

Exactions and Development Fees

Protecting Businesses from Excessive Fees and Taxes

BACKGROUND

For over two decades there has been a continuing trend by local governments to require new development projects to pay for a wide variety of public facilities and services, often unrelated to the projects' direct impacts (i.e. "nexus" to the project). These fees increase the cost of commercial development and impair California's business climate. Moreover, local agencies often spend developer fees for purposes other than those for which the fees were collected, or commingle these funds with other accounts, with little or no accountability.

At the state level, legislation seeking to create new "fees" (some would consider these "fees" a new "tax") or increase existing fees are being introduced on a regular basis. Additionally, local development fees often impose unreasonable burdens on new developments.

Exactions on new development in many cases exceed a fair pro rata share of the cost of government facilities and infrastructure directly related to a project's impact, and in fact support general social government programs for which existing development ought to pay. In most cases there is no legal nexus between many otherwise worthy social programs, such as low cost housing, and commercial development.

CBPA POSITION

CBPA supports legislation to control excessive fees and exactions imposed on new development projects. Development fees should not be the sole means of financing public facilities and services which benefit the entire community and which are unrelated to the new development direct impacts on government facilities and services.

CBPA supports legislation to require local agencies, when imposing mitigation fees as a condition of project approval, to determine that the amount of the fees is proportional to the project's impact on the community.

CBPA supports full implementation of the Nollan decision by California jurisdictions, which clearly established a "nexus" rule for the establishment of fees on development.

CBPA opposes legislation which would either create a new fee/tax or increase an existing fee for purposes other than those for which the fee/tax were collected.