

Bond Case Briefs

Municipal Finance Law Since 1971

DEVELOPMENT FEES - NORTH CAROLINA

TAC Stafford, LLC v. Town of Mooresville

Court of Appeals of North Carolina - April 5, 2022 - S.E.2d - 2022-NCCOA-217 - 2022 WL 1009481

Real estate developer brought action against town alleging inverse condemnation, refund of illegally exacted fees, and breach of contract, and further seeking declaratory, injunctive, and mandamus relief in connection with town's requirement that developer make off-site improvements as condition of development approval.

The Superior Court granted developer's motion for summary judgment and petition for writ of mandamus, denied town's motion for summary judgment, and reserved determination of financial issues. Town appealed and moved to stay or enjoin execution or enforcement of the order and writ of mandamus. The same Court subsequently granted developer's motion for attorney fees and costs, granted in part developer's motion for reimbursement of expenditures, and dismissed developer's remaining claims. Town and developer appealed.

The Court of Appeals held that:

- Town lacked statutory authority to withhold issuance of certificates of occupancy or other development approvals for subdivision or to condition such approvals on completion of off-site improvements;
- Real estate developer was entitled to award of mandatory attorney fees;
- As matter of apparent first impression, funds paid by developer to entities other than town were not "exactions" under statute requiring municipalities to return illegally exacted funds with interest;
- Remand was required for trial court to conduct additional proceedings to determine how much developer was entitled to recover from town; and
- Issuance of writ of mandamus rendered moot all other claims by developer against town.