

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 JANUARY 1, 2009, TO DECEMBER 31, 2016, WHOSE IMPACT FEE WOULD HAVE BEEN LOWER UNDER THE FEE SCHEDULE APPLICABLE ON JANUARY 1, 2017.

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.

VII. 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. The action alleges that Orange County is required to refund certain fees as a result of a 2016 ordinance that (1) reduced impact fees for certain housing types and (2) obligated the County to refund impact fees whenever the fees were reduced under certain circumstances, which the action asserts exist. The Court has approved a class consisting of all persons who paid an impact fee during the period January 1, 2009, to December 31, 2016, whose fee would have been lower if paid under the fee schedule applicable on or after January 1, 2017.

Defendants deny Plaintiffs’ allegations and maintain that no refunds are owed.

VIII. 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 January 1, 2009, and December 31, 2016, in the amounts established by Orange County's Educational Facilities Impact Fee Ordinance, ORD-2008-114, sec. 3, whose fee would have been lower under the schedule of fees applicable on January 1, 2017, according to the following fee schedules below:

2008 School Impact Fee Schedule

Chapel Hill – Carrboro City Schools District				
	Effective January 1, 2009	Effective January 1, 2010	Effective January 1, 2011	Effective January 1, 2012
Single-Family Detached	\$6,092	\$7,616	\$9,520	\$11,423
Single-Family Attached	\$3,525	\$4,406	\$5,508	\$6,610
Multifamily	\$686	\$858	\$1,072	\$1,286
Manufactured Homes	\$2,634	\$3,293	\$4,116	\$4,939

Orange County Schools District				
	Effective January 1, 2009	Effective January 1, 2010	Effective January 1, 2011	Effective January 1, 2012
Single-Family Detached	\$3,000	\$3,749	\$4,686	\$5,623
Single-Family Attached/Multifamily	\$930	\$1,162	\$1,453	\$1,743
Manufactured Homes	\$1,428	\$1,785	\$2,232	\$2,678

2016 School Impact Fee Schedule

Chapel Hill Carrboro City Schools District	
Dwelling Unit Type	Fee Effective January 1, 2017
Single Family Detached 0-3 Bedrooms	\$ 5,639
Single Family Detached 4+ Bedrooms	\$ 10,810
Single Family Detached < 800 sq. ft.	\$ 1,655
Single Family Attached, 0-2 Bedrooms	\$ 4,414
Single Family Attached, 3+ Bedrooms	\$ 7,058
Multifamily, 0-2 Bedrooms & Accessory Dwelling Units, 0-2 Bedrooms	\$ 1,910
Multifamily, 3+ Bedrooms & Accessory Dwelling Units, 3+ Bedrooms	\$ 8,133
Manufactured Home	\$ 3,010
Age Restricted Unit	\$ 325

Orange County Schools District	
Dwelling Unit Type	Fee Effective January 1, 2017
Single Family Detached 0-3 Bedrooms	\$ 5,179
Single Family Detached 4+ Bedrooms	\$ 3,849
Single Family Detached < 800 sq. ft.	\$ 1,426
Single Family Attached, 0-2 Bedrooms	\$ 1,576
Single Family Attached, 3+ Bedrooms	\$ 2,390
Multifamily, 0-2 Bedrooms & Accessory Dwelling Units, 0-2 Bedrooms	\$ 1,142
Multifamily, 3+ Bedrooms & Accessory Dwelling Units, 3+ Bedrooms	\$ 8,891
Manufactured Home	\$ 3,495
Age Restricted Unit	\$ 268

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 whose fee would have been lower if paid on January 1, 2017.

IX. 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 Refund 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 classes 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.

X. Statute of limitations.

The statute authorizing Orange County to charge impact fees had a nine-month statute of limitations, which may apply to some claims asserted in this case; otherwise, state-law claims asserted in this case may have a three-year or a ten-year period of limitations. If you choose to join this lawsuit, you may be entitled to recover if you paid a fee within nine months, three years, or ten years of March 3, 2017, depending on the Court's determination of the applicable statute of limitations. 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.

XI. 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
2000 Renaissance Plaza
Greensboro, NC 27401
T: (336) 373-8850
F: (336) 378-1001
e-mail: rking@brookspierce.com
mtynan@brookspierce.com

impactfeeclassaction@brookspierce.com

Website: www.brookspierce.com

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.

XII. 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.