

NORTH CAROLINA

ORANGE COUNTY

ELIZABETH ZANDER and EVAN
GALLOWAY, for themselves and all other
persons similarly situated,

Plaintiffs,

v.

ORANGE COUNTY, NC, and the TOWN
OF CHAPEL HILL,

Defendants.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
CASE NO. 17 CVS 166

NOTICE OF PENDENCY OF CLASS ACTION

TO: ALL PERSONS WHO PAID A SCHOOL IMPACT FEE TO ORANGE COUNTY DURING THE PERIOD MARCH 3, 2014, TO DECEMBER 31, 2016.

The purpose of this notice is to inform you of a collective action in which you are potentially “similarly situated” to the named Plaintiffs and to advise you of how your rights may be affected by this action.

I. Description of the action.

On March 3, 2017, an action was filed against Defendants Orange County, NC, and the Town of Chapel Hill, on behalf of named Plaintiffs Elizabeth Zander and Evan Galloway, and all other similarly situated individuals who paid a school impact fee to Defendants during the period January 1, 2009, to December 31, 2016, in order to receive a certificate of occupancy for a new residential unit. Specifically, the action alleges that the impact fees exceeded Orange County’s statutory authority to charge impact fees and were therefore unlawful. The Court has approved a class including (1) the class of all persons who paid a school impact fee during the period March 3, 2014, to December 31, 2016, under the fee schedule enacted in 2008.

Defendants deny Plaintiffs’ allegations and maintain that the school impact fees were proper.

II. Persons eligible to receive this notice.

The Orange County Superior Court has ordered that this notice be distributed to all persons who paid a school impact fee during the period March 3, 2014, to December 31, 2016, in the amounts established by Orange County’s Educational Facilities Impact Fee Ordinance, ORD-2008-114, sec. 3. This notice has been mailed to all permit applicants (or other fee payers) identified in the

public records of Orange County, Chapel Hill, and Carrboro who paid an impact fee during the period March 3, 2014, to December 31, 2016.

III. Effect of joining this action and opt-out procedure.

If you join this action, you and Defendants will be bound by any ruling, judgment, or settlement, whether favorable or unfavorable. If you wish to join this action, no action on your part is needed at this time. Notice will be provided to you of any ruling, judgment, or settlement in this case.

If you choose not to join this lawsuit, you may opt out. If you opt-out, (a) you will have no right to receive any money under any settlement or judgment entered in this action, (b) you will not be bound by any settlement or judgment, and (c) you may bring action on your own. If you opt out of this lawsuit and bring or participate in a separate lawsuit, you may lose your case and receive nothing, or you may obtain less money than you could get under this lawsuit even if you prevail, and it may take several years to obtain such money. To opt out of this lawsuit, you must submit a written notice stating that you want to opt out to the following address: Attn: Impact Fee Class Member Opt-Out, Brooks Pierce LLP, P.O. Box 26000, Greensboro, NC, 27420. The written notice must state:

I wish to opt out of the Feepayer Class in the case Zander et al. v. Orange County et al., No. 17 CVS 166, Orange County Superior Court. I understand that by requesting to be excluded from the class approved in this action, that I will receive no money under any settlement or judgment entered in this case. I understand that if I am excluded from this action, I may bring a separate action. I understand that in any separate lawsuit, I may receive nothing or less than I would have received if I had remained a participant in this action.

To be timely, your opt-out statement must be postmarked no later than Thursday, November 15, 2018.

IV. Statute of limitations.

The statute authorizing Orange County to charge impact fees had a nine-month statute of limitations, which could apply to some claims asserted in this case; otherwise, state-law claims asserted in this case have a three-year period of limitations. If you choose to join this lawsuit, you may be entitled to recover if you paid a fee within three years of March 3, 2017. If you choose not to join this lawsuit or file your own action, some or all of your potential claims may later be barred by the applicable statute of limitations.

V. Your legal representation if you join.

Your interests will be represented by Plaintiffs' counsel:

Robert J. King
Matthew B. Tynan

Brooks, Pierce, McLendon, Humphrey & Leonard LLP
230 North Elm Street
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The attorneys are being paid on a contingency fee and/or statutory basis which means that if there is no recovery, there will be no attorneys' fees. You will not have to pay the attorneys out of your own pocket. If there is a recovery, the attorneys will receive part of any settlement obtained or money judgment entered in favor of all members of the classes.

VI. Further information.

If you would like further information, please do not call or contact the court. Instead, please contact class counsel using the contact information provided above. More information is also available at www.brookspierce.com/impactfeeclassaction.