the 30 percent cost burden set by HUD. Thus, it is possible for the cost burden of affordable housing to be 50% or even higher under the Act.

24. In later drafts of the Study, the three areas of Fort Mill, Tega Cay, and unincorporated York County were again combined into one affordability analysis, which was apparently done to lower the housing affordability cost burden to less than 30 percent (the cost burden established by HUD).

25. In addition, with regard to Mr. VonNessen's criticism that many/most homes buyers in South Carolina did not pay 20% down, Mr. Bise admitted that he used the 20% figure "[b]ecause most mortgages require a 20 percent down" but admitted he had no other basis for that assumption. The national average, according to the National Association of Realtors, is 6% or less. According to Mr. VonNessen, an expert in economics and housing in South Carolina, the average down payment for buyers under 35 is 8 percent.

26. The Tischler Bise Study also did not consider the fact that mortgage interest rates could rise. Obviously, increased mortgage rates would affect the affordability analysis and cost burden of housing.

27. After the moratorium was voted down in 2016, Defendant Michael Johnson randomly suggested that the school impact fee be raised to \$20,000 per single family dwelling. The Ordinance ultimately passed by York County raised the fee to almost that amount, demonstrating an improper motive and/or manipulation of the data by York County. This pretext is especially obvious in light of the Planning Commission's initial recommendations that the impact fee for single family dwellings only be raised to \$5,038, and multi-family to only be raised to \$2,500 (and even though the school district had only initially sought a fee of \$10,000.00).

28. The impact fee imposed by the Ordinance is out of proportion to the national average school impact fee which was \$4,769.00 in 2015. The only county in the entire country that is higher than the fees in the Ordinance at issue here is Montgomery, Maryland, which charges \$26,827.00 for a single family home. At the June 27, 2018 Special Meeting, York County Council was made aware that when Mount Pleasant South Carolina raised their impact fees from \$1,860 per house to \$6,161, there was a reduction in development by almost 90 percent.

29. In Fort Mill, there was an initial increase in building permits for new construction in the 3rd quarter of 2018, as builders that had developments in progress obtained as many permits as possible under the old impact fee. However, the increase was short-lived and the following quarter, the units of new construction dropped 10.8% and new construction has decreased even further in the first two quarters of 2019. In nearby Lancaster and Clover, towns without school impact fees, new construction has increased.

30. In other words, since York County Council could not pass an official moratorium, it has effectively created one by raising the school district impact fee for new development by over 700 percent. The fact that York County has done so under the guise of S.C. Code § 6-1-910, et seq. demonstrates that the state statute is so overbroad and vague as to be unconstitutional, as is the ordinance passed by York County.

31. The Act and the Ordinance effect a taking and/or an illegal exaction, in violation of S.C. Const. Art. 1. § 13 and the Fifth and Fourteenth Amendment of the U.S. Constitution.

FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment)

32. Paragraphs 1 through 31 hereinabove are reiterated and realleged as though set forth verbatim.

33. This is a proceeding for declaratory relief under the South Carolina Uniform Declaratory Judgment Act, S.C. Code Ann. § 15-53-10 *et seq.* (1976).

34. South Carolina Code §15-53-20 allows any party whose rights, status or other legal relations are affected by a statute may have determined any question of construction or validity of the statute.

35. Plaintiffs are parties whose rights, status or other legal relations are affected by a statute

in that the Act and the Ordinance passed on July 16, 2018.

36. Plaintiffs, as homebuilders and/or landowners (or associations made up of homebuilders) in Fort Mill and York County are adversely affected by the Ordinance and the Act.

37. Under S.C. Code Ann. § 12-60-80, Plaintiff can bring this action for a declaratory judgment because the sole issue is whether certain state statutes, S.C. Code Ann. §6-1-910 et seq., and the York County Ordinance are constitutional.

38. Plaintiff seeks a declaration that the Act is illegal, unconstitutional, and without force of law in the following respects among others:

- A. The Act is overbroad and vague and sets no limit to the amount of impact fees a governmental entity can charge. As such, the Act violates Plaintiffs' procedural and/or substantive due process rights under S.C. Const. Art. I, Sec. III.
- B. The Act effects a taking without just compensation in violation of S.C. Const. Art. 1. § 13 and the Fifth and Fourteenth Amendment of the United States Constitution.

