

# **Bond Case Briefs**

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## **SEWER IMPACT FEES - NORTH CAROLINA**

### **Quality Built Homes Incorporated v. Town of Carthage**

**Supreme Court of North Carolina - May 11, 2018 - S.E.2d - 2018 WL 2175808**

Developers brought action seeking declaration that water and sewer impact fee ordinances adopted by city exceeded city's municipal authority under Public Enterprise Statutes.

The Superior Court granted summary judgment in favor of city. Developers appealed. The Court of Appeals affirmed. Developers sought discretionary review, which was granted. The Supreme Court reversed and remanded. On remand, the Court of Appeals, 795 S.E.2d 436, reversed and remanded to trial court on statute of limitations grounds. Town sought discretionary review, which was granted.

The Supreme Court of North Carolina held that:

- Claims accrued at time of fee payments rather than on effective date of ordinances;
- Three-year statute of limitation for a "liability created by statute, either state or federal," applied, overruling *Point South Properties LLC v. Cape Fear Public Utility Authority*, 243 N.C. App. 508, 778 S.E.2d 284; and
- Doctrine of estoppel by the acceptance of benefits did not bar developers' claims.

Developers, who claimed that water and sewer impact fee ordinances adopted by city exceeded city's municipal authority and sought to recover fees, sustained injury when they were required to make impact fee payments for development approvals, rather than when impact fee ordinances were adopted, and thus claims accrued at time of fee payments rather than on effective date of ordinances.

Three-year statute of limitation for a "liability created by statute, either state or federal," applied to developer's action seeking declaration that water and sewer impact fee ordinances adopted by city exceeded city's municipal authority and seeking to recover fees; overruling *Point South Properties LLC v. Cape Fear Public Utility Authority*, 243 N.C. App. 508, 778 S.E.2d 284.

Doctrine of estoppel by the acceptance of benefits did not bar developers' claim that water and sewer impact fee ordinances adopted by city exceeded city's municipal authority and seeking to recover fees; developers did not receive any benefit from the payment of the challenged water and sewer impact fees that they would not have otherwise been entitled to receive, and developers' only alternatives were to either pay the fees or to discontinue development business.