

# Bond Case Briefs

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## **SEWER FEES - NORTH CAROLINA**

### **Boles v. Town of Oak Island**

**Supreme Court of North Carolina - February 28, 2020 - S.E.2d - 2020 WL 967428**

Owners of undeveloped parcels of property challenged sewer service availability fees levied upon them by town.

The Superior Court granted town's motion for summary judgment. Owners appealed. The Court of Appeals reversed and remanded. Town appealed.

The Supreme Court held that:

- Town had statutory authority to assess sewer service availability fees on owners;
- Imposition of fees was not taking of private property for public use without just compensation in violation of North Carolina Constitution; and
- Imposition of fees was not tax.

Town had statutory authority to assess sewer service availability fees on owners of undeveloped parcels of property under local act authorizing town to impose fees upon "property that could or does benefit from availability of sewage treatment"; sewer service was present or ready for immediate use by all properties that were or could be served by town's sewage collection and treatment plant, including undeveloped parcels of property.