39. Plaintiffs also seek a declaration that the Ordinance is illegal, unconstitutional, and without force of law in the following respects among others:

- A. The Ordinance imposes impact fees in amount that is so unreasonable and excessive that it shocks the conscience and violates the due process clause of S.C. Const. Art. 1 §3;
- B. The Ordinance was motivated by bad faith and is a pretext for a moratorium on development so as to violate due process;
- C. The amount of the impact fee was arbitrarily selected before any capital improvement plan had been commenced and the data manipulated to match the arbitrary amount;
- D. The Ordinance effects a taking of Plaintiffs' property in that Plaintiffs have spent

hundreds of thousands of dollars in providing infrastructure for developments and the Ordinance has deprived Plaintiffs of the economically viable use of their property and interfered with Plaintiffs' reasonable, investment-backed expectations;

E. The Ordinance is not supported by sound engineering studies as required by the Act and is thus invalid *ab initio*; and/or

E. The Ordinance constitutes an illegal and unconstitutional exaction.

40. Based upon the foregoing, Plaintiff seeks a declaratory judgment from this Court, declaring both the Act codified at S.C. Code Ann. §6-1-910 et seq. and the Ordinance as unconstitutional violations of the right to substantive due process; were motivated by bad faith and pretext; and constitute a taking of property without just compensation and/or illegal exaction; and that the Act and the Ordinance are ineffective and of no force of law.

FOR A SECOND CAUSE OF ACTION
(Unconstitutional Taking/Exaction)

41. Paragraphs 1 through 40 hereinabove are reiterated and realleged as though set forth verbatim.

42. Plaintiffs, as owners and homebuilders of residential developments in York County, have spent hundreds of thousands of dollars in providing infrastructure for developments. These investments were made based on the existing impact fee and the expectation of residential sales of affordable housing.

43. The impact fee imposed by the Ordinance, which is a 700% increase, will constrain the supply of new housing by pricing Plaintiffs out of the market.

44. The Ordinance deprives Plaintiffs of the economically viable use of their property and interfered with Plaintiffs' reasonable, investment-backed expectations.

45. The amount of the impact fee is not reasonably related to the Plaintiffs' developments and thus constitutes an illegal and unconstitutional exaction.

46. As such, the Ordinance, and the Act that enabled passage of the Ordinance, are an unconstitutional taking without compensation in violation of S.C. Const Art. 1. § 13 and the Fifth and Fourteenth Amendment of the United States Constitution.

47. As a result, Plaintiffs are entitled to damages to be more fully determined at trial on this matter.

WHEREFORE, Plaintiffs pray for the following:

- A. A declaratory judgment under S.C. Code Ann. § 15-53-10 *et seq.* (1976) declaring that S.C. Code Ann. §§ 6-1-910 *et seq.*, and the York County Ordinance are void, unconstitutional and ineffective, and without force of law;
- B. An order finding that Defendants have taken Plaintiffs' property without judge compensation in violation of S.C. Const. Art. 1. § 13 and the Fifth and Fourteenth Amendment of the United States Constitution and awarding damages;
- C. An order finding that Defendants have imposed an illegal exaction on Plaintiffs and awarding damages; and
- D. For the costs of this action, including reasonable attorneys' fees if permitted by law, and other such relief as this Court deems just and proper.

LEWIS BABCOCK L.L.P.

s/ Ariail E. King
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Columbia, South Carolina
December 4, 2019

ELECTRONICALLY FILED - 2019 Dec 05 11:00 AM - YORK - COMMON PLEAS - CASE#2018CP4602684

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Home Builders Association of South
Carolina, Home Builders Association of
York County, Soni Construction, Inc., Shea
Investment Fund 2, LLC, and Shea
Investment Fund 3, LLC,

Plaintiffs,

v.

State of South Carolina and York County,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No. 2018-CP-46-02684

**MEMORANDUM IN OPPOSITION TO PLAINTIFFS' MOTION TO AMEND/
SUBSTITUTE PARTY**

Defendant York County (the "County") submits this memorandum in opposition to Plaintiffs' Motion to Amend/ Substitute Party. The County objects to the proposed amendment on the grounds that it is futile as the proposed substituted party also lacked standing as of the date this action was filed, September 11, 2018. The County further notes that the Plaintiffs have been aware that they had not named the correct Soni entity since at least the Rule 30(b)(6) deposition of Mukesh Patel on July 31, 2019 and made no action to correct it until the eve of trial.

