



CITY OF SACRAMENTO

CITY PLANNING DEPARTMENT  
927 TENTH STREET  
SUITE 300  
SACRAMENTO, CA 95814  
TELEPHONE (916) 449-5604

CITY MANAGER'S OFFICE  
**RECEIVED**  
JUN 2 1983

MARTY VAN DUYN  
PLANNING DIRECTOR

June 2, 1983

**APPROVED**  
BY THE CITY COUNCIL

City Council  
Sacramento, California

JUN - 7 1983

OFFICE OF THE  
CITY CLERK

Honorable Members in Session:

SUBJECT: Report on the Fact-Finding Committee's recommendations on the amended Elk Grove School District 1982-83 School Impaction Plan (M-284)

SUMMARY

On April 26, 1983 the City Council directed staff to investigate the Committee's recommendations for a City-County task force in order to explore other methods to finance facilities in impacted school districts, and to collect school impaction fees at the close of escrow or when a building permit is finalized. After considering the concerns of organizations which will be affected, the staff recommends that the City Council take no action on the Committee's proposals. Any proposal to change the impaction ordinance should be worked out by the development community, school districts, and other affected parties.

BACKGROUND INFORMATION

After the City Council directed staff to investigate the Fact-Finding Committee's recommendations, the Sacramento County Board of Supervisors was contacted regarding the Committee's proposal to create a City-County task force. The Board of Supervisors has heard this request and determined that the school districts should establish a task force, rather than the City and County.

Regarding the suggestion to collect fees at the close of escrow or when building permits are finalized for rental units, the staff asked title companies, the Sacramento Board of Realtors, the Chamber of Commerce, the County Executive's Office, and local impacted school districts for comments. Their concerns are summarized as follows:

1. The title companies are concerned that the proposed payment of fees at the close of escrow for homes will increase their responsibilities and subject them to liability if impaction fees are not collected. The title companies do not wish to be a collection agency in this matter nor are they designed to enforce the collection of these fees as a condition of closing escrow.

2. The Sacramento Board of Realtors has similar concerns as those expressed by title companies. In addition, the Board is concerned about how the fee is perceived. Currently, since the fee is paid at the building permit stage, the fee may be passed on to the consumer via the purchase price of the new home. Therefore, the fee can be amortized over the life of the loan. However, if the impaction fee becomes a lump sum obligation of the home purchaser, then the purchaser may not have the option to include the fee as part of the financing package. The present fee plus a down payment would make it difficult for many first-time homebuyers.
3. The County Counsel has investigated this question and has advised the Board of Supervisors that collecting fees after building permits are issued could generate enforcement problems. Since the fees would have to be collected by some unspecified private party, the County may be forced to litigate to insure collection if fees were not collected. Also, if fees are received after the issuance of building permits, the County Counsel believes that insufficient funds will be available for the school district to develop needed facilities.
4. The County Executive's Office concurs with the opinion of the County Counsel and is also concerned about the potential cash flow problem for school districts.
5. The Elk Grove District believes that by delaying the payment of fees until the close of escrow, the district's ability to provide housing for new students will be impaired.
6. The City Building Inspections Division believes that the collection of fees after the issuance of building permits for condominiums, apartments, and mobile homes will create significant enforcement problems and additional administrative costs. The Building Inspections Division recommends that the present procedure to collect school impaction fees be retained.

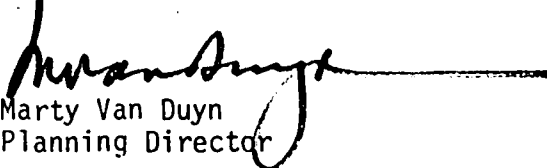
In summary, serious concerns have been raised by affected parties regarding potential liabilities, administrative problems, inadequate cash flow to the school district, and enforcement. The present system of collecting fees at the building permit stage is simple and workable.

The development community and impacted school districts have stated that they are willing to discuss the collection of impaction fees after a building permit is issued. It would be more logical to have the developers and school districts consider the technical problems of this concept and resolve the legal and administrative difficulties before any proposal is presented to the City for its consideration.

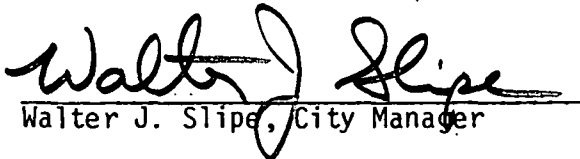
RECOMMENDATION

The staff recommends that the City Council take no action on the proposals for a City-County task force and change the present method of collecting school impaction fees. Changes to the collection procedure can be reconsidered when the development community, school districts, and all other affected parties can agree on an effective alternative.

Respectfully submitted,

  
Marty Van Duyn  
Planning Director

RECOMMENDATION APPROVED:

  
Walter J. Slipes, City Manager

MVD:GZ:cp  
Attachment  
M-284

June 7, 1983  
District No. 7



TITLE INSURANCE  
AND TRUST

20  
CITY PLANNING DEPARTMENT

MAY 20 1983

RECEIVED

May 17, 1983

CITY OF SACRAMENTO  
City Planning Department  
927 Tenth Street  
Suite 300  
Sacramento, CA 95814

Attention: Mr. Gary Ziegenfuss  
Associate Planner

Gentlemen:

TICOR Title Insurance Company appreciates this opportunity to respond to the proposal that school impaction fees be collected in escrow.

