

# **Bond Case Briefs**

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## **ZONING - INDIANA**

### **Carroll Creek Development Co., Inc. v. Town of Huntertown**

**Appellate Court of Indiana - May 9, 2014 - N.E.3d - 2014 WL 1873702**

Real estate developer that constructed water main which connected to town's water service facility, for the purpose of serving its own real estate and other surrounding real estate, brought breach of contract action against town, alleging that town breached its contractual obligations by failing to collect and pay to developer connection fees from certain real estate owners that had connected to the water main, and seeking an accounting of all real estate owners who had connected to water main and amount of fees that town had charged them.

The Appellate Court held that, under plain language of contract, town was required to collect and remit to developer connection fees from real estate owners within contractually-defined excess area who connected to the water main in order to serve land adjacent to the excess area.

Under provision of water main construction contract requiring that town, which agreed to have real estate developer construct a water main and connect it to the town's water service facility, to collect and remit to developer "connection charges" from present or future owners of real estate within the contractually-defined excess area who connected to the water main, "whether by direct tap or through the extension or connection of lateral lines to service the real estate situated in the excess area or adjacent to the excess area," town was required to collect and remit to developer connection charges from those real estate owners who owned real estate in the excess area and who connected to the water main in order to serve land adjacent to the excess area; plain language of contract provided that owners in excess area who connected to water main to serve either real estate in the excess area or real estate adjacent to the excess area were subject to connection charge.