There is an exception to the free amendment standard of Rule 15, SCRPC if the proposed amendment would be futile. *Jennings v. Jennings*, 389 S.C. 190, 209, 697 S.E.2d 671, 681 (Ct. App. 2010) ("Although leave to amend should generally be 'freely given,' this court has held that it may be denied where the proposed amendment would be futile."), *rev'd on other grounds*, 401 S.C. 1, 736 S.E.2d 242 (2012). Here, the proposed amendment is futile because, as a general matter, a "complaint speaks from the date it was filed." *McClain v. S.C. Nat. Bank*, 105 F.3d 898, 903 (4th Cir. 1997). At the time of filing, "[a] fundamental prerequisite to institute an action is

the requirement that the plaintiff have standing.” *Joseph v. S.C. Dep’t of Labor, Licensing & Regulation*, 417 S.C. 436, 449, 790 S.E.2d 763, 769 (2016); *see S.C. Pub. Interest Found. v. S.C. Dep’t of Transportation*, 421 S.C. 110, 117, 804 S.E.2d 854, 858 (2017) (“A plaintiff must have standing to institute an action.”).

As shown on the face on the motion, no Soni entity paid the fee prior to October 2019. Therefore, at the time this action was filed on September 11, 2018, no Soni entity had standing. As a result, the proposed amendment is an exercise in futility and should be denied.

Respectfully submitted,

By: s/ Sarah P. Spruill
Sarah P. Spruill, SC Bar #68337

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Attorneys for Defendant York County

December 6, 2019
Greenville, South Carolina

STATE OF SOUTH CAROLINA)) COUNTY OF YORK)	IN THE COURT OF COMMON PLEAS CASE NO.: 2018-CP-46-02684
Home Builders Association of) South Carolina, Home Builders) Association of York County,) Soni Homes, Inc., Shea) Investment Fund 2, LLC, and Shea) Investment Fund 3, LLC,)) Plaintiffs,)) v.)) State of South Carolina and York) County,)) Defendants.)) _____)	<p>PLAINTIFFS’ MOTION TO ALTER OR AMEND PURSUANT TO RULE 59(e)</p>

Pursuant to Rule 59(e), SCRCPP, Plaintiffs hereby move to alter or amend the Decision of the Court dated January 29, 2020 (hereinafter “the Order”) for the reasons set forth herein. Plaintiffs received written notice of the entry of the Order on January 30, 2020. “If [a] losing party has raised an issue in the lower court, but the court fails to rule upon it, the party must file a motion to alter or amend the judgment in order to preserve the issue for appellate review.” I’On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000). Here, the Order failed to address two issues presented at trial (as set forth below), and thus, Plaintiffs submit this Rule 59(e) motion.¹

In Part I of the Order’s section entitled “Analysis,” the court disagreed with Plaintiffs’ argument that the South Carolina Development Impact Fee Act, S.C. Code Ann. § 6-1-910, et

¹ The caption herein reflects the Order’s ruling on Plaintiffs’ pre-trial motion to amend the Complaint to substitute Soni Homes as a plaintiff in place of Soni Construction. The Court granted that motion.

seq., (“the Act”) was unconstitutionally vague because it did not provide a specific monetary cap on the amount of an impact fee. However, Plaintiffs asserted other grounds for vagueness which the Court failed to address. For example, Plaintiffs noted that S.C. Code § 6-1-930 (A)(2) states:

Before imposing a development impact fee on residential units, a governmental entity shall prepare a report which estimates the effect of recovering capital costs through impact fees on the availability of affordable housing within the political jurisdiction of the governmental entity.

However, as York County’s own witness testified, the statute does not define how to measure the impact on affordable housing. Carson Bise testified that South Carolina was the only state that had this requirement, but he had no guidance on how to make that determination.²

Ultimately, Mr. Bise used a benchmark set by U.S. Housing and Urban Development (“HUD”) which has determined the percentage of income housing costs should be in order to be considered affordable. According to this benchmark, HUD defined cost-burdened families as those who pay more than 30 percent of their income for housing and who may have difficulty affording necessities such as food, clothing, transportation, and medical care. Mr. Bise clearly testified that he had to come up with a methodology because none is prescribed in the Act. Moreover, the Act is silent as whether the governmental entity can impose an impact fee if the effect on affordable is detrimental. In the end, even though the affordability exceeded the self-selected 30 percent benchmark in some instances, Mr. Bise disregarded this effect. The Court ignored these facts when holding that the Act was not vague for voidness, and thereby a violation of due process.

