

Bond Case Briefs

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UTILITY IMPACT FEES - NORTH CAROLINA

Quality Built Homes Incorporated v. Town of Carthage

Supreme Court of North Carolina - August 19, 2016 - S.E.2d - 2016 WL 4410716

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 of North Carolina held that water and sewer impact fee ordinances exceeded city's authority under Public Enterprise Statutes.

Water and sewer impact fee ordinances that triggered immediate charges for future and sewer water expansion, regardless of whether the property owner ever connects to the system or whether city ever expanded the system, was not collection of monies for operation, maintenance, and expansion of water and sewer systems permitted by Public Enterprise Statutes. While Statutes allowed city to charge for the contemporaneous use of its water and sewer systems, the plain language of the Public Enterprise Statutes clearly failed to empower city to impose impact fees for future services.