Ticor is of the opinion that it will be difficult for the title companies to police payment of the impaction fees for the following reasons. I have responded to various fact situations because I am unsure from your letter at just what juncture you envision the title companies collecting the impaction fees.

1. If you intend that escrow will collect the fees upon purchase of the bare lot in a completed subdivision from a developer, it would appear that an inequitable situation would arise should the purchaser not build, and instead hold the property and sell it at a later date. How is the purchaser to recap the funds collected from him? Will he be paid interest for the use of his money until such time as it is determined that he will not build? Will there be a time limit for holding funds after which time he cannot make a demand back for his impaction fees?
2. If you intend that escrow will collect the fees upon purchase of the raw land by the subdivier/developer prior to application for subdivision map and DRE approval (he must be in title prior to DRE submission), the developer will be faced with a tremendous debt service on the impaction fees collected pending feasibility of his completion of the development. This hardly seems equitable. The same questions of interest and return of funds will apply.
3. The only slightly feasible time for collection of the impaction fees would be during a construction loan escrow, and in that case, anyone who owns a lot and builds for cash

continued

Title Insurance and Trust Company 2101 "K" Street P.O. Box 1137 Sacramento, California 95805 916 444 8300

A TICOR COMPANY

Mr. Gary Ziegenfuss  
May 17, 1983  
page 3

will escape collection by the title companies.

4. Ticor believes that the title companies are not set up to police these funds, nor to enforce collection as a condition of closing the escrows. There may very well be a problem as to the compromise of our neutrality. You are probably aware that the classic description of our job is to act as the neutral depository of instructions documents and money for the completion of the transaction and to obey the instructions of the buyer and the seller. Inserting into our instructions the requirements of collecting these fees will extend our responsibilities considerably beyond their traditional limits and open up the title companies to liability to you for those inevitable cases where impact fees are not collected due to a myriad of reasons.

5. Your letter does not stipulate why the current program of collecting at the time of building permit application is not workable. My understanding is that in many California counties this method is used. It would appear that by collecting at that time, the county can assure itself that only those building; by whose improvement the school system will be taxed, will be responsible for the payment of the fees.

Thank you for your consideration of my various objections.

Very truly yours,

TICOR TITLE INSURANCE COMPANY  
(formerly Title Insurance & Trust Co.)



TED HARGON  
Vice President and Manager  
Sacramento County Operations

TH/bb

# Transamerica

Title Insurance Services



Transamerica  
Title Insurance Company  
Box 1445  
1424 Twenty First Street  
Sacramento, California 95807  
(916) 444-6323

20

May 18, 1983

CITY PLANNING DEPARTMENT

City Planning Department  
927 Tenth Street Ste. 300  
Sacramento, CA 95814

MAY 18 1983

RECEIVED

Attention: Gary Ziegenfuss  
Reference: School Impaction Fees

Dear Gary,

In response to your letter dated May 10, 1983, Transamerica Title Insurance Company would like to take the opportunity to comment on the feasibility of requiring school impaction fees to be paid at the close of escrow for single family homes.

As a title insurer and escrow company we feel that imposing the collection of the school impact fees on the escrow holder will create additional closing costs and liabilities on our part. For example, the amount of the fee to be collected can change or be transposed, exposing an escrow company to a claim for the mistake. Also, determining which new subdivisions are affected by which school district, poses a problem of public notice.

Another concern of ours is, whose responsibility is it to control which lots in a subdivision have paid their fees and which have not, and who assumes the liability if an escrow is closed without the payment of the fee collected.

Therefore, we feel that the present system for collecting the school impaction fee, at the time of the issuance of the building permit, provides a means of control for the school district and eliminates all of the potential problems of collecting it in escrow.

Should you have any questions on this matter, please contact the undersigned.

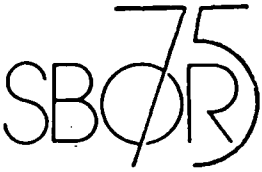
Regards,

George W. Moore  
Builder Services Manager

GWM/vh

1808 J STREET  
P.O. BOX 160446  
SACRAMENTO, CA 95816  
(916) 444-6010

May 31, 1983



Gary Ziegenfuss  
City of Sacramento  
City Planning Department  
927 Tenth Street, Suite 300.  
Sacramento, CA 95814

Subject: Payment of School Impaction Fees at Close of Escrow.

