
DEVELOPMENT FEES - INDIANA

Knob Hill Development LLC v. Town of Georgetown

Court of Appeals of Indiana - September 11, 2019 - N.E.3d - 2019 WL 4282112

Real estate developers brought petition objecting to municipal ordinances setting sewer system development charges (SDCs) for new developments and providing for annual increase in such charges.

Following evidentiary hearing, the trial court upheld objection as to rate increase ordinance but overruled objection as to rate-setting ordinance. Developers appealed.

The Court of Appeals held that:

- Inclusion of grants in calculation of sewer utility value served statutory purpose of ensuring new sewer service customers paid equitable shares;
- Sufficient evidence supported finding that previously-paid SDCs were not contributions in aid of construction (CIAC);
- Town could consider factors relevant to planning for future growth in setting SDCs; but
- Annual increases in SDCs could not occur without public hearings.

Municipality's inclusion of infrastructure grants in calculation of total value of sewer utility, for purposes of calculating how much new developments should pay for use of new sewage treatment plant, did not result in a double recovery of funds from grants and from new developments, but, rather, served statutory purpose of ensuring new developments paid just and equitable share compared with existing customers.

Sufficient evidence supported finding, following bench trial on validity of municipal ordinances setting and increasing system development charges (SDCs) for sewer service applicable to new developments, that previously-paid SDCs were not contributions in aid of construction (CIAC), as would preclude their inclusion in calculation of value of new sewer plant; expert, who had advised municipality regarding ordinance, testified that previously-paid SDCs were generally considered user charges rather than CIAC.

Town's consideration of factors relevant to planning for future growth in setting sewer system development charges (SDCs) applicable only to new developments was not ultra vires, but, rather, was permissible under municipal sewage works statute allowing municipalities to consider any factors that they deem necessary.

Municipal ordinance providing for automatic annual increase of 2% for sewer system development charges (SDCs) violated statute requiring municipal legislative bodies to hold public hearings before revising sewer rates as well as sewer service customers' due process rights; statute resulted in revision of fees each year without a hearing.

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