The second matter that the Order failed to address is the bond referendum, which was passed in the spring of 2018, just a few months before the Ordinance was passed in July 2018.

² Bise Depo., p. 30:18-31:5; 32:13-21. Mr. Bise also testified at trial that he had no guidance from the Act.

The same schools that were included in the bond referendum (including one that was already under construction by the time the impact fee was passed) were also used in the impact fee analysis—giving rise to potential double dipping.³ Furthermore, by passing the impact fee, the burden of the schools is being shifted to the home builders and developers rather than the entire community. Moreover, as Plaintiffs argued at trial, there is no evidence here that the bond referendum took into account the increased impact fee or vice versa. Mr. Bise acknowledged in his deposition⁴ that he didn't know of any other place in the country where the impact fee was passed within two months of a bond referendum. Bise Depo. 95:10-15. Mr. Bise also testified those that pay the impact fee should not also have to repay bond debt. Yet, Mr. Bise admitted that while his report contained an amortization scheduling giving credit for principal payments, it gave no credit for the interest to be paid. Thus, a person who pays the impact fee is also subject to a portion of the bond debt. The Order failed to address this issue.

For the reasons set forth herein, Plaintiffs move to alter or amend the Decision of the Court to address the arguments that were overlooked and again respectfully submit that both the Act and the ordinance should be struck down.

LEWIS BABCOCK L.L.P.

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³ In fact, that school -- Catawba Ridge High School -- was operational by the time of trial and thus, no further construction funding was needed.

⁴ Pursuant to Rule 32, SCRCP, deposition designations were submitted prior to trial. Plaintiffs designated almost all of Mr. Bise's deposition and it was provided to the Court in a notebook.

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Attorneys for Plaintiffs

Columbia, South Carolina
February 10, 2020

ELECTRONICALLY FILED - 2020 Feb 10 11:01 AM - YORK - COMMON PLEAS - CASE#2018CP4602684

R-002122

STATE OF SOUTH CAROLINA

COUNTY OF YORK

Home Builders Association of South
Carolina, Home Builders Association of
York County, Soni Construction, Inc., Shea
Investment Fund 2, LLC, and Shea
Investment Fund 3, LLC,

Plaintiffs,

v.

State of South Carolina and York County,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No. 2018-CP-46-02684

**MEMORANDUM IN OPPOSITION TO PLAINTIFFS' MOTION TO
ALTER OR AMEND**

Defendant York County (the "County") submits this memorandum in opposition to the Plaintiffs' Motion to Alter or Amend ("Motion"). The Motion seeks a ruling on two issues: (1) whether the provisions of S.C. Code Ann. § 6-1-930(A)(2) render the South Carolina Development Impact Fee Act ("Act") unconstitutionally vague; and (2) the treatment of a 2018 bond referendum. For the reasons set forth below, the Decision of the Court ("Order") is complete and no further treatment is needed.

1. With respect to S.C. Code Ann. § 6-1-930(A)(2), the Plaintiffs have accurately quoted that section which was discussed extensively at trial in the context of whether the TischlerBise School Impact Fee Study and Capital Improvement Plan ("Study") complied with the provisions of the Act. That section provides: "Before imposing a development impact fee on residential units, a governmental entity shall prepare a report which estimates the effect of recovering capital costs through impact fees on the availability of affordable housing within the political jurisdiction of the governmental entity. According to the Act, "Affordable housing' means housing affordable to

families whose incomes do not exceed eighty percent of the median income for the service area or areas within the jurisdiction of the governmental entity.” S.C. Code Ann. § 6-1-920.