OFFICERS

President

MACK POWELL

Vice President

LARRY KNAPP

Secretary/Treasurer

FRANK BIANCHINI

Immediate Past President

MARILYN MACBRIDE

Executive Vice President

JAMES SANDMAN

DIRECTORS

DON ABINANTE

PAULA COLOMBO

ROB GALLAWAY

ART HICKEY

DICK HOLST

GENNY JOHNSON

PHIL JONES

MICK MC GUIRE

ANNE PETTIT

JUDY SCHOER

RICH STEVENS

LEE STORMS

LARRY WALTER

Dear Gary:

Relative to our meeting of May 31, 1983 with representatives of the building industry and title companies; I would like to take this opportunity to comment on your letter referencing a proposal that school impaction fees be paid at the close of escrow. From our discussion, it would appear that Kirk Bone is referencing "close of escrow" as merely a point in time and not as means by which to involve the impaction fee with escrow proceedings. With this in mind, it would appear that the only issue involved is the timing of the payment of the fee. As Mr. Bone pointed out, developers can enter into private agreements with districts to arrange for timing of impaction fee payments; i.e., 6 months after construction of unit, close of escrow, etc. Perhaps, correspondingly, the city's school impaction fee ordinance can be revised to reflect a similar scheduling of payment not affecting the actual escrow.

If payment of school impaction fees at the close of escrow is interpreted to involve escrow itself, then after reviewing the comments of our title company members, in addition to those of Deputy County Counsel; we have serious doubts whether payment of those school impaction fees at the close of escrow represents a feasible alternative for the following reasons:

1. Title companies are not designed to police such funds, nor to enforce collection as a condition of closing the escrows. Rather, the title company's responsibility is to act as the neutral depository of instructions, documents and money for the completion of the transaction; as well as to obey the instructions of the buyer and the seller.

SACRAMENTO  
BOARD  
OF REALTORS

Founded 1908

75 Years of

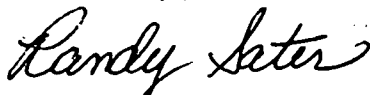
Community Service

Member of NATIONAL  
ASSOCIATION OF REALTORS  
and California Association of  
REALTORS.

2. Escrow is limited by the nature of the transaction and therefore the title company's involvement is limited. Examples include:
  - a. No escrow held because of private party lender.
  - b. Developer builds home from cash reserves.
  - c. Refusal of a builder or developer to pay fees through escrow.
  
3. Perhaps our greatest concern lies in just how the school impaction fee is perceived, consequently resulting in how the fee is passed on to the consumer. Currently, since the fee is paid at the building permit stage, the fee amount may be passed on to the consumer via the purchase price of the new home. Therefore, the fee can be amortized over the life of the loan. However, if for any reason, the impaction fee becomes interpreted as a lump sum obligation of the home purchaser at the time the home is purchased, then the consumer may or may not have the option available to include the fee as part of their financing package. Consequently a fee of \$1000 - \$1500, in addition to the downpayment, would make it difficult for many first-time homebuyers to qualify.

Thank you for the opportunity to make our feelings known on this item at this time. I look forward to working with you further in addressing the school impaction fee issue. If you have any questions regarding our comments, please feel free to contact me at the SBOR office.

Sincerely,



Randy Sater  
Director of Government Relations

RS:bjr

cc: Kirk Bone  
Vince Latino



20

ELK GROVE UNIFIED SCHOOL DISTRICT

8820 ELK GROVE BOULEVARD  
ELK GROVE, CALIFORNIA 95624

Telephone: Elk Grove 685-3728  
685-3729

CONSTANTINE I. BARANOFF  
Coordinator, Facilities

May 13, 1983

Mr. Gary Ziegenfuss  
City Planning Department  
927-10th Street  
Sacramento, California 95814

Subject: Payment of Impaction Fees at Close of Escrow

Dear Gary:

In response to your letter dated May 4, 1983 requesting our comments on the feasibility of collecting impaction fees at close of escrow, I offer the following reasons and concerns to maintain the present practice:

1. Delaying the payment of fees until close of escrow will eliminate the district's ability to provide housing for new students as they arrive. Just as it takes time to construct the homes, streets, utilities and services prior to occupancy, it takes lead time to build the relocatable classrooms prior to arrival of students.
2. The current system of payment just prior to issuance of building permits is simple and eliminates unnecessary third parties.
3. Currently the district is responsible for issuing a certificate of mitigation and the inspection department will issue a building permit only if the certificate applies to the specific parcel. This minimizes the city's exposure to litigation to insure collection.
4. Occupancy of homes is not always subject to close of escrow:
  - A. An owner-builder may occupy the home without change of ownership.
  - B. A single family home may be rented prior to sale and therefore not close escrow.
  - C. A purchase of the home may be subject to some creative financing such as rent/option to purchase, purchase agreement, or other delayed purchase plans that specifically avoid a close of escrow.
5. Occupancy of dwelling units may also be permitted by the building inspector prior to final inspection and therefore prolonging the receipt of fees.

Mr. Gary Ziegenfuss

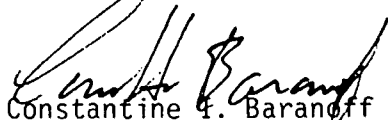
-2-

May 13, 1983

- 6. The current system of collection at permit time requires the district to make specific planned use of funds for real growth rather than anticipated growth and thus avoids excessive contingencies which may be reflected in higher impaction fees.

I am prepared to address this issue with City staff and before the City Council.

Sincerely,

  
 Constantine I. Baranoff  
 Coordinator; Facilities

CIB/jk

cc: Dr. Glenn R. Houde  
 Mr. Terry Kastanis