As found in the Order, “The Act provides a specific set of criteria that must be considered by the District in setting a fee amount . . .” (Order at 8). As further found in the Order, the County considered the effect of the ordinance on housing affordability as set forth in several drafts of the Study. (Order at 3, 10). Lastly, the Court specifically addressed the Plaintiffs’ arguments with respect to the affordability analysis in the Order as follows: “Plaintiffs’ claims about the effect on the availability of affordable housing are unavailing—the Act does not prohibit impact fees that have a negative effect on housing affordability; it merely requires the Council consider that effect in assessing a new fee. That was done.” (Order at 10). As is implicit in the Court’s Order, there is nothing vague about that requirement and the County fulfilled its obligations under that section. Therefore, the Court did not overlook any argument on this point.

2. With respect to the role of the 2018 bond referendum, Plaintiffs have not addressed what ruling they were seeking. In their pre-trial brief, they indicated that the County failed to consider the bond referendum in passing the impact fee but did not assign any specific argument to that point. (*See* Plaintiffs’ Pre-Trial Brief at 3, n.4). The County refuted that factual point in its pre-trial memorandum (*see* York County Pre-Trial Brief pp. 4-5, 23, Ex. 11 to Stipulated Facts, Study), and Carson Bise also provided testimony on that point at trial (*see also* Def. Exs. 3, 4, 6). Thus, the evidence shows that the referendum was considered in passing the impact fee. The County fails to see how any issue was raised on this point that was not ruled on by the Court.

For these reasons, the County asks that the Motion be denied.

Respectfully submitted,

By: s/ Sarah P. Spruill
Sarah P. Spruill, SC Bar #68337

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Attorneys for Defendant York County

March 10, 2020
Greenville, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)
)
 Home Builders Association of South)
 Carolina, Home Builders Association of)
 York County, Soni Construction, Inc., and)
 Shea Holmes, LLC,)
)
 Plaintiffs,)
)
 v.)
)
 State of South Carolina, York County,)
 Michael Johnson, Allison Love, Robert)
 Winkler, William Roddey, Christi Cox,)
 Britt Blackwell, and Chad Williams in their)
 official capacity as Members of)
 York County Council,)
)
 Defendants.)
 _____)

IN THE COURT OF COMMON PLEAS

C/A No. 2018-CP-46-02684

**RETURN OF
 STATE OF SOUTH CAROLINA
 TO PLAINTIFFS’ RULE 59 MOTION**

The State of South Carolina opposes Plaintiffs’ Motion to Alter or Amend. They focus on two issues regarding the Order, affordability and the bond referendum. Plaintiffs’ arguments are unavailing, and the motion should be denied for the reasons discussed below.

Plaintiffs seem to assert that the Court did not address their argument that the statute does not define how to measure the impact on affordable housing. In doing so, they fail to note that the statute states that “[a]ffordable housing’ means housing affordable to families whose incomes do not exceed eighty percent of the median income for the service area or areas within the jurisdiction of the governmental entity.” S.C. Code Ann. § 6-1-920. In further arguing that the “Act is silent as [to] whether the governmental entity can impose an impact fee if the effect on affordable is detrimental,” they suggest an issue that does not exist under the statute because that law imposes no such restrictions. As the Court stated, Plaintiffs “claims about the affect on the availability of affordable housing are unavailing -- the Act does not prohibit impact fees that

have a negative effect on housing affordability; it merely requires that Council consider that effect in assessing a new fee. That was done.” Order at p. 10. This conclusion of the Court is dispositive as to Plaintiffs’ vagueness assertion. Moreover, as the State argued at trial, Plaintiffs have no standing to be making this argument. They do not allege that they want to build or buy affordable housing and therefore, have no standing to contest affordability.¹

Plaintiff’s argument about the bond referendum is unclear as to how it relates to the issues in this case. Because their argument does not address the statute, the State defers to York County to respond to Plaintiffs.

CONCLUSION

This Court thoughtfully considered the issues, arguments and evidence in this case in a 12 page order. Plaintiffs have not provided any basis for altering or amending that order. Their Motion to Alter or Amend should be denied.

Respectfully submitted,

/s J. EMORY SMITH, JR.
S.C. Bar No. 5262
Deputy Solicitor General

ALAN WILSON
Attorney General

ROBERT D. COOK
Solicitor General
S.C. Bar No. 1373

[Signature block continues next page]

¹. “Constitutional standing requires, at a minimum, that the party bringing the action sustain a direct injury or the immediate danger a direct injury will be sustained.” *Commander Health Care Facilities, Inc. v. S. Carolina Dep’t of Health & Envtl. Control*, 370 S.C. 296, 301, 634 S.E.2d 664, 666 (Ct. App. 2006).

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March 9, 2020

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March 12, 2020

VIA EMAIL

The Honorable William A. McKinnon
1675-1H York Highway
Moss Justice Center
York, SC 29745

Re: Home Builders Association of South Carolina, Home Builders Association of York County,
et al. v. State of South Carolina and York County
C.A. No. 2018-CP-46-02684

Dear Judge McKinnon:

With my apologies that I could not get my hands on this at the hearing yesterday morning, below is a discussion of the evidence showing that there was no “double dipping” in the consideration of the 2018 Referendum at the time the impact fee was implemented.

As set forth in the Study (Stip. Ex. 16 at pp. 421-422),

Because the Fort Mill School District debt-financed recent school capacity expansions, a credit is included for future principal payments on outstanding debt. A credit is necessary since new residential units that will pay the impact fee will also contribute to future principal payments on this remaining debt through property taxes. A credit is not necessary for interest payments because interest costs are not included in the impact fee. This credit for outstanding debt is credited to residential development at a rate of 64.7%, which is the residential percentage of the overall taxable value of real property within the Fort Mill School District.

(emphasis added). There is no credit for the interest payments, because those interest payments are not a component of the impact fee. Thus, there is no double dipping in the impact fee calculation. This is consistent with Carson Bise’s deposition testimony. Therefore, there is no need to alter or amend the Order on this ground.

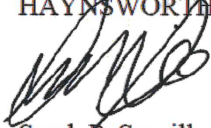
**HAYNSWORTH
SINKLER BOYD**

The Honorable William A. McKinnon
March 12, 2020
Page 2

Please let me know if you have any further questions, and thank you for your continued attention to this matter.

Sincerely,

HAYNSWORTH SINKLER BOYD, P.A.



Sarah P. Spruill

SPS/jmb
Enclosures

cc: J. Emory Smith, Jr. (via email)
Ariail E. King (via email)
Keith M. Babcock (via email)



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March 12, 2020

Via Email Only

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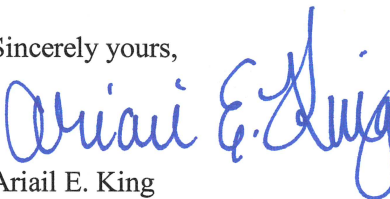
Re: Home Builders Association of South Carolina, Home Builders Association of York County, Soni Construction, Inc., and Shea Homes, LLC v. State of South Carolina and York County, Civil Action No. 2018-CP-46-2684
Our File No. 18-119

Dear Judge McKinnon:

We have reviewed the letter of Ms. Spruill dated earlier today. However, her argument still does not account for the double dipping. Ms. Spruill cites a portion of the Tischler Bise study that claims “a credit is not necessary for interest payments because interest costs are not included in the impact fee.” Of course, interest payments are not included in the impact fee, and neither are the principal payments – because it is a credit. The residential units that pay for the impact also contribute principal and interest on the bond debt by paying their property taxes. Thus, a credit for both the principal and interest must be given in the impact fee. Without credits for both, the improper double dipping occurs.

Mr. Bise clearly testified at his deposition that when “you’ve got dedicated revenue sources that go to fund that infrastructure, or perhaps future or existing debt, we need to offset the fees so that you’re not paying twice, once through the development fee, and, again, through future stream of revenue.” Bise dep., 22:23 - 23:2. At trial, Mr. Bise again testified that the people that pay impact fee should not also pay via their property taxes but failed to explain why the credits in his report do not include both principal and interest.

Sincerely yours,



Ariail E. King

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R-002131

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM YORK COUNTY
Court of Common Pleas

William A. McKinnon, Circuit Court Judge
Case No. 2018-CP-46-02684
Appellate Case No. 2020-000612

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S.C. SUPREME COURT

Home Builders Association of South Carolina, Home Builders Association
of York County, Soni Construction, Inc., Shea Investment Fund 2, LLC, and Shea
Investment Fund 3, LLC,

Appellants,

v.

State of South Carolina and York County,

Respondents.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Record on Appeal contains all material proposed to
included by any of the parties and not any other material, and that Appellant has complied with
the August 13, 2007 Order of the Supreme Court and Revised Order of April 15, 2014 on
Personal Data Identifiers.

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